don't think it's priced below cost anywhere, but it's certainly not priced below cost in this state.

Q Theoretically, if it's priced below cost and there's an overconsumption, that could result in a proliferation of competitive LECs using UNE-P; is that correct, sir?

A Well, in theory, but let's think about what's really happening here. The ILEC built this big network. POTS demand is shrinking, so they have excess supply of analog ports. Anything that brings those analog ports into use, including a price that is lower than it might otherwise be, is a good thing for Florida and a good thing for the economy, because what you're talking about is taking a bunch of assets that would otherwise sit there fallow and idle, and instead of having them be there fallow and idle, providing no good to consumers, providing no revenue to the incumbent, you have them being brought into productive activity where consumers are benefiting and the incumbent is receiving revenue. So this whole notion of priced below cost and overconsumption makes no sense in an environment like we have here.

Don't get me wrong. I don't think it's anywhere below cost or anything like that. But the environment we have here is that there is a more than

adequate supply of these analog switch ports, and so anything that brings them into productive use is a good thing.

Q Based on my vague and somewhat painful memories of my few economics classes back in school, it has something to do with contribution toward fixed costs.

A Right. If the ILEC gets any money at all, they're getting a contribution towards fixed costs.

Q Correct. I guess that's the theory that I'm getting at.

A They were painful, weren't they.

Q Extraordinarily.

If you can refer, sir, to your direct testimony at page 9, line 6, the cite there which I'll be inquiring about is, "The Legislature finds that the competitive provision of telecommunications services is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications service, encourage technological innovation, and encourage investment in telecommunications infrastructure."

Does that apply equally, sir, for facilities-based competition?

A Yes. I think that the Legislature wanted to see all forms happening, but did not express a

preference for one over the other. I think the Legislature, in fact, through this was sort of making clear that they believe that if the market became competitive, you would get more of everything, including customer choice, including investment, and including infrastructure. It wasn't intended to try and force particular outcomes by denying people access to the legacy network.

Q Now, with UNE-P, does not the workforce of the ILEC engineer, construct, and maintain the facilities?

A Yes. It's good for UNE jobs.

Q Which could lead into a whole 'nother discussion which we won't touch here today.

Do the competitive LECs that compete with self-provisioned switches provide the necessary engineering, construction, and maintenance of their facilities?

A Well, they do for some of their facilities. I mean, obviously, if all you're doing is introducing another classified circuit switch, you're still obtaining significant amounts of your loop and transport plant from the incumbent, and so they wouldn't be engineering that. I mean, there's nothing wrong with that. Obviously, for the facilities that they've put in, they're doing some engineering. Either they are

doing it or, you know, as a practical matter, the vendor is doing it. I mean, when you buy a switch from Lucent, it isn't like it shows up in boxes and you've got to put it together.

Q Do it yourself, tab A and slot B or something like that.

A Right.

Q Somewhat back to the union issue, would increased facilities-based competition cause increases in the telecommunications workforce?

A I think increased competition causes increases in the workforce. Increased facilities-based causes increases, and increased non-facilities-based causes increases. They both yield greater telecommunications employment, I think.

Q Still on page 9 of your direct testimony, line 29, you state that there is nothing mystically beneficial about encouraging the deployment of additional switching capacity in a state where switching is already an excess supply. Now, if there's an excess supply of switching in Florida, then is there also an increased opportunity to lease that excess in switching capacity?

A Well, the problem is that switching capacity -- there's two types of switching capacity. There's that

switching capacity which exists outside the LEC network, which provides limited access into the LEC network that you've got to buy, and then there's the switching capacity that exists inside the LEC network, which gives you far different access to the monopoly loop network. The reason UNE-P is purchased is because when you lease capacity that's inside the ILEC network, you get electronic access to the loop plant, and you get access to loop plant everywhere. There's no externally supplied switching capacity that has those two attributes, and those are sort of the defining attributes needed for mass market competition.

Q On the next page, page 10 of your direct testimony, line 3, you state something to the effect that competition is only now developing. Does the stage of development of competition vary among Florida's cities or geographic areas?

A It doesn't appear to by any significant amount in the mass market, at least at the LATA level. There was a table I prepared in my rebuttal testimony which I think was -- well, it's in there somewhere. At any rate, there's a table that computes the -- it's Table 2 on page 7 that looks at the level of mass market competition in each of the LATAs and looks at it for business and residential service. And while there's

certainly some variation by LATA -- for instance, the UNE-P share in Panama City is 3 percent, and it's like 6.8% in the Southeast. It's a pretty narrow range of variation. They're relatively homogeneous in terms of competitive outcome today.

Q Has the FCC authorized the states to perform a granular investigation to determine which geographical areas in particular markets meet the federally established triggers?

A I think that's partially true. The FCC starts with this national finding there's an impairment problem, the hot cut, that is an impairment that applies everywhere. It is true it has handed over to the states the responsibility to look at those in a more detailed facial, but it doesn't mean that there's an expectation or even a likelihood that if you break it down, you'll see triggers being satisfied in different parts of the country.

I think there's a mistake in thinking about the triggers as though the triggers have to be met today or the triggers don't mean anything. This order is an order about how impairment is judged. Now, five years from now, 10 years from now, this order would still be guiding the Commission in its determination of looking at a particular market to see if competition had

developed enough in that market for those triggers to have been satisfied. And I think it's important to view that the trigger mechanism is something with some decent time horizon around it in terms of when it's likely to be satisfied.

Q Based on such a granular investigation, if the federal triggers are found to be satisfied in a particular geographical area in a particular market, is a state authorized to determine that this particular geographic area and this particular market is unimpaired?

A Yes.

Q If more self-sustaining competition develops, could there be less need for competition to be dependent on the incumbent facilities?

A It's possible, but I think again, at least right now, what it looks like is that the competition that is developing and hopefully getting to be self-sustaining is in a different product market. It's in the enterprise market, and we don't really see that in the mass market. So it is true that as you get more and more competition in the enterprise market, you will have, and already have less and less reliance on the incumbent facilities. But in the mass market, it's not clear to me at this point that there's a real vehicle

for us to see competition in that marketplace that doesn't rely on the inherited network of the incumbent.

Q Now, you testified that UNE-P is critical to POTS competition. Is UNE-P critical to POTS competition? You have testified you feel that is correct. Is that a correct statement?

A Yes.

Q In your response to staff's interrogatory 18A, you defined a method of entry is critical to competition if it produces competition. How should whether or not an entry method produces competition be measured?

A Well, to be precise, the answer to 18A really was that competition would be materially diminished without the network element. The idea would be that if there's an impairment there, the network element overcomes that impairment, and you can tell that by the competition that results from it. If you remove access to the network element and the impairment remains, in other words, you've made a mistake, you've reached a finding that's inaccurate, then the result of that decision in error would be a material reduction in competition as the impairment acts as a barrier to ongoing competition.

Q Yes. I guess the gist of my question is, how do you measure that?

A I think market share is a simple way and a straightforward way to measure it. It's a measure of how many lines have gone to a competitor, which is a useful way of measuring the effect of the impairment being overcome by access to the network element.

Q Now, in your response to staff interrogatories 12C and 12E --

A You know, you guys went a little crazy with these subquestions. There's a Z in here.

Q Something about unions and employment.

A All right. I'm sorry. 12C and E?

Q 12C and 12E.

A Yes.

Q From December '99 through December '01, which method of entry produced the greatest competition?

A UNE-P.

Q For that time period, December '99 through December '01?

A Yes. Without going into the hundreds, that would have been for UNE-P a gain of 131,000 lines, and for UNE-L, that would have been a gain of 107 -- oh, I'm sorry. I was looking at two different columns.

Q Total lines.

A All right. '99 to '01?

Q Yes.

A Now I've got to do the math. I guess UNE-L had a higher net gain in lines during that period.

Q I just hate it when do you have do the math.

Okay. After December '02, which method of entry produced the greatest competition?

A After December '02?

Q Right.

A Based on these statistics, I can't tell you, because it ends at December '02. The June '03 number, December '02 to June '03 --

Q How about on December '02?

A Oh, as of December '02, it was UNE-P.

Q UNE-P. Okay. Now, does the CLEC choose the entry strategy?

A I'm sorry. There's that line from Harry Potter, "Is it the wand that chooses the wizard? "

Anyway, the CLEC chooses the entry strategy, but the entry strategies are fundamentally useful for different customer segments.

MR. FORDHAM: We're all maybe getting a little punchy. Does anyone want a break?

THE WITNESS: Yes.

MR. FORDHAM: Let's take 10 minutes.

THE WITNESS: Thank you.

(Short recess.)

BY MR. FORDHAM:

Q Let's see. We had just determined that UNE-P was the method of entry of December '02.

Do you think that a rational competitive LEC would choose the entry strategy that provides the greatest revenues at the lowest cost, thus yielding the highest margin? And that's not a trick question.

A Yes.

Q You do have a degree in economics, is my recollection.

Could that entry strategy vary over time? Could the profitability, which would be the most profitable, vary over time?

A Yes. But again, I've got to take you back. The premise in your question is somehow -- there are different ways to serve the same customers, and I don't think that that's the appropriate way to look at it. There is some overlap, obviously, because the world isn't perfect, and fundamentally, UNE-L is an entry strategy primarily used to serve enterprise customers, and UNE-P is an entry strategy used to serve almost exclusively mass market customers. So it's not really a question of do I choose this one or that one, at least that's not how it has evolved over time. They tend to be directed into two different customer segments for a

variety of reasons.

Q And would UNE-P be the primary source for competition due to its relative profitability as compared to facilities-based competition?

A In terms of serving the same customer segment, I think that would be true. But it is not true, for instance -- UNE-L to serve a high-speed data customer is far more profitable than UNE-P to serve that same customer. UNE-P, in fact, can't even be used, as a practical matter, to serve that customer. So it's true that for each individual customer that's true, but that's why they tend to split out into two different niches in the market or two different core competencies.

Q But for that segment of the competition using UNE-P, if UNE-L is a less profitable choice, is it reasonable to expect that a company would choose UNE-P over UNE-L?

A Yes, if it would appear that UNE-L is an unprofitable choice in that customer segment.

Q So does it follow that if UNE-L became equally profitable to UNE-P, would more companies make UNE-L their choice for providing service?

A If that were the only consideration, but that isn't the only consideration. Part of the problem here

is that UNE-P gives you the opportunity to reach customers located across a broad area, and the mass market consists of lots of small customers spread out over a large area. UNE-L would have to have the same economics for the same entry profile, that is, it would have to be able to be used across that same broad area in order to be a viable substitute for UNE-P, because the market is dispersed in that way.

Q Now, if specific markets are identified that facially satisfy the self-provisioning trigger, can the State find exceptional sources of impairment under the TRO?

MS. KAUFMAN: I just want to object. I don't know what you mean when you say facially satisfy.

MR. FORDHAM: Just prima facie, on the surface.

A Well, let me put it this way. If the triggers were satisfied both because they actually were or the Commission just made a mistake and assumed they were, the Commission would still have, as I understand the order, the exceptional circumstances provision to not find impairment. Obviously, I would not agree that the Commission should make a mistake on the triggers.

Q Would such an exceptional finding be considered a rarity, would or should?

A I'll have to go back and look at the -- it must be, because I haven't spent a lot of time thinking with the exceptional finding provision in this order.

Yes, I think that it would be a rarity. I think that's why, among other things, the FCC expected trigger analysis to be conducted with some judgment and reason, applying the same type of criteria that the FCC itself applied.

Q Your direct testimony, Mr. Gillan, at page 16, line 17.

A Yes.

Q You state there, "The FCC simply asked the Commission to confirm there are no exceptions to this national finding of impairment." Is it true that in order to accurately confirm there are no exceptions, the Commission must determine whether there are exceptions?

A Yes.

Q Has the telecommunications environment changed in Florida over the last seven years?

A Yes.

Q Would you say the degree of impairment has also changed?

A Not for mass market customers, no.

Q If steps are taken --

A Well, except for the fact that over that period

of time, UNE-P, which is the means to overcome those impairments, has been introduced. But in terms of the impairments themselves, no.

Q Okay. So might UNE-P have altered the degree of impairment to some extent?

A Well, UNE-P overcomes the impairment that would otherwise prevent --

Q I think we're probably saying the same thing in different ways.

If steps are taken designed to alleviate impairment, quoting from the TRO, and those steps were successful, would you expect a migration from a condition of impairment to a condition of unimpairment?

A Yes, as I understand the question. I think your question was if you can get rid of the impairment, is it gone?

Q Yes. If we take steps, whatever those steps might be.

A I don't think as a practical matter that the impairments that are solved by UNE-P are something the Commission can correct in any near term. And quite frankly, I'm not sure that's where I would direct the Commission's attention. I mean, if you're going to embark on a program of impairment correction, I think it makes more sense for you to figure out ways to prevent

the next evolution of technology, the introduction of packet switches and those types of products, make it so that those can be introduced without the same type of discriminatory access arrangements that are frustrating mass market competition for the POTS marketplace, because whatever it takes is going to take time and money, and you might as well spend that time and money making sure that we don't have the same problem for the VOIP architectures, rather than try and go correct for the problem for the POTS architecture, because in some sense, the POTS architecture problem has been overcome, and the VOIP architecture problem is just -- people haven't had enough experience yet to fully appreciate and discuss and vet and think through how to fix.

Q On page 18 of your direct testimony, line 3, you state, "The widespread failure of CLECs over the past several years is a fact of actual market experience that cannot be ignored." Has Florida experienced growth in the number of CLEC in operation over the last three years?

A Well, you might have more certificates, and you might even have some additional carriers, but you haven't been immune to the financial failures. I mean, there are companies in bankruptcy. In Florida, there are companies that have had to renegotiate with the

banks to get them happy with not ever being paid back in Florida.

Q How do you do that, get happy with not ever being paid back?

A Well, you're never happy, I guess. It's not a happiness index. It's an, "Okay. Give me less than I gave you, but give me something, and I'll walk away."

Q Still on page 18 of your direct testimony, you asked this Commission a question, whether, quote, it is reasonable to conclude that local competition for mass market POTS customers in the absence of UNE-P is possible, in direct contradiction of the past seven years of experience." Is UNE-P the only means of providing service?

A It's certainly the only means of providing mass market service on the legacy loop plant into this customer segment at the scale and with the geographic reach that we've seen. There's no other entry strategy that provides access to that monopoly loop network in a similar way.

Q If UNE-P were to be eliminated in some markets, will UNE-L still be available?

A I presume so. I mean, the fate of UNE-L isn't tied to the fate of UNE-P. They're just not substitutes, but that's a separate issue.

Q Are portions of the mass market POTS customers in Florida also wireless customers?

A Yes. They buy other things as well.

Q And do you know if that proportion is significant?

A Well, there's a lot of wireless customers. What there aren't is a lot of wireless customers that have abandoned their wireline phone service and are relying exclusively on wireless service. That's generally true, and it's certainly the case in the small business marketplace.

Q Would you say that that proportion has grown over the past seven years?

A That customers that have wireless service in addition to wireline service?

Q Correct.

A Oh, yes. Oh, yes. Wireless service has been successful. It's just not a substitute for wireline service.

Q Have cable telephony and VOIP been introduced during those past seven years?

A Well, cable telephony's checkered past did occur during that seven-year period. VOIP is really only being introduced now.

Q Have there been developments in switching

technology during those past seven years?

A Yes, but most of the switching technology that one would consider new switching technology, soft switch and VOIP type technology, is very recent, in the past year or so. Most of the switching products that CLECs purchased in their first round of entry were merely legacy switches that the incumbent already had, 5E, Nortel. The advance in switching technology in terms of a dramatic change, going from circuit-switched architecture to packet-switched, is more recent.

Q Have there been changes in regulation during those past seven years?

A Yes. The ILEC has gotten increasing levels of pricing flexibility and deregulation in exchange for promising to share its network, for instance.

Q Have there been changes in prices for telecommunications services during those past seven years?

A To some extent, yes.

Q In your direct testimony, sir, page 19, lines 4 through 8, you state that if the ILECs were really interested in demonstrating that providing POTS services to mass market customers by deploying competitive switches to connect analog loops is feasible and profitable, they would by, quote, actually competing

using this entry strategy in each other's regions.

To your knowledge, sir, are any ILECs using UNE-L as a means of competitive entry in Florida?

A Well, there's the claim that SBC Telecom has used UNE-L to compete in Florida, but when one looks at the loop count, you'll see that it's laughable. We know that as a general matter, BellSouth, quote, entered, got a certificate, entered, began advertising and offering local exchange services in the GTE territory and evidently has abandoned that strategy, since GTE certainly hasn't named BellSouth as one of its trigger candidates. We know that GTE entered to compete in the small business market prior to its absorption by Bell Atlantic and exited -- using UNE-L, is my understanding, and exited -- they used UNE-L and exited that market, indicating that they were not able to compete using UNE-L as an entry strategy and abandoned it.

So to the extent that we've seen any entry by the ILECs in the State of Florida, it has been one accompanied by withdrawal.

Q To your knowledge, are any ILECs using UNE-P as a means of competitive entry in Florida?

A No. Actually, I don't think there's any real ILEC competition in Florida. I guess, by the way, ALLTEL has evidently some activity in the Jacksonville

LATA.

Q How about Sprint?

A Sprint is certainly looking to enter in Florida using UNE-P, as their participation in this docket would make clear. My understanding -- (conferring with counsel).

MS. KAUFMAN: One second. We're just discussing whether the information is confidential or not.

MR. FORDHAM: That's fine.

THE WITNESS: There's a fuller and more complete answer that wouldn't change the tenor of the answer, but it would require that I reveal confidential information.

BY MR. FORDHAM:

Q That's fine. To your knowledge, are any ILECs using any other means for competitive entry in Florida?

A No, not that I'm aware of.

Q To your knowledge, is it the intent of any ILEC, other than possibly Sprint, to competitively enter markets outside of their own region in Florida?

A Well, in 1996, or maybe it was 1995 when the state law was passed, certainly by 1996, there were press stories of BellSouth announcing that it was going to compete in other territories. BellSouth also got a

certificate to compete, and as I said earlier, BellSouth for a period of time offered competitive services in the Tampa area through an affiliate called BellSouth BSA. All of those efforts that at one time or another were announced in the press or were accompanied with some fanfare or other have been lost into the mists of history.

GTE also entered to compete. I believe it competed in other territories, because their CEO testified to Congress that they were actively competing in Florida, and one would presume that meant they were doing something other than competing with themselves. But again, those competitive activities have been, to my knowledge, terminated.

Finally, Verizon -- Bell Atlantic, when it acquired GTE and became Verizon, promised the FCC that it would engage in out-of-region entry around the country. And in fact, one of the reasons that they presented to the FCC for merging was to gain the scale that they needed to be able to enter and compete out of region, and they made certain commitments. I do not recall whether or not Florida was one of the markets that they promised they would enter and compete in in order to have that merger approved, however.

Q Is a group of companies that do not have the

intention to compete a valid sample to make inferences concerning methods of competitive entry?

A Well, I think as I just explained, over time they've constantly announced the intention to compete. They've just never followed through with the act of competition.

Q If many companies are using UNE-P as a means of competitive entry, would it be reasonable to conclude that this means of entry is profitable, just based on the extent of its use?

A Given the current environment, it probably indicates that it's profitable. Obviously, there was significant entry into unprofitable forms of local entry over the past seven years, but I think that the capital markets have made pretty clear that they're not going to be tolerating any additional excursions that aren't reasonably profitable in short order.

Q And, of course, we discussed earlier that we believe we can conclude that UNE-P is more profitable than UNE-L to serve certain market?

A For the customer segment that UNE-P is used to serve, yes.

Q Would CLECs be at a cost disadvantage if UNE-P was eliminated in those markets?

A I think you would eliminate CLECs in those

markets. I don't think there's any reasonable substitute to using UNE-P to compete in those customer segments, certainly at the price levels that are being charged.

Q Would a cost disadvantage in and of itself be grounds for a finding of impairment if other means of entry such as UNE-L were available?

A Well, I think the D.C. Circuit and the Supreme Court have indicated that just any cost disadvantage, no matter how small, isn't sufficient for a finding of impairment. But as a practical manner, I think the type of cost disadvantages we're looking at in this market, and confirmed by the results of the levels of competition and the customer segments seeing choice when UNE-P is available, confirm that the cost consequences associated with the impairments resolved by UNE-P are significant.

Q In your direct testimony on page 21, lines 5 through 7, you testify that economies of scale and scope are other cost consequences that a new entrant must overcome. Are scale economies that pertain just to the beginning stages of entry an appropriate factor in the unbundling analysis?

A My understanding is that under the USTA decision, scale economies that you would find as an

entrant in any industry, I think is the term they used, would not be sufficient.

Now, that doesn't necessarily mean that scale economies that would be unique to telecommunications or the entry phase in telecommunications may not be appropriate. But as a practical matter, I don't think we need to debate those kind of fine points, because the cost differentials are so massive and the other impairments so significant that the issue is resolved, the impairment is found well before we get into a debate about whether or not startup costs are significant in the telecom industry.

Q On page 19 of your direct testimony, lines 1 through 4, you discuss that the Commission should not be placed in a role of an omniscient super investor able to design the ultimate business case. Has this Commission designed efficient business cases in evaluating other regulatory issues?

A I'll not aware of the Commission ever attempting to develop an efficient business case model.

Q Page 21 of your direct testimony, lines 10 and 11, am I correct, sir, that it's your testimony that with UNE-P, the electronic hot cut is transparent to the customer?

A Generally transparent.

Q Now, with UNE-P, the ILEC and the loop belong -- I mean the loop and the switch belong to the ILEC; is that correct, sir?

A Well, the title belongs to the ILEC. The facilities are leased by the CLEC.

Q When using UNE-P, isn't the transfer between the CLEC and the ILEC transparent because the entire operation is done within the ILEC's own equipment?

A Yes.

Q Page 21 still of your direct testimony, lines 17 and 18. If customers move between carriers, then don't all carriers carry the burden of the costs of this churn, the movement?

A Well, competitive carriers do. I don't really know how -- I mean, it's unclear to me how much churn the incumbent sees compared to a competitive carrier.

Q But the ILECs might carry some of the burden of the churn?

A I'm not sure what you mean by burden of the churn.

Q Some of the impact of the churn is borne by the ILECs?

A Yes, they have customers that come and go.

MS. KAUFMAN: Can I just interrupt? I don't know if you were communicating. Do you mean when a

customer moves from CLEC to CLEC, or when it moves from CLEC to ILEC?

MR. FORDHAM: Any and all of the movement of customers.

THE WITNESS: I was referring only to moving from the ILEC to a CLEC or a CLEC back to the ILEC. It's not clear to me how moving between two CLECs affects the incumbent in any way that they're not compensated for.

BY MR. FORDHAM:

Q Is churn just a natural part of doing business in the mass market?

A It would be if we could find a way to make churn -- make the mass market operate at those churn levels. As a practical matter, right now, the churn can be accommodated by the mass market because the mass market is being served by UNE-P.

Q Page 26 of your direct testimony, sir, lines 20 through 21. If the customer desires to have continued service, wouldn't access to their premises to maintain or repair the equipment on their premises need to be provided?

A Well, if you have to install a channel bank on the premise, yes. The point here is that there are reasons that are not included in the calculation that I

lay out that a customer, even though they have, in theory, enough voice grade lines to be, quote, more efficiently served by a DS1 than by multiple voice grade lines, there's still reasons why they would not want to do that. So the formula itself is going to -- because it doesn't take any of those things into consideration, is going to underestimate customers that might actually be willing to be served by a DS1, because there's no way to put into the formula the other effects on the customer of trying to serve a customer on a DS1 in comparison to the way they would otherwise be served in this analysis, which is by multiple analog loops.

Q So pursuing that on the next page, page 27, lines 1 through 3, is the DS1/DS0 crossover point where it makes economical sense to provide service via DS1?

A Well, the FCC says you make this calculation of where it makes economic sense. My testimony is, look, the easiest way to calculate where it makes economic sense is just on a pure, simple cost comparison of the cost of using a DS1 versus the cost of using multiple analog loops, including the equipment costs you need to be able to switch.

The point of all this, though, is that while that's what I'm recommending the Commission do because it's simpler, it should recognize right up front that

there's going to be a whole bunch of customers for whom that calculation isn't going to tell them -- isn't going to be what would cause them to go from an analog environment to a DS1 environment, because there are other things that are customer-impacting that I haven't put in the formula that would cause a customer to look at this and say, "Well, yes, in theory, it's cheaper for me to get my service on a DS1, but then I would have to do this, this, and this, and I don't want to do that, so I'm not interested," and they would want to still obtain service by multiple analog loops.

But I'm not recommending that the Commission -- other than understand that point, so that they understand and appreciate the fact that this would take some customers out of the mass market and make them unreachable by UNE-P, but not really put them in a position to be served by a DS1, I'm not asking that the Commission adjust the crossover in any way to account for it. I just want them to understand that it is already a conservative calculation.

Q So if there are solutions to alleviate the circumstances you discussed and the CLEC chooses to do otherwise, would you consider this to be an uneconomical decision by the CLEC?

A Well, it's a decision by the customer. I mean,

if a customer doesn't want you to have the right to come traipsing into their premise, that's their choice.

Let's go back to what this is for. This is all about calculating a number that says the customer has a bunch of analog loops because that's what the customer wants, but the regulator is going to come in and say, "At this point, we're going to tell you that you really should have been served with a DS1, and because of that, carriers can't buy unbundled local switching to serve you, because we're going to take you out of the mass market and make you part of the enterprise market." That's what the FCC order requires, and my testimony just lays out how you go about calculating that, and then goes on to point out that there are going to be some consequences even from doing it that way, because there's no practical way for us to include all these different considerations.

Ironically, it's the one place where I agree with Verizon. Verizon is not asking the Commission to create this artificial cap on the mass market. They're following a much more pristine and logical format of when a customer wants a DS1, the customer gets a DS1, and then the customer becomes of the enterprise market because of what they bought.

Q Does a customer make their choice of a carrier

based on the carrier's choice of a means of entry into the market?

A Well, yes, depending on what that translates to. I mean, the customer chooses carriers that compete in the enterprise market. That enterprise market is going to be provisioned over high-speed loop facilities. So it's not really an entry -- I mean, it's not a choice of how they provide the service. Their entry strategy is tied up with types of products they're going to serve and the customer segments they're going to go for. And carriers that are competing for those customers principally with their sort of starting product, this integrated T that we talked about earlier, how they chose to supply the service also defines what the service actually is, and that's the basis on which the customer will make its decision.

Q Do all carriers provide service statewide?

A No.

Q Does a customer's choice of carriers vary according to the geographical area in which that customer resides?

A You mean who do they get to choose from?

Q Correct.

A Yes and no. Some carriers offer service today statewide, and some carriers don't, so the vector of

choices might differ depending on which part of the state you're in.

In the mass market, that would be true as well, but some of those choices would be available virtually everywhere.

Q So customers throughout the state don't have the same choice of carriers because of some of them only being unique to that area. Is that essentially what you're saying?

A That's correct.

Q Your direct testimony, sir, page 36, line 14. Regarding the serving of mass market customers, you testified that the self-provisioning trigger candidate must be likely to continue to do so. How do you believe this Commission should ascertain whether a carrier is likely to continue?

A Well, first, I recommend that the Commission only do that as sort of the last check, because it's one of the harder things to determine. So if carriers are disqualified on the basis of other trigger criteria -- they should look at the other trigger criteria first, because --

Q You may not reach that.

A You may not reach it; correct. When you do reach it, for some carriers, I think it's relatively

straightforward based on very obvious publicly available information, such as Allegiance. I mean, everyone understands that Allegiance is undergoing -- unlike most bankruptcy companies, it's undergoing an auction process. And thus far, neither of the two principal bidders that I'm aware of for those assets, which would be XO and Qwest, really are involved in the mass market business. So the analysts all expect -- and this is certainly consistent with Qwest's initial conversations about why it was trying to acquire Allegiance had to do with the fact that the Qwest long distance network, they're looking for greater local conductivity options in markets, and the Allegiance network can provide that. So one bidder doesn't look like it's a mass market carrier, and the second bidder, XO, is clearly an enterprise-oriented CLEC as well.

So in the case of Allegiance, I think it's relatively easy for the Commission to conclude that it cannot reach the finding that it's likely to continue to offer service, because it's right in the middle of the process of having failed at what it used to do, it's being acquired by, at this point, one of two bidders, neither one of whom is a mass market provider.

Other carriers, it would be more difficult. FDN, for instance, if we get to the point where the

question as to whether FDN is or is not a trigger is actually relevant for switching availability, then I think the Commission is going to have to conduct some presumably in camera review of FDN's financial statements to determine whether or not that company is financially sound enough to be certified by the Commission as a self-provisioning switch trigger and likely to continue to provide service. But we're not at the point yet, I think, where the status of FDN is determinative of local switching availability anywhere in the state, and so I wouldn't recommend the Commission conducting it at this time.

Q Assume that a competitive provider has filed a notice to terminate service in that market. Need the Commission look any further than that notice to determine the likelihood?

A No. If they go so far as to give you the notice that they're going to withdraw, they don't have to go further than that. The problem is in reaching the finding that they're likely to continue to do so when there's some uncertainty about it.

Q Are you aware of any support in the TRO for the fact that we have to look beyond that simple filing of the notice?

A I find nothing in the TRO that suggests that

it's limiting. My read of the TRO is that that was sort of like the simplest case and was offered as an illustration, not as a -- a "for instance."

So does the TRO -- the TRO tells that you the key consideration is whether providers are currently offering and able to provide service and are likely to continue to do so. Are you under a federal compulsion to do your job? I don't know. But particularly in light of Chapter 364's directive to this Commission, I think it's -- the FCC's direction that you should do it should be sufficient. The notion of federal troops coming down here and making you conduct your impairment analysis is probably an exaggeration.

Q Something akin thereto.

In your testimony, you suggest -- this is on page 42, lines 15 through 21. You suggest that this Commission review the types of unbundled loops provisioned to the CLEC switch more recently to determine if a CLEC is actively serving the mass market. Now, you recommend that we examine only activity within the last six months. Would an analysis of the last six-month period be more likely skewed by random, natural, or seasonal fluctuations in the market?

A Well, it would be more likely affected by that than if you looked at it over a period of 12 months, and

it would be less likely than if you looked at it over three.

Q But you think six months is adequate for this purpose?

A It appears to me that -- I mean, what you're really trying to see is, hey, is this guy really still in the business that they used to be in, when they may have acquired a number of loops that caused BellSouth or another ILEC to allege that they're a switch trigger. It's very obvious, if you look at that data and they're basically no longer adding analog loops and they're basically in the business of ordering DS1 or other high-capacity compatible loops, what kind of business they're in. I mean, obviously, the level of it might vary throughout the year, but I'm talking about looking at data to see fundamentally, gee, what kind of business activity is this carrier involved in right now. And that six-month window should be sufficient to give you a sense of what kind of commercial activity they're actively providing.

Q So if a CLEC has purchased an analog switch and is serving a limited number of analog loops to mass market customers, is that CLEC actively providing service to the customers that he's currently serving?

A Well, there would be two problems. One is the

issue of whether they're actively providing it, and I would say, no, they're not actively providing it. But in addition, the circumstance you described is really -- the CLEC has purchased the switch. In today's environment, it's more likely -- it's going to be a digital switch, although it may have switch ports to connect to the loops. If they have a limited number of analog switch ports on that switch, then the most likely scenario is that it's an enterprise switch, and the TRO is actually quite clear on that point, that if it's an enterprise switch, it's not to be counted.

Now, where the TRO provides guidance, but is not as definitive, is how much analog activity does it take for an enterprise switch to be considered a mass market switch and therefore qualify to be counted. And as I explain in my direct testimony, or I guess it was my rebuttal testimony, when we look at the data that the FCC looked at that, it was looking at switches that it characterized as enterprise switches that had -- generally 80 to 90% of the conductivity on those switches were digital. So in my mind, anything -- a de minimis level of analog activity that's acceptable on an enterprise switch before it's legitimate to count is something in the range of north of 20%.

Q If a CLEC purchased an analog switch, or as you

pointed out, a digital switch with analog ports, and is providing a limited number of analog loops to mass market customers, could this Commission define that portion of the market that the CLEC is serving as a separate market for purposes of its analysis?

A No, I don't think so. I think the TRO is quite clear that you are not to count enterprise switches.

Q Even if they have the analog ports?

A Oh, absolutely, because the FCC recognized that enterprise switches would have analog activity on them, but the world isn't perfect, that a carrier that is serving some analog lines as an extension of its enterprise business plan is not -- should not be considered a mass market provider, and its switches should not be counted as mass market switches. It was confronted with exactly that set of information, and yet still included in the TRO the directive that enterprise switches are not to be counted.

Q Could that CLEC using that switch qualify as a self-provisioning candidate?

A No, not for mass market. It's an enterprise switch.

Q Okay. If a CLEC has purchased an analog switch and is serving a limited number of analog loops to mass market customers, and this Commission defines a market

greater than what the CLEC is serving, should the CLEC be considered in the analysis of potential development?

A I'm sorry. I think I'm going to need you to give me a little bit more description of that question.

Q Okay. If the Commission defines a market greater than what a competitive carrier is presently serving --

A And what do you mean by that? That's the first part of my confusion.

Q Well, the area where he's now providing service.

A Okay. If the CLEC provides service to a broader area than the market, whatever the market is that the Commission decides?

MS. KAUFMAN: It's just the opposite.

BY MR. FORDHAM:

Q Or a smaller area. In other words, the Commission defines an area larger than he's presently serving.

A Okay. Got it.

Q Then can he be considered in the Commission's analysis of potential deployment?

A In the potential deployment analysis, I think the Commission can consider that type of information. I don't believe that company could count as a switch

trigger, however.

Q Okay. In your direct testimony, page 46, lines 5 through 23, you contend that switch-based CLECs that do not rely on ILEC unbundled loops does nothing to show whether typical entrants are impaired. If switch-based CLECs do not show whether entrants are impaired, should they be considered at all?

A Well, it would be nice if we didn't consider them at all, but inside the world of the TRO, there are certain guidelines that the TRO provides. And with respect to this particular criteria, the FCC gives you the express latitude to give entrants that don't rely on the ILEC loops less weight, less weight in my recommendation being no weight.

And quite frankly, the reason is that -- let's take what is sort of thrown at us, sort of the typical CLEC entrant not using an ILEC loop, Comcast. Now, Comcast doesn't prove anything about anybody's ability to show up in this marketplace and compete against the incumbent. If you think about it, wholly aside from Comcast's other problems, the fact that they don't own their own switches and they look like they're not even really at all committed to this market, but holding that aside, Comcast's telephony business is the gnat on the side of this giant entertainment cable conglomerate that

at this point looks to be trying to solidify its position with an acquisition of the Walt Disney company.

Now, if the Commission -- you know, the whole purpose of the trigger analysis is for the Commission to be able to conclude with comfort that because of the observed level of competition in the marketplace, no barriers to competition remain. I mean, that's basically what the TRO says. In fact, that may be exactly what it says in paragraph 194, or 494.

I'm going to invent a parlor game for all of us to play when this is over, "Name that Paragraph." Doug is going to land on "Go back." Never mind.

MR. LACKEY: I know what I'm going to land on.

THE WITNESS: Main. You're going to land on Main, Doug. This is all an elaborate plot to get you to Main.

Anyway, if the purpose of the trigger is for the Commission to look at the operation of this company and conclude, "Okay. This company's operation in this marketplace tells me that there are no more barriers to entry," well, how can you draw that conclusion when you look at a company like Comcast whose outside cable plant is the product not only of its cable monopoly, but of its historical development that has put it in a position where

it's acquiring the Walt Disney company, such that, gee, all we have to do for the next entrant to be able to enter this business is for somebody to develop a self-sustaining cable plant, throw enough revenues and require content at a level that it can justify a merger with the Walt Disney company, and then it can run telephony as a side business. All right?

That doesn't tell us anything about barriers to entry into telephony, because that company's telephony business is at most incidental to its primary line of business, which is to take every dollar we have. I mean, you're talking about a company that is now basically locking vertically into the content business at an unprecedented scale. That type of company is not evidence that there's not impairment in the ability for people to provide telephony services in competition with BellSouth.

BY MR. FORDHAM:

Q I don't think the record will reflect your cynicism there.

A It's not cynicism. I was just wishing I owned stock in Disney.

Q Still on page 46, line 5, you state that the

TRO notes that the Commission should give such evidence less weight. Does this imply that switch-based CLECs with their own loops should be given weight?

A Well, at this point, I can't see, other than the cable providers, a switch-based CLEC that is not using loops, other than the ILEC, in any meaningful way, certainly in the mass market, which again is what this case is about. So, you know, I don't want to rule it out completely as a hypothetical, but I just can't imagine something other than the cable provider. The cable provider I don't think the Commission should give any weight to.

Q Okay. Let's go to your surrebuttal testimony a minute, page 2, lines 4 through 8.

MS. KAUFMAN: Surrebuttal or --

MR. LACKEY: Hold on one minute.

THE WITNESS: Do you mean surrebuttal or rebuttal?

MR. LACKEY: All I need is a page number.

MS. MCNULTY: Page 2, lines 4 through 8, but we're not sure if it's rebuttal or surrebuttal.

BY MR. FORDHAM:

Q Actually, I'm not finding it either. Let's see if we can resurrect it in generic terms.

I'll tell you what. Let's just go to your

rebuttal testimony on page 37, lines 24 through 26.

A You must have very good crib notes over there for that.

MS. KAUFMAN: Which lines? I'm sorry.

MR. FORDHAM: Twenty-four through 36.

BY MR. FORDHAM:

Q And we're talking there about your favorite company. If Comcast has been reporting a decaying telephony base for several years, is it your testimony that because of their decaying telephony base, they should not be considered actively providing POTS service? I know you had discussed that being a very minuscule part of their total concern, but should they be considered not to be actively providing POTS service based strictly on their decaying telephony base?

A It's not based -- the conclusion isn't based solely on the fact that its customer base is decaying, although the decaying customer base is additional confirmation of really what I was trying to lay out in the overall section about Comcast.

Comcast fundamentally is a cable company that, as part of the price it paid to acquire AT&T's cable properties or AT&T's broadband properties, picked up the subscriber base of AT&T's cable telephony customers. Now, almost contemporaneous with its acquisition of

those cable properties, which is what it coveted, it announced that it really wasn't going to be marketing or heavily trying to grow the telephony business, and in fact, around the country, it has to a lesser or greater extent just sort of put that into a steady state. Some places are doing more marketing than other places, but the reality is, it's clear that that company is in the telephony business more through historical accident than strategic vision. And all of its press pronouncements and its capital formation and its capital direction have been consistent with the notion that to whatever extent it has telephony business, that is not its line of business, that's an activity that it has inherited from AT&T. And in fact, by and large, they did not acquire with that activity even the switches necessary to provide telephony services, because that's not the line of business that they're interested in.

So all these comments on the decaying customer base and everything else all, in my mind, rolls up to the notion that you shouldn't be really looking at that company as an active provider of telephony services sufficient to satisfy the trigger, which, of course, is there to try and be the measure that the Commission relies on to say there are no barriers to competition.

Q And one of those indices being the decaying --

A Yes.

Q All right. Following through on that, you have stated that the POTS market is shrinking. That's in your direct testimony, page 62, lines 1 and 2. But what I would like to refer you to is staff's interrogatory 16A, in light of that statement that the POTS market is shrinking.

A Yes.

Q In your answer to that interrogatory, you testify that there has been a decline in POTS services as customers shift to data-oriented services and/or eliminate second lines. You also indicate that BellSouth, Verizon and Sprint have experienced a decaying POTS market over several years. So can we conclude from this, and based on your discussion regarding Comcast, that BellSouth, Verizon, and Sprint should not be considered as actively providing POTS service?

A No, because they're clearly in the business of providing POTS service. There's a big difference between a monopoly that is serving a market and the market is shrinking. So all this really does is pick up the fact that the total market is shrinking, compared to Comcast, whose 1% of that market or less is shrinking.

BellSouth, Verizon, and Sprint can never grow

larger than 100% of the market, which is not where they're currently at, but they're still the dominant providers, and so their numbers reflect the contraction of the market, but not their active participation in the market. Comcast's situation is quite different, because its share -- it still doesn't sell service to many, many, many times more customers than it has ever sold service to, and so its declining number of customers is a sign of something quite different than the fact that the three incumbents are seeing the overall market shrink somewhat.

Q So based on that market shrinkage, it's reasonable to expect a decline in the number of POTS lines being served by every carrier?

A No. The total is shrinking, but the CLECs have such a small percentage of this, they should not be seeing an impact in their businesses of the market itself declining to the extent that it shrunk, because their share of it is so small that the -- you know, the number of customers that are out there for whom they have yet to serve service to is massive compared to their total share. So the fact that the market itself is shrinking somewhat really isn't significantly impacting their market opportunity, because their market opportunity is defined by all those customers that they

have not yet sold service to. For instance, if there's a million people in the market and I've got 10 of them, my market opportunity is -- I'm going to give myself 100,000 of them, because otherwise I can't do the math.

Q Okay.

A You know, my market opportunity is the 900,000 people I haven't sold service to. If the market shrinks from a million to 950,000, then my market opportunity is still 850,000 customers that I haven't sold service to. It is true that out there somewhere way beyond my vision, the market is shrinking, but the number of customers that are available to me as an entrant to continue to grow my business is still massive.

Q Now, in light of that shrinking market, would it be reasonable to expect a decline in the number of service providers?

A No, not when you consider that the amount of that market that the CLECs have yet to successfully serve is still just absolutely massive. In fact, my earlier numbers were -- I was thinking BellSouth had 4-1/2 million. BellSouth is closer to 6 million access lines. I think UNE-P has about 650,000 lines in Florida, so the UNE-P share of BellSouth by itself is about 10%, so 90% of the market is still out there untapped. That's a far more relevant number than the

fact that the total number of lines may have declined by even 10%.

Q Going to your rebuttal testimony, page 32, lines 9 through 13, if a customer has DS1 service, is that customer at the location of the DS1 service an enterprise customer?

A Yes, by definition.

Q Now, if that same customer orders a single residential analog line at another location, is that customer at that location a mass market customer?

A The customer might be, but if the carrier serving those two locations serves that one analog line, the carrier may still be had enterprise carrier and the switch may still be an enterprise switch, because there's certainly going to be some analog activity that is incidental to its business.

Q But as far as defining the customer, he could be an enterprise customer at one location, but a mass market customer at another?

A By these definitions, yes. It's one of the reasons why enterprise CLECs with enterprise switches still have some analog loops, because the customer that is fundamentally an enterprise customer, they may have analog loop activity at a location or tangential to their business, like a fax line, and in order to win the

account, you have to provide service to both service configurations.

Q Does the carrier face the same economic characteristics to serve this customer in the scenario given in your testimony at their remote locations with a DS0 loop that it faces to serve residential customers served by the same loop type?

A No, because they don't actually view the transaction as one analog loop off in some strange location. They view the transaction as, "Here is a customer with a DS1 and an analog loop, and in order to get the DS1 in that location, I may need to put it in a package to serve that remote analog line." So as a practical matter, the economic transaction to the carrier of a customer with a multi-location serving arrangement is a different economic transaction than serving a residential customer with an analog loop. Even if for one of the service configurations there's technical similarity, the economic transactions are fundamentally different.

Q What is a mass market customer?

A A mass market customer fundamentally is a customer with up to 12, as the calculation turns out in this state, analog voice lines that have basic POTS service on them. They're residential customers. They

tend to buy service on a month-to-month basis instead of on a contract basis. Their voice need fundamentally defines their communications need. It's the residential or small business that again has up to, as the calculation here shows, 12 analog lines, requirements equalling 12 analog voice lines at their location.

Q And I'm assuming that's based in the TRO, your definition there that you gave us?

A Yes. Do you need a particular cite?

Q No, I don't think so. We just want to be sure what your source is.

Is a customer defined as either a mass market customer or an enterprise customer based on the loop type and capacity?

A Yes, in that the enterprise customer is DS -- for purposes of unbundled local switching, enterprise customers in the enterprise market are all customers served with a DS1 loop, or they have so many voice lines at an individual location that it would be more, quote, efficient to serve that customer location with a DS1.

Q Are loop unbundling rules specific to loop types?

A The loop unbundling rules are different than the unbundling rules related to unbundled local switching. So you have different uses of the term "mass

market," or may have different uses of the terms "mass market" and "enterprise" in the loop unbundling section of the TRO than you have in the local switching section of the TRO. The local switching section of the TRO is -- the definition of "enterprise" and "mass market" is very specific, and it does tie back to either the loop capacity of the customer or the number of analog loops that exceed this cutoff that is calculated by figuring out where is it that it's cheaper for an analog customer to be served by a DS1 based on the number of analog lines they have, analog voice lines they have.

Q So do the rules vary based on the customer to be served?

A Well, there's sort of two different spheres of the world. There are a set of rules relating to unbundled loops. Put those aside. The rules relating to unbundled switching divide the world into two universes, enterprise customers and mass market customers. Enterprise customers are customers served by a DS1 loop or that have so many analog voice lines that they go over this crossover, which in this state is 12 according to the calculations performed by Sprint, but they basically apply the formula that I recommend in my testimony as well.

Then once you split the world into enterprise

and mass market, in the enterprise world, the FCC's finding was that carriers are not impaired to serve those customers without access to switching, but the finding for mass market customers is that carriers are impaired in their ability to serve those customers with mass market switching.

Q So based on that explanation, is KMC serving mass market customers?

A KMC is serving enterprise customers, because they serve customers that either obtain a DS1, or to the extent that they have any analog lines, the percentage of those analog lines on their switches fall within the standard used by the FCC to define enterprise switches versus mass market switches.

Q You've alluded several times to serving analog or mass market customers with an enterprise switch. Would there be substantial modifications necessary to do that?

A There would be some modifications to the switch in terms of outfitting its ability to handle analog services. There would be additional changes in collocation requirements. But the other changes are that the company would have to fundamentally change its business plan. I mean, basically, what you see when you look out into the marketplace is that carriers either

are mass market or carriers are enterprise in terms of the products that they sell, the marketing arrangements that they've put in place, the customer support arrangements that they've put in place, and they appear to be pretty fundamentally different business strategies in terms of how you organize your business to compete for those.

Now, there are some carriers that do both, for instance -- it was not named as a trigger in this case, but a company, IDS Telecom, serves all of its enterprise customers off of its switch because it makes sense to bring DS1 conductivity back to the switch to provide service, but they serve all their mass market customers off of UNE-P.

Q Would it be fair to assume then if they serve mass market customers off their enterprise switch that those modifications you mentioned have been made to that switch?

A Either I didn't say it right or you didn't hear it right, one or the other. I meant to say they serve enterprise customers on their switch and mass market customers using UNE-P. They don't serve any mass market customers, to my knowledge, off of their switch.

Q But if an enterprise switch were serving mass market customers, it would mean it had been modified?

A It would have at least some capacity capable of handling analog connections, yes.

Q Now, if an enterprise switch has been modified to provide that analog to those customers, then would you say that the switch now is a dual function switch?

A No.

Q Okay. Just the fact that it could serve both data and analog would not make it a dual function switch?

A Well, the terms of art in the TRO are enterprise switch and mass market switch.

Q Okay. The TRO doesn't give us a dual function switch.

A Not that I've seen.

Q Okay. If the switch can serve the mass market and the enterprise market, then in reality, though, it's a mass market and an enterprise switch in function; is that correct?

A Well, it may have some ability in function, but that's not how the definitions work. The definitions are based on, in effect, the percentage of lines served by the switch.

Q Okay. In your rebuttal testimony on page 32, lines 18 through 20, you do mention that the FCC understood that enterprise switches would serve some

analog lines. You further state that the FCC concluded that enterprises switches should not be counted in the trigger analysis. Are they to be counted in the potential deployment analysis?

A Well, in the potential deployment analysis you don't count them per se, but the FCC did indicate that the Commission -- that in doing a potential deployment analysis, the commissions may look at it to be -- my testimony does not, except at a very high level, address the potential deployment analysis, and so this is actually somewhat out of the scope of my testimony.

Q Okay. How likely is it that these enterprise switches might be employed to serve mass market customers?

A Very unlikely.

Q Does "likely to be" imply a future tense?

A Likely to be in what sense? Do you have an FCC cite you want to --

Q Well, likely to be employed for purposes of the potential deployment analysis.

A Again, my testimony speaks -- with some modest overlap into the potential deployment analysis, my testimony speaks primarily about the trigger analysis. The reason I say that it's unlikely is that if you already have a switch and you have already have excess

capacity on it, you could save money if you could efficiently move loops onto that switch. There would be no reason to pay BellSouth its not insignificant charges for unbundled local switching if you have an empty -- you know, spare capacity on your switch. So we know that since there are switches that from a technological point of view could serve some analog lines, but are not deployed that way in an economic fashion, that there are economic barriers for them to be used, such that it is less costly to pay BellSouth for switching when you could have your own switching used for free.

Q If an enterprise switch was classified or reported to be likely to be employed to serve the mass market, would that imply to you that they were not presently being used to serve the mass market?

A I actually don't understand the question.

Q Well, if it's reported that this switch is likely to be used for mass market, does that mean it's not presently being used for mass market?

A The reason I'm having trouble with the question is I don't understand what "reported to be likely to be used" is. And since I don't really understand that part of your question --

Q That gets back to your saying you're not in the potential deployment analysis.

A Not at a level that would cause me to understand that question.

Q Okay. We'll move on.

What must be done to employ an enterprise switch to serve the mass market? We talked about a modification, and you said -- I used the term "significant," and you said some. What happens to use an enterprise switch to serve the mass market?

A Again, this isn't an area covered in my testimony. I'm afraid any answer I give you at this point would be incomplete, so I refer to pass on that one.

Q If a switch used to serve the enterprise market has been modified to serve the mass market, then has that switch moved from a possibility of serving the mass market to actually serving the mass market? Is that --

A No, because the barriers are far more extensive than the changes you make at the switch. I mean, you have to pick up and extend all these loops back to that switch location in an environment where you're fundamentally selling month-to-month services. Those, among other things, are things that cause the use of self-provisioned switching to serve the mass market to be economically unviable. So I don't think you can get to the end point that you're thinking about through

looking only at the costs to use a switch at the switch, because many of the costs to use an external switch are the costs to get to the switch.

Q Is the reason that switches deployed to serve the enterprise market should be treated differently because of the substantial modifications required for that switch to be employed to serve mass market?

A You mean in the trigger analysis?

Q Yes.

A Well, in the trigger analysis, you treat them differently because the FCC told you --

Q That you treat them differently.

A Yes. You can't count enterprise switches. They're not -- an enterprise switch does not provide evidence of mass market competition.

Q Does the self-provisioning trigger identify the existence of actual competitive facilities serving the mass market?

MS. KAUFMAN: I'm sorry. I didn't understand that.

BY MR. FORDHAM:

Q Does the self-provisioning trigger identify the existence of actual competitive facilities serving the mass market?

A That's fundamentally its role. I mean,

fundamentally its role is, and I'll quote, "If the triggers are satisfied, the states need not undertake any further inquiry because no impairment should exist in the market." So the whole point in the trigger analysis is, if the triggers are satisfied, then what that's really showing you is that there are no more impairments, and that's why the FCC included this guidance and these criteria and how it approached looking at measures of actual competition.

Q If a carrier is serving mass market customers with the use of their own switch, then does this identify them as deploying actual competitive facilities serving the mass market?

A I'm sorry. Could you just read that one back for me, please?

Q Yes. If a carrier is serving mass market customers with the use of their own switch, then does that identify them as deploying actual competitive facilities serving the mass market?

A Not at a level that necessarily satisfies the switch trigger.

MR. FORDHAM: Okay. Just some logistics here a minute. I have another set of --

MS. KAUFMAN: We can probably go off the record if that's okay.

MR. FORDHAM: Yes, off the record.

(Discussion off the record and short recess.)

BY MR. FORDHAM:

Q Mr. Gillan, what we're going to do, sir, is bunch these, and for each of the next batch of questions, they will refer to each of the carriers listed on your Exhibit JPG-9. For each carrier listed as a trigger candidate, we'll ask the following questions, and you can -- they likely will be all the same answer, but if not, you can distinguish them and tell us if there's a difference.

MS. KAUFMAN: Just so the record is clear, there's a JPG-9 revised, just so that we're looking at the right one, and that was attached to Mr. Gillan's supplemental rebuttal on January 22nd.

A You're asking with respect to the companies on the left-hand side, which --

Q Correct.

A -- is why you said it didn't matter.

Q It didn't matter. The companies remain the same.

So with that understanding, sir, let's get into these quickly. Does each company currently market voice service to residential customers in Florida?

A KMC does not. PaeTec does not. ITC^DeltaCom

does not. Comcast, they may have some residual marketing underway. Obviously, there are five carriers -- well, four carriers that are addressed by company witnesses that I haven't reviewed, including AT&T. SBC Telecom does not. Allegiance does not. XO does not. NuVox does not. US LEC does not. Xspedius does not. Network Telephone does not. Florida Multi Media and Orlando Telephone have some services that ultimately end up being consumed by residential customers, but that is because they sell service to -- they sell service to an enterprise customer, a landlord of an apartment building, for instance, and it ends up being consumed, but it's an enterprise service.

Q This question is only for marketing, actively marketing.

A Okay. No.

Q Each of those companies, do any of them serve any of those customers?

A No, not that I'm aware of, with the -- well --

Q Does each --

A Hold on just one second. I believe NuVox may have some residual legacy residential customers from an abandoned business plan of a company that they acquired, but it would not be on their own switch. It would be under a resale strategy, and it has to do with a company

that they acquired. The business plan has been abandoned. The company I think that was doing it had to stop doing it before they were acquired.

Q Okay. Does each company advertise on the Internet?

MS. KAUFMAN: Are you speaking generally or for a certain type of service?

MR. FORDHAM: Market their service.

A Well, they each have websites.

Q They each have websites. Okay.

Does each company offer a full spectrum of services, including voice?

A Well, to the enterprise market they offer voice service, but, you know, several of them only offer voice service as part of a -- essentially only provide voice service as part of a DS1 configuration.

Q Does each company's range of offerings include a single dial tone line?

A No.

Q Do you happen to know which do not specifically?

A Well, again, their principal product line -- KMC Telecom, or let's say Network Tel. Network Telephone offers services on DS1 or on a high-speed compatible loop arrangement, for instance. In order to

go through each one of them, I would have to map the information I have in my rebuttal testimony, which is obviously organized around the things the FCC says to look at to see whether they should be counted, and the offering of a single dial tone line is not one of those. And ITC^DeltaCom offers dial tone line services, but does so using UNE-P. I do not believe they offer anything like that that would be self-provisioned off their own switch.

Q Do you have access there to BellSouth's Exhibit PAT-4 and Verizon Exhibit ODF-3?

A No.

MR. FORDHAM: Do you have those?

MS. MOSS: Yes. (Tendering documents.)

BY MR. FORDHAM:

Q The question on those, sir, is the offering of each of those companies available to customers throughout any of the markets deemed not impaired?

A I don't know. I've never tried to make that correlation.

Q Okay.

A I mean, I wouldn't agree with these market areas anyway, so --

Q All right. Have any of the companies, back on your exhibit, filed a notice to terminate service in any

market in which they are currently serving?

A Not to my knowledge.

Q Okay. Have any of the switches owned by any of these companies been modified to provide voice service, even though they do not currently provide such service?

A Well, it's part of my rebuttal testimony for most of these companies how many analog lines they have and how much digital capacity they have to compute whether or not their switches are properly viewed as mass market or enterprise switches. In the rebuttal testimony where I provide that information, there's obviously some companies who have some analog loops terminating on their switches, but those percentages all fall within the range acceptable for determination of the classification of the switch as an enterprise switch. But there are some analog loops terminated on some of those switches.

Q I wonder if we could ask, sir, for a late-filed exhibit to your deposition providing a list of the switches and the wire centers that they serve, the ones that have been modified. Is that --

MS. KAUFMAN: Can we talk about that for a second?

MR. FORDHAM: Sure.

(Discussion off the record.)

A I have no way of collecting that information between now and the time that we go to hearing. I've got the information that's in my rebuttal testimony. I have information on those switches at the level that I think is appropriate to look at them, but I don't have access --

Q That's fine. We've just been accustomed to you having everything.

A I have all that is needed.

Q Okay. That's fine.

Back to the companies on your exhibit. Are these companies operationally capable of providing voice service in any of the markets deemed not impaired?

A I have never mapped the switches that have some analog lines on them, which I'm assuming to be operationally capable of handling at least some minor amount of additional analog lines, to whatever collocations would be capability of serving and where those collocations might be.

Q Not on your exhibits, sir, but do you know whether NewSouth currently -- well, I don't need that. Excuse me.

Is the State free to make its determination upon record evidence?

MS. KAUFMAN: Excuse me. Of what?

MR. FORDHAM: The issue of impairment, I think we're talking about.

MS. KAUFMAN: You know, I would object. I'm not sure if you're asking about an evidentiary standard. Again, he can answer the question if he understands it in that context.

MR. FORDHAM: Are you saying it's a legal --

MS. KAUFMAN: I'm just not clear what you're asking the witness to opine on. Like I said, I'm not going to tell him not to answer.

BY MR. FORDHAM:

Q Well, I think what we're after here is whether it's the State's call as to whether the burden is met based on the record evidence.

A Unless it's a trick question, the answer is yes. I mean, what you have here is that Verizon and BellSouth have made certain claims as to where they believe triggers are satisfied, which is the principal focus of my testimony, and I've responded to those claims. Inside the four corners of that dispute, I believe the Commission's responsibility is to make a decision based on the record evidence as to whether the triggers claims are satisfied or whether our explanation of --

Q Right. That's the gist of the question.

A Inside the four corners of the trigger companies that they've identified, yes.

Q Okay. Is the State free to examine the record evidence of any other company that has not been claimed by an ILEC as a self-provider or a potential self-provider?

A I would say no. There has been no opportunity to rebut any, quote, record evidence on anyone other than the companies identified by BellSouth and Verizon. There have been no other proposals placed into the record.

MR. FORDHAM: Folks, you're going to be sorry to hear this, but that was my last question.

Mr. Lackey has the same statement to put on the record, that he has no questions.

MR. LACKEY: I do have a statement to put on the record, but that's not it.

MR. FORDHAM: Oh, okay.

MR. LACKEY: Before we begin, I just need to get one thing straight. I understand about the 4:25 heart stop, and I appreciate it. That's fine. That's fine with me.

MS. KAUFMAN: That's not when --

MR. LACKEY: I understand.

THE WITNESS: He's on the same plane.

MS. KAUFMAN: Oh, okay. Sorry.

MR. LACKEY: I just moved back to the same plane. What I need to make sure on the record, I've been dealing with Mr. Henry regarding depositions, and our understanding was that we would follow on the depositions, and I'm perfectly willing to do that, and I'm ready to do that, and I will do my best to get done. But if I don't get done and we run out time, Mr. Henry's agreement with me was that we could notice the deposition again, so I want to make that clear on the record. I will do my best to get done, but that's the agreement.

THE WITNESS: He's not my lawyer, is he?

MS. KAUFMAN: Let's go off the record.

MR. LACKEY: I wanted that on the record, but we can go off the record now.

(Discussion off the record.)

(DEPOSITION CONTINUED IN VOLUME 2.)

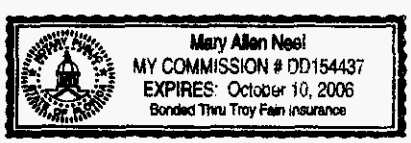
CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF LEON)

I, MARY ALLEN NEEL, Notary Public in and for the State of Florida at Large:

DO HEREBY CERTIFY that on the date and place indicated on the title page of the foregoing transcript, an oath was duly administered by me to the designated witness before testimony was taken.

WITNESS my hand and official seal this 17th day of February, 2004.



Mary Allen Neel

MARY ALLEN NEEL, RPR
2894-A Remington Green Lane
Tallahassee, Florida 32308

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, MARY ALLEN NEEL, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter transcribed under my supervision; and that the foregoing pages numbered 1 through 119 are a true and correct transcription of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, or relative or employee of such attorney or counsel, or financially interested in the action.

DATED THIS 17th day of January, 2004.

Mary Allen Neel

MARY ALLEN NEEL, RPR
2894-A Remington Green Lane
Tallahassee, Florida 32308
(850) 878-2221

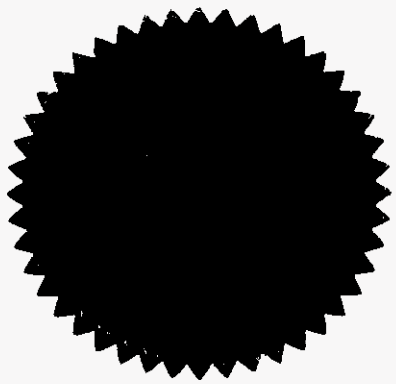
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.

_____/



DEPOSITION OF:	JOSEPH P. GILLAN
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
DATE:	Friday, February 13, 2004
TIME:	Commenced at 9:40 a.m. Concluded at 3:12 p.m.
LOCATION:	Gerald L. Gunter Building Room 309 2540 Shumard Oak Boulevard Tallahassee, Florida
REPORTED BY:	MARY ALLEN NEEL, RPR Notary Public, State of Florida at Large

VOLUME 2
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ACCURATE STENOTYPE REPORTERS, INC.
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APPEARANCES: AS HERETOFORE STATED

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Thereupon,

JOSEPH P. GILLAN

continues his testimony under oath from Volume 2 as follows:

CROSS-EXAMINATION

BY MR. LACKEY:

Q I'm going to ask you a tedious, long set of questions. If I ask you a question you don't understand, will you ask me to either restate it or to repeat it so that you can understand it?

A Yes.

Q If you need to take a break at any point during this deposition, will you tell me that as well?

A Yes.

Q The first thing I want to ask you has to do with your curriculum vitae. Can you turn to that? I believe that's your Exhibit 1 to your direct testimony.

This one actually isn't a tough question. You don't need to get it unless you're already there.

A I'm there.

Q I understand you have a B.A. in economics from the University of Wyoming; is that correct?

A Yes.

Q And you have an M.A. in economics from the University of Wyoming as well; is that correct?

A Yes.
Q Do you have any formal training in the law?
A I took some business law classes or a class at Northwestern University.
Q Do you have a degree from a law school?
A No.
Q Do you hold yourself out as a person qualified to give an expert opinion on matters of law?
A To the extent that one has to have a law degree in order to do that, no.
Q Does that mean that to the extent one doesn't have to have a law degree to do that, yes?
A I am not a lawyer. I cannot offer a legal opinion. I've been doing this for 25 years, and as a result of my close proximity to lawyers have picked up some knowledge, and am licensed as a Class B Practitioner by the Florida Public Service Commission, a distinction of historical curiosity, but I understand no ongoing application.
Q I was going to ask, is that still a current designation, one that allows you to practice solo before the Florida Public Service Commission?
A My understanding is it lasts for life.
Q I'm sorry?
A Just joking, Doug. I don't know what the

status of the Class B Practitioner is any longer.

Q I'm going to start in your direct testimony, if you want to get that in front of you. I'm just turning the pages of it.

A Okay.

Q I'm on page 4 of your direct testimony, in the general vicinity of lines 7 through 12. I'm particularly interested in the sentence that says, "In the BellSouth region alone, eliminating UNE-P would reduce local competition in 2004 (based on BellSouth's projections) by nearly 90%." And you repeat that 90% figure on page 12 of your direct testimony as well at line 7. What I would like to have you explain to me, please, is the basis for that statement.

A It was calculated from a BellSouth interrogatory response to MCI WorldCom's first set of interrogatories, Attachment 167-1.

Q All right. It was calculated from it. What did you do? How did you make the calculation that led you to that conclusion?

A The discovery response is proprietary, but the question asked for -- I have the answers, but I didn't bring the question with me -- would BellSouth estimate the number of in-service units for UNE loop, UNE-P, and resale arrangements in its region at the end of 2004,

and the value for UNE-P divided by the total value is the 90% reduction.

Q I see. The interrogatory asked for a forecast of what BellSouth expected the level of UNE-Ps and UNE-Ls to be at the end of 2004?

A I believe that was the question. Actually, I have the answer with me. I did not bring the question with me. If you play Jeopardy --

Q I'm trying not to get into anybody's proprietary information, including my own. All I'm trying to ascertain is, did you simply assume that all of the UNE-P competition that would be available went away to get the 90% figure?

A Yes, yes.

Q Okay. Did you give any consideration to whether any of the customers that are being served by UNE-P at this point would move to either a facilities-based carrier or to some other arrangement offered by a CLEC?

A No.

Q Looking at page 5 of your testimony, you identify four issues that you're addressing in this proceeding, Issues 1, 2, 4A, and 4B; is that correct?

A Yes.

Q Can you turn to page 52 of your prefiled

testimony, direct testimony? I'll tell you when I move to either the rebuttal or surrebuttal. Are you there?

A Yes.

Q On page 52 you have a section labeled Roman number VII, "The False Tension Between Unbundling and Facilities Deployment." What I would like to know is, from this point on page 52 through page 66 of your testimony, which issue are you addressing in this proceeding?

A To me, this section provides background as to whether the triggers are satisfied by laying out for the Commission that the incentives of the incumbent here to eliminate unbundled local switching make sense only under an expectation that they would gain control of lines as retail. That's part of it in terms of the triggers. The rest of it is, as I indicated earlier, testimony to provide the Commission a general context for evaluating and understanding the TRO.

Q Does that mean, taking the last part of what you said first, that the rest of these pages from 52 to 66 do not relate specifically and directly to an enumerated issue in this proceeding?

A No. I said they all relate to understanding the ILEC's incentives with respect to its triggers claims, so it goes to the weight that the Commission

should give the ILEC testimony, trigger testimony. And then I went on to point out that it provides the Commission general background.

Q Okay. Which issue does the general background that you're providing the Commission relate to?

A It's just additional inclusion in the testimony to provide an understanding of the TRO and how it works.

Q Is there an issue that asks the parties to explain to the Commission how the TRO works?

A I don't think there's a specific issue, because the Commission need not vote on that specific question, but I believe it is germane to all of them.

Q On page 5 of your testimony, beginning at line 34 and going through 36, you talk about the section that follows page 66, which you identify as recommended next steps; is that correct?

A Yes.

Q Which of the specific issues in this proceeding does that part of your direct testimony relate to?

A I don't know that it addresses a specific issue as much as it outlines for the Commission why it must open a follow-up proceeding.

Q Look at page 6 of your direct testimony. And what I'm trying to sort out here is, your position is that under 271, BellSouth is required to continue to

provide unbundled switching even if there is a finding of no impairment in a specific market; correct?

A That's the FCC's position, yes.

Q Well, it's also your position?

A Well, it's my position because it is their position.

Q All right. What I'm trying to sort out here is, is it your position that under Section 271 of the Telecom Act -- and I'm not asking for a legal opinion.

A Yes, I know.

Q Is it your position that under 271, the FCC is responsible for making the decision for establishing the rate that will be charged for elements that are unbundled under 271?

A No. They have enforcement authority if someone brings a complaint to them. But for purposes of establishing a rate or adjudicating any dispute, it would be the State Commission in its responsibility as the arbiter of disputed issues in interconnection agreements.

Q If unbundled switching is no longer required in a specific market, is it your opinion that BellSouth's provision of unbundled switching under 271 still has to be included in 251 and 252 interconnection agreements?

A It is my position that you would still have to

satisfy 271. You must provide the specifically enumerated items in 271, which includes unbundled local switching, in interconnection agreements and in SGATs, and that the agencies identified in the statute for the adjudication of disputes regarding SGATs and interconnection agreements is the State Public Service Commission.

Q And I just want to make sure I'm clear on the bridge, because that's the only problem I'm having. Your opinion is, let's just assume that the Commission adopts your market definition of LATA, and let's assume that they use a crossover of 12, and they conclude that in the Southeast LATA there is no impairment and that BellSouth does not have to provide unbundled switching. I realize you don't agree with the assumption, but just for purpose of the question, your position is that BellSouth would still have to provide unbundled switching in that LATA under 271, and that its provision of unbundled switching would have to be included in interconnection agreements with CLECs in Florida?

A If the CLECs requested it, yes, and/or the SGAT.

Q Now I want to talk to you about page 7, where you're quoting from the Florida law, the 1995 Florida law. The first question that I have is, if the FCC --

and let's talk about that same market. Let's assume it's the Southeast LATA, and 12 or fewer lines is the crossover, the same thing we just talked about a minute ago. If the FCC finds that BellSouth does have to provide unbundled switching in that LATA, setting aside the 271 obligation for a moment, is it your position that under the Florida Statute, the Florida Commission could still require BellSouth to provide unbundled switching under state law?

A Yes. Subject to the caveats about not being a lawyer, yes, that the federal Act did not preempt the field of state regulation of local interconnection and local competition provisions, and the state law itself BellSouth has never asked to be preempted.

Q Will you agree that the federal law does preempt or does preclude the application of state laws and regulations where they conflict with the federal law?

A I think the phrase is "inconsistent with and substantially prevent implementation of." The Eighth Circuit has already provided some guidance as to the meaning of that framework, specifically noting that the Telecom Act was passed at a time when a number of states were passing state laws to open up local markets, and I believe that the Eighth Circuit decision in that regard

made reference to the fact that the preservation of state access regulation, the preservation clause in the Telecom Act was included as intended to preserve those kind of ongoing state activities.

Q All right. I'm going to come back to that. I've got to find another section of your testimony before I can ask you the follow-up question, but I'll run across it.

This question, though, deals specifically with the state law. Is it your understanding or position that the Florida state law, in addition to having a requirement that imposes an unbundling obligation on BellSouth, also has a requirement that BellSouth provide UNE-P?

A I believe that the obligation to provide all network features, functions, and capabilities, which is sufficiently broad to encompass the combination known as UNE-P, would cover it.

Q Does that mean that you can't point to any specific language that imposes a requirement in the Florida law that BellSouth bundle or combine unbundled elements for CLECs in Florida?

A I think as the Court has already noted, the term "unbundled" has to do with separately price, not physically separate. And so the obligation to provide

all of your network would encompass UNE-P. And certainly the use of the term "unbundled" would not relieve you of that obligation.

Q The Supreme Court was interpreting federal law, wasn't it?

A They were interpreting federal law, but the comment went to what the word "unbundled" meant. And absent any other controlling authority as to what the word "unbundled" means, I'll take their opinion for now.

Q But again, to get back directly to my question, you can't point to a sentence or a phrase in the Florida law that obligates the ILEC to combine any unbundled network elements for a CLEC, can you?

A No, but I would say that that question is different than the first question, which was is there an obligation to provide UNE-P, which is 364.161, and the obligation to provide access to all of your network. There's nothing that suggests you have the right to dismantle that network and be put in a position of saying that you don't have to put it back together again under 364.

Q Are you finished?

A Yes. I'm as interested in this 4:25 flight as you are, Doug.

Q Hey, I've been on the 6:00 flight, and I'm

back. I can go back again, but I won't.

On page 14 of your direct testimony -- I want to ask you a question about page 12 and the 90%. Did you suggest that 90% was a regional figure and not a Florida-specific figure?

A I'm sorry. Which page are you on now?

Q Well, I'm going to ask you about page 12, line 7. I just asked you about page 12, line 7. And I'm picking up on something you said earlier that I should have asked you about when you were looking at that interrogatory answer. Is that 90% figure a regionwide number?

A Yes.

Q On page 13 you have a chart, "UNE Penetration in Mass Market." Are the figures in that chart regional or Florida-specific?

A Regional.

Q Is there a reason why you didn't provide the same information for Sprint?

A Sprint did not provide the information to the FCC.

Q On page 15, beginning at line 6, I want to make sure I understand your position. The FCC rested its conclusion that there was impairment on a national basis on only one source of impairment, the manual hot cut

process; is that correct?

A That's my understanding, yes.

Q I want to talk a little bit about page 16, lines 5 through 8, in connection with the issue regarding hot cuts.

A I'm sorry, Doug. Can you tell me where again?

Q I want to go to page 16, lines 5 through 8, but I want to talk about this in the context of the question I just asked you about hot cuts. And what I want to ask you is, do you understand that the TRO and the rules of the FCC require this Commission to approve and see that a batch hot cut process is implemented within the nine-month period?

A Generally, yes.

Q And I want to distinguish that from simply looking at a hot cut process that BellSouth may offer or that Verizon may offer and going thumbs up or thumbs down on it.

A Yes. I mean, I understand there's a lot of disagreement, which my testimony doesn't go into, as to what it actually means to approve a process inside the nine months.

Q Well, what I want to get to is, I want to make sure that we agree that there has been a national finding of impairment based on hot cuts and that the FCC

has instructed the State to approve and have implemented a hot cut process to fix that --

A I'm not sure about the implemented. Where do you see that?

Q Go to paragraph 488. Let's start there.

A Okay.

Q Do you see that paragraph 488?

A Yes.

Q And if you've just got the standard form of the order, on the rules, page 20, subparagraph (a), those are where I would generally direct you to. That's what I could find just turning pages here.

Again, the point I'm trying to make sure we agree on is that the Commission is charged with approving and establishing a process. It can't simply conclude that the process that BellSouth or Verizon offers is deficient and walk away from the situation.

A You're actually outside the four corners of my testimony. I'm not the witness you should direct batch hot cut questions to, outside of the limited discussion that I have.

Q Well, I was trying to drive off page 16, where you were talking about a "can impairment be fixed" analysis.

A Yes. That was my colloquial sort of

description for the task that the Commission laid out, but I did not go into -- I did not review that issue in the type of detail that your question is starting to go. I'll answer what I can, but I suspect that most of my questions are going to have to direct you to one of the other batch hot cut witnesses.

Q All right. Well, we can agree, though, that in paragraph 488, the FCC clearly said that the state commissions must approve?

A It does appear to say that they must approve, but it does not require that they implement within the time frame.

Q Okay. That one doesn't. But this is outside the four corners of your testimony?

A Yes.

Q Okay. One point that I want to make sure that we're clear on too, and I think you and I are, is found on page 17 of your testimony. You and I can agree, can't we, that if the triggers test, however it sorts out, is met, it overrides the FCC's national finding that CLECs are impaired, and it short-circuits any further review of things like operational barriers and -- well, I'll stop at operational barriers, since that's what your testimony says.

A Yes, with the following caveat. It's not clear

to me whether or not it changes in any way the Commission's work with respect to establishing some hot cut mechanism for migrating lines.

Q Okay. Let me ask you to assume that the Commission approves a hot cut process pursuant to 488 and the rules we've just been talking about, and that the triggers are met, however that is resolved. You agree that that short-circuits any further review of any operational issues or economic barriers; correct?

A I'm not trying to be coy with you. Let me try to answer it this way. There would be no reason to do a potential deployment review. The only thing that's unclear to me is -- I'll just put this in lay terms. If the Commission says that the triggers have been satisfied in a market, which you and I will never agree as to when that should occur until perhaps you become a CLEC, but if the Commission does that, then there are two sort of things that happen. One is that the CLECs and BellSouth have to agree or arbitrate the new price to continue to buy unbundled switching in that market, or the CLECs have to try to move their lines to some other network arrangement.

Since the latter of those two options requires that a hot cut process be implemented in order for it to have any value or effectiveness, I'm just unclear as to

at what point and what mechanisms are available to the Commission to synch up that finding of nonimpairment with the actual fact that there's a process to move the lines.

Now, that's not a topic of my testimony, but I just throw it out there as something that I've observed.

Q Well, I was actually just trying to read your testimony. I wasn't trying to interject anything else into it.

Do you recognize that there are some witnesses in this proceeding that take the position that even if the triggers are met, the Commission still has to look at the operational issues before it can make a "no impairment" finding? And if you don't --

A I don't know.

Q Okay. That's fine. But you wouldn't agree with that if that were a witness's position, would you? Let me phrase it a --

A Having not read their testimony, I don't want to take a position on your characterization of the testimony without understanding what it was they were saying.

Q If another witness in this case claims that a finding that the triggers are met does not short-circuit further state review regarding the extent of economic

and operational barriers, you would disagree based on the testimony on page 17, lines 7 and 8?

MS. KAUFMAN: If you want to direct him to the witness's testimony, that's fine.

MR. LACKEY: He said he didn't know.

THE WITNESS: Right, so I --

MR. LACKEY: I was just asking him. I mean, this is a simple question.

A Here's my simple answer. If the characterization of your testimony were an accurate reflection of what the witness said, which I'm not agreeing to even subject to check, then boldly stated that way, I don't think it overrides the triggers if the triggers are actually satisfied, with the following caveat: If the operational set of problems that are being discussed have to do with migrating lines to other networks, if the pricing is not acceptable after arbitration, then I have never read the order to necessarily say that the triggers take switching away from a carrier before there's a way for the carrier to move its circuits.

Now, this is not an area in my testimony, but if that's what the witness was saying, I'm not going to unilaterally disagree with him in the abstract either.

Q Look at paragraph 503. The staff touched on

this, and I want to make sure that we're clear on this. The TRO does provide that after a finding of no impairment, if there are other exceptional sources of impairment, the State Commission can petition the FCC for a waiver; correct?

A That is one outcome, yes.

Q Well, you're not suggesting that the State Commission could make a finding of no impairment and just skip the waiver process if the triggers are met, are you?

A Not under federal law. It would have considerably more flexibility under 271's pricing and under Chapter 364.

Q Now, I know when you were answering the staff, you said that your testimony really wasn't addressing the potential deployment case, but I still want to ask you a question about what you say on page 18 of your direct, because on page 18, you are talking about the potential deployment case when you answered the question, "Would it be reasonable for the Commission to remove a network element based upon a potential deployment analysis?"

A Yes. I tried to make clear in my answer to staff that I wasn't addressing it in detail, only at the level contained in these couple of pages.

Q And what I take away from this paragraph on page 18 of your answer is that you do not believe that in the absence of having met the triggers that it would be reasonable to conclude that any market should be found --

A Potentially competitive?

Q Yes, potentially competitive based on the potential deployment case. Is that a fair reading?

A Yes. I mean, I think fundamentally what we have here is, we've had seven, eight years after the Act where there has been enormous financial failure in the CLEC industry. Under this scenario, we've just gone through the actual competition test and concluded that, all right, after eight years we didn't get it. We've just looked out the window, and the triggers tell us it's still not there. Oh, but, okay, the incumbent is able to come and show us with a model that all those investors, they did it wrong. All those people who actually tried to compete, they did something stupid, but your model shows that if they had just done it the way you think it should be done, the Commission can safely conclude that access to a network element isn't available. And to me, that just sounds patently unreasonable. If you could do that, if you could actually -- if your models were so good, you would be

great, out of reach of competitors. Sprint would not -- I mean Verizon, GTE would not have abandoned its entry strategy in favor of being acquired by Bell Atlantic.

Q If there were two self-provisioning switch providers in a market -- let's take the Southeast LATA again -- that wouldn't meet the trigger, would it?

A That is correct.

Q But that is something that the Commission could consider in determining whether the potential deployment analysis should lead to a finding of no impairment for that market; correct?

A Yes.

Q If there were two CLECs self-provisioning switching to mass market customers, would that change the conclusion that you reach in that last paragraph on page 18?

A I don't think so. In the world that I would see, if there were no barriers, no barriers remaining, which is what the triggers are supposed to show, those two trigger companies would be two-thirds of the way there showing that there are no barriers left. And I think that while the TRO does tell the Commission they should take that into consideration, I still would testify to the Commission that it should wait to see real competition before it believes what is inevitably

going to be an incumbent-sponsored model as to how competitors could make money if they only did it a certain way.

Q Why would three self-provisioning CLECs, the existence of three self-provisioning CLECs demonstrate that, but two doesn't?

A I'm not sure that three actually does demonstrate it, but I know that the rule says that when you have three that are doing it, the obligations change.

Q On page 23 of your direct, line 20, you're talking about the definition of a mass market customer, and you have a subsection (b) which reads, and I guess this is part of the definition, "widely geographically dispersed." Where does the requirement in the definition of a mass market customer that the customers be widely geographically dispersed come from?

A Well, the sort answer is common sense. Obviously, the customers who are being described live all over Florida, and this describes the customers.

Q So does the answer that you just gave me mean that that's your interpretation of it, and that the words "widely geographically dispersed" probably don't appear in the TRO?

A Well, the TRO in a number of places references

the fact that the FCC rejected alternatives because they were ubiquitous, which to me is the same as saying the customer base they were trying to serve was widely dispersed.

Q So in that case, that again is your interpretation of what you believe the FCC said?

A I would have to do an electronic search if you're looking for the specific phrase "widely dispersed."

Q Do you believe that that phrase is in there somewhere, or you just don't know?

A I don't know. I've never tried to find that specific phrase. I think the concept is in the order in a number of places.

Q Line 21, subsection (c), disruptive provisioning schemes. I have the same series of questions. Can you point to the place in the TRO where the phrase "disruptive provisioning schemes" appears?

A I don't think that the phrase "complex or disruptive provisioning schemes" is there, but the FCC did identify that customers would be able to expect to change providers -- I think the term they used was rapidly and seamlessly.

Q So again, is that an interpretation of what you believe the FCC said?

A Yes.

Q Only page 25, you're talking about the DS0/DS1 cutover, and you have a formula that seems to fall between lines 17 and 18, on my copy anyway. Do you see that?

A I'm sorry. I missed you for a moment. Could you say that again?

Q Yes. Page 25. It's the only formula that's on the page.

A Got it.

Q I was trying to give you a line number, but it falls between them.

Do I understand that none of the members of FCCA in Florida actually use that formula in determining whether they serve customers with DS0s or DS1s?

A That's my understanding, in the following sense. In the real world, what you do is, you sell customers services. You sell them analog services. You sell them DS1-based services. And the customer, for a variety of reasons unrelated to this thing, figures out which one they want to buy. As a practical matter, I'm not aware of anyone engaged in significant activity of taking analog voice lines and putting them on a DS1 where the customer itself hasn't already decided that they're going to become an enterprise customer, either

by buying a digital PBX to which the DS1 interfaces, or alternatively, in today's environment, having a sufficient amount of data and voice to justify an integrated access device being deployed to the customer's premise to supply a combination of high-speed Internet access and voice services.

The requirement in the TRO asks state commissions to go out and do something that doesn't happen in the real world in marketing services, and that's to figure out, for customers who have not bought a PBX, and for customers who do not desire an integrated voice/data product to themselves become part of the enterprise market, for this other collection of customers who by their own purchasing decision want analog voice service with some number of lines, come up with a rule that says CLECs can serve them using unbundled local switching up to this breakpoint, and then may not serve customers above that using unbundled local switching. That's not something that happens in the real world in terms of the services you sell.

Q Okay. You have recommended with regard to BellSouth's case that the cutover delimiter of 12 analog lines be used; is that correct?

A I support Sprint's calculation, yes.

Q Do you believe that a customer that has 12

analog lines is likely to be a residential customer or a very small business customer?

A I believe that customer satisfies and in fact is defined by the FCC as a member of the mass market, and that mass market by definition they're going to define as an analog customer.

Now, are they a very small business customer? I don't know. I mean, the reality is that the size of the businesses isn't mapable to the number of voice lines they have. The FCC's access rules relating to carrier rights to unbundled local switching are based on an analog/digital break, with this nuance of taking some portion of the analog market and defining it through regulatory measure as an enterprise market.

Q I may have asked the question the wrong way. Let me do it this way. Would you expect that a customer that has 12 analog lines would be a residential customer?

A No.

Q Would you expect that a customer that has 12 analog lines would be a very small business customer?

A By definition in the TRO, yes.

Q Well, that wasn't what I was asking you. I'm asking you --

A Well, that's my answer.

Q Well, based on your experience, do you know many very small businesses, or what you would classify as very small businesses, that have 12 analog lines?

A The term "very small business" in the TRO is -- where it's used is in reference to the businesses that comprise the mass market with the residential class, which is defined by the FCC as being the customers with analog voice -- as being the customers who don't have a DS1 or whose analog voice lines at a location do not supersede this cutoff. By definition, inside the world of the TRO, the answer is yes.

Q Okay. So based on the definition of the TRO, the mass market customer has 12 or fewer lines, and it's irrelevant whether it's a residential customer or a small business customer, or even a medium business customer?

A That would be my answer, yes. That's the mass market.

Q I want to turn to page 27. And I'm going to ask you about 27, lines 17 through 21, and then I'm going to go over to page 30, lines 1 and 2. It's all the same thing I'm trying to ask you about. We've now moved, and we're talking about the appropriate geographic area for evaluation; is that correct?

A I got to the stuff on 27, and then you're going

to where? Or are you talking about you're covering everything between these two places?

Q No. I'm just going from point A to point B.

A Okay. What's point B?

Q Sort of like dedicated transport.

A I'm not in that case.

Q I'll tell you what. I was trying to give --

A You said 32. Just give me the line numbers again.

Q It's page 30, lines 1 and 2.

A Thank you.

Q So we're talking about the geographic market here.

A Yes.

Q And on lines 17, 18, and 19, as I read what you're saying, you're saying that we need to determine the market based on an analysis of whether an alternative could reasonably produce the same result that exists in the market today. Is that what you were trying to convey?

A Generally. I think that's the basic standard as to -- whatever geographic area the Commission selects for the marketplace, the alternative has to have similar geographic coverage, or it's not an alternative.

Q But are we trying to use that standard to

define the market or trying to tell the Commission what ought to happen in that market once you define it?

A They're separate points.

Q Okay. Which one are you making here?

A Well, I'm actually making both points here, which is I guess why you got confused, and then it goes on to going into the market definition. And in my view, the mass market is a broad market that carriers serve broadly.

Q Look at -- actually, it starts on the bottom of page 29 and goes to page 30. Basically, don't you conclude there that there is no other competitive entry strategy that can duplicate the result that has been achieved by the UNE-P?

A Yes. I mean, that's one of my conclusions, but I think that's what the data shows. And that's one of the fundamental disagreements in this, that the level of competition that you're throwing out as evidence that the trigger is satisfied I disagree with, and that's one of the reasons.

Q Well, you've recommended the LATA as the geographic market in this proceeding; correct?

A Yes.

Q And does the reading of page 27 and the reading of the bottom of page 29 and 30 mean that, having

defined it as a LATA, if you can't replace every UNE-P in the LATA with an UNE-L served by a CLEC switch, that the triggers can never be met?

A I don't know that it has to be perfect in the way you outline in the question. But if you look at a LATA and you see an entry strategy providing competition across that entire LATA, until an alternative is actually providing customer choice across that area, in actual terms, in terms of actual scope and actual volumes, then I don't believe it counts as a trigger, correct, because it does not show that there are no barriers to entry remaining.

Q Let's use a hypothetical to see if I can understand your point, and let's take the Southeast LATA again. You are familiar with the Southeast LATA of Florida?

A Yes.

Q And it generally runs along the east coast of Florida beginning where? It's probably on that map.

A I think it's around for the -- it's around Fort Pierce, I think.

Q And it runs all the way into the Keys?

A Yes.

Q And it's generally a very long and reasonably narrow piece of geography?

A I suppose its narrowness appears because of its length, but okay.

Q Does that accurately describe it?

A Yes.

Q All right. Here's my question. Let's assume that we have a CLEC self-provisioning switching to only residential customers that only served the bottom quarter of the Southeast LATA. We have a second CLEC that served only residential customers with its own switch, but it only served the next quarter. I'm moving from the bottom of the map to the top. We've got a third CLEC serving only residential customers with its own switch, but it only served the next quarter. And then the last CLEC serving only residential customers with its own switch is serving only the last and top quarter of the LATA. Do you understand my scenario?

A Yes.

Q In that example -- and let's assume that each one of those CLECs is serving 10,000 residential customer using its own switch. Is it your position that those four companies in that market, the Southeast LATA, would not meet the triggers imposed by the TRO?

A In your --

Q You want me to go through it again?

A No. I'll just accept it as a hypothetical that

doesn't make any sense, but I guess --

Q Well, there's a lot of things that don't make any sense.

A -- hypotheticals don't have to. The issue is, is that kind of stratification really representative of any kind of finding that there are no barriers to entry? I say in my testimony and explain that the reason you want to have the broad coverage from the participants is because that's the only way you can be assured that there really are no geographically imposed or otherwise controlling barriers to entry.

In your example, which I don't think would ever be found -- I think your example is unrealistic. But one of the reasons I don't think that should be counted is because it doesn't tell you what barriers there were that prevented those companies from being able to expand their services across the LATA.

Now, as a practical matter, we don't have anything that looks like that. We have narrow, modest, trivial levels of UNE-L competition that you're trying to use to eliminate a strategy that is broad. But at the extreme that you reference, I don't think that that by itself would have the trigger satisfied.

Q All I'm trying to do is understand the principle that you're articulating, and I tried to use a

simple example so I can understand it. But your answer is, if the example I laid out existed, you would not conclude that the triggers were met in that market?

A Correct.

Q Okay. Does that mean that a single carrier who wants to provide service in that Southeast LATA, in order to qualify as a trigger candidate, would have to provide service all the way from the Keys to Port St. Lucie, or whatever we agreed the northern boundary of that LATA was, in order to qualify as a trigger candidate?

A Yes, sir, because that type of breadth of coverage would be what you would need to observe to be able to, based on that observation -- and that's the whole point of the trigger. You're drawing conclusions based on a limited data point of three guys doing something. Well, the something they better be doing has to be sufficient to demonstrate that no barriers remain if that's the data point you're going to rely on.

Q All right. So in order for us to convince the Commission that there should be a finding of no impairment in the Southeast LATA that you would define, we would have to find three CLECs self-provisioning local service to mass market customers who serve customers located from the Keys all the way to Port

St. Lucie?

A Yes. If you were going to try and base your argument that there's no impairment in the Southeast LATA based solely on the observed competitive activity of those companies, then they would have to be serving customers across that footprint in order for that fact and that fact alone, those three carriers, to demonstrate nonimpairment. You always have the fallback of your potential deployment case to argue that there are mitigating circumstances or whatever. But for the finding to automatically derive from the three providers, they would have to be serving across that same footprint, because that's the footprint that competitors are serving today.

Q Is MCI one of the members of FCCA?

A Yes.

Q Do you know whether MCI is offering local service using UNE-P in the Southeast LATA?

A I imagine they are in certain portions of it.

Q Well, that actually anticipates my next question. Do you know whether MCI using UNE-Ps is offering local exchange service to mass market customers in the Keys?

A I don't know whether they are or not. I know by looking at the UNE-P information that UNE-P-based

competition covers that market. Now, it's not necessarily true that each of the providers is.

Q Well, that's the question. Do you know whether there's any local exchange provider, CLEC local exchange provider, if that's not redundant, providing service in the Southeast LATA using UNE-P that's actually serving all parts of the LATA?

A Collectively they are. I have not looked at individual carrier data. I've looked at market level data.

Q Individually, you don't know whether there's any CLEC serving the breadth of that market?

A That's correct.

Q But in order to meet the trigger, you would require that the CLEC that self-provisions service would in fact have to serve the breadth of that market?

A Yes, because you would be taking UNE-P away across the breadth of that market. And what we're looking for is reasonable criteria that can be applied to these trigger candidates such that three of them actually are proof that there's nonimpairment.

Q It doesn't seem odd to you that you would require that the trigger candidates serve the entire breadth of the market when existing CLECs using UNE-Ps don't do that?

A No, it doesn't seem odd to me at all. You are talking about using that information to take away UNE-P throughout the entire market.

Q I want to go to page 37 of your direct. I want to talk about your six criteria. I know you have them on 36 and 37, but I thought we would just start with the substantive discussion. If I understood your answer to the staff questions, what you've now said is that if there is a switch that -- well, I guess I don't know what you said, because I heard you use the 20% figure, but I don't know whether it was capacity, customers, or what.

When would an enterprise switch cease to be an enterprise switch and become an enterprise and mass market switch?

A Well, there's really only two types of switches, enterprise switches, which don't count, and mass market switches that do, recognizing that there may be mass market switches that also serve enterprise lines.

The breakpoint recommended in my testimony that tracks the breakpoint that we saw the FCC apply was 80%, that if 80% of the -- if less than -- let me try and say it this way. If less than 80% of the capacity connected to the switch in voice grade equivalents is digital,

then even though the switch would be primarily still enterprise, it would be considered a mass market switch, roughly 80%. You know, if someone is there at 79%, I would argue you still wouldn't count them. But the FCC looked at a range of switches that were roughly in the 80 to 90% range and characterized those as enterprise switches when it told us that the State could not count enterprise switches towards the trigger.

Q Well, that's what I want to get straight. A switch can be serving enterprise customers and still be counted as a mass market switch for trigger purposes, assuming it meets certain criteria that you set out?

A I think so, yes. The FCC -- yes, I believe so. The FCC standard really looked at it from the other direction. Enterprise switches cannot be counted. And the FCC characterized as enterprise switches switches that had 80 to 90% digital activity, which meant that they had 10 to 20% analog activity, and it did not make the enterprise switch a mass market switch. We don't really have in the TRO a statistic that tells us if the FCC would have reached the same conclusion if it was only 25% or 30% or 40%. We just know that when it looked at the switches that were 80 to 90%, they still considered them enterprise switches.

Q All right. I want to go to that in a minute,

but I want to make sure that we've got an agreement on this. If a particular switch has 30% of its voice grade equivalent capacity serving mass market customers, it would be okay to count that switch when you're looking for trigger points?

A I think at that point, the State Commission would have more latitude under the TRO to weigh that piece of information and look at other things about the operation of the carrier. I think in the range of 80 -- the 80% range and above, that's when the switch is definitely considered an enterprise switch under the TRO and precluded from being counted. I don't think the State is necessarily compelled to count your 30% switch, but other factors would have to be looked at.

Q What I want you to now show me in the TRO or in the rules is where the FCC said that if a switch is serving more than 80% of its capacity to enterprise customers, then it cannot be counted.

A As you're well aware, the testimony explains this point, and it's in paragraph -- paragraph 437 points out that there are significant differences in the evidence concerning the enterprise market and mass market, and then it goes on to talk about the competitive carriers that had -- that 90% of the loops used were DS1 or higher capacity loops. It was in here

that the Commission was -- in other places the Commission talks about you can't count enterprise switches, but it is here that is the only place that I -- or it's the place I'm aware of where the Commission directs us to the type of data it was looking at when it recognized that enterprise switches served mass market lines.

If you go to the study that the FCC looked at, the 90% was the average across a range of carriers, and in fact, those carriers were in the range of 80 to 90%, with the exception of one carrier serving Albany, where the number of -- where the percentage of digital loops was less.

Q Well, just so I'm clear, do you want to refer me to anywhere other than paragraph 437, or is this what you're relying on?

A No. The Commission is clear that you cannot count enterprise switches. This is where the Commission gives us an indication of what kind of percentage of analog activity may be occurring on an enterprise switch.

Q And in actuality, in that paragraph, the only number, percentage number I see is 90%, which apparently dealt with six representative markets offered by businessonline.com?

A Yes.

Q Okay. Let's go to page 40, which is your criteria number 2, that self-providers must be actively providing mass market service. Are you there?

A Yes.

Q First let me ask you about the rule where the trigger is laid out. Are you familiar with that rule?

A Generally.

Q The rule does not use the word "actively," does it?

A It may not.

Q Is there any doubt in your mind about it?

A You seldom lie to me. (Examining documents.) That is correct.

Q So the word -- in order to have a discussion about any requirement that CLECs or self-providers must be actively providing service, we have to go to the TRO, not the rule; correct?

A Well, the text of the TRO and the rules are all one and the same order.

Q But the answer is yes, you have to go to the text of the TRO and not the rule?

A Yes. You have to read what the TRO was looking for and intending and saying.

Q Now, do you define "actively serving mass

market customers" as imposing a requirement that the trigger candidate be advertising in newspapers or some kind of mass media that they're able to provide service to mass market customers?

A I think as a practical matter, for them to be actively providing, they need to be actively marketing and soliciting customers.

Now, in many instances in the mass market, in most instances for mass market customers, that would suggest advertising in mediums of general circulation. But for some, it might involve the fact that they're running aggressive telemarketing campaigns as a way to actively market their services, or perhaps they're running direct mail campaigns. But there has to be some indicia of actively searching and soliciting new accounts through some recognized mechanism of mass market advertising.

Q What I want you to do then is to go to the TRO -- and you cited me to paragraph 499, but show me where the FCC said that a trigger candidate has to be actively soliciting new customers in order to qualify.

A To me, that's exactly what actively providing is. I mean, if a company is not even out there looking for customers, what possible probative evidence does there exist into the marketplace supply that no barriers

to entry remain?

Q Does that answer mean that you cannot point to a place in the TRO where the FCC said they have to be out actively soliciting customers?

A Correct. The FCC uses the term "actively providing" to incorporate that concept, or at least I believe that when the FCC uses the term "actively providing," that's the type of concept that they're looking for. This is not a dinosaur hunt for bones. It is a hunt for active competition.

Q Well, let's talk about that for a moment. One of the members of the FCCA is AT&T; correct?

A Yes.

Q And AT&T at some point, I believe in 1998, bought TCG; is that correct?

A Yes.

Q And will you agree that TCG was in the business of providing service to what you would define as mass market customers using their own switches?

A Not necessarily.

Q All right. Let me phrase the question differently. Will you agree with me that TCG did in fact provide service to what you would call mass market customers using their own switches?

A Well, I'm aware that -- I don't believe that

TCG ever offered residential services. I don't believe that TCG was very successful in offering services into the analog marketplace, although they may have done so. TCG's primary focus was enterprise customers.

Q I'm sorry. You said residence customers. Is it your position that a trigger candidate has to be serving residence customers as opposed to just mass market customers in order to qualify?

A I believe that they have to be competing for the mass market. Given the fact that about, depending on the ILEC, 70 to 80% of the mass market are residential customers, I don't believe the Commission can reasonably conclude that a carrier is competing in the mass market when it ignores the lion's share or the vast majority of that marketplace.

Q So if a trigger candidate is not serving residential customers, then you could stop your analysis there as far as you're concerned?

A Yes, for purposes of the trigger.

Q Okay. Do you know whether TCG is serving currently any residential customers using its own switches?

A I don't know whether they have any legacy lines or not. Those legacy lines wouldn't matter for a trigger analysis anyway.

Q Well, do you happen to know when TCG stopped adding analog lines, assuming that it has?

A I'm not sure that it has completely stopped adding analog lines. You know, it's pretty clear that in order to compete in the enterprise market, one of the consequences of enterprise competition is that you do tend to pick up some analog actively.

Q Have you read Mr. Bradbury's testimony?

A No.

Q All right. Have you given any consideration to the impact of the advent of UNE-P availability on CLEC business plans to provide switching using UNE-L? Did that question come out clearly?

MS. KAUFMAN: Not for me.

A Yes.

Q You understood the question?

A Yes.

Q What's the answer?

A It has saved a number of UNE-L-based entrants from bankruptcy, kept them in the marketplace, and encouraged more UNE-L competition.

Q Have you done any analysis to determine, or is it possible to do any analysis to determine how the UNE-L market would have grown if UNE-Ps had not become available?

A I think that the UNE-L market would have shrunk, particularly in the analog marketplace. I am not aware of a systematic analysis. Given the fact that the products fundamentally are used by carriers to compete in different customer segments, I would be suspicious about any analysis that tried to demonstrate that one caused harm at the expense of the other.

But anecdotally, UNE-P has saved a number of UNE-L-based carriers financially, enabling them to expand and continue to grow their UNE-L operations in those customer segments from UNE-L makes sense.

Q And which segment is that?

A The enterprise marketplace.

Q Criteria 3, page 44, self-providers must be relying on ILEC loops. Now, this actually -- and let's just shortcut it. I want to talk about 3 and 4 together, so let's look at 4, the fourth criteria, which is intermodal self-providers must be comparable to the ILEC. That's 3 and 4; correct?

A Yes.

Q Will you agree that an intermodal provider in the FCC's rules is basically defined as a CMRS provider, a cable provider, or an electric company?

A I don't know that they go to the trouble of defining it, but I would agree that those would be the

three areas that we would expect intermodal providers.

Q Okay. Now --

A Well, actually, two. I'm not sure that it's reasonable to expect the electric utility, but we'll leave them in.

Q Okay.

A It doesn't need to change your questions, Mr. Lackey. I'll continue to answer your questions. I was just expressing a likelihood opinion.

Q Okay. You don't think any of the electric companies are likely to provide telephone service using their own wires and facilities?

A I think there remain significant impediments for that to become a mass market entry strategy of any significance.

Q Okay. That was the definition of intermodal. By definition --

A Did you want me to go to it?

Q No. That was just for your edification.

By definition, an intermodal provider such as a cable company is using its own loops to reach its end users; correct?

A Yes.

Q So --

A Well, yes, but. There are some instances where

cable overbuilders have mixed mode strategies that rely in part on ILEC loops and in part on their own cable facilities.

Q All right. Let's talk about cable companies that have not overbuilt, that are just using their own cable facilities. Would you agree with me that an intermodal carrier, even if it were providing service of comparable quality and cost and maturity to telephone service, could never meet your criteria 3?

A Yes, at this point in time, I think that is true.

Q So by saying that a trigger candidate has to meet all six of the criteria that you have laid out, you have eliminated cable companies that haven't overbuilt?

A Yes, yes. At this point in time, I do not believe the Commission should use such companies as trigger companies. And the TRO is clear that the state commissions have the latitude to count them or not to count them.

Q The TRO said that the state commissions could accord their existence less weight in the analysis; correct?

A Yes, but in a trigger analysis, less weight is not -- you've got a binary choice here. You count or you don't count.

Q Okay. Your position, however, is that cable companies should not be counted as a trigger?

A That's correct. That is my recommendation at this point in time.

Q Okay. Let me ask you this. Are you familiar with the proceeding at the Court of Appeals where the FCC's order is being contested?

A Generally familiar, yes.

Q Have you read the transcript of the proceedings, the oral argument on January 28th up there?

A No.

Q What about the various briefs filed by the CLECs and other parties?

A I have read parts of some of them.

Q Let me hand you one and see if you recognize this one.

Would you pass that over to him? I only have a few copies.

A Which page would you like me to go to?

Q I just want to see if you recognize that as being the --

A I wouldn't recognize this. I would not recognize anything by its cover.

Q Okay. Well, really, I was going to focus you on the arguments that begin on page 35.

A Okay.

MR. LACKEY: I'll tell you what. Would you mind marking this as an exhibit?

(Deposition Exhibit 1 was marked for identification.)

THE WITNESS: Okay. You mean at the bottom of 35?

BY MR. LACKEY:

Q Well, that's where it starts. It's Section II, "The Order's Mechanisms for Determining Whether Switching Should Be Unbundled Violate the Act." That's where I wanted to start.

A Okay.

Q Look at page 3, the last paragraph. The CLECs in arguing to the Court of Appeals argued that -- I'm sorry. I should state a negative. Didn't argue that your six criteria or anything like them were required in order for a trigger candidate to constitute a trigger candidate, I guess.

MS. KAUFMAN: Let me interpose an objection at this time. Have you ever -- let me ask Mr. Gillan if he has ever seen this document or read it or studied it before you ask him a series of questions about it. I mean, if he hasn't reviewed it, I don't know that it's proper to question him about it.

BY MR. LACKEY:

Q Have you reviewed these pleadings?

A I've seen parts of them.

Q Do you know whether you've seen this part of it? Do you remember?

A I'm not going to have any trouble here.

Q All right. So next time just reach over and punch her. Okay?

MS. KAUFMAN: I beg your pardon.

MR. LACKEY: I'm just kidding. We're running out of time here.

MS. KAUFMAN: So we are.

BY MR. LACKEY:

Q You have seen this before?

A Yes.

Q Okay. In this brief, the CLECs did not argue that the automatic trigger included the criteria that you're advancing here, did they?

A I mean, there would be no reason to include that in this discussion.

Q Well, in fact, they argued that the FCC had established automatic triggers, and that under the self-provisioning trigger, a state must find no impairment when three or more unaffiliated competing carriers each is serving mass market customers in a

particular market with the use of their own switch; right?

A Yes, but that doesn't mean that that's the limit to the analysis that the State should do.

Q Let's look at criteria 5, ILEC affiliates do not qualify as triggers. And really, in this regard, I only have a question in connection with your Exhibit 9. Do you have that still with you?

A Give me the question, and if I need it -- I know what it is. What's the question?

Q ALLTEL is apparently eliminated because it's affiliated with an ILEC.

A Yes.

Q Is ALLTEL affiliated with BellSouth?

A No.

Q Doesn't the trigger rule require that the trigger candidate -- or that to eliminate a trigger candidate, it has to be affiliated with the incumbent local exchange carrier in the market?

A No. I think it has to be affiliated with an incumbent local exchange carrier in the market.

Q Okay. Let's look at the rule again. I'm on page 21, Local Switching Triggers, subpart (a)(1).

A Okay.

Q To satisfy the trigger, a state commission must

find that three or more competing providers not affiliated with each other or the incumbent LEC, including intermodal providers, and so forth. It's the incumbent LEC, isn't it?

A Yes. I don't want to get into an argument about semantics. I believe that this rule includes a situation like ALLTEL in the Jacksonville market, where the incumbent is so integrated into the community and in that market. It has incumbent properties up there. The football stadium is named after them. You know, their entire position is that marketplace is a product of their incumbency, and therefore, I believe in that instance, ALLTEL would be disqualified under the rule. This rule is intended to strip away the advantage of incumbency, where they're being exploited by a self-provisioning trigger candidate. And in that marketplace, this applies.

Q I'm sorry. In the Jacksonville LATA, is ALLTEL an incumbent, or is it CLEC.

A It's an incumbent and allegedly a CLEC.

Q What's its service area over there? Do you know?

A Not specifically.

Q Is it in Georgia and laps over into Florida, or is it located in Florida wholly, or do you know?

A I don't recall.
Q What's the basis for your conclusion here?
A My recollection of them being -- I think it was under the Northeast Telephone Company label, that they were the incumbent in that area.
Q And with regard to SBC Telecom, certainly, other than through some common ownership with Cingular, you're not asserting that SBC is affiliated with BellSouth, are you?
A No.
Q Criteria 6, the de minimus requirement. Let's see what we can agree on. The FCC rules do not impose a specific de minimus requirement before a trigger candidate qualifies, do they?
A I don't think the rules do. I think the order does.
Q Can you point to any place in the TRO where the Commission discusses de minimus?
A Yes. There are a variety of places where the Commission rejects nonimpairment claims based on de minimus levels of activity, starting with --
Q I want to be precise now. I want you to show me where the Commission uses the phrase "de minimus," not your interpretation of what they say.
A Okay. They reject findings of nonimpairment

based on a variety of small levels of competitive penetration. I don't believe the Commission used the term "de minimus," but their rejection of findings of nonimpairment based on relatively small levels of competitive activity occurs in a variety of places in the order.

Q The Commission's rules and the order itself do not say unless there is some minimum number of customers served by the trigger candidate, the trigger candidate does not qualify; correct?

A No, the rules do not say that, but the structure of the order and the text makes clear that the FCC -- you know, it would make no sense at all for the FCC to look at a set of data and reach one conclusion namely, that this data supports a finding of impairment, and then establish a process where a state commission would look at identical data or virtually identical data and reach the exact opposite conclusion. I think the FCC made clear that they expected the states to implement their delegated authority in the same manner as the FCC with its federal determinations to make sure that there was consistency.

Q But again, would it be fair to say that is your interpretation of what the FCC said?

A Yes.

Q And you will agree with me that if the FCC had wanted to do so, it could have said no trigger candidate will qualify unless it is serving a minimum of 1,000 mass market customers?

A It could have said that, but it did not need to say that in order for that to be an integral part of the TRO. I mean, as a practical matter, the TRO is 500 pages, 600 pages long. And the FCC was quite clear that it was giving the states both guidance and discretion, and an important job. But nowhere does it say, "We want you to go out and reverse what we did when you look at data that's exactly the same or shows the same types of competitive activity as we looked at."

Q When we were talking about the cutover, I assume that you -- although we haven't discussed it, it's in your testimony. You disagree with BellSouth's position that three or less should be the cutover?

A Yes, I understand that's your position, but you've provided no evidence.

Q And I take it you disagree with Dr. Johnson's position to that same effect?

A To the extent that he has the same position with no evidence, yes.

MR. LACKEY: If you'll give me just a second, I don't think I have a whole lot more on your

rebuttal.

(Discussion off the record.)

BY MR. LACKEY:

Q On page 25 of your rebuttal, I have a question here that deals with lines 17 through 20, and all I'm trying to do is understand how you're interpreting the quote from the TRO that's above that. Is it your testimony that when the FCC was talking about bankruptcy in the section you quote, they were talking about past bankruptcies and not current bankruptcies?

A Yes. That's the only way I can make the paragraph make a lot of sense.

Q Okay. Well, the thing that's confusing to me is, look at line 4 in the quote. Doesn't the FCC say competing carriers in Chapter 11 bankruptcy protection are often still providing service?

A Yes.

Q I'm trying to figure out whether your interpretation of this phrase is actually consistent with what the FCC has actually said in the paragraph.

A Well, this sentence, I think that would go to exactly what is the type of activity under the Chapter 11 bankruptcy. I'll give you two comparisons, and this is where a state has to apply some judgment.

In the case of MCI's bankruptcy, they're

reorganizing and clearly intending to come out as a continuing provider, whereas in the case of Allegiance's bankruptcy, that appears to be pretty much headed towards them coming out in not anything near its same form, still operating in some sense, but as part of some other kind of post-auction process.

Q Okay. Page 29 of your rebuttal. And this is a small point.

A Twenty-nine?

Q Twenty-nine.

You've obviously been getting information from AT&T from interrogatories, and MCI as well; is that correct?

A Some of it, yes.

Q Did you happen to look at the first set of interrogatories that BellSouth submitted to AT&T, as well as the other carriers in this proceeding?

A No.

Q You did not?

A I did not.

Q What I'm concerned about is your comments on page 29 that BellSouth did not request that the CLECs provide the number of mass market customers that they serve. When the case started, we didn't, and we still don't know what mass market constitutes, do we, in terms

of crossover?

A In terms of crossover; that's correct.

Q Are you aware that BellSouth asked the CLECs to give it a list of their customer locations separated by line number?

A I am now.

Q Okay. So based on what you know now, would you conclude that you perhaps were in error here and that BellSouth did try to find out from the CLECs what kinds of customers --

A I am aware after reading Ms. Tipton's testimony that I need to relook at this paragraph given that piece of information, yes.

Q A small point, but I just wanted to make it. Starting on page 31 --

A It's the only thing in Ms. Tipton's testimony that gave me cause to reconsider. Smaller point.

Q It's the old, "Where you stand depends on where you sit." Is that what it is?

Let's start on page 31, KMC. My basic question about all of these companies is, did you go and ask them, ask people who work for KMC and who work for Allegiance, what customers they were serving and how many lines they were providing to that customer's location?

A Not that set of questions, but we did go to these companies to get the information on their operations to be able to properly classify them as enterprise versus mass market, in terms of a much higher level break of just analog versus digital, not trying to assign -- all the analog connections were sort of presumptively mass market, if you will.

Q All right. Did you speak with them, or did you send them discovery, or how did you get the information?

A We put a group of people together to contact each of these companies to determine whether or not they would be willing to provide us the information, because frequently when you send people discovery, as you well know, that process can sometimes get litigious before it becomes useful.

Q Did they cooperate with you?

A All of the companies listed in the testimony cooperated with us by providing us the information that's in the testimony, yes.

Q But the one thing that I want to be clear about is, you did not say to them, "Give me the number and customer locations in each LATA where you are providing service to a customer using 12 or fewer analog lines."

A No, because we actually resolved that issue in the ILEC's favor, if you will. We were looking at how

many analog lines you have in total, whether or not you -- you know, if a customer had, say, 15 analog lines, it counted in the type of analysis we were doing as 15 mass market lines, even though in a strict reading of the TRO or a straightforward reading, we would take those 15 lines, consider it enterprise, and then count it in the enterprise percentage. If it was analog, we counted it as analog, and if it was digital, we counted it as digital. We did not try to do any shift of enterprise lines from analog to digital.

Q Well, for instance, on page 34, where you're reporting KMC's -- let me just ask you to assume hypothetically, if the Commission were to conclude that a switch that served 5% or more customers using analog lines was a mass market switch, you wouldn't be in a position to contest that KMC is providing service to mass market customers?

A I would not be in a position to contest it, nor would this data necessarily confirm it because of the line count issue identified.

Q All right. But my point is, based on the information you have, assuming the Commission doesn't adopt your position on what the FCC said, nothing in this could contest BellSouth's contention that KMC does in fact serve customers with analog lines at various

locations in the markets it has defined?

A Not based on this particular -- I'm not going to concede that they are, but based on this particular table, it would not demonstrate otherwise.

Q And I'm not asking you to concede that they are. I just want to make sure there's nothing in here that would disprove it if that turned out to be the case.

Comcast. I want to ask you about Comcast. Do you know what the arrangement is between Comcast and AT&T with regard to AT&T providing switching to Comcast?

A I'm generally aware of it through nonproprietary sources. I have a little bit more insight through some confidential sources. I'll try to answer you with just what I remember learning generally.

Q Let me ask you as broad a question as I can to try to avoid proprietary material. Does Comcast have an indefeasible right of use of AT&T's switches that it uses now?

A What I know about the arrangement would indicate that that would be an inaccurate characterization.

Q I don't know how to skirt around it.

A Let me try and give you more detail. I've been involved in a variety of issues involving IRUs, and the

characteristics that I understand you need to have in order to even qualify it as IRU are not satisfied by the arrangement between those carriers.

Q Let's try it a different way then. Is it your understanding that Comcast has a right to continue to use AT&T's switches for some period of time longer than five years?

A I understand that they have a right to use them for some period of time. The period of time is not sufficiently long enough to qualify as, from my understanding, an IRU arrangement. It's too short.

Q That's why I asked you about five years. An IRU is what? Ten years generally?

A Right, ten or longer.

Q What?

A Ten or longer. Let me put it this way. For whatever period of time the arrangement is, it's less than 10.

Q All right. Is it more than five, or can you not tell me because it's confidential?

A Now you're getting into -- I don't want to tell you the confidential material. But for purposes of this proceeding, I can represent to you that the period of time is not -- is less than 10. And your understanding of IRU requirements appears to confirm mine.

Q Is it your understanding that AT&T can stop providing switching to Comcast at any time it chooses?

A You're outside my knowledge.

Q All right. I'll ask AT&T.

In your discussion of Comcast on pages 38 and 39, you cite to various statements by Comcast. Did you conduct any discovery? Is Comcast a member of the FCCA?

A No.

Q Did you conduct, and by you I mean FCCA, conduct any discovery regarding Comcast's intention with regard to the provision of telephone service in Florida?

A No. The testimony is based on publicly available information.

Q And Comcast has not announced its intent to get out of the telephone business in Florida, has it?

A If "get out of" means shutting off customers, no, it has not.

Q You may have answered this with staff, but is NuVox providing service to mass market customers in Florida using its own switches now?

A Just so I can keep them all straight -- (examining documents.) No.

Q Has any of the information that any of the companies has given you in response to this group that you formed been produced in this proceeding?

A I don't believe we had a data request, no.
Q Okay. But there are documents and materials that reflect -- and I'm using the word "group" because I think that's what you said.
A Yes.
Q What this group gathered?
A Yes, there are documents that indicate the information provided in the testimony. Portions of those documents are obviously confidential, as is portions of the information provided, but there are documents.
Q Just give me a moment and let me turn through your surrebuttal.
Let's look at page 3 of your surrebuttal. And I'm looking at the discussion about the rates, the $9.60 per line that appears on line 9.
A Yes.
Q Do you happen to know what it costs on a per port basis for a CLEC to self-provision switching in Florida?
A It would depend on the fill rate, and it would depend on how you view costs for the CLEC.
Q Does that mean that if you make all the assumptions that were made in the UNE cost study, that your answer would be that the cost of self-provisioning

is whatever the UNE port rate is?

A If they qualified for the same discounts that you qualified for, that would make sense.

Q So if BellSouth were charging $14 for a port and the TELRIC rate was $2.41, one would think that the CLECs would provide service themselves rather than purchase it from BellSouth?

A If this had anything to do with that calculation you would, but this has everything to do with how do you access your monopoly loop network, and the fact that capacity in your switches can be obtained electronically and across a distributed base to serve mass market customers located everywhere. An external switch would not be able to do that.

Q Well, if you had your own switch, nobody has said that the CLECs can't get unbundled loops, have they? That's not an issue here, is it?

A The cost to extend those loops back to that switch is what makes the use of unbundled local switching, among other things, an unviable strategy for serving small POTS, the average POTS customers.

Q All right. Are you of the opinion that the cost of collocation and the cost of backhaul from the central office to the CLEC switch is an insurmountable barrier to a CLEC providing mass market service with its

own switch?

A Well, it's an impairment. I'm choosing to use the word "impairment."

Q What analysis have you done to reach that conclusion?

A Well, I've seen Mr. Turner's analysis. But even on a larger scale, I've been working in this industry, working to get people in a position to provide mass market services for now nine straight years, and if anybody was going to find some other way of having this work, they've had every opportunity and have attempted to do so.

Q I'm going to get to FDN in a minute, but have you looked at FDN's operations in Florida?

A I have looked at them enough to conclude that before the Commission should certify them, they would have to determine that they're likely to continue to do so. I am not recommending that they do so in this proceeding unless for some unforeseen circumstance the Commission finds two other potential trigger candidates to match with them so that the decision would have an impact.

Q Look at page 5 in your testimony. This is the quote I said I wanted to come back to earlier. And my question to you -- I was asking you about this when I

was questioning you about whether you thought the State could order us to unbundle switching if the FCC found in a particular market that CLECs were not impaired without access to that switching. Do you remember that discussion?

A Yes.

Q And I had excluded the 271 consideration.

A Yes.

Q And what I'm confused about is, doesn't the TRO say, beginning with this quote at line 8, that if a decision pursuant to state law were to require the unbundling of a network element for which the Commission had either found no impairment, thus, has found that unbundling of that element would conflict with the limits in Section 251(d)(2), or otherwise declined to require unbundling on a national basis, we believe it unlikely that such decision would fail to conflict with and "substantially prevent" implementation of the federal regime. Is that what that quote says?

A Yes, that's what that one sentence says.

Q Doesn't that suggest to you that the FCC has told us that if they find an unbundled network is not -- a currently unbundled network element is not required to be unbundled, that a state finding that it should be would likely conflict with that decision?

A You know, the FCC gave you a process. If you think the state law is illegal, then ask that it be preempted. That state law was passed as part of a bargain. Your profits got deregulated. You offered to unbundle your network. If you want to find out how the FCC would interpret and the courts would interpret whether or not a state law that provided you additional retail pricing flexibility in exchange for your embracing unbundling obligations, that that is inconsistent with and substantially prevents implementation of the federal law, then I strongly encourage you to ask the FCC to preempt Chapter 364, because I think that would be a very fascinating national debate to hold as to whether or not the federal Telecom Act was passed to truncate your state law responsibilities while preserving the flexibility you earned when you supported that.

Q Let's take it from the other side. Given what you just said, what do you think the FCC meant in that sentence?

A I think it's possible that the FCC would act to limit a state that ordered unbundling standing on its own in an environment where there was no impairment. But that is a completely different question than the question that would be posed to the FCC in this state

regarding Chapter 364 and the package of reforms that Chapter 364 held. And even in a case of -- you know, the FCC could have said, "We hereby preempt any state action to order additional unbundling." It didn't do so.

We already have the Pennsylvania Commission ordering additional unbundling. We will see whether or not Verizon wants to test the limits of this paragraph. So you can sit on the sidelines and wait.

Q You think that the reason that sentence may not be applicable in Florida is because of the existence of 364?

A I think that's part of the reason. The FCC did not tell us how they would actually react to an actual state decision to require unbundling under state law, particularly under what type of conditions and policies were embodied by that state law that required the unbundling. If it had decided to just blanket preempt, it could have done so, but it did not.

Q Page 12 of your surrebuttal. And this deals with your question and answer regarding BellSouth's claims that unbundled local switching is subsidized. Do you see that?

A Yes.

Q Do you understand that BellSouth has the UNE

rates on appeal in this state?

A I had forgotten that.

Q Let me phrase the question differently. Do you believe that BellSouth agreed that the Commission appropriately established the UNE rates for switching and loops in the last UNE case?

A I don't believe that BellSouth has agreed that any rates set anywhere are appropriate.

Q So when BellSouth is claiming that the rate is subsidized, that's not necessarily in relation to the rate that the Commission established, is it?

A Well, what you testified to or what your witness testified to was that TELRIC, even properly implemented, would be too high for your price bar. So if the Commission -- if this Commission approved, just in theory, a rate that was below TELRIC, that still wouldn't mean it was subsidized, according to Dr. Taylor.

Q But the debate here is over the level that the rate was set at, isn't it?

A But rates even below TELRIC, you could still be right in your appeal and still be wrong here, and you've offered no evidence here for the claim that it was subsidized.

Q Let me go back to it. I don't want to make too

much of the point, but look at page 12, lines 18 and 19. The argument there is an argument in principle that TELRIC-based rates are above forward-looking incremental cost and are not subsidized; right?

A Yes.

Q You're not meaning to suggest that BellSouth is taking the position that the current TELRIC rates aren't subsidized, are you?

A I am not aware of you taking the position that the current TELRIC rates are being subsidized. My understanding is that your position is that the Commission did not correctly apply the TELRIC formula, and therefore you are changing rates that are below TELRIC correctly applied.

This testimony, however, Dr. Taylor's testimony, would be that rates below TELRIC are still not being subsidized. That is my point.

Q I want to talk about FDN for a minute. Go to page 20 of your surrebuttal testimony. Is it your position that if a trigger candidate offers services to mass market customers using its own switch, but requires the customer to sign a contract, that that company cannot be a trigger candidate?

A At this point, I don't even know if FDN's services fall into that category, because we're having a

discovery dispute with FDN. I note that the FCC characterized mass market customers as customers that typically obtain service on a month-to-month basis.

Q But in this case -- let me remove it from the debate with FDN. Is it your position that if a trigger candidate is offering services to mass market customers in a specific market, but is requiring the mass market customers to enter into a term contract, that that trigger candidate cannot be used to satisfy the FCC's triggers?

A Yes, I believe that that -- at least that's certainly a possibility. You know, a contract based solely to establish terms and conditions is one thing. If they're committing customers to, say, a three-year contract with termination provisions that prevent customer movement, I believe that's inconsistent with the definition of a mass market customer as laid out by the FCC.

Q Okay. Again, that's your interpretation of what the FCC meant in the TRO. There's nothing specific that says that if a customer has entered into a term contract, it cannot be considered a mass market customer.

A No. The FCC described -- the description occurred in the reverse, where it described what a mass

market customer was. It indicated that the mass market customer is a customer that obtains service on a month-to-month basis.

Q I now want to go to your surrebuttal, and I want to find a piece of paper I had. In your surrebuttal, beginning at page 2, you talk about a response that BellSouth made to item number 3 in AT&T's subpoena duces tecum for that deposition.

A I'm sorry. You switched. Are you on my supplement rebuttal?

Q Yes. I'm sorry. I meant to say your supplemental rebuttal. I didn't mean to confuse the issue. Are you there?

A Page 2, I'm there, yes.

Q You have an exhibit that is attached to that supplemental rebuttal testimony; is that correct?

A Are you referring to JPG-10?

Q Yes.

A Okay. Yes.

Q And I believe the information that is in that exhibit is confidential and proprietary?

A Yes.

Q So what I would like to do is try to talk around it and not have to seal any part of this. So the first thing I want to ask you is, you have eliminated a

number of the CLECs on that list because there was no report that they were using any analog lines at all; correct?

A No. Each one of the companies -- it is true that that fact is identified here, but each of the companies that I indicate no analog loops reported for provided us additional information to disqualify them as self-provisioning switch triggers.

Q I'm sorry. I should have stated my question differently.

A With one exception.

Q I should have stated the question differently. On your Exhibit 10, you report that there are five companies with no analog loops reported.

A Correct.

Q And I assume that that conclusion is based on that interrogatory answer that we were just talking about.

A Yes.

Q And have you read Mr. Gallagher's surrebuttal testimony in this case?

A No.

Q Have you read his rebuttal testimony in this case?

A Yes.

Q Did you see in his rebuttal testimony where he reported that FDN served, he thought, approximately two-thirds of the 156,000 UNE-L-served customers that BellSouth identified?

A No. I'm not disagreeing that it's there. I just don't remember it.

Q Is there a reason you haven't read his surrebuttal testimony?

A I'm in 20 states.

Q Well, the reason I'm having a problem here is that he reports that he's got almost three times the number of UNE-Ls that you're reporting on this exhibit. That's my problem.

A Well, I'm only reporting on the exhibit the data that you supplied us in response to the question, which asked for the number of lines these carriers had at each one of these wire centers.

Q Did you get the information from AT&T?

A Yes.

Q Did AT&T share with you the e-mails that were exchanged with BellSouth regarding the treatment of SL1s in this report?

A Yes. Those were the lines that you could not attribute to carriers, to particular carriers.

Q Are there any SL1s reported in your exhibit?

A You could not provide the SL1 breakdown by carrier.

Q So, for instance, you have no idea how many SL1s FDN has?

A That's correct. You could not provide the number of SL1s by carrier.

Q Did you look --

A Or at least some of the SL1s.

Q Well, you asked for them by month, by carrier, by type; correct?

A Yes.

Q Did you look at the work papers that Ms. Tipton filed with the Commission staff laying out how she calculated the numbers that she reported in her exhibit?

A No.

Q So when you say, for instance, that --

MS. KAUFMAN: No, no. Excuse me. I don't think --

MR. LACKEY: Oh, I'm sorry.

MS. KAUFMAN: We shouldn't be revealing that information.

MR. LACKEY: I'm tired. She's exactly right.

THE WITNESS: Hold on. That actually might be consistent with their --

MS. KAUFMAN: Is that going to be all right?

THE WITNESS: I don't know. I was going to check to see if --

MR. LACKEY: I'm sorry. I'm tired.

BY MR. LACKEY:

Q The fourth carrier down on the exhibit, where it reports no analog loops reported, you're talking about the results that you got from that interrogatory that AT&T gave you?

A Yes. The testimony is quite clear. This is based on the data that you supplied us in response to that question, nothing more, nothing less. Where the data identified a carrier, then I was able to collect this information and present it. Where you did not provide the data, I was not.

Q You knew that this did not include SL1s for these carriers; right?

A No. I only knew that you had SL1s that you did not attribute to these carriers. I did not know and still do not know whether or not or to what extent any of the SL1s that you did not attribute to any carrier were attributable to the carriers that we specifically asked you to provide data for.

Q And since you haven't read Mr. Gallagher's surrebuttal and don't remember his rebuttal, you don't know whether he said he had three times as many lines as

are reported on this form?

A I have never seen a company try to use the fact that they gave a bad answer to a discovery request as an attack like this. But the question that we asked you for was the number of loops for these carriers. If there are additional loops that you sell these carriers that you did not identify and provide to us, then there are additional loops that you sell these carriers that you did not identify and provide to us. I mean, it's that simple. This is a summary of your data request response.

Q Were you informed that the SL1 loops were not available in this format?

A No. I'm going to go back and look at that e-mail exchange. My understanding is that your description of the category of loops that was not attributed, which I inquired about, was these are loops we cannot attribute to carriers. Now, that doesn't mean that they belong to those or they belong to anyone else.

Q And did you look at the work papers that were filed with the Commission staff to determine how Ms. Tipton came up with the numbers that she attributed to the CLECs?

A You have never supplied us the work papers that you provided to the staff. I mean, up until this

moment, this deposition is the first time I heard of Ms. Tipton providing work papers to the staff.

Q Did you look at the discovery that the staff sent to BellSouth?

MS. KAUFMAN: All the discovery? There's a ton of discovery.

A No.

Q I'm just trying to figure out whether you knew that they had asked us for this stuff.

A No.

MR. LACKEY: Can I have just a moment?

Thank you. That's all I have.

MR. FORDHAM: Does anyone on the phone have any questions?

MR. FEIL: Matt Feil with FDN. I had a few quick questions to follow up.

CROSS-EXAMINATION

BY MR. FEIL:

Q Mr. Gillan, are you ready?

A Yes.

Q Mr. Gillan, did the FCCA ask FDN to distinguish between SL1s and SL2s in BellSouth's territory in the FCCA's discovery request to FDN?

A We asked, as I recall -- I don't recall.

Q Do you know whether or not the FCCA asked other

carriers for SL1 data, either through discovery or informally?

A We asked for analog loops, which would be SL1 and SL2. We did not ask for a distinction. We asked for analog loops.

Q And that information was provided informally or through discovery?

A Informally. Well, it was provided to us I guess informally, of the two choices.

Q Did you endeavor to match up that informally provided information with the information on JPG-10?

A No.

Q I'm sorry. Was that a yes?

A That was a no.

Q Okay. Did the FCCA in its discovery request to FDN ask FDN whether or not FDN required contracts?

MS. KAUFMAN: Matt, I'm just going to object. We don't have the discovery responses right in front of us. We asked for whatever they said. I don't know if Joe recalls. I know I don't.

THE WITNESS: I don't recall the specific wording. I don't even recall that we have an answer. We have a dispute open with you.

MR. FEIL: Well, if you don't know, then the answer is that you don't know.

BY MR. FEIL:

Q Mr. Gillan, is it your belief that Mr. Gallagher advocates including enterprise switches for trigger -- to qualify as a trigger company?

A My understanding is that Mr. Gallagher doesn't recognize the distinction between enterprise and mass market switches.

Q That's not the question I asked you. Is Mr. Gallagher advocating including enterprise switches as trigger companies?

A My answer stands as given.

Q Could you fill in the blank for me, Mr. Gillan? For a switch to be a mass market switch and included as a trigger company, blank percent of the capacity has to be devoted to analog loop service.

A No. I've only looked at the standards outlined in the TRO towards what would not be counted as a mass market switch, what would be counted as an enterprise switch.

Q Do you have the TRO in front of you, Mr. Gillan?

A Yes.

Q Turn to the first sentence of page 500, please.

A Yes.

Q Is there any portion of that first sentence

that you maintain is ambiguous?

A There are portions of that sentence that I think you and I would disagree as to the meaning. That doesn't mean that I believe it's ambiguous.

Q Did you just say that does not mean that you you believe that it is ambiguous?

A Correct, any more than suppose that you would believe it was ambiguous because I disagree with your meaning.

Q So is it your testimony, Mr. Gillan, that there is nothing ambiguous in that first sentence, yes or no?

A I'm sorry. That is now turning into a negative that I'm afraid of answering yes or no to, because I'm not sure which would be which. Let me answer it this way. I think that first sentence, like virtually every sentence in this order, is open to some interpretation. I believe that your interpretation and ours differ significantly.

Q Is the first sentence of paragraph 500 ambiguous or not?

MS. KAUFMAN: Matt, I think that was asked and answered several times. I'm glad to let him explain it again to you.

MR. FEIL: I want a yes or no answer. He hasn't given me a yes or no answer.

BY MR. FEIL:

Q Is there any portion of the first sentence of paragraph 500 that's ambiguous, in your opinion?

A As I indicated, I believe that it's open to some interpretation. If that means it's ambiguous, then it is somewhat ambiguous.

Q Well, on what authority then, Mr. Gillan, in the TRO or otherwise, do you rely on for the proposition that the state commissions are free to look at the financial stability or financials of any trigger company?

A The last sentence of paragraph 500, which indicates that a key consideration is that the providers are currently offering and able to provide service and are likely to continue to do so.

Q Is it your position that that last sentence conflicts with the first sentence?

A It has a potential conflict in it, which I've tried to faithfully resolve with the distinction between a past bankruptcy and the possibility or likelihood of a future bankruptcy or other service-disrupting event.

MR. FEIL: I believe that's all I have. Give me one moment to review my notes, please.

I don't have anything further.

MR. FORDHAM: Does anyone else on the telephone

have any questions?

In this case, we're terminating this --

MS. KAUFMAN: No, no, no. I just have a few brief redirects, but it's going to be very brief, because I want Doug to get to that airplane.

MR. LACKEY: I put my pad away.

MS. KAUFMAN: It's going to take not very long.

MR. FORDHAM: Have at it.

MS. KAUFMAN: Thank you.

CROSS-EXAMINATION

BY MS. KAUFMAN:

Q Mr. Gillan, staff and Mr. Lackey and I think Mr. Feil also asked you about JPG-9 and how you collected the information that's in there. Do you recall those questions?

A Yes.

Q Did some of the companies that the information is reflected in this exhibit provide you with affidavits attesting to the information that you used?

A Yes.

Q Do you have copies of those?

A Yes.

MS. KAUFMAN: I will be glad to distribute this. There is information in here that's confidential, so I'm going to ask that this be

marked as an exhibit, and I will file a claim of confidentiality. But I'm going to give one to Mr. Lackey pursuant to our agreement. And, Lee, I will file one downstairs for the staff, if that's satisfactory, and I will give one to the court reporter, and it will be a sealed exhibit.

Can we mark that as Exhibit Number 2 to Mr. Gillan's deposition, and we can just call it CLEC affidavits.

(Deposition Exhibit 2 was marked for identification.)

BY MS. KAUFMAN:

Q Is it correct, Mr. Gillan, that the information that's reflected in these affidavits forms part of the basis for your rebuttal testimony and JPG-9?

A Yes.

MS. KAUFMAN: That's all I've got.

MR. FORDHAM: That's it?

MS. KAUFMAN: Yes.

MR. FORDHAM: Does anyone else have anything? In that case, have a great weekend.

(Deposition concluded at 3:12 p.m.)

CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF LEON)

I, MARY ALLEN NEEL, Notary Public in and for the State of Florida at Large:

DO HEREBY CERTIFY that on the date and place indicated on the title page of the foregoing transcript, an oath was duly administered by me to the designated witness before testimony was taken.

WITNESS my hand and official seal this 18th day of February, 2004.

MARY ALLEN NEEL, RPR
2894-A Remington Green Lane
Tallahassee, Florida 32308

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, MARY ALLEN NEEL, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter transcribed under my supervision; and that the foregoing pages numbered 122 through 208 are a true and correct transcription of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, or relative or employee of such attorney or counsel, or financially interested in the action.

DATED THIS 18th day of January, 2004.

MARY ALLEN NEEL, RPR
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FINAL BRIEF

ORAL ARGUMENT SCHEDULED FOR JANUARY 28, 2004

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Nos. 00-1012, 03-1310 (and consolidated cases)

UNITED STATES TELECOM ASSOCIATION, *et al.*,
Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION
and UNITED STATES OF AMERICA,
Respondents.

On Petition for Review of an Order of the
Federal Communications Commission

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CERTIFICATE OF PARTIES, RULINGS, AND RELATED CASES

Pursuant to D.C. Circuit Rule 28(a)(1), the undersigned CLEC Petitioners and Intervenors in Support certify as follows:

A. Parties and Amici

The parties who participated in the proceedings below are set forth in Appendix A of the *Order* under review.

Petitioners in these consolidated appeals are:

United States Telecom Association (03-1310)
SBC Communications Inc. (03-1310)
Verizon Telephone Companies (03-1311)
Qwest Communications International Inc. (03-1312)
Eschelon Telecommunications Inc. (03-1313)
NuVox, Inc. (03-1314)
Conversent Communications LLC (03-1315)
Allegiance Telecom, Inc. (03-1316)
Sage Telecom (03-1317; 03-1320)
SNiP LiNK (03-1318)
WorldCom, Inc. (03-1319)
Mpower Communications Corp. (03-1324)
TDS Metrocom (03-1325)
RCN Telecommunications Services Inc. (03-1326)
Cbeyond Communications, LLC (03-1327)
El Paso Networks LLC (03-1328)
McLeodUSA Telecommunications (03-1329)
LDMI Telecommunications Inc. (03-1330)
AT&T Corp. (03-1331)
Z-Tel Communications, Inc. (03-1338)
Focal Communications Corporation (03-1339)
Birch Telecom, Inc. (03-1342)
Promoting Active Competition Everywhere Coalition (03-1347)
People of the State of New York and the Public Service Commission of the State of New York (03-1348)
Covad Communications Company (03-1360)
BridgeCom International Inc. (03-1372)
KMC Telecom III, LLC (03-1373)
Talk America Inc. (03-1385)
National Association of State Utility Consumer Advocates (03-1389)
People of the State of California (03-1391)
Pennsylvania Public Utility Commission (03-1393)

National Association of Regulatory Utility Commissioners (03-1394)
DataNet Systems, LLC (03-1395)
Manhattan Telecommunications Corp. d/b/a Metropolitan Telecommunications (03-1400)
Infohighway Communications Corp. (03-1401)
Allegiance Telecom, Inc. (03-1424)

Respondents in these consolidated appeals are the Federal Communications Commission and the United States of America.

Intervenors in this case are:

United States Telecom Association
SBC Communications Inc.
AT&T Corporation
WorldCom, Inc.
BellSouth Corporation
BridgeCom International, Inc.
AT&T Wireless Services, Inc.
Allegiance Telecom, Inc.
Cbeyond Communications, LLC
Focal Communications Corporation
McLeodUSA Telecommunications Services, Inc.
MPower Communications Corp.
TDS Metrocom, LLC
National Association of Regulatory Utility Commissioners
Covad Communications Company
Information Technology Association of America
Michigan Public Service Commission
T-Mobile USA, Inc.
Public Service Commission of the State of New York
Nextel Communications, Inc.
Catena Networks, Inc.
VeriSign Communication Services (formerly Illuminet, Inc.)
Arizona Corporation Commission
National Telecommunications Cooperative Association
Conversent Communications, LLC
Birch Telecom, Inc.
Z-Tel Communications, Inc.
Association for Local Telecommunications Services
Promoting Active Competition Everywhere Coalition
Talk America Inc.
NuVox, Inc.
KMC Telecom III, LLC
New South Communications, Inc.

XO Communications Inc.
EarthLink, Inc.
LDMI Telecommunications, Inc.
CIMCO Communications, Inc.
Pennsylvania Public Utility Commission
RCN Telecom Services, Inc.
El Paso Networks LLC
General Communication, Inc.
Xspedius Communications, LLC

B. Rulings Under Review

Petitioners seek review of the FCC's *Triennial Review Order* ("*Order*"). *See* Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carrier*, CC Docket No. 01-338, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, FCC 03-36 (rel. Aug. 21, 2003).

C. Related Cases

Petitions for review of the *Order* were filed by parties in various Courts of Appeals. On September 16, 2003, pursuant to the random lottery procedure of 28 U.S.C. §2112(a)(3), the petitions were transferred to the U.S. Court of Appeals for the Eighth Circuit. On September 30, 2003, the Eighth Circuit transferred the cases to this Court, pursuant to 28 U.S.C. §2112(a)(5). This Court has consolidated all appeals of the *Order* with each other, as well as with Petitions for Mandamus filed in this Court filed by several ILEC Petitioners. Petitioners in the appeals consolidated with the instant appeal are listed above.

CORPORATE DISCLOSURE STATEMENTS

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rules 15(c)(3), 26.1 and 28(a)(1)(A), CLEC Petitioners and Intervenors in Support respectfully submit the following corporate disclosure statements:

WorldCom, Inc. WorldCom, Inc. ("MCI"), through its operating subsidiaries, provides local, long-distance, and other telecommunications services domestically and internationally. MCI has no parent corporations, and there is no publicly held corporation that owns 10% or more of its stock. MCI owns a controlling interest in Embratel Participações, S.A., which issues shares to the public.

MCI and various of its subsidiaries have filed voluntary petitions under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§101 *et seq.*, in the United States Bankruptcy Court for the Southern District of New York. Proceedings regarding MCI's petition and the petitions of its subsidiaries are being jointly administered under case number 02-13533-ajg. MCI's stock was previously listed on the NASDAQ National Market under the symbols "WCOM" and "MCIT" before MCI's bankruptcy filing.

AT&T Corp. AT&T Corp. ("AT&T") is a provider of telecommunications services. AT&T has no parent company. No publicly held company owns 10% or more of AT&T's stock.

Allegiance Telecom, Inc. Allegiance Telecom, Inc. ("Allegiance") provides local exchange telecommunications services including voice and data communications services. Allegiance is a Delaware corporation. No publicly held company owns 10% or more of the stock of Allegiance.

Allegiance and various of its subsidiaries have filed voluntary petitions under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.*, in the United States Bankruptcy

Court for the Southern District of New York. Proceedings regarding Allegiance's petition and the petitions of its subsidiaries are being jointly administered under case number 03-13057 (RDD). Allegiance's stock was previously listed on the NASDAQ National Market under the symbol "ALGX" before Allegiance's bankruptcy filing. Allegiance's stock is currently listed on the OTC Bulletin Board Market under the symbol "ALGXQ."

Cbeyond Communications, LLC. Cbeyond Communications, LLC ("Cbeyond") provides local exchange telecommunications services including voice and data communications services. Cbeyond has no parent corporation and has no publicly issued stock or debt.

El Paso Networks, LLC. El Paso Networks, LLC ("El Paso") is a wholesale telecommunications carrier whose customers provide telecommunications and information services such as business and residential voice and data, DSL, long haul, wireless, Internet Access, and typical point-to-point telecommunications service. El Paso is partially owned by El Paso Corporation, which is publicly traded on the New York Stock Exchange under the symbol "EP." No publicly held company owns more than 10% of the El Paso Corporation. No other direct, or indirect owner, of El Paso Networks, LLC is publicly traded.

Focal Communications Corporation. Focal Communications Corporation ("Focal"), through its operating subsidiaries, provides local, long-distance, and other telecommunications services domestically and internationally. Focal has no parent corporations. There is no publicly held corporation that holds more than 10% of Focal's stock. Focal does not own a controlling interest in a publicly held corporation.

Focal and various of its subsidiaries have filed voluntary petitions under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.*, in the United States Bankruptcy Court for the District of Delaware. Proceedings regarding Focal's petition and the petitions of its

subsidiaries were being jointly administered under case number 02-13709 (KJC). Focal's stock was previously listed on the NASDAQ National Market under the symbol "FCOM" before Focal's bankruptcy filing.

McLeodUSA Telecommunications Services, Inc. McLeodUSA Telecommunications Services, Inc. ("McLeodUSA") provides local exchange telecommunications services including voice and data communications services. McLeodUSA is a wholly owned indirect subsidiary of McLeodUSA Incorporated.

Mpower Communications Corp. Mpower Communications Corp. ("Mpower") provides local exchange telecommunications services including voice and data communications services. Mpower is a wholly owned subsidiary of Mpower Holding Corporation.

RCN Telecom Services, Inc. RCN Telecom Services, Inc. ("RCN") provides telecommunications, multi-channel video, and Internet access services. RCN's ultimate parent company is RCN Corporation. Level 3 Delaware Holdings, Inc. and NSTAR Communications each hold a 10% or greater interest in RCN.

TDS Metrocom, LLC. TDS Metrocom, LLC ("TDS Metrocom") provides local exchange telecommunications services including voice and data communications services. TDS Metrocom is a Delaware limited liability company with its headquarters in Madison, Wisconsin. TDS Metrocom is an indirect subsidiary of Telephone and Data Systems, Inc., which is a Delaware corporation with its headquarters in Chicago.

Z-Tel Communications, Inc. Z-Tel Communications, Inc. ("Z-Tel") is a provider of communications services, including local and long-distance telephone services. Z-Tel is a Delaware corporation with its principal place of business in Tampa, Florida. Z-Tel is 100% owned by Z-Tel Technologies, Inc., a publicly traded corporation listed on the NASDAQ

exchange under the symbol "ZTEL." No publicly held company holds a 10% or greater ownership interest in Z-Tel Technologies, Inc.

Eschelon Telecom, Inc. Eschelon Telecom, Inc. ("Eschelon") has no parent corporations. Eschelon is a privately held corporation and no publicly traded company owns 10% or more of its stock.

BridgeCom International, Inc. BridgeCom International, Inc. ("BridgeCom") is a competitive local exchange carrier providing voice and data services to small and mid-size businesses and other entities. BridgeCom is a wholly-owned subsidiary of BridgeCom Holdings, Inc., a privately-held corporation that has no parent company. No publicly held company owns 10% or more of the stock of BridgeCom Holdings, Inc.

Birch Telecom, Inc. Birch Telecom, Inc. ("Birch"), is a privately held Delaware corporation. Birch offers interstate and intrastate telecommunications and related services through the following wholly-owned subsidiaries: Birch Telecom of Kansas, Inc., a Kansas corporation; Birch Telecom of Missouri, Inc., a Delaware corporation; Birch Telecom of Oklahoma, Inc., a Delaware corporation; Birch Telecom of Texas Ltd., L.L.P., a Texas limited liability partnership; Birch Telecom of the South, Inc., a Delaware corporation; Ionex Communications, Inc., a Kansas corporation; Ionex Communications North, Inc., a South Dakota corporation; and Ionex Communications South, Inc., a Texas corporation.

KMC Telecom III, LLC. KMC Telecom III, LLC ("KMC"), is a facilities-based competitive local exchange carrier providing exchange access and local and long-distance telecommunications and data services. KMC targets business, government, and institutional end users, as well as Internet service providers, long-distance carriers, and wireless providers.

KMC is wholly owned by its parent company, KMC Telecom Holdings, Inc. KMC Telecom Holdings, Inc. is a privately held corporation.

Manhattan Telecommunications Corporation d/b/a Metropolitan Telecommunications. Manhattan Telecommunications Corporation d/b/a Metropolitan Telecommunications ("MetTel") is a competitive local exchange carrier that serves small and medium businesses, residential subscribers and PSPs. MetTel has a broadband network in Manhattan, a significant UNE Platform customer base in Florida, Georgia, Massachusetts, New Jersey, New York, Pennsylvania and Texas, and operations in approximately 10 other states.

MetTel is a closely held corporation organized under the laws of Delaware. MetTel is a wholly owned subsidiary of Metropolitan Telecommunications Holding Company. No publicly-held company holds a 10% or greater ownership interest in MetTel.

NuVox, Inc. NuVox, Inc. ("NuVox"), is a small, facilities-based competitive local exchange carrier that has deployed its own switching facilities and has constructed almost 200 collocation arrangements. NuVox has deployed specialized customer premises equipment at most of the locations of its nearly 18,000 customers. NuVox provides a full suite of local and long-distance telephone services, as well as Internet access and other data services, to primarily small and medium-sized business customers in 30 city markets in thirteen states.

NuVox has no parent corporation. NuVox is a privately held corporation. Goldman Sachs and JP Morgan Chase, publicly traded companies, each own 10% or more of NuVox's stock. The shares owned by JP Morgan Chase and Goldman Sachs are held by private equity funds that are sponsored by each of these entities. Both JP Morgan Chase and Goldman Sachs disclaim beneficial ownership of the NuVox stock.

Talk America Inc. Talk America Inc. ("Talk America") is a corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Reston, Virginia. Talk America is a common carrier that offers local, long-distance, and international services to customers nationwide, and, accordingly, is affected by the FCC's *Order*.

Talk America is a wholly owned subsidiary of Talk America Holdings, Inc., a publicly traded corporation organized under the laws of the State of Delaware. American International Group, Inc., a publicly traded company, owns a 10% or greater equity interest in Talk America Holdings, Inc.

SNiP LiNK LLC. SNiP LiNK LLC ("SNiP LiNK") is an ISP-CLEC providing high quality data, telecommunication, and application services. SNiP LiNK offers local, local toll, and long-distance services along with its original Internet and data services.

SNiP LiNK is privately-held limited liability corporation. SNiP LiNK has no parent company. No publicly held corporation owns 10% or more of SNiP LiNK's stock.

Promoting Active Competition Everywhere Coalition. The Promoting Active Competition Everywhere ("PACE") Coalition is an unincorporated trade association representing competitive local telecommunications service providers. The PACE Coalition advocates policies favorable to its members before state and federal regulators and legislators and provides a forum for the exchange of industry information, marketing strategies, regulatory data and other important information among providers of local telecom services. The PACE Coalition actively participated in the underlying agency proceeding under its own name. The members of the PACE Coalition have no ownership interests in the Coalition.

In accordance with Local Rule 26.1(b), the PACE Coalition is not required to list the names of its members.

InfoHighway Communications Corporation. InfoHighway Communications Corporation ("InfoHighway") offers "one-stop shopping" bundled options for local and long-distance telephone services; high-speed data and Internet services, principally utilizing Digital Subscriber Line technology; web services, including web hosting; and network design and wiring services primarily to businesses in New York, New Jersey, Massachusetts, Pennsylvania, Delaware, Maryland, Washington, D.C., Virginia, Maine, New Hampshire, Vermont, Rhode Island, Connecticut, and Texas.

InfoHighway has no parent corporation and is a privately held corporation. No publicly-held company owns a ten percent or greater ownership interest in InfoHighway.

Data Net Systems L.L.C. Data Net Systems, L.L.C. ("Data Net") is certified by the State of Illinois to provide local and toll services to residential and business customers in Illinois. Data Net is also authorized to provide billing and collection services for independent payphone companies.

Data Net is privately held and has no parent corporation or subsidiaries. No publicly held entity owns 10% or more of Data Net or is an affiliate of Data Net.

Sage Telecom, Inc. Petitioner Sage Telecom, Inc. ("Sage") is a competitive telecommunications company organized under the laws of Texas. It is certified in Arkansas, California, Indiana, Kansas, Michigan, Missouri, Ohio, Oklahoma, Texas and Wisconsin to provide local and long-distance voice service, as well as high-speed broadband data and Internet access services.

Sage is privately held and has no parent corporation or subsidiaries. No publicly held entity owns 10% or more of Sage or is an affiliate of Sage.

Covad Communications Company. Covad Communications Company ("Covad") is a California corporation with its principal place of business in San Jose, California. Covad is also the d/b/a for DIECA Communications, Inc., a Virginia corporation with its principal place of business in San Jose, California. Covad and DIECA Communications, Inc. are principally engaged in the business of providing communications services and products to Internet Service Providers and to the general public.

Covad and DIECA Communications, Inc. are wholly-owned subsidiaries of Covad Communications Group, Inc., a Delaware corporation with its principal place of business in San Jose, California. Covad Communications Group, Inc. is a publicly traded corporation. Covad Communications Group, Inc. has no parent corporation. No publicly held company has a 10% or greater ownership interest in Covad Communications Group, Inc.

Association for Local Telecommunications Services. The Association for Local Telecommunication Services ("ALTS") is a national trade association representing providers of competitive local telecommunications services. ALTS certifies that it has no parent companies, subsidiaries or affiliates that have issued shares or debt securities to the public.

Information Technology Association of America. The Information Technology Association of America ("ITAA") is the principal trade association of the nation's information technology industries. ITAA has 500 member companies – ranging from major multinational corporations to small, locally based enterprises – that provide a wide variety of information products, software, and services. ITAA's members include a significant number of information service providers ("ISPs"), which are dependent on incumbent local exchange carriers for broadband and narrowband telecommunications services. ITAA does not have any parent company, subsidiary, or affiliate that has issued shares or debt securities to the public.

CompTel/ASCENT Alliance. The CompTel/ASCENT Alliance ("CompTel") is the principal national association representing U.S., international and global competitive telecommunications companies and their suppliers. CompTel's approximately 400 members include nationwide companies as well as smaller regional carriers providing local, long distance and Internet services. Since its inception in 1981, CompTel has advocated policies to promote the development of full and fair competition in the provision of telecommunications services. CompTel has not issued shares or debt securities to the public. CompTel does not have any parent companies, subsidiaries, or affiliates that have issued shares or debt securities to the public.

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* Authorities upon which we chiefly rely are marked with an asterisk.

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GLOSSARY

Pursuant to D.C. Circuit Rule 28(a)(3), the following is a glossary of abbreviations and acronyms used in this brief:

Abernathy Statement	Press Statement of Commissioner Abernathy, *Re: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338 (Feb. 20, 2003)
Act or 1996 Act	Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, codified at 47 U.S.C. §§ 151-276
Advanced Services Order	*In re Deployment of Wireline Services Offering Advanced Telecommunications Capability,* 13 F.C.C.R. 24012 (1998)
ALTS Comments	ALTS Comments, CC Docket No. 01-338 (FCC filed April 5, 2002)
AT&T Reply Comments	AT&T Corp. Reply Comments, CC Docket No. 01-338 (FCC filed July 17, 2002)
AT&T 1/16/03 Ex Parte	J. Marsh, AT&T ex parte letter to M. Dortch, Secretary, FCC, CC Docket No. 01-338 on January 16, 2003
AT&T 2/3/03 Ex Parte	D. Lawson, Sidley Austin Brown & Woods ex parte letter to M. Dortch, Secretary, FCC, CC Docket No. 01-338 on February 3, 2003
AT&T 2/4/03 Ex Parte	D. Lawson, Sidley Austin Brown & Woods ex parte letter to M. Dortch, Secretary, FCC, CC Docket No. 01-338 on February 4, 2003
AT&T 2/12/03 Ex Parte	D. Lawson, Sidley Austin Brown & Woods ex parte letter to M. Dortch, Secretary, FCC, CC Docket No. 01-338 on February 12, 2003
BOC	Bell Operating Company
BOCs UNE Fact Report	BellSouth, SBC, Qwest and Verizon, *UNE Fact Report 2002*, April 2002 (attached to Comments of Verizon, CC Docket No. 01-338 (FCC filed April 5, 2002))
CLEC	Competitive Local Exchange Carriers: new entrants that provide local telecommunications services in competition with LECs
Carroll-Rhodes Decl.	Joint Declaration of Alice Marie Carroll and Cynthia Rhodes on Behalf of AT&T Corp. (Attachment A to Comments of AT&T Corp., CC Docket No. 96-98 (FCC filed April 5, 2001)) (incorporated by reference in AT&T Corp. Reply Comments, CC Docket No. 01-338 (FCC filed July 17, 2002))

Choice Coalition Stay Decls.	Joint Declaration of Valerie Evans and Michael Clancy on behalf of Choice Coalition (attachment A); Joint Declaration of William H. Weber and Colette Davis on behalf of Choice Coalition (attachment B); Joint Declaration of William H. Weber and Michael Zulevic on behalf of Choice Coalition (attachment C); Joint Declaration of Catherine Boone and Colette Davis on behalf of Choice Coalition (attachment D) (attached to Emergency Joint Petition for Stay by the Choice Coalition, CC Docket No. 01-338 (FCC filed Aug. 27, 2003))
Clarke/Donovan Reply Decl.	Joint Reply Declaration of Richard N. Clarke and John C. Donovan on Behalf of AT&T Corp. (attachment B to AT&T Corp. Reply Comments, CC Docket No. 01-338 (FCC filed July 17, 2002))
Commission or FCC	Federal Communications Commission
CompTel	*Competitive Telecommunications Ass'n v. FCC*, 309 F.3d 8 (D.C. Cir. 2002)
Conf. Rep.	H.R. Conf. Rep. No. 104-458 (1996)
Copps Statement	Press Statement of Commissioner Michael J. Copps, Approving in Part, Concurring in Part and Dissenting in Part, *Re: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338 (Feb. 20, 2003)
Covad 10/15/02 Ex Parte	J. Oxman, Covad ex parte letter to Ms. Dortch, Secretary, FCC, CC Docket No. 01-338 on October 15, 2002
CSMG Report	Cambridge Strategic Management Group, *Assessing the Impact of Regulation on Deployment of Fiber to the Home, A Comparative Business Case Analysis*, April 5, 2002 (attached to T. Regan, Corning ex parte letter to Ms. Dortch, Secretary, FCC, CC Docket No. 01-338 on January 29, 2003)
DLC	Digital Loop Carrier
DOJ 1984 Merger Guidelines	Department of Justice, *1984 Merger Guidelines* (June 14, 1984)
DSL	Digital Subscriber Line
EchoStar Merger Order	*EchoStar-DirecTV Merger Order*, 17 F.C.C.R. 20559 (2002)
EELs	enhanced extended links
FTTH	Fiber-to-the-Home

Gallant/Lehmkuhl Decl.	Joint Declaration of John Gallant and Michael J. Lehmkuhl on Behalf of WorldCom (attachment F to Comments of WorldCom, No. 01-338 (FCC filed April 4, 2002))
HFPL	High-frequency portion of copper loops
High-Speed Services Report	*High-Speed Services for Internet Access: Status as of December 31, 2002*, Industry Analysis and Technology Division of the Wireline Competition Bureau, FCC (June 2003)
IDLC	Integrated Digital Loop Carrier
ILEC	Incumbent Local Exchange Carriers
IUB	*AT&T Corp. v. Iowa Utilities Board*, 525 U.S. 366 (1999)
Ku Decl.	Declaration of Bernard Ku on Behalf of WorldCom (attachment E to Comments of WorldCom, No. 01-338 (FCC filed April 4, 2002))
Line Sharing Order	*In re Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 14 F.C.C.R. 20912 (1999)
Local Competition Order	*In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 F.C.C.R. 15499 (1996)
Local Telephone Competition Report	*Local Telephone Competition: Status as of December 31, 2002*, Industry Analysis and Technology Division of the Wireline Competition Bureau, FCC (June 2003)
Mass Media Ownership Order	*In re 2002 Biennial Regulatory Review*, 18 F.C.C.R. 13620 (2003)
Murray Reply Decl.	Reply Declaration of Terry L. Murray on Behalf of Covad (attached to Covad Comments, CC Docket No. 01-338 (FCC filed July 17, 2002))
NERA Decl.	Reply Declaration of National Economic Research Association, Inc. on behalf of BellSouth Corp. (Attachment 1 to Reply Comments of BellSouth Corp., CC Docket No. 01-338 (FCC filed July 17, 2002))
Ninth Video Competition Report	*In re Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, 17 F.C.C.R. 26901 (2003)
Order	*In re Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, 2003 WL 22175730, FCC 03-36 (FCC rel. Aug. 21, 2003)

Ordover Report	Janusz A. Ordover, *Pricing Network Elements at TELRIC: A Necessary Prerequisite for Local Competition*, July 17, 2002 (attachment D to Reply Comments of WorldCom, No. 01-338 (FCC filed July 17, 2002))
Pitofsky, *Vertical Restraints*	Robert Pitofsky, Chairman, FTC, *Vertical Restraints and Vertical Aspects of Mergers – A U.S. Perspective*, Remarks at Fordham Corporate Law Institute (Oct. 16-17, 1997) (*available at* http://www.ftc.gov/speeches/pitofsky/fordham7.htm)
Powell Statement	Separate Statement of Chairman Michael K. Powell Dissenting in Part, *Re: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338 (Feb. 20, 2003)
RT	remote terminal
SBC 1/15/03 Ex Parte	J. Boynton, SBC ex parte letter to M. Dortch, Secretary, FCC, CC Docket No. 01-338 on January 15, 2003
S. Rep.	S. Rep. No. 104-23 (1996)
Second Section 706 Report	*In re Inquiry Concerning the Deployment of Advanced Telecommunications Capability To All Americans In a Reasonable and Timely Fashion, and Possible Steps To Accelerate Such Deployment Pursuant To Section 706 Of The Telecommunications Act of 1996*, 15 F.C.C.R. 20913 (2000)
Siwek/Sun Decl.	Joint Declaration of Stephen E. Siwek and Su Sun on Behalf of Covad Communications (attached to J. Oxman, Covad ex parte letter to M. Dortch, Secretary, FCC on November 20, 2002)
Stumbaugh/Reilly Decl.	Joint Declaration of Tom Stumbaugh and David Reilly on Behalf of WorldCom (attachment D to Comments of WorldCom, CC Docket No. 01-338 (FCC filed April 4, 2002))
Stumbaugh Joint Reply Decl.	Joint Declaration of Tom Stumbaugh, David Reilly, and William M. Drake on Behalf of WorldCom (attachment F to Reply Comments of WorldCom, CC Docket No. 01-338 (FCC filed July 17, 2002))
Supplemental Order	*In re Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 F.C.C.R. 1760 (1999)
Supplemental Order Clarification	*In re Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 F.C.C.R. 9587 (2000)

Telcordia Notes	Telcordia, Inc., *Telcordia Notes on the Network*, Telcordia Technologies Special Report, SR-2275, Issue 4 (Oct. 2000) (cited at *Order* ¶202 n.634)
Third Section 706 Report	*In re Inquiry Concerning the Deployment of Advanced Telecommunications Capability To All Americans In a Reasonable and Timely Fashion, and Possible Steps To Accelerate Such Deployment Pursuant To Section 706 of the Telecommunications Act of 1996*, 17 F.C.C.R. 2844 (2002)
UNE	Unbundled network elements: individual facilities and functions of LECs that CLECs have rights to access and use
USTA	*United States Telecom Ass'n v. FCC*, 290 F.3d 415 (2002)
UNE Remand Order	*In re Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 F.C.C.R. 3696 (1999)
USTA Mandamus Pet.	Petition for a Writ of Mandamus to Enforce the Mandate of this Court, *United States Telecom Ass'n v. FCC*, No. 00-1012 (D.C. Cir. filed Aug. 28, 2003)
Willig Decl.	Declaration of Robert D. Willig on Behalf of AT&T (attachment F to Comments of AT&T Corp., CC Docket No. 01-338 (FCC filed April 5, 2002))
WorldCom Reply Comments	WorldCom Reply Comments, CC Docket No. 01-338 (FCC filed July 17, 2002)
WorldCom 10/31/02 Ex Parte	K. Scardino, WorldCom ex parte letter to Ms. Dortch, Secretary, FCC, CC Docket No. 01-338 on October 31, 2002
Verizon	*Verizon Communications, Inc. v. FCC*, 535 U.S. 467 (2002)
Z-Tel 11/22/02 Ex Parte	C. Wright, Harris, Wiltshire & Grannis ex parte letter to M. Dortch, Secretary, FCC, CC Docket No. 01-338 on November 22, 2002

JURISDICTIONAL STATEMENT

The *Order* was released on August 21, 2003. A summary was published in the Federal Register on September 2, 2003. The undersigned CLECs petitioned for review within 60 days of publication or have timely intervened in support. This Court has jurisdiction under 47 U.S.C. §402(a) and 28 U.S.C. §§2342 and 2344.

ISSUES PRESENTED FOR REVIEW

Whether the *Order* is arbitrary, capricious, and otherwise contrary to law insofar as it:

(1) Refused to require access, in whole or in part, to entrance facilities and shared transport facilities, loop-transport combinations, broadband and other capabilities of hybrid loops, high-frequency portions of loops, fiber-to-the-home loops, signaling systems, and call-related databases;

(2) Required states to terminate unbundling of mass-market switching based on satisfaction of triggers in particular markets and allowed them to re-impose unbundling of enterprise switching only under narrow conditions; and

(3) Denied CLECs the protections of the independent unbundling requirements of §271 of the Act, and did not reaffirm state authority to unbundle additional elements.

STATUTES AND REGULATIONS

Relevant statutes and regulations are reprinted in the Addendum.

STATEMENT OF THE CASE AND FACTS

In the 1996 Act, Congress made the creation of local exchange and exchange access competition an "end in itself" that was to be achieved by "giv[ing] aspiring competitors every possible incentive to enter local retail telephone markets, short of confiscating the incumbents' property." *Verizon Communications, Inc. v. FCC*, 535 U.S. 467, 476, 488-89 (2002). The

central means of achieving this competition is §251(c)(3),[1] which requires ILECs to provide nondiscriminatory access to unbundled elements of the ILECs' networks ("UNEs") at cost-based rates. In determining which elements to unbundle, §251(d)(2) requires the FCC to consider, "at a minimum," whether denial of access to "non-proprietary" elements (at issue here) would "impair" the ability of the CLEC to provide the services it seeks to offer.

In *AT&T Corp. v. Iowa Utilities Board*, 525 U.S. 366 (1999) ("*IUB*"), the Supreme Court invalidated the FCC's initial test for determining "impairment" under §251(d)(2). The Court held that the FCC had improperly ignored whether elements were available outside the ILECs' networks and had treated any CLEC cost disadvantage in self-supplying elements as establishing "impairment."

In *U.S. Telecom Ass'n v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) ("*USTA*"), this Court reversed the FCC's order on remand from *IUB*. The Court held that (1) FCC impairment determinations had to reflect "market-specific variations in competitive impairment," *id.* at 422, (2) in the absence of valid findings of impairment, the FCC must make specific showings of public interest benefits to justify unbundling, *id.* at 425, (3) impairment determinations must rest on cost disparities that inhibit competitive supply of elements by multiple firms, *id.* at 427, and (4) unbundling determinations must consider intermodal alternatives and whether competition will be impaired if access to particular elements is denied, *id.* at 429.

In the *Order*, the FCC adopted a new impairment standard and applied it to find impairment for loops, transport, other transmission facilities, and "mass-market" switching. It nevertheless refused to require access to these elements, in whole or in part. The FCC further authorized states to eliminate access to UNEs for which the FCC had found impairment in

[1] Citations to "§__" refer to 47 U.S.C. unless otherwise specified.

proceedings to be concluded in nine months. The FCC also authorized states to add the enterprise switching elements to the list in specific markets, but only within a 90-day window and only on application to the FCC. The FCC did not preempt additional state law unbundling requirements, but stated it "likely" would hereafter.

INTRODUCTION AND SUMMARY OF ARGUMENT

In the *Order*, the FCC generally found that denials of access to ILEC transmission and switching facilities would make competition by multiple firms uneconomic and would thus "impair" the ability of multiple firms to offer competing telephone services. Yet the FCC adopted rules that deny access, in whole or in part, in an array of circumstances either for no reason or on the basis of the FCC's belief that foreclosing competition better serves the public interest. These rules should be vacated. They are antithetical to the Act's terms and foreclose the local competition that was the overriding object of the 1996 Act. The FCC's *Order* further violates the APA duty of reasoned decisionmaking in multiple respects.

As this Court has held, "impairment" is the "touchstone" in the FCC's determinations of the network elements that must be made available under §251(c)(3) of the Act. *USTA*, 290 F.3d at 425. That is so because §251(d)(2)(B) requires that the FCC make these determinations by considering, "at a minimum," whether denial of access would "impair" the ability of a CLEC to provide the service that it seeks to offer, and because §251(d)(2)(B) lists no other relevant factors. More fundamentally, determinations whether impairments exist define the circumstances in which unbundling will clearly advance the Act's fundamental objectives. When a network element has some degree of natural monopoly characteristics and impairment exists, the local exchange and exchange access competition that is the object of the 1996 Act simply cannot develop unless CLECs have access to the elements at cost-based rates.

Conversely, if an element can be supplied by multiple firms and there is no "impairment," access to the element may impose costs of unbundling without achieving any of the Act's goals.

In addition to requiring refinements in the FCC's impairment standard, *USTA* remanded the FCC's earlier unbundling order on the ground that the FCC had failed to give impairment the central role required by the Act. First, it held that the FCC's nationwide impairment findings were invalid because the FCC had failed to consider "market-specific variations in competitive impairment." 290 F.3d at 422. Second, it held that the FCC's unbundling requirements could not be upheld in the absence of valid impairment findings because the agency had not identified "specific" and "concrete" benefits from unbundling and had not assessed the potential detrimental effects of unbundling where impairment had not been found. *Id.* at 422-25. Instead, it found that the FCC had assumed the "more unbundling [the] better," contrary to the statute that presumptively required unbundling only where there is impairment. *Id.* at 425-26.

In the *Order*, the FCC again failed to give "impairment" the central role that the Act's terms and purposes require – except this time the FCC did so in pursuit of a policy of "the less unbundling the better" and impermissibly overreacted to *USTA*. The FCC correctly found that because of their natural monopoly characteristics, "multiple competitive supply" of loop, transport, and other transmission facilities cannot occur on point-to-point routes where a CLEC does not have high traffic volumes, and CLECs therefore are impaired, absent unique facts in particular markets. Because voice-grade "mass-market" loops are hard-wired to the ILECs' switches and cannot now be efficiently disconnected, the FCC further found that CLECs are impaired without access to these switches, again absent unique facts in particular markets.

Yet in the face of these findings of impairment, the FCC refused to require access to loops, transport, and other transmission facilities for no reason at all in many circumstances, and

for impermissible, unsupported, and overbroad reasons in others. However, just as the Act precludes the FCC from ordering unbundling absent impairment without a specific and substantial justification that is consistent with the Act, so too the FCC cannot refuse to require unbundling when impairment exists absent a powerful justification rooted in the Act's unambiguous requirements.

Indeed, the FCC's burden of justification is far greater when it denies access to elements in the face of findings of impairment, because the unavailability of the element defeats the Act's explicit objectives of making local competition "an end in itself," *Verizon*, 535 U.S. at 476, and providing "lower prices and higher quality services" through competition, *Order* ¶5 n.2 (citing Act's Preamble). For when impairment exists but elements are not available at cost-based rates, ILECs can act on their incentive to foreclose competition by denying access to the elements altogether or by making them available at above-cost rates that result in "vertical price squeezes." *Order* ¶102. In this regard, this Court's decisions teach that the FCC cannot eliminate unbundling in the face of findings of impairment unless that is authorized by, or necessary to implement other unambiguous requirements of the Act. *ASCENT v. FCC*, 235 F.3d 662 (D.C. Cir. 2001).

A stark violation of these principles occurred in the context of two UNEs with important, but limited, functions: transmission facilities connecting ILEC and CLEC locations, and shared transport for transiting. Despite findings establishing that CLECs would be impaired without access to these UNEs, the FCC denied unbundling for no reason whatsoever.

The FCC barred CLECs from using combinations of high-capacity loops and transport ("EELs") to provide special access services and an array of facilities-based local voice and data services, without making the non-impairment or other findings required to justify this permanent

restriction under *Competitive Telecommunications Ass'n v. FCC*, 309 F.3d 8 (D.C. Cir. 2002) ("*CompTel*").

The FCC's restrictions on the use of broadband capabilities of loops are equally unlawful and will cripple CLECs and strand their substantial investments in packet switching and other data networks – again in the face of findings establishing impairment. First, the FCC barred CLECs from accessing the broadband (and certain narrowband) capabilities of "hybrid" copper-fiber loops that now serve a large (30%-50%) and growing percentage of lines. Second, it barred CLECs from accessing capabilities of any fiber-to-the-home loops. Third, it barred "line-sharing." In each instance, the FCC claimed that granting ILECs broadband monopolies (in the many geographic areas or customer segments where there is no cable competition) or creating duopolies (where cable competition exists) will foster broadband investment. But it is antithetical to the Act to prefer monopoly and duopoly to competition, and the FCC unlawfully stifled broadband competition throughout the nation on factually unsupported and speculative grounds that apply, if at all, only to particular markets.

The FCC properly allowed states to make "granular" exceptions to the FCC's generic impairment and non-impairment findings in particular geographic markets, but required those determinations to be made in an unlawful manner. Specifically, the FCC required states to "delist" elements based on the satisfaction of "triggers" that do not establish a lack of impairment, and provided an insufficient transition period after an element is "delisted." And the FCC has imposed arbitrary procedures governing determinations by states as to whether CLECs are impaired in providing elements that are not on the FCC's national list.

Although §271 imposes independent unbundling requirements on BOCs that have received long-distance authority in a state, the FCC unlawfully held that §271 permits BOCs to

provide access on discriminatory and unreasonable terms. Similarly, although §251(d)(3) gives states authority to adopt additional unbundling requirements that do not substantially prevent implementation of the Act's requirements or purposes, the FCC stated it would "likely" hereafter preempt any such state law requirement.

ARGUMENT

I. THE FCC IMPROPERLY DENIED ACCESS TO BOTTLENECK TRANSMISSION FACILITIES.

Until the *Order*, it was common ground that CLECs cannot provide competitive local services unless ILECs provided access to "last mile" transmission facilities.[2] The *Order* itself finds that loops, transport, and other transmission facilities have natural monopoly characteristics and that CLECs are impaired without access to them. It finds that deployment of competitive loop and transport facilities is severely constrained as a result of "steep economic barriers," *Order* ¶199, including the substantial economies of scale associated with the transmission plant, the high sunk costs of deploying such plant, and other ILEC "first-mover advantages" that erect barriers to facilities-based entry, *id.* ¶¶222-239, 371. The FCC thus concluded that CLECs are impaired without unbundled access to local loops to serve mass-market customers, "whether they seek to provide narrowband or broadband services, or both." *Id.* ¶248. FCC findings also establish that CLECs are impaired without unbundled access to all but the highest capacity loops used to serve enterprise customers, *id.* ¶¶315-327, and without unbundled access to transport facilities that are used to connect networks together, *id.* ¶¶359, 534.

The FCC nevertheless denied CLECs access to such facilities in many markets for many services. In the case of "entrance facilities" and "shared transport," the FCC restricted access without offering any justification whatsoever. *Id.* ¶¶365-369, 534. In the case of "enhanced

extended links," the FCC did so while making findings that foreclosed the very restrictions it imposed. *Id.* ¶¶135-153, 591-594. In the case of "broadband" capabilities of local loops, the FCC imposed national restrictions that flout the central policy of the Act and that violate *USTA*. *Id.* ¶¶253-263, 272-297.

A. DEDICATED TRANSMISSION BETWEEN ILEC AND CLEC LOCATIONS

The *Order* reversed more than seven years of consistent FCC practice by eliminating the unbundling of dedicated transmission facilities that connect ILEC and CLEC locations (hereinafter "entrance facilities"). *Order* ¶¶365-369 & n.1116. Entrance facilities are generally an ILEC-supplied bottleneck facility.

The FCC eliminated access to entrance facilities without conducting an impairment inquiry. *Id.* ¶367 n.1119. It reasoned instead that these particular dedicated transmission links are not an "inherent part" of the ILEC's network, and so should not be deemed part of the "dedicated transport" UNE. *Id.* ¶366. That is both wrong and irrelevant.

The assertion that an entrance facility is not an "inherent" part of the ILEC network, but instead an "outside" facility connecting ILEC and CLEC networks, is pure *ipse dixit*. It makes no more sense than saying that the loop is not an "inherent" part of the network because it connects the ILEC network to a customer's premises.

In any event, the FCC's sleight-of-hand is irrelevant under the Act. An entrance facility plainly is a "network element," that is, a "facility or equipment used in the provision of a telecommunications service," §153(29), whether or not it is deemed part of the dedicated transport UNE. Under §251(d)(2), CLECs are presumptively entitled to access to any entrance facility for which "impairment" exists. The FCC may not deny CLECs access to network

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[2] *See Verizon*, 535 U.S. at 490-92; *USTA*, 290 F.3d at 426.

elements without conducting an impairment inquiry. Section 251(d)(2)(B) provides that the FCC "shall" make an impairment inquiry "[i]n determining what network elements should be made available for purposes of subsection (c)(3)." "Shall" is mandatory, *e.g., Exportal Ltda v. United States*, 902 F.2d 45, 50 (D.C. Cir. 1990), and the FCC itself acknowledged the mandatory character of §251(d)(2)(B), *e.g., Order* ¶179. The FCC therefore violated §251 by denying CLECs access to entrance facilities without conducting an impairment inquiry.[3]

B. HIGH-CAPACITY LOOP-TRANSPORT COMBINATIONS

The FCC found that CLECs are generally impaired without access to high-capacity local loops or dedicated transport. It nevertheless adopted restrictions that bar CLECs from using combinations of these UNEs (known as "EELs") to provide the "exchange access" services that connect customers to long-distance networks unless the CLECs also use them to provide local voice "exchange" services that satisfy certain criteria. These are a permanent version of the interim "use-restriction" that this Court upheld in *CompTel*. But in the *Order*, the FCC could not, and expressly did not, make the findings that *CompTel* required before there could be a permanent restriction.

Specifically, *CompTel* reviewed the FCC's *Supplemental Order Clarification*, which adopted temporary use-restrictions that prohibited carriers from converting existing dedicated "special access" circuits (local private lines that are often used to provide exchange access and are priced well above cost) to cost-based EELs unless the facilities were used to provide a "significant amount" of local voice service. These restrictions were adopted to protect universal

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[3] The FCC suggests that entrance facilities have different economic characteristics than other dedicated transport links, and that CLECs may be able to self-deploy these facilities. *Order* ¶367. That may be grounds for subjecting these facilities to a granular impairment analysis; it is not grounds to deny access without conducting any analysis whatsoever.

service prior to the June 2004 completion of the phase-out of the implicit subsidies formerly contained in interstate access charges. *CompTel*, 309 F.3d at 14-15.

In *CompTel*, this Court upheld the temporary use-restriction as a valid transitional measure to protect universal service. The Court held that the FCC could adopt a permanent restriction if the FCC found that it would not impair CLECs in providing exchange access and interexchange services (under the ILECs' proposed "service-by-service" and market-by-market impairment analyses).[4] *Id.* at 14.

In the *Order*, the FCC adopted permanent use-restrictions. It did not justify the restrictions on the ground that they will be necessary to protect universal service. But neither did it do so on the basis of findings that carriers would not be impaired if access to UNEs were denied for exchange access and long-distance services. *Order* ¶¶103, 134 & n.454. To the contrary, the FCC found that identical loop and transport facilities are used to carry local exchange traffic and exchange access traffic destined for long-distance networks, and the FCC generically found that CLECs are impaired without access to these high-capacity enterprise loops and dedicated transport facilities for all services on all routes where total traffic volume was below certain specified minimum levels. *Id.* ¶¶324, 388. And it found specifically that exchange access services are "one of the last monopoly bottleneck strangleholds in telecommunications." *Id.* ¶139.

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[4] The ILECs had alleged that special access circuits used in long-distance services employ facilities that are technologically distinct from those used in other local services and that these are competitively supplied in a separate market – such that the denial of access to EELs would not impair the ability of CLECs to provide special access or long-distance services. *Supplemental Order Clarification* ¶¶15-16 & n.50; *see also id.* ¶18 (expressing concern that allowing conversions of special access to EELs might disrupt a mature source of facilities-based competition in a separate exchange access market).

But despite the findings establishing impairment, the FCC imposed permanent use-restrictions under a new two-part rationale. First, it concluded that a CLEC could obtain access to these (and other) cost-based UNEs only if they are used to provide "qualifying services," in whole or in part. The FCC held that "qualifying services" include "those telecommunications services that have been traditionally the exclusive or primary domain of incumbent LECs," including "local exchange service, such as POTS, and access services, such as xDSL and high-capacity circuits." *Id.* ¶¶135, 140. But the FCC held that long-distance services are not qualifying services, and that a CLEC cannot obtain a UNE "exclusively to provide exchange access to itself in order to provide a retail interexchange service." *Id.* ¶153.

Second, the FCC adopted additional "eligibility criteria" for EELs that are purportedly designed to prevent carriers from using EELs exclusively for "non-qualifying" long-distance services. *Id.* ¶591. But the eligibility criteria also bar the use of EELs for "qualifying" stand-alone high-capacity exchange access and an array of "qualifying" local services as well. *Id.* ¶¶593-629.

Each component of the FCC's two-part rationale is unlawful.

1. *Qualifying Services.* The Act squarely forecloses the FCC's conclusion that long-distance services do not "qualify" for UNEs and are *ab initio* excluded from the Act's unbundling regime, irrespective of impairment. Section 251(c)(3) provides that ILECs have a "duty" to provide access to network elements to "*any* requesting telecommunications carrier for the provision of *a telecommunications service*." Section 251(d)(2), in turn, provides that "[i]n determining what network elements should be made available *for purposes of subsection (c)(3)*" the FCC is to determine whether the failure to provide access to "such" UNEs would impair the ability of "the telecommunications carrier seeking access" to provide "the services that it seeks to

offer." And as the *Order* recognizes (¶¶138, 140), §251(d)(2)'s reference to the "services that it seeks to offer" is a reference to the "telecommunications services" the requesting carrier "seeks to offer" using UNEs.

Long-distance services are indisputably "telecommunications services." *Order* ¶¶138-139. Further, when Congress wanted to limit statutory rights to telecommunications "exchange services and exchange access services," it did so expressly. *See* §251(c)(2). In this regard, it is irrelevant that CLECs that use loop and transport UNEs as a component of their own long-distance services are not providing *exchange access* on a common carrier basis. *Order* ¶153. The retail long-distance service that they offer on a common carrier basis is a telecommunications service, and CLECs are entitled to UNEs to provide these services absent a finding of non-impairment (or some other valid justification).

The FCC's *ab initio* exclusion of long-distance services from the Act's unbundling regime is also contrary to the Act's structure, history, and stated purposes. The reality is that long-distance services *are* services in which ILECs were historically "dominant," *cf. Order* ¶140, and over which they had monopolies until antitrust decrees allowed long-distance competition to develop by guaranteeing competitors nondiscriminatory access to the ILECs' bottleneck local facilities. When the Act vacated these consent decrees, it did so on the ground that the provisions of §251 would protect long-distance competition and prevent ILECs from leveraging local bottlenecks into long-distance markets. *See* Conf. Rep. at 122-23; §271(c)(2)(B)(ii). More to the point, even if long-distance lines today are competitive, the loop and transport facilities used to provide exchange access services remain very much in the "exclusive or primary domain of incumbent LECs," *Order* ¶140 and it is unlawful for the FCC to exclude them from the reach of §251 whenever they are used as a component of a long-distance service.

2. *Eligibility Criteria.* But even if the FCC's "qualifying service" definition were valid, the "eligibility criteria" for EELs are unlawful. Their stated object is to prevent use of EELs by a "provider of exclusively non-qualifying service[s]." *Id.* ¶591. Yet they do not target carriers that would use EELs exclusively to offer long-distance services that include an exchange access component. Instead, they prohibit use of EELs to provide solely or primarily stand-alone exchange access services and an array of local voice and data services, despite the FCC's determinations that these are *qualifying services. Id.* ¶¶135, 140.

Exchange access services indisputably "qualify" for UNEs and are a paradigmatic local bottleneck service. There is no remotely sufficient basis for the FCC's rule preventing use of EELs for exchange access services that are offered *separately from long-distance services.* The FCC did not make the findings *CompTel* requires for such a permanent restriction. It could not and did not find that conversion of special access circuits to EELs could hereafter undermine federal universal service support. *Cf. CompTel*, 309 F.3d at 14-15. Nor did the FCC make the findings of non-impairment that *CompTel* required. To the contrary, it found that CLECs are impaired when they are denied access to EELs below certain minimum capacity levels. The FCC could thus justify the eligibility restriction solely on the opaque *ipse dixit* that banning use of EELs to provide qualifying exchange access on a common carrier basis is for some reason necessary to prevent their use exclusively to provide a component of a "nonqualifying" long-distance service. *Order* ¶591. But this falls far short of the "specific" and "concrete" showing of public interest benefits required before restrictions on UNEs can be imposed in the face of findings of impairment. *See USTA*, 290 F.3d at 425.

There is no rational relationship between a single one of the FCC's eligibility criteria and the stated goal of policing a line between authorized exchange access services and unauthorized

stand-alone long-distance services. The FCC utterly failed to identify any "specific" statutory policy that would be advanced by denying access to these UNEs in the face of the FCC's findings that the result will be impairment in the provision of competitive alternatives to ILECs' bottleneck services. The FCC's purported justification is so unsupported and so obviously pretextual that it amounts to a denial of access to EELs for no reason whatsoever.

These rules are also irreconcilable with the specific FCC findings that stand-alone exchange access is a "qualifying" service and that Congress intended to create "competition" in special access services "in order to secure lower prices and higher quality services." *Order* ¶¶130, 135, 139. Against these findings, it was arbitrary to prohibit CLECs from obtaining EELs solely to provide special access services and to require that they also provide local voice services. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983) (agency acts arbitrarily where there is no "rational connection between the facts found and the choice made").

Moreover, the "service eligibility" rules do more than prohibit competition in exchange access. The rules allow access to EELs only if the CLEC provides certified local voice services that satisfy *each* of the following requirements: they have local phone numbers and 911/E911 capabilities, and they are provided by a CLEC that collocates in an ILEC central office, has interconnection trunks, and uses a switch capable of providing local voice traffic. *See Order* ¶¶598, 601-611. These requirements preclude leasing EELs to provide an array of other indisputably "qualifying" local services. For example, it bars CLECs from obtaining EELs to provide private lines to enterprise customers, or advanced services to ISPs or data customers.[5] Further, the collocation and E911 requirements preclude use of cost-based EELs when CLECs

[5] *See, e.g.*, AT&T 2/12/03 Ex Parte 9-12 (J.A.2129-32).

use preexisting "Class 4" long-distance switches to provide enterprise customers with local switched voice service – despite the FCC's recognition that these arrangements are efficient. *Order* ¶610.[6] There is no rational basis for banning any of these local service arrangements in order to prevent a carrier from using EELs to self-provision exchange access components of long-distance service.

Finally, CLECs made certification and other proposals that would have fully achieved the FCC's stated objectives without unnecessarily restricting use of EELs, *e.g.*, AT&T 1/16/03 Ex Parte 3-7 (J.A.1969-73), and the FCC committed reversible error by failing to consider these "obvious alternatives," *Yakima Valley Cablevision Inc. v. FCC*, 794 F.2d 737, 746 n.36 (D.C. Cir. 1986).

C. SHARED TRANSPORT

The FCC also refused to require access to "shared transport." Shared transport provides a transmission path through the ILECs' switches and transmission facilities that is shared with ILEC and other CLEC traffic. *Order* ¶533. The FCC held that CLECs were entitled to shared transport only when they were also leasing ILEC local switches. *Id.* ¶534.

The record evidence showed that CLECs are impaired without shared transport when they try to "transit" traffic – *i.e.*, transport traffic that originates on their network to other carriers' networks. That is because CLECs ordinarily do not have enough traffic to justify deploying dedicated facilities for this function. AT&T Reply Comments 306-07 (J.A.1266-67). The *Order* nevertheless prohibits CLECs from using shared transport for transiting when they have deployed their own switches.

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[6] *See* AT&T 2/12/03 Ex Parte 9-12 (J.A.2129-32); *see also* Carroll-Rhodes Decl. ¶15 n.7 (J.A.630).

In light of the record evidence establishing impairment, the FCC could not and did not find that CLECs could self-provide facilities necessary for transiting. Rather, the FCC "justified" the denial of shared transport for transiting on the ground that it would address the ILECs' obligation to provide transiting facilities in another proceeding that does not involve access to UNEs. *Order* ¶535 n.1640. This "administrative law shell game" is patently unlawful. *AT&T v. FCC*, 978 F.2d 727, 731-32 (D.C. Cir. 1992). The FCC cannot "postpone a question concerning the application of existing law by declaring its intent to consider a future change in that law." *Global Crossing Telecommunications, Inc. v. FCC*, 259 F.3d 740, 747-48 (D.C. Cir. 2001). CLECs are impaired without shared transport today, and it is unlawful to deny them that UNE without engaging in an impairment analysis.

D. BROADBAND LOOPS

In addition to imposing the foregoing restrictions on access to loops and transport UNEs without any justification, the FCC imposed other restrictions on access to bottleneck loops and associated facilities, based on legally insufficient and arbitrary rationales. In particular, the FCC adopted a series of rules denying access to the capabilities required to provide "broadband" services, *i.e.*, high-speed transmission of packetized information used for both high-speed Internet access, other data, and certain voice services. The FCC refused to require access to (1) the broadband (and certain narrowband) capabilities of "hybrid" copper-fiber loops that serve a large (30-50%) and growing percentage of the nation's telephones, *Order* ¶¶285-297; (2) the broadband (and in some cases all) capabilities of any "fiber-to-the-home" loops that incumbents deploy, *id.* ¶¶273-297; and (3) unbundled high frequency portions of any loops (known as "line-sharing"), *id.* ¶¶255-269.

Each of these restrictions rests, in whole or in part, on the grounds that, despite the natural monopoly characteristics of loops and the impairments that will result, CLECs may be denied loop access to prevent CLEC competition that "reduces" the returns ILECs earn, thereby purportedly "incenting" greater ILEC broadband investment. *Id.* ¶¶261, 263, 278, 290, 295. This rationale is antithetical to the Act's terms, structure, and purposes. Further, even if adverse effects on investment could be a basis for denying access to UNEs in the face of findings of impairment, the FCC could not and has not made the concrete, "specific" findings required to override the explicit statutory "touchstone" of impairment set forth in §251(d)(2), and the FCC's findings, by their terms, would authorize these restrictions only in particular markets and not throughout the nation.

It is impossible to overstate the effects of these restrictions on CLECs and on competition. CLECs have made multi-billion dollar investments in packet switches and data transmission facilities that will be stranded (and data competition eliminated) if the restrictions are upheld. Further, the restrictions will eliminate voice competition as well. ILECs today provide voice and high-speed DSL over a single loop, and if CLECs cannot provide the data service that a customer demands, they will be foreclosed from providing the customer's voice service as well. Beyond that, voice services in the future will themselves be transmitted over the broadband capability of loops (through Voice-Over-Internet Protocol), so the restrictions will ultimately ban competition even for "stand-alone" voice service. The result is that ILECs will have monopolies where there is no cable competition, and duopolies elsewhere.

§706 And The "At A Minimum" Clause. Each of the FCC's broadband rules rests on the premise that §251(d)(2)(B) authorizes the FCC to strike a "balance" between (1) §251's goal of promoting competition and (2) a purportedly conflicting "goal" (derived from the uncodifed

§706 of the Act) of promoting broadband and other advanced telecommunications services. *Order* ¶200.

This was palpably unlawful. First, the Act prohibits this *ad hoc* balancing. When impairment exists, the Act's terms and purposes require that the UNE be made available unless denial of access is authorized by, or necessary to implement, some other overriding and explicit requirement of the Act. Second, the uncodified §706 plainly does not authorize exceptions to the statutory unbundling requirements. Third, the FCC can remove any actual impediments to ILEC broadband loop investment by clarifying or modifying its UNE pricing rules, which is the only remedial action that §706 could support.

1. The *Order* correctly states that the "at a minimum" clause of §251(d)(2) establishes that impairment is not the only factor that the FCC may *ever* consider in unbundling determinations. *Order* ¶¶172-179. But the terms, structure, and purposes of the Act just as clearly establish that, when impairment exists, the FCC cannot deny access to a UNE unless that is authorized by, or necessary to implement, some other explicit requirement of the Act. The FCC may not refuse to order access on the basis of its own *ad hoc* determination that, on balance, the public interest is better served by monopoly, duopoly, or some other policy.

Foremost, the stated purpose of the Act is to "open[] all telecommunications markets to competition"[7] and the Supreme Court has held that §251 makes local competition an "end in itself." *Verizon*, 535 U.S. at 476. It defeats these purposes to deny access to an element where impairment exists, particularly because this Court and the FCC have rigorously construed this term to require a finding that an element has natural monopoly characteristics, that competitive supply by multiple firms is precluded, and that local competition is "uneconomic" if access to the

[7] S. Rep. at 1; *see Verizon*, 535 U.S. at 488.

element is denied. *USTA*, 290 F.3d at 422-28; *Order* ¶¶84-104. By definition, the competition that is the object of the Act will be foreclosed if impairment exists, but the FCC refuses to require access to an element.

Further, the Act's other terms and structure – and this Court's prior decisions – independently foreclose the FCC's claim that the "at a minimum" clause of §251(d)(2) by itself authorizes the FCC to deny unbundled access where impairment results. The FCC's determinations under §251(d)(2) establish the UNEs that ILECs are required to lease to competitors at cost-based rates "for purposes of" §251(c)(3), and Congress has barred the FCC from "forbear[ing]" from applying the unbundling requirements of §251(c)(3) unless those requirements have been "fully implemented" and other statutory criteria are met. §§160(a)&(d). These limitations on the FCC's statutory forbearance authority would be meaningless if the "at a minimum" clause enabled the FCC to deny unbundling based on its own *ad hoc* determinations of what is in the overall public interest, for a Commission decision not to unbundle an element under §251(d)(2) has the same effect as a decision to forbear from requiring nondiscriminatory access to that element under §251(c). For this reason, this Court has held that ambiguous language in §251 cannot be read to authorize the FCC to limit the ILECs' unbundling obligations under §251(c)(3). *ASCENT*, 235 F.3d at 665 (ambiguous "successor and assigns" clause of §252(h) cannot be construed to permit the FCC "to accomplish indirectly what the statute clearly forbids: the Commission's exercise of forbearance authority over an ILEC's provision of advanced services"). The Court has held it is irrelevant that the FCC has imposed the limitations by acting under an ambiguous provision of §251 and not by formally forbearing. *Compare id.* *with Order* ¶176.

This is not to say that the "at a minimum" clause prohibits the FCC from considering other factors. As this Court has held, the FCC may order unbundling in the *absence* of a finding of impairment if it demonstrates "specific" "concrete" benefits that cannot otherwise be achieved. *USTA*, 290 F.3d at 425. Further, as *ASCENT* teaches and *CompTel* holds, the FCC can deny unbundling in the face of impairment findings when that is authorized by, or necessary to implement, some other unambiguous requirement of the Act – *e.g.*, the funding of universal service. But when impairment is found, the FCC may not deny access to a UNE on the ground that preventing competition will best achieve some general public policy "goal."

2. The FCC's reliance on §706 of the Act is wholly misplaced. As the FCC admits, this provision neither establishes any requirements that are subverted by unbundled access nor remotely grants the FCC authority to deny access to UNEs where impairment would result. *Order* ¶176. Quite the contrary, as the FCC has previously held and as the *Order* reaffirms, §706 grants the FCC no additional authority. *Id.* Rather, it is merely a hortatory directive that the FCC use authority granted in other provisions of the Act – *i.e.*, authority to adopt price caps, forbear, promote local competition, or remove of barriers to infrastructure investment – to encourage "the deployment on a reasonable and timely basis of advanced telecommunications." §706 (reproduced in notes to 47 U.S.C. §157). That is why Section 706 is not codified in the Communications Act or anywhere in the U.S. Code.

3. Even if §706 were a grant of authority to the FCC, it could not support the FCC's denial of access to broadband loops in the face of its findings that this will impair competition. As the FCC acknowledges (*Order* ¶177), §706 provides that, if the FCC concludes that there is inadequate deployment – as it concededly has not, *id.* ¶175 – it shall adopt measures that

"remov[e] barriers to infrastructure investment *and* . . . promot[e] competition," §706 (emphasis added).

The FCC is thus driven to asserting that it can seek to achieve the goals of §706 through means that are different than those that Congress has prescribed. *Id.* ¶177. This too is wrong. The FCC is "bound, not only by the ultimate purposes Congress has selected, but by the means it has deemed appropriate, and prescribed, for the pursuit of those purposes." *MCI v. AT&T*, 512 U.S. 218, 231 n.4 (1994).

Section 706 and §251 both are designed to foster both competition *and* investment. In particular, §251 represents a congressional determination – solidly grounded in microeconomic theory – that competition from multiple firms cannot develop when incumbents (1) control essential inputs that are natural monopolies or that have some degree of natural monopoly characteristics and (2) deny nondiscriminatory access to these elements.

As the Supreme Court has recognized, §251 will also promote overall investment under the FCC's rules. Because the cost-based UNE rates provide incumbents with full risk-adjusted returns, *Verizon*, 535 U.S. at 517-22, there should be no adverse effect on innovation or investment by ILECs. Further, where CLECs would otherwise be impaired, the sharing of UNEs *enables* CLECs to provide competitive services and will lead them to invest in unshared portions of telecommunications networks. *IUB*, 525 U.S. at 429 (Breyer, J., concurring in part). Indeed, because they have been able to access loops at cost-based rates, CLECs have made multibillion dollar investments in packet switching networks, have provided consumers with lower prices and better service, and have stimulated further investments by incumbents. *Order* ¶538.

Thus, the FCC would have a single remedy under the Act if it were the case that the ILECs' deployment of broadband loops were inadequate because unbundling meant they earned

"reduced returns on their investment." *Order* ¶295. The FCC could then clarify or modify its pricing rules to guarantee that cost-based UNE rates provide incumbents returns that reflect all the risks that they incur. Such action "promotes" both competition and infrastructure investment within the meaning of §706.

But even were §706 to authorize the denial of access to loops to foster investment, the FCC could not do so – in the presence of a finding of impairment – on the basis of a vague and unsubstantiated assertion that unbundling has "disincentive" effects or is otherwise not beneficial. *USTA*, 290 F.3d at 425. Notably, here the FCC could not and did not find that the unbundling rules had inhibited investment by ILECs or by CLECs; indeed, it expressly rejected the ILECs' evidence that it had. *Order* ¶178; *see also id.* ¶276. Further, the FCC's unbundling determination must reflect "market-specific variations," *USTA*, 290 F.3d at 422, and the FCC cannot adopt unvarying nationwide rules that deny access to UNEs in geographic markets where impairment exists but justifications for eliminating unbundling do not.

Each of the FCC's subsidiary rules flunks this test.

1. Hybrid Copper-Fiber Loops

The *Order* found that CLECs would be impaired without access to "hybrid copper-fiber" loops, *Order* ¶¶235, 248, 285-86, but nonetheless refused to unbundle the broadband capabilities of these loops based on three considerations. *Id.* ¶¶285-297. That decision must be vacated if any one of the considerations is infected by error. *See, e.g., Iowa v. FCC*, 218 F.3d 756, 760 (D.C. Cir. 2000). In fact, each is.

a. *Investment Incentives.* The FCC's primary justification for denying access was that denial of access will provide the ILECs higher returns on their investments that will "incent" them to make broadband loop investments. *Order* ¶¶290, 295. But even if this were a

lawful consideration, the FCC here failed to consider relevant factors. CLECs demonstrated that the FCC could promote broadband investment without eliminating competition by modifying its UNE pricing rules to assure that UNE rates appropriately reflect the risk of those investments. *See, e.g.*, Ordover Report 34-37 (J.A.1532-35); Willig Decl. ¶¶156, 159-166 (J.A.858-64). The FCC violated its duty of reasoned decisionmaking by ignoring this alternative.

Moreover, the FCC's own findings and the undisputed record evidence establish that no such incentives are necessary and that, even if they were, the FCC's unvarying national rule would be unlawfully overbroad. With hybrid loops, fiber "feeder" connects central offices to remote terminals ("RTs") while copper continues to comprise the "distribution" link of the loops that runs from the RT to each end-user. This is the most efficient architecture both for narrowband voice transmission and the broadband DSL service that customers use. The FCC thus found that ILECs already are deploying these loops for "the purpose of increasing network efficiency for the provision of narrowband service," *Order* ¶290; *see also id.* ¶217, and the ILECs concede that narrowband savings justifies fiber feeder investment in these loops whether or not broadband service is offered over the loop. *See* WorldCom 10/31/02 Ex Parte 4 (citing SBC Investor Briefing 2 (Oct. 18, 1999)) (J.A.1700). Further, the FCC found that, "[a]ccording to some estimates, upwards of 30 percent of incumbent LEC access lines are now supported by the use of mixed fiber-copper loops facilities." *Order* ¶224. It is expected that by 2004, 50% of loops will be hybrid loops. Stumbaugh/Reilly Decl. ¶16 (J.A.751-52). By the FCC's own findings, no further incentive is needed to promote the deployment of DSL-capable loops.

As the FCC correctly states, the provision of DSL also requires that the ILECs install line cards and other electronic equipment in the RTs. *Order* ¶290. But as the FCC found, and the ILECs concede, once fiber feeder has been deployed, the incremental investment in electronics

to provide broadband is a "fairly modest expense"[8] and a "far" less "costly, complex, and risky endeavor" than the fiber upgrade to the loop, *id.* ¶243.

Moreover, the undisputed evidence is that after initially failing to deploy DSL, and notwithstanding that they were subject to unbundling requirements, the ILECs responded to CLEC competition and cable modem competition (for residential customers) by rapidly making all the required investments over the last 4-5 years.[9] For example, as of early 2002 Verizon was offering DSL service to central offices covering over 79% of its access lines.[10] The percentages are still higher today.[11] So while the FCC is correct that deployment of line cards required for DSL is "not ubiquitous," *Order* ¶290, it is nearly so. The FCC cites to nothing in the record that suggests that ILEC deployment of DSL would be any more rapid if unbundling rights are withdrawn, and the FCC has fallen far short of making the "specific" and "concrete" showings of benefits required to justify denials of access where impairment exists.[12]

The FCC thus is reduced to suggesting that eliminating hybrid loops would incent investment in fiber-to-the-curb or fiber-to-the-home loops, *Order* ¶285; *see id.* ¶290. But this is the purest of speculation. It ignores substantial evidence that there is no consumer demand that would warrant such investments, AT&T Reply Comments 73-91 (J.A.1232-50), and it is

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[8] AT&T Reply Comments 77-78 (quoting BellSouth Chairman's statement to investors) (J.A.1236-37).

[9] Stumbaugh Joint Reply Decl. ¶¶13-16 (J.A.1539-40); Murray Reply Decl. ¶¶100-110 (J.A.1467-72).

[10] Willig Decl. ¶180 (J.A.872-73). The other major ILECs reported comparable figures. *Id.*

[11] *See* http://investor.verizon.com/financial/quarterly/02vz_ar/ccbn-7_157_163 (adding over 600,000 more DSL-capable lines in 2002).

[12] The FCC's sole "support" for its "findings" were (1) predictions about the deployment of all fiber ("fiber-to-the-home") loops that are irrelevant to hybrid copper-fiber loops, and (2) the ILECs' self-serving, conclusory, and counterfactual statements that the regulatory environment has deterred their deployment of DSL line cards. *Order* ¶290 nn.837-38.

irrational to prevent competition by denying access to the loops that the incumbents have deployed to meet consumer demand in order to incent investments in other loops that may never be deployed. Again, the Act's way of creating these incentives is through adjusting the ILECs' required rates of return under the UNE pricing rules.

Finally, the CLECs argued that, even if any future "fiber-to-the-curb" or "fiber-to-the-home" loops could be exempted from unbundling, there was no basis for the FCC to exempt the geographic areas where ILECs have already deployed or committed to deploy DSL-capable hybrid loops. AT&T 2/3/03 Ex Parte 9-12 (J.A.2089-92); Willig Decl. ¶¶180-182 (J.A.872-74). Just as the FCC may not order unbundling nationally "without regard to the state of competitive impairment in any particular market," *USTA*, 290 F.3d at 422, it cannot exempt ILECs from unbundling obligations in markets in which there is impairment and in which the factors that justify the exemptions are not present.

b. *Loop Alternatives.* There is likewise no merit to the *Order*'s assertion that harm CLECs will suffer from a denial of hybrid loops will be "partially diminished" by the CLECs' purported ability to (1) construct their own fiber feeder and connecting it to leased copper "subloops," (2) lease DS1 and DS3 loops, or (3) use ILEC "spare" copper for the feeder links. *Order* ¶¶286, 291, 294. Each of the FCC's palliatives lacks record support and is contradicted by other findings in the *Order*. *See Airline Pilots' Ass'n v. FAA*, 3 F.3d 449, 453 (D.C. Cir. 1993) (agency's internally inconsistent findings and analysis is inherently arbitrary).

The FCC's own findings establish that CLECs cannot economically deploy their own fiber feeder to carry broadband traffic. As the FCC found, fiber transmission facilities have the same natural monopoly cost characteristics as do copper loops or loop components. *Order* ¶240. In this regard, the FCC's assertion that there is "diminished impairment" for fiber rested solely

on the theoretically greater "revenue opportunities" that apply fiber-to-the-home loops (which can provide video programming), *id.*, but these are not present for hybrid copper-fiber loops. Further, the FCC ignored the uncontradicted evidence that CLEC collocation in RTs is itself "prohibitively costly and slow." WorldCom 10/31/02 Ex Parte 3 (citing N.Y. State Public Service Commission) (J.A.1699); Stumbaugh/Reilly Decl. ¶¶26-32 (J.A.754-57).

Second, it is absurd to suggest CLECs could use DS1 (24 voice equivalent) or DS3 loops (672 voice equivalent) to serve residential customers who want voice and data on a *single* phone line. The *Order* itself acknowledges as much in finding that mass-market customers can "only economically be served via analog DS0 loops." *Order* ¶459; *see also id.* ¶451.

Third, "spare" copper is no solution. Fiber feeder is deployed precisely because the spare copper loops were too long for DSL. *Id.* ¶243. And, the *Order* does not ensure the availability of that spare copper in any event. *Id.* ¶294 n.847.

c. *Intermodal Competition.* Finally, the FCC concluded that the benefits of providing full access to unbundled hybrid loops are "obviated to some degree" by the existence of cable modem services that currently provide more retail broadband internet access services than do DSL. *Order* ¶292. But more than one-quarter of residential customers and three-quarters of small business customers do not have access to cable modem service.[13] This level of "competition" cannot justify the FCC's "unvarying" "national" rule that denies full access to hybrid loops in all markets. *USTA*, 290 F.3d at 422. In all events, the goal of the Act is

[13] BOC UNE Fact Report IV-18-IV-19 (J.A.1047-48); *Third Section 706* Report, App. B, ¶23 (noting that most businesses are not wired for cable service, and that cable's shared network characteristics make it difficult for providers using cable modem technology to guarantee consistently high speeds and other advanced features that some business customers require); *id.*, App. C, Table 9 (2002) (40% of U.S. zip codes have at most a single broadband provider); AT&T 2/3/03 Ex Parte 8 n.31 (45% of Californians who live in cities with broadband access have DSL as their only option) (J.A.2088); AT&T 2/4/03 Ex Parte 4-5 (J.A.2098-99).

"multiple competitive supply," *id.* at 427, by "hundreds of smaller entrants," *Verizon*, 535 U.S. 510 n.27, and the FCC has found that duopolies cannot achieve the Act's objectives, *Order* ¶¶409, 499 (three or more alternative providers required before UNE delisted); *accord EchoStar Merger Order* ¶103; *FTC v. H.J. Heinz Co.*, 246 F.3d 708, 717 (D.C. Cir. 2001). Here, the FCC arbitrarily departed from these findings without reasoned explanation. As a result, the *Order* will leave most small business, and many residential, customers facing a monopoly provider of broadband access.

2. Fiber-To-The-Home Loops

The FCC also improperly limited competitors' access to so-called "fiber-to-the-home" ("FTTH") loops to serve mass-market customers. *Order* ¶¶273-297. In so-called "greenfield" developments where loops are being deployed for the first time, the FCC denied competitors access to all capabilities of FTTH loops, including narrowband capabilities used to provide voice services. *Id.* ¶275. In "brownfield" developments, where FTTH loops replace existing copper, the FCC denied competitors access to the broadband capabilities of the loop. *Id.* ¶277. The FCC's FTTH decision suffers from the same basic flaws as its hybrid loop decision – the FCC sacrificed competition in order to further the "goals" of §706. *Id.* ¶278. Further, the FCC's findings regarding the "disincentive" effects of unbundling in this context rested on a single conclusory study, *see id.* ¶278 nn.817-818, and although there was extensive evidence demonstrating that this study is flawed, *see, e.g.*, Clarke/Donovan Reply Decl. ¶¶4-42 (J.A.1275-97), the FCC violated its duty of reasoned decisionmaking by ignoring this evidence and "fail[ing] to respond to contrary arguments." *Illinois Public Telecomm. Ass'n v. FCC*, 117 F.3d 555, 563-64 (D.C. Cir. 1997). Finally, once again, the FCC ignored that disincentives could be

eliminated by adjusting the pricing for FTTH loops to ensure that the ILECs were adequately compensated for their risks. *See* Willig Decl. ¶¶156, 159-166 (J.A.858-64).

Unlike its hybrid loop rulings, however, the FCC also based its decision on a finding that competitors were not impaired without access to FTTH loops. *Order* ¶¶274-276. The FCC reached this conclusion by ignoring its other findings and the record evidence.

In particular, the FCC found that it is uneconomic for competitors to deploy all-fiber DS3 loops in business markets. *Order* ¶¶320-327. A finding of impairment for FTTH loops in the residential market should have followed *a fortiori* from that finding. A high-capacity DS3 loop is made out of the same fiber as a FTTH loop and would provide at least as much broadband capability. Yet, the FCC found that a DS3 loop "can not provide a sufficient revenue opportunity" to overcome barriers to deployment of those loops. *Id.* ¶320. In the face of this finding, the FCC's conclusion that "additional [FTTH] revenue opportunities associated with increased bandwidth capabilities *may* alleviate ... at least *some* of the entry barriers," *id.* ¶236, is an arbitrary *ipse dixit*.

The FCC's other findings also foreclose assertions that CLECs are as capable as ILECs when it comes to installing FTTH. *See id.* ¶275. With respect to overbuild situations, where fiber is being deployed along existing routes, the ILECs have an extensive customer base that provides a "first-mover" advantage. *Id.* ¶¶238, 277. Further, the ILECs typically deploy substantial excess fiber capacity in their networks because the incremental costs of placing larger cables (as insurance against having to build again) is a small fraction of the costs of new construction. *Order* ¶312; AT&T Reply Comments 105 (J.A.1255). This existing "dark fiber" capacity can readily be used by the ILECs for network extensions – as the ILECs themselves acknowledge. SBC 1/15/03 Ex Parte 10 (J.A.1966). Even with respect to "greenfield"

deployment, the FCC ignored record evidence that many ILECs have "omnibus" rights-of-way, while CLECs must *first* gain access to the necessary rights-of-way before they can build, a costly process that can take months. AT&T Reply Comments 105 (J.A.1255); ALTS Comments 58 (J.A.898).

Even if ILECs and CLECs were similarly capable of building out FTTH, the statutory question remains whether competitors are impaired without access to ILEC facilities, and not whether CLECs could have been the first ones to build in a situation in which only one loop is economical.

The FCC also asserted that CLECs and other non-ILECs have deployed more FTTH than ILECs. *Order* ¶275. But virtually no FTTH has been deployed by *any* carrier, precluding any reasonable generalization from the very limited experience to date. Moreover, the record shows nearly all of the negligible CLEC deployment – less than 26,000 lines nationwide – came from one company serving two cities. CSMG Report 51 (J.A.1989). That company has since declared that its FTTH deployment was a mistake, that it will not trench any more fiber, and that it will have to partner with a provider that controls "last mile" facilities such as a telephone company or municipality.[14] Virtually all of the remaining non-ILEC FTTH deployment – a meager 6,000 lines nationwide – came from a single municipal utility. Overall, 92% of the non-ILEC deployment of FTTH came from these two entities. *Id.* It was irrational for the FCC to rely on this meager evidence to make sweeping generalized findings that CLECs are unimpaired without access to fiber loops in all geographic markets.

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[14] Jennifer Dawson, *Eagle Broadband CEO hopes to lift firm to higher ground,* Hous. Bus. J., Sept. 1, 2001.

3. IDLC Loops

While purporting to protect CLECs' access to the narrowband capabilities of hybrid loops (such as dial-up Internet access service), *Order* ¶296, the FCC did not even do that. When a CLEC requests an unbundled loop for a customer served over integrated digital loop carrier ("IDLC") equipment, the FCC permitted ILECs to substitute a loop served with "universal" DLC ("UDLC"). *Id.* ¶297. IDLC and UDLC are types of equipment used at the remote terminal to connect the branch copper "distribution" portions of the loop to the fiber "feeder" portion. The FCC permits the ILECs to consign CLECs to UDLC even though the record unambiguously established that UDLC substantially degrades the speed and quality of dial-up Internet access, and even though the FCC concluded that it was technically feasible for the ILECs to unbundle IDLC loops. *Order* ¶297 n.855 (citing Telcordia Notes). The FCC failed to provide any explanation for its decision to consign competitors' customers to inferior service. *Id.* ¶¶296-297. Because no consumer that uses these services would tolerate the degradation the FCC has permitted, this decision will have severe anticompetitive effects and is an unexplained departure from the FCC's prior decisions prohibiting such discrimination. *See Local Competition Order* ¶383. The decision is also flatly inconsistent with FCC policy that unbundling rules be "technologically neutral." *USTA*, 290 F.3d at 419.

4. Line-Shared Loops

Finally, the *Order* eliminated the long-standing requirement that ILECs lease the high-frequency portion of their copper loops ("HFPL"). *Order* ¶¶273-297. This elimination of "line-sharing" violates the Act's plain terms and serves no valid policy, which is doubtless why a

number of Commissioners expressed reservations about eliminating this requirement.[15] Moreover, as with the other aspects of the *Order* addressing impairment and unbundling obligations with respect to broadband loop capabilities, the *Order* failed to provide the rigorous competitive analysis demanded by this Court in *USTA*, and should be reversed.

a. This Court remanded the FCC's *Line Sharing Order*, and directed the FCC to determine whether the absence of line-sharing "will genuinely impair competition that might otherwise occur." *USTA*, 290 F.3d at 425. But the FCC offered no reasonable explanation for reversing its previous finding (made pursuant to §706) that line-sharing is necessary to level the competitive playing field and will promote deployment of broadband technologies. *Line Sharing Order* ¶35.

There was no competition to provide DSL service before the FCC's line-sharing rules allowed new entrants to deploy competitive broadband technologies. *See, e.g., id.* ¶¶32-33, 40. Because of the billions of dollars invested by data CLECs relying on line-sharing, residential DSL service grew over *5000 percent* in three years, from an initial 115,000 lines to over 6.5 million at the end of 2002. *Second Section 706 Report* ¶72; *High-Speed Services Report* 2 & Table 1. The FCC's own studies indicate that for every line-shared DSL line, ILECs responded by deploying four retail DSL lines. *See Communications Daily* 10, Oct. 20, 2003.[16] Despite

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[15] *See Powell Statement* at 1 ("I do, however, dissent from the Majority's decision to immediately eliminate line sharing as an unbundled network element. Most of our policies to promote the goals of the Telecommunications Act have produced little yield to date. However, line sharing has clear and measurable benefits for consumers.") (J.A.587); *see also Abernathy Statement* at 7 ("In the end, however, I cannot join the majority's decision to eliminate line sharing because they have not advanced a clear rationale that overcomes the record evidence that line sharing promotes competition *and* investment.") (J.A.599); *Copps Statement* at 2 ("I would have preferred to maintain this access . . . known as line sharing.") (J.A.601).

[16] In addition, Covad submitted uncontroverted economic evidence that line-sharing has resulted in over $1 billion in consumer welfare gains, with an estimated $1.6 billion in consumer gain yet to be realized from line-sharing. Siwek/Sun Decl. ¶¶25, 117-136 (J.A.1714-25).

acknowledging the need to consider the "benefits" of unbundling the HFPL, *Order* ¶256, the FCC gave no indication that it considered this real-world evidence of impairment.

While the FCC now suggests, without analysis or citation to the record, that carriers have incentives to deploy broadband services even without access to the HFPL, *Order* ¶263, the opposite is clearly true. Line-sharing allows existing network capacity that otherwise would lie fallow (the high-frequency portion of the loop) to be used to provide DSL service. Eliminating the principal means by which data CLECs have sought to compete with ILECs in offering DSL service can only threaten the billions of dollars data CLECs have invested – and more they plan to invest in the future – in broadband technology in order to provide DSL over the HFPL. At the same time, eliminating competition enabled by line-sharing "actually diminishes the competitive pressure" that "would have pressured incumbents to deploy more advanced networks." *Powell Statement* 1 (J.A.587); *see also Verizon*, 535 U.S. at 516-17.

b. Absent line-sharing, requesting carriers must lease the entire copper loop in order to provide the broadband services "they seek to offer." The FCC previously recognized that this would not be economic because such "data CLECs" would be paying the entire cost of the loop, but providing only a fraction of the services that loops can support, and that their principal competitors, the ILECs, in fact provide. *Line Sharing Order* ¶51.[17] In the *Order*, the FCC reversed course, claiming that requesting carriers could recover the costs of purchasing "whole" loops by offering voice and video services in addition to the DSL services they actually wish to provide. *Order* ¶258.

[17] The FCC claims that "in the *Line Sharing Order* the focus was only on the revenues derived from an individual service," *Order* ¶258, but in fact the FCC previously had expressly rejected that a carrier could "spread the costs of a loop between multiple services" and concluded that no carrier could "provide voice services to address the impairment associated with the lack of access to line sharing," *Line Sharing Order* ¶51.

The statute, however, requires that impairment be determined with respect to the services the requesting carrier "seeks to offer," not every service that potentially could be offered. §251(d)(2).[18] As this Court has concluded, the statute's focus on the "services that [the requesting carrier] seeks to offer" plainly "invite[s] an inquiry that is specific to particular carriers and services." *CompTel*, 309 F.3d at 12-13. Thus, the FCC in making its impairment decision cannot look to voice, video, or any other theoretical revenues beyond the DSL services that line-sharing CLECs really wish to offer.

The Act's standard makes good sense. Forcing an entity to provide multiple services can impose insurmountable entry barriers because "such 'two-level' entry [can be] more risky, more difficult, or more time-consuming than entry into the . . . primary market alone."[19] Under the FCC's logic, data CLECs that currently have the capability to provide only data services could continue to offer DSL service only if they could suddenly gain the expertise, personnel and capital to offer voice and video services in competition with dominant incumbent providers of such services. They also would have to persuade ILEC customers to migrate to them for voice services, as well as DSL. But the *Order* identifies no evidence suggesting that data CLECs currently offering stand-alone DSL service could also enter voice and video markets. Nor could it. Bundling of video services to compete with cable is not currently feasible over the copper loops at issue here. *See Ninth Video Competition Report* ¶98.

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[18] The line-sharing ruling is a consequence of the FCC's erroneous new construction of "impairment," which ignores the statutory requirement that impairment be considered in the context of the services a carrier seeks to offer, and substitutes instead consideration whether "all potential revenues from entering a market exceed the costs of entry." *Order* ¶84. Under this standard, particular market plans and strategies are irrelevant. *Id.* ¶115. The plain text of the statute, however, simply does not permit this construction.

[19] Pitofsky, *Vertical Restraints*; *see also* DOJ 1984 Merger Guidelines § 4.211; *Eli Lilly & Co.*, [1993-1997 Transfer Binder] Trade Reg.Rep. (CCH) ¶23,873 (1995); *Cadence Design Systems, Inc.* [1997-2001 Transfer Binder] Trade Reg.Rep. (CCH) ¶24,264 (1997).

Alternatively, the *Order* asserts that data CLECs seeking to offer DSL could "partner" with voice-service CLECs by using "line-splitting." *Order* ¶259. Under this arrangement, the two entities jointly purchase the entire loop, with the CLEC providing voice services on the low frequency portion of the loops and the data CLEC providing DSL service on the HFPL. Even if all technical barriers to line-splitting were eliminated – and the FCC arbitrarily ignores the substantial record evidence that they have not been[20] – line-splitting cannot substitute for line-sharing. The approximately 95% of Americans who still receive local phone service from an ILEC cannot purchase line-split DSL services.[21] The potential ability to serve 5% of lines does nothing to ameliorate the impairment that carriers suffer without line-sharing, which would give access to the other 95%.

c. The FCC sought to bridge the deficiencies in its impairment analysis by suggesting that the loss of competition from eliminating line-sharing matters little because "other broadband platforms" exist. *Order* ¶263. But the only serious broadband competitors (other than the data CLECs impacted by the elimination of line-sharing) are the cable companies. Cable obviously provides data CLECs with no alternative to the ILECs' loops that could abate their impairment – no cable company makes its "loop" facilities available to competitive carriers. *Order* ¶¶222-223. Likewise, none of the other "potential" broadband providers cited by the *Order* provides an alternative to the ILEC as these carriers do not even currently offer service. And while the *Order* found with regard to other UNEs that "the existence of intermodal loops

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[20] Covad 10/15/02 Ex Parte 4 (J.A.1612); *see also* Choice Coalition Stay Decls. (citing record) (J.A.2153-2201).

[21] Line-splitting is used to provide broadband services to customers purchasing local voice services from CLECs that lease ILEC-owned lines. Out of approximately 188 million ILEC access lines nationwide as of December 2002, approximately 10.2 million were being used by CLECs to provide local voice service. *Local Telephone Competition Report* 1 & Table 4.

does not warrant a finding of no impairment," *id.* ¶245, this finding was simply ignored when it came to HFPL.

Further, the record evidence established that cable competition is not sufficient to constrain ILEC market power in DSL and therefore effective "competition in the broadband market" is "dependent upon unbundled access to the HFPL." *Id.* ¶263. This is so for two reasons. First, the record demonstrates that numerous parts of the country have no cable modem or other alternative platforms at all.[22] Second, cable competition creates, at best, a broadband duopoly.[23] That is why, after several of the largest data CLECs were driven out of the market, the ILECs were, notwithstanding cable "competition," able to raise their prices by 25%. AT&T 2/3/03 Ex Parte 7 n.30 (J.A.2087). Indeed, absent competition from data CLECs, the ILECs have incentives not to deploy inexpensive DSL service to prevent DSL from "cannibaliz[ing] the traditional services offered by ILECs," such as the second phone lines that consumers use for dial-up Internet access services. NERA Decl. ¶167 (J.A.1436).

II. THE *ORDER*'S MECHANISMS FOR DETERMINING WHETHER SWITCHING SHOULD BE UNBUNDLED VIOLATE THE ACT.

A. MASS-MARKET SWITCHING

1. The FCC's treatment of unbundled switching for mass-market (residential and small business) customers is unlawful. Although the FCC correctly found that new entrants are impaired on a national basis without access to unbundled local switching for mass-market customers, *Order* ¶¶464-471, it nonetheless required switching to be automatically removed from the mandatory UNE list when states find that certain "triggers" are met in individual

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[22] *See* pp.26-27 & n.13, *supra*; *see also, e.g.*, Covad 10/15/02 Ex Parte 3 n.12 (J.A.1611-12).

[23] *See* pp.26-27, *supra*.

markets – on the ground that satisfaction of triggers establishes a lack of impairment in that area. *Id.* ¶¶493-520. But the triggers, by their terms, do not do that.

The FCC's impairment finding is unassailable. With the exception of those cable television systems that offer telephony, competitors have no economic alternative to the ILECs' bottleneck "voice-grade loops" to serve the mass-market, *id.* ¶¶226, 439. Those loops are hardwired to the ILECs' switches, and there is not now an efficient method of breaking the two apart. *Id.* ¶¶464-471. As a result, CLECs need access to the ILECs' switches every bit as much as they need access to their loops.

In this regard, the FCC found that competitors have deployed thousands of switches, now sitting with idle capacity, and that they have strong economic incentives to fill up those switches by connecting them to ILEC loops to serve mass-market customers. *Id.* ¶¶436-437, 447 n.1365, 449 n.1371, 466, 468. If CLECs could economically use their own switches, they obviously would do so. Nonetheless, virtually no carrier is doing so, and carriers initially attempting to do so were forced to "discontinue [those] plans" because of the direct costs and service disruptions caused by ILEC "hot-cut" processes for disconnecting loops from their switches and reconnecting them to CLEC switches. *Id.* ¶¶438, 440, 447 n.1365, 459, 465, 466-469.

The FCC also noted additional problems that CLECs face when they seek to use ILEC loops to serve the mass market absent unbundled switching. *See, e.g., id.* ¶480 (backhaul costs); *id.* ¶¶477-478 (collocation costs).

Despite its finding of nationwide impairment, the FCC established automatic triggers for removing mass-market switching from the mandatory UNE list. Under the "self-provisioning trigger," "a state must find 'no impairment' when three or more unaffiliated competing carriers

each is serving mass-market customers in a particular market with the use of their own switch." *Id.* ¶501.[24]

The FCC adopted this trigger on the ground that it provides a "granular" test for determining whether the sources of impairment identified by the FCC have been eliminated in a particular market. *Id.* ¶¶473, 476, 493, 501. But the triggers adopted bear no rational relationship to this purpose, for the FCC acknowledged that its triggers may "count" carriers like cable companies that have their own loops and therefore *do not need a hot-cut*. *Id.* ¶501 n.1560. That is irrational – the existence of cable telephony service proves nothing whatsoever about whether the hot-cut problem has been solved. Moreover, even leaving aside the impairments created by hot-cuts, the trigger analysis does not address the other sources of impairment identified by the FCC (*e.g.*, backhauling costs, or operational obstacles including collocation). *Id.* ¶¶476-480.

The triggers suffer from another flaw. In particular markets, the triggers may have been satisfied only because UNE-switching was available as a transition tool. "[A]ccess to UNEs may enable a CLEC to enter the market gradually, building a customer base up to the level where its own investment would be profitable." *USTA*, 290 F.3d at 424. In addition, the FCC found that the cost and practicality of "hot-cuts" may be improved if a CLEC is allowed to attract customers using unbundled switching until there are a sufficient quantity that can be converted at one time to the CLEC's switch. *Order* ¶¶487-488. Indeed, the FCC directs states to attempt to implement "batch" hot-cut processes in which such rolling use of unbundled switching would serve just that purpose. *Order* ¶489. But the *Order* then directs elimination of switching – even on this

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[24] In addition, under the "wholesale trigger," a state must find no impairment wherever "two or more competing carriers . . . offer wholesale switching service for that market using their own switch." *Id.* ¶504.

transitional basis – if the triggers have been satisfied. *See* 47 C.F.R. §51.319(d)(2)(iii)(B)&(C). It is patently arbitrary to eliminate unbundled switching based on triggers that have been (and could be) satisfied only because of the continued availability of unbundled switching.

Further, the FCC's decisions to set the number of competitive switches for the "self-provisioning" trigger at three, and the wholesale trigger at two, were patently arbitrary. The numbers appear to have been made up out of thin air, without any consideration of other reasonable alternatives. As explained above, the mere existence of three retail or two wholesale providers does not establish that other CLECs are not impaired. Nor does it show that the market is competitive. To the contrary, the relevant evidence indicates that "five firms are required to ensure *ex ante* that a market be effectively-competitive." Z-Tel 11/22/02 Ex Parte, Att. at 14 & n.9 (J.A.1731). In its *Mass Media Ownership Order*, the FCC relied upon the *identical* econometric and game theory works submitted here and held that "both economic theory and empirical studies suggest that a market that has *five or more relatively equally sized firms* can achieve a level of market performance comparable to a fragmented, structurally competitive market." *Mass Media Ownership Order* ¶289 (emphasis added). Indeed, the FCC acknowledged here that prices would be higher in a market with two wholesale providers than in a fully-competitive market. *Order* ¶504 n.1565. The FCC's failure to justify the selection of two or three providers as satisfying the "triggers" is paradigmatically arbitrary and capricious.

2. The FCC also erred in establishing irrational transition rules if states determine that CLECs would not be impaired without unbundled switching. It precluded CLECs from acquiring any new customers using unbundled switching five months after a finding of no impairment even though the FCC elsewhere recognized, *Order* ¶532, that it would take more than five months before CLECs could begin using their own switches.

In particular, the FCC adopted a *13*-month transition period before CLECs had to migrate any existing customers to their own switches. *Id.* The FCC established this 13-month period because it found that it would take significant time for CLECs to deploy switches and collocations, develop new provisioning and other systems, and train new personnel before they could begin serving customers on their own switches. *Id.* ¶529 (citing WorldCom 11/18/02 Ex Parte showing this process would typically take 17 months). It found that, without continued access to unbundled switching in this interim period, CLECs "would be forced to halt [their] advertising and *customer acquisition activities*," substantially disrupting their businesses, especially given the high "churn" rate in the local telephony business. *Id.* (emphasis added). The *Order* is internally inconsistent, and thus arbitrary, in barring unbundled switching for new customers after 5 months.

B. ENTERPRISE SWITCHING

The FCC acted in a similarly arbitrary manner in declining to unbundle switching (thereby eliminating UNE-P service) when used to provide service to enterprise customers. *Order* ¶¶451-458. Given the sparse record evidence on enterprise switching, the FCC conceded that its rule was likely overbroad. *Id.* ¶454. Therefore, the FCC gave states 90 days to petition for a waiver of the national non-impairment finding. *Id.* ¶455. The FCC sensibly required that each waiver petition must be based on data from relevant customer and geographic markets. But at the same time the FCC gave the states nine months, *i.e.*, six months *after* the end of the 90-day petition window, to collect and analyze data on the correct markets. *Id.* ¶¶455 & n.1397, 495-97.

That being so, the 90-day mechanism obviously is arbitrary and capricious, and, once again, will inevitably result in denial of access to UNEs where there is impairment. The FCC concedes that the general "no impairment" rule is overbroad in that it sweeps in markets in which

there could be impairment. Such rules are lawful only if they establish meaningful "safety valve" procedures to enable the correct outcome in specific cases. *E.g., AT&T Wireless Services, Inc. v. FCC*, 270 F.3d 959, 965 (D.C. Cir. 2001). The 90-day time limit obviously is irrational, since the evidence necessary to make the appropriate judgment will be available only after nine months. The FCC compounded the harm by (i) holding that the 90-day state proceedings are voluntary rather than mandatory, *Order* ¶455; and (ii) specifying that the enterprise switching UNE cannot be reinstated after the end of the 90-day period absent changed circumstances, *id.* The FCC's hostility to unbundling, even when there is impairment, has led it to adopt procedural rules that are grossly inadequate to their purpose.

C. SWITCH-BASED DATABASES AND SIGNALING SYSTEMS

Call-related databases contain information that carriers use in providing services. *Order* ¶549 & nn.1693-1698. When CLECs lose access to unbundled switching, they also lose access to call-related databases (other than the 911 database), on the theory that they are not impaired because there is a competitive market for these databases. *Id.* ¶¶551, 554. The FCC's conclusion cannot be squared with the record evidence that shows that most of the content of these databases must, of necessity, come from the ILECs. For example, the CNAM database is used to enable Caller ID service. When someone calls a CLEC customer with Caller ID service, the CLEC looks up the calling number in this database and retrieves the name to display on the Caller ID device. Gallant/Lehmkuhl Decl. ¶3 (J.A.764). If the caller is an ILEC customer, however, as is the case for 90% of calls, the terminating carrier must have access to the ILEC's database information in order to determine and display the customer's name. *Id.* ¶5.

The FCC points to the availability of third-party providers. *Order* ¶554. But these third-party providers obtain most of their data from the ILECs. *See id.* (Illuminet provides

connections to all databases, including ILEC databases); Ku Decl. ¶8 (impossible to develop a database such as LIDB without access to the ILEC's information) (J.A.760-61). The FCC states that CLECs can self-provide databases, explaining that WorldCom has constructed its own CNAM database. *Order* ¶554. But without access to ILEC data, WorldCom is unable to display the calling party name on most customer calls, greatly limiting the value of the Caller ID services it provides. Gallant/Lehmkuhl Decl. ¶14 (J.A.767). And CLECs cannot duplicate the LIDB database at all. WorldCom Reply Comments 165 (J.A.1525).

The only viable alternatives to ILEC databases exist only because the FCC had heretofore required the ILECs to provide unbundled access to the content of *their* databases. If the ILECs are now permitted to deny such access, that market will be eliminated. It is patently irrational to deregulate based on the availability of market-based choices that exist only because of the regulation that is being eliminated. Similar errors infect the FCC's decision not to unbundle signaling systems. *Order* ¶544.

III. THE FCC UNLAWFULLY PROHIBITED UNBUNDLING BEYOND THAT SPECIFIED IN THE *ORDER*.

A. THE *ORDER* UNLAWFULLY UNDERMINED THE UNBUNDLING REQUIREMENTS OF SECTION 271.

The *Order* correctly recognizes that the §271 checklist requires BOCs authorized to provide long-distance service to lease to competitors four network elements – loops, transport, switching, and signaling – even if the FCC has excused other ILECs from providing those elements under the standard set forth in §251(d)(2). *Order* ¶¶653-655. But in its effort to eliminate unbundling to the greatest extent possible, the FCC has adopted a patently unlawful construction of §271 in order to nullify these requirements. Specifically, the FCC concluded that §271 does not require those BOCs to provide *nondiscriminatory* access to these elements at *cost-*

based rates. *Id.* ¶¶656-664 & n.1990. The FCC did so even though item two on the §271 checklist specifically mandates such access, §271(c)(2)(B)(ii), and even though the Supreme Court has squarely held that §271 requires that the ILECs "'will have to allow for nondiscriminatory access on an unbundled basis to the network functions and services of the Bell operating companies that is at least equal in type, quality, and price to the access [a] Bell operating company affords to itself.'" *Verizon*, 535 U.S. at 488 (quoting 141 Cong. Rec. 15572 (1995)).

1. *Nondiscriminatory Combinations*. Until they were forbidden to do so by two Supreme Court decisions, the ILECs had undermined the Act's unbundling requirements in two ways. First, they maintained that they could rip apart network elements like loops and switches before they handed them over to competitors, solely to make competitors waste resources putting them back together again. The Supreme Court affirmed the FCC's "combinations" rule prohibiting this form of "sabotage." *IUB*, 525 U.S. at 394. Second, the ILECs maintained that they could refuse to combine network elements upon the request of competitors. The Court upheld the FCC's combinations rule requiring them to do so, emphasizing that the rule ensures nondiscriminatory treatment because the ILECs would combine elements if it served their business purposes. *Verizon*, 535 U.S. at 537.

The FCC nevertheless declared that the BOCs are not required, "pursuant to section 271, to combine network elements that are no longer required to be unbundled pursuant to section 251." *Order* ¶655 n.1989. Its sole reason is that §271 makes no mention of "combining," while §251 does. But this is not a justification for sanctioning ILEC sabotage. Moreover, the FCC and the Supreme Court had not relied on the reference to "combining" in §251(c)(3) as the basis for the combinations rule; they had relied on the *nondiscrimination requirement*. And item two on

the §271 checklist twice requires nondiscrimination – by explicitly requiring "nondiscriminatory access to network elements" and by cross-referencing §251(c)(3), which also prohibits discrimination. Footnote 1989 is a flagrant attempt to nullify a clear statutory requirement.

2. *Cost-based Pricing*. The FCC also attempts to nullify the checklist unbundling requirements by permitting the BOCs to charge rates for elements obtained under the checklist higher than the rates set out in the FCC's UNE pricing rules. *Order* ¶¶656-664. Once again, the FCC provides no policy justification for allowing the BOCs to assess rates higher than those the FCC determined were necessary to permit those elements to be used in a competitive marketplace. And, it did so even though checklist item two specifically requires access to these network elements be provided in accordance with the cost-based pricing standard of §252(d)(1).

The FCC stated that it disagreed with the "argument that the cross-reference in checklist item two should be read into the later checklist items" – that is, the checklist items requiring BOCs to provide unbundled access to loops, switching, transport, and signaling. *Id.* ¶657. But there is no need to read that requirement into other checklist items because, by its terms, checklist item two requires cost-based pricing of "network elements."

The FCC also suggested that a straightforward reading of §271 would "render section 251 itself superfluous." *Id.* ¶660. That is not so. Section 251 applies to network elements other than those the checklist requires BOCs to lease, and the checklist applies to BOCs only after they seek authorization to provide long-distance service. It does not apply to the other ILECs, including the largest ILEC at the time of the Act's enactment, GTE.

In addition, the FCC offered no reason whatsoever not to apply the cost-based pricing standard Congress adopted in 1996 for network elements, but instead to apply the "just and reasonable" standard of §201(b) to the extent the use of the element is jurisdictionally interstate.

Congress adopted a specific pricing standard governing network elements because it wanted that pricing standard to govern the leasing of network elements. But even if reference is made to §201(b), the result should be a cost-based rate because §252(d)(1) states that "the just and reasonable rate for network elements" is a cost-based rate, and no different standard could plausibly apply under §201(b). *See Farmers Union Central Exchange, Inc. v. FERC*, 734 F.2d 1486, 1501-02 (D.C. Cir. 1984).

B. PREEMPTION

The *Order* did not adopt rules that preempted the states from establishing additional unbundling under state law where the FCC had refused to order unbundling. *Order* ¶¶191-196. Rather, the FCC deferred the question of the preemptive effect of the *Order* to future declaratory order proceedings. *Id.* ¶195. Thus, the preemption issue is not ripe.

If the Court concludes otherwise, it should hold that statements made by the FCC regarding the preemptive scope of its regulations are erroneous. The FCC stated that it would "likely" find that any unbundling requirement adopted under state law with respect to an element that the FCC had declined to unbundle would be preempted. *Id.* That statement cannot be squared with the Act. Section 251(d)(3), entitled "Preservation of State Access Regulations," prohibits the FCC from issuing regulations that preclude enforcement of state access rules that are "consistent with," and that do "not substantially prevent implementation of the requirements" of §251 and the "purposes" of the Act.

There will be many instances where the FCC declines to unbundle an element under §251, but where state unbundling would not frustrate the purposes of §251 or the Act. For example, there is no conceivable basis to preempt a state unbundling requirement when the FCC found impairment within the meaning of §251(d)(2)(B) (or made no finding of non-impairment)

and decided to remove the element from the list for other reasons that are not based on any of the requirements or provisions of §251 or of the Act's other local competition provisions. Nor is there any basis for a finding of subversion of the Act's requirements or purposes where the FCC had found no impairment, but (1) there was a state law finding of impairment based on substantial evidence and something the FCC could permissibly have found, (2) the state law requirement rested on "specific" and "concrete" public interest benefits that justify unbundling in the absence of a finding of impairment, or (3) the state's unbundling requirements rest on voluntary undertakings of the ILEC.

Indeed, the Act authorizes, and in some cases requires, ILECs to provide access to elements that are not on the national list adopted in the FCC's regulations. *See* §252(a)(1) (authorizing interconnection agreements without regard to the requirements of §251); §271(c)(2) (requiring access to elements without regard to whether they are on the national list). *A fortiori,* it cannot substantially prevent the implementation of §251's requirements or the Act's purposes for a state to require unbundling, under the provisions of state law, of elements simply because they are not on the FCC's national list. To hold otherwise would read §251(d)(3) out of the Act.

CONCLUSION

For these reasons, the Court should grant the CLECs' petitions and remand the *Order* on the issues raised herein.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE
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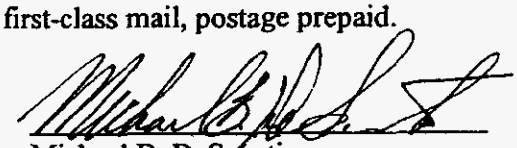
Pursuant to Fed. R. App. P. 32(a)(7)(C), I certify that the foregoing Opening Brief of CLEC Petitioners and Intervenors in Support is proportionately spaced, has a typeface of at least 11 points in height, and contains 13,685 words (as measured by the word count of the word-processing program used to prepare the brief).

Michael B. DeSanctis

CERTIFICATE OF SERVICE

I hereby certify that, on this 16th day of January 2004, I caused copies of the foregoing Opening Brief of CLEC Petitioners and Intervenors in Support to be served upon the parties on the attached service list via electronic service and first-class mail, postage prepaid.



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising From Federal Communications Commission Triennial UNE review: Local Circuit Switching For Mass Market Customers /	Docket No. 030851-TP Filed: March 19, 2004

NETWORK TELEPHONE CORPORATION'S REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION AND MOTION FOR PROTECTIVE ORDER REGARDING CONFIDENTIAL TESTIMONY AND CONFIDENTIAL HEARING EXHIBIT NOS. 13 AND 23

Network Telephone Corporation ("Network Telephone") pursuant to Rule 25-22.006, Florida Administrative Code, files this Request for Specified Confidential Classification and Motion for Protective Order Regarding Confidential Testimony and Confidential Hearing Exhibit Nos. 13 and 23.

1. On February 24 - 27, 2004, the Commission conducted its hearing in this docket. During the hearing, confidential information of Network Telephone's was entered into the record, including a portion of the rebuttal testimony of FCCA witness Joseph P. Gillan and confidential hearing Exhibit Nos. 13 and 23.

2. The rebuttal testimony of Joseph P. Gillan, (TR. 2516), contains confidential information regarding the number and type of loops provisioned to Network Telephone's Pensacola switch. Network Telephone considers this information to be confidential proprietary business information. Disclosure of this information could severely harm Network Telephone's competitive interests in the marketplace. The information has not been made public. A more specific description of this information is contained in Attachment A.

3. Exhibit No. 13[1] contains a copy of Network Telephone's Objections and Answer

[1] Two "Miscellaneous Confidential Stipulations" were entered into the record at the hearing as Exhibit Nos. 12 and 13. Network Telephone believes, but it is not clear from the record, that the information it requests confidential classification for is included in Exhibit No. 13. However, if Network Telephone is mistaken, and the documents are included as part of Exhibit No. 12, then Network Telephone intends that its request apply to Exhibit No. 12.

DOCUMENT NUMBER-DATE
03710 MAR 19 04
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to BellSouth's First Set of Interrogatories, Item No. 41. The document contains information regarding the average number of DSOs at which it would choose to serve a particular customer with a DS1 or larger transmission system. Network Telephone considers this information to be confidential proprietary business information. Disclosure of this information could severely harm Network Telephone's competitive interests in the marketplace. The information has not been made public. A more specific description of this information is contained in Attachment A.

4. Exhibit No. 23, the deposition of Joseph P. Gillan and exhibits, includes the Affidavit of Margaret Ring of Network Telephone. Mrs. Ring's affidavit contains confidential information regarding the number and type of loops provisioned to Network Telephone's Pensacola switch (this is the same confidential information that appears in Mr. Gillan's testimony (Tr. 2516)). Network Telephone considers this information to be confidential proprietary business information. Disclosure of this information could severely harm Network Telephone's competitive interests in the marketplace. The information has not been made public. A more specific description of this information is contained in Attachment A.

5. Section 364.183, Florida Statutes, provides an exemption from the disclosure requirements of section 119.07, Florida Statutes, when disclosure of confidential business information would "impair the competitive business of the provider of the information." Disclosure of Network Telephone's confidential information would harm its business operations by placing details of its operations and capabilities in the public domain. Accordingly, the information should be exempt from the public disclosure requirements of section 119.07, Florida Statutes.

6. Network Telephone treats the information for which confidential classification is sought as private and confidential.

7. Appended hereto as Attachment B are two copies of the pertinent portions of each document with the confidential information redacted.

8. Appended hereto as Attachment C is a sealed envelope containing one copy of the pertinent portions of each document including the material which is confidential and proprietary.

WHEREFORE, based on the foregoing, Network Telephone moves the Commission to enter an order declaring the information described above to be confidential, proprietary business information that is not subject to public disclosure.

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ATTACHMENT A
DOCKET NO. 030851-TP
NETWORK TELEPHONE CORPORATION'S REQUEST FOR SPECIFIED CONFIDENTIAL CLASSIFICATION AND MOTION FOR PROTECTIVE ORDER REGARDING CONFIDENTIAL TESTIMONY AND CONFIDENTIAL HEARING EXHIBIT NOS. 13 AND 23

EXPLANATION OF PROPRIETARY INFORMATION CONTAINED AT TR. 2516 AND EXHIBIT NOS. 13 AND 23.

1. The document contains **CONFIDENTIAL** Network Telephone information regarding the number and type of loops provisioned to Network Telephone's Pensacola switch. This information is related to Network Telephone's ongoing business affairs and can be used by Network Telephone's competitors to harm its competitive interests. Section 364.183, Florida Statutes, allows for an exemption from the disclosure requirements of section 119.07, Florida Statutes, when disclosure would "impair the competitive business of the provider of the information." Therefore, the information should be shielded from disclosure pursuant to section 119.07, Florida Statutes and section 24(a), Art. 1 of the State Constitution.

2. The document contains **CONFIDENTIAL** Network Telephone information regarding the average number of DSOs at which it would choose to serve a particular customer with a DS1 or larger transmission system. This information is related to Network Telephone's ongoing business affairs and can be used by Network Telephone's competitors to harm its competitive interests. Section 364.183, Florida Statutes, allows for an exemption from the disclosure requirements of section 119.07, Florida Statutes, when disclosure would "impair the competitive business of the provider of the information." Therefore, the information should be shielded from disclosure pursuant to section 119.07, Florida Statutes and section 24(a), Art. 1 of the State Constitution.

Hearing Transcript, Volume 18

Page Number	Line(s)	Reason
TR2516	6, 7 and 10	1

Confidential Portion of Exhibit No. 13

Page Number	Line(s)	Reason
Page 2 of Network Telephone's Response to BellSouth Item No. 41	1-9	2

Confidential Portion of Exhibit No. 23

Page Number	Line(s)	Reason
Page 3 of 22 of Gillan Deposition Exhibit No. 2	1-3	1

ATTACHMENT B

loop, each provisioned to the Network Telephone switch in Pensacola. With any of these configurations, Network Telephone is required to install equipment at the customer's location and to make a connection at its collocated DSLAM in order to provide the customer with voice service.

* Approximately [redacted] of the loops provisioned to Network Telephone's Pensacola switch are DS1 loops and the remaining [redacted] are ADSL-capable or UDC loops. These loops provide customers with Network Telephone's bundled voice and data services. While there are approximately [redacted] presently provisioned to Network Telephone's switch to provide small business customers with voice services, these analog loops would have been provisioned for a legacy customer. There would be no instance today where Network Telephone would provision such a loop to provide a small business customer with analog POTS service.

Consequently, Network Telephone clearly cannot be counted as a self-provider of mass market services.

[redacted]

Objection of Counsel

Answer furnished by Wendell Nelson

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8. The only residential customers that Network Telephone serves in Florida today are "legacy" customers or employees being served either via resale or UNE-P and not via Network Telephone's Pensacola switch.

9. The basic method by which Network Telephone serves the small and medium business customer's bundled voice and data needs in Florida are via an unbundled DS1 loop, a 2 wire ADSL-compatible loop, or a UDC loop, each provisioned to the Network Telephone switch in Pensacola. With any of these configurations, Network Telephone is required to install equipment at the customer's location and to make a connection at its collocated DSLAM in order to provide the customer with voice service.

9. When VoDSL service is provided over an ADSL-compatible loop, the provisioning is limited by even more stringent distance and loop quality issues than are encountered in providing retail DSL services. The loop must be ADSL capable, less than 18,000 feet from the DSLAM, and reasonably clean of bridged tap. Network Telephone currently tries to limit its ADSL loop length to 13,500 feet from the DSLAM to retain service quality.

10. As a result of these limitations, Network Telephone does not provide its facility-based service outside of a limited footprint. Occasionally, Network Telephone will have a request from a business customer for service at a location outside of the Network Telephone facilities-based footprint. In that instance, Network Telephone will serve that business customer via UNE-P.

11. Approximate[redacted] to Network Telephone's Pensacola switch are DS1 loops and the remaining [redacted] ADSL-capable or UDC loops. These loops provide customers with the Network Telephone's bundled voice and data services. While there are approximately [redacted] capable loops presently provisioned to Network Telephone's switch to provide small business customers with voice services, these analog loops would have been provisioned for a legacy customer. There would be no instance today where Network Telephone would provision such a loop to provide a small business customer with analog POTS service.

Margaret Ring

Sworn to and subscribed before me, this 9th day of January, 2004.

Notary Public
My commission expires: 8/28/07

TARA DRAGON
Commit DD0[illegible]
Expires 8/28/2007
Bonded thru (800)432-4[illegible]
Florida Notary Ass[illegible]

Docket No. 030851-TP
Gillan Deposition Exhibit No.2
CONFIDENTIAL
Page 3 of 22

CONFIDENTIAL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Network Telephone Corporation's Request for Specified Confidential Classification and Motion for Protective Order Regarding Confidential Testimony and Confidential Hearing Exhibit Nos. 13 and 23 has been provided by (*) hand delivery, (**) email and U.S. Mail this 19th day of March 2004 to the following:

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EXHIBIT NO. 24

DOCKET NO.: 030851-TP

WITNESS: Jake E. Jennings

PARTY: NewSouth

DESCRIPTION:

1. February 18, 2004, Deposition Transcript, page 1

PROFFERING PARTY: STAFF

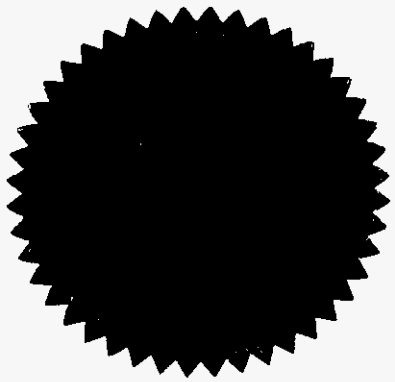
I.D. # JEJ-D

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 24
COMPANY/ FPSC Staff / NewSouth
WITNESS. JEJ-D
DATE: 02/24-27/04

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Implementation of requirements arising from Federal Communications Commission's triennial UNE review: Local Circuit Switching for Mass Market Customers.
_____/

DOCKET NO. 030851-TP



DEPOSITION OF:	JAKE E. JENNINGS
TAKEN AT THE INSTANCE OF:	The Florida Public Service Commission
DATE:	February 18, 2004
TIME:	Commenced at 2:45 p.m. Concluded at 3:20 p.m.
LOCATION:	2540 Shumard Oak Boulevard Tallahassee, Florida
REPORTED BY:	ANITA M. PEKEROL, CRR, CP, CM. Notary Public in and for the State of Florida at Large.

ACCURATE STENOTYPE REPORTERS, INC.
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Tallahassee, Florida 32308
(850) 878-2221

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P R O C E E D I N G S

- - -

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this case; and that reading and signing was not waived.

IT IS ALSO STIPULATED that any off-the-record conversations are with the consent of the deponent.

- - -

MR. TEITZMAN: We'll get started and go on the record. We'll start off with taking appearances. I believe there is a party on the phone.

MS. FOSHEE: Lisa Foshee, F-O-S-H-E-E, on behalf of BellSouth Telecommunications.

MR. MOYLE: Jon Moyle, Junior, Moyle Flanagan representing NewSouth.

MR. TEITZMAN: Adam Teitzman on behalf of the Florida Public Service Commission, and I'm joined by Doris Moss and Bill Dickens.

Thereupon,

JAKE E. JENNINGS

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

DIRECT EXAMINATION

BY MR. TEITZMAN:

Q. Good afternoon, Mr. Jennings. My name is Adam Teitzman, and I'm an attorney with the Florida Public Service Commission.

A. Good afternoon.

Q. I will taking your deposition in Docket 030851, and that is the docket that deals with the Florida Triennial review order, the switching portion.

Before we begin, I just want to let you know that if you need me to restate any questions, please let me know, and I'll be happy to do so. And in addition, when you begin to answer your questions, if you could do so with a yes or no, it would be very much appreciated.

Mr. Jennings, could you please state your full name and business address for the record?

A. Jake Edward Jennings. My business address is 2 North Main Street, Greenville, South Carolina, ZIP code is 29601.

Q. By whom are you employed?

A. NewSouth Communications Corp.

Q. And, Mr. Jennings, you are the senior vice-president of regulatory affairs and carrier relations for NewSouth; is that correct?

A. Correct.

Q. And NewSouth is a party to this proceeding, correct?

A. Yes, we are.

Q. Now, did you submit testimony in this case?

A. We did not.

Q. Now, at NewSouth, do you play a role in preparing, developing and implementing NewSouth's business plan?

A. I do.

Q. Are you also involved in negotiating and implementing interconnection agreements with incumbent LECs?

A. I am.

Q. Have you ever testified as a witness in Florida Public Service Commission proceedings concerning unbundling issues?

A. I have not.

Q. But you have filed testimony in Docket

030852 the loop and transport portion of the --

A. Yes, I did make prefiled testimony in that proceeding.

Q. And that docket does concern unbundling issues?

A. It does.

Q. So I guess what I was doing -- I know you answered no. But taking into account that testimony, you have filed with regards to unbundling issues before the Florida Public Service Commission?

A. I thought you said before these proceedings.

Q. No problem.

MR. MOYLE: Just so the record is clear, I think the question was whether he has given testimony previously. And I guess that has to be admitted or whatnot, so I think we're all clear. He has filed in the other case, but has not taken the stand before as far as I know in front of the Commission.

THE WITNESS: Correct.

MR. MOYLE: Did somebody else join us?

MR. TEITZMAN: Has anyone else joined

the line?

BY MR. TEITZMAN:

Q. Mr. Jennings, are you familiar with FCCA?

A. I am.

Q. Is NewSouth a member of FCCA?

A. Yes.

Q. Is NewSouth a facilities-based competitor?

A. We believe we are.

Q. To your knowledge -- well, do you know how many members of FCCA provide facilities-based local service?

A. I do not.

Q. How many voice switches does NewSouth have in the state of Florida?

A. Just a minute, I need to talk to you.

(Brief pause.)

THE WITNESS: We have three switches in the state of Florida.

BY MR. TEITZMAN:

Q. In which cities in Florida does NewSouth offer competitive alternatives?

A. Well, I do not have a complete list of all of the cities that we offer competitive

alternatives. I do know that we offer those services in Pensacola, Ft. Myers, Daytona Beach, Gainesville Jacksonville, Panama City and Winter Haven. Again, we don't necessarily limit our service just to the city, but the area surrounding that area.

Q. And does NewSouth market residential services in those markets?

A. We do not market residential service.

Q. Does NewSouth market business services in those markets?

A. We do.

Q. Does NewSouth currently market voice service to small business customers?

MR. MOYLE: Let me object. Maybe the form is not the right objection. But do we have a common understanding of small business customers that we're using?

BY MR. TEITZMAN:

Q. Twelve lines.

A. Twelve lines and below?

Q. Yes.

A. We do offer service to small business customers, or customers with less than 12 lines.

Q. And does NewSouth have an offering

called NewSouth Communications Small Business Solutions?

A. We do.

Q. Is this offering advertised on the Internet?

A. It is, on NewSouth's web page.

Q. Now, do your business offerings appeal to very small business customers, three or fewer lines?

A. I don't know if they appeal to the small business. Obviously, every service we sell, we hope it is appealing. We have an internal rule that a customer in order to take what we call SBS or Small Business Solutions, has to have a minimum of three lines per location.

And I should clarify that. That service is offered utilizing the unbundled network element platform purchased from BellSouth.

Q. Do you serve business customers with 12 or fewer DSO lines in Florida?

A. Yes.

Q. Do you serve business customers with three or fewer DSO lines in Florida?

A. To the extent we do, it is the exception, rather than the rule of the customers

that we target and market our services to. As I mentioned earlier, we do have an internal threshold of -- or rule of thumb of at least three lines per customer location.

Q. I would like to draw your attention to BellSouth Exhibit PAT-4, and we have a copy of that if you need it.

MR. MOYLE: We had a copy, but it was not very clear.

BY MR. TEITZMAN:

Q. It is a map of the state of Florida, entitled BellSouth serving area geographic markets.

MR. MOYLE: Give us a minute to put our hands on it.

(Brief pause.)

THE WITNESS: While we're looking for that, if I could clarify a response I made earlier regarding providing --

BY MR. TEITZMAN:

Q. Sure.

A. I think you mentioned, maybe not, but facilities-based service to customers with 12 or fewer lines.

Q. Yes.

A. I did mention that for the small

business or the Small Business Solutions, that service's provision utilizing the unbundled network element platform. For other customers that may have 10 lines, while we do count those as DSO lines, those customers are provisioned by the use of our own switch and DS1 loops, or facilities rather than analog loops.

We do not provision analog service over analog loops with our own switch. I apologize if there was any --

Q. Let me -- did you get that exhibit out?

MR. MOYLE: We have it. I want to see if yours is any more legible than ours.

MR. TEITZMAN: I was going to go ahead and ask the question. I know they're pretty fuzzy. I think he still might be able to answer the question.

BY MR. TEITZMAN:

Q. Basically, the map indicates the geographic markets in the BellSouth serving area. And the question is: In which markets does NewSouth -- or which markets designated in this exhibit does NewSouth serve customers?

MR. MOYLE: Adam, just so we're clear -- and I apologize. We can go off the record

and talk about this if you want.

MR. TEITZMAN: We'll go off the record.

(Discussion off the record.)

MR. TEITZMAN: We're going to go back on the record.

BY MR. TEITZMAN:

Q. I would like to withdraw my previous question.

Mr. Jennings, I would like to ask you, which Florida wire centers does NewSouth provide services?

A. NewSouth provided a response to that question in staff's second set of interrogatories dated January 14, 2004, interrogatory number 11.

Q. Thank you.

Now, has NewSouth filed a notice to terminate service in any market in which they're currently serving?

A. No, not to my knowledge.

Q. So NewSouth is going to continue providing services in the markets in which it is currently providing?

MR. MOYLE: Object to the form. That's sort of open-ended in terms of the time

frame I guess. No immediate plans, that kind of thing?

BY MR. TEITZMAN:

Q. I will ask it like that.

Does NewSouth have any immediate plans to discontinue service in any of the markets where it is currently providing service?

A. We do not, based upon the current conditions in the marketplace.

Q. And NewSouth has made major capital investment in network infrastructure; is that correct?

A. We believe our investments have been significant and major.

Q. Do you believe your facilities investment has brought substantial benefits to consumers?

A. Yes, we do. One thing that we have noticed, that approximately 90 percent of the ILEC customers that switch over to NewSouth, business customers using our own switch have upgraded from an analog service to a digital service using the DS1 facilities we purchased from the incumbent.

Q. Would this type of investment be required by a carrier solely dependent on UNE-P?

A. I'm not sure I understand the question. I think the previous question was of benefits that we provide to consumers.

Q. Correct.

But with regards to the investments, would that investment be required by a carrier that is solely dependent on UNE-P?

A. I really can't say. I know that an investment is required if you are providing service solely utilizing UNE-P. But I'm not in a position to speak to those business plans or investments.

Q. Does NewSouth offer high speed Internet access?

A. We do.

Q. Does NewSouth offer private networking services?

A. We offer a product called Virtual Private Network, VPN I think is the acronym.

Q. Does NewSouth offer teleconferencing?

A. We do.

Q. And are the benefits you just listed, are those available to smaller businesses?

A. All of those service offerings, primarily the broadband are available to customers who qualify for service and are willing to spend --

who are willing to pay our price in order to offer service.

Q. Do you have a copy of the triennial review order with you?

A. I do not.

Q. I am going to show you paragraph 459 from the triennial review order. If you could just read that paragraph.

MR. MOYLE: 459?

MR. TEITZMAN: 459.

THE WITNESS: All right. Yes.

BY MR. TEITZMAN:

Q. With regard to paragraph 459, do you agree that a mass market customer is defined as a consumer of a limited number of analog, DSO or POTS lines that can only be economically served via analog DSO loops?

A. I believe that is what the FCC has stated.

Q. According to this definition, do you serve mass market customers using your own switch?

A. We do not.

MR. TEITZMAN: I believe staff has no further questions for 851.

Lisa, did you have any questions for

851?

MS. FOSHEE: No. Thank you.

MR. TEITZMAN: And are there any other parties on the line added that have questions on 851?

That will conclude the deposition of 851.

(Deposition concluded at 3:20 p.m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA:

COUNTY OF LEON:

I, ANITA M. PEKEROL, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 17 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 19th day of February, 2004.

ANITA M. PEKEROL, CRR, RPR, CP, CM
2894-A Remington Green Lane
Tallahassee, Florida 32308
850-878-2221

CERTIFICATE OF ADMINISTERING OATH

STATE OF FLORIDA:

COUNTY OF LEON:

I, ANITA M. PEKEROL, Registered Professional Reporter and Notary Public in and for the State of Florida at Large:

DO HEREBY CERTIFY that on the date and place indicated on the title page of this transcript, an oath was duly administered by me to the designated witness(s) before testimony was taken.

DATED THIS 19th day of February, 2004.

ANITA M. PEKEROL, CRR, RPR, CP, CM
2894-A Remington Green Lane
Tallahassee, Florida 32308
850-878-2221

My Commission Expires: February 20, 2007.

ERRATA SHEET

I have read the transcript of my deposition, pages 1 through 19, and hereby subscribe to same, including any corrections and/or amendments listed below.

_____ _____

DATE: (JAKE E. JENNINGS)

(Docket No. 030851-TP)

Page/Line	Correction or Amendment	Reason for Change

Deposition: February 18, 2004 Reporter: Anita M. Pekerol

CONFIDENTIAL

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 25
COMPANY/FPSC Staff/MCI
WITNESS: SL-D
DATE: 02/24 - 27/04

EXHIBIT NO. 25-A

DOCKET NO.: 030851-TP

WITNESSES: Sherry Lichtenberg

PARTY: MCI

DESCRIPTION:

1. February 5, 2004, Deposition Transcript – **CONFIDENTIAL** – Document No. 02435-04.
2. Late-filed Deposition Exhibit 1, page 110
3. Late-filed Deposition Exhibit 2, page 111
4. Late-filed Deposition Exhibit 3 – **CONFIDENTIAL** – Document No. 02271-04
5. Late-filed Deposition Exhibit 4, page 114

PROFFERING PARTY: STAFF

I.D. # SL-D

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 25
COMPANY/ FPSC Staff/MCI
WITNESS: SL-D - cond.
DATE: 02/24-27/04

MCI Switches Having Vertical Voice Services

Staff has asked which MCI local switches in Florida have vertical voice services. In response, MCI states that each of its Class 5 (local) switches in Florida has certain widely used vertical voice features, but does not have all features offered by switch vendors.

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EXHIBIT NO. 26

DOCKET NO.: 030851-TP

WITNESS: Orville D. Fulp

PARTY: Verizon

DESCRIPTION:

1. February 12, 2004, Deposition Transcript, page 1.

PROFFERING PARTY: STAFF

I.D. # ODF-D

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 26
COMPANY/ FPSC Staff/Verizon
WITNESS: ODF-D
DATE: 02/24-27/04

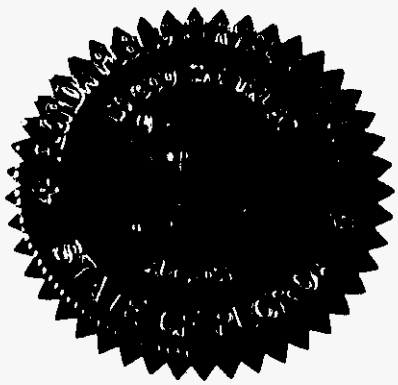
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.

_____/



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DEPOSITION OF:	ORVILLE D. FULP
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
PLACE:	Gerald L. Gunter Building Room 309 2540 Shumard Oak Boulevard Tallahassee, Florida
TIME:	Commenced at 1:33 P.m. Concluded at 3:50 p.m.
DATE:	Wednesday, February 12, 2004
REPORTED BY:	LINDA BOLES, RPR Official FPSC Reporter (850) 413-6734

APPEARANCES:

LEIGH HYER, ESQUIRE, Verizon Florida, Inc., P.O. Box 110, FLTC0007, Tampa, Florida 33601-0110, appearing on behalf of Verizon Florida, Inc., participating by telephone.

BILL MAGNESS, ESQUIRE, Casey & Gentz, LLP, 919 Congress Avenue, Suite 1060, Austin, Texas 78701, appearing on behalf of Florida Competitive Carriers Association, participating by telephone.

LORI REESE PATTON, ESQUIRE, Womble, Carlyle, One Wachovia Center, Suite 3500, 301 South College Street, Charlotte, North Carolina 28202, appearing on behalf of AT&T, participating by telephone.

DONNA C. MCNULTY, ESQUIRE, MCI WorldCom Communications, Inc., 1203 Governors Square Boulevard, Suite 201, Tallahassee, Florida 32301-2960, appearing on behalf of MCI WorldCom Communications, Inc., participating by telephone.

SUSAN MASTERTON, ESQUIRE, Sprint-Florida/Sprint Communications Company, LLC, P.O. Box 2214, Tallahassee, Florida 32316-2214, appearing on behalf of Sprint-Florida and Sprint Communications Company, LLC, participating by telephone.

ADAM TEITZMAN, ESQUIRE, FPSC General Counsel's Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, appearing on behalf of the Commission Staff.

WITNESS

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S T I P U L A T I O N

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this cause; and that reading and signing was not waived.

DEPOSITION

MR. TEITZMAN: While we're waiting, do we all agree to the usual stipulations? If not, say something now.

Hearing nothing, I assume we all agree to the usual stipulations. Is there a notary available for the witness?

THE NOTARY: Yes, there is.

MR. TEITZMAN: Great. And, let's see, what else do we have to cover?

Are, are there any witnesses listening in, because that's a no-no. I'll take that as a no.

If you like, you can go ahead and swear him in.

ORVILLE D. FULP

was called as a witness and, after being duly sworn by the notary present with the witness, testified as follows:

MR. TEITZMAN: Has everyone heard the Commissioner's statement by this point?

MR. MAGNESS: This is Bill Magness for FCCA. I have heard it and read it and had it read to me.

MR. TEITZMAN: Well, let me ask this, does anybody need me to read it again? Okay. Then we're going to go ahead and get started with appearances. Phone, please start.

MS. PATTON: This Lori Reese Patton for AT&T.

MS. McNULTY: Donna McNulty for MCI.

MS. MASTERTON: Susan Masterton for Sprint.

MS. HYER: Leigh Hyer for Verizon.

MR. MAGNESS: Bill Magness for Florida Competitive Carriers Association or FCCA.

MR. TEITZMAN: And this is Adam Teitzman on behalf of the Florida Public Service Commission. And I'm joined this afternoon by Doris Moss and David Dowds, staff members at the Commission.

I'd also like to note for the record that everyone has agreed to the usual stipulations this afternoon.

DIRECT EXAMINATION

BY MR. TEITZMAN:

Q Good afternoon, Mr. Fulp.

A Good afternoon.

Q As I just stated, my name is Adam Teitzman, and I'm an attorney with the Florida Public Service Commission. I'll be taking your deposition on behalf of the Commission this afternoon, and the deposition is being taken in Docket Number 030851.

Before we begin, Mr. Fulp, I would just like to let you know that if you need me to restate a question or if you don't understand a question, if you'll just let me know, and I'll either restate that question or I will attempt to rephrase the question.

I would also ask that --

A Okay.

Q Okay. I would also ask that when you answer the

questions, if you could please begin your answer with a yes or a no where appropriate, and then go into a further explanation.

A Okay.

Q All right. Mr. Fulp, I'm just going to begin with some preliminary questions. These would be the easy ones.

Mr. Fulp, could you please state your full name and address for the record.

A My name is Orville D. Fulp. My address is 600 Hidden Ridge Drive, Irving, Texas.

Q And by whom are you employed?

A I'm employed by Verizon.

Q And can you please provide us with a brief synopsis of your educational background.

A I have a Bachelor of Arts degree in Economics from the University of California, San Diego, and a Masters of Science degree in Economics from the University of Wyoming.

Q And have you previously filed testimony before the Florida Public Service Commission?

A Yes, I have.

Q And did you file testimony in Docket 030851-TP? That would be, that would be the TRO docket, local circuit switching for mass market customers, to clarify.

A Yes, I have.

Q Great. And do you have copies of your testimony and exhibits that you filed with you today?

A Yes, I do.

Q All right. That ends the preliminary questions. I'll now get into the more substantive questions.

I'd like to first start off by directing you to Page 5 of your direct testimony, Lines 8 through 9.

A Okay.

Q Okay. Here you indicate that there are currently few non-ILEC wholesale providers of switching. To your knowledge, are there any non-ILEC wholesale providers of switching in Verizon Florida's territory?

A To my knowledge, I, I don't know. I don't think there are, but I don't know.

Q Okay. Turning to the next page, Page 6 of your direct testimony, here you state that no subjective evidence is applicable when conducting a trigger analysis; is that correct?

A That's correct. Can you tell me the line number, please, just so I can make sure I'm tracking what you're saying?

Q I guess what I'm looking at is probably that paragraph there between Lines 4 through 10. The question is asked on Line 1 and the answer begins on Line 4.

MS. HYER: Can you please repeat the question for the witness?

THE COURT REPORTER: Who is speaking, please?

MS. HYER: Leigh Hyer for Verizon.

BY MR. TEITZMAN:

Q Yes. The question was basically a verification. I was asking -- it's here that you state that no subjective evidence is applicable when conducting a trigger analysis.

A And, and that's correct. In my reading of the triggers analysis and the requirements, as I stated in my testimony, the triggers are very objective and leave room for subjective evidence on impairment.

Q Could you give me more specific examples of what sort of considerations you believe are inappropriate?

A They specifically cited, and at this point I won't go to the actual cites unless you ask me to, but basically looking at financial viability of CLECs' operational economic impairments, things like that that were listed as not a part of the triggers analysis or the impairment analysis associated with the triggers in the, in the order.

Q The FCC did, however, impose some conditions on which competitive switch providers can count as trigger companies; is that correct?

A That's correct. And I guess that would be referred to as the bright line rules that they discuss as far as three CLECs providing service in a particular market area would, would classify as no impairment if you provide that information.

Q So you would agree that a trigger company cannot be

affiliated with the incumbent LEC; correct?

A That's correct. And that's a requirement of the TRO.

Q And you, would you also agree that a trigger provider cannot be affiliated with another provider that is considered to be a trigger company?

A I would agree that you can't count both of those companies. You have to take into account where, where you have one CLEC provider that has, let's say, merged with another CLEC provider, that you can only count them together. You can't, you can't count both of them.

Q And the FCC also requires that a trigger provider be actively providing voice service to mass market customers in the market; correct?

A That is -- it states that, that they be actively providing a service. And depending upon the definition of actively providing, there's other, you know, pieces in the, in the TRO that would, would go to that issue. But, yes, it does state "actively providing."

Q Can you identify where in the TRO there's a definition for actively providing voice service to mass market customers in the market?

A Give me a second while I go to my order.

Q No problem. Please take your time.

A If you go to paragraph 499, and I want to say like ten, 12 lines down into 499 where it states, "Moreover, the

identified competitive switch provider should be actively providing voice service to mass customers in the market."

Q For clarification, are you referring to the, to paragraph 499 before the errata?

A The -- yes. I believe that did not change, what I just read to you, with the errata.

Q That is correct. I just wanted to clarify which, which paragraph I needed to look at.

A Yeah. And to my knowledge -- and what I'm looking at has the errata in it. And so it does not show that this is part of the errata, what I just read to you.

Q Right. No. I -- right.

Now elsewhere the TRO characterizes mass market customers as those who obtain their network access using analog lines, and those are typically few in number; correct?

A Yeah, I would agree with that. Yes.

Q Okay. Okay. I'm going to, I'm going to give you a little bit of a hypothetical here.

Assume that I am a facilities-based provider and I own my own switch. I serve primarily enterprise customers, but I am providing a handful of analog loops to a limited number of my enterprise customers and I do not advertise to the mass market. Should I be considered as actively providing voice services to mass market customers?

A Yes. In, in my reading of the requirements of the

TRO, if you are on the ground having voice grade service provided to you, you would be counted as mass market.

Q And are some of these customers simultaneously enterprise and mass market customers?

A That could be a possibility, yes.

Q All right. I'm going to change my hypothetical slightly.

Assume that I'm a facilities-based provider and I own my own switch. I serve primarily enterprise customers, but I am providing a handful of analog loops to a limited number of my enterprise customers. However, my marketing does not preclude customers who use analog loops from subscribing to my services. Should I be considered as actively providing voice service to mass market customers?

A And I'm sorry. The last part of your question, I wanted to make sure I had it clear. Is it possible to repeat the last part of that question?

Q Sure. The portion that began with, "However," is that -- well, if this isn't enough, let me know.

However, my marketing does not preclude customers who use analog loops from subscribing to my services. Should I be considered as actively providing voice service to mass market customers?

A Yes. And, and as far as -- and you said your marketing does not preclude you from providing the service.

And in our reading, in my reading of the TRO, yes, that would count as a candidate.

Q Must a facilities-based provider be serving both residential and business customers in order to be considered as a trigger company?

A No. And there's evidence in the TRO that specifically relates to business and residence exclusions. And my interpretation of the requirements of the TRO is that mass market is defined as residential and business and you do not have to be serving both. You need to be serving either/or to be qualified as a mass market customer.

Q Is there a minimum number of analog loops or mass market subscribers that a facilities-based provider must serve in order to be treated as a trigger company?

A No, there isn't. And if you look at the, at the requirements again, there is no information in there speaking to de minimus as far as the number of lines that are served, and there's nothing in there that talks about an actual number of lines.

Q Mr. Fulp, can you identify for me in your opinion what you believe are the key factors in determining whether or not a facilities-based CLEC is actively providing voice services to mass market customers?

A Yes. And, you know, relating back to my testimony, and I won't go in and paraphrase it, but basically the rule

states that if you are currently providing on the ground service, and it could be any number of lines greater than zero, you are qualified for the trigger analysis in counting those lines where you have three CLECs providing service in a particular area.

Q And you would characterize this test as straightforward, correct, fairly straightforward, objective?

A Yes. I think as far as the impairment analysis goes and the triggers goes, in reading the requirements, it's very straightforward.

Q Now I'd like to direct you to Page 8 of your direct testimony, and that would be Lines 8 through 11 on Page 8.

A Line 11?

Q 8 through 11.

A 8 through 11. Okay.

Q I need to get there myself. Hold on.

Now here you opine that one reason an MSA is the most appropriate market definition is because it is designed to capture economic communities of interest; correct?

A That's correct.

Q Now do component economic areas, which I'll now refer to as CEAs, also capture economic communities of interest?

A Yes. Yes, they do. And we had responded to a data request in conjunction with that to the staff. But, yes, to answer your question, yes, they do. We still feel that the MSA

is the appropriate definition from Verizon's vantage point. But the answer is yes to your question.

Q Now what factors make MSAs preferable to CEAs?

A And let me, let me go back to the first answer as well in answering this question.

In Verizon's service territory, our MSA corresponds with the CEA where we've asked, you know, for our trigger analysis to be agreed upon. We have proposed a market service definition, market service area definition, and are not disagreeing nor agreeing with the proposal for CEAs. So we don't really have an opinion on whether a CEA is better than an MSA.

But for us in Florida, and given what we filed, we, we, you know, there's no distinction really between the MSA and the CEA for our service territory.

Q Okay. I'd like to direct you to Page 9 of your direct testimony now beginning on Line 13. I'm actually -- this question is actually going to go towards your exhibits as well because I need a little bit of a clarification.

A Okay.

Q Now here you assert that MSAs take into consideration the location of customers actually being served by competitors; correct?

A That's correct.

Q And then you continue that the maps described in your

testimony show an unmistakable correlation between the population centers represented by certain MSAs and the location of customers actually served by competitors using their own switches. Which maps are you referring to?

A Okay. First go to, go to ODF-1. And I'm sorry. I think it's Attachment 1, ODF-1.

Q Right. I got it. Great.

A And that shows a cut at the CLEC switches that we identified out of the LERG that operate in the various MSAs in our territory.

So, number one, if you just look at the Tampa MSA, you can see the number of CLECs that we show operating there. Okay? And then go to Attachment 3, ODF-3, and I think that'll give you, you know, a little better understanding of our, our concentration of CLECs serving our market in the Tampa MSA. And that's where it shows our Zone 1 and our Zone 2. And as you can see, it covers, you know, a large portion of our MSA.

And so if you look at the concentration of where our customers are actually being served by competitors, I think between those two maps, the first one showing you where the CLECs are, the second one showing you where we've actually looked at the lines that are being served by the CLECs within the MSA, I think, you know, that's the, you know, how they would relate to the attachments.

Q Now can you explain to me how these maps show the

location of customers actually served by competitors using their own switches?

A Well, again, Attachment 1 just shows where the CLEC switches are. Attachment, Attachment 3 shows based upon the information that we pulled for our line count study the lines that have been pulled which would be associated with the wire centers that we have in our line study. And it's based upon our density zones as well, Density Zone 1 and 2. Does that answer your question?

Q That'll satisfy.

I'd now like to direct you to Page 10 of your direct testimony beginning at Line 15.

A Yes.

Q Now here you assert that Verizon retail rates and UNE rates vary by density zones.

A Correct.

Q Can you explain to me how this occurs if the retail rate zones were not cost-based and predate the UNE zones?

A I, I believe what I'm saying is, is that the retail rates can vary by zones looking at retail-to-retail rates and density zone rates vary by zone looking at zone-to-zone. If I, if I interpreted your question correctly, you were asking me about the difference between retail rates and the zone rates, and that's how I answered it. But does that answer your question?

Q Well, not exactly. Hold on. Let me see if I can work this out.

I guess what I'm looking for is you referenced density zones and I'm looking for the correlation here. Are we talking about the FCC's density zones?

A No. No. We're talking about the Florida-specific density zones.

Q So you're referring to the UNE zones?

A That's correct. That's correct.

Q Okay.

A We provided a response to Staff Data Request Number 50 that lays out our retail rates by density zone for the Tampa MSA, as well as the density zones' prices by zone for the Tampa MSA.

Q Okay. On Page 12, Lines 7 through 9 of your testimony, here you contend that defining markets based on ILEC wire centers would be woefully under-inclusive. Could you explain to me what you mean by "under-inclusive"?

A Well, basically what we're, what we're saying, and it goes on to continue to say, could result -- would result in a finding of impairment where there clearly is none based on the objective criteria presented in this testimony. And basically what we're saying is if you, if you used a wire center basis only and you are confining yourself to wire center, and so let's say you had two different wire centers and they're

adjacent to each other, and one wire center has CLECs providing service and let's say that the other one doesn't, if you use a wire center basis only, you are not going to pick up the true scope of the CLEC's ability to serve. And so going to a specific wire center only will not pick up -- and, number one, that does not correspond to the CLEC's ability to serve their coverage area because it's definitely beyond a wire center basis, it's beyond our service territory basis, it's beyond an MSA basis. You can't just look at a wire center by itself and get the true picture of what we need to do for the impairment analysis.

Q I'd like to direct you to Page 14 of your direct testimony now.

A Okay.

Q One second. Sorry about that. Back to what I -- Page 14 of your direct testimony.

A Okay.

Q Here you conclude regarding the DS-1/DS-0 cutoff that actual behavior of a CLEC should form the basis of when it is economic for a customer to be treated as a mass market customer rather than as an enterprise customer; is that correct?

A I don't have the specific line numbers, but I think you're correct.

Q Okay. Under your proposal, would there no longer be a carve-out above which a CLEC could no longer obtain unbundled

local switching in a market where a no impairment finding has -- or had not been rendered?

A The answer to your question is, no, we have not proposed a specific carve-out, assuming that there is a finding of impairment, assuming that continues to be a finding.

As I read the order, we have the, we have the current carve-out that's been set that, that the (inaudible) used as a default as far as a cutover point going forward.

Then it also states in the requirements of the TRO that after you have gone through your impairment analysis and, for whatever reason, if you have to move to an economic or operational impairment analysis, that you would have a requirement then to have a specified, what I will call a specified estimate for your carve-out, a specified point or number for a carve-out. And we, as you know, have only proposed a trigger impairment case here. And so we have not put on an economic or a potential deployment case, so we do not have a proposal --

Q There is some background noise, and the last few words you had stated were cut off. If you could just go back and repeat what you were saying.

A Okay. I'll try to, I'll try to do this briefly.

We do not have a specific proposal in the triggers case at this point in time for a specific carve-out number like four or five or, or whatever. And the reason we don't is

because that requirement is a part of an economic deployment case that you would put on after there's a finding of continued impairment after the triggers analysis. Given that we have only put on a triggers case, we have put into our proposal a crossover analysis that would help us define the market between enterprise and mass market customers for a triggers analysis only.

Q One second. I'm just trying to absorb all of that.

Let me ask you this. If a CLEC has five lines, can it set unbundled local switching from Verizon in a market where there is impairment?

A Where there -- so are you referencing currently, today? Because we -- because there is a rule of the four carve-out that's currently in place today aside from the TRO and aside from triggers analysis. And so is your question today is, is there a carve-out in place?

Q Not, not today. Let's look at, let's say, the -- let's say in July.

A Okay. And in July, are we assuming what in conjunction with the triggers analysis case, let's say, that we proposed? Are we assuming that there is continued impairment for mass market switching or not?

MS. HYER: And this is Leigh Hyer for Verizon. I just wanted to ask a clarifying question. Are you speaking in terms of after the application or a ruling on Verizon's

triggers case?

MR. TEITZMAN: Yes.

BY MR. TEITZMAN:

Q It would be at the end or the conclusion of this proceeding.

A Okay. And is -- and I apologize. I just want to make sure I understand what you're asking me.

So at the end of the triggers case do we know what the result was? Was there continued impairment or was there a finding of no impairment based upon particular circumstances?

Q I think what the question was stating, under a finding of impairment.

A So, so you continue to have impairment after you do, after you've gone through the triggers analysis then?

Q That is correct.

A And you're asking me what our carve-out would be at that point in time?

Q Yes. That's correct.

A Is that correct?

Q Yes.

A And my, and my answer is I, I don't know. Because as I stated before, today we currently have a carve-out of four that's in place. We now have the triggers analysis associated with the FCC, which we put forth a proposal, a crossover. But we have not put a proposal for a specific carve-out number

based upon an economic or potential deployment case. And so in not knowing what would go along with a finding of continued impairment with the order, I don't know what that carve-out would be and, and I haven't looked at what that carve-out would be. Because, again, we would consider that to be a part of an economic deployment case, which we haven't filed.

Q So just to clarify, Verizon hasn't made any plans of what the carve-out would be if, if there's still impairment found in certain markets?

A That's correct. That's correct. Because then if there's continued impairment, that means that we've gone through the triggers analysis and now we have to put on a case for -- we potentially will have a case for, you know, an economic or potential deployment, and that's where the requirement comes from in the TRO to provide a specific point estimate, I guess, for that carve-out, and we have not done that.

Q Okay. Assume your MSA proposal is adopted and there are three trigger switches each serving some analog loops in the given MSA. Under your cutoff proposal would unbundled local switching be eliminated for all analog loops served in the MSA?

A For all DS-0 loops, correct. That's our proposal is that you look at what's actually on the ground being served and make the determination based upon that as far as the trigger

analysis goes for impairment.

Q Okay. I'd like to now direct you to Page 16 starting at Line 19, and here you're mentioning how packet switches can also substitute for circuit switches.

Mr. Fulp, are you aware of any CLEC packet switches in Verizon Florida's territory that are currently being used to provide local service?

A I, I don't know if I'm aware of any, what I'll say, traditional CLEC packages in our territory. That's not to say that they may not have them there, but we did not concentrate on that as far as our analysis went in identifying the switches for CLECs.

Q You said you're not aware of any traditional CLEC switches. Does that mean you're aware of nontraditional CLEC switches?

A Well, and what I meant by traditional is I guess we're now into intermodal carriers. And so like the example that, you know, I gave in my testimony of a Vonage providing service, and so I guess that's my distinction. A cable company, a company like Vonage providing service was, you know, what I was really trying to refer to in my testimony there. And I am aware that Vonage is providing service in my territory as well as, I believe, cable companies.

Q Could you -- I'd like to now have you turn to Page 19, Lines 11 through 22, and I have a few questions about the,

about your line count study.

A Okay.

Q Now to determine the line counts by CLEC shown on your Exhibit ODF-2, you summed by provider all analog voice grade loops; is that correct?

A That's correct.

Q Does Verizon currently offer EELs in the Tampa-St. Pete-Clearwater MSA?

A Yes, we do.

Q Does Verizon currently offer unbundled local switching in the Tampa-St. Pete-Clearwater MSA to CLECs to serve customers with four or more lines?

A I'm sorry. Will you, will you repeat the question?

Q Sure.

A Can we -- please repeat it.

Q Not a problem. Does Verizon currently offer unbundled local switching in the Tampa-St. Petersburg-Clearwater MSA to CLECs to serve customers with four or more lines?

A I, I do not believe so. And as I mentioned earlier, there is currently in place a carve-out of four UNE-Ps, to which if you order over four UNE-Ps, we won't give them to you per the FCC order. And for Florida that is being enforced at this point in time. So the answer is, no, they would not be allowed to do that in Florida.

Q Now how was Verizon able to exclude from its loop count loops used by CLECs only to provide data services over copper loop facilities?

A When we went into and pulled the data from our records, we were able to identify data circuits and exclude them specifically from the counts.

Q Could you clarify how you excluded them from the counts or how you went in and excluded them from the counts?

A Yes. Give me one second so I can -- in our billing records we are able to know where a line has been conditioned, let's say, for xDSL, and there are certain things that can be looked at in the billing codes that would allow us to identify those data circuits and specifically exclude them. I want to say there was a data request that may have gone into more detail, but I don't know for sure if there was.

But basically going into our billing records, they're able to earmark the lines that they want to pull and the lines that they need to exclude, and so they specifically excluded all data lines.

Q Okay. I'd now like to direct you to Page 20, Line 8, of your testimony, direct testimony. Sorry.

A Okay.

Q Now am I correct that you indicate here that there are a total of eight CLECs serving mass market customers in Zones 1 and 2?

A There are eight -- there were eight that we identified in my direct testimony when we filed that. Subsequent to that, based upon data responses we've received from the CLECs since then, data responses that staff has received, we have identified two more CLECs. But at the time of this filing it was eight.

Q Okay. Now, and these next questions are going to refer to the filing of your direct testimony.

A Okay.

Q For purposes of clarification from Exhibit ODF-2, is it correct that there are eight CLECs serving in Zone 1?

A That's correct.

Q And four CLECs serving mass market customers in Zone 2.

A That's correct.

Q Now you just referred to that there is -- you've identified ten CLECs. Do you know the split for the ten?

A I have information in my supplemental testimony that references those additional CLECs. And so when you say "split," are you talking about actual line counts or just which ones they are?

Q Which ones are serving Zone 1 and which Zone 2.

A Yes, I believe so. Let me look at my supplemental attachments.

They both show up in Zone 1 as well as Zone 2, the

two that we added. So there would be lines associated with both zones for the two that we've added, and that's shown in my supplemental testimony exhibits Attachment 1.

Q That supplemental testimony was filed to your direct or --

A Yes. It was filed January 28th.

Q Okay. Thank you.

A And, I'm sorry, it's surrebuttal, because we also filed rebuttal testimony January 7th. So what I -- the discussion that I just had with you about the two CLECs that we added referenced my surrebuttal testimony filed the 28th of January.

Q That makes a little bit more sense to me, but let me just clarify. You have not filed supplemental testimony in this docket, just direct, rebuttal and surrebuttal; correct?

A Yes. And I apologize if I said supplemental.

Q Not a problem. I mix them all up myself.

Now are, are any of these mass market customers that we were just referring to residential customers?

A The customers that you're referring to from my direct testimony from the eight CLECs, is that, is that your question, attached to that?

Q Yes. Yes.

A Yes. Some are residential customers.

Q Now earlier we discussed Verizon's view that the MSA

is the appropriate market definition. Is it Verizon's position that MSAs should be the basis for defining the relevant markets for all Florida ILECs?

A Let me, let me, let me, number one, clarify what our proposal is in conjunction with the market area so we're on the same page.

Our first and the most appropriate definition we feel is the MSAs. And what we did is said that if the Commission, for instance, wanted to take a more narrow view, we would then look at our MSA and our Density Zone 1 and 2. And so that is, that is our proposal. Number one, it's MSA.

If you wanted to take a more, you know, a smaller look, I guess I would say, we, we proposed Density Zone 1 and 2.

And as I had stated before, we have proposed the MSA as the market definition. I know that BellSouth has proposed a CEA. And we really don't have an opinion on the CEA proposal by them since it fits the MSA service territory that we currently have.

Q Do you believe there should be a uniform basis for defining relevant markets for all of Florida?

A Well, our proposal would be the MSA. Yes.

Q So then you would agree that the basis for defining relevant markets for all Florida ILECs should be MSAs?

A Yes. Our proposal is MSAs, and so yes.

Q Okay. I'd like to now direct you to your aforementioned surrebuttal testimony, Page 3, beginning at Line 13.

A Okay.

Q You're ahead, you're ahead of me. Hold on.

MS. HYER: Sorry. Which page was that again?

MR. TEITZMAN: Sure. I believe I said Page 3, beginning at Line 13.

BY MR. TEITZMAN:

Q It would be the line that begins with "To the contrary."

A Yes.

Q Now this statement goes on to say -- well, let me -- I'll read the whole statement.

"To the contrary, the FCC clarified that CLECs serving multiline mass market business customers count toward the triggers regardless of whether they serve residential customers." And then you cite to Footnote 1546 of the TRO in support of this statement.

A Yes.

Q Now could you please turn to that footnote, please.

Could you identify for me where in this footnote it mentions residential customers?

A Yes. And it doesn't specifically mention that, but let me tell you what I'm referring to.

As you read the footnote, it's talking about one of the Commissioner's claims in conjunction with the Commission's decision as far as what he thought may have happened with that decision. And so if you go down to where it starts, "If, on the other hand." Okay. So I'm going to the end of it. I'm not going to go through all of it. But "If, on the other hand, the state finds based on record evidence that a cutoff of more than four lines is appropriate, more multiline customers will be treated as mass market. But in no way will that result in expansion of the unbundled switching," which was that Commissioner's concern that was stated here.

And then it says, "To the contrary, as Commissioner Abernathy points out, dozens of CLECs serve business customers of such size using their own switches. Such widespread deployment of competitive switches would be considered under our mass market triggers. In such markets then it is more likely that there will be a finding of no impairment for the entire market, leading to significantly less unbundled switching than was available under the previous four-line carve-out."

And so that's where we're saying it includes business and residential and it doesn't exclude -- and it specifically doesn't exclude business.

Q Well, would you agree that the footnote discusses multiline customers, but not specifically by a class of

service; for example, residential or business?

A Well, it says, going back to the footnote, dozens of CLEC-served business customers of such size. It doesn't give any distinction on multiline, single line. It's just business customers.

Q Could you please turn to Page 5 of your surrebuttal.

A Yes.

Q And I'd be referring to Line 22, and it continues through Line 2 on the next page.

A Okay.

Q Could you point to me a reference in the Triennial Review Order where it states that an intermodal provider's service need not be identical but only comparable?

A Yes. Give me a second to find my cite.

Turn to Page 21 of the Commission's actual rules. And if you look at -- if you have that page, and hopefully we have the same page, you have A1, local switching self-provisioning trigger.

Q Yes. I'm there.

A And if you read that, "To satisfy this trigger, a state commission must find three or more competing providers not affiliated with each other or the incumbent LEC, including intermodal providers of service comparable in quality to that of the incumbent LEC. Each are serving mass market customers in a particular market with the use of their own local circuit

switches."

Q Okay. Assume that the mass market is defined as an MSA. In order for a CLEC to be counted as a trigger company, must the CLEC be holding itself out as offering to provide service to mass market customers throughout the MSA?

A Not for self-provisioning. And, excuse me, let me back up because you used the term "holding out." So -- and I apologize. Can you ask the question again just so I make sure I understand your question?

Q Sure. Assume that the mass market is defined as an MSA. In order for a CLEC to be counted as a trigger company, must the CLEC be holding itself out as offering to provide service to mass market customers throughout the MSA?

A No. In, in my reading of the order, that would apply to wholesale, but not self-provisioning. And so my interpretation is you do not have to be serving every single customer in that market area to meet the triggers analysis for self-provisioning.

Q Now by serving, do you mean offering?

A No. I was talking specifically about serving. And it's, it's my understanding that a carrier only needs to be holding itself out as available to provide service as well. But the actual on the ground provision of service does not have to be to all customers in the given market for self-provisioning.

Q If a CLEC is serving one mass market analog voice line with its own switch in an MSA, is this sufficient for the CLEC to be counted as a trigger company?

A Yes.

Q Now assume again that the mass market is defined as an MSA. In order for a CLEC to be counted as a trigger company, must the CLEC be holding itself out as offering to provide service to all types of mass market customers throughout the MSA?

A No. And I think that gets back to my previous answer. But the answer is, no, not according to the requirements of the order.

Q I'd like to direct your attention to Page 12 of your surrebuttal.

A Okay.

Q And at Line 21 you state that Allegiance does not dispute that it is a qualifying carrier for purposes of the self-deployment trigger analysis. What do you consider a qualifying carrier?

A A carrier that is either providing service or holding itself out to provide service to the mass market.

Q And can you identify where Allegiance agrees that it is a qualifying carrier?

A In my -- I was going to go to my data request response, but I think also -- give me, give me one second.

There has been a fairly recent data response, the 28th of January, on Allegiance where they've actually provided line count information and did verify that they are serving the mass market.

Q Okay. My, my questions are, are winding down here, but I'd like to revisit market definition again.

A Okay.

Q Now is it your testimony that the geographic reach of newspapers, radio and television advertising is a concern for market definition?

A I, I wouldn't characterize it as a concern, but one of the driving components of using the MSA as a definition.

And I would like to point out that Dr. Taylor has provided quite a bit of rebuttal testimony for Verizon on the market service area rationale from an economic and policy perspective that, you know, you could, you could look at as well for more detailed information and, you know, analysis as far as that goes.

Q Okay. Well, I will take that into note when asking these next series of questions. Just let me know if he's better prepared to answer these questions.

The manner in which a carrier delivers service such as with the use of UNE-P or UNE-L, that is generally not advertised; correct?

A That's correct. I don't know that, you know, a CLEC

would try to advertise that they're providing service over a UNE-P or a UNE-L. I don't know that it would make any sense to a consumer.

Q So then can you help me out? Why would the geographic reach of newspaper, radio and television advertising be a concern for a market definition in this proceeding?

A Again, I don't think I would characterize it as a concern, and I touched on it briefly in my testimony. And as I said, Dr. Taylor talks much more about this. But, but basically the advertising is done on an MSA or a wider basis like an MSA than, say, a wire center. You don't advertise on a wire center basis. And so to the extent that a CLEC is going to enter the market, they're going to want to serve the largest area possible, you would think, based upon their investment. And so if you look at how advertising is done, it generally covers an MSA. And our, our, you know, proposal is based upon an MSA because it comports to the media and how we believe a CLEC would enter the market. And so, again, I wouldn't say that it's a concern, but it's more of a factor that points to why it would be, the MSA would be appropriate.

Q Okay. One second.

Can a CLEC serve a portion of an MSA with UNE-L and another portion with UNE-P?

A Yeah. That's possible. Yes.

Q And, of course, they could do this without changing

their advertising.

A That's right. They could.

Q Now is it true that data on CLEC activity is available on a wire center basis?

A Data, when you say "data," what are you referring to, I guess?

Q For example, access lines.

A Yes.

Q Now it is your testimony that CLECs would not be able to achieve the needed scale and scope in a wire center defined market; correct?

A That's correct. I mean, to the extent that a CLEC has to collocate in a wire center, that's just giving them ability to serve. It has nothing to do with the coverage that they're going to be able to serve once they get that.

Q Now by aggregating wire centers, would we be able to adjoin areas with similar densities of customers and potential revenue?

A When you say aggregating wire centers, are you talking about potentially doing that for a market definition or -- I just want to make sure I understand what you mean by aggregating.

Q Sure. Yes. Aggregating wire centers for the purpose of a market definition or for the purpose of defining the market.

A Such as density zone? Yes, you could do that.

Q Now is it possible wire centers could be aggregated until it is in a serving area large enough to afford economies of scale necessary to compete?

A Yes. I mean, that would be consistent with our proposal; look at an MSA, which -- or you'd look at a density zone, which has, you know, aggregated wire centers, and you're not looking just specifically at a wire center basis only.

Q Now would you also expect that if there was a self-provisioning CLEC presence, that it would be found in UNE Zones 1 and 2?

A Yes. And based upon our data, you know, when we looked at our data, one of the things that you need to look at is where your customers are actually being served. And, you know, we started with the MSA. And as I showed you in my Attachment 1 and 3, you can see the MSA as well as flip down to a density zone level. It shows the concentration of where your customers are being served. And that's why we chose the MSA, one of the reasons we chose the MSA definition, and another reason that we also put an option to go to the density zone level if you didn't want to go for, you know, a full MSA.

Q Now am I correct that the Tampa MSA consists of areas that are not in Density Zones 1 and 2?

A That's correct.

Q Now if we began with Density Zones 1 and 2 and

expanded to include bordering wire centers identified as having three or more mass market CLECs comprising a continuous geographic area, could that be considered a relevant market?

A I'm going to need a little help with your question again. Could you, could you start over and maybe do it in pieces so, so I can make sure I get it right?

Q Sure. We'll take it a little slow here. Okay. And by the way, this is my last question.

A Okay.

Q Now if we began with Density Zones 1 and 2 --

A Okay.

Q -- and we expanded to include bordering wire center, wire centers which were identified as having three or more mass market CLECs comprising a continuous geographic area, could that then be considered a relevant market?

A Yes, I think it could. Based upon our proposal, if you were to take Density Zone 1 and 2, for instance, and I think what you're saying is that you expand on that with additional wire centers that may be outside of that, but they're, they're, you know, continuous and they have continuity, you could expand that out. You could expand that all the way out to a full MSA, for that matter. But I think the answer to your question is yes.

MR. TEITZMAN: Well, that is the end of staff's questions. I do thank you, Mr. Fulp. Do any other parties

have questions for the witness?

MS. PATTON: Yes. This is Lori Patton with AT&T. I just had a few questions to clarify.

MR. TEITZMAN: Okay. All right. We got you down.

Is there anyone else?

MS. McNULTY: MCI has just a couple. I can ask them after AT&T.

MR. TEITZMAN: Okay. I have AT&T and MCI. Hold on one second, please.

I was just checking with my court reporter to see if she needed a break. Approximately how long do we, do we expect for these questions to go?

MS. PATTON: I don't think mine will be more than, you know, 15 minutes or so.

MR. TEITZMAN: And Donna?

MS. McNULTY: Maybe five minutes.

MR. TEITZMAN: Okay. So we've got 20 minutes. The court reporter is giving me the thumbs up. Please, we'll go ahead then. We'll start with Ms. Patton.

MS. PATTON: Okay. Thanks. You caught me there taking a big sip of water. Mine may be well under 15. I just had a couple.

CROSS EXAMINATION

BY MS. PATTON:

Q Mr. Fulp, I wanted to ask with regard to Page 6 of

your direct, I believe it is.

A Okay.

Q Hang on. Let me get yours as well to make sure everybody is looking at the same thing. Hang on just a minute. Sorry.

On Page 6, I believe it's Line 4, you give an answer with regard to the self-provisioning trigger. And on Page -- on Line 5 you state that there needs to be an application of data when considering the triggers. So that's still your position today; correct?

A Yes.

Q And you agree that the Florida Public Service Commission should look at specific data as to the type of loops that are being provisioned to the various self-providing switches?

A Yeah. That would be one of the things they need to look at. Yes.

Q Now was there anything other than the attachment that you have, I believe, to your surrebuttal, was there anything else as far as data that you looked at in coming to the conclusion of the trigger candidates that you've listed?

A Well, I don't know. I don't think so. I mean, to the extent -- as far as the analysis that went into our case here, you know, I mean, that's the data that we looked at. As far as the actual numbers, as far as the lines, you know, and I

guess what's encompassed in my testimony as far as looking at, you know, Web sites, you know, some external information, looking at the order and looking at the actual numerical data that we have in our testimony, I guess I would say for the most part it's comprised of what we had in the testimony.

Q Okay.

MR. MAGNESS: Excuse me. Ms. Patton?

MS. PATTON: Yes.

MR. MAGNESS: This is Bill Magness with FCCA. I apologize for interrupting, but apparently my -- could we go off the record a moment?

(Discussion held off the record.)

BY MS. PATTON:

Q Mr. Fulp, on Page 14 of your direct testimony --

A Okay.

Q -- you discuss the actual deployment. And at the very bottom of that page, I believe it begins on Line 24 and 25, you state that, in looking at the record of competitive switch deployment in Florida shows that competitors are already serving customers of all kinds.

Now would you agree that in the impairment analysis here we are simply looking for the customers who are involved in the mass market as opposed to all kinds of customers? Do you agree with that?

A Yeah. I think so. Yes.

Q Okay. On Page 16 again you discuss a 2003 Annual Report, and I believe on my copy it starts at Line 4, and the discussion or the piece of data taken out of that report goes from Line 4 to Line 12. Do you see that?

A Yes.

Q Okay. The piece that has been pulled out discusses, I believe, on Line 7 that there are 74 CLEC voice switches; on Line 9, 25 switch-based CLECs operating 116 switches in Florida; and on Line 10 it shows 31 switched-base CLECs operating; a combined total of 126 switches. Do you see those, those lines?

A Yes. Yes.

Q Now to your knowledge did that report consider whether these switches, in fact, served voice analog lines to the end-users or are all of these switches enterprise and a combination of enterprise and mass market? Do you know?

A No. And, again -- well, not again, but, you know, the point of this was just to confirm switches really that CLECs have deployed in the territory and not to get down into the specifics of specifically whether they were providing voice. So to answer your question, I don't know, but, but that wasn't the point of why I put this in.

Q Okay. How about on Page 17 -- and you may have already answered this in a previous question. Hang on one second.

You responded that you looked at, for example, the exhibit which was attached to your surrebuttal and that you looked at, at the loops and the lines that the various CLECs were asking Verizon to provision. Were there also any additional interrogatory answers which you had an opportunity to review in coming to your conclusion for the trigger candidates?

A Yes. I mean, we have, you know, additional data that came in on the, you know, based upon the data responses. And I -- to be clear on what our proposal is, you know, we filed our initial (inaudible) things, and then since then we've received additional responses.

In the sense that we have received responses, it's, it's really to confirm the data that we originally (inaudible) proposed. So any, any information that we got in the data request is really more of a confirmation of our regular case. So we're not adding anything, let's say, numerically to what we, what we're asking for based upon that versus just a confirmation of the information that we had in our direct case.

Q Okay. And were these data responses to the interrogatories also shared with the staff, do you know?

A Well, a lot of these are the responses that were to the staff's data request.

Q Okay. So these were not Verizon-specific interrogatories and specific responses to a Verizon set of

interrogatories?

A No. That's -- you're correct.

Q Okay. Okay. I just wanted to clarify that to make sure we're all looking at the same thing.

You talked at some point, and to be honest with you, I'm not exactly sure which point in your testimony, but you talk about the two-wire and four-wire loops.

Would you agree with me that two-wire and four-wire loops can be used for fax lines or redundant lines as opposed to being actually used for voice service?

A Yes. I would agree with that.

Q Okay. You also -- again, I apologize for not being able to point directly in your testimony, but you stated that Verizon looked at data, I believe, from June 2003 forward; is that correct?

A That's right.

Q Okay. Was there any data that Verizon looked at with regard to the trigger candidate companies that would have gone back historically one, two, even three years to really assess how these companies were serving voice customers?

A Not, not to my knowledge and not as far as my testimony is concerned because I don't believe that that would be relevant. What we were trying to look at is what's there today, what's in the mix?

Q Okay. I can give you a page number this time. Page

20.

A Of my direct?

Q Of your direct, yes.

A Okay.

Q And this is just to give you a general -- I believe it's the paragraph that starts on Line 8. We are generally talking about the mass market service. Do you have an opinion or an assertion as to what percentage of the switch would need to serve mass market in order for a switch to be truly labeled as a mass market switch?

A No. I don't think that that matters as far as the requirements go in the TRO as far as, you know, a certain partition of the switch or a percentage of the switch serving mass market customers.

As I look at the requirements, you know, that's not one. And as long as we can show that there is a, a DS-0, for instance, being served, that meets the requirements of the trigger.

Q Okay. Do you believe that the TRO does make a distinction between mass market switches and enterprise switches?

A Yes. There is discussion in the TRO that talks about the difference between those switches. But, again, it doesn't take it to the extent where it rules out serving mass market from an enterprise switch.

Q Okay. Do you agree with me that the TRO does discuss that mass market service is to be equated with voice or analog loops? Do you agree that that's an accurate statement of what the TRO describes as mass market?

A Well, it does relate to DS-0s. Yes.

Q And would you agree with me that, that voice over IP and packet switches are truly more of a digital carrier as opposed to a voice or analog switching ability?

A No, not as far as the requirements in the TRO go. They are providing voice competing with, you know, Verizon, and so I don't know that I would agree with you.

Q Okay. So it would be your position that a company like Vonage or Knology or, I'm trying to think of some of the others, those type companies that utilize packets or voice over IP, that they are providing voice service only through the utilization of packet switches or voice over IP?

A No. I, I don't know that it matters if they're providing voice only. As long as they're providing some voice, you know, competition with us, I don't think that it matters that they're, that they could be providing something else as well as voice.

Q Okay. Hang on just one second.

On the, on your surrebuttal, the attachment which we've referred to several times today, I believe it's just Attachment 1.

A Okay.

Q I just want to clarify. I may have a copy that has been whited out for one reason or another, but on the copy I'm looking at, Page 1 of 4, it looks like the CLEC name is nonexistent. Is there, in fact, a proprietary copy which lists a CLEC name for the various CLEC counts on the far right?

A Yes, there is.

MS. PATTON: Okay. All right. I think that's it for me.

MS. McNULTY: This is Donna McNulty with MCI. Adam, is it my turn now?

MR. TEITZMAN: It is your turn.

CROSS EXAMINATION

BY MS. McNULTY:

Q Okay. Good afternoon, Mr. Fulp. I'm Donna McNulty with MCI.

A Good afternoon.

Q I have a few, very few questions to ask.

One stated purpose in your testimony is to provide a definition of geographic market for the Commission's use in this proceeding. Is this correct?

A Yes.

Q And essentially your position is that MSAs are the most appropriate market definition?

A That's correct.

Q Does your proposal capture the cost of transport to the CLEC switch from each individual wire center?

A No. And that couldn't be a part of my proposal since we're just doing a triggers case only. And so looking at cost, things like that were not part of the triggers impairment requirement, and, therefore, we didn't include that as part of the testimony.

Q According to the TRO, the definition should be the same regardless of whether or not it's a trigger case or whether it's a potential deployment case; is that correct?

A The definition of what?

Q Geographic market.

A I think you're correct. Yes.

Q Okay. So I'm going to go ahead and ask these questions anyway.

Under your proposal for MSA, rates for transport vary by -- you mentioned that your proposal does not cover transport; is that correct?

A It doesn't look at transport costs, I think, is what you asked. And, no, it does not.

Q And rates for transport vary by distance, don't they?

A They can, yes.

Q To your knowledge, do the number of addressable lines vary from one wire center to another?

A And when you talk about "addressable lines," what are

you referring to?

Q Just the number of lines.

A Do the number of lines vary by wire center as far as --

Q Residence.

A -- switched access lines, let's say, just access lines?

Q Yes.

A Yes. Yes. They can vary and do vary by wire center.

Q And do the number of lines for which the CLEC is capable of offering DSL services vary among wire centers?

MS. HYER: Objection. DSL services. I don't understand that that's even a relevant question.

MS. McNULTY: I'll move on.

BY MS. McNULTY:

Q Do the number of lines served by digital loop carrier vary among wire centers?

A They, they could. I don't know. I don't have any specific evidence on that.

Q Are the relative number of business and residential customers the same in each wire center in your MSAs?

A The relative numbers -- I'm sorry. What do you mean by --

Q Are the business and residential customer numbers the same in each wire center?

A No.

Q Okay.

A I wouldn't expect them to be, and so I'm sure they're not.

MS. McNULTY: Thank you. MCI has no further questions.

CROSS EXAMINATION

BY MR. MAGNESS:

Q Mr. Fulp, this is Bill Magness. I'm counsel for the Florida Competitive Carriers Association.

A Good afternoon.

Q Good afternoon. First I'd like to ask you sort of a general overall question about your analysis of the Triennial Review Order.

Would you agree that when you, when you are trying to analyze an FCC order, it's important to analyze both the rules and the, and the text of the order?

A Yes.

Q And would you agree that on occasion within the text of the order the FCC provides guidance on the application of the order?

A I would agree to that.

Q Okay. And as an example, there was one part of the order you were discussing, I believe, with Mr. Teitzman earlier, and I'll direct you there. It was on Page 21 of the

rule. That's concerning -- you were citing for the, for the proposition that -- I'm sorry. I'll let you get there. Let me know when you've gotten there.

A I'm there.

Q Okay. Cited at -- and I'm at 51.319, I believe it's (d)(2)(b)(iii)(A)(1).

A Yes.

Q The local switching self-provisioning trigger. And you noted it said that the analysis should be, quote, including intermodal providers of service comparable in quality to that of the incumbent LEC, close quote. That's the part you read us; right?

A In answer to the question that she had on intermodal, yes.

Q And that is -- the question was whether the service should be identical. You objected to that and said, no, it needs to be comparable in quality; right?

A I thought that -- well, I think you're right, but I thought that the question was a little different. But I'll, I'll go along with what you said.

Q Well, then let us turn back into the text of the order to Page 318. And, and harking back to the example I gave you, we've now looked at the rule, now we'll look at the order. And I direct you to Footnote 1549, which I believe you were discussing again with Mr. Teitzman in some respect.

A I'm sorry. Which paragraph were you referring to?

Q Footnote 1549 is attached to paragraph --

A I got it. I got it. Thank you.

Q It appears on Page 318.

A I've got it. No. I lost my Page 318, but I found it.

Q Okay. Now you didn't lose it when you were conducting this analysis, did you, sir?

A Absolutely, absolutely not.

Q All right then.

On Page 318 in Footnote 1549 I direct you about midway through the paragraph to a sentence that says, "In deciding whether to include intermodal alternatives for purposes of these triggers, states should consider the extent," I'm sorry, "states should consider to what extent service is provided over these intermodal alternatives are comparable in cost, quality and maturity to incumbent LECs for ILEC services." Is that a correct reading?

A That's a correct reading. But, again, if you go to the rules which we just left, it only talks about comparability in conjunction with quality.

Q Okay. So -- well, help me out here or actually help the Commission out here.

You can ignore what is in Footnote 1549 of the text where it references cost and maturity because the rule says

only quality, or should they all be read in conjunction with one another?

A I -- as a nonlawyer --

Q Well, I'm not asking you a legal question, sir. You analyzed --

A I just want to make sure that you understand that I'm not an attorney. But I would think that the rule outweighs what's in the text, I believe. And, again, that's as a nonlawyer.

Q Okay. And do you believe yourself qualified to testify before this Commission about what the Triennial Review Order says?

A Yeah.

MS. HYER: And I'd like to interpose an objection that the, the attorney just asked the witness a question, and then asked a question -- and then -- and asked the question -- the witness to answer as a nonlawyer, and then asked the witness whether or not they were qualified to testify as a nonlawyer. And I will object to that line of questioning.

MR. MAGNESS: I'm not sure I understand the nature of the objection.

MS. HYER: That is an improper question.

MR. MAGNESS: What's improper about it? I'm asking him about his qualifications.

BY MR. MAGNESS:

Q Mr. Fulp, there's a great deal of testimony in your testimony, all three sets, about the Triennial Review Order, is there not?

A Yes.

Q Okay. And do you believe that you have relevant expertise sufficient to permit you to submit that kind of testimony to this Commission?

A Yes.

Q Okay. And based on that level of expertise, you would, you would urge the Commission to ignore the factors of cost and maturity that are in Footnote 1549 because they are not included in the rule?

A No. And I did not say anything like that, and I'm not asking the Commission to ignore anything.

You specifically asked the relationship between the two, and I think you asked, you asked me which one would, I guess, override or which one should you look at. And that's when I told you as a nonlawyer I would think you look at the rules first.

Q Okay.

A But I never said that the Commission should ignore anything in the TRO.

Q Okay. Well, let me ask you directly. In assessing this question about intermodal alternatives, should the Commission consider the cost and maturity of those services?

A Not according to the rules in the Triennial Review. But they could consider that as part of their analysis.

Q What is your recommendation? Should they consider costs and maturity as well as quality?

A I don't know that I have a specific recommendation on how the Commission should proceed with this case and what they should and shouldn't look at.

Q But the Commission does need to exercise some discretion and judgment in interpreting the order, does it not?

A I would assume that the Commission would use some discretion and judgment, yes.

Q And this is a paragraph that has to do specifically with the trigger analysis, is it not?

A Yes.

Q Okay. Now I asked you when we first got started if there are places in orders in which Commissions or the FCC may give guidance, the location of their rules, and I direct you to the same sentence we were just talking about.

That sentence begins, "In deciding whether to include intermodal alternatives for purposes of these triggers." Did I read that correctly?

A Yes.

Q Okay. The Commission faces a decision when presented with a potential trigger candidate that is an intermodal alternative of whether or not to include it; right?

A I think the FCC did not exclude intermodal carriers, so I don't know that there's an issue on whether they should be included or not included.

MR. TEITZMAN: This is Adam at the Commission. Mr. Magness, can you please speak up? We're having a hard time hearing you suddenly.

MR. MAGNESS: Let me pick up. Is that better?

MR. TEITZMAN: That's much better.

MR. MAGNESS: Okay. I'm sorry. I apparently am having speaker phone problems today.

BY MR. MAGNESS:

Q The question I asked was in -- the Footnote 1549 says, "In deciding whether to include intermodal alternatives for purposes of these triggers." And really the only question I have is, Mr. Fulp, doesn't that indicate that there is a decision the Commission has to make whether or not to include them?

A I guess -- I don't know that -- there are factors that they need to look at in conjunction with including them. I don't know that the FCC left an out that you could just exclude intermodal carriers.

Q Well, for example, if you find that the intermodal alternative is not comparable, let's just assume with me, I know you don't believe this, but let's just assume it is not comparable in cost, quality or maturity to incumbent LEC

services, wouldn't you agree that the TRO directs the state to exclude that from the trigger analysis?

A In going back to the rule, I think if they were to find that in conjunction with quality, that that's a possibility, yes.

Q Okay. So, again, we, we shouldn't be looking at -- the Commission shouldn't be using the factors in 1549 or, or not?

A No, I didn't say that.

Q Okay.

A Again, just going back to the previous questions and answers that you and I have gone through --

Q Uh-huh.

A -- I've continually gone back to the rules, because I stated that that may override something that's in the text. And the rules specifically do talk about quality, and so that's why I went back to it. That does not mean that I am saying that the Commission should ignore anything in the order.

Q And what's your, your source for your opinion that rules override text, ordering paragraphs of an FCC order?

MS. HYER: And I'm going to, I'm going to interpose an objection to the extent that you're requesting information that's subject to the attorney-client privilege.

MR. MAGNESS: Well, I'm asking for information that is the basis for his expert opinion. He has told me that the

Commission should apply the order in a certain way, and I'm trying to find out why he thinks that.

BY MR. MAGNESS:

Q Mr. Fulp?

A Going back to what I stated before, as a nonlawyer, I said that in my opinion you would look -- I thought that the rules would override the text. And in dealing -- and my rationale for that being Commission orders, orders and things like that that I have been familiar with, the first thing that you normally do after you've read a lot of those is go to the ordering paragraphs and what is it ordering you to do, and that usually carries the day as far as what happens with an order. So that's my basis.

Q Okay. And now I'd ask you to turn to Footnote 1560 on this intermodal issue. That's on Page 320. And let me know when you're there.

A Got it.

Q If you could read that footnote and let me know when you've had a chance to review it.

A Okay.

Q And the first sentence says, and I'm just going to read it for the record, "We recognize that when one or more of the three competitive providers is also self-deploying its own local loops, this evidence may bear less heavily on the ability to use a self-deployed switch as a means of accessing the

incumbent's loops." Is that a correct reading?

A That's, that's what it says. Yes.

Q Okay. And as I read this, when the FCC -- I'm sorry. When the PSC is looking as to whether to include these, such an intermodal carrier, and let's just use a cable company as an example, the FCC guidance here says that a use of a carrier's own loops may bear less heavily on the ability to use a self-deployed switch.

Is this an indication of the kind of exercise of discretion the Commission must use in determining whether to include an intermodal carrier?

A I don't think so. I mean, because it goes on to state, "Nevertheless, the presence of three competitors in a market using self-provisioned switching and loops shows the feasibility of an entrant serving the mass market with its own facilities."

And so in reading the first part of that paragraph, I don't see that that has any major impact on whether intermodal carriers can be included or not.

Q Mr. Fulp, let's think about it for just a minute. That sentence you just read says, "The presence of three competitors in a market using self-provisioned switching and loops shows the feasibility of an entrant entering the market and serving with its own facilities."

So let's take, let's just take Tampa. If there were

three cable companies or two cable companies and one overbuilder or some combination thereof of companies that use their own switching and loops, that second sentence in Footnote 60 tells us if there's three of them there, now that shows the feasibility of an entrant serving the mass market with its own facilities and that would satisfy use of intermodal.

But the sentence above -- isn't the sentence above guiding the state commission on how to exercise discretion concerning whether to include intermodal when there's not three using their own loops?

A Well, I mean, it says what it says. And as I have stated before, I don't believe that that says anything as far as not including intermodal carriers in the trigger analysis, period.

Q Okay. Let's go to your direct testimony, and I'd like you to look at Page 15.

A Okay.

Q I'm going to read you part of a sentence at the top of Page 15. And if I read anything out of context, do let me know, but I'm just trying to get the idea across.

You reference here, Line 3, "Approximately 15 competing carriers of all sizes have deployed local circuit switches in Verizon's serving territory in Florida as illustrated below." And then what follows is a chart entitled "CLECs that have Deployed Local Circuit Switches in the Verizon

Service Area in Florida." Is that all there?

A Yeah.

Q Okay. Now to your knowledge, when the FCC decided the Triennial Review Order, did it have something before it that was prepared by companies including Verizon that was called the UNE Fact Report?

A Yes. They, they probably did. They -- yes.

Q Okay. And to -- and I believe it's cited several times in the Triennial Review Order, isn't it?

A Yes.

Q Okay. And the UNE Fact Report included data from the LERG that listed CLEC switches that had been deployed as of the time of its submission to the FCC; right?

A I believe so. Yes.

Q Okay. And the FCC, having that data in front of it on its record, still determined that it was going to make a national finding of impairment for unbundled local switching; correct?

A Well, I don't know that I would relate the two together, but.

Q Okay. Let's break it down then. Did the FCC make a national finding of impairment for unbundled local switching?

A Yes.

Q Okay. And was the UNE Fact Report in the record before the FCC?

A Yes.

Q Okay.

A Along with, you know, a lot of other material and a lot of other things. That's why I was saying I wouldn't have a direct causality between the fact report being there and the end result of their order.

Q Okay. Well, the end result of their order asks the states to develop a more granular record that would provide more evidence, did it not?

A Yes.

Q So wouldn't it be an error for a state just to rely on exactly the same data that was in front of the FCC when it decided the Triennial Review Order?

A I, I don't know that it would be an error or not. They're not asking the states to do that.

Q What are they asking the states to do?

A To rely on the information that companies have put forth as part of the requirements of the order.

Q Okay. And now this list of switches that have been deployed, can you testify as to any of the switches that, that you know whether the, the lights on them are blinking, that they're operating?

A No. We didn't do a physical inspection of the switches, as I stated in my testimony. I mean, this was the information that was, you know, based upon the LERG data. And

I guess more importantly, this data --

Q Mr. Fulp, hold on just a minute.

MS. HYER: Let him finish his answer, please.

MR. MAGNESS: Well, I think he did. He's going on to another topic.

MS. HYER: No. He was clarifying his answer, and I would request that the witness be allowed to --

MR. MAGNESS: Okay. I apologize.

BY MR. MAGNESS:

Q More importantly what, Mr. Fulp?

A More importantly, the data that we utilized for our trigger case is based upon the line data and not so much, you know, CLEC switches. It's not a, it's not an impairment case based upon switches. That's all I wanted to finish up with.

Q Okay. And on your line data, let's go there, I just had a couple of questions on the line data. And I'm going to ask you to look at -- and this is a confidential exhibit, so I'd admonish you to not cite the numbers, but it is Exhibit ODF-2.

A Is that from my direct testimony?

Q Oh, I'm sorry, sir. Yes. I was just flipping on through your direct testimony. It's what's entitled "Florida Line Count Study."

A Okay.

Q Okay. Now the, the -- just so we're all clear for

the record, the thing that is confidential here, I'm assuming, and correct me if I'm wrong, is the, the numbers that are under the, the line "Total," that would be the total of lines?

A I, I would think that the associated CLEC names and numbers are, are confidential.

Q Okay.

A So --

Q So that the issue really is associating -- and I'm not trying to joust with you about this. I just want to be sure we don't reveal anything that's been held confidential. In your testimony you identify the, just the plain identities of CLECs that you're saying are triggers; right?

A That meet the triggers. That's right.

Q Yeah. Okay. So if I talk to you about a company name standing alone, I'm not revealing anything that you filed as confidential; right? If I don't relate it to line numbers or locations or anything like that, I just say X company is a trigger, we haven't -- we don't have a confidential problem.

MS. HYER: And this is Leigh Hyer from Verizon. I think that this is a little bit more of a, of a legal issue. I think to the extent that, that you refer to the CLEC name from Verizon's Line Count Study and without actually identifying it with line counts or identify the line counts, identifying the CLEC, I think that's fine. I would not necessarily make that assumption if we moved to information that, that was taken from

any CLEC data requests without knowing exactly how the CLEC themself has designated that information.

MR. MAGNESS: Okay. Why don't we, why don't we operate from that basis. I think that's a good summation of where I would have understood things to be.

MS. HYER: Okay.

MR. MAGNESS: So I'll identify CLEC names, but I won't associate them with anything in the Line Count Study that identifies the lines. And I'll take that admonition on the, certainly on the CLEC responses to staff requests or other requests. And I'm not sure we'll need to talk about those at all.

BY MR. MAGNESS:

Q So okay. Now back to ODF-2, you -- in your, in your discussion a little earlier, you said that you had initially identified eight CLECs and then you identified another two. Were those two identified using the same methods as you identified the eight in the Line Count Study?

A No. Those two were identified through responses from the CLECs to the Commission's data request.

Q Okay. And which, which additional two did you identify?

A Adelphia and XO.

Q Okay. I just -- I'm sure it's in your testimony. I just wanted to be sure I had it all at one place. Okay.

And are they identified in Zone 1 or Zone 2?

A I believe -- they're in both Zone 1 and Zone 2. If you, if you go to my supplemental attachments, that's --

Q That's where it is? Okay. Okay.

A Yeah.

Q I'm sorry. I won't waste your time with that.

Now can you -- do you know from the line counts, from the Line Count Study that you did here whether a line serves residential or business?

A No.

Q Okay.

A We, we didn't split that out for the Line Count Study, so, no, I don't.

Q Okay. And did -- all the CLECs that are listed here in ODF-2, and then I would add to that list Adelphia and XO, ask the question as to all of these, do all of these CLECs serve residential customers?

A I don't know that all of them do, no.

Q Okay. Do you know that any of them do?

A Yes. I know that, I know that some of them do, and I would have to go back and look. But not all, but some.

Q Okay. But you don't know that from the line counts; right?

A That's right.

Q Okay. And I have a question for you. You said

that -- I'm sorry. I was just looking up here at the top.

You used two-wire loop, four-wire loop and two-wire EEL. Can you give us any sense of the order of magnitude of, of how many of the lines you've identified are two-wire loop, four-wire loop or two-wire EEL? I mean, for example, is it 20 percent two-wire loop, 20 percent four-wire loop, and what's the rest, 60 percent analog yield? Do you have any sort of approximation of that?

A No. I don't have that information in front of me, and I, and I don't want to speculate on that. I would assume that, you know, the majority of them are going to be two-wire. But going any deeper than that, I would be speculating, and I would hate to do that.

Q Okay. And when you say two-wire, you mean two-wire loop or a two-wire EEL?

A Two-wire loop.

Q Are there what you'd characterize as a substantial or large number of two-wire EELs?

A I want to say, and again let me qualify, since I don't have any numbers in front of me that split that out, that there probably would be less of the EELs than any of the two- or four-wire loops that we're talking about.

Q Okay.

A In fact, I'm sure of that. But, again, I just don't have any specific numbers to talk with you about.

Q Okay. And are there some numbers that we can talk about at hearing because they've been in a data response or anything, or is this work papers of yours?

A No. I think -- and, and that's what I was sitting here thinking about. I think there's data requests that actually go to your question. We split everything out and get an answer to what you're asking.

Q Do you have any idea who, whose data request?

A No. But if you -- staff, AT&T, MCI, well, and FCCA all, you know, had data requests that we responded to. And I, I -- I'll be speculating again, and I don't want to tell you the wrong one.

Q No. I'll go look for them. That's fine. That's fine.

A Okay.

Q I just thought if you remembered, I'd --

A No, I don't.

Q Okay. I'm going to -- let's go into your rebuttal. Actually I have one question that's not related to a specific page or line number, but it's just generally about the cutover issue.

A Okay.

Q And trying to see where the, you know, where the real disputes are and where the, where the agreements are as far as enterprise versus mass market customers. And let me give you a

couple of hypotheticals.

Let us say I am a one-line residential customer, I take analog POT service, that's all I have. Am I a mass marketer or an enterprise customer?

A Mass market.

Q Okay. And if I have a second analog POTS line and I use that for dial-up service to my Internet service provider, am I an enterprise customer or a mass market customer?

A Mass market. Because you still have your other voice circuit; right?

Q Right.

A Yes. Mass market.

Q Okay. And if -- let's change it a little bit and let's say I'm still residential and I have one POTS line in my house and then I have DSL service that I use for my data. Would I be an enterprise or a mass market customer?

A Mass market.

Q Okay. And if some salesman from Verizon came to my house and he was so slick that he talked me into the fact that I needed a DS-1 in my house and I bought it and I had him install the channel bank and did everything else you need to do to get DS-1 service, would I be a mass market customer or an enterprise customer?

A If the only line you had is the DS-1, then you would be an enterprise customer.

Q Okay. So that the debate then generally is, is not so much -- well, let me strike that.

It strikes me from the testimony the debate is really about the customer that isn't served by DS-1 but has multiple lines in figuring out what's the proper cutover for that multiline DS-0 user; right?

A Yeah. I, I think that's fair.

Q Okay.

A As far as the debate goes, yeah.

Q Yeah. All right. And I'm not asking you to, you know, endorse anybody's positions in that debate. I just want to be sure we understand where the agreements are and where the disagreements are.

I actually don't have any questions for you in your rebuttal, but I have some in your surrebuttal I will try to get to quickly. If you could turn to -- I'm sorry. Oh, yeah. If you could turn to Page 3 and 4.

A Okay.

Q Just to clarify, you reference at Line 17 on Page 3 an Ohio Public Utilities Commission decision in a Triennial Review related case.

A Yes.

Q All the, all the Ohio Commission's decisions in that case were tentative, were they not?

A Tentative in what respect?

Q Well, was that a final order that resolved the issue that you discussed here, or did the Ohio Commission issue a tentative ruling on certain issues and then there's going to be more hearings and more evidence later?

A To my knowledge, this was a final order. And whether it's on a specific phase or not, I'm not aware of that. But my understanding is this is a final order.

Q Did you read the order?

A I've read parts of the order, yes.

Q Okay. Have you read the entire order?

A I have not read the entire order, no.

Q Okay. So you'd be surprised to learn that that was a tentative ruling?

MS. HYER: Objection. That's a fact that's not in evidence, and I don't think that it's been established that it is a tentative ruling.

MR. MAGNESS: Well, I don't know that we've established anything.

BY MR. MAGNESS:

Q Okay. On -- let's see. There was -- again, this isn't, this is not to a specific page, but there was some discussion you had with Mr. Teitzman about holding out service.

Is it your understanding that that question of whether a company is holding out is relevant to the market definition issue or some other issue in this case?

A I think it's just relevant to -- I think the context I was using it in was in conjunction, do you have to be serving all customers in a specific area? And as I recall, that's where I brought it up.

Q Okay. And have you reviewed the FCC's briefs to the DC Circuit regarding the Triennial Review Order?

A Yes.

Q Okay. Do you -- are you familiar with their discussion of carriers holding out?

A Yes.

Q Okay. And what do they say about that?

A And I think -- I'm trying to remember if I had that in my -- I did not have that in my testimony, but Dr. Taylor references that in his testimony. And I guess the specific piece that I would refer to is on Page 40.

Q Uh-huh.

A And do you want me to just read it? Can I read the --

Q Yeah. If it's something you think is important, yeah.

A "Under this standard, the self-provisioning trigger would be met at a minimum not only at locations in which three competitive providers are actually serving mass market customers with non-ILEC switching, but also at locations where three competitive providers are holding out the availability of

such service to mass market customers."

And then there is a footnote. I've got to get the number of the footnote. Footnote 18 says, "This focus on the locations in which customers face similar competitive choices is consistent with Commission precedent analyzing geographic markets in the merger context."

Q Okay. So this, this holding out standard or reference is, is not something you found in the Triennial Review Order itself; right?

A That's right.

Q Okay. It was in the FCC's brief trying to defend it to the DC Circuit; right?

A That's correct.

Q Okay. And when they talk about holding out, they talk about it's important to be looking at where customers face similar competitive choices as part of what it means to be holding out, the concept of holding out under FCC precedent; right? I mean, you just read that footnote. It says, "The focus is on the locations in which customers face similar competitive choices."

A Right.

Q Okay.

A That's what the footnote says.

Q Okay. So if a, if a company, let's say a CLEC in a market is not providing a competitive choice from the

customer's perspective, then that has to do with whether they are holding themselves out; right?

A I, I don't know. I don't --

Q Well, you had a kind of detailed discussion about it a few minutes ago with Mr. Teitzman.

A I just -- well, what are you referring to?

Q Well, I guess you make -- it sounds like you're making an interpretation of the order that says if you're just holding out and maybe not even, you know, providing service, that may be enough for a trigger. And I'm asking you if you, if you read this in context that the holding out standard actually references back to the actual human customer and whether he or she has a competitive choice. And so the question I had for you was if there is a company that, you know, I'll give you a hypothetical again, is not marketing or otherwise selling mass market service, and to make it more extreme, if when you called that company and said, I want, you know, a single business line, they said, no, as the FCC has interpreted holding out here, you wouldn't say that that company is holding itself out to offer mass market services, would you?

A I don't know that I would say they were holding themselves out. I would be interested to know if they were currently offering service. And if they were currently offering service, I don't know that them not holding themselves

out would matter as far as the triggers analysis goes.

Q What does it mean to you to currently offer a service?

A It's in the ground and it's -- well, it's in the ground. It's currently there.

Q How is the service in the ground? What does that mean?

A I mean a customer has the line from --

Q Okay.

A -- the CLECs.

Q Okay. Well, then let me give you another hypothetical. If Company A, let's say, CLEC A, to make it more specific, has its own switch, serves a DS-0 line, that is, let's say, the only DS-0 line they have and it's because they have a large client who's on a DS-3, but that large client has one remote office that just needs a single phone line to receive faxes and phone calls, they don't otherwise market DS-0 services, they don't buy any other DS-0 loops. Does that company qualify as a trigger?

A If they have a line, DSL line, yes, they would.

Q Are they holding themselves out to provide mass market services?

A I don't know that it matters if they currently are providing the service.

Q Okay. If a company -- let me give you another

hypothetical. CLEC B, let's say, CLEC B markets nothing but DS-1 and above integrated access T1 type services. Do you know what I'm talking about?

A Right. And you said markets; right?

Q Yes. If you called them and asked them for a single business line or if you called them and asked them for two residential lines, they will say, no, I'm not going to sell you that. Stay with your current provider. Okay. Is that clear?

A Okay.

Q Okay. And CLEC B has purchased the assets of another company that has, let's say, 100 DS-0 customers that were originally added to a switch in 1999 back before the bubble burst, and those customers still have their service and the CLEC doesn't want to discontinue service to them but it is otherwise providing 98 percent of its switch capacity to serve the enterprise market where it is now actively providing services. And it hopes that maybe those 100 customers will maybe some day convert over to DS-1 services, but it doesn't want to abandon them. That qualifies as a trigger in your mind?

A Yes.

Q They are, they are actively providing?

A If they are -- as I stated before, if they're providing service, they obviously are not impaired because they're, they're providing service today. And so whether they

are marketing services, I don't know that that matters for the triggers analysis and what we're doing here. We're looking at whether they're impaired or not. If they're currently providing service, they're not impaired to be able to do so, and the FCC says they would count as part of the trigger analysis.

Q So in your mind actively providing just means if you have, if you have provisioned the DS-0 at all?

A Yeah.

Q Okay.

A I, I guess so, yes.

Q Okay. On Page 7 of your surrebuttal, actually Page 6 to put it in context, you criticize Mr. Gillan, FCCA's witness. And before I go any further, let me ask you, how can you be so hard on another University of Wyoming graduate?

A Sometime it's hard to do, but in Joe's case it makes it a little easier.

Q Okay.

A That was a good question.

Q I must rise to the defense of my witness, but I'm going to let him speak for himself on Friday in his deposition. So anyway.

A We also worked at the Illinois Commission together.

Q Oh, well, I guess so. You guys have been travelling similar paths until, until recently, I suppose.

A Until he took the wrong turn.

Q Okay. You criticized -- and let me just read it to you. You say, "For example," and I'm at Line 13, Page 6, "For example, FCCA Witness Gillan claims that a CLEC cannot count toward the triggers if it is using a 'enterprise switch' to serve mass market customers." And then down at Line 22 you say, "These claims must be rejected because they have no foundation whatsoever in the order." Is that a correct reading?

A Yes.

Q Okay. Now I want to, I want to direct your attention to two places in the order, and then, and then we can talk about it a little bit. One of them is paragraph 430A.

MR. TEITZMAN: This is Adam with the Commission. How much longer are we going to be going?

MR. MAGNESS: These questions on the enterprise switches is the last thing I have, Adam.

MR. TEITZMAN: How much time?

MR. MAGNESS: I hope it's about five minutes.

MR. TEITZMAN: All right. With your estimates, I'll take that at about ten. All right. Go ahead.

MR. MAGNESS: If he would just answer the questions. I'm just kidding. Just kidding.

BY MR. MAGNESS:

Q Okay. 438. No, I've probably directed you to the

wrong place. Let's see. Actually I need you to look at -- I know we're in that neighborhood. Okay. I'm sorry. Paragraph 441.

At paragraph 441 there's the discussion of whether switches deployed to serve the enterprise market should be treated the same as mass market switches. And the footnote to paragraph 441 is that Footnote 1354 says, "The dissent's assertion that enterprise switches should be considered in our mass market triggers ignores the substantial differences between the switches serving the different markets." Is that a correct reading?

A That's what it says.

Q Okay. And then if you go over to paragraph 508 at Page 322, the sentence beginning, "Although," at the bottom of the page.

A Although?

Q Yeah. "Although switches serving the enterprise market do not qualify for the triggers described above."

A Got it.

Q Okay. Don't these indicate to you that switches serving the enterprise market do not qualify for the triggers or that, put another way, a switch that is an enterprise switch isn't a trigger?

A No, I don't believe so. It's -- I guess it's a distinction on whether they're only serving enterprise or not.

And, again, my understanding of the TRO is that you can have an enterprise switch. And if that enterprise switch is serving mass market, that would count. And so I guess I don't read this as counting or going contrary to that.

Q Okay. But what we're, what we're struggling with here is, is how to make a determination of what qualifies as an enterprise switch that shouldn't be counted or not; right?

A Well, that's the issue we're talking about. Yes.

Q Right. And some judgment needs to be applied to that question, does it not? I'm going to come in at three-and-a-half minutes, if you'll answer.

A I, I don't know. I don't know.

Q Okay.

A I guess I'm just not agreeing with what you're wanting me to agree to.

MR. MAGNESS: Okay. Thank you. I'm done.

MR. TEITZMAN: All right. You've made our court reporter very happy. I believe that would be everyone who has had an opportunity to ask questions; correct?

All right. Well, then I thank you, Mr. Fulp, and we will conclude this deposition.

(Deposition concluded at 3:50 p.m.)

ERRATA SHEET

DO NOT WRITE ON TRANSCRIPT - MAKE CORRECTIONS HERE

IN RE: DOCKET NO. 030851-TP
NAME: ORVILLE D. FULP
DATE: FEBRUARY 12, 2004

PAGE	LINE	CHANGE

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, LINDA BOLES, RPR, Official FPSC Commission Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing deposition at the time and place herein stated.

I FURTHER CERTIFY that this transcript, consisting of 83 pages, constitutes a true record of the testimony given by the witness.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 17TH DAY OF FEBRUARY,, 2004.

Linda Boles

LINDA BOLES, RPR
Official FPSC Hearings Reporter
(850) 413-6734

EXHIBIT NO. 27

DOCKET NO.: 030851-TP

WITNESS: W. Keith Milner

PARTY: BellSouth

DESCRIPTION:

1. February 6, 2004, Deposition Transcript, page 1

PROFFERING PARTY: STAFF

I.D. # WKM-D

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 27
COMPANY/ FPSC Staff/BellSouth
WITNESS: WKM-D
DATE: 02/24-27/04

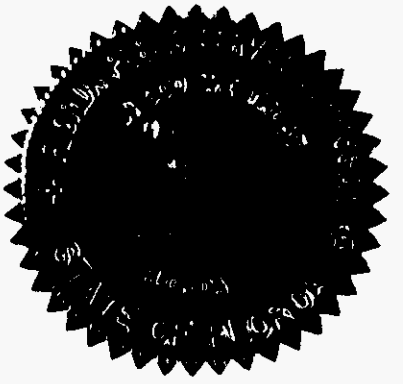
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.

_____/



TELEPHONE DEPOSITION OF:	W. KEITH MILNER
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
DATE:	Friday, February 6, 2004
TIME:	Commenced at 4:06 p.m. Concluded at 4:27 p.m.
LOCATION:	Gerald L. Gunter Building Room 309 2540 Shumard Oak Boulevard Tallahassee, Florida
REPORTED BY:	MARY ALLEN NEEL, RPR Notary Public, State of Florida at Large

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S T I P U L A T I O N S

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this case; and that reading and signing was not waived.

IT IS ALSO STIPULATED that any off-the-record conversations are with the consent of the deponent.

PROCEEDINGS

MR. SUSAC: My name is Jeremy Susac. I'm with the Commission. I believe all -- have all the parties to this particular deposition been parties to the previous deposition as well?

MS. AZORSKY: Yes.

MR. SUSAC: Okay. So I'm not going to read this "Good morning, Counsel," by the Commissioner. And I assume that everyone has stipulated to the same -- agrees to the same stipulations.

MR. ELLENBERG: Okay.

MR. SUSAC: Okay. I'll skip that as well.

All right. Is the witness present? Mr. Milner?

THE WITNESS: I'm here.

MR. SUSAC: Okay. Are you sworn in, or do we have to swear you in?

MR. ELLENBERG: He has not been sworn.

MR. SUSAC: Okay. Why don't we go ahead and do that right now.

Thereupon,

W. KEITH MILNER

was called as a witness and, having been first duly sworn by Brenda Slaughter, a notary public in the State of Georgia, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SUSAC:

Q All right. Before I begin, Mr. Milner, I just want to let you know that if you need me to restate a question or you do not understand a question, just let me know, and I will either restate the question or try to rephrase it.

A Okay. Thank you.

Q All right. Basically, Mr. Milner, will you please state your full name for the record.

MR. ELLENBERG: Jeremy, do we want to take appearances first?

MR. SUSAC: I assume it -- is it the same appearances that -- okay. Let's just take appearances.

MR. ELLENBERG: This is William Ellenberg, E-l-l-e-n-b-e-r-g, for BellSouth. I'm here with the deponent.

MR. O'ROARK: De O'Roark with MCI.

MS. AZORSKY: Tami Azorsky with AT&T.

MR. CRUZ-BUSTILLO: Jorge Cruz-Bustillo, Supra Telecom.

MR. MEZA: And Jim Meza with BellSouth.

BY MR. SUSAC:

Q All right. Mr. Milner, will you please state

your name for the record?

A Yes. My name is W. Keith Milner, M-i-l-n-e-r.

Q Mr. Milner, by whom are you employed?

A I'm employed by BellSouth Telecommunications, Inc.

Q Could you give me a brief synopsis of your educational background?

A Certainly. My highest level of education is an M.B.A., which I attained from Georgia State University in Atlanta, Georgia.

Q And have you previously filed testimony before the Commission?

A Yes, I have.

Q And is it in this docket, 030851, the mass market docket?

A Yes, that's correct.

Q Do you have copies of your testimony and exhibits that you filed with you today?

A I do.

MR. SUSAC: All right. Staff has no questions. I'll leave it to the parties, in no particular order.

De, would you like to go first? Do you have any questions for Mr. Milner?

MR. O'ROARK: I do have a few.

CROSS-EXAMINATION

BY MR. O'ROARK:

Q Good afternoon, Mr. Milner.

A Good afternoon, sir.

Q The BACE model assumes one CLEC switch per LATA; is that correct?

A Yes, it does. Well, let me say it this way. It assumes one per LATA unless there's demand for greater than one, yes, in which case it produces additional switches.

Q And as described your direct testimony, the BACE model assumes either that the CLEC serves the customers in a given wire center through a collocation arrangement or through an EEL arrangement; is that right?

A That's correct.

Q And the BACE, which is spelled B-A-C-E, model selects one or the other, depending on which it determines to be preferable?

A That's right. It looks for the lower of the costs and chooses some mix of that.

Let me explain that it does not choose exclusively all collocation or all so-called EELs, E-E-L-s. Instead, it figures out on a central office by central office basis which is more economic, so you may

wind up with a mix.

Q Does BACE assume that DS-0 EELs are available?

A It does, yes.

Q And is a DS-0 EEL a combination of a UNE-L loop at the DS-0 level and a DS-0 transport?

A Yes. The transport is in multiples of DS-0. They can be aggregated into higher level transmission systems, but, yes.

Q So the transport could either be at the DS-0 level or the DS-1 level, whichever makes the most sense?

A You're correct, yes.

Q Okay. Now, can you please look at your direct at page 7?

A Okay. I'm there.

Q There at -- actually, beginning at line 1 through the rest of that partial paragraph, you describe equipment that a CLEC might choose to install at his collocation; is that right?

A Yes, sir.

Q Than you note that the CLEC might install a POT bay?

A Correct.

Q And also might install DLC equipment for aggregating and concentrating the individual loops?

A Correct.

Q You mention the possibility of a DSLAM, and you also talk about multiplexing equipment.

A Correct.

Q What does the BACE model assume when an EEL is used with respect to the equipment -- strike that. That's not a good question. Let me lay out a scenario for you so that we can talk about it.

A Okay.

Q Do you have a scratch piece of paper in front of you?

A I do, yes.

Q Let's assume that we've got a residential customer. This is the same scenario I set out a little earlier today for Mr. Pate. And assume that the customer is served by BellSouth Wire Center 1.

A Okay.

Q And then we've got BellSouth Wire Center 2 where the CLEC is collocated.

A All right.

Q And then we've got the CLEC switch.

A I'm with you, yes.

Q All right. And let's talk about the EEL that might be provided that would go from the customer premises to BellSouth Wire Center 1 connected to BellSouth Wire Center 2 where the collocation is.

A Okay.

Q What does the BACE model assume as to CLEC equipment that would be located in BellSouth Wire Center 1, if any?

A It presumes that there would be no CLEC equipment in Wire Center 1.

Q So BellSouth will allow the CLEC to make use of the BellSouth Equipment necessary to provide the combination of loop and transport?

A Yes. BellSouth would connect the unbundled loop to interoffice transport at the DS-1 or higher level, and would transport those extended loops to Wire Center 2 and ultimately to the CLEC's collocation arrangement.

Q And you said DS-1 or higher level transport. But again, that could be in increments of DS-0s?

A Yes. In other words, we would fill up a DS-1, and then we would open another and fill that one up, and so on and so forth.

Q How many DS-0s are allowed to feed into a UNE transport? Put another way, does BellSouth allow concentration?

A Our EEL offering does not provide for concentration. It provides a one-to-one relationship between the unbundled loop and the transport part. In

other words, one loop would occupy one DS-0 channel in the DS-1, so there's no concentration in that part.

Q Going back to page 7 of your testimony, in that paragraph we were discussing, you mention that the CLEC might use DLC equipment for aggregating and concentrating loops. Do you recall that?

A Yes, sir.

Q So the CLEC can do that from its collocation, but BellSouth does not provide equivalent concentration if an EEL is being used?

A That's true to a point. The CLEC may or may not choose to use digital loop carrier equipment to concentrate the individual loops. It may do the same thing that BellSouth is offering, that is, simply -- well, let me say it a different way. Avoid the cost of the digital loop concentrator and just let there be a one-to-one relationship between the loops and the channels on the DS-1.

Q Does BellSouth use concentration within its own feeder network?

A This is going to sound a little picky. The answer is no, we don't. We use digital loop carrier equipment to concentrate in our loop distribution part, and then those concentrated loops are conveyed to our central office over high-speed transmission links at

DS-1 or higher.

Q Let me make sure I understand what you're saying. Does the concentration in the BellSouth loop plant take place at the remote terminal?

A It does, yes.

Q So that you can have fewer channels within the feeder portion of the network than you have in the distribution portion of the network?

A That's exactly right.

Q What level of concentration does BellSouth use?

A It varies. The concentration ratio, as we call it, that we use is a function of how much the customers that are served by this digital loop carrier use their phone. The greater the customer usage, the lower the concentration ratio, ultimately a one-to-one relationship, that is, no concentration. So the concentration level that we choose is a function of traffic volume at the customer's end.

Different pieces of equipment -- or let me say it differently. Different manufacturers allow different increments of concentration. Older forms allow either no concentration or two-to-one concentration, that is, two loop distribution pairs for each channel in the loop feeder facilities. Newer forms of digital loop carrier offer more possibility in terms of concentration

choices.

Q Meaning that they allow higher concentrations, such as perhaps four to one or six to one?

A Not only higher, but different increments, like perhaps three to one in some cases.

Q And just to put it in layman's terms, the reason that engineers concentrate traffic is that they can safely assume that not everyone picks up the phone at the same time?

A That's the notion. So you gather traffic measurements to see what coincidental amount of calling there is, that is, calling at the same time, and figure out secondarily, you know, what level of no dial tone customers will allow before they're unhappy with the service, and then match up the customer's expectation and the calling volumes and choose a concentration ratio accordingly.

Q By choosing that concentration ratio, BellSouth can make the most efficient use of its feeder network and save on costs; is that right?

A Yes, I mean, that's idea. There is a cost to achieve that efficiency, and that is the cost of the digital loop carrier equipment itself.

Q It is the digital loop carrier equipment that performs the concentration function?

A That's right. So if you want to save on the loop feeder part, then you're going to have to buy digital loop carrier equipment. So as with most decisions that you make in engineering the network, there are puts and takes. You save in some parts. You make costs in other parts.

Q In BellSouth's transport network, it does not assume a one-to-one correspondence between loops and transport channels, does it?

A In some cases we do. But again, based on my earlier answer, where customer calling is high enough, there's a demand for that one-to-one relationship.

MR. ELLENBERG: De, this is William. I'm sorry to break in and disrupt the deposition, but I've just -- Jeremy, I've just gotten a message from the deposition of John Ruscilli that there is some disagreement, and they're asking if you can possibly fax a copy of Commissioner Davidson's statement on the scope of this proceeding.

MR. SUSAC: Yes, I can.

MR. ELLENBERG: Okay. The fax number --

MR. SUSAC: Are you going to give it to me, Will?

MR. ELLENBERG: Yes. 404/614-4054.

MR. SUSAC: Can you briefly -- we can go off

the record.

(Discussion off the record.)

BY MR. O'ROARK:

Q Mr. Milner, let's just wrap up on this transport point. You said that there were some cases where you would have one transport channel for every loop serving a central office. I assume that's the exception and not the rule.

A No, actually it's -- it's not rare, let me put it that way. I don't know the exact incidence. Older forms of digital loop carrier such as that that we referred to a long time ago as SLC-96 could only have a choice of either one to one or two to one. So it's not uncommon in those cases to have that one-to-one relationship. Where calling per line is very high, for example, in business settings, you'll also see a one-to-one concentration.

So it's certainly not rare, but we do -- you know, I admit that we've got other options in terms of concentration ratios, so we try to match up the concentration ratio with the amount of expected demand, except as limited by the vintage of the equipment.

Q We may have gotten off kilter a bit. I'm trying to talk about transport, say, for example, between BellSouth Wire Center 1 and BellSouth Wire

Center 2.

A Oh, I'm sorry. I did misunderstand what you were asking me.

Q I had shifted to transport. I don't think you caught that from my question.

With the transport network, say, between those two wire centers, you wouldn't expect to have a one-to-one correspondence between loops and transport channels, would you?

A For handling BellSouth's traffic?

Q For handling the traffic going to and from BellSouth's retail and wholesale customers served by that wire center.

A Let me take a run at your question. I'm not quite sure I understand. Ordinarily BellSouth would not connect the loops for its retail customers directly to transport to haul them to another central office except for, you know, foreign exchange or foreign central office center. But I don't think that's what you're getting at.

Q No. I'm sorry. I'm not assuming that there is an EEL or a private line type circuit. I'm just assuming that we're talking about transporting traffic for calls that are made and received.

A Okay.

Q And then going back to the question, there's not typically a one-to-one correspondence between loops and transport channels?

A You're exactly right, and let me explain why. Now we're talking about trunking between two different switches, and again, sort of the same role that the digital concentrators play is now performed by switching, and that is to allow fewer interoffice channels than there are loops. In other words, since any of those trunks can be used virtually by any customer, then there's concentration that the switches perform.

So, no, there's not a direct relationship of -- there's certainly not a one-to-one relationship between the loops in a switch and the interoffice transport that would convey calls to other switches.

Q You need fewer interoffice transport channels than you have loops; right?

A Generally. Of course, again, that's a function of the amount of coincident traffic from all the loops. And the amount of trunking that you put in place is often governed by the general size of the trunk groups, that is, the smaller the -- or let me say it this way. The lower the amount of traffic volume, the more trunks you have to put in to achieve a certain level of

blockage, but it normally does not approach a one-to-one relationship. So there are fewer message trunks between switches than there are loops on either end of those two switches.

MR. O'ROARK: Thank you, Mr. Milner. That's all I have.

MR. ELLENBERG: Thank you, Mr. O'Roark.

MS. SUSAC: And from my understanding, that concludes the depositions for today.

MR. ELLENBERG: And if it wasn't clear from the stipulations, we will read and sign.

(Deposition concluded at 4:27 p.m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, MARY ALLEN NEEL, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter transcribed under my supervision; and that the foregoing pages numbered 1 through 19 are a true and correct transcription of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, or relative or employee of such attorney or counsel, or financially interested in the action.

DATED THIS 10th day of January, 2004.

MARY ALLEN NEEL, RPR
2894-A Remington Green Lane
Tallahassee, Florida 32308
(850) 878-2221

STATE OF GEORGIA)

CERTIFICATE OF OATH

COUNTY OF FULTON)

I. the undersigned authority. certify that W. Keith Milner personally appeared before me at 675 W Peachtree St and swore or attested to being the witness deposed via telephone on Feb 6, 2004 and to have responded truthfully in the matter.

WITNESS my hand and official seal in the City of Atlanta. County of Fulton. State of Georgia. this 6th Day of February. 2004.

Brenda S. Staughter
Notary Public, Rockdale County, Georgia
My Commission Expires July 29, 2006

Brenda S Staughter
Notary Public
State of GEORGIA

Personally known ✓ OR Produced Identification _____.

Type of identification produced _____.

FLORIDA PUBLIC SERVICE COMMISSION

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.
_____/

TELEPHONE DEPOSITION OF:	W. KEITH MILNER
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
DATE:	Friday, February 6, 2004
TIME:	Commenced at 4:06 p.m. Concluded at 4:27 p.m.
LOCATION:	Gerald L. Gunter Building Room 309 2540 Shumard Oak Boulevard Tallahassee, Florida
REPORTED BY:	MARY ALLEN NEEL, RPR Notary Public, State of Florida at Large

ACCURATE STENOTYPE REPORTERS, INC.
2894-A REMINGTON GREEN LANE
TALLAHASSEE, FLORIDA 32308
(850) 878-2221

APPEARANCES:

TAMI L. AZORSKY, ESQUIRE, McKenna, Long & Aldridge, LLP, 1900 K Street, Washington, D.C. 20007, appearing on behalf of AT&T Communications of the Southern States, LLC.

WILLIAM ELLENBERG, ESQUIRE, and JAMES MEZA, ESQUIRE, BellSouth Telecommunications, Inc., c/o Nancy H. Sims, 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301-1566, appearing on behalf of BellSouth Telecommunications, Inc.

DE O'ROARK, ESQUIRE, MCI WorldCom Communications Inc. (GA), Six Concourse Parkway, Suite 600, Atlanta, Georgia 30328, appearing on behalf of MCI WorldCom Communications, Inc. (GA).

JORGE CRUZ-BUSTILLO, ESQUIRE, Supra Telecom, 2620 S.W. 27th Avenue, Miami, Florida 33133-3005, appearing on behalf of Supra Telecom.

JEREMY SUSAC, ESQUIRE, FPSC General Counsel's Office, 240 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, appearing on behalf of the Commission Staff.

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S T I P U L A T I O N S

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this case; and that reading and signing was not waived.

IT IS ALSO STIPULATED that any off-the-record conversations are with the consent of the deponent.

PROCEEDINGS

MR. SUSAC: My name is Jeremy Susac. I'm with the Commission. I believe all -- have all the parties to this particular deposition been parties to the previous deposition as well?

MS. AZORSKY: Yes.

MR. SUSAC: Okay. So I'm not going to read this "Good morning, Counsel," by the Commissioner. And I assume that everyone has stipulated to the same -- agrees to the same stipulations.

MR. ELLENBERG: Okay.

MR. SUSAC: Okay. I'll skip that as well.

All right. Is the witness present? Mr. Milner?

THE WITNESS: I'm here.

MR. SUSAC: Okay. Are you sworn in, or do we have to swear you in?

MR. ELLENBERG: He has not been sworn.

MR. SUSAC: Okay. Why don't we go ahead and do that right now.

Thereupon,

W. KEITH MILNER

was called as a witness and, having been first duly sworn by Brenda Slaughter, a notary public in the State of Georgia, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SUSAC:

Q All right. Before I begin, Mr. Milner, I just want to let you know that if you need me to restate a question or you do not understand a question, just let me know, and I will either restate the question or try to rephrase it.

A Okay. Thank you.

Q All right. Basically, Mr. Milner, will you please state your full name for the record.

MR. ELLENBERG: Jeremy, do we want to take appearances first?

MR. SUSAC: I assume it -- is it the same appearances that -- okay. Let's just take appearances.

MR. ELLENBERG: This is William Ellenberg, E-l-l-e-n-b-e-r-g, for BellSouth. I'm here with the deponent.

MR. O'ROARK: De O'Roark with MCI.

MS. AZORSKY: Tami Azorsky with AT&T.

MR. CRUZ-BUSTILLO: Jorge Cruz-Bustillo, Supra Telecom.

MR. MEZA: And Jim Meza with BellSouth.

BY MR. SUSAC:

Q All right. Mr. Milner, will you please state

your name for the record?

A Yes. My name is W. Keith Milner, M-i-l-n-e-r.

Q Mr. Milner, by whom are you employed?

A I'm employed by BellSouth Telecommunications, Inc.

Q Could you give me a brief synopsis of your educational background?

A Certainly. My highest level of education is an M.B.A., which I attained from Georgia State University in Atlanta, Georgia.

Q And have you previously filed testimony before the Commission?

A Yes, I have.

Q And is it in this docket, 030851, the mass market docket?

A Yes, that's correct.

Q Do you have copies of your testimony and exhibits that you filed with you today?

A I do.

MR. SUSAC: All right. Staff has no questions. I'll leave it to the parties, in no particular order.

De, would you like to go first? Do you have any questions for Mr. Milner?

MR. O'ROARK: I do have a few.

CROSS-EXAMINATION

BY MR. O'ROARK:

Q Good afternoon, Mr. Milner.

A Good afternoon, sir.

Q The BACE model assumes one CLEC switch per LATA; is that correct?

A Yes, it does. Well, let me say it this way. It assumes one per LATA unless there's demand for greater than one, yes, in which case it produces additional switches.

Q And as described your direct testimony, the BACE model assumes either that the CLEC serves the customers in a given wire center through a collocation arrangement or through an EEL arrangement; is that right?

A That's correct.

Q And the BACE, which is spelled B-A-C-E, model selects one or the other, depending on which it determines to be preferable?

A That's right. It looks for the lower of the costs and chooses some mix of that.

Let me explain that it does not choose exclusively all collocation or all so-called EELs, E-E-L-s. Instead, it figures out on a central office by central office basis which is more economic, so you may

wind up with a mix.

Q Does BACE assume that DS-0 EELs are available?

A It does, yes.

Q And is a DS-0 EEL a combination of a UNE-L loop at the DS-0 level and a DS-0 transport?

A Yes. The transport is in multiples of DS-0. They can be aggregated into higher level transmission systems, but, yes.

Q So the transport could either be at the DS-0 level or the DS-1 level, whichever makes the most sense?

A You're correct, yes.

Q Okay. Now, can you please look at your direct at page 7?

A Okay. I'm there.

Q There at -- actually, beginning at line 1 through the rest of that partial paragraph, you describe equipment that a CLEC might choose to install at his collocation; is that right?

A Yes, sir.

Q Than you note that the CLEC might install a POT bay?

A Correct.

Q And also might install DLC equipment for aggregating and concentrating the individual loops?

A Correct.

Q You mention the possibility of a DSLAM, and you also talk about multiplexing equipment.

A Correct.

Q What does the BACE model assume when an EEL is used with respect to the equipment -- strike that. That's not a good question. Let me lay out a scenario for you so that we can talk about it.

A Okay.

Q Do you have a scratch piece of paper in front of you?

A I do, yes.

Q Let's assume that we've got a residential customer. This is the same scenario I set out a little earlier today for Mr. Pate. And assume that the customer is served by BellSouth Wire Center 1.

A Okay.

Q And then we've got BellSouth Wire Center 2 where the CLEC is collocated.

A All right.

Q And then we've got the CLEC switch.

A I'm with you, yes.

Q All right. And let's talk about the EEL that might be provided that would go from the customer premises to BellSouth Wire Center 1 connected to BellSouth Wire Center 2 where the collocation is.

A Okay.

Q What does the BACE model assume as to CLEC equipment that would be located in BellSouth Wire Center 1, if any?

A It presumes that there would be no CLEC equipment in Wire Center 1.

Q So BellSouth will allow the CLEC to make use of the BellSouth Equipment necessary to provide the combination of loop and transport?

A Yes. BellSouth would connect the unbundled loop to interoffice transport at the DS-1 or higher level, and would transport those extended loops to Wire Center 2 and ultimately to the CLEC's collocation arrangement.

Q And you said DS-1 or higher level transport. But again, that could be in increments of DS-0s?

A Yes. In other words, we would fill up a DS-1, and then we would open another and fill that one up, and so on and so forth.

Q How many DS-0s are allowed to feed into a UNE transport? Put another way, does BellSouth allow concentration?

A Our EEL offering does not provide for concentration. It provides a one-to-one relationship between the unbundled loop and the transport part. In

other words, one loop would occupy one DS-0 channel in the DS-1, so there's no concentration in that part.

Q Going back to page 7 of your testimony, in that paragraph we were discussing, you mention that the CLEC might use DLC equipment for aggregating and concentrating loops. Do you recall that?

A Yes, sir.

Q So the CLEC can do that from its collocation, but BellSouth does not provide equivalent concentration if an EEL is being used?

A That's true to a point. The CLEC may or may not choose to use digital loop carrier equipment to concentrate the individual loops. It may do the same thing that BellSouth is offering, that is, simply -- well, let me say it a different way. Avoid the cost of the digital loop concentrator and just let there be a one-to-one relationship between the loops and the channels on the DS-1.

Q Does BellSouth use concentration within its own feeder network?

A This is going to sound a little picky. The answer is no, we don't. We use digital loop carrier equipment to concentrate in our loop distribution part, and then those concentrated loops are conveyed to our central office over high-speed transmission links at

DS-1 or higher.

Q Let me make sure I understand what you're saying. Does the concentration in the BellSouth loop plant take place at the remote terminal?

A It does, yes.

Q So that you can have fewer channels within the feeder portion of the network than you have in the distribution portion of the network?

A That's exactly right.

Q What level of concentration does BellSouth use?

A It varies. The concentration ratio, as we call it, that we use is a function of how much the customers that are served by this digital loop carrier use their phone. The greater the customer usage, the lower the concentration ratio, ultimately a one-to-one relationship, that is, no concentration. So the concentration level that we choose is a function of traffic volume at the customer's end.

Different pieces of equipment -- or let me say it differently. Different manufacturers allow different increments of concentration. Older forms allow either no concentration or two-to-one concentration, that is, two loop distribution pairs for each channel in the loop feeder facilities. Newer forms of digital loop carrier offer more possibility in terms of concentration

choices.

Q Meaning that they allow higher concentrations, such as perhaps four to one or six to one?

A Not only higher, but different increments, like perhaps three to one in some cases.

Q And just to put it in layman's terms, the reason that engineers concentrate traffic is that they can safely assume that not everyone picks up the phone at the same time?

A That's the notion. So you gather traffic measurements to see what coincidental amount of calling there is, that is, calling at the same time, and figure out secondarily, you know, what level of no dial tone customers will allow before they're unhappy with the service, and then match up the customer's expectation and the calling volumes and choose a concentration ratio accordingly.

Q By choosing that concentration ratio, BellSouth can make the most efficient use of its feeder network and save on costs; is that right?

A Yes, I mean, that's idea. There is a cost to achieve that efficiency, and that is the cost of the digital loop carrier equipment itself.

Q It is the digital loop carrier equipment that performs the concentration function?

A That's right. So if you want to save on the loop feeder part, then you're going to have to buy digital loop carrier equipment. So as with most decisions that you make in engineering the network, there are puts and takes. You save in some parts. You make costs in other parts.

Q In BellSouth's transport network, it does not assume a one-to-one correspondence between loops and transport channels, does it?

A In some cases we do. But again, based on my earlier answer, where customer calling is high enough, there's a demand for that one-to-one relationship.

MR. ELLENBERG: De, this is William. I'm sorry to break in and disrupt the deposition, but I've just -- Jeremy, I've just gotten a message from the deposition of John Ruscilli that there is some disagreement, and they're asking if you can possibly fax a copy of Commissioner Davidson's statement on the scope of this proceeding.

MR. SUSAC: Yes, I can.

MR. ELLENBERG: Okay. The fax number --

MR. SUSAC: Are you going to give it to me, Will?

MR. ELLENBERG: Yes. 404/614-4054.

MR. SUSAC: Can you briefly -- we can go off

the record.

(Discussion off the record.)

BY MR. O'ROARK:

Q Mr. Milner, let's just wrap up on this transport point. You said that there were some cases where you would have one transport channel for every loop serving a central office. I assume that's the exception and not the rule.

A No, actually it's -- it's not rare, let me put it that way. I don't know the exact incidence. Older forms of digital loop carrier such as that that we referred to a long time ago as SLC-96 could only have a choice of either one to one or two to one. So it's not uncommon in those cases to have that one-to-one relationship. Where calling per line is very high, for example, in business settings, you'll also see a one-to-one concentration.

So it's certainly not rare, but we do -- you know, I admit that we've got other options in terms of concentration ratios, so we try to match up the concentration ratio with the amount of expected demand, except as limited by the vintage of the equipment.

Q We may have gotten off kilter a bit. I'm trying to talk about transport, say, for example, between BellSouth Wire Center 1 and BellSouth Wire

Center 2.

A Oh, I'm sorry. I did misunderstand what you were asking me.

Q I had shifted to transport. I don't think you caught that from my question.

With the transport network, say, between those two wire centers, you wouldn't expect to have a one-to-one correspondence between loops and transport channels, would you?

A For handling BellSouth's traffic?

Q For handling the traffic going to and from BellSouth's retail and wholesale customers served by that wire center.

A Let me take a run at your question. I'm not quite sure I understand. Ordinarily BellSouth would not connect the loops for its retail customers directly to transport to haul them to another central office except for, you know, foreign exchange or foreign central office center. But I don't think that's what you're getting at.

Q No. I'm sorry. I'm not assuming that there is an EEL or a private line type circuit. I'm just assuming that we're talking about transporting traffic for calls that are made and received.

A Okay.

Q And then going back to the question, there's not typically a one-to-one correspondence between loops and transport channels?

A You're exactly right, and let me explain why. Now we're talking about trunking between two different switches, and again, sort of the same role that the digital concentrators play is now performed by switching, and that is to allow fewer interoffice channels than there are loops. In other words, since any of those trunks can be used virtually by any customer, then there's concentration that the switches perform.

So, no, there's not a direct relationship of -- there's certainly not a one-to-one relationship between the loops in a switch and the interoffice transport that would convey calls to other switches.

Q You need fewer interoffice transport channels than you have loops; right?

A Generally. Of course, again, that's a function of the amount of coincident traffic from all the loops. And the amount of trunking that you put in place is often governed by the general size of the trunk groups, that is, the smaller the -- or let me say it this way. The lower the amount of traffic volume, the more trunks you have to put in to achieve a certain level of

blockage, but it normally does not approach a one-to-one relationship. So there are fewer message trunks between switches than there are loops on either end of those two switches.

MR. O'ROARK: Thank you, Mr. Milner. That's all I have.

MR. ELLENBERG: Thank you, Mr. O'Roark.

MS. SUSAC: And from my understanding, that concludes the depositions for today.

MR. ELLENBERG: And if it wasn't clear from the stipulations, we will read and sign.

(Deposition concluded at 4:27 p.m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, MARY ALLEN NEEL, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter transcribed under my supervision; and that the foregoing pages numbered 1 through 19 are a true and correct transcription of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, or relative or employee of such attorney or counsel, or financially interested in the action.

DATED THIS 10th day of January, 2004.

MARY ALLEN NEEL, RPR
2894-A Remington Green Lane
Tallahassee, Florida 32308
(850) 878-2221

STATE OF GEORGIA)

CERTIFICATE OF OATH

COUNTY OF FULTON)

I, the undersigned authority, certify that W. Keith Milner personally appeared before me at 675 W Peachtree St and swore or attested to being the witness deposed via telephone on Feb 6, 2004 and to have responded truthfully in the matter.

WITNESS my hand and official seal in the City of Atlanta. County of Fulton. State of Georgia. this 6th Day of February. 2004.

Brenda S. Slaughter
Notary Public, Rockdale County, Georgia
My Commission Expires July 29, 2006

Brenda S Slaughter
Notary Public
State of GEORGIA

Personally known ✓ OR Produced identification _____.

Type of identification produced _____.

FLORIDA PUBLIC SERVICE COMMISSION

CONFIDENTIAL

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 28
COMPANY/FPSC Staff/Supra
WITNESS: DAN-D
DATE: 02/24 - 27/04

EXHIBIT NO. 28

DOCKET NO.: 030851-TP

WITNESS: David A. Nilson

PARTY: Supra

DESCRIPTION:

1. February 11, 2004, Deposition Transcript – **CONFIDENTIAL** – Document No. 02441-04.

PROFFERING PARTY: STAFF

I.D. # DAN-D

REDACTED

28

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.

_____ /

ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE A CONVENIENCE COPY ONLY AND ARE NOT THE OFFICIAL TRANSCRIPT OF THE HEARING, THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

DEPOSITION OF:	DAVID A. NILSON
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
PLACE:	Gerald L. Gunter Building Room 309 2540 Shumard Oak Boulevard Tallahassee, Florida
TIME:	Commenced at 9:30 a.m. Concluded at 1:05 p.m.
DATE:	Wednesday, February 11, 2004
REPORTED BY:	JANE FAUROT, RPR Chief, Office of Hearing Reporter Services FPSC Division of Commission Clerk and Administrative Services (850) 413-6732

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 28
COMPANY/ FPSC Staff / Supra
WITNESS: DAN-P
DATE: 02/24-27/04

APPEARANCES:

JIM MEZA, ESQUIRE, BellSouth Telecommunications, Inc., c/o Ms. Nancy H. Sims, 150 South Monroe, Street, Suite 400, Tallahassee, Florida 32301-1556, appearing on behalf of BellSouth Telecommunications, Inc.

SUSAN MASTERTON, ESQUIRE, Sprint-Florida/Sprint Communications Company, P. O. Box 2214, Tallahassee, Florida 32316-2214, appearing on behalf of Sprint-Florida/Sprint Communications Company.

KEN WOODS, ESQUIRE, MCI WorldCom Communications, Inc.(GA), Six Concourse Parkway, Suite 600, Atlanta, Georgia 30328, appearing on behalf of MCI WorldCom Communications, Inc.(GA).

LORI REESE PATTON, ESQUIRE, Womble Carlyle Law Firm, 3300 One Wachovia Center 301 South College Street, Charlotte, North Carolina 28202, appearing on behalf of AT&T Communications of the Southern States, LLC.

JORGE L. CRUZ-BUSTILLO, ESQUIRE, 2620 SW 27th Avenue, Miami, Florida 33133-3005, representing Supra Telecommunications and Information Systems.

ADAM TEITZMAN, ESQUIRE, FPSC General Counsel's Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, appearing on behalf of the Commission Staff.

MICHAEL TWOMEY, ESQUIRE, appearing on behalf of AARP.

WITNESS

NAME:	PAGE NO.
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EXHIBITS

NUMBER:	ID.
(No exhibits.)	

S T I P U L A T I O N

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this cause; and that reading and signing was not waived.

IT IS ALSO STIPULATED that any off-the-record. conversations are with the consent of the deponent.

PROCEEDINGS

(Witness sworn by the Notary.)

MR. TEITZMAN: I would like to start off by taking appearances this morning. If someone would like to start us off.

MR. CRUZ-BUSTILLO: Jorge Cruz-Bustillo, Supra Telecom.

MR. TWOMEY: Mike Twomey on behalf of AARP.

MS. MASTERTON: Susan Masterton representing Sprint.

MR. MEZA: Jim Meza on behalf of BellSouth.

MS. PATTON: Lori Patton on behalf of AT&T.

MR. WOODS: Ken Woods on behalf of MCI.

MR. TEITZMAN: Is that everyone? I believe so. Adam Teitzman on behalf of the Commission, and I am joined this morning by Doris Moss, Commission staff.

I would also like to note now that everyone has agreed to the standard stipulations.

DIRECT EXAMINATION

BY MR. TEITZMAN:

Q Mr. Nilson, is it correct that you have been sworn in this morning?

A Yes, sir.

Q Okay. I will now begin with a series of just preliminary questions, and then I will move into the more substantive questions.

Good afternoon, Mr. Nilson. Good morning, sorry. Whoops, wrong part of the day.

A Hello.

Q As I stated, my name is Adam Teitzman and I'm an attorney with the Florida Public Service Commission. I am going to be taking your deposition on behalf of the Commission this morning. And this deposition is being taken in Docket Number 030851. Before we begin, I just want to let you know, Mr. Nilson, that if you do not understand a question or would like me to restate a question, or rephrase a question, please just let me know and I will be happy to do so this morning.

Mr. Nilson, could you please state your full name and address for the record?

A David Nilson, my business address is 2620 Southwest 27th Avenue, Miami, Florida, 33133.

Q And by whom are you employed?

A Supra Telecom.

Q Could you repeat that, we didn't catch that?

A Supra Telecom.

Q Thank you. Could you please provide a brief synopsis of your educational background?

A Yes, sir. I'm a high school graduate. I attended approximately three years of engineering school where I studied chemical and electrical engineering. Since then I have taken approximately 20 hours of additional credit courses in the

subjects of electrical engineering and computer design and computer engineering.

Q And have you previously filed testimony before the Florida Public Service Commission?

A Yes, sir.

Q And did you file testimony in Docket 030851-TP?

A Yes, sir.

Q Do you have copies of your testimony and exhibits with you this morning?

A Yes, I do.

Q And is it correct that you are adopting the testimony of another Supra witness?

A Yes, it is. That would be the testimony of David Stahly.

Q All right, thank you. I'm now going to move into the more substantive questions this morning. Mr. Nilson, does Supra provide mass market service in Florida?

A Yes.

Q And these are customers that Supra would like to retain, correct?

A Absolutely.

Q And, in addition, this service is provided predominately with UNE-P, correct?

A Yes.

Q Has Supra filed a notice to terminate service in any

of the markets which they are currently serving?

A Not that I am aware of.

Q Would this mean that Supra is likely to continue providing service?

A It's our intention to continue providing service. Obviously, business decisions, economic decisions yet unseen and unheard could potentially effect that in the future, but right now it is our intention to continue providing service.

Q And is it correct that the TRO requires that a self-provisioning candidate be one who is likely to continue to provide service?

A Yes.

Q So Supra is likely to continue to provide service, however, is it Supra's position that you can choose to discontinue service at any time?

A I'm not sure I understand the question.

MR. CRUZ-BUSTILLO: To the extent that you are -- I would just want to object to the previous question to the extent that it calls for a legal conclusion of what the TRO says or does not say. I just wanted to put that on the record. Go ahead.

MR. TEITZMAN: Well, I asked you previously if the TRO required that the self-provisioning candidate be one who is likely to continue to provide service.

MR. CRUZ-BUSTILLO: Well, that's what I wanted to

object to.

MR. TEITZMAN: Oh, no, objection noted. I'm moving on. I was just trying to rephrase the previous question.

MR. CRUZ-BUSTILLO: Okay.

MR. TEITZMAN: My previous question, the one you asked me to rephrase basically focuses on that term likely. Should we take this to mean that Supra may discontinue service at a later time?

MR. CRUZ-BUSTILLO: Are you asking for what the FCC meant when they used that term?

MR. TEITZMAN: I'm asking what Supra's interpretation of that term would be.

MR. CRUZ-BUSTILLO: I want to object on the record, that calls for a legal conclusion. Without objection --

MR. TEITZMAN: I will move on, it's okay. The objection is noted, and actually the question will be withdrawn.

BY MR. TEITZMAN:

Q I would like to refer you to Exhibit PAT-5.

A Yes, sir.

Q Does Supra have collocation arrangements in any of the markets deemed not impaired by BellSouth in their Exhibit PAT-5?

A I think we have a disconnect. My copy of PAT-5 is a self-provisioning trigger list.

MR. CRUZ-BUSTILLO: I'm looking at the revised Exhibit PAT-5, the revision of January 30th that you had in your e-mail. Is that the one you are talking about, Adam?

MR. TEITZMAN: Yes.

MR. CRUZ-BUSTILLO: Okay. Go ahead, Mr. Nilson. Ask for clarification.

THE WITNESS: I don't understand his question based on this exhibit. Could you repeat it?

BY MR. TEITZMAN:

Q The question was does Supra have collocation arrangements in any of the markets deemed not impaired by BellSouth in Exhibit PAT-5?

A I'm trying to figure out -- is there a better definition of the geographic area of the zone? Is that as defined in another exhibit?

Q Let me check. It looks like -- is this PAT-4, has a map of Florida?

A I mean, I could answer that question based on specific central offices or rate centers, something of that nature, but I'm not sure what this particular zone is defining.

Q Do you have a copy of PAT-4?

A I do.

Q Does that assist you?

A Yes, it does. Let's take these one at a time. Daytona Beach, Supra has some end office collocation in the

Daytona Beach zone defined. I can't tell precisely the boundary of the Fort Lauderdale zone. I'm thinking that -- I'm thinking the answer to that is probably yes, in the Fort Lauderdale Zone 1 area, and in the Zone 2 area, as well. The Jacksonville zones listed on PAT-5 are -- I don't see them marked with a legend on PAT-4. I'm not sure exactly where they are.

Q They are there. They don't appear to be shaded in. So that is Zone 2.

A I mean, if it would help, we have collocations in the Jacksonville Clay Street office, whichever one of those two zones that might fall into.

Q And the Miami area? Mr. Nilson, I'm sorry, did you hear what I previously asked you?

A Yes. I'm trying to fathom the Zone 1 and Zone 2 from this map. They are very small areas. I would say definitely in Miami Zone 2, and based on where I think Miami Zone 1 is located, I'm going to say right now I don't think so. I don't think we do. Orlando. I don't know that we are in either Orlando zone, although we do have collocation in the Orlando Colonial Central Office, so if that happens to fall into one of those two zones, then I would change my answer. In Pensacola the answer is yes. Palm Beach, the answer is yes in Zone 1. Again, I'm having a little trouble telling the difference.

Q Could you repeat that answer into the microphone or

into the phone. We didn't catch it.

A In West Palm Beach, I'm trying to determine which areas, which zone. From what I can tell from the map, we do not have collocation in West Palm Beach Zone 1, we do in West Palm Beach Zone 2. That completes all the zones you asked me about?

Q I believe so. I'm going to ask you to hold on to that for a second. And now with reference to EELs, does Supra have EELs in any of those markets?

A No. We have not yet been able to get any EELs delivered to our switch.

Q Now, in your experience, on the average how long does it take to secure a collocation arrangement?

A About five years.

Q If this Commission were to find a particular market not impaired, would you recommend transitional access to unbundling switching?

A If the Commission found what, sir?

Q To find a particular market not impaired, would you recommend transitional access to unbundled switching?

A No.

MR. CRUZ-BUSTILLO: Can you clarify that question, Adam? Do you mean that if they find it, so they are going to take UNE-P away, whether or not there should be a transitional period, or just no transition at all and just go straight to

UNE-L and eliminate UNE-P?

MR. MEZA: This is Jim Meza with BellSouth. I'm going to object to Jorge trying to rehabilitate his witness' --

MR. CRUZ-BUSTILLO: No, no, no. I didn't understand the question, Jim.

MR. MEZA: Well, I don't necessarily think it depends on whether or not you understand the question. If the witness doesn't understand it --

MR. CRUZ-BUSTILLO: I don't think he understood the question, either.

MR. TEITZMAN: Well, note your objection.

MR. MEZA: Okay, thank you.

MR. CRUZ-BUSTILLO: So, Adam, was that your question? Was the question that if you find that it is not impaired and you are going to eliminate UNE-P, the question is should there be a transitional period for CLECs or should there just be no transitional period on day one? Is that your question?

MR. TEITZMAN: No, the question was what it was, which was if this Commission were to find a particular market was not impaired, would Mr. Nilson recommend transitional access to unbundled switching? And I believe he answered it, so I would like to just move on. And I would note he answered it fairly quickly, he didn't sound confused.

THE WITNESS: Well, in asking me that question you didn't make a statement that UNE-P was going to disappear. Was

that part of the question?

BY MR. TEITZMAN:

Q That was not part of the question, but I think it certainly would have been what the Commission has to do if we find a market is not impaired.

A Well, in that case, then, I would change my answer to say there should be a transitional period, because obviously the mass of customers that we have could not instantly be converted either by Supra or by BellSouth in actual real world conditions. So to not have some port of transition period means that we put customers in some sort of distress.

Q Okay. And how long would that transitional -- how long do you believe that transitional period should continue?

A Well, based on the current throughput we are seeing on conversions from UNE-P to UNE-L, BellSouth could be fully involved in making Supra's conversions for the next year before they can start on converting other CLECs. So I think it would be unreasonable to expect it could be done in under two years.

Q If a market was found not impaired, in other words, if UNE-P was then eliminated, and certain wire centers within that market had three self-providers with existing collocation arrangements, would there be a need for transitional access to unbundled switching in those wire centers?

A Yes.

Q Mr. Nilson, is it correct in your rebuttal testimony

you identified a Supra switch in the North Dade Golden Glades wire center?

A That's correct.

Q And does that switch serve mass market customers?

A Yes, sir.

Q And I'm going to refer you back to that PAT-4, again. Is that switch serving customers in the market defined as Miami on BellSouth Exhibit PAT-4?

A Yes. It is roughly collocated on the Dade/Broward County line. It is in the northern part of Dade County, but it serves the entire -- it serves all of LATA 460, it also serves Daytona, Orlando, Pensacola, Jacksonville.

Q Now, is it your testimony that Supra should not be counted as a trigger in this market because Supra is not able to serve all of its UNE-P customers in that particular market?

A Yes.

Q Does Supra have any other switches serving Florida customers?

A There's an extension. We have taken part of the switch that is located in Golden Glades and we have installed some of that switch remotely in the Miami Red Road office. It is still the same main switch.

Q And this main switch is used to provide service to residential customers, correct?

A Yes, sir. We have additional switches that have not

yet been installed.

Q Does Supra currently market voice service to residential customers in Florida?

A Yes.

Q And this offering is advertised on the Internet, correct?

A Yes, among other places.

Q Could you identify those other places?

A Well, I'm sure there is television ads in certain markets, radio spots occasionally, I'm not sure if we are currently doing any newspaper advertising or not. I think that there might be some newspaper advertising and possibly direct mail.

Q Are Supra's residential offers designed to appeal to all revenue segments?

A I'm not sure I understand that question.

Q Let me rephrase the question. Does Supra's residential offers target specific revenue segments?

A Again, I'm still not sure I understand what you are looking for. As far as I can see, no, the package is essentially what it is. It is a full featured package offered at a lower price than other carriers offer the equivalent package. And beyond that I'm not sure that it is targeted towards anyone other than someone who wants to save money.

Q In your Internet advertisement for residential

service, does it indicate that this service is being provided using UNE-P?

A I don't know. I would be surprised that it did.

MR. TEITZMAN: Could we go off the record for one second?

MR. CRUZ-BUSTILLO: Sure.

(Off-the-record discussion.)

MR. TEITZMAN: We are going to go back on the record.

BY MR. TEITZMAN:

Q Mr. Nilson, you have access to the Supra website?

A Yes, sir.

Q I'm going to restate or re-ask that previous question now that you have access to the website. Does the Internet advertisement indicate that the service is being provided using UNE-P?

A I don't see that it does. These packages are provided under UNE-P as well as under UNE-L and resale, depending on the specific regulatory situation we find ourselves in with a given customer.

Q So the Internet advertisements don't indicate any method of entry in particular?

A I don't think they do, no.

Q It is the option of the company, of Supra, to choose what method of delivery to use, correct?

A We are at this point in time able to offer it three

different ways. It hasn't always been our choice. There have been times when we have been constrained to one method or another, but at this point in time the answer to your question is yes.

Q Does Supra currently market voice services to small business customers?

A Yes.

Q And does Supra have an offering called Total Solution Plus?

A Yes.

Q And that offering is being advertised on the Internet, as well?

A Yes.

Q Do you have access to that page?

A Yes.

Q Mr. Nilson, just let me know when you are on the site.

A I'm there.

Q Does this offering, Total Solution Plus, target any specific business customer, small, large?

A Well, I'm not sure what your own personal definition of large is, but these packages target businesses with one, two, and three lines. We tend to consider those small businesses.

Q So this offering is targeted toward small business

customers?

A Typically -- I mean, typically when a customer purchases POTS service, it is not a large business. These are not services delivered over T-1; this is plain old telephone service.

Q And is this being marketed throughout Florida?

A Yes, sir. Throughout Florida. This is being marketed in both the BellSouth territory and Sprint territory.

Q And, once again, does this advertisement state what method of service will be provided?

A No. No, that is not something that we convey to our customers.

Q And, in fact, it is the option of the company to choose what method of delivery to use?

MR. CRUZ-BUSTILLO: Objection, asked and answered.

Q With regard to Total Solution Plus, was the question.

A Well, certainly it is an economic decision. The exception to that really would come when we have a customer who wants to convert to one of these packages, and that customer also has DSL. In that case we don't have a choice, we are constrained to offer service to that customer on resale.

Q Is it your testimony that your switch can potentially serve 28,000 lines?

A At this time, that or slightly more, yes.

Q Is it also your testimony that Supra only serves

6,000 lines using this switch, correct?

A That is old testimony. I believe today's number is somewhere closer to 13,000. We have over 20,000 lines provisioned on the switch, but about 13,000 loops have been cut over to it.

Q Now, it is your position that Supra -- is it your testimony that Sprint has stated that its ILEC will continue to offer unbundled local switching, correct?

A That is our understanding of their testimony.

Q And it is your testimony that BellSouth has taken a different position, correct?

A Yes. I mean, I think BellSouth's position regarding offering UNE-P has been quite consistent since 1996, they never wanted to offer it. They spent as much time as they could delaying the implementation of it. We didn't get the ability to order UNE-P until June of 2001, even though we had it in our contracts back to '97. I don't think they have changed their policy, they have never wanted to offer UNE-P.

Q Could you identify where BellSouth has made that statement in this proceeding?

A I would go back to the initial round of contract arbitrations after the creation of the act and point you to Public Service Commission Order 980810, where the issue of offering UNE-P service to duplicate existing BellSouth products was adjudicated. And specifically in the Commission's order

that quote the testimony of Mr. Jerry Hendrix saying that he had allowed UNE-P to get into the AT&T contract by mistake and he would love to have it removed from the contract. And then they go on for some period talking about why forcing BellSouth to provide UNE-P, you know, is a taking of their property. The Commission saw otherwise and voted against the BellSouth position, but it has been that consistent position all along.

Q The question asked with regards to this proceeding, is there anywhere in this proceeding where BellSouth has stated that position?

MR. CRUZ-BUSTILLO: Stated which position, Adam?

MR. TEITZMAN: Well, the position that we are talking about. If an area is found to be not impaired by this Commission, that BellSouth will no longer offer UNE-P in the market?

MR. CRUZ-BUSTILLO: Isn't that what the whole proceeding is about?

MR. TEITZMAN: I'm asking you if there is a point in this proceeding where BellSouth has stated that?

MR. CRUZ-BUSTILLO: Go ahead and answer the question. Go ahead, Dave, to the extent that you have knowledge of all the voluminous amount of testimony that has been filed.

THE WITNESS: I mean, I don't know that I could point you to a citation, but to my understanding that is exactly what the outcome of this proceeding is intended to be if there is a

finding of impairment. Now, whether that means that unbundled local switching is no longer available in that particular geographic area, or whether its rate is going to be inflated from the current rate to a market rate, that distinction, I'm not clear on what BellSouth's intention is going to be in that area.

MR. TEITZMAN: We are going to go off the record real quick.

(Off the record.)

BY MR. TEITZMAN:

Q Mr. Nilson, is it your testimony that the FCC requires that the CLEC must also be operationally able and willing to provide service to all customers in a market?

A Yes.

Q Can you identify a paragraph in the order where that is found?

A Would you like me to do it now or at a break?

MR. CRUZ-BUSTILLO: Adam, he has opened the TRO. He is looking at it right now.

A All right. Are you ready.

Q I sure am.

A That would be in Paragraph 499, about halfway down the paragraph where they are talking about carriers and self-provisioned switches. And the cite, "Must also be operational ready and willing to provide service to all

customers in a designated market. They should be capable of economically serving the entire market as that market is defined by the state commission. This prevents counting switches that provide services that are desirable only to a particular segment of the market."

Q Mr. Nilson, have you reviewed the errata the FCC released on September 17th, 2003?

A I'm not sure if I have or not.

Q Do you have a copy of the errata released September 17th, 2003?

A No, I don't.

Q Give me one second, I'm just flipping through my TRO right now. (Pause.)

Mr. Nilson, this might be an odd question, but could you tell me which number sentence you just read from 499?

A That would be Sentences 6, 7, and 8, the way I counted them.

Q Are you aware that Sentences 7 and 8 were deleted in the FCC errata?

A No, I'm not.

Q If these sentences were deleted, would they change your understanding of that paragraph?

A Sentence 6 is still in place, according to what you just told me, and Sentence 6 says they must also be operational ready and willing to provide service to all customers in a

designated market.

Q Are you aware that in the errata the FCC formed a new sixth sentence by combining the ninth sentence with the old sixth sentence? And I can read that new sixth sentence to you. First, let me ask you, were you aware that they modified the sixth sentence?

A No.

Q I'm going read the new sixth sentence to you. Please let me know if this changes your position. "Identified carriers providing wholesale service should be actively providing voice service used to serve the market and be operationally ready and willing to provide wholesale service to all competitive carriers in the designated market."

MR. CRUZ-BUSTILLO: And before my latest answer, I just want to object for the record that this all calls for legal conclusions, and, you know, that is usually post-hearing brief arguments on the law that lawyers do. But to that extent, go ahead, Mr. Nilson.

THE WITNESS: Well, the sentence that you read is fundamentally different than sentence six in the initial release of the order, but it does fall back on the same operational words, "must also be operationally ready and willing to provide service." They just defined the service as being a wholesale service rather than what I read to be an end user service in the original order. It modifies, obviously,

the order, but the operationally ready and willing to provide service is still a part of it.

MR. CRUZ-BUSTILLO: And, Adam, you know, I haven't seen that paragraph, and obviously the CLEC community will address that. I just don't want what happens sometimes in these proceedings is where the staff cites to a lay witness on an interpretation of law and say that is the company's position, and then ignore the legal case law and legal construction arguments about how to interpret FCC orders in a post-hearing brief, and then use a statement from a lay witness in a depo for the company's position on the law.

So to that extent, providing -- if we are getting information from the witness, that's fine. I just think that, again, the legal interpretation of this paragraph and the errata sheet should be -- the reliance should be on post-hearing legal arguments by lawyers in their post-hearing brief.

MR. MEZA: Adam, this is Jim Meza. If I can ask Jorge a question, it may limit some of my deposition questions. If I may.

MR. TEITZMAN: Well, I would like to -- let's go off the record.

(Off the record.)

MR. CRUZ-BUSTILLO: Go ahead, Adam.

MR. TEITZMAN: I think I still need to ask the

question.

BY MR. TEITZMAN:

Q Mr. Nilson, in light of the FCC errata and the changes in Paragraph 499, does your testimony that the CLEC must also be operationally able and willing to provide services to all customers in that market, does that testimony change?

A My understanding of what you read to me, that the sentence changed to reflect operationally ready and willing to provide service to all wholesale customers.

MR. CRUZ-BUSTILLO: And, Adam, I just want to put on the record another lawyer just walked into the room, Steve Sheegan (phonetic), and so I just wanted that on the record.

Q It's to provide wholesale service to all competitive providers in the designated market.

A Right. Which, in essence, is the definition of a wholesale offering. And I understand your representation that the errata has changed that paragraph. And I'm not, as I'm sitting here, ready and able to cite a different paragraph that reflects end user customers. I wasn't expecting this.

Q Okay. We can move on. Does Supra have any -- I know we identified one switch, does Supra have any switches in Florida that are idle?

A What is your definition of idle? Installed but not being used?

Q Installed but not being utilized.

A No.

[redacted]

Q Mr. Nilson, do you know if Supra responded to the staff data requests that were sent to all certificated CLECs and AAVs in the State of Florida?

A Yes.

MR. CRUZ-BUSTILLO: Adam, this is Jorge. I didn't raise this before, and the thing about it is to the extent that the information about where we are going to put the switches is confidential, can we have that sealed?

MR. TEITZMAN: Yes. We can send you a copy of the transcript to send back with the notations on what needs to be confidential.

MR. CRUZ-BUSTILLO: Right, just those lines. Obviously there are some, but we wouldn't want that to get out.

MR. TEITZMAN: Okay. Mr. Nilson, I'm sorry, I'm going to repeat that question, because I'm not sure what your answer was.

BY MR. TEITZMAN:

Q Did Supra respond to the staff data requests sent to all certificated CLECs and AAVs in the State of Florida?

A Okay. That is different than what you asked me. I know I have worked on three different ones. I don't know if all three have been sent to staff, or whether just two of them have been sent to staff at this time.

MR. CRUZ-BUSTILLO: And, Adam, I don't want to jump in here again. You are not talking about staff's data requests directly to Supra, you are talking about the generic one you sent to everybody?

MR. TEITZMAN: That's correct. I am discussing the --

MR. CRUZ-BUSTILLO: I don't know that those have been filed. I know that we are working on them to answer them, because for some reason I didn't get them, so --

MR. TEITZMAN: Hold on. We will take this off the record real quick, because this is important.

(Off-the-record discussion.)

MR. TEITZMAN: We can go back on the record now.

BY MR. TEITZMAN:

Q Mr. Nilson, if a carrier is serving mass market

customers with the use of their old switch, then does this identify them as deploying actual competitive facilities serving the mass market?

A Say that one more time.

Q Sure. If a carrier is serving mass market customers with the use of their own switch, then in your opinion does this identify them as deploying actual competitive facilities serving the mass market?

A Well, it certainly does in terms of switching facilities. It may not say anything one way or another about loop or other delivery methods to the customer or network infrastructure, but certainly from the standpoint of switching facilities.

Q Based on that criteria with regards to switching, would Supra be considered a trigger candidate in the Miami area?

A No.

Q In the Orlando area?

A No.

Q In the Jacksonville area?

A No.

Q Would Supra be considered a candidate in any other market in the State of Florida?

A No.

Q Mr. Nilson, did any other Supra representative --

sorry, I got ahead of myself. Mr. Nilson, did you perform any calculations with respect to the BellSouth BACE Model to verify its accuracy?

A Not at this time.

Q Did any other Supra representative perform calculations with respect to the BACE Model to verify its accuracy?

A I don't know.

Q According to your rebuttal testimony, and I'm going to point you to Page 44, Lines 5 through 9 of your rebuttal testimony, you assert that the BACE Model does not account for a CLEC's real world experience with BellSouth.

A Yes. What page was that?

Q I'm sorry, it is Page 44, Lines 5 through 9.

A Yes.

Q Is it your understanding that such a requirement is set forth in the TRO with respect to the model?

A My testimony is that BellSouth has the burden of proof to convince this Commission that they should overturn the national finding of impairment in regards to unbundled switching, and they put forth a model to do so that doesn't reflect the issues and problems, we, as a CLEC who has actually installed switching and is in the process of cutting massive numbers of customers on a daily basis, are running into. The model doesn't reflect what happens in the real world.

Q Did you perform any tests with the BACE Model to determine its relationship to an actual CLEC?

A In what regard? I mean, where my testimony details things that we are currently suffering under that aren't in the BACE Model, in that regard I would say yes. But your earlier question was have we done a complete analysis to determine its validity, and I can't say we have done that. So we are somewhere between never having looked at it and being a complete master and being able to understand it fully. Does that help answer your question?

Q No. Could you identify for me, are there any tests that you can identify -- have you done any testing of the BACE Model?

A No, that we haven't done. What we have done is we have tried to understand what it says and tried to look for in it certain key issues that are causing us problems. And they are not there. That is what this paragraph addressed.

MR. TEITZMAN: That will complete staff's questions. I thank you, Mr. Nilson. What other parties have questions for Mr. Nilson?

MR. MEZA: This is BellSouth. We have questions for Mr. Nilson.

MR. TEITZMAN: So right now I just have BellSouth, correct?

MS. PATTON: AT&T may have some follow-up questions.

MR. TEITZMAN: So the line right now is BellSouth first, then AT&T possibly. Jim, how many questions do you think you have?

MR. MEZA: I probably have about an hour and fifteen minutes, hour and a half.

MR. TEITZMAN: We are going to take a break for ten minutes so the court reporter can get some things together before we go on for another hour. Is that okay with everyone, a ten-minute break?

UNIDENTIFIED SPEAKER: Sure.

MR. MEZA: Adam, can you admonish the witness not to talk to his counsel during the break, since he is still under oath?

MR. TEITZMAN: I think you just did, but --

MR. CRUZ-BUSTILLO: We don't need to do that, Jim.

(Recess.)

MR. TEITZMAN: All right. We are going to get started and we are now on the record.

CROSS EXAMINATION

BY MR. MEZA:

Q Mr. Nilson, this is Jim Meza with BellSouth. Is it Supra's intention to go out of business?

A No, sir.

Q I'm sorry, I couldn't hear you. What was your answer?

A No, sir.

Q Thank you. Now, Supra offers basic residential service to Florida consumers, is that correct?

A Define basic residential service, please.

Q Dial tone.

A I'm sorry.

Q Dial tone.

A Are you referring to a specific product type?

Q Yes.

A Dial tone with no features?

Q Correct.

A We have customers with that product, I am not certain if this -- yes, we do.

Q Okay. And Supra also offers products in between basic dial tone, basic service, all the way to a product that offers unlimited local and long distance, is that correct?

A Yes.

Q And that is all for residential customers, is that correct?

A No, we have similar products for business customers, as well.

Q Right. Is there any specific segment of the market, the residential market, that Supra does not want to have as a customer?

A Well, with the possible exception of people whose

credit history shows they chronically don't pay their bills, no.

Q Okay. Now, you are adopting Mr. Stahly's direct testimony, is that correct?

A Yes.

Q Why is Mr. Stahly not testifying at the hearing?

A It's my understanding he was unavailable for deposition at the time, at this particular time, and it couldn't be moved. And in order for me to represent him in the deposition, someone at the Commission said I would have to also adopt his testimony for the hearing.

Q Okay. Now, you testified in response to staff's questions that Supra currently has one switch in the Golden Glades office providing service to mass market customers, is that correct?

A Yes.

Q And you also have a remote switch based off of that Golden Glades switch in the Red Road office, is that correct?

A Yes.

Q What is the capacity of both of those switches today?

A As you know, capacity of a telephone switch is proportional to the usage patterns of its customers. In saying that, I would give you an answer between 28,000 and 30,000 POTS lines.

Q Okay. And where are those, where is Supra serving

residential customers through those switches?

A From Pensacola to Perrine.

Q And today I believe you testified that there is approximately 13,000 customers being served from those two switches?

A I believe that is today's number, yes.

[redacted]

[redacted]

Q Okay. Now, when did Supra purchase these switches?

MR. CRUZ-BUSTILLO: Objection to relevance, but go ahead and answer the question.

A In June of 2001, around the time we had the final order requiring you to collocate them.

Q And how much did you pay for them?

A Specifically, which switches are we talking about?

MR. CRUZ-BUSTILLO: Objection to relevance, go ahead.

Q The switches referred to that are currently providing service to mass market customers?

A And are we talking about the purchase price of the equipment or all the ancillary equipment as installed?

Q The purchase price of the equipment.

[redacted]

[redacted]

Q And did you purchase these two switches from Donivar (phonetic)?

A Yes.

Q Okay.

A Donivar is a marketing, if you will, they are a retailer for Lucent.

[redacted]

Q Okay. Now, you also testified that Supra has four switches currently in storage, is that correct?

A That's correct.

Q Are these the switches that Supra purchased from the Windstar bankruptcy?

A That is correct.

Q And why is it that Supra has not installed these switches?

A Access to capital.

[redacted]

MR. CRUZ-BUSTILLO: And, Jim, again, I'm going to ask that when this is done that all of this be confidential.

MR. MEZA: Sure.

MR. TEITZMAN: Could I interrupt real quick? This is Adam at the Commission.

MR. MEZA: Instead of having to stop this over and over again for confidential, what we will do is, like I said earlier, at the end we will send a transcript to you, Jorge, and you can identify all things in the transcript which should be marked confidential and then they will be such.

MR. CRUZ-BUSTILLO: Thank you.

BY MR. MEZA:

Q Mr. Nilson, do you remember what you testified to was the replacement value of the four switches currently in storage in October of 2002?

MR. CRUZ-BUSTILLO: Objection to relevance.

A In what proceeding, Mr. Meza, there were several?

Q Yes. Do you remember filing an affidavit in the Hinkle matter wherein Supra attempted to post a bond in the amount of $17 million using the switches as the collateral, the four switches that are currently in storage?

A I do, but I wouldn't characterize that testimony necessarily as being the replacement cost of the switches. Instead, what we represented was the actual Lucent documents from Lucent to Windstar and from Lucent to -- I believe it was

U.S. LEC was the original purchase of two of the switches. And we showed the actual Lucent paperwork and the valuation that Lucent put on the equipment.

Q So you don't have a recollection of submitting an affidavit wherein you testified that the replacement value of the four switches was $54 million?

A I remember the affidavit and I'm telling you where the number came from. It came from the Lucent quotations to the original customers.

Q I'm not asking the source of the information, Mr. Nilson, I'm just asking if you remember making that attestation?

MR. CRUZ-BUSTILLO: He already answered the question.

A Again, yes, I do.

Q And do you also remember claiming that the list price of the four switches was approximately 72 million?

A Yes.

[redacted]

A Yes.

Q What are those benefits?

A The cost of operation, particularly in terms of

network efficiency, the difference between fixed costs of network facilities versus the per minute per mile charge that is imposed on UNE-P, and then obviously both from a UNE-P and a UNE-L perspective there is the collection of access revenues, reciprocal compensation, and other regulatory fees that are part of both UNE-P and UNE-L.

Q Does Supra believe that facilities-based competition is preferable to UNE-P?

A When you have sufficient customers to justify it, yes.

Q Does Supra believe that the FCC desires to migrate CLECs toward facilities-based competition?

A At what point in time?

Q Today.

A Based on -- you know, based on a reading of the TRO, I would say yes. If we were to go back to the First Report and Order, I would say no. So, that answer changes with time and administrations.

Q Supra has pending a complaint against BellSouth at the FCC relating to the hot cut process, is that correct?

A I'm not sure that is precisely correct, no.

Q Are you saying that Supra has withdrawn its complaint against BellSouth at the FCC?

A Absolutely not.

Q All right. Then what is your problem with my

question?

A I believe our complaint is regarding the nonrecurring charges you're levying to convert a customer from UNE-P to UNE-L, rather than the specific process itself.

Q So it is your testimony that nowhere in the complaint does Supra complain about any of the process involved in migrating a loop?

A No. Quite honestly, that is discussed in the complaint. But the complaint, as I understand it, is a cost versus contract issue.

Q Well, at the time that Supra filed its FCC complaint, do you believe that at that time it was the FCC's desire to migrate CLECs toward facilities-based competition?

A Yes.

Q Now, is it Supra's goal to transition all of its resale and UNE-P customers to UNE-L?

A Yes, and all the new customers we win in the meantime.

Q Okay. Supra is currently in bankruptcy, is that correct?

A Yes.

Q How much in capital contribution has Supra spent on its UNE-L network since it has been in bankruptcy?

A I don't have that information in front of me.

Q Do you have any understanding of how much money has

been spent?

A I have an understanding of how much money has been spent, I don't have it calendarized to know what was pre and post.

Q Then how much has Supra spent on its UNE-L network?

[redacted]

Q Has Supra used BellSouth's batch hot cut process?

A We have used the process you call a batch hot cut process.

Q And how many times have you used it?

A I don't have a count of that.

Q More than ten?

A We use it every day. We probably use it -- [redacted] we probably do it at least three times a day.

Q All right. So it is your testimony that you use BellSouth's batch hot cut process approximately three times a day?

A Correct. But I'm not sure it is relevant to call it a batch hot cut process, because really all we are doing is submitting a spreadsheet to you for due date negotiation. And then once that is done we write 100 individual LSRs, and they all flow through the system separately. So I'm not real sure what is batch about it other than the preorder due date negotiation.

Q Do you work with the BellSouth project manager to negotiate due dates?

A Supra does. I don't personally.

Q Now, isn't it true that Supra only orders uncoordinated cuts?

A Yes, I think that is true.

Q And would you agree with me that BellSouth and Supra have worked together to coordinate and perform Supra's migration from UNE-P to UNE-L?

A I'm a little uncomfortable about what you mean by the word coordinate. The rest of it, my answer would be yes. But throwing the coordinate in there kind of throws me off.

Q Okay. But you wouldn't have an objection to the general statement that BellSouth has worked with Supra regarding its process of migrating its lines from UNE-P to UNE-L, correct?

A That's correct.

Q All right. And, in fact, Supra and BellSouth have had at least three face-to-face meetings regarding UNE-L conversion in 2003, is that right?

A Three out of the seven or eight that we requested, yes.

Q Okay. And if Supra has problems or questions with the process, or with a migration, is it Supra's policy and practice to notify BellSouth and attempt to find a resolution

to the issue?

A I'm not sure I understand you. Can you be a little more specific?

Q Sure. Is it Supra's practice when it experiences a problem using either the individual hot cut process or the batch process, to notify BellSouth of the problem and work with BellSouth to attempt to find a resolution to it?

A Well, yes, we pretty much have to. When we have a customer that has a working line that gets cross-connected to what your technicians have already verified is a working switch and they can't receive service, we can't go out and repair the outside plant. Therefore, we must work with your people. Oftentimes it is not working with the people involved in the batch hot cut, because you consider that customer cutover. We end up working with the repair department as an after conversion repair issue with CWINs as opposed to actually being integrated into the hot cut.

Q Now, how many UNE-L conversions did BellSouth perform at the time Mr. Stahly filed his direct testimony, which I believe was December 4th of 2003?

A I would have to go check our records to make sure.

Q Do you disagree with his testimony that it was approximately 2,400?

A It depends when in December he filed his numbers. I know by the end of December we were a bit closer to 6,000.

Q He filed it on December 4th of 2003.

A I don't really have any reason to doubt that number was accurate on the day he filed his testimony.

Q All right. So from December 4th, 2003, until today, isn't it true that Supra has converted over 10,000 lines to its own switch?

A Yes.

Q And what is the most amount of hot cuts done in a single day for Supra, do you know?

A Are you talking total or on a per office basis?

Q Both.

A I don't know if you have exceeded the number that was in Mr. Ainsworth's testimony on a single office, that would be the Perrine office of 264. I don't know if you have bettered number since then.

Q What about total?

A I'm not 100 percent sure what the max number per day was. Obviously, we have got issues based on notification dates and not necessarily knowing, or not necessarily crediting you as having done the conversion on the same day you're crediting yourself as having done it. So, I really don't know how to answer your question accurately.

Q I mean, it is a simple question. Do you or do you not know the amount of hot cuts, the most amount of hot cuts that were performed in a single day?

A No.

Q Now, do you believe the hot cut process is a simple process?

A I think it has been made incredibly more complex than it needs to be.

Q I don't think that answers my question. Do you believe that -- according to Supra, do you believe that the hot cut process is essentially a simple process?

A Can you define simple? I mean, should I use my own --

Q Sure, use your own understanding of the word simple.

A Well, where the customer is served by home run copper or where the customer is served on UDLC equipment, the answer is unequivocally yes, it is a simple process. Where the customer is served by integrated digital loop carrier, it can be nightmarish in its complexity. Not that it necessarily needs to be.

Q And, isn't it a fact that you have advised the FCC that the cost to BellSouth of actually doing a hot cut is approximately a dollar?

A Yes.

Q Now, if Mr. Neptune testified that he believed that the conversion from UNE-P to UNE-L is complex, would you disagree with his testimony?

A Mr. Neptune is discussing the issues that he is

forced to deal with in getting our UNE-P customers served by IDLC to his loop when he makes that statement.

Q And how do you know that is what he is referring to?

A Because I've got it sitting here in front of me.

Q So it is based simply upon your reading of the testimony?

A Mr. Neptune and I meet and discuss issues probably almost on an hourly basis every day of the week. I'm familiar with what he put into his testimony.

Q Now, is it Supra's position that the Verizon New York batch cut process is acceptable?

A It is certainly superior to what we have in Florida.

Q Are you familiar with Supra's responses to BellSouth's first set of interrogatories?

A I may be, yes.

Q And do you know if Supra identified Verizon of New York as a batch cut process that Supra believes is acceptable or superior to BellSouth?

A We have certainly identified it as superior to BellSouth.

Q All right. Is it acceptable to Supra?

A Probably. I just honestly don't know, Mr. Meza, if I personally feel it is acceptable.

Q Well, what about Supra?

A I think Supra would rather have that than what we

have.

Q Would Supra still be objecting to BellSouth's batch cut process if it adopted the Verizon New York process?

A And implemented it?

Q And implement it.

A Because, you know, in the implementation details is where we all find the problems that cause us to lose customers, et cetera, during the conversion process. It is really the implementation, the measurement of the implementation that matters to anyone.

Q So what is your answer?

A I thought that was my answer.

Q No. I asked you if BellSouth adopted the Verizon New York batch cut process and implemented it, would Supra object in this proceeding?

A I don't know. I think if you implement it the way it is designed that we might not, but until we saw the implementation, you know, I couldn't be affirmative.

Q Okay. Now, are you familiar with BellSouth's mass migration process identified in Mr. McElroy's surrebuttal testimony?

A I don't think I am.

Q Are you familiar with the mass migration process at all?

A When you talk about the mass migration process, can I

make an assumption that it is the process that BellSouth used to convert about 360,000 of our customers?

Q No. Do you have Mr. McElroy's testimony in front of you or handy?

A No, I do not.

Q If there was a process that BellSouth offered that allowed a CLEC to automatically receive the benefits of UNE-L pricing on the date that it submitted an order for a large amount of UNE-L conversions, and then BellSouth would perform the cuts as it could and as it deemed appropriate, would Supra be objectionable to that process?

A Well, that is an interesting theory, and let me give my answer in a couple of parts. Certainly the offer to enjoy the financial benefits of having the conversion in exchange for allowing BellSouth to have some sanity in terms of scheduling it seems like a reasonable trade-off. It doesn't necessarily answer the fundamental operational problems we have, particularly with conversion of IDLC customers, losing dial tone and other anomalies, three, four, five dispatches of BellSouth technicians to repair damage that occurred during the cut. And then having Supra getting billed for BellSouth's repairing its own problems. None of that is addressed in the proposal. So there is two pieces. I mean, certainly the financial aspect is a reasonable trade-off in terms of giving you more time, but the quality of the process is still lacking.

Q Now, would you agree with me that the Florida Public Service Commission must find no impairment when three or more unaffiliated competing carriers are each serving mass market customers in a particular market with the use of their own switches?

MR. CRUZ-BUSTILLO: And before he answers, let me just say objection, calls for a legal conclusion.

MR. MEZA: Jorge, let me make sure I understand your objection. Are you stating that Mr. Nilson is unqualified and unable to interpret the TRO as he has done in his testimony?

MR. CRUZ-BUSTILLO: No. My objection is it calls for a legal conclusion and then he goes ahead and answers.

BY MR. MEZA:

Q Then go ahead, Mr. Nilson.

A Could you repeat the question one more time?

Q Sure. Would you agree that the FPSC must find no impairment when three or more unaffiliated competing carriers each is serving mass market customers in a particular market with the use of their own switches?

A No, I do not.

Q Why not?

A Because the TRO also addresses other issues in Paragraph 503 where it addresses exceptional sources of impairment, which allows the Florida Commission to view aspects and actions of the ILECs operating in the State of Florida as

offering impairment over and above the three self-provisioning carrier triggers. There is also the issue of whether or not those three self-provisioning carriers have the capacity, willingness, and ability to service the market as modified by the staff attorney's question just a little while ago.

Q All right. Do you have the TRO in front of you?

A I do.

Q Can you read the first sentence of Paragraph 501?

A I will read it, but that wasn't the paragraph I referred you to which contradicts this statement. Would you like me to read it?

Q I'm asking you do you disagree with the first sentence of 501?

A No, because 501 specifically addresses subject to limited exceptions set forth below, which is what I referred to, Paragraph 503, that a state must find no impairment when three or more unaffiliated competing carriers each is serving mass market customers in a particular market with the use of their own switches.

Q And 503 deals with exceptional sources of impairment, is that right?

A Correct.

Q And has the FCC stated that is only in exceptional circumstances, is that right?

A That is what Paragraph 504 says.

Q Okay. Now, would you also agree with me that the Commission must approve and implement a batch cut process in this proceeding?

MR. CRUZ-BUSTILLO: Objection, go ahead.

A Yes.

Q And isn't it a fact that Supra has not proposed any batch cut process for the FPSC to approve and implement in this proceeding?

A There are a lot of rejoinders in that sentence. We have proposed before the FCC. I don't know that we have put anything into writing in this particular proceeding.

Q So you are unaware of whether or not Supra in any of its testimony has offered a specific batch cut process for the FPSC to adopt, is that your testimony?

A No.

Q Sir, do you or do you not know whether or not Supra has proposed a specific batch cut process for the FPSC to adopt in this proceeding?

Mr. Nilson, are you still there?

A Yes.

Q Would you like for me to repeat my question?

A Yes, would you, please.

Q Yes. Do you know if Supra has proposed a specific batch cut process for the FPSC to adopt and implement in this proceeding?

A I believe our testimony is more focused on modifying sections of the existing BellSouth process rather than replacing the complete process start to finish.

Q So the answer would be no?

A Well, if you take our comments as modifications to your existing process, I think the answer would be yes.

Q So only through your criticism of the BellSouth process do you believe that you have proposed something for the FPSC to adopt, is that correct?

MR. CRUZ-BUSTILLO: Object to form.

A Well, Mr. Meza, like you said earlier, we have been attempting to work with BellSouth. And rather than force a completely alien procedure on you, we have discussed ways that your procedure could be improved.

Q Okay. So the answer to my question is no, Supra has not presented --

MR. CRUZ-BUSTILLO: Objection, mischaracterizing of his testimony.

MR. MEZA: Well, I'm not even finished asking the question, Jorge. I don't see how I can be mischaracterizing when I haven't even completed the question. Let me start over.

MR. CRUZ-BUSTILLO: He gave you his answer, but go ahead, ask your question.

BY MR. MEZA:

Q The answer to my question is that Supra has not

presented an independent proposal for the Commission to adopt and implement relating to the batch cut process?

MR. CRUZ-BUSTILLO: Objection to form.

A And the last time I answered that question I said, yes, we have, in the form of corrections to the existing process.

Q I will ask my question again.

MR. CRUZ-BUSTILLO: Objection, asked and answered. Let's move on.

MR. MEZA: Excuse me, Jorge. That is not an appropriate response, and I will ask my question again. Your objection is noted.

MR. CRUZ-BUSTILLO: I will direct my witness not to answer because it has been asked and answered.

MR. MEZA: You are going to object your witness not to answer on the grounds that it has been asked and answered, is that correct?

MR. CRUZ-BUSTILLO: Go ahead and ask your question again and let's see if it has been asked and answered again. Go ahead.

MR. MEZA: Okay.

MR. CRUZ-BUSTILLO: Go ahead.

MR. MEZA: Are you going to object?

MR. CRUZ-BUSTILLO: The witness is waiting to answer a question.

MR. MEZA: Okay. I didn't know if you were instructing him not to answer.

MR. CRUZ-BUSTILLO: No, he is waiting for you to pose a question.

MR. MEZA: Okay.

BY MR. MEZA:

Q Mr. Nilson, has Supra presented its own batch cut process in this proceeding?

A Yes.

Q Where?

A In our testimony we have described the things that must be changed with BellSouth's current process to make it functional.

Q And does your testimony address every single aspect of what is necessary in a batch cut process?

A Our testimony addresses what is wrong with the current process. We did not additionally add additional verbiage to our testimony to describe what is right with it.

Q Okay. What solutions did you present in your testimony to the problems that you perceive with the BellSouth process?

A Our largest issues surround the imprecision surrounding the go ahead notice notifications and the fact that BellSouth will cut a loop making customer service nonfunctional, and then call that an after conversion repair

issue, throwing the solution of a failed hot cut into the CWINs center.

Q So if BellSouth fixes those perceived problems --

MR. CRUZ-BUSTILLO: Jim, let him finish.

MR. MEZA: I'm sorry.

THE WITNESS: We also address the -- well, I probably shouldn't say artificial, they may be fundamentally real, but the low limits of 150 lines per office per day that you imposed on our cut process. What we touched on, but weren't aware of as a problem in our testimony, but have since become aware of it is that the so-called batch hot cut process, which at best we thought was a batch prequalification, is now, since we have filed testimony, not even a batch prequalification. BellSouth is taking the spreadsheets, negotiating a due date, but refusing to prequalify any of the 99 lines that we put in a spreadsheet. So the situation has gotten worst since we filed our testimony rather than better in that regard. I mean, that addresses our fundamental issues with the current process. We would rather work with you on improving the process than to try to tell you from where we stand how to do it soup to nuts.

I'm sorry, there is one other additional issue that I didn't mention, and that concerns the inefficiencies and ignoring of other technological solutions to the problem of integrated digital loop conversions.

BY MR. MEZA:

Q Finished?

A I believe I am.

Q And you believe that the identified problems that you just testified about is Supra's hot cut process?

A I never said that.

Q Well, I thought your testimony was that the criticism about BellSouth's process was Supra's batch cut process that they want the Commission to adopt in this proceeding?

A That wasn't my testimony.

Q Okay. What is your testimony, Mr. Nilson? And I am going to ask the question again, because now you are really confusing me.

A My testimony is that those issues reflect the things that need to be modified with BellSouth's existing process.

Q And other than that, other than what you have identified, Supra was not presented any other proposal, correct?

A That's correct. Like I said, we sought to work with you to improve the process.

Q So, the only option the Commission has in this proceeding is to, according to Supra, adopt a BellSouth process as modified by Supra's request, is that right?

MR. CRUZ-BUSTILLO: Objection.

A I mean, I don't know that that is their only option at all. But if they are only listening to the comments of

Supra and BellSouth, maybe it could be characterized that way.

Q Okay. Thank you.

A There are other carriers who have opinions.

Q Now, you believe that under the TRO, the ILECs have the burden to prove that competition in the mass market will not be impaired by the removal of UNE-P, is that correct?

A Absolutely, because the FCC has already found that the CLECs are impaired. It is your burden to prove to this state commission that the FCC is wrong.

Q Now, you also believe that there are other sources of impairment other than the hot cut process that the ILECs have to cure before the FPSC can find no impairment, is that right?

A Yes.

Q What are these other sources of impairment?

A Certainly the lack of quality in the hot cut process is part of it. Your interpretation of -- and here I have to apologize, I know Commissioner Davidson said this isn't a TELRIC proceeding, but your interpretation of what the PSC found the TELRIC costs was to do this conversion is different from our interpretation of that, and that is one of the issues clearly identified in the FCC's finding of impairment. And I will point out to you, also, that the FCC in their analysis did not permit what all the other sources of impairment was. They she stopped short at saying that the hot cut process itself is so egregious, that that alone is enough to find a national

finding of impairment.

Q Now, assume that BellSouth proves the trigger case for a particular market segment or area?

A Yes.

Q Can you Commission then find no impairment?

A Yes.

Q Yes?

A Yes.

Q Okay. So also assume that the Commission approves and implements a batch cut process that compels ILECs to provision batch cuts on a timely basis with minimal service disruption and at a reasonable cost-based rate. Can the FPSC then find no impairment?

A Well, again, Mr. Meza, the devil is in the details. If they order you to do that, and you don't implement it in that manner and come back and say that is the best we can do, the answer is yes. It all has to do with the quality of your implementation and your willingness to obey the Florida Public Service Commission.

Q So as long as we obey the Commission orders, the FPSC can find no impairment, is that right?

A There are a lot of ifs in that statement, sir.

Q I think there was only one.

MR. CRUZ-BUSTILLO: Jim, let me just jump in here and say that several of your questions could be characterized as

calling for a legal conclusion. I don't want to interrupt your flow, but I would say that -- I will place on the record an objection for your line of questioning calling for a legal conclusion.

MR. MEZA: Fair enough. Objection noted.

MR. CRUZ-BUSTILLO: Go ahead. I don't want to interrupt.

BY MR. MEZA:

Q Mr. Nilson, would you like me to ask my question again?

A What was the question?

Q The question is as long as BellSouth complies with the Commission orders, the Commission can find there to be no impairment, is that right?

A As long as BellSouth complies with the Commission order that we haven't seen yet, you want me to conclude that they have to find no impairment. No, I don't think I can agree with that statement. There are -- like I said, I pointed out points in the TRO where there is exceptional sources of impairment. The issues of the wholesale providers, loop provisioning, access to collocation, cross-connects between carriers, these are also issues that also have to be folded in. So I'm not clear whether addressing all of that was encompassed in what you said this PSC order would contain or not. So I want to make sure that it is clear that these are things that

can lead to a finding of impairment.

Q Okay. So even if the PSC approves and implements a process that required BellSouth to provision batch cuts in a timely basis with minimal service disruption and at a reasonable cost-based rate, you don't believe that the PSC can find no impairment?

MR. CRUZ-BUSTILLO: Objection.

A You are going to have to repeat that question. I know you want me to say something that I probably don't want to say.

Q Okay. Presume with me that the Florida Public Service Commission approves and implements a batch cut process pursuant to the TRO that says the following: BellSouth must provision batch cuts on a timely basis with minimal service disruption and at a reasonable cost-based rate. Under your interpretation of the TRO, can the Commission then find no impairment?

MR. CRUZ-BUSTILLO: Objection.

A I mean, it sounds like you are asking for an all or nothing conclusion across the entire state, and that is forcing me to say no to your question. That there still can be findings of impairment for lack of collocation, delays in cost for loop provisioning, the inability to get competitive LEC cross-connects. This is what I said earlier. I mean, there are still other issues to be addressed.

Q Mr. Nilson, do you recognize there must be a minimal interruption of service in a hot cut?

A Yes, that is inevitable.

Q What is your understanding of the world seamless?

A Seamless is when the customer doesn't know anything happened to them.

Q Right. Given your recognition that in the hot cut process there must be a minimal interpretation of service, is it your testimony that a hot cut process cannot be seamless?

A No. But --

Q I'm sorry, I didn't mean to interpret.

A But perhaps you place certain definitions -- your company puts certain definitions on hot cuts that makes it so. For example, if you did hot cuts between the hours of 12:00 midnight and 6:00 in the morning, the answer would be different than if you tried to do them between noon and 6:00 in the evening.

Q I'm not following your answer. Are you suggesting it can only be seamless if the hot cut is performed from 12:00 a.m. to 6:00 a.m.?

A No. I was addressing your question that since there is some minimal amount of time when the copper wire is cut and the jumper is being moved to another switch, which obviously could be prewired. But given that there is going to be some interruption while the copper wire is cut and moved, I don't

think that affects the definition of seamless.

Q Okay. So even with the --

A I wasn't finished.

Q I'm sorry.

A And I understood your question to be that since that that interruption was there, that it would be impossible to make a seamless conversion. That is where I brought in the issue of hours that it is done at.

Q Okay. Would you agree with me that a hot cut can be seamless even with a minimal disruption of service?

A Absolutely, without a doubt.

Q All right. Thank you. Now, would you consider an interruption of service for less than five minutes to be seamless?

A When you say an interruption in service for five minutes, I assume you are only addressing the ability of the customer so converted to make an outgoing call.

Q That's correct.

A No, because it doesn't address the ability of that customer to receive a call, and that is the issue of the timeliness of the go ahead notice.

Q All right. Well, has Supra ever used a definition of a hot cut that defined the interruption of service to be usually fewer than five minutes?

A We probably have, yes.

Q Okay. And you now disagree with that characterization?

A No, because I asked you to qualify that, as to whether it included bidirectional traffic to the customer. And your definition of that was UNE directional traffic, outgoing traffic only. And my statement is that is not enough. That customer has to have bidirectional traffic for a reasonable amount of time, and five minutes wouldn't be considered to be a reasonable amount of time.

Q Okay. So you believe that from the moment of the cut until the time period that you port the number on your end, it cannot exceed five minutes, is that right?

A That is not what I said.

Q All right. Then what you are saying? I'm still confused by your testimony, Mr. Nilson.

A You asked me if a five minute interruption of service was reasonable, and I qualified that to include restoration of bidirectional traffic, and said yes, that would be reasonable.

Q Okay.

A That a five-minute interpretation of outgoing traffic only with an unspecified return from incoming traffic is not acceptable.

Q How does bidirectional traffic become established after a hot cut?

A Well, we sit and wait until you send us a go ahead

notice and then we have to issue the third of three notices to impact to finally activate the port of that number.

Q Okay. So you are now -- so what you are telling me is that in order for it to be a seamless process, the cut has to be made and you have to port the number to your switch all within five minutes?

A No, that is not what I said.

Q How can it be bidirectional traffic? How can there be bidirectional traffic if you don't port the number to your switch?

A Oh, there can't be.

Q Right. So --

A You asked me if five minute was reasonable. We are getting all tangled up in this, but your original question was is five minutes reasonable, and my only qualification of it was that it had to be bidirectional traffic. Is there another number that is also reasonable? Perhaps.

Q Something greater than five minutes?

A Perhaps, yes.

Q Okay. Now, for the actual cut itself for UNE directional traffic, would you agree that an interruption of service of less than five minutes is acceptable?

A Well, are we talking coordinated cuts or noncoordinated cuts, or does it matter?

Q I don't think it matters.

A Yes.

Q Do you believe this proceeding is about competition?

A Oh, I think it is all about competition, or an opportunity for the middle prong of the three prongs of entry to be removed such that competition is not as easy for the CLEC and is not as likely to take ILEC customers.

Q Where in the TRO does the FCC state that this proceeding should be about competition?

A I'm not sure that characterizes the answer. I'm talking about how your company is addressing the proceeding.

Q Do you have Mr. Stahly's direct testimony?

A Yes, I do.

Q Look on Page 6, starting on Line 10, wherein he is answering the question of is this proceeding fundamentally about competition?

A What was the page number again?

Q Page 6, starting on Line 10. Are you there?

A Yes.

Q Do you disagree with that statement? And just to be specific, the statement that it cannot -- quote, it cannot be emphasized enough that this proceeding is fundamentally about competition, end quote.

A I agree with the entire answer to the question.

Q All right. And my question to you is where in the TRO does the FCC say that this proceeding is fundamentally

about competition?

A I don't think Mr. Stahly's has anything to do with what the FCC said, but it is a reflection of the realities of life. This is an opportunity for your company to stop selling something that you have never wanted to sell from the time that the Telecommunications Act was passed, and you are going to seize that opportunity and see if you can get unbundled local switching discontinued in the State of Florida, which will then, in fact, dismantle the UNE-P platform regardless of what the FCC's concerns over the matter were about.

Q Where does the FCC state that state commissions need to take into account the effect of competition in determining whether unbundled switching should be eliminated?

A The First Report and Order.

Q No, I said the TRO.

A No, you didn't say the TRO, you said where does the FCC state, and my answer is it is in the First Report and Order where they empower state commissions to look beyond the FCC minimum guidelines in establishing what is a UNE and what is not a UNE, to address unique geographical constraints within the Florida market that may be different from what is happening in Texas, and to view the actions of the ILECs in the State of Florida as separate from the actions of an ILEC in a different state, and make local rules superseding the federal rules. And this is all outlined in the First Report and Order.

Q All right. Where in the TRO does the FCC state that the commissions must look at the effect of competition in determining whether to eliminate unbundled local switching?

A I don't know if I have a cite handy for that.

Q Okay. Now, on Page 10, Lines 15 and 16, Mr. Stahly states that without UNE-P there are several markets that Supra will not be able to enter into. Do you see that?

A I'm sorry, Page 10?

Q Lines 15 and 16. Do you see that? Mr. Nilson?

A I'm looking for it. I'm at Page 10, Lines 15 and 16. What was your question, again? I don't see what you are referring to on that page.

Q Do you see the sentence that he reads, "Additionally, there are numerous markets that Supra has not yet entered and will not be able to enter if UNE-P is unavailable."

A No, I don't see that at all.

Q On Line 15 of Page 10?

A No, it's not here.

Q What has been -- are you looking at Mr. Stahly's direct testimony?

A I am.

Q Filed on December 4th of 2003?

A Right. And Line 15 is actually a continuation of a sentence that starts all the way back at Line 11, which says, "Many of Florida's residential telephone customers have not

reaped the benefits of the Act because BellSouth and other ILECs have, A, endlessly challenged the constitutionality of the Act itself; B, refused to comply with their obligations even after being ordered to do so; and, C, have ruthlessly done all they can do to prevent competition. That is why it is imperative for the Florida's Commission --"

Q Mr. Nilson, I'm going to interpret you, because it is very clear to me that we have two different versions of Mr. Stahly's testimony.

Jorge, can you clear this up?

MR. CRUZ-BUSTILLO: Well, there is only one version of his testimony and we are looking at Page 10, Line 15.

MR. MEZA: My Page 10, Line 15, reads exactly what I just quoted for you.

MR. CRUZ-BUSTILLO: Well, we are working off the only copy we have that was filed, so I don't know what to tell you.

MR. MEZA: Are you suggesting that there is more than one version of Mr. Stahly's testimony?

MR. CRUZ-BUSTILLO: I am telling you that I don't know what you have, but there is only one and we have it in front of us.

MR. MEZA: Adam, do you have Mr. Stahly's testimony?

MR. TEITZMAN: I did. I'm looking for it right now. Is it possible that you all are just off by a page or two? That happens quite often when we are printing something out.

MR. MEZA: No. What has happens here is that it appears that the version that Mr. Nilson is reading has deleted approximately four or five sentences.

MR. CRUZ-BUSTILLO: No, it has not deleted four or five sentences.

MR. TEITZMAN: Let's take a five-minute break. I'm going to check on what is filed with the Commission specifically, and I will get back to you all in five minutes.

MR. MEZA: Thank you.

(Recess.)

MR. TEITZMAN: We are back on the record.

BY MR. MEZA:

Q Mr. Nilson, do you disagree with Mr. Stahly's statement that there are numerous markets that Supra has not yet entered and will not be able to enter if UNE-P is unavailable?

A Yes, I do. Do we need to make sure that you and I have the same definition of market in answering that question?

Q Well --

A Because I'm not sure his view of markets when he wrote the answer to that question line up with the view of your witnesses in regards to their definition of markets.

Q Well, since you are adopting his testimony, what is your understanding of the word market as used in his testimony?

A Well, we actually discussed that part of the

testimony when he wrote it, and the analysis that we were looking at at the time was Supra right now has little or no -- probably no customers in the State of Georgia, and what would it take for us to then enter the entire Georgia market in terms of going from, you know, zero to sixty. I mean, getting the first customer and then having a large enough economy to be able to make that $5.1 million downstroke to install the very first switch in the State of Georgia.

It's a big step, and that's why the Congress and the FCC recognized the three prongs of entry so that the transition from zero to full facilities-based competition doesn't have huge precipitous steps in it. And I think that best characterizes the intent of that sentence.

Q Okay. What about in Florida, what markets will you not be able to enter into if UNE-P is unavailable?

A The decision to collocate equipment, kind of build it and hope they will come is not really the business plan that we want to move forward with. Our current deployment of network equipment is based on the concept that once we acquire the customers under UNE-P then we will site equipment to serve those and move the customers off of UNE-P. So, therefore, in a given central office, or a given rate center where we have less than probably 20,000 customers right now, it would be impractical to go in there and install a switch. If we had less than 14 or 15,000 customers it would be impractical to go

in there with a remote switch. And if we had less than 2 to 3,000 customers it would even be impractical to go in there with digital loop carrier and support those concentrations.

So it is a variable answer depending on where customers are. I mean, it is just not reasonable to make a $5.1 million expenditure for a switch to serve one customer, although the natural decision-making process would probably be to serve that one customer with digital loop carrier at a cheaper rate and haul that back to a switch that would still probably be absolutely cost ineffective to do it that way.

Q All right. Well, can you please identify any specific market that Supra has not yet entered into and will not be able to enter into in Florida if UNE-P is not available?

A Well, there we have got to have a definition of market we both agree on. I mean, I'm going to make that decision based on a serving wire center by serving wire center basis, which is a much smaller and more granular unit than what you are choosing to call a market. And I could answer that, you know, based on data we have. I could say these central offices were we not able to expand our base with UNE-P, we would not put collocation in those offices. I don't have that data in front of me, and I'm not sure if you want to go down the list of what I would consider --

Q No, I don't want to do that. You don't have the data before you, is that correct?

A I don't.

Q Okay. That's fair enough. Now, getting back to what you said about build it and they will come philosophy, I believe Mr. Stahly testified that such a business plan has proven to be unsuccessful. Do you agree with that?

A Oh, absolutely.

Q And --

A I'm sorry?

Q I'm sorry, I didn't mean to interrupt you. And in support he refers to several companies who filed for bankruptcy or were sold that employed that business plan.

A And left out dozens more that also employed that plan that went bankrupt.

Q Okay. Supra is currently in bankruptcy, is that correct?

A Yes, we are.

Q Does that mean that Supra's business plan is unsuccessful?

A Well, you know I don't think so.

Q Okay. And isn't it also a fact that there is an entity attempting to acquire over half of Supra in the bankruptcy proceeding?

THE WITNESS: May I confer with my attorney?

MR. CRUZ-BUSTILLO: Yes, yes, yes. You know the answer to that question, and I really don't think that we need

to get into that.

MR. MEZA: Absolutely we do. And it is public information, it has been in the newspapers.

MR. CRUZ-BUSTILLO: Yes, but the details and so forth are actually confidential and --

MR. MEZA: Not really. I don't know if you read the article, but --

MR. CRUZ-BUSTILLO: Yes, I read the article. I guess to the extent that --

MR. MEZA: Let me see if I can cure it.

MR. CRUZ-BUSTILLO: Excuse me?

MR. MEZA: Let me see if I can cure your concern.

MR. CRUZ-BUSTILLO: Go ahead.

BY MR. MEZA:

Q Mr. Nilson, would you agree with me that there is a potential suitor for Supra in the bankruptcy proceeding?

A I don't know about your use of the word suitor. I know there is an entity that is seeking to purchase some stock.

Q Right. Now, does the fact that there is an entity seeking to acquire the stock of Supra mean that Supra has an unsuccessful business plan?

MR. CRUZ-BUSTILLO: Objection.

A I never thought Supra had an unsuccessful business plan even when we were forced to seek protection of the bankruptcy court.

Q Okay.

A It was more for protection than for financial issues.

Q Right. So you would have to agree with me that simply filing for bankruptcy or being sold doesn't necessarily mean that you have an unsuccessful business plan, correct?

MR. CRUZ-BUSTILLO: Objection.

A I would agree with your statement, but that was not our analysis of the companies that were referred to in Mr. Stahly's testimony. They failed because they had an incredibly high debt load that they couldn't service through revenue from customers.

Q Okay. Now, would you agree with me that Supra has certain responsibilities in the hot cut process?

A I don't know, which hot cut process?

Q All right. Would you agree that Supra must provision its own switch port in order for the hot cut to be successfully completed?

A You won't even start the process unless you verify that that is done, and complete, and operational.

Q Okay. Would you agree that Supra must assure that dial tone is present in order to have a successful hot cut?

A That is the same question you just asked me.

Q All right. So the answer would be yes?

A Yes. Those two questions are the same question, yes to both.

Q Okay. Would you agree that Supra must assure that all required switch-based features are translated in its switch at the time of the cut-over in order to have a successful hot cut?

A Well, that is the ideal, but not necessarily.

Q What happens if you don't?

A You potentially generate some customer dissatisfaction, and the feature has to be turned on, which is not quite even in the same neighborhood as the customer who can't receive or make a call.

Q All right.

A And there is magnitudes of failure to perform, and my answer is in a perfect world absolutely, the switch features all have to be there, and tested, and operational. We do that before we turn the order over to you.

Q And Supra must also port the number to its switch after the cut-over in order to have a successful completed hot cut?

A Well, BellSouth has to first release us and allow us to do that.

Q Fair enough. But would you please answer my question. In order for there to be a successful hot cut process, you must port the number to your switch, is that correct?

A Yes. I started my last answer with the word yes.

Q Of the 13,000 lines converted to date, what percentage experience no dial tone?

A I don't have up-to-date information in front of us. What I can tell you about it is the 5 percent based on the 2,400 lines in Mr. Stahly's testimony.

Q So you don't know if that percentage has increased or decreased since December of 2003?

A It has fluctuated. There have been good days and there have been bad days. If you want an aggregate over the entire period, I have to pull some reports and do some calculations.

Q But you haven't presented any evidence other than the five percent related to the 2,400 lines, is that correct?

A I believe that is correct.

Q Now, in the direct testimony Mr. Stahly refers to 47 percent of migrated lines experience no incoming calls, and he claims that they were caused by LNP porting or errors caused by BellSouth. Do you know what the current percentage of lines experience no incoming calls based upon the 13,000 lines converted?

A Over what time period?

Q The entire time period that Supra has been converting lines, to date?

A No, I don't. I can comment on yesterday's percentage, and that being slightly in excess of 50 percent,

but I don't know over the full-time period.

Q All right. Well, of the 47 percent identified in Mr. Stahly's direct, how many were the result of Supra errors?

A I'm sorry?

Q How many of the no incoming call problems was the result of a Supra error?

A And what would you define as a Supra error?

Q Supra failing to port the number after receiving the go ahead notice.

A I think we are going to have a huge disagreement over specific instances. When we get a stream of porting notices from you guys starting at 6:00 o'clock, and we work them and they start stop coming in at 7:30 at night, and people go home, and then all of a sudden at 9:00, 9:30 at night we get a whole another stream of them coming through, I know you call those our fault. And I don't know why suddenly after two hours of no activity we get batches and batches of notification errors. So I can't answer your question, because you and I don't agree on which ones are our fault.

Q All right. Well, do you know how many of the no incoming calls was the result of Supra failing to port the number after receiving a timely go ahead notice?

MR. CRUZ-BUSTILLO: Objection to form.

A Would you repeat the question?

Q Do you know what percentage of the calls

experiencing -- excuse me, what percentage of the lines that experience no incoming calls referenced in Mr. Stahly's testimony was the result of Supra failing to port the number to its switch after receiving a timely go ahead notice during which you would consider the appropriate business hours?

A No, I haven't conducted that particular study.

Q Is it your testimony that Supra has never committed such an error?

A It is my testimony that I have never seen data that would reflect an error of that type.

Q Okay. So you believe that Supra timely ports the number to its switch upon receiving a go ahead notice, is that right?

A Well, the ones we get at 9:30 at night we probably don't do until the next morning because we didn't expect them to be coming in at 9:30 at night, since you stop work at 4:59. So to answer your question, I guess we fail to port those timely. They didn't get done until the next day.

Q All right. For those that you receive during the normal business hours, do you believe that Supra has always notified or ported the number to your own switch in a timely basis?

A Define timely.

Q Strike that question, let me ask you a different way. Are you aware of any instances where Supra has delayed in

porting the number to its own switch after receiving a timely go ahead notice?

MR. CRUZ-BUSTILLO: Object to the form. Go ahead.

A No. I know Mr. Ainsworth asserted that in his testimony, and I am still trying to get to the bottom of his claims. I have not been able to identify it as yet.

Q Okay. For the 47 percent of lines that experience no incoming calls referenced in Mr. Stahly's direct testimony, do you have the specific TNs in question?

A Yes. Not in front of me, I can't recite them off to you, but Supra has that information.

Q Have you provided those telephone numbers in this proceeding?

A No, I think we just presented them to you and asked you to fix them so the customers could have service.

Q So you have already provided those to BellSouth?

A If we didn't, the customer has long since converted back to BellSouth. I mean, we have to provide those to you, since you can fix the problem.

Q For no incoming calls?

A Yes, sir.

Q Isn't a no incoming call the result, according to Supra, the result of BellSouth not timely sending the go ahead notice?

A Not necessarily. There have been cases where we got

a go ahead notice, we went in and put in the impact notification only to find out that BellSouth hadn't yet released the line, even though we got the go ahead notice. And so our order was clarified and rejected.

Q How often does that occur as compared to not receiving a timely go ahead notice?

A Much less often.

Q Okay. Five percent of the time?

A I don't want to guess. You know, we track that data. I don't have it in front of me.

Q And you didn't present that data in this case, have you?

A No, Mr. Stahly had testified about this, and I don't see that he presented that data anywhere.

Q Okay.

A Let me make sure I understood what I just said we didn't present, and that was that subset of data where a complaint from the customer for (inaudible, phone interference) calls and we had determined that when we had gone to make the activation notice it was still blocked at NPAC. Is that your understanding?

Q Yes.

A I did not present that data in this proceeding.

Q Okay. Now, what are Supra's processes after receiving the go ahead notice from BellSouth?

A I think that question would be better asked of Mr. Neptune.

Q What individuals are responsible for notifying NPAC after receiving the go ahead notices from BellSouth?

A That is a responsibility of BDCO (phonetic) department.

Q And how many employees are in the BDCO department?

A I don't know, there is a lot. I don't know the exact number.

Q What are the hours that they work each day?

A I'm not 100 percent sure. I can tell you that for the most part they are here between 7:30 in the morning and about 7:00 at night, but I don't know if that is -- that is not an accurate assessment of their actual coverage hours, but I know the supervisors are here for a 7:30 meeting, and they are often here at 7:00 o'clock at night.

Q All right. So from 7:30 a.m. to 7:00 p.m. is it fair to say that Supra would be able to port a number or at least notify NPAC?

A Yes.

Q Okay.

A What was the starting time?

Q 7:00 a.m. Excuse me, 7:30 a.m.

A Yes.

Q And isn't it also true that there is no time

restriction as to how you notify NPAC, or when you notify NPAC?

A I don't understand that question.

Q Isn't it true that, for instance, if you get a go ahead notice at 9:30 at night, you can port the number at that time?

A Well, the answer to that question is yes, provided there is an explanation of why we would have a staff person sitting there waiting for an answer at 9:30 at night when you stop cutting loops over at 4:59.

Q How do you know BellSouth stops cutting loops over at 4:59?

A Because I understand that is the working hours based on conversations we have had with your supervisors.

Q Is there anything that prohibits BellSouth's from cutting loops after 4:59?

A No. But once you do, don't you understand that that makes for a hot cut process that begins to spiral out of control? You can't just do that in a vacuum without people knowing that you are doing that.

Q Well, has Supra ever called BellSouth to check on the status of pending orders that day we are expecting to receive on a particular date?

A Yes.

Q They have?

A Yes.

Q So, Supra can find out if it needs to stay or not and wait for the go ahead notice of a particular order if it is going to occur after 4:59, is that correct?

A No, I think if we were to call on each and every single line that didn't get cut when it was supposed to get cut, you would stop answering the phone after a few calls. Your people don't like to give individual detailed information like that, and there is no other system that provides the information.

Q What evidence do you have of that? That if you call the CWINs center they won't tell you the status of an order so that you can gauge your work force as to when they need to be there?

A Complaints that we receive from BellSouth regarding telephone follow-up calls.

Q What complaints?

A What do you mean what complaints? We can call up there and people say they are too busy to answer each one of these, you know, wait until you get the notice.

Q What employees at BellSouth did you speak with?

A We didn't get that information from you, but it is LCSC employees, not CWINs.

Q Why would you be calling the LCSC to check on the status of a hot cut order?

A Well, that is where we submit the order in the first

place. I could be wrong about the LCSC versus CWINs, but --

Q What employee at Supra, which employees at Supra have had these conversations with BellSouth employees?

A It would be people in the BDCO department.

Q All right. And do you have any evidence, or written evidence suggesting or supporting your recitation of what happens when you call BellSouth to check on the status of a hot cut order?

A Yes, I believe we do.

Q Okay. What is it?

A A written statement saying that this is exactly what happened.

Q Maybe we're talking past each other. I was asking you if you have any written documentation to support your claim that BellSouth will not advise you as to the status of a pending hot cut order?

A Oh, I see. You are wanting to know if I have a BellSouth policy document that says it is against your policy to provide that information.

Q No, I'm asking if you have any documentation; an e-mail, notes from a conversation, anything?

A Interesting question. I might. I don't know for certain that I do or not, but I have definitely seen that kind of documentation on UNE-P orders, and it may be possible for me to locate such documents.

Q I'm not asking about UNE-P, Mr. Nilson. I'm asking you about a hot cut order migrating from UNE-P to UNE-L?

A I'm quite clear what you asked me. And my answer is still I don't know, but I think I could produce it, yes.

MR. TEITZMAN: This is Adam Teitzman with the Commission. We are going to go off the record just real briefly.

(Recess.)

BY MR. MEZA:

Q On Page 23 of your direct testimony, Mr. Nilson, you state that BellSouth waited eight hours before notifying Supra that a cut has been completed. Do you have any information to suggest what day this occurred on and the line at issue?

A This would be on Page 23 of Mr. Stahly's testimony which I adopted?

Q Yes.

A Yes, I understand we do have that information. I don't have it, but I think we can get it.

Q Have you presented that information in the record of this proceeding to date?

A I didn't in my testimony. Unless Mr. Neptune did, no.

Q Okay.

A I don't know the answer to your question, to be honest with you.

Q Okay. Now, in your surrebuttal you included as an exhibit a series of go ahead notifications, is that right?

A Yes, I did.

Q Okay. Some of them, and specifically the one on January 19th at 3:54 p.m. with a due date of January 19th?

A Yes.

Q Why did you include that as an example of BellSouth delaying in its go ahead notifications?

A I asked our carrier operations, the BDCO department, for specific examples of late notices, and these are the ones they provided. That apparently that line was provided because the go ahead notice, while it did come during normal business operations, came after the customer had already complained that they had a service problem.

Q All right. So if the due date was January 19th, 2004, the cut was performed on January 19th, 2004, and you received the notification at 3:54 p.m., are you relying on that set of circumstances to support your claim?

A All I'm saying, Mr. Meza, is when the customer calls me and complains that their phone service is out of order before I get your go ahead notice, the go ahead notice is late.

Q Okay. Now, the Supplemental Rebuttal Exhibit 2 and 3 deal with problems Supra experienced in receiving incoming cellular calls, is that right?

A It deals with a problem where BellSouth was

incorrectly routing incoming cellular calls through the Miami Grande, the brand new Miami Grande access tandem.

Q Okay. Let me ask you just a couple of questions to resolve this issue. Isn't it true that Supra identified the problem on October 21st of 2003? If you look at -- I believe it is DAN-RT-1. Excuse me, 3. Do you agree with that statement, Mr. Nilson?

A I'm still looking for where in DAN-3 that assertion is.

Q Is DAN-3 the series of e-mails?

A Not unless something went wrong.

Q Well, then it is DAN-2. It's one of the two. I was confused as to what is what, based upon your testimony.

A DAN-3 is the response from Mr. Smith.

Q Okay. Then it is DAN-2. And I would refer you to the last -- excuse me, the third of four pages. It refers to the e-mail site and the e-mail trade?

A Right.

Q And would you agree that this issue started on Tuesday, October 21st, 2003?

A No, but I think it is fair to say that that is the date that it finally got to Janet Shoemaker.

Q All right. And that the issue was resolved on October 30th of 2003?

A Yes, that is correct, but the actual problem had been

in existence since the beginning of October.

Q Well, how much lines did Supra have migrated to its own switch in October, the beginning of October?

A At the beginning of October we only had test lines.

Q Okay. And the problem has now been resolved since October 30th of 2003, is that right?

A No. Yes and no. The specific issue of improper routing from wireless carriers to the Grande tandem is ostensibly fixed as of that date, but we are still getting the scads of traffic routed to us through the Miami Grande central office that originate in Palm Beach County that should be delivered to our collocation in the West Palm Beach Gardens equal access tandem and carried completely down the LATA and dropped off in Miami. So we still have routing problems, but it is not this specific routing problem.

Q But the one referenced in DAN-3 has been resolved since October 30th, 2003, correct?

A If you want to limit our claim that the Grande access tandem has routing (inaudible, phone interference) wireless traffic, yes. If you are willing to expand it to the fact that all the routing problems have not yet been repaired, no.

Q Now, is it your testimony that the TRO requires BellSouth to convert your entire embedded base within six months?

MR. CRUZ-BUSTILLO: Objection. Go ahead. Calls for

a legal conclusion. Go ahead.

Ask your question again, Jim, please.

BY MR. MEZA

Q Is it your testimony that the TRO requires BellSouth to convert your entire customer base within six months of the elimination of local unbundled switching?

A No, it is my testimony that the TRO requires you to continue to provide unbundled local switching indefinitely because CLECs are impaired.

Q Right. Let's say that the FPSC finds no impairment.

A Then I think the FPSC will set a schedule that reflects its needs and takes into consideration the FCC finding.

Q Are you aware that the FCC has set forth specific time frames for the conversion of the embedded base?

A Which are longer than six months, yes.

Q Now, on Page 41 of Mr. Stahly's direct testimony, Lines 10 through 11, he states, "I currently know of only one CLEC self-provisioning switching in serving end users using DS-0 capacity loops in the above markets." Who is that CLEC?

A To my understanding Mr. Stahly is referring to Supra, but I don't know that for certain. I don't know who he was referring to.

Q Do you believe -- well, this is a difficult question. I wish I could ask Mr. Stahly this questions, but --

A I wish I could, too.

Q Does Mr. Stahly believe that Supra is a trigger company?

A No, he doesn't.

Q Then what is the purpose of the sentence I just read?

A It means that I've got to bail on an answer to that. I just don't know. I adopted his testimony, but I don't know in that regard.

Q All right. And the last line of questions, Mr. Nilson, and I appreciate your patience. Would you agree with me that Supra is currently providing service to mass market customers via its own switches in Florida?

A As long as you modify that to its own switch in Florida, I would say yes.

Q Would you also agree with me that Supra has the capability of providing service to mass market customers via its switch in Florida?

A I would say that capability is currently limited, but yes.

Q And would you agree that Supra will continue to provide service to mass market customers via its switch in Florida?

A It is our intention to do so.

Q And that, in fact, it is your goal to serve all of your mass markets customers via your own switches, is that

correct?

A Gee, we were doing so well. No, I don't think it really is. I would only go so far as to say the majority, because I do honestly believe that there are certain customer volumes where it is not financially or even reasonably appropriate to serve deploying hardware. And those customers today can be served via UNE-P. If that is taken away, perhaps those customers just won't be served by Supra at all. That is a decision that has to be made regarding how much do you spend just for the privilege of serving a customer, and are we obligated to make a profit or not.

Q Is Supra providing wholesale services through its switches today?

A No.

Q And you don't believe that Supra is a trigger company, is that right?

A That's correct.

Q And you base that opinion on your reading of Paragraph 499 of the TRO, is that right?

MR. CRUZ-BUSTILLO: Objection.

A That was the first paragraph that I cited in response to the staff attorney's question.

Q Okay.

A You were present when he informed me of an errata that I wasn't aware of. I think even given the errata, not

having actually read it, but taking the representations that I heard over the phone, still doesn't change my opinion. And is there other support in the TRO? I don't know. I didn't expect to have this one pulled out from under me this morning.

Q Okay. If your testimony will not change in light of the errata, I simply just have to ask you one question. Is it your testimony that a CLEC has to be able to serve every single mass market customer in a particular market via its own switch to be considered a trigger company?

A That was my reading of the unmodified Paragraph 499.

Q So if there are 1,000 customers in a given market, and you could only serve 999, Supra would not be considered a trigger company under your interpretation of Paragraph 499?

A Yes, although I doubt it would ever be an analysis where it was that black and white clear cut, 999 versus one. I don't anticipate that. The technical nature of the outside plant would dictate that the unserveable customers would come in manageable and identifiable blocks associated with the technology used to deploy the service to the customer in the first place. So it is an unlikely analogy that you draw.

Q I appreciate that. But the premise behind it you don't disagree with, right, that Supra would not be considered a trigger company because it could not serve one customer in a particular market?

A Yes, but I don't think it is reasonable to expect

that that situation is going to occur, that the realities of outside plant construction are going to mean that if there is one, there is 512, or 693, or some nice binary power attributable to the equipment that is out there that causes it to be so.

Q And you also believe that the CLEC services must be desirable to all segments of a mass market customer, is that right?

MR. CRUZ-BUSTILLO: Objection, calls for a legal conclusion. Go ahead.

A I didn't understand the question. Do you want to try again?

Q Yes. This is the last question. You believe that in order to be a trigger company, the CLEC services must be desirable to all segments of mass market customers in that market? Do you agree with that statement?

A I'm sorry, I still don't even understand it.

Q Well, I'm quoting your surrebuttal testimony.

A Point me to it, please.

Q Okay. Excuse me, your rebuttal testimony. Will you look on Page 29, Line 12. Do you see it? The CLEC services must be desirable to all segments of mass market customers in that market.

MR. CRUZ-BUSTILLO: He is looking at it, Jim, right now.

MR. MEZA: Okay. And I promise, Adam, last question.

MR. CRUZ-BUSTILLO: No objection from me, Jim. You can take another 20 minutes, if you want.

THE WITNESS: I'm sorry, I have read it. Is there a question?

BY MR. MEZA:

Q Yes. The question is does that mean that -- well, the question is what does desirable mean?

A Well, I think we both know that there are CLECs located in LATA 460 whose equipment is sitting idle for either financial reasons or for the fact that no one is actually purchasing services off that switch. It would be improper for this Commission to make a finding of no impairment based on the fact that someone could provision service that isn't actually doing it.

Q Okay. But what do you mean by desirable to all segments of mass market customers? Does that mean that every single customer in a market must want to purchase services from Supra?

A I don't understand that question.

Q In order to be desirable, would every customer in the market have to obtain services from the CLEC?

A No, but you can't count idle equipment that is not serving anybody, either.

Q All right. So when you refer to, on Page 29,

Line 4 -- excuse me, Line 12, that the CLEC services must be desirable to all segments of mass market customers in that market, you are referring to idle switches?

A Right, because Bullet Point Number 1 talks about actively providing service. You can be actively providing service and still have zero customers, and that shouldn't be counted as a finding of no impairment.

MR. MEZA: Okay. I have no further questions.

MR. TEITZMAN: AT&T, did you have anything?

MS. PATTON: Yes. Hi, this is Lori Patton. I wanted to ask just a couple of questions, hopefully less than a couple of minutes.

MR. TEITZMAN: Go ahead.

CROSS EXAMINATION

BY MS. PATTON:

Q Mr. Nilson, this is Lori Patin. I am representing AT&T. I have a couple of follow-up questions just so that I can clarify, because of the volume of questions asked by Mr. Meza, I want to make sure I can clarify some of your answers.

Again, on the Supra switch or switches which are serving Florida, did you say that there is only -- that Supra only considers there to be one switch that actually serves the Florida market?

A Yes. And that switch is distributed into two separate locations. Based on the licensing agreement with

Lucent, that is considered one switch.

Q Okay. On that one switch, you stated earlier that Supra serves some mass market customers, I believe through UNE-L off of that switch, is that correct?

A Well, we believe it serves 100 percent mass market customers, but that might be subject to us having a mutual definition of mass market.

Q That was my next question. How are you defining mass market?

A Someone who subscribes to our services after seeing an ad on the television.

Q Okay. Do you further define mass market as, for example, I believe Mr. Stahly adopts Mr. Gillan's -- portions of Mr. Gillan's testimony. Mr. Gillan defines mass market as a combination of residential and small businesses. So does Supra serve residential and small businesses through voice service off of the switch that you own in Florida?

A Yes. Going all the way back to 1997, we looked at what we felt our target market would be, and that would be customers that met what was then the FCC's definition of consumers, the consumer market, which was customers with five lines or less. And it took no particular recognition of residential or business. And, in fact, I think most of our customers, the vast majority of our customers are residential customers.

Q Okay. Are you serving any customers that would be at a level of DS-1 or above?

A Ourselves. Our own corporate facilities, and that's it.

Q Okay. You also stated that Supra does do quite a bit of UNE-P service. And, in fact, on Page 10 of Mr. Stahly's testimony, I realize we have a different line count. On the copy I am looking at it is actually Lines 13 and 14, and I think that that may be -- on the copy you were looking at it may have been Line 5 or 6 unless you have found an as-filed copy.

A All right. The question you are asking is --

Q My question is this. Mr. Stahly says on Line 13 of the copy that I'm looking at, on Page 10, "Although Supra Telecom has already started the process of cutting over its customers to its own switches, over 95 percent of Supra's mass market customers are still served by UNE-P." Is that still an accurate statement of Supra's UNE-P base in Florida?

A Give me just a second to get to a calculator and I will tell you. My first comment is when he wrote this statement it was incorrect, and my number is based on the fact that we had 2,400 customers that he attests to in his testimony at the time. I show that as eight-tenths of a percent under UNE-L and 99.2 percent under UNE-P. Given today's higher level of penetration, I would say that we have almost reached -- that

95 percent are still on UNE-P. It is probably about 95-1/2 percent, 96 percent are still on UNE-P.

Q Okay. And then again to clarify a question asked by, I believe, Mr. Meza, or an answer, I'm sorry, that you gave to Mr. Meza. You had stated that Supra's business plan essentially is to initially put mass market customers on UNE-P, and in certain instances, for example, high volumes of customers that are obtained, then those customers are put onto your switch and UNE-L is utilized. Is that an accurate statement?

A It is reasonably accurate. You know, I don't know if I agree with the high numbers, because we have embraced collocation for concentrations of customers of less than 2,000 lines, so I don't know if it has to be a high number. But, you know, Field of Dreams was a nice movie, but you don't want to build a huge network infrastructure and not know if you are going to actually have customers in a location. It is a far more sensible approach to acquire network resources to serve customers you already have.

Q And in so serving customers you already have, would it be your position that Supra would absolutely need UNE-P in order to initially gain the mass market customer in order to consider whether or not to make that mass market customer a UNE-L customer?

A Yes, ma'am. And I strongly believe that was the

original intent of Congress in providing three stepping stones across a raging brook. When you take the one in the middle out, it is a more treacherous step to the other side.

Q And, in fact, in the environment today on your switch in Florida, if UNE-P going forward is eliminated, is it your position that Supra would intend to continue to actively serve the mass market customers through UNE-L if there is no UNE-P to exist?

A I hear your question and I understand it. You know, the fact of the matter is we have this huge critical mass. There is no way that Supra can realistically just turn its switch off and strand 300,000 customers, or some percentage of that. So, we are looking for the same thing, I think, all the other competitive carriers are, you know, a reasonable chance to compete at costs that allow a certain amount of profit to be obtained. We can't afford to send $20 bills to our customers every month, we need to actually collect revenue from it. So it becomes an economic decision, and we are trying to reach a conclusion without knowing what the numbers say.

Q Okay. Hang on one second and let me see if I have anything else I wanted to clarify.

I believe I heard that your position is that the Commission needs to consider criteria involved in determining trigger companies as opposed to simply counting to three, is that correct?

A Yes, ma'am.

Q And if that criteria was in other paragraphs other than the one I know you focused on, your position is still that there is additional criteria that would need to be considered in determining trigger companies?

A Absolutely. And I think those other paragraphs exist, I just couldn't point to them.

MS. PATTON: That's okay. Those are all my questions.

MR. TEITZMAN: Let me just say I think all parties have had an opportunity to ask questions, so we are going to conclude this deposition.

(The deposition concluded at 1:05 p.m.)

ERRATA SHEET
DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

IN RE: DOCKET NO. 030851-TP
NAME: DAVID NILSON
DATE: February 11, 2004

PAGE	LINE	CHANGE

Under penalties of perjury, I declare that I have read my deposition and that it is true and correct subject to any changes in form or substance entered here.

_____ _____
DATE DAVID NILSON

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, JANE FAUROT, Official FPSC Commission Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing deposition at the time and place herein stated.

I FURTHER CERTIFY that this transcript, consisting of 102 pages, constitutes a true record of the testimony given by the witness.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 16th day of February, 2003.

JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732

EXHIBIT NO. 29

DOCKET NO.: 030851-TP

WITNESS: Pamela A. Tipton

PARTY: BellSouth

DESCRIPTION:

1. February 17, 2004, Deposition Transcript, page 1.
2. Late-Filed Exhibit 1, page - 151
3. Deposition Exhibit 2, page- 152
4. Late-Filed Exhibit 3, page-168
5. Deposition Exhibit 4, page-169

PROFFERING PARTY: STAFF

I.D. # PAT-D

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 29
COMPANY/ FPSC Staff/ BellSouth
WITNESS. PAT-D
DATE 02/24-27/04

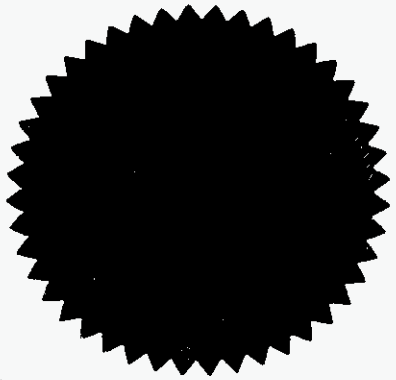
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.

_____/



DEPOSITION OF:	PAMELA A. TIPTON
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
DATE:	Tuesday, February 17, 2004
TIME:	Commenced at 1:48 p.m. Concluded at 5:50 p.m.
LOCATION:	Gerald L. Gunter Building Room 309 2540 Shumard Oak Boulevard Tallahassee, Florida
REPORTED BY:	MARY ALLEN NEEL, RPR Notary Public, State of Florida at Large

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APPEARANCES CONTINUED:

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S T I P U L A T I O N S

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this case; and that reading and signing was not waived.

IT IS ALSO STIPULATED that any off-the-record conversations are with the consent of the deponent.

PROCEEDINGS

MS. BANKS: Let's go ahead and take appearances first, and we'll get the folks that are on the call.

MS. MASTERTON: This is Susan Masterton representing Sprint.

MS. BANKS: Is Virginia Tate still with us?

MS. TATE: Yes, I'm still here. I'm sorry.

MS. BANKS: Okay. Anyone else on the call?

Okay. Now we'll begin with our counsel present in the room.

MR. SHORE: I'm Andrew Shore representing BellSouth.

MS. MCNULTY: I'm Donna McNulty representing MCI.

MS. BANKS: And I'm Felicia Banks, of course, representing the Commission here in this proceeding, and I'm joined by staff, John Muskovac, Doris Moss, and David Dowds.

If you would, go ahead and swear in our witness.

Thereupon,

PAMELA A. TIPTON

was called as a witness and, having been first duly sworn on oath, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. BANKS:

Q Okay. Ms. Tipton, I would like first to make reference to your surrebuttal testimony, and I'm actually making reference to PAT-10, which is your Exhibit 10 filed with your surrebuttal testimony.

And while you're doing that, if you would, just go ahead and state your name and your position and who you're employed by.

A My name is Pam Tipton. I'm employed by BellSouth, and my position is director.

Q Okay. And what testimony have you filed in Docket 030851?

A I've filed direct and surrebuttal testimony.

Q And you can just let me know when you get to your Exhibit 10, which is labeled PAT-10.

A I'm there.

Q Page 1. The markets listed in this exhibit are ones with three self-provisioners of local switching not affiliated with each other or the ILEC, serving end users using DS1 or higher capacity loops; correct?

A That's correct.

Q And can these switches as presently configured be used to serve DS0 capacity loops in an economic fashion?

A I do not know.

Q Okay. Can these switches be modified to serve DS0 capacity loops in a economic fashion?

A I do not know the technical capabilities.

Q Do you know who would have that information?

A I believe that Keith Milner, who is also a witness in this case, may be able to answer that question.

Q Has he previously testified, or is he in the queue to testify? Do you know?

A I do not know.

Q Okay. Moving on, referring to your Exhibit 11, if you'll let me know when you're there.

A I'm there.

Q Referring to this exhibit, there are carriers with a self-provisioned switch, including an intermodal provider of service comparable in quality to that of the ILEC, serving end users using DS0 capacity loops; correct?

A That's correct.

Q Referring to page 5 of your surrebuttal testimony, and I'm at lines 13 through 18, to your knowledge, are there any intermodal providers serving analog voice grade customers in Florida besides Comcast?

A I believe there is one.

Q Okay. And which intermodal provider are you

aware of that's providing that service?

A That would be Knology.

Q And do you consider Knology to be an appropriate trigger candidate?

A Based on the fact that they provide service, DS0 level service, I believe that they are.

Q Okay. Still referring to your surrebuttal testimony, and I'm on page 6, lines 20 through 24, what specifically have the CLECs acknowledged in their briefs to the appellate courts in the TRO appeals regarding intermodal carriers as trigger candidates?

A I'm sorry. Would you repeat the question?

Q What specifically have the CLECs acknowledged in their briefs to the appellate courts in the TRO appeals regarding intermodal carriers as trigger candidates?

A My recollection, although I don't have the document in front of me, is that they acknowledge that intermodal providers of service were to be included in the trigger analysis.

Q And do you know which of these CLECs have made those acknowledgments?

A The filings made at the appellate courts were made by a consortium of CLECs. It was a group of CLECs, and I don't recall who participated.

Q To your knowledge, are there any non-ILEC wholesale providers of switching in BellSouth's territory?

A Not that I'm aware of.

Q Okay. Turning to page 17 of your surrebuttal testimony, I'm at lines 19 through 21. In what discovery response does SBC indicate it is serving mass market and enterprise customers use its own switches?

A SBC provided data to BellSouth indicating that it serves customers with three or less lines. And by BellSouth's self-definition or threshold for mass market, that indicates to me that those are mass market customers.

Q Okay. Am I correct in saying that the FCC imposed some conditions on which competitive switch providers can count as trigger companies?

A Yes. The FCC, aside from the competitive carriers not being affiliated with each other or with the ILEC, they've said as long as they are providing service to mass market customers using their own switch. And based on the responses SBC gave to us, we believe that they are.

Q And does the FCC also require that a trigger provider be actively providing voice services to mass market customers in the market?

A That they are providing service, yes.

Q Okay. Are you aware of any place in the TRO order where a definition of what constitutes "actively providing voice service to mass market customers in the market" appears?

A I'm not aware that there's actually a definition that clearly defines "actively serving."

Q Okay. Elsewhere, the TRO order characterizes mass market customers as those who obtain their network access using analog lines, typically few in number. Would you agree?

A Yes.

MR. SHORE: I'm sorry. You asked her to agree that that's what the TRO says?

MS. BANKS: That's correct.

MR. SHORE: Okay.

BY MS. BANKS:

Q And this is a small hypothetical. Assume that I am a facilities-based provider and I own my own switch. I serve primarily enterprise customers, but I am providing a handful of analog loops to a limited number of my enterprise customers, and I do not advertise to the mass market. Should I be considered as actively providing voice service to mass market customers?

A Based on the trigger analysis that BellSouth conducted, if a CLEC is providing service to a particular customer and there are three or fewer lines serving that particular customer location, those locations count as mass market locations. And "actively serving" means that the service is working today as of the time that our trigger analysis was conducted.

Q Are some of these customers simultaneously enterprise and mass market customers?

A I'm sure that there are some customers that have both service provided via a DS1 or higher capacity loop, and perhaps some provided by individual DS0 loops. BellSouth did not count those customers in its trigger analysis. We excluded any locations that were also served by DS1 or higher loops.

Q Okay. I want to change my hypothetical just a little bit from what we previously discussed. Assume that I am a facilities-based provider and I own my own switch. I serve primarily enterprise customers, but I am providing a handful of analog loops to a limited number of my enterprise customers. However, my marketing does not preclude customers who use analog loops from subscribing to my services. Should I be considered as actively providing voice service to mass market customers?

A Yes. Again, if there is live or active in-service quantities of DS0 loops provided to a particular customer or group of customer locations that are not also served by DS1 or above loops, I believe that that classifies those locations as mass market, and therefore that particular CLEC is in fact providing active service to mass market customers.

Q Okay. Must a facilities-based provider be serving both residential and business customers in order to be considered as a trigger company?

A I don't believe so. The TRO rules certainly do not -- or the rule specifically addressing the self-provisioning trigger does not indicate that they must be providing service to both.

Q Is there a minimum number of analog loops or mass market subscribers that a facilities-based provider must serve in order to be treated as a trigger company?

A No. Again, the FCC rule does not set forth any criteria about the number that must be served.

Q Okay. What do you believe are the key factors in determining whether or not a facilities-based CLEC is actively providing voice service to mass market customers?

A The key factors to consider are that they are providing service via their own switch, that they are

providing service to customers by BellSouth's definition of three or less lines and not also served by DS1 or above lines, that they are not affiliated with each other or with the ILEC, and for intermodal providers of service, that they are comparable in quality to the ILEC service.

Q Then based on your immediate previous response, in your opinion, is it straightforward and objective to determine whether or not a CLEC is actively providing voice service to mass market customers and thus is a trigger company?

A I believe it's straightforward. If the lines are in service and are currently working, they are active.

Q Going back to your surrebuttal testimony at page 18, I'm at lines 9 through 11.

MR. SHORE: Pardon me. Off the record.

(Discussion off the record.)

MR. MAGNESS: Excuse me. While we're at a break point, my name is Bill Magness. I was unable to make an appearance. I was struggling through security when the deposition started. I'm representing Florida Competitive Carriers Association or FCCA.

MS. BANKS: It looks like we had someone else

join us. This is Felicia at the Commission. Did someone join us?

MS. PATTON: Yes. Hi, Felicia. This is Lori Patton.

MS. BANKS: Okay. And can you just indicate who you're with?

MS. PATTON: Yes. I'm with AT&T.

MS. BANKS: Okay. We are in our deposition, but we had a little break, and so we were adding the appearances for those who were just joining us.

MS. PATTON: Okay.

BY MS. BANKS:

Q Getting back to your surrebuttal testimony, Ms. Tipton, I'm at page 18, lines 9 through 11. Is the result that more markets would satisfy the triggers test the only outcome of BellSouth's self-provisioning trigger analysis if an MSA were the market definition?

A I'm sorry. Do you mind repeating that again?

Q Is the result that more markets would satisfy the triggers test the only outcome of BellSouth's self-provisioning trigger analysis if an MSA were the market definition?

A I don't know that I can fully answer that question. While it does indicate that more markets perhaps would satisfy the trigger analysis, there may be

some other outcomes, but I have not done an in-depth analysis to determine that.

Q What are the other possible outcomes, do you think?

A It's quite possible that, using BellSouth's definition of CEA subdivided by UNE zone, that there may be some areas that either gain relief or lose relief using a different type of market definition. That's what I can think of immediately.

Q Okay. On that same page, page 18, and I'm actually now at lines 19 through 21 of your surrebuttal testimony, I have a similar question. Is the result that more markets would satisfy the triggers test the only outcome of BellSouth's self-provisioning trigger analysis if the LATA were the market definition?

A I would respond in the same way. Since I've not been able to do an in-depth analysis about the full scope of any outcome, I couldn't say.

Q Okay. Give me one moment.

If you could, now turn to page 9 of your surrebuttal testimony.

A Okay.

Q I'm at lines 2 through 3, where you indicate that AT&T provides service to thousands of customers in Florida using its own switches. Are these mass market

customers only?

A No. Included in that statement was both mass market and enterprise customers.

Q And how many are mass market customers?

A I do not know off the top of my head. There are certainly thousands that are indeed mass market, but I don't recall the actual number.

Q Okay. I want to deal with this notion of "actively providing." Assume that the mass market is defined as an MSA in order for a CLEC to be counted as a trigger company. Must the CLEC be holding itself out as offering to provide service to mass market customers throughout the MSA?

A I do not believe so. Based on the reading of the FCC's rule, it simply says that a CLEC must be providing service to mass market customers. And so if they are currently providing service to mass market customers, they qualify as a trigger candidate.

Q So if they are marketing or soliciting only, then they're not providing? Is that your assertion?

A If they have mass market customers that are in service today, they are actively providing service to mass market customers.

Q Okay. I want to change just a little bit and deal with the issue of whether they're likely to

continue to do so, to provide the service. Why does the FCC require that a trigger candidate providing service too the mass market be likely to continue to do so?

A The FCC's rule does not explicitly state that the carrier that's a trigger carrier is likely do so. It does comment in its discussion of the trigger analysis within the context of the order that a carrier is likely to do so, so that is certainly a logical thing to consider.

Q Okay. I just want to clarify one point. When we were making this distinction between providing and actively providing, how would you distinguish between when a carrier is providing versus actively providing, or is there a distinction?

A I don't see that there's really a distinction.

Q So if you would, just clarify for me what you consider to be actively providing.

A Actively providing is if a carrier has service that is working today to mass market locations. So if a location is served by, in BellSouth's definition, three or fewer lines, and they have service they can use right at this very moment, it's active service, and it's being provided actively by the CLEC.

Q Okay. I want to make reference -- I'm assuming that you are familiar with Mr. Gillan's rebuttal

testimony filed in this proceeding.

A Yes.

Q In his rebuttal testimony, Mr. Gillan suggests that the Commission examine financial statements and press releases. Is there a basis for this in the TRO?

A No, there's certainly not.

Q And how do you believe this Commission should ascertain whether a carrier is likely to continue to serve the mass market?

A Based on my understanding of how it's described in the TRO, if they've not made any public statements or formal filings with the Commission stating they intend to exit the market, then they are expected to continue to offer service.

Q Okay. I want to look at the limitations and difficulties with the shared use of network unbundling. Are there any difficulties and limitations inherent in competition based on the shared use of infrastructure through network unbundling?

A That's a technical issue which I'm not prepared to address.

Q Is there anyone who you know in the proceeding that might be able to speak to that issue?

A Yes. There are several witnesses in this case, and I'm not sure who the actual appropriate one would

be, but, for example, perhaps Keith Milner or Ken Ainsworth would be an appropriate contact, and perhaps even Al Varner.

Q Okay. Do unbundling requirements undermine the incentives of ILECs in invest in new facilities and deploy technologies?

A Again, that's not a question that I would be familiar to address.

Q Okay. Making reference to Mr. Gillan's deposition, where he stated that POTS customers are satisfied with the range of services that they have now and it would be counterproductive for CLECs to offer services that the customer is not yet interested in, what is your opinion on this?

A Since I'm not familiar with Mr. Gillan's deposition, would you mind just repeating that again so I can kind of internalize it?

Q Okay. Mr. Gillan has basically stated that POTS customers are satisfied with the range of services that they currently have; therefore, it would be counterproductive for CLECs to offer services that the consumer is not yet interested in. What is your opinion?

A I certainly have a personal opinion, and I would say I don't agree Mr. Gillan. I'm certainly not

an expert on types of services and marketing efforts and that type of thing.

Q Have any new services been introduced in the POTS market over the last seven years that you're aware of?

A From just my personal experience as a consumer, yes, there have been. It's not my area of expertise and certainly not what I'm asked to speak to in this proceeding.

Q Okay. Making reference to Mr. Gillan's direct testimony, and this is actually on page 12 -- I don't think you have to refer to that area, but if you would like to, you can.

A I do have it with me if it would be helpful. Should I reference it?

Q It's up to you.

MR. SHORE: Why don't you go ahead and get it.

THE WITNESS: Okay.

I'm sorry. Again, on page --

MS. BANKS: Page 12.

BY MS. BANKS:

Q Before we go there, I know there were a number of questions that I've asked of you where you've indicated that your technical expertise, or the lack thereof, would not allow you to answer the question.

Can you just give me a clarification -- and I actually skipped over that portion at the beginning of the deposition to try to expedite things today, because I know we have a full schedule, but if you could just clarify for me some of your background and your level of expertise, I think that would help.

A Okay. My background is that I have worked in the wholesale side of the business for my entire 16 years at BellSouth, both with special access services, unbundled network elements services, and collocation, either with direct responsibility for personally managing those services or directly supervising the managers who manage those services. I'm also involved in regulatory policy and interpreting Commission orders and determining appropriate business practices that should be implemented as a result of those orders.

Particular to this proceeding, the scope my responsibility and expertise is limited specifically to the self-provisioning trigger analysis, the data gathering that supported our trigger analysis, the analysis steps themselves, and the actual deployment that CLECs have put forth in the market in areas where the trigger has not been met.

Q You mentioned that you were the director, but I didn't get the unit or --

A Oh, I'm sorry. Interconnection Services, which is the wholesale division within BellSouth.

Q So do you oversee the data compilation?

A Yes.

Q Okay. I think we're back to the reference to Mr. Gillan's deposition. I'm sorry. Direct testimony. Are you at page 12?

A Yes.

Q Where he indicates that by 2004, BellSouth expects that 90% of competitive lines in its region would be provided by UNE-P. Is that correct?

A I'm sorry. Could you take me to a particular line number?

Q Hold on one second.

A I just didn't see the reference to 2004, so I wanted to make sure I was looking at the same thing.

Q This is actually lines -- it looks to be lines 4 through 8 of what I have here.

I'm sorry. We're back at page 4. There's a reference on page 12 as well as page 4 of Mr. Gillan's direct testimony, and on page 4, it's referenced at line 9.

A Okay.

Q Okay. Do you agree with this statement that 90% of competitive lines in BellSouth's region would be

provided by UNE-P by the year 2004?

A I reviewed the discovery response that we provided in this case that showed the UNE-P projected year-end units. And I believe as Mr. Ruscilli has referenced in his testimony, BellSouth does not plan to eliminate or not continue to offer a UNE-P loop-and-port combination, even when relief is granted. So it's hard for me to project what impact it might have if relief were granted. I disagree that UNE-P would just disappear and that therefore competition -- it would eliminate the percentage of competition as Mr. Gillan has stated.

Q Has the number of competitive carriers grown over the past three years?

A Yes.

Q Okay. I have a somewhat simple hypothetical. If 90% of these carriers are using UNE-P, how much opportunity would there be to differentiate their services?

A I really -- I honestly can't address that, because a carrier could offer different types of vertical services, and they might be able to offer their own individualized performance guarantees or billing plans or bundled services that I might not be aware of.

Q Okay. Does the level of competition vary among

CEAs in Florida?

A Yes, it does.

Q Would you know among what wire centers or LATAs this variation might be narrow or significant?

A I do. We compiled that data as a part of our analysis. I did not bring that information with me, but, yes, it does vary between wire centers and markets.

Q So you don't know here today whether it's narrow or significant?

A I know that in general, the CLEC deployment in wire centers can vary fairly significantly in some markets versus others. For example, looking at the totality of the markets in Florida, the 31 markets BellSouth has defined, I believe you could find a significant level of competition in -- I'll just pick, for example, Miami Zone 1 versus Panama City Zone 3.

Q So what do you think are the causes for the variation?

A I think that CLECs have logically done what any other market would do, and they've targeted either particular geographies or particular classes of customers, and sometimes the class of customers targeted happen to reside within certain areas of the state.

Q Okay. Making reference again to Mr. Gillan's deposition, where he states that UNE loop needs to be as

ubiquitous as UNE-P before UNE-P can be eliminated, when using either UNE-P or UNE loop, the CLEC makes use of the loops of the ILEC; correct?

A That's correct.

Q Is it the ILEC's loops that provide ubiquity?

A ILEC loops certainly provide ubiquity. I can say I don't agree with Mr. Gillan's statement.

Q Is there a difference between the ubiquity that can be obtained by UNE-P and by UNE-L?

A No.

Q If POTS customers are known for moving between carriers, then do all carriers carry the burden of the costs of this churn?

A That's correct.

Q In Mr. Gillan's deposition, he states that an ILEC is fully compensated for the costs it incurs in ILEC-to-CLEC churn. Is this true?

A Honestly, I can't address that.

Q Does BellSouth incur costs in CLEC-to-CLEC churn?

A Yes, it would.

Q And is it fully compensated for these costs?

A Honestly, I don't know that one either.

Q Give me one moment.

Do you know who might know that?

A Of the witnesses in this case, I believe that may be appropriately addressed to John Ruscilli.

Q Does BellSouth currently offer EELs in the areas deemed not impaired indicated on PAT-4 or PAT-5, Exhibits 4 or 5?

A If you'll allow me to grab my other binder.

Q That's fine.

A Yes, it does.

Q Can they be used by a CLEC to provide service to POTS customers?

A Yes, they can.

Q Okay. I want to, I guess, change the focus a little bit to deal with UNE-P continued availability. Is BellSouth's UNE-P offering priced below cost?

A Mr. Ruscilli would be the appropriate witness to address that question to.

Q Does BellSouth have significant excess switching capacity?

A Significant excess switching capacity?

Q That's correct.

A I wouldn't know that, but one of the BellSouth network witnesses would. And I'm just taking a guess here, but it would be perhaps one of the witnesses I mentioned before, Keith Milner, Mr. Ainsworth, Mr. Hartley, or Mr. Varner. I'm not sure who the right

one would be, but I know that all of them are network witnesses.

Q Okay. I want to change the focus a little bit to VOIP. In Mr. Gillan's response to staff's interrogatory 13A, he described the deployment of VOIP architecture as a evolutionary path. Is the trend in the industry toward IP-centric offerings?

A Based on my layman's understanding, yes, it is. I certainly don't have expertise on emerging technologies, but just based upon what you read in industry trade publications, it certainly indicates that's the trend.

Q Okay. I want to look now somewhat to the wireless market. Give me one moment.

Actually, we're going to look now at the POTS base. Making reference to Mr. Gillan's deposition, he stated that even though the POTS base is decaying, he does not expect that the decay will be felt by CLECs. What's your opinion of this?

A I really can't say, because I didn't listen in on his deposition and don't know how he was kind of referencing that in context or what he may have been trying to say.

Q Okay. He based his position on the fact that the POTS base is very large, and even though that number

may be declining, CLECs should obtain growing numbers of that market. Would you agree?

A That would make sense, uh-huh.

Q If CLECs are experiencing growth in a declining market, would that be an indicator that competition is alive and well?

A I would think so.

Q Would you expect carriers bypassing the ILEC's infrastructure to be affected in a similar manner by the decaying POTS base as the ILEC?

A Not necessarily.

Q And why?

A If the general trend is for CLECs to continue to experience growth in the POTS market, it should be immaterial as to the underlying facilities upon which those services are actually provided.

Q I want to make reference now to Mr. Gillan's rebuttal testimony at page 37, lines 24 through 26.

MR. SHORE: Can you give me that page reference one more time?

MS. BANKS: It's the rebuttal testimony of Mr. Gillan at page 37, lines 24 through 26.

MR. SHORE: Thanks.

BY MS. BANKS:

Q Mr. Gillan has indicated that a decaying

telephony base for Comcast over several quarters was a reason to dismiss them as a candidate. Would you agree?

A I disagree.

Q I want to look now, I guess, a little to serving the residential customers. In your analysis that we've kind of been referencing throughout this deposition, did you find that only a small percentage of the voice residential was being served by self-deployed carriers?

A I did not look at actual an percentage. What we found is that there are well over 100,000 lines being served by competitive local carriers, actually, closer to 150,000.

Q Okay. Does the number of residential lines self-provided by carriers depict the ability of an entering CLEC to overcome barriers to entry?

A I believe so, yes.

Q Making reference now to your Exhibit 5 -- it's attached to your surrebuttal.

A Pardon?

Q I was just saying it's attached to your surrebuttal, PAT-5, Exhibit 5.

A My revised Exhibit 5?

Q Yes, that's correct.

MS. MCNULTY: May I interject for a second?

For clarification, is that the one that was filed January 30th?

THE WITNESS: I don't have the filed date, but I do have the revised Exhibit 5.

MS. BANKS: That is correct.

MS. MCNULTY: I just wanted to be sure we're looking at the same one.

BY MS. BANKS:

Q In this particular exhibit, you list self-provisioning CLECs in each market. Do any of these CLECs serve residential customers?

A Yes. Not all CLECs identified to us whether they were serving residential or business customers, but there were several that did identify that they were serving residential, namely, Comcast and Florida Multi Media.

Q Okay. And which markets have self-providers serving residential customers with their switch?

A Fort Lauderdale Zone 1, Fort Lauderdale Zone 2, Jacksonville Zone 1, Jacksonville Zone 2, Miami Zone 1, Miami Zone 2, Orlando Zone 2. Those are the ones -- the markets that I know for sure, based upon the CLEC responses to discovery and based on my best recollection. There may be some of the CLECs who did self-provide information and may have indicated

residential and I just don't recall it at this time.

Q Are there any markets identified that do not have a self-provider serving the residential market?

A Once again, based upon what I recall about discovery responses, yes, there would be some markets that may not have mass market service to residential.

Q Which?

A Again, this is just based on my recollection. That would be Daytona Zone 2, and -- let me also clarify that FDN supplies a significant number of lines to mass market customers, and what I don't specifically recall is if FDN affirmed that they provide service to both residential and to small business customers. They certainly have made it clear they believe they're a trigger CLEC, but I just don't recall. So if in fact they are providing service to residential, then certainly these markets would change, because FDN is in most of our markets in Florida. So I'll caveat it with that, because Daytona Beach Zone 2 is a market where FDN is providing service.

But based on what I recall, the following markets are the ones that I believe do not have residential CLEC loops being served. That would be Daytona Zone 2, Orlando Zone 1, Pensacola Zone 2, West Palm Beach Zone 1, West Palm Beach Zone 2.

And again, FDN is actually in all of those markets.

Q Should CLECs be counted toward the trigger if they do not serve residential customers?

A Yes, they should. The FCC's rule simply says are they providing service to mass market customers. And the TRO includes in its definition residential and small business customers, but they don't say that you have to be serving both.

Q Okay. Making reference back to Mr. Gillan's rebuttal testimony at page 34, lines 9 through 10, he states that residential lines constitute approximately 80% of the mass market lines in BellSouth Florida's territory. Is this a valid approximation?

A I do not know the answer to that.

Q Can we determine that it is feasible to enter the mass market if the trigger companies are not serving 80% of that market, or residential customers?

A I'm sorry. Would you repeat that, please?

Q If the trigger companies are not serving 80% of that market, or residential customers, can we determine if it's feasible to enter the mass market?

A I believe the actual deployment that CLECs have experienced demonstrates that it's feasible to enter the market. While the trigger calls for just three CLECs,

there's a number of markets where there's six or even eight CLECs that have entered those markets providing service to mass market customers.

Q So if I understand what you're saying, your answer is yes?

A Yes.

Q And how would we do that?

A How would a CLEC enter the market?

Q How would we make that ascertation or determination that it's feasible to enter?

A By demonstration that there are that many CLECs that have already entered the market. The FCC's threshold is three, and in all of the markets where BellSouth claims the trigger is met, there are three, and in many cases, more than three that have entered the market.

Q Does the TRO allow carriers serving portions of the market to be given less weight than those serving the entire market?

A I do not recall.

Q If only a portion of the market is being served, does the TRO allow the market to be redefined as that portion?

A I recall a general statement. I don't recall the context or where it was made in the order.

MR. SHORE: Just FYI, and you may know this, and I don't want to interfere, but we've got another witness who addresses those issues, if that makes it easier.

MS. BANKS: Okay. And who might that be?

MR. SHORE: I think it's Dr. Pleatsikas.

MS. BANKS: Has he testified?

MS. MCNULTY: He's had his deposition.

MS. BANKS: He's had his deposition? I'm sorry. When I said testify, I meant deposition. And that spelling is?

MR. SHORE: I think it's P-l-e-a-t-s-i-k-i-s. He's the witness that talks about the market definition and responds to various folks' testimony about how you do that.

MS. BANKS: Okay.

BY MS. BANKS:

Q Are you aware that Sprint has provided information reflecting that the economic crossover point for providing service via a DS1 versus multiple DS0s is 12 lines?

A No, I'm not. Mr. Ruscilli is the witness for BellSouth that is addressing the crossover point.

Q What do you think would be the result of an analysis if we counted CLECs serving 12 DS0 lines or

fewer?

A I believe that the markets are the same or may increase by one. I do not have that exact analysis.

Q Would we be able to get a late-filed exhibit for that consideration?

A Yes.

MS. BANKS: I don't know what we would want to call it, but --

MR. SHORE: Why don't we call it "Triggers Satisfied Using Crossover of 12 DSOs"?

Let's go off the record for a second.

(Discussion off the record.)

MS. BANKS: And what was that title you said, Triggers --

MR. SHORE: Do you have it?

(Requested portion read by the reporter.)

MS. BANKS: Let's amend that to say "Triggers Satisfied Using Crossover of 10 DS0 Lines or Fewer."

(Late-Filed Deposition Exhibit 1 identified.)

BY MS. BANKS:

Q I want to change the consideration to intermodal carriers and how they qualify as a trigger candidate. Do self-providers using cable provide evidence that competitors can self-deploy switches and overcome the barriers associated with accessing the

incumbent's loop?

A My role is to gather the data about those that have actually self-provided service to mass market customers, and so I didn't examine whether there may be operational issues and what that may or may not demonstrate.

Q Okay. I think you can answer this question. In Mr. Gillan's testimony, he recommends that intermodal carriers not be counted toward the triggers. Would you agree?

A I disagree.

Q And why?

A Intermodal carriers are specifically set forth in the FCC's self-provisioning trigger analysis and its rule such that if there's competing providers, including intermodal providers of service, that are comparable in quality to the ILEC. So it's very, very explicit in the FCC's rule.

Q Okay. The TRO states that intermodal carriers should be given less weight. Mr. Gillan recommends that the weight should be zero. What weight would you recommend, and why?

A I recommend that an equal weight be given to intermodal providers because, again, in the FCC's rule, they simply are talking about whether there are three or

more competing carriers, including intermodal providers or carriers, and they do not lay out any weighting factor associated with those carriers.

Q In any of the markets that you present as not impaired in your triggers analysis, were any qualified by just three self-provisioning carriers?

A Yes.

Q And which markets?

A Daytona Beach Zone 2, Pensacola Zone 2, and that's all.

Q Of those markets, was an intermodal carrier one of the three?

A No, it was not.

Q I want to change to the enterprise customers. Mr. Gillan has Exhibit JPG-7 associated with his rebuttal.

A I'm sorry. That number again was?

Q JPG-7. And you can let me know when you're there.

A I'm there.

Q He indicates in his third bullet for mass market customers that mass market customers are often serving on a month-to-month basis and not pursuant to annual contracts. If this is often the case, does that mean that occasionally it is not the case?

A I would believe that occasionally it's not the case.

Q Okay. Has BellSouth had occasion to enter into annual contracts with mass market customers?

A I don't know.

Q Do you have any idea who might know?

A BellSouth witness John Ruscilli may be able to address that question.

MR. SHORE: When you ask her who might know, are you asking about a witness in this case?

MS. BANKS: Yes, a witness in this case. I'm sorry.

MR. SHORE: Okay. I think that's how she was understanding it.

MS. BANKS: Yes. If I ask if there's someone to speak to an issue, it's for witnesses in this case.

THE WITNESS: Somebody that's already a witness. Okay.

BY MS. BANKS:

Q In his last bullet in that section, looking at that same exhibit, witness Gillan cites TRO paragraph 467. If you could turn with me to that paragraph and read the first sentence. I think it's page 291.

A Okay. Read the first sentence?

Q That's correct.
A Out loud or to myself?
Q Out loud.
A "Most importantly, mass market customers generally demand reliable, easy to operate service and trouble-free installation."
Q Would you agree that mass market customers generally demand reliable service?
A Based on the plain meaning of what I just read, that's what the TRO states, yes.
Q And when the wireless technology was introduced to the mass market, would you say that it presented the same reliability as wireline?
A I'm not prepared to answer that. And I'm assuming that Mr. Ruscilli may be the right one to address it, but I'm not certain.
Q Okay. Give me one moment.
Okay. What is meant by an enterprise switch?
A Just in general or --
Q You can refer to the TRO order, if that's what comes to mind, if that's helpful.
A The TRO classifies enterprise as a customer that is served by a DS1 or above capacity loop. And so for purposes of my trigger analysis, I assumed that an enterprise switch is a switch that exclusively serves

DS1 and above capacity loops, or serves customers using DS1 and above capacity loops.

Q Okay. I want to now focus more on the trigger companies. I'm going to make reference to Mr. Gillan's Exhibit labeled as JPG-9. And this is attached to his rebuttal.

A Yes.

Q Are any of these companies affiliated with BellSouth?

A No.

Q Have you had the chance to review the responses to staff's data request for these companies?

A Yes, I have.

Q Okay. Did PaeTec indicate they were serving any residential customers?

A In their responses to staff, PaeTec did not say they were serving residential customers.

Q Any business customers with three or fewer lines?

A I don't believe that in their response to staff they indicated they were serving three or fewer lines, but in their response to BellSouth, they did indicate that they were serving three or fewer lines.

MS. BANKS: I have an exhibit that I guess we need to identify that I'll be making reference to.

And I guess we can call this "Excerpts from Trigger Companies' Websites," for lack of a better term.

(Deposition Exhibit 2 was marked for identification.)

MS. MCNULTY: Do you have any more copies?

MS. BANKS: I don't. This is all that I have.

BY MS. BANKS:

Q I just made it an exhibit for ease of reference, but I think you can answer the questions.

A Okay.

Q Of course, you need to look at it and make reference to it, but it's all information that's on the websites of these companies that I'm referring to, so it's information that's in the public domain, is what I'm getting to.

Referring to --

MR. DOWDS: Can we take five so I can make copies for them?

MS. BANKS: Okay. We're going to try and make copies. I know we don't have the luxury of providing copies to those folks on the phone, but we're going to go ahead and make a few copies of this for the people in the room. So if you all can just give us five minutes, and we'll resume back.

(Short recess.)

MS. BANKS: What we did before we broke, we basically made a copy of what staff has marked as Exhibit 2, which is excerpts of trigger companies' websites. And I apologize that we don't have the luxury of providing you folks on the call with a copy, but it will be attached to the deposition, so you will have an opportunity to look at it if you get a copy of the deposition.

BY MS. BANKS:

Q Going back to our questions, Ms. Tipton, I guess there's a series of questions regarding what we consider to be trigger companies and information from their websites that we've ascertained. If you'll look at what has been marked as Exhibit 2, referring to the paetec.com information, which should be your first page -- and I apologize. These are not numbered, but I think you can follow me by reference to the company name. It states that PaeTec specializes in developing targeted solutions to intermediate and large businesses, governmental organizations, and affinity groups; correct?

A Yes.

Q It also states that they offer solutions precisely tailored to the problem set; correct?

A Where are you reading that from? I'm sorry.

Q This is actually --
A Second paragraph or third paragraph?
Q It's the second paragraph, about --
A Yes.
Q The last sentence in that second paragraph.
A (Nodding head affirmatively.)
Q And they also indicate that they are targeting specific businesses; correct?
A Yes. It says, "We tailor our portfolio to provide precise, highly targeted industry, business by business." Some of it may be cut off, it appears.
Q Do they specific target higher education, hospitality, health care, financial services, and government?
A Yes.
Q And they also mention a leadership position in manufacturing and professional services; correct? The third paragraph is where I'm looking now.
A Yes.
Q Would you say that PaeTec is serving isolated pockets of the business market?
A I can't identify that from here. It certainly says what their strategic focus is, and their strategic marketing effort is focused towards those types of industries that we just reviewed.

Q Would you say that PaeTec is willing to provide service throughout the market in which they have been identified as a trigger candidate?

A I can't address their actual willingness. What we have identified is that they are actually providing service to mass market customers today.

Q Okay. I want to go on to what should be in sequence the next page of Orlando Telephone Company's website. And I think this document is actually two pages. And I'll give you a moment to glance over it.

A Okay.

Q They indicate they provide services for hospitality customers. Would you say that they are serving customers throughout the market or they're only serving a pocket?

A Their note at the top of the website says, "Services are for hospitality and business customers."

Q So would you say they're serving customers throughout the market, or are they only serving a pocket, a certain class of customers?

A Based on what their website says, it says they're serving a certain class, and that would be business.

Q Okay. They also indicate that they serve business customers with a minimum of 15 lines. Would

those be considered to be enterprise customers?

A Based on BellSouth's mass market definition, they certainly would fall into the enterprise classification. Our data does show, however, that they're purchasing DS0 level unbundled loops and are providing those services to mass market customers.

Q And how was it determined that Orlando Telephone was trigger candidate?

A They're purchasing loops from BellSouth, DS0 loops. And again, as I think I stated previously, in our trigger analysis we excluded any locations that had four or more lines, and we excluded locations that were also served by a DS1 or above capacity loop.

Q Why was the claim for Time Warner withdrawn?

A If my recollection serves me right, Time Warner -- we did not have complete data on Time Warner at the time my direct testimony was filed. And when our analysis was revised, Time Warner was in fact serving enterprise customers only.

Q Okay. I want to refer now to the next page -- I've concluded with Orlando Telephone -- which I think is the fourth page, even though not labeled, NewSouth. I'll give you a moment to glance at that.

A Okay.

Q Does it indicate that they serve small

business?

A Yes, it does.

Q And their reference to 1FB lines, no digital or T-1 service, does that imply POTS?

A I would read that to imply POTS.

Q Okay. Are they serving the mass market?

A If they're serving, by BellSouth's definition, locations with three lines or less, then, yes, they're serving the mass market. Our data indicates that they are.

Q Okay. Have they since been added to your list of trigger candidates?

A Let me refer to my exhibit.

We have not included them in the revised Exhibit PAT-5.

Q Okay. I want to -- will you be adding them?

A I would need to go back and look at their data. But, yes, if they in fact have lines in the markets that are our trigger markets, then we would be adding them. I don't know right now where they're actually providing service. It could be in markets that were not trigger markets.

Q Okay. I want to refer to an excerpt from US LEC's webpage, and this should be the ninth page in that handout. And I apologize again that they are not

numbered, but this is an excerpt from US LEC's website.

A Okay.

Q In its webpage, US LEC indicates that its services are provided over T-1 access, channel access, ISDN primary rate interface, and Advantage T. Are any of these provided by analog loops?

A I can't really say, because I don't know what channel access is. It indicates that it's DS0, but it doesn't say whether it's provided over DS1 or DS0 level loops.

Q Okay. In this website information, US LEC further indicates that they serve more than 14,000 mid to large business customers. Does this statement negate that they may be serving small business customers as well?

A I don't know that it negates the fact that they might be serving small business customers.

Q Okay. Now, this is actually the twelfth page in the handout. What did you find to be the case?

A With US LEC?

Q Yes.

A They were not one of our trigger CLECs.

Q In Dr. Brian Staihr's testimony in his deposition, he indicated that Sprint does not serve residential customers using UNE loops. Is there a

technological difference in the manner in which a very small business customer serves compared to a residential customer?

A Not to my knowledge.

Q Okay. How can it be determined whether a line is for a residence or for a business?

A The best method is for a CLEC to self-certify that it's providing service to residential or business.

Q Give me one moment.

For your analysis, how did you determine whether it's a residential or business line?

A For the data that was provided by the CLECs, unless the CLECs told us that they were serving residential, we wouldn't know. For the CLECs that did not respond to our discovery or didn't provide -- objected and didn't provide the responses we needed, we used our internal data. And as I indicated in my direct testimony, we determined based on a class of service indicator. So for residential customers, we used ported telephone numbers and used only those with a residential class of service.

Q So you were able to distinguish by the loop's address?

A Uh-huh.

Q Moving on to an excerpt of Sprint's website

information -- and this begins at the fourteenth page of the handout.

The name of this offering is Sprint Business at Home; correct?

A Correct.

Q And would this imply that this service is in a residence?

A Yes, I would assume so.

Q Does it also state that these residential lines will be treated exactly like business lines?

A That's what the website says, yes.

Q In your opinion, it is referring to residential lines being billed as business lines; correct?

A If you'll give me just a moment, I would like to read the paragraph.

Q Go right ahead.

A Okay. The sentence, "These residential lines will be treated exactly like business lines," I'm not really sure what they're referring to. In the next paragraph it says, "All these lines will be billed as business lines."

Q Okay. And that was my question, that they actually made that statement.

On that basis, could some of the lines Sprint reports as being business lines be considered actually

as residential lines?

A The lines that Sprint reports as being business lines could be residential?

Q Based on what they've represented, that they're treated the same?

A It could be. I mean, I certainly can speak to the fact that our number portability database is what we used to identify residential customers for CLECs that didn't respond, and the class of service indicator was derived from the actual listing.

Q Okay. So do think that the price charged for a line is what distinguishes it as a residential versus business line or otherwise?

A I would say otherwise. I can't really speak to what Sprint might do for their customers.

Q Okay. I believe you made reference to this earlier, about doing some updates with those companies that you've listed or consider to be trigger companies to what you provided. Is there anything additional or updates you have for those companies that you consider to be trigger companies?

A I do know that there has been additional supplemental responses made to our discovery requests, and some of those came in as recently as -- or that I saw for the first time as recently as Monday, and I was

en route to travel here. So to the extent that any of those responses provide us additional data, then we would revise -- I would revise my testimony and exhibits to the extent they were impacted.

Q Okay. So you don't know for certain who those might be or --

A No, I don't. And some of those responses, they may not actually impact our analysis. I don't even know which questions they're supplementing, so it may be things that don't impact the trigger analysis at all.

Q I know we were talking about earlier some of the companies that you were trying to get information to determine whether you considered them to be a trigger company or not, and you made reference to the fact that some of those companies had not responded. Did you seek additional discovery or file a motion to compel or otherwise to get that information?

A Yes, we did. And with our initial analysis, some CLECs who had not responded have subsequently responded, and we were able to include that when I filed my revised Exhibit 5.

Q So you all did file motions to compel the information?

A Uh-huh.

Q I think this may be my last question. This is

getting back to our discussion earlier regarding the enterprise markets. I want to know if -- and you may not have this information readily available, so it's very possible we would look at this as being a late-filed exhibit. What percent of Miami UNE Zone 1 is enterprise?

A I don't know.

Q So you probably won't have information regarding Zone 2 in Miami or the Jacksonville zones?

A No, huh-uh.

Q There are four zones in particular that I would like to know what percent is enterprise, what percent of the market is enterprise, so maybe I can just ask the question, and we can just decide how to label it for a late-filed.

A Okay.

Q My question is, what percent of Miami UNE Zone 1 is enterprise, including also Zone 2, Jacksonville Zone 1 and Zone 2, and Orlando Zone 1?

A And I do not have that information. When you ask the question, are you asking what percentage of the market in total?

Q Yes, in total.

A Including lines served by both BellSouth and by CLECs to the extent we're aware of those lines?

Q That is correct, including both.
A Okay.
Q Do you have any idea what we might want to call the exhibit?
A I think Percentage of Designated Markets -- let's see. Percentage of Designated Markets Defined as Enterprise?
Q That might work.
A And for purposes of the exhibit, just so I'm clear, do you prefer that we define enterprise by BellSouth's definition of four or more, or by the TRO's definition in its enterprise section of the order, those being served by DS1 or above loops?
Q I think my only request is that you probably do both, and with that referenced in context when you're giving the percentages, that this is in the context of the TRO versus this is in the context of what BellSouth has deemed or considered or defined it to be.
A Okay.
Q If you do it in both contexts, I think it will help us to see what the variations may be.
A Okay.
Q And just for clarification, I didn't get all the title we wanted. I think this is Exhibit 3, Percentage of Enterprise --

A Percentage of Designated Markets Defined as Enterprise? I can't remember what I said.

MR. SHORE: Percentage of Designated Markets, dash --

MS. BANKS: That sounds good, "Percentage of Designated Markets - Enterprise." And this will be Exhibit 3, which will also be a late-filed.

(Late-Filed Deposition Exhibit 3 identified.)

MS. BANKS: I think that was all staff had. Thank you, Ms. Tipton.

MR. MAGNESS: May we go off the record for just a moment?

MS. BANKS: That will be fine. We can go off the record for just a moment while we're transitioning.

(Discussion off the record.)

(Deposition Exhibit 4 was marked for identification.)

CROSS-EXAMINATION

BY MR. MAGNESS:

Q Ms. Tipton, my name is Bill Magness. I am an attorney for the Florida Competitive Carriers Association or FCCA. I've given you what we've marked now as Deposition Exhibit 4. Do you have that in front of you?

A Yes, I do.

Q And just to give you a reference, it's various provisions of the Triennial Review Order. I'll talk to you about it in detail as we go through, but I thought it might be a little easier than flipping through pages of the 600-page order.

Now, I will ask you and your counsel if there is anything you see in the reprints I've included here that is inaccurate or in any way is not what is in the Triennial Review Order, please flag it for me. That certainly is not the intention, and if you see any such thing, I hope you'll let me know on the record if that's the case. Okay?

A Okay.

MR. SHORE: There are things in this exhibit that are not reprinted from the Triennial Review Order. For example, on page 1, I don't think it says anywhere in the Triennial Review Order, "In conducting switching trigger analysis, the Commission should," and then --

MR. MAGNESS: Oh, no, no. I'll indicate that on the record, sure. I'll go ahead and say, since counsel points it out, on each one of these, there is basically a check-off I'm asking, and I'll explain that as I get into the questions. But he's

correct that only the provisions that appear to be from the order are from the order.

BY MR. MAGNESS:

Q Okay. Now, to start out, the first one here -- and I've got page numbers in the bottom right-hand corner of what's Exhibit 4. So on page 1, we have Section 51.319(d)(2)(iii)(A)(i), Local Switching self-provisioning trigger.

Now, are you familiar with this FCC rule?

A Yes, I am.

Q And is it your testimony that this rule provides the criteria for determining whether a CLEC meets the self-provisioning switching trigger?

A Yes.

Q And so as counsel noted, I've asked, "In conducting switching trigger analysis" -- and when I say the Commission should, I'm asking what would be your recommendation -- "the Commission should." Would you ignore this rule, or would you take this rule into account?

MR. SHORE: I don't want to object to every question, so if it's okay with you, I'll have a standing objection. To the extent you ask what the Commission ought to do, to the extent that's a legal determination or a legal conclusion, I'll object,

but I'll let her answer it. I'm not going to instruct her not to answer it, but I'll have a standing objection to her reaching any conclusions in that regard. Is it okay with you to proceed in that manner, or do you want me to object each and every time?

MR. MAGNESS: No, I would rather you not object each and every time.

BY MR. MAGNESS:

Q Ms. Tipton, I guess I'll ask, do you make recommendations to the Commission as to how they ought to decide some of the issues based on the Triennial Review Order?

A Yes, I do.

Q Okay. And you understand that when I ask you about what your recommendation is, I'm asking you based on your expertise. I'm not asking for a legal conclusion as an attorney. Do you understand that?

A Yes, I understand that.

Q Okay. And you were able to make recommendations to the Commission as to what it should do in your testimony, were you not?

A Yes. My task was to apply the FCC's rule regarding the self-provisioning trigger analysis and gather the appropriate data to demonstrate that the

triggers are met.

Q So in determining whether that trigger has been met, as it's listed on page 1, "In conducting switching trigger analysis, the Commission should," I take it your answer would be that the Commission should take Rule 51.319(d)(2)(iii)(A)(i) into account; is that correct?

A Yes, the Commission should use that rule in conducting its analysis.

Q Okay. I'm going to ask you to turn next to the next page. I've reprinted what is paragraph 830 of the Triennial Review Order, and I would just draw your attention to -- after that long series of numbers on the Communications Act identification, it says, "The Report and Order on Remand and Further Notice of Proposed Rulemaking in CC Docket No. 01-338 is adopted, and that Part 51 of the Commission's Rules, 47 C.F.R. Part 51, is amended as set forth in Appendix B." Did I read that correctly?

A Yes, you did.

Q Okay. Now, does this indicate to you that the FCC adopted its order and also amended the rules?

A My simple reading of this indicates that. But again, I certainly don't want to draw any legal conclusion about what it actually says.

Q Okay. Do you have any reason to believe that

the FCC did not adopt as its policy the several hundred pages that are what we call the Triennial Review Order?

MR. SHORE: Object to the form. You can answer.

A I'm sorry. Could you restate the question?

Q Sure. You said that the rules ought to be applied; correct?

A Correct.

Q Okay. And those are the rules that are stated in the Triennial Review Order; right?

A That's correct.

Q And those are included, as they say here, in Appendix B to the order?

A I'm assuming that it's Appendix B. I don't recall.

Q Okay. Those are several pages, and then there are several hundred other pages before that appendix that we kind of colloquially call the Triennial Review Order. Are you familiar with that document?

A Yes.

Q Okay. And you don't have any reason to believe that the FCC didn't adopt that as its order, do you?

A I don't have any reason to believe they didn't adopt it as their order.

Q Okay. And that's what you've been analyzing when you've looked at trigger analysis; right?

A I actually took the FCC's rule as you've laid it out here on page 1 and applied the criteria that were clearly laid out in the rule, and gathered data and conducted the trigger analysis for BellSouth based on what was defined in the rule.

Q Okay. If you'll flip to the next page, I have reprinted from the rule 51.5 and from the Triennial Review Order paragraph 97, footnote 325. And just for your reference, 51.5 is the definition in the rule of intermodal. And for your reference, you quoted that in your direct testimony at page 12, lines 15 through 19. And then the TRO paragraph 97 footnote I believe you quoted in your surrebuttal at page 4, line 22.

Now, is it your understanding that both the rule provision and the order provision provide a definition of intermodal?

A Yes.

Q But they're not word for word the same, are they?

A No, they're not.

Q And in the TRO, paragraph 97, footnote 325, the main difference, and correct me if I'm wrong, is that there were examples given. For example, wireless

technologies, satellite, mobile, and fixed, that's not in the rule, is it?

A No, the parenthetical references are not included in the rule.

Q Okay. And if I were to argue to you that, let's say, fixed wireless does not qualify as an intermodal technology under the FCC's rule, wouldn't I be wrong about that?

A I'm really not in a position to provide an interpretation about that.

Q Okay. Well, you have quite a bit of testimony about how it is that intermodal carriers should be counted or not counted for triggers, don't you?

A Yes, I do.

Q Okay. And you cite both of these definitions in your testimony, don't you?

A Yes.

Q Okay. So you're familiar with them, aren't you?

A Yes. And my testimony refers to cable providers.

Q Okay. But I'm just asking you, as a matter of reading the paragraphs, if I was to argue to you that fixed wireless didn't count and said that it's not in the rule, would you agree with me?

A I really have no opinion. We didn't include fixed wireless in our analysis, and I therefore really don't have an opinion about it.

Q Well, would it be your testimony that the term "satellite, mobile, and fixed" don't have anything to do with the term as it's defined in the rule?

A As I stated, I really don't have an opinion about it. Intermodal providers of service as we relied upon them in our trigger analysis were solely referring to cable companies.

Q Okay. So to look at the question that I posed here on this one, "In conducting switching trigger analysis, the Commission should," I ask you should you ignore Rule 51.5, but take the paragraph 97 footnote into account; should you take both the rule and the footnote into account, even though they have different wording; or would you ignore the text of the order and only take the rule into account?

A I think that's more of a legal argument, and I'm not in a position to make a determination.

Q So you're not sure how "intermodal" ought to be defined for purposes of the Triennial Review Order?

A I'm just saying that based upon what you've asked me to respond to here, I'm not in a position to respond to your question.

Q Okay. So you don't know?

MR. SHORE: She has answered it.

BY MR. MAGNESS:

Q Okay. Well, on this question of intermodal, let me ask you to turn to the next page, page 4, which is paragraph 499 of the Triennial Review Order. Have you read paragraph 499 before?

A I'm sure that I have.

Q And let me direct your attention to footnote 1549 that is accompanying paragraph 499. It begins, "As in the impairment triggers for high-capacity loops and dedicated transport, states shall also consider carriers that provide intermodal voice service using their own switch facilities, including packet and soft switches, that meet the requirements of these triggers and Part V above." And it says, "See supra Part V.B.1.d.(ii), describing intermodal alternatives generally and factors affecting differences in the extent to which various intermodal alternatives are considered." Did I read that correctly?

A Yes, you did.

Q So when you were considering whether the intermodal carriers you were looking at should be used in your analysis, did you consider the requirements of the triggers and the requirements in Part V?

A Considering that I have no idea what is contained in Part V, what I can tell you is that when we conducted our trigger analysis, we did so based upon what was contained in the rule, and that was intermodal providers of service that are comparable in quality to ILEC service.

Q Okay. So the direction from the FCC in the footnote that you should look at whether they meet the requirements of these triggers and Part V above was not something you took into account?

A As I said, I took into account what was contained in the FCC's rule.

Q But not in this part of the order; is that right?

A To the extent that the criteria laid out in the FCC's rule is also contained in this subpart here, which I don't have reference to, then yes. But otherwise, no.

Q Okay. Well, it's pretty clear that that's not referenced in the rule; right? I mean, the rule is back on page 1. The rule doesn't say anything about exactly how it is you're supposed to consider intermodal carriers besides including intermodal providers of service comparable in quality to that of the incumbent LEC; right?

A That's correct.

Q Okay. So is it your testimony that this additional direction on how to apply the rule from the FCC shouldn't be taken into account?

A I think the FCC's rule was very clear, and it says to count competitive carriers that are intermodal providers of service that are comparable in quality, and that's what we did.

Q Okay. The next sentence in footnote 1549 says, "In deciding whether to include intermodal alternatives for purposes of these triggers, states should consider to what extent service is provided over these intermodal alternatives are comparable in cost, quality, and maturity to incumbent LEC services." In making your determinations about whether to include intermodal alternatives, did you consider cost, quality, and maturity?

A The direction from the FCC was contained in their order, in their order and in the rule, which says they must be comparable in quality. And so although it wasn't necessary, nor should the Commission consider, you know, we went by what the FCC rule said. It said comparable in quality.

Q So in that instance, you thought the rule alone governed and not the additional guidance that's contained in the order?

A My task in this proceeding was to conduct the self-provisioning trigger analysis as contained in the rule.

Q And who gave you that task?

A It was way we allocated responsibilities. I mean, there were a whole lot of things that had to be done in this nine-month proceeding, and my particular responsibility was to do the data gathering and analysis pursuant to the self-provisioning triggers.

Q So were you told not to look at the order in your analysis?

A No.

Q And did you?

A I mean, I read the order, yes.

Q In fact, you cited it several places in your testimony, didn't you?

A Uh-huh.

Q Okay. So the order isn't irrelevant to the trigger consideration, is it?

A No.

Q So you only considered it selectively?

A No. I think -- you know, I certainly can't make a legal determination about what governs. That's a legal determination. But where the rule is clear, and the self-provisioning trigger rule is very clear -- I

mean, the order discusses a whole lot of things. But where the rule is clear, you know, it's my personal belief it's appropriate to execute under what the rule says.

Q Okay. So on page 5 then, here at the end of paragraph 499, I ask, "In conducting switching trigger analysis" --

A I'm sorry. Where are you?

Q On page 5, if you flip over. "In conducting switching trigger analysis, the Commission should," should the Commission ignore paragraph 499 and accompanying footnotes?

A I believe you're asking me to make a determination about what's governing, whether that's the rules versus the order itself, and that's a legal conclusion. That's really not for me to make a call about. That's more for the attorneys to figure out.

Q No, ma'am. Really what I'm asking is what the basis of your opinions stated in your testimony are. You felt at liberty to say quite a bit about what it is the TRO means and how it should be interpreted and applied by this Commission, and so I'm asking you here, here's a provision of the TRO, and in your view, should the trigger analysis take paragraph 499 into account?

MR. SHORE: I have two objections. One is to

the characterization or mischaracterization of her testimony, and based on that, it's not an appropriate question to ask her. But secondly, she has asked and answered that question already. If you want her to answer it again, I'm not instructing her not to answer.

BY MR. MAGNESS:

Q So you don't --

MR. SHORE: Do you want her to answer the question?

BY MR. MAGNESS:

Q What is your answer?

A No, I -- I mean, I think I've answered the question.

Q Okay. Well, should this Commission take the instruction concerning whether to include intermodal alternatives that's in footnote 1549 into account in its trigger analysis?

MR. SHORE: Same objection.

A As I stated, I think that the rule is very clear. I mean, it clearly states that in conducting the trigger analysis, the State Commission should take into account CLECs, including intermodal providers that are comparable in quality. It doesn't reference any additional criteria for intermodal providers. It's very

clear.

Q Okay. But footnote 1549 references cost, quality, and maturity. So we should ignore cost, quality, and maturity and just focus on quality?

A I'm not making a determination about what should be ignored or not ignored. I'm just saying --

Q Well, I think that's what you just said, wasn't it?

MR. SHORE: Don't cut her off and talk over her, please. Just give her a chance to finish her answer. We need a clean record here, and it's also discourteous.

Were you finished?

THE WITNESS: Yes, I'm finished.

BY MR. MAGNESS:

Q We should only look at quality; right?

A Based on the FCC's rule, yes.

Q And what's your view of how the Commission should apply the order?

MR. SHORE: Same objection.

A As I said, it's not for me to argue whether, you know, in general the rules themselves versus the order should take precedent. I don't know what the governing law is there. But I do know that the rule is very clear.

Q Okay. When you -- how did you conduct your analyses of this?

A What do you mean?

Q Did you look only at the rule when you conducted your analysis that's contained in your testimony?

A No, I didn't look only at the analysis. I mean, the triggers discussion in the order fully supports the actual rule itself that the Commission distilled into what it charged the state commissions with executing.

Q What's your view of how this Commission should treat the errata to paragraph 99?

MR. SHORE: Same objection. I've stated it before. I don't want to take more time than necessary. She can answer it.

BY MR. MAGNESS:

Q Let me just be a little more focused with it. I think, Ms. Tipton, you criticized witnesses, including Mr. Gillan, for not properly taking into account the errata that affected paragraph 499. Do you recall that in your testimony?

A I don't recall if it was specific to paragraph 499, but I certainly recall that it did not appear, based on their testimony, that they had incorporated the

FCC's errata.

Q So is it your view that the FCC's errata should be part of the analysis of triggers?

A My view is that the errata changes the wording in the order such that with that new wording, that becomes the actual order itself.

Q Did the errata change the rule?

A I don't recall. I think that there may be one change to the rule, off the top of my head, that the FCC made.

Q And did the errata have any impact on your analysis of the triggers?

A No, it did not, because BellSouth evaluated the data that demonstrated that there's three or more CLECs providing services to mass market customers based on BellSouth's market definition and based on BellSouth's mass market threshold definition. So it didn't impact our analysis.

Q Okay. Also in paragraph 499, there's that term -- I'll just read the sentence. "Moreover, the identified competitive switch providers should be actively providing voice service to mass market customers in the market." You're familiar with that sentence?

A Yes.

Q Okay. I believe you and Ms. Banks discussed it to some extent earlier; right?

A I don't recall that we discussed this particular sentence, but, yes.

Q Okay. Well, let me ask you this. I heard you, and correct me if I'm wrong, use the term "actually serving" when you were talking to Ms. Banks, as well as "actually providing," and "actively providing." So there's three terms, actively serving, actively providing, and actually providing. In the context of your testimony, do those terms mean anything different to you?

A No.

Q Okay. They all mean the same thing?

A Uh-huh.

Q So your testimony is that if someone is actually providing, it's the same thing as actively providing?

A Yes.

Q Okay. And is there anywhere in the order or the rule that you cite me to that gives me some justification for thinking that's right?

A I don't recall specifically whether the order addresses "actively" versus "actually providing."

Q Okay. I think you agreed with Ms. Banks that

there's no specific definition of :actively providing"; right?

A I believe what I stated was I wasn't sure -- I couldn't recall whether the order itself specifically defined that term.

Q Okay. Now, if there's no clear definition in the order, doesn't this Commission need to evaluate that in order the make a determination under the order?

A I would say yes.

Q Okay. So they need to exercise some judgment in determining what "actively providing" means?

A Given the fact that the FCC's rule doesn't use the term "actively" or "actually," it just says "are providing service," I think the Commission should take into account whether the CLECs that are trigger CLECs are providing service to mass market customers.

Q And so the Commission shouldn't worry about the term "actively providing" as it's used in paragraph 499?

A I don't see a reason to. To me, it's are they providing service, and "actively" versus "actually," they're providing. It's is there live service the customer can use today.

Q One more question on this footnote 1549. I talked to you about the first sentence that says the analysis is to look at Part V above, and it says, "See

supra Part V.B.1.d.(ii)." Do you remember when we talked about that?

A Uh-huh.

Q And I would ask you to look at page 6, which, if you have the order, I would be happy for you to check the table of contents, but I would represent to you this is Part V.B.1.d.(ii) -- actually, I found an error here. Where it says "Evidence of Impairment," that should be the (ii) instead of (i). Let me check the order and be sure that's the case.

MR. SHORE: If he represents something on the record, I'm happy to take his word for it.

MR. MAGNESS: I'm checking the order, and it is an error in the reprint. It is (ii). The title is "Evidence of Impairment." And we've reprinted here that section that's referred to in footnote 1549, and that's paragraphs 92 through 104 that goes on Exhibit Number 4 from page 6 through page 14.

BY MR. MAGNESS:

Q Now, did you review these paragraphs of the TRO in conducting your trigger analysis?

A Not in conducting my trigger analysis. I read these parts of the order when the order first came out to gain a general understanding of the order's content.

Q Okay. And did you understand from footnote

1549 that you need to look at Part V in order to decide whether to include an intermodal provider?

A No, I did not. As I stated, I think the rule is really clear that if there is a CLEC that is an intermodal provider and they're comparable in quality to the ILEC, they count as a trigger CLEC.

Q Okay. I would ask you to look at paragraph 94. I just want to highlight one sentence and ask you if it has any impact on that opinion. Just after the footnote 313, the sentence is, "In deciding what weight what to give this evidence, we will consider how extensively carriers have been able to deploy such alternatives, to serve what extent of the market, and how mature and stable that market is."

Does the FCC's statement here about how to weigh evidence of intermodal carriers change you view at all about how the rule should be applied?

A No, it doesn't.

Q Okay. And in paragraph 98, which shows up on page 11, in the second sentence, the FCC says, "For example, some carriers relying on intermodal alternatives have not needed to overcome the same kinds of barriers as new entrants that start without any facilities at all. Cable telephony and cable modem service, for example, have developed because cable

operators have been able to overlay additional capabilities onto networks that they built for other purposes, often under government franchise, and therefore have first-mover advantages and scope economies not available to other new entrants, which lower their incremental costs of providing the additional services." Did I read that correctly?

A Yes, you did.

Q And does this statement of what should be considered by the FCC have any effect on your view of how the triggers ought to be applied?

A No.

Q And did you take this into consideration when you included Comcast as an intermodal trigger in your analysis?

A As I stated, I took into account whether Comcast was serving mass market customers and whether they were comparable in quality to the ILEC service.

Q Okay. So did you take what I just read you from paragraph 98 into account?

A Not specifically, no.

Q Okay. What do you mean, not specifically? Do you mean no?

A I mean no.

Q Okay. If you look at page 14, in your view of

how a trigger analysis ought to be conducted, should this Commission ignore paragraphs 92 through 104?

A Again, I'm not going to make any determination. To me, that's a legal determination as to what takes precedence in providing guidance to the State Commission, whether that's the rule or the order itself.

Q Okay. I guess I'm just asking you, in the same way that you make recommendations at the conclusion of your testimony, what your recommendation as to this would be.

MR. SHORE: Objection to the form. She doesn't make any of these kinds of recommendations in her testimony. She can answer.

BY MR. MAGNESS:

Q Do you make any recommendations in your testimony?

A Yes, I do.

Q And what do they have to do with?

A They have to do with the Commission executing its charge by the FCC as clearly laid out by their rules.

Q And on page 15, paragraph 501 of the TRO, I would call your attention to the last sentence in this paragraph, "Finally, we believe that the existence of three self-provisioners of switching demonstrates

adequately the technical and economic feasibility of an entrant serving the mass market with its own switch, and indicates that existing barriers to entry are not insurmountable." Have I read that correctly?

A Yes, you did.

Q Okay. And then there's a footnote attached, number 1560, and it says, "We recognize that when one or more of the three competitive providers is also self-deploying its own local loops, this evidence may bear less heavily on the ability to use a self-deployed switch as a means of accessing the incumbent's loops."

Now, as you were looking at the switch trigger companies that were identified, did you make any judgments about whether the fact that they were providing their own loops should bear more or less heavily on whether they had accessed incumbent loops?

A No, I didn't. And if you continue reading that same footnote, it says, "Nevertheless, the presence of three competitors in a market using self-provisioned switching and loops shows the feasibility of an entrant serving the mass market with its own facilities."

Q Okay. Were there any markets in Florida where you identified three competitors that were all using self-provisioned switching and loops?

A There were no markets in Florida where all

three competitors were providing self-provisioned switching and their own loops.

Q Okay. So what did you want me to get out of reading that sentence?

A That I believe that the Commission's rule does not bear any distinguishing weigh on intermodal providers of service, whether it should be more or less. It simply states that where there are three or more competing providers, including intermodal providers. It doesn't say including in some cases intermodal providers, and it doesn't say you can count them sometimes and not others.

Q So pay no attention to the order on that front?

A I'm just telling you my reading of the FCC's rule.

Q Okay. Paragraph 500 begins by discussing that factors such as financial stability or Chapter 11 bankruptcy are not to be considered, then completes with the last sentence, "The key consideration to be examined by state commissions is whether the providers are currently offering and able to provide service, and are likely to continue to do so."

A Yes.

Q And in footnote 1556, it says, "For instance, states should review whether the competitive switching

provider has filed a notice to terminate service in the market." Is that a correct read?

A That's correct.

Q Okay. Are there any other ways that a carrier could be shown to be likely or not to continue to provide service?

A Other than filing an actual public notice, I'm not aware of any.

Q Did you consider any in your testimony?

A Did I consider any what?

Q Any other evidence of whether carriers are likely to continue to provide service?

A Only whether they had filed a public notice that they were not planning to continue, and we didn't find any such carriers.

Q Do you know of any CLECs who have filed notices to terminate in Florida?

A I'm not aware of any that have filed a notice. And we also asked in our discovery requests to CLECs whether they intended to continue to provide or intended to terminate, and we had no CLECs that indicated that they did not intend to continue or that they intended to terminate.

Q Okay. Now, as you read 1556, the footnote, that "for instance," do you think that means that that's

the only thing that a state can consider, or it's just an example?

A I think a common-sense reading would tell you it's just an example.

Q Now, I want to direct you to your flow chart at PAT-8 that I believe is attached to your rebuttal.

MR. SHORE: Surrebuttal.

MR. MAGNESS: Surrebuttal. I'm sorry.

BY MR. MAGNESS:

Q Now, having reviewed these provisions of the order so far, would you agree with me that you need to add something on the decision chart about a determination of whether the trigger CLEC is actively providing and likely to continue providing service?

A As you'll notice, the title of my flow chart is based upon Rule 51.319(d)(2), et cetera, which is the citing of the actual rule. And the rule itself does not contain a parameter that CLECs plan to continue offering service.

Q Okay. When I'm trying to interpret the rule -- let's say I'm trying to make a decision about this, and I'm trying to figure out if a trigger CLEC under the rule is serving mass market customers. Doesn't the order give me some interpretive guidance on figuring out what it means to serve mass market customers?

A Well, a plain reading of the rule simply says are there three carriers that are providing service to mass market customers. So based upon the analysis that we conducted, in each of the markets that we designate as a trigger is met, there are in fact three carriers who are currently providing services to mass market customers.

Q So as a decision-maker, I don't need to worry about "actively providing"?

A Again, I'm not going to make any kind of recommendation about what prevails, the rule versus the order. What I'm telling you is that the flow chart that you've referenced or pointed me to is a flow chart which depicts the decision criteria as defined in the FCC's rule.

Q Okay. I would ask you to flip to page 17 of Exhibit 4. That's TRO paragraph 508. And I'll represent to you this is an excerpt of 508. It continues on, and I'll be happy to talk to you about what's in the rest of it, but the question I have is really about the last sentence that has been printed here. And that sentence begins with "although." It's about five lines up from the bottom. "Although switches serving the enterprise market do not qualify for the triggers described above," and then the sentence

continues.

Now, Ms. Banks asked you some questions about enterprise switches and mass market switches. Do you read this as an indication that enterprise switches should not qualify for the triggers?

A BellSouth defines an enterprise switch as one that is exclusively serving customers using DS1 and above loops. And I believe this excerpt is from the paragraph that's discussing the potential deployment analysis, and the potential deployment analysis certainly can consider enterprise switches.

Q Okay. If you could turn to page 18, it's paragraph 441, which is reprinted in its entirety. It begins, "Additionally, the BOCs' suggestion that our analysis should treat switches deployed to serve large enterprise customers exactly the same as those deployed to serve mass market customers ignores the substantial modifications and attendant costs necessary to serve the mass market customers with an enterprise switch." And I think if you'll continue reading, you'll find a couple of other references to enterprise switch in that paragraph. And then it concludes with a footnote 1354, which begins, "The dissents' assertion that enterprise switches should be considered in our mass market triggers ignores these substantial differences between

the switches serving the different markets." Have I read that correctly?

A Yes, you have.

Q So isn't it pretty clear here that the FCC interpreted its own rule to mean that enterprise switches shouldn't be included in the trigger analysis?

A Well, my reading of this paragraph talks about substantial modifications and costs necessary to serve the mass market with an enterprise switch. And to the extent a switch is already serving both the mass market and an enterprise market set of customers, obviously, the switch already had the capability and therefore could be considered.

But again, trigger analysis itself doesn't contain any defining criteria around the switches. It's a count of the CLECs that are providing service to mass market customers.

Q And when you say the trigger analysis, when you use that term, do you just mean the rule?

A Uh-huh.

Q Okay. Not the order; right?

A Well, specifically, I was speaking to the rule.

Q Now, you said BellSouth has a definition of what an enterprise switch is; right?

A Well, actually, I believe the FCC is pretty

clear. In their discussion of enterprise switching in the order, they talk about enterprise switching is providing service to customers using DS1 and above capacity loops.

Q Okay. Now, are there some switches that are of mixed use, they provide some service as DS1 level and some service as DS1 level?

A I assume so, based upon the discovery responses that I was provided, but I'm not a technical witness and couldn't tell you in actuality.

Q Okay. Well, I think you said a little earlier that BellSouth used an enterprise switch as one that serves exclusively the enterprise market; is that right?

A Exclusively DS1 and above loops.

Q Okay. So if a switch is 100% DS1 loops, if that's all that's being served off of it, that's an enterprise switch; right?

A Based on the FCC's discussion that it's enterprise, yes.

Q Okay. And let's say a switch serves -- 1% of the lines coming off of it are mass market, and 99% of the lines coming off of it are DS1. Is that an enterprise switch or a mass market switch?

A Based upon a reading of this paragraph here, it already has the capability to serve mass market, so it's

neither one nor the other. It's serving both.

Q Well, then how do we decide whether to include that switch in the trigger analysis if enterprise switches aren't to be included?

A I don't believe the trigger analyses causes us to have to be concerned about the switch itself. The trigger analysis asks us to count the number of CLECs that are providing service to mass market customers. It doesn't talk about counting switches.

Q Even though this footnote 1354 says, "The dissents' assertion that enterprise switches should be considered in our mass market trigger ignores these substantial differences"?

A I can't address what the FCC night have been thinking, but I can tell you what the rule says.

Q The last page of this, page 19 -- I'm sorry, not the last page. It's TRO paragraph 447, footnote 1365. And let me just read the first two sentences. "We found significantly more probative the evidence that in areas where competitors had their own switches for other purposes (e.g., enterprise switches), they are not converting them to mass market customers and are instead relying on unbundled loops combined with unbundled local circuit switching." Again, doesn't it appear that in the TRO that the FCC was drawing a distinction between

enterprise switches and mass market switches?

A They say, "For example, enterprise switches." In reference to specifically this paragraph, they're using as an example enterprise switches.

Q Okay. Now, if a switch serves 99% of its lines to the mass market and 1% of its lines to the enterprise market, do you consider that a mass market switch or an enterprise switch?

A I don't consider it either one. Again, it's not necessary to determine the switches themselves. The switching trigger analysis is based upon the number of CLECs that are providing service to mass market customers.

Q Okay. On the last page, page 20, I've reprinted Rule 51.319(d)(2)(iii)(B)(4). And to give you a reference here, at your direct testimony on page 6, at lines 22 through 25, you say, "BellSouth witness John Ruscilli testifies that for this proceeding, BellSouth has adopted the FCC's default demarcation crossover point between 'mass market' and 'enterprise' customers." Now, is that correct?

A That's correct.

Q Okay. Is there anything in this rule, which is the multi-line DS0 end user's rule, that references a default demarcation crossover point?

A As I stated in my direct testimony and here, witness John Ruscilli is the BellSouth witness that's addressing the crossover point from mass market to enterprise, and I'm not prepared to do so.

Q Okay. Well, based on your expertise in examining these orders and rules, if Mr. Ruscilli had to resort to the order because what he was advocating wasn't in the rule, would that cause you to question his analysis?

A I'm sorry. Could you restate that?

Q If Mr. Ruscilli's analysis required us to look outside the four corners of the rule and look at the TRO order language in order to justify his analysis, would you think that calls into question his analysis?

A I really don't have an opinion.

Q So we need to look at the rule sometimes, but not really focus on the rule other times?

A Well, as I said earlier -- you know, this is my layman's opinion. Again, I'm not an attorney, but my layman's opinion is that when the FCC's rules are clear and don't seem to be needing additional information, it seems appropriate to me to follow the rules. And the self-provisioning triggers rule, which is that which I am addressing in this proceeding, seems pretty clear to me.

Q Okay. Now, I want to ask you a bit about data. You testified, I believe, today that you were the witness responsible for gathering the data on the trigger analysis. Is that right?

A That's correct.

Q Okay. And I take it by that, you were in charge of a data gathering process?

A Yes.

Q And did you also analyze the data to arrive at the triggers that you identified in Exhibit PAT-5?

A I did not personally do all of the data analysis. I supervised all of the folks who were involved in that analysis.

Q Okay. Do you know how that analysis was done?

A Yes, I do.

Q Are you familiar with BellSouth's response to AT&T's subpoena -- and I'll pick my favorite Latin mispronunciation of this -- duces tecum which was filed December 26th of 2003?

A Yes.

Q Okay. Do you have that with you?

A I believe I do. I'm not sure that I have all of the attachments, but I think I have them.

Specifically which --

Q Well, I have it on a CD, and I can look at it

if I need to, but I think we can just talk it through.

A Okay. I actually have, I think, probably the same thing on a CD, and that's all.

Q So you don't have the paper in front of you?

A Can you refer me to a particular question, and I can tell you whether I have the paper.

Q Well, sure. It's the response to request number 1 in the subpoena.

A Okay.

MR. MAGNESS: And the record will reflect that my computer should be about to make a Microsoft noise, because I'm trying to get on, and I have a disk that I'm going to put in my CD disk drive, which I'll show to counsel to be sure that we're looking at the same thing.

MR. SHORE: (Nodding head affirmatively.)

MR. MAGNESS: Could you say audibly that we're looking at the same thing?

MR. SHORE: Yes. The disk is labeled "BellSouth's Response to AT&T's Subpoena Duces Tecum Without Deposition, Items Nos. 1 and 2." It's dated December 26th of '03.

MR. MAGNESS: Okay.

BY MR. MAGNESS:

Q Now, you referred to which response. And let

me tell you -- let me try to go through the information with you. The CD contains a PDF file. That's how I received the data. Is that right?

A Right.

Q And it's Bates stamped -- to try and keep this clear on the record, its Bates stamp numbering begins at Page 1 and continues to page 3079.

A I'll take that as your word. I have looked at it, and I don't remember exactly what the final Bates stamp number was on the exhibit.

Q Okay. Help me understand. Do you have a copy of that with you or not?

A Uh-huh. Should I get it out?

Q On a disk?

A Uh-huh, I have it on a disk.

Q We could actually look at the same one if you want, whatever you're more comfortable with.

MR. SHORE: If you can see it and --

THE WITNESS: That's fine.

MR. MAGNESS: Okay. Let me just get in here. If we could go off the record just a second.

(Discussion off the record.)

MR. MAGNESS: Now, for the record, on the break, Ms. Tipton and I have both fired up our laptops, and we have the CD in the drive and open.

And again, this is the BellSouth response to the AT&T subpoena, December 26, 2003.

And I want to note for the record, this is a proprietary document. It's not my intention, Ms. Tipton, to have you identify proprietary data in our discussion of this. If you feel like you need to to give a complete answer, please let me know before you have give the answer, and we'll take the appropriate actions to seal the record. But don't blurt out a number without letting us know.

THE WITNESS: Saying this is confidential.

MR. MAGNESS: Yes. But it's not my intention to have you stumble into any of those, because I don't want to have to seal deposition. I don't think we'll need to.

Okay. So we had established that the Bates numbering begins on page 1, and page 1 shows that this constitutes a response to request number 1 in the subpoena.

BY MR. MAGNESS:

Q Now, let me ask you this. Do the 3,000 and some pages comprise a single set of data?

A No.

Q Okay. It's divided into sections; right?

A Yes, that's correct.

Q Now, the first section continues from page 2 through page 991?

A Let me just double-check.

Q I should ask that as a question. I'm asking you to look if it continues through to page 991.

A Oh, wow. It scrolls fast on the page thing.

MR. MAGNESS: Can we go off the record?

(Discussion off the record.)

BY MR. MAGNESS:

Q The data is formatted in a particular way in pages 2 through 991; correct?

A Correct.

Q And then that formatting changes. There isn't any dividing page between the changes in format, is there?

A No.

Q It just picks up without warning on page 992 with a different set of data?

A It's actually a continuation of the data on the previous pages. It's a very long spreadsheet, a many-columned spreadsheet. And so the first section is as if the file reads down columns, and then across and reads down.

Q Okay. So pages 2 through 991 and 992 through -- and I'll represent to you it's page 1981. Those

should be read as one file?

A Yes.

Q It's just that the -- and in order to read them together, you would need to line up each one of the pages?

A Yes.

Q Like page 2 with page 991, and --

A Or 992, I believe.

Q Okay. Is there anything in the response that indicates that's the case?

A I don't recall.

Q And the column headings on the section that goes from page 2 to page 991 are different from those at page 992 to page 1,981; right?

A That's correct.

Q Okay. Then if you could go to page to 1982, we experience another format change; right?

A I'm sorry. Page --

Q 1982.

A Yes.

Q Okay. So at page 1982, is this also part of the same spreadsheet as the first 1,981 pages?

A I'll have to go back and refresh my memory on the actual questions that were being asked, but I do not believe so.

Q You do believe so?
A I do not believe so.
Q You don't believe so. Okay. So just to get through the document -- I'm going to ask you about the question in a few minutes, but just to get through what all is on this disk, the format that's discussed starting at page 1982 just goes through page 1985; is that right?
A That's correct.
Q Okay. Then beginning at page 1986, there's yet another format change; right?
A Yes.
Q And that format is different from the one for the first 1,900 pages; correct?
A That's correct.
Q Okay. And this format continues, and please check, through 2012; is that right?
A That's correct.
Q And then that format ends at the end of page 2012, and isn't it correct that the next page, 2013, is entitled "Attachment to Subpoena, Item No. 2"?
A Yes, that's correct.
Q So would it be fair to say that everything that is in the first 2,012 pages of this response is responsive to subpoena item number 1? At least that's

how it's laid out on the disk; right?

A That's the way it's laid out in the disk, yes.

Q Okay. Do you believe that that is all responsive to request number 1?

A I believe so, but if you'll give me one moment, I would prefer to go back and just double-check.

Q Well, before we do that -- I'll give you an opportunity to do that, and I don't want to miss that point, but let's just finish what's in here, and I think we can do it quickly. Here at 2014, a new set of data points appears; right?

A Just one moment.

Q 2014.

A Yes.

Q And this is where the response to request number 2 begins; right?

A Correct.

Q All right. And then the data under these headings that begin at 2014 continue on to the end of the document at page 3079, right, for over 1,000 pages?

A Just one second and let me just double-check.

Q Okay.

A Yes, that's correct.

Q So to summarize, what we've done with all our scrolling, there's five sets of data on this disk. Tell

me if I've got this wrong. There's a -- I'm sorry. I should strike that. I should say there's four sets of data on the disk. Pages 1 through 1981 are what you consider to be one set of data, but it's a spreadsheet that's cut in two; is that fair to say?

A It wraps; right.

Q And then there's a set of data at page 1982 to page 1985; right?

A Correct.

Q Okay. And then there is another stand-alone set from page 1986 to page 2012; correct?

A Yes.

Q And then finally, under the response to request 2, we have data on pages 2013 to 3079; is that correct?

A Yes, including the title page.

Q Okay. Now I think I ought to say something very controversial just to wake people up on the phone. That wasn't very scintillating.

But let me ask you, if there's four separate files here, why is it that they're incorporated in this one PDF for production?

A Request number 1 asked to refer to the ported residential telephone numbers by CLEC by market, to provide the information as used by me in my testimony.

Q And since we're going to be referring to it,

why don't I just read it into the record, and tell me if I'm reading it wrong. Request number 1 was, "Referring to the direct testimony of Pamela A. Tipton at page 10, lines 9 though 17, please indicate the number of 'ported' residential telephone numbers to each CLEC in each market listed in Exhibit PAT-5. Please provide this information, if available, by month and by CLEC over the past 12 months, or whatever time period Ms. Tipton relied on for her testimony." Do you agree that's a correct reading?

A My version says "over the past 24 months, or whatever time period Ms. Tipton relied upon in her testimony."

Q You're correct. Actually, you're correct. It does say 24 months. But otherwise, they say the same thing?

A Yes.

Q Now, in responding to this request for the ported residential number data for your direct testimony, you provided the information that's at pages 1 through 2012 of the PDF file we just looked at; is that correct?

A That's correct.

Q And how exactly does this data you provided answer the question posed in the subpoena?

A I must say that in addition to the actual working of the subpoena request, I'm aware that there was a lot of verbal discussion that took place between BellSouth's attorneys and AT&T's attorneys. And at the instruction of our legal counsel, we provided all of the data, not just simply the number of ported residential telephone numbers.

The separate sets of data were provided, the first section being the extract from our local number portability database. The second section, I did not write down what it is. I'll go back and look at it. And the third section would identify by wire center which market a particular wire center fell out into, such that AT&T would be in a position to identify the number of ported telephone numbers by market.

Q Okay. I think to further clarify what's here, if you go back to the beginning at page 1, or rather page 2 where the response begins, you'll see some column headings that go -- that are, I suppose, supposed to be attached to that page through page 991. And those are "CLEC Code." Do you see that one?

A I'm sorry. Let me get there. Starting on page 2?

Q Yes. Actually, could you just read us the headings across page 2?

A Yes. Let me get there.

Okay. The first column is "CLEC Code," followed by "CLEC Tel Num," which is CLEC telephone number. The next column is "LRN," which is local routing number. The next column heading is "Street Name." The next is "Building Number." The next is --

Q Excuse me. Ms. Tipton, building number, what does that mean?

A That is the actual number in the address. For example, if a premises is at 101 Smith Street, 101 is classified as the building number.

Q Okay.

A The next column is titled "DRI INF." What that is is the directional indicator, north, south, east, west, northeast, et cetera.

The next is "Street Type," which would be road, drive, court, avenue, boulevard, followed by "City."

Q Okay. And then if you go to page 992 where the next set of headings appear, if you could do the same thing, identifying the headings and what it is they mean to you.

A Okay. Following on, the column heading begins with "Zip Code," then "State," then "Listing Type," then "CLS SVC," which is class of service. The next column is "SVC MSA," which is service MSA or metropolitan

statistical area. The next is "SW LATA," which is LATA by English description. The column is service LATA, "SVC LATA." The next column heading is "WC CLLI," or commonly called wire center CLLI. The next column is "8-Digit WC," or eight-digit wire center CLLI code, as we commonly call it. And then finally, "LOC CNT," which is location count.

Q And what do you mean by location in that context?

A Location would be physical address.

Q Okay. So to fully understand what you provided in this response, someone would need to go to page 2 where they could start with the CLEC code, and then read across page 2 all the way to the city identification. Then they would need to go to page 992 to pick up the rest of the description of that line item to get all the way to the location count; is that right?

A That's correct.

Q Okay. And is there any indication on these pages that indicates these are part of one spreadsheet?

A Actually, I do not believe there are.

Q Now, on -- okay. Now let me ask you, now that you've described the whole spreadsheet, tell me how it is that you've used this in the way that you described in answering the subpoena to come up with your ported

number information?

A This is data is all loaded into one database, and for this particular data set, the query identified by CLEC, identified by location -- excuse me, not by CLEC, but identified the CLEC, location, and location count, and included only those locations with three or less indicated in the location count. And that's the data that was included in my exhibit, a portion of the data that was included in my trigger analysis which support the data in my Exhibit PAT-5.

Q And is there anything in this responsive document that would identify for a reader that the location count is somehow related to your market definition position?

A No, I don't believe so. I do know that there were several verbal conversations between BellSouth attorneys and AT&T's attorneys instructing them on how to read the file. There was never any formal written filing with the Commission to ask us to explain it. It's my understanding that the verbal descriptions were sufficient.

Q Okay. If you go to page 1982, this is an entirely different looking set of data, just visually. And I'll let you get there, and you can tell me if you agree with that representation.

A Yes, I agree.

Q Okay. And tell me what this data -- how it's responsive to request number 1.

A In the previous file that we just looked at, each customer address was associated with a particular eight-digit wire center CLLI code. This file here enables the reviewer of the data to be able to allocate all services that are provided within a particular wire center to a market as BellSouth has defined it. So, for example, beginning at the first entry at the top of the page, you see this column headed "State," which is Florida. The second column is headed "CLLI," which is CLLI code. The next column is labeled "CEA," and the last column is "Zone." And you'll recall that BellSouth has defined its market as the CEA cut by UNE zone.

So the first entry is Arch Creek, "ARCH FLMA," I believe is the name of the wire center.

MR. SHORE: That's Archer.

THE WITNESS: Archer, excuse me. Thank you. That may be a Miami one. But Archer, Florida, or Boca Raton, "BT," is the second one.

Using the totality of the data in the previous data set we just looked at, you could determine that all of those customers that showed a wire serving wire center of ARCH FLMA or BCRT FLBT, you could

determine which market that particular location was assigned to.

BY MR. MAGNESS:

Q Okay. So would it be fair to say the primary purpose of this is to associate wire centers with the designated CEA that BellSouth is using for market definition?

A To the designated market itself, because it's a combination of CEA and zone which define a market.

Q And there are two columns, one labeled "CEA" and one labeled "Zone"; right?

A Yes.

Q Okay. And then that data set ends at page 1985; is that correct?

A Yes, that's correct.

Q And then we pick up with another data set, and that's the one you identified before as going from pages 1986 to 2012?

A That's correct.

Q And when you get to page -- strike that. When you get to page 1986, let me know.

A I'm there.

Q Okay. Now, could you explain the headings on this set of data?

A Yes. The first column is labeled "Market." It

includes the CEA and UNE zone. The next column is "CLLI," which lists the eight-character CLLI code, which I've previously referred to as wire center. The next column heading is "CLEC." The next column is "Line Size," and the final column is "Locations."

Q Okay. And again, by locations, tell me what you mean.

A Looking at the first line of data at the Deland, Florida, main office --

MR. SHORE: Don't mention a particular CLEC.

THE WITNESS: Okay. Thank you for the reminder.

This particular CLEC has 14 locations where it serves customers with only one line. Looking at the next line of data, the particular CLEC has 10 locations where it serves customers with two lines, and so forth and so on.

BY MR. MAGNESS:

Q Okay. So if you wanted to obtain the total number of lines that a CLEC has at a wire inner or at a particular CLLI, as it's listed here, would you multiply the number of locations by the line size?

A Considering this data is only capturing the mass market locations, it would not be the total number of locations they serve in a wire center, but it would

capture the mass market locations that were identified using the local number portability database.

Q Okay. So tell me what a mass market location is.

A By BellSouth's definition of three lines or less.

Q So it is a location where a CLEC serves three lines or less?

A Yes.

Q So of the locations where CLECs serve three lines or less, for that first CLEC you mentioned, you're saying that there are 14 of those where they serve one line only?

A One line only.

Q Okay.

A And again, this is just the LNP data.

Q Now, does this file -- and I'm talking now about the data between 1986 and 2012. Does it purport to summarize anything about business lines, or only residential lines?

A Based on my understanding of the formatting of the CD -- and again, I would certainly -- you know, my understanding based on how it has been provided is that this is responsive to question number 1, and therefore is BellSouth's internal data regarding residential

ported telephone numbers.

And again, I do want to make sure I'm clear that BellSouth did not use only its internal date in conducting its trigger analysis. So there's data provided here in these files that was not actually used in BellSouth's trigger analysis.

Q Okay. So all of the CLECs that are identified -- and I'm not going to say any of their names, but just looking at page 1986, you're saying that all those lines and locations that are reported, those are all residential?

A Yes, that's my understanding.

Q So let's pick the one at the bottom in Fort Lauderdale Zone 1 in the CLLI FTLD FLCR. That CLEC, I'm not going to say its name, but do you see where I am?

A Uh-huh.

Q That CLEC is serving one residential customer at 19 different locations?

A They are providing -- they have one ported telephone number to 19 different locations. A location is only counted once, so a location is either served by one line, or it's served by two lines, or it's served by three lines.

Q Okay. But don't people port business numbers as well as residential numbers?

A Yes, but as you recall from the data set that is referenced in Bates numbering 2 through 1981, we only capture the residential class of service for ported numbers. So this only counts the residential ported telephone numbers.

Q Okay. And that would be true of the data that carries on through page 2012; is that right?

A Yes.

Q So you're representing here then that all these CLECs who are listed are providing residential service at those locations?

A I'm representing that based on BellSouth's local number portability database, there are residential telephone numbers that have been ported to these CLECs for these specified addresses.

Q And how do you know they're residential telephone numbers?

A Because the ported telephone number database was compared to the directory listings database, and the listing as identified or classified at the time the account was set up was residential.

Q I'm going to refer now to something that is not confidential. I'm going to refer to staff's -- I believe it was Exhibit 3, the website that you looked at earlier. You looked at one for PaeTec, for example.

MR. SHORE: I think it's Exhibit 2.

MR. MAGNESS: Is it 2? Okay.

BY MR. MAGNESS:

Q Do you remember looking at the one for PaeTec?

A Yes.

Q Didn't they indicate there that they focus on medium and large size business?

A Yes, they do. I mean, that's what the website indicates they do.

Q But it would be your testimony that they -- could you reach a conclusion based on the data we're discussing here between 1986 and 2012 that PaeTec provides residential service?

A You would draw that conclusion, yes, because BellSouth's local number portability database indicates that these telephone numbers are ported to a CLEC identified as PaeTec.

Q And tell me why -- if we have the 992 pages that describe this data in detail, I would imagine, what is the purpose of the additional set of data that is captured between 1986 and 2012?

A That is the summary data. And as I indicated before, there were a lot of discussions that went on between the parties' attorneys, and we were asked to provide the actual data from the local number

portability database, so we did that.

Q And is that actual data from the local portability database what's in pages 2 through 992?

A It's actually pages 2 through 1981.

Q I'm sorry. Two through 1981.

A Yes. It's actually a combination -- let me correct myself. It's a combination of the data from the local number portability database and the directory listings database where we obtained this class of service indicator.

Q And what role in your analysis did this summary data between 1986 and 2012 play? Maybe I should rephrase that. Is this summary data something you relied on in coming up with your triggers that you identified in PAT-5?

A Yes. For CLECs that did not provide us with data in their discovery responses that we could use in our trigger analysis, or they objected and didn't respond at all, but our data indicated that they were in fact providing services to mass market customers, then we used our internal data. This is a subset of that data.

Q Okay. Now if I can direct your attention to subpoena question number 2, I'll read that for the record. And again, correct me if I read it wrong, as I

did before. Number 2 is, "Referring to the direct testimony of Pamela A. Tipton at page 11, lines 9 through 21, please indicate the number of 'extracted' business class loops to each CLEC in each market listed in Exhibit PAT-5. Please provide this information, if available, by month and by CLEC over the past 24 months, or whatever time period Ms. Tipton relied on for her testimony." Is that a correct reading?

A That's a correct reading.

Q Okay. And isn't it correct that starting at page 2013, you answered that request?

A Yes.

Q Okay. Page 2012 is the cover sheet, and then the data begins at 2013; is that correct?

A Actually, 2013 is the cover sheet.

Q I stand corrected. 2014 is where the data begins; correct?

A That's correct.

Q And could you again, as you have before, summarize for us the headings of the data that's provided here?

A Yes. The first column is titled "Wire Center." The next column is titled "ADDR," which stands for address.

Q Is that like street address?

A Yes, street address.

The next column heading is "COM," which is community, and the data contained therein is an abbreviation of the community, such as Daytona Beach is shown as "DAYT BCH."

The next column heading is "State." The next column heading is "Class," which is class of service. The next is "Loop CLEC ID," and the last column is "DS0 Loop Count."

Q Okay. And is this the place in your data where one would look to identify the number of DS0 UNE loops that a particular CLEC has in a particular market?

A This is the totality of the data not summarized, that indicates the DS0 loops provided to particular locations for particular CLECs.

Q And what database does this information come from?

A It came from BellSouth's loop inventory database.

Q And the CLECs are identified here by the loop CLEC ID number?

A Yes, and that is the OCN.

Q And is the OCN -- is there something in this response that identifies the OCN for each of these CLECs to a particular CLEC?

A I do not recall.

Q So unless you know what each CLEC's OCN in is, you can't identify the particular CLEC that's listed, could you?

A I believe that the OCN is available in either the LERG or the NECA tariff or something to that effect, because it's assigned by a national organization.

Q Okay. So to just pick on the one at the top of page 2014, that's in wire center DYDH --

A Oh, excuse me one moment. I had scrolled, so let me get back there.

Q Okay.

A Okay.

Q It's in wire center DYDH FLMA, and then there's a street address in Daytona Beach. Is it your representation here that the CLEC that's identified has one DS0 UNE loop that terminates to that address?

A Yes.

Q And are there any DS1s or other level of loops included in any of this data?

A No. Any locations that had a DS1 loop terminated to that location were excluded from this data set.

Q And how does this data handle what are known as SL1 versus SL2 UNE loops?

A This data is both SL1 and SL2 UNE loops.

Q And how is it that you attribute an SL1 loop to a particular CLEC?

A The data source for this set of data came from the loop inventory database, and the loop inventory database keeps a record of the operating company network.

Q So it doesn't distinguish for that purpose between LS1s and LS2s; is that right?

A Can you describe LS1 and LS2?

Q I'm sorry. I meant SL1 and SL2. Is that more meaningful to you?

A Yes, that's more meaningful. Yes, we can determine whether it is an SL1 or an SL2 loop.

Q From the loop inventory database?

A From the loop inventory database, yes.

Q And each SL1 loop as well as each SL2 loop in the loop inventory database is attributed to a particular CLEC?

A Yes. And let me correct myself. I may have misspoken. I believe that the loop inventory database can tell whether it is an SL1 or an SL2. I cannot recall, because the raw data is voluminous, and this represents a sorted and filtered set. For example, we sorted by address so that we could determine how many

loops terminate to one particular address. There were lots of data fields that were captured in the initial query. I honestly do not recall if there is one that defines the difference between an SL1 versus and SL2 loop. I do know that we pulled the data based on particular what we call line assignable USOCs, and what I don't know is if those are different for SL1 and SL2. I do know that it captures both.

Q Okay. So just to see if I can summarize it, it would be your testimony that all of the DS0 loops, including the SL1s and the SL2s, would be captured somewhere between pages 2014 and page 3079?

A Actually, the data only captured SL1 and SL2. It did not capture other UNE loop types, such as ADSL-capable loops.

Q Okay. And each one of the SL1s could be identified to a particular CLEC in the loop inventory database; is that right?

A I honestly do not know.

Q Okay. So really what I'm asking is, are you sure that every SL1 loop in the data you used is attributed to a particular CLEC?

A I understand what you're asking, and I think based on my recollection of the data, I can't say for sure. I understand that it may be able to, and I also

understand that in a separate discovery request, AT&T asked BellSouth to provide by market, by wire center, and by CLEC SL1 and SL2 loops broken out over a period of months. And we are unable to do that, because we cannot identify from the database that shows us a month to month to month to month snapshot. We cannot associate SL1 loops by wire center and by CLEC at the same time.

Our loop inventory database is just one snapshot, and we can't look at variances. You take a picture of the data, and that's it. So I believe, in answer to your question, that with the loop inventory database you could be potentially be able to identify SL1s for a particular CLEC, but I don't know for certain.

Q Okay. And we'll talk about that AT&T response in a minute.

Now, aside from -- let me ask one question before that. Did you prepare any document where you summarized this raw data that's in pages 2013 through page 3079 for purposes of your conclusions about business UNE loops?

A Yes.

Q Okay. And what is that summary?

A The summary shows by market, by wire center,

and by CLEC the customers, using BellSouth's definition, that are -- I mean, the location, excuse me, using BellSouth's definition, that are mass market locations.

Q And did you provide that summary in discovery?

A I believe we did.

Q Did you provide it in response to the subpoena?

A I don't know. I don't know if it's a part of the response on this particular data set, but I do know that we provided it.

Q Okay. Do you think you have it there on your computer? Are you looking for it?

A No. I was just scrolling down to the end of this particular data set to see if that was included here.

Q And is it?

A No.

Q Okay. So the summary wasn't provided in response to this discovery request?

A No.

Q Could you provide that summary to the parties?

A I think it has been provided. I can certainly look to see where it has been provided, but I feel pretty certain that it has already been provided.

Q Now, aside from the data that we've been discussing, was there any other data you reviewed in

putting together your list of trigger candidate CLECs by market that is PAT-5?

A Yes. I used CLEC discovery responses.

Q Okay. And were those discovery responses that were provided -- tell me which CLEC discovery responses you looked at.

A I looked at -- those that were particularly included in developing my Exhibit PAT-5 were the responses that CLECs made to BellSouth discovery.

Q So, for example, when you were discussing earlier that SBC told you they served mass market, for example -- you made a representation something to that effect; right?

A I don't --

Q Are you referring to the SBC responses to BellSouth discovery?

A Yes. I don't recall that particular statement, but if I made that statement, BellSouth felt based upon the discovery responses it received that the CLEC was representing itself as serving customers with three or less lines.

Q So it was an interpretation of what you saw in responses to BellSouth discovery; is that correct?

A Yes.

Q Okay. For example, I think you referenced that

Orlando Telephone was purchasing DS0 loops. Where would you have gotten that information?

A I don't recall specifically if Orlando Tel gave us data that we could rely upon. If Orlando Tel gave us data in their discovery response that we could rely upon, we would have simply used the line count they gave us and would not have known whether they were using our loops or somebody else's.

Q Okay. Now, you referenced that another response was provided to an AT&T interrogatory, and let me see if I can describe this procedurally, and tell me if I've got it right or wrong. My understanding is that on December 30th of 2003, additional responses to the subpoena were provided. They also provided an answer to AT&T's third interrogatory number 125. And I have with me, if you want to look at it to refresh your memory, BellSouth's December 30, 2003, filing in this docket. There's a request 125 where you're the responsible person --

A I actually think I have that one. Let me just double-check.

Q You'll find it, item number 125.

A And just to make sure that we're talking about the same thing, I'm not going to take that out, but it looks like this?

Q Right. Ms. Tipton, for the record, you're showing me a document, the cover sheet of which says "Attachment to Interrogatory, Item No. 125, Proprietary"; right?

A That's correct.

Q So we're talking about the same document here?

A Yes.

Q And that's the one you were referencing earlier.

A (Nodding head affirmatively.)

Q Now, this one does not -- and we are now looking at a paper document, and again, I admonish you to not reveal any confidential numbers here. This one doesn't have any page numbers, but subject to check, would you accept that there's 88 pages?

A Subject to check, I would agree that there's 88 pages.

Q Does that look reasonable from the bulk of the document?

A It looks like a lot, and that would be a pretty close guess.

Q And it's in a spreadsheet format with a number of line items; is that right?

A That's correct.

Q Now, this response, though it doesn't include

any discernible headings that I can see, appears to be organized by first two-wire loops --

A Counselor, actually, there are headings on the copy that I have.

Q Okay. Show me where those are.

A I'm looking at the first page, and at the top of that first page, the column headings, reading from left to right, "Product," followed by "Market," followed by "CLLI," followed by "Customer," and then in the next several column headings are indicating a month -- excuse me, a year in four digits, a dash, and then a month, beginning with 2002-05, representing May of 2005, going and the way across to the final column labeled 2003-11, which would represent November of 2003.

Q Okay. And you're correct. I think I had -- without page numbers, I think I got them out of order.

And these are generally -- again, correct me if I'm wrong -- organized by -- there are a number of line items for two-wire loops; correct?

A Correct.

Q And would that be a two-wire UNE loop provided by BellSouth?

A That would be a two-wire UNE loop.

Q Okay. And then it moves on to other categories that were identified in the subpoena as well as the

interrogatory request. And just for the record, let me read that request.

It's referring to the direct testimony of Pamela A. Tipton at page 11, lines 9 through 21. "Please provide for the last 18 months by month, by market, by wire center within the market, and by CLEC the number of: (a) two-wire UNE loops; (b) four-wire UNE loops; (c) DS1 UNE loops; (d) DS3 UNE loops; (3) DS0 EELs; (f) DS1 EELs; (g) DS3 EELs; (h) T-1 special access lines; and (i) DS3/T-3 special access lines provisioned to the CLECs listed in Exhibit PAT-5." Is that a correct reading?

A That's correct.

Q So this is organized by those different types of loops or access methods; correct?

A That's correct.

Q And when we get to the last two pages of the 80 some, the product designation is for SL1 loop; is that correct?

A Just a moment. Let me get there.

Yes, SL1 loop.

Q And BellSouth told AT&T -- and I think you were talking about conversations between counsel. Is it your understanding BellSouth told AT&T that the SL1 loops cannot be associated with a particular CLEC or wire

center?

A Actually, that was the first communication. There was a follow-up communication that clarified that SL1 loops could not be identified by CLEC and wire center in the same report.

Q So they can be identified by one or the other?

A One or the other. And here they're identified by wire center, because BellSouth had understood that AT&T was attempting to identify the number of loops provisioned by market.

Q So you can't associate an SL1 loop to a particular CLEC for determining whether the trigger is met; right?

A For the format in which the data was requested in this discovery request, it was to provide loop quantities by month over the past X number of months, by wire center and by CLEC. And in order to provide the data by month, BellSouth has to access what really is an end product of our billing. It's what we call our revenue database. And that is a database that cannot identify CLEC and wire center in the same format. It's just not retained that way. We have a total at the state level for CLEC, and we have it broken out by wire center, but it cannot break it out by CLEC by wire center.

Q And that's only true for the SL1 loops?

A Yes, because SL1 loops are billed out of the CRIS billing system. That C-R-I-S. The SL2 loops are billed out of the CABS billing system. That's C-A-B-S. The CABS billing system does retain the information necessary to be able to report wire center and CLEC data month by month by month by month. The other products that are represented, the EEL products and the special access products, those are also billed out of CABS.

Q So in the database you used, snapshots are possible if you want to identify the CLEC to the SL1 loop, but if you want to get a time sequence of what's happening with that CLEC, that's not possible?

A That's correct.

Q Now, you did not use in your production of PAT-5 and your analysis of the trigger companies, you did not use this document that we are looking at that was provided in response to the subpoena and the interrogatory; is that correct?

A We did not use the data that was responsive to item number 125. We used the data that was responsive to subpoena items 1 and 2.

Q Okay. And that plus the CLEC responses to BellSouth discovery would be the universe of what you looked at to come up with PAT-5; is that correct?

A Yes. And I want to be sure to clarify that in the event we used CLEC data provided to us in discovery, we did not use our internal data. We excluded our internal data for those CLECs.

Q Okay. For the residential customers that you used the number portability database for, does that database show whether a customer is served by DS0 or DS1?

A No. It identifies a telephone number ported to a CLEC, and it identifies that it is a particular class of service. And by, you know, just my common sense, I don't actually know of any residences that are served directly by DS1.

Q Well, how would you classify, say, a multi-tenant development that is served by a DS1 from BellSouth, and the provider then distributes out through a PBX a number of individual phone numbers to all the apartments? How would that show up?

A Well, if it's like an apartment complex -- I mean, I was an apartment dweller for years, and there were -- it was a plain, regular analog residential type service that came and actually terminated at my apartment unit. I had my own interface, and I had one line or two lines. Actually, some apartments let you have two lines. So it's a DS0 level at the individual

apartment, which is the individual residence.

Q Okay. But all I'm asking about is how that would show up in your database. Would it show up as a termination of a several hundred DS0s, or would it show up as a termination of a DS1 loop to a CLEC?

MR. SHORE: You're asking her a hypothetical question, if it was a DS1 to an MTE or a multi-tenant premises?

MR. MAGNESS: And then they're distributed -- do you understand that?

THE WITNESS: Yes, I understand that.

BY MR. MAGNESS:

Q Yes. How would that in the number portability database be reported?

A It would be reported as an individual residence, because each living unit is an individual residence, and it's simply a ported telephone number. It doesn't talk about the underlying facilities. It is an individual residential premises, and therefore has an individual, or perhaps two or three, as indicated by the data, ported telephone numbers.

Q Okay. So when you list the CLEC in the number portability database, it would list the CLEC in the hypothetical we've laid out. And would it indicate that that CLEC is terminating, say just hypothetically, 200

DS0 level loops, or would it show the CLEC is terminating one loop, but that it has a lot of telephone numbers hanging off?

A Well, the number portability database would assign an individual living unit, so it would show that the CLEC might serve 1105A, 1105D, and 1105G, but those are all individual living units, so those are individual premises with a residential ported telephone number.

Q But does it tell us anything about whether the UNE from BellSouth that's being used is at a DS1 level or at a DS0 level?

A No, it does not, because this is a ported telephone number.

Q Okay. I just wanted to be sure I understood that.

Now, in looking at PAT-5, could I determine how it is you identified a particular CLEC by consulting the data that's in the databases we've done through?

A No.

Q Well, let me give you an example. Take -- where is 5?

A Confidential data. Just a reminder. Do we need to be careful about --

Q We do. I do think the identities of the CLECs being named as triggers were in the testimony.

MR. SHORE: There's two versions of it. Let's go off the record.

(Discussion off the record.)

BY MR. MAGNESS:

Q Based on the data that you produced in response to the subpoena that we've looked at here, how would I go about -- if I wanted to re-create your analysis that showed that, for example, Xspedius is a trigger, and I'm only identifying Xspedius generally and not as to a particular market, so please be careful about that, but what would I look at within these 3,000 pages to determine Xspedius is a trigger?

A You could not, because the question in the interrogatory request and the subpoena directed us to a particular section of my direct testimony, which was referring specifically to the internal analysis that BellSouth conducted and was not inclusive of the CLEC-provided data. So what we responded in the interrogatory and in response to the subpoena was just the internal data.

Q Okay. Let's separate the internal and the external data.

A Okay.

Q The internal data, let's say, is this information you provided in response to the subpoena,

the 3,079 pages.

A Got you.

Q If I had wanted to discover whether Xspedius was a trigger, could I get there just by reviewing the internal data?

A It's possible that you could get there just by reviewing the internal data. We did not have -- well, maybe I should say we found that the data -- we felt better about using the CLEC data where CLECs provided us data.

Q Okay. Do you know whether that was the case with Xspedius?

A I don't recall.

Q So if I was to try to re-create your analysis based on your internal analysis, where would I go looking within the 3,000 pages?

A Well, you certainly could re-create. I mean, the outcome of the analyses using BellSouth's internal data is very, very similar to the outcome using both internal and CLEC data that was what we ultimately filed. We just felt that the data certainly has more -- while we believe BellSouth's data is very accurate, it certainly has more, for lack of a better choice of words, credibility that the CLECs actually affirmed that these are the numbers of mass market customers that

we are providing service to.

So you could arrive at a conclusion of triggers met based solely on BellSouth's internal data, which is what we provided in the subpoena. And I believe indeed other ILECs have chosen to do that. We just chose to use CLEC discovery where we could.

Q If you could in your mind just set aside the CLEC discovery for a minute, amongst those four sets of information, categories of information that are in the 3,000 pages of data, internal data, could you tell me, if I wanted to figure out if Xspedius was a trigger, where I would look, even if it's within which one of those four categories, or is there any of that internal data that would be useful to the analysis of whether a particular company is a trigger?

A Yes. You would need to look at the ported data.

Q So in the first 1,981 pages?

A Well, if you use in totality the data provided up through page 2012, it provides you all the information that you would need to look at the residential ported numbers, to associate those to a CLEC, and to associate those with a market, and even to associate them with a wire center. So using all of that data in total, you could arrive at those residential

mass market customers based on the ported number database information.

Then, using the loop information as provided on pages 2014 through 3079, you could determine those locations that are mass market locations identified by CLEC and associated with a particular market. And then you would need to compare the actual addresses of the residential data and the business data to exclude any that combined have more than three lines. And you could arrive, therefore, at the trigger analysis.

Q Okay. And for the business set that you're talking about, that is, the 2,000 and some through the end, number one, you need to know the CLEC's OCN to be able to do that analysis, and number two, we're not exactly sure what the treatment of the SL1 loops is.

A I can tell you that the data contains both SL1 and SL2 data. What I can't tell you definitively is if we could generate a report that says, "Okay. Here's all the data with SL1, and here's all the data with SL2." What I do know is that that data contains both the SL1 and the SL2 data.

Q Okay. But in the instance where the CLEC itself provides data about what it's doing, you find that basically the best evidence of what the CLEC is doing?

A Yes.

MR. SHORE: Object to the legal conclusion, but you can answer.

BY MR. MAGNESS:

Q And let me say, there is a legal term called best evidence. You just find that the most trustworthy source for what the CLEC is actually up to in the marketplace?

A Well, I don't know that I would necessarily say trustworthy. We just felt like that was the best source of data to use, that where a CLEC provided it to us, it certainly is much more compelling to say, "The CLECs told us this is the place that they're serving mass market customers, and here it is."

Q Okay. Now, in your surrebuttal you testified that FCCA's witness Mr. Joe Gillan is a liar, didn't you?

A I don't believe I called him a liar.

Q Well, at page 20 on your surrebuttal at line 9, I believe the quote is, "Mr. Gillan's supplemental rebuttal testimony appears to be a deliberate factual misrepresentation.

A Yes.

Q Now, I know I'm from Texas and everything, and I may not be too bright, but that sounds like a pretty

fancy way of saying he lied about something. Is that not what you meant?

A He did not represent the totality of information as had been provided to him.

Q Okay. So there was data that he had that he did not include in his analysis?

A That's correct.

Q Okay. Now, tell me exactly what Mr. Gillan said or did that you believe constitutes a misrepresentation.

A I do not have Mr. -- oh, I do. Let me see. I don't have his supplemental with me. I believe it was his analysis of certain carriers and the numbers of loops that they were providing, and he was drawing a conclusion that based upon that subset of the loop data that had been provided, that the Commission should disregard the trigger analysis. And he did not provide his analysis based on the totality of data that had been presented.

Q Okay. This is a fairly strong allegation, so I want to get kind of specific about it. If you could, look at page 20 on your surrebuttal.

A I'm there.

Q Line 13. "Please describe how Mr. Gillan's testimony is incomplete." And at line 21, you say,

"This contrasts with the narrow approach Mr. Gillan has apparently taken, which is to disregard completely SL1 loop information, the data related to ported numbers, as well as CLEC-reported data." Is that right?

A That's correct.

Q Okay. Now, the data related to SL1 loop information -- well, let me just put it this way. In your opinion, what should Mr. Gillan have done differently in his analysis to correct this perceived error?

A Well, it's my understanding that he also had access to the responses the CLECs provided to BellSouth in his discovery, and those were not included. And as well, we provided the actual loop data that we used in our trigger analysis in response to the subpoena, and he could have used that, but he chose not to. He chose to use the data that was provided in response to 125, is what I believe he did. I don't know that for certain, but I believe that's what he did, which only included SL2.

Q And how could he correct that analysis?

A Use the data that was provided in response to subpoena item number 2.

Q Okay. So he --

A And take into consideration the CLEC-provided

discovery responses.

Q Okay. So to correct that data, he would need to go through pages 2012 through 3079 and sort out the business lines? Is the error in the business line counting?

A Yes. And also, it does not take into account CLEC-provided data. And I don't see that that's such a daunting task. The CLEC discovery that was provided to BellSouth in most cases was provided in PDF format, paper documents or otherwise, that was not in an electronic format that we could use, and we simply hired hourly data entry clerks to type in the data so that we could then analyze it, and Mr. Gillan could easily have done that same thing. He just chose not to.

Q Now, are you aware that in his testimony, Mr. Gillan relied on information from CLECs which was produced in affidavit forms at his deposition?

A I'm aware that in response to discovery we sent to him, he said he had not surveyed CLECs. At the time I filed by surrebuttal, I was not aware that he had any affidavits because of his response to our discovery request, which said no, he had not surveyed CLECs.

Q Okay. Well, is it your claim that that's a misrepresentation, or is it having to do with what he looked at in the data? I'm trying to understand what

the error you're alleging is and how he could correct it.

A He did not use the totality of data that was available to him in presenting facts about the triggers.

Q And did you?

A Did I use the totality of data?

Q Uh-huh.

A Yes, I did. To the best of my knowledge, I used all of the data that was available to me in conducting our trigger analysis.

Q And just to summarize, the totality of the data would include the responses to the subpoena, number 1 and 2, which are reflected in the 3,079 pages we've been talking about this afternoon, and number two, the CLEC-provided information that you got in discovery served by BellSouth?

A That's correct.

MR. MAGNESS: Okay. That's all the questions I have. Thank you.

(Discussion off the record and short recess.)

CROSS-EXAMINATION

BY MR. SHORE:

Q Ms. Tipton, you were asked some questions about PaeTec. Is that a CLEC that operates in Florida?

A Yes.

Q Was PaeTec one of the CLECs that responded to BellSouth discovery about the kinds of customers that PaeTec was serving?

A Yes, they are.

Q In Florida?

A Yes.

Q What did PaeTec tell BellSouth in PaeTec's responses to BellSouth's discovery?

A PaeTec indicated that they were serving customers with three lines or less.

Q Do you have Exhibit 2, the Internet pages stapled together that Ms. Banks gave you earlier?

A Yes, I do.

Q Will you turn to the second page of that? That was a printout, I think, from Orlando Telephone Company's website. Do you have that in front of you?

A I've got it.

Q Okay. If you go down there where it's labeled "Products and Services," there's a whole bunch of things listed there purportedly that Orlando Telephone provides. Do you see that list?

A I do.

Q Okay. If you'll look down, do you see a column where it says local dial tone? Do you see that?

A I do.

Q And underneath that, what does it say?
A It says residential or business lines.
Q And up a little bit there's "Internet - DSL." Underneath that, what does it state?
A Residential or business classes services.
Q Now, you were asked right at the end of your questioning about Mr. Gillan's testimony, and you referenced some affidavits that popped up at Mr. Gillan's last Friday. Do you recall those questions?
A Yes, I do.
MR. SHORE: I've got those affidavits here with me. I understand those were identified as an exhibit to Gillan's deposition, Bill.
MR. MAGNESS: That's my understanding, yes.
MR. SHORE: Were those identified as a collective exhibit or individually? Does anybody know?
MS. MCNULTY: What are you referring to?
MR. MAGNESS: I don't know.
MR. SHORE: The affidavits that --
MS. BANKS: I have no idea. I'm sorry.
MS. MCNULTY: I have my notes here.
MR. SHORE: Let's go off the record.
(Discussion off the record.)

BY MR. SHORE:

Q Ms. Tipton, I want to give you the affidavits that popped up at Mr. Gillan's deposition and ask you some questions about those. I've only got one copy for us to share here, but let me first give you the affidavit of ITC^DeltaCom. Do you see that?

A I do.

Q Is there a date up at the top of that?

MS. MCNULTY: Are these confidential?

MR. SHORE: Yes, they are confidential. I mean, is the existence of the affidavits confidential?

MR. MAGNESS: No, but there's data within the affidavits that's confidential.

MR. SHORE: Right. I don't intend to get into that. If you all think I do, shout.

A The date says filed January 7, 2004.

Q If you turn to the third page of that, do you see the date that's indicated that it was signed before a notary?

A February 10, 2004.

Q Now, have you determined that ITC^DeltaCom meets the self-provisioning trigger in some markets, without identifying those markets, in Florida?

A Yes, we have.

Q What information did you use, or how do you know that?

A DeltaCom was one of the carriers that responded in detail to our discovery questions, and they provided data to us organized by total line count that they served at a particular location, broken out by wire center, the number of locations. So, for example, they ordered their data by saying these customers we provide one line to in all of these wire centers, and here's the total number of locations in that given wire center. And they did that for one line, two lines, three lines, all the way up to, I believe, more than 12 classifications.

Q Does the affidavit that I've identified for you from DeltaCom indicate that DeltaCom provides service over DSL equivalents in Florida?

A Yes, it does.

Q We won't talk about any numbers.

Okay. Let me show you the affidavit that Florida Multi Media gave to Mr. Gillan. Do you have that in front of you?

A Yes, I do.

Q Is that dated at the top of the affidavit?

A Yes. It says filed January 9, 2004.

Q And it has the caption for this docket, 030851?

A Yes.

Q And turn to the last page. Is there an indication there of when that affidavit was signed?

A January 16, 2004.

Q Have you counted Florida Multi Media as a trigger company in Florida?

A Yes.

Q What information did you use to come to that conclusion?

A Florida Multi Media was one of the companies that was responsive to BellSouth's requests. And in particular, they told us how many DS0 access lines they provide, and they stated in their response to us that they serve residential customers only. And when asked does the switch or switches that they have serve customer locations, and we asked them to identify by line count at one line only, they said yes. For all other line counts, they said no.

Q And was that an indication that all of their customer locations had just one line?

A That's exactly how I interpreted the data. The following question asked for each grouping, to identify those locations with some additional information, and their response was, "All have one line only."

Q Let me show you an affidavit that Mr. Gillan

gave us that's signed by someone at KMC. Does that affidavit indicate what date it was signed?

A Yes. February the 9th, 2004.

Q Did you use KMC as one of your trigger companies in Florida? Does KMC meet the trigger in Florida?

A I need to look at my Exhibit 5. I do not recall.

Yes. KMC was a carrier used as a trigger company.

Q And what information about KMC -- what was the source of the information about KMC's provision of service that led you to that conclusion?

A That KMC is providing service to mass market customers. I believe for KMC, they objected to providing responses, and so BellSouth used its internal data. And they have purchased from BellSouth and are paying for service to provide -- elements to provide service to mass market customers.

Q Are they purchasing and paying for DS0 equivalent loops, voice grade loops?

A That's my understanding. I do not recall specifically whether they relied upon ported numbers or unbundled loops specifically for KMC.

Q Let me show you an affidavit. Again, it has

the caption of this case on it, and it says it was filed on January 7, 2004, on the first page. Do you see that?

A Yes, I do.

Q On page 4, does it indicate when that affidavit was signed?

A Yes, January the 9th, 2004.

Q Is NuVox Communications one of the companies that meets the trigger at certain places in Florida?

A Yes. We used NuVox as a trigger company. However, in reviewing my Exhibit 5, in none of the markets was NuVox one of only three providing service in a market.

Q All right. Let me give you an affidavit that was signed on behalf of somebody from Xspedius. Do you see that?

A Yes, I do.

Q Okay. Is Xspedius a company that meets the self-provisioning trigger in certain markets in Florida?

A Yes, they are.

Q What information did you use to come to that conclusion?

A Again, I don't recall specifically whether Xspedius provided us usable data in response to discovery. But whether it was data provided by them or BellSouth's internal data, it indicated that Xspedius in

fact is serving mass market customers.

Q While we're on that subject of data, BellSouth data and CLEC data provided in discovery, is the data that BellSouth has and used when the CLECs didn't provide data just as accurate as CLEC-provided data?

A Yes.

Q Let me give you an affidavit that Mr. Gillan gave us last Friday signed by someone on behalf of Network Telephone. Do you see that?

A Yes, I do.

Q Is Network Telephone a trigger company in Florida?

A I need to refer to my exhibit.

Yes, Network Telephone is a trigger company in Florida.

Q And where did you get the information upon which to base that conclusion?

A I believe that we relied upon BellSouth's internal information for Network Telephone.

Q Did you ask Network Telephone to provide you data?

A Yes, we did.

MR. SHORE: That's all I have.

MR. MAGNESS: While we're still on the record, I have a question. These discovery responses that

counsel referenced -- and I'm asking counsel -- were these discovery responses produced to any other party in the case?

MR. SHORE: I believe that AT&T did request us to provide information that other companies provided, and we provided it. I believe that to be the case. I can't state that with 100% certainty, but my recollection is that AT&T did request that information, and we did provide it.

THE WITNESS: That is my recollection. I couldn't assert 100%, but that is my recollection based on discussions.

MR. MAGNESS: So is it your understanding that for each of the data responses from CLECs to BellSouth that you referenced, those were produced to AT&T?

THE WITNESS: That's my understanding.

MR. SHORE: And mine as well.

MR. MAGNESS: And if I could just ask you one other question.

RECROSS-EXAMINATION

BY MR. MAGNESS:

Q Did you reference any of those data responses in your testimony?

A Yes. I did not reference them specifically,

but I did describe that we used CLEC data when they provided data that was actually responsive and usable, and for those that did not, that we used BellSouth's internal data. And if my recollection is correct, I believe that CLEC data actually represents or accounts for about 85% of the totality that we used in our trigger analysis, 85% of the mass market locations. It's actually more than 85%.

Q Is there somewhere in your testimony I should look to figure that out, or is that --

A No. In my testimony, I just simply say if CLECs were responsive, we used their data. If they weren't or they objected or they didn't provide usable information -- and I believe that was in my direct testimony.

MR. MAGNESS: All right. Thanks.

MS. BANKS: If there's nothing further, I think we're going to be ending it. But before we do that, I did want to get you to confirm the late-filed exhibits that staff is looking to get and some time frame for those. I have two here. What I think is Exhibit Number 1, late-filed, is --

MR. SHORE: Crossover.

MS. BANKS: Yes, trigger satisfied using 10 DS0 lines or fewer.

MR. SHORE: End of the week acceptable, maybe noon Friday?

MS. BANKS: Yes, if we can get it by Friday. Anything beyond that is going to put us in a real crunch.

MR. SHORE: I understand.

MS. BANKS: And then the other exhibit, what I think is Number 3 as a late-filed, actually was a question.

MS. MCNULTY: Percentage of designated markets defined as enterprise.

THE WITNESS: I think we said "dash enterprise."

MR. SHORE: We can probably file them both at the same time just for administrative ease, if that's okay.

MS. BANKS: Yes.

THE WITNESS: And for clarification, I just want to make sure I understand. You had asked me to provide what will be Exhibit Number 3 using the FCC's definition of enterprise, which is DS1 or above, and BellSouth's definition, which is four or more.

MS. BANKS: Right, with some consideration given to the wire centers or LATAs and the variation

between them. I think it's five locations.

MR. SHORE: It's five.

THE WITNESS: And I'm sorry. Could you repeat what you just said? With some consideration given to wire centers?

MS. BANKS: Yes.

THE WITNESS: LATAs, and what else?

MS. BANKS: That was it, the significance with any variation, if there's something noteworthy.

(Deposition concluded at 5:50 p.m.)

CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF LEON)

I, MARY ALLEN NEEL, Notary Public in and for the State of Florida at Large:

DO HEREBY CERTIFY that on the date and place indicated on the title page of the foregoing transcript, an oath was duly administered by me to the designated witness before testimony was taken.

WITNESS my hand and official seal this 20th day of February, 2004.

MARY ALLEN NEEL, RPR
2894-A Remington Green Lane
Tallahassee, Florida 32308

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, MARY ALLEN NEEL, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter transcribed under my supervision; and that the foregoing pages numbered 1 through 148 are a true and correct transcription of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, or relative or employee of such attorney or counsel, or financially interested in the action.

DATED THIS 20th day of January, 2004.

MARY ALLEN NEEL, RPR
2894-A Remington Green Lane
Tallahassee, Florida 32308
(850) 878-2221

Trigger Satisfied with 10 Lines or Fewer

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Zone 1	Fort Lauderdale FL
Zone2	Fort Lauderdale FL
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Zone 2	West Palm Beach - Boca Raton FL
Zone 2	Pensacola FL
Zone 2	Daytona Beach FL

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Strategic Market Focus

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The telecommunications industry is arguably the most complex single sector of the world reason for this -the variety and complexity of the markets we serve is virtually unlimited. N every part of this vast structure and hope to do it all well. At PAETEC, we've decided to fo strategically, into specific vertical markets that house businesses to which we are well su communications provider.

Vertical Market Strategy

The telecommunications industry is arguably the most complex single sector of the world reason for this - the variety and complexity of the markets we serve is virtually unlimited. every part of this vast structure and hope to do it all well. PAETEC specializes in develop medium and large businesses, governmental organizations, and affinity groups across No size, then, is an important factor in assessing strategic fit. But there's more. PAETEC has market" approach to marketing and developing our products and services: This means th *resources necessary to carefully analyze* and thoroughly understand the specific challeng in a wide variety of industries. We then tailor our portfolio to provide precise, highly target industry, business by business.

Leadership Markets

Today, PAETEC has achieved a leadership position in a variety of significant vertical mar education, health care, manufacturing, professional services, hospitality, and finance. Ou are phenomenal, and our rapport with industry leaders, customers, and partners is remar reason for this -we take the time to understand our customer's businesses as if they were offer solutions that are precisely tailored to the problem set. It's an approach that solves s long-term solutions.

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The communications requirements of medium to large business in North America are sub with developments in technology, the regulatory environment, and the pressures of increa PAETEC knows that keeping pace means developing business partnerships with the lead around the world. Our technology partnerships are a who's who list of the best technology *Our requirements are simple to articulate, but difficult to meet:* leading-edge technology, t sensible cost structure, and RAS (reliability, availability, and serviceability) that is second especially important, because PAETEC's customer service is second to none, and we int

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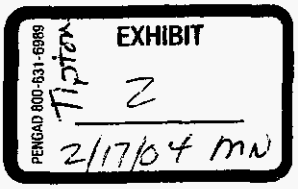

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Note: **Services are for hospitality and business customers with a minimum of 15 lines. Price quotes available on request.**

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Orlando Telephone Company and it's sister company, Orlando Business Telephone Systems offer a full array of Cisco products, services, and solutions.

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Orlando Telephone Company and it's sister company, Orlando Business Telephone Systems are proud to announce our association with Cisco. We can work with you to develop a Cisco solution for your data/vpn needs.

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911
Emergency Service

LIDB
Line Information Data Base

CNAM (Calling Name)
Associated with Caller ID

Account Codes
For Office Toll Tracking

800#'s
For Toll Free Applications

Enhanced 800#'s
Allows for Call Routing
Time of Day Call Switch

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24 Lines of 1FR or 1FB

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February 12, 2004

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Small Business Solutions

Click here to determine what options are available for your business.

Due to the deregulation of the Industry Monopoly, your business finally has a choice for local phone service. Customers can be BellSouth (ILEC) or CLEC customers or may be purchasing New Facilities at their locations. NewSouth Communications' Small Business Solution enables your business to save 15-20% off its current lines and features with your local ILEC. In addition, NewSouth Communications can provide your long distance services for $0.07 to $0.06 per minute anytime to anywhere in the continental United States. And, your rates are guaranteed and will not increase as long as we're your service provider*.

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  One carrier and one bill for all your telecommunications needs.
  Available Monthly Features Include:
  - Call Block
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    - Busy Line Multi-path or Customer Control
    - Don't Answer Multi-path or Customer Control
    - Variable o Variable – Remote Access
  - Call Return
  - Call Selector
  - Call Tracing
  - Call Waiting
  - Caller ID (Basic or Deluxe)
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  - Ring Master I
  - Speed Calling (8 or 30 digit)
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  - Three-Way Calling (available with Transfer)
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* Does not include any applicable federal, state, or local taxes, or applicable PICC, LNP, USF, FCC Access or E911 charges.

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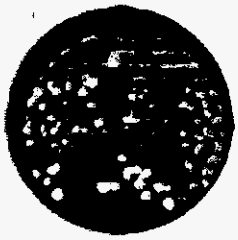

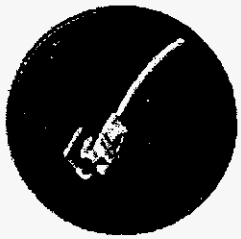

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Telecom Terms
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Local Service
Long Distance
Small Business Solutions
Voice Mail
Conference Calling
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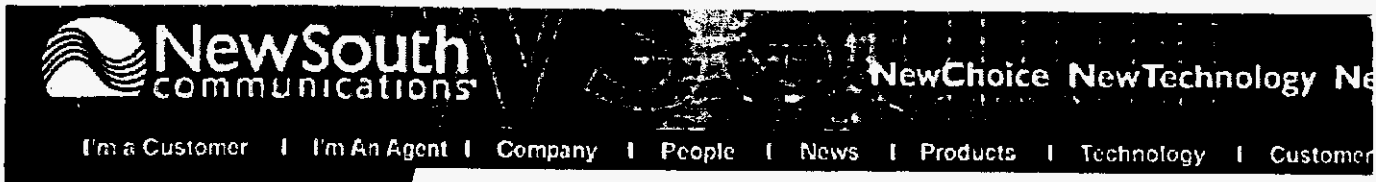

February 12, 2004

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| Conference Calling | Phone Cards | Enhanced Features

Local Service

The heart of your telecommunications solution is local service. NewSouth Communications' Lucent 5ESS AnyMedia™ digital switches enable us to provide you with the best quality service at the lowest prices. And, when you switch your local service to NewSouth, you enjoy the savings of NewArea, an extended local calling area offered free of charge. Our local service offering includes a variety of enhanced features to meet the varying needs of your business.

Features:
- PBX Trunks
- Business Exchange Lines
- Extended NewArea
- Point-to-Point

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  - Long Distance
- Data
- Internet
- Additional Services
- US LEC.net

Local

Since early 1997, US LEC has provided its business clients with competitive, reliable local phone service. We continue to enter new markets so more businesses can take advantage of the reliability and quality of the US LEC network.

- Local Network Access (Dial-Tone)
- Local calling
- Line features
- Enhanced local services

Local Network Access (Dial-Tone)

Our local network access provides a high-quality, clear voice or data business line, and allows businesses to secure the minimum number of lines necessary as well as the capacity to expand service and add features as they grow. Customers can keep their existing telephone numbers when they switch to US LEC. Local network access facilities are available in four types:

- T-1 access
- Channel access (DS0)
- ISDN PRI (primary rate interface)
- Advantage T

Multiple local access services are available for above facilities:

- Business lines
- Data lines
- Key system lines
- PBX trunks
- Foreign exchange

The US LEC network comprises a variety of trunking configurations, enabling single and multiple voice and data transmissions between two network elements. Our local trunks offer connectivity flexibility so customers can customize specific traffic patterns based on their needs, such as one-way outbound calling only or two-way calling.

move up

Local calling

US LEC completes local calls over its all-digital network. US LEC local service provides:

- Local calling area coverage at least the size of the incumbent telephone company.
- 411
- 911
- Operator assistance
- Directory listing
- White-page listing
- Yellow-page listing

move up

Line features

- Call forwarding
- Call forward busy

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- Call forward no answer
- Remote access to call forwarding
- Call transfer
- 3-way calling
- Call waiting
- Toll denial
- Call hold
- Caller ID

move up

Enhanced local services

- DID - US LEC's DID trunks provide greater user productivity by eliminating the need for assistance, reducing incoming call "traffic jams" and offering the caller a speedy connection to the desired party.
- EAS (Expanded Area Service) - This service provides a greater free local calling area than the ILEC, and an extended local calling area.
- ANI - Automatic number identification is used to identify the responsible party to be billed for the call.
- Foreign exchange - This service involves an inbound-only call, toll-free to the calling party, which is paid for by the called party. If desired, the service includes a listing in the "foreign" white and yellow pages of the ILEC directory.
- Co-location - US LEC's co-location packages provide the placement of the customer's equipment and connectivity to telecom services. As part of the placement agreement, US LEC also provides access to the physical space, utility support such as power and temperature/humidity control and security, among other benefits.

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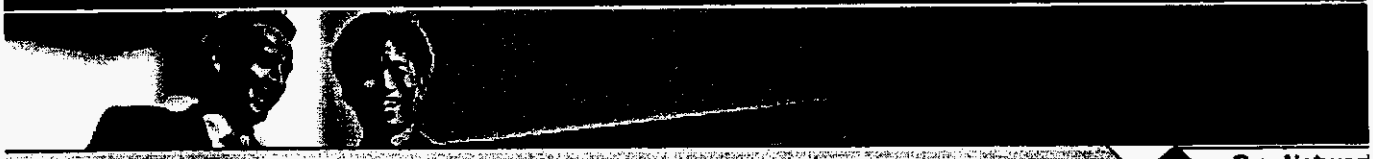

Our Network
Reliable

- Network Map
- Network Overview
- Partners

Network Map

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- Community Outreach
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The Company

US LEC (Nasdaq: CLEC) is a telecommunications carrier providing voice, data and Internet services to business customers throughout the southeastern and mid-Atlantic United States. US LEC was founded in 1996 and is headquartered in Charlotte, NC.

Employees

Over 900 employees throughout the US LEC network

Switching centers

26 Switching centers:

Atlanta	Jacksonville	Norfolk	West Palm Beach
Baltimore	Knoxville	Orlando	
Birmingham	Louisville	Philadelphia	
Charleston	Memphis	Pittsburgh	
Charlotte	Miami	Raleigh	
Chattanooga	Mobile	Richmond	
Fort Myers	Nashville	Tampa	
Greensboro	New Orleans	Washington DC	

Customers

More than 14,000 mid-to-large-sized business customers

Markets

More than 75 markets served

Services

The US LEC local service areas include Alabama, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia and the District of Columbia. US LEC also offers selected voice services in Arkansas, California, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, Ohio, Oregon, South Dakota, Texas, Washington, West Virginia and Wisconsin, in addition to data services in these states and others.

Revenues

Net revenues for the quarter ended September 30, 2003, totaled $79.7 million, a 25% increase compared with $63.9 million for the quarter ended September 30, 2002, and a 2% increase compared to the quarter ended June 30, 2003.

Switches

- Lucent 5ESS® AnyMedia™ digital switches
- Lucent CBX500 ATM data switches

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- Juniper M20 IP gateway routers

Partners

- ADTRAN

- Alcatel
- Lucent Technologies
- Juniper Networks

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- Bundled Solutions
- Domestic Calling & Pricing Plans
- International Calling & Pricing Plans
- Toll-Free Services
- Calling Card Services
- Business Local Calling Services
- Sprint Business at Home

long distance

Sprint Business At Home

Sprint Small Business customers on the Sprint Business Flex[SM] with All Calls All Day long distance plan can have their residential long distance service rolled into their All Calls All Day service.

The benefit is that the eligible long distance charges from all these lines will be contribute towards the All Calls All Day minimum commitment level . These residential lines will be treated exactly like business lines. This service is referred to as Sprint Business at Home.

Sprint Business at Home will have its own section on the invoice. All these lines will be billed as business lines. The benefit is that the billing increments are initial 18 seconds/additional 6 for domestic calls and initial 30 seconds /additional 6 for international calls.

More customer Flexibility:
Sprint Business at Home service can be set-up to bill each residential location directly.

Restrictions:

- To signup for Sprint Business at Home you must have at least one business line or account setup with Sprint. The customer cannot have Sprint Business at Home on a residential line only.
- In the event that the usage falls below the minimum commitment level, the business account will be charged the minimum usage charge
- Business will be liable for any delinquent residential service charges that roll-up under their business.
- Customer is limited to one Sprint Business at Home account.

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- Bundled Solutions
- Domestic Calling & Pricing Plans
- International Calling & Pricing Plans
- Toll-Free Services
- Calling Card Services
- Business Local Calling Services
- Sprint Business at Home

voice services

Bundled Solutions

Local and Long Distance Plans

Sprint Complete Sense for Business℠
Unlimited local and domestic long distance calls, plus enhanced features you use most, all for a low, predictable monthly rate! Details

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Calling and Pricing Plans

Domestic Calling and Pricing Plans

Sprint All Calls All Day℠
All Calls All Day is a comprehensive, flexible solution that allows you to add or delete services as your needs change. Sign up online now and receive a 15% discount off our low, flat interstate standard rate of 7.5¢ per minute! Details

Order Now

Sprint Block of Time℠
This innovative pricing structure allows your business to buy a block of interstate long-distance minutes for one low, flat monthly fee. Details

Order Now

Sprint Business Adjustable Rates℠
An attractive option for customers whose long-distance bills may tend to fluctuate. Each month we adjust your interstate rate according to your monthly long-distance spending so you can sit back and enjoy the savings. Details

Order Now

International Calling and Pricing Plans

Sprint All Calls All Day℠
Low flat rates on domestic and international, plus receive a 15% discount off our low, flat interstate standard rate of 7.5¢ per minute when you sign up online and sign up for online billing and payment! Details

Order Now

Sprint Block of Time℠
This innovative pricing structure allows your business to buy a block of interstate long-distance minutes for one low, flat monthly fee. Details

Order Now

Sprint Business Adjustable Rates℠
An attractive option for customers whose long-distance bills may tend to fluctuate. Each month we adjust your interstate rate according to your monthly long-distance spending so you can sit back and enjoy the savings. Details

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Calling Services

Toll Free Basic
Basic Toll-Free Service can help you provide better service and be more responsive to customers. At the same time, you'll reap the benefits of managing calls more efficiently. Details

To order call 800-370-6105

Enhanced Toll Free
Enhanced Toll-Free Services can give you all of the advantages of Basic Toll Free and then adds the advanced routing services listed below. These help further tailor your toll-free service to each individual caller while helping you optimize your operation. Details

To order call 800-370-6105

Interactive Toll Free
Interactive Toll-Free Service can provide interactive voice capabilities to improve responsiveness to information inquiries and is one of the most cost-effective means to meet today's customer expectations. It is a set of versatile, automated voice response features which can be combined to create solutions that can help increase agent productivity and enhance customer service. Details

To order call 800-370-6105

Calling Cards
Sprint's calling card and travel serives can help turn travel time into productive time, no matter where in the world your business may take you. Details

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▸ **Local Long Distance** Sprint Local Toll (also known as intraLATA) service lets Sprint customers make your local toll calls at competitive, flat rates. Local toll calls are those calls made within a regional calling area, but beyond the local calling area. Details	To order call 800-370-6105
▸ **At Home** Sprint Small Business customers on the Sprint Business Flex[SM] with All Calls All Day (ACAD) long distance plan can have their residential long distance services rolled into their ACAD service. Details	To order call 800-370-6105

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Percentage Enterprise in Designated BellSouth Markets

Market	% Enterprise Where Enterprise is > 3	% Enterprise Where Enterprise is ≥ DS1
Jacksonville FL-GA Zone1	62%	43%
Jacksonville FL-GA Zone2	26%	10%
Miami FL Zone1	44%	22%
Miami FL Zone2	23%	9%
Orlando FL Zone2	28%	11%

§ 51.319 Specific unbundling requirements

(d)(2)(iii)(A)(i)

Local Switching self-provisioning trigger. To satisfy this trigger, a state commission must find that three or more competing providers not affiliated with each other or the incumbent LEC, including intermodal providers of service comparable in quality to that of the incumbent LEC, each are serving mass market customers in the particular market with the use of their own local switches.

In conducting switching trigger analysis, the Commission should:

___ **Ignore Rule 51.319(d)(2)(iii)(A)(i).**

___ **Take Rule 51.319(d)(2)(iii)(A)(i) into account.**

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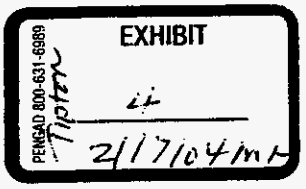

TRO ¶ 830

XI. ORDERING CLAUSES

830. Accordingly, IT IS ORDERED that pursuant to Sections 1, 3, 4, 201-205, 251, 256, 271, 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154, 201-205, 251, 252, 256, 271, 303(r), and Section 706 of the Telecommunications Act of 1996, 47 U.S.C. § 157 nt, the *Report and Order on Remand and Further Notice of Proposed Rulemaking* in CC Docket No. 01-338 IS ADOPTED, and that Part 51 of the Commission's Rules, 47 C.F.R. Part 51, is amended as set forth in Appendix B. The requirements of this Order shall become effective 30 days after publication in the Federal Register, pending Office of Management and Budget (OMB) approval.[2447] The Commission will publish a document in the Federal Register announcing the effective date of these rules.

[2447] In light of the importance of these rules, the Commission is seeking emergency approval from OMB.

§ 51.5 Terms and Definitions.

*****

Intermodal. The term intermodal refers to facilities or technologies other than those found in traditional telephone networks, but that are utilized to provide competing services. Intermodal facilities or technologies include, but are not limited to, traditional or new cable plant, wireless technologies, and power line technologies.

TRO ¶ 97, footnote 325.

By "intermodal," we refer generally to facilities or technologies other than those found in traditional telephone networks. These include, for example, traditional or new cable plant, wireless technologies (satellite, mobile, and fixed), power line (electric grid) technologies, or other technologies not rooted in traditional telephone networks.

In conducting switching trigger analysis, the Commission should:

___ **Ignore Rule 51.5, but take TRO ¶ 97, footnote 325 into account.**

___ **Take Rule 51.5 and TRO ¶ 97, footnote 325 into account.**

___ **Ignore TRO ¶ 97, footnote 325 but take Rule 51.5 into account.**

TRO ¶ 499

The triggers we set forth rely on the number of carriers that self-provision switches or the number of competitive wholesalers offering independent switching capacity in a given marke[1549] In both cases, the competitive switch providers that the state commission relies upon in finding either trigger to be satisfied must be unaffiliated with the incumbent LEC and with each other.[1550] In addition, they should be using or offering their own separate switches.[1551] This requirement avoids counting as a true alternative a provider that uses the switching facilities of the incumbent LEC or *another* alternative provider that has already been counted. Moreover, the identified competitive switch providers should be actively providing voice service to mass market customers in the market. Identified carriers providing *wholesale* service should be actively providing voice service used to serve the mass market and be operationally ready and willing to provide wholesale service to all competitive providers in the designated market.[1552] However, the competing

---

[1549] As in the impairment triggers for high-capacity loops and dedicated transport, states also shall consider carriers that provide intermodal voice service using their own switch facilities (including packet and soft switches) that meet the requirements of these triggers and Part V above. *See supra* Part V.B.1.d.(ii) (describing intermodal alternatives generally, and factors affecting differences in the extent to which various intermodal alternatives are considered); *see also supra* paras. and notes,. In deciding whether to include intermodal alternatives for purposes of these triggers, states should consider to what extent services provided over these intermodal alternatives are comparable in cost, quality, and maturity to incumbent LEC services. *See supra* para.. For example, we note that CMRS does not yet equal traditional incumbent LEC services in its quality, its ability to handle data traffic, its ubiquity, and its ability to provide broadband services to the mass market. *See supra* para.. Thus, just as CMRS deployment does not persuade us to reject our nationwide finding of impairment, *see supra* para., at this time, we do not expect state commissions to consider CMRS providers in their application of the triggers. In applying the triggers, states must consider packet switches to the extent they are used to provide local voice service to the mass market.

[1550] Affiliated companies will be counted together, in order to prevent gaming. We use the term affiliated and affiliate as the Act defines "affiliate." Section 3 of the Act defines the term "affiliate" as "a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term 'own' means to own an equity interest (or the equivalent thereof) of more than 10 percent." 47 U.S.C. § 153(1).

[1551] While the record indicates that competitors do not currently purchase wholesale switching from non-incumbent-LEC providers, we find, for the limited purposes described herein, that if a carrier were to acquire the long term right to the use of a non-incumbent-LEC switch sufficient to serve a substantial portion of the mass market, that carrier should be counted as a separate, unaffiliated self-provider of switching.

[1552] In circumstances where switch providers (or the resellers that rely on them) are identified as currently serving, or capable of serving, only part of the market, the state commission may choose to consider defining that portion of the market as a separate market for purposes of its analysis.

As we stated above, a party aggrieved by a state commission determination, including a decision on the appropriate market definition, may seek a declaratory ruling from this

carriers' wholesale offerings need not include the full panoply of services offered by incumbent LECs.[1553]

In conducting switching trigger analysis, the Commission should:

___ **Ignore TRO ¶ 499 and accompanying footnotes.**

___ **Take TRO ¶ 499 and accompanying footnotes into account.**

<u>If the Commission should ignore TRO ¶ 499</u>, should the Commission also ignore the "Errata" provisions in which the FCC changed ¶ 499?

___ **Yes.**

___ **No.**

Commission. *See supra* para. (discussing declaratory ruling determinations). Accordingly, this Commission will exercise its authority as necessary to ensure that state market determinations are reasonable and comport with the guidance set forth herein.

[1553] We expect, however, that providers of switching will have an incentive to offer competitive terms with those of the incumbent LEC.

TRO Part V.B.1.d(ii)

(i) Evidence of Impairment

92. Parties have submitted an enormous amount of evidence for our consideration in this proceeding. We will address the merits of this evidence in the Parts below regarding the application of the unbundling analysis to specific UNEs. As guidance for our analysis, however, we explain here what kinds of evidence we will find most persuasive in those discussions. We do not adopt a "burden of proof" approach that places the onus on either incumbent LECs or competitors to prove or disprove the need for unbundling.[307] Rather, in the application of our standard, we examine the record evidence in light of the Act's goals to make the best determination regarding the need for unbundling.

93. As we anticipated in the *Triennial Review NPRM*, we agree with commenters that argue that actual marketplace evidence is the most persuasive and useful kind of evidence submitted.[308] In particular, we are most interested in granular evidence that new entrants are providing retail services in the relevant market using non-incumbent LEC facilities, for two main reasons. First, it is faithful to the Supreme Court's admonition that we consider "the availability of elements outside the incumbent's network" as we apply the "impair" standard.[309] Second, this kind of evidence demonstrates better than any other kind what business decisions actual market participants have made regarding whether it is feasible to provide service without relying

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307 *See, e.g.*, ALTS *et al.* Comments at 123-24; BellSouth Comments at 18-21; NuVox Reply at 24-25; Letter from Michael E. Glover, Senior Vice President and Deputy General Counsel, Verizon, and Susanne Guyer, Senior Vice President – Federal Regulatory Affairs, Verizon, to William F. Maher, Chief, Wireline Competition Bureau, FCC, at 3, *in* Letter from William P. Barr, Executive Vice President and General Counsel, Verizon, to Michael K. Powell, Chairman, FCC, CC Docket Nos. 01-338, 96-98, 98-147 (filed Dec. 17, 2002) (Verizon Dec. 17, 2002 *Ex Parte* Letter). Because we decline to adopt a "burden of proof" approach, we dismiss as moot that portion of the CompTel Nov. 26, 2001 Joint Conference Petition in which CompTel asks the Commission to impose a burden of proof on parties requesting that a UNE no longer be unbundled. *See* CompTel Nov. 26, 2001 Joint Conference Petition at 13.

308 *See Triennial Review NPRM*, 16 FCC Rcd at 22789, para. 17; *see also* Qwest Comments at 5, 11-12; SBC Comments at 27; Qwest Farrell Reply Decl. at para. 17. *But see* Competitive Enterprise Institute Comments at 2 (urging the Commission not to rely on marketplace evidence in a way that freezes its rules to today's conditions).

309 *Iowa Utils. Bd.*, 525 U.S. at 389; *see also* Letter from Karen Brinkmann, Counsel for ITTA, to Marlene H. Dortch, Secretary, FCC, CC Docket Nos. 01-338, 96-98, 98-147, Attach. at 1 (filed Jan. 29, 2003) (ITTA Jan. 29, 2003 *Ex Parte* Letter) (noting that question is whether elements are available from sources other than incumbent LEC).

on the incumbent LEC. Specifically, this evidence shows us whether *new entrants*, as a practical matter, have surmounted barriers to entry in the relevant market.[310]

94. As we examine the evidence of facilities deployment by competitive LECs in the specific UNE discussions, we will give it substantial weight,[311] but we do not agree that we must find it conclusive or presumptive of a particular outcome without additional information or analysis.[312] For example, if the marketplace evidence shows that new entrants have deployed a certain type of facility, we will consider the facts as evidence that the barriers to entry in that market for that element are surmountable.[313] In deciding what weight to give this evidence, we will consider how extensively carriers have been able to deploy such alternatives, to serve what extent of the market, and how mature and stable that market is.[314] Thus, while we agree that such evidence may indicate a lack of impairment, we disagree with commenters that argue that such evidence is dispositive or creates a rebuttable presumption of no impairment.[315] We likewise disagree that

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310 *Cf., e.g.*, BOC Shelanski Reply Decl. at paras. 8-12 (arguing that, as facilities-based entry increases, unbundling makes less sense because it punishes earlier facilities-based entrants, fails to recognize that the market can only absorb a limited number of firms, and confuses impairment with lack of an attractive business case). We recognize the credibility of econometric analytical techniques, such as regression analysis, when properly specified and conducted.

311 *See, e.g.*, BOC Shelanski Decl. at para. 17; Qwest Reply at 7-8; BOC Shelanski Reply Decl. at para. 17; Verizon Jan. 10, 2003 *Ex Parte* Letter, Attach. at 2 (arguing that the Commission should presume that alternative facilities can be deployed anywhere); Verizon Dec. 17, 2002 *Ex Parte* Letter, Attach. at 2 (arguing that no carriers are impaired in markets where competitive entry has occurred), 3 (arguing for presumption of no impairment when facilities at issue have been significantly deployed on a competitive basis). Similarly, we do not presume that if one carrier can enter the market without UNEs, there is no impairment.

312 *See, e.g.*, CompTel Comments at 62 (urging the Commission not to rely on a "simple count" of alternative facilities); GCI Comments at 19; Z-Tel Comments at 23; AT&T Reply at 41-43; NuVox Reply at 23; SBC Reply at 10 ("If competitive facilities already have been deployed, then *ipso facto* they can be deployed. That does not mean that the mere presence of a single competitive facilities in a particular market necessarily precludes a finding of impairment in that market."); Talk America Reply at 18; WorldCom Reply at 29.

313 *Cf.* Qwest Comments at 11-12.

314 *See* CompTel Comments at 72-73 (noting that many carriers that have self-deployed are now bankrupt or have left the market); Covad Comments at 16-18; *see also* Talk America Comments at 22 (noting that industry must mature before facilities-based competition will emerge).

315 *See* BellSouth Comments at 17, 23; Qwest Comments at 11 ("The fact of widespread CLEC entry without reliance on a particular UNE from the incumbent should be deemed to – and clearly does – establish that lack of access to that UNE under section

evidence of deployment of alternative facilities or availability of non-UNE alternatives from the incumbent LEC means that a market is "contestable" (as some parties use that term) and therefore *necessarily* shows a lack of impairment.[316] Rather, as just stated, evidence of alternative deployment is probative but not necessarily dispositive of a lack of impairment. And as we explain in detail below, the availability of non-UNE alternatives from incumbent LECs (such as tariffed services or resold retail services) has little bearing on our impairment analysis.[317]

95. Likewise, we disagree that evidence of alternative deployment is irrelevant unless access to those facilities is available to requesting carriers on a wholesale basis.[318] We examine whether wholesale suppliers exist, but our standard is not based solely on whether there is a wholesale market. Instead, we also consider the possibility of self-provisioning. We also disagree that deployment of alternative facilities is necessarily irrelevant unless carriers have been able to serve customers profitably over those facilities.[319] We may consider the extent to which carriers have been able to serve customers profitably, but we recognize that profitability can be affected by many factors

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251 does not impair the ability of a CLEC to provide service."); SBC Comments at 27 ("That some CLECs are in fact providing service over their own facilities is *dispositive* evidence that carriers are not impaired without access to ILEC facilities.") (emphasis in original); Verizon Comments at 43-46 ("Thus, if some CLECs use non-ILEC facilities to serve particular types of customers or geographic locations, then no CLEC should be considered impaired without access to the relevant UNEs – not just with respect to the specific customers or locations served by the original CLECs, but with respect to all similar customers or locations [as well as where] circumstances are not strictly similar."); Verizon Reply at 38.

316 *See, e.g.*, Verizon Dec. 17, 2002 *Ex Parte* Letter, Attach. at 2; Letter from Brian J. Benison, Associate Director – Federal Regulatory, SBC, to Marlene H. Dortch, Secretary, FCC, CC Docket Nos. 01-338, 96-98, 98-147, Attach. at 2 (filed Jan. 29, 2003) (SBC Jan. 29, 2003 *Ex Parte* Letter). *But see* Letter from C. Frederick Beckner III, Counsel for AT&T, to Marlene H. Dortch, Secretary, FCC, CC Docket Nos. 01-338, 96-98, 98-147 (filed Jan. 31, 2003) (AT&T Jan. 31, 2003 *Ex Parte* Letter) (arguing that a so-called "contestability" analysis that focuses on the presence of a single alternative on a specific route is insufficient to judge impairment).

317 *See infra* para. 0.

318 *See, e.g.*, Covad Reply at 13; *see also* NuVox Reply at 23, 28; Sprint Reply at 19; Talk America Reply at 18-20; Letter from Frederick W. Hitz, III, Director, Rates and Tariffs, General Communication, Inc., to William Maher, Chief, Wireline Competition Bureau, FCC, CC Docket Nos. 01-338, 96-98, 98-147, 01-318, 98-56, 98-141 at 4, *in* Letter from John T. Nakahata, Counsel for GCI, to Marlene Dortch, Secretary, FCC, CC Docket Nos. 01-338, 96-98, 98-147, 01-318, 96-56, 98-141 (filed Jan. 27, 2003) (GCI Jan. 27, 2003 *Ex Parte* Letter) (arguing that the wholesale market for inputs is the relevant market to consider in the impairment analysis).

319 *See, e.g.*, AT&T Reply at 42-43.

other than those we examine for the "impair" analysis, such as whether there is overcapacity in the market,[320] whether facilities-based carriers are still in the process of deploying capacity,[321] and the scope economies involved in providing multiple services.[322]

96. On the other hand, if the marketplace evidence shows that new entrants have not widely deployed a particular kind of facility, we will consider the facts as some evidence that barriers to entry in that market for that element are preventing the deployment. We will not generally presume from lack of entry or lack of deployment, however, that there are barriers to entry in the relevant market,[323] or that any barriers cannot be overcome through means other than unbundling without further analysis. For example, the market may be nascent and therefore not mature enough to determine whether the lack of entry demonstrates impairment. We also consider the possibility that past unbundling policies may have discouraged the build-out of facilities. We further recognize that many factors contribute to a new entrant's decision where to place its facilities, and that new entrants may in some cases simply choose not to enter a particular market. We will not necessarily presume from that lack of entry that unbundling is warranted.[324]

97. We also examine evidence that intermodal alternatives[325] can be used to provide telecommunications service. In appropriate instances, evidence of the

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[320] If more facilities-based carriers have entered the market than can be supported by market demand, creating overcapacity and generating low prices, none of the carriers may be profitable. However, self-provisioning has been demonstrated to be achievable, and with exit of one or more carriers, the remaining carriers may achieve profitability.

[321] There may be clear evidence that carriers are profitably serving customers in a particular area, but have not achieved overall profitability because they are still in the process of expanding their business.

[322] It can be difficult to determine the profitability of an individual product for a multiproduct firm. While the revenues obtained from a particular product may not completely cover the stand-alone costs of providing just that product, they may be sufficient to cover the incremental costs, such that selling the product adds to the firm's profitability. *See* WILLIAM J. BAUMOL, JOHN C. PANZAR & ROBERT D. WILLIG, CONTESTABLE MARKETS AND THE THEORY OF INDUSTRY STRUCTURE 351-56 (1988).

[323] *See* Verizon Comments at 45, 60-61; SBC Reply at 47 ("To the extent competitive facilities have not been deployed in a particular market, therefore, the Commission must attempt to determine why, and it must differentiate between true impairment and factors that have nothing to do with impairment.").

[324] *See* Qwest Comments at 13; BOC Shelanski Decl. at paras. 4, 42; BOC Shelanski Reply Decl. at para. 25.

[325] By "intermodal," we refer generally to facilities or technologies other than those found in traditional telephone networks. These include, for example, traditional or new

deployment of intermodal alternatives informs our judgment on the "impair" factors described above, and in those circumstances we will give weight to deployment of intermodal alternatives in our analysis. Specifically, we consider whether these intermodal alternatives permit a requesting carrier to serve the market, either through self-provisioning or by obtaining capacity on a wholesale basis.[326] We take these alternatives into account for several reasons. First, the Act expresses no preference for the technology that carriers should use to compete with the incumbent LECs. Second, we do not want to prejudice market participants' business decisions about whether to deploy alternative facilities by basing our unbundling rules on the presence or absence of any certain technology. Third, in some instances, the presence of intermodal alternatives can be just as probative of a lack of impairment as the presence of traditional wireline "telephone" deployment. The fact that an entrant has deployed its own facilities – regardless of the technology chosen – may provide evidence that any barriers to entry can be overcome. This approach is consistent with *USTA*'s admonition that we should consider intermodal competitors as relevant to our analysis.[327] Just as with regard to the deployment of new traditional facilities, however, we do not find the presence of intermodal alternatives dispositive in our impairment analysis,[328] as some commenters suggest.[329] We also disagree with commenters that suggest that deployment of intermodal alternatives is irrelevant if the facilities are not available to requesting carriers on a wholesale basis,[330] for reasons discussed in the preceding paragraphs. As we

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cable plant, wireless technologies (satellite, mobile, and fixed), power line (electric grid) technologies, or other technologies not rooted in traditional telephone networks.

326 Many commenters have urged us to take services provided over intermodal alternatives into account. *See* Verizon Oct. 16, 2002 *Ex Parte* Letter at 4 ("In determining whether an element meets the standard for unbundling, the Commission must consider the full range of technologies by which that element's *function* could be performed.") (emphasis in original); *see also* Alcatel Comments at 17-18; Qwest Comments at 6-8, 15; USTA Comments at 4-5; Verizon Comments at 46-51; BOC Shelanski Decl. at para. 43; AT&T Reply at 57 ("[T]he Commission must consider whether substitute services that are offered outside the ILECs' networks have led to the profitable provision of service by multiple providers . . . ."); Qwest Reply at 16-17; BOC Shelanski Reply Decl. at para. 23; Qwest Farrell Reply Decl. at para. 18. *But see* Moline and CCG Comments at 8-11 (urging Commission not to give too much weight to intermodal competition); Sprint Comments at 12-13 (arguing that even where intermodal alternatives are available, unbundling may be necessary to promote robust competition); NuVox Reply at 21-22.

327 *See USTA*, 290 F.3d at 429.

328 *See supra* para. 1.

329 *See, e.g.*, Qwest Comments at 6-9; Verizon Comments at 46-48.

330 *See* ALTS *et al.* Comments at 39-40; ASCENT Comments at 26; UNE-P Coalition Comments at 19; *see also* Allegiance Reply at 21; ASCENT Reply at 13; Covad Reply at 13. *But see* Qwest Reply at 16-17. We also address this argument in more detail *infra* para. 112 . We also disagree that intermodal alternatives should not be

evaluate evidence of intermodal deployment, we will consider to what extent services provided over these intermodal alternatives are comparable in cost, quality, and maturity to incumbent LEC services.[331]

98. In some cases, the differences between intermodal alternatives and traditional wireline deployments may reduce the weight we give to the deployment of alternatives. For example, some carriers relying on intermodal alternatives have not needed to overcome the same kinds of barriers as new entrants that start without any facilities at all. Cable telephony and cable modem service, for example, have developed because cable operators have been able to overlay additional capabilities onto networks that they built for other purposes, often under government franchise, and therefore have first-mover advantages and scope economies not available to other new entrants, which lower their incremental costs of providing the additional services.[332] Similarly, we recognize that some intermodal technologies will only be available to one or a few firms due to legal restrictions, such as spectrum licensing requirements, that may limit the number of firms that can use a given technology in one geographic area. When an intermodal technology is limited in availability to only one or a few telecommunications carriers – either because of the historical economic characteristics of their providers or legal restrictions – we will consider whether that technology contributes to a wholesale market in accessing the customer. We may give less weight to intermodal alternatives that do not contribute to the creation of a wholesale market in accessing the customer or do not provide evidence that self-deployment of such access is possible to other entrants. In addition, if the record evidence shows that there are limitations on the number or types of customers that can be served by a particular technology, we will consider whether an entrant could use this technology profitably to target only those customers that can be served by the alternative technology.

99. We will also give consideration to cost studies, business case analyses, and modeling if they provide evidence at a granular level concerning the ability of competitors economically to serve the market without the UNE in question. While these are useful tools for analysis, we may give this evidence less weight than actual marketplace evidence for several reasons. First, as stated above, actual marketplace evidence shows whether new entrants, as a practical matter, have surmounted barriers to

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considered because "CLECs desire to offer wireline service, not wireless service or cable telephony." *See, e.g.*, ASCENT Reply at 13. As explained above and as the *USTA* decision explained, we look at alternatives for whether they provide comparable service, not the same technology. *See USTA*, 290 F.3d at 429.

331 *See* Allegiance Reply at 24-25. Our analysis is necessarily based on the current technical capabilities, economic characteristics, and patterns of use of intermodal alternatives. These facts are likely to change going forward as these and other technologies develop. The changes may affect future impairment determinations.

332 *Cf.* AT&T Reply at 34 (arguing that the presence of a cable competitor has *no* relevance to the impairment analysis).

entry in the relevant market. Second, these studies are generally based on estimates of costs and revenues that can be difficult to verify, and thus are more easily manipulated by the advocates in this proceeding. Third, there may be issues and factors that affect a competitor's ability to enter that are difficult to foresee (such as unexpected costs, delays, revenue streams, or new niche products). Thus, there will be uncertainty concerning the existence of such factors when examining these studies, while examination of actual marketplace evidence will reveal whether such factors exist and are significant.

100. In conducting our impairment analysis, we recognize that decisions on whether to enter are based not just on the cost of entry but also on the revenues to be gained.[333] Thus, we will consider, where provided, evidence of the revenue opportunities available to those carriers that provide services over the relevant facilities, keeping in mind that competitors are able to choose which markets to enter and to avoid unattractive markets.[334] We consider *all* the revenue opportunities that a competitor can reasonably expect to gain over the facilities, from providing all possible services that an entrant could reasonably expect to sell,[335] taking into account limitations on entrants' ability to provide multiple services, such as diseconomies of scope in production, management, and advertising.[336]

101. In our impairment analysis, we examine both whether new entrants can provide retail services over non-incumbent facilities and whether new entrants can provide wholesale services over non-incumbent facilities.[337] Rather than providing the retail services itself,[338] a wholesaling carrier will be providing service to other carriers that will provide, individually or as a group, the range of services that customers want, at market-based prices. Thus, the wholesale carrier's sales and revenues are dependent on the services the retail carriers will demand and the prices they are willing to pay, which in

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333 *See, e.g.*, AT&T Comments at 36; CompTel Comments at 71 (urging the Commission to take profitability into account in the analysis of self-provisioning); Talk America Comments at 15 (noting that financial viability depends on the difference between retail rates and the cost of providing service).

334 *See USTA*, 290 F.3d at 423 (urging the Commission to consider high retail rates as they relate to revenue opportunities); Verizon Comments at 42.

335 *See* Verizon Comments at 57.

336 Diseconomies of scope are the opposite of economies of scope. Diseconomies of scope occur when the cost of producing a good rises when a firm attempts to produce a second good. *See* John C. Panzar, *Technological Determinations of Firm and Industry Structure*, *in* 1 HANDBOOK OF INDUSTRIAL ORGANIZATION 16 (Richard Schmalensee and Robert Willig, eds., 1989).

337 The wholesale provision of services would not be limited to exchange access services, but would include all access services. *See infra* Part V.B.2.c.

338 This implies the carrier is vertically integrated, providing both wholesale and retail service itself. The product it provides from its upstream wholesale service is then combined with other inputs to provide downstream retail service.

turn depend on the revenues they gain from the retail services provided.[339] Wholesale carriers may not be limited by the same factors that limit the likely market share of carriers providing retail service, since they will be able to serve multiple carriers' needs. Thus, if advertising or diseconomies of scale or scope limit individual carriers' market shares and product lines, which could make self-deployment of facilities uneconomic, a wholesale carrier may be able to serve multiple carriers and overcome these limits in the aggregate.

102. We reaffirm our prior conclusion in the *UNE Remand Order* to afford little weight to evidence that requesting carriers are using incumbent LEC tariffed services as relevant to our unbundling determination.[340] Specifically, many commenters have urged us to find that requesting carriers are not necessarily impaired if they can use incumbent LEC resold or retail tariffed services, such as special access, to provide their retail service.[341] We decline to adopt this position. We conclude that it would be inconsistent with the Act if we permitted the incumbent LEC to avoid all unbundling merely by providing resold or tariffed services as an alternative.[342] Such an approach would give the incumbent LECs unilateral power to avoid unbundling at TELRIC rates simply by voluntarily making elements available at some higher price. Because the Act contains three modes of entry, we cannot find an approach that would so easily remove one mode from the Act to be a reasonable reading of Congress's intent.[343] Indeed, such an approach would also be contrary to the Act's requirement that unbundled facilities – facilities without which serving the market becomes uneconomic – should be priced at cost-based rates[344] and our determination that TELRIC is the appropriate methodology for determining those rates – an approach to rates that the Supreme Court has affirmed.[345] In addition, resold and retail tariffed offerings present different opportunities and risks for the requesting carrier than the use of UNEs or non-incumbent LEC alternatives.[346] Also, forcing requesting carriers to rely on tariffed offerings would place too much control in

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339 The demand for the wholesale carrier services is therefore a derived demand from retail sales.

340 *See UNE Remand Order*, 15 FCC Rcd at 3732-34, paras. 67-70; *see also* AT&T Comments at 38-39; ATTWS Comments at 14-16; CompTel Comments at 64-65; Allegiance Reply at 30-31; AT&T Reply at 56.

341 *See* SBC Comments at 27-29; Verizon Comments at 51-55; BOC Shelanski Reply Decl. at para. 21; Verizon Dec. 17, 2002 *Ex Parte* Letter, Attach. at 8-10.

342 *UNE Remand Order*, 15 FCC Rcd at 3732-33, para. 67.

343 *See also Iowa Utils. Bd.*, 120 F.3d at 809-10 (rejecting a similar interpretation urged by incumbent LECs that would have given them the freedom to circumvent the unbundling obligations of section 251(c)(3) by choosing to offer network elements as services).

344 *See* 47 U.S.C. § 252(d)(1)(A)(i).

345 *See Verizon*, 535 U.S. at 497-528.

346 *UNE Remand Order*, 15 FCC Rcd at 3733, para. 68.

the hands of the incumbent LECs, which could subsequently alter their tariffs and thereby engage in a vertical price squeeze.[347]

103. Likewise, we disagree with commenters that argue that the presence of a tariffed offering that is subject to substantial competition in the retail market should preclude an impairment finding with respect to the UNEs used to provide the relevant service.[348] As explained in greater detail in Parts V.B.1.d(iii) and V.B.2.c below, our unbundling analysis considers service, but does not examine whether the relevant market is competitive as part of the unbundling analysis.

104. Similarly, as we found in the *UNE Remand Order*,[349] we do not find that wherever incumbent LECs have received pricing flexibility, we should not unbundle the relevant network elements.[350] Our pricing flexibility rules go to protecting consumers from anticompetitive pricing, which is not the same as our unbundling rules, which go to asking whether entry into a market is economic and to serving a host of statutory goals beyond protecting consumers from anticompetitive pricing. Thus, the "impair" test and the test for pricing flexibility are different, reflecting these different aims. Moreover, our unbundling analysis is far more granular, in many cases, than our pricing flexibility analysis. This is because competition in some parts of a market may be sufficient to constrain prices, but insufficient to demonstrate a lack of impairment. In the discussions of particular elements below, we consider evidence that competitors have collocated or deployed alternative facilities as highly relevant to our impairment analysis, but we will not presume that a grant of pricing flexibility necessitates a finding of lack of impairment.

In conducting switching trigger analysis, the Commission should:

___ **Ignore TRO ¶¶ 92-104.**

___ **Take TRO ¶¶ 92-104 into account.**

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347 *UNE Remand Order*, 15 FCC Rcd at 3733, para. 69. SBC, for one, points out that the Commission could evaluate tariffed services and refuse to consider as alternatives those that it finds to be in place merely to avoid the unbundling rules, but this misses the points described in the text. *See* SBC Comments at 28-29.

348 *See, e.g.*, Verizon Comments at 53.

349 *See UNE Remand Order*, 15 FCC Rcd at 3756-57, paras. 131-32, 3849, para. 341 n.673.

350 *See* Verizon Comments at 53-54; Verizon Dec. 17, 2002 *Ex Parte* Letter, Attach. at 6-8.

TRO ¶ 501

We determine that – subject only to the limited exception set forth below – a state must find "no impairment" when three or more unaffiliated competing carriers each is serving mass market customers in a particular market with the use of their own switches.[1557] We set the number of competitive facilities at three for several reasons. First, we choose three self-provisioners as the appropriate threshold in order to be assured that the market can support "multiple, competitive" local exchange service providers using their own switches.[1558] Second, setting the trigger at three competitive facilities takes into consideration the likelihood that self-providers will not offer their service for wholesale, based on the evidence that local exchange service providers have generally not shown an interest in providing wholesale services, in contrast to the wholesale trigger, described below, which is met if there are two actual wholesalers.[1559] Finally, we believe that the existence of three self-provisioners of switching demonstrates adequately the technical and economic feasibility of an entrant serving the mass market with its own switch, and indicates that existing barriers to entry are not insurmountable.[1560]

In conducting switching trigger analysis, the Commission should:

___ **Ignore TRO ¶ 501 and accompanying footnotes.**

___ **Take TRO ¶ 501 and accompanying footnotes into account.**

[1557] Competitors with their own switch that are providing service only on a wholesale basis should be counted for this test. Thus, for example, this test will be satisfied if there are three carriers providing service to mass market voice customers using their own switch, with two of the carriers providing only retail service, and one providing only wholesale service.

[1558] We therefore deny Bell Atlantic's petition seeking the elimination of unbundled switching in all geographic markets for all customer classes where a single competitive switch has been deployed. Verizon Feb. 17, 2000 Petition for Reconsideration at 9-11.

[1559] *See* Talk America Reply at 19; SWCTA Comments at 8-9; SWCTA Reply at 7; Supra Comments at 36; Navigator Comments at 6; Eschelon Comments at 28-29.

[1560] We recognize that when one or more of the three competitive providers is also self-deploying its own local loops, this evidence may bear less heavily on the ability to use a self-deployed switch as a means of accessing the incumbent's loops. Nevertheless, the presence of three competitors in a market using self-provisioned switching and loops, shows the feasibility of an entrant serving the mass market with its own facilities.

TRO ¶ 500

For the purposes of these triggers, we find that states shall not evaluate any other factors, such as the financial stability or well-being of the competitive switching providers.[1554] Competing carriers in Chapter 11 bankruptcy protection are often still providing service. Regardless of their financial status, the physical assets remain viable and may be bought by someone else and remain in service.[1555] We note that requiring states to determine the financial ability of competitive wholesale providers to provide service in the future could hamper economic recovery efforts of companies in financial distress. The key consideration to be examined by state commissions is whether the providers are currently offering and able to provide service, and are likely to continue to do so.[1556]

In conducting switching trigger analysis, the Commission should:

___ **Ignore TRO ¶ 500 accompanying footnotes.**

___ **Take TRO ¶ 500 and accompanying footnotes into account.**

[1554] For the potential deployment analysis, however, the state commission may consider financial evidence relating to the difficulty in serving the mass market by existing competitive switch providers.

[1555] BOC UNE Fact Rebuttal Report at 20-24, 41-43.

[1556] For instance, states should review whether the competitive switching provider has filed a notice to terminate service in that market.

TRO ¶ 508 (excerpt)

States should first examine whether competitors are already using their own switches to serve voice customers in the relevant market. We determine that to the extent that there are two wholesale providers or three self-provisioners of switching serving the voice *enterprise* market, and the state commission determines that these providers are operationally and economically capable of serving the *mass* market, this evidence must be given substantial weight by the state commissions in evaluating impairment in the mass market. We find the existence of switching serving customers in the *enterprise* market to be a significant indicator of the possibility of serving the mass market because of the demonstrated scale and scope economies of serving numerous customers in a wire center using a single switch. Although switches serving the enterprise market do not qualify for the triggers described above, we believe that, after implementation of a batch cut process, switches being used to serve the enterprise market are likely to be employed to serve the mass market as well, and that the state commission should investigate the feasibility of this. ....

In conducting switching trigger analysis, the Commission should:

___ **Ignore TRO ¶ 508.**

___ **Take TRO ¶ 508.**

TRO ¶ 441

Additionally, the BOCs' suggestion that our analysis should treat switches deployed to serve large enterprise customers exactly the same as those deployed to serve mass market customers ignores the substantial modifications, and attendant costs, necessary to serve mass market customers with an enterprise switch. For example, in order to enable a switch serving large enterprise customers to serve mass market customers, competitive LECs may need to purchase additional analog equipment, acquire additional collocation space, and purchase additional cabling and power.[1353] Thus, while we agree that deployment of an enterprise switch is one piece of evidence relevant to the possibility of serving mass market customers – and, indeed, our impairment analysis takes such deployment into account, as discussed below – the fact remains that competitors using their own switches are currently serving extremely few mass market customers, through enterprise switches or otherwise.[1354]

In conducting switching trigger analysis, the Commission should:

___ **Ignore TRO ¶ 441 and accompanying footnotes.**

___ **Take TRO ¶ 441 and accompanying footnotes into account.**

[1353] *See, e.g.*, WorldCom Nov. 18, 2002 Transition to UNE-L *Ex Parte* Letter at 7. WorldCom states that in order to modify one of its switches in Manhattan serving enterprise customers to serve the mass market, WorldCom would be required to: purchase and install analog-capable equipment; increase the existing collocation cage space by 200 square feet; and pay Verizon for additional cabling and power. *Id.*

[1354] The dissents' assertion that enterprise switches should be considered in our mass market triggers ignores these substantial differences between the switches serving the different markets. *Chairman Powell Statement* at 6; *Commissioner Abernathy Statement* at 4-5. ...

TRO ¶ 447, footnote 1365

We found significantly more probative the evidence that in areas where competitors have their own switches for other purposes (*e.g.*, enterprise switches), they are not converting them to serve mass market customers and are instead relying on unbundled loops combined with unbundled local circuit switching. Given the fixed costs already invested in these switches, competitors have every incentive to spread the costs over a broader base. Their failure to do so bolsters our findings that significant barriers caused by hot cuts and other factors make entry uneconomic.

In conducting switching trigger analysis, the Commission should:

___ **Ignore TRO ¶ 447, footnote 1365.**

___ **Take TRO ¶ 447, footnote 1365 into account.**

Rule 51.319(d)(2)(iii)(B)(4)

(4) Multi-line DS0 end users. As part of the economic analysis set forth in paragraph (d)(2)(iii)(B)(3) of this section, the state commission shall establish a maximum number of DS0 loops for each geographic market that requesting telecommunications carriers can serve through unbundled switching when serving multiline end users at a single location. Specifically, in establishing this "cutoff," the state commission shall take into account the point at which the increased revenue opportunity at a single location is sufficient to overcome impairment and the point at which multiline end users could be served in an economic fashion by higher capacity loops and a carrier's own switching and thus be considered part of the DS1 enterprise market.

In conducting DS0/DS1 cutover analysis, the Commission should:

___ **Ignore Rule 51.319(d)(2)(iii)(B)(4).**

___ **Take Rule 51.319(d)(2)(iii)(B)(4) into account.**

CTR

Legal Department

Nancy B. White
General Counsel – Florida

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5558

January 30, 2004

Mrs. Blanca S. Bayó
Director, Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 030851-TP

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of BellSouth Telecommunications, Inc.'s Erratas of witnesses Dr. Debra J. Aron, Dr. Christopher J. Pleastikas, John A. Ruscilli and Pamela A. Tipton, which we ask that you file in the above captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Nancy B. White

Nancy B. White (KA)

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy White

DOCUMENT NUMBER-DATE
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Errata for Pamela A. Tipton Direct Testimony filed 12/4/2003
Docket No. 030851-TP

1. On page 3, line 24, insert "that provide service" before the word "in."
2. On page 3, line 25, change "customers" to "lines"
3. On page 4, line 3 change "deployed" to "that provide service in"
4. On page 7, line 17, change "13" to "12"
5. On page 7, line 19, change "13" to "12"
6. On page 7, line 22, change "13" to "12"
7. On page 10, line 15, strike "residential"
8. On page 13 line 3, change "13" to "12"
9. On page 13, lines 5 through 7, strike the entire sentence and replace with "No."
10. On page 13, line 7, change "7" to "6"
11. On page 13, line 8, change "13' to "12"
12. On page 13, line 8, strike "but one"
13. One page 13, lines 12-13, strike "that you are counting to satisfy the self-provisioning trigger in that one market"
14. On page 15, line 21, change "10" to "9"
15. On page 16, line 20, change "10" to "9"
16. On page 16, line 22, change "10" to "9"
17. On page 16, line 24, change "10" to "9"
18. On page 17, line 16, change "13" to "12"
19. Replace Exhibit PAT-1 with Revised Exhibit PAT-1
20. Replace Exhibit PAT-2 with Revised Exhibit PAT-2
21. Replace Exhibit PAT-3 with Revised Exhibit PAT-3
22. Replace Exhibit PAT-4 with Revised Exhibit PAT-4
23. Replace Revised Exhibit PAT-5 with Second Revised Exhibit PAT-5
24. Replace Exhibit PAT-6 with Revised Exhibit PAT-6
25. Replace Exhibit PAT-7 with Revised Exhibit PAT-7

CLEC Switches Serving BellSouth Territory in Florida

Switches Serving BellSouth Territory in Florida and Deployed in Florida

COUNT OF SWITCHES	SWITCH CLLI	SWITCH NODE SERVING FLORIDA	CLEC NAME
1	BCRTFLMARS0	BCRTFLMARS0	INTERMEDIA COMMUNICATIONS INC. - FL
2	BYBHFLMARS5	BYBHFLMARS5	INTERMEDIA COMMUNICATIONS INC. - FL
3	COCYFL10DS1	COCYFL10DS1	IDS TELCOM LLC
4	DLBHFLKPRS3	DLBHFLKPRS3	ITC DELTA COM - FL
5	DRBHFLMARS0	DRBHFLMARS0	INTERMEDIA COMMUNICATIONS INC. - FL
6	DYBHFL0500T	DYBHFL0500T	DAYTONA TELEPHONE COMPANY
7	ELVLFLMADS0	DYBHFLPO7MD	AT&T LOCAL
		GSVLFLQQ1MD	AT&T LOCAL
		JCVLFLCL0MD	AT&T LOCAL
8	ESLYFL0100W	ESLYFL0100W	KMC TELECOM III, INC. - FL
9	ESLYFL01DS0	ESLYFL01DS0	KMC TELECOM III, INC. - FL
10	FTLDFL92DS0	FTLDFL92DS0	FLORIDA DIGITAL NETWORK
		FTLDFL92DS0	FLORIDA DIGITAL NETWORK
11	FTLDFLOVDS0	FTLDFLOVDS0	AT&T LOCAL
		MIAMFLACCMD	AT&T LOCAL
		WPBHFLANBMD	AT&T LOCAL
12	FTLDFLOVDS2	FTLDFLOVDS2	AT&T LOCAL
13	FTLDFLOVDS3	FTLDFLOVDS3	TCG SOUTH FLORIDA
		WPBHFLGRDS2	TCG SOUTH FLORIDA
14	FTLDFLTADC0	FTLDFLTA2MD	XSPEDIUS MANAGEMENT CO SW SVCS JACKSONVILLE FL
		FTLDFLTADC0	XSPEDIUS MANAGEMENT CO SW SVCS JACKSONVILLE FL
15	FTLDFLTNRS0	FTLDFLTNRS0	INTERMEDIA COMMUNICATIONS INC. - FL
16	FTLDFLWADS1	FTLDFLWADS1	FLORIDA DIGITAL NETWORK
17	GLBRFLMCRS0	GLBRFLMCRS0	ITC DELTA COM - FL
18	HLHLFL0200W	HLHLFL0200W	KMC TELECOM III, INC. - FL
19	HLHLFL02DS0	HLHLFL02DS0	KMC TELECOM III, INC. - FL
20	HLWDFLEDRS0	HLWDFLEDRS0	INTERMEDIA COMMUNICATIONS INC. - FL
21	HMSTFLTERS1	HMSTFLTERS1	INTERMEDIA COMMUNICATIONS INC. - FL
22	JCVLFLCLDS2	GSVLFLANFMD	AT&T LOCAL
		JCVLFLCLDS2	AT&T LOCAL
		PNSCFLBLFMD	AT&T LOCAL
23	JCVLFLCLDS3	PNSCFLBLX9X	AT&T LOCAL
24	JCVLFLCLDS6	JCVLFLCLDS6	TCG SOUTH FLORIDA (AT&T LOCAL)

Source: Local Exchange Routing Guide

CLEC Switches Serving BellSouth Territory in Florida

Switches Serving BellSouth Territory in Florida and Deployed in Florida

COUNT OF SWITCHES	SWITCH CLLI	SWITCH NODE SERVING FLORIDA	CLEC NAME
25	JCVLFLCODS0	JCVLFLCODS0	BUSINESS TELECOM INC. - FL
26	JCVLFLGHDS0	JCVLFLGHDS0	TCG SOUTH FLORIDA (COMCAST PHONE OF FLORIDA, LLC - FL)
27	JCVLFLJBDS0	JCVLFLJBDS0	NEWSOUTH COMMUNICATIONS CORP
28	JCVLFLJBDS1	JCVLFLJBDS1	ITC DELTA COM - FL
29	JCVLFLKJDS0	JCVLFLKJDS0	FLORIDA DIGITAL NETWORK
30	JCVLFLWFDC0	JCVLFLWF1MD	XSPEDIUS MANAGEMENT CO SW SVCS JACKSONVILLE FL
		JCVLFLWFDC0	XSPEDIUS MANAGEMENT CO SW SVCS JACKSONVILLE FL
31	JCVMFLEDDS0	JCVMFLEDDS0	INTERMEDIA COMMUNICATIONS INC. - FL
32	JCVMFLLRDSA	JCVMFLLRDSA	ALLTEL COMMUNICATIONS, INC. - FL
33	JCVMFLUFDS0	GSVLFLSMDMD	US LEC OF FLORIDA, INC.
		JCVMFLUFDS0	US LEC OF FLORIDA, INC.
34	JCVNFL07DS0	JCVNFL07DS0	ADELPHIA BUSINESS SOLUTIONS OF JACKSONVILLE, INC.
35	JCVNFL96DS0	JCVNFL96DS0	SBC TELECOM, INC. - FL
36	LKMRFLMARS1	LKMRFLMARS1	INTERMEDIA COMMUNICATIONS INC. - FL
37	MIAMFLDADS0	MIAMFLDADS0	MCIMETRO, ATS, INC.
		MIAMFLDADSA	MCIMETRO, ATS, INC.
38	MIAMFLDADS2	MIAMFLDADS2	WINSTAR COMMUNICATIONS, LLC - FL
39	MIAMFLDIDS1	MIAMFLDIDS1	FOCAL COMMUNICATIONS CORP OF FLORIDA
40	MIAMFLKYDS0	MIAMFLKYDS0	GLOBAL NAPS, INC. - FL
41	MIANFLPVDS0	MIANFLPVDS0	MCI WORLDCOM COMMUMICATIONS, INC. - FL
42	MIANFLPVDS1	MIANFLPVDS1	MCI WORLDCOM COMMUMICATIONS, INC. - FL
43	MIANFLWKDS0	MIANFLWKDS0	INTERMEDIA COMMUNICATIONS INC. - FL
44	MIANFLYIDS6	MIANFLYIDS6	PAETEC COMMUNICATIONS, INC. - FL
45	MIAPFLYODS0	MIAPFLYODS0	US LEC OF FLORIDA, INC.
		NDADFLGG6MD	US LEC OF FLORIDA, INC.
46	MIAQFL06DS0	MIAQFL06DS0	XO FLORIDA, INC.
47	MIASFLRADS0	MIASFLRADS0	NUVOX COMMUNICATIONS, INC. - FL
48	MIATFLADDS0	MIATFLADDS0	LEVEL 3 COMMUNICATIONS, LLC - FL
49	MIAUFLAZDS0	MIAUFLAZDS0	POINTECOM, INC. - FL
50	MLTNFLRARS0	MLTNFLRARS0	ITC DELTA COM - FL
51	MTLDFLAPDS0	DYBHFLDUXMD	TIME WARNER COMMUNICATIONS AXS FLORIDA - ORLANDO
		MTLDFLAPDS0	TIME WARNER COMMUNICATIONS AXS FLORIDA - ORLANDO
52	MTLDFLBRDS0	DYBHFLWSXAY	US LEC OF FLORIDA, INC.

Source: Local Exchange Routing Guide

CLEC Switches Serving BellSouth Territory in Florida

Switches Serving BellSouth Territory in Florida and Deployed in Florida

COUNT OF SWITCHES	SWITCH CLLI	SWITCH NODE SERVING FLORIDA	CLEC NAME
		ORLDFLMAXCY	US LEC OF FLORIDA, INC.
53	MTLDFLDQDS0	WPBHFLGRX0X	01 COMMUNICATIONS, INC. - FL
54	NDADFLAARS0	NDADFLAARS0	INTERMEDIA COMMUNICATIONS INC. - FL
55	NDADFLGGDS1	NDADFLGGDS2	SUPRA TELECOMMUNICATIONS & INFORMATION SYSTEMS FL
56	NMIAFLAYDS0	NDADFLGG1KD	TCG SOUTH FLORIDA
		NDADFLGG2KD	TCG SOUTH FLORIDA
		NDADFLGG2KD	COMCAST TELEPHONE COMMUNICATIONS OF FLORIDA, INC.
		WPBHFLGR1KD	TCG SOUTH FLORIDA
57	OCALFLDBDS0	OCALFLDBDS0	ITC DELTA COM - FL
58	OJUSFLTLDS2	JCVLFLCLBMD	AT&T LOCAL
		OJUSFLTL7MD	AT&T LOCAL
		OJUSFLTLDS2	AT&T LOCAL
		WPBHFLANFMD	AT&T LOCAL
59	OJUSFLTLDS3	OJUSFLTLDS3	AT&T LOCAL
60	ORLDFL60OMD	ORLDFL60OMD	GRANDE COMMUNICATIONS NETWORKS, INC. - FL
61	ORLDFLAC2MD	ORLDFLAC2MD	GLOBAL NAPS, INC. - FL
62	ORLDFLACDS0	ORLDFLACDS0	FLORIDA DIGITAL NETWORK
63	ORLDFLERDS0	ORLDFLERDS1	SPRINT METROPOLITAN NETWORKS, INC.
64	ORLDFLLUDS0	ORLDFL60OMD	GRANDE COMMUNICATIONS NETWORKS, INC. - FL
65	ORLDFLMA02Z	ORLDFLMA02Z	XO FLORIDA, INC.
66	ORLDFLMADSG	ORLDFLMADSG	XO FLORIDA, INC.
67	ORLDFLMADS3	DYBHFLMA7MD	AT&T LOCAL
		ORLDFLMADS3	AT&T LOCAL
		ORLDFLMAGMD	AT&T LOCAL
68	ORLDFLMADS5	ORLDFLMADS5	AT&T LOCAL
69	ORLDFLMAXOX	ORLDFLMAXOX	PAETEC COMMUNICATIONS, INC. - FL
70	ORLDFLOEDS0	ORLDFLOEDS0	INTERMEDIA COMMUNICATIONS INC. - FL
71	ORLDFLSODS0	ORLDFLSODS0	BUSINESS TELECOM INC. - FL
72	ORLDFLXHDS0	ORLDFLXHDS0	MCIMETRO, ATS, INC.
73	ORLEFLGPDS0	ORLEFLGPDS0	ORLANDO TEL CO AFFIL WITH ORLANDO BUS TEL SYSTMS
74	ORLEFLGVDS0	ORLEFLGVDS0	TCG SOUTH FLORIDA
75	ORLEFLIQDS0	ORLEFLIQDS0	MCI WORLDCOM COMMUMICATIONS, INC. - FL
76	ORLFFLEJDS0	ORLFFLEJDS0	LEVEL 3 COMMUNICATIONS, LLC - FL

Source: Local Exchange Routing Guide

CLEC Switches Serving BellSouth Territory in Florida

Switches Serving BellSouth Territory in Florida and Deployed in Florida

COUNT OF SWITCHES	SWITCH CLLI	SWITCH NODE SERVING FLORIDA	CLEC NAME
77	ORLFFLEJDS4	DYBHFLPOZMD	LEVEL 3 COMMUNICATIONS, LLC - FL
78	ORLFFLYLDS0	ORLFFLYLDS0	SBC TELECOM, INC. - FL
79	ORPKFLRWRS3	ORPKFLRWRS3	INTERMEDIA COMMUNICATIONS INC. - FL
80	OVIDFL07DS0	OVIDFL07DS0	FLORIDA CONSOLIDATED MULTI-MEDIA SVCS, INC. - FL
81	OVIDFLCARS0	OVIDFLCARS0	INTERMEDIA COMMUNICATIONS INC. - FL
82	OVIDFLCARS1	OVIDFLCARS1	ITC DELTA COM - FL
83	PBGRFLEZDS0	PBGRFLEZDS0	US LEC OF FLORIDA, INC.
84	PLBYFLAO00W	PLBYFLAO00W	KMC TELECOM III, INC. - FL
85	PLBYFLAODS0	PLBYFLAODS0	KMC TELECOM III, INC. - FL
86	PMBHFL99DS0	PMBHFL99DS0	SBC TELECOM, INC. - FL
87	PMBHFLCSRS2	PMBHFLCSRS2	INTERMEDIA COMMUNICATIONS INC. - FL
88	PMBHFLDRDS0	PMBHFLDRDS0	MCIMETRO, ATS, INC.
		PMBHFLDRDSA	MCIMETRO, ATS, INC.
89	PMBHFLDRDS2		MCIMETRO, ATS, INC.
90	PMBHFLEDDS0	PMBHFLED0KD	TCG SOUTH FLORIDA
		PMBHFLEDDS0	TCG SOUTH FLORIDA
		PMBHFLEDDS0	TCG SOUTH FLORIDA
91	PMBHFLMARS1	PMBHFLMARS1	INTERMEDIA COMMUNICATIONS INC. - FL
92	PNCYFLDARS1	PNCYFLDARS1	KNOLOGY OF FLORIDA, INC.
93	PNSCFLBLDS2	PNSCFLBLDS2	NETWORK TELEPHONE CORPORATION - FL
			NETWORK TELEPHONE CORPORATION - FL
94	PRRNFLCCRS0	PRRNFLCCRS0	INTERMEDIA COMMUNICATIONS INC. - FL
95	PTORFLACDS0	PTORFLACDS0	FLORIDA DIGITAL NETWORK
96	SNFRFLMARS2	SNFRFLMARS2	ITC DELTA COM - FL
97	STAGFLMARS0	STAGFLMARS0	INTERMEDIA COMMUNICATIONS INC. - FL
98	TMRCFL03DS0	ORLDFL42H04	ADELPHIA BUSINESS SOLUTIONS OF FLORIDA, LLC
		TMRCFL03DS0	ADELPHIA BUSINESS SOLUTIONS OF FLORIDA, LLC
99	WNDRFLTLDS0	ORLDFLMAX2X	AT&T LOCAL
100	WNHNFLBUDS0	ORLDFLMADS6	NEWSOUTH COMMUNICATIONS CORP
101	WPBHFL58RS0	WPBHFL58RS0	INTERMEDIA COMMUNICATIONS INC. - FL
102	WPBHFLANDS1	OJUSFLTL8MD	AT&T LOCAL
		OJUSFLTL9MD	AT&T LOCAL
		WPBHFLANDS1	AT&T LOCAL

Source: Local Exchange Routing Guide

CLEC Switches Serving BellSouth Territory in Florida

Switches Serving BellSouth Territory in Florida and Deployed in Florida

COUNT OF SWITCHES	SWITCH CLLI	SWITCH NODE SERVING FLORIDA	CLEC NAME
103	WPBIFLJADS0	WPBIFLJADS0	ITC DELTA COM - FL
104	WPBIFLJADS3	WPBIFLJADS3	ITC DELTA COM - FL
105	WPBIFLJADS4	WPBIFLJADS4	ITC DELTA COM - FL

Source: Local Exchange Routing Guide

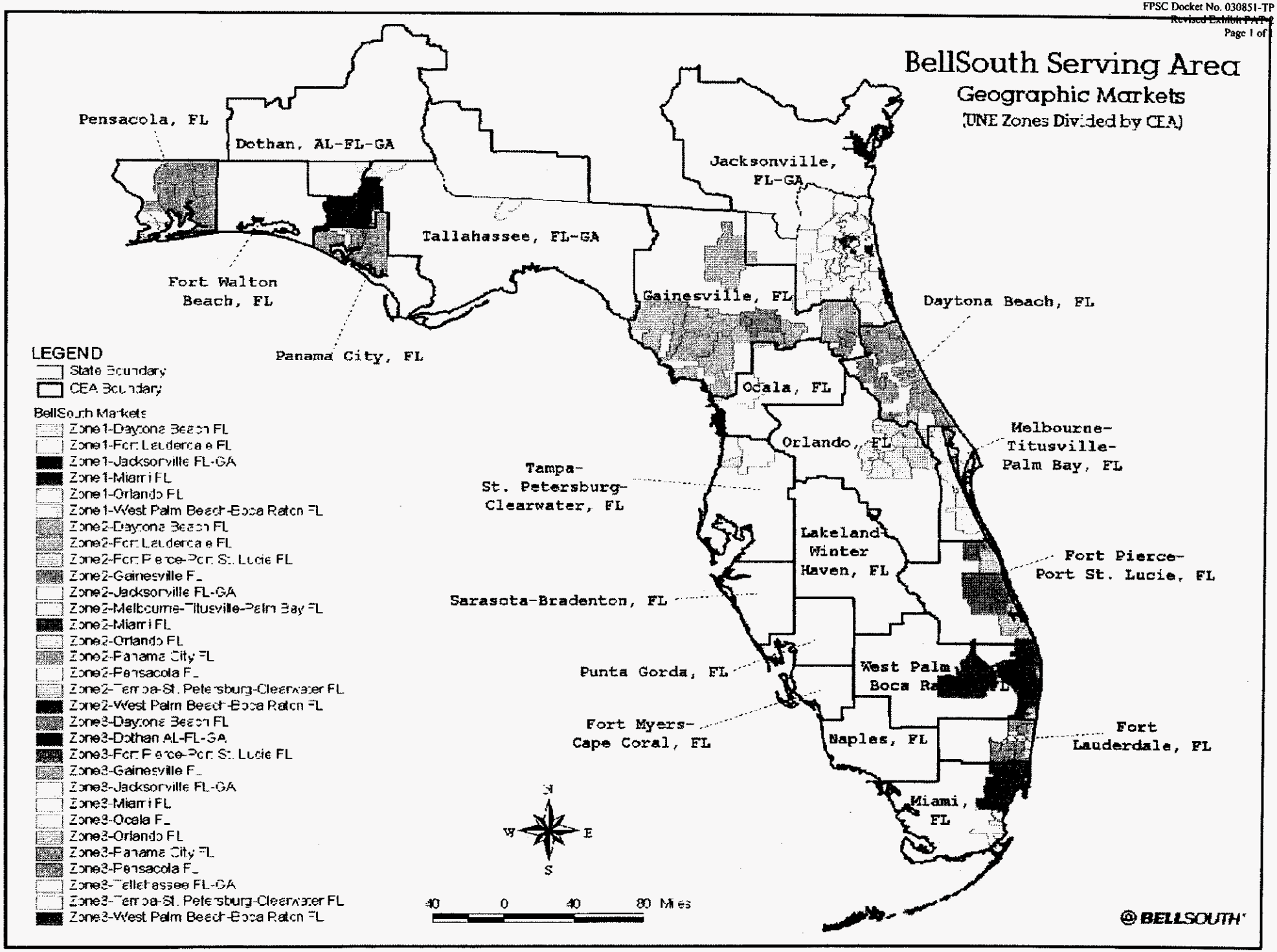
CLEC Switches Serving BellSouth Territory in Florida

Exhibit PAT-1

Switches Serving BellSouth's Territory in Florida But Deployed in Other States

COUNT OF SWITCHES	SWITCH CLLI	SWITCH NODE SERVING FLORIDA	CLEC NAME
106	ATLNGAPPDS0	ATLNGAPPDS0	NUVOX COMMUNICATIONS, INC. - FL
107	ATLNGAQSDS4	FTLDFLMRX2X	GLOBAL CROSSING LOCAL SERVICES, INC.-GA
108	BRHMALPODS0	GSVLFLANDS1	TCG MIDSOUTH, INC. - AL (TCG SOUTH FLORIDA)
		PNCYFLMADS1	TCG MIDSOUTH, INC. - AL (TCG SOUTH FLORIDA)
109	MACNGAGADS0	JCVLFLCLIMD	AT&T LOCAL
110	MOBLAL97DS0	PNCYFLMAX7X	US LEC OF ALABAMA, INC. (US LEC OF FLORIDA, INC)
		PNSCFLWAXMD	US LEC OF ALABAMA, INC. (US LEC OF FLORIDA, INC)
111	MTGMALLTDS6	PNSCFLUPDS0	ITC DELTA COM - AL / FL
112	MTGMALMTDS1	PNSCFLBLX1X	AT&T LOCAL
113	VLDSGACBDS0	PNSCFLWA0MD	01 COMMUNICATIONS, INC. - GA / FL

Source: Local Exchange Routing Guide


BellSouth Serving Area
Geographic Markets
(UNE Zones Divided by CEA)
Pensacola, FL
Dothan, AL-FL-GA
Jacksonville, FL-GA
Tallahassee, FL-GA
Fort Walton Beach, FL
Panama City, FL
Gainesville, FL
Daytona Beach, FL
Ocala, FL
Orlando, FL
Melbourne-Titusville-Palm Bay, FL
Tampa-St. Petersburg-Clearwater, FL
Lakeland-Winter Haven, FL
Fort Pierce-Port St. Lucie, FL
Sarasota-Bradenton, FL
Punta Gorda, FL
West Palm Beach-Boca Raton, FL
Fort Myers-Cape Coral, FL
Naples, FL
Fort Lauderdale, FL
Miami, FL
LEGEND
State Boundary
CEA Boundary
BellSouth Markets
Zone1-Daytona Beach FL
Zone1-Fort Lauderdale FL
Zone1-Jacksonville FL-GA
Zone1-Miami FL
Zone1-Orlando FL
Zone1-West Palm Beach-Boca Raton FL
Zone2-Daytona Beach FL
Zone2-Fort Lauderdale FL
Zone2-Fort Pierce-Port St. Lucie FL
Zone2-Gainesville FL
Zone2-Jacksonville FL-GA
Zone2-Melbourne-Titusville-Palm Bay FL
Zone2-Miami FL
Zone2-Orlando FL
Zone2-Panama City FL
Zone2-Pensacola FL
Zone2-Tampa-St. Petersburg-Clearwater FL
Zone2-West Palm Beach-Boca Raton FL
Zone3-Daytona Beach FL
Zone3-Dothan AL-FL-GA
Zone3-Fort Pierce-Port St. Lucie FL
Zone3-Gainesville FL
Zone3-Jacksonville FL-GA
Zone3-Miami FL
Zone3-Ocala FL
Zone3-Orlando FL
Zone3-Panama City FL
Zone3-Pensacola FL
Zone3-Tallahassee FL-GA
Zone3-Tampa-St. Petersburg-Clearwater FL
Zone3-West Palm Beach-Boca Raton FL
N
W
E
S
40 0 40 80 Miles
BELLSOUTH

Markets Where Self-Provisioning Trigger is Met

UNE Zone	CEA
Zone 1	Jacksonville FL - GA
Zone 2	Jacksonville FL - GA
Zone 1	Orlando FL
Zone 2	Orlando FL
Zone 1	Miami FL
Zone 2	Miami FL
Zone 1	Fort Lauderdale FL
Zone 2	Fort Lauderdale FL
Zone 1	West Palm Beach-Boca Raton FL
Zone 2	West Palm Beach-Boca Raton FL
Zone 2	Pensacola FL
Zone 2	Daytona Beach FL

Nancy B. White
General Counsel-Florida

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
305 347-5558

December 30, 2003

Mrs. Blanca S. Bayó
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 030851-TP

Dear Ms. Bayó:

Enclosed please find a corrected page 3 of the Direct Testimony of BellSouth's witness Pamela A. Tipton. For ease of reference, we have enclosed both the corrected page 3 and a redline version of page 3 that shows the correction made. Also enclosed please find a public version of BellSouth's witness Pamela A. Tipton revised Exhibit PAT-5. The revised exhibit reflects the deletion of a CLEC that was previously identified as the seventh CLEC (out of 8) meeting the self-provisioning trigger in the Fort Lauderdale, FL Zone 1 market. The revised Exhibit PAT-5 now reflects a total of 7 CLECs that meet the self-provisioning trigger in the Fort Lauderdale, FL Zone 1 market.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Nancy B. White

Nancy B. White (KA)

Enclosure

cc: Parties of Record
Marshall M. Criser III
R. Douglas Lackey

519846

DOCUMENT NUMBER-DATE
13568 DEC 30 &
FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE
Docket No. 030851-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail, Hand Delivery* and FedEx⊗ this 30th day of December 2003 to the following:

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Jeremy Susac, Staff Counsel
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Vicki Gordon Kaufman~ +
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(+)signed Protective Agreement
(*) via Hand Delivery
(⊗) via FedEx

§51.319(d)(2)(iii)(A), which states that "a state commission shall find that a requesting telecommunications carrier is not impaired without access to local circuit switching on an unbundled basis in a particular market where either the self-provisioning trigger ... or the competitive wholesale facilities trigger ...is satisfied." My testimony focuses on the self-provisioning trigger. BellSouth is not at this time attempting to make a showing of no impairment based on switching being wholesaled by other providers.

I also provide data identifying the actual deployment that exists in some of those geographic markets where the FCC's triggers are not met. This data supports the conclusion of other BellSouth witnesses that, pursuant to the FCC's "potential deployment" analysis. CLECs are not impaired without access to BellSouth's unbundled local switching in certain markets where the self-provisioning trigger is not met.

ISSUE 4(a): In which markets are there three or more CLECs not affiliated with each other or the ILEC, including intermodal providers of service comparable in quality to that of the ILEC, serving mass market customers with their own switches?

Q. ARE CLECS USING THEIR OWN SWITCHES TO SERVE CUSTOMERS IN FLORIDA?

A. Yes. CLECs have deployed more than 100 switches in Florida, at least 30 of which are serving over 100,000 "mass market" customers. The

EXHIBIT NO. 30

DOCKET NO.: 030851-TP

WITNESS: Christopher Jon Pleatsikas

PARTY: BellSouth

DESCRIPTION:

1. February 6, 2004, Deposition Transcript, page 1

PROFFERING PARTY: STAFF

I.D. # CJP-D

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 30
COMPANY/ FPSC Staff/BellSouth
WITNESS: CJP-D
DATE: 02/24-27/04

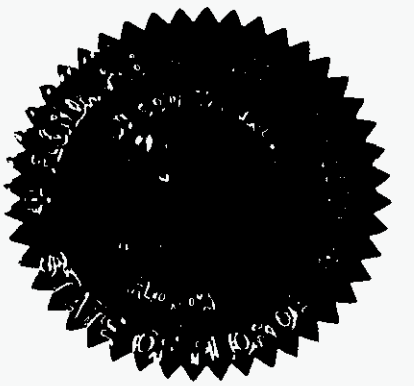
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.

_____/



TELEPHONE DEPOSITION OF:	CHRISTOPHER JON PLEATSIKAS
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
DATE:	Friday, February 6, 2004
TIME:	Commenced at 9:50 a.m. Concluded at 11:06 a.m.
LOCATION:	Gerald L. Gunter Building Room 309 2540 Shumard Oak Boulevard Tallahassee, Florida
REPORTED BY:	MARY ALLEN NEEL, RPR Notary Public, State of Florida at Large

ACCURATE STENOTYPE REPORTERS, INC.
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(850) 878-2221

APPEARANCES:

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MEREDITH MAYS, ESQUIRE, and JAMES MEZA, ESQUIRE, BellSouth Telecommunications, Inc., c/o Nancy H. Sims, 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301-1566, appearing on behalf of BellSouth Telecommunications, Inc.

MATTHEW FEIL, ESQUIRE, FDN Communications, 390 North Orange Avenue, Suite 2000, Orlando, Florida 32801-1640, appearing on behalf of FDN Communications.

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H. EDWARD PHILLIPS, III, ESQUIRE, Sprint (NC), 1411 Capital Blvd., Mailstop NCWKFR0313-3161, Wake Forest, North Carolina 27587-5900, appearing on behalf of Sprint (NC).

APPEARANCES CONTINUED:

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LEIGH HYER, c/o Verizon Florida, Inc., P.O. Box 110, FLTC0007, Tampa, Florida 33601-0110, appearing on behalf of Verizon Florida Inc.

JASON ROJAS, ESQUIRE, FPSC General Counsel's Office, 240 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, appearing on behalf of the Commission Staff.

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PROCEEDINGS

MR. ROJAS: Okay. Now that we're on the record, we're going to go ahead and take appearances officially, if you could just state your name and the company you're representing.

MS. MAYS: Meredith Mays with BellSouth.

MS. PATTON: Lori Patton with ATT.

MR. FEIL: Matt Feil with FDN.

MS. MCNULTY: Donna McNulty, MCI.

MR. O'ROARK: De O'Roark, MCI.

MR. PHILLIPS: Ed Phillips, Sprint.

MS. HYER: Leigh Hyer, Verizon.

MR. MEZA: Jim Meza, BellSouth.

MR. CRUZ-BUSTILLO: Jorge Cruz-Bustillo, Supra Telecom.

MR. ROJAS: We're going to go off the record for just a second.

(Discussion off the record.)

MR. ROJAS: All right. We're back on the record. I'm going to read the stipulations into the record. I'm going to start with the basic Commission stipulations, and then I'm going to have the parties stipulate as to the witness's testimony and again to the witnesses on the record.

It is stipulated that this deposition was taken

pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of question, are reserved until the hearing in this cause; and that reading and signing was not waived. It is also stipulated that any off-the-record conversations are with the consent of the deponent.

In addition, due to the fact that the witness has no notary, I would like the parties to stipulate that they'll treat this testimony as if it was taken under oath.

Again, the parties should stipulate that they have no witnesses present during these depositions.

Are there any objections to these stipulations?

MS. MAYS: No objections from BellSouth.

MR. FEIL: No objections from FDN for today's deposition.

MR. PHILLIPS: No objections from Sprint.

MS. PATTON: No objections from AT&T.

MR. ROJAS: I have one more procedural matter. I have a message from --

MR. CRUZ-BUSTILLO: Supra Telecom has no objection.

MR. ROJAS: I have a message from Commissioner

Davidson that he would like read into the record at each and every deposition.

"Good morning, Counsel. I wish you an efficient, productive series of depositions. In order to keep the depositions productive, please keep your questions limited to the issues in this case as set forth in the draft prehearing order.

"What is this case about? It is not about TELRIC. It is not about UNE pricing. This case is not about access reform and rate rebalancing legislation in Florida, and it is not about the local or long distance prices that customers pay. This case is not about whether your client or you agree or disagree with the FCC's Triennial Review Order or the premises contained therein, so please do not focus on those areas in your questions.

"This case is about a specific impairment analysis that, pursuant to the 1996 Telecommunications Act, this Commission is to conduct according to the issues set forth in the prehearing order. Your questions should thus be appropriately focused.

While I hope the need to do so does not arise, I will be available to rule on objections that questions are outside the scope of this proceeding."

That is a message from Commissioner Davidson.

Thereupon,

CHRISTOPHER JON PLEATSIKAS

the witness herein, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ROJAS:

Q Dr. Pleatsikas, are you ready to begin?

A I am.

Q I just want you to know that if you need me to restate a question or you do not understand a question, if you'll let me know, I'll restate or rephrase the question. I also ask that when you answer, if you would please begin your answer with a yes or no where appropriate and then go into an explanation. And with that being said, we're going to get started.

Why is it your recommendation that a proper definition for a market would be UNE rate zones subdivided by CEAs?

A Well, I believe that UNE rate zones divided by CEAs represent the most appropriate market definition, mainly because it recognizes the demand- and supply-side substitutability factors that one would want to consider in defining markets.

Q Why would a wire center level definition of the

geographical market be inappropriate?

A Well, I think the wire center doesn't reflect certainly the FCC's views that -- excuse me. It's a little early for me. It does not reflect the FCC's views that economies of scale and scope be taken into account in determining the geographic market. I think that it doesn't adequately reflect certainly the supply-side substitutability factors that CLECs would take into account and do take into account in provisioning their services and in deciding how to provision their services.

I think those are the most important reasons why. At least -- I'll leave the answer there.

Q Thank you. Would you agree that using an ILEC wire center as a market could define that market too narrowly so that a competitor serving that market alone would not be able to take advantage of available scale and scope economies?

A Generally speaking, I think the ILEC wire center does not appropriately take into account scale and scope economies.

Q Are you familiar with Dr. Staihr's testimony concerning market definition?

A Yes.

Q It is his recommendation that MSAs be used as

the basic geographical unit for evaluating impairment. Do you agree or disagree with this approach?

A I disagree with the approach. I disagree with the approach.

Q Could you elaborate on that?

A Sure. I think that the main reason why MSAs aren't appropriate -- well, there are a couple of reasons. One is that, as I've said in my testimony, I think there are other factors that would cause one to want to subdivide a geographic concept like an MSA or a CEA by the UNE zones.

Beyond that, I think there are some problems, although not insurmountable problems, with using MSAs as any sort of basis, whether subdivided or not, for defining markets in Florida, because much of Florida is outside MSAs now. I know that he, I believe in rebuttal testimony, suggested MSAs and RSAs, but I think the CEA concept is superior to that as well, in that it assigns smaller counties to the economic node to which it's most closely related.

Q He states that MSAs tend to represent an economic community of interest. Do you agree or disagree with this analysis?

A I disagree in one sense. MSAs certainly represent an economic community of interest on some

dimension, but that doesn't mean that it represents an economic community of interest on all dimensions.

Q Would the approach advocated by witness Staihr yield a different definition of impairment?

A I have no idea.

Q Do you agree or disagree that --

A Would you repeat that question again?

Q Would the approach advocated by witness Staihr yield a different definition of impairment?

A I think I may have misunderstood your question. I'm not sure what you mean by definition of impairment. I interpreted the question slightly differently. I'm sorry. Could you clarify what you mean by a definition of impairment?

Q Would it yield a different finding of impairment by this Commission?

A Okay. That's how I interpreted the question originally, and I do not know the answer to that. It's not something I've studied.

Q Thank you. Do you agree or disagree that MSAs reflect the geographical reach of newspaper, radio, and television advertising?

A In my experience, they do not represent the geographical reach, for instance, of television.

Q Do you agree or disagree that this reach

affects a competitor's ability to target customers in the proposed market from a mass marketing and advertising perspective?

A I would certainly agree that newspapers and television affect the geographical reach of mass market advertising.

Q Do you agree that by this order, we are looking to determine if there are markets that are not impaired?

A It's my interpretation that by this order, the Commission is trying to assess whether markets are impaired or -- whether markets are impaired, and which markets are impaired and which markets are not.

Q Is it true that if this Commission were to find markets not impaired that it could result in UNE-P no longer being available in that market?

A It's my understanding that that's a potential outcome of this proceeding.

Q Would other forms of entry still be available?

A Well, it's certainly my understanding that facilities-based entry is something that's always available, and it was not my understanding that the Commission was planning to preclude facilities-based entry.

Q Would resale still be available?

A Do you mean by that pure resale?

Q Yes.

A It's my understanding that if UNE-P weren't available -- and I don't know whether the Commission decision will preclude UNE-P in all instances or not, but it's my understanding that if UNE-P is not available, then pure resale would not be available. But I have to admit to having an imperfect understanding of that.

Q Thank you. Could I remind you to please start each answer with yes or no, and then you can elaborate.

A I'll be happy to where I can.

Q Okay. Thank you.

A Sure.

Q Would UNE-P still be available outside that specific market?

A If you mean by that specific market a market which was determined to be not impaired --

Q That's correct.

A It's my understanding that certainly in those markets where a determination was made that there was impairment, UNE-P would -- it's my understanding that UNE-P would be available, would continue to be available.

Q If a market definition was chosen other than MSA, is it conceivable that a portion of an MSA might be

found impaired and a portion of an MSA might be found impaired?

A Yes, I believe that would be conceivable under -- if it was in your question a market other than an MSA itself were used.

Q Do you agree that serving one area which is not found impaired with UNE-L does not restrict a carrier from serving an adjacent area which is found impaired with their choice of method of entry?

A It's my understanding that facilities-based entry is not precluded in any area of Florida. But again, you know, I wouldn't hold myself out as having a perfect understanding of that.

Q Would you agree that today a single carrier could in fact serve some customers within an MSA with UNE-L and others within that same MSA with UNE-P?

A Yes, it's my understanding that today companies, CLECs can serve some customers with UNE-L and some with UNE-P.

Q I would like you to take a second and take a look at Exhibit WET-1.

MS. MAYS: Just to be clear -- this is Meredith Mays with BellSouth. WET-1 was Dr. Taylor's CV? Is that what the Commission is referring to?

MR. ROJAS: No. It's an MCI advertisement.

MS. MAYS: Okay. So at the end of the exhibit, there's some -- at the end of the CV, there's another few pages, and that's what you're referring to? I just want to be sure I'm looking at the right thing. Excuse me.

MR. ROJAS: There's two exhibits. It's the second one.

MS. MAYS: Okay. Thank you.

MS. MCNULTY: Excuse me for interrupting. Is it CJP-2?

MR. ROJAS: WET-1.

MS. MCNULTY: WET-1. Okay.

A I know I have it, if you'll just bear with me for a minute here.

Q Definitely.

A Well, I can't seem to find it. I'm sorry.

MS. MAYS: If you would like to take a moment, Jason, I can have the exhibit e-mailed to the witness.

THE WITNESS: I'll tell you what. Would you fax it to me? That would be the easiest thing right this minute.

MR. ROJAS: Okay. Well, why don't we take a five-minute break, and we'll resume when he gets

that fax.

(Short recess.)

MR. ROJAS: Okay. We're going to go back on the record.

MS. MAYS: The fax is on its way.

BY MR. ROJAS:

Q Doctor, did you find that exhibit?

A I did find it, yes. I found it just after you decided to take a five-minute break.

Q Okay. So we don't need to wait for that fax?

A No.

Q Could you take a look at that advertisement?

A Yes.

Q In this advertisement, does it mention the method of delivery used to provide service, such as UNE-L or UNE-P?

A Let me take a look. We're looking at the MCI Neighborhood one?

Q Correct.

A Okay. It doesn't appear to.

Q Thank you. Do you agree that method of entry is a choice of the carrier?

A Well, certainly it is at -- well, generally, yes. I mean, entry is the -- that's my fax machine in the background. Entry is the choice of the carrier, and

at this time, my belief and my understanding is that UNE-L or UNE-P is at this point at the discretion of the carrier.

Q Do you agree that a method of entry does not affect a media campaign?

A I think as a general statement, I would not agree with that. It could.

Q Could you elaborate?

A Well, sure. I mean, as a general proposition, the method one uses and the business model one uses to enter a market could very well affect how one chooses to structure a media campaign.

Q Are you familiar with the testimony of Dr. Bryant?

A Yes.

Q Would the approach advocated by Dr. Bryant yield a different finding of impairment by this Commission?

A I really have not studied findings of impairment, and I cannot provide you with that kind of information.

Q Thank you. In his testimony, he states that it is feasible to administer the requirements of the TRO on a wire center basis because data on CLEC activity is available on that basis. Do you agree that data on CLEC

activity is available on a wire center basis?

A Yes, it's my understanding that data are collected on a wire center basis, or collected so that they can be reported on a wire center basis.

Q Now, your testimony is that UNE zones follow wire center boundaries. However, typically aren't UNE zones aggregations of wire centers?

A Yes, they typically are.

Q UNE Zones 1 and 2 are primarily urban areas; correct?

A That's my understanding.

Q In UNE Zones 1 and 2, is there a large enterprise market?

A I have not studied the enterprise -- I've not studied the number of enterprise customers there are in each wire zone or in each UNE zone.

Q Would you expect that if there was a self-provisioning CLEC presence that it would be found in UNE Zones 1 and 2?

A I would expect it to be more likely, given the characteristics of the customer base in UNE Zones 1 and 2, but I certainly wouldn't rule it out in UNE Zone 3.

Q Would you agree in this case we're examining geographical markets to determine if --

A Let me amend my last answer. Again, I haven't

-- in terms of the actual number of customers that are self-provisioned in each wire zone or in each UNE zone, I have not specifically focused on that in my analysis.

Q Would you agree in this case we are examining geographical markets to determine if there is a self-provisioning CLEC presence in the mass market?

A I guess I would have a slightly different understanding of that. I would certainly agree that in this proceeding, markets are being defined so that an impairment analysis can be conducted and that that impairment analysis relates to the mass market in Florida.

Q Could I refer you now to BellSouth's Exhibit PAT-4? And just let me know when you're ready to go.

A Yes, I have it.

Q According to this map, in the Miami market, does it appear that UNE Zones 1 and 2 are contiguous?

A Well, leaving aside for the moment your use of the word "market," because I have a different understanding of what a market might be than you might, it appears from this map -- and I don't have a color map. It appears that they are contiguous.

Q Is this also true for the Fort Lauderdale area?

A I can't tell from this map. I'm sorry. Let me look at a slightly different map.

Q Okay. Just let me know when you're ready.

A I think I may have one.

I'm sorry. The other map that I have also is not helpful in that respect.

Q Could we say typically that UNE Zones 1 and 2 fall within metropolitan areas?

A It's my understanding that they typically fall within metropolitan areas, but I'm not sure they always do.

Q Within that area, UNE Zones 1 and 2 are typically contiguous; correct?

A I think they often are. I'm not sure that they typically are, but I think they often are.

Q Is it true that an aggregation of wire centers within UNE Zones 1 and 2 may not constitute a serving area large enough to afford economies of scale necessary to compete in the mass market?

A Would you repeat that question, please?

Q Is it true that an aggregation of wire centers within UNE Zones 1 and 2 may not constitute a serving area large enough to afford economies of scale necessary to compete in the mass market?

A I would say that -- well, there's difficulty in your question, but I would say that typically they would afford some economies of scale to a CLEC interested in

serving the mass market.

Q How would you determine when the economies of scale necessary to compete in the mass market have been reached?

A That's a difficult question, because if we're talking about an efficiency like -- first of all, it's different than any CLEC. But, you know, I think that one would have to -- if one wanted to find out -- repeat the question, because I think I may want to clarify one part of your question.

Q Okay. How would you determine when the economies of scale necessary to compete in the mass market had been reached?

A You know, clearly, one could determine whether the economies of scale necessary to compete in the mass market had been reached by looking after the fact at whether that's the only avenue afforded to a CLEC that it did so. But one could do that with an analysis of the financial feasibility of competing in any particular area.

Q What would be required to meet this threshold?

A In meeting the threshold, do you mean whether it was financially feasible?

Q In regards to number of lines, the density.

A Well, if it meets the hurdle rate of the CLEC,

then it's financially feasible, and that's what one would do if one were to assess the financial feasibility in any particular area.

Q In your opinion, do the markets defined in this exhibit constitute serving areas large enough to afford the economies of scale necessary to compete?

A Well, assuming that by the markets in this exhibit we're talking about the markets as I define them, because I have to admit that I'm not so familiar with this exhibit, nor do I have a good enough copy that I could tell you whether these have been defined according to -- or the wire centers have been identified in a way that comports with my market definition, I believe the markets as I define them are markets where one can assess that. And in some markets it may be financially feasible, and in other markets it may not be financially feasible, and that's what the impairment analysis is to determine.

Q Are there any markets shown in this exhibit that you would consider to be too large?

A It's difficult to -- too large in what sense? That's a difficult -- that's a very subjective term.

Q Too large in terms of economies of scale.

A Well, one has to be -- you know, one has to be clear that markets don't necessarily have to exhaust

economies of scale, all economies of scale. And economies of scale and scope, which are the things that I was specifically concerned about, you know, can be derived from different factors and by different means, and the economies of scale and scope from one factor may be different from another factor.

But it's difficult to answer a question of whether a market is too large to exhaust economies of scope. In some cases you would exhaust them, and in other cases you would not in a market. As I say, there are several factors where one could derive some economies of scale and scope. So if we're looking at each of the factors individually, that's one thing. If we're looking at it kind of overall, that's something else.

Q But in reference to this exhibit, are there any that you would consider to be too large?

A Are there any markets that I would consider to be too large? Again, if I assume that the markets that are defined here are defined according to the precepts that I use to define markets -- and I can't tell from this exhibit whether they are or they aren't. But if they are, I don't think they're too large, you know, according to my view of whether a market is too large or not.

Let me just say, a market that's too large is a market where you've defined it such that the -- for instance, the supply-side substitutability for one part of the market would not be such as to defeat, for instance, a price increase from a hypothetical monopolist in another part of the market. That would be a market that's too large. In other words, you defined it wrong, so it's too big, and suppliers in one part of the market wouldn't react sufficiently to a price increase in another part of the market.

Q Do you believe it would be reasonable to use an aggregation of wire centers from Zones 1 and 2 as the market definition?

A I don't, no.

Q Could you elaborate on that?

A Sure. I think that the characteristics of Zones 1 and 2 are sufficiently different that it's prudent to separate them. For instance, you know, line densities are typically significantly lower in Zone 2 than they are in Zone 1, and that will affect transport costs and average collocation costs. Obviously, the loop costs are different. So those factors I think would lead one to a decision whether or not to separate them.

Q If we began with UNE Zones 1 and 2 and found

them to be too small, what would your opinion concerning expanding to include bordering wire centers comprising a contiguous geographic area until a sufficient size to attain economies of scope and scale is reached?

A Let's be clear about something. One wants to be able to take advantage of economies of scale and scope, and I think the FCC directs one to look at economies of scale and scope in determining markets for this purpose. However, one does not necessarily have to exhaust all economies scale or scope in a market typically or, you know, for the purposes of defining markets in this proceeding specifically. And a market is too small if, in the manner you defined it, a price increase in that market would elicit a sufficient response from someone outside it. And that's the way one determines whether a market is too large or too small.

Q Why is your market definition superior to that offered by other witnesses in this proceeding?

A Well, because I think it takes into account both the precept that one considers economies of scale and scope in providing service by CLECs to the mass market, and also it takes into account particularly factors related to supply-side substitutability as well as demand-side substitutability.

MR. ROJAS: I want to thank you for your time. Staff has no further questions.

THE WITNESS: Sure. Thank you.

MR. ROJAS: Do the parties have any questions?

MR. PHILLIPS: This is Ed Phillips from Sprint. I have just a few questions, if I may.

Again, just for the record, Sprint did state that it has no witnesses on this call, nor will it have witnesses on this call for this deposition, but again asserts its objection to that particular ruling.

MR. ROJAS: Well, I would like to point all of you -- on that note, I would like to point you to Rule 28-106.305.

MR. PHILLIPS: Rule 28-106.305, you said?

MR. ROJAS: Yes. I think that should clarify everything for everyone. It says no witnesses can listen in on a deposition, and I think that should conclude the matter on our discussion on witnesses listening in.

MR. PHILLIPS: Very good. Thank you.

CROSS-EXAMINATION

BY MR. PHILLIPS:

Q Doctor, may we turn to page 7 of your direct testimony, if we could?

A Sure.

Q Thank you. And this was the testimony that was filed, I believe, on December 4, 2003.

A Page 7?

Q Yes, sir.

A Yes.

Q All right. Dr. Pleatsikas -- see, now I just tripped myself up.

A Don't worry about it.

Q I was doing so well this morning.

But anyway, Doctor, if we may, specifically let's turn to lines 22 through 25. Could you read that into the record for me?

A I'm sorry, but the copy I have only goes to line 21. If you could --

Q All right. Let me make sure. Yes, this is your direct. The sentence begins, "CEAs have, for example, been used by the FCC for its geographical licensing schemes and used by the Bureau as the basis for its local economic projections."

A I see that, yes.

Q So we are reading the same sentence; correct?

A Yes. It's a different page.

Q And what line do you have that on your pagination?

A It's on page 8 for me, lines 9 through 11.

Q Okay. Thank you for clarifying that, Doctor.

In that quote that I've just read into the record, what FCC licensing schemes are you referring to?

A It's the MVDDS or something. Let me just -- I'm sorry. It's the multi-channel video distribution. The acronym escapes me at this particular moment, but --

Q That's fine. The FCC has their own language.

A If I could say something about that to clarify it for everyone, originally the FCC stipulated that the use of CEAs would occur, and they had determined that CEAs would be a useful geographic scheme for that particular service. Eventually, there was a licensing agreement worked out with Nielsen, I believe, and ultimately a slightly different scheme was used when that service or that spectrum was actually licensed, because Nielsen -- because it was a video distribution service, and Nielsen had a slightly different scheme that collected data on video viewership. The FCC ultimately shifted, but it was the original geographic area used for that licensing scheme.

Q All right. If I could, Dr. Pleatsikas, let's -- well, let me ask you this. Can you refer me to the specific FCC order or FCC NPRM that makes the reference to these particular CEAs to which you refer in your

testimony?

A Give me a second here.

Q Okay. Take your time.

A And the acronym is MVDDS.

Q MVDDS?

A That's correct, M, V as in Victor, D as in David, D as in David, S.

Q Okay. Very good. Thank you.

A Sure. Hang on just a second.

Q Well, Dr. Pleatsikas, would it be easier if you could file that as a late-filed exhibit?

MS. MAYS: Just for the record, this is Meredith Mays. We've got pending interrogatories in which the documents have been requested and will be filed in response to staff's sixth set of discovery, so that information will be filed with the Commission in connection with that data request.

THE WITNESS: Yes. I'm not sure I have the order with me right now, unfortunately.

MR. PHILLIPS: That's fine. As long as Sprint is able to receive a copy from BellSouth, that should be fine.

MS. MAYS: Sprint will be served.

THE WITNESS: I've got a document here which may or may not help. Unfortunately, I don't have

the first page of it, which would have helped, I'm sure, all of us. But it looks like 101.1407, or -- no, I'm sorry. 101.1401, subpart (p), Multi-Channel Video Distribution and Data Service Rules, 12.2, 12.7 gigaHertz band. The source is 67 FR 43040.

BY MR. PHILLIPS:

Q 67 FR -- what was the last sequence?

A 43040.

Q Very good. Thank you, sir.

A Sure.

Q I only have a couple more questions. If we can turn to what I have as page 9 -- and bear in mind, this is the actual copy of what was filed with the Commission, so let's turn to page 9 of your direct testimony.

A Yes. If you'll just tell me where approximately it is, I can find it.

Q Okay. The question is, "Could the Commission subdivide the UNE zones by metropolitan statistical areas ("MSAs")?"

A Yes. I've got it, yes.

Q Now, in the market that BellSouth wants the Commission to consider, do those markets cover the entire State of Florida?

A I don't believe BellSouth -- it's certainly not

my understanding that BellSouth covers the entire State of Florida, no.

Q Well, let me refine that a little bit.

A Sure.

Q Not BellSouth's market, but the markets for which you're proposing, do those cover -- do the CEAs cover the entire State of Florida?

A The markets I'm proposing certainly -- well, I don't think I've identified every single market in Florida. I've only identified those areas in the BellSouth service territory. But the scheme that I've used, yes, would cover the entire State of Florida. In other words, UNE zones subdivided by CEAs can be used to cover the entire State of Florida, even though --

Q Well, what I'm asking specifically is, do you know if the UNE zones subdivided by CEAs would in fact leave out, or would it cover all of the State of Florida? Do you see what I'm getting at?

A And I thought I was answering that question. CEAs cover the entire State of Florida, and the entire State of Florida has been divided into three UNE zones.

Q Right.

A So the intersection of those two would also cover the entire State of Florida.

MR. PHILLIPS: Very good. I believe those are

all my questions, Doctor.

THE WITNESS: Thank you.

MS. MCNULTY: This is Donna McNulty from MCI. MCI has several questions.

CROSS-EXAMINATION

BY MS. MCNULTY:

Q Good morning, Dr. Pleatsikas. I'm Donna McNulty.

A Good morning.

Q The purpose of your testimony is to provide a definition of geographic areas for the Commission's use in this proceeding; right?

A That's correct, geographic markets, yes.

Q And you advocate that the relevant geographic markets should be the UNE zones established by this Commission subdivided by CEAs?

A That's correct.

Q Under your proposal, the geographic market is greater than a wire center, but less than a LATA; right?

A I think there are some cases where the market could be a wire center. That particularly would occur in UNE Zone 3, I think. But generally speaking, it would be bigger than a wire center, and certainly smaller than a LATA.

Q And your proposal is reflected in a map

identified as Exhibit CJP-2 attached to your direct testimony?

A I believe that's true, yes.

Q Under your proposal, wire centers --

A Let me --

Q -- have similar costs and revenue characteristics --

MS. MAYS: Excuse me, Donna. I would --

A Let me just clarify that I believe I've only identified specific markets in the BellSouth service territory, but it can be extended to the entire state.

MS. MAYS: And if I could just note for the record that the witness be allowed to finish his answer before he's asked the next question.

MS. MCNULTY: I'm sorry. It's sort of difficult to tell on the phone. I thought he was through.

THE WITNESS: Okay. I think that -- as I said, I think I've only enumerated markets in the BellSouth service territory. But as I say, the entire state can be divided into markets using the -- I'm sorry. As I said, it's a little early for me. There are 31 markets, and they cover Florida.

BY MS. MCNULTY:

Q You state that one factor that is an important

factor for CLECs to consider in determining where it may be able to serve customers profitably is variation in cost. Do you remember that?

A Variation in cost does affect substitutability of supply, yes, and substitutability of supply is a very important factor in defining markets.

Q Do you have a copy of your Exhibit CJP-2?

A Yes, I do. Let me just find it here. Here we go. Here we go, yes.

Q Just for the record and for ease in asking questions, is your exhibit in color, or is it in black and white?

A Well, the one I have, unfortunately, in my backup here is in black and white, whereas I had a -- the CJP -- I'm sorry. The Tipton Exhibit 4 was also black and white. This one, however, is a bit better in terms of its resolution.

Q But it's still in black and white?

A The one I have in front of me is in black and white.

Q Do you mind looking at, for example, the Fort Lauderdale area?

A Sure. I'll be happy to.

Q And on your map, do you see two different colors or shades of black and white or gray?

A I don't see that. However, I know that there are two different areas in Fort Lauderdale. I mean, there are gradations of -- there are different colors.

Q In the map I am looking at, it appears that there are three areas that are contiguous, and the top one and the bottom one are a little bit darker, and the middle one is a little bit lighter. Is that what yours looks like?

A I wouldn't swear to that. It kind of looks that way, but it's hard to know sometimes when things are produced in black and white that were originally in color.

Q Do you mind agreeing subject to check that they are that color?

A I'll agree subject to check that they are that color.

Q Okay. What does it mean to you that the top one and the bottom one are the same color and the middle one is a different color? What does that represent?

A Well, the differences in color represent the different zones within a CEA, the different UNE zones within a CEA, and UNE Zone 1 would be a different color than UNE Zone 2.

Q And if, for example, they were the same color, in other words, Fort Lauderdale is divided into three

areas, and the top one and the bottom one are the exact same color and the middle one is a different color, does that mean that the top one and the bottom one are in the same market area that you're proposing?

A If what you're describing is noncontiguous areas that are in the same UNE zone within the same CEA, yes, I would consider them to be in the same market.

Q Okay. And for such a situation where you have the same market, but it's not contiguous, is it correct to assume there may be multiple wire centers depicted there?

A Well, it appears from my map that there are multiple wire centers, yes.

Well, let me be more specific so that we have a clean record. Assuming for the purposes of the question that there's an area in the middle that's one color, and there's an area to the north of it and the south of it that are a different color, I believe the areas to the north and the south each have multiple wire centers.

Q Thank you. Now, your proposal captures differences in recurring rates for UNE loops and some other ILEC rate elements for those wire centers, doesn't it?

A Would you repeat the question, please?

Q Your proposal generally captures differences in

recurring rates for UNE loops and some other ILEC rate elements for wire centers, for example, these wire centers that we're talking about in the same market area.

A Well, it directly captures difference in loop rates, but it will indirectly capture other aspects of cost through the differences in line densities that typically characterize the differences between UNE Zones 1, 2, and 3.

Q Does your proposal capture the cost of transport to the CLEC switch from each of these individual wire centers?

A It does not directly capture transport costs, although it does have a relationship to average transport cost.

Q In the example that we've been discussing regarding Fort Lauderdale, in particular, the north and the south market area that's one market area, you said, do you know how many miles apart those wire centers are in such areas?

A No, I don't know.

Q Looking at the map, could you tell at all based on the scale?

A Well, it depends on which wire centers we're talking about. Some of them appear to be -- some them

appear to be, you know, 20 to 30 miles apart, you know, at the extreme.

(Noise on the line.)

BY MS. MCNULTY:

Q Are you still there?

A I'm still here.

MS. MCNULTY: Is everyone else still there?

THE WITNESS: I hope it was nothing I said.

MR. ROJAS: We're still here.

BY MS. MCNULTY:

Q Rates for transport vary by distance, don't they?

A They can.

Q Is that a yes?

A It's not.

Q Do most of the time they vary?

A It depends on the kind of transport that you've contracted for. You know, if you -- there may be some relationship to mileage, but if you've got a line, quite frankly, there's a line cost, and the length of the line may have some relationship, but a much greater determinant of cost will be the amount of transport over the line.

Q Do the number of addressable lines vary from one wire center to another?

A They -- yes.

Q Do the number of lines for which the CLEC is capable of offering DSL services vary among each wire center?

A Generally speaking, they would.

Q Do the number of lines served by digital loop carrier vary among wire centers?

A Generally speaking, they would.

Q Are the relative number of business and residential customers the same in each of the wire centers?

A I wouldn't think so, generally, certainly.

Q And under your proposal, the variations in profitability for the market area we've been discussing of Fort Lauderdale would be obscured and would fail to capture the areas where the CLEC cannot profitably serve. Would you agree?

A Not necessarily, no. Why don't you repeat the question.

Q Under your proposal, the variations in profitability for the areas we've been discussing in Fort Lauderdale would be obscured and would fail to capture areas where the CLEC cannot profitably serve?

A I'll stick with my answer.

Q All right. Your position is that economies of

scale and scope available to CLECs in providing switch-based services are not in general consistent with defining the markets based on individual wire centers; is that right?

A Yes.

Q One point you make is that the cost of a CLEC switch and some of the costs incurred by a CLEC in marketing services apply to a geographic area larger than the wire center?

A Repeat that question. I'm sorry. I didn't catch it all.

Q Okay. One point you make is that the cost of a CLEC switch and some of the costs incurred by a CLEC in marketing services apply to a geographic area larger than the wire center. Is that a --

A Let me ask you to repeat it one more time. I'm sorry. It's just a complicated question.

Q One point that I believe you have made in your testimony -- and correct me if this is not true -- is that the cost of the CLEC switch and some of the costs incurred by a CLEC in marketing services apply to a geographic area larger than the wire center.

A Yes, that's true, I believe.

Q And are you familiar with Dr. Bryant's testimony in this docket?

A Yes.

Q And Dr. Bryant does not disagree with that specific point; is that correct?

A I don't think he disagrees with that point, no.

Let me go back to a question, because I think I may have misunderstood one of your questions about profitability.

Q Okay.

A You said something about the profitability of wire centers varying, or something about obscuring the profitability of CLECs to profitably provide service. I think I entirety misunderstood that question. If you could ask it again, I might be able to give you a better understand.

Q Certainly. Under your proposal, the variations in profitability for the area we were discussing in Fort Lauderdale would be obscured and would fail to capture areas where the CLECs cannot profitably serve?

A There are always going to be variations in profitability within a service area or across service areas, across markets. And for one thing, the impairment analysis will try to capture those differences in profitability.

But I think what's important here from the

perspective of a efficient CLEC is to determine demand- and supply-side substitutability for the purposes of defining market. And I think rather than focusing on individual CLECs, some of which may or may not be efficient, and the profitability of individual CLECs, one really needs to focus on demand- and supply-side substitutability for the purposes for which I'm testifying, which is defining a market, and I think we really need to keep focused on that point.

So I did entirely misunderstood your question before. I'm sorry.

Q That's okay. I want to go back to the other line of questioning.

A Sure.

Q Would you agree that one difference between your opinion and Dr. Bryant's opinion is that Dr. Bryant questions whether the economies of scale achievable through the recovery of costs over a large customer base are sufficient to overcome the cost differences that exist among wire centers?

A Certainly Dr. Bryant focuses on the cost differences among wire centers, or what he calls cost differences among wire centers. But in some cases, I don't think there are cost differences. I think he's focusing more on other factors more than cost

differences. But certainly that's a point that he made in his testimony.

Q For these questions, assume that a CLEC wants to add a collocation in a wire center where there is little or no profit. If a CLEC wants to collocate in that particular wire center, it must balance the losses it will incur by collocating against the cost savings it will achieve in its switch costs. Would you agree with that?

A Well, presumably if a CLEC has determined that it's not profitable to serve an area, it's not going to serve the area. That will take into account, I would expect, all of its anticipated costs and revenues for serving that area. In other words, I don't think a decision would be made to go ahead if a particular CLEC determined that it couldn't profitably serve an area.

Q In a particular wire center?

A It certainly might look at it on a wire center by wire center basis.

Well, let me just say that any area that the CLEC, a particular CLEC evaluates, whether it's a wire center, a LATA, a state, or a group of states, it's going to be evaluating its profitability. That's what businesses do.

I think what we need to do, as I say is stay

focused on demand- and supply-side substitutability and not look at specific CLECs to determine what they would or would not do, but look more generally certainly at the concept of, you know, if we're going to focus on a CLEC, focus an efficient CLEC. But I think supply-side and demand-side substitutability are really the keys here in determining what the boundaries of a market are, not what a specific CLEC might do in some circumstance.

Q For the purposes of the questions I'm going to ask, I'm going to ask you to assume that it's an efficient CLEC, and the CLEC wants to add the collocation in a wire center where there's little or no profit because that's what it may be forced to do. Well, not forced, but --

A Well, in my experience, businesses are seldom forced to make unprofitable investments, whatever the investment is.

Q Assume that the CLEC loses $3 per line per month in a particular wire center because of the additional costs related to collocation, and the cost savings in switch costs would only amount to a few cents per line per month. Do you think that an efficient CLEC would decide to serve that wire center?

A Whatever the geography is, any particular geography, if any company, whether it's an efficient

CLEC or an inefficient CLEC, cannot profitably serve the area, it won't. You know, you can set up --

Q I will accept your answer.

A -- a hypothetical where somebody is losing money, and if somebody is losing money, they presumably -- and they know that ahead of time, they presumably won't make the investment.

MS. MCNULTY: Thank you. MCI has no further questions.

MR. ROJAS: Do any other parties have questions?

MS. PATTON: AT&T does not have questions.

MR. ROJAS: If that's the case, I'm going to conclude this deposition. Is 11:06. We'll resume in about 15 minutes with Ronald Pate.

(Deposition concluded at 11:06 a.m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, MARY ALLEN NEEL, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter transcribed under my supervision; and that the foregoing pages numbered 1 through 45 are a true and correct transcription of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, or relative or employee of such attorney or counsel, or financially interested in the action.

DATED THIS 9th day of January, 2004.

MARY ALLEN NEEL, RPR
2894-A Remington Green Lane
Tallahassee, Florida 32308
(850) 878-2221

BELLSOUTH TELECOMMUNICATIONS, INC.
FLORIDA DOCKET NO. 030851-TP
DIRECT TESTIMONY OF DR. CHRISTOPHER JON PLEATSIKAS
ERRATA

Page 5 Line 15	serve the ~~greatest~~ a greater number of customers in the more urban UNE Zones 1 and 2 than in
Page 10 Line 10	wide as is economically feasible to take advantage of economies of scale. This
Page 10 Line 23	~~markets where~~ locations of CLEC switches and CLEC customers ~~are located~~ and has found that the
Page 11 Lines 15-17	other CLECs. Therefore, the wire center concept is not relevant to market definition in this context~~has no meaning with regard to market definition~~, and specifically ~~no economic meaning~~ not economically relevant in terms of how CLECs provision services to their end users. The geographic scope of the service offered is limited in part by the

BELLSOUTH TELECOMMUNICATIONS, INC.
FLORIDA DOCKET NO. 030851-TP
REBUTTAL TESTIMONY OF DR. CHRISTOPHER JON PLEATSIKAS
ERRATA

Page 5 Line 6	~~As the FCC instructs, a~~Available scale and/or scope economies
Page 6 Line 21	Wire centers were organized years ago to ~~efficiently~~ permit the ILEC to efficiently serve
Page 7 Lines 2-4	single wire centers ~~do~~may not adequately reflect substitutability in supply and therefore ~~are~~may not constitute distinct geographic markets.

EXHIBIT NO. 31

DOCKET NO.: 030851-TP

WITNESSES: Brian K. Staihr

PARTY: Sprint

DESCRIPTION:

1. February 14, 2004, Deposition Transcript, page 1.
2. Late-Filed Exhibit 1, page 118.
3. Late-Filed Exhibit 2, page 119.
4. Late-Filed Exhibit 3, page 120.
5. Late-Filed Exhibit 4, page 121.

PROFFERING PARTY: STAFF

I.D. # BKS-D

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 31
COMPANY/ FPSC Staff/Sprint
WITNESS: BKS-D
DATE: 02/24-27/04

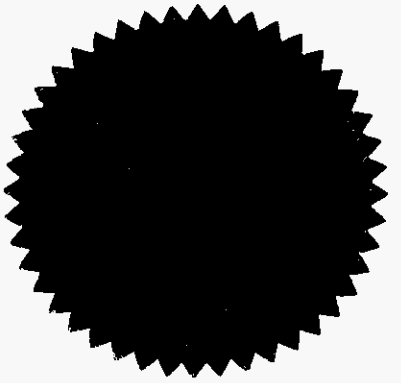
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO.030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.

_____/



TELEPHONE DEPOSITION OF:	DR. BRIAN K. STAIHR
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
DATE:	February 14th, 2004
TIME:	Commenced at 1:30 a.m. Concluded at 4:50 p.m.
LOCATION:	Gerald L. Gunter Building Room 309 2540 Shumard Oak Boulevard Tallahassee, Florida
REPORTED BY:	NANCY P. VETTERICK, RPR Notary Public, State of Florida at Large

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KENNARD B. WOODS, ESQUIRE, MCI Law & Public Policy, Six concourse Parkway, Suite 600, Atlanta, Georgia 30328 appearing on behalf of MCI WorldCom Communications, Inc. (GA)

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S T I P U L A T I O N S

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this case; and that reading and signing was not waived.

IT IS ALSO STIPULATED that any off-the-record conversations are with the consent of the deponent.

PROCEEDINGS

MR. SUSAC: For everyone on the line, let's identify yourselves, name of counsel. If you're new counsel, please spell your last name for the court reporter. Thanks.

MS. MASTERTON: This is Susan Masterton with Sprint.

MR. SHORE: Andrew Shore with BellSouth.

MS. HYER: Leigh Hyer with Verizon.

MR. WOODS: Ken Woods with MCI.

MR. SUSAC: Well, can we swear the witness in, Dr. Staihr?

Thereupon,

DR. BRIAN K. STAIHR

was called as a witness, having been first duly sworn by Susan Skahan, a notary public in the State of Kansas, was examined and testified as follows:

MR. SUSAC: All right. Just to get a preliminary matter out of the way. Do all the parties agree to the stipulations as we did for the earlier deposition?

MR. SHORE: BellSouth does.

MS. MASTERTON: Sprint agrees.

MS. HYER: Verizon agrees.

MR. WOODS: MCI agrees.

MR. SHORE: Susan, does Dr. Staihr have anybody else with him?

MS. MASTERTON: Let me ask. Brian, who's in the room with you?

THE WITNESS: Linda Bennett is here. She's a regulatory manager. She's not a witness or anything here. She's just helping to hand me things.

MR. SHORE: Susan, you're defending the deposition from Sprint's behalf?

MS. MASTERTON: Yes.

DIRECT EXAMINATION

BY MR. SUSAC:

Q Could the witness once again state his full name?

A Yes. My name is Brian K. Staihr.

Q Dr. Staihr, my name is Jeremy Susac. I'm an attorney. I will be taking your deposition on behalf of the Commission in this Docket 030851. I'm going to ask you some questions. To the extent you can answer them yes or no, please do so.

Feel free to elaborate on that. If you don't understand a question, please ask me to rephrase it or restate, and I will do so.

A Okay.

Q Could you please give us a brief synopsis of your educational background?

A Yes. I have a B.A., an M.A. and a Ph.D. in economics. My field of specialization is industrial organization including regulation. That's the education.

Q And Dr. Staihr, have you filed testimony in 030851-TP?

A Yes, I have.

Q Do you have that testimony with you today?

A Yes, I do.

Q All right. Let's hop into these questions then. I'm first going to direct your attention to the surrebuttal of Doctor -- and forgive me, BellSouth, if I'm mispronouncing this, but is it Dr. Pleatsikas?

MR. SHORE: I've mispronounced it, I'm sure, more than you have, but Pleatsikas I think is the way it's pronounced.

BY MR. SUSAC:

Q Do you have that surrebuttal testimony with you today?

A It's surrebuttal? I am grabbing it right now. Hold on one second.

Q Okay.

A Yes. I have it.

Q If you need a specific page reference, I will do so; however, this is just a general question. He suggests, in his surrebuttal that the MSAs may include rural areas. Do you agree with that assessment?

A I guess I would have to know Dr. Pleatsikas' definition of a rural area. Is that in his surrebuttal somewhere?

Q Let's go to page 5, lines 4 through 10.

A Okay.

Q And just for clarification, what's your definition of a rural area?

A Well, I would -- probably assuming it's the Census Bureau's definition of a rural area which is not an urbanized area, and by definition then, according to the Census Bureau, MSAs can't contain rural areas because MSAs are urbanized areas.

Q So would you agree, under his surrebuttal testimony, that MSAs could include rural areas? Yes or no?

A No. Not according to the way they're defined by the Census Bureau. I would have to say no.

Q So following up on that question, do you believe that the CEAs may more accurately distinguish between -- strike that.

All right. Switching gears. Dr. Staihr, do

you address the proper market definition for a trigger analysis in your testimony?

A In my direct testimony, yes, I do.

Q Is it your recommendation that the MSAs be used as the basic geographical unit for evaluating impairment?

A Yes, it is.

Q Why is that, sir?

A Because the MSAs come close to exhibiting the characteristics that the FCC discusses in the TRO in terms of the proper way to define the market. An MSA is large enough so that an entrant can realize the economies of scale that the TRO discusses, whereas a wire center often would not be.

An MSA is not so large that it extends beyond an economic community of interest, and the TRO, in 499, discusses the variation in factors that allow an entrant to successfully serve different groups of customers.

Basically, because an MSA represents an economic community of interest, the economic factors, within that area, tend to be similar as the FCC has said in other orders. Therefore, basically what you've got is something that's not too small, not too big, and it exhibits most of the characteristics that the FCC

discusses in the TRO.

Q And it represents an economic community of interest, right?

A Yes. It does.

Q So is it, also, your testimony that MSAs reflect the geographic reach of newspapers, radio, and television advertising?

A Yes. They certainly do.

Q And that this reach affects a competitor's ability to target customers in that market?

A Absolutely. And that's a great example of why a wire center is a less than optimal solution because if an entrant is thinking about engaging in advertising, especially when we're talking about advertising to the mass market, there's significant economies of scale involved in that.

An MSA defined market allows the entrant to enjoy those economies of scale. A wire center defined market does not.

Q And you agree that the TRO has this Commission looking to determine whether certain markets are not impaired; is that correct?

A Yes, sir.

Q If this Commission were to find those markets not impaired, that could result in UNE-P no longer being

available in those certain markets.

A Yes. It certainly could, and that's why it's so important, when the Commission evaluates whether or not entrants are impaired, they evaluate the existence of competition throughout the market as opposed to just in highly select portions of the market.

Q Well, absent UNE-P, is there any other method of entry in these markets?

A Well, certainly there's overbuilding and there's resale. Depending on what the entrant is interested in doing, those could be suboptimal solutions.

Q And UNE-P would still be available outside of those markets; is that correct?

A Yes. It's my understanding that only where the Commission would find no impairment would UNE-P or switching be removed.

Q And did I understand you correctly that UNE-L would, also, be a method to enter these markets?

A To the extent it would be technically or economically feasible. The question of whether that's the case is obviously what we're talking about here. Is it a possible vehicle for entry?

Q Going to the market definition, if a market definition, other than an MSA, was chosen, is it

conceivable that a portion of an MSA be found not to be impaired, and a portion of an MSA might be found to be impaired?

A Yes. That's true for any market definition that you would pick and then compare another one. It, also, works for CEA. It, also, works for UNE Zone.

Q However, serving one area, which is found not to be impaired with UNE-L does not restrict a carrier from serving an adjacent area which was found to be impaired with the choice of method of entry; is that correct?

A I hate to ask you to do this. Would you say that question again?

Q Sure. It's not a problem. Is it possible serving one area, which is found not to be impaired with UNE-L, does not restrict a carrier from serving an adjacent area which was found impaired?

A No. I'm not going to agree to that because, in economic terms, it could be that because there's a cost difference in using UNE-L and using UNE-P and because having the areas both available to you with the same technology, you're able to spread certain costs over larger areas.

It may be that having to use two different technologies to cover the same area actually precludes

an entrant from being able to serve there, so the answer is no.

Q Absent your economic argument, technologically could that be possible?

A It could be possible.

Q Well, for example, even today a single carrier could, in fact, serve some customers within an MSA using UNE-L and others, within that same MSA, using UNE-P or resale; is that correct?

A Yes. That is certainly possible keeping in mind that there are certain costs that will be spread over both sets of customers.

Q Correct. Now, do you have the Exhibit WET-1 with you today. It's an advertisement for MCI?

A Was it attached to someone's testimony.

Q Yes, Taylor's.

A If you can give me a minute and let me try and find that. Okay?

MR. SUSAC: Okay. Thanks. Just holler when you get that, Dr. Staihr.

MR. SHORE: I just need to run next door and grab that exhibit. Can you-all just hang on a second.

MR. SUSAC: Sure. Let's just take a 30-second break.

MR. SHORE: Thanks.

(Brief recess.)

BY MR. SUSAC:

Q It's my understanding that you do not have the Exhibit WET1; however, basically this is an advertisement. The advertisement does not mention whether they are providing service UNE-L or UNE-P. Knowing that fact, would that change the media campaign of a CLEC?

A I think I'm going to have to ask, are you asking me would the media campaign or advertising vary depending on whether the CLEC was using UNE-L or UNE-P?

Q Exactly.

A No. I don't think it would. I think unbundling anything is pretty confusing to end users, and I don't think that a company would particularly use that in its advertising in either case.

Q Thank you very much. Would you agree that the method of entry is really a choice for the carrier?

A It's choice based on what is economically and technically feasible. Yes.

Q We already established that it'd be technically feasible. You're more concerned with the economics; is that correct?

A Absolutely.

Q Are you familiar with Dr. Bryant's testimony on market definition?

A I have read it. I have it here if you want to ask me something about it.

Q Yes, sir. In particular -- I'll give you some time -- could we go to page 29? I don't believe you'll have to look at it line-by-line, but just in case you want a reference.

A I assume you're talking this is his direct?

Q Direct testimony, yes, sir. If you want to reference it, it's line 22 through page 30, line 2.

A I have Dr. Bryant's rebuttal here. I don't see his direct. I have surrebuttal.

Q That's okay. Just going off a general reading from Dr. Bryant's testimony, do you agree that he states it's feasible to administer the requirements of the TRO on a wire center basis?

A I would agree he states that. I don't necessarily agree with him.

Q Okay. Could you please elaborate why you disagree with Dr. Bryant?

A Yes. Two specific reasons. First, paragraph 499 of the TRO specifically says the market needs to be viewed from the point of view of the entrant. Okay?

Now, there's no question that wire centers are a building block in terms of establishing a market, but in my own experience, I have never seen a business case that was based on entering a single wire center. You may enter multiple wire centers. You may enter an entire MSA, which generally makes a little more sense, but entrants don't base the decision to enter or not enter on a single wire center.

The reason is the -- the second point I wanted to bring up is that a single wire center simply doesn't offer the economies of scale that are necessary for an entrant to be able to successfully enter. Those economies of scale were specifically mentioned in the TRO not to define the market so narrowly so that the entrant couldn't take advantage of those.

Q Do you feel a CEA is of adequate size?

A Well, CEAs really go to the other extreme. You have portions of CEAs that are in the CEA for no other reason than they needed to be somewhere. CEAs don't necessarily represent economic communities of interest.

CEAs often contain territory that isn't economically integrated with other parts of the same CEA, so there you've got the other extreme.

Q Just for my clarification, could you define

for me your understanding of economic communities of interest?

A Sure. I'll try and be brief here. There is certain economic activity -- when I say that, I mean people demanding things and people supplying things -- that is limited geographically. Somebody lives in let's say, Sarasota. They may go out to dinner, and they may go out to dinner in Sarasota, and they may go to Bradenton. They may go to Tampa, but they're probably not going to go to Tallahassee for dinner.

There is a geographic limit to the activity that is both demanded and supplied. Now, what you've got is a geographic area and a group of people, suppliers and demanders, that operate within that area. That creates an economic community of interest, again, for economic activity that's geographically limited.

Q Thank you. Would you agree that data on CLEC activity is available on a wire center basis?

A Well, I would agree that it's available because that's how the incumbent's network is constructed, and the fact that it's available doesn't necessarily mean a wire center has anything to do with being the correct market to look at.

I mean, there's data, for example, on census block, but we don't use census blocks. We use counties

when it comes to things like governments; so the fact that the data is available on that level really has no bearing on whether or not that's the right market for our purposes here.

Q Well, would you agree that MSA boundaries do not align exactly with ILEC wire center boundaries?

A Yes. I certainly would agree with that, and adjustments do have to be made when you're using an MSA and you're applying it to telecommunications. That's true.

Q Are you familiar with Dr. Pleatsikas' testimony on market definition?

A Yes, I am.

Q In his testimony, he recommends UNE Zones divided by CEAs; is that correct?

A Yes, he does.

Q And UNE Zones do follow wire center boundaries; is that correct?

A Yes, they do. Of course, CEAs don't.

Q Right. Is it true that a single wire center may be too small for a CLEC to achieve economies of scale? I believe you said yes.

A Yes. I said yes.

Q And in your testimony, you indicate that a customer can be found in a single wire center; is that

correct?

A A customer can be found in a single wire center? Certainly.

Q And that single wire center is within a single UNE Zone, is it not?

A Yes, it is.

Q Would you agree that a single wire center is a building block for the UNE Zone?

A Of course. That's how they're defined.

Q And I think you mentioned that earlier. Is it your testimony that an MSA is large enough for an entrant to take advantage of economies of scale?

A Yes. It certainly is.

Q If a given grouping of wire centers were aggregated, would it be possible to achieve the same economies of scale that can be achieved by using MSAs?

A It would be possible to achieve more economies of scale than if you were just to look at a single wire center, but not necessarily possible to achieve the same economies of scale as if you were to use an entire MSA.

Of course, that doesn't even get into all the other reasons why a group of wire centers wouldn't be an appropriate market.

Q What are those other factors, Doctor?

A Well, if you were to try and group wire

centers say, less than an MSA, but just for some reason, like a UNE Zone, UNE Zones are distinctions that were created for one particular reason, and they don't necessarily make any sense in terms of a customer.

They don't make any sense in terms of the demand side of the activity that's going on here, and as we've seen in Florida, the distinctions particularly between UNE Zone 1 and UNE Zone 2 don't seem to make any difference for the entrants that are actually there.

As I talked about in my rebuttal testimony, we have places where you have more entrants in UNE Zone 2 than UNE Zone 1; so the thing that's distinguishing these two from each other, which is that loop cost difference, obviously isn't a distinguishing factor for these entrants.

If the entrants aren't viewing them as two distinct units, there's no reason we should define the market as two distinct markets.

Q But you would agree that UNE Zones 1 and 2 are primarily urban areas, correct?

A Absolutely as are MSAs. That's why I said, in my rebuttal testimony, that what Dr. Pleatsikas does is he separates urban from rural. I would agree. UNE Zones 1 and 2 collectively are more urban than suburban.

That's why they should be treated together, and that's what MSAs effectively do.

Q Well, if you agree that UNE Zones 1 and 2 are primarily an urban area, so it would be natural to expect to find a large enterprise market there, right?

A Yes, sir. I would agree with that.

Q Would you expect then that if there was a self-provisioning CLEC presence, that it would be found in UNE Zones 1 and 2?

A Yes. And in most cases, at least in my experience, for the exact reason that you mentioned before, which is that that's where the enterprise market is. Of course, here we're not concerned with the enterprise market. We're concerned with the mass market.

Q Do you have BellSouth Exhibit PAT-4 with you today, sir?

A That would be Ms. Tipton's?

Q Yes.

A Can you tell me if that is from her direct or her surrebuttal?

Q Give me one second, please?

A Sure.

MR. SHORE: I'm almost certain it's from her direct.

MR. SUSAC: Thank you, Andrew.

THE WITNESS: If you can hold on a minute, I think I have to grab a different book.

BY MR. SUSAC:

Q Sure.

A Can you can you wait about 60 seconds?

Q Sure.

A I'm going to go grab it. I will be right here. You said it was in the direct?

Q Take a second. I don't want to rush you.

A The number of the exhibit was what?

Q PAT-4. It's a map.

A Oh, a map. Yes. Okay. I'm there.

Q In the Miami market, does it appear that the UNE Zones 1 and 2 are contiguous?

A It does appear, this map, if I'm reading it right, that in the Miami market, UNE Zones 1 and 2 are contiguous. Yes.

Q And yes or no, is it, also, true for the Ft. Lauderdale market?

A As I'm reading this, yes, it appears that they are.

Q Okay. And just going a little bit north, the UNE Zones 1 and 2 in Orlando, are they, also, contiguous?

A Yes. It appears that they are.

Q Could we say that typically UNE Zones 1 and 2 are typically contiguous?

A Well, not if you look just at the same map and look at West Palm Beach and not if you look at the same map and look at Daytona Beach.

Q Are those the only two you're referring that are not contiguous?

A I think I've got kind of a pale map here, so I know those two for sure.

Q In your opinion, is it possible that an aggregation of wire centers within UNE Zones 1 an 2 may not yield a serving area large enough to afford economies of scale necessary to compete in the mass market?

A It's certainly possible that it would not yield sufficient economies of scale.

Q Is it likely?

A It would probably vary on the individual markets and the individual UNE Zones, so I can't say likely or not likely. It's possible that there would be sufficient, and it's, also, possible there wouldn't.

Q Well, then how would you determine when the economies of scale necessary to compete in a market were reached?

A Obviously, it's going to vary from market to market. It may be that in certain MSAs, the economies of scale are sufficient once you've covered maybe three-fourths of the MSA. It's going to depend on the geographic dispersion of the customers; the size of the wire centers within those zones dictating the quantity of collocations you might need, so it really is a market by market type of thing you have to evaluate.

Q Okay.

A So -- oh, well -- sorry.

Q No. Go ahead and elaborate if you would like.

A Well, all I was going to say is, since it is market by market, what you need to do is try to define the market in a general sense so that you're more likely, as opposed to less likely, to be able to enjoy those economies of scale, and that's what defining the market as an MSA does.

Q If we began with UNE Zones 1 and 2 and found them to be too small, what would be your opinion concerning expanding to include bordering wire centers comprising a contiguous geographic area until a sufficient size to attain scope and scale is reached?

A Well, you asked what my opinion would be, right?

Q Yes. Exactly.

A My opinion would be that is not what the TRO says we're supposed to be doing in this proceeding. The TRO doesn't say we should take areas and whittle them up or whittle them down until you've found exactly where someone could come in and not be impaired.

The TRO says you should identify a geographic area that's the right unit to investigate and evaluate impairment. Then you investigate and you evaluate, and if you find impairment, it's there, and if you don't find impairment, it's not there.

This kind of iterative process of saying let's try this or let's try that is contrary to what's indicated in the TRO.

Q And you might have answered a part of this question previously, but do you have any thoughts as to how to determine when a given aggregation of wire centers was sufficient to yield meaningful economies of scale and scope?

A My opinion would be that most MSAs are sufficiently large and contain a sufficient number of wire centers, that using an MSA, more often than not, guarantees that you have captured sufficient economies of scale or scope.

Now, if it was possible, in some cases, that maybe you didn't actually need the entire MSA, you only

needed four-fifths of it, if that's the case, that's the case, but at least you've captured sufficient economies by using the MSA.

Q Switching gears a little bit, Dr. Staihr. Am I correct that in BellSouth's testimony that was filed on 12/4/03, a Sprint switch is listed as one of the trigger meeting CLEC switches for the Orlando market?

A Yes. They did list the Sprint switch.

Q Do you agree with that analysis?

A No. I don't. I don't believe that that switch should be counted for one of the triggers according to the criteria that the FCC looked at when they were determining impairment and non-impairment.

Q But does that same switch serve Orlando customers?

A Yes, it does.

Q What types of customers?

A It serves customers anywhere from over 12 lines down to one or two lines. It serves business customers. It does not serve residential customers, and it primarily serves large business customers.

Q When was the switch serving Orlando put into service?

A I don't know that, but I can find out if you want for me to make a late-filed exhibit.

Q Yes, please. Thank you very much, Dr. Staihr.

MR. SHORE: Jeremy, I don't object to that.

MR. SUSAC: Thanks, Andrew. How about we name it date of Orlando switch implementation?

(Late-filed Exhibit Number 1 was marked for identification.)

BY MR. SUSAC:

Q Could you now turn to page 10 of your surrebuttal testimony, sir?

A Yes. Now, I've got to switch my book back. Just a second here. Page 10 of my surrebuttal?

Q Yes, sir.

A I'm there.

Q Beginning at line 8 where it reads:

"Furthermore, this switch does not provide service to any residential customers in the Orlando market at all."

My question is, has Sprint ever used UNE-L to provide service to residential customers in Orlando?

A I don't know the answer to that.

Q Upon investigation, could we get a late-filed exhibit on that, too?

A Absolutely.

Q We'll just entitle that one potential past UNE-L service in Orlando.

A We should probably say residential.

Q Yes. Residential in there as well.

(Late-Filed Exhibit Number 2 was marked for identification.)

BY MR. SUSAC:

Q How many switches in Orlando do you currently own?

A In the Orlando --

Q Is that confidential, Susan?

MS. MASTERTON: I don't think the numbers. No.

BY MR. SUSAC:

Q I'm sorry, Dr. Staihr. Go ahead.

A Just clarifying. ILEC switches or CLEC switches?

Q CLEC.

A One.

Q Just one. Okay. Do you currently provide voice service on that switch?

A Yes, we do.

Q Does Sprint, as a CLEC, currently market voice service to small business customers?

A Yes.

Q Do you have an offering called Sprint Business at Home?

A I'm not personally familiar with that offering since I'm not in marketing. I have no reason to believe that's incorrect if you have evidence that says we do.

Q So if we had evidence that this was advertised on the Internet called Sprint Business at Home, you would agree to that?

A Sure. And I don't need to do it subject to check. I'm sure that it's accurate.

Q Thank you. Just because you're not familiar with that advertisement and you don't have it in front of you, it states that these residential lines will be treated exactly as business lines.

Knowing that, will these residential lines be billed as business lines?

A I don't know the answer to that.

Q Does Sprint, as a CLEC, serve business customers with three or fewer DSO lines in Orlando?

A We serve a very small number of them. That switch overwhelming serves large business customers which is what makes it an enterprise switch.

Q Is that a yes or no?

A That's a yes.

Q Approximately how many do you believe?

MS. MASTERTON: This may be, Jeremy, where we're getting into --

MR. SUSAC: A little confidential?

MS. MASTERTON: Yeah. I mean, I know that we've provided that information as part of our response to the staff data request?

MR. SUSAC: Okay. Well, give me a second then. Hold on.

(Off-the-record discussion.).

BY MR. SUSAC:

Q We don't need to pursue that line of question to that extent then. Even though you said it's relatively small, is this a customer base that you would like to retain?

A I can't speak for Sprint's marketing -- I'm sorry -- so I can't answer that question.

MR. SUSAC: Susan, who would I better direct that question to?

MS. MASTERTON: Well, I'm not sure we have a witness. None of our witnesses are from the marketing arm. I think that's something we probably would have answered in discovery and in an interrogatory by the appropriate people within Sprint.

MR. SUSAC: That's okay. We can move on.

BY MR. SUSAC:

Q To your knowledge, Doctor, has Sprint filed a

notice to terminate in any market which they are currently serving?

A In Florida.

Q In Florida.

A I believe the answer is no.

Q Does this mean you're likely to continue to provide service in Florida?

A Again, I'm assuming you're talking of the CLEC.

Q Yes.

A Yes. The answer is yes.

Q Do your switches that currently provide voice service in Orlando have excess capacity?

A Yes. They do. Well, it does. There's only one.

Q Right. I'm sorry.

A Yes, it does.

Q What is the total excess switching capacity of this switch in Orlando?

A Approximately 2300 voice grade equivalence.

Q Would you agree that it's Sprint's choice whether or not to use this switch to provide service to their customers?

A Yes. I would agree.

Q Do you have the TRO in front of you,

Dr. Staihr?

A Yes, I do.

Q Could we flip to paragraph 197?

A All right. Just a second. I'm there.

Q Do you agree that a customer is defined as either a mass market customer or an enterprise customer based on the loop type and capacity?

A I agree, in this paragraph of the TRO, customers are defined that way. I agree, in other paragraphs of the TRO, they're defined differently.

Q What are those other paragraphs you're referring to?

A Let's start with 497, and let me check to make sure that's the correct one. I think it is. Yes. It's where it says, mass market customers are analog voice customers that purchase only a limited number of pots lines and can only be economically served via DSO loops, so there is an additional criterion there.

Q What additional criteria are you referring to?

A That they are economically served with DSO loops.

Q So for purposes of this next question, do you agree that a consumer of more than a limited number of analog loops is an enterprise customer?

A If it is shown that that customer could be

more economically served using DS-1 than according to the TRO, the answer is yes.

Q Do you agree that a customer who purchases a limited number of analog lines which are provided via an log DSO loop is a mass market customer?

A Again, if it can be demonstrated that that is the economic way to serve that customer.

Q And you're basing that off of 497, correct?

A Yes. There's actually one more cite if you would like that.

Q Sure.

A It's just going to take me a second. 459, it has the same criterion in there, that they must economically served with DS0 loops.

Q Do you agree that voice and data services for an enterprise customer can be provided over high capacity loops?

A Sure. Yes, I do.

Q Can I now direct your attention to paragraph 48 of the TRO?

A Forty-eight?

Q Yes, sir.

A Just a second. I'm there.

Q Does this paragraph refer to voice and data services for enterprise customers being provided over

high capacity loops?

A Yes, it does.

Q So the order does recognize that enterprise customers would, also, receive voice service?

A Absolutely, yes.

Q If an enterprise customer is a consumer of high capacity loops, then can we assume that their voice service is integrated over that facility as well?

A I hate to be this way, but not necessarily. In general, yes, but a consumer could have high capacity loop, and it could, also, have an additional DS0 used to provide voice service somewhere else. I agree it's possible. I don't agree it's the only situation.

Q Give me one second to look over my notes, Doctor. I'm sorry.

A Sure.

Q Doctor, in your surrebuttal testimony, you cite TRO 441 and quote it by stating:

"Competitors using their own switches are currently serving extremely few mass market customers through enterprise switches or otherwise"; is that correct?

A That's what the TRO says in 441. Yes, sir.

Q Okay. There is a note, 1354, to that statement which discusses the substantial differences

between an enterprise switch and a mass market switch. The note states and I'm reading here:

Most importantly, as explained above, unlike mass market loops, facilities used to serve enterprise customers are typically not pre-wired to the incumbent LEC switches. Doctor, my question is, will you accept that subject to check to the TRO?

A Yes. I will accept that that's what it says.

Q Are any of your facilities serving Orlando pre-wired to the ILEC switch?

A I don't know the answer to that.

Q Is that because it should be better directed to someone else, or could you find that out through a late-filed exhibit?

A It would be me, and we'll find that out through a late-filed exhibit.

Q Let's just call that one, pre-wired Orlando.

A Okay.

(Late-Filed Exhibit Number 3 was marked for identification.)

BY MR. SUSAC:

Q Doctor, could I direct your attention to paragraph 508 of the TRO?

A Okay. I'm there.

Q Do you agree that it states that enterprise

switches are likely to be employed to serve the mass market?

A Do you have an actual cite here? Let me just read the paragraph.

Q Okay.

A I believe it says after implementation of a batch cut process, and, of course, the batch cut process being the source of the national finding of impairment.

Q So absent a batch hot cut process, would you agree with that?

A It says after implementation of such a process.

Q So after implementing it, would you agree with that statement?

A I agree that they say they believe that. I don't know that I can agree that will automatically happen, but it's clear that the authors of the TRO believe that.

Q Does "to be" imply a future tense, in your opinion?

A Likely to be certainly implies a future tense, and we believe implies a certain amount of uncertainty.

Q Okay.

A Because they could have easily said we conclude, or we find, and instead they said we believe,

but again, this is an economist reading the TRO.

Q It's not better from my angle either. Well, would you agree that if an enterprise is likely to be employed to serve the mass market, does this imply that they are not presently being used in this capacity?

A I definitely would say that that is what this implies.

Q Okay. And is it your testimony that an enterprise switch is deployed to serve enterprise customers?

A Yes, sir. In paragraph, I think, it's 435 or 437, they discuss switches deployed to serve the enterprise market, and the next reference is enterprise switches. Yes.

Q Can we say that if a switch is used to serve enterprise customers, then it has been deployed to serve them?

A Would you please repeat that? I'm sorry.

Q Sure. Can we say that if a switch is used to serve enterprise customers, then it has been deployed to serve them?

A I'm not sure you can say that in all cases. You could have a switch that is 60 percent used for the mass market and 40 percent used for enterprise customers, and that wouldn't necessarily indicate that

the purpose of deploying that switch was to serve enterprise customers.

On the other hand, some of the switches that have been put forth in this proceeding, this trigger meeting, are 99 percent serving enterprise customers. In that case, there's certainly little question that that switch was deployed to serve the enterprise market.

Q So, Doctor, is it fair to say, when you say deployed, you mean that was its sole purpose?

A Intent, yes, sir.

Q So you're not using that synonymous. If I was to use that deploy to mean utilize, would that change your analysis?

A I believe the term utilize is different than the term deployed. The term deployed carries with it -- again, this is an economist speaking -- an intent. Deployed to serve suggests intent. Utilize suggests current utilization regardless of intent.

Q Well, subject to check, if we said Webster's Dictionary defined the word deploy to utilize, would you disagree with us then?

MS. MASTERTON: Jeremy, when you say agree with us, I guess maybe you need to explain. Agree with what?

MR. SUSAC: That it's not the whole purpose of the switch, that it's just utilizing it, that a switch can be used for two different reasons, mass market and enterprise.

THE WITNESS: I am going to have to answer your question as an economist, okay --

BY MR. SUSAC:

Q Okay.

A -- since that's what I am. When the phrase is used deployed to, that involves a company making a decision and incurring certain costs with a purpose in mind. There's a reason the costs were incurred, the cost of deploying the switch.

The reason for the deploying, to me, signals intent. The fact that Webster might say that the word deploy can be defined as utilized, I don't doubt that if that's what the dictionary says. It seems clear to me that, in this case, deployed to serve suggests intent.

Q Okay. That's fair enough. I just have a few more questions, Doctor.

A Sure.

Q Going to paragraph 508, does TRO 508, also, state that the existence of switching serving the enterprise market is an indicator of the possibility of

serving the mass market?

A Yes, it does.

Q Does this imply that this switch referred to as serving the enterprise market is currently not serving the mass market?

A It does imply that.

Q You seem somewhat hesitant. Do you want to say something else?

A I'm sorry. I was reading and answering at the same time.

Q Oh, I just don't want to cut you off. If I cut you off, please say so.

A Would you mind if I took a second and just read this whole line again?

Q No. Not at all.

A To me, this line and the use of the word possibility clearly suggests a future condition and not a current condition.

Q Okay. In your opinion, Doctor, what must be done to employ an enterprise switch to serve the mass market?

A I apologize for this. That's kind of a trick question because enterprise switches do currently serve some mass market customers. For those switches, technically nothing would be done. That doesn't mean

they're not enterprise switches. They still are.

However, I do believe there are some adjustments that have to be made, and I think the TRO discusses them in paragraph 441 of switches that are exclusively serving the enterprise market. They talk about additional analog equipment and additional collocation space and additional cabling and power.

If a switch is only serving the enterprise market, there are additional equipment requirements.

Q Thank you. What additional equipment requirements are needed?

A Again, I'm just simply reading paragraph 441 in the TRO which lists analog equipment, collocation space, and cabling, and power.

Q In that same paragraph, does it state that switches deployed to serve the enterprise market should be treated differently because of substantial modifications required for that switch to be employed to serve the mass market?

MS. MASTERTON: Jeremy, could you say, when you say that same paragraph, which one you mean?

MR. SUSAC: I'm sorry. You know what? I'm sorry, Susan. I'm referring to paragraph 441.

THE WITNESS: Yes. It does say that.

BY MR. SUSAC:

Q Would you agree that what is being referred to as an enterprise switch is a switch that has not been modified to serve the mass market?

A Well, in that portion of the paragraph, I might, but in the last sentence, because it says they are serving few mass market customers through enterprise switches, if they're serving any mass market customers through enterprise switches, obviously the switch has to have been modified, and they're still calling it an enterprise switch.

Q I just have a couple of more questions, Doctor.

A Sure.

Q The self-provisioning trigger identifies only the existence of actual competitive facilities serving the mass market; is that correct?

A Well, it identifies the existence of self-deployed facilities as evidenced that barriers to entry have been overcome. That's in paragraph 501.

Q Okay. What about paragraph 506? Would you agree with my statement then?

A Okay. I'm just now getting to 506. I'm sorry.

Q No problem. Take your time.

A My paragraph 506 says that we have found actual competitive deployment is the best indicator that requesting carriers are not impaired. It clearly does not say the best proof. I guess -- is there a specific line in 506 you were referring to?

Q No. That's pretty much it.

A Okay.

Q If a carrier is serving mass market customers, with the use of their own switch, then does this identify them as deploying actual competitive facilities serving the mass market?

A It doesn't necessarily indicate that they have deployed facilities that are serving the market. It indicates they have deployed facilities that may be serving a part of the market.

Q So would Sprint be considered a trigger candidate in Orlando?

A No. It would not.

Q Could you elaborate on that?

A For one thing, as I said, the Orlando switch was deployed with the purpose of serving enterprise customers. The fact that there are now a few mass market customers on it doesn't all of a sudden turn it into something other than an enterprise switch.

It's still an enterprise switch, and

enterprise switches don't meet the triggers. In addition, it doesn't serve any residential customers. As I said in my testimony, whether or not a switch that's not serving the majority of the mass market demonstrates the evidence of the ability to serve that market, that is something that should be seriously questioned.

For those reasons, the switch in Orlando that Sprint uses is not a trigger meeting switch.

MR. SUSAC: Well, that concludes staff's questions for you, Dr. Staihr. Thank you very much. Susan, would you like to redirect?

MS. MASTERTON: No. I don't have any redirect.

MR. SUSAC: Hold on one second, please.

(Off-the-record discussion.)

BY MR. SUSAC:

Q Dr. Staihr, forgive me. I just have one quick question. In your opinion, which is larger, an MSA or a CEA?

A It obviously is going to depend, but in most cases, a CEA will be larger.

Q Okay. Thank you very much.

A If I can just elaborate?

Q Sure.

A Because a CEA uses an MSA as part of its building block and then adds to it.

Q Okay. Thank you very much.

MR. SUSAC: Is there anyone on the line that specifically needs to go or is under time restraints that needs to go next in the questioning of Dr. Staihr?

MR. SHORE: No. I've got some questions. For the same reasons I stated earlier, I think BellSouth or perhaps Verizon ought to go after the CLECs.

MR. SUSAC: Okay. Well, MCI are you still on the line?

MR. WOODS: I am. I have a couple of questions.

CROSS-EXAMINATION

BY MR. WOODS:

Q Good afternoon, Dr. Staihr. This is Ken Woods.

A Hello.

Q I believe earlier, in your deposition, you were shown an MCI advertisement; is that correct?

A Actually, I never found my copy of it.

Q All right. There was reference made to an MCI advertisement; is that right?

A Yes, sir.

Q Now, are you aware that MCI sells its mass market products through telemarketing, are you not?

A Yes. I believe I've been aware of that.

Q And are you, also, aware that MCI is a major telemarketer of services?

A Yes. I would say agree to that.

Q There was some reference made to the market definition. You would agree with me that there are several cost factors that vary among wire centers, would you not?

A I would agree that there are certain cost factors that vary. Whether or not those variations are significant or not is a different question.

Q And with respect to cost factors that vary among wire centers, those would include the number of lines in the wire centers served by digital loop carrier technology?

A Okay. I'm sorry. I'm not seeing a connection between that number and cost. Maybe you could lay that out for me.

Q All right. If there was an issue as to the number of lines for which a CLEC is capable of offering DSL services, that would be a cost factor that might vary among wire centers.

A Yes, sir. It would.

Q Okay. Relative numbers of business and residential customers will vary as between wire centers; is that right?

A Yes, sir. They will.

MR. WOODS: No further questions.

MR. SUSAC: Is AT&T on the line?

(No response.)

MR. SUSAC: I don't believe so. Are there any other CLECs on the line?

(No response.)

MR. SUSAC: All right, Mr. Shore. It's all yours.

MR. SHORE: Okay. I've got several questions, at least several more than Mr. Wood. Is now a good time to take a break. I just need maybe a five-minute break.

MR. SUSAC: That's a good idea. Let's take a five-minute break.

(Brief recess.)

MR. SUSAC: Mr. Shore, you're up.

MR. SHORE: Thanks.

CROSS-EXAMINATION

BY MR. SHORE:

Q Dr. Staihr, my name is Andrew Shore. I'm a

lawyer with BellSouth. I don't think that we've ever become acquainted. I'm in the unusual position of wishing someone I don't know a Happy Valentine's Day.

A I appreciate it.

Q So let me get started so maybe you can enjoy yours. Since I don't know you, I want to ask you some background questions first, some of which I think I got the answers to from your testimony and perhaps some that I didn't.

You're an employee of Sprint Corporation, correct?

A Yes, sir.

Q You're in the Department of Law and External Affairs?

A Yes, I am.

Q That's the same department where Sprint's in-house lawyers are located?

A Yes.

Q Who do you report to?

A I report to a guy named Jim Sichter who is vice president of policy.

Q Who does he report to?

A The General Counsel, a gentleman by the name of Tom Gerke, G-E-R-K-E.

Q I know him. You state, in your testimony,

that you're responsible for the development of state and federal regulatory and legislative policy for all divisions of Sprint. Did I get that right?

A Yes.

Q Do I take it then or is it true that your duties at Sprint go beyond practicing as an economist?

A That is what I do. I practice as an economist in the formulation of the policy.

Q Are you involved in formulating policy that did not require your expertise as an economist?

A I think the answer is no. My role is to bring my economic expertise to the formulation of the policy, so I believe the answer is no.

Q Is it your role to set policy and then to assist in advocating that policy?

A My role is to -- I'm not the last word in setting the policy, but I am involved in setting the policy and then to advocate. Yes, sir.

Q You referenced, at least a couple of times in your prefiled testimony, some research you have done. Have you published any of your research in any economic journals?

A My research has been published. It's been published through the federal reserve when I was an economist for them. If you want to Google me, you can

probably get it, but I haven't published in standard academic journals because that's not what I want to do.

Q Have you filed testimony in state TRO proceedings anywhere outside of the BellSouth region?

A Yes, I have.

Q And what states outside of the BellSouth region?

A California and Texas. So far that's all. There will be more.

Q And do you know now what additional states you will file in?

A Nevada, and that should be all.

Q Is the subject of your testimony in California, Texas, and Nevada differ, in any way, from the areas you address in your Florida testimony?

A In those states, there is no potential deployment at least in -- well, in Nevada, and California, and in Texas, there's no potential deployment being discussed, so that's a difference.

Q Let me ask it this way. It's probably a better way to ask it anyway. Do you address any additional issues or areas in your testimony filed in California, or that you anticipate filing in Nevada, that you don't address in your Florida testimony?

A I'm just having to go through them in my head

here. Market definition, competitive triggers. Primarily those things.

Q Now, as you set forth in your testimony, Sprint operates as both an ILEC and a CLEC, right?

A Yes, sir.

Q Is Sprint claiming that CLECs are not impaired anywhere in Sprint's territory in Florida?

A Not in Florida. No, sir.

Q Is it making that claim anywhere in the United States?

A Yes. It is, in Nevada.

Q Anywhere else?

A No, sir.

Q In what particular market in Nevada?

A In the Las Vegas MSA.

Q Do you know when your testimony will be filed in that Nevada proceeding?

A I believe it's the 27th of this month. I'm not 99 percent sure that's the right date.

Q Does Sprint in Nevada plan to make its claim of no impairment based on the trigger analysis?

A Yes. Based on the trigger analysis and based on exactly the same criteria that's contained in the Florida testimony.

Q In your testimony?

A In my testimony, yes, sir.

Q It's based on the self-provisioning trigger, is that it, or are there other bases such as the wholesale trigger or the potential deployment test that you will address in Nevada?

A No. Just the self-provisioning triggers.

Q Other than that one market in Nevada, is Sprint making the claim that CLECs are not impaired anywhere in its ILEC territory in the country?

A No.

Q Where in Florida does Sprint operate as a CLEC?

A In various MSAs. I know the numbers of customers we have, but I don't know their geographic distribution.

Q Have you seen any business plans of the Sprint CLEC with respect to its provision of local service?

A I've seen a couple of business plans, some of which may not have come to fruition, but yes. I have in the past.

Q In your opinion, as an economist, is the Sprint CLEC in Florida an efficient firm?

A When you say the Sprint CLEC, are you saying the division of Sprint that offers UNE-P based service in Florida?

Q No.

A Okay. Are you saying the division of Sprint that uses the Orlando switch to offer enterprise service?

Q Are there two different divisions of Sprint for those two purposes?

A I don't know if division is the right word. There are different departments.

Q Why don't you give me your answer with respect to each of the two departments?

A Okay. We strive to be an efficient firm, so I would say have to say yes.

Q With respect to both?

A Yes, sir.

Q Just bear with me. I'm having trouble reading my own writing.

A That's all right.

Q Is part of your job at Sprint to review and know what's going on generally in TRO proceedings around the country?

A I try to keep up-to-date. My job lately has been so busy testifying in them that I don't know I've good at reviewing them, especially the ones I'm not in.

Q Let's talk about market definition for a second --

A Sure.

Q -- that's something you covered. Are you aware of any state commissions that have made determinations with respect to what kind of market should be defined pursuant to their TRO proceedings?

A I'm aware, in Ohio, there's a tentative conclusion. I'm, also, aware, in that proceeding, they're still taking in data and information before they come to a complete conclusion. That's the only one I know of so far. There certainly could be others, but that's the only one I know of.

Q What is that tentative conclusion made by the Ohio Commission?

A They actually have, as I understand it, different groups of wire centers that are making up markets, and the word groups is actually misleading there. In some cases, a market is a single wire center, and in other cases, a market is a group of wire centers. In other cases, a market is a large clump of wire centers.

Q Is it your understanding that the Ohio Commission relied, in any way, upon UNE Zones in making that determination?

A I don't know the answer to that. I'm sorry.

Q Well, let me back up for a moment. You're

aware, I know, from reading your testimony and listening to your examination by Mr. Susac, that BellSouth's proposed market definition includes the use of UNE Zones, correct?

A Yes, sir.

Q Are you aware of any other ILEC anywhere in the country proposing a market definition that employs somehow, in the analysis, UNE Zones?

A My experience that I can state with certainty is -- the answer is no for SBC and Verizon in California; no for SBC in Texas. We're the ILEC in Nevada, and we are no, so to the best of my knowledge, no.

Q I want to talk about, in your testimony, that you set forth, I think it's four criteria that you say are necessary to meet the self-provisioning trigger. I want to talk a little bit about those.

A Okay.

Q The first one you identify, I think, says, enterprise switches don't count. That's essentially your testimony, correct?

A Yes, sir. That's correct.

Q And can we agree that the TRO does not provide a mechanism for identifying what an enterprise switch is?

A Yes. I agree with that. That appears to be some of the judgment that the TRO has turned over to the states which is the reason they turned the issue over to the states in the first place.

Q Tell me the basis and I guess specifically any citations, just the paragraph numbers, in the TRO that you say support the use of that criteria, so-called enterprise switches don't count.

A Well, there is the footnote 1354 and paragraph 508.

Q Anything else that you're relying upon?

A No.

Q Now, your recommendation is that an enterprise switch ought to be identified by the capacity of the switch used to serve enterprise customers. Did I get that right?

A Well, my recommendation is that would be one possible way.

Q Are you recommending that the Florida Commission, if they agree with you that enterprise, so-called enterprise switches don't count, identify enterprise switches base on switch capacities?

A Am I saying that's the only way? That's the way I would prefer? I am saying that is one reasonable way. That's the recommendation of one reasonable way,

not necessarily the only way. That's my recommendation of one way.

Q Do you recommend any other ways in your testimony?

A No. Not in my testimony. No.

Q Let me ask you a hypothetical question. Let's suppose a switch serves my office building. There's one customer. It's BellSouth. My entire building, all 45 floors, are filled up with BellSouth employees, and BellSouth is the only customer there in that building.

That same switch, also, serves 1,000 mass market customers that reside right next to and surrounding my building. If the one enterprise customer takes up a greater capacity on the switch than the 1,000 mass market customers, according to your recommendation, that switch would be an enterprise switch; is that right?

A That's not exactly right. This was actually asked in a DR request from me. The TRO doesn't give a bright line test in terms of how much of capacity makes a switch an enterprise switch. It does make reference to a 90 percent/10 percent split in the switches that they identified in finding their national finding of impairment.

They identified that 90 percent -- or let me

rephrase that. Ten percent of switches were used to serve mass market customers, and 90 percent were used to serve enterprise, and those they viewed as not sufficient to find that there was no impairment.

I'm not recommending 90/10. The TRO talks about 90/10. I do recommend that in one of the switches that I've discussed in my rebuttal, 99 percent capacity geared toward enterprise customers is clearly an enterprise switch.

Q Now, the Commission is going to have to make this determination if they agree with your criterion regarding enterprise switches with respect to more than just Sprint's switch in Orlando in this proceeding, aren't they?

A Absolutely. And the switch I was referring to is not a Sprint switch.

Q As part of your recommendation that the Commission use switch capacity to determine whether or not a switch is an enterprise switch or not, are you recommending any split in capacity, if you will?

A No. I am not making a numeric recommendation.

Q Are you making a recommendation as to how they ought to do that on any other basis?

A Only on a capacity basis, but the actual number, I think would be a result of their own

investigations using their own judgment.

Q So you don't have an opinion or a recommendation on that issue one way or the other?

A Not on a specific number. No, sir.

Q Now, I want to talk next about I think what you called the non de minimis requirement.

A Yes, sir.

Q Dr. Staihr, it's your testimony that the TRO requires that a switch be serving not a de minimus number of customers for it to be counted towards a self-provisioning trigger, correct?

A Not true. That's not exactly correct, but you're right. My testimony is that the CLECs, in aggregate, must be serving a non de minimis portion of the market.

Q Does it say that anywhere in the TRO?

A In paragraphs 438 and 440, it clearly says that a small number of mass market customers being served figured into the FCC findings of impairment, so in my opinion, yes.

Q In your opinion, the TRO expressly says that the CLECs, in the aggregate, in a particular market, must be serving a non de minimus number of mass market customers?

A No. In my opinion, the TRO indicates that the

existence of a de minimus number of mass market customers being served in a market is insufficient to demonstrate non-impairment.

Q Would you agree that the TRO did not state that CLECs must be serving more than a de minimis number of mass market customers, in the aggregate, in order to qualify for the self-provisioning trigger?

A I would agree that the words you just spoke are not found in the TRO. I would disagree that the intent is not in the TRO.

Q You say that intent is found in paragraphs 438 and 440?

A In those paragraphs is where the FCC makes clear that a small number of customers is insufficient to demonstrate non-impairment.

Q Was that a yes?

A That was a yes.

Q Is there any other citations that you have to support your opinion?

A No. Those will do. I could look through it, but for now, that's fine. That's all.

Q Do you have any opinion about what a non de minimis number would be or the percentage would be?

A Well, the FCC does mention 3 percent, and

interestingly, not only in the TRO, itself, but in their brief before the DC Circuit, they make a specific point of reiterating that 3 percent of the market is insufficient to find non-impairment.

Q Do you think that the FCC brief is a good place to go to see what the FCC intended in the TRO?

A I'm going to be real careful here because this is a lawyer asking me about a brief. As an economist, I believe that there is a point they make in their brief. They probably didn't intend it to be overlooked.

Q Well, let me just ask you generally as someone whose job it is to set regulatory policy. If there's some interpretation question about an FCC order, such as a TRO, do you think it makes sense to see what the FCC, itself, has to say about such a disputed provision, for example, in a brief?

A I certainly can. Yes.

Q Now, going back to my original question, do you, sir, have an opinion about what a non de minimis number is as you used that in your testimony?

A No. I don't have a specific numeric recommendation for what constitutes a non de minimis percentage. I do think that if 3 percent was insufficient for the FCC on a national level, that the Florida Commission would be justified in using 3 percent

on a market specific level.

Q But you're not prepared to make that recommendation on behalf of Sprint? Do I understand that correctly?

A Well, the recommendation was that that would be reasonable.

Q Do you make a recommendation, in your testimony, as to the number for the Commission to use if it finds that there is a de minimis requirement?

A No, sir. I don't.

Q I want to make sure I understand your position, and as you correctly pointed out the error of my first question. Your position is that it must be non de minimus in the aggregate, and if I understand that correctly, that means that if you take all the CLECs in a certain market, the total number of mass market customers served by all of those CLECs must rise to a level, whatever that level would be, of non de minimis.

Did I get that right?

A Yes. You did get that right because that is what is in the TRO. When they make reference to a small number of customers being served as insufficient, they don't make reference to a single CLEC. They make reference in aggregates, and that's what our basis is.

Q I want to talk about a hypothetical with you. For my purposes of my hypothetical, let's assume that for Market Number 1 that we're talking about, that however the Commission, if it deems it appropriate to set a de minimis requirement, sets that requirement such the way the math would work out that CLECs would have to be serving 9,000 mass market customers in that particular market.

Are you with me?

A You're saying that regardless of the percentage, that non de minimis number is 9,000.

Q Right. Rather than assume a percentage, I want to get to a number.

A Okay. For a hypothetical, sure.

Q Let's assume that CLEC A is serving 5,000 mass market customers from its switch, CLEC B is serving 4,000, and CLEC C is serving 5. In that case, and not introducing any other variables or criterion, the trigger has been satisfied under, at least, your de minimis requirement, correct?

A Did you say the trigger isn't satisfied?

Q No. I said it is.

A Okay. In your question you said not applying any other criterion.

Q Right. Well, I don't want to fight about if

they're serving -- if they have to be an enterprise switch or not. I just want to talk about your de minimis requirement.

A Right. But another criteria is that they must be capable of serving a substantial portion of the market.

Q Let's assume that that's the case. I'm not agreeing with you that that is true or not, but let's assume that's the case.

A Right. So if this CLEC who has five customers is actually collocated in every wire center, and they're just not very good at getting customers, but they're prepared to offer service in all those wire centers, then I would say the answer is yes.

Q Is it your testimony that a CLEC must be collocated in every wire center in order to serve customers in every wire center?

A No. That was just an example.

Q I just wanted to make sure that wasn't -- well, it doesn't matter what I wanted.

A Sorry.

Q Are you familiar with the term creamskimming?

A Absolutely.

Q Do you use cherry-picking in your testimony?

A I use cherry-picking, and in a DR response, I

used them both.

Q Okay. I'm getting hungry. Are they synonymous terms?

A Yes. For this, for sure.

Q Is the term creamskimming a term that is recognized in economic literature?

A Yes, sir.

Q And is generally known and used by economists?

A Yes, sir.

Q Now, you referred to a minute ago -- and that's one of your other criteria that you say must be met to meet the self-provisioning trigger and that the CLEC must be serving the entire market, right?

A No. Again, that's not exactly correct. The CLEC must be holding itself out to serve or capable of serving a substantial portion of the market as opposed to geographically cherry-picking or, if you will, creamskimming.

Q Is that requirement expressly set forth anywhere in the TRO?

A Again --

Q If you could just give me a yes or no, and then explain that, please. That would be preferable.

A Okay. The requirement? No. The implication? Absolutely.

Q Where in the TRO do you base your opinion that that is an implication?

A To start out with -- you're going to have to let me flip to a page here. Okay?

Q Certainly.

A Footnote 1537 and footnote 1552 which both make reference to CLECS that are only serving or only capable of serving a portion of the market. In those footnotes, the implication is clear that serving a portion of the market does not instantly constitute serving the market, but creates a situation where the State may wish to actually redefine the market.

Q Any other citations to the TRO that support your opinion?

A Simply every place in there where it says serving the market as opposed to serving a part of the market.

Q You, also, say that in order to meet the self-provisioning trigger, a CLEC must be actively serving the mass market and likely to continue to do so, correct?

A Yes, sir. That's, also, in the TRO.

Q Does that say that in the TRO?

A Paragraph 500.

Q Any other bases for that opinion, sir?

A Besides the paragraph 500, no, sir.

Q And you say, in your testimony, that a CLEC must be marketing, actively marketing the customers to meet that requirement, do you not?

A What I say is that is a way to determine whether they are actively serving, if the Commission should look for evidence that they are actively marketing.

Q Is that true regardless of the number of mass market customers that CLEC is serving?

A Absolutely. The requirement to be actively serving is a requirement regardless of the number of mass market customers that may be served.

Q Is it your opinion that is the case regardless of whether or not the CLEC has excess capacity on its switch that it's using to serve mass market customers in that market?

A Sorry. Could you repeat that question?

Q I'm not sure.

MR. SUSAC: Do you want a read-back?

MR. SHORE: Yes. That would be great.

(Requested portion read.)

THE WITNESS: Yes. It is my opinion. Yes.

BY MR. SHORE:

Q So, for example, if a CLEC serving a

particular market is serving several customers, several mass market customers, and does not have any excess capacity on its switch to serve additional mass market customers, it's your opinion that that company would not count towards the self-provisioning trigger?

A This is a hypothetical, I assume, you're presenting me with?

Q Yes, sir.

A And I need to state that I disagree with the premise of your hypothetical, that I've never seen a single switch that did not have one DSO of available capacity. Therefore, stating that I disagree with the premise of your hypothetical, they still need to be actively serving.

One way to determine whether they're actively serving is if they're actively marketing.

Q You're not suggesting that a CLEC who has excess capacity of one DSO or three, for that matter, should be actively marketing, are you?

A Again, I used the phrase actively marketing as a way the Commission can determine whether they are actively serving.

Q How about in the example that I gave and you added to it? If a company is actively serving --

A Yes, sir.

Q -- several customers and it's out of capacity -- it can't add any more -- can you still find that that switch meets the trigger if they're not marketing mass market service, in any way, based solely upon the number of customers it has, for instance?

A Again, in my testimony --

Q If you can --

A Well, I can't answer your question yes or no as much as I would like to, sir.

Q That's certainly a fair answer.

A Because I list several ways the Commission can look for evidence of actively serving. Actively marketing is one. The addition of new customers or recent conversions is another. I never indicated that actively marketing was the only way to establish whether a CLEC is actively serving.

You seem to be asking me a question that suggests that.

Q Okay. I didn't mean to suggest that. Let me rephrase my question or maybe restate it.

Recognizing that it's your testimony that's not the only way for the Commission to determine a CLEC is actively serving, would you agree then that a CLEC would not have to be actively marketing in order to meet your actively serving criteria?

A Yes. I believe it's possible to demonstrate that a CLEC is actively serving without demonstrating that it's actively marketing.

Q How could that be done? On what basis could that be done.

A As it says in my testimony, current or recent additions of new customers.

Q How many, or how do we measure that?

A I didn't offer a particular recommendation in terms of a measurement.

Q Do you have an opinion as to a measurement?

A With regard to a number? No, sir, I don't.

Q Or a rate of new customer additions?

A No. I don't have a specific recommendation. I think the existence of new customer additions is demonstration that you're actively serving.

Q Is it your opinion, in conducting or evaluating whether or not the self-provisioning trigger is satisfied in any particular market, that the Commission must consider the impact of that determination on competition in the market?

A I can't say that the Commission must consider anything. I think the Commission would be wise to consider that.

Q Does the TRO require that the Commission

consider the impact on competition in conducting its trigger determinations?

A I believe the TRO does in one specific place where --

Q I'm sure you've anticipated my next question, sir.

A Where are the places?

Q Yes.

A Yes. If you will give me one second. I have to find the paragraph. Paragraph 188 where it says that we've turned this over to the states because the states are in the best position to determine whether the act's unbundling requirements should be implemented. Let me find that.

I did that off my head here. It is 188, or is it 189? Yes. It's 188, the last line. States are maybe in the best position to judge whether the act's extraordinary unbundling remedies should be applied.

Q Okay.

A Clearly that has an effect on competition.

Q Any other basis in the TRO for your opinion that the State Commission may consider impact on competition in determining whether or not the self-provisioning trigger is met?

A Not explicitly, no.

Q Does the fact that a certain number of customers in the market take service from CLECs mean that other customers in that market don't have a choice of providers?

A Not necessarily, no, nor is that what such a fact is intended to demonstrate. Such a fact is intended to demonstrate that barriers to entry and sources of impairment have been overcome.

Q Now, with respect to the self-provisioning trigger again, is it your opinion that a CLEC must be serving residential customers in order to count towards a self-provisioning trigger?

A No. It's my opinion that the Commission should seriously question whether a CLEC not serving residential customers demonstrates what the triggers are intended to show.

Q I think you answered my question, but let me just ask it again. Is it your opinion that a CLEC must be serving residential customers to count towards the self-provisioning trigger?

A It's my opinion that that is a question the Commission should determine.

Q You're not making a recommendation on that one way or the other, or are you?

A My recommendation is that the words are the

Commission should seriously question.

Q Do you have a recommendation as to whether the Commission should set a requirement that a trigger company must be serving residential customers?

A No.

Q Does the TRO set forth that requirement in your opinion?

A Yes. In my opinion, the TRO clearly identifies the mass market is defined as residential customers and small business, and that the triggers are intended to demonstrate the ability, feasibility of serving the mass market, so yes.

Q Let me make sure I understand. This may be repetitive, and if it is, I apologize. It is your opinion that the TRO contains a requirement that the company be serving residential customers to qualify as a trigger company, or isn't it, or doesn't it, I guess, I meant to say?

A I'm sorry. Could you say that last thing again.

Q Or doesn't it? Is it your opinion that a TRO requires a company to be serving residential customers to meet the self-provisioning trigger?

A No. It did not require. It does expect.

Q You would agree with me, would you not, that

the TRO and the TRO of the FCC said that business customers that fall within the definition of mass market customers have characteristics or the same characteristics as residential customers?

A Yes. The TRO does say something like that.

Q It's your testimony, or is it your testimony that BellSouth does not satisfy the self-provisioning trigger anywhere in Florida?

A No. That's not my testimony. My testimony is that the Commission should question the CLECs that BellSouth has indicated meet the triggers. I have not come to the conclusion that BellSouth doesn't meet the triggers anywhere.

I have identified serious questions the Commission should investigate with regard to the purported trigger meeting CLECs.

Q You have reviewed the exhibits where BellSouth lists and shows, on a map, the markets that it says meet the self-provisioning triggers, haven't you?

A Yes, I have.

Q Have you reached the conclusion that BellSouth does not meet the triggers in any one of those markets?

A No. I have not reached that conclusion, no. I have certainly not reached the conclusion that they have met the triggers.

Q If you had reached the conclusion that BellSouth had not met the triggers in any particular market, would it be fair to say that you would have included that in your testimony?

A No. That's not fair to say, because my testimony did not extend to a 100 percent comprehensive investigation of every CLEC in every market. My testimony consisted of identifying questionable data of various CLECs in various markets.

Therefore, for you to say if I had come to that conclusion, would it have been in my testimony? The answer is not necessarily.

Q In your Nevada testimony that you're going to file later this month in where Sprint is claiming that the self-provisioning trigger is met, what data does Sprint rely upon to demonstrate that?

A Unbundled loop counts and CLEC collocations and CLEC EELs.

Q Is that all data that Sprint has within its own control?

A We certainly do, and we, also, use CLEC data to match up to it.

Q Is it going to be your testimony, in that case, that Sprint's data alone demonstrates satisfaction of the self-provisioning trigger?

A No. It would be that the -- oh, I'm sorry, Susan.

MS. MASTERTON: I'm going to object to the extent that this is speculation because the testimony hasn't yet been filed.

BY MR. SHORE:

Q Have you connected your analysis of whether the self-provisioning trigger is satisfied in the Las Vegas market, Dr. Staihr?

A I have not completed it. I've conducted preliminary analysis.

Q And that analysis is based upon Sprint data as well as CLEC provided data. Do I have that right?

A It is based on both ILEC and CLEC data. Yes.

Q Is CLEC provided data necessary for Sprint to reach that conclusion? In other words, could Sprint reach that same conclusion based on the information it already has?

A Because it's preliminary, I don't know. The answer is I don't know.

Q When do you expect to finish that analysis?

A The way things are going, probably midnight on the 26th.

Q I'm going to make sure I ask you about that on the 27th at the hearing.

A Okay. I might be very tired.

Q I hope so. Do you agree that, under the FCC's potential deployment test set forth on the TRO, that the CLEC to be modeled is required to be modeled serving both business and residential customers?

A Is it required? Again, I do not think it is required. I think it is expected.

Q So the answer to my question is, no, it's not required?

A Correct.

Q On page -- you don't need to turn there, I don't think, but in your testimony -- I think it's page 18 of your rebuttal -- you say something like CLECs attempt to track the most profitable customers in any given market.

Is that what's known as creamskimming or cherry-picking?

A Not necessarily. If I take the definition of creamskimming or cherry-picking that you'd find in the Economics of Regulation which is a book a lot of people use --

Q Right.

A -- it is serving only the most profitable portions of a market. Now, hoping to attract the more profitable customers is different than selectively

serving.

Q In your experience in the industry, do CLECs creamskim?

A Yes. They do often.

Q Would you expect that a hypothetical efficient CLEC would creamskim?

A We'll need to define creamskimming, whether we're talking customers or geography.

Q Customers.

A Customers, it is certainly possible that CLECs would tailor their offerings to attract more profitable customers. Whether or not they would exclude offerings to less profitable customers, I don't know.

Q Can we agree that an efficient CLEC would engage in some level of creamskimming within a particular market?

A An efficient CLEC might. I cannot say it would. I would say it might.

Q What would that depend upon?

A It would depend upon the costs that they incur in entering the markets. It depends upon the distribution of revenues across customers. It depends on their scale. It depends upon the state of competition in that market. It would depend upon a lot of things.

Q I want to talk about an exhibit, Mr. Dickerson's Exhibit 6.

A Okay. Can I ask, is that the summary? Is that the scenario summary?

Q Yes.

A Now, I need to warn you of this. Because BellSouth filed a new model, we're filing a new Exhibit 6.

Q Okay. When do you plan to file that?

A Susan, do we know that?

MS. MASTERTON: We're going to file it on Monday. We did include it in a response to a discovery request to staff that we, also, copied the parties on.

MR. SHORE: Okay.

BY MR. SHORE:

Q Maybe now is a good time to ask you this question. I had it at the end of my notes. Do you plan to make any corrections to your testimony Dr. Staihr?

A Yes. Because we got a new model from you guys, we are forced to rerun it, and so there will be corrections.

Q And the numbers change essentially?

A Yes. The numbers change.

Q Do any of your conclusions change?

A No. No. None of my conclusions change.

Q When the numbers that change in your testimony, those are numbers that I'll be able to take from revised Exhibit 6, Dickerson 6?

A Yes. If I've matched them up right, and I sure I hope have, yes. The answer is yes.

Q I hope you have, too.

A Yeah.

Q Are there any other corrections to your testimony that you're aware of right now?

A Not right now. No.

Q Revised Exhibit 6 hasn't made its way to my desk yet, but I don't think that that matters for purposes of my question.

Is the revised Exhibit 6 the format the same as the original Dickerson Exhibit 6.

A Essentially where we have scenarios?

Q Yes, sir.

A Yes, sir. The answer is yes.

Q Do you have that exhibit in front of you?

A The revised or the original?

Q Either one or both.

A Let me check and see.

Q If you have both, that would be great.

A I'm afraid I'm only going to have the old one.

Q Well, that's all I have, so this will do for my purposes.

A Yes. I have the old one.

Q Can you just explain to me what Exhibit 6 shows?

A Sure. What Exhibit 6 shows is the NPV values that are produced by you-all's BASC model, when the model is run at an MSA level, as opposed to a CEA UNE Zone level which is the way you guys ran it, and those results, when the model is run as you filed it, as Sprint ran it and then as Sprint conducted various sensitivity analyses on it.

Q Did you conduct any sensitivity analysis on the model using any market definition other than the MSA definition that you advocate?

A I personally did not. It's certainly possible someone at Sprint did.

Q Are you aware of any?

A I'm sorry?

Q Are you aware of whether Sprint did or didn't?

A I'm not aware of them. That doesn't mean they don't exist.

Q Right.

A We did a lot of them.

Q I think this is a different question.

Ms. Masterton will correct me if I'm wrong. Do you know whether or not Sprint did essentially what is reflected in Exhibit 6, but without changing the market definition from what BellSouth filed it as?

A I really don't know. I'm sure Mr. Dickerson will know when you-all do his deposition --

Q Right. Okay.

A -- but I don't know.

Q Did you personally do any of the BASC model sensitivity analysis reflected in Exhibit 6?

A I stood over the shoulder of the person who's typing on the keyboard.

Q That's a no?

A I don't know. Is that a no? I really don't know. I did not type on the keyboard.

Q Do you know how to operate the BASC model?

A I know how to operate the BASC model as best as we can operate it. There are questions to it, but yes. I do know how it operates. Yes.

Q Have you ever run the BASC model?

A I have not sat at the keyboard. No, sir.

Q I take it then you have not, yourself, personally made any changes to inputs or assumptions in the BASC model personally?

A Well, no. That's not true because I sat there

and told the person typing to type in .2 in this cell, so, yes. It was my change, but I didn't do the typing.

Q For the sensitivity analysis that's reflected in Exhibit 6 --

MS. MASTERTON: You mean --

MR. SHORE: Dickerson Exhibit 6. Is that the question, Susan? I'm sorry.

MS. MASTERTON: Yes. That's what I was going to ask you.

MR. SHORE: Exhibit 6 is KWD-6.

BY MR. SHORE:

Q Just so we're all clear, the baseline scenario converts the market definition to an MSA. Then each of the numbered scenarios, 1 through ten, changes -- well, excuse me. One is BellSouth filed it except with the market definition, correct?

A That's correct.

Q Two through ten make changes to that MSA run, correct?

A That's correct.

Q Then Number 11 reflects the cumulative effect of all the changes in 2 through ten plus the change to the market definition?

A Yes, sir.

Q Now I know that Sprint made the market

definition change. It then reflects as set forth in this Exhibit and in your testimony and in Mr. Dickerson's, the effect, at least as Sprint wants to define the market, of each of those changes and then cumulatively.

My question is, do you know if Sprint did any analyses of the cumulative effect of some subset of those scenarios?

A I don't know the answer to that. We can find out, or you could ask Mr. Dickerson.

Q I will ask him.

A Okay.

Q Dr. Staihr, in your testimony -- I'm going to paraphrase. I don't know if you need to look at it, but you say that demand size inputs in the BASC model must be based on assumptions, et cetera, that are accurate reliable and applicable to the situation at hand.

Do you recall that testimony?

A Yes, sir. I do.

Q The situation at hand, is that an efficient CLEC?

A An efficient CLEC, yes, operating in this market as it's defined and offering the services that are being discussed. Yes. That's the situation at hand.

Q Going back to Mr. Dickerson's Exhibit 6, just so I am absolutely certain I understand. For example, if you look in scenario 3 --

A Yes, sir.

Q -- that's the scenario where you change the market definition, and then on top of that, you change the market share assumption from 15 percent to 10 percent, correct?

A Yes. That's correct.

Q And that change alone did not create a negative NPV in any of your MSA markets, correct?

A That's correct. Decreasing the market share, when that's the only change that's made to the model, does not turn the NPV from positive to negative. That's correct.

Q Where a change to an input does change the NPV to negative, that would be reflected in parentheses?

A Yes, sir. I just want to clarify here. Each of these were done independently? For example, in column 5, the only thing changed were price adjustments.

Q Yes, sir.

A Were you to change price adjustments and market share, it's possible more than just two of those markets would be negative.

Q Right. And I asked you earlier if you knew if

Sprint had done subset of any cumulative effect of other than all the changes reflected in 11, and you told me that you weren't aware of any; is that correct?

A That's correct, and I'm not aware of any, but I'm not the best person to ask that question of.

Q I got you. As an economist, is it your opinion in the world where every CLEC in the market was an efficient CLEC in providing, in that particular market, providing services using it's own switch that there would be the same number of CLECs that are providing service in that market today perhaps by UNE-P and/or using their own switch?

A As an economist, I'd have to say the answer is it depends.

Q Would you expect fewer CLECs if each one was operating efficiently?

A I might expect fewer CLECs. I, also, might expect the same number of CLECs to the extent they are able to successfully differentiate their offerings.

Q I'm going to refer you to page 27 of your rebuttal.

A I'm getting there. Twenty-seven?

Q Yes, sir.

A Yes, sir.

Q Page 27, you say that there are

approximately -- I'm rounding -- seven competitors per market in Florida today?

A That's an average, sir.

Q Right. Thank you. When you say per market, what market definition are you using?

A The one that's in the Florida Public Service Commission's Annual Report on Competition, Telecommunications Markets in Florida. The markets they're referring to on the cover page.

Q And those markets don't align with your proposed MSA market definition, do they?

A That's correct. They're different markets.

Q They're different than BellSouth's --

A Yes.

Q -- proposed market definition?

A Yes.

Q How many markets are there in Florida according to the Commission's report, or as the Commission defines it for that purpose?

A I think they've defined it by exchange. I'm looking at the report right here. Yes. They have defined it by exchange.

Q Do you know how many exchanges there are in Florida?

A I can count real quick. BellSouth has over

200. Sprint has -- I have a number here. No. I don't know. It's certainly over 200. Certainly over 300.

Q Does that number that you gave, the average number of seven, include both facility based providers and non-facility based providers?

A Yes. Which is exactly the number that should be in here being that there's no reason to believe the market would only be shared by facility based providers.

Q Is it your opinion, as an economist, that if one competitor in a market was efficient and other competitors were not efficient, is it likely that the efficient competitor would capture a greater market share than the non-efficient competitors?

A Holding constant about a million things, the answer is yes. Again, as soon as you don't hold constant one of those things, the answer is not necessarily. To the extent that a slightly less efficient competitor can successfully differentiate its product in a way that the efficient one cannot, then not necessarily.

Q I think you told me earlier, maybe at the beginning of my questioning, that you had seen some business plans for Sprint CLEC, right?

A Yes.

(Confidential questions and answers were

removed in this section by agreement of counsel at the end of this transcript.)

BY MR. SHORE:

Q Let's talk about P value.

A Okay.

Q What P value would you recommend to be used in modeling the efficient CLEC?

A I'm sorry, but you're making an assumption that I would recommend the type of asymptote that Dr. Aron would recommend.

Q How would you account for the growth curve of a CLEC market penetration?

A I would -- how would I account for it? I would investigate actual penetration levels to see whether they came closer to the asymptote that Dr. Aron references or a more standard S curve. Probably they would come closer to a standard S curve.

Q Do you have a recommendation as to a P value that ought to be employed in the BASC model filed in this case?

A I believe a P value of .25 is much more reasonable. That's the lowest the P value goes in the BASC model as I understand it, so .25 would be a more reasonable value to use.

Q In your expert opinion, would an efficient

CLEC be less risky from an investment perspective than CLECs operating in the present economic markets?

A So your assumption is current CLECs are not efficient?

Q Well, no. Let's not assume that. Is it your opinion that current CLECs are efficient?

A It's my opinion that current CLECs strive very hard to be efficient. Whether they achieve it or not, that is their goal, and I have every reason to believe that their activities are geared toward attempting to meet that goal.

Q Do you have an opinion as to whether or not current CLECs are, in fact, efficient?

A No.

Q Are you familiar with bond ratings?

A Yes, sir.

Q In your opinion, can a firm with a triple C bond rating be an efficient firm?

A Certainly. A firm with a triple C bond rating could be an efficient firm because the bond rating will reflect more than just the firm's activities. The bond rating will reflect the market activities, many of which are not under the control of the firm.

Q Have you ever presented a cost of capital analysis in a regulatory proceeding?

A Yes, sir.
Q Before the instant cases?
A Yes, sir.
Q Where was that?
A In Florida.
Q In which case?
A In our UNE docket and then in other states.
Q Also, in UNE dockets?
A Yes, sir. Also, in rate cases.
Q I think I spoke over you. I apologize. Did you say in rate cases and in UNE cases?
A Yes, sir.
Q Did the Florida Commission accept your cost of capital recommendation in its UNE docket?
A No. They did not. I was crushed.
Q I take it today you've recovered quite nicely, and I congratulate you.
A No. It still haunts me.
Q Has any Commission ever accepted your cost of capital recommendations?
A I will have to look. I don't know.
Q Are you familiar with any sitting here today?
A No.
Q Would you be willing to let me know that via a late-filed exhibit?

A Sure. I absolutely will.

MR. SUSAC: What was the name of that late-filed exhibit?

MR. SHORE: Let's call it existence of any acceptance of Staihr cost of capital.

(Late-Filed Exhibit Number 4 was marked for identification.)

MR. SHORE: I'm not even sure, at this point in the day, if I just spoke English or not.

MS. MASTERTON: It made sense to me.

MR. SHORE: Does the witness or the court reporter or anybody else need a break? I still have a little ways to go.

MR. SUSAC: The court reporter is shaking her head no.

MR. SHORE: Dr. Staihr, how are you?

THE WITNESS: I'm good.

MR. SHORE: Okay.

MR. SUSAC: Just out of curiosity, Mr. Shore, how much longer do you anticipate?

MR. SHORE: I think less than half an hour probably.

MR. SUSAC: Okay.

BY MR. SHORE:

Q Dr. Staihr, in your opinion, when the

Commission considers whether or not a self-provisioning switching trigger is met, does the TRO require that consideration to take into account the ILEC's ability to perform batch hot cuts?

A Does it require it? No.

Q Have you reviewed what they call the model, or what Mr. Turner refers to his model attached to his testimony?

A No. Actually I have not.

Q I take it then you have not reviewed any of the inputs, and you don't have any opinions about them or his model, one way or the other?

A No. I don't have an opinion on the model or the input.

Q In your expert opinion, does the availability of UNE-P have any effect on a carrier's decision as to whether or not to deploy its own switch?

A I think it could. I don't know whether it does, but I do think it could.

Q It's a fact that a CLEC ought to consider? Is that what you're saying?

A It is a fact that some CLECs probably consider.

Q In your expert opinion, if a business case reveals that it's NPV positive for a CLEC to deploy its

own switch to serve mass market customers in a given market and UNE-P is available in that market and it, also, conducts a business case showing that it can make more money utilizing UNE-P, do you have an opinion as to which strategy the CLEC ought to go to from an economic perspective?

A Well, normally firms are seeking to maximize their profit, so faced with two business cases of any kind, you would tend to go with the higher payoff. Again, we're holding constant a lot of other things. For example, geographic reach of the offering, that type of thing.

Q Right.

A Holding all those things constant, firms tend to go towards the business case with the higher payoff.

Q Is that conclusion or is that opinion based, at least in part, on economic principles?

A Yes, it is.

Q Other than the inputs in the BASC model that you address in your prefiled testimony, did you consider addressing any other inputs?

A No. I did not. Specifically demand side inputs are what I considered addressing, and in terms of time constraints, limited to a few.

Q Did you read Don Wood's testimony?

A I did. I read it, I will admit, fairly quickly, but yes, I did.

Q Do you disagree with anything that Mr. Wood has to say --

A That's a pretty broad question. With anything he has to say?

Q In his prefiled testimony in this case.

A Anything at all?

Q Yes, sir.

A I can't answer that. I am not able to answer that question. I can go back and go through it again. If you want, I could.

MS. MASTERTON: Well, I'm going to object as to form because anything is pretty broad.

BY MR. SHORE:

Q Do you have any recollection of reading anything in Mr. Wood's prefiled testimony sitting here today that you disagree with?

A There were some things I agreed with.

Q I know. That's why I asked my question the other way.

A Right. So again, sitting here today, it's not fresh enough in my mind to identify specific things that I disagreed with. That doesn't mean I did not. It means sitting here right now, without reviewing it --

Q Fair enough. That's why I phrased my question that way.

A Okay.

Q In your opinion, do intermodal providers count towards the self-provisioning trigger?

A According to the TRO, it's up to the judgment of the Commission whether or not intermodal providers count.

Q Does the TRO prohibit a state commission from counting intermodal carriers?

A No. The TRO does not prohibit it.

Q Is Sprint relying on any intermodal carriers in Nevada?

A No. We're not.

Q Do you have an opinion as to whether or not intermodal carriers ought to count?

A Yes, I do.

Q What is that opinion?

A Intermodal carriers should count to the extent they demonstrate what the triggers are intended to demonstrate which is that an entrant could come in and essentially do what they did. The TRO is very specific that firms like cable companies do not demonstrate that.

Q So in your opinion, cable companies providing telephone service over their cable networks do not count

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UNE-L. Do you agree with that statement?

A Yes. I agree with that statement.

Q In your cost of capital testimony, do you provide any data or inputs that Dr. Billingsley has not provided?

A No. I use the same inputs that Dr. Billingsley includes in his testimony but then alters.

Q You use the data that he has supplied in a different way than he uses it?

A Correct.

Q Is that what you're saying?

A Correct.

Q I'm sorry. I missed that.

A Yes. That's correct.

Q Dr. Staihr, is it fair for me to surmise, based on your testimony today, that you're pretty familiar with the TRO?

A Yes, sir. I think so.

Q Now, if you look at the TRO beginning at paragraph 493 --

A Yes. I'm here.

Q That's where the FCC sets out in the body of the TRO what it is the state commissions have to do in this case, correct?

A That's correct. That is not the only place.

Q But that section there is titled state commissions determinations beginning right above 493.

A Right.

Q That's the section where they specifically talk about what the states have to do, correct?

A Yes.

Q And included within that section, beginning at paragraph 498, is the trigger analysis, right?

A Yes, sir.

Q That includes the self-provisioning trigger we've talked quite a bit about today, correct?

A Correct.

Q And the FCC, also, codified the self-provisioning trigger in a rule, in part of the rule, that it promulgated pursuant to the TRO, did it not?

A Yes, it did.

Q Are you familiar with that rule?

A Yes.

Q You don't need to cite the rule to me because there's too many subsections.

A Yes. I'm familiar with it.

Q Do you know whether or not BellSouth has an obligation to provide unbundled switching pursuant to

section 271 of the '96 Act?

A It's my understanding they do.

Q Is it your understanding that that obligation would exist in a market if the Commission were to determine that CLECs are not impaired in that particular market?

A Yes. It's my understanding the price would change.

Q In a market such as that, it would be possible hypothetically, at least, for a CLEC to provide service buying unbundled switching from BellSouth pursuant to section 271, would it not?

A It would be technically feasible. Whether or not it would be economically possible is a different question.

Q Have you conducted any analysis as to the economics of a CLEC providing service in that manner?

A No. I have not.

Q Do you have an opinion as to what price point at which it would not be economically feasible?

A No. I don't have an opinion as to a specific price point. No.

Q Is it your opinion that at any price -- if BellSouth were to make available, pursuant to its section 271 obligation, essentially what is now the

UNE-P, but at a price higher than the TELRIC price, is it your opinion that, at any price higher than TELRIC, CLECs cannot economically serve the mass market?

A No. Because any price is a pretty broad term. It is conceivable there is some price that is only slightly higher than a TELRIC based price at which it would still be economical.

Q Do you have any opinion as to how much above TELRIC that could be?

A No. I don't.

Q I want to follow up on a few questions that staff counsel asked you at the beginning, and maybe it's harder -- maybe I should have done this at the beginning while those questions were a little fresher in your mind and in mine, but we'll try it this way anyway.

When Mr. Susac was questioning you, I think that you told him that CEAs, component economic areas, don't necessarily represent an economic community of interest. Was that your testimony?

A Yes. That is my testimony.

Q And the opposite is, also, true. They don't necessarily not represent an economic community of interest, correct?

A Well, it's possible. The creation of CEAs is not solely dependent reflecting an economic community of

interest.

Q Have you attempted to make any analysis on whether the CEAs in Florida represent -- whether each CEA represents an economic community of interest?

A Superficially, to the extent that they vary from MSAs, which are intended to reflect economic communities of interest, is a very simple analysis, but in that sense, yes, and there is variation.

Q Is that analysis based solely on the fact that they're different, the CEA would be different than an MSA, or is it based on anything additional?

A No. It's basically based on that. Yes, sir.

Q Mr. Susac asked you some questions about Sprint CLEC provisions of service with its CLEC switch in Orlando to customers with less than three lines. Do you recall those questions?

A Yes. I remember that.

Q I know that you referred some of those questions to the appropriate marketing person, and I don't want you to answer questions that you can't answer. That goes without saying, but let me ask you a couple of questions.

Are you aware of any reason that Sprint is not attempting to grow its customer base, its CLEC customer base in Orlando, consisting of customers with

fewer than four lines?

A I am not aware of any reason. I am not aware of any intent, specific intent, behind any growth of particular customer bases, so I can't answer your question.

Q We might have covered this a little bit earlier, but I made some notes on it so bear with me. You made the comment, in response to one of Mr. Susac's questions, that you were an economist reading the TRO. Do you recall that?

A Yes, sir.

Q And I'm just a lawyer reading the TRO, so I know how you feel. Mr. Susac expressed the same sentiment.

I may have asked you this earlier. If I did, I apologize, but let me ask it.

A We'll see if my answer is the same.

Q Yeah. I trust that it is, Dr. Staihr. I wouldn't expect it to vary. If there is a dispute about what the TRO means, in your opinion, would that be a legal conclusion or a legal question?

A Yes. It certainly would.

Q I want to get into the deploy issue that you talked about a little bit earlier. Is deployed a term that's defined in the economic literature?

A Not uniquely. No, sir.

Q Does a switch have to be deployed originally when it was first put in the ground, for lack of a better term, to serve enterprise customers? Does that fact alone make it an enterprise switch?

A It's paragraph 435, I think, that makes the distinction. There are switches deployed to serve the enterprise market. There are switches deployed to serve the mass market, so the TRO is making a distinction between the intent of the deployment.

Q In your opinion, do you have to look at that at the time that the switch was put in the ground? Is that what's determinative?

A I think you look for evidence of that intent.

Q Yes. I understand, but, at the time of the intent, in your opinion, is the relevant time period when the switch was put in the ground?

A I don't know. I think you can look at existing usage levels and determine intent.

Q So if a switch was deployed originally to serve enterprise customers, it's not necessarily in your opinion forever thereafter an enterprise switch; is that fair to say?

A Yes. I think that is -- and this is my opinion as an economist. I think that's fair to say.

If a switch was deployed to serve enterprise customers, and it's still overwhelming used to serve enterprise customers, it's an enterprise switch, but if a switch was deployed to serve enterprise customers and some strange thing happened and now half of it is serving mass market customers -- I don't know why that would happen, but it might -- then it's no longer an enterprise switch.

Where that line is drawn, as I said before, is something for the Commission to determine.

Q If the self-provisioning trigger met for a particular market, must the Commission make a finding of non-impairment?

A Not according to paragraph 503.

Q What specifically, in that paragraph, do you point to?

A Well, the fact that it says in exceptional circumstances, states may identify markets that facially satisfy the trigger, but there is some barrier to entry that still exists.

Q Is it your opinion that, in that case, the state commission is free to make a finding of no impairment?

A Of impairment?

Q Of impairment.

A It's my understanding that the State may petition the Commission -- that's what it says here in 503 -- for a waiver.

Q Right. So in that circumstance --

A Now, obviously, I would assume that petition is based on the fact that the commission believes, the state commission, believes there's impairment.

Q So, in your opinion, the state commission is try to find impairment in a market where the self-provisioning trigger is met?

A Again, I don't want to do anything that could be construed as a legal opinion here.

Q Okay.

A If 503 refers to a petition that a State may make, I believe there has to be a basis for that petition. The basis, it would appear to me, would be that there is still impairment.

Q If you will just give me a moment or two to look at my notes. I'm either done in asking questions or very, very close to it.

A Okay.

Q Dr. Staihr --

A Yes, sir.

Q -- when the Sprint CLEC goes into a market to provide service, how does it define a market?

A It's my understanding that we define markets generally as metropolitan areas. Whether or not it exactly correlates to an MSA, it is the metropolitan area. We make a reference to entering the Columbus, Ohio market. We don't make a reference to entering a particular wire center in the Columbus market.

Q When a Sprint CLEC goes into a particular metropolitan area, does it seek to serve customers in every single wire center in that market?

A I don't know.

Q I think you answered this by answering the last question or two questions ago, but let me just see if I can tie it up. Does Sprint CLEC evaluate entry strategies on an MSA-by-MSA basis?

A The evaluation is done on something that comes closer to an MSA than any other market definition.

Q So is the answer to my question, no, with that explanation?

A No. I would say the answer to your question is approximately yes.

Q I think my children would like that term. Is your room clean? I think approximately yes would be a good answer.

A There you go. It's my answer lots of time if my room is clean.

Q Well, yes never enters my mind into that question, I'm afraid, at least not my office.

A That's a different story.

Q Dr. Staihr, can you turn to the rule that the FCC promulgated where the self-provisioning trigger is set out?

A Yes. It's going to take me just a second here.

Q Sure.

A Okay. I'm thinking this is -- I need to go through this.

Q I don't know that you need to. Is there a page number at the bottom of your page?

A The page number I'm looking at is 21.

Q That's where I'm at.

A Okay.

Q It starts with big A, local switching triggers, and then Number 1 is the local switching self-provisioning trigger?

A Correct. That's where I am.

Q The rule there states, subpart 1, self-provisioning trigger:

To satisfy this trigger, a state commission must find that three or more competing providers, not affiliated with each other or the incumbent LEC,

including intermodal providers of service comparable in quality to that of the incumbent LEC, each are serving mass market customers in the particular market with the use of their own local circuit switches.

Do you see that?

A Yes, I see that.

Q Did I read it correctly?

A Yes.

Q Okay. There a couple of criteria set forth right there in the rule for companies that count towards the trigger, correct?

A Yes, sir. That doesn't suggest that's all. That suggests there are a couple there.

Q Even under that language that I read, there are a couple of criteria?

A That language includes a couple.

Q Okay. It's up to the state commission, under that language, to determine, for example, that trigger companies are not affiliated with each other or the incumbent LEC, right?

A That's correct.

Q If it was an intermodal provider, under that language I read, it would be up to the state commission to determine that the service was comparable in quality to that of the incumbent LEC, correct?

A Yes.

Q I think that's all I need to ask you about that rule.

A Not about what it doesn't include. Sorry.

Q No. We talked a lot about what it doesn't include already. I tried to skip questions in my original notes that, I think, Mr. Susac covered with you, and I'm just going back now to make sure that I didn't skip any that maybe he didn't.

A Okay.

MR. SHORE: That's all I have, Dr. Staihr. Thank you very much for your time today.

THE WITNESS: You're very welcome.

MR. SUSAC: All right. Susan, do you have any redirect?

MS. HYER: Actually, this is Leigh Hyer with Verizon. I have brief questions.

MR. SUSAC: Okay. Before we get to you, Leigh, if Susan has one or two redirects, we can do that, or we can save it till after Verizon.

MS. MASTERTON: No. I don't have anything right now.

MR. SUSAC: Okay. Leigh, it's your turn.

CROSS-EXAMINATION

BY MS. HYER:

Q Dr. Staihr, I'm not going to go over any of the -- I mean, these are very brief questions -- any of the stuff that you've already been questioned over except one point.

Have you looked at the testimony submitted in this case by Verizon's witness Doug Fultz, Orville D. Fultz (phonetic)?

A I have looked at it, and I did not respond to it in any of my rebuttal or surrebuttal.

Q And Dr. Staihr, earlier you testified that you had not reached the conclusion that BellSouth had not met the triggers in any of its proposed markets; is that correct?

A Well, I think I need to rephrase what you said. I believe what I testified to here was that I have not, in my testimony, come to that conclusion, because, in my testimony, what I conducted was essentially a preliminary investigation.

Then I think Mr. Shore said if I were to -- he asked me something about if I were to keep going, and then I said I couldn't necessarily agree that I would not come to those same conclusions. I think he asked me about in my testimony.

Q That's a very helpful clarification, and

here's my last question. Have you come to the conclusion, in your testimony or otherwise, that Verizon has not met the triggers in its proposed relief market?

A I have not come to any conclusions except that several of the CLECs identified do not appear to be trigger meeting CLECs. That's the only conclusion I have come to.

MS. HYER: I have nothing further.

MR. SUSAC: With that, that concludes the deposition. Thank you very much, Dr. Staihr.

THE WITNESS: You're welcome.

MR. SHORE: I need a copy, please.

MS. MASTERTON: I need an electronic and a condensed copy.

MR. WOODS: I'll need an electronic and a copy, also.

MS. HYER: I'll need a copy as well, a hard copy and electronic.

MS. MASTERTON: We get an opportunity to look at it first. I think there was just one issue of confidentiality.

MR. SHORE: Maybe we can shortcut the process because what I'm afraid might happen, if there's any delay in Sprint's review, then the other parties won't have copies, and hearing starts a

week from Tuesday.

Susan, I'd be happy to delete that question and answer from the transcript with your consent. That way no party will be delayed in having use of the transcript.

MS. MASTERTON: Sure.

MR. SHORE: Okay. It was just that one response and the question to it, as I recall, and we can just delete that from the transcript. Then everybody can have a little bit less work to do and have the transcripts at the same time.

MS. MASTERTON: That's fine as long as the court reporter where that is.

COURT REPORTER: I do, Ms. Masterton, and if there's any question, before I release it, I would go ahead and E-mail you the question.

MS. MASTERTON: Okay. That's great.

(The deposition concluded at 4:50 p.m.)

ERRATA SHEET

PAGE	LINE	CORRECTION
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Date of deposition Reporter

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF ALACHUA)

I, NANCY P. VETTERICK, Registered Professional Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 115 are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 17th day of February, 2004.

NANCY P. VETTERICK, RPR, CCR
Notary Public
1-800-934-9090
850-878-2221

Sprint
Docket No. 030851-TP
Late Filed Deposition Exhibit No. 1 of Brian Staihr
Filed: February 18, 2004

Date of Orlando Switch Implementation

Sprint's Orlando switch, ORLDFLERDS0, was put in service in January, 1996.

Sprint
Docket No. 030851-TP
Late Filed Deposition Exhibit No. 2 of Brian Staihr
Filed: February 18, 2004

UNE-L Residential Service in Orlando

Sprint has not used UNE-L to provide residential service in Orlando.

Sprint
Docket No. 030851-TP
Late Filed Deposition Exhibit No. 3 of Brian Staihr
Filed: February 18, 2004

Pre-wired Orlando

Sprint has pair gain and channel bank devices collocated in customer buildings and BellSouth central offices. Sprint has interconnection trunks to other ILEC switches such as BellSouth, Sprint- Florida.

Sprint
Docket No. 030851-TP
Late Filed Deposition Exhibit No. 4 of Brian Staihr
Filed: February 20, 2004

Existence of any acceptance of Staihr cost of capital

To date no state has adopted an unadjusted version of Dr. Staihr's proposed cost of capital.

CONFIDENTIAL

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 32
COMPANY/FPSC Staff / BellSouth
WITNESS: JWS-D - Conf.
DATE: 02/24 - 27/04

EXHIBIT NO. 32

DOCKET NO.: 030851-TP

WITNESS: James W. Stegeman

PARTY: BellSouth

DESCRIPTION:

1. February 16, 2004, Deposition Transcript, **CONFIDENTIAL** – Document No. 02523-04- Page 1
2. Late-Filed Exhibit 1, page 254
3. Late-Filed Exhibit 2, page 256
4. Late-Filed Exhibit 3, page 261
5. Late-Filed Exhibit 4, page 264
6. Deposition Exhibit 5, CONFIDENTIAL-(Document No. 02536-04)
7. Deposition Exhibit 6, CONFIDENTIAL-(Document No. 02536-04)
8. Deposition Exhibit 7, CONFIDENTIAL-(Document No. 02536-04)
9. Deposition Exhibit 8, CONFIDENTIAL-(Document No. 02536-04)
10. Late-Filed Exhibit 9, CONFIDENTIAL –(Document No. 02536-04)

PROFFERING PARTY: STAFF

I.D. # JWS-D

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 32
COMPANY/ FPSC Staff / BellSouth
WITNESS: JWS-D Conf.
DATE: 02/24-27/04

BellSouth Telecommunications, Inc.
Florida Public Service Commission
Docket No. 030851
Late Filed Deposition Exhibit 1
Zone 3 Jacksonville Passed Original
Deployment Test

REQUEST: Please explain why Zone 3, Jacksonville, Florida is included on revised Exhibit DJA-02, filed with Dr. Aron's surrebuttal testimony.

RESPONSE: Zone 3, Jacksonville was originally identified as a trigger market by Pamela A. Tipton in her direct testimony. While not separately identified on DJA-02 (because it was a trigger market), Zone 3 Jacksonville passed the potential deployment test as an unimpaired market. Please see the attached DJA Late Filed Deposition Exhibit 1 for the NPV results from the original model run. Ms. Tipton later excluded this market from her triggers analysis.

In the surrebuttal testimony and Revised Exhibit DJA-02 filed by Dr. Aron, both the triggers markets (all of which pass the BACE NPV test) and the "Additional" markets that pass the potential deployment test are identified on separate panels. As Zone 3 Jacksonville is no longer identified by Ms. Tipton in her surrebuttal testimony as a triggers market, but it continues to pass the potential deployment test, it now appears as an "Additional" market on Revised Exhibit DJA-02 as filed in Dr. Aron's surrebuttal testimony.

DJA Late-Filed Deposition Exhibit 1

Jacksonville Zone 3: Originally Filed Potential Deployment Test

NPV Total	NPV for the Mass Market

PUBLIC DISCLOSURE
DOCUMENT

LECG, LLC Work Product

BellSouth Telecommunications, Inc.
Florida Public Service Commission
Docket No. 030851
Late Filed Deposition Exhibit 2
Other Cost Witnesses

REQUEST: Who sponsors the cost inputs included in the BACE model?

RESPONSE: See BellSouth's response to Staff's Interrogatory No. 117. Additional information is also provided in the attached spreadsheet and verification.

BellSouth
Late Filed Deposition Exhibit 2
Attachment

BACE Cost Area	BACE Cost Center	BACE Cost Element	Cost Input Provided By	Notes
Cageless Collo	ALL	ALL	Bernard Shell	GA & FL rates
ColloEquipment	DSLAM	ALL	Eric Fogle	Based on Milr
ColloEquipment	MDF	ALL	Jim Lowry	
ColloEquipment	CFA	ALL	Andrea Hopkins	Used old cros
ColloEquipment	POTBAY	ALL	Andrea Hopkins	
ColloEquipment	DSXPanel	ALL	Dee Gonzalez	
ColloEquipment	DLCEquipment	ALL	Arlene Johnson	
ColloEquipment	Multiplexer	ALL	Dee Gonzalez	
CPE	Modem	DSLModem	Chet White	
CPE	Modem	DSLModemInstallationKit	Chet White	
CPE	Modem	BusinessModem	Bob McKnight	From BSTLM
CPE	ChannelBankEquip	ALL	Dee Gonzalez	
Data	ATMSwitch	ALL	Chet White/Eric Fogle reviewed	
Data	BroadbandServicesNode	ALL	Eric Fogle	
Data	CatalystSwitch	ALL	Doug Cole/Eric Fogle reviewed	
Data	IntAggregateExchangeRouter	ALL	Doug Cole/Eric Fogle reviewed	
Data	SubscriberManagementSystem	ALL	Eric Fogle	
Data	BackboneExtensionRouter	ALL	Doug Cole/Eric Fogle reviewed	
	DataTransport	IPTransitBackhaul	Eric Fogle	
Data	IPOP	AggregateExchangeRouter (ALL)	Doug Cole/Eric Fogle reviewed	
Data	IPOP	PeeringExchangeRouter (ALL)	Doug Cole/Eric Fogle reviewed	
Data	PXRToGSP	ALL	Eric Fogle	SpA rates
Data	Data	GSP Access	Eric Fogle	
Data	MultiServiceRouter	ALL	Eric Fogle	Vendor Quote
Data	MSRToGSP	ALL	Eric Fogle	SpA rates
EELs	ALL	ALL	Pam Tipton	UNEs or SpA
G&A	G&A	CapitalRelatedtoG&A	Dr. Debra Aron	ARMIS analys
Interconnection	TandemTransitTraffic	ALL	Pam Tipton	UNES
Interconnection	RecipComp	ALL	Keith Milner	traffic assume
Loop	ALL	ALL	Pam Tipton	UNEs
OSS	ALL	ALL	Dr. Debra Aron	ARMIS analys
Region	Features	CNAM (ALL)	Pam Tipton	UNE Rates
Region	Features	TollFreeQuery	George Grier	FCC Tariff #1.
Region	Features	LNPQuery	George Grier	FCC Tariff #1.
Region	Features	LIDB related items	George Grier	FCC Tariff #1.
Region	Signaling	ISUP	George Grier	Access Rates
Region	Signaling	TCAP	George Grier	Access Rates
Region	Signaling	SignalPointCode	George Grier	Access Rates
Region	Signaling	AlinkMonthly	George Grier	Access Rates

Region	Signaling	AlinkNRC	George Grier	Access Rates
Region	Signaling	STPPortTerm	George Grier	Access Rates
Region	DAServices	DACall	Allen Martin	Competitive A
Region	OAServices	OpCall	Allen Martin	Competitive A
Region	DAServices	ALL Announcement related elements	Allen Martin	UNE Rates
Region	DAServices	Listing related services	Allen Martin	DADS GSST .
Region	OAServices	ALL Announcement related elements	Allen Martin	UNE Rates
SpecialAccess	ALL	ALL	Ken Enman	Discount struc
SpecialAccessDA	ALL	ALL	Ken Enman/Keith Milner	SpA rates; 1 I
SpecialAccessE911	ALL	ALL	Ken Enman/Keith Milner	SpA rates; 6 I
SpecialAccessOA	ALL	ALL	Ken Enman/Keith Milner	SpA rates; 1 I
SwitchedAccess	SWACommonTransport	ALL	Ed Matejick/Pam Tipton	FCC#1 Sectio
SwitchedAccess	TandemSwitching	ALL	Ed Matejick/Pam Tipton	FCC#1 Sectio
SwitchedAccess	ALL	ALL	Ed Matejick/Pam Tipton	Access Charg
SwitchingCenter	LocalSwitching	ALL	Jim Lowry	SCIS Model n
SwitchingCenter	LocalSwitching	FeatureFunctionality		HAI Model
SwitchingCenter	DSXPanel	ALL	Dee Gonzalez	BellSouth DS:
SwitchingCenter	DLCEquipment	ALL	Arlene Johnson	BellSouth DLC
SwitchingCenter	Multiplexer	ALL	Dee Gonzalez	BellSouth Mul
UNEDedTransport	ALL	ALL	Pam Tipton	UNEs
Voice Mail	ALL	ALL	Mike Zier/Kent Davis	Vendor Quote
Wholesale	LD costs	ALL	Bill Blake	Based on BST

BACE Assumptions/Inputs

Line to trunk ratios		Keith Milner	
Call and Feature Usage	Used for many weightings within BACE	Gerry Gardner; John Patterson	
Access Line data	Used for many weightings within BACE	Gerry Gardner	
Loop related weightings	SL1, SL2 wieghtings	Pam Tipton	Inward activity
Loop Conditioning weighting	Loop conditioning weightings	Mike Zier	Obtained infor
Costing Component Inputs	General guidance	Daonne Caldwell	Supervision o
InPlant, Loading and Plant Specific factors	BellSouth factors	Fletcher Horton	
DemandYearForBuild inputs		Keith Milner	

258

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259

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ed to be in balance (weight = 0)

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, page 6-178.1
, page 6-178.2
, page 19-7 (state rates identical)
: (E6.8 for all states) & FCC#1
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REQUEST: Please respond to the surrebuttal testimony of Sprint witness Dickerson at page 8, line 11 to page 11, line 6.

RESPONSE: At page 8, line 11, of Mr. Dickerson's surrebuttal testimony, he purports to attach Exhibits KWD-12, which he claims shows that BACE is illogical. His assertion is without merit.

Mr. Dickerson's exhibit KWD-12 shows the results of four different BACE runs, each with a negative total after-tax NPV (row 38) ranging from approximately -$33.4 million to -$120.4 million. Two of these scenarios even have a negative total pre-tax NPV (columns E and F). It appears is that in each of the runs, all but one of the user adjustable optimization toggles (all but the colo or EELs optimization) was turned off (see the rebuttal testimony of Dr. Staihr, page 17). Essentially, all of these runs represent Mr. Dickerson forcing the modeled CLEC to serve all areas (including those that are not economically profitable to serve). Therefore, he has modeled a total entity in Florida that is certainly not efficient and which is not economically profitable (i.e., it does not cover all of its costs including income taxes and the cost of equity).

Before discussing the BACE allocation of corporate income taxes, it is instructive to consider the full scope of the costs BACE considers. Unlike a standard P&L (profit and loss) statement, the BACE NPV metric of impairment includes not only the cost of the network, operations, taxes and debt interest, but also the cost of equity. Unlike the cost of debt (or other cost items), the cost of equity is not a tax-deductible expense. Therefore, if a BACE run (a hypothetical run) were to reflect a zero after-tax NPV for the state of Florida, this would imply a significant taxable income for the modeled CLEC and a significant corporate income tax liability, in order to generate after-tax profits just sufficient to compensate shareholders for the cost of equity.

There will also be a range of results in which a negative total after-tax NPV will correspond to a positive taxable income and a corporate tax liability. Indeed, even with some range of negative total pre-tax NPV, the CLEC would still generate a positive taxable income and a corporate tax liability (since the pre-tax NPV already includes the cost of equity).

Now consider how taxes are allocated within BACE. Corporate taxes represent a cost associated with the total operations of the CLEC. Corporate income tax

forms are, of course, not filed for each product offered or for each geographic area served. Since corporate income taxes are caused by taxable income (i.e., taxable measures of revenue less tax deductible measures of cost), one form of tax allocation would track some approximation of taxable income. However, taxable income excludes the cost of equity (which is not a tax deductible expense). Therefore, allocating taxes on the basis of taxable income would require that BACE carry this alternate information on taxable income at each and every dimension of the data; a daunting task to say the least. However, the NPV value of every data dimension is available. Since NPV provides an approximation of the "profitability" of a dimension over time, it was selected as a reasonable approach to allocate the corporate taxes.

BACE was designed to allow a user to model an efficient CLEC, a firm that attempts to serve customers profitability and avoids serving unprofitable customers and areas. As such, BACE's allocation of corporate income taxes on the basis of pre-tax NPV as a ratio of (total PV tax)/(total pre-tax NPV) should produce a reasonable assignment of the tax costs for an efficient CLEC. This allocation works as follows.

Consider a hypothetical example in modeling an efficient firm. Total pretax NPV is $10,000,000 and the estimated present value of the taxes is -$7,000, 000 (and total after-tax NPV is $3,000,000). (Note that since taxes are a cost, they have a negative present value, i.e., higher taxes have a greater negative effect on NPV). The tax allocation formula in BACE is (total PV taxes)/(total pre-tax NPV). In this case the tax allocator is -0.7 and each positive pre-tax NPV dollar is reduced by $0.70 to reflect its tax liability. Similarly, each negative pre-tax NPV dollar is assigned a reduction in tax liability of $0.70 (i.e., the -0.7 is multiplied times a negative pre-tax NPV to produce a positive gain to that product or area's NPV or a reduction in its negative NPV by $0.70 on the dollar). In this case, both positive and negative pretax NPV values become smaller (closer to zero) as taxes are applied.

However, in any situation where total post-tax NPV becomes negative, the allocation of taxes essentially becomes moot. That is, if a firm in total has a negative NPV, there is little to be gained by investigating the tax implications on the markets it operates within since it is unlikely the firm would be operating at all. This occurs either in the situations of negative total pre-tax NPV (columns E & F in Mr. Dickerson's KWD-12), or where pre-tax total NPV is positive but smaller than the PV of the tax liability (columns D and G of KWD-12).

Turning to the case of negative total pre-tax NPV identified in column E of KWD-12, Mr. Dickerson has turned off optimizations such that the resulting CLEC (which he forces to serve all areas) has a pre-tax NPV of approximately -$93.2 million. However, the CLEC still earns taxable income in total for some period of its existence sufficient to generate a PV of taxes of approximately -$27.1 million. In this case the resulting tax allocation ratio is approximately 0.29 (= -93.2/-27.1). Note that because of the negative NPV, the allocator has a positive sign, opposite of what one should expect, leading to counter intuitive results in the after-tax NPV calculations.

Now consider the case of a positive total pre-tax NPV in column D of KWD-12 of approximately $31.2 million. Again, since Mr. Dickerson has turned off optimization, the resulting CLEC (which he forces to serve all areas) has a PV of taxes of approximately -$64.7 million, which is greater in absolute value than the total pre-tax NPV. Here the tax allocator is -2.07. Here the sign is correct (negative) but the value is greater than one (in absolute value). Each dollar of positive pre-tax NPV is now assigned -2.07 PV in taxes, and each dollar of negative pre-tax NPV is allocated +2.07 PV in taxes (i.e., a reduction in tax liability). In this circumstance, the signs of after-tax segments or areas will tend to flip when after-tax NPV is calculated.

Certainly, these results do not "demonstrate the BACE Model NPV results to be fatally flawed and unsuitable for the conclusions asserted by BellSouth" as Mr. Dickerson claims at page 11 of his surrebuttal. BellSouth did not advance a model of inefficient CLEC behavior forcing the CLEC to serve economically unprofitable areas, leading to total negative after-tax NPV.

Nor do these results suggest that Mr. Dickerson cannot model (for whatever reason) the inefficient activities of CLEC serving all geographic areas. However, the BACE tax allocator and calculations of after-tax NPV were designed as a convenience for the user. If the user wishes to model inefficient CLEC behavior, then the user could focus on pre-tax values and ignore after-tax NPVs. While the allocation of taxes could be modified in the situation where the NPV of the CLEC is negative, such a modification would be nonsensical because it would negate the purpose of the model, which is to consider the activities of an efficient CLEC.

BellSouth Telecommunications, Inc.
Florida Public Service Commission
Docket No. 030851
Late Filed Deposition Exhibit 4
Allocation of Customers

REQUEST: Please explain the allocation of customers as referred to in Mr. Stegeman's surrebuttal testimony, page 18, line 20-21 and as referred to in Dr. Aron's direct testimony at page 22, lines 6 – 9.

RESPONSE: An errata is planned for Dr. Aron's direct testimony regarding page 22, lines 6-9. The errata is:

> further subdivided into three "terciles" by spend. In each geographic market, we then count up the number of customers that are in each segment and spend level in that geographic market. This creates a profile of the spend characteristics of that market. ~~Each geographic market (that is, UNE zones subdivided by CEAs as discussed in Dr. Pleatsikas's testimony) is then allocated the appropriate number of customers from each segment to reflect the actual economic profile of that market.~~

In response to this request, the process of counting customers by segment and spend level in each geographic market is further explained as follows:

The description of customer characteristics in each market is determined from two sources for customer counts by wire center. The first source is BellSouth's retail billing information system. For each wire center, the model counts the number of BellSouth retail customers by customer type (business and residence), that fall into each line size group for business (SOHO, SME/A, SME/B, SME/C) and spend category (quintiles 1-5 for residence or high, medium or low for business). The second source is the wholesale billing system for resale, UNE-P and UNE-L customers. The wholesale billing system provides CLEC customer counts by wire center and by customer type (business and residence). Since the wholesale billing system did not provide (and generally does not have) customer spend information, the wholesale residence customers in each wire center are identified with the customer spend groups (quintiles) in proportion to the distribution of BellSouth retail residence customers in that wire center. Similarly, the CLEC business customers served out of each wire center are allocated to the line-size and customer-spend groups in that wire center based on the distribution of BellSouth retail business customers in that wire center. The characteristics of each geographic market are simply the aggregate of the characteristics of each wire center in that market.

Errata for the testimony and exhibits of James W. Stegeman

Direct Testimony:

Page 3, line 10: insert the words "Mr. Milner" after the word witnesses;
Page 16, line 12: delete the words "line maintenance"
Page 21, line 17: strike the word "three" and replace it with the words "all but one"
Page 26, line 15: delete the words "line maintenance"
Page 27, lines 6-8: Strike the entire sentence beginning with the word BACE ...
Page 30, lines 7-8: Strike the entire sentence beginning with the word Baseline ...

Revised Exhibit JWS-3, pages 40/41, strike the paragraph under the "ApplyLoadings (Network Cost table only)" heading that originally read:

"The Yes/No flag indicates whether BACE should apply the InPlant and Loadings factors from the InPlantAndLoadings table to the cost record.
Possible entries include Y or N. Typically, costs that are capital expenditures represent material only and will require the application of InPlant and Loading factors and have ApplyLoadings set to "Y"."

And replace it with:

"The Yes/No flag indicates whether BACE should apply the Loadings factors from the InPlantAndLoadings table to the cost record. Possible entries include Y or N. Typically, costs that are capital expenditures represent material only and will require the application of InPlant and Loading factors, the latter of which are applied to those cost elements with the ApplyLoadings toggle set to "Y"."

Surrebuttal Testimony

1. Page 11, line 12: insert the word "substantive" after the second occurrence of the word "any".
2. Page 33: strike lines 1-3.

Legal Department

Nancy B. White
General Counsel – Florida

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5558

March 23, 2004

FPSC-COMMISSION CLERK
04 MAR 24 AM 11:12

Ms. Jane Faurot, RPR
Chief, Office of Hearing Report Services
Florida Public Service Commission
Clerk and Administrative Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 030851-TP

Dear Court Reporter:

Enclosed is a fully executed errata sheet for James Stegeman, deposition taken February 16, 2004 in the above captioned docket.

Thank you for your attention to this matter.

Sincerely,

Nancy White (NB)
Nancy B. White

cc: All Parties of Record (via e-mail)
Marshall M. Criser III
R. Douglas Lackey

532295

ERRATA SHEET

I have read the transcript of my deposition, pages 1 through 254, and hereby subscribe to same, including any corrections and/or amendments listed below.

3-8-04
DATE

(JAMES STEGEMAN)

Page/Line	Correction or Amendment	Reason for Change
18/17	getting fr. Beginning	Misunderstood term
18/18	getting fr. Beginning	Misunderstood term
18/24	getting fr beginning	Misunderstood term
27/2	getting fr beginning	Misunderstood term
42/11	CPE fr. CEA	Misunderstood term
43/13	getting fr. Beginning	Misunderstood term
45/2	DS-1 fr. DSL-1	Misunderstood term
45/8	DS-1 fr. DSL-1	Misunderstood term
45/10	DS-1 fr. DSL-1	Misunderstood term
49/24	getting fr. beginning	Misunderstood term
51/13	G&A fr. GNA	Misunderstood term
51/14	G&A fr. GNA	Misunderstood term
51/18	G&A fr GNA	Misunderstood term
53/12	McKnight fr. Knight	Misunderstood term
53/75	SONET fr. Sonic	Misunderstood term
55/2	weightings fr. Waitings	Misunderstood term
56/13	will fr. Always	Misunderstood term
63/18	counts fr. Accounts	Misunderstood term

Page/Line	Correction or Amendment	Reason for Change
66/24	HAI fr. HA	Misunderstood term
70/8	wirecenters fr. Wires	Misunderstood term
73/8	SQL fr. Sequel	Misunderstood term
74/11	dial fr. Dollar	Misunderstood term
78/21	remote fr. For	Misunderstood term
79/22	delete load	Misunderstood term
93/5	unbiased fr. Biased	Misunderstood term
96/12	track fr. Trunk	Misunderstood term
108/9	SQL fr. Sequel	Misunderstood term
114/6	SQL fr. Sequel	Misunderstood term
129/17	filed it fr. found out	Misunderstood term
129/18	on day 1 fr. Undated	Misunderstood term
135/15	3 fr. 2	Misunderstood term
139/10	ProdFam fr. ProdBand	Misunderstood term
140/17	product fr. Chronic	Misunderstood term
140/18	regulatory fr. Regular	Misunderstood term
140/23	IAS fr. IS	Misunderstood term
141/2	Include fr. Induce	Misunderstood term
145/14	annualized fr. analyzed	Misunderstood term
145/15	annualized fr. Analyze	Misunderstood term
148/17	delete I	Misunderstood term
151/24	G&A fr. GNA	Misunderstood term
153/13	going fr. Coman	Misunderstood term
154/1	perminute of fr. permanent	Misunderstood term
156/2	plant fr. Plan	Misunderstood term
162/4	exe fr. Efc	Misunderstood term
162/7	sections fr. Signals	Misunderstood term
162/7	P fr. Fee	Misunderstood term

Page/Line	Correction or Amendment	Reason for Change
183/12	cageless fr. Cagels	Misunderstood term
183/15	cageless fr. Cagels	Misunderstood term
183/23	cageless fr. Cagels	Misunderstood term
184/16	SQL fr. Sequel	Misunderstood term
184/22	cageless fr. Cagels	Misunderstood term
192/12	Excel fr. a cell	Misunderstood term
192/12	Excel fr. Cell	Misunderstood term
205/21	causative fr. Positive	Misunderstood term
211/17	getting fr. Beginning	Misunderstood term
218/9	power fr. Tower	Misunderstood term
221/17	count fr. Account	Misunderstood term
224/22	Cinergy fr. Synergy	Misunderstood term
226/21	table fr. Cable	Misunderstood term
243/8	overbuild fr. Overbill	Misunderstood term
246/23	counts fr. Accounts	Misunderstood term

EXHIBIT NO. 33

DOCKET NO.: 030851-TP

WITNESS: Gary Tennyson

PARTY: BellSouth

DESCRIPTION:

1. February 6, 2004, Deposition Transcript, page 1

PROFFERING PARTY: STAFF

I.D. # GT-D

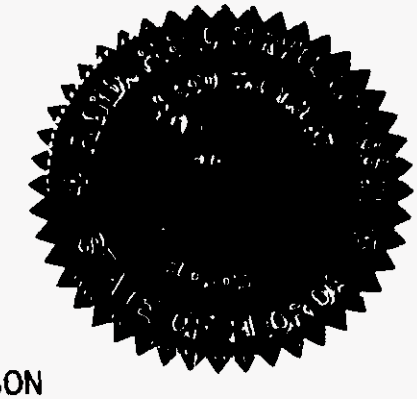
FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 33
COMPANY/ FPSC Staff/BellSouth
WITNESS. GT-D
DATE: 02/24-27/04

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.
_____/



TELEPHONE DEPOSITION OF:	GARY TENNYSON
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
DATE:	Friday, February 6, 2004
TIME:	Commenced at 1:43 p.m. Concluded at 2:19 p.m.
LOCATION:	Gerald L. Gunter Building Room 309 2540 Shumard Oak Boulevard Tallahassee, Florida
REPORTED BY:	MARY ALLEN NEEL, RPR Notary Public, State of Florida at Large

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APPEARANCES CONTINUED:

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S T I P U L A T I O N S

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this case; and that reading and signing was not waived.

IT IS ALSO STIPULATED that any off-the-record conversations are with the consent of the deponent.

PROCEEDINGS

MR. TEITZMAN: I would like to begin this deposition by reading a statement from the Prehearing Officer, Commissioner Davidson.

"Good morning, Counsel. I wish you an" -- or good afternoon, Counsel, in this case. "I wish you an efficient, productive series of depositions. In order to keep the depositions productive, please keep your questions limited to the issues in this case as set forth in the draft rehearing order.

"What is this case about? This case is not about TELRIC. This case is not about UNE pricing. This case is not about access reform and rate rebalancing legislation in Florida, and it is not about the local or long distance prices that customers pay. This case is not about whether your client or you agree or disagree with the FCC's Triennial Review Order or the premises contained therein. So please do not focus on these areas in your questions.

"This case is about a specific impairment analysis that, pursuant to the 1996 Telecommunications Act, this Commission is to conduct according to the issues set forth in the Prehearing Order. Your questions should thus be

appropriately focused.

"While I hope the need to do so does not arise, I will be available to rule on objections that questions are outside the scope of this proceeding."

I would now like to begin with taking appearances.

MS. FOSHEE: Lisa Foshee on behalf of BellSouth. And it's F as in Fred, O, S as in Sam, H as in happy, E as in elephant, E as in elephant.

MR. O'ROARK: De O'Roark with MCI. I can spell that if you need me to.

MR. TEITZMAN: That will not be necessary.

MS. MASTERTON: Susan Masterton representing Sprint.

MS. AZORSKY: Tami Azorsky representing AT&T.

MR. TEITZMAN: Is there anyone else? Okay. Adam Teitzman behalf of the Florida Public Service Commission.

I would like to state for the record that all parties have agreed to the usual stipulations.

Thereupon,

GARY TENNYSON

was called as a witness and, having been first duly sworn by Martha H. Sawzak, a notary public in the State of Alabama, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. TEITZMAN:

Q Good afternoon, Mr. Tennyson.

A Good afternoon.

Q I believe you've been sworn earlier; is that correct?

A Yes, I have.

Q Great. My name is Adam Teitzman. I'm going to be starting off this deposition today. I would like to begin with asking you to state your full name, please.

A My full name is Gary Joe Tennyson, T-e-n-n-y-s-o-n.

Q Could you please list your business address?

A 1884 Data Drive, that's D-a-t-a Drive, Birmingham, Alabama 35244.

Q By whom are you employed?

A BellSouth Telecommunications.

Q And could you please provide a brief synopsis of your educational background?

A I have a Bachelor of Science in electrical engineering and a Master of Science in electrical engineering, and I hold a professional engineering license.

Q Have you previously filed testimony before the Florida Public Service Commission?

A I have not.
Q And did you file testimony in Docket 030851-TP?
A I have filed --
MS. FOSHEE: I will stipulate that that's the docket in which he filed his testimony.
THE WITNESS: Yes. I mean, I filed written testimony.
MR. TEITZMAN: That's sufficient. Thank you.
BY MR. TEITZMAN:
Q Do you have copies of your testimony and exhibits that you filed with you today?
A Yes.
MR. TEITZMAN: This will conclude staff's preliminary questions. Do any parties have questions for this witness?
MR. O'ROARK: MCI does.
MR. TEITZMAN: Are there any other parties? I'm just trying to figure out what order we should go in.
MS. AZORSKY: AT&T does not believe it has any questions.
MR. TEITZMAN: All right. MCI, you may begin.

CROSS-EXAMINATION

BY MR. O'ROARK:
Q Good afternoon, Mr. Tennyson. My name is De

O'Roark, and I represent MCI.

Let me ask you to turn to Exhibit GT-1, please, and let me ask you to take a look at the first page under the heading "Analog to Digital Conversions." Are you there?

A Yes, I am.

Q The couple of paragraphs here explain that the latest dial-up modem protocol allows only for one analog to digital conversion; is that right?

A That's right.

Q And so if you have an analog loop that's copper to the remote terminal and then runs on an IDLC system and goes straight into a digital switch, there's only one analog to digital conversion, and that takes place at the remote terminal; is that right?

A That's right. Barring unforeseen intermediate digital conversions in the interoffice network, that's true.

Q If, on the other hand, you've got a universal DLC or UDLC carrier system that is connecting to the Bell central office where there's a digital switch, there are going to be two additional conversions; is that correct?

A I would -- there will be one additional conversion. There will be two total conversions.

Q Well, let me walk through it with you and make sure I understand. There will be an analog to digital conversion at the remote terminal. Are we together so far?

A Yes, we are.

Q All right. Then when you get to the BellSouth central office, you're going to have a digital to analog conversion. What is it? A COT?

A Yes.

Q And that's what I was counting as the second conversion. And then there's going to be an analog to digital conversion so that the signal can go to the switch; is that right?

A That's right. But recall that two of those are analog to digital and one is digital to analog, so I was strictly answering the question. You know, there's -- depending on the order of transmission, there's two types of conversion or one type of conversion, and one type of conversion I mean. But, yes, there are three total conversions; that's right.

Q Is there one type of conversion that matters and the other that doesn't?

A Well, generally speaking, for V.90 modems, it's the conversions going from the server unit, which is right above the ISP, down to the client modem, and these

conversions take place in the scenario you outlined at the digital switch line card and at the RT line card. There are two such conversions.

Q What I was trying to get at, is it the A to D conversion that is the problem, or the D to A, or are they both a problem?

A My understanding is the D to A conversions.

Q Then I'm a little confused, because in the UDLC scenario we're talking about, we've got two A to D conversions and one D to A conversion; right?

A There's --

Q I don't want to make too much of this.

A I think we can -- I mean, I was answering your question very specifically. But in general, if we label all conversions -- the direction I'm going is, there's two conversions. There's one either in the line card at the switch or in the line card at the COT, depending on which direction of transmission you're talking about, and then again at the line card in the remote terminal. But, yes, there are two. There's the -- I think --

Q Well, let me see if I can help, because what we're driving at here is that the three conversions, if we can talk about it in those terms, that take place are what mean that you can't use the latest modem protocol; is that right?

A That's right.

Q So instead of using the V.90 or V.92 protocol, you go down to the V.34 protocol?

A That's right.

Q And so the bottom line is, if you're on a UDLC system that is going to a digital switch, your modem speed is going to be lower?

A That's right.

Q And I gather that's why ITC^DeltaCom came to you and asked you to explore a way to get around that problem.

A Yes.

Q And then if I can ask you to turn to page 11, line 1, of your testimony -- excuse me, line 17. Are you there?

A Yes.

Q Your initial meeting, I gather, with ITC^DeltaCom was January 13, 2003?

A Yes.

Q When did the actual trial take place?

A I'm not -- I don't know the specific date of the trial right at the present time.

Q Can you give me an approximation, summer, fall?

A Probably a few months after January.

Q And when was the white paper done?

A At the close of the trial, which was probably in the spring of 2003. Again, I didn't bring that -- I didn't research -- I didn't anticipate this question, and I don't have those dates.

Q That's okay, Mr. Tennyson. If you don't know an answer, you can simply say that.

A Okay. I don't. I don't know.

Q Now, what the trial concerned was what is known as a side-door or hairpin arrangement; is that correct?

A Yes.

Q And that's something that can be done on any -- well, can it be done on any IDLC system?

A No. To my knowledge, no.

Q Let me ask this. It's not something that's limited to just GR-303 switches, is it?

A No, it's not.

Q It can also be used with TR-008 switches?

A Yes.

Q Explain further for me, please, the switches where hairpinning is possible and those where it's not.

A In the DMS100, which is the switch that was investigated here, there's certain switch equipment, switch peripherals that are described here. These were made at such a time that they did not anticipate GR-303, and so they don't have GR-303 capability.

Furthermore, there's a third type of IDLC that's proprietary to Northern Telecom that could not be hairpinned as well. I think I made reference to those in this paper.

Q Let me see if I understand what you told me. The DMS100 that you tested is on the TR-008 protocol?

A Yes.

Q And that, you concluded, is a switch that is not capable of hairpinning?

A No. I did not conclude that it's not capable of hairpinning. It is capable of hairpinning. When we say hairpinning here, we're talking about simply looping back out of the same peripheral a particular DS-0. It is capable of doing that.

Q Okay. Are there any switch types that you know of that are not capable of hairpinning?

A I'm not aware of any.

Q Now, hairpinning involves accessing the customer's line from the digital switch and routing the line to a CLEC; is that right?

A I was using the term in the more general sense of simply looping it back out to another digital interface, whether that digital interface is ultimately connected to a CLEC or something else, to someone else or to another piece of equipment. I was using the term

"hairpinning" to mean it's capable of looping a DS-0 bitstream back to another digital interface.

Q So with hairpinning, we've got the signal actually going into the digital switch and then coming out the side-door and being cross-connected to another interface; is that right?

A Yes.

Q And I gather that the signal can either come out the side-door as DS-1 or DS-0?

A In the implementations with which I'm familiar, it only comes out DS-1. The digital interface is DS-1. Embedded in that DS-1 is at least one DS-0 that has been hairpinned.

Q In other words, you're familiar with it coming out the side-door digital and not analog?

A Yes.

Q And in this case, the hairpinning was intended to involve a DS-1 coming out the side-door going to a DCS or DAC that would then be cross-connected to ITC^DeltaCom?

A Yes.

Q And I apologize. That was my phone.

And because it comes out the side-door in digital form, you would avoid the problem of that additional digital to analog conversion and facilitate

higher modem speeds?

A That was what we intended to see -- that was the focus of the trial, yes, to see if we could do such a thing.

Q And you tested two lines; is that correct?

A Yes.

Q Were they both in Alabama?

A Yes.

Q And you've already told me they both involved a Nortel DMS switch?

A Yes.

Q Has BellSouth tested any other switch types in its network to check on this hairpinning capability?

A Tests in the sense of using it for this particular application, or just testing in the sense of hairpinning in general? We've tested several switch types for hairpinning in general, but as far as I know, this is the only test we've done cooperatively with a competitive carrier for this application.

Q Let's talk about this application then, because it involves the functionality of getting specific customer lines to the CLEC, which I gather is kind of the tricky part.

A Yes.

Q All right. Have you tested switches other than

the Nortel DMS100 switch for that particular capability?

A No.

Q What other kinds of switches does BellSouth have in its network? I'm talking now about local switches in central offices, switch types.

A Of the digital switches, we also have the Lucent 5ESS and the Siemens EWSD. Of course, we also have some analog switches to which this question would not apply.

Q Thank you.

MR. TEITZMAN: This is Adam Teitzman. I need to interrupt briefly. I heard that someone just added to the line, and I need to check. Could you please identify yourself?

MR. CRUZ-BUSTILLO: Jorge Cruz-Bustillo, Supra Telecom.

MR. TEITZMAN: Thank you. That was all.

MR. CRUZ-BUSTILLO: I'm alone.

MR. TEITZMAN: That's why I was checking.

BY MR. O'ROARK:

Q So BellSouth does not know whether this specific hairpinning application might be possible on its Lucent and Siemens switches?

A As I mentioned earlier, the hairpinning is available on these switch types, but we did not

specifically test this particular application on other switch types.

Q So you don't know whether it would work or not, do you?

A I don't know of any reason why the conclusions we drew here would be any different, but we have not done a cooperative trial with other switch types, no.

Q Can you give us some idea of the breakdown of these switch types in percentage terms in Florida, or generally if you don't know Florida specifically?

A I cannot. I don't have that data.

Q What IDLC system was involved in the test?

A This was a Lucent SLC Series 5.

MS. FOSHEE: Mr. Tennyson, if you can spell that. I think SLC is --

THE WITNESS: That may actually be a trade name. It's S-L-C, all upper case. This is, I think, a trade name of Lucent, a Lucent SLC Series 5.

BY MR. O'ROARK:

Q Does BellSouth have other IDLC systems in its network?

A Yes.

Q Can you give me the other types that it has?

A We have several. I can list several, but I'm

afraid that off the cuff here, I run the risk of missing one and being incomplete.

Q That's fine, Mr. Tennyson. First of all, about how many do you know of, ballpark?

A Four or five.

Q Okay. Can you give me the ones that you can recall off the top of your head?

A We have a Marconi system. We have an Alcatel Litespan system.

Q I didn't quite hear that.

A I'm sorry. Alcatel Litespan.

MS. FOSHEE: Mr. Tennyson, you might need to spell that one.

THE WITNESS: Alcatel is A-l-c-a-t-e-l, and they have a product named Litespan, L-i-t-e-s-p-a-n.

BY MR. O'ROARK:

Q Thank you.

A There's actually two variants of the Marconi system that I mentioned earlier. There's the SLC Series 5 that has been mentioned here. We also have integrated a digital loop carrier that involves an earlier predecessor of that, SLC-96. There's a Fujitsu FDLC. And again, there may be others.

Q Those are the ones that you can recall now?

A Yes.

MR. TEITZMAN: This is Adam Teitzman. I'm sorry. I do need to interrupt again. I do apologize. I heard someone add to the call. Could you please identify yourself?

MS. MCNULTY: Yes. Sorry for interrupting. This is Donna McNulty, just to listen.

MR. TEITZMAN: Okay. Thank you, Donna. I'm sorry.

BY MR. O'ROARK:

Q Mr. Tennyson, do you have any idea how many DLC systems are out there on the market?

A No.

Q So you tested the Lucent SLC Series 5, but I gather have not tested the other four for this CLEC application?

A Not in the -- you're right. You're right.

Q Now, you also mentioned that the two loops that you tested were in Mode II, which involves concentration?

A Yes.

Q How many modes are there? I assume there's a Mode I, for example.

A There is a Mode I, and there's a Mode II. I believe that for this particular kind of equipment, there were three modes.

Q And does Mode I have no concentration?
A That's right.
Q And what's Mode III?
A Mode III also has no concentration, but the channel counting sequence is different so that it can be more easily integrated into special services circuits.
Q And you didn't test loops on either Mode I or Mode III?
A No.
Q Mr. Tennyson, are you familiar at all with Mr. Ainsworth's testimony in this case?
A I'm a little familiar with some aspects of that testimony.
Q And I know you are in Alabama, are you not?
A I am.
Q Do you have access to Mr. Ainsworth's testimony? If not, I'll just read you some of it.
A Perhaps it would be best if you read it.
MR. O'ROARK: Okay. Counsel, I'm referring to page 27 of Mr. Ainsworth's direct testimony.
MS. FOSHEE: I'll have to accept it subject to check, because I don't have it.
MR. O'ROARK: Okay.
BY MR. O'ROARK:
Q Okay. I'm referring to -- he refers to a

number of alternatives for IDLC, and I'm looking the specifically at Alternative 5, and Mr. Ainsworth describes that as follows: "When IDLC terminates at a switch peripheral that is capable of serving 'side-door/hairpin' capabilities, BellSouth will utilize this switch functionality. The loop will remain terminated directly into the switch while the 'side-door/hairpin' capabilities allow the loop to be provided individually to the requesting CLEC." That's the end of his description of Alternative 5.

I guess my question to you, Mr. Tennyson, is whether, based on your knowledge, that alternative is something that BellSouth is actually prepared to provide to CLECs.

A Yes.

Q Okay. And can you explain, please?

A Alternative 5 differs from the trial. Alternative 5 generally involves, or as far as I know, always involves a conversion to analog between the hairpinned interface and the CLEC so that the handoff is analog. That's not the arrangement that we trialed in this trial.

Q And help me with that a bit, Mr. Tennyson, because when we had talked about hairpinning before, you'll recall that we had talked about digital signals

coming out the side-door. Is that what we're still talking about in Alternative 5? I assume since it's a digital switch that a digital signal has got to be coming out of the side-door.

A Yes.

Q All right. How does it get converted from digital to analog?

A In a channel bank in the central office.

Q That channel bank does the digital to analog conversion?

A Yes.

Q And then hands off the signal to the CLEC at the analog level?

A Yes.

Q So that in Alternative 5, we're back to the problem of having another conversion that would impair modem speed.

A Yes, that's my understanding.

Q I'm going to ask you the same question about Alternative 6. I'll read that one to you as well. It's a little shorter. This again is from Mr. Ainsworth's testimony, direct testimony, at page 27, beginning at line 7. He describes Alternative 6 as follows: "If a given IDLC system is not served by a switch peripheral that is capable of side-door/hairpin functionality,

BellSouth will move the IDLC system to switch peripheral equipment that is side-door capable." Are you familiar with that alternative?

A Yes.

Q Can you explain to me what would be happening here? We're talking about an additional switch that does not have the side-door capability, and somehow that functionality would be added. How is that done?

A Well, it's the switch -- excuse me. My phone is ringing.

The switch peripheral itself, there are several switch peripherals on a switch, each of which can accommodate digital lines coming in from DLC systems. And if the vintage of the switch peripheral precludes a hairpin arrangement, or if all the digital ports on that particular peripheral are full, then one couldn't do a hairpin in that switch peripheral. But there are other switch peripherals in the office that perhaps could do a hairpin, and so the IDLC system would be moved to one of those switch peripherals, and then we would fall back to Alternative 5, which is that we would do the hairpinning.

Q And with Alternative 6, I gather you're still planning to go to a channel bank and hand off the signal to the CLEC at the analog level?

A Yes.

Q One question about GR-303, Mr. Tennyson. You take issue with Mr. Webber's testimony on that. But I did want to make clear, it is physically possible in BellSouth's GR-303 switches to transmit the signal to a CLEC on a digital basis, is it not?

A There are -- we have two different types of GR-303 IDLC systems. One of those types of systems has got more than one GR-303 interface group, and the other type does not. Of the type that does have more than one, it is physically possible, yes, to dedicate one of those GR-303 interface groups to a CLEC and have digital transmission so the 90 modems could work.

Q Can you give us a sense for the proportion of the GR-303 switches you have with one interface group versus four?

A I cannot. I don't have any -- I don't have that data in front of me.

Q Even with the GR-303 switches that have one interface group, if there were only one CLEC that were interested, you could dedicate that interface group to that CLEC, couldn't you?

A Well, the one interface group is used to haul traffic back, would be necessary to haul any traffic back. So if BellSouth had any customers served by that

DLC site -- by the way, GR-303 refers to the DLC system. If BellSouth had any customers served by that DLC site, then that interface group would have to be dedicated to those. So as far as we know, there's only one way of accommodating this problem, and that is to have multiple interface groups, and one of our vendors does provide a product with multiple interface groups.

Q Which vendor is that?

A Again, I know who the two are, and this is getting outside my area of expertise, and I don't know which one is which.

Q And thank you for the clarification, by the way, that the GR-303 applies to the DLC system and not to the digital switch.

A Right.

Q I'm just about finished, Mr. Tennyson, but let me make sure I understand. Where there's one interface group, you said it wouldn't be possible to dedicate that interface group to a CLEC because there might be other traffic that would have to be handled, but I confess, I didn't understand your response. Just take a situation where there was only one CLEC that was interested in serving customers from that wire center. Why is it that the interface group couldn't be dedicated to that CLEC?

A My assumption here is that in addition to the

one CLEC providing service out of that DLC system, that BellSouth is also providing service out of that DLC system. Given that BellSouth is providing service out of that DLC system, this GR-303 interface group can only be -- I'll use the term "pointed to." It can only be assigned to one carrier, can only go to one point, and so that point in this case would be BellSouth.

Q Is it possible to share, for two carriers to share an interface group?

A I'm not aware of such an arrangement.

Q You don't know whether it's possible or not?

A My presumption is that it's not possible, because my research into this has suggested it's not possible. Presumably one could come up with things like digital cross-connect systems and grooming and that sort of thing to allow the sharing of more than one interface group, but this is getting outside of using the GR-303 functionality that was touted.

Q What do you mean, it's getting outside the GR-303 functionality?

A Some of the testimony from Mr. Webber mentioned the use of GR-303 interface groups.

Q Yes.

A And as far as I know, only using GR-303 interface groups, they have to be pointed to one

carrier. But if we get outside of that GR-303 functionality and involve the use of digital cross-connect systems and other things, there may be a way to share an interface group. I'm not aware of such an arrangement. But within the scope of GR-303 interface groups, I believe that they have to be pointed to one carrier.

MR. O'ROARK: Okay. Mr. Tennyson. Thank you. That's all the questions I have.

MR. TEITZMAN: This is Adam Teitzman with the Commission. Do any other parties on the line have questions for this witness?

MS. AZORSKY: AT&T does not.

MR. TEITZMAN: Hearing none, I would state this concludes the deposition. Thank you very much, Mr. Tennyson.

(Deposition concluded at 2:19 p.m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, MARY ALLEN NEEL, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter transcribed under my supervision; and that the foregoing pages numbered 1 through 29 are a true and correct transcription of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, or relative or employee of such attorney or counsel, or financially interested in the action.

DATED THIS 10th day of January, 2004.

MARY ALLEN NEEL, RPR
2894-A Remington Green Lane
Tallahassee, Florida 32308
(850) 878-2221

STATE OF ALABAMA)
)
COUNTY OF JEFFERSON)

CERTIFICATE OF OATH

I, the undersigned authority, certify that Gary J. Tennyson personally appeared before me at BTAC 1884 Data Dr, Birmingham, AL and swore or attested to being the witness deposed via telephone on February 6, 2004 and to have responded truthfully in the matter.

WITNESS my hand and official seal in the City of Birmingham, County of Jefferson, State of ALABAMA, this 6th Day of February, 2004.

Martha A. Sawyer
Notary Public

State of ALABAMA

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: May 19, 2004
BONDED THRU NOTARY PUBLIC UNDERWRITERS

Personally known _____ OR Produced identification X.

Type of identification produced BellSouth ID.

FLORIDA PUBLIC SERVICE COMMISSION

EXHIBIT NO. 34

DOCKET NO.: 030851-TP

WITNESS: Ronald Pate

PARTY: BellSouth

DESCRIPTION:

1. February 6, 2004, Deposition Transcript, page 1

PROFFERING PARTY: STAFF

I.D. # RMP-D

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 34
COMPANY/ FPSC Staff/ BellSouth
WITNESS: RMP-D
DATE: 02/24-27/04

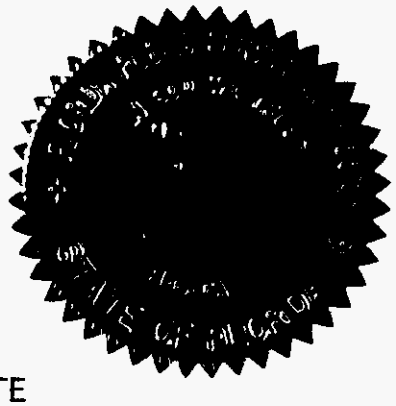
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.

_____/



TELEPHONE DEPOSITION OF:	RONALD PATE
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
DATE:	Friday, February 6, 2004
TIME:	Commenced at 11:21 a.m. Concluded at 12:48 p.m.
LOCATION:	Gerald L. Gunter Building Room 309 2540 Shumard Oak Boulevard Tallahassee, Florida
REPORTED BY:	MARY ALLEN NEEL, RPR Notary Public, State of Florida at Large

ACCURATE STENOTYPE REPORTERS, INC.
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APPEARANCES:

TAMI L. AZORSKY, ESQUIRE, McKenna, Long & Aldridge, LLP, 1900 K Street, Washington, D.C., 20067, appearing on behalf of AT&T Communications of the Southern States, LLC.

LISA FOSHEE, ESQUIRE, ESQUIRE, BellSouth Telecommunications, Inc., c/o Nancy H. Sims, 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301-1566, appearing on behalf of BellSouth Telecommunications, Inc.

MATTHEW FEIL, ESQUIRE, FDN Communications, 390 North Orange Avenue, Suite 2000, Orlando, Florida 32801-1640, appearing on behalf of FDN Communications.

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APPEARANCES CONTINUED:

LEIGH HYER, c/o Verizon Florida, Inc., P.O. Box 110, FLTC0007, Tampa, Florida 33601-0110, appearing on behalf of Verizon Florida Inc.

JASON ROJAS, ESQUIRE, FPSC General Counsel's Office, 240 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, appearing on behalf of the Commission Staff.

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PROCEEDINGS

MR. ROJAS: We're going to begin with our basic stipulations. It is stipulated that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this cause; and that reading and signing was not waived. It is also stipulated that any off-the-record conversations are with the consent of the deponent.

In addition, no additional witnesses should be taking part in this deposition, and that is due to Commissioner Davidson's ruling, as well as Rule 28-106.305.

Commissioner Davidson has asked that we read this announcement into the record. This is a message from him.

"Good morning, Counsel. I wish you an efficient, productive series of depositions. In order to keep the depositions productive, please keep your questions limited to the issues in this case as set forth in the draft prehearing order.

"What is this case not about? This case is not about TELRIC. This case is not about UNE pricing. This case is not about access reform and rate

rebalancing legislation in Florida, and it is not about the local or long distance prices that customers pay. This case is not about whether your client or you agree or disagree with the FCC's Triennial Review Or the premises contained therein, so please do not focus on those areas in your questions.

"This case is about a specific impairment analysis that, pursuant to the 1996 Telecommunications Act, this Commission is to conduct according to the issues set forth in the prehearing order. Your questions thus be appropriately focused.

"While I hope the need to do so does not arise, I will be available to rule on objections that questions are outside the scope of this proceeding."

Again, that was a message from Commissioner Davidson.

Mr. Pate, are you ready to begin?

THE WITNESS: Yes, I am.

MR. ROJAS: I just want to let you know that if you need me to restate a question or do not understand a question, if you'll just let me know, I will either restate the question or try to rephrase it.

MS. MCNULTY: Jason, were you going to take appearances?

MR. ROJAS: Yes. Let me finish this up.

I will also ask that when you answer, if you'll begin your answer with a yes or no where appropriate and then go into an explanation.

THE WITNESS: I understand.

MR. ROJAS: Having said that, we'll do appearances now and get started.

MS. FOSHEE: This is Lisa Foshee representing BellSouth.

MR. O'ROARK: De O'Roark with MCI.

MS. MASTERTON: Susan Masterton representing Sprint.

MR. FEIL: Matt Feil with FDN.

MS. AZORSKY: Tami Azorsky, AT&T.

MR. ROJAS: Is that everyone?

MS. HYER: I'm sorry. Leigh Hyer from Verizon.

MR. ROJAS: And, parties, if you happen to interject, please state your name before your statement to help the court reporter out.

Having said that, we're going to begin, Mr. Pate.

THE WITNESS: I'm ready.

Thereupon,

RONALD PATE

was called as a witness and, having been first duly sworn by Lynn Barclay, a notary public in the State of Georgia, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ROJAS:

Q Exhibit RMP-2 is the UNE-P to UNE-L CLEC information package. Page 6 specifies the time specific/order coordination is not applicable on a bulk request. Why not?

A Give me one second to get that page, please.

Q No problem.

A You're referring to the first line on that page where it says, "Order Coordination-Time Specific option is not applicable for a bulk request"?

Q Yes.

A Okay. I think that's a question, frankly, better asked of Mr. Ainsworth. Here, when you're talking about the order coordination issues, you're talking about the provisioning aspect of this overall process, and he's going to be the more qualified person to speak to that.

Q Okay. Thank you.

Now, page 7 of the same document identifies the steps for project notification placing a bulk request.

A Yes.

Q These steps are necessary to prior to any provisioning work being performed for a bulk migration; is that correct?

A Let me refresh myself with the steps.

Yes. All these really get down to -- I'm trying to say that at a certain point in time, I think the steps actually are during the provisioning mode, but most of them are either pre-order or actually submission of the order.

Q These steps are necessary in addition to all steps associated with an individual loop migration; is that correct?

A If you're using this bulk process, the answer is yes. You can do, you know, an individual migration by itself where you're not using the project management aspect that's intended with this bulk process.

Q Can you please explain why the project notification process is necessary?

A The project notification being obtainment of the BOPI from the project manager? Is that what you're asking me?

Q Yes, I am.

A Well, this whole concept takes consideration to managing masses of migrations, so from that standpoint,

it's taking just the logical approach that you have to coordinate all the resources associated with the provisioning of that, and that's what the main emphasis of that is all about. Mr. Ainsworth could probably get into more details for you, because we're talking about the provisioning side. You've got to take a look at your resources and make sure you have all the resources necessary in place to handle it in the central office, as well as in the field that's applicable that Mr. Harvey could speak to. So that's why the provisioning aspect of this is project managed to ensure all that coordination is in place.

Q How many days does the process shown on page 7 of the CLEC information package take?

A How many days for what?

Q The entire process.

A Give me a second to look through it and see.

I don't see the days on page 7. I think they're spelled out somewhere else in here, because you've got an interval associated with the submission, and then you have a submission to get the project managed aspect done from a pre-ordering standpoint.

Q We don't see the days listed on page 7 either, and we're trying to get an understanding of how long the process takes.

A Well, I saw the detail somewhere in this package. I can just recite it to you from what I know off the top of my head while I'm fumbling through it.

Well, if you turn to page 10 of that same document, it has the days spelled out right there, and you can see, depending on how many you're migrating, there's a lead time for the project manager -- let's take the first one across the top. I'm looking at the table on page 10 of the CLEC information package, and the first one is where you have a maximum up to 99.

So the process at this point in time has seven business days associated for you inputting that information where the project manager works and coordinates with the network, and it turns around and gives you a due date. Then on top of that, once they send that package back to you and you have at that point in time your project number associated with this, you have three business days as a CLEC to get the actual bulk migration submitted. Then you have a 14-day interval associated with the actual provisioning of the process, so you can see 24 business days max from beginning to end.

Now, I also know that Mr. Ainsworth, he talks about this in his surrebuttal testimony, and I think specifically that 14-day interval is being reduced, and

I don't recall what it's being reduced to. For some reason eight days comes to mind, but you'll have to ask him. And that will be coming out in the new package. If I remember correctly, we'll have that out February 18th.

Q If you'll bear me for just a moment.

What is the average order completion for an individual loop migration?

A I don't know. I don't have that data.

Q Who would have that information?

A Well, the way you asked it, it's probably more of a measurement question, so Mr. Varner may have some information on it. Mr. Ainsworth may know something about it as well.

Q Thank you. Now, the bulk migration of 99 lines, that roughly equates to a little over one month prior notification. Please explain why BellSouth needs this much time.

A Let me make sure I understand your question. You're referring to the overall process being 24 business days, and why a month is required to conduct that process? Is that the question?

Q Yes.

A I'll give you my answer, which is similar to the answer I gave you earlier. And Mr. Ainsworth is

probably the better person -- I keep referring to him.

But the main part around this bulk process is on the provisioning side, and it really gets to taking a look from a project management standpoint to make sure you have all the resources in place to be able to deliver that mass migration from, in this case, a UNE-P to a UNE loop. And that takes some requirement time for the project manager to get the request in, assess what that request is, and do that coordination with the field forces, and then once you get the package actually submitted, to get that package so that the service orders are all in place and manage it to actual completion. So the two biggest components, as you can see from that, is that seven business days and 14 business days, and that's what that's all wrapped around.

The three business days, it's up to the individual CLEC as to how quick they get that package in. I guess they could turn it around more quickly and potentially have the opportunity to get the due dates -- based on the project manager's part of that, have the opportunity to cut some time off it.

Q Could you address why it seems that the bulk migration due date standard intervals are generally longer than the individual loop migration intervals?

A Yes. It gets around to the same thing I was just trying to discuss. It's putting a common-sense approach to managing all the resources associated with migration of a mass amount of lines. On an individual basis, we actually would have a problem if you inundated us on an individual basis, because it's still going to be a coordination issue to make sure you have the necessary people in the central office, as well as the field forces, for any aspects associated with provisioning this. So that's why we're emphasizing that there needs to be a common-sense application to project managing this. And it's all based upon that project management up front, as well as the project management associated with the provisioning of it to have the resources in place.

Q Thank you. Does BellSouth currently employ a procedure to switch customers back to UNE-P if a hot cut fails?

A There is a procedure there. That's one of the things that I think Mr. Ainsworth talks about in his surrebuttal, that they have a process in place, because you're dealing more with the provisioning side, which is getting beyond my expertise. But they have a process in place that if something doesn't go correct, that we could reinstate it before that migration is started.

Q I would like to refer you now to page 42 of Van de Water's direct testimony. And let me know when you're there, and I'll direct you to the proper lines.

A I don't have that.

MS. FOSHEE: Hang on. We'll get it for you. Hang on one second.

Okay. He has it now, and he's finding the right page.

THE WITNESS: Okay. I'm there.

BY MR. ROJAS:

Q I'm going to refer specifically to lines 4 through 21. Van de Water's direct testimony claims that BellSouth does not have spare copper loop facilities or UDLE system to move 18% of lines off the IDLC system. How would you respond to that?

A The way I'm going to respond is that you're getting into an area beyond my expertise. That's not what my testimony is about. My focus is the electronic systems to get the order submitted. Issues around facilities, what's in place, you know, are for Mr. Ainsworth. I'm going to keep referring to him, and perhaps even Mr. Milner on that. But that's beyond my expertise at this point.

Q Would you be able to determine if that was a true or false statement if I read it to you again?

A No, I would not. Once again, you're beyond my area of expertise.

Q Okay. Thank you. The loop migration due date standard intervals are lengthier than UNE-P intervals. Could you explain that?

A Let me get clarification. You're talking about the loop migration intervals associated with the bulk migration process?

Q Yes.

A It's going to be the same answer that I've given to you before. It's all around the coordination of the resources for handling the volume we're talking about with the bulk migration, coordination of the central office and field resources. Once again, that requires someone to project manage it, and by definition of project management, we're talking about having the resources in place so that you have that smooth transition.

Q Would your answer be the same if it was anything other than bulk migration?

MS. FOSHEE: Jason, this is Lisa Foshee. I just want to be sure that we understand the question. Are you asking about the interval for provisioning a stand-alone loop versus the interval for provisioning a UNE-P generally, or are you

asking specifically with respect to the batch process? Because I think the latter would probably be Mr. Varner, but Mr. Pate can certainly answer if he's --

MR. ROJAS: The first part was for the batch process, and the latter question was to stand-alone.

A So you're asking me to answer the question as to stand-alone; is that correct?

Q Yes.

A Could you just restate the question to make sure I have it properly in my mind?

Q Give me one moment.

The loop migration due date standard intervals are lengthier than UNE-P intervals. Could you explain? And that's in regards to stand-alone.

A I could explain based -- two things come to mind. And like Ms. Foshee says, Mr. Varner may have some additional input here too.

When you talk about loop migration, I think of two different types of loop. I think of a stand-alone loop without LNP, and then I think of a loop with LNP. For a stand-alone loop, assuming facilities are available, the intervals should be close. Now, I don't know whether they are or not, but they should be close. I really don't know.

A UNE-P, as you can appreciate, typically you're not doing anything from a facilities standpoint. The facilities are in place. So there could be some provisioning aspects that are beyond my expertise that I'm not aware of that could impact that interval, as opposed to when you provision an individual loop.

What I do know, though, that comes to mind for LNP, with LNP, there's all sorts of other things that get involved just in the process of porting the number. So when you're talking about a loop with LNP and you have to go through the whole process of porting that number and going through NPAC, there are some industry standards set up for the number of days for that process, and that has to go into consideration for the overall time interval.

Q Thank you. I would like to direct you now to paragraph 512 of the TRO, and just let me know when you're there.

A My attorney is going to have to get it for me.

MS. FOSHEE: Okay. He's got it.

THE WITNESS: I'm getting to that page. Give me a second. You said paragraph 512?

MR. ROJAS: Yes, sir.

THE WITNESS: Okay. I'm there.

BY MR. ROJAS:

Q I'm going to refer you to footnote 1574, if you could read that and let me know when you're ready.

A I'm ready.

Q BellSouth has stated a position that it does not believe loop performance should be compared to migration from retail to UNE-P. How would you interpret the footnote 1574 to paragraph 512 of the TRO, which states that the Commission review is necessary to ensure that loops can be transferred as promptly and efficiently as an ILEC can transfer customers using unbundled local circuit switching?

A Okay. That was a mouthful, so I'm going to ask you to read that one to me again, please.

Q You got it. How would you interpret the footnote which states that the Commission review is necessary to ensure that loops can be transferred as promptly and efficiently as an ILEC can transfer customers using unbundled local circuit switching?

MS. FOSHEE: And I'm going to object to the question to the extent it calls for a legal conclusion. But, Mr. Pate, if you have an opinion on that footnote, feel free to answer.

A You weren't finished putting the question again to me, were you?

Q Yes, I was, but I can read it one more time.

A Please do, because my train of thought -- one more time. Thank you.

Q How would you interpret the footnote previously stated that states the Commission review is necessary to ensure that loops can be transferred as promptly and efficiently as an ILEC can transfer customers using unbundled local circuit switching?

A Well, the way I interpret the footnote is, it says that in the Commission making that determination, it says to determine whether granular evidence contradicts our finding that the hot cut process imposes an operational barrier, it says the Commission should review evidence of consistently reliable performance in the areas of timeliness and quality and maintenance and repair. So my interpretation is that you should look at what information is provided that shows that the hot cut process performs in such a way.

Q Mr. Pate, I would like to refer you to your rebuttal testimony right now, if you would turn to page 2. And just let me know when you're ready to go.

A I'm there.

Q Now, on page 2 of your rebuttal, you reiterate that the BellSouth process proposed for the docket is in fact an ordering process; is that correct?

A I think I reiterate down at the bottom that the

BellSouth process is in fact an ordering process that allows the CLECs to submit the equivalent of multiple LSRs in a single transaction. So it's an ordering process with project managed provisioning.

Q The process you have put forth does not include any difference on the provisioning side, because the provisioning process is exactly the same, regardless of whether the loop was ordered via the batch process or the individual process; is that correct?

A That's a yes/no answer. The provisioning of the individual loop is the same. But by the fact that you are doing a mass number of loops, then there's a need to make sure you have coordination in place, you know, that BellSouth has its resources to be able to handle that mass. So from that aspect they're the same, but by the fact that you've put a quantification of a mass number, it does impact the provisioning process itself.

Q Thank you. BellSouth has not proposed any operational or economic efficiency on the provisioning portion of the hot cut process; is that correct?

A I can't answer that. You're getting once again into Mr. Ainsworth's area of expertise. Provisioning is not my area.

Q Okay. What are the specific operational and

economic efficiencies that are derived from the hot cut process that BellSouth has proposed?

A Well, I can speak to the ordering part of that, and Mr. Ainsworth would have to speak to the provisioning aspect. But the ordering, actually getting that order in the door, as we described here, we put a process in place where you can submit 99 accounts on one single bulk transaction.

Now, what that means for a CLEC that would be using that is that there's going to be far fewer data entries that they would have to submit that transaction, but it could be a significant savings. I'm trying to remember off the top of my head. I think there are 17 or 18 required fields where you would have to enter each individual LSR if you submitted 99 individual ones. What this process does, it allows you to populate this bulk transaction only one time for up to 99 accounts with those required fields. And then there's optional and conditional fields, depending on what type of transaction you're doing, that equates up to around 36 total fields that could be entered that way, that you populate one time. And then you have to populate some additional individual account information. So that savings there could be significant from a CLEC's perspective on just what it would require from the entry

of that transaction.

Q Does BellSouth realize any of these efficiencies?

A Well, you could -- from a systems standpoint, which is my area of expertise, we realize efficiencies from that conversion of that individual LSR, that at least all that individual information was the same and passed the edits. So there's an efficiency from that standpoint. But otherwise, from just -- I'm speaking solely from order submission. That's your main efficiency. We get more orders in the door from a machine processing standpoint with less machine processing. And those that fall out and individual transactions, it's going to follow the same process once it gets to the individual LSR stage.

Q Thank you. Is BellSouth willing to collaborate with CLECs on an ongoing basis to make further changes to any hot cut process that may be ordered by this Commission?

A Well, I heard two things there, so let me make sure I understand your question. If you order us to do something, there's not any collaboration. We've got to do what you've ordered us to do.

Now, the other aspect of what I heard you say was would we collaborate for improvements for the CLECs,

and we're willing to consider any type of improvements that they wish. As a matter of fact, right now I guess the best avenue to put an improvement request in is through the Change Control Process, submit what changes you would like to have us consider.

Q Mr. Pate, I'm going to refer you now to your surrebuttal testimony, if you could just pull that out and let me know when you're ready.

A I've got all my testimony in front of me, so just tell me the page.

Q Page 2.

A I'm there.

Q On page 2 you state it would be more flexible to offer coordinated and uncoordinated coordinated hot cuts as opposed to limiting them to weekends.

A Have you got the line so I can find that quickly?

Q Give me one second.

A I'm looking at the same time.

I've found it down on line 20, but give me a second to refresh myself with it.

I've read it now. Can you ask me the question again, please?

Q Okay. You state it would be more flexible to offer coordinated and uncoordinated hot cuts as opposed

to limiting them to weekends.

A Yes. What we're saying in this is that it was my interpretation that what was being asked by Mr. Van de Water was just to limit this only to weekends. We're saying we're not -- our thought was not to limit it just to weekends. Doing it more than just that time frame is more flexible.

Q What is it about this method that makes it more flexible?

A We're just willing to do it more than just weekend times. There's more opportunities. That's what I mean by being more flexible.

Q You say that in Ainsworth's testimony, BellSouth is proposing making hot cuts Saturdays.

A Yes.

Q Is BellSouth considering opening up Sundays too?

A I don't know. You'll have to ask Mr. Ainsworth that one.

Q And why this change of heart?

A That question is better asked of Mr. Ainsworth. When you talk about the hot cut process, you're talking about the provisioning aspect. My expertise is getting the order in the door, and then Mr. Ainsworth will take it from that standpoint for provisioning.

Q Thank you. In his surrebuttal testimony, Supra witness Neptune describes that not only does Supra not understand how uploading of bulk orders is done, but also its BellSouth project manager has no knowledge of how that process works. Notwithstanding your explanation in your surrebuttal testimony at pages 3 and 4 of the information made available to CLECs, please describe what type of training you offer the CLECs that exclusively relates to the BellSouth's batch cut process.

A Well, let me answer it this way. We don't have training in terms of a formal training. There's not a training class. There's not an individual that makes himself available to train a group of CLECs.

The intent is that the material itself is quite sufficient. If you have been trained through the classes that are available on just basic LSR submission on the various interfaces, this is doing nothing more than an additional type of transaction, and the documentation that we provide is really, I think, self-sufficient as it stands alone, and anyone that's knowledgeable in this process could use that, read that and interpret it. Now, when you have difficulty with interpretation, there are people that are made available to all CLECs so that they could call and get some

clarifying questions answered.

The type of question that Mr. Neptune referred to is not in the area of expertise for the project manager. Mr. Neptune was referring to how he gets something entered in the -- in specifically the Local Exchange Navigation System, LENS. And if he had a problem with that, he would go back to his local service manager, which I talked about in my testimony. Those roles are very clearly defined in other documentation on our website and have been communicated to Supra.

So we try to give them a point of contact when there's confusion or clarification and they need some assistance, but the materials itself, you really don't need any additional training. We consider those to be quite self-sufficient.

Q What type of training have BellSouth's CLEC local service managers been required to satisfactorily complete regarding BellSouth's batch cut process?

A I can't speak to specifically what training they've gone through. You would have to ask them. What I can say is that our general practice is that when we roll something out new to this, all those people in that part of the organization are well informed about it, and they have sufficient material so that they could answer questions appropriately. But I couldn't tell you

specifically how they go about that to make sure each of the LSMs in the this case are knowledgeable of the material. I do know that they do have sessions, and they're given material and it's covered with them, but I can't give you more specifics than that.

Q Could you explain the phase of creating, submitting, processing, and returning spreadsheets?

A I'm not sure I understand what the question is. Can I explain under the bulk order process the process of using the spreadsheet methodology for submission?

Q The training, the training. That goes to the question I just asked you where you weren't sure of the specifics of what your CLEC local service managers --

A I'm not sure I understand the question, and I want to answer you properly. Are you asking me how much are they trained on the submission of using the spreadsheet methodology?

Q Yes.

A Well, from an LSM standpoint, that's the way I'm answering the question. That would be part of the overall package covered with them. But let me say, this is basic use of spreadsheets. This is nothing -- I'm not trying to be flippant, but this nothing that's rocket science. This is basic use of PCs, and almost everybody in today's time knows how to use a worksheet,

like an Excel format. This is not very difficult to do. You spread it out, and it's way you hit the button on the keyboard and save it. It's very easy to walk somebody through if they're confused. And I would think anyone that has some good PC skill sets would know how to do this.

Q So you're saying there's no specific training material used?

A No, I'm not saying that at all. Like I said earlier, I don't know specifically how that training was conducted of the LSMs, but I would be willing to -- as I sit here today, I feel very comfortable that the LSMs would have the basic skill set and knowledge on worksheets, and they would not have any trouble in building a worksheet and knowing how to save that to a delimited file. If one of them did, I would be willing to bet that one of them could help them very quickly see how to do that. This is just some basic PC and worksheet skills.

Q Thank you. CLECs have complained that the process of submitting an Excel spreadsheet, having it processed by BellSouth, only to be returned to the CLEC, who must then complete a bulk migration request to submit back to BellSouth, is a time-consuming, inefficient process. Would you please comment on the

efficiencies gained by this current process?

A Well, I can always comment, but some of the things you asked me to comment on are beyond my expertise, because you have two components there. You have the component associated with the spreadsheet that you're submitting to the project manager. And the days associated with the project manager coordinating with network and returning that spreadsheet is what the due date is for all those submitted. That aspect of that and the efficiencies around that, that's a little bit beyond my expertise. I understand the process. And the reason for the process, once again, is what I stated earlier, to make sure we have coordinated all the resources necessary to complete that mass migration on the given due dates. Project management is project management and requires some time and coordination, and I think that's a very efficient process.

And once you get that back, the area of my expertise is taking that information and loading that into a bulk migration order for submission to BellSouth so we can have the individual transactions to process. What we give them for that step, that bulk migration process, as I stated earlier, is taking away several key entries that a rep would have to do sitting there at a terminal. To me, that is very efficient, saves you a

lot of time, helps you manage your overall project better, you as a CLEC, because you need to manage this. It's not something you just do haphazardly. And that process by definition would help you with that management. But more importantly, because you're doing 99 potentially, up to a maximum of 99 transactions instead of 99 individually, that's some significant savings on just your key entries.

Q Is BellSouth considering improvements to this and other bulk migration processes proposed by CLECs?

A Well, Mr. Ainsworth has put out in his surrebuttal improvements that we are putting in place, and all that stems from input that he got through various workshops, is my understanding. He could have got some individual input as well. So to me, that says BellSouth is listening. We're hearing, and we're putting some improvements in place.

Now, I want to make sure that you interpret this properly. That does not mean that BellSouth is saying what we had in place was inferior or impaired you in any way. We're saying that we felt like that was a sufficient process, but we're willing to improve the process, and that's what Mr. Ainsworth has taken steps to do. And going forward, I'm sure there will be any other consideration given, because like I said earlier,

the Change Control Process would be an excellent avenue for CLECs to submit their individual change requests for improvements.

Q Thank you. Can I refer you now to page 12 of your surrebuttal testimony?

A I'm there.

Q Lines 15 through 24.

A I've read it.

Q Although the bulk ordering process is electronic once the LSRs have been entered into the electronic interface, isn't it fair to say that the process is not completely electronic, given the manual intervention in the pre-order Excel spreadsheet phase of the process?

A No, I totally disagree. Pre-order is pre-order. And pre-order, by definition of what flow-through is all about, electronic submission, that's a separate component. Gosh, we're into core 271 arguments here, frankly, if that's a concern. Some pre-order functions require you to do manual activity, and we've developed pre-order integrateable interfaces if you want to use machine-to-machine interfaces to bring that information in. There's nothing different in this process here from a pre-ordering standpoint. There's really no such thing that I consider

flow-through intervention in pre-ordering.

Now, once you get the LSRs submitted, now that you've done all your pre-ordering activity, you've populated your local service requests, and you've hit the button and it's submitted to BellSouth, at that point in time, there could be, based on the transaction, some fallout that would require intervention by the BellSouth Local Carrier Service Center.

In the case of the particular paragraph you're citing here, where there were over 8,700 LSRs submitted by this one particular CLEC based in Florida, I'm saying 99% of those did flow through. Now, you have to go back to the flow-through equation to understand what that means, because certain things are backed out. The things that were backed out primarily on this transaction -- and let me back up and say, by the way, you can go look at this data if you go look at the external flow-through reports under LNP if you go to the PMAP website for December from BellSouth. But you'll see -- I don't have it in front me -- a certain amount of those that fell out by design. I've looked at that data for this individual CLEC, and those that fell out by design -- and I want to say off the top of my head that it equated to about 19% of these 8,700 LSRs. All but a handful of those fell out because of pending

service orders.

Q Mr. Pate, can I ask you to slow down a little bit to aid the court reporter?

A I'm sorry. If I get to going too fast, just caution me.

Are you ready for me to go forward?

Q Just a second.

Go ahead.

A I apologize.

What I was talking about, if you look at the data for these 8,700 plus LSRs -- I think it's 8,740, to be exact. About 19% of those, whatever that number equates to, fell out by design.

Part of the process is based on what you're processing, and transactions can fall out by design. This is part of the overall approved process and measures that the Commission has gone through on flow-through for that particular calculation.

The point I want to make here that's interesting, though, for this particular transaction, those that fell out by design, all but a very small handful, and I'm talking about single digits, fell out because there were pending service orders. What that means is that there was a pending service order on that transaction prior to the CLEC submitting it.

What's unique about this is that this CLEC was dealing with their embedded base, so they were changing from their UNE-P account to a UNE loop account, in this case, a loop with LNP. So that meant these were their pending service orders. They should have had knowledge of what pending service orders they had in place.

They didn't even take that into consideration when they did this, obviously. I mean, they can speak for themselves, but something was not a part of that process. If they had taken that into consideration, they would have known not to submit those, and you would have even had an even higher rate of these where there was less fallout requiring intervention by our Local Carrier Service Center.

Q Can I refer you now to the next page of your surrebuttal testimony, page 13, lines 1 through 16?

A I'm there.

Q Was the KPMG third party test designed in any way to test CLEC migration from UNE-P to UNE-L under the circumstances that unbundled local circuit switching would no longer be required to be provided, and the massive volumes that that could imply?

A No. I don't think that was the design at that point in time, that test. And my reference to this test deals from the standpoint of talking about scalability

of OSS. The whole purpose of this test at that point in time was taking a snapshot of the type of volumes we would have and the type of transactions, just to do some normal testing, as well as stress and peak testing, on the projected future volumes to show that you could get those transactions in the door. The TRO, obviously, and its definitions, was not known at that point in time and was not a part of any consideration given to that test.

MR. ROJAS: Staff has no further questions at this time, if any of the other parties would like to continue.

MR. O'ROARK: This is De O'Roark with MCI. I have a few questions, if it would be all right for me to go next.

CROSS-EXAMINATION

BY MR. O'ROARK:

Q First of all, Mr. Pate, are you doing okay, or do you need a break?

A I'm fine. Thanks for asking.

Q I'm De O'Roark with MCI, Mr. Pate. Good afternoon.

A Good afternoon.

Q What I would like to do first is talk with you about order flow. You'll recall we've had a number of conversations about that in the UNE-P context, and I

would like to shift gears now and talk about UNE-L, specifically, a UNE-L order to migrate a BellSouth retail customer to a CLEC UNE-L using the EDI interface, so if you could please have that in mind as I ask my questions.

A Okay.

Q You talked about pre-ordering just a bit during staff's examination. With UNE-P, I believe there are only a couple of things you need for the order, a telephone number, and is it the street address?

A Telephone number primarily. And we were encouraging street address, but I thought -- I'm going back to some of our conversations we've had in the past. I thought we no longer required the street address, but I could be wrong there. It's primarily the telephone number.

Q I don't recall either. But in any case, is it the same information required if you're using UNE-L?

A No, UNE-L can require some additional information. I tried to even hit this somewhere in my testimony. I think it may be in the direct. I was trying to describe that UNE-L is going to require additional information, because now you're going to be dealing with the circuits, so the actual provisioning of the loop is going to have some circuit information

that's going to be required, connecting facility assignments and such. So there's some additional information. It's not quite as simple as a UNE-P type transaction.

Q Mr. Pate, I had thought that for the initial migration from BellSouth to the CLEC that the CLEC was not required to provide the circuit ID on the order. Is that not the case?

A That's true. If you're going from a UNE-P to a UNE-L, I'm not certain -- you're getting into an area that's a little beyond my expertise. I'm not certain if you're going straight from retail, which was the way you phrased this question.

Q Yes, that is the scenario I would like to discuss. You're not sure?

A I'm not sure whether you need the circuit information in that. Once again, you're getting further down in the process than I typically look at. I would have to find that out, to see do you need circuit information to go from a retail to a UNE loop. For some reason that comes to mind, I think you do, but I can't say that with certainty.

Q I believe in your testimony you distinguish between the initial migration and subsequent migrations, but is it your understanding that that really just deals

with the UNE-P context and not the retail to UNE-L context?

A I think so, but if you have a specific page and line that could refresh me with the testimony, I'll be glad to look at it and see if I can better clarify it.

Q I'll tell you what. If we get to a break, I may try to do that. Why don't we press on for now.

The next step is ordering. Again, assume that a CLEC is placing an order, a local service request via EDI. I believe as we had discussed a few times in the case of MCI, the order would first go to a third-party vendor called a value added network, which would essentially put a group of LSRs together. It would then go to a BellSouth third-party vendor also known as a value added network or VAN, which would, in layman's terms, open the envelope and then send on the individual LSRs to BellSouth Systems. Is that the case for UNE-L?

A Yes. If you use the EDI, none of that changes, assuming it's using the VAN-to-VAN connectivity.

Q The first stop within BellSouth Systems is EDI Central; is that right?

A Yes.

Q And EDI Central returns a functional acknowledgement to the CLEC?

A Yes.

Q After EDI Central, the LSR goes to the local service request router?

A Give me one second. What I want to have in front of me, if we're going to get to this level of detail, is a discovery request that we provided. I thought it was MCI. If you'll give me a second, I think I can find that, and I can have that configuration in front of me.

Q Certainly.

A I've got it in front of me. I'm prepared.

Q And please tell me which response you're referring to.

A Sure. This is MCI WorldCom's Request for Production of Documents, item number 1. Excuse me. It says "Attachment to Interrogatory, Item Number 82."

Q Okay. Thank you.

A We labeled this document proprietary, so I assume everyone can hear this.

Q Okay. Thus far what we've discussed has been things that you've said in open hearings. If we start to get into proprietary information, please let us know, and we can figure out how we're going to handle that.

All right. We were about to talk about the local service request router. Do you now have the information in front of you to refresh your memory on

that?

A Yes, I do.

Q As I recall, the local service request router routes XDSL and LNP orders to a different place than other orders; is that correct?

A That's correct. But let me also state -- do you have this configuration in front of you?

Q I do not, Mr. Pate.

A The configuration changed with some of our recent releases, so an order coming through for EDI, it goes to the service gate gateway first now. And then, based on the type of order, it takes a couple of routes. If you're talking about just an SL-1 loop, it would then go to the local service request router at that point in time.

Q I'm sorry. If it's what kind of order?

A You were saying a loop. I assume you're talking about an SL-1, you know, a voice grade loop. There are other types of loops. That's why I'm trying to clarify this.

You have two different configuration flows. If you have an XDSL loop -- you know, that's the HDSL, ADSL, UCL non-design, as well as some EELs -- it's going to be processed by the service gate gateway for its entirety. All other loops would come in through the

service gate gateway and then go to the local service request router, and all LNP goes that transaction process flow as well.

Q Okay. Thank you for that clarification. So the XDSL loop orders go elsewhere before we even get to the local service request router?

A That's correct, if it's not an LNP transaction.

Q Okay. Assume that what we're talking about is an SL-1 loop order with LNP.

A Okay.

Q And in that case, is any part of the order routed to the LNP part of the process, or does the whole thing stay together and go on to LEO?

A None of the transaction you described would go to LEO, because it's LNP-based.

Q I see. So if you got a UNE-L order with LNP, after it goes to the local service request router, where does it go?

A It goes to the LNP gateway.

Q What happens at the LNP gateway?

A Well, the LNP gateway is going to be applying some edits, primarily a Level 1 edit or Level 2 edit, to have the transaction, of course, be further processed. And from there, it goes to LAUTO, where the Level 3

edits are applied, which is the final stage for putting that service order -- taking the local service request and putting it into the service order format, and then it sends it from there to SOCS. And, of course, that order going to SOCS, then it starts to impact the whole LNP transaction process with NPAC.

Q Say the last part again, please, Mr. Pate. After it goes to SOCS, it does what?

A At that point in time, as you can appreciate, with the LNP transaction, you have interaction with NPAC. So we have certain SOCS orders that are created, but there's also notification to NPAC at that point in time of the LNP transaction as a whole. So that's just part of the overall process, is NPAC's role.

Q And in addition to going to NPAC, then the service orders would go to BellSouth's provisioning system, which I assume would be the CWINS Center?

A Well, CWINS is a center that is part of the provisioning associated with coordinating cuts. CWINS is not a system from the standpoint of a provisioning system. They get involved with the coordination of the cuts. But what -- if I can answer your question, what happens is, the Service Order Communications System, SOCS, that's the common entry point here where the service orders are produced that impacts the

provisioning process.

Q Okay. But from SOCS, where -- and assume that we're not talking about an order that requires coordination, or that has not been requested, and it's a non-coordinated cut we're talking about.

A Okay.

Q Where do those service orders then go other than NPAC?

A Well, in that same document that I referred to, the configuration flow, the provisioning associated with an order like that, it shows all the downstream provisioning systems.

Q Okay.

A If you want me to walk you through those, I can. It's the same. Nothing has changed here from all of our discussions during the 271 evolution. Would you like me to walk you through those steps?

Q I have a few specific questions, but -- well, you know what. Yes, briefly walk me through, please.

A Certainly. And let me say, you're getting into the provisioning side of this, and Mr. Ainsworth, of course, is very well versed, and he's more versed than me on provisioning. I can talk from a high level of the systems associated with provisioning service.

What SOCS does, it sends it to a system called

SOAC, Service Order Analysis and Control I think it stands for. And if I misstate any of these acronyms, by the way, another one of these documents we provided was a list of all these acronyms that goes with this.

SOAC is essentially the coordination point for the order. It takes any service order, and based on what the service order is, it decides where else it needs to route, what other systems need to be involved. But here, since we're talking about a loop, the first thing is, you're going to have to get the loop assigned. And all of our loop assignments come through LFACS, Loop Facility Assignment and Control System. That's LFACS, L-F-A-C-S. That would go and assign that loop, get all the assignment information, the cable and pair assignment data and such, and that would then communicate it back to SOAC.

And once SOAC has that, then you need to take a look at the central office equipment associated with this if you're using BellSouth switching. In this case, since you're using a loop and you're not using BellSouth, we wouldn't be involved. But Switch gets involved with stuff that they switch some way if we're taking that facility off of it.

Q Switch is actually a database, I gather. I mean, you're not talking about a physical switch there.

A That's correct. Thank you for that clarification. It is spelled the same way, s-w-i-t-c-h, but it's not the physical switch. And that's just where our central office equipment inventory and assignment is maintained.

So coordination of those deals with -- goes back to SOAC too, and it completes that information necessary to provision.

The next thing is, if dispatch is required, it will go over to the Loop Maintenance and Operations System, LMOS, and LMOS essentially does the coordination for the field dispatch, since this is a non-design transaction. And that gets to the installation and maintenance personnel in the field that would actually be dispatched for any, if required, installation services for this particular loop.

And as part of all that, when that process is completed, the technicians would initiate the actions through their terminals to complete the transaction, and it comes all the way back through SOAC and gets updated back to the records system, CRIS, Customer Records and Information System, C-R-I-S. It's that completion of the transaction that generates the customer records being updated that shows that you now own that facility, and that's what drives the bill and such for you as well

and completes the total provisioning process.

Q Okay. Thank you, Mr. Pate. Let's go back a little bit, and let me follow up on a couple of things.

With UNE-P, initially BellSouth had two service orders, a D order and an N order. Eventually BellSouth replaced that with a single order, a single C system. With a UNE-L order, are there two service orders or one?

A There's two, and there could me more with LNP. I mean, you can have with LNP up to, I think, four actual service orders issued, depending on whether you have listings or not.

Q Can you explain that a little further, please? What are the four orders you're talking about?

A Certainly. In an LNP transaction, you have as part of that overall transaction -- when you submit the LSR request to BellSouth and we send you back, the CLEC, a firm order confirmation that says we have your request, that means SOCS has accepted it and we're about to process it. Well, one of the orders in the service order system now in BellSouth, the order would have to create for LNP what's referred to as a trade order. And what the trade order is doing is, we send it to SOCS, and it's sitting there saying you don't execute this order yet. But when we actually do the port, this is

the order that tells your system to route anything coming into that switch, to reroute it to your switch. That's one order that has to be done, and it's typically a C order, a change order.

Then we're going to have the port-out service order, so when we actually port that service to you, we have a disconnect order to take that port off our switch, so that's another service order created.

If you have listings associated with this account -- and you don't always for an LNP, but if you do, then we're going to have a listings order. That's a service order that comes across as a new or N order for us to reflect a new account for listing only. So that's one that you may or may not have.

And then the final one is, then you're going to have a loop order. And a loop order, what we described here would be a non-design that's going to CRIS, and that would be an N order, a new order in our system.

So you can have four orders, service orders created if you have a listing as part of this process.

Q Do you need a D order for the loop to disconnect from BellSouth's switch?

A Where we're disconnecting with that D order from the port-out service, disconnecting it from that port.

Q I see. That's a D order, and then the loop order that you described is the N order?

A Yes, for giving you the loop.

Q And again going back, it sounds like the LNP gateway performs some of the same functions that LEO does, that is, it could give a fatal reject?

A The fatal reject happens typically further up in the process now, but, yes, it could happen there as well. To make sure I clarify, you've got fatal reject, and you've got clarification. So if you're talking about a fatal reject, a Level 1 type edit, it could happen there. But also, depending on whether you're on an ELMS-6 version or a TCF-9 version, it could be handled further up under a system called PRE, P-R-E, which is part of the service gate gateway.

Q So the service gate gateway may also do Level 1 edits?

A If you're using ELMS-6, yes.

Q What was the term you used? ELMS-6? Can you spell that, please?

A E-L-M-S-6.

Q Thank you.

A And I think that -- well, let me think about this for a second. I was just talking about these edits here recently with some of the programmers, and I think

I misstated that. I think it's -- that's a correct statement if it's not LNP, but if it's LNP, those edits are all performed still in the LNP gateway. So that's how it's done.

Q All right. So the LNP gateway is going to do the Level 1 edits that give you fatal rejects and also some Level 2 edits that would lead to clarifications?

A Yes, that's correct.

Q And it sounds like there could be manual fallout either as a result of Level 2 edits at the LNP gateway or as a result of Level 3 edits at LAUTO, or for that matter, for the full panoply of edits that are done at SOCS.

A Certainly.

Q And I gather that, as with UNE-P, if the LSR falls out because of a CLEC error, then somebody at the LCSC, the Local Carrier Service Center, is going to clarify that LSR back to the CLEC.

A That's correct.

Q If the LSR falls out because of a BellSouth issue, then the BellSouth rep at the LCSC is going to fix the LSR and send it on to SOCS.

A That's correct.

Q And help me again. Which system is it that creates the different orders, in particular, the

port-out service order and the loop order, that is the D order and the N order for the loop? Is it the LNP gateway or the LAUTO?

A LAUTO does the service order generation.

Q Thank you. So if there's manual fallout at the LAUTO or at the SOCS stage, then the BellSouth rep is going to have to fix both the N order and the D order and send them on to SOCS.

A That's correct.

Q There can also be design fallout. I believe you referred to that earlier in your testimony. And in that case, the LSR was designed to fall out by BellSouth Systems, and the BellSouth rep then does what? Does it also fix the LSR and send it to SOCS, or does it send it straight on to BellSouth Provisioning Systems?

A You'll have to do something to that LSR. That's why it's falling out by design. What that means is that we don't have the capacity built into the program for it to do that service order generation automatically, so the service rep in the LCSC will have to do something associated with that, and then it will go to SOCS for provisioning.

Q You talked about the CSR being updated.

A Yes.

Q And just so we're clear, in the case where the

customer is going to a CLEC for UNE-L, does BellSouth continue to maintain a CSR on that customer that it lost?

A We don't maintain a customer service record on the customer, no, but there's a level of customer service record maintained on the fact that you have that loop, but it's not the same type of customer service record. We don't have anything else retained on that end user, because you own the end user.

Q Can you clarify that a bit? What's the difference between a CSR that BellSouth has for its own customer and the record that BellSouth maintains for a CLEC UNE-L customer?

A Well, I don't know the specifics of what's on that record. I mean, I've seen them before, but I don't have one in front of me to compare. But look at it this way: You are our customer at that point in time, and we still have to have a record that you own that loop. It's that record that drives for us to bill you for that loop. So that's what I mean by there's a customer service record maintained on that loop that just shows, in your case, that MCI owns it.

The other customer service record, if it has been a retail account, it would have the end user's name, address, and all the different services that that

end user was purchasing from BellSouth retail, so it would show all that in the service and equipment section.

You have your own customer service record that you have to maintain for whatever switching you're providing to that end user account, so you have a customer service record, but we have no knowledge of that. We just have knowledge that you bought a loop.

Q Does BellSouth's record include the circuit ID of the CFA?

A I don't know. It shouldn't, but I don't know.

Q Mr. Pate, after the migration, the customer's billing records have to be updated; correct?

A Yes.

Q And is that done through the CRIS system?

A You know, you're getting into an area beyond my expertise, and I don't know whether loops are in CRIS or CABS. For some reason I think they're in CABS, but I don't know for a certainty. CABS is C-A-B-S, by the way.

Q As I recall from our discussion some time ago, even when we're getting downstream into the provisioning processes, we're still talking about a D order and an N order. Is that the case with the UNE-L situation we're talking about?

A I'm not clear on your question. Can you ask it one more time, please?

Q Do you recall that you said the systems generate, among other things, a D order and an N order?

A Yes.

Q The service orders for removing the old loop and establishing a new loop?

A Yes.

Q Do those service orders continue to flow into the downstream systems, such as for billing?

A Yes. That's part of the overall process of provisioning, to update all of our records in BellSouth retail as well as establishing a record for you for owning that loop.

Q Are the D order and the N order associated using an RSO code?

A I haven't looked at it to see. I'm just trying to think logically here for you. If you're reusing those facilities, that facility just being the loop, there may be, but I can't say with certainty.

Q Is it necessary that the D order and the N order be associated so that they process at the appropriate time and in the appropriate order?

A Oh, yes. There has to be some association on that. That's part of a lot of the NPAC process overall.

Now you're getting back into, you know, when NPAC sends their activating message. For example, when it's time to actually cut that loop over to the CLEC, the CLEC has to initiate an activate message to NPAC, and then NPAC will turn around and send that activate message over to BellSouth. And it's at that point in time that we process that disconnect order associated with that. And, of course, then the order with your activation, which means you're cutting it over, is processed. That's part of that overall LNP process, and that's how that's coordinated.

Q Up to this point, Mr. Pate, we've been talking about an SL-1 with LNP non-coordinated cutover. Does anything change if the loop happens to be on IDLC as far as the ordering process is concerned?

A From the order, submitting the order to me, nothing changes, but I'm going to elaborate here a little bit. You would have looked at the loop makeup to identify that that was on IDLC or not to ensure what you're ordering, the loop itself, is compatible for whatever services you're trying to put on that.

Q So the CLEC may need to do some pre-ordering work to make sure that it can order what it's attempting to order?

A I'll answer your question yes, but I'll change

it. It's not a "may." They most definitely should.

Q If the CLEC is ordering a UNE-L SL-1 loop, and as it turns out, it's part of a line splitting arrangement, the ordering process functions differently?

A The process doesn't function differently. But you're getting, once again, a little bit beyond my expertise from a provisioning standpoint what all would need to be put in place. The process, the ordering process itself for line splitting is the same process. I mean, you submit the LSR using the same systems, but you would have to go through all the necessary pre-order steps to make sure that line qualified.

Q If we were talking about a UNE-P to UNE-L scenario, does anything change as far as the ordering process is concerned?

A UNE-P to UNE-L, I mean, nothing changes in terms of you're using the same standard LSR format and you're using the same system. But each LSR, what you have to do to make sure you can do that transaction, you've got to follow those steps, those processes. So for UNE-P to UNE-L, if you're just doing, once again, an SL-1 standard analog voice loop, there's no qualification needed for that loop, so you shouldn't have to do any loop makeup type work.

Q Thank you, Mr. Pate. And let me -- I told you

I might loop back to our discussion early on. I did find the page that I had in mind. It's page 26 of your rebuttal testimony. You're talking about CLEC to CLEC migrations, and you do in fact say that CLECs do not need circuit IDs to migrate UNE-P to UNE-L, either individually or in bulk. So you were speaking specifically in that context?

A Let me get the -- you said page 26?

Q Yes, of your rebuttal testimony. I believe that's consistent with what you told me early in the deposition. In fairness, I just wanted to circle back and show you the page so you could refresh your memory.

A Yes. You already have the facility, so there's not any need to take a look at -- you're using the same facility in that transaction. There's not any need for the circuit information.

Q And I believe your testimony was that you weren't sure what additional information might be necessary in the retail to UNE-L situation?

A That's correct. That's one I would have to look at. I'm not certain.

Q Let's talk about one other area, Mr. Pate, and it concerns EELs. I realize that's something that Mr. Ainsworth deals with, but I wanted to talk to you about the ordering aspect of that. If we get into

Mr. Ainsworth's territory, please just tell me that, and I'll reserve my questions for him.

A Certainly.

Q Do you have a scratch piece of paper in front of you?

A Oh, yes.

Q All right. Let me tell you the situation I had in mind so that we can talk about this telephonically. Assume a residential customer who is served by BellSouth Wire Center 1.

A Okay.

Q And then we've got transport over to BellSouth Wire Center 2.

A Okay.

Q We've got a CLEC collocation.

A All right.

Q And then you've got another line from the collocation to the CLEC's wire center.

A Okay.

Q Is a CLEC able to order a DS-0 EEL today in Florida from BellSouth?

A I really don't know.

Q And just so it's clear, when I'm talking about an EEL, I'm talking about the combination of that customer's loop from the customer premises to BellSouth

Wire Center 1 to the CLEC collocation in BellSouth Wire Center 2. I'm sure that you understood that's what I meant by my question.

A Yes, I did.

Q Do you know whether a CLEC today can order an EEL consisting of a UNE-L DS-0 level loop and DS-1 transport?

A No, Mr. O'Roark. You're just getting way beyond my expertise. I'm sorry. I can't answer that. I just don't know.

Q And I gather from that answer that you wouldn't be able to tell me whether LSRs or ASRs might be involved?

A No. You're asking for some detailed product expertise that I just don't know. I know we have the ability to do some EELs ordering in the process, but when you get down to the specifics of this product level, that's just going beyond my expertise.

Q What can you tell me about the EELs ordering that BellSouth does permit today?

MS. FOSHEE: I'm going to object to the form of the question. I think he has testified he doesn't know, but --

MR. O'ROARK: I had understood the witness to say that he did have some understanding that

BellSouth was able to do some EELs ordering today, and I was simply trying to explore that statement. If he doesn't know any further detail, he can certainly tell me that.

A Well, let me try. What I was trying to say for you is, the electronic submission of the local service request to BellSouth, I have some knowledge of that. But I can't -- I don't have knowledge when you start talking about different types of EELs, which is what I hear you asking questions about, which gets into some product level that's just beyond my expertise.

I know that BellSouth has worked to have the ability for the EELs ordering process to be submitted electronically. And currently, if I remember, the last update we did, you can submit it, but it still falls out. It's not flowing through. We're working on it, and we'll have that flow-through pretty soon. But if you start to vary that with different types of EELs, you're just getting beyond my expertise.

Q Mr. Pate, I'm with you now. What you're referring to is what we sometimes refer to as DS-1 EELs or DS-1 combos involving a DS-1 loop combined with DS-1 transport; is that correct?

A Yes, uh-huh.

Q And as you sit here today, that's pretty well

the extent of your knowledge about EELs ordering?

A Yes.

MR. O'ROARK: That's all I have, Mr. Pate. Thank you.

MR. ROJAS: Are there any are further questions?

MR. FEIL: None from FDN.

MS. AZORSKY: AT&T has no questions.

(Deposition concluded at 12:48 p.m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, MARY ALLEN NEEL, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter transcribed under my supervision; and that the foregoing pages numbered 1 through 61 are a true and correct transcription of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, or relative or employee of such attorney or counsel, or financially interested in the action.

DATED THIS 10th day of January, 2004.

MARY ALLEN NEEL, RPR
2894-A Remington Green Lane
Tallahassee, Florida 32308
(850) 878-2221

State of Georgia)

County of Fulton)

CERTIFICATE OF OATH

I, the undersigned authority, certify that Ronald Pate personally appeared before me at 675 West Peachtree Street, NE, Suite 4300 and swore or attested to being the witness deposed via telephone on February 6, 2004 and to have responded truthfully in the matter.

WITNESS my hand and official seal in the City of Atlanta, County of Fulton, State of Georgia, this 6th day of February, 2004.

Notary Public

State of Georgia

Personally known ✓ OR Produced identification _____.

Type of identification produced _____

FLORIDA PUBLIC SERVICE COMMISSION

Lynn J. Barclay
Notary Public, DeKalb County, Georgia
My Commission Expires August 13, 2006

EXHIBIT NO. 35

DOCKET NO.: 030851-TP

WITNESS: Steve Turner

PARTY: AT&T

DESCRIPTION:

1. February 11, 2004, Deposition Transcript, page 1

PROFFERING PARTY: STAFF

I.D. # ST-D

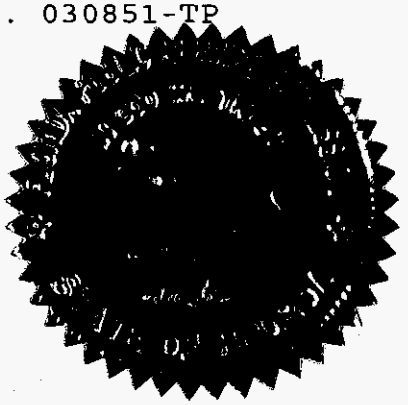
FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 35
COMPANY/ FPSC Staff/ AT+T
WITNESS: ST-D
DATE: 02/24-27/04

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of:

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.
_____/



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TELEPHONIC DEPOSITION OF:	STEVEN E. TURNER
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
PLACE:	Gerald L. Gunter Building Room 362 2540 Shumard Oak Boulevard Tallahassee, Florida
TIME:	Commenced at 1:05 p.m. Concluded at 2:15 p.m.
DATE:	Wednesday, February 11, 2004
REPORTED BY:	TRICIA DeMARTE, RPR *Official FPSC Reporter* (850) 413-6736

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S T I P U L A T I O N

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this cause; and that reading and signing was not waived.

IT IS ALSO STIPULATED that any off-the-record conversations are with the consent of the deponent.

P R O C E E D I N G S

MR. SUSAC: All right. This is the Commission. Let's roll. Is AT&T on the line?

MS. OCKLEBERRY: Yes. Suzanne Ockleberry here with Steve Turner and also in the room is Richard Gest(phonetic) and Mark Argenbright (phonetic).

MR. SUSAC: Could the attorney spell her name, please?

MS. OCKLEBERRY: S-U-Z-A-N-N-E-O-C-K-L-E-B-E-R-R-Y.

MR. O'ROARK: And this is De O'Roark with MCI.

MS. MAYS: This is Meredith Mays with BellSouth.

MS. KESTENBAUM: This is Janis Kestenbaum with Verizon.

MR. SUSAC: Is Mr. Van de Water also there with you?

MS. OCKLEBERRY: No, he is not.

MR. SUSAC: And he'll be there at, what, at 3:00?

MS. OCKLEBERRY: Yes.

MR. SUSAC: All right. Well, let's swear in Mr. Turner then.

(Witness sworn.)

MR. SUSAC: All right, Mr. Turner. Well, the parties, we'll go upon the same stipulations as earlier. If you were not privy to that deposition, it is just the usual stipulations that the Commission enters in. Does everyone hereby agree to that?

MS. OCKLEBERRY: What were the usual stipulations? I wasn't aware of those.

MR. SUSAC: Okay. That objections, except as to the form of the question, are reserved until the hearing in this cause; and that reading and signing was not waived.

MS. OCKLEBERRY: Okay. I have no problem with those objections.

MR. SUSAC: Ordinarily I know the Prehearing Officer said he would make himself available, but he's in California today. Just for your benefit since you also weren't privy to that deposition, the Commissioner asked me to read this statement. I'll just be very brief. He asked that in order to keep depositions productive, please keep your questions limited to the issues in this case as set forth in the draft prehearing order. This case is not about TELRIC, UNE pricing or the access reform and rate rebalancing legislation in Florida. It's not about whether your client agrees or disagrees with the FCC's Triennial Review or the premises contained therein. So please don't focus on these areas.

This case is about a specific impairment analysis that pursuant to the 1996 Telecommunications Act this Commission is to conduct according to the issues set forth in the draft prehearing order.

STEVEN E. TURNER

called as a witness telephonically and sworn to tell the truth

by the Notary present with the witness, testified as follows:

DIRECT EXAMINATION

BY MR. SUSAC:

Q Mr. Turner, as I stated, my name is Jeremy Susac. I'm the attorney with the Florida Public Service Commission. I'm going to be taking your deposition on behalf of the Commission in Docket 030851-TP.

Before we begin, I would just like to let you know that if you need me to restate a question or do not understand a question, if you'd just let me know and I'll either restate the question or try to rephrase the question. I will ask that when you answer your questions, if you could please begin your answer with a yes or no where appropriate and then go into further explanation.

Mr. Turner, will you please state your full name for the record.

A Steven E. Turner.

Q And by whom are you employed?

A I have my own consulting business, which is Kaleo, K-A-L-E-O, Consulting.

Q And could you please provide a brief synopsis of your educational background?

A Yes. I have an undergraduate in electrical engineering from Auburn University which I received in December of 1986, and then I also have an MBA in finance, which I don't

have my CV in front of me right at the moment, but I think I got that in approximately August of '91, but I got that from Georgia State University.

Q Okay, Mr. Turner. Thank you very much. Do you have your direct testimony with you today?

A Yes, I do.

Q Could you please turn to Page 5?

A Okay. I'm there.

Q In particular, Lines 13 through 15.

A Yes.

Q You state in those lines that the Triennial Review recognized that the absolute cost advantages enjoyed by an ILEC can constitute a barrier to entry that would satisfy the impairment standard, and you cite TRO Paragraph 90 as support for this statement; is that correct?

A Yes, that's what it says there.

Q Do you also have the Triennial Review with you today -- or Paragraph 90, I should say?

A Let me see if I can find that.

Q The paragraph is titled, "Absolute Cost Advantages."

A I have that in front of me.

Q Okay. Does the first sentence of this paragraph state that absolute cost advantages may deter entry?

A Well, I mean, the first sentence says, "When the incumbent LEC has absolute cost advantages, other firms may be

deterred from entering the market."

Q Okay. So would that be a yes?

A Well, you had summarized the first sentence, and I was just reading it back to you.

Q Okay. Would my summary of it, of that opening sentence, state that absolute cost advantages may deter entry, in your opinion?

MS. OCKLEBERRY: I'm going to object as to the form of the question.

MR. SUSAC: All right. I don't think there's any -- to belabor that point.

BY MR. SUSAC:

Q And doesn't the last sentence say, "The absolute cost disadvantages will only be a barrier to entry if they raise an entrance over all costs above his achievable level of revenues"?

A No, that's not what it says.

Q What does it say then?

A It says, "Small disadvantages, however, will not pose a barrier unless they raise an entrance cost above revenues." I mean, I was wondering if maybe you were reading from a different section than I was, was the reason I asked the question I did before.

Q Okay. The second sentence of Paragraph 90 -- give me one second to review my notes.

In your opinion, Mr. Turner, do cost advantages in and of themselves cause an impairment?

MS. OCKLEBERRY: I'm going to object as the form of the question.

A No. I believe what my testimony is, is that cost disadvantages -- or, I mean, you could set it up either way, cost advantages for the incumbent or cost disadvantages is a factor that the Commission should evaluate in making a determination of impairment. And it is an area that the FCC specifically found that state commissions should evaluate in evaluating impairment in their state proceedings.

Q When you refer to absolute cost disadvantage, are you referring to the difference between the cost that a CLEC would incur to provide facilities-based service including the use of a CLEC switch to a given group of customers compared to the costs that an ILEC would incur to serve the same group of customers?

A The answer to your question would almost be a yes except for one thing that you included. I have not included in the analysis the cost of the switch. But for the mass market, which is the given set of customers that I evaluated in the tools that I've provided the Commission, I am comparing the cost disadvantage that would be faced by the CLECs to serve that set of customers compared to what it would cost the incumbent LEC.

Q And in your view, wherever this amount is positive is a CLEC impaired?

A No. That's not the summary of the testimony. It's that the level of impairment that states in the LATAs that are studied in Florida is of such a substantial level that I believe you'd find impairment. And again, as I said to an earlier question that you asked, this is just one issue that the Commission should evaluate in making a determination of whether impairment exists or not.

Q Okay. Mr. Turner, are you aware that FDN has filed testimony in this proceeding?

A Yes, I am.

Q Have you been able to review Mr. Gallagher's testimony?

A No, I have not.

Q Are you aware that FDN has testified that it is a trigger CLEC?

A Yes, I am.

Q Would you expect that FDN has a network configuration similar to that which you described in your direct testimony as typical for a CLEC?

A To be honest with you, I do not know sitting here right now what network configuration FDN has in place or not.

Q What if I were to tell you it has relatively fewer switches with longer transport routes?

A You said relatively longer. Relative to whom?

Q To an ILEC.

A To an ILEC. Well, to my knowledge, every facilities-based CLEC generally has fewer switches than the incumbent LEC, and normally what they end up having to do, which I describe in part in my testimony, is that the CLEC ends up having to collocate at numerous locations and then transport those aggregated loops back to the switch.

And so just as a generic point, at least what is in my testimony because I'm not familiar with the FDN testimony, but what is in my testimony, you would typically find that a CLEC would have fewer switches and use transport to move the loops back to the switch, what we refer to as the backhaul impairment. As to whether or not it's relatively more transport than the incumbent LEC would incur, the incumbent LEC's cost to move the loop to the switch is simply the placement of a jumper on a frame. So it's always going to be more for the CLEC to move that loop back to its switch because of the location. But as far as it having relatively more transport, I'm not exactly sure how you would be making that comparison.

Q Okay. In your opinion, and to the extent you know, is FDN impaired if it does not have access to ILEC unbundled loop local switching?

MS. OCKLEBERRY: I'm going to object as the form of

the question.

A In my opinion, based on the analysis that I did, which was again for a large efficient CLEC in Florida serving mass market customers in these LATAs, in my opinion, any CLEC would be impaired.

Q All right. Mr. Turner, could you please now turn to Page 16 of your direct?

A I'm there.

Q And if you could go down to Line 17 and through 22, is what this question is based off of.

A Okay.

Q As I understand your testimony, you claim that a CLEC suffers from absolute cost disadvantages that arise in three areas; is that correct.

A Could you restate your question, just the part -- you said they arise from cost disadvantages in three areas?

Q Yes.

A Yes, that's generally how I summarize the testimony.

Q Could you please briefly describe these three areas for me?

A Yes. One of the areas is the -- what I refer to here as the preparation of the loop for transport from the ILEC central office. Primarily what that is, is that you're basically picking up a loop that is copper-based and analog, and before you're able to transmit that loop back to the CLEC

central office, you would want to convert that loop with digital signal, and generally you would want to also concentrate that loop. And so the equipment that's involved there would be the interconnection arrangements that extend from the CLEC's collocation arrangement over to the frame where the loop terminated, which is typically referred to as a main distribution frame or MDF.

The other equipment that would be necessary would be digital loop carrier systems which have analog cards on the drop side of the digital loop carrier's system, and then provide for the ability to multiplex those analog signals into digital signals at a higher rate speed and also provides for the ability to do what is known as concentration, which is to effectively allow individual analog loops to share the same -- basically be time slotted between the remote terminal and the central office terminal. So that would be basically the equipment in Category One.

And in Category Two, once you have those loops in the digital format, then you need to transport them back from the collocation arrangement to the CLEC central office, which the way that we've modeled this, we tried to find the most efficient means to do that. And so we used a combination of lease transport facilities where it's not economical to build a fiber-based network out to a collocation arrangement, or where it is economical, we actually do construct fiber-based

facilities to equipment in the collocation arrangement that allows for you to take those aggregated loops and then transport them back to the CLEC central office.

And then the third category is what I refer to as customer transfer costs or hot cut costs. These are the costs that are incurred by the CLEC paying BellSouth to basically transfer the loop from the connection, if you will, to the BellSouth switch port to move that loop instead to one of these interconnection arrangements that extend from the collocation cage over to the MDF. Those are normally in the form of nonrecurring costs that are paid by the CLEC to BellSouth to do that migration effectively, the jumper work at the frame.

Q And are any of these costs incurred by an ILEC?

A Let me step through each of the three of them. When the loop appears at the frame in the central office, BellSouth has the ability, without using digital loop carrier equipment in the central office, to terminate that loop out of analog level directly into a switch. And so Category One, the equipment necessary to prepare the loop for transport is not something that BellSouth has to incur at all.

Category Two, backhaul cost, this would be that architecture I described where the -- you have to move the loop from a physical point that it appears to a different location altogether, again is something that BellSouth does not have to do because the loop physically appears within the same central

office where its switch appears, and therefore, there is no transport between different central offices to effectively move the loop from one location to the other. And then --

Q Still with you.

A I heard a ring. I didn't know if somebody was trying to call us.

But for those first two categories there's absolutely no equivalent costs that BellSouth would have that the CLEC, of course, is incurring here. And I'm sorry. Did you have a question?

Q I was just saying I was still with you. But my question was, and to the extent you can answer it yes or no, I asked if there were any costs incurred by an ILEC in those three areas. Can you give me a yes or no on that?

A There are costs that they incur, but their costs are paid by the CLEC. If I understand your question --

Q Okay.

A They may have -- for instance, they may have to have a technician go out to the frame and do this cross-connect activity, but the cost for that is something that the CLEC pays to BellSouth based on rates that have been ordered by the Florida Commission. There's not a cost that BellSouth incurs that is not paid for by the CLEC, and most of these costs are costs that there is no equivalent cost that BellSouth would ever have to incur simply because of the different nature of

their network architecture from what a CLEC has to deploy.

Q Do you claim that these three areas that you just mentioned amount to an absolute cost disadvantage for a CLEC?

A Yes, they do.

Q Are there any costs that an ILEC incurs that a CLEC would not incur?

MS. OCKLEBERRY: I'm going to object to the form of the question. I guess if you could clarify it. You mean in general or specific?

MR. SUSAC: I'd say -- well, let's just start off in general.

A Well, here's the thing. I'm having a hard time. You asked, is there any cost that an ILEC incurs that a CLEC does not, and then finish the question, to do what?

Q Just to provide service.

A The answer to that question would be no.

Q Okay. Do CLECs typically have switching architecture consisting of both end offices and tandem switches?

A That is going to in part depend on how many switches the CLEC has implemented. And I'm sure -- there have been many years of debate about this issue, but -- of whether or not the CLEC really has the equivalent of tandem switching capability in their equipment or not, and I don't think that's where you are going with the question.

But even if the CLEC does not have tandem switches

and again only because it does not have necessarily the number of switches that the incumbent does, it has to provide for the equivalent of tandem functionality in its network because it has to be able to complete calls to all locations just as BellSouth has to be able to. So that may be done by doing direct trunking between itself and other switches within its network. It may architecturally set up the connections between its switches in a tandem functionality, or it may have to purchase this capability to complete calls through reciprocal compensation rates that it pays to incumbents to complete the calls if it does not have the ability to direct trunks. And so either through its own self-provisioning or potentially through other rates that it must pay to BellSouth, it will effectively provide for tandem trunking.

Q To the extent that you can answer this question a yes or no, do CLECs typically have a switching architecture consisting of both end offices and tandem switches?

MS. OCKLEBERRY: I'm going to object to the form of the question.

MR. SUSAC: Objection noted.

BY MR. SUSAC:

Q You can answer.

A The answer to your question is not a yes-or-no answer. And I gave you an answer to it, which is basically it depends on the size of the CLEC's network as to whether or not

they would architect their switches to have a tandem or not.

And then I gave you more information related to architecturally what CLECs have to do to complete calls, which again is not a yes-or-no question. But it's going to depend on the number of CLEC switches and the -- their needs to complete calls as to whether or not they would have a tandem or not.

Q All right. You would agree that ILECs typically have more switches than do CLECs to serve the same geographic area; right?

A Yes, they generally do.

Q Then wouldn't this lead one to conclude that ILEC switching costs are likely to exceed those of a CLEC?

A No.

Q Why?

A Because of several reasons. One is they may and, in fact, do have more switches because of having more customers than the CLECs do. Generally, facility-based CLECs have approximately 1 percent of the market in the state of Florida, whereas BellSouth has, I believe on the latest measure, approximately 84 percent of the market. And so you're looking at a very different scope of operations which lead BellSouth to have larger numbers of switches than a CLEC would have.

Secondly is that when you ask a question like, would it lead one to have higher costs, the answer to that question, you would have to have a fairly comprehensive understanding of

what BellSouth pays for its switches compared to the uses of their switches, which would require, again, and I know this is not a TELRIC proceeding here, but it would basically require you to have a fairly comprehensive understanding what they paid, what the capacity of that switch is, what the utilization of those switches are. And then you would have to compare that to the costs that the CLEC has paid for its switches compared to its use of its switches.

And so when you consider the fact that you've got 86 -- or 84 percent share for BellSouth across its switches and then compare that to a typical CLEC which may have about a 1 percent share, you know, just the fact that BellSouth has more switches than the CLEC does not necessarily lead that on a per unit basis that BellSouth's cost would be higher. In fact, it's more likely that their per unit cost for switching is lower when you compare it to the actual usage of those switches that, in fact, exist.

Now, let me just qualify too the discussion about switching. I have not included that in the analysis, and the reason I haven't is because of just this issue. I think as soon as you add switching into the analysis from a cost standpoint there are so many assumptions that have to go into exactly how the trade-offs occur as to whether it's a cost advantage or cost disadvantage, and I was of course part of a team, we just felt that it was too difficult of an area to

really nail down. So, in fact, what we felt we were doing was being extremely conservative by not including switching costs because if we had and really dealt with the scale economies that Bell has for switching, first it's the scale economies that a CLEC has, the cost of impairment might actually be greater.

So, in essence, where we stopped in doing this cost evaluation is when you get to the switch, but we did not include that cost either for BellSouth or for the CLEC to evaluate what I believe to be yet another area cost disadvantage that a CLEC faces.

Q I understand most of what you're saying. The only thing I would like to revisit is, in response to my question I think -- and the question was, wouldn't this lead one to conclude that an ILEC's switching costs likely exceed those of a CLEC; I believe your first reason was that they have more customers, the number of customers is a factor, but doesn't that just go to profitability and not costs incurred?

A I think your question was about cost, and so I don't believe any of my answer was an issue of profitability because what you're -- you're not -- it's not relevant to do an absolute cost of 100 switches compared to the cost of three switches. I mean, you can do that, but it's not a relative cost comparison. What's a relative cost comparison is maybe 100 switches that serve 84 percent of the market compared to

three switches that may serve 1 percent of the market.

Q Okay.

A And so what I was trying to get at was that if you wanted to do a meaningful cost comparison, and I wasn't talking about profitability at all, but if you wanted to do a meaningful cost comparison, the number of switches is not the driver of cost here. A comparison of the number of switches, what BellSouth pays for those switches, and then the demand that they have across those switches compared to the number of switches the CLEC would have, the cost the CLEC pays for those switches, and the demand the CLEC has across those switches, that would be a more relevant comparison between the two networks.

The fact that one network has more switches than the other because of the dramatic differences and demands against those switches, you just cannot do an absolute cost comparison just based on looking at the number of switches.

Q Okay. Thank you for that clarification.

A Sure.

Q Would you agree that because of its network architecture consisting of more end offices and tandem switches that don't ILECs' interoffice transport routes tend to be shorter than most CLECs'?

MS. OCKLEBERRY: I'm going to object to the form of the question.

A Okay. You're asking if because of the number of incumbent LEC switches, do their interoffice transport distances tend to be shorter than CLECs'. I would say that that would likely be the case.

Q So could the ILEC's transport costs likely be less than those of a CLEC?

A I would anticipate, given the way you set up this question, that that would be yes.

Q Okay. Well, let me break down my previous question then. If an ILEC's network architecture consists of more end offices and tandem switches, then isn't an ILEC's interoffice transport routes shorter than most CLECs'?

A Well, and again, I answered that -- the first question, the answer would be yes. The transport routes -- their interoffice transport routes would be shorter.

Q Okay. Thank you.

A And again, if I could just clarify briefly why.

Q Okay.

A The reason is, is because typically what a CLEC will do is they're going to collocate in many of these offices where BellSouth has switches. And therefore, what BellSouth would consider interoffice transport, which might be the distance between two neighboring wire centers, the CLEC will have had to have likely collocated in those, and so it's no longer considered interoffice transport for the CLEC, but it is

instead backhaul costs, I do include in the model. And so the CLEC's offices that it actually builds where the definition of interoffice transport comes into play, they are going to be further apart, but that does not eliminate that the CLEC instead of having interoffice transport is having to provide for backhaul costs to every one of those wire centers.

Does that make sense?

Q Yes, yes. In determining what you claim are a CLEC's absolute cost disadvantage relative to the ILEC, have you factored in any aspects where the CLEC may have a cost advantage?

A The answer to your question is -- have I factored in a place where the CLEC has a cost advantage? I believe the answer to that question would be no, to give you the yes-no answer to that. But I wanted -- we did not sit down and just try to figure out where the CLEC has a cost advantage or disadvantage at. We weren't really doing it that way.

What we did, we sat down and said, what does a CLEC have to do to move loops that appear at an MDF in the wire centers in the study area, and what does a CLEC have to do to move those loops back to the CLEC's switch.

And so the answer to your question is, no, we did not find or include places where the CLEC has an advantage because from an architectural standpoint there is no place that a CLEC has an advantage.

They are disadvantaged in that they have to haul the loops back from the disparate wire centers. They have to prepare them for transport, and in doing so, that's a fundamentally different proposition than what BellSouth has to do. And then they have to pay very high hot cut costs to move the loop to their network, whereas BellSouth is able in virtually all instances to electronically provision the customer. So it wasn't that we had a preconceived let's make sure we leave out any cost advantages, it's just that there aren't any for the CLEC. And so what you're faced with when you're dealing mass market service and the architecture that a CLEC has to deploy to serve that, it's that in every one of those cases in these three areas that I identify in my testimony there are cost disadvantages in every one of those for the CLEC.

MR. SUSAC: All right. Well, thank you very much, Mr. Turner. That concludes all the questions I have. I'm sure there's parties on that line that would like to follow up.

MS. MAYS: BellSouth has questions. I don't know if anyone else does.

MS. MASTERTON: I joined late. I don't have any questions, but I just wanted to make sure you knew I was on the phone.

MR. SUSAC: Okay. Thank you very much, Susan.

MR. O'ROARK: MCI has no questions.

MR. FEIL: I joined late too and I don't have any questions.

MR. SUSAC: Okay. Well, it looks like you're up, BellSouth.

MS. MAYS: Okay.

CROSS EXAMINATION

BY MS. MAYS:

Q Good afternoon, Mr. Turner. My name is Meredith Mays, and I'd just like to follow up on what staff has asked you. Just before we get into the nitty-gritty, I would like to just go over some preliminaries with you if I could.

I have down that you filed direct testimony, supplemental direct, and rebuttal testimony; is that right?

A That is correct.

Q You have Exhibits 1 through 4; is that right?

A In the direct?

Q In the direct, I believe.

A I believe that's correct.

Q I know you have a revision on the supplemental direct testimony, but you did not have rebuttal exhibits; is that correct?

A Let me pull my rebuttal out. I'm pretty sure there were no exhibits on my rebuttal testimony. Are you waiting for an answer?

Q Yes, I was. I'm sorry. I was waiting for you to

check just to make sure I didn't miss any --

A I don't believe that there are any exhibits in my rebuttal testimony.

Q Okay. And other than the revisions that you made in your supplemental direct testimony, do you have any changes or corrections to any other aspect of your testimony?

A Yes, I do.

Q Could you give those to me?

A If you look in my surrebuttal testimony and go up to Page 2, Line 17.

Q Okay. I'm there.

A The number $12.79 should instead be $19.74.

Q Okay. Are there any other changes or corrections to either your direct, your supplemental direct, or your surrebuttal testimony?

A Yes. That same number appears in several places in here. If you go to Page 5 -- excuse me, Page 4, Line 2, the number 12.79 there changes to 19.74.

Go to Page 5, Line 11, the number 12.79 changes to 19.74.

If you go to -- if you look at -- there's one other change that I have to make. Let's see if I can find it real quick. You go to Page 2, Line 7.

Q Which testimony, sir?

A It says here it's supplemental direct testimony in

December 22, 2003; that should say December 26, 2003.

Q Okay.

A And unless -- I'm just doing it here sitting here live, but other than -- those are the only corrections that I know of that I need to make. There's none to the direct, and then there's just those corrections to the surrebuttal, and I don't believe I have any to the supplemental direct.

Q Other than the revised Exhibit SET-2, do you have any corrections to your exhibits?

A No. And then of course you know this as well, that there's an Exhibit SET-5. You were mentioning there were four with my direct. Then there's an Exhibit SET-5 that I introduce as part of my supplemental direct testimony.

Q Right.

A And I don't have any corrections to that. I just wanted to make sure you knew that that existed as well.

Q Thank you. I want to direct your attention to your direct testimony at Page 7, beginning at Line 22 and then going over to Line 23. And I just want to make sure that I have that right because I thought there might have been some words missing. Can you just read that and let me know if you have corrections to that area or if that is correct?

A You're talking Page 7, Line 22 and going over to 23?

Q Actually, it goes over to the next Page 8, all the way down to Line 4. I'm just not understanding. The sentence,

Mr. Turner, becomes "As will become clear," and if I read that to its conclusion, I just want to make sure that I'm reading it correctly. If you can just read that to yourself, and if there is any correction or change, let me know. If there is not, just let me know that.

A Okay. Let me just look real quick.

MR. WATKINS: While you're in this pause, this is Gene Watkins with Covad. For the record I'm joining but will be asking no questions.

MR. SUSAC: Thank you, Gene.

THE WITNESS: Well, I appreciate your assistance. There should be a word inserted on Page 8, Line 1.

BY MS. MAYS:

Q Okay. And what would that word be?

A The word would be "not." And it should be between "would" and "enter."

So it should read as follows: "As will become clear from the results of this analysis, the most conservative assumption, given current conditions, is the working premise that a CLEC would not enter the market using a facilities-based and voice grade UNE-L architecture to serve the mass market at all because there are no offsetting absolute CLEC cost advantages available to offset these CLEC cost disadvantages." And I apologize for not catching that earlier.

Q Let me go back to your direct testimony at Page 4 at

Line 19, and at that portion of your testimony you have identified the issue that you are addressing in this proceeding in Florida. Is that the only issue that you are testifying about in this proceeding?

A Yes, in this proceeding. That's correct.

Q You testified about the economic issues, and you've covered some matters already with Jeremy. And I won't go over them again, but your sole focus is cost issues, is that correct, cost or economic issues I guess I could say?

A I would say that the testimony I provide here is primarily focussed on the impairment cost issues and the economics related to that in this proceeding.

Q And you said primarily focussed on economics and cost issues, and I realize I'm rephrasing. Is there anything else that your testimony focuses on?

A I do discuss some of the network architectural issues related to that. And as you saw in some of my answers to Jeremy, I don't want -- and of course, there's other people addressing this as well, but my testimony does talk about some of the architectural issues related to the local network that CLECs have to deploy compared to the local network that an incumbent has, and then of course takes that and translates those realities into what the cost impairment would be.

Q In looking at network architectural issues, your focus is analyzing the cost aspects of those network issues; is

that right?

A I would say that that is correct, but just did not want it to be interpreted that my testimony does not also address those architectural questions as well.

Q You did not perform any analysis of revenues, did you?

A No, I did not.

Q You did not evaluate whether a CLEC can generate enough profit to cover the costs as you have identified them, have you?

A No, I did not address that. I believe that's more an area that Mr. Wood would have addressed in his testimony.

Q Turning to your direct testimony at Page 5 at Line 2, you use the phrase "practically insurmountable cost disadvantages." What exactly do you mean by that?

A What I mean effectively there is that in practice, given the cost disadvantages that a CLEC would face in Florida, that they are insurmountable. So, I mean, it's a practical reality. If you're facing impairment in the range of $11.86 up to $19.74 per line, per month, that that practically is going to preclude a CLEC from being able to offer local service economically in the state of Florida.

Q Is it your testimony that a CLEC cannot overcome the cost disadvantages as you have identified them?

A Again, I did not do a revenue analysis here, but

based on my experience as to the types of margins that a CLEC would have and given how high the impairment level is in the state of Florida, I would say that it is a practical reality that CLECs are not going to be able to compete at this level of impairment.

Q What are the margins that you're referring to in that answer?

A I do not have specific numbers that I evaluated for that. It's just given my experience in this industry, I also had a CLEC of my own for a time that I ran in the state of Texas. And so I have some experience with the realities of trying to provide local service. But Mr. Wood would be more the witness that focuses on margins and revenues and things of that nature in his testimony.

Q So is it fair to say you are testifying that without looking at revenue and without having any margins, you are stating that a CLEC can still not provide service in Florida using unbundled loops?

A Cannot do so to the mass market. I don't want it to be just without unbundled loops, period, but it's without access to local switching to serve the mass market in the state of Florida; that given the impairment levels, which are roughly $12 to $20, you're dealing with a level of impairment that's so significant that it's practically impossible with those cost disadvantages to provide local service to the mass market.

Q Now, I know that Jeremy asked you about this Triennial Review Order. Do you still have that with you handy?

A I do.

Q Are you there, sir?

A Yes, I am. I answered you. I said I do have it.

Q Oh, I'm sorry. I didn't hear you. It must have been pages flipping around.

I would like for you to look, if you could, at Footnote 1481. In that footnote there's a reference to an AT&T study, and it talks about what the results of that study were with cost disadvantages. It has some figures in there, per line figures that vary from the figures that you have testified to. And my question is whether you have analyzed the prior study referenced in the Triennial Review Order to your study?

A Let me look through that footnote just real briefly, okay?

Okay. I've read through the footnote. And what specifically is your question? Have I reviewed the cost study that led to these numbers?

Q Yes, that is my question.

A I cannot say that I have seen this precise cost study that produced these numbers. I am aware and did see a cost study that was likely similar to the cost study that produced these numbers. In the very early stages of when we were developing the zero impairment analysis tools that I've

presented to the Commission here, but I do not -- in fact, I'm almost certain that it would not be exactly the same tools as what were used to produce the numbers in Footnote 1481.

Q So you would not have any knowledge as to why it is that your numbers are higher in some instances than the numbers referenced in this footnote?

A Some of the numbers that I have are higher and some are lower, so I'm not exactly sure which numbers you're referring to. But I would say that the differences are likely that we did a very detailed analysis for the DS0 impairment analysis tools that we submitted that is at a much greater level of detail than what AT&T's prior model did which would have been used for Footnote 1481. And I have not done an analysis to find out whether some of our detailed analysis caused some costs to go up or other costs to go down.

But I would also point out that I don't know what the underlying market area was here. The analysis that I have done is specific to the wire centers than are in the LATAs in Florida, and the impairment numbers that I produced are averaged across each of those LATAs. And so there are a large number of variables that would be different between the analysis that I did for Florida and the analysis that would have gone into Footnote 1481 that renders any comparison that I think you might want to make likely to be almost meaningless because of, (a), a difference in the detail of the models, but

more importantly, I believe, a difference in the actual underlying demand data, if you will, that would have gone into the analysis that I did for Florida versus whatever was used for Footnote 1481.

Q Mr. Turner, did you ever consider in the development of your model anything at all having to do with revenues? In other words, did you think about, well, maybe I'll do revenues but you decided not to?

A No. The team that -- we were asked to develop a very detailed impairment cost analysis for AT&T. We did not at any time consider and reject the idea of including revenues.

Q You were not asked to consider revenues; is that right?

A We were not asked to either.

Q And is it your testimony that the cost disadvantage alone can result in an impairment finding?

A What I've said in answer to that is that the cost disadvantage should be one of the factors that the Commission evaluates in Florida. The TRO, to my knowledge, provides several areas that the commissions are to evaluate and the cost disadvantage is one of those. I believe in the state of Florida that the cost disadvantage is so significant that it should weigh heavily the determination that impairment still exists. But I don't believe, and again I'm not a lawyer, but I don't believe that cost impairment is the sole determination as

to whether or not impairment should be found or not.

Q In looking at your tool or your model, do you have an assumption about CLEC market share built into that?

A Yes, I do.

Q What is that?

A Excuse me?

Q What is your assumption?

A Our starting value is that CLECs would achieve a 5 percent market share.

Q Is that at the end of the study period or is that at day one?

A It is not at day one. We break that 5 percent up into, I believe, three step increments that it reaches that level in five years.

Q Do you have a market share assumption at ten years?

A No. The way that we do this is that we ramp to 5 percent. Of course, there's some other adjustments that end up taking effect on that 5 percent number, but we ramp to that and then churn after that point.

Q You do not assume a market share greater than 5 percent?

A No, we do not.

Q Have you evaluated any of the other models in this case?

A I looked very briefly at the BACE model, but I would

not say that I evaluated it.

Q Did you compare your model to Dr. Bryant of MCI, who testifies on behalf of MCI, to his model?

A No, I did not.

Q Have you looked at any of the inputs -- when you did look at BACE, did you look at any of its inputs?

A To be candid with you, I tried to get the BACE model to load and was never able to. And in the period of time when I was making an effort to get the model to actually load, I then understood that there was a different witness, I believe it's Don Wood, would be providing the rebuttal testimony to the BACE model. And so at that point I stopped my attempt, if you will, to get that model to actually run. So I don't have -- I have a very limited knowledge as to what's in BACE.

Q According to your model, you do use a study period of ten years; is that correct?

A No.

Q I'm sorry. I didn't hear you, sir.

A I don't believe we do. What we have is we have basically for each different asset, we have a useful life over which we incorporate that into an amortization of its cost. But I don't recall that there's a specific ten-year study period incorporated into the model.

Q Is there any fixed time period study period in your model?

A Not that I recall.

Q Is there anyone else who knows more about your model than you do?

A No, no. What I'm trying to say is that there are certain items that when we're amortizing the cost, there are some that are less than ten years, there are some that are more than ten years. And so it's not so much that it's tied to a study period as it is that we look at each different type of asset and the cost associated with it and identify a reasonable amortization period to use for that asset.

Q Well, I guess what I'm trying to understand is when you -- you've come up with a cost figure per line, and you've done -- you've described at length what you've done to reach that. When you get that cost figure per line, do you spread that out, did you reach that in studying costs over a certain amount of time?

A Yes, yes.

Q What time frame was that?

A Well, I'm trying to pull up the tool right now just to look, but let me -- I can give you some that are off the top of my head. If you're looking at digital loop carrier asset, I believe that we would have amortized that over roughly about ten years. If you look at collocation nonrecurring cost, we amortized that over approximately a 25-year period. So it varies depending on -- the nonrecurring cost related to the hot

cut is treated over the expected life of the customer which is built in as a function of churn. So I guess what I'm trying to say is we don't -- we didn't do it so much as trying to lock in a period of time. We looked at each particular asset and tried to evaluate what the life of that asset would be so that any nonrecurring or up-front cost associated with that asset could be incorporated into an annuity related to developing what the cost impairment would be.

Q Do you have an opinion just as a model developer as to the appropriate study period for a model?

A Personally, when I've done modeling work, the study period is going to vary depending on the type of analysis that you're looking at doing, and it's going to depend too on what the risk levels are of the assets that you're trying to potentially deploy. So it's going to vary quite a bit over -- depending on what type of analysis that you're doing.

Let me, if I could, back up just briefly. There is one, and this may have been the number that you were looking at, there is an input in the model which is called the DS0 investment recovery period and it is ten years.

Q Okay.

A That may be what your question was more about. What I was trying to answer is that that ten years is related to the DS0 investments that you put into the collocation arrangement, but there are other assets that we treat with -- we have not

made every single asset's cost recovery period ten years.

Q I understand. What I was trying to get to is when you come up with your per line figures and you've studied -- when you get to the bottom line big picture, over what period of time you studied in reaching the per line cost figures you are testifying about.

A And that's what I'm saying. It's very hard for me to give you a single answer as to what the study period is because we didn't really do our analysis with a study period in mind. And I think that's where I'm having a hard time with your question. What we did is we identified periods of time over which particular asset classes should have their costs amortized over, and I'm trying to find those numbers because they vary across different assets. But I'm not sure if we're talking past each other or not, but we did not have in mind a particular study period in our model.

Q Do you happen to recall what your cost of debt assumption is in your model?

A It's 9.3 percent.

Q How about your cost of equity?

A 14.2 percent.

Q Percentage assumption?

A I'm sorry. What?

Q An assumption built in for the percentage of debt.

A It's a 40 percent percentage.

Q Other inputs, do you know what your assumption was for equity percentage?

A You mean the cost of equity or the percentage of equity?

Q Percentage of equity.

A It's one minus the debt percentage, so it's 60 percent.

Q Pretax cost of capital you used was?

A I'm having a hard time hearing the first word of each of your questions. What was your question?

Q I'm sorry. In your model, the pretax cost of capital, what is your input? Did you hear me?

A Yes, I did. The number that we end up using as the weighted average cost of capital, which I believe is after tax, is 12.24 percent.

Q Okay. And what about your tax percentage rate?

A The income tax rate that we use is 38.57 percent.

Q Is that for both state and federal?

A Yes. It's basically just an average income tax percentage that we use.

MS. MAYS: Those are all the questions that I have. Thank you, Mr. Turner.

MR. SUSAC: Are there any other parties on the line that have questions for Mr. Turner?

MS. KESTENBAUM: Yes. This is Janis Kestenbaum for

Verizon. I have just a few questions for him.

CROSS EXAMINATION

BY MS. KESTENBAUM:

Q Mr. Turner, have you reviewed Verizon's batch hot cut proposal for Florida?

MS. OCKLEBERRY: I'm going to object to the form of the question.

A I'm not a batch hot cut witness in Florida. I believe it's Mark Van de Water I believe is his name, but it's the witness for AT&T on batch hot cuts.

Q Okay. So then I just want to make clear that your testimony does not relate to the approval or disapproval of the batch hot cut process in Florida?

A No, it does not.

MS. KESTENBAUM: Okay. No further questions.

MR. SUSAC: Okay. And are there any other parties that have questions? If not, Mr. Turner, I see no other reason to go on further. You can go.

(Deposition concluded at 2:15 p.m.)

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ERRATA SHEET
DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

IN RE: DOCKET NO. 030851-TP
NAME: STEVEN E. TURNER
DATE: FEBRUARY 11, 2004

PAGE	LINE	CHANGE

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, TRICIA DeMARTE, RPR, Official FPSC Commission Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing deposition at the time and place herein stated.

I FURTHER CERTIFY that this transcript, consisting of 43 pages, constitutes a true record of the testimony given by the witness.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 16th DAY OF FEBRUARY, 2004.

TRICIA DeMARTE
Official FPSC Reporter
(850) 413-6736

EXHIBIT NO. 36

DOCKET NO.: 030851-TP

WITNESS: Mark Van de Water

PARTY: AT&T

DESCRIPTION:

1. February 11, 2004, Deposition Transcript, page 1

PROFFERING PARTY: STAFF

I.D. # MVDW-D

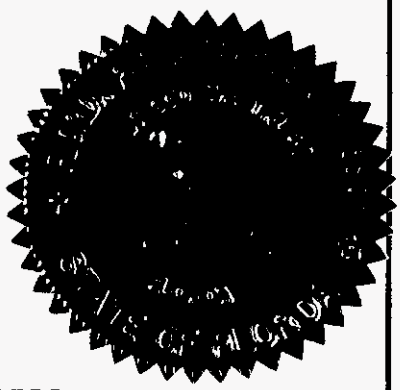
FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 36
COMPANY/ FPSC Staff/AT&T
WITNESS. MVDW-D
DATE: 02/24-27/04

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of:

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.
_____/



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TELEPHONIC DEPOSITION OF:	MARK D. VAN DE WATER
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
PLACE:	Gerald L. Gunter Building Room 362 2540 Shumard Oak Boulevard Tallahassee, Florida
TIME:	Commenced at 3:00 p.m. Concluded at 7:26 p.m.
DATE:	Wednesday, February 11, 2004
REPORTED BY:	TRICIA DeMARTE, RPR Official FPSC Reporter (850) 413-6736

APPEARANCES:

MARTHA ROSS-BAIN, ESQUIRE, AT&T Communications of the Southern States, LLC, 1200 Peachtree Street, N.E., Suite 8100, Atlanta, Georgia 30309-3579, appearing on behalf of AT&T Communications of the Southern States, LLC, participating telephonically.

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DULANEY L. O'ROARK, III, ESQUIRE, MCI WorldCom Communications, Inc.(GA), Six Concourse Parkway, Suite 600, Atlanta, Georgia 30328, appearing on behalf of MCI WorldCom Communications, Inc.(GA), participating telephonically.

LISA FOSHEE, ESQUIRE, BellSouth Telecommunications, Inc., c/o Ms. Nancy H. Sims, 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301-1556, appearing on behalf of BellSouth Telecommunications, Inc., participating telephonically.

JANIS KESTENBAUM, ESQUIRE, Verizon Florida Inc., P. O. Box 110, FLTC0007, Tampa, Florida 33601-0110, appearing on behalf of Verizon Florida Inc., participating telephonically.

APPEARANCES CONTINUED:

JEREMY SUSAC, ESQUIRE, and ADAM TEITZMAN, ESQUIRE, FPSC General Counsel's Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, appearing on behalf of the Commission Staff.

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S T I P U L A T I O N

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this cause; and that reading and signing was not waived.

IT IS ALSO STIPULATED that any off-the-record conversations are with the consent of the deponent.

P R O C E E D I N G S

MR. SUSAC: Let's take appearances. My name is Jeremy Susac, here with Butch Broussard and Lisa Harvey.

On the phone we have:

MS. FOSHEE: This is Lisa Foshee, BellSouth.

MS. ROSS-BAIN: Martha Ross-Bain with AT&T.

MS. KESTENBAUM: Janis Kestenbaum with Verizon.

MR. O'ROARK: De O'Roark with MCI.

MS. ROSS-BAIN: And we also have the deponent Mark Van de Water.

MR. SUSAC: All right. Why don't we swear Mr. Van de Water in.

(Witness sworn.)

MR. SUSAC: And do all the parties agree to the usual stipulations in this docket?

MS. ROSS-BAIN: Yes.

MARK DAVID VAN DE WATER

called as a witness telephonically and sworn to tell the truth by the Notary present with the witness, testified as follows:

DIRECT EXAMINATION

BY MR. SUSAC:

Q All right. Mr. Van de Water, my name is Jeremy Susac. As I mentioned before, I'm an attorney with the Commission. I'll be asking you a few questions. If you do not understand the question, please ask me to repeat it or rephrase

it, and I will do my best to do so.

Could you please state your full name for the record.

A Mark David Van de Water.

Q And could you give us a brief synopsis of your educational background?

A I have a Bachelor's in psychology and a Master's of Arts in Organizational Management.

MS. FOSHEE: Jeremy, I'm sorry. Mark, can you get closer to the phone?

THE WITNESS: Sure.

MS. FOSHEE: Thank you.

THE WITNESS: Is that better?

MS. FOSHEE: Yes, it's a little better. Thanks.

THE WITNESS: Okay. Do you need me to repeat that?

MR. SUSAC: We got it.

BY MR. SUSAC:

Q Have you filed testimony with the Commission before?

A Before the direct, no.

Q Well, in particular to this docket have you filed testimony?

A No.

Q All right. Mark, other than electronic loop provisioning, is there anything specifically BellSouth could do to improve the efficiency of the provisioning side of the bulk hot cut process?

A Well, that's an open question. Let me see.

Q All right.

A As far as the final process that was presented? I guess because there are a number of flavors out there, that's the thing.

Q Okay. Let me preface -- let me go back one second. To the extent you can answer a yes or no, please do so, but I know you'll feel the need to elaborate. But to the extent you can answer yes or no to this question.

A Okay.

Q Other than electronic loop provisioning, is there anything specifically BellSouth could do to improve the efficiency of the provisioning side of the bulk hot cut process?

A Yes.

Q Was that a yes?

A Yes.

Q Okay. Do you have any issues with the efficiency of the bulk hot cut ordering portion of the process proposed by BellSouth in this proceeding?

A Could you say that again, please?

Q Yes, no problem. Do you have any issues with the efficiency of the bulk hot cut ordering portion of the process proposed by BellSouth in this proceeding?

A Yes.

Q You do?

A Yes, I do.

Q Mark, could you please speak up a little bit? I think I'm having a little trouble hearing you. Did you say yes?

A Yes, I do.

Q Okay. Could you state those issues for us, please?

A Sure. We would like the bulk process to include not just the embedded base. Okay. That's one thing. We would like to have the ability to do scheduling specific for the customer. We would like that scheduling to be outside of the normal 8:00 to 5:00 business hours without having to go through a project manager. We'd really like to have to remove as many manual pieces of the process that we can, which, of course, includes a lot of the project managed pieces of that. Those are really the basic hitters.

Q Okay.

A Yeah, go ahead.

Q Okay. A similar question but directed towards Verizon. What specifically could Verizon do to improve efficiency of its proposed bulk hot cut process?

MS. ROSS-BAIN: Jeremy, if I could just note at this point, our witness with regard to the Verizon process is Dick Walsh, and I think he was deposed this morning. So Mr. Van de Water is our witness with regard to the BellSouth process.

MS. FOSHEE: Does that mean -- just so I can clarify -- that you're going to withdraw his testimony on the Verizon process?

MS. ROSS-BAIN: We will need to make the necessary filings to make clear that Mr. Walsh is adopting that portion of Mr. Van de Water's testimony.

MS. FOSHEE: Okay. Just so I'm clear, so everything in Mark's testimony regarding Verizon is going to be adopted by Mr. Walsh.

MS. ROSS-BAIN: That's correct, which is why Mr. Walsh was offered as a deponent this morning.

MS. FOSHEE: Was Verizon aware of that before he was offered as a deponent?

MS. KESTENBAUM: Verizon was aware that Mr. Walsh had adopted Mr. Van de Water's testimony, and we did have an attorney on the Walsh deposition this morning. I guess my question is, does this mean that Mr. Van de Water is no longer going to be offering any testimony or opinions on the Verizon process?

MS. ROSS-BAIN: Yes, that's correct.

MS. KESTENBAUM: Okay.

MS. ROSS-BAIN: Mr. Walsh will be the witness for that.

MS. KESTENBAUM: Okay. That part was not clear. Thank you.

MR. SUSAC: Okay. So I think we're all on the same page now. Let me just review my notes because this changes a couple of things. Hold on one second.

MS. ROSS-BAIN: Jeremy, was that inconsistent with anything this morning?

MR. SUSAC: No, no, no. I just want to go through a couple of questions I got.

MS. ROSS-BAIN: Okay. I'm sorry. I just wanted to be sure because I just wanted to make sure we're all on the same page.

MR. SUSAC: All right. Thank you.

BY MR. SUSAC:

Q Okay. Would the Florida collaborative be a more appropriate place for addressing your concerns regarding CLEC-to-CLEC migrations?

A Yes, I do believe that would be beneficial.

Q In your direct testimony on Page 61, Lines 17 through 20 --

MS. ROSS-BAIN: Can you give us just a second?

MR. SUSAC: Yeah, sure. Just holler when you get there.

MS. ROSS-BAIN: Can you say that again? That was Page 61?

MR. SUSAC: 61, Lines 17 through 20.

A Okay. I'm there.

Q Is it accurate to say that you believe the TRO requires a comparison or standard of whether an ILEC can move customers served by UNE-L at the same volume to performance levels as UNE-P?

A That is correct, yes.

Q However, would you agree that the FCC did not put this standard in its rules that provided direction for state commissions?

A No.

Q Why not?

A Well, I'm looking at a footnote for Number 1574.

Q All right. Give me a second to flip there. I think I've got that tabbed. All right.

A Which is also what I was referring to on those lines on Page 61. It discusses the state commission should review the evidence of consistently reliable performance in three areas: Timeliness, quality, and the maintenance and repair; that the review is necessary to ensure that customer loops can be transferred from the incumbent LEC MDF to a competitive LEC collocation as promptly and efficiently as the incumbent LEC can transfer customers using unbundled local switching.

Q Give me one second, please. Let me review my notes. Let me move on to another question, but I'm going to come back to that one at a little later date -- I'm sorry, at a little later time.

Again, looking at the FCC's Triennial Review, let's look at Footnote 1517, that's 1517.

A Just one moment, please.

Q Okay.

A Okay. I'm there.

Q Okay. The FCC in this footnote stated that the record in the TRO proceedings does not support a determination that electronic provisioning is currently feasible. My question is, what evidence have you provided in this docket that would convince this Commission that the FCC erred in their judgment?

A I don't believe there is an error. It's just that they're discussing the theory of doing something over this short time span. ELP was not the answer to doing that. This docket really is a ninety day -- a nine-month time span where ELP cannot be done. I believe they discussed looking at it later, looking at it as a future practice, but not in regards to this nine-month docket.

Q So do you see it as an issue in this docket?

A I really see this docket being more focussed on the batch hot cut process as it relates to impairment and ELP to be a consideration for the future.

Q So would that be a no?

A Yes, that would be a no.

Q Okay. Thank you. If you believe the ELP is

currently feasible, what do you estimate as the cost to change out the equipment in one central office?

A That I do not know.

Q Hold on one second. All right. Thank you. Is it your belief that CLECs should be responsible in any way for the costs associated with transitioning to ELP?

A No.

Q Why?

A I believe it is something to be looked at. Again, I am not the cost expert, and it probably should be done at a different docket. But ELP is the ultimate goal to allow the seamless transition for the customers for local services, such as what we have today for the PIC change is also for local services for UNE-P. Until ELP is in -- some form of ELP, and there are different types, is in use, the end users, the customers will not have that seamless transition available with, of course, the absence of UNE-P.

Q Hold on one second. And I understand that ELP is not an issue in this docket, and I think we both agree on that, but just for clarification, do you see -- who benefits the most from the ELP, or who benefits from ELP?

A That would be the end users at the end of the telephone.

Q Okay. Are you referring to the CLEC end users?

A No, all end users. It doesn't matter who they're

with. They will have the benefit, like the PIC change, that they will be able to seamlessly change their local carrier.

Q All right. Let's go back to your direct testimony, Pages 62 to 63. If you could please just tell me when you get there, sir.

A Yeah, I'm still there.

Q On Page 63, you state, "The Commission should develop a plan with specific time frames to move to an electronic solution." Did you in your testimony provide any suggested time frame or indicate on what factors those time frames should be based on?

MS. ROSS-BAIN: Are you at the top of Page 63, Jeremy? Just to make sure.

MR. SUSAC: On Page -- I believe it's on the bottom of 62 carrying on to the top of 63.

MS. ROSS-BAIN: Okay. Thank you.

A Okay. I've read that now. Would you mind repeating the question for me, please?

Q Certainly, sir. You state that the Commission should develop a plan with specific time frames to move to an electronic solution. Did you in your testimony provide any suggested time frames or indicate on what factors those time frames should be based?

A No, I did not.

Q Would you like the opportunity right now to suggest

time frames for such a plan?

A I think time frames would be difficult because I believe it is really the best interest to do a much more thorough review of the different processes available. There are different vendors that provide different ELP type of equipment. Some central offices may be more suited for some types. There's also the possibility that not all central offices need to be retrofitted. And until, I think, a more thorough study is done, you really can't come down to a time frame to have it implemented. Maybe a time frame to do more work on it to come back to the Commission with some of those answers.

Q Okay. On that same page, continuing down a little bit, could you clarify something for me? The statement where you say, "The batch process must operate in conjunction with an existing electronic customer acquisition process," what exactly do you mean by that statement?

A UNE-P.

Q UNE-P. Going further down in your direct testimony on Page 64. And you can holler when you get there.

A I'm there.

Q Lines 38 through 39, you state that the Commission should include in its analysis the feasibility of interim automation of hot cut provisioning as part of the batch process. Could you also explain this statement, please?

A There's so much involved with the hot cut process that is manual. I believe what we're looking for -- well, I know what we're looking for -- is any kind of automation that can be added to that manual -- the highly manual hot cut process would be beneficial. So as part of the batch process, we would like to have -- because we believe this is just an interim solution at this point, to have any kind of automation that can be included in the batch hot cut process to be included in the batch hot cut process.

Q Okay. To your knowledge, does BellSouth currently employ a procedure to switch customers back to UNE-P if a hot cut fails?

A I believe they do have a process in place, yes.

Q And what is that -- what is your understanding of that process?

A As I've read in their testimonies, if the UNE-P order has not been completed, they will fling it back to the CLEC in fairly short order. If the order has been completed, I believe they said it was purged from their records, so therefore, the CLEC then had to open up a maintenance ticket to have it flung back.

Q Okay. Switching gears to your rebuttal testimony. You state that there are at least four major deficiencies in BellSouth's proposed batch migration process; is that correct?

A Can you tell me where we are in this, please?

Q Sure, just give me one second. Would you rather me just read them off to you?

A If you could just tell me where they are, I think if you have any questions, then I could help elaborate.

Q Okay. On Page 2 and 3 -- starting on Page 2, Line 17.

A I'm ready.

Q The four, and correct me if I'm wrong, the four deficiencies: It's not a true batch hot cut process; two, it does not reduce economic and operational barriers; the third, paraphrased, performance for UNE-L migrations is lower than that for UNE-P migrations; and fourth, it excludes DSL service via line-splitting and does not allow for CLEC-to-CLEC migrations. You can elaborate on any of them if you feel I have inaccurately paraphrased.

A I think you did just fine.

Q Okay. What to you is a true batch cut process?

A We would like to see put in a batch hot cut process scheduling within a -- at any time as long as the LNP was available, so we could have after-hour cuts if we need to or Saturday cuts if we would need to for our customers. We would like to be able to schedule specific times, not just a window, but we would like to know how many orders can be done in a set amount of time; that way we can from there extrapolate up to the window for those customers. Of course, it would have to be

scalable to meet the mass market demand. It should have performance measures that do look at all the pieces that are customer affecting on this batch process that can be looked at, would be available on an ongoing basis, not just for the embedded base.

I believe that a real-time electronic notification of the status of the completion is key. This electronic piece would minimize the customer's experience of a lack of incoming calls greatly. It should have obviously a much, much lower rate, more comparable to the UNE-P rate or the PIC change rate that is enjoyed today for the fully electronic.

Q And what is lacking in BellSouth's bulk migration process that would make it a true batch cut process under your definition?

A So far everything I think I just listed.

Q The scheduling, the --

A I understand the scheduling is variable to that. Project managed is what we're trying to get away from.

Q Okay. So you want to get away from the project managed.

A We'd like to be able to do as much electronically as we can.

Q But --

A I believe there's even a comment about project managed doesn't work in the TRO.

Q Do the augmentation proposed to BellSouth's bulk migration process introduced by BellSouth witness Ainsworth in his surrebuttal testimony bring the system up to grade as far as being a true batch cut process as far as AT&T is concerned?

A No, not yet.

Q Could you please elaborate on that, sir?

A I read that testimony. And while it is brand new, my understanding is it still has a few gaps in it. The systems that they have offered to upgrade are getting closer. They talk about real-time notification, and they talk about the scheduling tool. But again, there's nothing that's actually in the works today. It didn't go through the change request. I don't know what they're going to look like and if they're really going to work for it.

There's also a couple of the -- one is real key. I saw that they would lock the orders down for possibly up to six months if the CLEC had a very high number of telephone numbers, which would be very troublesome. That a customer that maybe needed to transfer their number to the hospital because someone is going to be there, we couldn't place an order to forward that over. Or this actually came up in other instances, the customer that was actually in suspension at the time that the order was submitted, they paid up and they wanted to restore their service, and we couldn't do it because the lines were left down. Now, that was a different ILEC, but nonetheless,

that was something that happened.

I still don't think that process offers specific customer dates because what they're saying is they will give us the UNE-P rates and they will also -- or give us UNE-L rates as opposed to the UNE-L, but they go on to say that it shouldn't matter when it gets done; therefore, they will do the LNP piece on it, which is something else we do not want to happen.

Q Does the mass migration -- well, have you read Mr. McElroy's surrebuttal testimony filed by BellSouth?

A Yes, I have.

Q Does the mass migration process introduced by him meet AT&T's definition for a batch hot cut process?

A No, it does not. I think I was actually quoting some of the proposals in that which is the second change that they have offered here shortly from the -- Mr. Ainsworth's. Like I said, the only difference that I remember really is the four-hour window for coordinating that Mr. Ainsworth said where there will be -- there's a different time span for Mr. McElroy's. But it still does not get us to where we need to be.

Q Okay. Moving on to your second major deficiency in BellSouth's proposed batch migration process. Could you please identify the economic and operational barriers BellSouth's process does not alleviate, and what action must BellSouth take relating to the current process to alleviate the barriers you

will identify?

A I will. The operational, again, are key. It needs to be as seamless as what UNE-P has today. Anything short of that should be considered an improved (phonetic) process if the CLEC wishes to move large numbers of their customers over to facilities that are possibly being underutilized. But nonetheless, I do not see how this manual process will ever replace an electronic type of process.

Q Could you please define your understanding of seamless?

A Essentially where the customer does not know anything has happened. It is invisible to the customers that they have changed local carriers.

Q And moving on to your third deficiency you mention in your rebuttal for BellSouth's batch migration system is the performance disparity between UNE-L and UNE-P migrations. Do the two UNE types require the same amount of work effort to accomplish?

A Do you have a specific cite? I could comment without looking at it, but I would appreciate being able to see where you're referring from.

Q Give me one second, please. Could you look to Page 3, Line 17?

A Okay. What we're really looking at is a comparison of the UNE-P migration for the customers when they change from

BellSouth to a CLEC versus a UNE loop type of migration. And as we discussed, the UNE-P is seamless. The customers don't know when it happens, and there's no loss of any type of service, whereas the hot cuts, as we've discussed, are very labor intensive. They take much longer to perform. They take a lot more approach, more for the ILEC than the CLEC. There can be provisioning delays. There can be service outages.

If there is a problem during the hot cut, it's generally the CLEC that gets blamed for it. It may not be that way, but it may be that way, but usually it is the CLEC. And again, the costs are very, very much higher for the UNE loop, not just for all the people that need to redo it, but for the actual service orders.

Q To your fourth deficiency now. BellSouth has repeatedly stated that CLEC-to-CLEC migrations are the responsibility of the CLEC themselves, and the CLECs are free to install their own line-splitters. What are AT&T's specific disagreements with BellSouth regarding their positions on this issue? And if you could, please provide a basis in the TRO to support this.

A I would be glad to. There's two different pieces actually, Paragraph 478, with a definition in Paragraph 1473, that's 1-4-7-3. But the Paragraph 478 talks about the incumbent LEC provisioning of competitive LEC-to-competitive LEC cross-connects. And we further find that an incumbent

LEC's failure to provide the cross-connection between the facilities of two competitive LECs on a timely basis can also result in impairment. Competitive in the absence of unbundled local circuit switching by a seamless and timely migration not only to and from to incumbent's facilities but also to and from the facilities of other competitive carriers.

Now, if we look then at what is a cross-connect, in the 1473, that tells us that the cross-connect is the attachment of one wire to another usually by anchoring each wire to a connecting block; then placing a third wire between them so that an electrical connection is made. Connecting block is the idea. That's where these wires are meeting. So we believe that this specifically means that DSL should be included, and the cross-connect should be provided. And to clarify, it may not be an IDF, it could the MDF as well depending on how the frame is set up.

Q So what are the implications to AT&T regarding the proposed augmentations to the bulk migration process introduced by BellSouth witness McElroy in his surrebuttal testimony?

A I believe the -- I can give you the top three or four. One is that -- is for the embedded base only still. Another, and this is very big, is the fact that the orders will be locked down and not able to be changed during the time frame of the LSR being submitted to BellSouth through the actual provisioning, and we don't know when it's going to be

provisioned. We have absolutely no say so as far as when it's going to be done, so we can't talk to our customers to let them know it's going to be changing. And then there's LNP. We don't know again how long it will take to do that.

Q Okay. Has AT&T analyzed the newly introduced mass migration process presented by BellSouth's witness McElroy in his surrebuttal testimony? If so, please discuss the implications to MCI of this process.

A I think I lost you on that one.

Q I'm sorry. First, I meant -- I'm sorry.

Has AT&T analyzed the newly introduced mass migration process presented by BellSouth witness McElroy in his surrebuttal testimony?

A I have read the surrebuttal and I have seen the process proposal.

Q Could you discuss the implications to AT&T on this process?

A Well, again, I believe the implications are, we -- not just us, but it's our name. Our customers that are UNE-P are going to be changed sometime that we don't know about, and therefore, their features may change. We don't know when it's going to change, so we can't tell them when that is. And if they request a change from us, the only way we can do that is to remove it from this batch, process the order, and then put it in another batch or something. In other words, it's not

specific. It's not date-specific. Again, and then BellSouth has offered to do the LNP piece of it which we would rather do ourselves.

Q Does AT&T anticipate this system will alleviate the economic and operational barriers you discussed earlier?

A For this system, do you mean the proposal by Mr. McElroy?

Q Yes.

A No, it does not.

Q I think you may have discussed this, but does AT&T anticipate this system will include a true hot cut process as you described earlier?

A I'm not sure what the reference is to a true hot cut process. You mean seamless? I'm not sure.

Q Is that what you said in your testimony? I think -- if it's correct to paraphrase your earlier testimony, that I asked you what you saw as a true hot cut process, and you said it was seamless. And then we went on to define seamless, and you said the customer would be unaware of any switch going on as to their provider. And my question is, does McElroy's mass migration process include a true hot cut process as you described earlier?

A No. This is also not seamless.

Q Could you explain why it is not seamless?

A It's really the same basic hot cut where the frame

tech is moving the wires and there's interruption in service. The customer will experience a change of his or her services. They will notice a brief downtime for no dial tone, hopefully, and also hopefully a minimal amount of impact for their inbound calls. It's not seamless.

Q Has BellSouth approached AT&T regarding development and testing of the mass migration process?

A Not to my knowledge.

Q Could you please turn to Page 10, Lines 13 to 25 of your rebuttal testimony, sir?

A Page 10, what lines?

Q 13 to 25.

A Okay.

Q This part of your testimony states that you believe SBC has proposed a batch cut process with several advantages over their existing process. Lines 16 through 25 of your testimony provides a list of items you believe are advantages. Did you file any testimony that discusses each of these items in detail? If so, where is this in your testimony?

A I don't believe I discussed each one of the SBC items specifically other than to provide them in this bullet point form.

Q Could you please expand on each of the items in the list on Page 10?

MS. ROSS-BAIN: I think he wasn't through with his

answer yet.

MR. SUSAC: Okay.

THE WITNESS: What I'm looking at though is I'm looking back on my direct which you had already talked about on Pages 62 through 64. While all of those items on Pages 62 through 67, actually, are not addressed in the SBC proposal, I believe that each are discussed back on my direct.

BY MR. SUSAC:

Q Okay. Are those the only pages, or shall I move on?

A These are from AT&T's recommendations, yes, Pages 61 through 67.

Q Okay. Thank you. Going to Page 10, Lines 3 through 25, could you please expand on each of these items listed why it would be necessary in a batch cut process and whether or not BellSouth has proposed these items in its testimony?

MS. ROSS-BAIN: Are we still on the rebuttal testimony?

MR. SUSAC: Yes.

THE WITNESS: Line 3 on Page 10?

MR. SUSAC: Page 10, Lines 3 through 25 -- sorry, 13.

THE WITNESS: I see Line 3 as a response actually to a collaboration with Verizon.

MR. SUSAC: I'm sorry. That's my fault. Look at Line 13, a flexibility schedule, maybe?

THE WITNESS: Line 16, the bullet point flexible

scheduling?

MR. SUSAC: Yes.

THE WITNESS: Okay. That's line 16 on my copy.

BY MR. SUSAC:

Q Okay. Why would it be necessary in a batch cut process -- I guess let me restate my question.

Could you please expand on each of these items listed here and why it would be necessary in a batch cut process, and whether or not BellSouth has proposed these items in their testimony?

A Sure. But first, I'd like to say the caveat that BellSouth has numerous proposals with different pieces filed in each one. So is there one that you'd like to me to address or all three or -- I'm unclear about that piece of it. Because we have the batch ordering, the Ainsworth discussion, and then the McElroy discussion. They all have different attributes that may or may not include each of the bullet points.

Q Let's concentrate on Ainsworth's surrebuttal and the improvements.

A Okay. The flexible scheduling is needed so the CLEC can schedule the hot cut as they deem is the best for their customers. Depending on the customer base, business or residence, they may have a different type of day, so we need to have the flexibility to schedule that as needed. Now, Mr. Ainsworth talks about a four-hour window for the

coordinated cuts only. So I'm unclear what that four-hour window really means, if they start the batch in that four hours, if they will complete the batch in the four hours, I just don't know.

Q Okay.

A So eliminates -- the second bullet on -- well, the lines are different. The second bullet, eliminates negotiation steps and time involved, we're looking to have those as systematic as we possibly can to take out as many manual steps as we possibly can as well. And I believe Mr. Ainsworth, this process still had project management involved that would be overseeing each one of the moves. Okay?

Q Okay.

A So the next one, provides defined intervals to allow for CLEC resource planning, you need to know exactly what the interval is from the time that we can send the LSR out to the time that we can do the order. I believe that the SBC -- Mr. Ainsworth's does have a minimum, if I remember right, of eight days now on this one. Now, this is obviously not as short a time frame as what is used for the UNE-P, but it, nonetheless, is a defined interval.

Next bullet is, provides CLECs an ability to reserve time. I don't think this was in Mr. Ainsworth's. I know it was in Mr. McElroy's, the creation of this new batch reservation tool. I'm trying to look over and see if he was

offering that as well. Yes, he did -- actually, they would develop a Web-based scheduling tool similar to that of Verizon, but with no CLEC input I think it's difficult for us to know what this is really going to look like. We haven't had any kind of collaborative or back and forth talking, so we don't know, actually.

Wire center based to provide the CLEC the ability to convert multiple central offices on the same day. This is just to help the CLECs as well as the ILECs manage their people best. We don't need to do a batch of 50 and have 10 being cut in five different frames. It makes a lot more sense to have it all in the same location so it can be the most economical, least amount of travel for the frame techs and the best way for both to manage their people resources.

I believe BellSouth has said that they will scale as necessary, or they will allow this piece of it. This is a business as usual for them. So it's just really whatever happens, happens.

And includes requests involving IDLC cuts. Again, this is another key piece where we need to know that all of our customers that can be converted, providing there are UDLC or copper facilities available, can be converted in a window, and that goes back again to that window piece of it or in the reserve time instead of just sometime. We need to know when it can be done and that it can be done. And Mr. Ainsworth has

advised that the IDLC will be available, but I don't think we're clear about when because the process isn't that solid yet, I think.

Mechanized order flow. To better utilize, I would think both companies' resources having the least amount of orders falling out for manual typing, manual handling, as well as, of course, errors that may happen if we have now people punching them, we would like to have the absolute highest percentage of mechanized order flow that we possibly can. I understand now that there is a high number that fall out as opposed to the UNE-P that has a very high number that flows through. We're looking for something similar to now what the UNE-P has where we have such a high number that do flow through that again makes it more seamless to the customers because there's less chance of any kind of breakage because there's less touch points (phonetic) by the CLEC. Actually, it's by both sides, there's touch points.

We have the reservation tool. Let's see. I know that was in Mr. McElroy's. I believe he also alluded to having some sort of reservation tool also. I'll have to just pass. I mean, I think that he did, but I'm just not sure.

And the preorder IDLC tool, which would benefit both customers -- both CLEC and the ILEC if it were available to look at it, and they do have that sort of tool. BellSouth does have that tool available if the CLEC started to choose to use

it before they send their order.

Q Okay. Keeping on with your rebuttal. On Pages 11 through 12, Lines 23 through 24 and 1 through 3 respectively.

A Yes, sir.

Q Is it fair to say this alludes to a performance standard of 15 minutes that could be reduced to five minutes?

A Yes, that would be fair.

Q What specific performance metric or metrics are you referring to?

A What we're alluding to here is the actual complete loop migration, the actual time that the customer will experience an impact, which would then be found (inaudible) from the time the frame tech lifts up the loop, lays it back down, the LNP is completed by the CLEC, so the customer is whole again.

Now, obviously BellSouth cannot control how long it takes a CLEC to do the LNP, but they can control the notification. And this is then leading to the real-time notification that the order has been completed which will give the CLEC that chance to do that LNP in that short time frame.

Q Have you had the opportunity to review the additional hot cut performance metrics that were filed with BellSouth's Varner's direct testimony?

A I have read Mr. Varner's testimony.

Q And as it pertains to metrics, what is your opinion of those changes in performance metrics?

A Could we go to Mr. Varner's testimony so I'm sure which page you are discussing?

Q All right. Hold on one second.

MR. SUSAC: Can we go off the record real quick?

(Discussion off the record.)

BY MR. SUSAC:

Q I believe you were looking for BellSouth's Varner's direct testimony where he references metrics.

A Yeah, that's correct.

Q What is your opinion of those changes in performance metrics that he mentions?

A I'm not seeing the changes because as -- I guess I do have Mr. Varner's testimony here, but do you have a page number that I can refer to?

Q We are actually going off the exhibits in the back. Sorry.

A Okay. No. I would actually like to refer these to Cheryl Bursh because she is our performance metrics expert, if you will.

Q Okay. That's fine. Okay. Beyond the studies and commercial evidence already provided, what can or should BellSouth do to prove, as your rebuttal demands, that they have systematic capability to handle provisioning of hot cuts at

anticipated volumes?

Are you still there?

A Yeah.

Q Okay.

A Do I understand that you're asking about testing to make sure it all works? Or I think I just need clarification.

Q Basically we're asking, in your opinion, what does BellSouth need to do?

A Well, come up with an absolute best batch hot cut process available that is as close to seamless as possible. Again, I do not believe that will mitigate impairment, but nonetheless, it would be an advantage for a CLEC that does wish to move customers over. Now, I know that the Commission is charged with creating or at least approving that batch hot cut process during this nine-month time frame. I believe after that it is very important that there are performance metrics around that approved process created, as well as testing that is done, where the CLEC can comfortably use them -- or use the process, I should say.

Q Let's see if I can give this a shot. To the extent this doesn't require a legal analysis from you, but in your understanding or in your suggestion, what would BellSouth need to do to prove that they have a systematic capability to handle provisioning of hot cuts anticipated volumes? And what I mean by that, would they need to have testing? If so, by

third-parties, CLEC collaborations, things along those lines, what do you see?

A I see collaborations between the CLECs and BellSouth to come up with the best process that can be done with the OSS available. I see testing by third parties that can then -- actually, under order of the Commission I think would be better, not just random testing, but Commission-ordered testing, nothing to the extent I understand that there was in Florida some years ago with OSS, but nonetheless, something that tested the process enough so the CLECs are comfortable that they can move customers when they choose to and it's economically and operationally better for them to do so.

Q All right. I just have a few more questions. Going to your surrebuttal now.

A Okay.

Q On Page 3, Lines 12 through 16, you state that AT&T is requesting that the Commission initiate another proceeding to determine whether ELP would eliminate impairment. Would AT&T possibly petition the Commission for such a proceeding if not ordered by this Commission?

A I don't know.

Q Okay. Switching gears. Have you had the opportunity to read Ainsworth's surrebuttal?

A Yes, I have.

Q On Page 2 -- and just holler when you get to

Page 2 of Ainsworth's surrebuttal. Do you have that in front of you?

A Yes.

Q Okay. It seems to offer ten enhancements to the batch hot cut process. What is your specific reaction to these ten enhancements?

A When I first read them I thought, great, I'm glad to see that this has been proposed. Obviously more specifics are needed, and I think one of them I refer to is the one on the bottom of Page 2 that talks about the four-hour time window. I don't know what that really means.

I'd also like to see noncoordinated included with that. A timely restoral process, I'm not sure -- real clear what that means, if that's talking about before the completion or after the completion or both or what. And then the OSS changes are I don't know. Those are promises in other areas as well, besides BellSouth I meant. But, you know, we just don't know. Without good testing, we don't know. And, of course, the interval decrease is a move in the right direction, obviously not the same interval we have today for UNE-P, but it's a move in the right direction. And scheduling tool again is another I don't know. We'll see if it works. And the to the DSO EEL, I believe, is definitely a move in the right direction. I believe before it was DS1 only. So as a group, there's a lot of open questions, but it's baby steps.

Q Can you now flip to Pages 9 and 10 of Ainsworth's surrebuttal?

A Okay.

Q What is your reaction to the internal reduction proposed on these pages?

A The interval reduction.

Q I'm sorry. Yes, interval.

A Again, I believe it's a move in the right direction. It's less than the 14 days before, but it's still not the same as the UNE-P, which is the same day or next day interval process.

Q Could you please now turn to Ainsworth's surrebuttal testimony on Page 15?

A Okay. I'm there.

Q What is your specific reaction regarding the SBC process you had proposed after reading that?

A My reaction to his reaction, or my reaction to SBC's process?

Q What is your specific reaction to Ainsworth's surrebuttal testimony on Page 15 regarding the SBC process you had proposed?

A I'm glad that he's agreed that some of these are valid to be used in the BellSouth region as well. I believe that there's still some questions, specifically on the first bullet on Page 16. There's a section in there that says

that if the requested due date does not represent an interval shorter than the minimum, BellSouth will honor that date as long as the workload and personnel will allow. That doesn't give me a real warm fuzzy because I just -- I don't know. I mean, is that really scheduling then, you know, if I'm relying on their workload and personnel? It doesn't -- it seems to me like we still have project managing going on here then.

But all in and all, I did read this, and I think that it again moves in the right direction. A lot of these are OSS that we need to look at. Mechanized order flow, increasing that. The reservation tool, that doesn't exist yet today. What will that look like? And without CLEC input, as far as what we would like to see as the users of that tool, I don't know how it can really be created without that input. That's why I'm a proponent of the collaboration.

Q You say in your rebuttal testimony that according to the TRO, the purpose of the bulk hot cut process is not solely to migrate the embedded base of the UNE-P. Given this, how critical would a batch hot cut process continue to be once the embedded base is migrated to UNE-L?

MS. ROSS-BAIN: Can you give us a page reference to that quotation?

MR. SUSAC: That's just my general understanding of -- well, let me try and find it.

BY MR. SUSAC:

Q While we're trying to find the specific page number, do you agree or do you disagree that the purpose of the bulk hot cut process is not solely to migrate the embedded base of the UNE-P?

A I disagree.

Q You disagree with that. Could you elaborate on that, why you disagree?

A Sure. I believe the bulk hot cut process is something that should be looked at as a tool that is used in addition to UNE-P. So like -- well, I was involved in the meetings with SBC to create a type of large number migration for us to use while we're moving UNE-P customers over to our facilities when it was economically feasible to do so. Now, this is the basis of their proposal actually that was ruled out in the SBC region.

I believe that the batch hot cut process is something that will benefit all CLECs if they happened to change over to facilities-based, or as some of the other enhancements are allowed to do it, it shouldn't be limited only to the embedded base. It's a great improvement for economics and hopefully for time spent by both companies' representatives to minimize this, not only the problems that could be experienced with the customer's outage, but also just to minimize the time it takes to move all these loops over.

Q Okay. Let me try and restate the question. Assuming

that we were going to move to a more facility-based competition and assuming that we went to a UNE-L, how critical would the batch hot cut process be in that hypothetical?

A Using a hypothetical, I'm assuming that the UNE-P would essentially be going away.

Q Yes.

A We still believe that UNE-P is the acquisition tool that should be used by CLECs. Which then if UNE-P has gone away, then that means that it's only the embedded base at that time. So the acquisition tool which could be used for years to come, if this was limited to embedded base, they wouldn't be a part of it. I'm looking at this as something that can be used for years to come, not just for the UNE-P customers that are left on as of whatever date this year.

Q Okay. Two quick things. Could you go back to speaking into the microphone. I think you're breaking up a little bit.

A Okay.

Q And also, I have the specific reference that you wanted earlier. If you could, look at Page 16, Lines 19 through 21 of your rebuttal testimony.

A Okay. I have it.

Q You state, "I am unaware of any portion of the TRO that directs the establishment of a batch hot cut process simply for the use of migrating the embedded base of UNE-P."

A That's correct.

Q I guess, given this, how critical would a batch hot cut process continue to be once the embedded base is migrated to UNE-L?

A Again, I believe that we're looking at future volumes as well. I'm not thinking of the batch process as something that is only for the base. It's an improvement to the current hot cut process that has been found to cause a lot of problems. And we're looking to try to improve that process in whatever way, shape, and form that we can moving customers from one switch to another.

Q Well, how does the current process in place deal with your current problems?

A The current process being the loop ordering process?

Q Yes, including that, your hot cut process --

A Well --

Q -- I mean --

A Go ahead.

Q Oh, excuse me. Their hot cut process.

A I think that I referred to that in my testimony when there was more volumes of the UNE loops being done in the late 1990s -- or 1999, excuse me, and 2000 and 2001. There was more problems. There was more people touching it. They were done on a onesy-twosy basis, if you will. AT&T had testimony that was filed that talked about the problems. And that's not the

way to do it. And I think the TRO also recognized that the problems of the hot cut process has inherent problems that need to be addressed. That's why they asked the commissions to establish a batch hot cut process to help alleviate that.

Q Would you identify for us and describe what AT&T would consider a legitimate bulk hot cut process and identify what ILECs operate such a system?

A Well, there is no ILEC that has an old hot cut process that answers of our concerns at this time. Obviously what we would like to see is an electronic method, which does not exist today. I think I've gone over pretty clearly in the testimony everything we'd like to see in a bulk hot cut process, including the electronic notification, the OSS instead of the folks involved calling back and forth. And there was Pages 61 through 67, I think, was everything included.

Q All right. Almost done here. Could you please refer to BellSouth witness Ainsworth's surrebuttal testimony --

A Sure.

Q -- Pages 5 through 19, beginning on Page 5.

A Okay. Starting on Page 5 where he says that he will -- they will now include EELs; correct?

Q No. Under the heading, "The Batch Hot Cut Process."

A "Batch Hot Cut Process-Specifics;" correct?

Q Yes, yes.

A And then the first subheading is, hot cuts for

EELs -- that they will accommodate EELs.

Q Okay.

A Okay.

Q Mr. Ainsworth, it seems, attempts to dispel the allegation that BellSouth is unwilling to collaborate by describing various augmentations that BellSouth is planning for the hot cut process and the batch hot cut process. Could you please address each of the augmentations offered by Mr. Ainsworth as they relate to AT&T?

A Sure. Well, the first one would be the hot cut for EELs. I think it's good that they've included this. I'm not sure what else to say. I think we need to remember that there wasn't a collaboration to come up with these. BellSouth took feedback that it heard at the various workshops that were held around the Southeast states for describing this process and all of a sudden proposed this here at the end of last month. So it really wasn't a collaboration. I'm going to say they are a step in the right direction. So EELs, I think that's very good.

And then let's see. The second section is CLEC-to-CLEC migration where he's actually talking about Ms. Lichtenberg's testimony and that they're now -- they have agreed to do the CLEC-to-CLEC migrations for UNE-P to UNE-L, as well as the CLEC-to-CLEC as soon as necessary system changes can be made. I'm not sure what that means. But that's kind of

open. That's how my feeling is about that. It's a promise that I don't know about. And the Web-based scheduler is an OSS that I don't know what it's going to look like. They say it's going to be functioning by October 2004, but I don't know, you know, if they can do that, and I don't know if it will look like what we need as a user. As a user of this system, I think it's important, imperative that the CLECs are involved actually in discussing what we want to see with it.

The next one would be the same-day cuts for the end user accounts. And they are saying that they will guarantee that all lines in an end user's specific account will be cut on the same day. That's good. I'm not going to argue that it's not good.

Again, they're talking about the interval reduction, which you are already discussed. That's a step in the right direction. It's not the same as UNE-P, but it's getting there.

The communication tool is an OSS that we don't know about. They said it's going to look similar to Verizon's. They're going to have it to us by June 2004, but without any input and really not having been able to talk, I can't comment any more on that.

The restoral process. They say they're updating the P to L process to document the acceptance process for coordinated orders and the expedited restoral process for noncoordinated orders. That's not descript enough for me.

And if I may, I'd like to go back to the mechanized communication tool. Their response actually is they're going to provide a Wed-based notification tool for all noncoordinated batch conversions. We would like to see coordinated in there as well. I don't know why they would want to make it noncoordinated only. It seems to me it would be more difficult to excluded a portion of it.

And port in error, he goes on to say that the port is actually done by the CLEC and I agree with this. So I can't really comment on the specifics around Mr. Neptune's testimony, but I did not read his so I'm not sure. He's just discussing that, I believe. He's not really saying they're going to do anything about it.

Volumes in a batch. Again, I think he's going back here to the fact that they're not going to have any imposed limit on a number that they can do for central office today, but as I said earlier, there's a section in there that we'll get the date we want provided their workforce can do it. That's not helping the CLEC's schedule. If we had some sort of better specifics as far as how many a CLEC could do at a central office a day or how many the maximum number that BellSouth would do at a central office today, that would greatly help this process.

Coordination levels. It talks about industry definition. I'm having to kind of go over this again, if you

don't mind.

MS. ROSS-BAIN: I got confused by the question. I guess I thought the original question Mr. Susac asked pertained to augmentations Ainsworth proposed.

MR. SUSAC: That's correct.

MS. ROSS-BAIN: I guess I wasn't sure whether these were -- in the category of what you were referring to of augmentations. So I just wanted to clarify that.

BY MR. SUSAC:

Q Okay. I guess the question was asked for you to address the augmentations offered by Witness Ainsworth as they relate to AT&T with the batch hot cut process just in general. And I know we talked about that earlier.

MR. SUSAC: Do you have an objection as to him answering that?

MS. ROSS-BAIN: Not at all. I personally got a little confused because I think he first directed him to a point in the testimony, and I think that since then he has continued to talk about the testimony and things like the volumes in the batch what's in an augmentation as I understood it. It looked like we were getting into responding to some specific parts of testimony, and I just was a little unclear about the question as asked. So I hope that clarified it.

MS. FOSHEE: And just for the record, I would note that if the witness is unclear about the question, the witness

can say that. And I don't know that his attorney needs to explain that he should have been unclear about the question.

MS. ROSS-BAIN: Well, I'm his attorney, and if I'm unclear about the question, I have the right to make that point.

BY MR. SUSAC:

Q Would the witness like to offer any other testimony to that question, or is he done answering that question?

A Well, I think we were just about done with this section anyway because we're up to that SBC process which we had discussed already.

Q All right. We'll just continue on. Would you please address BellSouth witness Ainsworth's comments regarding scalability as they appear beginning on Page 19 of his surrebuttal testimony?

A Just a moment. I see that the first two responses are actually to Lichtenberg's testimony, but on Page 20 he's starting to answer some of mine. So did you want me just to comment over all of these, or do you want me to do one individually?

Q Just yours, sir.

A Okay. So the first one on top of Page 20 is about throwing bodies. I think what we're talking about is the fact that the UNE-L process is not a mechanized process. It is a manual process. That's going to take a lot more people. And

I'm not sure that that is the answer or the best thing for the industry to take something that BellSouth has told us is going to take a lot of dollars for them to hire all these people and train and get them to do it to move all these customers over to UNE-L if UNE-P were to go away. That's what I'm -- I'm concerned because I know that because there's so many people involved, and the bottom line is the people, people are getting involved in this, it could be more problems. That's as far as the first one. Rather than mechanization, using people of course is not the way to go in this world. If there are available technologies to mechanize, we should be looking forward to that in the future.

And the second one specifically talks about there are 200 lines in a single office. I don't -- you know, that could have been an anomaly. I don't know how that worked out. He goes on to talk about the single office performance and percentages, and I don't think that really relates to the real world. They could have many hundreds needing to be done in many central offices all on the same day, and then pushing that out even while they are being done today and tomorrow and the next day, prewiring will need to be done at those central offices while those other folks are trying to do the hot cuts. It's just a lot of activity. So I don't know if one central office example really gets to our batch hot cut process as a living, breathing process in the future.

Q I just have a few questions to follow up on what we discussed earlier. And if you could please speak into the microphone still again.

A Yeah, I apologize. I'm leaning forward reading the testimony up here so I'm moving away. I'll see if I can adjust a little bit for you. There that should help.

Q Okay. Thanks. As we discussed earlier the comparisons to UNE-L and UNE-P, on what basis in the TRO are you claiming the performance for UNE-L must be the same as UNE-P?

A I believe it's 1474 again. We talked about that before. 1574?

Q Maybe 1473. Was it? No.

A Let me see. We talked about this before with 1574.

Q And was that the timeliness, the quality, and the maintenance and repair?

A Correct. I'm starting in the middle of the Footnote 1574, after the section that was mentioned about timeliness, quality, and maintenance and repair. "This review is necessary to ensure that customer loops can be transferred from the incumbent LEC main distribution frame to a competitive LEC collocation as promptly and efficiently as incumbent LECs can transfer customers using unbundled local circuit switching. This evidence will permit states to evaluate whether competitive carriers are impaired because the quality of their

services is below that offered by the incumbent."

Q Okay. Earlier in your depo you stated something I want to follow up quickly on. I believe you said that project management doesn't work or comply with the TRO. Could you explain that statement or correct me?

A I did make that comment. Let me see if I can find my note on that.

Q Okay.

A I'm on Paragraph 474. It starts about the middle -- you want me to wait for you to get there?

Q No, I'm there.

A Okay. About the middle of the paragraph, it starts off saying, Project managed cut-overs involve the conversion of a number of lines at one time, pursuant to provisioning requirements and intervals negotiated by the incumbent and the competitive LEC. We find that these approaches are not sufficiently developed or widespread enough to adequately address the impairment created by the loop cut-over process. The evidence in the record demonstrates that the carriers that have used project managed cut-overs have used them only for business customers, and only after acquiring the customer through a means that offered the use of incumbent LEC loops and switches in combination. Further, competitive carriers rarely know in advance the precise locations of new mass market customers, and the facilities used to serve them, hindering the

use of project managed processes, which must be negotiated well in advance. In addition, the frame due time and project managed approaches do not offer rates that reflect efficiencies, et cetera, et cetera.

Q Thank you. And this is my final question. Earlier you stated that BellSouth has to come up with a process that is close to seamless as possible. Could you please elaborate on this and explain what this means to you?

A Sure. Actually, I agree with the TRO that the customers have come to expect the ability to change their carrier seamlessly, without noticing any kind of interruption in their service. I've been doing this for many years. As my introduction stated, I've been doing this for five years, both the UNE loop and the UNE-P. And I've seen the amount of problems decrease because of UNE-P where the customers aren't calling up the Commission to open up complaints and FCC expedites and all sorts of other problems, because UNE-P, it does not have the same inherent problems as the UNE loop process does.

Q So to the extent that a customer doesn't notice any kind of service disruption, that's seamless to you, no matter of time, anything, just as long as they don't have a service disruption?

A I would agree with that.

MR. SUSAC: All right. That's all the questions we

have. Thank you, Mr. Van de Water.

THE WITNESS: You're welcome.

MS. ROSS-BAIN: Mr. Susac, could we inquire of the other attorneys how long they think their questions may take? Because this can determine whether we need to take a break now.

MS. FOSHEE: I have about two hours of questions.

MR. SUSAC: Well, let's take a break then.

MS. ROSS-BAIN: In light of that, that might be a good idea.

MR. SUSAC: All right. We'll take a ten-minute break. I have 4:40 and we'll start at 4:50.

(Brief recess.)

MR. SUSAC: Are there any other parties on the line?

MS. FOSHEE: BellSouth is here.

MS. ROSS-BAIN: AT&T is on the line.

MR. WATKINS: Gene Watkins with Covad is on. And for everyone's edification, I'm not going to be asking any questions.

MR. SUSAC: All right. Remind the witness that he's still under oath. And, BellSouth, it's all yours.

MS. FOSHEE: Thank you.

MS. ROSS-BAIN: There was some other attorneys. Is Mr. O'Roark and Ms. Kestenbaum --

MS. FOSHEE: In the interest of time, I propose we get started.

MR. SUSAC: If we've got two hours to go, I think -- either way I think he'll be joining us, if he does join us at all, relatively soon.

MS. ROSS-BAIN: Okay. Thank you.

MS. FOSHEE: Should I go ahead, Jeremy?

MR. SUSAC: Yes. Proceed. Thank you.

CROSS EXAMINATION

BY MS. FOSHEE:

Q Good afternoon, Mr. Van de Water. Lisa Foshee on behalf of BellSouth. Why did you decide not to testify about Verizon's batch hot cut process?

A I was getting stretched a little thin. I'm doing the SBC states as well as the BellSouth states, and BellSouth could be better served if I focussed on just the processes that those two companies presented.

Q So it wasn't because you personally like the Verizon process?

A No, no.

Q Okay. I want to follow up on a couple of staff's questions and then get into my own questions. First, can we agree that collaboration is a negotiation?

A I don't think so, Lisa. I think it's more of discussion working back and forth to come to an amenable agreement.

Q Okay. And just at the outset, if I ask you a

yes-or-no question, I'd appreciate a yes-or-no answer, and then feel free to elaborate.

A As I said, I don't think so.

Q Okay. If BellSouth agreed to do what you wanted, why would we need to collaborate?

A Okay. Just so I'm clear, do what we wanted for the batch hot cut process?

Q Correct.

A I think it's more a matter of making sure that what you're agreeing to that we want, that you understand what we want, to come to an end result that we all agree is the best.

Q Is SBC's scheduler acceptable to AT&T?

A It is as --

Q Yes or no, please, and then feel free to explain.

MS. ROSS-BAIN: If he had a question for you, he can ask that.

A It doesn't exist yet.

Q Is SBC's proposed scheduler acceptable to AT&T?

A It doesn't exist yet. We don't know.

Q Is Verizon's WPTS system acceptable to AT&T?

A I don't know.

Q So when you talk about a notification system that you want, or that AT&T wants, you don't know if the WPTS system is acceptable?

A That's correct. I'm not familiar with that system.

Q Now, you talked about in response to staff questions about the mass migration process. I think you called it a lockdown of six months of orders. Couldn't AT&T just pull a number out of that bulk order if it needed to make changes to that order?

A Yes.

Q Now, you talked about also in response to staff's questions about what you meant by flexible scheduling. You agree, do you not, that Mr. Ainsworth and BellSouth committed to after-hours and Saturday cuts as part of the batch process; correct?

A Yes.

Q And you also agree that BellSouth includes IDLC in its batch hot cut process; correct?

A That is my understanding, yes.

Q Is it your position that the batch process described in the TRO is for the UNE-P embedded base to UNE-L conversions?

MR. WATKINS: Asked and answered.

MS. FOSHEE: Excuse me?

MR. WATKINS: I said that's asked and answered.

MS. FOSHEE: Who's this?

MR. SUSAC: Who is that?

MR. WATKINS: It's Gene Watkins. If the court reporter would need any help, I'll be happy to give my name before objecting.

MS. FOSHEE: No. I'm just wondering why you're objecting on behalf of AT&T's witness.

MR. WATKINS: I'm not objecting on behalf of AT&T's witness. I'm objecting for the sake of the record.

MS. FOSHEE: Jeremy, I would ask that no counsel other than AT&T's be allowed to render objections.

MR. SUSAC: I agree with that too. In my experience, I've never seen that done before.

MS. FOSHEE: Nor have I. Thank you.

BY MS. FOSHEE:

Q Mr. Van de Water, do you need me to repeat the question?

A If you would, please, Lisa.

Q Sure. Is it your position that the batch process described in the TRO is for UNE-P embedded base conversions to UNE-L?

A No.

Q The last follow-up I had from the staff was, the staff asked you about CLEC-to-CLEC migrations in DSL, and I believe you cited to Paragraph 478. Can we agree that Paragraph 478 of the TRO specifically addresses, quote, other operational and economic impairment, close quote?

MS. ROSS-BAIN: Excuse me. Paragraph 478?

MS. FOSHEE: Yes.

MS. ROSS-BAIN: And you were quoting from it, so let

me get it here so I can have the correct reference. Could you repeat the quotation?

MS. FOSHEE: Actually, I'm quoting the heading under which Paragraph 478 is listed. The heading of which I'm quoting is above Paragraph 476. It's, quote, other operational and economic impairment, close quote.

MS. ROSS-BAIN: We're locating it.

THE WITNESS: I see that.

BY MS. FOSHEE:

Q My question is, can we agree that Paragraph 478 to which you cited specifically addresses, quote, other operational and economic impairment, close quote?

A Yes. To be more clear, it's also under Subheading A of operational factors.

Q Okay. Now, if you could look at Paragraph 476, please, and read the first two sentences to yourself. Let me know when you're ready.

A Okay. I've read it.

Q Can we agree that the, quote, other operational and economic impairment, close quote, to which the FCC referred in the TRO is separate and apart from the batch hot cut process?

A No.

Q Why not?

A Because actually the hot cut process is mentioned in the first sentence.

Q And doesn't the first sentence say, "We have concluded that the barriers associated with the hot cut process justify a national finding that carriers are impaired without access to switching"? And the second sentence then reads, "We have, however, asked states to identify markets in which requesting carriers are not impaired without access to switching pursuant to the guidance set forth below." Is it your position that those two inquiries are linked?

A Yes. I'm not sure where you're going.

MS. ROSS-BAIN: I object to the extent you're asking the witness for any kind of legal conclusion or opinion.

MS. FOSHEE: I'm asking the witness his understanding of the TRO which he cites extensively in his testimony.

THE WITNESS: I read this as two sentences saying that there are additional barriers associated with the hot cut process, and the states need to identify the markets that are not impaired without access to the UNE-P.

BY MS. FOSHEE:

Q Okay. Mr. Van de Water, did you review Denise Berger's (phonetic) North Carolina 271 testimony before filing your direct testimony in this case?

A Yes, I did.

Q Do you have a copy of it with you?

A Yes, I do.

Q Great. If you could turn to Page 4, Line 9 of her

testimony. Actually, I'm sorry. Let's start at Page 6, Lines 15 through 17.

A Hang on. Let me get to it first.

Q Okay.

MS. ROSS-BAIN: Give us just a minute. We're trying to locate Ms. Berger's testimony. We've got a copy of it. We're just trying to locate it.

THE WITNESS: Okay. I have it.

MS. ROSS-BAIN: Which page again?

MS. FOSHEE: I'm going to ask a preliminary question.

BY MS. FOSHEE:

Q For the staff's benefit, in AT&T's supplemental responses to BellSouth's fourth set of interrogatories, AT&T responded that you relied on Denise Berger's North Carolina 271 testimony for some of the propositions in your testimony; correct?

A Correct.

Q Okay. Now, let's look at Page 6, Lines 15 through 17 of Ms. Berger's testimony. Ms. Berger, upon whose testimony you relied, defines a hot cut as a process in which, quote, the customer's loop is lifted or cut while it is still in active service, i.e., the loop is hot resulting in a temporary loss of active service, close quote. Do you agree with Ms. Berger?

A Yes.

Q Now, turning to Page 4 at Line 9 of Ms. Berger's

testimony. Ms. Berger, upon whose testimony you relied, further states that a hot cut, quote, requires interruption of a customer's service, close quote. Do you agree with Ms. Berger?

A Yes, I do.

Q Okay. Then let's look at Page 5, Lines 15 through 18 of her testimony. Again, Ms. Berger, upon whose testimony you relied, defined, quote, a seamless transition of customers from BellSouth's service to the CLEC's local service, close quote, as, quote, hot cut provisioning with a minimum of service disruption, close quote. Do you agree with her definition of seamless?

A I'm reading it. Hang on. I see what she read here.

Q If you could answer yes or no, please, and then feel free to explain.

MS. ROSS-BAIN: Can you repeat the question and make sure I heard that question?

THE WITNESS: Agree.

MS. FOSHEE: And again, I would ask if the witness doesn't understand, you're free to ask me to repeat it.

MS. ROSS-BAIN: But if the counsel --

MS. FOSHEE: It's irrelevant.

MS. ROSS-BAIN: After the question, counsel can ask that the question be repeated.

MS. FOSHEE: Martha, frankly, it's irrelevant whether

you understand the question or not. I'm happy to repeat it.

(Simultaneous conversation.)

BY MS. FOSHEE:

Q The question, Mr. Van de Water, is as follows: Ms. Berger, upon whose testimony you relied, defines, quote, a seamless transition of customers from BellSouth's service to the CLEC's -- and CLEC's is in brackets -- local service, close quote, as, quote, hot cut provisioning with a minimum of service disruption, close quote. Do you agree with Ms. Berger's definition of seamless?

A No, not the way you read it.

Q What do you think Ms. Berger's definition of seamless is?

A I think we need to read that in the order that it was written instead of starting off with the seamless piece. Hot cut provisioning with a minimum of service disruption requires a CLEC to receive timely, accurate, and reliable hot cut loop provisioning from BellSouth and a seamless transition of customers from BellSouth's service to the CLEC's local service. So --

Q Okay. And my question is --

MS. ROSS-BAIN: Well, I don't think he was finished with his answer. He said so. So if you could let him finish his answer, please.

MS. FOSHEE: I'm sorry.

THE WITNESS: Okay. So I see that she's actually doing -- saying this is two things. Minimum service talks about to receive a timely, accurate, reliable hot cut loop provisioning and a seamless transition of customers.

BY MS. FOSHEE:

Q And my question was, how does Ms. Berger define seamless, in your opinion?

A I really don't know what -- how she was defining seamless at this time.

Q And you relied upon her testimony, did you not?

A Yes.

Q Let's look at -- have you reviewed the Bell Atlantic 271 order, Mr. Van de Water?

A No, I have not, actually.

Q Well, I'm going to ask you to accept subject to check that I'm going to read Footnote 925 of that order correctly where the FCC defined a hot cut as, quote, the customer is taken out of service while the hot cut is in progress, thereby making the cut hot, although if the cut is successful, the service disruption will last no more than five minutes, close quote. Do you think the FCC meant that the cut would be without service disruption in light of that definition?

A Subject to check, Bell Atlantic found that -- they found a five-minute disruption would happen for a hot cut. You're asking me if that's what I believe the FCC (inaudible)

believes; is that correct?

Q Yes. Well, actually, I'm asking you if the FCC believed that a hot cut would have a service disruption to an end user.

A The TRO acknowledges there is an interruption to the customer's service.

Q In light of that, how do you define seamless?

A I define seamless as being again invisible to the customer so that no matter when they pick up their phone or somebody is trying to call them there is not a problem.

Q Does that mean, Mr. Van de Water, that there is no service disruption in a hot cut?

A Yes.

Q So you have a different view of seamless than the FCC?

A As I read the TRO --

Q Yes or no, please.

A I don't know if I saw a definition of seamless in the TRO by the FCC.

Q Well, I thought we just agreed that the FCC recognized that there was service disruption, didn't we?

A Yes, for the hot cut process that is currently in existence. Yes.

Q Okay. And given that that's the way the FCC defines a hot cut, don't you have a different view of it than the FCC?

MS. ROSS-BAIN: Let me object because you're not referring -- are you referring to the old Bell Atlantic 271 order, or are you asking the witness questions out of the current TRO order? Because your questions are not clear.

MS. FOSHEE: You may object to the form of the question. And if the witness doesn't think my question is clear, he can say that.

BY MS. FOSHEE:

Q Do you understand my question, Mr. Van de Water?

A Not really.

Q Okay. Well, let's look at Footnote 1409 of the TRO because I know you have that in front of you.

A I will in a second. Okay.

Q Can you look at the first sentence of Footnote 1409 for me?

A Okay.

Q It says, "A hot cut is a largely manual process requiring incumbent LEC technicians to manually disconnect the customer's loop which was hard wired to the incumbent LEC's switch and physically rewire it to the competitive LEC's switch." Do you see that?

A Yes, I do.

Q Do you agree with that definition of a hot cut?

A Yes.

Q Do you agree that what they described would be a

seamless hot cut?

A No.

Q How is it that your definition of seamless which would not involve manually disconnecting the customer's loop can be reconciled with the FCC's definition of seamless?

MS. ROSS-BAIN: Object as to form.

Q You can answer the question.

A I'm still trying to see where they are defining seamless. I see where they are talking about a hot cut, but I'm not seeing that they are defining seamless.

Q Well, let me try it this way, Mr. Van de Water. If the FCC -- not if. When the FCC uses the terminology seamless hot cut in the TRO, is it your contention they are referring to a definition of a hot cut other than one where the loop is disconnected from the switch for a period of time?

A Yes.

Q I'm sorry?

A Yes.

Q And what is the basis for that belief?

A Give me just one moment. Give me one moment, please. I know there's a quote here in the TRO that refers to it. In, like, the next page or two after where that footnote is, in Paragraph 471, it talks about, the second sentence, that is, mass market customers have moved from carrier to carrier when they desire and have come to expect the ability to change local

service providers in a seamless and rapid manner. I believe what they're actually defining is the UNE-P process as it exists today, and that's how they're defining seamless.

Q So it's your position that Paragraph 471 supports your definition of seamless as equating to UNE-P?

A Yes.

Q Anything else?

A Possibly, but that's enough for a start.

Q Okay. Let me ask you this question. Let's assume you're right and seamless means without service disruption. The only way to do that that's been put forth in this docket is ELP. The FCC did not adopt ELP. So is it your position that when the FCC charged the states to adopt and implement a seamless hot cut process, they gave them an impossible task?

A No.

Q Explain to me how under your definition a state commission --

MS. ROSS-BAIN: Excuse me, Ms. Foshee. The witness, as you've asked, answered with a yes or no. If you could give him an opportunity to finish his answer.

MS. FOSHEE: Absolutely. Sorry, Mark.

THE WITNESS: Okay. I believe the FCC asked us to drive toward a process that comes as close to that. The absence of that, then UNE-P is the only alternative.

BY MS. FOSHEE:

Q Where does the TRO say, drive toward a seamless batch hot cut process?

A Oh, boy. Give me a minute. I'm not going to say they say drive toward. I was paraphrasing, if you will. But I can see if I can find something a little bit closer, if you will.

Q Yeah, I'd be interested in anything you have that says anything other than adopt and implement a batch hot cut process within nine months.

A Well, the very first sentence in 487, it talks about the fact that -- it says, "Incumbent LEC batch cut processes" as the header. Then it says, We have found that a seamless, low-cost batch cut process for switching mass market customers from one carrier to another is necessary, at a minimum, for carriers to compete in the mass market. And 488 then, it starts talking about, must approve within nine months of the effective date of a batch cut migration process that will address the costs and timeliness of the hot cut process.

Q Are you done?

A Sure.

Q Help me explain how that supports your testimony that the TRO charge states to drive toward a seamless batch hot cut process.

A I believe that they're looking out for the best interest of the consumers; that right now there is a seamless

process called UNE-P electronic. And the current process of the individual hot cuts is cumbersome, to say the least, and that we need to work toward something else. Now, batch hot cut process, (a), mitigate impairment as it will help the consumers by minimizing that downtime.

Q Mr. Van de Water, can you define the term simultaneously as it's used in the TRO?

A Can you give me the context that it's used around?

Q Sure. It's in the rule. It says, "A batch hot cut process is defined as a process by which the incumbent LEC simultaneously migrates two or more loops from one carrier's local circuit switch to another carrier's local circuit switch." And my question is, please define simultaneously.

A In that context I would think that moving two or more simultaneously means doing more than -- two or more at the same time.

Q And does that mean pulling two jumpers off the frame at the same time?

A It could mean that.

Q Yes or no, please.

A Yes.

Q Does it mean one technician pulling two jumpers off the frame at one time?

A It doesn't say that, so it may not mean that.

Q So it could mean multiple technicians processing hot

cuts at the same time?

A Yes.

Q Could it mean multiple hot cuts taking place in the same central office in a single day?

A Yes.

Q Please define for me a, quote, batch provisioning process, close quote.

A I'm sure you're referring to the BellSouth process.

Q No, I'm actually referring to your testimony. I want to know what AT&T's view of a batch provisioning process is. And actually, I can be more specific if it would help.

A Okay.

Q AT&T, you in particular, have criticized BellSouth alleging that the wirework in the BellSouth process is not, quote, batch, close quote. What constitutes batch wirework in AT&T's view?

MS. ROSS-BAIN: Excuse me, Ms. Foshee. You're reading from the testimony. If you could point us to the specific page you're reading from.

MS. FOSHEE: Page 20 of your direct, Lines 14 through 15.

MS. ROSS-BAIN: Let us find that. Page 20, Lines 14 through -- what was the rest of it?

THE WITNESS: 15. Okay. I'm there now, Lisa. Could you repeat the question again, please?

MS. FOSHEE: Sure.

BY MS. FOSHEE:

Q AT&T, you in particular, have criticized BellSouth alleging that the wirework in BellSouth's process is not batch. What constitutes batch wirework in AT&T's view?

A I believe you wanted me to define the bulk ordering process. Was that the original --

Q No. I want you to tell me what constitutes batch wirework in AT&T's view.

MS. ROSS-BAIN: I object. That's not in his testimony.

Q Okay. Well, maybe I can make this faster. Do you agree, Mr. Van de Water, that BellSouth has a batch provisioning process?

A I would agree that they have --

Q Yes or no, please.

A No.

Q Okay. Define for me a batch provisioning process.

A That would be where orders can be provided -- (phone interference.)

Q I'm sorry. Could you start over?

A Yeah.

THE WITNESS: Is everybody still there?

MS. FOSHEE: Staff, are you still there?

MR. TEITZMAN: We are here.

THE WITNESS: That would be where a CLEC could place orders with time-specific cuts in large groups. A set amount of time for those cuts where the provisioning is actually completed at a set time.

BY MS. FOSHEE:

Q Okay. So taking the ordering piece out of it, because I really want to focus on the wirework because that's where you've criticized us, AT&T's position is -- (phone interference.)

MR. SUSAC: Hello?

THE WITNESS: I'm still here.

MS. ROSS-BAIN: We're still here, AT&T is.

MR. SUSAC: BellSouth, are you still there? Covad? Let's just go off the record real quick.

(Discussion off the record.)

MR. SUSAC: For the record, it should be noted that MCI has joined the call as well, and De O'Roark is the counsel. It's all yours, BellSouth.

MS. FOSHEE: Thank you.

BY MS. FOSHEE:

Q Mr. Van de Water, do you need me to repeat the pending question?

A Yeah, I sure do.

Q Okay. Let's see if I can. Is it AT&T's view that a batch provisioning process is one in which the hot cut orders

are cut at a specific time?

A Yes, but a large number of cuts are performed within a specific amount of time.

Q How many?

A And that goes down to -- I don't have a finite number. It's whatever can be worked the most economically and with the best -- how do I put this -- with the least amount of interruption and how many they can do at the frame during a specific time frame.

Q So ten?

A Ten during what? An hour, a half hour, or what?

Q One business day.

Is ten an acceptable number to constitute a batch provisioning process?

A No, not at all.

Q Is 50?

A I think this is something --

Q Yes or no, please. I'm sorry, but it will make it a lot cleaner.

MS. ROSS-BAIN: Well, and also the witness has the right to answer the question.

A I don't know what BellSouth's capabilities are, so I don't know.

Q 100?

A I don't know.

Q Given that you don't know, do you have any --

MS. ROSS-BAIN: Objection, mischaracterization, but continue.

Q Do you know if 100 is the right number, Mr. Van de Water?

A No, I don't know if that is what the BellSouth technicians at the frame are able to do with the minimal amount of --

Q Given the fact that you don't know, do you have any grounds to dispute BellSouth's numbers as to the appropriate number of cuts to be performed in a business day?

A Yes.

Q What is that basis?

A I don't believe that it comes across with finite numbers yet that can be performed.

Q Do you believe that 125 in one day constitutes a batch provisioning process?

A Again, I don't know what is the best number that the frame techs can do working with the CLEC to cause the least amount of impact on the customer.

Q Would 263 be an appropriate number for a batch provisioning process?

A Same answer, Lisa. I don't know what is the best number for a batch.

Q Okay. When you talk about performing a batch

provisioning process with the orders being worked at a specific time, can you explain to me what you mean by specific time?

A Sure, that I can do. CLECs should be able to place orders for 6:00 a.m. or 8:00 a.m. or noon or whatever time works best for that CLEC and that customer base to move "X" number of customers over from P to L.

Q Are you done?

A Yes.

Q Okay. I really don't want to interrupt you, so don't let me do it. So is it AT&T's view that if you ordered 125 hot cuts to be performed in a single CO at 8 a.m., that BellSouth would have 125 technicians there to perform those hot cuts at 8:00 a.m.?

A No.

Q Okay. Then explain to me what you mean again about time-specific.

A And Mr. Ainsworth does allude to this by having windows for the batch. The batch again needs to be determined how many you've got in a finite time such as an hour. Let's say, for example, they can do 25 an hour. Then we know that a CLEC can do a batch of 100 in four hours.

Q Okay. So your definition of a batch provisioning process is working a set of undefined amount of hot cuts within a time window. Yes or no?

A Yes.

Q Now, I believe I heard you say earlier, Mr. Van de Water, in response to a staff question, and correct me if I was wrong, that AT&T's position is that project management doesn't work. Was that your testimony?

A I was reading from the TRO.

Q Okay. What is AT&T's position on project management?

A We would like to minimize it, if possible, to help streamline any kind of process along these lines.

Q Do you agree that a bulk cut-over is one in which via project management an ILEC can dedicate technicians to a single CO where those technicians will be able to focus exclusively on the CLEC's customers loops?

A No, I don't think I agree with your definition on that, Lisa.

Q Okay. Do you agree that in contrast to the individual hot cut process -- actually, let me rephrase that. I'm sorry.

In contrast to the individual hot cut process, can a competing carrier rely on bulk cut-overs performed on a project managed basis to migrate customers initially served via UNE-P to the carrier's own switch?

A Yes. If a CLEC chooses to do so, they may use that option.

Q Does a project managed approach to hot cuts have numerous advantages?

A I'm struggling with this a bit. Could you list off an advantage?

Q Actually, I just want to know whether you agree that a project managed approach to batch hot cuts has advantages.

A A project managed approach to doing hot cuts has an advantage. And I think I just need to be clear that you had asked about project managed batch hot cuts.

Q Yes.

A I just want to make sure that, you know, we're just -- project managed hot cuts is okay, but for a batch hot cut it doesn't need to be monitored like that.

Q Okay. So I'm glad you made that clarification. It's your position that the project managed function does not have advantages for the batch hot cut.

A I believe, yeah, it is unnecessary if it's set up correctly by both the incumbent and the CLECs with OSS and other -- whatever processes in the flow so everybody knows what they're doing so we can take that piece out.

Q Does AT&T like BellSouth's individual hot cut process?

A No.

Q Does AT&T like BellSouth's batch hot cut process?

A The batch ordering process, no.

Q Does AT&T like BellSouth's mass migration process?

A I haven't really had a chance to do a whole lot of

review, but it does not answer everything yet.

Q Is that a no?

A That's a no.

Q Does AT&T like Verizon's batch process?

MS. ROSS-BAIN: Objection. We've already clarified before this deposition that this witness is not AT&T's witness with regard to the Verizon process.

Q Do you have an opinion on the Verizon process?

MS. ROSS-BAIN: Same objection.

Q You can answer the question.

A Yeah, I'm not the witness. I'd like to use that one time in Florida. So I have no opinion.

Q Okay. So I won't ask that. Okay. So you don't like our individual hot cut process, you don't like our batch hot cut process, you don't like our mass migration process. I believe you testified when the staff asked you questions that you didn't like any ILEC batch hot cut process. What process does AT&T want the Commission to adopt in this nine-month proceeding?

A The best possible process that can be done that's as close to seamless and low cost that can be adopted.

Q And what is that process, Mr. Van de Water?

A Well, that is something that adopts everything that we've suggested. On Pages 61 through 64, I think, of my testimony I had a lot of suggestions.

Q Okay. And I believe on Page 62 of your testimony at Line 14, you describe these as characteristics that should be included in a process. What I am asking, Mr. Van de Water, is for you to delineate the work steps involved in the process that you want this Commission to adopt in the nine-month proceeding.

A I think it's more than just the work steps though. I will talk about the work steps in that we would like to be able to place an order for a time specific within a window for a large number of customers at a central office, numerous central offices at a time, though it can be more closely worked by both (inaudible -- phone interference) if you give us those efficiencies, so we can work toward having the best process as far as lessening the impact on the customer. Now, it's not just the processes, but it's the inclusion of some customers that may not be included originally such as IDLC, which we talked about, such as loop splitting, which we've talked about. We would like to see all these different customers also included in the batch. So it's not just the process of steps.

Q Are you done?

A Yeah. Go ahead.

Q Is that your description of the work steps involved in AT&T's proposed process?

A That is a very high-level description, yes.

Q If you could answer this next question yes or no, and

then feel free to elaborate.

A Okay.

Q Has AT&T proposed specific processes to be employed when performing a batch cut?

A Yes. They are actually on Pages 63 and 64 under process requirements.

Q And those were the things that you referred to as characteristics in your testimony; correct?

A Characteristics was the overall question. It does say the process should be at a minimum address the following. So the overall question talks about characteristics; then there's subheadings that talk about the applicability, process requirements, customer care, et cetera. Talking about specific process requirements under that subheading.

Q Mr. Van de Water, your an operations guy; right?

A Right.

Q Is it your testimony that the Commission could look at Pages 62 through 64 and order that to be adopted and implemented in a nine-month proceeding as a batch hot cut process?

A Yes.

Q Okay. Now, I believe you testified earlier to the staff that ELP is not an issue in this docket; is that correct?

A Yes, I said ELP was mentioned, but it was not to be considered for this nine-month time frame.

Q Are you going to withdraw your testimony on ELP?

A No.

Q Okay.

A You know, we talked about future, looking at it down the road. It's just not for this batch hot cut piece of it.

Q I just want to confirm one more thing. If you can look at Page 3 of your surrebuttal, Lines 12 through 16.

A Give me one moment. That was the surrebuttal; correct?

MS. ROSS-BAIN: Lisa?

THE WITNESS: That was the surrebuttal?

MS. FOSHEE: Yes. I'm sorry. It's Page 3 of your surrebuttal, Lines 12 through 16.

THE WITNESS: Okay. I'm there.

BY MS. FOSHEE:

Q Okay. You testified there that, quote, AT&T is requesting that the Commission find that the ILECs' hot cuts processes are insufficient, thus impairing CLECs without access to unbundled switching, and to initiate another proceeding to determine whether ELP would eliminate this impairment, close quote. Is it AT&T's position that the Florida Commission should ignore the directive of the TRO to adopt and implement a hot cut process in this proceeding?

A No. I think it might be a little bit out of context. The TRO states that ELP is something at this time. They need

to work on a hot cut process that can be done now while we still look at ELP for the future.

Q Well, I guess what confused me was your testimony that said that AT&T requests that the Commission find that our hot cut process is insufficient and to initiate another proceeding.

A That is the individual hot cut process, not a batch hot cut process.

Q I'm sorry. Could you repeat that?

A AT&T is requesting that the ILECs' hot cut processes are insufficient. That's not saying that the batch hot cut process shouldn't be considered.

Q So you agree that this Commission must adopt and implement a batch hot cut process in this nine-month proceeding?

A Yes.

Q Okay. Is there a manual hot cut process that AT&T contends could support UNE-L mass market volumes?

A Not at this time.

Q If this Commission made a finding of no impairment for local switching, would AT&T use coordinated hot cuts or noncoordinated hot cuts?

A I don't know, because again we do what's best for the customer. So we need to evaluate the different processes, coordinated versus noncoordinated, to see which would have the

best for the customer because we don't want to disparage our name, obviously.

Q In response to some of the staff questions about where in the TRO you looked for authority for the proposition that UNE-L must be the equivalent of UNE-P, you cited to Footnote 1574. Can you look at Paragraph -- I'm sorry. Is that the only authority that you rely on for that proposition?

A For the proposition -- again, I'm sorry. I lost you.

Q That UNE-L must be the equivalent of UNE-P.

A I believe there are other references to it, and I think I mentioned this before too. It was back -- for 471. We talked about mass market customers move freely from carrier to carrier when they desire and have come to expect the ability to change local service providers in a seamless and rapid manner.

Q Okay. Anything else?

A Not at this time.

Q On Page 16 of your rebuttal, Lines 19 through 21 -- I'll give you a minute to get there.

A Okay.

Q You talk about being unaware of a batch being limited to UNE-P to UNE-L conversions. Can you look at Paragraph 489 of the Triennial Review Order, please?

MS. ROSS-BAIN: Excuse me.

A Yeah, Lisa, actually, what I was unaware of was to be created only for the embedded base to a UNE -- of UNE-P is what

I said there. But I have turned to 489.

Q Okay. Well, let me ask that because that may clear something up for me. Is it AT&T's position that a batch hot cut process is applicable to UNE-P to UNE-L conversions just not the embedded base of UNE-P to UNE-L?

A Just not only the embedded base of UNE-P to UNE-L.

Q Okay. But it could apply --

MS. ROSS-BAIN: Excuse me. The witness wasn't finished --

THE WITNESS: Yeah. I'm sorry. You couldn't see me thinking. You know, I just want to make sure that -- what I'm stating here, that it doesn't talk about embedded base only as being the ones who should be able to take advantage of the batch hot cut process.

BY MS. FOSHEE:

Q Okay. Well, now we can turn to 489. If you can read that first sentence for me.

MS. ROSS-BAIN: Give us a second here to locate it.

MS. FOSHEE: Absolutely.

A Okay.

Q Did you read the first sentence?

A Would you like me to read it out loud?

Q No, that's okay.

A Yes, I did read it.

Q Okay. That paragraph says that the Commission should

adopt a batch cut-over increment for migrating customers served by unbundled loops combined with unbundled local circuit switching. That's UNE-P; right?

A Yes.

Q To stand-alone loops. That's UNE-L; right?

A Right.

Q Okay. So can we agree that the Commission charge is to adopt a batch hot cut process for that purpose?

A No.

Q Okay. Why not?

A The next sentence says, "In other words, states should decide the appropriate volume of loops that should be included in the batch." They clarify that first sentence by talking about the volume that should be included in the batch.

Q You lost me. How does that help clarify that the process is not applicable to UNE-P to UNE-L?

A Well, I never said it wasn't applicable from UNE-P to UNE-L. I said it wasn't applicable for only the embedded base UNE-P to UNE-L.

Q Okay. That's fair. Let me ask it this way. How do you believe that the second sentence of Paragraph 489 changes the definition of a batch hot cut process in the first sentence as a process to convert UNE-P to UNE-L?

A When I read this, I see increment as being how many can a batch hold. That is what is to be decided as well as

what is the number for a batch. That's the increment for each batch for migrating customers that are on UNE-P to UNE loop. It doesn't say embedded UNE-P. It just says from UNE-P to UNE-L.

Q Is there anything else in the Triennial Order upon which you rely for the proposition that a batch hot cut process is anything other than UNE-P to UNE-L?

MS. ROSS-BAIN: Are you referring to specific parts of Mr. Van de Water's testimony?

MS. FOSHEE: Mr. Van de Water has just testified three or four times that he thinks the batch process is not limited to the conversion of UNE-P to UNE-L, and I want to know if there's any authority other than the second sentence of Paragraph 489 in the Triennial Review Order upon which he relies for that proposition.

MS. ROSS-BAIN: Yes, I understand that he's made that testimony. I thought from the tone of your questions you were referring to a particular part of his prefiled testimony as well, and if you had a page reference, I was just going to ask for it.

MS. FOSHEE: No.

THE WITNESS: Yeah, Paragraph 468 -- I'll give you a minute.

MS. FOSHEE: Okay. I'm there.

THE WITNESS: The second sentence starts, In deciding

whether competitors are impaired by incumbent LEC provisioning processes, we must necessarily make a predictive judgment concerning this systemic capability to handle anticipated future hot cut volumes, which (absent access to unbundled local switching) would be greater than volumes that have been experienced in the past. When I see future, I'm thinking of all kinds of different scenarios that should be included in the batch hot cut process.

BY MS. FOSHEE:

Q Okay. So it's your position that the second sentence of 468 modifies the first sentence of 489?

A No, not at all. All 489 is doing is saying decide how many should be included in a batch.

Q Mr. Van de Water, what is it that you think should be included in a batch? What is it specifically that you think should be included in a batch process other than UNE-P to UNE-L conversions?

A Well, I view, as you said being operational, the batch hot cut process as being the next step forward for CLECs to be able to move customers to UNE loop. Now, we need to consider all scenarios that customers can be on or what sort of scenarios they could have with other CLECs or with BellSouth or split between two or whatever, we need to take advantage of whatever kind of process improvements we come up with for this batch to be able to use that also for these other customers.

So in other words, we need to make sure that IDLC customers are included, which --

Q Which we have agreed they are.

MS. ROSS-BAIN: Excuse me. Please don't interrupt the witness.

A Exactly. That's what I was going to -- that's what I said, you know, which BellSouth has agreed should be included. We also need to consider the future, resale should be included. I think we should also consider CLEC-to-CLEC, and they have agreed to that as well; UNE-P to UNE-L from another CLEC or a UNE-L to a UNE-L from another CLEC, which you have agreed to as well given system changes sometime in the future. And we also think that a customer's line split should be included in a batch to take advantage of any improvements that's done for the UNE loop process.

Q So I've got resale, CLEC-to-CLEC, and line split; is that it?

A Well, that's the from. I guess we also -- I'm trying to think forward too because there's also been testimony about moving to EELs. We probably need to also think about moving from EELs, which is really forward technology. I believe we can't limit the batch process to a specific time frame for even the technology that we have for providing customers today. There may be something I'm not thinking of, obviously, Lisa, but we need to think of this as an improvement to the UNE loop

process that can be utilized for any kind of scenario.

Q But the only ones you can think of today are resale, CLEC-to-CLEC, and line-splitting?

A Those are the heavy hitters.

Q Can you agree with me that the purpose of a batch hot cut process is to allow CLECs that have attracted customers using unbundled switching until there is sufficient quantity that can be converted at one time to the CLEC switch?

A No.

Q In your direct testimony -- and I apologize, I don't have the precise cite, so hopefully you'll just recall this -- you recommended that there would be 5,635 hot cuts per day in Florida. Do you recall that number?

MS. ROSS-BAIN: Give us a moment, please, to locate that in the testimony.

Q And my question, Mark, and certainly take time to find it if you need to, is simply what the basis was for your 5,635.

MS. ROSS-BAIN: Ms. Foshee, you don't have a page reference for that?

MS. FOSHEE: No, I said I didn't. That was the problem. I was hoping Mr. Van de Water would just remember that that's what he said.

BY MS. FOSHEE:

Q If you don't, Mark, I can move on.

MS. ROSS-BAIN: No. Give us a chance to locate it. I believe we just located it, if you could just -- this is the 5,635 cuts?

MS. FOSHEE: Correct.

MS. ROSS-BAIN: Okay. The reference, that's on Page 39 at Lines 13 and 14 of Mr. Van de Water's --

BY MS. FOSHEE:

Q And my question is, what was the basis for that number?

A That was from September's MSS performance measure report for customer trouble report rate. That's your bottom line for number of POTS lines.

Q Does that assume that all current UNE-P arrangements will move to UNE-L?

A Yes.

Q And just so I understand, you took the denominator from customer trouble report rate, so your assumption is that BellSouth would cut every single one of its loops; is that correct?

A Yes. We're looking -- yes. Go ahead.

Q Mr. Van de Water, how do you reconcile the assumption that all UNE-Ps will go to UNE-L with AT&T's concurrent position in this docket that it cannot economically compete using UNE-L?

A I think you need to remember that I'm more

operational. In other words -- repeat that. Let me see if I can help you out here.

Q That would be great.

A Try it again.

Q Okay. How do you reconcile the assumption that you made in your force number that all UNE-Ps will go to UNE-L with AT&T's concurrent position that it cannot economically compete using UNE-L?

A How we cannot economically compete, we don't know how the Commission is going to rule, so we need to be prepared for the worst-case scenario.

Q Well, here's where I fall off the wagon. If it is true that you cannot economically compete using UNE-L, won't this exit the local market?

MS. ROSS-BAIN: Object as to form.

Q You can answer the question.

A I don't know what AT&T's plans are. The discussion of UNE loop is as it exists today. We don't know what the UNE loop parameters and costs will be in the future or at the end of these proceedings.

Q Well, Mr. Van de Water, you filed sworn testimony that AT&T cannot economically compete using UNE-L for such reasons as the high cost of backhaul.

MS. ROSS-BAIN: I object, Ms. Foshee. That completely mischaracterizes the testimony of this operational

witness when you know full well that AT&T has other witnesses who filed that economic impairment testimony.

MS. FOSHEE: Okay. Well, let's look at Paragraph 9 of his direct testimony.

MS. ROSS-BAIN: All right. Well, let's look at Paragraph 9. Which page are you referring to?

MS. FOSHEE: I'm sorry. Page 9.

MS. ROSS-BAIN: Page 9. Okay.

MS. FOSHEE: Line 22.

THE WITNESS: Okay. I can respond to that.

MS. ROSS-BAIN: And what was the question?

BY MS. FOSHEE:

Q Okay. What you testified to is that AT&T does not actively market analog services to small business mass market customers using a UNE-L strategy, due to the provisioning problems and the high costs of hot cuts and backhaul costs, i.e., the costs of extending the loop from the ILEC central office to AT&T's switch. Now, I assumed from that testimony that you were taking the position that AT&T could not economically provide service using UNE-L. Am I wrong about that?

A This is a statement for the way it is, and this is a fact, we are not actively marketing this today due to the high costs of the hot cuts, et cetera.

Q Okay. Are the backhaul costs that you reference in

your testimony such that AT&T cannot economically provide service using UNE loops?

MS. ROSS-BAIN: Again, to the extent you have a more specific question -- I guess -- my objection is I cannot tell whether you are asking the witness whether you understand the scope of his testimony, and I was just trying to get clarification on that.

MS. FOSHEE: Jeremy, if you could instruct counsel for AT&T that she may object to the form of the question, that would really be helpful.

MR. SUSAC: That is what we stipulated to. All other objections, besides the form of the question, will be reserved upon a ruling by the Prehearing Officer.

MS. FOSHEE: Thank you.

BY MS. FOSHEE:

Q Are the costs of backhaul to which you refer in your testimony so high that AT&T cannot economically compete using UNE-L?

A It's not --

Q Yes or no, please, and then you can explain.

A No, I don't agree with your statement. You did not include the high costs of the hot cut. You only cited the backhaul piece of it. It's everything involved. It's not just that tiny piece of it.

Q Okay. So it's your testimony that the costs of

backhaul standing alone would not prevent AT&T from economically serving end users using UNE-L?

A I am not the cost witness, and I don't know the cost of backhaul separate unto itself.

Q Well, would you like to withdraw that from your testimony?

A No.

Q Okay. Well, what you say in your testimony, Mr. Van de Water, is that AT&T does not serve customers using UNE-L because of provisioning problems and the high costs of hot cuts and backhaul costs. So I would assume that you know the backhaul costs that are in your testimony. Is that a fair assumption?

MS. ROSS-BAIN: And I object that --

MS. FOSHEE: You may object to the form.

MS. ROSS-BAIN: I object to the form of the question.

BY MS. FOSHEE:

Q You may answer the question.

A It's a fact that we are not provisioning because of the problem of high costs of everything.

Q And my question is, based on knowledge of the backhaul costs that you included in your testimony, are the backhaul costs standing alone high enough to preclude AT&T from economically serving UNE-L customers?

MS. ROSS-BAIN: And I objected to the form of the

question.

Q Please answer yes or no.

MS. ROSS-BAIN: It's been asked and answered.

A (No audible response.)

Q Have you answered the question?

A I thought I had.

Q I'm sorry. I was waiting for a yes or no. I didn't hear you.

A Would you repeat it, please?

MS. FOSHEE: Can I ask the court reporter to read the question back, please?

(Brief recess.)

MR. SUSAC: We're going to go back on the record. I think you wanted a readback.

MS. FOSHEE: Yes. If the court reporter could read the last question, and then I believe Mr. Van de Water testified that he'd answered the question. So if you could read the question and the answer, we may be able to move on.

(Requested portion read back by court reporter.)

BY MS. FOSHEE:

Q Okay. Mr. Van de Water, can you answer the question, please, with a yes or no?

A No.

Q No, you can't answer the question?

A No, I'm answering the question. You're asking if the

backhaul costs alone is the reason we pulled out of UNE-L or do not do UNE-L at this time. My statement is that because of all those things, the provisioning problems, the high costs of the hot cuts, backhaul such as the cost of extending a loop, is the reason we're not doing it today.

Q If the other problems didn't exist, namely, the provisioning problems with the hot cut and the cost of the hot cut, would the backhaul cost prevent AT&T from economically serving customers using UNE-L?

A I'm not the cost expert. That would be Mr. Turner.

Q So --

A The cost witness, I'm sorry.

Q So when you use backhaul costs in your testimony, you only understand them to the extent they are combined with provisioning in the hot cut -- provisioning in hot cut costs?

A It's all part of the economics involved in this. And like I said, it is provisioning problems, the high cost of the hot cuts themselves, everything that it takes to get back to the switch.

Q Do you agree with the statement, "So great are the backhaul costs per mass market customer that CLECs could not compete with ILECs if forced to backhaul their mass market voice circuits to their Enterprise switches"?

A Where does that come from?

Q I'm asking you a question. If you could answer yes

or no, please.

A Can you repeat it, please?

MS. ROSS-BAIN: If you have a reference, Ms Foshee, and I think you were just quoting a statement, if you have a reference, I think you are required to ask -- you know, to refer the witness to the source.

MS. FOSHEE: You can object to the form of the question if you'd like, but I'll ask my question again, Mr. Van de Water.

MS. ROSS-BAIN: Object as to the --

BY MS. FOSHEE:

Q Do you agree with the statement, "So great are the backhaul costs per mass market customer that CLECs could not compete with ILECs if forced to backhaul their mass market voice circuits to their Enterprise switches"?

MS. ROSS-BAIN: Object as to the form.

A I am not the economic or cost witness. I can't answer that if I agree with it or not, to be honest with you.

Q Okay. Just one more question on this. How can you testify that backhaul costs in some capacity preclude you from using UNE-L and then not understand what they are or what their costs are?

MS. ROSS-BAIN: Object to the mischaracterization.

A And I will answer in that it's common sense. We've been on these tours. We know there's a great amount of

infrastructure involved. It's all a piece of the puzzle for the reasons that we're not -- that's the reason we're not doing them.

Q But you have no opinion as to whether that backhaul standing alone makes it uneconomic to serve customers using UNE-L?

MS. ROSS-BAIN: Object as to form.

A As I said, I'm not the economic -- I don't know the cost alone of the backhaul.

Q So you have no opinion on that?

A I have no opinion.

Q Have you looked at any study to support your statement that backhaul costs prohibited AT&T from serving customers using UNE-L even in part?

A No. It talks to the economic witness Mr. Turner.

Q Okay. Do you agree, Mr. Van de Water, that, quote, and I'm quoting from Paragraph 501 of the TRO, that, quote, a state commission must find no impairment when three or more unaffiliated competing carriers each is serving mass market customers in a particular market with the use of their own switches?

MS. ROSS-BAIN: Excuse me. You're at Paragraph 501?

MS. FOSHEE: Yes.

A This is under the trigger section?

Q Yes.

A I'm not a trigger witness. I'm the operational hot cut witness.

Q Okay. In your view, do the operational impairment issues that you talk about in your testimony impact the trigger analysis in any way?

MS. ROSS-BAIN: I object as to the form. And I think this deposition will go more quickly if Ms. Foshee will limit her question to the scope of Mr. Van de Water's testimony. And I know that we're making only objections except as to form of the question, but I do think that we need to stay within the scope of his testimony.

MS. FOSHEE: And my response to that is that Mr. Van de Water has talked about co-carrier cross-connects, he's talked about tandem switching enhancements, he's talked about collocation, all things which fall in the FCC's world under the operational impairment.

BY MS. FOSHEE:

Q And so my question to Mr. Van de Water is, in AT&T's view, do the operational impairment issues discussed in your testimony impact the trigger analysis?

MS. ROSS-BAIN: And that again is the point of my objection, is that Mr. Van de Water is not the trigger witness. And we have Mr. Bradbury who's testified as to that, and I think that the question should stay within the scope of the testimony.

MS. FOSHEE: Objection noted.

BY MS. FOSHEE:

Q You can answer the question.

MS. ROSS-BAIN: He can't answer the --

MS. FOSHEE: Are you instructing him not to answer?

MR. SUSAC: Can we go off the record, please?

MS. ROSS-BAIN: Yes. Thank you.

MS. FOSHEE: Sure.

(Discussion off the record.)

MR. SUSAC: We're back on the record. AT&T, if you could please present your objection, reasons stated for the objection. And, BellSouth, I will give you an opportunity to respond to the objection. And then we'll proceed. Thank you.

MS. ROSS-BAIN: As I understood the question, it appeared to be one which asked for Mr. Van de Water's opinion pertaining to triggers. And my objection is that Mr. Van de Water is our operational impairment witness and would request that questions in the deposition be limited to just that scope of his testimony. We're going to object to anything that asks him to comment on the trigger issues because we have another witness -- other witnesses, actually, plural, who testify to that issue.

MR. SUSAC: Okay. And now, BellSouth, will you please respond?

MS. FOSHEE: Well, to the extent that -- Martha, are

you going to instruct him not to answer?

MS. ROSS-BAIN: Let's hear the question one more time.

BY MS. FOSHEE:

Q Okay. In AT&T's view --

MS. ROSS-BAIN: I'm sorry. You were going to respond to that, I believe.

MS. FOSHEE: Well, if you're not going to instruct him not to answer, there's nothing to be ruled on, and I don't think there's anything for me to respond to. So let me ask my question, and then you can either instruct your witness not to answer or we'll move on.

BY MS. FOSHEE:

Q In AT&T's view, do the operational -- or in your view, do the operational impairment issues that you raise in your testimony impact the Commission's trigger analysis?

A I'm not the trigger witness.

MS. ROSS-BAIN: And that was a different question you just asked.

Q Do you have an opinion as to whether the operational impairment issues that you raise in your testimony impact the Commission's trigger analysis?

A No. I have never read anything on triggers. I have never attended -- no, I don't.

Q Okay.

A I'm not the trigger witness.

Q That's fine. On Page 7 of your direct, Lines 3 through 13, you cite Paragraph 512 of the TRO and testify that, quote, critically, however, the FCC required (sic) that even after a -- what I think you mean to say, batch hot cut process is implemented, competitive carriers may still face barriers associated with loop provisioning. Where in the Commission's analysis in this case do you contend that Paragraph 512 fits?

A First let me get to 512, if I may. I'm sorry. Now that I've read it, I need to have you -- if you could repeat the question.

Q Sure. Let me rephrase the question. Under the TRO, there are three analyses that the Commission must look at. The first is the triggers, which I understand you don't know anything about; the second is the batch hot cut process; and the third is the potential deployment analysis. My question is, where in those three areas do the barriers that you talk about on Page 7 associated with loop provisioning fit?

A I don't think I can cubbyhole them like that. What this was referring to is the fact that, yes, there is a new process that needs to be created over this nine-month time, and like any new process there may be even additional problems with that that need to be looked at. So we need to -- even problems arising from newly improved cut-over process, as it says,

continue to be a significant barrier, it goes on to say, but I believe what they're talking here that there could be problems with that, this batch (inaudible -- phone interference). You're right. That is what I meant was the batch hot cut process as opposed to just process.

Q Let's assume, Mr. Van de Water, that the Commission agrees with you that there are problems with loop provisioning that continue to be a significant barrier to competitive entry in the mass market. What impact would that have on the Commission's decision in this case?

A I'm thinking about your question. So you're asking that if the Commission agrees with the FCC that there are problems with the loop provisioning, yes?

Q Or agrees with you. You have some in your testimony.

A Right. But -- okay. So there is a problem with the loop provisioning. So the next question is, what would we want from them?

Q What impact does that have on the Commission's analysis in this case?

A I believe their charge is to help to mitigate that impairment by creating a batch hot cut process to lessen those problems that are associated with the individual hot cuts that exist today.

Q Okay. Let's look at Page 16 of your direct, Lines 11 through 13. And you talk there about an outage

duration of 2.8 --

MS. ROSS-BAIN: Can you give us just a minute to locate it, please?

MS. FOSHEE: Sure.

THE WITNESS: Okay.

BY MS. FOSHEE:

Q You talk about an outage duration of 2.8 hours to 13.6 hours. How many cuts did BellSouth do in that period?

A If I remember correctly, there was 23, 21 or 23.

Q And how many of those customers were out of service?

A That I don't remember. I just remember that -- what the overall was.

Q Okay. Turn to Page 18 of your direct, please, Line 11.

A Okay.

Q You make the statement that the CLEC must pay overtime for any involved personnel.

MS. ROSS-BAIN: I'm sorry. Excuse me. What page are we on again?

MS. FOSHEE: Page 18, Line 11.

MS. ROSS-BAIN: Okay. Thank you. We just need a chance to get to that.

THE WITNESS: Go ahead.

BY MS. FOSHEE:

Q On what did you rely to make that statement?

A The interconnection agreement as it exists today to require overtime payment for any out-of-hours activities.

Q Okay. On that same page, Line 17, you testify that the cost for the batch process should be based on forward-looking electronic technology. Is it your testimony that the cost for the batch process should be based on a technology that the FCC found was not currently technically feasible?

A No. I believe it is looking forward to not just ELP, and they're referring to, but also to the PIC change, which does exist, as well as the UNE-P cost, which does exist.

Q Do you agree that the actual cost of provisioning a UNE-P is greater than the cost of provisioning a UNE-L? I'm sorry, that --

A No, I wouldn't agree with that.

Q The cost of provisioning a UNE-L is greater than the cost of provisioning a UNE-P?

A That I would agree with.

Q And do you -- and it is your position then that TELRIC requires those rates to be equal despite the fact that the costs are different?

A I believe the charge was to use TELRIC rates for coming toward a discounted batch hot cut process that will allow both companies to have better use of their resources was the whole bottom line to have better prices.

Q If you could answer yes or no. My question is, is it your position that TELRIC requires that UNE-P and UNE-L have the same rate despite the fact that the costs are different?

A No. And as I explained, there is other instances where they're talking about batching them together which was not included in any kind of rate studies. They ought to have better rates for the batch hot cuts.

Q Do you have a cost study that shows that the costs for provisioning a batch hot cut are the same as for provisioning a UNE-P?

A I do not.

Q If you can turn to Page 19 of your direct, Line 7, please.

A Okay. I'm there.

Q You testify that the manual nature of the process, quote, creates significant potential for human error. Do you see that?

A Yes, I do.

Q Can you please quantify significant for me?

A In my years of doing this -- and I have been doing UNE loop process assistance with SBC for five years, so I know that there are problems whenever humans get involved with a process as opposed to the UNE-P electronic process. So significant for me is anytime -- significant potential, that is, is anytime humans are involved where electronic could be,

problems could occur. Anytime the customer is going to be impacted where problems could occur is a significant problem.

Q I think we could agree that there is a potential for human error. What I'm asking is the definition of -- or the basis for your statement that there is, quote, a significant potential.

A Again, it's human error. Humans make mistakes. They disconnect the wrong loop. They do a premature disconnect. They cross-connect the wrong loop, as I say in here. They could break a connection inadvertently just because humans are involved. Anytime any customer is impacted, it's a significant problem. That's how I define it.

Q So it's a significant problem, not a significant likelihood?

A No, not at all.

Q Okay. Do you have any data to show that BellSouth, quote, disconnects the wrong loop, close quote?

MS. ROSS-BAIN: Do you have a reference for that quote?

MS. FOSHEE: Sure. It's the same page, same line.

A What I'm stating here is fact.

Q Yes or no, please. Do you have any data to show BellSouth disconnects the wrong loop?

A Do I have data?

Q Yes.

A No. I have the knowledge. I've been doing this for years and the fact that humans make mistakes.

Q Okay. Do you have -- I'm sorry. I didn't mean to interrupt.

MS. ROSS-BAIN: Excuse me. He was not finished.

MS. FOSHEE: I said I'm sorry.

A So we do need to remember that there was testimony filed by Denise Berger back in 2001, I think it was -- we talked about it earlier -- that did talk about problems associated with doing the larger number of UNE loop orders. That's nothing like what we're even looking at here, but that was still a larger number of orders on a daily basis. So we need to keep all that in mind.

Q Do you have any data to show that BellSouth does premature disconnects?

A Let me refer back to Denise's testimony again that there is problems.

Q Other than Denise Berger's testimony --

MS. ROSS-BAIN: Excuse me. If the witness could have a chance to finish answering the question.

MS. FOSHEE: I'm sorry. I can't see him. I don't know.

MS. ROSS-BAIN: I know. But if you would not interrupt so quickly and give him a chance to finish.

MS. FOSHEE: I will try.

A These are AT&T's experiences with UNE loop hot cuts.

Q Okay. And so you have no data to show that there are premature disconnects other than Ms. Berger's testimony from three years ago?

A Well, that and the fact that it's our experience that this has happened. And also, it was presented in front of the FCC, and they recognized also that there was problems with the -- I don't know if problem is the right word, but there was, nonetheless, there was difficulties with the individual (inaudible -- phone interference) process that AT&T as well as -- that AT&T has experienced.

Q Are you done?

A Yeah, I'm done.

Q Have you ever worked in BellSouth's region?

A No.

Q So any operational experience you have is not with BellSouth; correct?

A That is correct. But we need to remember that these central offices were made back when it was all one company. I have worked quite extensively with the SBC Corporation, and all the central offices are the same. It doesn't matter. (Inaudible) Sarasota, the central office is the same; therefore, the activities are the same.

Q Do you have any data to show that BellSouth cross-connects -- BellSouth cross-connecting a loop to the

wrong CFA?

A Yes. It's our experience --

Q I'm sorry. I asked if you had any data.

A Do I have numbers in front of me? Is that what you're asking?

Q Yes.

A I have no numbers in front of me.

Q Did you have any numbers in front of you when you filed your testimony?

A I think we need to -- no. But look at this, Lisa. It talks about it may -- must be performed -- by nature, introduces significant potential for human error, and we have experienced these problems in the past when we were doing these on a higher volume.

Q Well, Mark, here's my problem. You're relying on testimony that you filed in 2001, and we're going to go through that testimony too to show that there wasn't any basis for that. You make these allegations and you don't have any data to support them. How is it that the Commission is supposed to rely on this?

MS. ROSS-BAIN: Object as to form. It mischaracterizes the testimony. You can answer.

A The data that was collected back then was the last time that AT&T was doing any kind of significant numbers of UNE loop orders, so then we did have that then. I do know we then

went into the UNE-P process, and as has been testified since then, the process is still the same. So I don't know why it would be different.

Q Okay. Can you look at Page 19 of your direct, Line 13? Are you there?

A I'm there.

Q Do you have any data that supports your contention that BellSouth's process is, quote, prone to error, close quote?

A The FCC --

Q I'm asking if you have any data.

A I'm relying on the FCC data. I'm agreeing with them.

Q Okay. So is that a no?

A I just have to say it's our experience. I have no numbers today. There are a limited number that we are doing.

Q Okay. Let's look at Page 20 of your direct testimony, Line 4 -- actually, Lines 3 and 4. Are you there?

A Yes.

Q You testify, "We do know, however, that service quality is likely to decline." Do you have any data to support your assertion that service quality is likely to decline without UNE-P?

A Continue that sentence. It says, "Because anytime a process requires human intervention and manual steps, there is greater opportunity for failures to occur." It's common sense.

Q Do you have any data to support your contention that BellSouth's hot cut process has caused service quality to decline?

MS. ROSS-BAIN: I object that that mischaracterizes. I object as to the form.

A It's common sense. I mean, I don't know what we're looking for here. We don't do large volumes of UNE loop. And I'm agreeing with the FCC. It's just common sense. Anytime humans get involved, there's more steps that could be failures, as that sentence says.

Q And can I take your use of the word could to mean that you're speculating?

A No, not at all.

Q If you're not speculating, what are you relying on to make these assertions?

A Years and years of experience working with this process with not BellSouth, agreed, but like I said, it's the same process that needs to be done. I'm not speculating.

Q Okay. Let's look at Page 34 of your direct, Lines 7 through 9. Can you just walk me through how increased traffic to BellSouth tandem switches has anything to do with the hot cut process?

A Sure. I'm not sure of the (inaudible) right now, so I guess I'll start off with a fairly high level. Currently with the UNE-P orders everything is still running over the

BellSouth network, so there's a lot of office-to-office trunking that carries that traffic. Now, CLECs that are collocated in offices do not hookup directly to that office to other offices as the central office does. They use tandems. A tandem is an intermediary then that is like a spoke that then goes out to the central offices that carry that traffic. So if all the traffic then is on UNE-P that's now going to UNE-L, now we're going to have a much greater amount of volume of traffic that is going from the CLEC's switch to the tandem, and then from the tandem out to those central offices. So the traffic pattern itself, it's our belief, then that because of the traffic pattern change, there's a greater chance of call blocking, which is the fast busy. When people call they get a fast busy. That's the signal for call blocking because there's no available trunks for the calls to ride over.

Q So is it your position that the hot cut -- the batch hot cut process that the Commission adopts must include a mechanism to do trunk augmentation?

A I believe it's something that needs to be looked at as far as the CLECs. If UNE-P were to go away, the CLECs need to be assured that there will not be a problem with our customers upon the conversion over to UNE loop.

Q Is it part of the batch hot cut process that this Commission should adopt?

A That the issue be included part and parcel with the

entire process of this whole proceeding.

Q If your testimony, as I think I heard you say earlier, is limited to the batch hot cut process, what relevance is the tandem augmentation issue?

A It's a piece of the operational. It's something that you need to make sure that everybody, not just the Commission, but also BellSouth is aware of that change in traffic that could happen if everybody -- all the CLECs were all of a sudden starting to go to UNE loop.

Q Can you look at Page 50 of your direct, Lines 3 and 4?

A Yes, I'm there.

Q When you use the term industry in Line 3, are you including BellSouth in that?

A Yes, BellSouth, AT&T, all ILECs, all CLECs.

Q Upon what evidence do you rely to make the assertion that maintaining proper CFA inventories has been problematic for BellSouth?

A From our history, and I do know this, we have submitted UNE loop orders for inventories that we thought the CFA was available and it came back busy. So the inventory was incorrect. And there would have been the process of needing to figure out what was going on, why there was wires to it, et cetera.

Q Are the orders to which you are referring something

that you learned about in Ms. Berger's testimony?

A Actually, no.

Q Okay.

A I do work in a provisioning center that does provision. And I do work with them, and I do know that there has been problems with all LECs, including BellSouth, in this provisioning of the UNE loop orders where the CFAs are not synched up correctly in the databases.

Q It's possible that the errors can be the result of AT&T's database being wrong, is it not?

A Yes. But we do also look at the inventories that you show in the TIRKS system as well as far as -- because we want to make sure we send over a clean order. And we've seen it where your database also shows it's open, both of ours says it's free, send the order over and it comes back once it gets to the frame as being busy.

Q And that's -- and your contention is that that proves that BellSouth's CFA database is wrong; is that correct?

A Correct.

Q Okay. If you can look at Page 59 of your testimony, Lines 10 through 11.

A Okay.

Q You make the statement, actually starting on Line 9, that if all UNE-P customers are migrated to UNE-L, significant blocking of trunks connected to the tandem or tandem switching

congestion can be expected. Upon what data or empirical evidence do you rely to make that statement?

A Again, it's just my experience in the industry of knowing that traffic patterns change when they are changing off of one network to another network.

Q But you make the statement that significant blocking can be expected, and I need to know what data you relied on for that assertion.

A Again, it's my experience in the industry of knowing if this number of -- number is going to be converted over, there can be problems.

Q Did you review any of BellSouth's trunk blockage PMAP data before you filed this testimony?

A No.

Q Did you review any of BellSouth's traffic management processes before you filed this testimony?

A No.

Q Did you review BellSouth's trunk augmentation guidelines before you filed this testimony?

A No.

Q If you look at Page 60, Lines 2 and 3, you make the statement, "At the very least, the interval to obtain and build out collocation space likely will increase." Upon what data and/or empirical evidence do you rely to make the statement that the interval to obtain collocation space likely will

increase?

A Common sense. If more CLECs need to build out collocation, either through augmentation or having brand new cages built, then there's going to be more people needing to process the orders. The vendors may get bogged down putting in all this cabling, let alone all the electrical work that needs to be done, the vendors that provide the DLCs and the (inaudible) and everything else that goes in a collocation cage.

Q But you're just guessing.

A Not at all.

Q It's based on your operational experience in SBC's territory that BellSouth will likely increase its collocation intervals; correct?

A It's my experience with just having to -- if unbundled local switching is no longer available, all that's going to happen, and it doesn't matter what territory it's in.

Q Did you look at any of BellSouth's PMAP --

MS. ROSS-BAIN: Excuse me. If you could let --

MS. FOSHEE: I'm sorry.

MS. ROSS-BAIN: -- Mr. Van de Water finish his testimony.

MS. FOSHEE: Finish. Sorry.

THE WITNESS: Okay. You know, if unbundled local switching is no longer available, as I started off that

sentence, was just that all competitors would have to install their own facilities, so there's likely to be some problems.

BY MS. FOSHEE:

Q Did you look at any of BellSouth's PMAP collocation data before you made that statement?

A No. I said no if you didn't hear me.

Q I'm sorry. I didn't hear you.

A That's why I thought I better speak up.

Q And you understand that BellSouth can pay SEEMs penalties if it misses performance deadlines?

A That is my understanding, yes.

Q Okay. On that same page, Lines 3 through 4.

MS. ROSS-BAIN: Excuse me. Are we on Page 60?

MS. FOSHEE: Yes.

BY MS. FOSHEE:

Q Page 60, Lines 3 through 4, you make the statement, "Sufficient space may not be available." What evidence do you rely to make that statement?

A I guess we can go back to again common knowledge where I know there are some collocations that are actually starting to get filled up with space. And there's also some discussion of it in the TRO that there could be the absence of sufficient space as well.

Q What specific offices in Florida did you review to make your statement that sufficient space may not be available?

A I reviewed no specific offices. Again, it's just a consideration. Space may not be available. We need to look at everything. This isn't a world of no UNE-P is what we're talking, so we need to consider all the constraints or operational problems that could impact this world.

Q Any hypothetical that might happen we need to consider; right?

A Definitely, definitely. It's customer affecting.

Q Do we need to consider the fact that I could win the lottery and not have to do this anymore?

A That won't affect the customers.

Q All right. Let me ask you this. Based on the FCC's requirement that the Commission establish the size of the batch, what should that size be?

A I believe we've already discussed this, but it needs to be whatever is operationally and economically the best size that can be worked by BellSouth in this case.

Q So just to confirm, AT&T has no specific number as to what should constitute the size of the batch?

A That's correct.

Q Okay. On Page 63 of your direct, Line 39, you testify that the batch process must be big enough to achieve the scale needed to handle mass volumes. Can you define mass volumes as you used it in your testimony?

A In a world with no UNE-P there's going to be a lot of

activity moving to UNE loop. That's mass volume.

Q Can you define it with a specific number?

A No, I cannot.

Q And staff asked you about this, I just want to confirm. On that same page, Lines 43 and 44, you make the statement that the batch process must operate in conjunction with an existing electronic customer acquisition process, i.e., UNE-P. Does this mean that AT&T is advocating rolling UNE-P in this case?

A I hate to put that moniker on it as rolling UNE-P.

Q If you could answer yes or no.

A I know, I know, I know, I know.

Q Sorry.

A I believe as defined by the FCC that is -- that would be correct. I think I need to make sure that I understand their definition of what rolling UNE-P would be though.

Q Well, let's assume that --

MS. ROSS-BAIN: Hold on. If you could give the witness just a minute. He was trying to find a reference.

MS. FOSHEE: I'm sorry. I was going to just give us a working definition, but if you can find it, that would be great.

THE WITNESS: Yeah, it's in Paragraph 524.

MS. FOSHEE: Okay.

THE WITNESS: That's when I believe they -- I'm not

sure if they start talking about it for the first time, but they definitely do mention rolling access. In light of the prospect that rolling access to unbundled local circuit switching could permit requesting carriers to compete when they otherwise would have been impaired without access to the switching equipment, we require states to consider and to mandate such rolling access when appropriate, as described here. Then it goes on to talk about a transitional period of 90 days, et cetera, et cetera.

I believe that's what we're looking at here, is without access to switching equipment, the transitional period to move over to the -- bring the customers over to us using UNE-P, build such equipment that can be -- equipment can be installed, augmented, whatever. It needs to be looked at.

Q Okay. So now that you've had a chance to review that, does your testimony on Page 63, Lines 43 and 44 mean that AT&T is advocating rolling UNE-P?

A Yes, in that context.

Q Okay. If you could look at Page 64, Line 13.

A Okay.

Q You state here that the CLEC must have sufficient lead time to advise its customers of the need to reprogram features. Can you quantify sufficient lead time for me?

A We've had quite a bit of discussion on this internally. The CLECs, when they do move customers off of the

BellSouth switch to their own switch, have customers that will lose their programmable features such as call forwarding, for example. So I think what we're trying to find is the shortest amount of time that it would take to notify that customer and let them know ahead of time that it's just all of sudden not going to happen to them and it doesn't work anymore. So I believe for the most part today, today's environment we're limited by the time it takes to mail out letters, which is three days or so, you know, to get a letter out to a customer to give them a chance to see this.

Q So the CLEC needs at least three days to advise its customers of the need to reprogram features?

A Given today's environment I believe, because not everybody has e-mail yet, that, yes, I'd say using the snail mail method of notifying the customers when they have programmable features that change that three days would be a minimum time slot.

Q Okay. On Page 68 of your direct, Lines 20 through 22 -- let me know when you're there.

A Okay. I'm here.

Q You say essentially that the ILECs shouldn't be allowed to respond to this critical issue with vague assurances that its processes are scalable. Do you agree equally that the Commission shouldn't rely on speculative testimony?

MS. ROSS-BAIN: Object as to the form.

MR. SUSAC: What was that objection?

MS. ROSS-BAIN: I object as to the form.

MR. SUSAC: Okay. Sorry.

BY MS. FOSHEE:

Q You can answer.

A I know. I'm reading the -- I mean, this is referring to the paragraph in front of it.

MS. ROSS-BAIN: Are you asking about that?

THE WITNESS: So I'm having to back up a little bit to see what we're talking about here.

Okay. I think I have a better context of what this is now. Could you repeat the question, if you would, please?

BY MS. FOSHEE:

Q Sure. Do you agree that the Commission should not rely on speculative testimony?

A I agree with that.

Q Excuse me?

A I agree with that.

Q Okay. Do you agree that this Commission should not rely on stale data?

A Not at all.

Q Okay.

A I'm sure you're referring to our data when we were doing more UNE loops than we're doing today.

Q Yeah, the three-year-old data.

A That is not old data. That is the data that was used for the same process that's being used today.

Q Okay. I'm going to turn --

MS. ROSS-BAIN: Excuse me. Mr. Van de Water wasn't through with his answer. Please let him finish.

THE WITNESS: And we just need you to know it's not stale. That's it. I'm done.

BY MS. FOSHEE:

Q Thank you. Okay. We're going to turn to your rebuttal. Page 7 of your rebuttal, Lines 5 through 9 -- I'm sorry, 5 through 19. Tell me when you're there.

MS. ROSS-BAIN: What was the lines again?

MS. FOSHEE: 5 through 19.

MS. ROSS-BAIN: Thank you.

A I'm here, but I'm reading over it. Was there something specific you wanted me to look for?

Q Well, my question is this. You discuss alleged limitations in the Florida third-party test. Is it your contention that the Florida third-party test did not volume test its manual order processes?

A Well, as I understood this attestation --

Q Yes or no, please, and then you can explain.

A Could you repeat it? I'm sorry.

Q Sure. Let me make it more straightforward. Did the Florida third-party test volume test BellSouth's manual

ordering capabilities?

A Yes, as I understand it, they did test the ordering capabilities.

Q On Page 11 of your rebuttal, Lines 20 through 23.

A I'm there.

Q Upon what empirical evidence do you rely for the statement that it is likely that E-911 services will be needed, but inaccessible, during this 15-minute period?

A That's part of the process where a customer could be out of service and in the BellSouth region they're allowed up to 15 minutes for less than -- 95 percent I think is the benchmark at this time, 15 minutes, and it's likely, if we are moving thousands of customers, that some of them may need to pick up the phone and dial E-911 during those 15 minutes.

Q How many do you think?

A That I don't have.

Q Okay. If you can look at Page 19 of your rebuttal, Lines 14 through 21.

A Okay. I'm there.

Q Okay. If the, quote, days of pre-work, around-the-clock scheduling, and other extraordinary means, close quote, that you speculate about didn't occur, would the 200 lines in a single CO in one day demonstrate BellSouth's ability to perform hot cuts at foreseeable volumes?

A I'm not speculating, first off. And this is from

experience from doing large number cuts, and I know these activities do happen. There are days of pre-work. There is scheduling that needs to be worked by the frame techs, by your CWINs center, by everybody working on this, and it's all extraordinary trying to get these (inaudible) done. It's not speculation.

Q So you have firsthand knowledge that BellSouth conducted days of pre-work, around-the-clock scheduling, and extraordinary means to complete those cuts?

A They may have done some of these things or a piece of these things. I know from experience that these activities do take many days of pre-work to get done. You know, the wiring of these central offices is a spaghetti factory. That's not going to be -- if there was 200 cut-overs, it's not going to be done in an easy amount of time. It very well may have taken days of pre-work, around-the-clock work by the frame techs to do it and other scheduling to get it done.

Q But you don't know that.

A Just my experience in the industry.

Q Is that a no?

A I think my experience counts. It has to be done that way. There's no other way it can be done.

Q But you have no evidence that BellSouth engaged in any of those things to complete those 200 cuts; correct?

A I have my experience of doing this type of activity.

Q Do you have any evidence?

A That's what it takes to do it. My experience is what it -- it takes time to wire 200 CFAs to have them all done on the same day. That cannot be done with (inaudible). My experience tells me these activities occur.

Q Okay. Let's turn to Page 17 of your surrebuttal. Tell me when you're there. Lines 14 through 16. Can you please tell me what constitutes a, quote, regular basis, close quote, on which BellSouth would have to perform cuts in its CO to prove BellSouth can sustain volumes?

A Business as usual. Regular basis is essentially what we're talking about here, if a batch hot cut process is adopted, tested, implemented and is in working order as a daily business as usual process.

Q If BellSouth consistently performed cuts over 50, would that constitute sustainable volume?

A I don't think that's going to get it -- no, Lisa, I don't think that's what we're looking at for the mass markets for the activity being done, shows the large numbers can be done.

Q How many would we have to be able to do every day to satisfy AT&T that we could perform it so we could sustain volume?

MS. ROSS-BAIN: Asked and answered, but you can answer.

A And this goes back again to whatever you and the CLECs, we feel we can operationally and economically do that will allow us to do the type of migrations we're doing today with UNE-P, that we can do it on UNE loop. That would be the number that needs to be in these batches.

Q So if you don't have a number, you don't have any grounds to dispute anybody else's number; correct?

A Not at all.

Q So it's a know it when you'll see it kind of thing?

MS. ROSS-BAIN: You moved so quickly I couldn't tell you that the witness hadn't finished his answer.

Q Okay. Explain to me how it is that you don't have a number, but you know which ones are going to be wrong.

A As you know, we've looked at the amount of activities for the UNE-P orders today, which are very high in volume. That's the kind of numbers we need to look at to see can these numbers be sustained in the absence of UNE-P in a UNE loop world.

Q Two more questions. Did you look at any data underlying Ms. Berger's North Carolina 271 testimony before you filed your direct testimony in this case?

A I looked at no data that was not included in the testimony.

Q Did you review the declaration of Elise Brenner (phonetic) of AT&T prior to filing your direct

testimony?

A No, I have not seen that.

Q Did you rely on her declaration in any way?

A No. I have never seen that.

Q Last question. You testify -- I'm sorry. I'm at Page 18 of your surrebuttal, Lines 21 through 24.

A Okay.

Q You testify that, quote, AT&T has never asserted that BellSouth could not perform multiple migrations, especially under conditions of its own choosing, using its bulk ordering process and individual hot cut process. So while I understand we cannot agree on the acceptability of BellSouth's process, can we agree that if the Commission adopted BellSouth's process, BellSouth is capable of migrating multiple lines served using unbundled local switching to switches operated by a CLEC?

A Would you say that one again, please?

Q Sure. I read your testimony where you said --

A Yeah.

Q Okay. So we got your testimony.

A Right.

Q So what I want to know is, and I know we don't agree on our process, but let's say the Commission did adopt our process.

A The original one, the one that's existing today?

Q Yes. Ken Ainsworth's batch hot cut process.

MS. ROSS-BAIN: With the improvements?

MS. FOSHEE: Either one.

THE WITNESS: Okay. I mean, go ahead.

BY MS. FOSHEE:

Q If you want the one with the improvements, let's make it that. If the Commission adopted BellSouth's batch hot cut process with improvements, can we agree that BellSouth is capable of migrating multiple lines served using unbundled local switching to switches operated by CLECs?

A They can perform them, but I'm not sure that they can perform them in the manner in which we've come to expect from UNE-P. In other words, problems.

MS. FOSHEE: Okay. That concludes our questions. And, Madam Court Reporter, I sincerely appreciate you sticking around.

MR. SUSAC: Are there any other parties on the line that would like to ask questions?

MS. ROSS-BAIN: I may have some redirect.

MR. SUSAC: All right. Shoot.

MS. ROSS-BAIN: I didn't know whether MCI or Covad --

MR. SUSAC: I believe they said they did not have questions.

MR. O'ROARK: MCI has no questions.

MS. ROSS-BAIN: I just have some brief redirect.

MR. SUSAC: Take your time, but please speak into the microphone.

MS. ROSS-BAIN: I'm sorry. I was further away. I have some brief redirect if you can give me just a minute, please.

MR. SUSAC: Sure.

CROSS EXAMINATION

BY MS. ROSS-BAIN:

Q Mr. Van de Water, you were asked some questions that related to AT&T's experience with the hot cut process that's described in your testimony. And my question for you is, did your testimony pull from and draw from what kind of AT&T experience with regard to those hot cuts?

A We drew from both our personal experience. We were doing larger volumes of UNE loop orders as well as the -- the TRO had the same conclusions that we had, actually.

Q And what document memorializes AT&T's experience with the hot cut process as far as the UNE loops in the southern region?

A I see. The process -- the problems we've had in Denise's testimony, she was the single point of context, me, person all knowing of UNE loops when we were doing volumes with the BellSouth region.

Q And when you say Denise, could you please --

A Denise Berger. I'm sorry.

Q -- say who you're referring to?

A I'm sorry. Denise Berger. My apologies.

Q My question is, at the national level, what, if any, documents has AT&T filed with the FCC to document its experience with the hot cut process with regard to UNE-L?

A It's my understanding that we have a Witness Brenner, who was referred to earlier, is the person that was working, amongst others, but, you know, she was mentioned earlier. And I just wanted to clarify that she and others did work with the -- testified at the FCC in the production of the TRO.

MS. ROSS-BAIN: I have no further questions.

MR. SUSAC: All right. I don't think anyone else has any other questions, so with that, that concludes our deposition today. I appreciate everyone on the line. And just one -- there's no other questions; right? That's it?

MS. ROSS-BAIN: That's correct for AT&T.

MR. SUSAC: All right. Thank you very much.

MS. FOSHEE: You need to stop selling past the close, there, Jeremy.

MR. SUSAC: All right. It's time to close. I'll see you guys tomorrow morning -- or talk to you tomorrow morning.

(Deposition concluded at 7:26 p.m.)

- - - - -

ERRATA SHEET
DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

IN RE: DOCKET NO. 030851-TP
NAME: MARK D. VAN DE WATER
DATE: FEBRUARY 11, 2004

PAGE	LINE	CHANGE

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, TRICIA DeMARTE, RPR, Official FPSC Commission Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing deposition at the time and place herein stated.

I FURTHER CERTIFY that this transcript, consisting of 132 pages, constitutes a true record of the testimony given by the witness.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 17th DAY OF FEBRUARY, 2004.

Tricia DeMarte

TRICIA DeMARTE
Official FPSC Reporter
(850) 413-6736

EXHIBIT NO. 37

DOCKET NO.: 030851-TP

WITNESS: Alphonso J. Varner

PARTY: BellSouth

DESCRIPTION:

1. February 5, 2004, Deposition Transcript, page 1

PROFFERING PARTY: STAFF

I.D. # AJV-D

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 37
COMPANY/ FPSC Staff/BellSouth
WITNESS: AJV-D
DATE: 02/24-27/04

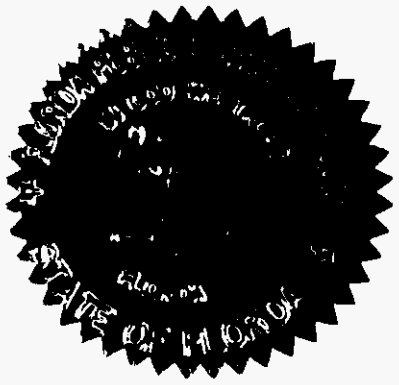
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.

_____/



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DEPOSITION OF:	ALPHONSO J. VARNER
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
PLACE:	Gerald L. Gunter Building Room 309 2540 Shumard Oak Boulevard Tallahassee, Florida
TIME:	Commenced at 3:15 p.m. Concluded at 3:50 p.m.
DATE:	Thursday, February 5, 2004
REPORTED BY:	JANE FAUROT, RPR Official Commission Reporter (850)413-6732

APPEARANCES:

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JEREMY SUSAC, ESQUIRE, FPSC General Counsel's Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, appearing on behalf of the Commission Staff.

WITNESS

NAME:	PAGE NO.
ALPHONSO J. VARNER	
Direct Examination by Mr. Susac	8

EXHIBITS

NUMBER:	ID.

(No exhibits marked.)

S T I P U L A T I O N

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this cause; and that reading and signing was not waived.

P R O C E E D I N G S

MS. FOSHEE: Jeremy, Mr. Varner is here and our notary is here.

MR. SUSAC: All right. I believe before lunch we all agreed upon going with Mr. Varner first, is that correct?

MS. FOSHEE: Correct.

MR. SUSAC: Is there someone there to -- refresh my recollection, we have not yet sworn in Mr. Varner, correct?

MS. FOSHEE: Correct, and we have a Notary here to swear him in.

MR. SUSAC: Okay. Why don't we do that at this time.

(Witness sworn.)

THE NOTARY: State your name.

THE WITNESS: Alphonso Varner.

THE NOTARY: Thank you.

MS. FOSHEE: The witness is available for cross.

MR. SUSAC: Okay.

MS. ROSS-BAIN: Jeremy, at one point -- this is Martha Ross-Bain, as we are getting started. Depending on how long the deposition lasts, I may need to leave and another AT&T attorney take over. I will have the other attorney announce their appearance at that time.

MR. SUSAC: Okay.

MR. FEIL: While we are on that subject, this is Matt Feil with FDN. I have just filed in. I was going to listen to

Mr. Varner's deposition. I don't know that I plan on asking any questions, though. I just wanted to make sure that you all knew I was here.

MR. SUSAC: Thank you, Matt. Welcome.

MR. FEIL: Thank you.

MR. SUSAC: Okay. That's fine.

MS. MASTERTON: Jeremy, this is Susan Masterton. The other appearances will just carry over from the previous depositions?

MR. SUSAC: Yes. And I was going to say following up, we agree to the same stipulations. I would just like to note, if the parties do agree, the Commissioner is willing to rule on an objection here now and today for efficiency purposes. Obviously if you don't want that, you can stick with the stipulations which we have. Anyway.

MS. FOSHEE: Jeremy, just one additional appearance. This is Lisa Foshee from BellSouth. And Bill Griffin, who is a BellSouth employee, has joined us for this deposition. He is not a witness in this proceeding.

MR. SUSAC: Okay. Thank you very much for bringing that to our attention.

ALPHONSO J. VARNER

was called as a witness and, after being duly sworn by the notary, testified as follows:

DIRECT EXAMINATION

BY MR. SUSAC:

Q Mr. Varner, will you please state your full name for the record?

A Yes. Alphonso Varner.

Q And just give us a brief background of your education.

A I graduated from Florida State with a Bachelor's degree in Engineering Science in 1972. I have been employed at BellSouth ever since.

Q And what issues do you testify to in your direct testimony?

A 5C and also potentially 3D, E, and G.

Q Okay, thanks. What source was used to develop the performance measure data in the tables provided in your direct testimony?

A Performance measurement analysis platform. The acronym is PMAP.

Q All right. The FCC through the TRO Rules 51.319, Section D, Subsection 2, Subsection ii has asked the Commission to establish a batch hot cut process that gives rise to operational and economical efficiencies over the individual loop migration process. One of the changes you are proposing for existing provisioning measures, specifically P-7, coordinated customer conversion interval, increases the standard from 15 to 20 minutes. How can the Commission find

the process is a more efficient process if the standard or benchmark used to measure the process is increased?

A The change that I have proposed to increase the standard is not measuring the same parts of the process. What I have proposed to do is to lengthen the standard, but have the end point of the standard be a later point in the process. Right now the time interval for the standard ends when we complete the cut. I am proposing to have it end after we notify the CLEC that the cut has been completed. So we are adding additional work on the end and adding additional time to cover that work.

Q Okay. Thank you. My next question is, do you have Exhibit AGV-1 in front of you?

A Yes, I do.

Q Okay. What is the source of the data provided in that exhibit?

A PMAP.

Q PMAP?

A Yes.

Q Okay. Then could you please refer to your direct testimony.

A All right.

Q Exhibit AJV-2, specifically Pages 3 to 15.

A Okay. Will you say that again? I got a little confused. Are we looking in the testimony or the exhibit?

Q The exhibit.

A Okay. AJV-2?

Q Sorry. Yes.

A Okay. I'm there.

Q And we are going to pick up from 3 to 15. For each ordering performance measurement listed on these pages, and if you need time just tell me, would the LSRs that are included in a bulk migration request be separated into performance measurement report category of the partially mechanized? If you want me to repeat that I can.

A Just repeat it. I think I have got it, but just repeat it if you would.

Q Sure. For each of these ordering performance measurements listed on those Pages 3 to 15 --

A Uh-huh.

Q -- would the LSRs that are included in a bulk migration request be separated into the performance measurement report category of partially mechanized?

A Not entirely. I would expect some of them would be in partially mechanized, some -- they could be in either partial, fully, or nonmechanized depending on how they are processed.

Q Okay. Well, then, how does BellSouth distinguish the LSRs in the bulk migration request to fully mech, partially mech, and nonmech?

A They were distinguished the same way that any other LSR is distinguished between fully mech, partial mech, and nonmech. If the LSRs flow through the systems electronically without any human involvement at all, it would show up as fully mech. If, in fact, it comes in electronically, but then drops out to our center for manual processing, it would show up as partial mech. And if it submitted over a fax machine, it would show up as nonmechanized. But the batch LSRs wouldn't be treated any differently than any other LSR in that regard.

Q All right. Thank you. Well, if LSRs are treated separately once the bulk request is received, explain how ordering performance can be adequately measured for those LSRs that were part of the bulk migration request.

A Could you repeat that one for me?

Q Sure.

A I'm not sure I quite follow that.

Q All right. If LSRs are treated separately once the bulk request is received --

A Okay.

Q -- my question is, explain how ordering performance can be adequately measured for those LSRs that were part of the bulk migration request?

A Okay. What happens is this, when the CLEC submits the global LSR, and that is a result of them having initially sent us a bulk migration form and gotten the due dates back and

so forth, they have finished the reordering process, they are now ready to order the hot cuts. They send us a global LSR which has up to 99 accounts on that global LSR. Our systems take that global LSR and break it up into individual LSRs. So we can create up to 99 individual LSRs off a single global. What we measure in the measurements is each one of those individual LSRs that got created from the global LSR. So when we measure a reject, we are measuring a reject for each one of those individual ones. FOC timeliness, the same thing, or any of the other ordering measurements.

Now, on the timeliness measures, though, the time that we use for receipt is the time we got the original global LSR. So if there were 99 of them created, we'll have 99 LSRs all received at the same time, but they get individual FOCs, individual rejects, and depending on what they get, we capture that in time for each one of the individual LSRs.

Q Well, let me just follow up, then. Are you saying that there is no difference in measuring the LSRs in a bulk versus an individual request?

A There is one difference in that the full ones (phonetic) will come in this global LSR, so what we will have to do is that we have to -- we have to establish the time stamp that we receive it as the time stamp of the global LSR. We don't have to do that on an individual request. The other thing we have to do is we ignore the global LSR, because it

never gets processed. It is just a vehicle to get all the individual ones into the system. The principle difference is that if it is just an individual and it is not a batch, we don't have a global LSR to contend with.

MR. SUSAC: All right. Let me briefly review my notes real quick. I will get right back to you. Hold on.

THE WITNESS: Okay.

MR. SUSAC: Thank you very much.

BY MR. SUSAC:

Q Can I have please have you refer to your direct testimony, Exhibit AJV-2, Pages 13 through 15 again.

A Okay.

Q I'm sorry, 3 to 15. I'm sorry.

A Okay.

Q For each of these ordering measures, please explain how aggregate performance would be measured for the LSRs that were included in a bulk request.

A Let's start with the first one, I guess. Page 3 is percent rejected service requests. Those LSRs would end up -- if you go to Page 4, there is some product disaggregations listed there. The loop to our analog loop, or the UNE ISDN, or ADSL loop, whichever one that this particular LSR fell into, would end up showing up in that particular product disaggregation along with every other loop that fits that product description.

never gets processed. It is just a vehicle to get all the individual ones into the system. The principle difference is that if it is just an individual and it is not a batch, we don't have a global LSR to contend with.

MR. SUSAC: All right. Let me briefly review my notes real quick. I will get right back to you. Hold on.

THE WITNESS: Okay.

MR. SUSAC: Thank you very much.

BY MR. SUSAC:

Q Can I have please have you refer to your direct testimony, Exhibit AJV-2, Pages 13 through 15 again.

A Okay.

Q I'm sorry, 3 to 15. I'm sorry.

A Okay.

Q For each of these ordering measures, please explain how aggregate performance would be measured for the LSRs that were included in a bulk request.

A Let's start with the first one, I guess. Page 3 is percent rejected service requests. Those LSRs would end up -- if you go to Page 4, there is some product disaggregations listed there. The loop to our analog loop, or the UNE ISDN, or ADSL loop, whichever one that this particular LSR fell into, would end up showing up in that particular product disaggregation along with every other loop that fits that product description.

Q Okay. Would the project notification identifier be reflected on each individual LSR that was part of that bulk request?

A Let me think. Yes. Yes, it would.

Q All right, then.

A That won't show up in the data. I mean, that is in the source data that reduces the measurement result. That is not going to show up in the measurement results anywhere.

Q Okay. Well, could you then instead of -- hold on one second. Could you modify the system so that the data does show up?

A No, because, for example, if we were looking at percent rejected, what we are trying to do is to say of all the LSRs that we got in what percentage of them are rejected. That is the measurement result. So what you are doing is you are aggregating up all of the LSRs that you got of a particular product, which is the denominator, and the numerator is how many of those got rejected. So all of the measurement results are aggregates. It is not results for any -- at least in ordering measures, it is not results for any specific LSR by itself.

Q Well, how can we look at disaggregation and measure ordering performance for only the LSRs in the bulk request?

A You won't be able to do that, not from the ordering performance. You will be able to measure our performance for

ordering of two-wire analog loops with LNP nondesign, for example. And it will include those that came in as a result of the batch process as well as the others. However, once we create the individual LSR, the LSR is no different for the batch process than it is for the others.

Q Well, then could you do that in provisioning performance?

A When you say do that, I need a little more information.

Q Could you capture it then?

A In provisioning performance it is even less meaningful because what you have now, you don't have an LSR anymore. You have created a service order, and once we create the service order to our analog loop that came in through the batch process, it looks like anything else. The place that the batch process is different than the individual process is in the ordering arena. Once you get past ordering, they all look the same.

Q For two-wire analog loops, would you be able to identify which ones came out of that batch request?

A In the ordering -- in the raw data going into an ordering process, yes, we can. It will not show up -- it is not a separate disaggregation in the measurement, but we do have the bulk identifier and the project ID which enables us to identify it in the ordering process. So we can go in and we

can identify it. However, since it is not treated any different than any other LSR of the same product type, it is not broken out separately in any of the measurement disaggregations.

Q But it won't show up in the PMAP, is that what you are saying?

A It is in the raw data in PMAP that produced the measurement result. You could go back into the raw data and that project ID will be there and it is identifiable.

Q Well, how does BellSouth then contend to measure batch hot cut performance?

A Okay. There are a number of ways that we are measuring batch hot cut performance. One is, as I said, in the ordering process a two-wire analog loop that comes in in a batch hot cut, for example, measure 08, reject intervals. We have a requirement for a reject interval to produce to reject fully mechanized two-wire analog loop LSR if it is going to be rejected within an hour. That is true for a batch hot cut, nonbatch hot cut, anything. That same standard would apply, so you would look at that product and see are we meeting the standard or not.

When you got to provisioning, we have some specific measurements that only apply to hot cuts, and in Florida they are in the P-7 series. And those are the work functions that are unique to hot cuts. And you can measure those and they

would be batch hot cuts as well as others would be in there. And you would be able to see are we performing hot cuts according to the standards there. Then the other provisioning measurements would cover hot cuts as well as nonhot cuts for the other loops. You would be able to see how we are performing there.

Q Okay. But you are looking at performance of an individual cut that were included in a batch, is that correct? Is Bell on the line?

A Yes, I'm trying to -- could you repeat that for me?

Q Yes, certainly. What we are trying to say is, you are still looking at a performance of an individual cut that were included in a batch, are you not?

A I'm just not following. On any of these measures that I'm talking about, they are all like a percentage of something. I have got a volume of something, how many of those did I do within an allotted period of time, or how many of those did I do compared to how many of the same thing I did for retail. None of these measurements take a specific unit and say how did I do on that specific unit. All the measurements aggregate all of the activity across categories so that you can see how you did on that aggregate group.

Q To back up to when you first started answering that question, you referred to unit. You said in measuring that unit. What do you mean by unit?

A It could be service order, it could be a hot cut, it could be an LSR, depending on whatever the measurement is supposed to measure. For example, let's take missed installation appointments. What I measure on missed installation appointments is what percentage of the installation appointments that I had in a given month for a given product did I miss. So I take all of the installation appointments for all of the products that fit that category in that month, and then I say, okay, how many of those did I miss. But I don't go in and say for each appointment that I had, the measurement is not looking at each appointment, it is a do I miss each appointment. Is that --

Q Yes.

A I keep thinking we are talking past each other somehow.

Q Okay. No, that works, the explanation. By looking at the performance measurements data, can BellSouth separate performance from the batch process by -- excuse me, let me start over.

By looking at the performance measurement data, can BellSouth separate performance from the batch process versus individual hot cuts?

A In the ordering arena it can be done. We don't propose to do it, but it can be done in the ordering arena because we have that bulk indicator, and we can use that as a

category to track just the ones that are batch hot cuts.

Q Can you explain how that is done, sir?

A Yes. When we get a batch hot cut, there is a project ID field on the LSR. That project ID field has to contain -- it has a project number that is assigned by the project manager for, you know, that batch hot cuts been assigned to. The number in that field, it has to contain as a suffix the letters B-U-L-K. That identifies for us that that particular LSR is a batch hot cut. That string of characters. So all we would have to do is look for every LSR that has that string of characters in the project ID field, and it would allow us to accumulate all of the ones that were batch hot cuts.

Q Thank you very much. For my next series of questions, please refer to your direct testimony, Pages 8 and 9, and just tell me when you get there.

A All righty. All right, I'm there.

Q Okay. In your testimony you list the most popular UNE loop products that CLECs have ordered. As a part of the bulk migration request, in other words, UNE-P to UNE-L, is a CLEC required to order the same UNE loop product for each of the LSRs within a bulk request?

A I don't know. Mr. Ainsworth will be able to answer that.

Q Okay.

A All I know is that wherever they fall out, whatever

product happened to come in through that process, they will end up going into the product groups I have listed here.

Q All right. Thank you. I just have a few more questions. Let's go to your rebuttal testimony on Page 13.

A Uh-huh.

Q You state that for coordinated customer conversion average recovery time, BellSouth can clear troubles in 4.2 hours. The standard -- I'm sorry, what?

A I'm trying to get there.

Q Oh, I'm sorry.

A That's all right. I'm there now. Where are you?

Q On Page 13.

A Yes.

Q Where you refer to the coordinated customer conversion average recovery time.

A Yes.

Q Okay. It says that Bell can clear troubles in 4.2 hours.

A Yes.

Q The standard for measure is five hours.

A Right.

Q Please explain any concerns you have if the Commission decreased the standard for average recovery time to 4.5 hours.

A Okay. There is a couple of concerns. One of them is

average recovery time is a very, very small volume, and the reason for that is that we have very, very few instances wherein this measure gets invoked. As a result of that, when you have small volumes like that, odd type changes can get you wild swings in an average result because you are calculating an average over a small volume of activity. In fact, we have actually seen that happen, and I address a couple of situations in my testimony wherein we had an extended interval for four or five orders that caused the average to balloon way up. So that is subject to happen in any month because the activity in this measure is so small, and that is our big concern about reducing the interval.

Q Okay. Looking at Page 22 --

MR. SUSAC: I hear static on the line. Does anyone else hear that?

THE WITNESS: Yes, we hear it, too.

MS. FOSHEE: I hear it.

MR. O'ROARK: I hear it.

MR. SUSAC: Okay. It's gone now.

BY MR. SUSAC:

Q If we can go to Page 22 of your rebuttal testimony, please.

A Okay. I have it.

Q You state that you do not believe loop performance should be compared to migration from retail to UNE-P. How

would you -- with that, how would you interpret the Footnote 1574 of the TRO, which is a footnote of Paragraph 512, stating that the Commission review is necessary to ensure that loops can be transferred as promptly and efficiently as an ILEC can transfer customers using unbundled local circuit switching? And if you want me to repeat that, I can.

A No, I have it. In fact, I actually address that. It is in my surrebuttal testimony at Page 22. But as a nutshell, sort of at the end of it is that what I believe that means is this, is that what you do -- what the Commission, the FCC is asking us to do is you compare UNE loop performance at a standard that the Commission set for UNE loops. You compare UNE-P performance to the standard that the Commission set for UNE-P. And if, in fact, we are providing a high level of performance for UNE-P, we obviously have to be providing a high level of performance for UNE loops in order to meet the criteria that they are saying here. It is not implying that UNE loop performance needs to be the same as UNE-P or close to it, because the two are totally different products. They have different advantages, they have different benefits to the CLECs, they are just two completely different things. So I believe the rational interpretation of that paragraph is that, okay, I will compare -- the states have set a standard for what I am supposed to do with UNE loops, and I am meeting that standard. If I am meeting that standard, then I am able to

provide UNE loops as efficiently as I am able to provide UNE-P if UNE-P is meeting the standard that is set for UNE-P.

Q All right. This is a good segue into your surrebuttal, then, on Page 3, Line 17.

A Uh-huh.

Q It seems to be referring to the CLEC interpretation of the same footnote.

A Page 3, Line 17. Yes.

Q Then it seems to refer in this footnote as an impractical inference, however, this footnote seems to clearly state that loops can be transferred as promptly and as efficiently as you can when using switching.

A Right.

Q Do you believe the FCC erred in this requirement?

A No, no. In fact, go back to my surrebuttal testimony on Page -- well, the question is at the bottom of Page 21, but the answer starts at the top of Page 22. And it starts off where the entirety of the footnote and my concerns as I have stated further. They cited the portion of the footnote that you stated, but the function that they are talking about is the hot cut function, which is 95 percent within 15 minutes. There is no hot cut function with respect to UNE-P.

Q Okay.

A So how could they possibly have been saying compare UNE-P to UNE-L when it is talking about the hot cut process and

there is not hot cut process for UNE-P.

Q So you think they made a mistake, then?

A No, no. I think what they were saying do is look at the data and the measurements that the state commissions have set that tell us how we are supposed to perform with respect to providing unbundled local loops, including our performance with respect to providing hot cuts on unbundled local loops. And the Commission has to satisfy themselves that our performance in that regard is, in fact, sufficient; is, in fact, good enough and high enough such that they can -- a CLEC can promptly and efficiently be served by that the vehicle. And the way they establish that would be to look at our performance on UNE loops relative to the standards that the Commission has. They have accepted as a given that we perform efficiently for UNE-P, and we are meeting the standards for UNE-P, and the performance data shows that. They accept it as a given and they are saying, okay, accepting that you are performing well on UNE-P, let's turn and now look at UNE loops and see if you are performing well on UNE loops.

Q All right. Let's refer to your surrebuttal on Pages 42 and 43, and just holler when you get there. In particular we will start in the bottom of Page 42.

A Okay. I have it.

Q Okay. In that section you claim that there is no need to establish a separate disaggregation for batch hot cuts.

If the batch ordering process results in the provisioning of individual LSRs, please explain how the aggregate performance can be monitored for those LSRs associated with the batch order.

A Okay. Would you just repeat that one more time?

Q Sure. And I will just repeat my question. I think we are good on the pagination.

A Yes, not the pagination, just the question.

Q Okay. If the batch ordering process results in the provisioning of individual LSRs, please explain how the aggregate performance can be monitored for those LSRs associated with the batch order?

A Okay. We have got to just make one clarification in there first. When we are in the provisioning process, we are no longer dealing with LSRs. LSRs end with ordering. We get an LSR in, we convert that LSR to a service order. Provisioning begins with that document. The service order is a document that tells us what to do in provisioning. In the batch process, the thing that makes it different than other ways of dealing with hot cuts is the way that we get the LSRs in from the CLECs, either in the preordering and ordering phase and what we do with them to convert them into service orders. Once they become service orders, they don't look any different from a batch than they look for anything else. So in the provisioning process, you are not even tracking LSRs at all.

They don't even exist. You are only looking at service orders, and at that point, once they become service orders, one service order is the same as another for the same product. There is no distinguishing factor about the fact that that particular service order was created as a batch process whereas another service order was not created by a batch process.

Q Okay. Thank you very much. Well, then explain why the provisioning performance results for the individual service orders wouldn't mask performance for those service orders that were part of a batch order.

A Because they are not distinguishable in the process. When we assign them out to be worked, whether they came in the batch process or not, it is a two-wire analog loop with LNP, regardless off how it came in. And we have to meet the standard for two-wire analog loops with LNP regardless of whether they came in through the batch process or not.

MR. SUSAC: Okay. Give me one second to look over the last of my notes.

(Pause.)

MR. SUSAC: Thank you for your time. That is all the Commission has for you as of right now. Thank you.

THE WITNESS: Thank you.

MR. O'ROARK: MCI has no questions.

MS. ROSS-BAIN: AT&T has no questions.

MS. MASTERTON: Sprint has no questions.

MS. HYER: Verizon has no questions.

MR. CRUZ-BUSTILLO: Supra has no questions.

MR. FEIL: FDN has no questions.

MR. SUSAC: Is that all the parties present on the call?

(The deposition concluded at 3:50 p.m.)

ERRATA SHEET
DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

IN RE: DOCKET NO. 030851-TP
NAME: ALPHONSO J. VARNER
DATE: February 5,2004

PAGE	LINE	CHANGE

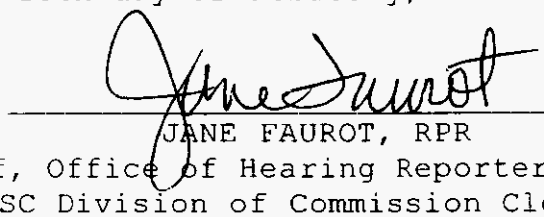
STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, JANE FAUROT, Official FPSC Commission Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing deposition at the time and place herein stated.

I FURTHER CERTIFY that this transcript, consisting of 29 pages, constitutes a true record of the testimony given by the witness.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 10th day of February, 2004.



JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732

BELLSOUTH TELECOMMUNICATIONS, INC.

WITNESS - ALPHONSO J. VARNER

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FEBRUARY 24, 2004

DOCKET NO. 030851-TP

ERRATA

Direct Testimony

Page 4, line 11: CHANGE "Data is provided" to "Data are provided"

Page 8, line 21: INSERT the word "Confirmation" as in "Service Inquiry with Firm Order Confirmation."

Page 10, lines 18 – 22: DELETE "Given that this will be a new service offering, obviously BellSouth does not currently provide for this product in its reported data. However, once the product becomes available and CLEC requests for the service generate activity, these data will be included in a current product category called 'UNE Other'."

Page 35, line 7: In the table, column entitled "Total # Hot Cuts" for August 03, CHANGE "1,597 1,595" to "1,597".

Page 38, line 24 – Page 39, line 1: DELETE "P-4, Average Completion Notice Interval (OCI) & Order Completion Interval Distribution:"

Exhibit AJV-1

Page 47: In the first heading INSERT the word "Notice" as in "Average Completion Notice Interval."

Page 47: In the second heading to INSERT the word "Notice" as in "Average Completion Notice Interval."

Page 47: In the second heading to INSERT the word "Non" as in Average Completion Notice Interval / UNE 2W Analog Loops Non Design with and without LNP.

Exhibit AJV-2

Page 1, under the section of the SQM page entitled "Business Rules" for measure PO-3, CHANGE "LSRs" to "telephone numbers" as in:

1...99 individual telephone numbers

2...100 up to 199 individual telephone numbers

3...200 or more individual telephone numbers

Page 2, under the section of the SQM page entitled "SQM Level of Disaggregation" for the measure PO-3, CHANGE:

"95% <=7 Business Days" to " 95% <= 4 Business Days"
"95% <=10 Business Days" to " 95% <= 6 Business Days"

Rebuttal Testimony

Page 1, line 23: CHANGE "Sherri" to "Sherry"

Page 16, line 21: INSERT "(November 2002 – October 2003)" as in "for the most recent 12-month period (November 2002 – October 2003)"

Page 25, line 1: INSERT "(June – August 2003)" as in "a recent three-month period (June – August 2003)"

Surrebuttal Testimony

Page 1, line 23: CHANGE "Sherri" to "Sherry"

Page 7, line 2: INSERT the word "a" as in "a rationale to penalize BellSouth."

Page 7, line 9: DELETE the word "the" as in "the BellSouth's experience"

Legal Department

Nancy B. White
General Counsel – Florida

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5558

March 8, 2004

COMMISSION
CLERK
04 MAR -9 AM 10:20

Ms. Jane Faurot, RPR
Chief, Office of Hearing Report Services
Florida Public Service Commission
Clerk and Administrative Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 030851-TP

Dear Court Reporter:

Enclosed are fully executed errata sheets for Debra Aron, deposition taken February 12, 2004 and Alphonso J. Varner, deposition taken February 17, 2004 in the above captioned docket.

Thank you for your attention to this matter.

Sincerely,

Nancy B. White

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey

530323

Aton Deposition Errata
Deposition taken Tuesday, Feb 12, 2004

page 9 line 12 change "a" to "the"

page 9 line 23 change "CILIs" to "CLLIs"

page 10 line 9 change "CILI" to "CLLI"

page 14 line 15 change "SG+A" to "G+A"

page 28 line 20 change "3-¼%" to "3-3/4%"

page 29 line 13 change "3.25%" to "3.75%"

page 29 line 15 change "3.25%" to "3.75%"

page 29 line 16 change "3.25" to "3.75"

page 29 line 17 change "3.25%" to "3.75%"

page 33 line 3 change "manager" to "manage"

page 37 line 23 change "just as" to "also that"

2-24-04

Debyler

ERRATA SHEET
DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

IN RE: DOCKET NO. 030851-TP
NAME: ALPHONSO J. VARNER
DATE: February 5,2004

PAGE	LINE	CHANGE
13	1	change "reordering" to "pre-ordering"
13	20	change "full" to "bulk"
15	7	change "reduces" to "produces"

Under penalties of perjury, I declare that I have read my deposition and that it is true and correct subject to any changes in form or substance entered here.

2/17/04
DATE

ALPHONSO J. VARNER

EXHIBIT NO. 38

DOCKET NO.: 030851-TP

WITNESSES:
Canny/Loughridge/White/Richter/McLaughlin/Maguire /Langstine (PANEL)

PARTY: Verizon

DESCRIPTION:

1. February 12, 2004, Deposition Transcript, page 1.
2. Late-Filed Exhibit 1, page 134.
3. Late-Filed Exhibit 2, page 142, **CONFIDENTIAL** – Document No. 02317-04.

PROFFERING PARTY: STAFF

I.D. # VPANEL-D

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 030851-TP EXHIBIT NO 38
COMPANY/ FPSC Staff/ Verizon
WITNESS: VPANEL-D
DATE: 02/24-27/04

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.

_____/

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PANEL DEPOSITION OF:	JULIE CANNY WILLIAM LOUGHRIDGE JOHN WHITE LARRY G. RICHTER JAMES L. McLAUGHLIN THOMAS MAGUIRE MARYELLEN T. LANGSTINE
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
PLACE:	Gerald L. Gunter Building Room 309 2540 Shumard Oak Boulevard Tallahassee, Florida
TIME:	Commenced at 9:33 a.m. Concluded at 12:56 p.m.
DATE:	Wednesday, February 12, 2004

FLORIDA PUBLIC SERVICE COMMISSION

REPORTED BY: LINDA BOLES, RPR
Official FPSC Reporter
(850) 413-6734

APPEARANCES:

BILL MAGNESS, ESQUIRE, Casey & Gentz, L.L.P., 919 Congress Avenue, Suite 1060, Austin, Texas 78701, appearing on behalf of Florida Competitive Carriers Association, participating by telephone.

DULANEY O'ROARK, ESQUIRE, MCI WorldCom Communications, Inc.(GA), Six Concourse Parkway, Suite 600, Atlanta, Georgia 30328, appearing on behalf of MCI WorldCom Communications, Inc.(GA), participating by telephone.

JORGE L. CRUZ-BUSTILLO, ESQUIRE, 2620 S.W. 27th Avenue, Miami, Florida 33133-3005, appearing on behalf of Supra Telecom, participating by telephone.

RICHARD CHAPKIS, ESQUIRE, Verizon Florida, Inc., P.O. Box 110, FLTC0007, Tampa, Florida 33601-0110, appearing on behalf of Verizon Florida, Inc., participating by telephone.

JANIS KESTENBAUM, ESQUIRE, 2445 M Street N.W., Washington, DC 20037, appearing on behalf of Verizon Florida, Inc., participating by telephone.

MICHAEL B. TWOMEY, ESQUIRE, P.O. Box 5256, Tallahassee, Florida 32341-5256, appearing on behalf of the American Association of Retired Persons, participating by telephone.

JEREMY SUSAC, ESQUIRE, FPSC General Counsel's Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, appearing on behalf of the Commission Staff.

WITNESSES

NAMES:	PAGE NO.
JULIE CANNY	
WILLIAM LOUGHRIDGE	
JOHN WHITE	
LARRY G. RICHTER	
JAMES L. McLAUGHLIN	
THOMAS MAGUIRE	
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EXHIBITS

NUMBER:		ID.
1	(Late-Filed) Costs Associated with Electric Loop Provisioning	15
2	(Late-Filed) Draft for New Procedures and New Businesses	30

S T I P U L A T I O N

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this cause; and that reading and signing was not waived.

DEPOSITION

MR. SUSAC: I think it's safe to go on the record here. My name is Jeremy Susac. I'm an attorney with the Commission. I'll be conducting the deposition today. Did we have someone just join us?

MR. TWOMEY: Yes. Mike Twomey.

MR. SUSAC: Mike Twomey? All right. We're going to first start off by taking appearances starting with the Commission, and then we'll move on to the phone, first starting with Verizon in New York. My name is Jeremy Susac, I'm an attorney with the Commission; John Duffey, Lisa Harvey and Jerry Hallenstein. Can we go to Verizon now?

MR. CHAPKIS: In New York we have Julie Canny, Jim McLaughlin, Maryellen Langstine, John White and Tom Maguire.

MS. KESTENBAUM: In Washington, D.C., this is Janis Kestenbaum for Verizon, and with me is Larry Richter.

Do we have -- are the folks in Texas on the line?

MR. LOUGHRIDGE: Yes. Good morning. This is Bill Loughridge. I'm in Irving, Texas.

MR. SUSAC: All right. Is AARP on the line?

MR. TWOMEY: Yes. Mike Twomey on behalf of AARP.

MR. SUSAC: Are there any other parties on the line that would like to identify themselves?

MR. CRUZ-BUSTILLO: We have Jorge Cruz-Bustillo, Supra Telecom.

MR. SUSAC: Hi, Jorge.

MR. O'ROARK: De O'Roark with MCI.

MR. SUSAC: Any AT&T counsel on the line? I take by the lack of response there is not.

All right. One other preliminary matter. Let's -- does everyone on the line agree to the usual stipulations?

MS. KESTENBAUM: If you could -- this is Janis Kestenbaum for Verizon. If you could just repeat them so that we're all on the same page as to what the usual stipulations are.

MR. SUSAC: Sure, and I'll just read it.

"It is stipulated that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until the hearing in this cause; and that the reading and signing was not waived.

MS. KESTENBAUM: That's certainly fine with Verizon.

MR. SUSAC: To follow up on that, Commissioner Davidson, the prehearing officer, has made a ruling that no witness in this proceeding other than the deponent may be present on the line. The companies or the parties are entitled to a corporate representative to the extent that corporate representative is not a witness.

I lay that out -- that's not a stipulation. That was one of his rulings. Commissioner Davidson also asked that each

time prior to the deposition that he has a statement he'd like read, and I'll move into that statement right now.

"Good morning, Counsel. I wish you an efficient, productive series of depositions. In order to keep the depositions productive, please keep your questions limited to the issues in this case as set forth in the draft prehearing order.

"What this case is not about. This case is not about TELRIC. This case is not about UNE pricing. This case is not about access reform and rate rebalancing legislation in Florida. This case is not about whether your client or you disagree or agree with the FCC Triennial Review or the premises contained therein. So please do not focus on these areas in your question. This case is about a specific impairment analyses that pursuant to the 1996 Telecommunications Act this Commission is to conduct according to the issues set forth in the prehearing order, the draft prehearing order. Your questions should thus be appropriate in focus.

"While I hope the need to do so does not arise, I will be available to rule on objections that questions are outside the scope of this proceeding."

With regard to that last statement, Commissioner Davidson is not in the office today. The objections will be noted for the record and preserved for a later ruling.

Any questions?

MS. KESTENBAUM: No, no question. But this is Janis Kestenbaum for Verizon. I just wanted to say something to make sure everybody is clear about two of our witness substitutions. John White who has made an appearance is, is taking the place of Michael Nawrocki, who appeared on our written testimony, and he will be adopting Mr. Nawrocki's testimony at the live hearing. In addition, Bill Loughridge is doing the same with respect to Carleen Gray.

MR. SUSAC: Thank you very much. Great. I think that takes care of all the preliminary matters.

I'd just like to say this is a little bit different from the typical deposition due to the fact that we have several witnesses speaking collectively for Verizon. Because of this, I'd please remind the witnesses each time before speaking if they could identify themselves and then proceed with their answer. With that, could each -- could we swear in each witness, please.

JULIE CANNY
WILLIAM LOUGHRIDGE
JOHN WHITE
LARRY G. RICHTER
JAMES L. McLAUGHLIN
THOMAS MAGUIRE
MARYELLEN T. LANGSTINE

were called as a panel of witnesses on behalf of Verizon Florida, Inc., and, having been duly sworn by the notaries present with the witnesses, testified as follows:

MR. SUSAC: With that, I believe you stated that John

White and Bill Loughridge are adopting the testimony of two, two of your witnesses, meaning that they did not file or state their educational background. Could those two witnesses only state their educational background.

MS. KESTENBAUM: I'd be happy to have them both do that, but just two points. First of all, just for clarity, it's John White and Bill Loughridge.

MR. SUSAC: Bill Loughridge.

MS. KESTENBAUM: And Mr. White has actually filed testimony in the transport loop portion of the case where his educational background is set forth, although I'm obviously happy to have both of them briefly describe, you know, their educational history for you.

MR. SUSAC: Great. They don't have to go into great detail; just briefly give it.

MR. WHITE: John White. I'm actually the president of 8 Degree Research and Consulting. I'm here on behalf of Verizon. I worked for Verizon for 37 years in the technology organization, engineering organization. I'm here to pick up the testimony that Mike Nawrocki covered, which included IDLC, GR-303.

My education is I have a BBA and an MBA in economics from Pace University, and I have taken engineering courses at the University of Buffalo, and have pursued a doctorate in finance but I've not yet completed that. But that's about as

short as I can get to give you 37 years.

MR. SUSAC: Okay. Thank you very much.

MR. LOUGHRIDGE: Good morning. This is Bill Loughridge. I am currently employed by Verizon in the capacity of product manager for UNE loops. I have been employed by, by Verizon for 15 years in various capacities. My educational background includes a BA in economics and an MBA in finance.

DIRECT EXAMINATION

BY MR. SUSAC:

Q All right. Well, as I stated, my name is Jeremy Susac. I'm an attorney with the Florida Public Service Commission. I'm going to be taking the deposition today on behalf of the Commission in this Docket, Docket 030851-TP. If the panel collectively could speak to, did you file testimony in this docket?

A (By the panel) Yes. Yes, we have. Yes.

Q And do you have copies of your testimony with you?

A Yes, we do.

Q Thank you. Okay.

MR. MAGNESS: Mr. Susac --

MR. SUSAC: Yes.

MR. MAGNESS: -- this is Bill Magness for FCCA. I didn't know whether you wanted to take appearances or already had. I got on a little bit late.

MR. SUSAC: Okay. I'm sorry, Bill. Yeah. We took

appearances. Let's add Bill.

MR. MAGNESS: Okay. It's Bill Magness, M-A-G-N-E-S-S, with the law firm of Casey, C-A-S-E-Y, and Gentz, G-E-N-T-Z, representing the Florida Competitive Carriers Association or FCCA. My address is 919 Congress Avenue, Suite 1060, Austin, Texas, 78701. The E-mail address for the reporter is Bmagness@phonelaw.com.

MR. SUSAC: Thank you very much, Bill.

MR. MAGNESS: Thanks for your indulgence.

BY MR. SUSAC:

Q All right. That finishes the preliminary matters. Let's get to the questions for the panel. Just to remind the panel, these responses will need you to identify yourself before speaking.

First question, has Verizon begun offering the hot cut process described in the panel direct testimony?

A (By Mr. Maguire) Are you specifically speaking to the batch process or to one of the other processes?

Q The batch process, sir.

A This is Tom Maguire. The batch process has not been formally introduced as of yet. We anticipate rolling this out upon approval from the various state commissions.

Q Looking at your direct testimony, Page 13 -- I'll give you a second to get there.

A Got it.

Q The panel identifies several central offices in towns such as, and forgive me if I mispronounce these, Aripera, Casper, Gulfside, Lake Deeson and Willow Oak. Are these cities in the state of Florida?

A Yes. Tom Maguire.

For simplicity's sake, this is Tom Maguire. I'll probably be responding to most of the questions.

Q Okay.

A Does that make, does that make the court reporter's life any easier?

Q Yes, that does. Thank you, Tom.

A (By Mr. White) They may not be cities -- John White speaking. They may not be cities; they may be very small towns.

Q Okay. But they are located in Florida nonetheless?

A Yes, they are.

Q Okay. And under your definition of Verizon territory, are these towns or cities located in Verizon's territory?

A Yes, they are. John White speaking.

Q Okay. Thank you very much.

My next question goes to electric loop provisioning. Has Verizon done any specific studies regarding the feasibility or the costs associated with electric loop provisioning?

A John White speaking. Electronic loop provisioning

was, was studied, and we presented information to the FCC on, on the cost of what that would involve, and I believe that was referred to in my supplemental -- Mike Nawrocki's, now my supplemental testimony.

MR. SUSAC: Yes. This is directed to the Verizon attorneys. Could we have a late-filed exhibit entitled "Costs Associated with Electric Loop Provisioning"?

MS. KESTENBAUM: Yes. I mean -- this is Janis Kestenbaum. You know, are you -- I'm not entirely clear what you're saying. Are you saying that it's your understanding that such a document exists?

MR. SUSAC: Well, he just said he filed it with the FCC, didn't he? Did he not?

MS. KESTENBAUM: Yes. I mean, I'm not familiar with this document myself. If there is such a document, we'll be happy to file it as a late-filed exhibit.

MR. SUSAC: Thank you very much.

MR. WHITE: It was just for clarity. John White here. It was testimony given, I believe it was by Charlie Ketera (phonetic) to the FCC on what those costs would be, and, and that was referenced in the TRO. If, if -- because I do remember it referenced in our supplemental.

(Late-Filed Exhibit 1 identified.)

BY MR. SUSAC:

Q Okay. Do you -- this is directed to the Verizon

panel. I guess, Tom, you would be best to answer this.

Do you feel electric loop provisioning is an issue in this docket?

A (By Mr. Maguire) Not to further confuse things, this is Maguire, but John is the person who typically responds to the technology type questions. I am the process person, so I'm going to defer to john.

A (By Mr. White) Yeah. The electronic loop provisioning was discussed by the FCC in the Triennial, and they highlighted that this really wasn't feasible. Basically you would have to rebuild an entirely new network. It can't be done with the existing network that we have today. So it would be replace all the existing switches, cut over everything you have to new kinds of switches and, you know, put all new equipment in the field. It's not handling the existing loops that we have today. So it really is a very theoretical abstract approach to doing hot cuts. If we had a network that doesn't exist, then, then there might be a way to do it, but that's not the network we have today.

Q Okay. Thank you very much. What is the status of WPTS implementation in the state of Florida?

A (By Mr. Maguire) This is Tom Maguire. WPTS is either rolled out or it's in the process of being rolled out. And by rolled out, I refer to customers being trained specifically to use WPTS.

In Florida, we had the hot cut demonstration going about two weeks ago, during which time we showed that it is working in Florida.

Q When you say it is working in Florida, do you mean it has been rolled out in some areas?

A Yes.

Q All right.

A It's been rolled out to some customers more specifically.

Q Okay. To follow up, what advantages does a CLEC gain with the batch hot cut process described in Verizon panel's direct and surrebuttal testimony have over an existing large job process?

A The large job process was developed a number of years ago to focus in on a particular central office and to move a number of loops from whatever configuration they happen to be in, be it UNE-P, resale or retail, to a UNE-L configuration.

The, the large job process, therefore, was geared specifically to an individual central office and an individual CLEC. The project is really -- the project process hinges on the CLEC's ability to aggregate orders for a specific central office and process those orders over to us in an aggregate or batched basis.

What we try to do with the batch process after sitting down with various regulators on both the state and

federal level and also with some customers is come up with a process that would allow Verizon to, to actually accumulate the orders from multiple customers for multiple central offices. So rather than having a CLEC give us 100 orders for one office for a particular project, we can take however many orders come in for a particular office from however many CLECs decide that they want to do work in that office. So we're doing the aggregation or the batching for all of the parties.

In addition, what we propose to do is, besides accumulating the orders, is to activate the port, which is a critical component of a hot cut, on behalf of the customers. And so it's sort of like a one-stop shopping approach where the CLECs or CLECs will be able to give us the orders and they'll receive notification from us that everything is done. So it's sort of like, you know, just give us the order and we'll do everything for you sort of approach.

The batch process also eliminated some of the steps that are currently offered in the large job process, and the reason that we did that is to try to reduce the cost of the batch process.

It is my understanding that the TRO is looking specifically for an efficient process that makes it more economical for the CLEC to acquire customers, and so we've tried to pull stuff together that will take advantage of the things that we already offer like WPTS and the CO-specific

project approach to doing things and put them together with some other cost-saving measures into one product that's available to a number of different CLECs at the same time.

Q Thank you. Does Verizon plan to perform volume testing of the batch hot cuts process to prove its claim that it is more efficient and enables larger volumes?

A No, we do not. We don't feel it's necessary. The batch process, as I mentioned, again this is Tom Maguire, is really taking the best of what we've learned from the basic and project processes and just stringing things together into like a, I guess a, a compilation of the best of both of the existing processes. We do a lot of -- a lot of the things that we offer in the batch we do today during our normal, you know, business interactions that we have with the CLECs. We do a lot of project work, we do a lot of basic work. So, therefore, we don't really think that volume testing is necessary since we do a lot of this stuff already.

In addition, it's been our experience after going through some of the 271 states that testing of, of this sort of thing is not really doable; it'll be extremely expensive, and I don't know that there's really a lot of value. I don't know what it tells us at the end of the day. Because what we're talking about doing is actually creating a process that expands the hours in which we can perform hot cuts and, if necessary, moving people over to do increased volumes. We do that stuff

nowadays anyway in the normal course of both wholesale and retail business. So I'm not sure what you would buy out of that.

Q Well, have you ever, have you ever performed volume testing on a batch before?

A On a batch hot cut?

Q Yeah.

A No, sir.

Q But you purport to know the benefits of it and the values of it.

A Yes, that's true. The reason being is that we've seen -- there's been a lot of comment from different parties, both in this proceeding and from, and in other proceedings, that people like our project approach, and the batch is just a modified project. Rather than having it CO specific or CLEC specific, the batch process is open to a lot of different people.

And as I mentioned before, I've had a lot of conversations with a bunch of people over the course of the years, and they've come up with suggestions like, you know, could we have more than one CLEC in a project, could we work multiple central offices at the same time or expand the number of central offices we deal with? And a lot of those things, which I would imagine are benefits, otherwise they wouldn't have asked me about them, are captured in the batch process.

In addition, one, one -- the port activation piece that we proposed, it's been my experience in dealing with the CLECs that a lot of them employ third-party vendors to activate the port on their behalf. And it's our belief that if we're doing this for them, at the very least that they do not have to incur the expense of hiring a third-party vendor, or, also, they do not have to incur the expense of having one of their own people do that.

Q And just for my clarification, I believe, and keep me honest, you said that you don't believe volume testing adds any value.

A Not -- from an operations perspective, no.

Q But you base that off of -- do you have any -- strike that.

Do you have any empirical evidence to support that statement?

A Do I have any empirical evidence to support my belief that volume testing is, doesn't add any value?

Q Correct.

A A lot, a lot of our experience or a lot of my knowledge is borne out of what we went through with the 271 process. And I believe that early on while we were working on hot cuts, it was -- we did a lot of testing of the hot cut processes, and I believe it was the position of the folks that were doing our third-party testing that they also did not see

any value. And I believe that's in one of the 271 reports, specifically for New York and Virginia, I think, where they just say that they don't see that it would add any value.

Q Okay. Thank you. Before I, before I proceed, I forgot to mention this earlier, and forgive me to all the witnesses on the panel. When I ask a question to elicit a yes or a no, please, to the extent possible, answer that question with a yes or no, and then feel free to elaborate and explain why you can't pigeonhole it into a yes or a no or whatever you feel is necessary.

Back, back on track. Would it be correct to say that you've never processed the volumes of batch process and eventual UNE-P to a UNE-L migration; is that correct?

A Could you please rephrase the question?

Q Sure. Going through the series of questions that we were talking about with the, the volume testing, you've never processed the volume testing, a batch hot cut process with UNE-P to UNE-L migrations; is that correct?

A I don't know if I can answer this with a yes or no, so I'll, I'll try to be as succinct as possible.

In real world today using our large job process, which is, again, very similar to the batch in that it's a lot of orders in one central office, we primarily focus on moving UNE-P to UNE-L. That's really what the project is all about.

So over the course of the last couple of years, I

believe -- well, in one of the New York workshops the CLEC that we primarily do projects with said that we've done 300,000 lines over the course of a couple of years moving from UNE-P to UNE-L. I don't know if that --

Q Yeah, that helps me. And did you perform volume testing on those 300 lines, I believe, or 3,000 lines?

A No, we did them. We just did the work.

Q Okay.

A No. It's 300,000.

Q 300,000. I'm sorry.

All right. Moving along, does the batch hot cut process using accumulation enable the CLEC to predict when the cutover will take place?

A I will -- again, I'll try to be as succinct as possible. When -- we came out with an interval, and the interval for the batch process is six days to 26 days. And the reason that we said 26 days is because it -- we calculated that every single one of our central offices across the country is visited during a working month for any number of reasons. Now one of the, one of the things that we built into the batch process is that we're going to try to take advantage of the technician making a, a trip to a central office either for routine work or perhaps maintenance work. And when that technician gets there, they will do whatever is in the batch. So we're trying to limit the number of truck rolls or

dispatches we have to make in an attempt to further reduce the cost.

Now it's our belief -- again, going to the, going to -- in very remote areas, for example, rural areas, Upstate New York, parts of Pennsylvania, we have a lot of rural territory. We don't have technicians visiting these offices every day, so it's very rural areas you might get into the twenty -- closer to the 26 days. But inversely, if you have an area that's populated with a lot of people that has a lot of activity in it, and if the office is staffed, we think that the interval would be closer to six or seven days.

For example, the demo that we did in Tampa, that was a staffed office. So in a situation like, if we had good volumes from the CLEC, a lot of the interval stuff is dependent on, is dependent on how much activity they give us. But in a place like the Tampa central office that we visited, I could see that being closer to the seven-day interval.

But as far as the specific question as to whether or not the CLECs know what day the cut will take place, to give them advance notice as part of the process, using our automated systems that the cut will take place on such a such a day.

Q Can the CLEC predict when the cutover will take place?

A At what point? When they submit the LSR?

Q Yes.

A If --

Q Yes or nos, please, and then you can elaborate.

A I will say, yes, they can once they -- once both of us, the CLEC and Verizon, acquire experience for a particular office.

So, for example, on day one I don't know that they would be able to predict anything. But given that there seems to be a history or concentration of customers based on UNE-P marketing, I think that they'll be able to predict what their interval is going to be.

Q At what point -- okay. You might have just answered it. At what point can the CLEC predict when the cutover will take place?

A Prediction to me is a word that kind of involves a little bit of guesswork. So prediction, I think, would happen more towards the submission of the LSR. Once the LSR is submitted, they will receive concrete notification from us electronically that says exactly when the cut will take place.

Q Okay. And how many days after submitting the LSR does that take place?

A It's not days after the LSR. It's days before the cut. So it's -- I guess if you're looking at it the glass half empty, glass half full sort of thing.

Q Right.

A So it's six days prior to the cut taking place.

Q And just for clarification, how much time from the submission of an LSR to that six days prior to the cut are we talking about?

A It could be any -- it could be anywhere from one day in a busy area to, you know, 20 days in a less busy area. 17 days, I'm sorry, in a less busy area.

Q Business days or calendar days?

A Business.

Q Thanks. Moving along. Has Verizon documented all processes and procedures associated with the batch hot cuts?

MS. KESTENBAUM: Objection as to form.

BY MR. SUSAC:

Q What does Verizon document regarding the processes and procedures associated with batch hot cuts?

A We have extensive documentation for our hot cut processes. We're in the process of finalizing the work center documentation and the central office documentation specific to the batch process. A lot of what we've -- what we'll -- what will -- what we will have in the batch documentation will be similar to the methods and procedures that are in place today for the project and for the basic because we're trying to leverage a lot of the processes that exist today.

These are -- we also, we subscribe to the ISO 9000 quality management process, and we have all the associated documentation for our existing processes as required under the

ISO guideline, and we're going to have the same level of documentation for batch when everything is said and done.

A lot of this is iterative because we're still going through some of the, the formative stages here with respect to insuring that -- well, I guess you don't want to go out and have all these MMPs written if somebody, one of the states or one of the other parties says, hey, can you change this sort of thing? So we're kind of in the iterative stages. I don't anticipate making any significant changes to the process. But as things get a little bit more concrete, it'll all be detailed out.

In addition, WPTS, the practices associated with WPTS are available on the web. They have some extensive documentation there on how to use WPTS and how to get onboard so you can learn and get the appropriate sign-ons and stuff with respect to WPTS.

Q Are there any processes and procedures that are not documented?

A Are not documented?

Q Yes.

A Off the top of my head, I would say, yes, there are. For example, we came out with an industry notification not too long ago about changes we're going to put into place effective in the June time frame, and we'll come out with practices at that time for how the CLECs, for example, will populate local

service requests that we're going to -- that will be associated with the batch process.

A (By Ms. Langstine) This is Maryellen Langstine. I just wanted to add to that. Actually on January 29th, 2004, and it is also available in the business rules, there is draft information about what the LSR requirements will be. So we have done some draft documentation in accordance with the change management process.

MR. SUSAC: And I don't know if all the other parties are, are hearing this, but I'm getting a little feedback when, Tom, when you're speaking. Is it -- do other parties hear that?

MS. KESTENBAUM: I do not.

MR. SUSAC: Maybe it's our phone then.

BY MR. SUSAC:

Q Okay. Getting back to my question -- and, Tom, I'm sorry if I've asked this. Will Verizon conduct, will Verizon conduct any testing of the batch hot cut operational processes, methods, documentation or procedures?

A (By Mr. Maguire) I might have answered this, but I'll try again.

Q Okay.

A Given that we -- given all we've learned over the course of the years with our other processes and that the batch process is an accumulation of the best of whatever we have in

the other processes, we don't feel that we need to do any sort of testing because we do it today anyway. We're doing it live in production.

Q Is that a yes or a no?

A I think a no.

Q Okay. Okay. Thank you. Will Verizon provide new procedures and business rules for ordering and provisioning and, if so, how will they do so?

A (By Ms. Langstine) I'm sorry. Could you repeat the question?

Q Sure. How will Verizon provide new procedures and new business rules for ordering and provisioning the batch hot cut process, I should add?

A Okay. This is Maryellen Langstine. That information, as I said, has already been sent out in draft form, and it will be sent out by the change management process. Any of the changes to the local service request and any system interface changes will go out through change management.

Q Could we get a late-filed exhibit of that draft that's gone out?

A Yes. I have a copy of it, Janis.

MS. KESTENBAUM: Okay. Absolutely.

BY MR. SUSAC:

Q Thank you very much.

A If I could go back on something that you asked

Mr. Maguire or Mr. Maguire was answering earlier, the actual implementation of the capability will be in April of 2004, and that will enable CLECs who want to also test the process, because this is something -- and it'll be in our CLEC test environment as well. So CLECs who use EDI will actually be able to test the interfaces for the batch hot cut well in advance of this actually, you know, being utilized.

MR. SUSAC: Okay. And just for some housekeeping, that Late-Filed Exhibit Number 2, could we title that "Draft for New Procedures and New Businesses"?

MS. KESTENBAUM: Certainly.

MR. SUSAC: Thank you.

(Late-Filed Exhibit 2 identified.)

BY MR. SUSAC:

Q Resuming with, with my questions. Has Verizon submitted a change request to its change control process to enable CLECs to see what OSS changes will be developed to support the batch hot cut process?

MS. KESTENBAUM: Objection as to form.

MR. SUSAC: Objection noted.

BY MR. SUSAC:

Q You can answer the question.

A This is Maryellen Langstine. Yes, we have a change request.

Q Is that the same change request that was recently

faxed to you by the Florida Public Service Commission?

A I have a copy of the letter, yes.

Q Okay. And do you have that? That's what I was going to ask: Do you have that copy in front of you?

A Right. Well, in the letter I believe that they were addressing the specific change request number for the east. But there is a, a change request. It's a different number, but there is a CR for batch hot cuts in the west. But I am in receipt of that note, yes.

MS. KESTENBAUM: This is Janis Kestenbaum. I think for the clarity of the record it would probably be helpful, Counsel, if you would just, could just make clear exactly what this letter is.

BY MR. SUSAC:

Q Sure. It's the January 28th, 2004, with Verizon letterhead in the far right-hand corner, Peggy Rubino, VP Industry Policy with Z-Tel Communications was the recipient of that letter. And it was signed -- it was authored by Beth Cohen, Director, Change Management, Verizon Wholesale Markets.

A Yeah. I have a copy of this letter.

Q Okay. Does this letter speak to the OSS changes that will be developed to support the batch hot cut process?

A This letter addresses the fact that the CLECs disagree with the type of -- the way it was classified, the way the batch hot cut changes were classified. Yes.

Q Okay. Give me one second, please.

Following up on this; has any state ordered Verizon to implement a batch hot cut process?

A I'm sorry. Would you repeat that?

Q Sure. Has any state ordered Verizon to implement a batch hot cut process?

A No.

Q Okay. Referring to the same letter that we've just identified, first of all, are you familiar with the contents of the letter?

A Yes, I am.

Q Okay. In this letter what type of change request is being, is being addressed?

A Verizon has designated this as a Type 2 change request.

Q Could you please describe a Type 2 change request and a Type 4 change request, and then follow that with a comparison and distinction of the two for clarification?

A Okay. A Type 2 change request, according to the change management process, is a change request that is typically the result of a regulatory decision or order either by the state or the FCC. A Type 4 change request is a change request that is initiated by Verizon. Okay. That's the basic difference or the definition.

And the only difference really between the Type 2 or

Type 4 is that a Type 4 change request along with Type 5 change requests, which are CLEC initiated, are part of the prioritization. Type 2s, because they are regulatory or directed by regulatory bodies, are not prioritized by the CLECs at the monthly meeting. That really is the only difference.

Q Thank you.

A You're welcome.

Q Going to your direct testimony, in particular at the bottom of Page 36. I'll give you a minute to get there obviously.

A (By Mr. Maguire) As we demonstrate in Part 3?

Q Yes. Okay. At the bottom of Page 36 of your direct testimony please read aloud the last paragraph consisting of two sentences beginning with, "As we demonstrate in Part 3 of this testimony, does Verizon still hold," if you could just read that paragraph, please.

A "As we demonstrate in Part 3 of this testimony, these requirements are satisfied and, therefore, no batch process is required. Verizon has nevertheless proposed and is willing to offer the process described above."

Q Okay. Does Verizon still hold that position?

A Yes.

Q Okay. Please tell us how Verizon reconciles the statement at the bottom of Page 36 with the January 28th letter, 2004, to Z-Tel claiming a regulatory mandate to

initiate a Type 2 change request?

MS. KESTENBAUM: Objection. Ambiguous. I'm not sure what, what exactly is being asked.

UNIDENTIFIED SPEAKER: Is that the lawyer talking or the witness?

MS. KESTENBAUM: Yeah. This is the lawyer. Sorry. This is Janis Kestenbaum.

UNIDENTIFIED SPEAKER: I thought it was the witness didn't understand and not the lawyer.

MR. SUSAC: All right. If the lawyer -- I think I, I have the voices down, but if the lawyer could also identify herself, too, that would be great.

MS. KESTENBAUM: Yes. I'll do that going forward.

BY MR. SUSAC:

Q I think, and correct me if I'm wrong, at the bottom of Page 36 you stated a position that you just read out loud that you say still holds.

Is that -- does that -- in your understanding of the, of the letter that we just mentioned, the January 28th, 2004, letter, is it your understanding that those two positions are the same or does the letter change your position at all?

A (By Ms. Langstine) Okay. This is Maryellen Langstine.

Q Okay.

A It is, you know, our overall position, okay, as we

stated in our testimony. However, we do recognize that there are different ways to meet the FCC regulations, and we are just offering this as a, as one of our processes. We do not want to be -- we do not -- we wanted to get out there with the process in the event that we did get approval by the different state commissions, we wanted to be prepared for this. So that is why we went ahead and that is why this is a Type 2 because we really did this under the auspices of what was in the Triennial Review Order.

Q Okay. Let me, let me see if I can get to the heart of what I'm asking.

I first asked you if any state had mandated you to implement a hot batch cut process. I believe your answer was no; is that correct?

A (By Mr. Maguire) Yes, it is.

Q I then asked you what a Type 2 change request is.

A (By Ms. Langstine) Right. But I also said that it's also part of the FCC or state commission. We consider this part of the federal, the FCC directive that we look at this as one of the, one of the possibilities of, of meeting the requirement of a streamlined hot cut process.

Q Okay. But on the bottom of Page 36 you state that the FCC did not require this; is that correct?

A (By Mr. Maguire) No. On the bottom of Page 36 what we say is that we think our processes are satisfied with the

existing -- no, I'm sorry. The FCC rules are satisfied with our existing processes; however, we're still going to offer a batch because we think that that's the right thing to do.

Q Okay. Let me try one more stab.

The -- is it your understanding that the FCC has delegated the states the task of implementing the Triennial Review?

A That's my understanding, yes. This is Tom Maguire.

Q Okay. So the FCC has not mandated anything. If anything, they have arguably mandated the states to conduct this.

MS. KESTENBAUM: Objection. Ambiguous and also argumentative.

MR. SUSAC: Okay. Noted.

UNIDENTIFIED SPEAKER: He still has to answer the question.

MR. SUSAC: Exactly.

MR. MAGUIRE: We're dealing with multiple states and we're -- there's different levels of Verizon involvement in different states. So though our position is our existing processes satisfy what's stipulated in the TRO, we think it's a proactive measure to take what we've learned over the last couple of years as enhancements to our existing bulk process and, you know, put them together in a batch process. We also think it's a prudent move that, you know, given that no one has

really come out with any sort of criticisms or suggestions on how to improve this batch process, that it would be in the industry's best interest to get potential systems issues out in front of them in the event that come July or the end of June of 2004 one of the states that we're involved in, and I think there's 31 one of them, turns around and says, well, this is the batch process that we like and we think you guys should implement it and, therefore -- you know, we strive to have uniform national processes, and we just think it's a prudent move to try to get whatever testing or whatever new procedures out into the hands of the CLECs as quickly as we can. And that's why we did what we did with respect to the January letter.

BY MR. SUSAC:

Q Okay. Could you please, just to digress just for a quick second, could you please just help me clarify something?

Why did you, why did you submit the Type 2 change request?

A As opposed to any other type change request?

Q Yes.

A Because it's our belief that the FCC, as a regulatory body, said that we have to put forth a process. And though we think our existing processes are okay, it's quite evident that somebody else might disagree with us. So we have this other process which we think is, you know, an improved version of our

project process. And it's the result of a, a regulatory ruling, so that's why it's a Type 2 as opposed to a Type 4.

Q Okay. Thank you. Well, do you think a CLEC should have any say in the development of the batch hot cut process?

A Yes. They have.

Q Well, then why did you file a Type 2? Because, as you said, that does not allow a CLEC to input their concerns.

A No, that's not true.

A (By Ms. Langstine) No, that's not true. As a matter of fact --

UNIDENTIFIED SPEAKER: Is that the lawyer talking?

A Oh, I'm sorry. This is Maryellen Langstine. I apologize.

Q Okay.

A On February 5th there was a meeting with the CLECs and there was a presentation on the batch hot cut, and I believe that at that time there were some discussion around some things that could be done, you know. If there was some -- but, again, as Tom said, there had been a lot of discussions previously that went into the development of the batch hot cut process.

And then going forward, once this is implemented, a CLEC could initiate a change request through change management to make some enhancement to this process as well.

A (By Mr. Maguire) Now the change request deals

specifically with the LSR.

A (By Ms. Langstine) The change request is really the business rule changes associated with, right, what is needed to order a hot cut, the batch hot cut.

A (By Mr. Maguire) So -- and this is Maguire again. So if somebody has a suggestion as to one of the downstream processes, they could still make that suggestion. It's just that -- I mean, the business rule on how to order a batch is pretty basic irrespective of what happens after the LSR is handed in.

So if somebody asks me to do something else or somebody came up with a suggestion in the provisioning process to do something a little bit differently, they still have to order a batched process. And the ordering is pretty straightforward. It's, it's, it's just like the -- it's pretty much like the LSRs that they deal with today. It's just slightly modified so they can identify that the order is a batch versus a basic hot cut.

Q Okay. And you may have, you may have answered this to some degree, but how can a CLEC have input into the implementation schedule of the OSS and the priorities involved with the development of other OSS software changes?

A This is Tom Maguire again. I'm going to try to take a crack at this.

Q Okay. Thanks.

A We -- given the fact that this is a nine-month proceeding and many of our releases, the CLEC impacting releases are set, we give them way advance notice of what's going to be happening so they can make whatever adjustments need to be made. That's for all different types of changes that go in, Type 2s, Type 4s, Type 5s, whatever.

In this particular instance, we're making a, what I would consider a relatively small change to something that will allow us at the end of the nine months to be ready to do whatever, you know, is ultimately determined by whatever regulatory body we need to do.

So I don't -- I guess I'm a little bit confused by the line of questioning because I don't see where -- I mean, it's not as though we're doing this and not doing something else that's been requested by the CLECs. This -- to me, this isn't really an issue of, of backing them into a corner or taking something away from them to do something that we want to do. This is, this is just something that we're trying to do on a perspective basis or proactive basis to be ready to, you know, conform to whatever regulations come out in the July 2nd time frame as the nine-month proceedings are set.

I think, and Maryellen can go into greater detail, but I think -- the sense I get is that the CLECs are upset because we called this a Type 2 as opposed to a Type 4. They're not necessarily upset with the underlying change

itself. We're talking about, you know, what category do we fit this thing in? And, you know, from an operations perspective, to me, I don't -- I'm kind of missing something here. I don't, I don't see this as a contentious issue. Whether I call it a 2 or whether I call it a 4, and I'm not the change control person, but, I mean, I can't see how it's bad to give somebody the ability to go and try something before they have to use it. I mean, I think that's, that's proactive operation. I don't want to just spring something on somebody and say, okay, tomorrow do this. That's not good for them; that's not good for me. It leads to errors, and none of us want errors because that leads to manual work, and nobody wants to be in a position of having to do more manual work. So I actually thought that this was a, a proactive step on our part. And, you know, it just seems to be a contentious issue here, but I'm not quite sure why.

Q Okay. And we can move past this with this last question. What makes you believe that the CLECs are happy with this? What, what evidence?

A I didn't say that they were happy with it. I just said that I think that they're, they're, they're not -- I think that from what I understand they're not pleased with the categorization. They, they don't want it to be a Type 2. They want it to be something else. I don't know, I don't know that any -- are you talking about happiness with respect to the type

or are you talking about happiness with respect to the change?

Q The underlying, the underlying reason for the change.

A I don't, I don't -- at least no one has expressed any opinion to me one way or another about that.

Q Okay.

A (By Ms. Langstine) This is Maryellen Langstine again. As I said, on the call that we had on February 5th, there really was no, I don't know how to say it, unhappiness expressed or dissatisfaction expressed with the process. There were a number of questions, and, you know, we either answered them or agreed to take them back. We explained that this was something that is -- it's not a CLEC impacting change request because no one is required to implement anything in April. As a matter of fact, April is an off release, what we would not call a -- we call a non-CLEC impacting release.

So, again, I mean, I don't think there was any -- there was nothing expressed about the process at the meeting on the 5th.

Q Okay. And I promise this is my last question. What CLECs were on that call that you're referring to?

A Well, let me see. I don't remember all of them, but I can tell you some. AT&T was represented, MCI was represented, Covad, (inaudible). Those are the people who I recall speaking and asking questions. I think DCFI --

A (By Mr. Maguire) DFCI.

A (By Ms. Langstine) DFCI. Thank you. Again, those are the ones that I recall specifically identifying themselves and then through the question and answer period. Covad, did I say Covad?

A (By Mr. Maguire) Yes. This is Maguire again. Just, I mean, I don't know if I mentioned this, but this is, just to stress a point that Maryellen just mentioned, this is an optional thing. If nobody wants to use this LSR, that's their business. They don't have to.

This is just, you know, trying to get our ducks lined up for those people who might want to use the batch process come the time to use the batch process. If somebody doesn't ever want to use the batch process, they don't have to, they don't have to pay any attention to this whatsoever.

Q All right. I'm going to move forward. Thank you very much.

Prior to your rollout of the proposed batch hot cut process, Verizon has offered CLECs both a basic process and a project or large job process. Have those offers changed since September 2003?

A No. Are you speaking about the process itself or the offerings?

Q Process.

A During the summer in New York there were many CLECs involved in a collaborative looking at the large job process.

And during those collaboratives there were some suggestions to, you know, for example, what to do with integrated digital loop carrier orders in the project, IDLC orders, what to do with the project spreadsheet. And we pretty much -- whatever suggestions came out of those workshops, we've agreed to implement those. I'm not sure if those are post or pre-September -- the date that you mentioned.

Q Okay. To your knowledge, will Verizon be making any changes to the current basic and large job processes over the next year?

A I don't anticipate making any. If somebody comes up with a suggestion, I'm always open to suggestions.

Q Okay. To your knowledge, do you, do you anticipate any changes to offering the current functionalities in the basic and the large job processes?

A Only if they're improvements that everybody likes.

Q Okay. All right. Switching gears here a little bit. Does the Verizon batch hot cut process enable the wholesale customer the ability to make changes to the account of the end-user?

A Yes.

Q Okay. What implement -- and what changes are those?

A At the point of acquisition? Any changes they want.

Q Okay. Well, then what limitations exist on the ability of a CLEC to make changes to a customer's account

pending completion of the hot cut?

A There is -- if -- I'm going to, I'm going to read some things into your question.

Q Okay.

A And if I'm going off on a tangent, please stop me.

Q Okay.

A As part of the batch process we have come up with a suggestion, again, as a result of what we read in the TRO, to offer a UNE-P-like product to the CLECs that they can take advantage of or avail themselves of prior to the completion of the batch.

Now the way we see this or the places where we see this making the best sense or the best use is in the rural areas that I spoke about before where, for example, a wholesale customer or CLEC decides that, or a customer decides they want to go with a wholesale customer and they live in a very, very remote area of a state that, again, you have to assume collocation is there, but let's assume for this discussion that it is, that, that isn't visited all that often, very -- you know, the middle of Wyoming or something like that. And you don't anticipate making a dispatch out to that center for, for the longer term, let's say 20 days, 22 days. And if the CLEC wanted to get that customer over on to, to their side of the business sooner, they can order this interim UNE-P-like process, product. And at that time they can change the account

however way they want. They could add any features, take away features, any, any, you know, the sky, the sky is the limit within whatever rules are out there today, the stuff that people do nowadays as the normal course of business with UNE platform.

Now once -- they will process that UNE-P request. They will get a completion on that typically within a day or so because UNE-P migration really only involves making some changes to, that are, you know, back room systems, for lack of a better description. Upon completion of the UNE-P order, they can then submit the batch requests.

Now this is where the tangent comes into play. The general business rules that exist throughout the industry today state that if there's an order pending against a customer's account, that another order cannot be generated against that account. And that's to protect the interest of the customer and to protect the interest of whoever put in that order.

So, for example, if CLEC XYZ had an order pending against my account and another CLEC or Verizon retail or anybody else out there decided to try to put an order against my line, it would be rejected because there's already an order in there. You can't have competing orders going to the same customer account. I'll give you, I'll give you an example. And the reason I'm doing this in such a, I guess, a, a detailed explanation is because -- just to make sure that everybody kind

of understands.

We've seen instances, and I'll give you an example. Back when we had the crisis on September 11th, Telcom (phonetic) managers that were located in Lower Manhattan reached out to all the different service providers to see who can rehome their phone numbers to other locations. So we saw examples of getting a dozen orders in for the same account. The first one that's in is the one that stays. The rest -- that's the first order in, that's the one that counts. The rest of them bounced out. The reason that that was good is because you can't have all these competing orders in for the same customer looking for the same facilities, looking to complicate switching matters. That's just a general rule.

I think what you're asking me is not unique to the batch process. This is a general rule of engagement that's been in place for a long, long time. You can't have two orders competing for the same customer in the systems; never have.

Now let me, let me take it a step further. If a CLEC decides to take a customer by UNE platform, they can make any changes they want, add any features that they want, and then they submit the batch order. And if that customer comes in and says, oops, I want to add a feature, they can cancel the batch order and make changes.

Now it's at least been my experience that doesn't happen all that often where a customer will, you know, become a

UNE-P customer and then, you know, say, oops, I want to add this, oops, I want to add that. Typically during that sales interaction to acquire that customer's UNE-P there's a lot of discussion about products and services at the point of that discussion. And, as a matter of fact, I think a lot of companies today are offering some of the vertical features like call waiting, voice mail, three-way calling as part of the initial package. So I don't think we get a lot of requests in after the fact to make changes because the customer has made a decision to do something different. There are examples, I'm sure. But some of the times I've seen things come in after the fact is because somebody made a mistake and didn't include it in the original LSR. So, you know, that's -- to me, that's a little bit of a different issue in my mind.

So to try to get to the bottom line here, the acquiring CLEC, if they decide to take this UNE-P alternative for the time up until the hot cut, they can make any changes they want to the account, do anything they want with that customer. But once they get, they submit that batch order, like any other order that's in the system against that account, nobody else can do anything to that account. Another CLEC can't market to them, Verizon can't try to win them back, nobody can do anything to them. That customer is locked, it's going to be moved over to a looped customer for the acquiring CLEC, and that's the way it is.

Q Just kind of building on your example. If there's, if there's one change request to an order or, say, even if you wanted to withdraw one order of the batch, what happens to the remaining batch?

A Well, again, I'm going to read a couple of things into your -- please stop me if you think I'm not going down the right path.

If you -- the batch is for an order; right? There's multiple orders in a batch.

Q Right.

A So if you decide that you want to cancel an order that's in the batch, does it do anything to the batch?

Q Correct.

A It only pulls the order out of the batch. The batch still goes forward.

Q Okay.

A So, I mean, when that technician goes out there and he gets to the batch, the batch is whatever is in the, whatever, whatever happens to be in his bucket, for lack of a better phrase. So whatever -- if one of them gets pulled out, well, that's one less he has to do.

Q Okay.

A Yeah. It can go back in. I mean, you could -- you know, in some of these offices, let's say, and let's say -- again, we're talking about a rural environment. Because

typically in a more urban environment, as I described earlier, the batch is going to happen more frequently than the 20 days.

But let's say, let's use, let's use the extreme example. If, if you make a change to your customer, if you acquire your customer by a UNE-P and you get -- and let's say somebody, doesn't matter who, forgets to add a feature and then, and the batch cut is already in, you can cancel the batch cut and the feature, put the batch cut back in again and then still make the same interval. I mean, it's not like the clock starts all over again necessarily.

So, you know, again, I don't -- in the grand scheme of things from an operations perspective, I don't know that this is all that problematic. I've gone on the record in a number of places saying, you know what, if somebody really needs something, if the end-user really needs something, it's my desire to try to accommodate as many requests from the CLEC as I can because I realize that, you know, they're just getting into a relationship with this customer, and so they have to look as good as they can in front of the customer, if that makes sense.

Q Yes, it does. Thank you very much, Tom.

But in the Verizon batch hot cut process can a CLEC control the sequence of cutovers for a multiline order?

A Okay. Another good question. The answer, the answer is no.

Q Okay.

A Do you want me to explain?

Q Yes, please.

A Okay. Again, the batch, the whole concept behind the batch is that we're putting these orders into a bucket and that when the technician goes out there, he's going to look in his bucket and say, oh, here's all the work I have to do for the batch. Now let's say that one of those orders in the batch -- and I know some, some of you guys are familiar with what a frame looks like, so I'm going to kind of make some references to the demonstration that took place a couple of weeks ago.

Q Okay. Thank you.

A Okay. So you see this big frame, and where the cut, where the cut takes place is known as the vertical side of the frame. So there's cable in pairs that appear in these, these 100-pair compliments.

And the reason I thought that this is a good question is because the cut that took place in the demonstration a couple of weeks ago was a ten-line cut for a business. And if you recall, for those of you that might have been there, these lines were kind of aggregated in a relatively small area. Now when the -- so, so all these lines, even though there's ten lines, they're kind of right in front of the technician when he does the cut.

And when -- so when the technician looks at the

order, the order is going to be in the order -- the numbers on the order are going to be arranged in the order in which they appear on the customer's account. So let's say for argument's sake it's, you know, 395-0001 through 000, 0009. So there's nine lines involved, ten lines involved. They'll be arranged in numerical order. And so when they pull the wires in for the cut, all those wires will be terminated next to their cable and pair. And when the technician does the cut, he's going to do them in numerical order or do them in the order -- it happens so quickly, if he does one, then three, then two, then five, it's not going to affect the hunt group at all because the stuff is happening in a very rapid fashion. And then when he goes to complete the order in the batch, he'll activate the port for all the lines on the order at the same time so everything happens in one fell swoop.

So our desire is to do the cut so quickly that the end-user doesn't even realize that they're being cut. And I think the demonstration kind of showed how that takes place. I, I apologize if people who weren't there don't know what I'm talking about. But I think for those of you that might have been there, does that make sense, what I just said?

Q Yes, it does make sense, Tom.

A And the other thing I wanted to point out is that I don't want to get into the discussion of what constitutes a mass market customer because, you know, that's a discussion for

another day. But a lot of the -- my experience from when we're doing hot cuts or even doing some basic UNE-P stuff for, like, small biz, res, residential community, they're typically no more than four lines involved, so we're not talking about massive hunt groups here. I just threw that in as a --

Q No. Okay. And so I just want to follow up a little bit and be clear about something.

Verizon -- so Verizon will cut over multiline orders in sequence?

A Yes. From a customer's perspective, I'll answer, yes, they will.

Q Okay. And will that appear in documented methods and procedures?

A Oh, yes.

Q Okay. Good. All right.

A We do a lot of work with hunt groups. We kind of know what's going on with these things.

Q Okay. And following along -- okay. And using your example and the cutover demonstration, does the Verizon batch hot cut process include prewiring and dial tone checks prior to the day of the actual cutover?

A No.

Q Why not?

A Well, again, a little history lesson.

Q Okay.

A Back in, back in -- when I first got involved with this process, there was a hot cut process, whichever process we're talking about, but hot cuts in general. There were some difficulties with some customers in getting their dial tone on their collocation facility assignment or CFA before the cut took place. I'm talking years ago, four or five years ago.

And so one of the cardinal rules of hot cuts is don't ever cut a customer over to a no dial tone condition because as soon as you do that, as soon as you do the lift and lay, if the lay part doesn't have dial tone, the customer is dead in the water. So what we instituted was a process where a couple of days before the cut, due date minus two, I'll say, our technicians used to run the wire in and check for dial tone. Now the reason it was two days before the cut is because back then there was no WPTS, you know, everything was done, phone calls, faxes, the process in the world was much different as we know it today. So there was 48 hours advanced notice to let the CLEC know that there was a dial tone issue, and that gave both of us enough time to kind of stop everything and kind of reevaluate what we were going to do. Since that time the industry, at least in my experience, has matured significantly. We don't run into the no dial tone conditions all that often, and now with WPTS we can give people a moment's notice.

And, also, one of the things, another cardinal rule of hot cuts is you try to touch these things at the least

amount of times possible because, you know, it just, it makes it for a more efficient process. So what we try to do is even if we find a no dial tone condition at the time of the cut, we always get ahold of the CLEC as quickly as we can to check translations or whatever in their switch because we want to try to take advantage of the fact that the technician is there so we can do the cut right then and there and we don't have to dispatch it again and potentially screw up end-user expectations.

Now given that, given that -- now the due date minus two, really I just wanted to clarify, that was born in the northeast. In the south it was a due date minus one. In the west I don't think we ever really got to a definitive due date minus one versus two versus whatever.

So, anyway, but now here we are a number of years later and the industry has gotten a lot better, and it occurred to me that one of the big expense or cost items in a basic hot cut or even a project hot cut in the more rural areas was sending a technician out on due date minus two to run the wire and then sending them back out there again on the due date to do the cut. And considering that they're not finding no dial tone conditions on due date minus two, I thought it would be a wise move to reduce cost to send the technician out there once and he could do all the wiring work and the cutting work right in one fell swoop.

Now, again, going back to the first cardinal rule of hot cuts, if on that due date the technician finds there's no dial tone on the new condition, that cut still will not take place. And as long as that tech is out there, that tech will call back to my center, the RCCC, and then we'll get ahold of the CLEC and we'll either use WPTS or, if necessary, we'll make a phone call to say, hey, you know, the guy is out there. We want to go ahead with this cut. Can you check something out?

So the short answer is I think the industry has gotten so much better using things like WPTS to communicate and everybody getting their translation set and all the other things that we've worked on for the last couple of years, I don't think that that due date minus two step is as critical as it was in, say, the 2000 time frame.

Q Okay.

A Yeah. But you always, you know, regardless of prewire/not prewire, the technician always checks the dial tone before they move the wire.

Q Do other Verizon cutover processes include prewiring and dial tone checks prior --

A Yes, they do.

Q Prior to the day of hot cut?

A Yes, they do. In their current configuration, yes, they do.

Q Okay. Tom, I'd like to follow up on a couple of

other things that I've heard manifest itself in other depositions.

What happens when you do do this cut or you do this check prior to the day of cut and there is no dial tone, how, how does that notification of no dial tone get back to you again?

A If the customer is on WPT -- in this case when I talk about customer, I mean the CLEC.

Q Okay.

A They're my customer. If the customer is on WPTS, they're notified by WPTS. If they're not on WPTS, a phone call is made.

Q And how does the person actually checking the dial tone, what's, what is his or her next step upon realizing there's no dial tone?

A On the prewire check?

Q The prewire. Yes. Yes.

A They run the wire anyway because translations take really no time at all to program. Most, most -- all switches that I know of have remote access. So once we notify somebody of a no dial tone situation, all they have to do is go in and type it into their switch and it's okay. But, remember, we're talking about prior -- it's not the due date yet, so we have 48 hours, in the example I gave you, to do something else, you know, to, to fix the situation before the time of the cut.

So it's our belief that the technician will notify the appropriate party that there's no dial tone, the technician will finish running their wires, they'll leave to go do whatever other work they happen, they happen to do, they're supposed to do, and then whatever it is, retail work, go to the next central office, whatever. And then when they go back to do that cut on the due date, we anticipate that everything is going to be fixed. If it's not fixed, then we'll make a phone call or get ahold of the CLEC in some -- you know, and say, hey, what's going on? You know, there's still no dial tone. What do you want us to do? And we'll take their -- we'll proceed from there.

Again, we really don't want to get into a situation cutting customers into a no dial tone condition. They don't like that.

Q Right. Okay. If the CLEC is not looking at WPTS --

A Yes.

Q -- how do they know a change has occurred?

A Are we still talking about the prewire?

Q Yes, sir.

A Okay. In WPTS, for those of you that have seen it, there's a no dial tone pull-down menu. You can go in there and look at a no dial tone list. And when a CLEC goes through training to get on WPTS, we show them all those things that they could look at.

And, you know, typically what CLECs will do is they'll have somebody come in in the morning and look at the no dial tone list to see if there's any problems. And, again, we're not talking about anything urgent because this is in advance of the due date. So it's not like they have to start jumping up and down right then and there. They will, you know, pull up their no dial tone list. If there's anything there, they'll do what they have to do with it, and then they go back into WPTS and send us the message that everything is okay. So it's not like you have to camp on WPTS waiting for an update. It's like a bucket that you would work. Does that make sense? I mean, at least did you understand what I was trying to --

Q I kind of understand.

A Well, let's say, for example -- let me see if I could use this analogy.

Q Okay.

A If you get an e-mail at home; right?

Q Right.

A And you get an -- you're in hot mail, and you don't sit at your hot mail account all day hopefully, but you sit there and you look a couple of times, maybe you go home at night, you see what's in the hot mail, or in the morning you log on to see if you have anything in hot mail. And, you know, maybe if there's somebody in there that says, hey, can you do something for me? And you say, oh, okay, I'll do that. So

it's kind of like, you know, it's almost like an E-mail type of thing where you don't, you don't camp on there all the time. You kind of go in there and look, and if somebody is asking you to do something, you have two days to do it, whatever they're asking you to do, and then you go about your business and do it. And after a while you kind of get into a rhythm where, for a company that's interactive on WPTS, you know, the way they work it is that somebody will come in and they'll work the no dial tone list, and then they'll work their go-ahead list where they'll go into the system and give us go-aheads for all the cuts that are scheduled the next day, and it actually becomes a rhythm. So you only have to -- you know, in 15 or 20 minutes you can know everything there is to know about every single hot cut that you have that's due across the nation in the next, you know, 48 hours.

Q Okay. But on the day of the cut, the day of the cut.

A Yes, sir. On the day of the cut if there's a dial tone problem?

Q When you, when you, when you do dial -- yes. When you do the dial tone.

A When -- okay. Let's go to the day of the cut.

Q Okay. On that, on that day -- give me a second here. Hold on. Let me, let me just rethink this. Hold on one second.

Okay. Going on your analogy with, with the

Microsoft, the E-mail analogy, on the day of the cut isn't it true that the CLECs have to sort of camp out on WPTS to see any status of the change or of the order?

A The orders have cut times on them. So it's -- like if you have an order that's due at 10:00, realizing these things take, you know, moments to complete the cut, a CLEC won't go in there at 8:00 in the morning and sit staring at the screen waiting for something to happen. I mean, they know they have a 10:00 cut, so at 10:05 they'll look in there and say, hey, did I get a message, or they'll look at 10:01 or they'll look at 10:00. So it's, again -- the thing about WPTS is that probably its most important feature is that it's a communications tool. So it's giving as much information to everybody that's involved in the cut as possible so everybody knows well in advance of what's going on, so people know what time it's supposed to take place and all that other, you know, all the other things that are kind of crucial for the cut to happen.

The cut completion, just to kind of digress here a little bit, right now in order to try to alleviate the need to have CLECs look at to see when an order is complete, that's why we're suggesting we do the port activation in the batch because then this way they don't even have to do that, they don't even have to wait to do the port activation. I just wanted to mention that because it seemed like it was an appropriate time,

given your question.

But the, you know, it's not like you have to sit there all day waiting for something. You know, you expect something to happen at a specific time, so at that time you go in there and you see what's going on. And if you see that there's a no dial tone notification or you see that there's a message from the regional CLEC coordination center, the RCCC, then you take whatever action.

If it is like, you know, we do find some sort of error like there's no dial tone, more than likely at the time of the cut a phone call will be made by somebody, either the CLEC calling us or us calling the CLEC, so we can, you know, again, take advantage of the fact that the technician is right then and there, fix the problem or attempt to fix the problem, let him complete the cut and then move on to the next one.

Q From your end does that phone call come from the technician that actually checked the dial tone?

A Or WPTS.

Q Okay.

A I mean, the technician can communicate by WPTS, too. Remember, the cut hasn't taken place, so the customer is still on its existing network, still has service, still has dial tone, the ability to receive and make incoming calls, you know, to receive calls and make outgoing calls. And so from the customer's perspective nothing's happened. You know, they

don't know that there's an issue. So the customer, again, is safe, their, their telephone service is secure.

And so we can sit there and like figure out amongst ourselves, Verizon and the CLEC, the acquiring company, what's going on, take, you know, take actions right away and get to that technician that's in that frame. Because, again, we want -- the person is there waiting for direction from the RCCC before he does anything, and that's why, you know, let's take advantage of the fact that that technician is there because they might move on to some other work and then you'd have to wait a day or two in order to get them back, and that's not good.

Q All right. Okay. And thank you for the analogy, too. That does help me out a lot.

Would you agree with me though that without prewiring and dial tone checks prior to the date of cutover, Verizon could commit more errors?

A No.

Q Why not?

A Because what kind of errors are we going to commit? I mean, one of the things I said is that at the time of the cut, the technician is always checking for dial tone. So if there's -- you know, the customer's -- the service is never jeopardized. So I don't see any -- that final step is there regardless if we're talking basic, project or batch, so I

don't -- we're not going to make any mistake. If there's no dial tone -- over the course of the years we've seen instances where on the prewire check there is dial tone and on the due date there's no dial tone. And, again, going to rule number one, no dial tone, no go. So I don't anticipate we're going to be making any mistakes.

Q All right. Changing gears just a little bit, what metric should be designed to measure successful completion of batch cutovers?

A (By Ms. Canny) Julie Canny. Sorry. I haven't talked in a while. The whole issue of what metrics are appropriate are really dependent on what the process is, and I think we put that in our testimony. And the process by which we have to get metrics for these comes through the California JPSA process, which is what we have an agreement for Florida. As a matter of fact, yesterday the ALJ made a ruling --

Q Could you please speak up, ma'am. I'm sorry.

A I'm sorry. And I'm actually right next to the phone.

Yesterday the ALJ made a ruling that the discussion of hot, batch hot cut metrics would actually take place in the TRO proceeding ideally beginning with a workshop the week of March 15th. So we fully expect that we will work through, we're assuming that the process will also have been resolved by then, have come up with what the metrics are, filed them with the JPSA there and then put those forth for consideration in

Florida.

Q Has Verizon designed any metrics to measure successful completion of batch cut? And you may have touched on that.

A We have measures of successful completion of hot cuts in general. The specific changes necessary to address this, I have not designed.

A (By Mr. Maguire) It's my thinking that we have a lot of methods to deal with the completion of a service order. So even beyond hot cuts, if we go for the, the batch proposal whereby we're doing the activation work, we're doing everything, it's probably more analogous to the completion of a service order because a lot of our hot cut metrics deal with times and date specific types of things. And the batch proposal, since we're taking care of the activation, is probably -- the completion measurement will probably be more analogous to that of a service order completion.

Q So should the metric measure only the number of batches or reflect the number of cuts within a batch in your opinion?

A I think that you need, just my opinion, I think that you need -- this is Maguire again. I think you need to measure each service order that's in the batch.

A (By Ms. Canny) And this is Julie Canny. And the rationale for that is the batch would have multiple CLECs and

our measures are designed to be CLEC specific. So we would be doing it on a service-order-by-service-order basis.

Q Okay. And, Tom, you prefaced that answer with "my opinion." Is that your only opinion or is that the Verizon panel opinion are you saying?

A (By Ms. Canny) I think -- this is Julie Canny. I think we are consistent in that opinion on an order basis.

Q You are?

A But, again, I really want to work that through with the collaborative. I can't imagine that being, having a different opinion.

A (By Mr. Maguire) My -- the reason I -- I just say that because it's appropriate.

Q Right.

A But the customer -- I mean, from the CLEC's perspective, they are concerned with their customer. Their customer is a service order. Everything that they're doing for a customer is represented by service order. Multiple customers equals multiple service orders. So I'm sure as they deal with their customer, they're going to want to know that, you know, I had five service orders and those five service orders were completed because those represented five customers to me.

Q Okay. And I just want to state for the record, because this is an unusual deposition where you're speaking of a collective voice made up of several witnesses, when a witness

says, "It is my opinion," I am going to take that to understand that you are speaking collectively for the Verizon panel. And that if you -- if a witness on that Verizon panel does not agree with that statement, please state so. Is that, is that clear to all the witnesses?

A (By the panel) Yes, it is. Yes. Understood.

Q Thank you very much.

All right. Moving along. Verizon proposes that in its batch hot cut process it will hold orders for two to approximately six weeks prior to provisioning those orders in a central office.

My question is please explain how this holding period can be considered reasonable in light of the timeliness standard ordered by the FCC.

A (By Mr. Maguire) I think I already did this earlier on, but I'll give it another crack.

Q Thank you.

A It's not two weeks to -- I think initially we said two weeks to whatever the tail end. Now we're saying six days to 26 days. Timeliness, timeliness to me means that, you know, when we're going to perform the cut, we're going to do it very quickly such that we're not jeopardizing end-user service. Considering that these are migrations from one service to another service, if -- and, again, the desire here gets to doing things in a batch at the lowest possible cost. So

there's kind of a quid pro quo here. To get the lower cost, well, we need to wait until the technician next gets out there. And so that's where it comes into the longer days.

Again, we're looking at the volume situation, so in some cases that might be as quick as six days. But, again, in the remote examples I gave earlier, it's probably longer. If you look at the suite of hot cut products that we have, and this gets back to the statement that you referred me to back on the bottom of Page 36, I believe, where if you really need a customer super quick, then you could take advantage of the basic process or of the project process, if you wanted to go that route.

So I think all of our processes together do things in a timely basis, on a timely basis when it comes to how fast we move the lines over from one service to another at the time of the cut. The interval issue, again, deals specifically going down to the cost piece of it. And since we're not pulling the other offers, that we're going to have all three types of hot cuts out there, I think collectively they address the timeliness issue very nicely.

Q Okay. Directing our attention to your Winback program. Does Verizon's Winback program solicit former Verizon customers during the period of time in which a CLEC's orders might be held in the batch hot cut process awaiting provisioning?

A Well, let me answer that from two different, two different perspectives.

Q Okay.

A I think, and I base this on real world experience at dinner time, I think that companies, all companies are cold calling customers to get them onto their network. So I don't know that it's -- you know, I think everybody kind of does that cold -- you know what I mean by cold calling?

Q I certainly do, sir.

A Okay. So I think everybody from a cold calling or marketing perspective tries to get customers all the time. Now let's say, for example, they win a customer and, or the customer says, yeah, I want to go to XYZ company, could be Verizon, could be anybody, and XYZ company decides that they're going to put in a service order and a CLEC has a batch order in there, that order will bounce back, they will not be able to process it. It just goes back to the whole discussion I had earlier with the pending orders.

Q Yes. Yes. Okay. Thank you very much, Tom.

Will Verizon provide batch hot cuts outside the range of normal business hours? And when I say the range of normal business hours, I'm typically speaking 8:00 a.m. to 5:00 p.m.

A That's another good question. Yes.

Q And do -- does Verizon incur any cost in doing so?

A Well, no. And the reason for that is -- and, again,

I'm not a cost person, so I'm not, I'm not going to get into differentials that are paid on tours and stuff like that.

Q Okay.

A From, from a forced management perspective, in some of our busiest offices we have day tours, we have night tours, and I can see people doing hot cuts theoretically 24 hours a day, seven days a week, whenever the technician happens to be there. So in some of our really busy offices where, you know, like -- I don't want to use -- I don't like to use New York examples outside of New York. But New York is a mature UNE-P market. We have an office in New York we've done some studies on, and we could take a couple of hundred UNE-P orders a day, so we're anticipating we could take a couple of hundred hot cuts a day in this office. This office is staffed 24 hours a day, seven days a week. And I can see us doing hot cuts there, you know, not, not nonstop 24 hours, but I could see different tours working on hot cuts throughout this 24-hour period.

Now the reason I think we could do this with the batch is because if we're activating the port, it doesn't matter if we do them in the middle of the night, it doesn't matter if we do them in the middle of the morning where, you know, the customer -- we're trying to make it as transparent to the customer as possible. And by us activating the port, the CLEC doesn't even have to have a customer or have to have one of their employees sitting there waiting for the go-ahead.

So in a hypothetical, let's say we're going to do a cut today for a company, our wire team gets to it at 8:00 tonight, they do the wire work, they port the number, they send the completion message over to WPTS, tomorrow morning the acquiring CLEC opens up their WPTS and they see, or they see, boom, the customer is ours, they make a welcome call saying, hey, you're on our network. The customer says, hey, I didn't even feel anything. Everybody is happy and away they go.

Now you also asked earlier about the hunt groups. Another reason why I don't think hunt groups are a big deal is because if we're doing these cuts in the middle of the night, and you tend to have bigger customers, bigger hunt groups in the more densely populated active areas, at least that's just been my experience, if we're doing those in the middle of the night, nobody, nobody is going to know that any of this happened. That's our intent.

A (By Mr. Richter) This is Larry Richter. Just -- I agree with what Tom has said. But to answer your question specifically, will Verizon incur any cost if we do it outside of normal business hours, the answer is yes. Because we will incur cost any time we do a batch hot cut.

Q Well, would you, would you incur any additional costs than those regularly associated with a batch hot cut process?

A None other than those that Tom, Tom has talked about as far as the work group itself working outside of normal work

hours. There may be a contract agreement that may pay additional money per hour to work less desirable shifts.

A (By Mr. Maguire) But, Larry, all that's built into the batch proposal, the cost part.

A (By Mr. Richter) Yes.

A (By Mr. Maguire) So, so to answer your question, I guess, Jeremy, will we charge more for night cuts? No.

Q Thank you. Does, does Verizon currently use any process that offers wholesale customers an opportunity for hot cuts of any sort outside the normal business hours of 8:00 a.m. to 5:00 p.m.?

A Yes. Do you want to know which ones?

Q No. That's all right.

A Okay. When I say, use a monosyllabic answer, everybody stares at me.

Q All right. In an individual coordinated hot cut, Verizon will notify the CLEC of the timing of the hot cut so that the customer can adapt to the transition to the CLEC service; correct?

A Yes.

Q Does Verizon --

A Though I -- just a point of clarification. I'm not sure what you mean by adapt. What do they do? And what does the customer do? I don't know what the customer -- I don't know what kind of adaptation takes place. I can't think of

any. And we're talking plain dial tone cuts.

Q So let me -- okay. In an individual coordinated hot cut, Verizon will notify the CLEC of the timing of the hot cut. Does Verizon offer something similar for end-users in the batch hot cut process?

A Point of clarification. The CLECs typically, at least in the east, tell us when they're going to do the cuts for the basic, so they know timing before we do. In the batch hot cut process we're telling the CLECs what day the cut is going to take place. We don't tell them what time because the goal is to do these things transparently so the end-user doesn't know what's going on. And, you know, the dial tone is swapped in and out. Again, going back to the example in Tampa, how quickly that stuff happens, and, you know, the end-user, there's nothing for them to do. They just pick up their phone and there's a dial tone there, they hang up the phone, they pick it up again, there's a dial tone. They don't know that it's a different dial tone.

So it's -- I can't -- I'm somewhat perplexed by the whole, like, I need to know what time it is. If you really feel as a CLEC that you need to know what time it is, well, then order a basic. If you want to take the lower cost alternative and, you know, leave the driving to us in terms of moving the customer over, well, then that's what the batch is all about.

The timing of these things, we're going -- the customer has service before the cut, the wire is lifted, the wire is laid down, the port is activated, they have service. We're talking about minutes at the most. And so I don't know what the customer in the field needs to do to gird themselves for that nonevent.

Q Well, do you think -- do you feel a CLEC should have the right to know what time it's cut?

A Then order a basic. I don't -- based on my experience, I really don't think they need -- you know, there seems to be -- some folks are making it an issue, but we don't work on the timing of a cut when we're doing a project with some of these same people. A project takes place on a day. And, you know, is the cut done at 8:00 or is it done at 9:00 or is it done at 10:00? No. It's done on the day. And up until this point, no one has said anything to me about that.

You know, the exact timing of this thing is not critical, especially since we're proposing to activate the port. The reason that in a basic you need to know the time of the cut is so you can have somebody ready to activate the port once we say the wires are moved. But if we're doing that, then everything is done. There's nothing else to do except call the customer and say, hi, welcome to XYZ.

Q Okay. So just to get on the record, does Verizon offer something similar for end-users in the batch hot cut

process, yes or no?

A End-users are CLECs. It doesn't really matter. No.

Q Okay. Thank you.

Please explain the need for Verizon to maintain control of NPAC notification after a line is cut in the batch hot cut process.

A It -- again, going off of the example we've been discussing here, in a basic hot cut we move the wires, tell the CLEC, they activate the port. So there's more coordination, there's more communication. And we need to know, both, both parties, Verizon and the CLEC, need to know beforehand what time that this is going to happen so we have people available to pass along the message and access (phonetic) the port, we being the CLEC and Verizon.

In a batch, since we're looking to take advantage of, you know, when we have force to do the cuts from a forced management perspective, and going off to your point earlier about can we do these things at night, as long as we're activating the port, it doesn't matter what time of the day the cut takes place because we don't need somebody sitting on the other end of WPTS or at the other end of a phone waiting for us. So if we do these cuts at 1:00 in the morning on the due date, you know, and activate the port, that's -- no one -- that's it, it's done, everything is done. There's no need for coordination because we've done all the coordinating ourselves.

We're the ones who moved the wires, we're the ones who sent the message to NPAC. All the CLEC had to do in this instance is make sure that their dial tone is set on their pairs. And as I mentioned earlier, you know, they typically, there's no problems with that, and they usually do that when they submit the LSR to us. The LSR has the collocation facility assignment on it, so they know where they're going to put their dial tone.

Q Okay. And I'm not sure if you answered this earlier, but is an automated notification system between CLECs and Verizon feasible?

A That's WPTS.

Q I guess what, I guess what I'm trying to say is the electronic push that --

A Okay. That was the word. Right now under the auspices of another state a CLEC asks us, can you give us this information via electronic push? Going back, remember the collaboratives I mentioned a little while ago in New York with the large jobs?

Q Yes.

A Originally they said, hey, can you give me the ability to download WPTS information into an Excel spreadsheet? Boom, did that. Then they came back and they said, well, can you give it to me in a format? I'm not going to get into the technicalities of XML versus whatever, but they said, can you give us this information such that my machine can grab it and,

and do something with it? And I said, okay, we'll look into that. And as of -- when did we give them the specs, a week ago, two weeks? Well, we gave them the initial specifications for this I think a month ago, and we've had ongoing discussions with this one company in particular, a good company, they're pretty sophisticated as far as (inaudible) are concerned.

Q I'm sorry. You're breaking up, Tom, for some reason.

A Yeah. Now there's more crackling on the line all of the sudden.

Q Yeah.

A They're -- we gave them the technical specifications, and we anticipate in the March time frame that they're going to be ready to test with us on whether or not, you know, what we've done is what they're looking for. So I guess the short answer is, yeah, we're working on it.

Now one other thing. It's my belief that there are some companies out there that are using screen scraping technology to get information electronically at a WPTS today without having to have somebody sit there typing, you know, hitting the, hitting the answer key.

Q Okay.

A So that's, you know, that's not the push technology that you spoke about. I guess it's more of a pull technology. And the only reason I mention that to anybody that's like IT familiar, they kind of know what's going on.

Q Well, going to the scheduling, does WP -- WPTS. Does WPTS show that a particular order is part of a batch with specific schedule information?

A It will, yes. So like if, if a CLEC -- will WPTS tell the CLEC that their order is in this batch and it's going to be done on such and such a day, is that the question?

Q Yeah. Let's go with that.

A Yes.

Q Okay. Could you, could you describe that scheduling information?

A This goes back to the six-day notification. So once like the central office manager sees that, you know, there's however many orders in the system and the technician is going to be going out there, then the message will go back to the CLEC saying, hey, six days from now we're going to do this work in this office. The reason that we do six days is so they can, they have to do a create message in NPAC, they could check to make sure everything is cool with their translations, and, you know, this way they can even call the customer and say, hey, get ready to be welcomed by us after the cut in six days. So that'll be an electronic message that goes back to them.

Q Okay. Just give me a second to look over my notes. I don't have too much.

Actually the court reporter has indicated that she would like to take a break. How about we take a ten-minute

break. I have 11:30. We'll resume at 11:40.

(Recess taken.)

BY MR. SUSAC:

Q Okay. Well, let's go back on the record.

Tom, some of my next questions might, might have been addressed. If you could just give us a short answer. Some of them you have already discussed in great detail. We're just wrapping things up, and a couple of extra questions. Is that okay?

A Anything you want.

Q Could you -- and I believe you've kind of answered this, but could you please just briefly describe what would happen to an order if a CLEC declined a cutover that was part of a batch? I believe you gave reference to the bucket and things of that nature.

A If a CLEC cancelled an order that was part of the batch, the batch would proceed, assuming that there was another order in the batch. Sometimes the batch could be as little as one order in some really inactive offices. So assuming that there's more orders, more than one order in the batch, if a CLEC cancels an order, the technician only does what's left over.

Q Okay. And before we go further, can you, can you give me your definition of a critical mass?

A A critical mass is whatever happens to be in that

batch for that CO the next time the technician goes there. I do not believe that I can come up with a number because in some busy offices it could be 100 orders. In some not so busy offices it could take us three years to get to 100 orders.

Q Right. It's relative to the size of the metropolitan area or, or your customer base; is that --

A That's a much better answer, yes.

Q Okay. Well, in that -- and the only reason I say that is because you just said that in some cases there might be one, one number or one order would make up a batch. Is that because in that central office your critical mass is at one?

A Yes.

Q Okay. And those would be your more rural areas?

A Exactly.

Q Okay. All right. And could you briefly, you've touched on this, too, and I think you answered it quite well, but what if a CLEC desired to change the date of the order's cutover from the date Verizon assigned?

A Then they just have to indicate that that, that they want to do it later and we do it later or whatever they want to change. We can -- we accept sups on these orders.

Q Could you elaborate on how you do that?

A The CLEC issues a sup and we do whatever we have to do that's as per the sup; the sup meaning a supplemental order.

Q Could you --

A But, I mean, it's the same process that they have today for any other sort of order that they want to change something on.

Q And that's applicable to a batch; right?

A Yes.

Q Okay. Changing gears a little bit. Did Verizon seek CLEC input in developing the batch hot cut process?

A I'll answer that as a yes.

Q Okay. And could you describe in somewhat of detail the formal/informal CLEC input? I know you already briefly discussed on that, but just if you could again give us a, give us a brief description of that.

A Okay. The -- as I mentioned earlier, all of our hot cut processes are very closely related. There's a lot of commonality between them because essentially we're talking about the same physical movement of wires on a frame. And I've been talking about hot cuts now for a long time, and I just don't mean this morning, dating back to the late '90s. And at one point we actually hosted, this is going back a year or so ago, we used to host periodic meetings. Originally they were monthly, then became quarterly, and eventually they just kind of phased out because there was nothing left to talk about. But we used to invite anybody that did hot cuts in to talk about how to improve the process, how to, you know, do things a little bit differently, and it's actually as a result of those

meeting that things like WPTS and the project process were created.

Now I'll give you a recent formal example. Going back last year, I believe starting almost a year ago, the New York Commission instituted a proceeding to look at our project process. They -- shortly before that they looked at the batch process and pretty much went out to the industry and said, do you think anything could be changed? Nobody said anything. Everybody seemed to be happy with WPTS, they seemed to be happy with the process, and so there were no recommendations. So for the project process, the project process just, or the collaborative in New York started to come out as people were getting into sort of an anticipation of what was going to be in the TRO. And so we got into the discussion of the individual steps that are involved in a project and how can we improve these? Can we, you know, can we do the Excel spreadsheet thing I mentioned earlier, can we create an automatic spreadsheet out of WPTS as opposed to using a CLEC created spreadsheet? Those sorts of things happened.

During the course of these events, and even my conversations I've had with state regulators and the FCC, people have asked questions about the project such as, can we have multiple CLECs involved, can we do different central offices simultaneously, can we increase the number of lines that we can cut on a night? Things like that.

During one of the meetings, I raised the point -- I've always been a strong proponent of if the ILEC did the port on behalf of the CLEC, then we could cut out a significant amount of the coordination. I raised this as an issue during one of the New York collaboratives, and there was a lot of interest in this.

So what I've done with the batch process is I've taken all the collective comments from both the informal discussions, the formal discussions, and I kind of rolled them up looking at, okay, people like this in the project, they like the use of WPTS, they want to use more central offices, they want to open it up to multiple CLECs instead of one CLEC going in there and controlling the project. And, you know, when I took all that stuff together and threw it in the mixer, it came out as the batch proposal.

Q Okay. And to your recollection, which, which suggestions from the CLECs were rejected by Verizon and which were accepted?

A With respect to the batch in particular?

Q Yes.

A I don't think anybody has -- no one has really offered me any suggestions on what I should do differently in the batch. People are asking if I can come up with a more definitive time for the interval, and my answer has been, yes, but I need to understand what kind of volumes I'm going to get

in these offices. I can make projections based on what I see today in this office, but, you know, I, I kind of, without getting into a tangent too much about different forms of competition, tomorrow isn't necessarily going to look like my UNE-P volumes because of things like voice over IP or wireless number porting and stuff. So the more I learn, the better I can pinpoint the dates of when a cut is going to take place.

As far as the process itself, nobody has really said anything. You know, somebody said, hey, I don't like you controlling my port. I want to do it myself. Well, that's fine. Then do it yourself, you know. That's a basic hot cut. You could do that today. Somebody else said, can you, can you give us the push thing? We're working on that. So I don't -- I mean, that's why -- I haven't gotten a lot of input of other things that I could do differently or things that we're not doing already. Some people are suggesting we do things that we've been doing since day one.

Q Can WPTS be modified to enable CLECs to enter status change notifications with notice sent to Verizon at the same time?

A Can you ask the question again, please?

Q If they change the date --

A Okay. If AT&T -- AT&T talks about this a little bit. WPTS isn't used to change dates. The process that exists is that they have to send in a supplemental LSR. It's an

electronic transaction that everybody uses today. And so if they want to make, if they want to change something on their order, they do so by issuing a sup, a very common practice. WPTS is automatically updated by our systems and capture that information, and it's displayed in WPTS or communicated via WPTS. So if a CLEC wants to change the order, they don't use WPTS to do that.

Q All right. Just give me one second, please. Does Verizon plan to propose a process for CLEC-to-CLEC migrations?

A We actually have a process for CLEC-to-CLEC migrations today. We've been doing them for quite some time. It's the basic process, it's been there.

Q Can I interrupt you for a second? Are you referring to a batch or an individual?

A I'm referring to an individual. Would you like me to --

Q Yeah. I'm sorry. I should have specified, could you please answer that question as it relates to a batch?

A A CLEC-to-CLEC migration involves a second CLEC or a third-party. Because in our batch proposal we've, we've proposed to do the migration activity, the port activation, it occurred to us that, well, what's important to that port activation is that the old local service provider or the losing CLEC, for lack of a better name, has to be able to give up that phone number. They have to set a trigger in their switch. So

in, in the batch proposal we don't communicate, or in any proposal for that matter, we don't communicate with the losing CLEC. It's -- that communication takes place between the winning CLEC or the new local service provider.

So if something goes wrong, typically the new local service provider, a new CLEC has to talk to the old CLEC to make sure that they set their triggers. In the batch proposal it didn't make sense for us to get involved in that discussion because we don't even know who the old CLEC is in some instances. I mean, that's a relationship that happens between the customer and the two CLECs. We're just moving wires on a frame.

So we've chosen to not include CLEC-to-CLEC in the batch specifically because it seemed like it would be cumbersome for us, again, the batch being the plain vanilla, crank out as many as you can version of the hot cut. If we started getting into discussions with third-party CLECs about whether or not they did what they were supposed to do, it gets to be a little bit more complicated situation. That's why we suggest that CLEC-to-CLEC migrations should be handled by the basic.

Now, of course, I'm talking about like this involving UNE-L migrations. But, you know, we do lots of different flavors of CLEC-to-CLEC today: UNE-P, resale, stuff like that. In the future, if there's a retail-to-retail migration, you

know, that wouldn't form (phonetic) to any hot cut.

Q And were CLECs solicited to develop that CLEC-to-CLEC migration?

A You kind of tailed off there towards the end.

Q I'm sorry. Were the CLEC, or were any CLECs solicited for input on those CLEC-to-CLEC migrations you referred to?

A No. Because, I mean, that's -- everything I just spoke about is common knowledge in the industry.

Q Okay.

A If you go to a CLEC and say, you know, who's got to set the trigger in a CLEC-to-CLEC migration, they'll tell you whoever, whoever is giving up the phone number.

Q All right. These last couple of questions I have, they go -- well, the first couple I have go to your surrebuttal testimony.

On Page 7, Lines 4 through 6, and I'll give you a minute to get there on your surrebuttal testimony.

A What were the pages again, please? Seven?

Q Page 7.

A Yeah.

Q Wait, let me check my notes.

Okay. Thank you for that second, Tom. On Page 7 of your surrebuttal, Lines 4 through 6, you state, "Verizon is currently exploring methods to deliver this information

directly to CLEC's OSS." Could you please expand on this statement?

A I have to read it. I think I know what it is, but I want to read the whole statement, and so --

Q Yeah. Take your time. Thanks.

A I believe they're referring to the push stuff we discussed earlier.

Q The electronic push?

A Yes. Do you want me to describe that again?

Q Just, just briefly, please.

A Under the auspices of New Jersey, a CLEC asked if we could push their information to the OSS. A month ago we gave them the technical specifications that we -- our information is hanging out there on. And right now they're working with programmers to set up their OSS so they could grab that information and have it feed right into their system.

Q Okay. Thank you very much. Just -- okay. Actually let me go back to that. That was directed towards one CLEC or nationwide?

A Oh, one CLEC asked for it. We're testing with that CLEC. But we don't do things for one people, we do it for everyone. But typically we'll test something with one person because only one person asked for it in this case. So, but if I have something, I try to make it available to everybody that wants it.

Q Okay. Turning a couple of pages to Page 10 of your surrebuttal, in particular Line 10. And I'll wait for you to get there.

A I'm there.

Q Please specifically explain what is meant by, "Additional OSS support for the process is now being developed."

A (By Ms. Langstine) This is Maryellen Langstine. In that sentence we're referring to the information --

Q Mary, could you please speak up, please?

A Yes. I'm sorry. That information is specifically referring to the LSR changes that are required, and those things are currently under development. That's what I alluded to earlier as being out in draft format as of January 29th, '04.

Q Okay. To the panel, do you have AT&T's surrebuttal testimony of Mr. Richard Walsh in front of you?

Or I guess I'll direct this to Tom. Tom, do you have AT&T's surrebuttal testimony of Richard Walsh in front of you?

A (By Mr. Maguire) I'm sorry. Yes, I do.

Q Okay. On Pages 4 through 5, which highlight what Walsh considers as the major problems with the Verizon hot cut process, could you please respond to those allegations?

A Surely.

MS. KESTENBAUM: Actually, I want to object. This is

a very compound question because there's lots of issues raised here. And I think even just for purposes of clarity of the record this is not a good way to proceed.

MR. SUSAC: Objection noted. The witness responded by, "Surely." I don't think it's very unfair. To the extent it is a general question, give me a general answer. We don't -- if we have to, we'll go line by line. But I think Tom is on the same page as I am, so.

MS. KESTENBAUM: Okay.

MR. MAGUIRE: Surely means that I'm going to give it my best shot.

BY MR. SUSAC:

Q All right.

A And -- but I was going to go -- I was going to talk about -- first I was going to mention their issue, then I was going to give my, my position.

Q Okay. That's excellent.

A Deprives CLECs of control over end-user experience in three essential respects. Inability to permit customers to make changes to their accounts for up to seven weeks. I discussed this. This is -- he's talking about the UNE-P, changes to the UNE-P account, if they decide to do that. First of all, the seven weeks is now 26 days. And I kind of explained earlier that it's been my experience that anything the customer wants is discussed during the initial negotiations

phase between the CLEC and the end-user, and that whatever changes they want to make, they make on the initial LSR. And then that LSR is pushed in as the UNE-P alternative, and that essentially is locked and loaded and then the batch order is then submitted and no other orders can be submitted while there's a pending batch order. Pending any order, for that matter.

So I mentioned earlier on that typically everything is kind of set during the first negotiation phase. If there is a situation that the customer needs something critical, they do have, the CLEC has the ability to cancel the batch and make whatever changes they want to make, and then we could go forward with the batch from there. That's, that's just a brief description. There's a little bit more on the record earlier about that.

The time of day, day of week, I don't -- and he talks about greater interruption. I don't know what that means. A hot cut is a hot cut. It's the movement of wires. If we're the people who are activating the port and taking all the coordination on our shoulders, I really don't think it's critical that the CLEC knows the specific time of day. We do this today with the large jump process, which many people offer positive comments about. The CLEC does not know the specific time at which the cut is going to take place. They know the day, they know a range of hours in which it's going to take

place, and they activate the port immediately once we tell them that it's done. So it doesn't seem to me that, that this is all that critical a bit of information.

Monitor the quality of the cut during the critical period. The CLECs have the ability, it's their switch. They can monitor, if they want to, the port that we're cutting over to. They have test capability presumably in their switch. Whatever information was in WPTS in any of the other cuts is still available. We're not taking any information away from them; that whatever monitoring ability they have today, they're going to have going forward. I'm not even sure what they means.

No operational processes, methods and procedures for system messages. Again, this is an iteration in a series of hot cut improvements, and many of the things that we do today are resident in the batch process. The aggregation of orders, if you look in WPTS, I discussed this during the Tampa demo, is able to sort orders on a CO-by-CO basis. It always has been. The lift and lay operation is well documented. The coordination steps are well documented. It's just an accumulation of all the different piece parts, if you will, of the processes that have come together for the batch.

No experience of live production. This one I don't -- we're doing bulks today for this very company. And a bulk is moving lines on a CO-specific basis from something to

UNE-L. We've been doing this with these guys for some time. I think he talks about the large job process. A batch is a large job process that's opened up to multiple CLECs. So we have lots of live production with this very company on exactly this thing.

There is no control and complete uncertainty with respect to the cost. I'm not a cost guy. I'm skipping that one.

There is a total lack of CLEC control over the sequence in which lines of the multiline order are cut. I talked about that already. I went into a description about how multiline all are within right, you know, they're right on the same appearance on the frame in front of the technician, he's going to follow the order, and I don't think I need to talk about that anymore.

The lack of prewiring and dial tone check gives Verizon no margin of error. That's not true. We do a dial tone check at the time of the cut, and if there's no dial tone, there's a no go. There's a lot more of this I spoke about earlier. But, I mean, the industry has gotten much better at getting their dial tone set. And as long as they continue to do an excellent job of getting their dial tone on their CFA, then I don't anticipate any other problems, they being the CLECs.

There is no provisions at all for handling IDLC loops

within the batch. Our IDLC process, which has been used a number of times, is a basic process with a field dispatch.

IDLC, I'm not going to get into the technical pieces of IDLC, but it's our process to go out and do a facility rearrangement so we could get to a copper loop or UDLC, universal digital loop carrier loop, and this way we can unbundle that or convert that new loop, the alternative loop into a UNE facility hooked up to the CLEC's CFA.

The reason you can't do IDLC in a batch is because if we're doing the batches in the middle of the night, you can't, you can't dispatch out in the middle of the night. So that's why they're not there. Again, we can handle IDLC without any problems under the basic.

There's no provisioning to handle the CLEC-to-CLEC. Just moments ago I spoke about the third-party CLEC and their, you know, whether or not they set their trigger and how that potentially could be an issue between the two CLECs and the end-user. And, you know, we're just moving the wires here, and that's -- we do this all the time in the basic process. It's just that, that little element of the unknown of what's going on with that other CLEC that causes me to not include it in the batch.

The next one I'll hand off to Julie Canny.

A (By Ms. Canny) Julie Canny speaking. In terms of lack of metrics and penalties that would ensure a Verizon

(inaudible).

Q Julie, could you start over and speak a little slower and a little louder, please, for the court reporter. Thank you.

A I'm moving the phone. We don't have a great phone in this room.

Q Okay.

A Lack of metrics and penalties that would ensure a Verizon commitment to the process it proposes. This is really the situation -- you have to have a process first and then the metrics. I believe we will have metrics once the process is finalized, and we've got a process in place to get that done. But you have to have the process before the metrics. It can't be the other way around.

Q Okay. Well, that -- to my knowledge, that concludes the list; correct?

A That's correct.

Q Okay. Thank you very much.

Now pointing out specifically AT&T and Walsh addresses or states his concerns throughout his surrebuttal testimony, and he criticizes Verizon's batch hot cut process due to a large part of the CLEC's lack of control. How do you respond to that?

A (By Mr. Maguire) I don't -- I'm a little dumbfounded by that statement. I'm not sure what he means by control.

They're giving us the LSR. They see the hot cut in WPTS exactly the way they see it today. They're told when the cut will take place. All the information about that cut is going to be identical to the information that's in there today. If they don't want to do something, you know, then they tell us, I don't want to do that cut. If they want to do the cut, they put their translations where they're supposed to be and they send their create message to NPAC, and we're going to do the rest for them.

I'm not sure what it is that he wants to control. He wants to acquire a customer and that's what the batch process is designed to facilitate. If he wants to know the exact time of day because the customer -- you know, they want to dispatch a technician out there, for example, because it's a super special customer to them or maybe it's a real sensitive type of customer like a medical center or something along those lines, well, our existing basic process is perfectly designed for that. That's exactly what it does today. And they can take advantage of that process and, you know, dispatch their technician out.

But typically mass market -- you know, what we're looking to do is almost set up a hot cut factory here where we can have our people do everything soup to nuts. You place an order and out pops the other end a completion notification and you call the customer and welcome them, and, you know, we do

everything that's in between. I'm not sure what other kind of control they need. They still have all the information, they still have the testing capabilities that they've always had. We're not -- I don't know what it is that, that he wants. I'm confused.

Q Well, let's go to Walsh's surrebuttal testimony on Page 26 then, and just holler when you get there.

A 26?

Q Yes.

A Jeremy, 26?

Q Yes. I'm sorry. 26, Tom.

A Okay.

Q How do you respond to AT&T Walsh's --

A The 26 I have talks about the bulk hot cuts. He's talking about the project, not the batch. Is this the page you want me to go to?

Q Hold on. Let me check my notes real quick.

Okay. I'm sorry for the confusion, Tom. Let's switch gears and just -- all right. Let's go to the 26, and I just have a few questions on 26 and then we're finished.

A Okay.

Q How do you, how do you respond, and I can list them, if you want, but they're stated on Pages 26, they start on 26, Walsh's specific recommendations to eliminate Verizon's capacity constraints or batch hot cuts?

A Read that again.

Q You want me to read it over?

A What kind of hot cuts?

Q Batch.

A That's not what it says.

Q I'm sorry. Bulk.

A Aha. Okay. The reason I did that, a bulk is a project. A bulk is not a batch. And the things that are, that are noted here are the exact reason we came up with the batch proposal. So I think that this is a really good thing to focus on because it kind of goes directly to the things that I've been talking about.

They talk about one-cage constraints should be eliminated because it unreasonably delays the execution of large jobs. Well, what we've done in the batch is that we've listed over this one collocation cage constraint and opened it up to all the collocation cages in a particular central office.

He goes on to say, "The constraint bars a CLEC or group of CLECs," which is again the reason for the batch, "with multiple collocation cages in a central office from aggregating lines across the cage in a large job or project." That is exactly what our batch proposal is going to do.

Now in a large job, which some people refer to as a bulk -- we got away from calling our large job a bulk process because bulk constitutes mass. And I think that confused

people a little bit, and perhaps that's what happened here as well.

But our large job process is unique to a single CLEC in a single central office. And our batch process is opened up to all the CLECs that happen to be collocated in that office or any other office, for that matter.

Let's see. Oh, "This has the potential to delay the period of time required for a CLEC to reach the minimum number of lines necessary for Verizon to perform a large job hot cut." Well, we really don't have a minimum on a large job hot cut. But if you go back to my discussion earlier about a critical mass being as little as one, that's exactly what he's saying here. So we're not looking to set a minimum threshold. We're looking to do whatever we have; whatever work happens to fall into the batch for that particular cut will constitute the critical mass. I think that's exactly what he said here.

He goes on to talk about the one-cage constraint on 15 and also delay when other CLECs may have their large job hot cuts executed. Again, in a batch there is no limitation to the number of CLECs that can go into a batch.

Let's see. He goes on, "As I noted earlier, while the one-cage constraint" -- I'm just reading this as I go along. Oh, here we go. This is another reason, another good, I think, comment or support for a batch.

He says on Line 18, "May make the -- "As I noted,

while the one-cage constraint may make the prewiring phase of the process a bit easier, this is of minimal importance in light of the fact that all cutovers occur on the same frame or set of frames in the central office." That's exactly the reason that we thought, hey, let's open up the batch to all the CLECs because the technician is going to be doing his work on the same frame for everybody. So I think, Jeremy, that's everything on 26.

Q Is there someone else talking or --

A Now do you want, do you want me to continue on to 27?

Q Where he talks about the large job hot cut process?

A Yeah.

Q Okay. Yeah. If you don't mind. Thanks.

A Oh, not at all. If the Commission -- and, again, he's going to talk specifically about large cuts. If the Commission were to restrict the availability of UNE-P, it says, okay, "It may well become necessary to increase our 150 per line day maximum on the number of lines that can be cut." The 150 number is a guideline that was created between the company that AT&T uses to do their projects, Broadview, and us back when we invented this large job project. And I believe we said in a number of places that that, that number is -- we've exceeded that number on quite a few occasions.

And in some of our testimony, and excuse -- I don't think we mentioned it specifically in Florida, but we said, you

know, we're always -- we've given examples of where we've exceeded the 150, and we've always said, you know, if it comes down to it and we need to tweak that number up, we're very willing to do so.

I mean, I think it was in the New York filing that we said there's been a couple of instances especially with bankruptcies or takeovers of one asset by another CLEC, one CLEC's assets by another CLEC, we've done a couple of hundred, two or three hundred hot cuts in a single night in a project. So we've done this already.

And let's see what else. Do you want -- I'll stop at that point, unless you want me to go on.

Q Well, my, my other -- can you flip to Page 33 where he talks about eliminating MLT testing before lines are prewired?

A That's a good point.

Q Okay.

A When we were -- I talked earlier about how hot cuts are an iterative process, and at some point during the life of the large job project somebody asked if we could do MLT testing in there as well, and actually we have WPTS set up to do that. Personally I don't think it's something we should be doing, so I agree with him. I don't think we need to do this. If we're doing the dial tone check right before the cut, I don't believe there's any reason for doing MLT. And I'm pretty sure that we

agreed during the New York workshop that we would not do that anymore.

Q Okay. And flipping to Page 34 discussing the due date for customer activities.

A He's talking about the negotiation of a due date on a project, I believe. And what he's, what he's talking about is actually something I raised in one of the other collaboratives, and that's creating a clock in the systems such that when you put the orders, your orders into -- when you submit your LSRs, they kind of fall into the bucket and the bucket keeps account of whatever is there. And once we reach like a predetermined number, and predetermined by the central office manager, as we get closer to the max number of projects he wants to do that day, it will shut down that day and open up the next day. So it's an automated clock. I kind of raised this issue. It's something I -- we really haven't explored because we're not sure what's going to happen with respect to the volume.

But this is -- when you asked the question earlier on, could we potentially change some of the processes, this is something that we could potentially incorporate if it looks like the industry is interested in this. Not everybody is interested in the same things. It's been my experience that one CLEC will look to keep something in place, like even something as simple as the MLT testing. One CLEC loved it,

another CLEC hated it. So, you know, we tried to err on the side of what's the greatest good for the greatest number. And in the example that I gave before with MLT, since we're doing the dial tone test, we don't think it's necessary. But not everybody wants the clock. Some people like to talk about and kind of negotiate and lay things out so they know what's what. So, again, you can't be all things to all people, so we try to please the most number of people we can.

Q Okay. And lastly, we're on page, flipping the page to 35, Mr. Walsh speaks toward system modifications regarding due date cutover activities. Could you elaborate on that?

A Yeah. And this I'm a little bit confused about, too. Let me see something here. Bear with me a sec.

Q Yeah. Take your time.

A I'm going to -- he -- let's talk here. I'm going to jump down to 13. "A CLEC should not have to wait for the frame technician to complete its set of 20 cutovers and then place a phone call to the RCCC, who in turn must contact the collective as is currently the case."

The process that we've created with the company that does this work on behalf of AT&T is that rather than do individual completions in WPTS, what happens on the night of the cutover is that the CLEC coordinator gets on the phone with our coordinator, the frame tech does, and we're working off of a spreadsheet which is kind of like a cut sheet where you start

and where you end and the agreed upon process, and we found to be the most expeditious process is the technician starts at number one, and when he's done with number 20, he hops on this conference call, this mini bridge and says, I'm done with the first 20. Now as soon as he knows that, the CLEC goes into NPAC and starts activating the lines. While the CLEC is activating the lines, the technician is doing the next bundle of orders. And so it's like this staged -- you know, the CLEC is activating one step behind the wire moving, and it's a very efficient process.

Now interestingly enough, he talks about the set of 20 cutovers there. He also talks about it on Page 25. And he's now -- now apparently he's saying he wants to know in WPTS if the loops are, loop migrations have been completed. That information is in WPTS. It's just that working collaboratively with the company that does this, they want a phone call, so we're doing phone calls.

So he's asking on 25 for WPTS. It's there already. He's asking on 35, don't do it anymore, but that's not what his agent is saying. So I'm confused.

MR. SUSAC: Okay. All right. Tom, well, thank you very much. I thank the panel as well and everyone who participated in the call.

I'm now going to ask -- well, first, Verizon, would you like to do a redirect or --

MS. KESTENBAUM: No redirect.

MR. O'ROARK: This is De O'Roark with MCI. I had just one or two real quick questions.

MR. SUSAC: Yes. Okay. You're -- go ahead. I'll remind the witnesses they're still under oath, and it's all yours, De.

MR. O'ROARK: Okay. Thanks.

CROSS EXAMINATION

BY MR. O'ROARK:

Q Is it the case in Florida that when a CLEC submits an electronic LSR, that it will fall out for manual processing in Verizon's systems?

A (By Ms. Langstine) This is Maryellen Langstine. That is -- I'm just moving the phone here. That is not a general rule. There are hot cut orders that are designed to flow through, but, of course, it depends upon how the order is written or it could be a supplement to that order. But, but it's my understanding that, you know, there are many, many types of orders that are designed to flow through. There are many instances why they don't.

Q Let's talk about an individual LSR as opposed to a batch of LSRs. Okay?

A All right. Well, that's how -- right. That's how a CLEC would submit anyway; they would submit an individual LSR.

Q Okay. And assume that the CLEC has submitted it

electronically. Would that be via EDI?

A It could be, or it could be via the WISE interface.

Q And assume that the CLEC submits an EDI order to migrate a residential customer to the CLEC's UNE-P service.

A Oh, to UNE-P? Okay.

Q You know, no, strike that. No. Let's make it to UNE-L. Is it your testimony that in most cases that order will not fall to manual processing?

A No, I'm not saying that. I'm saying that, you know, we have orders. The UNE loop orders are designed to flow through. There could be a reason why that order may not design, be designed to flow through. But I'm not saying that all of them are. I'm just saying that each individual LSR needs to be looked at, you know, on an individual basis. Some may flow through, some may not.

Q Do you have any sense for the percentage that flow throw or those that don't by design?

A I believe that Julie Canny is going to answer that question.

A (By Ms. Canny) I don't have the performance data with me. I believe it was in one of the data requests. We do report that under the rules of the JPSA. And actually we just found it.

For UNE loop, and I'll just take -- the last data month I have here was October 2003; 79.28 percent flowed

through.

Q Is that a total flow-through number or is that just of the LSRs that were designed to flow through?

A That's total flow-through. Do we have -- we may have achieved as well. I know I did both.

Q I'm assuming these are Florida-specific numbers?

A Yes. And we do report this under the JPSA.

Q Okay. If you have achieved handy, I'd be interested in it; otherwise, we can just go to the discovery responses.

A I think it's probably best to go to the discovery to get the exact data so I don't accidentally pull up the wrong one. It's a very busy worksheet here.

Q Just out of curiosity, I'm assuming that if UNE-L is in many cases designed to flow through, is UNE-P designed to flow through?

A Yes.

MR. O'ROARK: All right. That's all I have. Thank you.

MR. SUSAC: Verizon, any redirect?

MS. KESTENBAUM: No.

MR. SUSAC: Any other parties on the line that wish to ask the panel any questions?

MR. MAGNESS: This is Bill Magness with FCCA. I, too, just had a few questions.

MR. SUSAC: Go ahead, Bill.

CROSS EXAMINATION

BY MR. MAGNESS:

Q And I know some of this was discussed. I just wanted to be sure I had it clear in my notes in the deposition. And I'll pose this to whichever one of the panel witnesses is most appropriate.

What is the rate that is proposed for the batch process?

A (By Mr. Maguire) What is the what?

Q The rate.

A Oh, cost.

Q What is it going to cost?

A (By Mr. Richter) The rate for the annual or the semi-annual?

MR. SUSAC: I'm sorry. Could you please identify yourself before you speak?

MR. RICHTER: This is Larry Richter. Sorry.

BY MR. MAGNESS:

Q That's a good question. And let me just ask you to identify each rate that is proposed and what you would consider to be the, the, I guess, revised hot cut process that's responsive to the Triennial Review Order.

A Okay. All of the rates are on the rate summary sheet of the cost study that was filed.

Q Uh-huh.

A Are you in receipt of that?

Q That is, that is where I will look at it.

A Because they're all listed there.

Q Okay. And how many -- can you tell me how many different rates there are?

A Well, there's the rate for the basic, which is just a two-wire basic, and then there's a two-wire basic for an additional line. There's the four-wire basic at the initial and the additional. There's a large job initial and the large job additional, and then there's the batch initial and the batch additional.

Q Okay. And were you involved in preparing the cost study?

A Some portions of it, yes.

Q Okay. And who am I talking to?

A This is Larry Richter.

Q Okay. Just for the court reporter; I wanted to be sure she knew who you were, Mr. Richter, or he, if that's the case. It's hard to tell on the phone.

And what are the -- when you established the rate, did you establish it using TELRIC principles?

A Yes.

Q Okay. And what are the -- what would you say are the primary drivers of the cost of this process?

A Well, there's, there's the service ordering portion,

there's the provisioning portion, and then there's the service connection portion, which just dovetails into everything that has been discussed this morning.

There's an LSR that requests the hot cut, there's the provisioning portion, and then it's the actual framework activities that actually prewire, lift and lay.

Q Okay. And let me take each one of those, and I'll just for shorthand between us, if it works for you, talk about them in terms of ordering, provisioning and then lift and lay. Okay?

A Okay.

Q On the ordering side -- and, Mr. Richter, if there are other witnesses you need to defer to, let me know. But what is changing -- at a very high level, what are the changes that you had to look at in preparing a cost study versus what Verizon is doing now on ordering?

A The biggest thing would be improvements in the OSS possibly that may have the orders flow through. On the recording piece it's pretty much -- because right now on the ordering process, as we were just talking about, there's -- you know, orders are designed to flow through. So as long as the order is, the LSR is sent in properly and correctly and is designed to go, to flow through, then it has that opportunity.

Q So what is it that would affect cost that changed or would change if your proposal is accepted in OSS? Are there --

is there any additional mechanization happening, is there any additional labor involved, that sort of --

A It would have to be some type of mechanization.

Q Okay. What, what kind of mechanization did you assume when you were coming up with the rate?

A It would depend on which type of order that you were talking about. If -- the mechanization that I see here is for the, just the basic initial. We feel that there's probably going to be in the future some OSS enhancements that would increase our flow-through. On the others, the large jobs and the batch, because we're dealing with more complex situations, you're going to incur more manual handling, if you will, than on individual LSRs.

Q Okay. And when you talk about mechanization on the ordering side, what does that mean?

A That means that you don't know exactly what enhancements it would be in the OSS, but it would be enhancements that would allow the LSR request to flow through without manual intervention.

Q Okay. And so an OSS enhancement would generally be, what, the development of software?

A Yes.

Q Okay. And, and is that -- you mentioned that some of that might be coming in the future. When you, when you performed the cost study, did you assume that such software

costs were included?

A Software cost would be an OSS cost, and this cost study does not address OSS cost.

Q Okay. And the additional mechanization and ordering that you're describing wouldn't be part of what would go into effect immediately; correct?

A No. The -- if you, if you were to look at the basic, two-wire basic, you will see that under the initial order processing we have a forward-looking adjustment that is there.

Q Uh-huh.

A That shows that it would, we would see some improvement going forward. If you're able to look at the -- I don't know if you can look at the cost study or not.

Q I'm allowed to. I don't have it here in front of me here unfortunately. I'll have to look at it --

A In the cost study, there's a forward-looking adjustment, if and when you get it, and you will be able to see that the forward-looking adjustment adjusts the current time to perform activities. And the occurrence factor, it would improve either through productivity or some type of mechanized enhancements to reduce the cost. And those costs are reflected in this current cost study as if they were out there today.

Q Okay. And, and when this process that's been described goes into effect, are those enhancements going to be part of it or are they reserved for something in the future?

A Ask your question again. I got lost.

Q Okay. I may be a little bit lost here, too. Here's what I'm trying to figure out and just understand, is the, the software enhancements that would improve mechanization in ordering. That's what we're talking about. Okay?

A Okay.

Q As I understand what you're telling me is that, that there is in the cost study some assumptions that assume that those software enhancements would be put in place and assumptions that there would be efficiency improvements that would reduce the cost of hot cuts because of the enhancement.

A That is correct.

Q Okay.

A And that's reflected in the cost.

Q Right.

A We take those into account.

Q Okay.

A And the cost reflects those.

Q I'm sorry to interrupt you.

A Okay. That's fine.

Q So the net would -- there would be increased costs attributable to the hot cut process due to the development of software for the mechanization; correct?

A OSS costs are not part of this cost study. OSS costs would be handled somewhere else.

Q Okay. So where would the increased spending, you know, on that software development be reflected, if not reflected in the, the price you want to charge for a hot cut?

A It would be reflected when we file an OSS cost study.

Q Okay. So, so when we talk about the rate you're proposing for hot cuts here in Florida, we need to be aware that in the future there may be an OSS cost study that includes some additional costs that are related to hot cuts; is that right?

A It could or could not. It depends on when the OSS filing is made, what costs would be put into that cost study and try to recover.

Q Okay. And the efficiencies that are reflected in your cost studies in the hot cut process will not be fully achieved until that software is developed and mechanization implemented; is that right?

A No. The, the forward-looking adjustments that we have in our cost study are things that we know or we feel comfortable that are going to happen within the time period of this cost study, which is three years. So we feel comfortable these are things that may be in the works that would provide us the efficiency so noted.

Q Okay. So the increase in mechanization of the ordering process you don't anticipate will go into effect in the next three years?

A Well, the -- no. I think what I was saying, the cost study takes into account that those efficiencies are in place today, and it does that with the forward-looking adjustment. The actual efficiencies may not be seen somewhere along the time frame of three years, which is the time frame of the study. But the costs are accounted for today as if they were totally in place today.

Q Okay. Now on provisioning, if I could ask you the same sort of general questions about what changes in the process are assumed in the cost study as it affects provisioning.

A There are some forward-looking adjustments that we made in the, in the, what we call the RCMAC (phonetic).

Q I'm sorry. Could you spell that out?

A The RCMAC, which is the recent change area. And we took the current time that we do, it takes us to do those activities today, took that to a probability of occurrence, and then we took the forward-looking adjustment to it. And, and we feel that as we go forward, we're going to become more efficient at handling these LSRs or requests from the CLECs, which will, you know, help us reduce those costs. And that's what's reflected in the recent change area of the provisioning cost study.

Q Okay. And in, in the assumptions that have to do with increased efficiency that you just mentioned, are those

assumptions that have to do with your expectation about increased mechanization or computerization, computer, use of computers or, by contrast, are they expectations based on the more time people have to live with the process, the better they do at it?

A I think it's a combination of all: Mechanization, which then is the, you know, which would help. And then you would also see, you know, more -- the learning curve goes up and you're going to see a little bit higher productivity. So it's hard to say, you know, the percentage to each one, but it's a combination of both.

Q And in looking at those assumptions, did your study take into account -- let me strike that.

In looking at those assumptions, did your study make any assumptions about the order volumes that your provisioning people would expect if UNE-P had to transition over to UNE-L?

A No. This is per, per line.

Q It's on a per line basis?

A Right.

Q So when you look at how people operate with the process, it's sort of the baseline set of efficiency assumptions based on the number of hot cut orders that are provisioned now?

A Well, we looked at the activities associated with doing a hot cut, and we looked at the probability of occurrence

of that activity today.

Q Okay.

A That's where we started.

Q And did you have any assumptions about whether or not additional labor would be needed to handle an increased volume?

A No.

Q Okay. Now let's -- that same thing on the lift and lay part.

A Okay. That, that would be the central office portion.

Q The lift and lay part would be the central office portion?

A Yes. That would be the activities that occur inside the central office.

Q Okay. And here would it be correct to say that, that labor time is the key determinant of what the costs are going to be for hot cuts?

A Yes.

Q And what kind of assumptions did you make in establishing your, your labor rate? Or, I'm sorry. I should put that more precisely. What did you use in establishing cost of labor?

A The cost of labor? Are you referring to the labor rates that Verizon pays its employees or are you --

Q No. That's a good clarification. And I assume you

used -- well, I shouldn't assume anything. What, what labor rates did you use?

A We used Florida -- for the central office portion we used Florida fully loaded labor rates.

Q And are those subject to labor contracts?

A All of the craft employees, nonmanagement employees -- I shouldn't say all because I don't know that they all belong to the union, but there's contracts that are signed with the union with the Florida company that sets those rates, wage scale.

Q Okay. And to your knowledge, do those Florida contracts have any limitations on how quickly you can move workers from one location to another?

A I don't know. That would be individual contracts. They're -- when you look at central office personnel, they usually work in a given area. It's not so much, that much of a problem for them to work in two or three or four different offices in a day, if that's what you're trying to get to.

Q Okay. Yeah. What I'm trying to understand is if, for example, in the hot cut scenario you had one central office that happened to have a large demand for, you know, a batch project, is Verizon able to move its employees from one central office location to another without restriction?

A (By Mr. McLaughlin). Hi. This is Jim McLaughlin.

A (By Mr. Richter) That's not going to be a cost

question. That would be going to what was discussed earlier by Tom.

A (By Mr. McLaughlin) Hey, Larry. Larry?

Q Leverage appropriate.

A Hello.

A (By Mr. Richter) Yeah. That would be -- that's not a cost question. That would be a Tom Maguire question.

A (By Mr. McLaughlin) Hello.

MR. SUSAC: Hold on. Time. Let's go off the record here.

(Discussion held off the record.)

BY MR. MAGNESS:

Q Sure. Well, if we could just go back on the record.

Okay. Mr. McLaughlin indicated that he is the appropriate person to answer that question, so --

A Thank you. I was wondering if I would get a chance today.

Yes. In all of our -- in many states that we work in, virtually all the states that we work in, central office technicians are generally assigned to a location dependent on the contract that they work under. Or if they're not represented by a contract, they're assigned to a location and that's their reporting location.

Depending on that area, whether it's an urban area, suburban or rural area, they may be required to move to

different central office locations to perform work. This is done during the day tours and it's also done in out-of-hour tours to maximize coverage and minimize cost or expense to the corporation.

So if the volumes -- what our scalability model looked at, if the volumes dictate by central office that we needed X amount of personnel to perform Y volume, then we would staff that office accordingly using existing employees or additional employees, incremental employees, if required, to satisfy that demand and to perform that work.

If an area is rural and incremental technicians are required based on the demand of that office stated such that I might need three people to cover ten offices, then we would have three people and they would roll between those offices when we accumulated a batch in order to go there and perform that work.

Q Are there any notice requirements you have to give the employee a certain of number of days before they're being asked to transfer locations?

A No, we do not. Generally they -- if we move them a great distance and it requires them to move, I believe, and I'm familiar with the New York contract, I believe it's something similar in Florida, 50 miles or 35 miles from where they're reporting, then we might have to give them a day's notice.

Q One day's notice?

A Or we have to give them notice. I won't -- I'm not familiar with the specific time. We'd have to give them notice and we may be required to put them up. But our model suggests that we would be able to staff to the levels required, so we would have to minimize, virtually eliminate any requirement to go beyond the area that they normally cover under their current assignment.

Q Okay. And this may be back to Mr. Richter. What is the assumption on, on the lift and lay or central office portion about how many employees would need to be added?

A (By Mr. Richter) The cost study does not address the number of employees. It only addresses the cost per line.

Q Okay. So if we wanted to figure out how much more hot cuts might cost kind of globally because of increases in volumes or scale, how would we go about that?

Because on a -- let me explain what I'm getting at. On a per line basis it doesn't sound as if the lift and lay cost would be any different than it is today because it still takes one technician with two hands and a certain amount of time; correct?

A That is correct.

Q Okay. So a per line basis -- let me say, will a per line basis give us a sense of how much more, you know, time and materials might be required of Verizon if volumes for hot cuts increase substantially?

A I don't think you can get that from the cost study. I might refer to one of the other panel members.

Q If it's not in the cost study, I understand your point and I'll just leave it there. We don't need to pursue it further.

I had a question from something that was in Mr. Susac's deposition earlier. I think there was some discussion, and I apologize if I missed some of this, but that the implementation guidelines on the Verizon proposed process had already been sent out. Is that accurate? I throw that out to whomever is the appropriate person.

A (By Ms. Langstine) Yes. This is Maryellen Langstine. What I had said earlier is that the changes that will be made to the LSR, the local service request, those things have been provided in draft format on January 29th.

Q Okay. And I believe, Ms. Langstine, you referenced the process going into place in April of 2004; is that right?

A Yes. Yes. The -- yes. The LSR changes will be effective in April.

Q Okay. And once those LSR changes are implemented, will the proposal that you're putting forward as an appropriate batch hot cut proposal be fully in effect from your view?

A (By Mr. Maguire) This is Tom Maguire. No. We don't anticipate having anyone use the batch process until after the nine-month proceedings are over.

Q Okay. Well, I guess what puzzles me is if you're -- if the state commissions' decisions impact when you'll actually implement, which it sounds like they do; correct?

A Yeah.

Q Why are you already putting changes in place that then you may have to rechange if a state commission finds something else is required?

A If, if -- what we're, what we're -- the changes that Ms. Langstine spoke about are the changes to the order. So regardless of what the process looks like downstream, the order is just going to say, I want a batch hot cut. So regardless of what the batch ultimately is determined to be, the process for the batch is ultimately determined to be, you're still going to ask for it in the same way. It's a -- the LSR is an industry standard, and we're just going to put a change in that will enable the CLECs to ask for a batch regardless of what the batch process looks like once all the states are done doing whatever they have to do.

Q Okay. And in your view, and I ask this, I think it's been answered and I apologize if I'm making you repeat, but there's been some confusion amongst the parties, I think, in this case. In your view, is the batch process a process that can be used only in the migration of UNE-P lines over to UNE-L or it can be used anytime, anywhere?

A Anytime, anywhere.

Q Okay. And one final question. The -- on the batch process, from the time the LSR is submitted, what is the number of days to completion?

A There's a lot of that discussion on the record earlier today. It depends on the activity in that particular central office. It will be as few as seven days and no more than 26.

Q Okay. I just wanted to be sure I had that number correct. I appreciate your, your input.

A Okay.

MR. MAGNESS: Okay. That's all I have. Thank you very much.

MR. SUSAC: No problem. Did another party just join or --

MR. CRUZ-BUSTILLO: Yeah. Supra.

MR. SUSAC: Supra. Jorge, do you have any questions for the Verizon panel?

MR. CRUZ-BUSTILLO: No.

MR. SUSAC: No? Okay. I believe that's all the parties. If a party is on the phone and I did not address you, please speak now, irrespective of whether you have questions or not.

I believe the lack of response shows that we covered everyone. With that, I thank the Verizon panel.

Verizon -- oh, I'm sorry. Verizon attorney, would

you like to redirect on anything that FCCA just mentioned?

MS. KESTENBAUM: No thank you.

MR. SUSAC: Okay. With that, I believe we're done. Thank you very much for giving us your attention this morning, and that is it. Thank you.

(Deposition concluded at 12:56 p.m.)

ERRATA SHEET

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IN RE: DOCKET NO. 030851-TP

NAME: JULIE CANNY

DATE: February 12, 2004

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IN RE: DOCKET NO. 030851-TP
NAME: WILLIAM LOUGHRIDGE
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NAME: JAMES L. McLAUGHLIN
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IN RE: DOCKET NO. 030851-TP
NAME: THOMAS MAGUIRE
DATE: February 12, 2004

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IN RE: DOCKET NO. 030851-TP
NAME: MARYELLEN T. LANGSTINE
DATE: February 12, 2004

PAGE	LINE	CHANGE

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, LINDA BOLES, RPR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 17th DAY OF FEBRUARY, 2004.

Linda Boles

LINDA BOLES, RPR
FPSC Official Commission Reporter
(850) 413-6734

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September 13, 2002

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: **Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers – CC Docket no. 01-338**

Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 - CC Docket No. 96-98

Deployment of Wireline Services Offering Advanced Telecommunications Capability – CC Docket No. 98-147

Dear Ms. Dortch:

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Verizon representatives explained why AT&T's ELP proposal is an unwarranted, massively expensive, and counter-productive solution to a non-existent problem and should be viewed as an AT&T ruse to ensure that the UNE platform remains available in perpetuity. It is not necessary for the Commission to consider ELP-type approaches as a prerequisite for eliminating the UNE switching element or the UNE platform. Facilities based residential local competition is alive and well today without the use of either unbundled switching or ELP. CLECs serve more then three million residential lines using their own switches and the Commission has repeatedly found that ILECs can convert lines to CLEC switches in a manner that affords competitors a "meaningful opportunity to compete."

Requiring ILECs to implement AT&T's ELP scheme would be detrimental to the development of the nation's telecommunications infrastructure - the technology required does not presently exist in any ILEC's network and is far from incremental. It would require a total rebuild of the entire copper loop network at an astronomical cost of tens of billions of dollars for Verizon alone. In fact, ELP would perpetuate reliance on a narrowband copper network, would impede a natural migration to the next generation of switching technology and would preclude any prospect of deploying fiber closer to the home for the foreseeable future. AT&T is wrong when it claims that

ELP is analogous to the ILEC's 1980's obligations to implement equal access for long distance. Equal access simply involved software upgrades to existing switches, not the construction of a completely new wireline network.

The attached materials were used in the meeting.

Pursuant to Section 1.1206(a)(1) of the Commission's rules, an original and one copy of this letter are being submitted to the Office of the Secretary. Please associate this notification with the record in the proceedings indicated above. If you have any questions regarding this matter, please call me at (202) 515-2530.

Sincerely,

W. Scott Randolph

Attachment

cc: Christopher Libertelli
Dan Gonzalez
Matt Brill

Electronic Loop Provisioning: Myth and Reality

AT&T has been touting "electronic loop provisioning" as a logical, incremental step that is necessary to enable mass market competition. It is nothing of the sort. Electronic loop provisioning is an unwarranted, massively expensive, and counter-productive solution to a non-existent problem. Regulators should promptly and forcefully reject this latest thinly veiled attempt to ensure that the UNE platform remains available in perpetuity. Just as important, regulators should recognize and dismiss AT&T's effort to use unsupported claims of "hot cut problems" as a vehicle to require the ILECs to build a new network architecture that would extend a "platform" requirement to the highly competitive broadband data market.

Myth: Because of problems with hot cuts, electronic loop provisioning is critical to mass market local exchange competition and a pre-condition to eliminating the UNE platform.

Reality: Facilities based mass market local competition is alive and well today without the use of either unbundled switching or electronic loop provisioning.

- Switch-based local exchange competitors already serve more then three million mass market lines.

- ILEC hot-cut performance is routinely excellent – in every single approved Section 271 application, the FCC has found that ILECs perform hot cuts in a manner that afford competitors a "meaningful opportunity to compete." And performance has remained high in the face of ever-increasing hot-cut volumes. For example, the volume of hot-cut lines for key states in Verizon-East increased significantly between 2000 and 2001 (14.4 percent in New York, 40 percent in Massachusetts, 26 percent in Pennsylvania, and 146 percent in New Jersey). Even so, our on-time performance has been maintained on average at 98 percent.

  AT&T has conceded that ILECs efficiently and effectively cut over loops on a "project" basis for business customers – and the same could hold true in the mass market, notwithstanding AT&T's unsupported claims to the contrary. Broadview, which serves residential customers and small-to-medium sized businesses, also confirms that migrating customers on a project basis is successful.

  Cable telephony routinely achieves penetration rates of 25-30 percent and will grow dramatically in availability and market share over the next three years, *assuming* regulatory policies promote rather than discourage facilities-based competition. (Cable's Program Extends Beyond TV, Investors Business Daily, May 16, 2002.)

- Wireless services compete with wireline telephony, capturing billions of minutes of use and millions of primary and secondary lines. In fact, wireless carriers predict that they will achieve a *majority share* of the local exchange market over the next decade.

Myth: Electronic loop provisioning employs readily available technology and is "incremental" to current investment in next generation digital loop carrier (NGDLC).

Reality: The technology required to implement electronic loop provisioning is not deployed in Verizon's or any other ILEC's network and is far from incremental.

- Implementing electronic loop provisioning would require the deployment of an ATM switch and voice-over-ATM gateway in each and every Class 5 office as well as massive upgrades to the local loop portion of the network.

- Even AT&T estimates that electronic loop provisioning would cost more than $ 17 billion, and its estimate is grossly understated for *Verizon alone*. In New York, just the access piece of AT&T's proposed architecture is estimated to cost approximately $ 10 billion, and the company-wide cost of the necessary outside plant and central office upgrades is estimated at several *tens of billions* of dollars.

- Switch-based CLECs would incur substantial costs as well, since they would have to deploy TDM-to-ATM conversion capabilities or render worthless their installed based of 1300 circuit switches.

- Rather than a vehicle to migrate customers off ILEC switches, electronic loop provisioning would require ILECs to deploy new packet switches and provide a switching platform in perpetuity.

- Electronic loop provisioning extends the provision of a UNE platform capability to the highly competitive broadband data market, by essentially providing CLECs with a combination of, yet unbuilt capabilities, over which they can provided data services without investing in facilities. From a public policy perspective this approach would further undermine any incentive for competitors to deploy their own facilities and would further impede the ILECs' ability to compete with the dominant providers of cable modem service.

Myth: Electronic loop provisioning will improve network infrastructure, promote network evolution, and reinvigorate investment.

Reality: Electronic loop provisioning would be inconsistent with forward-looking technology.

- AT&T's proposed architecture perpetuates a narrowband access network rather than migrating to a network that extends fiber closer to the home. Moreover, given the massive investment that would be required, AT&T's proposal precludes any prospect of deploying fiber to the curb or to the home for the foreseeable future.

- By requiring ATM switches in every central office, electronic loop provisioning would slow the migration to more modern and efficient softswitch technology.

- Electronic loop provisioning undercuts the Act's core goal of facilities-based competition by inserting an ILEC switch into every CLEC loop.

- The mythical hot-cut "problem" aside, nothing precludes AT&T and other UNE-P CLECs from implementing the technology underlying electronic loop provisioning as their switching/data platform. If the platform is as efficient as AT&T claims then regulators should question why they have not done so already.

Myth: Electronic loop provisioning is analogous to the implementation of equal access in the long distance market.

Reality: The investment required to implement electronic loop provisioning would be orders of magnitude greater than was required to implement equal access.

- Electronic loop provisioning essentially requires a complete re-design of the public switched telephone network, touching every deployed loop (not just working loops or loops requiring hot cuts).

- While equal access was completed in a relatively short period of time, the conversion to ELP will take an infinite amount of time and potentially never be at a point where it would have an impact on the hot cut process.

- Equal access involved only software upgrades to existing digital switches, while electronic loop provisioning would entail the addition of new hardware to every single loop and Class 5 office.

  Equal access expenditures were approximately $ 2.6 billion – a far cry from the hundreds of billions of dollars that would be necessary to implement electronic loop provisioning.

- ILECs were authorized to recover their equal access network reconfiguration costs through charges imposed on IXCs. AT&T is silent as to its willingness to pay for the costs of upgrading networks to provide electronic loop provisioning – and, based on past practice, it is sure to claim that it is under no such obligation.

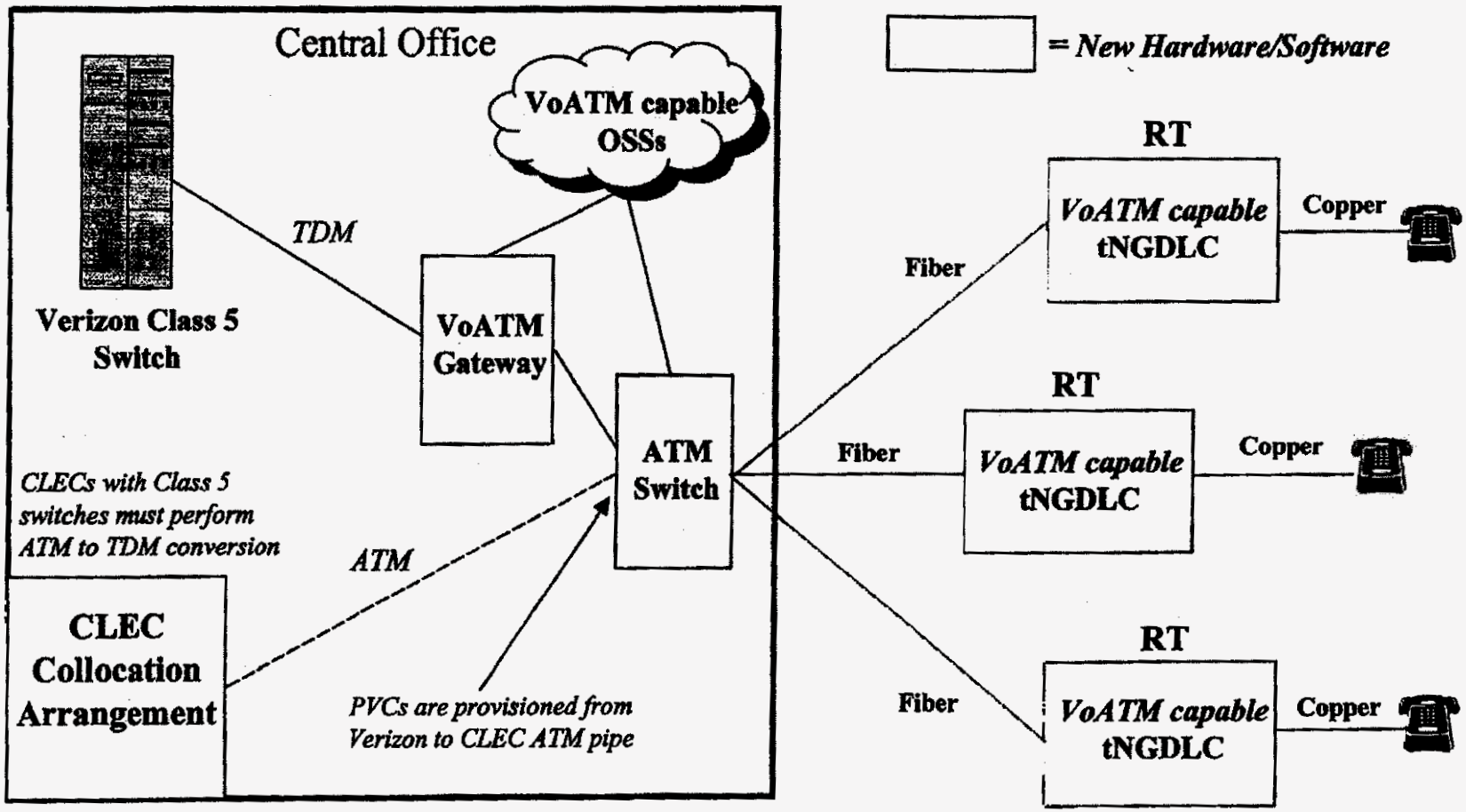
Myth: The Commission has legal authority to mandate electronic loop provisioning.

Reality: There is no statutory basis for imposing an obligation to implement electronic loop provisioning.

- Competitors are not impaired in providing mass market local exchange services without access to unbundled local switching in the absence of electronic loop provisioning.

- The Commission cannot compel ILECs to provide access to a superior, as-yet unbuilt network.

ELP Proposed Architecture



AT&T's Proposed Architecture for Electronic Loop Provisioning

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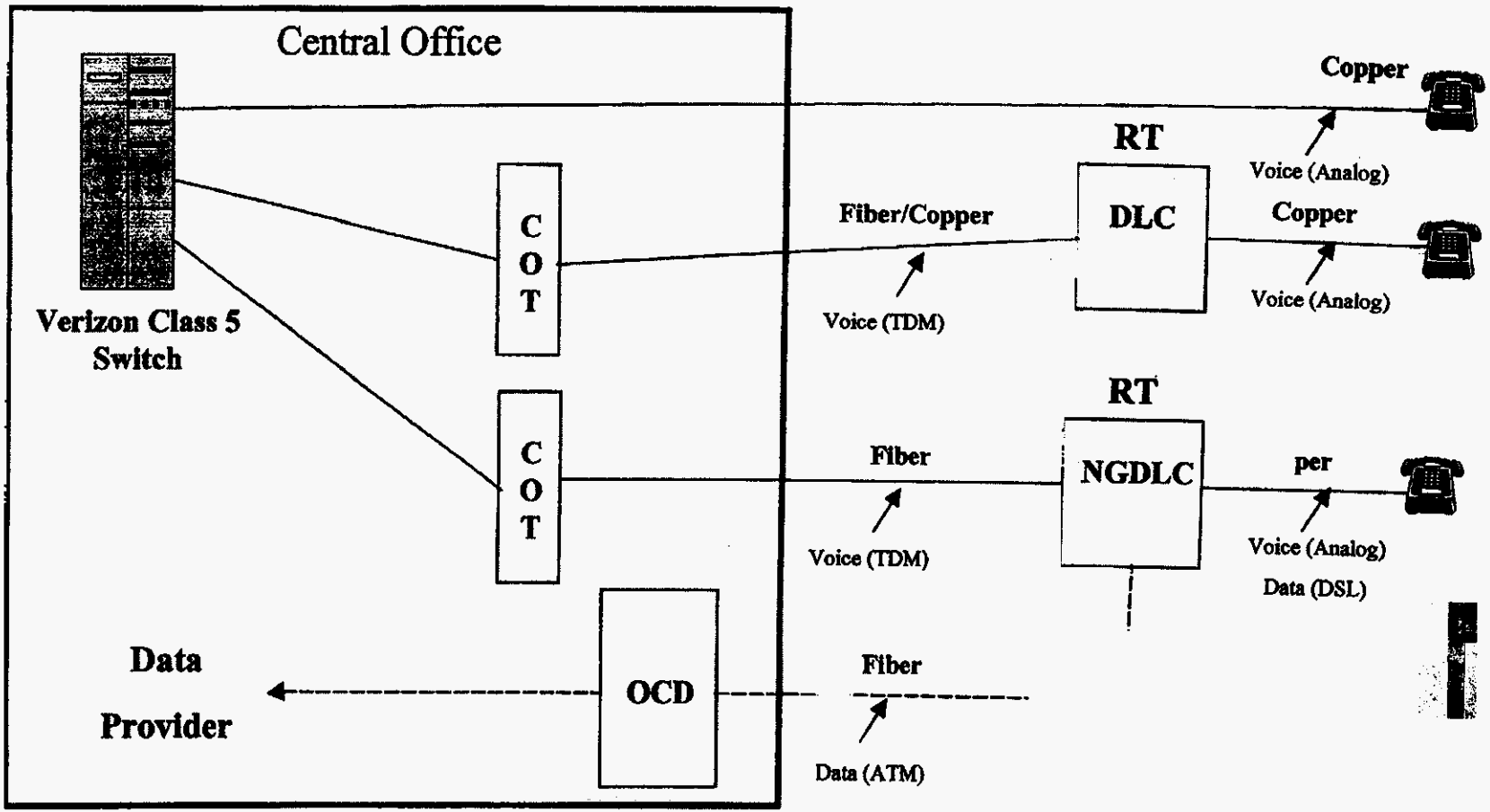
Network Architecture



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Verizon Florida Hot Cut Panel
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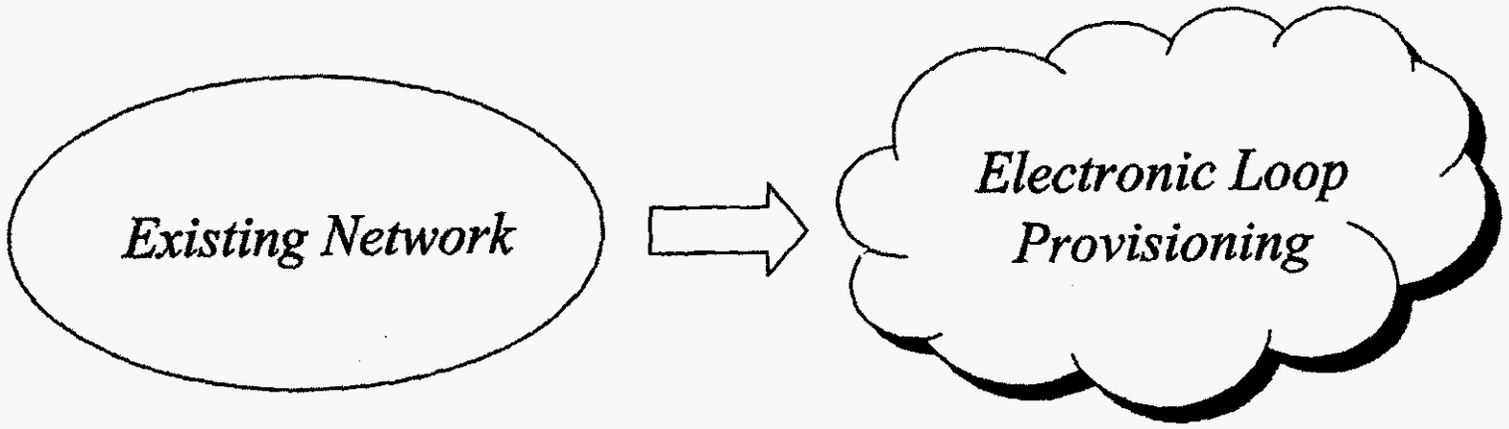
February 16, 2004

ELP Requires New Technology

verizon



- Access network is predominantly copper loops (~80%)
- Remaining lines are mixture of NGDLC and legacy DLC (~20%)
- Voice traffic terminates on the switch over analog loops or TDM-based DLC
- Class 5 switches perform circuit switching and utilize TDM-based facilities for trunking

- New ATM based *tNGDLC* required for every deployed loop
- *ATM Module* required in C.O. to terminate VoATM traffic
- *Gateway devices* required in every C.O. to convert ATM traffic to TDM (for Class 5 switches)
- *New OSSs* must support VoATM applications
- Requires cut-over of all existing loops and loop services to new platform

Docket No. 030851-TP
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Verizon Florida Hot Cut Panel
Page 8 of 8
February 16, 2004

Verizon West Business Rules Order LSOG 5 & 6 April 2004 Release Changes

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Secretary
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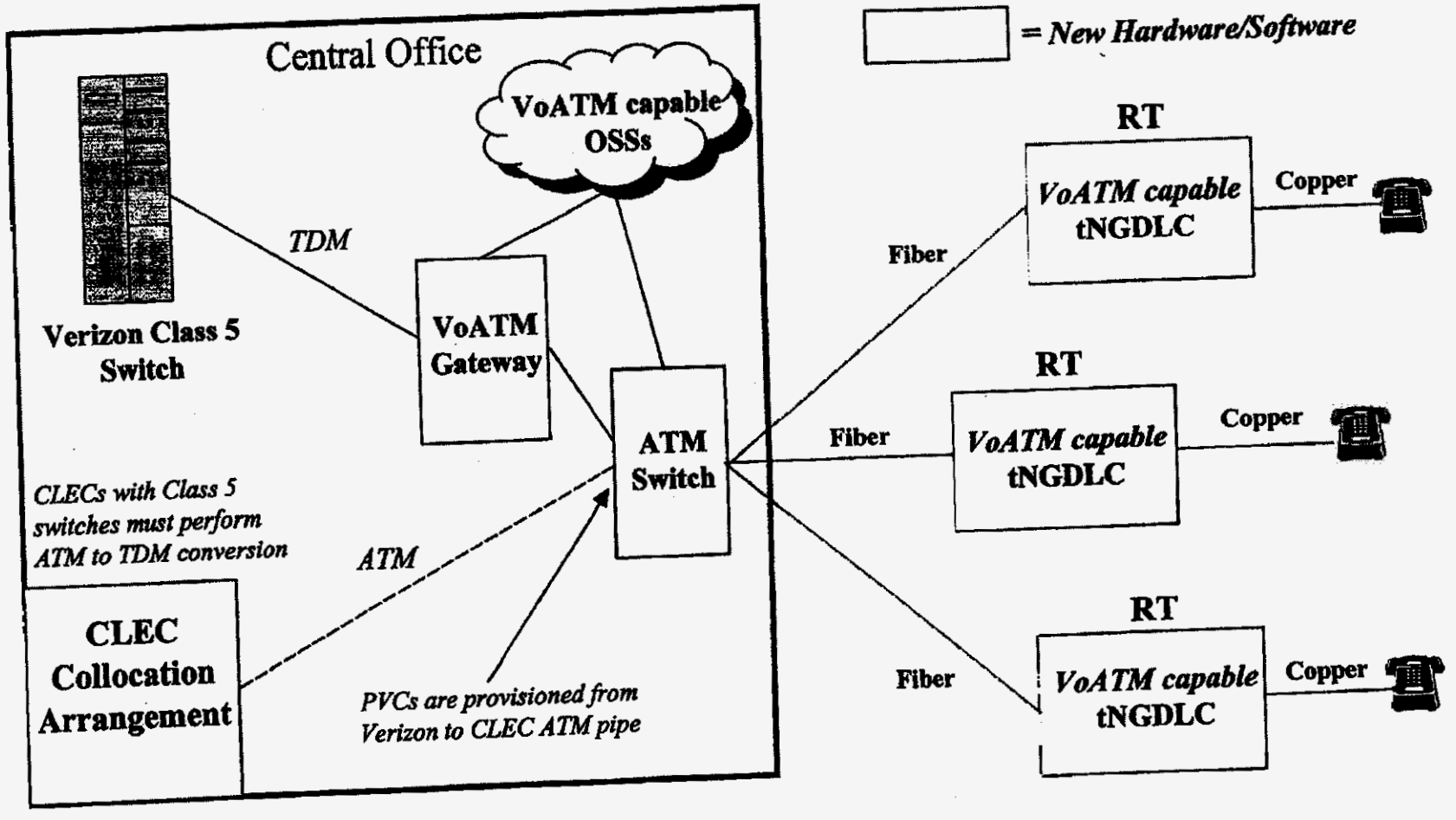
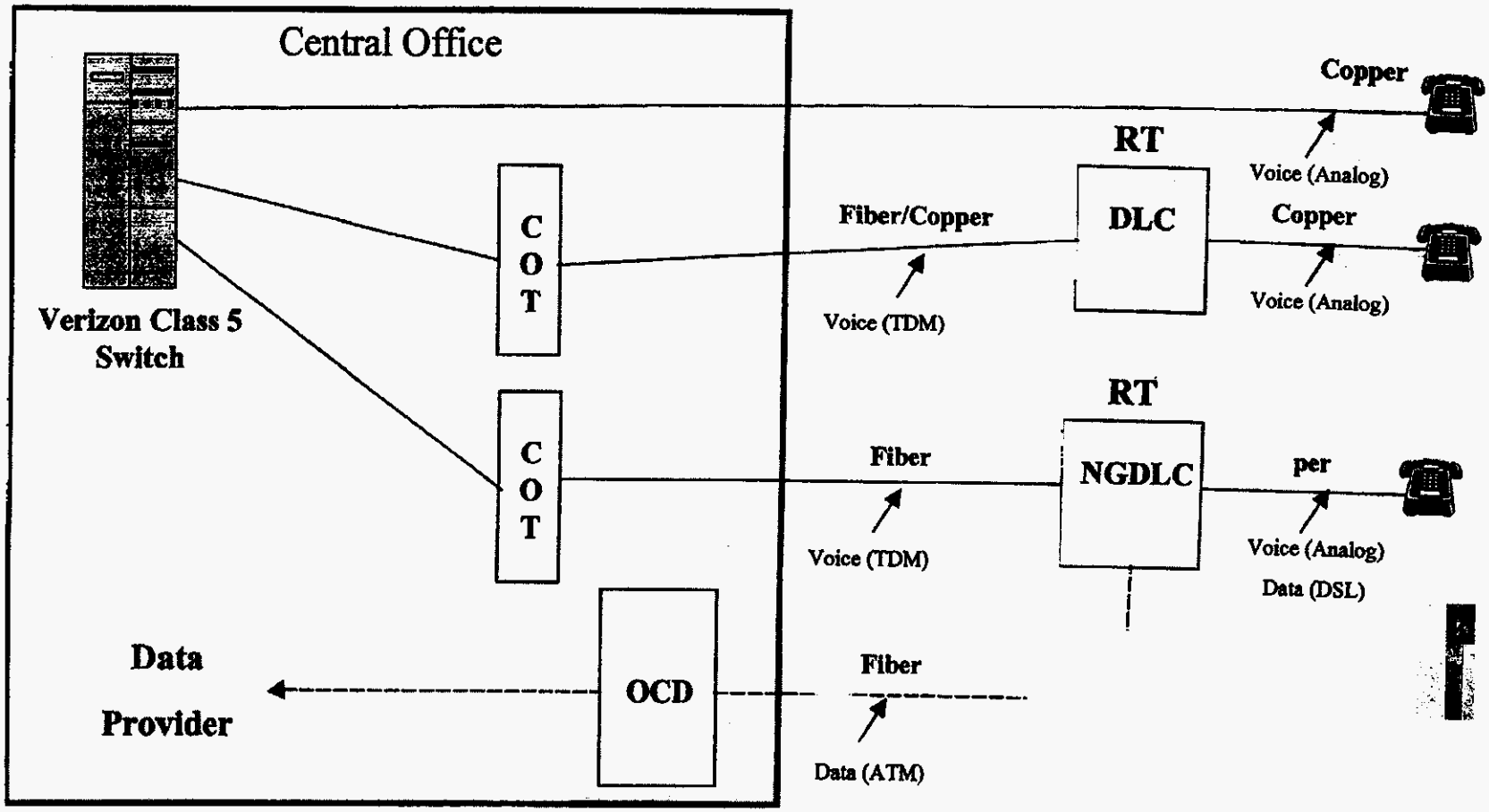
ELP Proposed Architecture



AT&T's Proposed Architecture for Electronic Loop Provisioning

139

Network Architecture



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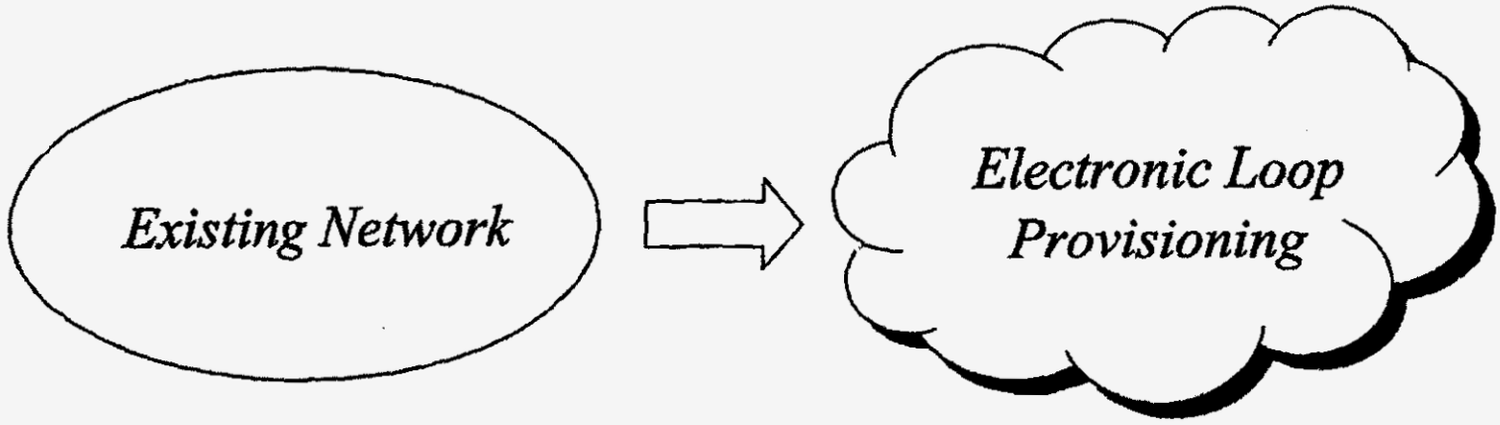
Verizon Florida Hot Cut Panel
Page 7 of 8
February 16, 2004

ELP Requires New Technology

verizon



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Verizon Florida Hot Cut Panel
Page 8 of 8
February 16, 2004

Verizon West Business Rules Order LSOG 5 & 6 April 2004 Release Changes

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W. Scott Randolph
Director – Regulatory Affairs

Verizon Communications
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Suite 500E
Washington, DC 20005

Phone: 202 515-2530
Fax: 202 336-7922
srandolph@verizon.com

September 13, 2002

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers – CC Docket no. 01-338

Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 - CC Docket No. 96-98

Deployment of Wireline Services Offering Advanced Telecommunications Capability – CC Docket No. 98-147

Dear Ms. Dortch:

On September 12, 2002, Charles Kiederer, Augie Trinchese, Ed Shakin, and the undersigned met separately with Christopher Libertelli of Chairman Powell's office, Dan Gonzalez of Commissioner Martin's office and Matt Brill of Commissioner Abernathy's office to discuss AT&T's Electronic Loop Provisioning (ELP) proposal and ILEC obligations to provide unbundled switching and the UNE platform.

Verizon representatives explained why AT&T's ELP proposal is an unwarranted, massively expensive, and counter-productive solution to a non-existent problem and should be viewed as an AT&T ruse to ensure that the UNE platform remains available in perpetuity. It is not necessary for the Commission to consider ELP-type approaches as a prerequisite for eliminating the UNE switching element or the UNE platform. Facilities based residential local competition is alive and well today without the use of either unbundled switching or ELP. CLECs serve more then three million residential lines using their own switches and the Commission has repeatedly found that ILECs can convert lines to CLEC switches in a manner that affords competitors a "meaningful opportunity to compete."

Requiring ILECs to implement AT&T's ELP scheme would be detrimental to the development of the nation's telecommunications infrastructure - the technology required does not presently exist in any ILEC's network and is far from incremental. It would require a total rebuild of the entire copper loop network at an astronomical cost of tens of billions of dollars for Verizon alone. In fact, ELP would perpetuate reliance on a narrowband copper network, would impede a natural migration to the next generation of switching technology and would preclude any prospect of deploying fiber closer to the home for the foreseeable future. AT&T is wrong when it claims that

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ELP is analogous to the ILEC's 1980's obligations to implement equal access for long distance. Equal access simply involved software upgrades to existing switches, not the construction of a completely new wireline network.

The attached materials were used in the meeting.

Pursuant to Section 1.1206(a)(1) of the Commission's rules, an original and one copy of this letter are being submitted to the Office of the Secretary. Please associate this notification with the record in the proceedings indicated above. If you have any questions regarding this matter, please call me at (202) 515-2530.

Sincerely,

W. Scott Randolph

Attachment

cc: Christopher Libertelli
Dan Gonzalez
Matt Brill

Electronic Loop Provisioning: Myth and Reality

AT&T has been touting "electronic loop provisioning" as a logical, incremental step that is necessary to enable mass market competition. It is nothing of the sort. Electronic loop provisioning is an unwarranted, massively expensive, and counter-productive solution to a non-existent problem. Regulators should promptly and forcefully reject this latest thinly veiled attempt to ensure that the UNE platform remains available in perpetuity. Just as important, regulators should recognize and dismiss AT&T's effort to use unsupported claims of "hot cut problems" as a vehicle to require the ILECs to build a new network architecture that would extend a "platform" requirement to the highly competitive broadband data market.

Myth: Because of problems with hot cuts, electronic loop provisioning is critical to mass market local exchange competition and a pre-condition to eliminating the UNE platform.

Reality: Facilities based mass market local competition is alive and well today without the use of either unbundled switching or electronic loop provisioning.

- Switch-based local exchange competitors already serve more then three million mass market lines.

- ILEC hot-cut performance is routinely excellent – in every single approved Section 271 application, the FCC has found that ILECs perform hot cuts in a manner that afford competitors a "meaningful opportunity to compete." And performance has remained high in the face of ever-increasing hot-cut volumes. For example, the volume of hot-cut lines for key states in Verizon-East increased significantly between 2000 and 2001 (14.4 percent in New York, 40 percent in Massachusetts, 26 percent in Pennsylvania, and 146 percent in New Jersey). Even so, our on-time performance has been maintained on average at 98 percent.

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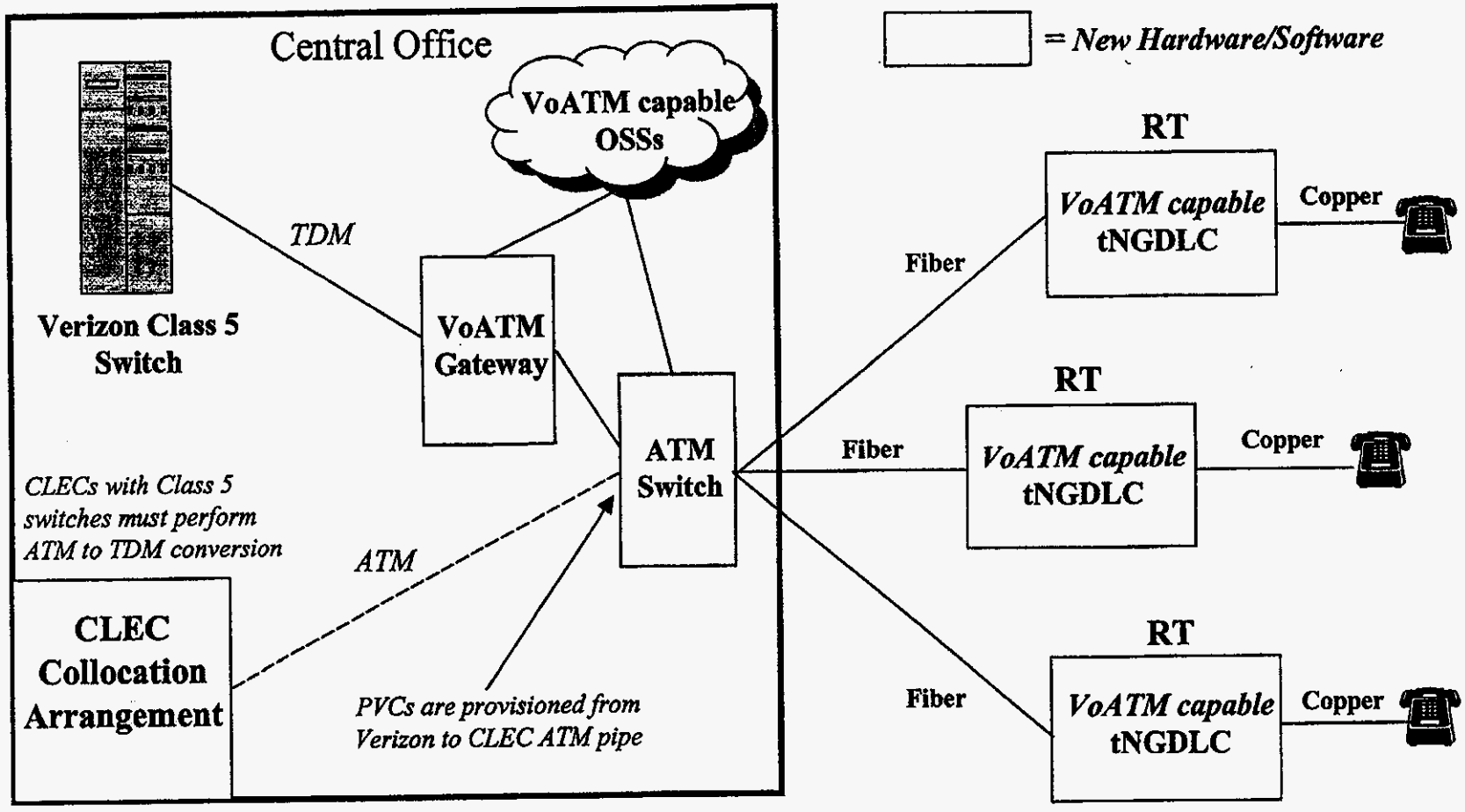

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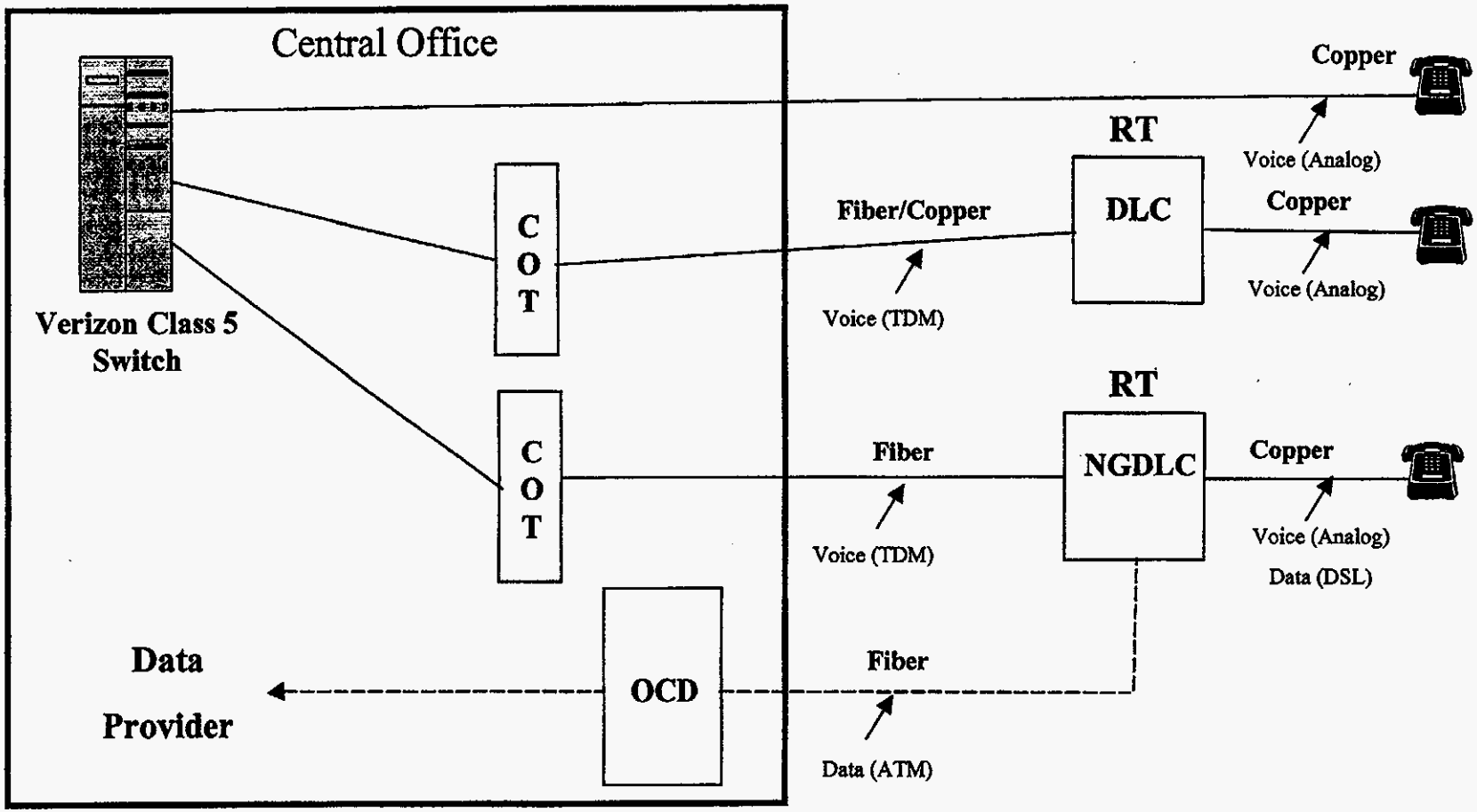
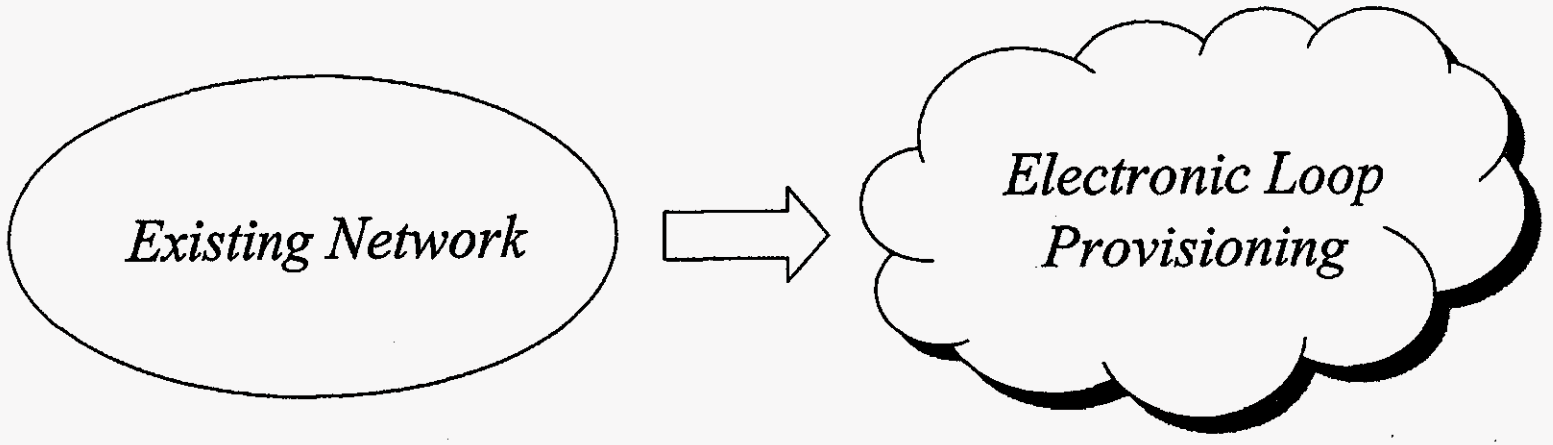
Network Architecture



Docket No. 030851-TP
Late-Filed Deposition Exhibit 1
Verizon Florida Hot Cut Panel
Page 7 of 8
February 16, 2004

ELP Requires New Technology



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Page 8 of 8
February 16, 2004

Richard A. Chapkis
Vice President -- General Counsel, Southeast Region
Legal Department

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Phone 813 483-1256
Fax 813 204-8870
richard.chapkis@verizon.com

February 24, 2004

Ms. Blanca S. Bayo, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 030851-TP
Implementation of requirements arising from Federal Communications Commission's Triennial UNE Review: Local Circuit Switching for Mass Market Customers.

Dear Ms. Bayo:

Please find enclosed for filing an original and 15 copies of Corrected Pages 51-52 to the Direct Panel Testimony which was filed on December 4, 2003 on behalf of Verizon Florida Inc. The corrected testimony begins on line 4 of page 51 and concludes on line 12 of page 52. Service has been made as indicated on the Certificate of Service. In addition, 30 copies have been delivered to the Commission hearing room for distribution at the hearing. If there are any questions regarding this filing, please contact me at 813-483-1256.

Sincerely,

Richard A. Chapkis

RAC:tas
Enclosures

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of Corrected Pages 51 and 52 to Verizon's Direct Panel Testimony in Docket No. 030851-TP were sent via electronic mail and U.S. mail on February 24, 2004 to:

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Florida Public Service Commission
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Tallahassee, FL 32399-0850

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Michael Gross
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111 West Madison Street, Room 812
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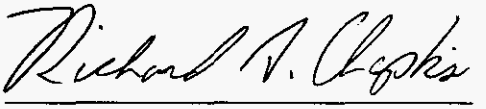
J. Jeffry Wahlen
Ausley & McMullen
227 South Calhoun Street
Tallahassee, FL 32301



Richard A. Chapkis

A. For those activities that are expected to be performed in the same fashion regardless of the number of lines (e.g., those in the NMC), the time associated with the activity was assigned to the initial line and zeroed out for the additional line. For activities in the RCCC and the CO Frame, those activities that will be performed only on the initial line are identified and applied to the initial. Those activities that will only be performed on the additional lines are applied to the additional lines.

Q. HOW DID YOU DETERMINE THE APPROPRIATE TRAVEL TIME TO AN UNMANNED CENTRAL OFFICE?

A. Verizon used the same sub-loop time and motion study previously discussed that was used to determine field work or field dispatched activities.

Q. HOW DID YOU DETERMINE THE TIME ASSOCIATED WITH PROCESSING A REQUEST FOR AN EXPEDITED DUE DATE?

A. A request for an expedited hot cut will automatically cause the order to drop out to the NMC. The NMC should then contact the RCCC to see if the earlier due date can be accommodated. The RCCC would respond back to the NMC and

either deny the request or approve the earlier due date. The NMC should request the CLEC to submit a supplemental order, and the order will be modified with the new due date. All expedites need to get an approval from the frame or field before the RCCC manager will approve the earlier due date.

As a result, the work times or Typical Occurrence Factors for the relevant connect activities in the NRC Model were adjusted. In the RCCC and C.O. Frame, the activity "Analyze Hot cut Order" was set to 200% since it will be done twice – once when the NMC seeks confirmation that the earlier due date can be met and once when the order is actually issued and worked. For the NMC, Subject Matter Experts identified the time associated with performing the required activities to answer the request for an expedite. The expedite time is then added to the ordering costs for those orders that request an expedite.

Q. HOW DID YOU DETERMINE THE TIME ASSOCIATED WITH THE IDLC SURCHARGE?

A. First, there was one explicit activity identified in the RCCC. Second, it was assumed that the APC would be involved for assignment purposes. Third, a new line needs to be established at the frame. If a spare copper or UDLC facility to the SAI exits, this needs to be done once. If a spare copper or UDLC facility to the SAI does not exist, this needs to be done at least twice – once (or more) to move a different in-service customer to a new facility and once to move the customer for whom the hot cut is being requested. However, once this is done, the time identified in the central office frame f or the hot cut itself is credited out of

verizon

FROM THE DESK OF TERRY SCOBIE
VERIZON LEGAL DEPARTMENT

March 24, 2004

To: Linda Boles, RPR

Attached are copies of the Errata Sheets for the panel deposition transcript of Thomas Maguire, Maryellen Langstine, John White, James McLaughlin, Larry Richter and William Loughridge - Docket No. 030851-TP - February 12, 2004.

attached to

Terry Scobie
Executive Adm. Asst.
813-483-2610
Fax-813-204-8870
terry.scobie@verizon.com

AIRBORNE

COMMISSION CLERK
MAR 25 AM 11:04

ERRATA SHEET
DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

IN RE: DOCKET NO. 030851-TP
NAME: THOMAS MAGUIRE
DATE: February 12, 2004

PAGE	LINE	CHANGE
42	25	DFCI SHOULD BE D"S"CI
43	1	" " " "
45	20	PLEASE CHANGE WYOMING TO WISCONSIN
51	15	CHANGE "AND" PAIRS
70	4	"FORCE MANAGEMENT" NOT FORCED (SPOKE ON P.75 LINE 16,1
75	2	"END USERS OR CLECS" NOT ARE
75	13	CHANGE "ACCESS (PHONETIC)" TO "ACTIVATE"
77	6	CHANGE "(INAUDIBLE)" TO "DSS"
82	6	CHANGE "BATCH" TO "BASIC"
86/87	25/1	STRIKE "IN THE FUTURE -- MAY NOT CUT" = MAKES NO SENSE
91	22	CHANGE "JUMP" TO "JOB"
98	16	CHANGE "LISTED OVER" TO "ELIMINATED"
108	13/14	CHANGE "ANNUAL" TO "MANUAL"

Under penalties of perjury, I declare that I have read my deposition and that it is true and correct subject to any changes in form or substance entered here.

2/25/04
DATE

THOMAS MAGUIRE

ERRATA SHEET
DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

IN RE: DOCKET NO. 030851-TP
NAME: MARYELLEN T. LANGSTINE
DATE: February 12, 2004

PAGE	LINE	CHANGE
42	25	DFCI to DSCI
43	1	DFCI to DSCI

Under penalties of perjury, I declare that I have read my deposition and that it is true and correct subject to any changes in form or substance entered here.

2/25/04
DATE

Maryellen Langstine
MARYELLEN T. LANGSTINE

ERRATA SHEET
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IN RE: DOCKET NO. 030851-TP
NAME: JOHN WHITE
DATE: February 12, 2004

PAGE	LINE	CHANGE
15	20	(Ketera) → Kiedere
15	19	(Testemony) an exparte
15	21	was also ~~to~~ referneed

Under penalties of perjury, I declare that I have read my deposition and that it is true and correct subject to any changes in form or substance entered here.

2/26/04
DATE

JOHN WHITE

ERRATA SHEET
DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

IN RE: DOCKET NO. 030851-TP
NAME: JAMES L. McLAUGHLIN
DATE: February 12, 2004

PAGE	LINE	CHANGE

ERRATA SHEET
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IN RE: DOCKET NO. 030851-TP
NAME: LARRY G. RICHTER
DATE: February 12, 2004

PAGE	LINE	CHANGE

ERRATA SHEET

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IN RE: DOCKET NO. 030851-TP
NAME: WILLIAM LOUGHRIDGE
DATE: February 12, 2004

PAGE	LINE	CHANGE

Under penalties of perjury, I declare that I have read my deposition and that it is true and correct subject to any changes in form or substance entered here.

3/23/2004
DATE

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February 24, 2004

Ms. Blanca S. Bayo, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 030851-TP
Implementation of requirements arising from Federal Communications Commission's Triennial UNE Review: Local Circuit Switching for Mass Market Customers.

Dear Ms. Bayo:

Please find enclosed for filing an original and 15 copies of Corrected Pages 51-52 to the Direct Panel Testimony which was filed on December 4, 2003 on behalf of Verizon Florida Inc. The corrected testimony begins on line 4 of page 51 and concludes on line 12 of page 52. Service has been made as indicated on the Certificate of Service. In addition, 30 copies have been delivered to the Commission hearing room for distribution at the hearing. If there are any questions regarding this filing, please contact me at 813-483-1256.

Sincerely,

Richard A. Chapkis

Richard A. Chapkis

RAC:tas
Enclosures

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of Corrected Pages 51 and 52 to Verizon's Direct Panel Testimony in Docket No. 030851-TP were sent via electronic mail and U.S. mail on February 24, 2004 to:

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Richard A. Chapkis

A. For those activities that are expected to be performed in the same fashion regardless of the number of lines (e.g., those in the NMC), the time associated with the activity was assigned to the initial line and zeroed out for the additional line. For activities in the RCCC and the CO Frame, those activities that will be performed only on the initial line are identified and applied to the initial. Those activities that will only be performed on the additional lines are applied to the additional lines.

Q. HOW DID YOU DETERMINE THE APPROPRIATE TRAVEL TIME TO AN UNMANNED CENTRAL OFFICE?

A. Verizon used the same sub-loop time and motion study previously discussed that was used to determine field work or field dispatched activities.

Q. HOW DID YOU DETERMINE THE TIME ASSOCIATED WITH PROCESSING A REQUEST FOR AN EXPEDITED DUE DATE?

A. A request for an expedited hot cut will automatically cause the order to drop out to the NMC. The NMC should then contact the RCCC to see if the earlier due date can be accommodated. The RCCC would respond back to the NMC and

either deny the request or approve the earlier due date. The NMC should request the CLEC to submit a supplemental order, and the order will be modified with the new due date. All expedites need to get an approval from the frame or field before the RCCC manager will approve the earlier due date.

As a result, the work times or Typical Occurrence Factors for the relevant connect activities in the NRC Model were adjusted. In the RCCC and C.O. Frame, the activity "Analyze Hot cut Order" was set to 200% since it will be done twice – once when the NMC seeks confirmation that the earlier due date can be met and once when the order is actually issued and worked. For the NMC, Subject Matter Experts identified the time associated with performing the required activities to answer the request for an expedite. The expedite time is then added to the ordering costs for those orders that request an expedite.

Q. HOW DID YOU DETERMINE THE TIME ASSOCIATED WITH THE IDLC SURCHARGE?

A. First, there was one explicit activity identified in the RCCC. Second, it was assumed that the APC would be involved for assignment purposes. Third, a new line needs to be established at the frame. If a spare copper or UDLC facility to the SAI exits, this needs to be done once. If a spare copper or UDLC facility to the SAI does not exist, this needs to be done at least twice – once (or more) to move a different in-service customer to a new facility and once to move the customer for whom the hot cut is being requested. However, once this is done, the time identified in the central office frame f or the hot cut itself is credited out of

EXHIBIT NO. ~~38~~ 39

DOCKET NO.: 030851-TP

WITNESS: James D. Webber

PARTY: MCI

DESCRIPTION:

1. February 5, 2004, Deposition Transcript, page 1

PROFFERING PARTY: STAFF

I.D. # JDW-D

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 39
COMPANY/ FPSC STAFF/MCI
WITNESS: JDW-D
DATE: 02/24-27/04

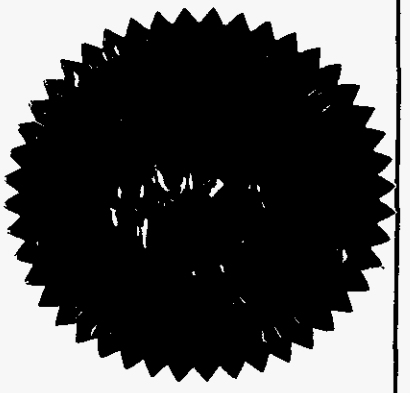
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.

_____/



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DEPOSITION OF:	JAMES D. WEBBER
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
PLACE:	Gerald L. Gunter Building Room 309 2540 Shumard Oak Boulevard Tallahassee, Florida
TIME:	Commenced at 2:00 p.m. Concluded at 3:12 p.m.
DATE:	Thursday, February 5, 2004
REPORTED BY:	JANE FAUROT, RPR Official Commission Reporter (850)413-6732

APPEARANCES:

TRACY HATCH, ESQUIRE, AT&T, 101 North Monroe Street, Suite 700, Tallahassee, Florida 32301-1549, appearing on behalf of AT&T.

MARTHA ROSS-BAIN, AT&T Communications of the Southern States, LLC, 1200 Peachtree Street, N.E., Suite 8100, Atlanta, Georgia 30309-3579, appearing on behalf of AT&T Communications of the Southern States, LLC.

LISA FOSHEE, ESQUIRE, and JIM MEZA, ESQUIRE, BellSouth Telecommunications, Inc., c/o Ms. Nancy H. Sims, 150 South Monroe, Street, Suite 400, Tallahassee, Florida 32301-1556, appearing on behalf of BellSouth Telecommunications, Inc.

JORGE L. CRUZ-BUSTILLO, ESQUIRE, 2620 SW 27th Avenue, Miami, Florida 33133-3005, representing Supra Telecommunications and Information Systems.

DELANEY L. O'ROARK, III, ESQUIRE, MCI WorldCom Communications, Inc.(GA), Six Concourse Parkway, Suite 600, Atlanta, Georgia 30328, appearing on behalf of MCI WorldCom Communications, Inc.(GA).

SUSAN MASTERTON, ESQUIRE, Sprint-Florida/Sprint Communications Company, P. O. Box 2214, Tallahassee, Florida 32316-2214, appearing on behalf of Sprint-Florida/Sprint Communications Company.

APPEARANCES CONTINUED:

LEIGH HYER, ESQUIRE, and JANICE KESTENBAUM, ESQUIRE, Verizon Florida Inc., P.O. Box 110, FLTC0007, Tampa, Florida 33601-0110, appearing on behalf of Verizon Florida Inc.

JEREMY SUSAC, ESQUIRE, FPSC General Counsel's Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, appearing on behalf of the Commission Staff.

WITNESS

NAME:	PAGE NO.
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CERTIFICATE OF REPORTER	43

EXHIBITS

NUMBER:	ID.
(No exhibits marked)	

S T I P U L A T I O N

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this cause; and that reading and signing was not waived.

P R O C E E D I N G S

MR. SUSAC: We are going to get back here on the record. Jeremy Susac with the Commission, Lisa Harvey off to my left with the Commission, Jane Faurot court reporter. Why don't you start with yourself, De, and then make yourself go around who is on the line.

MR. O'ROARK: Okay. This is De O'Roark with MCI and Jim Webber with MCI also is on the line.

MR. ELLENBERG: This is William Ellenberg for BellSouth, last name is spelled E-L-L-E-N-B-E-R-G, and Lisa Foshee is with me.

MR. ROSS: Martha Ross-Bain, AT&T. And that is R-O-S-S, hyphen, B-A-I-N.

MS. MASTERTON: Susan Masterton representing Sprint.

MR. SUSAC: Did I hear AT&T, I'm sorry?

MS. ROSS-BAIN: Yes, this is Martha Ross-Bain with AT&T.

MR. SUSAC: Okay.

MR. CRUZ-BUSTILLO: And Jorge Cruz-Bustillo with Supra Telecom.

MR. SUSAC: Okay. Now, similar to this morning, are there any other witnesses on the line outside of Mr. Webber from any company?

MR. CRUZ-BUSTILLO: No. Jeremy, companies are entitled to have a corporate representative present at all

depositions. Has anybody taken that into consideration?

MR. SUSAC: We have taken it into consideration, George, and we just don't feel like there is any upside to it just to prep another witness. That's all really it does.

MR. CRUZ-BUSTILLO: Yes, but we are going to give the deposition to the other witnesses to read anyway.

MR. SUSAC: Right, and you are entitled to do that, just not have them present -- we just would rather not have them present on the phone right now.

MR. CRUZ-BUSTILLO: Is there any statute or rule that prevents having corporate representatives present?

MR. SUSAC: I don't know. I don't know. I think the staff right now can take it into their own discretion, but with time as it is let's just move in to swearing in the witness.

MR. O'ROARK: Jeremy, you will recall that the witness has previously been sworn, and by agreement is still under oath.

MR. SUSAC: Okay. That is what I was going to call off. Thank you.

MS. HYER: And this is Leigh Hyer with Verizon. I didn't announce myself earlier, but is Janice on the phone for Verizon?

MR. SUSAC: Janice who?

MS. HYER: Is Janice Kestenbaum on the phone for Verizon?

MR. SUSAC: Janice, if you are there, speak up. If not, I would say assume she is not.

MS. HYER: Okay. Thank you.

MR. SUSAC: All right. Staff currently does not have any witnesses (sic) for Mr. Webber. So, with that, I guess just going in alphabetical order, AT&T, if you would like to go first, you can. If not, another company can go.

MS. ROSS-BAIN: AT&T doesn't have any questions for Mr. Webber.

MR. SUSAC: All right. How about BellSouth?

MR. ELLENBERG: We do have some questions, and I assume that we are proceeding under the same stipulations that we agreed to this morning?

MR. SUSAC: Yes, sir.

MR. ELLENBERG: All right.

MR. O'ROARK: That's fine.

JAMES D. WEBBER

was called as a witness and, having previous been duly sworn by the notary, testified as follows:

DIRECT EXAMINATION

BY MR. ELLENBERG:

Q Mr. Webber, you recall that you were previously sworn?

A I do.

Q All right. My name is William Ellenberg. I am an

attorney representing BellSouth in this matter, and I have some questions for you. Would you state your full name, please?

A My name is James D. Weber, that is spelled W-E-B-B-E-R.

Q And you understand that this deposition is being taken in conjunction with a proceeding currently pending before the Florida Public Service Commission?

A That is my understanding.

Q And you have filed direct, rebuttal, and surrebuttal testimony in that proceeding, is that correct?

A That is also true.

Q And do you have copies of that testimony with you today?

A Yes, I do.

Q Now, at various places in your prefiled testimony you refer to the Triennial Review Order released by the FCC. Do you have a copy of that available to you?

A Yes, I do.

Q Do you have any other materials with you that you intend to rely upon in this deposition?

A Nothing that I intend to rely upon.

Q All right. Now, back to the Triennial Review Order. I assume that since you have referred to it in your testimony, you have read the entire order, is that correct?

A Yes, I have referred to it, and I have read the

order.

Q Have you read it more than once?

A I would imagine there are paragraphs I have read a dozen or more times, but I don't know whether I have read all paragraphs more than once.

Q Are you generally familiar with the entire order or just the paragraphs that you rely on in your testimony?

A I would say that I am most familiar with those sections that I rely upon, because those are the sections that I relied upon in order to create this testimony.

Q Does that mean that you are generally familiar with the entire order?

A As I stated, I have read the entire order, and I am most familiar with the sections that I cite to.

Q Yes, sir, I understand that. I just want to know if you consider yourself generally familiar with the entire order in case I ask you questions about a provision that you haven't relied on in your testimony. If you don't, that is fine, just say so.

A I guess until you ask me whether I am familiar with a particular section, I can't answer specifically.

Q All right.

A It is a very large order.

Q Before we turn to questions about your testimony, I have a couple of questions about your qualifications. As I

understand, and I am referring to your Exhibit 1 to your direct testimony, you have an undergraduate degree and a Master's degree in economics, is that correct?

A That is correct.

Q Do you hold yourself out as an economist?

A I do.

Q Now, do you have any other undergraduate or post-graduate degrees?

A No.

Q Do you hold yourself out as someone qualified to provide an expert opinion on technical issues related to a telecommunications network?

A Yes.

Q And do you have any formal training, any degrees in any engineering discipline?

A I don't have any degrees in any engineering disciplines, but while I was at the staff of the Illinois Commerce Commission, while I was employed by AT&T as a consultant previously, and also in my experience at ATX Corecom (phonetic), I spent a great deal of time with engineers working on problems pertaining to the business, and I have attended multiple seminars and training sessions both in and out of house.

Q So in your work experience you have been assisted by technical engineers, technical experts on the network issues,

is that right?

A I would prefer to say that I have collaborated with them.

Q Okay. Have you ever been employed by a telecommunications company in the network department?

A No, I have not.

Q Now, are you the technical network expert on hot cuts for MCI in this proceeding?

A My testimony goes to numerous network and technological issues, and I would include hot cuts within that group.

Q As we did with the deposition this morning, I would really appreciate if you would answer the question yes or no, and if you need to explain, that is fine, but if you would start with a yes or no. So I ask you again, are you the technical network expert on hot cuts for MCI in this proceeding?

A I suppose you could describe it that way, yes.

Q Is there some other way that you would describe it?

A I would say that my testimony goes to numerous network and technological issues and that hot cuts is among those.

Q But you have never been a network planner, is that correct?

A I have not been a network planner.

Q Have you ever been a central office technician?
A No.
Q Frame technician?
A I have not been a frame technician.
Q Have you been an outside plant engineer?
A No.
Q Have you ever been employed by a telecommunications equipment manufacturer?
A No.
Q Have you, yourself, ever performed a hot cut?
A Myself, no.
Q Now, looking at the profile of your prior experience providing testimony, am I correct that you have never offered testimony on behalf of MCI before?
A No, I think that would be incorrect.
Q All right. Could you take a look at your Exhibit JDW-1 to your direct testimony? Do you have that?
A Yes, I am there.
Q And I may well have overlooked something, but I went through here, I didn't see testimony for MCI listed in your experience. Do you see something there that you can point me to?
A Well, I filed testimony earlier this month on behalf of MCI in the state of Michigan.
Q And would that have been in a proceeding similar to

this one?

A No.

Q We are getting some static on the line, and I didn't even hear the last response.

A I said no, sir, it would not.

Q Okay. What was that proceeding related to?

A That was in a TELRIC proceeding.

Q Okay.

A And I am flipping through the remainder of the Exhibits JDW-1. I have worked on several cases with MCI in the past, and my expectation is there is at least one or two where I have offered testimony on behalf of MCI, but I don't see anything at this point.

Q Is there some reason you chose to leave those off the list?

A No, I didn't choose to leave anything off of this list. I tried to create this document so that it would have all the possible information I could find.

Q Okay. Now, with respect to the Michigan TELRIC proceeding, did you offer testimony in that proceeding as an economist?

A My testimony went to various costing issues, I wasn't speaking to economic issues per se.

MR. ELLENBERG: Again, I'm not sure whose phone is causing the static, but is anybody else hearing the static but

me?

MR. SUSAC: I hear it at the Commission.

MR. O'ROARK: I hear it too, William. This is De O'Roark. Is there somebody on a cell phone or --

BY MR. ELLENBERG:

Q With respect to the testimony that you have filed in the Michigan proceeding, did you hold yourself out as a technical network expert in that testimony?

A Not specifically, no.

Q Other than the Michigan proceeding and the proceedings in the BellSouth states under the Triennial Review Order, have you ever consulted with MCI before?

A Yes.

Q When would that have been?

A During the '96 to '97 time frame I worked for CSG, which was a consulting firm in Chicago. I consulted with numerous clients and on numerous projects during that time period, MCI being among those. And then also over the past seven months or so I have consulted for several clients, MCI again among those.

Q You may have just answered my next question, but when did you start your current engagement with MCI for the testimony that you filed in the Florida proceeding?

A Sometime this past fall.

Q Can you be a little more specific than that?

A Not without digging out billing records, no, I couldn't.

Q Was it after the release of the Triennial Review Order by the FCC in August?

A I believe so, yes.

Q Now, if you would refer to your direct testimony at Page 8. There and in several other places you make reference to MCI's strategy of migrating its UNE-P mass market customers to UNE loops. Do you recall that reference?

A Generally, yes.

Q Now, were you involved in any way in the development of that strategy by MCI?

A No, sir.

Q Did you attend any meetings where that strategy or the development of that strategy was discussed?

A I hear two questions. One is have I attended meetings where that strategy has been discussed, and the second one regarding the development of that strategy. I have not been involved in any meetings where the discussion of that strategy took place, but as a result of my engagement with MCI in these proceedings, I have had conversations where MCI's strategy that they would roll off UNE-P and UNE-L where it was economically and operationally feasible, those issues were discussed in some of those meetings following that engagement.

Q Have you seen a strategy document that incorporates

this strategy?

A I don't believe I have.

Q As we have promised -- Mr. Webber, you weren't on the line -- during the lunch break we have gone through the questions and tried to parse out as much as we could based on this morning's deposition, but that may slow me down a bit as I page through my scribbles now.

Now, if you would turn back a page and look at your direct testimony on Page 7 at Lines 5 and 6. You take the position that the UNE-P process or processes should be the benchmark to which UNE loop processes are held in determining impairment. Do you see that?

A I see that.

Q Is it your contention that that is a test that the FCC has established and directed state commissions to apply?

A These statements reflect my opinion. My opinion is based upon my reading of the TRO, which I understand requires that seamless processes be established, that the processes are low cost, that they are timely, that they are effective without error, et cetera. And I think that the UNE-P processes generally reflect those characteristics.

Q And again, Mr. Webber, I would appreciate if you would start your answer with a yes or no, and then you are free to explain. Is it your contention in this proceeding that the use of UNE-P process benchmarks or the standards that UNE-L

processes should be held to is a test established by the FCC that state commissions have been directed to apply?

A Yes, based on the characteristics that I described previously.

Q Can you show me in the Triennial Review where that test is set out and state commissions are directed to follow it, please?

A As I described earlier, the TRO includes many descriptions as to what these processes are going to be. I don't have the TRO open, but I recall Paragraph 422 describing the processes being seamless and low cost. I recall reasonable and timely as phrases that the FCC uses in the latter part of the 420s, that is Paragraph 428 and 429, as it requires petitions to implement processes in the latter part, it describes those as orderly, seamless, without error, and those sort of things.

Q Well, just to be sure I'm clear, is it your contention that there is language in the TRO where the FCC directs state commissions to apply UNE-P processes as the benchmark for UNE loop processes in determining impairment?

A I think you have already asked this question, and my answer is as I have stated.

Q Well, then I am going to have to ask you again to open the TRO. I believe you told me it is there available to you, and point me to the language in the TRO where the FCC

directs state commissions to apply this case.

MR. O'ROARK: Can I ask who is asking the questions?

MR. ELLENBERG: This is William Ellenberg with BellSouth.

MR. O'ROARK: Okay. Thank you.

THE WITNESS: If you are looking for a statement by the FCC which says it directs state commissions to apply UNE-P as a test, that language literally is not in the TRO. As I have been trying to describe, there are certain attributes that the FCC describes which, in my opinion, takes the UNE-P processes and appropriate benchmarks.

BY MR. ELLENBERG:

Q Thank you. Are you finished with your answer?

A I can be finished.

Q Now, I believe one of those attributes that you referred to in an earlier answer was that the processes need to be seamless. Do you recall saying that?

A I recall saying that and I recall that being in the order.

Q Can you define seamless for me, please?

A I think the way I would describe it from the customers' experience is that there are no errors, that there are no disruptions in the service quality, that when the customer orders something it occurs quickly, that it is problem free. Those are attributes that I would use to describe that

term.

Q Now, on the same page at Lines 12 through 15, you state that it is MCI's recommendation that the national finding of impairment be maintained throughout Florida. Do you see that statement?

A Yes.

Q Does MCI's recommendation change if the evidence establishes that a competition trigger has been met?

A My testimony doesn't go to competition triggers. I think you would have to talk to Doctor Pines (phonetic) about that.

Q Well, I'm talking about the recommendation that is contained in your testimony that the national finding of impairment be maintained, and I would like to understand if there are conditions under which that recommendation would change. Are you saying you don't know?

A Could you repeat your question?

Q Does the recommendation contained in your testimony that the national findings of impairment be maintained throughout Florida change if the evidence in this proceeding establishes that a competition trigger has been met in a particular market?

A I am frankly not certain whether the existence of competitive triggers means necessarily that impairment is removed.

Q So, you have no opinion about the relationship between operational impairment and the triggers analysis, is that correct?

A I think what I stated was that I don't know whether the existence of triggers having been found in this case means that impairment is removed.

Q Would you then refer to your direct testimony, Page 8, again, Lines 2 through 5. I understand your testimony there to be that even if there are triggering companies, the Commission should still look at technical issues related to connecting to loops. Do you see that?

A I do.

Q So, do I understand your testimony to be that even if a competition trigger has been met as described in your testimony at Page 8, Lines 2 through 5, that the Commission should continue to look at technical issues?

A Certainly in areas where the potential deployment argument is made, I think that is the case. And in areas where the triggers having been met condition is assumed to have been made, the Commission ought to look at whether other issues still exist which would cause impairment affecting CLECs trying to compete in those areas.

Q Now, assume that there are -- pretend that the Commission has established the definition of the market area, and that there are ten CLECs serving mass market customers in

that market area. Those ten CLECs are catching 35 percent of the market, the mass market. Do you still think the Commission needs to look at whether these CLECs have overcome technical barriers?

A Well, it is unclear to me whether the question that is relevant for those ten carriers, the question I think is likely to be relevant for other carriers. For example, if there is not any collocation space available, if there is not any transport available, if other carriers are somehow barred from operating in those areas, then I think those questions would be relevant to the Commission.

Q Is it your contention that there is authority for this proposition in the Triennial Review Order?

A I think that the Triennial Review makes room for that, yes.

Q Well, then again, I need to ask you to provide me with the reference in the Triennial Review Order for that contention.

A Okay. Hang on, let me look for a second.

Q Sure, take your time. Mr. Webber, maybe I can rephrase the question in a way that won't require you to read the entire order now. Is it fair you did not have a citation to the TRO in mind when you made this statement in your testimony?

A No, it's not.

Q Well, I tried. Let me try another angle. I understood your prior response to be that you thought there was room in the TRO for your interpretation. It is not your contention that the FCC directs state commissions to look at technical issues in market areas where the triggers are met, correct?

A I'm sorry. Can you restate that?

Q I believe in your earlier response you told me that you thought there was room in the TRO for your interpretation. Do you recall making that statement?

A Yes.

Q I take that to mean it is not your contention that the FCC in the TRO directs state commissions to look at technical issues even when competition triggers are met. Would you agree with that?

A Without referring to the exact cite, I am hesitant to do that.

(Pause.)

BY MR. ELLENBERG:

Q Mr. Webber, it has been several minutes now. Do you have any idea how long it might take you to find this reference that you think is in the TRO?

A I'm working on a paper copy which isn't quite as easy as the electronic copy, so it may take a few more minutes. If you want to move on, we can do that.

Q No, I would like to have a cite, frankly.

MR. O'ROARK: This is De O'Roark. William, perhaps in the interest of time we can -- it looks like it may take Mr. Webber a while to find the cite that he has in mind. I am certainly willing to keep looking. I say we, I mean, I am in Atlanta and he is in Chicago, but we can do that or we could try to find it at a break, or try to get it to you at some later time. Whatever your preference is.

MR. ELLENBERG: I don't want it at a later time, because depending on what he comes up with, I may have some questions about it. So if we take a break maybe that would be an appropriate time. But let's move on for the time being.

MR. O'ROARK: That's fine.

BY MR. ELLENBERG:

Q Mr. Webber, if you would, look at Page 19 of your direct testimony, Lines 6 through 19.

A I'm sorry. Which page was that?

Q Page 19.

A Thank you.

Q Lines 6 through 19.

A I'm there.

Q Specifically at Lines 14 and 15 you make the statement, "The concerns regarding ing the ILEC's ability to handle hundreds of thousands of types of manual orders on an ongoing basis are legitimate." Do you see that?

Q No, I would like to have a cite, frankly.

MR. O'ROARK: This is De O'Roark. William, perhaps in the interest of time we can -- it looks like it may take Mr. Webber a while to find the cite that he has in mind. I am certainly willing to keep looking. I say we, I mean, I am in Atlanta and he is in Chicago, but we can do that or we could try to find it at a break, or try to get it to you at some later time. Whatever your preference is.

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MR. O'ROARK: That's fine.

BY MR. ELLENBERG:

Q Mr. Webber, if you would, look at Page 19 of your direct testimony, Lines 6 through 19.

A I'm sorry. Which page was that?

Q Page 19.

A Thank you.

Q Lines 6 through 19.

A I'm there.

Q Specifically at Lines 14 and 15 you make the statement, "The concerns regarding the ILEC's ability to handle hundreds of thousands of types of manual orders on an ongoing basis are legitimate." Do you see that?

A I do.

Q Prior to making that statement, did you review any data regarding the number of hot cuts performed by BellSouth in the state of Florida, or its performance in performing those hot cuts?

A I'm sorry. Can you break that up into a couple of questions for me?

Q Sure. Prior to making the statement on Page 19 of your direct testimony at Lines 14 and 15, did you review any data regarding the number of hot cuts performed by BellSouth in the state of Florida?

A Actually, I don't think prior to drafting this that I had seen the hot cut volume in Florida, though I knew that it was relatively low.

Q So your answer to my question is no?

A Yes.

Q Now, the second part of my question. Prior to making the statement on Page 19 of your direct testimony at Lines 14 and 15, did you review any data related to BellSouth's performance in performing hot cuts?

A No.

Q Now, if you would, turn to Page 20 of your direct testimony, the top of my page, anyway, at Lines 2 through 6, you say the ILEC hot cut process must be specifically designed to minimize not only the time and costs specific to the ILEC

activities, but also those associated with the CLEC's representatives." Do you see that?

A I do.

Q What evidence do you have that BellSouth's hot cut processes does not minimize the time and costs specific to the ILEC's activities?

A Other than the fact that processes, ordering processes as discussed in Ms. Lichtenberg's testimony and the communication between carriers during the hot cut processes haven't been automated as the way she has described it in her testimony, and the fact that the manual portions of the processes haven't been automated where that is possible, I can't think of anything offhand.

Q So you are relying on statements made in Ms. Lichtenberg's testimony, is that correct?

A In part, as it pertains to process issues, that is correct.

Q Okay. Now, I may be a bit confused. You said in part you are relying on her testimony for processes. What was the other part?

A I also said with respect to the manual portion or the physical portion of the processes.

Q Uh-huh. And what are you relying on for those?

A Well, as I stated, the fact that BellSouth hasn't done anything to automate those processes suggests to me that

there are things which could be done to minimize the time it would take to perform those functions.

Q Okay. All right. If you would turn to Page 21 of your direct testimony, please. At Lines 8 through 14, you make the statement that the lesson to be learned from experience is that ILECs have an incentive to dramatically overestimate the costs associated with provisioning UNEs, and their estimates tend to be based on cost studies that incorporate inefficient procedures or technologies that include duplicative work steps." Do you see that?

A I do, and I would note that is a partial reading of that section of the testimony.

Q Well, you are free to read the rest if you would like to.

A It has been noted.

Q Prior to making this statement in your direct testimony, did you review any cost studies performed by BellSouth?

A No, at that time I didn't yet have BellSouth's cost studies.

Q So, at the time you filed this testimony, you weren't familiar with any inefficient procedures included by BellSouth in its hot cut cost study?

A I know that BellSouth's processes have been modified from a cost study perspective and that those modifications were

at the direction of the Commission and that they occurred prior to the writing of this testimony.

Q That really wasn't my question. Were you aware of that at the time you filed this testimony?

A That their cost study had been modified, yes.

Q Now, if you would, list all the inefficient procedures that you contend are included in the BellSouth hot cut cost study.

A Speaking from the nonsystem-related perspective, the fact that the processes don't rely upon automation where they otherwise could ultimately may be inefficient in terms of the time it requires to make all of these things happen. But that is generally an area in which I think there is room for improvement.

Q Would you please list all the duplicative work steps or exaggerated estimated work times and other errors included in the BellSouth hot cut cost study?

A I would have to pull the cost study and go through the modifications that the Commission made there.

Q But just --

A I don't have that sitting in front of me.

Q And to be clear, you did not have that available to you at the time you filed this testimony, correct?

A The study itself, no, I did not.

Q Now, you do understand that the nonrecurring charge

for hot cuts was set by the Florida Commission, correct?

A Yes.

Q Is it your contention that the Florida Commission set rates inappropriately based upon inefficient processes and technology?

A I haven't looked at the modifications that the Commission made to BellSouth's original studies close enough to know whether there are other changes that should or should not have been made, so I can't be certain at this point.

Q Now, if you would turn to Page 40 of your direct testimony.

A Is that 4-0?

Q 4-0, Lines 14 through 16. As I understand your testimony, you argued that with respect to IDLC, or integrated digital loop carrier, nonimpairment can only be accomplished by unbundling the IDLC technology in an electronic manner that provides access to independent -- or individual, excuse me, customer circuits at the DSL levels. Do you see that?

A With the qualification that it says at the digital level, yes, I see that statement.

Q Okay. Now, you go on to discuss the technology. Is it your understanding that this technology exists ubiquitously in BellSouth's network today?

A IDLC technology?

Q No, the technology to unbundle it that you refer to.

A In this passage I haven't referred to any technology physically to unbundle it. They were talking about IDLC generally.

Q Would you continue that in your testimony -- you do discuss the GR303 interface groups, do you see that? Are you familiar generally with your testimony on that issue?

A Yes, I am. That is one method or technique by which IDLC can be unbundled.

Q Now, back to my original question. Is it your position that that technology exists ubiquitously in BellSouth's network today?

A GR303 is a subset of the IDLC technology within the network and, therefore, it is not ubiquitous.

Q Have you developed an estimate of the cost of deploying that technology ubiquitously in BellSouth's network in Florida?

A No.

Q Would MCI share the cost of that deployment if it were undertaken?

A I haven't asked MCI whether they would share that cost, and I don't know whether based upon this testimony it would be reasonable to assume that that is MCI's recommendation.

Q Okay. If you would turn to Page 62 of your direct testimony. Are you there?

A I am.

Q Now, beginning on Page 62, you talk about what you believe are advantages to concentrated EELs, is that correct?

A I do.

Q And WorldCom actually proposed this concept of concentrated EELs to the FCC in the Triennial Review Order, is that correct?

A I believe it is.

Q And the FCC rejected this proposal, isn't that correct?

A I don't believe that is correct. I would say that they declined to accept it based upon insufficient evidence at the time.

Q They didn't order that it be implemented, is that correct?

A It is correct that the FCC did not require concentrated EELs be implemented at this time.

MR. ELLENBERG: If we could have just a minute, I think we are done. BellSouth has no further questions, but we would still like the cite that we were discussing earlier.

THE WITNESS: And so that I am clear, could you describe one more time for me the cite you are looking for?

MR. ELLENBERG: We were discussing the need to consider technical issues in areas where -- or market areas where a competition trigger had been met, and I understood you

to be taking the position that the FCC had indicated that it was either appropriate or had directed state commissions to look at those technical issues. Does that refresh you?

THE WITNESS: Yes, it does. Thank you.

MR. O'ROARK: And, William, I think what we had discussed before was that Mr. Webber might try to find that further at a break.

MR. ELLENBERG: Would this be a good time for a break?

MS. FOSHEE: We could get Mr. Varner up here now if no one else has questions for Mr. Webber.

MR. O'ROARK: Verizon might have some.

MR. SUSAC: So why don't we take a five-minute break.

MR. ELLENBERG: That would be fine.

MR. SUSAC: I know Verizon stated before lunch that they perhaps had 15 minutes' worth of questions. Is that correct, Verizon?

MS. HYER: I will have to double check that with Janice.

MR. SUSAC: Okay. Well, then, let's just take a restroom break for five minutes, and we will reconvene at three o'clock. Is that okay with everyone?

MR. ELLENBERG: That works for us.

MR. O'ROARK: That's fine.

(Off the record.)

MR. SUSAC: I believe we are ready to proceed. Is it Verizon's turn, is that correct?

MS. HYER: I don't believe that Verizon is going to have any questions for the witness.

MR. SUSAC: Okay.

MR. ELLENBERG: Jeremy, this is William Ellenberg at BellSouth. Before we went back on, I think Mr. Webber indicated he had found at least one cite for the proposition we were discussing earlier. If we could get that on the record, and I might have some questions on that.

MR. SUSAC: Certainly. Okay. All right. So it is 3:05, we are back on the record.

BY MR. ELLENBERG:

Q Mr. Webber, this is William Ellenberg at BellSouth again. When we took our break earlier, you were going to see if you could find a cite in the TRO for the proposition we discussed earlier, and that was even where the competition, a competition trigger had been met, you believed it was appropriate for the Commission to look at technical issues. Do you recall that?

A Yes, I won't soon forget that question.

Q All right. And I believe you have indicated off the record that you had found such a cite?

A Yes. I found at least one. I believe there to be others, but like I said, it is a pretty large order and

unfortunately I'm working off an old paper copy.

Q Okay.

A With that said, yes, I found at least one.

Q Where is that?

A I would direct you to Paragraph 503, entitled, "Exceptional Sources of Impairment."

Q Okay. Give me just a minute to read this. Now, if I understand the reference here -- let me back up. Strike that.

Perhaps I misunderstood your earlier testimony. I understood you to be saying that even where a competition trigger was met, the Commission should look at the technical issues confronting the triggering companies; isn't that correct?

A To be quite frank, I don't recall whether we were talking about technical issues confronting the triggering companies or all companies. I remember we had a discussion about the fact there may be triggering companies. In fact, you identified a hypothetical where they had 30 percent or 35 percent of the market share, et cetera, and I recall that conversation describing what might be (inaudible) other companies.

MR. SUSAC: I'm sorry, there was a lot of rustling of paper going on. Could you please repeat that for the court reporter?

THE WITNESS: Certainly. I recall the conversation

addressing all companies generally, and what I was describing in that circumstance was the Commission ought to be looking at whether operational issues still give rise to impairment. And from my perspective, I was thinking more in the line of the companies that haven't yet entered into that area, whether they would be precluded from doing so as a result of those operational issues, and that is beside any economic issue that may exist.

BY MR. ELLENBERG:

Q Then let me ask you this. Is it your position that the Commission should look at technical issues related to the triggering companies?

A I think that the Commission should --

Q And, Mr. Webber, please, if you would begin with a yes or no, and explain, I would really appreciate it.

A Yes.

Q Is it your position that Paragraph 503 of the Triennial Review Order is the -- or is Paragraph 503 of the Triennial Review Order your authority for that proposition?

A In part, I would say yes.

Q And what would the other part be?

A My recollection of having read similar statements in the order, as well. The point here is that we are trying to figure out whether carriers trying to do business are impaired, and I think that it is relevant for the Commission in making

its determination whether carriers are impaired, and you spoke of triggering companies and not triggering companies, and whether we should look at impairment that they each may be facing. And I think it would be relevant to look at the impairments that triggers companies may face, and also impairments that nontriggering companies may face.

Q But to be clear, after several minutes on the record and after a five-plus-minute break, you are unable to find those statements in the Triennial Review Order, correct?

A I gave you one cite, that is Paragraph 503, and as to the other precise locations of those discussions, I don't know at this point.

Q Okay. Well, let me rephrase the question, perhaps I confused things. I asked you whether Paragraph 503 was your authority for the proposition that where a competition trigger is met, the Commission should still look at technical issues relative to the triggering companies. And you responded in part, correct?

A I think that is a fair assessment, yes.

Q And I asked you what the other part was, and it is you would refer to other provisions in the TRO that you recall reading, but after three or four minutes on the record and a five-plus-minute break, you have been unable to find those additional references, is that correct? And I understand it is a long order.

A I think that is reasonable.

MS. ELLIOTT: Okay. That's all we have.

MR. SUSAC: All right. Does any other party have questions for Mr. Webber? I don't believe so, but -- Supra? Anyone?

MR. O'ROARK: This is De O'Roark. I'm sorry I was muted, I've got one follow-up.

MR. SUSAC: Okay.

CROSS EXAMINATION

BY MR. O'ROARK:

Q Mr. Webber, Mr. Ellenberg asked you questions concerning the comparison of the UNE-L process to the UNE-P process. Do you recall that?

A Yes, I do.

Q And I believe Mr. Ellenberg asked you for anything from the Triennial Review Order that might support a position that was a valid comparison. I am obviously paraphrasing. Do you recall those questions?

A Yes, I do.

Q I would like to refer you to a specific portion of the TRO to see if it refreshes your memory on that point.

MR. ELLENBERG: I'm going to have to object to that. If that is not leading the witness, pointing them to a specific place in the TRO, I don't know what is. I object to that.

MR. CRUZ-BUSTILLO: He can still answer his question.

Your objection is noted for the record.

MR. SUSAC: As the Commissioner stated earlier, would the parties want the Commissioner to come in and rule on the objection right now?

MR. CRUZ-BUSTILLO: No, it's just something -- you know, he is allowed to answer it and he has made his objection. That's all.

MR. ELLENBERG: Who is speaking, please?

MR. CRUZ-BUSTILLO: This is George Cruz-Bustillo from Supra.

MR. ELLENBERG: Well, we are going to have to resolve --

MR. O'ROARK: Hello? Is everybody still here?

MR. SUSAC: The Commission is.

MS. ROSS-BAIN: Martha Ross-Bain is.

MR. CRUZ-BUSTILLO: You have Supra here.

THE WITNESS: This is Webber, I'm here.

MS. MASTERTON: Sprint is here.

MR. O'ROARK: For the record, I believe the question is legitimate because it is redirect, and I'm trying to deal with a specific area of Mr. Ellenberg's cross. I believe we did stipulate that objections as to form are appropriate during the deposition. I would suggest that we move forward with the question and answer. Mr. Ellenberg's objection would be noted and could be ruled upon at a later time, if necessary.

MR. CRUZ-BUSTILLO: And this is George from Supra. I agree, that stipulation is already on the record.

MR. O'ROARK: It's an objection to form, so the stipulation is there, so we should go forward and not have to stop for 15 minutes.

MR. SUSAC: Let BellSouth get in.

MS. FOSHEE: Hey, this is us. I don't know what happened.

MR. O'ROARK: Oh, BellSouth, have you been off the line for the last two minutes?

MR. ELLENBERG: Yes. We started getting a fast busy.

MR. O'ROARK: Okay. Well, I apologize. I didn't realize you were gone. To update you, William, BellSouth has objected as to the form of my question. I was just suggesting that we proceed and get an answer subject to the objection which could be ruled upon at a later time, if necessary.

MR. ELLENBERG: Do you really intend to insist on asking that question? I mean, directing --

MR. CRUZ-BUSTILLO: Well, it has already been asked, it is on the record, he should answer the question and then we will go forward.

MR. O'ROARK: All right. That's fine. We will take care of it at the hearing.

MR. ELLENBERG: Okay.

BY MR. O'ROARK:

Q Let me direct your attention to Footnote 1574, Mr. Webber. Please review that and see if it refreshes your memory on that point. It's on Page 324 of my copy.

A Thank you. I'm there. Yes, I now recall this, and there are numerous other paragraphs to the same effect. I could cite those if need be.

MR. O'ROARK: Thank you. I have nothing further.

MR. SUSAC: Okay. Well, the Commission has no questions for Mr. Webber. If none of the other parties do, Mr. Webber, you are free to go. And enjoy the rest of the day.

THE WITNESS: Thank you.

(The deposition concluded at 3:12 p.m.)

ERRATA SHEET
DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

IN RE: DOCKET NO. 030851-TP
NAME: JAMES D. WEBBER
DATE: February 5, 2004

PAGE	LINE	CORRECTION OR AMENDMENT	REASON FOR CHANGE

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, JANE FAUROT, Official FPSC Commission Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing deposition at the time and place herein stated.

I FURTHER CERTIFY that this transcript, consisting of 42 pages, constitutes a true record of the testimony given by the witness.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 10th day of February, 2004.

JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732

EXHIBIT NO. 40

DOCKET NO.: 030851-TP

WITNESS: Don Wood

PARTY: AT&T

DESCRIPTION:

1. February 14, 2004, Deposition Transcript, page 1.
2. Late-Filed Exhibit 1, page 113.
3. Late-Filed Exhibit 2, page 113.

PROFFERING PARTY: STAFF

I.D. # DW-D

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 030851-TP EXHIBIT NO. 40
COMPANY/ FPSC Staff/ AT+T
WITNESS: DW-D
DATE: 02/24-27/04

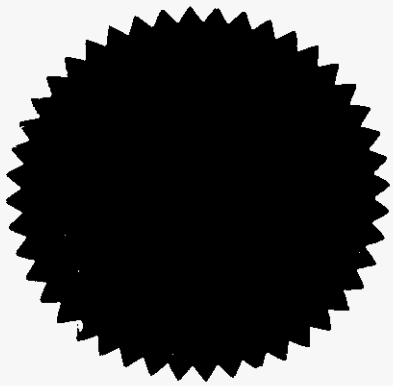
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO.030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.

_____/



TELEPHONE DEPOSITION OF:	DON WOOD
TAKEN AT THE INSTANCE OF:	The Staff of the Florida Public Service Commission
DATE:	February 14th, 2004
TIME:	Commenced at 9:30 a.m. Concluded at 12:50 p.m.
LOCATION:	Gerald L. Gunter Building Room 309 2540 Shumard Oak Boulevard Tallahassee, Florida
REPORTED BY:	NANCY P. VETTERICK, RPR Notary Public, State of Florida at Large

ACCURATE STENOTYPE REPORTERS, INC.
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P R O C E E D I N G S

MR. SUSAC: I recognize all the counsel for the parties on the line; therefore, I'm not going to read the letter from Commissioner Davidson that he requested every morning. It just talks about this case.

It's not about TELRIC or UNE pricing or access reform or rate rebalancing. That's what I'm referring to.

Do all the parties on the line stipulate to the normal stipulations, and if you don't know what the normal stipulations are, please say so, and I'll explain.

MR. SHORE: BellSouth does.

MR. HENRY: I'd like for you to go through them.

MR. SUSAC: Okay. Is that Mickey Henry?

MR. HENRY: Yes.

MR. SUSAC: How are you doing, Mickey? All right. All right. It's basically that all objections, except as to the form of objection, are reserved until the hearing in this cause.

Normally Commissioner Davidson said he would be available to rule on objections, but this being a Saturday, he's not here. Any

other deposition during the course of the week, that would be the normal stipulation, that he would be available to rule, if needed.

That's essentially it. Do you agree to that?

MR. HENRY: Okay. That's fine.

MR. SUSAC: Okay. Could you give us the name of the notary and the location that you're at, Mr. Henry? Did you swear him in personally, or is there a court reporter there?

MR. HENRY: There is a notary here who will sign the oath that was sent to us, the certificate of oath, which certifies that Don Wood swore or attested to be the witness deposed by the staff for the Florida Public Service Commission via telephone on February 14th, 2004, and to have responded truthfully in a manner that will be attested to by a notary public.

MR. SUSAC: Could you give Nancy the name of the notary, please?

MR. HENRY: Yes. Debbie Wood.

Thereupon,

DON WOOD

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

DIRECT EXAMINATION

BY MR. SUSAC:

Q Will the witness please state his full name for the record.

A Yes. My name is Don Jay Wood.

Q Mr. Wood, my name is Jeremy Susac. As I stated earlier, I am an attorney for the Commission. I'll be conducting the depositions today. I'm going to ask you a series of questions. To the extent possible, please answer yes or no to the question if it's designed to elicit a yes or no.

Also, if you have a problem understanding a question, please ask me to rephrase or repeat the question. Is that clear?

A Yes. It is, and on this end, we think we've got the phone positioned correctly, but if, at any point, we're not coming through very well, let us know, and we will shift around a little.

Q Okay. Mr. Wood, could you please give us a brief description of your educational background?

A Yes. I have an undergraduate degree in finance from Emory University, and a master's degree in finance and microeconomics from the College of William and Mary in Virginia.

Q Mr. Wood, did you file testimony in Docket

030851?

A Yes, sir.

Q Do you have that testimony with you today?

A Yes, I do.

Q All right. Well, let's just jump into it then.

A All right.

Q Let's actually go to your rebuttal testimony, in particular, on page 22, of your rebuttal testimony. Just holler when you get there.

A Yes, sir.

Q On line 7, you state that the model must accurately perform the required task. Will you please state specifically what tasks are required in your opinion, and when I say the model, it's the BASC model.

A Yes. And that's what I'm referring to here is the BASC model. Well, actually what I'm referring to in this answer is any model that's used to conduct this kind of business case analysis. The required tasks are to -- in terms of the model, what I'm referring to here is purely the mechanics of considering the relevant revenues, the relevant costs, the timing of those, and then properly discount those back to a net present value basis.

Q And did you perform any tests with the BASC

model to determine if it can perform these tasks that you just mentioned?

A Yes, sir. We did.

Q What tests were performed?

A We looked at different sensitivity analysis and, also, looked at the structure of the inputs in terms of how the inputs could be changed and whether it's possible to change them on a meaningfully disaggregated basis.

Q How many tests were performed?

A I'm not sure how to answer that. I mean, a lot of this is review and examination of the price and quantity tables rather than a sequential test, per se. One of the -- my primary concern is the aggregation of the revenue assumptions at something beyond the wire center level.

That's really not running iterations of the model. That's really going through the structure of the inputs to determine if the proper disaggregation is there.

Q All right. Before we go any further, let me back up. What version of the model, the BASC model, have you tested?

A We have the versions, as filed, in Florida, Georgia, and North Carolina.

Q Is it the 2.2 version? Does that sound familiar?

A I believe that's correct, but I simply don't know. I would have to confirm that because that's not -- that's not something I spent a lot of time looking at.

Q Getting back to the tests that you performed, can you elaborate on the results of those tests?

A What we have -- I know I presented one in the rebuttal and, I think, three and four in the surrebuttal in terms of sensitivity to inputs. In terms of the analysis of the disaggregation on the revenue side, what I described, in my rebuttal testimony, is my concern that while Mr. Stegman says if these revenues assumptions can be adjusted at the wire level, that that actually cannot be done with the model in its current form, that that's preprocessed into those input tables, and we're limited to changing those kind of input at the level of BellSouth's market definition which is not at the level of the wire center.

The problem there, of course, is that BellSouth's cost and prices vary at the level of the wire center, but those kind of price and cost considerations can't be taken into effect when we look at the model.

Q When you said you're limited to changing the model, is that accurate? Can you elaborate on that?

A Well, we can go in and change what the Wizard permits, or we can go in more directly and make changes to the tables, and we're at least reasonably convinced, at this point, that changes to the table are flowing through, but what we can't do is go back --

MR. SHORE: I'm sorry. Mr. Wood --

THE WITNESS: -- to a point in time --

MR. SHORE: Excuse me.

THE WITNESS: -- earlier than --

MR. SUSAC: I'm sorry. Is someone --

MR. SHORE: Yeah. That was Andrew Shore. I just didn't hear what Don said. Did you say that you're reasonably convinced that those are flowing through?

THE WITNESS: We're reasonably convinced. We're not completely convinced.

MR. SHORE: Okay. I just --

THE WITNESS: We had some concerns early on, and I'm sure, as you know, Mr. Shore, we had some E-mails back and forth with BellSouth representatives on that and some other issues. They did indicate that there was some corrections being made in the model.

The problem is that the way the tables are structured, we can't go back to a point in time earlier in the construction of the tables. In other words, if the tables aggregate revenues from multiple wire centers or revenue assumptions from multiple wire centers, then we can't do a wire center level analysis.

BY MR. SUSAC:

Q This might be overstating the obvious, but why would you want to go back even further?

A Well, if prices change at the level of the wire center and price cost changes are different at the level of the wire center, then in order to have any meaningful prediction at all about how prices and revenue opportunities are going to vary over a ten-year period, we've got to be able to consider those price relationships.

You know, The FCC noted, and I think correctly, that, you know, the areas of high price and low cost are those most likely to show lack of impairment today, but, also, least likely to be sustained over time.

Q Have you reviewed the supplemental direct testimony that BellSouth witness, James Stegman, submitted to this Commission in this docket?

A Yes, sir.

Q That's the version 2.2 that I referred to earlier.

A That's right. And I believe we have -- I believe that's the electronic version that we're running --

Q Okay.

A -- and I'm not -- I don't think I made any claims here of, you know, model errors that were corrected in 2.2 that, you know, we now need to update. I mean, I don't have any arguments about structural errors of the model beyond the restrictions on the input.

Q Okay. Give me one second to review my notes, please.

A Sure.

Q Mr. Wood, have you reviewed the responses that BellSouth has provided to Sprint's request for productions of documents, Set Number 1, including the supplemental set filed on January 23rd?

A The honest answer is I don't know. I tried -- I've reviewed a lot of responses going back and forth. I simply don't know, as I sit here, whether I've looked at those or not.

Q Well, then have you been able to determine

whether or not the BASC model accurately performs the required tasks? When I say the required tasks, I mean the required tasks that you laid up front for us in the beginning of this deposition.

A Right. And I guess the answer is I haven't been able to do that, but that really hasn't been the focus of my analysis. I understand that the Sprint witnesses have certainly focused on that, and they may very well be right in some of their concerns.

I really looked at this from the standpoint of if the model is functioning correctly internally, then what then stands in the way of performing a meaningful business case analysis in the context of this proceeding?

Therefore, I focused on, you know, the aggregation of the input as they come into the model, and then think my concerns about some of the inputs on the revenue and the cost side that go into the model. It has not been my focus to try to validate or invalidate the underlying code.

Q So you're not really concerned with the calculations of the numbers?

A Well, I'm certainly very concerned with them in terms of that they absolutely have to be right, but that hasn't been my analysis. My analysis has been

focused really more on if the calculations are right, can you make this kind of economic deployment demonstration with this model with its current inputs and with its current input structure.

Q What have you based so far on that?

A I'm sorry. I didn't -- I got only part of that question.

Q Well, assuming that BellSouth's numbers are right -- and you said your analysis didn't focus on that -- at the end of the day, what is your opinion of the BASC model essentially?

A Well, my opinion of the BASC -- I'm sorry. To be clear, I didn't say I didn't look at their numbers. I said I didn't look at the underlying code and calculations --

Q Okay.

A -- the pure mechanics. My conclusion today are twofold. First of all, there's a fundamental flaw in the aggregation of the revenue inputs that I think will render any result meaningless, that we have to back up a step beyond where they started in order to do this in a meaningful and accurate way.

Then, Number 2, as I outlined in my rebuttal and surrebuttal, there are a number of input assumptions that, A, I believe are not adequately

supported or are clearly incorrect.

B, even a change to, you know, any one of these type inputs, in isolation, has a very, very significant impact on the report at net present value so that, you know, it becomes -- I think the impact of these input changes is so significant that, you know, maybe we don't need to get to a question, are the mechanics of the model correct, because with these inputs, it's clear that, you know, the Commission can very safely conclude that, from an economic standpoint, impairment exists in each of these markets.

Q All right. Thank you very much. Continuing with your rebuttal testimony, let's flip to page 28.

A Yes, sir.

Q This question is based off lines -- are you familiar with lines 1 and 26? If not, you can take some time to familiarize yourself with them.

A I'm sorry page 28, line --

Q Page 28, 1 through 6 dealing with the time horizon of the BASC --

A Oh, yes, sir.

Q Okay. You state that the time horizon of the BASC model is not appropriate for an industry in which significant and fundamental change have occurred over much shorter periods.

My question is what time horizon do you believe is appropriate then?

A I'm not presenting a proposed time horizon at this point. What I'm saying here is that if you're going to do a business case that would be comparable to what a rational CLEC would do and a rational investor would do, before putting the capital into it, you do have to match your time horizon with the likely changes.

We're talking about here investment in local circuit switching. You know, it's highly unlikely that local circuit switching will be the technology used to provide these services in ten years. You know, I can't tell you what year that's going to change.

However, certainly looking at a ten-year horizon for this technology appears excessive. Now, my concern is not that you can't look at ten years. It's that if you do, other inputs to the model have to be consistent.

Price changes have to be consistent with a ten-year horizon. The discount rate reflecting the risk and the uncertainty has to be consistent with a ten-year horizon. I'm not saying that a ten-year horizon can't be used in this analysis. I'm saying that other inputs have to be consistent with that type of assumption.

Q What other inputs are inconsistent with the ten-year horizon that they provided?

A The constant level of prices over that period of time. If you're going to look -- if you're going to make a constant price assumption, then, I think, you have to be looking at a much shorter time horizon.

If you're going to base your risk assessment on current market conditions and revenue opportunities associated with local circuit switching, it needs to be a shorter time horizon.

Q Could you elaborate each time? Like the constant price consumption, could you elaborate why that needs to be shorter?

A Well, and I --

Q And do so with the risk assessment as well.

A Sure. And I put some of this in my rebuttal testimony. I mean, if you look at, you know, the ten-year period after divestiture, what happened to, you know, interLATA rates for toll, you find not constant prices.

You find a price decrease of over 5 percent per year. It wouldn't be reasonable to base, you know, this kind of analysis over this time period on the assumption of constant toll pricing, you know, now going forward because even beyond the first ten years

after divestiture, we've seen significant decreases.

In terms of the discount rate, there are several factors that go into that in terms of a net present value business case. You know, obviously the status of the capital markets and the conditions in the capital markets drive that in part.

The overall riskiness of the firm, itself, drives that in part, and then the specific riskiness of the individual project drives that in part. They're all components that have to be considered. To go to a ten-year horizon, with a constant technology assumption, would require an adjustment to the risk.

To go with a ten-year horizon on a technology that has already begun to be replaced, would require a risk adjustment. I mean, all these things are interrelated that way.

Q Okay. And are these the only two inconsistencies that you state? I didn't mean to cut you off earlier.

A No. Those are the primary inconsistencies in terms of the time dimension. I mean, I would have to go through, you know, a complete input list to say, you know, yes or no in terms of what impact, on every input, the ten-year assumption has.

My primary concern with that has been that

they did not consider how that would be properly reflected in the discount rate and with the price levels over time.

Q Okay. Could you now turn to page 37 of your rebuttal?

A Yes, sir.

Q In particular, lines 15 through 17. You state that BellSouth's treatment of service quality assumptions suffer from limitations of the BASC model and use of unreasonable assumptions.

My question is, first, what unreasonable assumptions, and, two, how did the service quality assumption suffer from limitations by the BASC model?

A I'm sorry. We're talking service quantity. I couldn't hear you.

Q Yes, quantity. Sorry.

A Right. Yeah. There are two -- there are two fundamental problems with the quantity. Well, I guess there's three. The first is the assumption of a growing market for wire line services over a ten-year period which seems completely at odds with current industry experience.

The second is the market share assumption for CLECs which has a terminal value of 15 percent per CLEC based on, as I understand it, Dr. Aron's observation

that, at least in a few BellSouth wire centers, CLECs, in the aggregate, have a 15 percent share. That, of course, is with UNE-P availability.

Then the third is the customer segmentation process that BellSouth uses. To go through and assume quantities of customers and customer types that would be acquired by CLECs that drive their revenue assumptions, and there's a problem there in terms of the segmentation because it ignores their failure to go to wire center disaggregation as I described before.

It, also, I believe is at odds with the conclusion in the TRO that we need to be looking at the characteristics of typical mass market customers, not highly desirable mass market customers.

Q Give me a second, please. Following along on your rebuttal testimony --

A Yes, sir.

Q -- on the next page, page 38, lines 6 through 7, could you please explain why you believe the assumption that high revenue equals high demand is flawed as it relates to the BASC model?

A Yes. And this goes back to the customer segmentation by spending quintile and back to the failure to disaggregate at the wire center level issues. What BellSouth does, as I understand it, is that they

create at the state level, at least based on Mr. Stegman's testimony -- you know, I can't confirm this, in terms of what's in the BASC model, because this was done in the development of the tables themselves.

It doesn't happen in the model, but what they say they have done is they've looked, at a statewide level, these customer revenues and have divided customers up into these five what they call spend zones based on -- purely on revenues.

Now, the problem is that some customers spend more money because they're buying a lot of service, different services, and some customers spend more money, at least in part, because they happen to be served out of a BellSouth wire center that has higher rates than other wire centers.

When you look at BellSouth's rate structure, you find that the high rate areas are, in fact, the low cost areas and, therefore, the rates that are least likely to be sustained over a ten-year period; so what BellSouth has constructed here is this assumption that all customers who have -- who spend in the top 20 percent, do so because they are those who are purchasing the greatest demand or greatest quantity of service.

That's just factually incorrect in terms of

the way they've done this. There are quite a few customers, in that high spend category, who are they purely because they are in a high-price, low-cost wire center rather than because they have a high demand; so high revenue does not equal high demand even though that's an implicit assumption in their model.

Now, because those high revenue customers that are high revenue because they're in a high-price area are the ones that are least likely to remain to be high revenue over the ten-year period. What BellSouth has done is they've attributed much too high a revenue assumption to the CLEC by allocating a larger number of those first quintiles and second quintile customers to the CLEC.

Of course, I believe that's still at odds with the TRO to reflect average mass market characteristics.

Q Continuing along on page 38 of your rebuttal, could you please elaborate on why you believe the assumption that CLECs are more likely to capture customers with higher than average demand for service quantities causes entry to appear economic when it is not?

A I'm sorry. I was looking further down the page. Give me a second.

Q Okay.

A Yes. It's an extension of the previous answer. If BellSouth has assigned -- and that's, in fact, what their model does, is they assign customers to themselves and to the CLEC based on customer characteristics.

They assume that the customers that will go to the CLEC are those with the higher revenues, and implicitly that those customers are, also, the higher demand, and therefore, they will continue to be high-revenue customers throughout the ten-year period.

If they're high-revenue customers for a reason other than being high demand, which is likely to be the case since BellSouth did this at a statewide level and then parceled them out among wire centers, you're going to have -- what BellSouth has done is they've assumed the customers that go to the CLEC have much higher demands than they actually do because they've assumed that based on revenue.

If they're wrong -- and they almost certainly are -- then they've assumed a higher level of spending over time from those customers and revenue available to the CLEC than actually will exist. If you overstate revenue over time, you create a situation where it appears that -- you've got an artificial answer that

suggests that entry is economic.

You know, whether entry is economic is based on revenues that will likely be available, and if there's a situation where we know that phantom revenues are generated and assumed at the very beginning, that's going to distort the results.

Q Okay. Well, in your rebuttal, you, also, state that BellSouth's assumption of 15 percent market share for all market segments for all CLECs is unreasonable. What assumptions do you believe would be reasonable?

A I'm not -- again, that's -- I'm really not trying to take on BellSouth's burden. This is their demonstration to make.

Q Let me rephrase that then. Your assumption of 15 percent market share for all segments for all CLECs is unreasonable. Why is it unreasonable then?

A Well, for two reasons. First of all, as I understand the basis which is Dr. Aron's testimony, her observation that there are, I believe, 13 or 17 wire centers in Florida BellSouth wire centers where CLECs in the aggregate have more than 15 percent market share, and then she -- I guess the word would be leaps to a conclusion that it's reasonable that individual CLECs will have 15 percent.

The second problem, as I put in my rebuttal, when you compare that to Ms. Tipton's claim about the number of CLECs in the market, if you attribute each one of those CLEC's 15 percent market share, you have way more than 100 percent of the market accounted for.

Even if you were to cut that number in half, you create situations where BellSouth -- BellSouth is assuming, in its model, that it's going to be completely eliminated from the market in a ten-year period which appears on its face not to be reasonable, nor do I believe that that's really BellSouth's expectation.

Q Well, to your knowledge, what is the market share that a single CLEC has achieved anywhere in BellSouth's nine-state territory?

A In what sort of geographic area?

Q Let me restate the question.

A Yes, sir.

Q What is the maximum market share that CLECs, in the aggregate, have achieved in BellSouth's territory -- to your knowledge, anywhere in BellSouth's nine-state territory?

A CLECs, in the aggregate, I don't know. In terms of individual wire centers, I've seen a 15 to 20 percent share for CLECs, I believe, but the problem

there is that's, Number 1, based on UNE-P availability, and, Number 2, BellSouth's market definition is broader than an individual wire center.

They assume that the potential demand of this broader market is there and would apply to the same market share, and there's no at all basis for that.

Q Was that 15 to 20 percent in Florida?

A I will have to look. I simply don't remember.

Q Okay.

A That's the only thing that I've seen that was on a wire center basis.

Q Referring once again to your rebuttal testimony, in particular, you can reference page 45, lines 11 and 12.

A Yes, sir.

Q Can market share assumptions be adjusted in a way that is specific to individual wire centers, and if so, how?

A No. They can't.

Q Why is that?

A Because the BellSouth price quantity tables are not set forth at the individual wire center level. They preprocess that step away from us, and we can't get back to this required level of disaggregation in the model.

Q Well, changing gears a little bit. Does AT&T currently serve any enterprise customers in Florida using its own switches.

A I don't know.

Q Do you believe AT&T could serve any enterprise customers in Florida using its own switches?

A I really haven't looked at it. I haven't been asked to do that analysis at all.

Q Then would you know if AT&T provides analog voice grade services to any customers in Florida using its own switches?

A Oh, using its own switches?

Q Yes.

A I don't know. It's my understanding that they're providing primarily UNE-P or UNE-P based service.

Q Do you know what witness from AT&T did this analysis, or who would know this?

MR. HENRY: Jeremy, this is Mickey. I'm sorry. What analysis are you talking about?

MR. SUSAC: I just want to know if AT&T provides analog voice grade service to any customers in Florida using its own switches, and, also, the same question as applies to enterprise customers.

MR. HENRY: Yean. I think you need to ask Jay Bradbury.

MR. SUSAC: Bradbury, okay. Well, that concludes staff's questions for Mr. Wood. Would you like to do a redirect real quick, Mickey?

MR. HENRY: No.

MR. SUSAC: We can take questions from the next party on the line. Going alphabetically, let's just go to BellSouth.

MR. SHORE: Are there questions from anybody else? It seems to me maybe it's most fair to -- everybody else on the line, except for BellSouth and Verizon, are on the same side of this case generally as AT&T.

It seems to me, Jeremy, it might be appropriate to have those folks ask their questions so that we get a chance to follow up.

MR. SUSAC: All right.

MS. McNULTY: MCI has no questions.

MS. MASTERTON: Sprint has no questions.

MR. SHORE: All right. I guess it's my turn then.

MR. HENRY: I'm sorry. Who's this?

MR. SHORE: Andrew Shore at BellSouth.

MR. HENRY: Okay, Andrew.

CROSS-EXAMINATION

BY MR. SHORE:

Q Do you have any corrections to your testimony?

A Yes. In the rebuttal, I've got a reference -- I had a tab in the page, and I lost it. Hang on. I've got a date reference that I believe is incorrect. Page 34, line 14.

Q Okay.

A Obviously the divestiture took effect January 1, 1984, not 1994.

Q Okay. Anything else?

A I don't believe so.

Q Have you done any further analysis with respect to any of the issues in this case since the time you filed your testimony?

A Not since I filed the surrebuttal. No, sir.

Q Do you plan on doing any prior to the hearing?

A Well, we're continuing in our analysis as we go from state to state, and obviously, you know, that has to continue because the analysis is state specific, but that's what we have planned currently.

Q You don't plan any additional Florida specific analysis?

A Not at this time, although, you know, if something manifests itself through our analysis of the

other states, we might very well go back and take a fresh look at Florida.

Q Right. I understand. When I ask you, you know, if you plan, I know you can only tell me what you plan at this time, so I understand that.

Is there anybody else there with you other than Mickey?

A No.

Q What do you have in front of you right now?

A I have my testimony. I have BellSouth's testimony, and my exhibits, and I think that's it.

Q Do you have a copy of the TRO?

A No, I don't.

Q Does Mickey have a copy there with him?

MR. HENRY: No. Do you want us to get one, Andrew?

MR. SHORE: Well, I don't know. Is there one there in the offices in case we come to that? We can take a break to go get it, Mickey. I don't want to send you on a scavenger hunt if it's unnecessary though.

MR. HENRY: We can find it if you need it.

THE WITNESS: Yeah. If you need it, there's certainly one here I can get. I don't have it here in the conference room with me.

MR. SHORE: Let's see by the time we get to a break. If we don't need it before we get to a break, maybe if you-all can just hunt it down at the first break, it probably would be most efficient. I know it's Saturday, and I don't want to be the cause of any unnecessary slow-down here.

BY MR. SHORE:

Q Mr. Wood, list all the things that you are relying on for the opinions that you've expressed in your prefiled testimony in this case.

A Well, let's see, the triennial review order; the testimony of BellSouth witnesses; my review of the BASC model; obviously, my educational background and my experience in the industry; and then, obviously, I think in the date corrections we made, I know we pulled some FCC published information.

I relied on the BellSouth GSST for Florida, BellSouth's earnings reports and annual reports. That's all I can think of off the top of my head.

Q My question was -- and I think you just answered it -- have you relied on any other types of documents, and I guess the answer is no.

A Not that I can recall. I mean, if you've got a specific reference, and you want to ask me whether I relied on it, I can do that, but just sitting here

trying to remember --

Q Have you reviewed the testimony of all the parties in this case?

A I have tried to do so. I don't know that I've reviewed all the testimony of all the witnesses.

Q And did you rely, in any way, in your testimony on the testimony of any AT&T witnesses?

A I don't think I've relied on any. I know I have a reference to Mr. Turner and Mr. Bradbury in terms of simply explaining what it is that -- what topics they're going to be covering in their testimony.

Q Other than that, no reliance?

A I can't recall any thing that -- any basis in my analysis that comes from another AT&T witness.

Q Have you relied in formulating your opinions, in this case, on any discovery produced by any party, and if so, tell me what that is.

A I have reviewed some discovery responses, but I don't believe that those responses, themselves, represent the basis for any of my opinions.

Q Okay.

A And again, that's subject to recall as I sit here.

Q Is it fair to say -- your direct testimony was pretty short, but with respect to your rebuttal and your

surrebuttal, is it fair to say that the majority of that is dedicated to rebutting or attempting to rebut the testimony of Dr. Aron?

A Well, I refer quite a bit to Mr. Stegman because he's the one who sets out the BASC documentation, and obviously I provide rebuttal, also, to Dr. Billingsley.

Q Is it fair to say that the majority of your rebuttal is attempting to rebut Dr. Aron?

A I suspect she may get more pages than everyone else. Whether her total pages are the majority compared to everybody else's combined, I don't know.

Q Did I hear you say correctly, in response to staff's questions, that you're not challenging the BASC model, that your testimony focuses on inputs?

A No. That's not quite right. I'm not challenging or representing, one way or the other, whether the underlying code is valid or invalid. I certainly am challenging the structure of the model in terms of the aggregation of the inputs, and then I am, also, challenging input assumptions.

Q Well, I guess I haven't counted the pages, so I don't want to quibble about who gets the majority and who gets how many pages. Maybe, for now, can we agree that you spent a significant amount of time, would you

agree with that, in your testimony attempting to rebut Dr. Aron?

A Sure.

Q What is your financial arrangement with AT&T regarding work in this case?

A I'm billing them on an hourly basis.

Q What rate are you billing them?

A $275.

Q Are there other folks, in your firm, that are working on this case?

A Yes, there are.

Q Can you tell me who they are?

A Jennifer Taylor and Eric Risberg.

Q R-I-S --

A R-I-S-B-E-R-G.

Q What rates are you billing them out at?

A I believe $115 in this case.

Q What are their roles?

A They have assisted with document review and have assisted with runs of the BASC model.

Q Have you personally run the BASC model?

A Yes.

Q How much have you charged AT&T? How much has Wood and Wood charged AT&T so far in connection with the work on the TRO cases?

A I don't know.

Q How many partners are there at Wood and Wood?

A Two.

Q You and your wife?

A That's correct.

Q Who does the books?

A She does.

Q Do you have any idea of the range to the extent you have charged AT&T?

A I genuinely don't. That's purely her department.

Q You don't know one way or the other?

A No. I don't. I married a CPA for a reason.

Q How much of your time, over the last three months, have you spent, of your work time, devoted to work on the TRO cases for AT&T?

A For AT&T, probably 40 percent, I would guess, but that's a pure guess.

Q Are you working in connection on TRO cases for any other parties?

A Yes.

Q Who are they and where?

A In Texas, I am working for a CLEC coalition, and I would have to get you the names of the members of that coalition. I don't know what the list is.

Q Is AT&T a member of the coalition?
A I don't believe they are.
Q Do you have any agreement with AT&T to cap your fees in this case?
A No.
Q Have you seen any plans, any AT&T business plans, that enter the local markets in Florida?
A No.
Q At any time? Have you asked AT&T if they had such business plans?
A No.
Q Then I take it then you haven't asked AT&T to provide them to you?
A No.
Q Have you seen any AT&T business plans enter in the local market anywhere in the BellSouth region?
A No.
Q Have you seen any other CLEC's business plan with respect to entering the local market anywhere in the BellSouth region?
A No.
Q You've represented other CLECs over the course of the last several years, haven't you?
A Yes.
Q Have you ever asked another CLEC to see their

business plan with respect to entering in the market in the BellSouth region?

A No. That's never been a part of the scope of my engagement with any of those companies.

Q Have you ever assisted anyone in formulating a business plan in connection with a CLEC's entry into the local market in the BellSouth region?

A Within the region, yes. Within BellSouth's territory, no.

Q Well, tell me about in the region.

A In the region, I've assisted some small CLECs with potential market entry and plans in rural ILEC areas.

Q Which CLECs would those be?

A I would have to get you a list, Mr. Shore. It was primarily areas in North and South Carolina, and I would have to get you a name of -- a list of the entities. I was dealing with people really rather than companies.

Q When did you perform that work?

A We were involved off and on in that from, I guess, about 1999 through 2001 into 2002 when we reached the point where the availability of capital had essentially gone to zero.

Q Did any of the CLECs that you were working

with, in fact, go ahead with business plans to enter local markets in the areas you've identified?

A At least one of them did in a more limited scope because it was subject to the capital availability at the time.

Q Who was that?

A It's a company that entered the market in Hilton Head. I will have to get you the name of the entity.

Q Can you provide that -- we'd ask that the list that you mentioned a moment ago of any entity that you've assisted in this fashion -- and this one I assume will be included -- be provided as a late-filed deposition exhibit?

A Yes. We'll try and prepare that for you.

(Late-filed Exhibit Number 1 was marked for identification.)

MR. SUSAC: This is the Commission. Can we go off the record real quick?

MR. SHORE: It's okay with me.

MR. SUSAC: Okay.

(Off-the-record discussion.)

MR. HENRY: Excuse me, Jeremy. Is BellSouth objecting to providing late-filed exhibits?

MR. SHORE: I had objected to producing

documents requested by Sprint at the deposition of Dr. Aron under very different circumstances than are present here.

MR. SUSAC: Okay. That's fair enough. We'll discuss that later.

MS. MASTERTON: Yeah. I would like to be involved in that discussion.

MR. SUSAC: Certainly, Susan, since that concerns you. Thanks. I'm sorry to break your rhythm. Let's resume.

BY MR. SHORE:

Q Did those business plans that you worked on, Don, did those involve providing service with a CLEC's own switch?

A No. They did not.

Q Have you ever been involved in formulating or analyzing a CLEC's business plan that involved providing service with the CLEC's own switch?

A No.

Q Have you ever been involved in formulating or analyzing a CLEC's business plan that involved buying wholesale switching, not UNE-P, but just a wholesale switching component from another provider?

A No. I've never been aware of any availability of wholesale switching.

Q I'm not including because I don't think it ought to be properly included, but for purposes of my next question or two, I'm not including testimony that you may have filed in some regulatory proceeding, so not including that, have you ever published any articles on economics in any economic journal or anywhere else?

A No.

Q Have you ever taught any economic courses?

MR. HENRY: Other than teaching Mickey.

THE WITNESS: Perhaps. Well, I will let him make his objection about assuming facts not in evidence, but I have a course that was taught through the finance department, but it was a business and government related course that had an economic component to it.

BY MR. SHORE:

Q What course did you teach?

A I think it was called business and government.

Q Where was that?

A William and Mary.

Q When was that?

A 1986.

Q Who was that taught to? Was it an undergraduate course?

A Yes.

Q Were you a member of the faculty of William and Mary?

A No. I was a graduate assistant.

Q Have you taught any other courses at any university or college?

A Yes.

Q List those for me.

A I taught undergraduate finance courses at William and Mary.

Q When was that?

A 1986 and 1987.

Q And that was, also, while you were in graduate school?

A Yes.

Q Anything else?

A No.

Q Have you ever published anything other than -- I'm not including prefiled testimony, of course. Have you ever published any finance papers?

A Finance papers?

Q Have you ever published, in any journal, addressing any finance issues?

A No. Well -- I'm sorry, Mr. Shore. I believe my name is on an agricultural lending paper as a joint author.

Q Where was that paper published?

A It may have been -- I believe it was the ABA Journal, but I would have to go back and look at that. That's been a while.

Q When was that?

A That would have been 1985.

Q When did you graduate from William and Mary?

A 1987.

Q When did you graduate from Emory?

A 1985.

Q When did you work for BellSouth?

A Immediately after graduate school through, I believe, spring of 1989.

Q So a little less than two years?

A That's right.

Q What was your job or jobs while you were at BellSouth?

A I performed service cost studies in the service cost department.

Q What was the highest level in the company that you attained? Were you a manager or a director?

A I think it was like -- I think we were staff managers.

Q What did you do when you left BellSouth in the spring of '89.

A I went to work for MCI.

Q What were your jobs with MCI?

A I was an analyst in the regulatory department.

Q What jobs did you do there?

A Well, I analyzed ILEC cost studies; analyzed IXC tariff filings; presented testimony in state regulatory proceedings; and contributed to comments filed with the FCC.

Q When did you leave MCI?

A I believe it was 1992.

Q What did you do then?

A I went to work for GDS Associates, Inc.

Q And what was your job there? What were your job duties?

A I was a project manager, and I was there to start up the telecom consulting group.

Q So essentially is it fair to say you have been engaged in telecom consulting since you left MCI in 1992?

A Yes.

Q Let me focus back to your work when you were at BellSouth. I think you said it was as a staff manager in the cost department. In that role, were you involved in developing regulatory policy?

A I was not developing policy. I was developing

cost support for BellSouth's tariff pricing.

Q When you worked at BellSouth, did your duties include developing business strategy?

A No.

Q When you were at MCI, did your job duties include developing business strategy?

A It involved market entry strategy with regard to the regulatory component and service approvals, but only to that degree.

Q Have you ever presented any testimony wherein you calculated the cost of capital for any telecommunications --

A Yes.

Q Where?

A Let's see, I know we're preparing this as a supplemental request response.

Q When do you-all intend to provide that supplemental response?

MR. HENRY: Andrew, I think we're going to provide that on Monday.

MR. SHORE: Okay. Well, we don't need to go through it now. I won't waste time.

MR. HENRY: Okay. That's been fairly time consuming, but I believe we have it, and we will have it for you on Monday.

MR. SHORE: Thank you.

BY MR. SHORE:

Q Has any regulatory body, any state commission, or other regulatory body ever accepted your recommended cost of capital?

A With no adjustment at all?

Q Yes, sir.

A I believe the only time that analysis was accepted would have been in federal court in South Carolina.

Q Has any regulatory body ever accepted it in total?

A No. I don't think I've ever seen a regulatory body accept anybody's proposal with no adjustment, mine included.

Q What cost of capital -- what were the circumstances in the federal court case you just referred to? Whose cost of capital were you estimating?

A Time Warner Cable.

Q In connection with what services, or was it Time Warner Cable as an overall entity?

A Well, it was with the specific operation associated with providing retail residential services.

Q Cable service or telecommunication service? That may be a loaded question, and I'm not asking it for

that reason, but what types of service?

A Cable television service.

Q Cable television, okay.

A Yes.

Q Not telephone or telephony service?

A No.

Q In responding to Mr. Susac's questions -- and he asked you if you had performed any tests regarding the BASC model -- you said, we did. Does we include the other folks in your firm that you mentioned earlier who were working on this case?

A Yes. All the runs have been either done by me personally or, under my direct supervision, by one of the two employees that I named.

Q What sensitivity analysis have you done regarding the BASC model?

A We have performed a sensitivity on price decreases, cost of capital, and CLEC market share, have been the things we've primarily focused on.

Q Why have you focused on those?

A Because those were -- when reviewing the BellSouth testimony, those that were, I guess, most suspect or least well supported, and, also, things that, in this kind of analysis, would be likely to have a fairly significant impact on the results.

Q So they were big drivers, in other words?

A They would tend to be big drivers, and based on the results of our analysis, they are big drivers.

Q Do you have that analysis?

A Yes. That's attached to my surrebuttal testimony.

Q Do you have any analysis other than what's attached to your surrebuttal testimony?

A There is the analysis which supports the calculation in my rebuttal, but I think that's all that we've prepared.

MR. SHORE: Mickey, I think that was one of the items that you-all were going to supplement. Are you planning on providing anything that you haven't provided so far?

MR. HENRY: I thought that we provided that Andrew this week where I think you had asked for all the runs that we had done.

MR. SHORE: Right.

THE WITNESS: Yeah. I think you asked for the log files. Yeah. We produced that already.

MR. HENRY: Right.

MR. SHORE: Okay. That came in this week?

MR. HENRY: It should have, yes.

BY MR. SHORE:

Q Mr. Wood, do we now have everything that you have to support your sensitivity analysis or that reflect your sensitivity analyses?

A I believe the answer is yes.

Q Other than as reflected in your prefiled testimony in Florida, did you reach any conclusions regarding the sensitivity analysis you just mentioned?

A I don't think so. I think my conclusions are those that I've reported in my testimony.

Q You talked about, in response to staff's questions, that, in your opinion, there was a fundamental flaw in the way the BASC model aggregates revenue information.

A Yes, sir.

Q Can you cite me, in the prefiled testimony, as to where those opinions and the basis for them are set forth?

A Sure. Rebuttal testimony, beginning on page 24, discusses the larger issue, price changes over time, and then page 25, starting on line 4, begins with the discussion of the required level of disaggregation of prices.

It carries onto 26, responding to Mr. Stegman's assertion that these rates can be

calculated or changed at the wire center level in the model, which is incorrect, and then there are subsequent references to this concern when I talk about the ten-year time horizon and the likelihood that price cost relationship at the wire center level would have an impact.

Starting on page 29, I refer to Mr. Stegman's claim of the level of granular analysis necessary that would -- that would, first, be necessary, and then, second, that he believes that the user of the BASC model has under its control, which I believe is incorrect.

Then when we start the section on page 30, in terms of customer segmentation and the segmentation by quintile, then we return back to this issue of wire center level revenue and its impact on revenue levels and, therefore, meaningful customer segmentation.

It carries through on Dr. Aron's allegation of creamskimming starting on page 32. A discussion on page 33, lines 1 through 17, about that impact. Then starting on page 37, in terms of service quantity, and I know there's a discussion of churn at 43 and 44 that is, also, impacted by this issue.

That's all I have marked. There may be others. This is -- it's an issue that actually

underlies quite a few other issues.

Q Quite a few of the inputs in the model? Do I understand that correctly?

A I'm sorry. I'm not sure I understood your question.

Q Is it your testimony, or is it your opinion that the aggregation issue that you've identified impacts several of the inputs or some of the inputs in the BASC model?

A Yes, it does.

Q And you've identified those. I need to get it clear on this time horizon issue because, I think, your testimony, in response to staff's questions, at least confused me more than it helped me. I'm sure that's my fault and not anyone else's.

Is it your opinion that using a ten-year time horizon in the BASC model is incorrect, flatly incorrect, regardless of inputs used?

A No. It's possible. It's certainly not -- I don't think it's the most prudent choice if I were performing this analysis from scratch, but it's possible to do this on a ten-year horizon, but you would have to reflect the changes in price and cost, and you would, also, have to reflect the uncertainty that's inherent in those projections as you get out into the later years in

the ten-year horizon.

Q You can reflect those changes in price and cost and riskiness with inputs into the BASC model; is that so?

A Well, subject to the caveat that the level of aggregation of the revenues makes that impossible. I mean, you could do it in this kind of model. I'm not saying that it's the ten years that's the problem. There are two problems in the BASC that prevent you from really working with this.

One is the ten years is locked in place, and the second is that you can't reflect, at the proper level of granularity or the necessary level, how prices are going to change over that ten-year period. It's not simply a question of taking the model as structured and changing some inputs in order to fix this.

Q Is it your opinion that the BASC model is unreliable or should not be used by the Commission no matter what inputs are used in the model for the purposes that BellSouth has filed in this case?

A Yes.

Q You said if you started from scratch you wouldn't use ten years. What would you use?

A I would look extensively at the likelihood of changes in technology and then build my assumptions

around that.

Q Have you done that?

A I have not done that.

Q You don't have an answer as to what the appropriate amount of time you would use?

A No. I'm not making a proposal on inputs. I'm simply reviewing BellSouth's analysis.

Q A ten-year time horizon, that's not an input, is it?

A Well, in this case -- normally, it would be. In this case, it's locked in place, so it couldn't be really regarded as an input.

Q Other than your opinion that ten years is inappropriate because technology is likely to change, is there any other basis for a conclusion that ten years would be an incorrect time horizon to use?

A Well, again, let me try to explain this again. It's not an absolute correct or incorrect on any individual variable. I would not have chosen ten years because I think it's very difficult to have a projection of revenue and cost over that period that is reliable enough to keep the risk assumptions under control.

Q What would you have chosen?

A Same response I gave you the last time you asked me that question.

Q You don't know?

A No. I would have looked at --

Q No. What number would you have chosen? That was my question.

A I don't have a number to propose to you. What I'm saying is that anyone individual number is not inherently correct or incorrect in this type of analysis, but it has to be consistent with the assumptions for the other inputs.

Q When you worked on the business plan for the small CLECs or for CLECs that you talked about earlier in North and South Carolina, what time horizon did you use in those business plans?

A Five years.

Q Excuse me?

A Five years.

Q How did you compute the terminal value, in those cases, at the end of the five-year period?

A The terminal value would have been the -- it would have been one of two choices. It would have been a continued operation under current circumstances, or it would have been the sale of the assets.

Q In the time that you participated, did you analyze under both scenarios or one or the other?

A Both.

Q Is one more conservative than the other?

A No.

Q Now, in talking about this aggregation issue and the prices that are not reflected at the wire center level, is the only price that changes by wire center the cost of basic local service, or are there others?

I'm asking with respect to BellSouth's retail offerings in Florida.

A Well, the one that I've looked at is the basic local service.

Q Are there any others that you're aware of?

A I'm not aware of others. I believe your features costs are the same.

Q Have you done any analysis with BASC model runs to see how using prices not in the wire center level, but in the quintile, as BellSouth has done it, or in the segmentation, as BellSouth has done it, affects ultimate determination of net present value in any particular market?

A No. Can't do that analysis with the BASC as it's constructed. I can't compare two things if I can only do one of them.

Q Do you know for a fact or can you swear in this proceeding that BellSouth, as you've testified or you've opined, has too high of a revenue calculation

because of the aggregation issue that you've testified about?

MR. HENRY: Andrew, would you restate that question, please?

MR. SHORE: Did you understand the question? I'm going to have the court reporter read it back if I can.

(Requested portion read.)

MR. HENRY: Andrew, I think you need to restate it.

BY MR. SHORE:

Q Mr. Wood, did you understand my question?

A I'm not sure I did. I'm looking actually more puzzled than Mr. Henry is at this point.

Q You said in your prefiled testimony and in response to staff questions that BellSouth, for the model CLEC modeled in the BASC model, the revenue amount model is too high, and you opined that one reason for that is because BellSouth does not aggregate prices per the wire center level. Did I get that right?

A Sort of. It's that they disaggregate to the wire center level. The problem is not that they've aggregated -- I mean, the problem isn't that they've disaggregated. The problem is that they've aggregated too much.

Q Can you swear in this proceeding that the manner in which BellSouth has aggregated does, in fact, 'cause revenues to be overstated for that reason alone?

A You have my sworn testimony, both on paper and today, that the way that BellSouth has treated this will end result in excessive revenue attributions to CLECs over a ten-year period. I've sworn to that. I can't swear that it has done it because we're talking about something that's prospective.

Q Well, certainly in the model time period we're talking about. On what level has it done that?

A I'm not sure what you mean.

Q Well, by what percentage has it done that?

A Well, we don't know because the model -- because it's improperly constructed, it won't let you run this on a wire center basis. I would like very much to run a wire center disaggregation and compare it to your market definition aggregation in order to describe exactly what you're asking for.

The fundamental flaw in the model is that it doesn't permit that analysis to be done.

Q I take it then you're not in a position to say, one way or the other, what percentage revenues have you overstated as a result of not disaggregating by wire center? Is that fair to say?

A It's fair to say that your model doesn't permit that calculation to be done.

Q Is it fair to say that you're not in a position to state, for whatever the reason, whether the model doesn't allow it or otherwise, that you're not in a position to state how much prices you say are -- in revenue, ultimately are overstated as a result of not disaggregating at the wire center level?

If you can, answer that, per Commissioner Davidson's instructions, with a yes or no, and then give me an explanation you think is necessary.

MR. HENRY: I'm going to object. I think this has been asked and answered.

BY MR. SHORE:

Q Okay. The question is pending, Mr. Wood.

A I'm sorry. There's way too many compound pieces to that question for it to be a yes or no. I can try to respond to it the best I can. That is, if your model doesn't permit the necessary analysis, no one can possibly be in a position to tell you the impact of that error.

Q And you can't tell the Commission, in this case, the impact of that error if it does exist, correct?

A That's correct.

Q Thank you. Is it your opinion that the number of efficient CLECs operating in the market would be the same as the number of CLECs operating in any particular market today?

A No.

Q Is it your opinion that there would be fewer CLECs operating in the market if each CLEC were efficient, or would there be more?

A I don't know.

Q But your opinion is it would not be the same number?

A No. My opinion is -- I don't think you asked me that. I think you asked me if I knew it would be the same, and I don't know that it will be the same.

Q You have no opinion, one way or the other, of whether it would be the same, more, or less?

MR. HENRY: You're asking whether he has an opinion, Andrew?

MR. SHORE: Yes.

THE WITNESS: Yes. I have an opinion.

BY MR. SHORE:

Q What is your opinion?

A My opinion is that it's likely that the shake-out in the industry that has taken place over the last few years has left in place a base of CLECs that

are probably efficient, and current levels are probably a pretty good proxy of what the sustainable number of entrants into the market is at the current set of circumstances which is UNE-P availability.

Q Is it your opinion that each of the CLECs offering local service in Florida today is an efficient firm?

A It's my opinion that, given the shake-out, what we're likely to have left over are efficient firms. I haven't analyzed each one to see if they are.

Q Have you analyzed any?

A No.

Q What's the basis for the opinion you just gave?

A That I haven't analyzed any?

Q No. The opinion you gave, not the answer to my follow-up question. Do you remember the opinion? It's that it would likely be the same given how things have shaken out.

A Yes.

Q What's the basis for that opinion?

A The basis for that opinion is that the -- that competitive market forces and capital market forces are reasonably efficient, and they would have, on all levels equal, squeezed out the inefficient firms, or the firms

that chose an incorrect market entry strategy such as self-deployment.

Q If UNE-P and TELRIC prices was no longer available -- assume that in a particular market -- do you have an opinion as to whether the number of efficient firms that would then offer local service using their own switch would be the same, fewer, or greater than the number of firms that would offer UNE-P based service in that market?

A Yes.

Q What's your opinion?

A My opinion is that it would be less and likely zero.

Q Is it your opinion that CLECs are impaired in every market in Florida currently in BellSouth's service territory?

A Impaired?

Q Impaired as that term is used in the TRO.

A Without regard to what?

Q Switching to serve the local mass market customers.

A It's my position that BellSouth evidence on triggers, as I understand Mr. Gaillan's testimony, does not show impairment -- or lack of impairment.

Q Do you have a personnel opinion?

A Well, my personal opinion, based on the results that I've been able to obtain from the BASC model, is that impairment exists in all the markets.

Q Do you have an opinion that that's how BellSouth defines the market?

A Actually my response doesn't depend on that.

Q So your opinion is that CLECs would be impaired serving mass market customers without unbundled switching anywhere in BellSouth's territory in Florida no matter how you define the market?

A I'm sorry. Now you've changed the question. No matter how you define the market? I don't know the answer to that. In terms of how BellSouth has defined the market, the answer is yes. I think your model very clearly shows that.

Q Well, I guess there's no need to come to Florida in two weeks then.

MR. HENRY: Are you offering to confess judgment, Andrew?

MR. SHORE: Yes. Of course not, Mickey.

THE WITNESS: Can we take a five-minute break?

MR. SHORE: Same answer. Yes. I'd be happy to. For the record, I was kidding with Mickey. I hope that is evident and will be on paper. It was

my attempt at humor, feeble as it might have been, was.

BY MR. SHORE:

Q Is one of the things that you do in your practice is do you advise clients on regulatory policy?

A It's one of the things I do. Yes.

Q And does that regulatory policy include, in part, FCC orders and rules that are promulgated by the FCC?

A Well, I want to be clear. I'm certainly not giving them legal advice, but I do provide interpretations of those orders and rules. Yes.

Q I take it, from your prior answer or your qualification, is it your opinion that how those rules ought to be interpreted ultimately is a legal question?

A Well, I'm not sure how to answer that.

Q Just honestly would be fine.

A Mr. Shore, I have never given you anything but an honest answer. I mean, clearly there are legal issues associated with them. There are legal issues associated with the order that has gone to the DC Circuit Court, but I mean, as I understand the testimony of your witnesses and certainly my testimony is involved in interpreting how those rules ought to be applied.

Q Let me ask it this way. If there's a

disagreement, in your professional opinion from the work you do and advising your clients, if there's a disagreement between parties as to how an FCC rule or order ought to be interpreted, is it your opinion that ultimately that's a legal question, legal conclusion?

A I guess I don't have an opinion in that strict sense. Obviously, the issues set forth for this proceeding are related to the interpretation of those rules as are most. I mean, certainly all the UNE pricing proceedings have involved interpretations of those rules as rules. I think that's what we all do.

Q To answer my question, you don't have an opinion as to whether those are legal questions? When I say those, I mean if there's a conflict or if there's a disagreement about say how an FCC rule or order should be interpreted.

A It clearly can be a legal issue and has been a legal issue, but in the way these issues have been worked out at the state level, there's, also, been extensive testimony by your folks and by me and by others on nonlegal interpretation in terms of how those ought to be applied. I'm not sure how to answer that. I mean, that's why we have these cases.

Q Other than what we talked about earlier with the CLECs in the Carolinas, have you ever assisted an

investor or an potential investor in analyzing a CLEC business plan?

A Yes.

Q On how many occasions?

A I guess the right answer is three, two different companies and one of them on two different occasions.

Q Give me the details.

A I was asked by a venture capital company to review the business plan that had been provided to them, and I was one of several people on the review team, but I was specifically looking at whether the CLEC had adequately and properly considered regulatory issues in formulating that plan.

Q Who was the CLEC?

A I can't tell you that.

Q Why is that?

A Because my engagement with this venture capital firm required me to sign an agreement that I wouldn't divulge the name of the DC firm, the name of the potential CLEC, or any of the contents of the business plan.

Q What was the business plan generally?

A They were looking at a multistate market entry.

Q To provide what kinds of services?

A I mean, beyond voice and data telecommunications, I'm not sure what beyond that I can divulge to you.

Q I'm not trying to ask you these questions. I'm going to try to prevent a fight over whether or not you need to disclose that. I may be able to do that. I may not?

A I will give you the best answer I can, but I'm not going to violate that agreement.

Q How was that CLEC going to provide service? Let me ask it this way, was it going to deploy it's own switch?

A I can't respond to that, Mr. Shore.

Q Well, you don't tell us who it is. You haven't told us where it is. I don't see how that would reveal anything that would allow me to determine who this was and what the circumstances were or any financial thing about that CLEC.

I'm, also, bound not to disclose any confidential information for any other improper purpose.

MR. SHORE: AT&T can designate this as confidential per the terms of the order, Mickey, but I think he has to answer the question.

MR. HENRY: No. This is an agreement that he had with someone else, a prior engagement.

MR. SHORE: I understand that.

BY MR. SHORE:

Q Mr. Wood, do you rely on your experience in analyzing opportunities on behalf of investors in formulating your opinions in this case in any way?

A No.

Q Then I won't ask you about them. Would you agree with me generally that historically access charges have been a significant part of the cost of providing long distance service?

A Well, subject to trying to quantify generally historically significantly, I think the answer is yes.

Q Okay. Do you have your page 9 to your direct testimony?

A Okay.

Q Let me know when you get there.

A Yes.

Q At the top of the page, you're talking about backhaul cost, and you say the backhaul costs to a CLEC essentially result in an impairment that cannot be overcome.

Do you see that part of your testimony?

A Yes, I do.

Q Is it your opinion that CLECs are therefore impaired everywhere and always will be?

A It is my opinion that as long as there is impairment for DS-0 loops that create a necessity for backhaul, that that cost disadvantage creates impairment for local circuit switching; so in terms of current technology, the answer is yes.

In terms of always will be, I think that's a function of technology that will change eventually.

Q So your opinion, at this time, because of the cost associated with backhaul, CLECs are impaired everywhere. Did I get that right?

A I'm sorry, Mr. Shore. I think we need to tighten that up a little bit --

Q Okay.

A -- if you want a yes or no.

Q Well, I want a yes or no, but if you can't answer it yes or no, tell me why.

A I'm not sure what you mean by CLEC impaired everywhere.

Q Is there anyplace that a CLEC is not impaired as a result of this cost of backhaul that you talked about on page 9 in your testimony?

A For local circuit switching to serve mass market customers?

Q Yeah. You can assume that that's the case with respect to all my questions as to the issues in this case. If I've got a different qualification, I'll state those specifically, but with respect to all my questions, you can assume that.

A Well, if history is any guide, Mr. Shore, I think I'd better have you ask me the whole question rather than make any assumptions about your questions, but I think the answer is -- if we're talking about self-deployment of local circuit switching to enter a market to serve mass market customers, anywhere a cost disadvantage exists, such as this backhaul disadvantage, there will be impairment with regard to switching because impairment with regard to DS-0 loops and local circuit switching are linked in that way.

Q Do you agree with me that the potential deployment analysis that this Commission is charged with undertaking, or that it may undertake under the TRO, is to model the most efficient CLEC operating in the market as defined?

A No.

Q Why not? Who's it supposed to model?

A I'm sorry. Which question do you want me to answer?

Q You pick one, Mr. Wood.

MR. HENRY: No. No. No. You state the question, and he will answer it.

MR. SHORE: The question was why not. The court reporter can read it back.

THE WITNESS: There's two questions pending.

MR. HENRY: That's what I'm asking. Which question do you want him to answer?

MR. SHORE: I don't know. Let the court reporter read it back, and I'll let you know.

(Requested portion read.)

BY MR. SHORE:

Q Why not?

A Because the language in the order refers to an efficient CLEC standard. It doesn't have any reference to the most efficient CLEC operating in the area.

Q Is it your testimony that it is to model an efficient CLEC?

A It's my testimony that that's the language in the order.

Q Do you have an opinion as to whether or not an efficient CLEC using it's own switch would serve both enterprise and mass market customers?

A I have an opinion that technically it could.

Q Is that the end of your answer?

A Yes.

Q Let me restate the question then or repeat the question. Do you have an opinion about whether an efficient CLEC using its own switch would serve both enterprise and mass market customers?

A My opinion would have to depend on specific market factors for that market.

Q Such as?

A The mix of customers available; the ILEC prices in the market; the cost of backhaul; the cost of high capacity loops and transport in the area which would be driven by the geographic dispersions of customers.

It would take me a while to give you a complete list. There are a lot of things to look at.

Q Look at your rebuttal testimony on page 5, please.

A Page 5?

Q Yes, sir.

A Yes.

Q You say that you've encountered instances in which the model produces different results for otherwise identical runs.

A Yes.

Q Different users operating different computers obtained inconsistent results.

A Yes.

Q Tell me what the basis for that statement is.

A Our experience running the model.

Q What run did you do, at different times, that produced different results?

A The sensitivity analyses that we talked about, as we initially ran them, produced a different result, and I believe we have some E-mail back from BellSouth on that. I know we raised that issue.

Q Can you give me a specific? What sensitivity analysis?

A I believe the year-over-year price change all else held constant.

Q What was the difference?

A Well, the result was different.

Q And was that on the same computer or different computers?

A That was different computers. That is on line 10.

Q Right. You say both there. For otherwise identical lines and different users operating different computers, so I'm trying to figure out which that was. What price change did you make?

A I believe it was the 5.1 percent year over year. It may have been the 7 percent.

Q You testified earlier, I believe, that you've now produced to BellSouth this past week, I think it was, all the backups for all your sensitivity analysis and all the files. Did I understand that correctly?

A Yes. Everything we relied on in testimony.

Q Did you produce any documentary evidence, any computer files, or anything that would show us different model runs producing different results?

A I will have to check. I think the answer is no. These files are huge, and we haven't -- we don't have a place to store every run we've ever done.

Q Do you have any evidence that different identical model runs produce different results?

A My sworn testimony.

Q Other than that?

A No.

Q Is it your opinion that if a CLEC determines that it has a business case and the business case shows a positive NPV for -- well, just assume with me for a second that a CLEC does a business case, and it shows a positive NPV for entering a certain market with the CLEC deploying its own switch.

It, also, has a business case for using UNE-P in that same market, and it can make more money. It can make more profit using UNE-P rather than deploying

its own switch in that circumstance.

Is it your opinion that the CLEC would choose to use its own switch or not?

A No.

Q Is it your opinion the CLEC would provide service by UNE-P for that example?

A My answer was no in terms of whether it would or not, do I have an opinion, because there are a lot of factors, otherwise, that go into that. A higher NPV for a UNE-P analysis wouldn't necessarily drive the decision because of the reliance on the incumbent's network; any difficulties that may have been experienced in hot cuts; provisioning intervals; service quality; those sorts of things.

It would not be an analysis that would be conducted in isolation.

Q Let's assume that there are no significant operational barriers. Let's assume that the ILEC is providing nondiscriminatory access and meeting all requirements of law and all performances standards established by any applicable regulatory body.

In that circumstance, does that change your opinion, Mr. Wood, or do you have an opinion?

A Which one do you want me to answer?

Q Do you have an opinion? That's what I want

you to answer.

MR. HENRY: Does he have an opinion about what, Andrew?

MR. SHORE: If a business case for deploying a switch is NPV positive, but the CLEC can make more money utilizing UNE-P. Does he have an opinion as to whether the CLEC will deploy its own switch.

THE WITNESS: Yes. I have an opinion.

BY MR. SHORE:

Q What's your opinion?

A My opinion is that a rational CLEC management team and a rational investor would still consider nonfinancial variables in that decision. Full compliance by an ILEC with all applicable law and service standards still would not change the fact of the CLEC's reliance on the ILEC, the ILEC's network and to some degree, the ILEC's good will.

They would certainly continue, even in your hypothetical, to consider that in addition to the financial factors.

Q And in considering those issues with respect to BellSouth in Florida today, do you have an opinion as to whether or not a CLEC, in my example, would deploy its own switch in that hypothetical where doing so is

NPV positive, but it can make more money if it utilizes UNE-P.

A That would depend on the weight that the CLEC puts on the nonfinancial factors, and it would depend on the differential in the NPV's between the two scenarios.

Q Well, I'm asking you for your opinion, so you place the weight upon the nonfinancial factors that you, in your opinion, deem appropriate. Please answer the question based on that qualification.

A My opinion would depend on the differential between the net present values.

Q At what point does that change the analysis, or at what point does that change the answer, I guess is the question?

A Well, it depends on the scope of the operation; the size of the market; and I'm not sure what weight I put on nonfinancial factors would have any meaning in this discussion. It would purely be what the CLEC -- what weight the CLEC put on those factors.

Q I'm going to put you in the position of the CLEC's CEO as crazy as that may be in my hypothetical. Why don't we use Miami, Zone 1, as our market? It's a business case. It shows that a CLEC can deploy its own switch to serve mass market customers in Miami, Zone 1, for example.

It's NPV positive, but it can make more money utilizing UNE-P. What would your recommendation be taking into consideration nonfinancial factors that you mentioned as to whether or not that CLEC should deploy its own switch?

A My recommendation would be to consider the difference in the NPVs.

Q Now, at what point would your decision change? What would the difference in the NPV have to be?

A I don't know. It depends on the size of the market.

Q Well, Miami, Zone 1. Are you familiar with Miami?

A I'm familiar with Miami.

Q Let's assume that the differences is not large, that it's a relatively small difference like 10 percent.

MR. HENRY: I'm sorry, Andrew. Ten percent of what?

MR. SHORE: That the NPV difference between UNE-P and self-deployment, they're both positive, but there's a 10 percent difference.

BY MR. SHORE:

Q What would your opinion be, Mr. Wood?

A For what it's worth -- which I'm not sure is

anything -- my speculation if I were a CLEC CEO is that I would rather deploy my own switching and control my facilities and quality and intervals as much as possible, and that I would go -- I would choose a less optimal financial decision in order to be able to do that.

BY MR. SHORE:

Q How about at 5 percent difference where UNE-P produces a 5 percent more positive NPV?

A Same response. I'm not giving you an answer as to 5 or 10 percent. I'm telling you that if the NPV were close and I were a CLEC CEO, I'd rather have my own facilities and have that level of control.

Q How about if NPVs were identical?

A Well, if the NPVs were identical, it's a no-brainer. I'd rather have the control.

Q You would deploy your own switch?

A Yes.

Q Is it your opinion that in conducting an impairment analysis and determining whether CLECs are impaired without access to unbundled switching in serving the mass market, that the State Commission should focus on whether CLECs operate under a cost disadvantage, vis-a-vis the ILEC?

A Should they focus on that? Yes. I'm not

suggesting that's the entire equation, as the FCC says it's not, but it's certainly relevant, and the FCC is very clear that it is.

Q Is it your opinion that if a CLEC's costs of providing service are higher than the ILEC's, then the CLEC is impaired?

A No.

Q How many user changeable inputs are there in the BASC model?

A Well, I guess we need to be a little more precise. There are -- I can tell you the number of inputs that can be changed through the Wizard, and then there are a large number of table values that can be changed manually. I'm not sure how.

Q Have you reviewed all the inputs in the BASC model?

A I've looked at all the tables. I believe, if Mr. Stegman's documentation is correct, it would include all the inputs except for those used in the preprocessing.

Q Do you agree with any of the inputs he used in the BASC model?

A I'll try my previous answer again. The value of any given input and whether it's reasonable depends on other inputs. None of these are, in and of

themselves, reasonable or unreasonable in terms of how they compare except for things like the terminal market share value or the costs that I've described in my response to Dr. Aron's and Dr. Billingsley.

Everything else, I believe, consists of things that are interrelated.

Q And, in your opinion, cannot or should not be used individually. Did I understand you correctly?

A Well, if I understand your question correctly, the answer is yes. There are values that you can't, such as the ten-year assumption, that you can't view in isolation.

Q The ten-year assumption isn't an input in the model, is it? I thought that's how the model can't be changed, correct?

A Well, it's an assumption in the model. It's a very important assumption in the model. It happens to be one that can't be changed by the user, so technically it's not a user changeable input, but it's an input.

Q How many user changeable inputs are there in the BASC model? I thought that was my original question, and I'm sorry if I didn't ask it that way.

A I tried to give you an answer. I don't know how many total table values there are, and there are quite a few inputs that are changeable in the Wizard

although they are only changeable to certain BellSouth designated quantities.

In other words, they're not changeable to the value that the user might choose. They're changeable only among some set BellSouth choices.

Q Do you agree with any of the user changeable inputs that BellSouth has used in its filing in Florida?

A Same response. There are some that I've identified in my testimony that I believe are improper. The others are potentially appropriate or potentially inappropriate depending on other interrelated variables.

Q Other than the inputs that you've identified in your testimony, do you have an opinion as to any other user changeable input in the BASC model one way or the other?

A Well, I have an opinion that they have to be internally consistent with each other.

Q Do you have an opinion as to whether any particular user changeable input in the BASC model, other than the ones that you've discussed in your prefiled testimony, is wrong?

A I'll try it one more time. There is no right or wrong for interrelated variables. They have to be internally consistent, and I pointed out some that I don't think are.

Q Do you make any recommendations as to the appropriate input to use in the BASC model?

A No.

Q Have you examined anyplace in the United States where CLECs have entered the market, to provide local service, the effect of their entry into the market has had on retail prices?

MR. HENRY: Andrew, has this got your assumption entry using their own switching to serve mass market customers?

MR. SHORE: No.

MR. HENRY: No?

MR. SHORE: No.

MR. HENRY: Okay.

MR. SHORE: It's apparently broader than that. I want to know whether he's made any review of CLEC entry and its effect on retail prices.

THE WITNESS: I think the answer is no, if I understand your question correctly.

BY MR. SHORE:

Q What part do you think you don't understand?

A I don't know how to answer that, Mr. Shore. I think you need to ask me again.

Q Have you made any review of what effect, if any, CLEC entry into the local market, anywhere in the

United States, has had on retail prices?

A Yes.

Q What have you done?

A I think I understand your question.

Q What have you done. What review have you performed?

A I've looked at CLEC market entry, and I've looked at ILEC competitive response pricing or so-called win-back offerings by BellSouth and, also, in detail by Quest.

Q And what conclusions, if any, did you reach?

A That ILECs have responded very aggressively in terms of reducing prices and winning back customers, and, of course, in the case of Quest, it's fairly well documented that it was overly aggressive.

Q Does this pertain to mass market customers or enterprise customers or both?

A Mass market customers.

Q What level of price decreases have you observed with respect to mass market customers?

A With respect to mass market customers, Quest win-back actually offers free service for a period of time, so that's a pretty significant reduction.

Q How about BellSouth?

A I know BellSouth can respond with price

reductions targeted to those customers, and as I understand your CFO, you're on the bleeding edge of doing that, but the percent difference would depend on the customer and the rates that the customer is paying.

Q In your review of ILEC responsiveness -- I think you said win-backs -- are there any conditions attached to receiving those prices such as term contracts or anything else?

A There are often conditions and, of course, at least in terms of the Quest investigation, conditions found to be inappropriate.

Q What are the conditions that are often found in this sort of responsive pricing that you've reviewed?

A Well, I'm not sure that it's often found since they vary. There are some term commitments. There are restrictions on which customers qualify for the offer. There are restriction on a number of times that a customer can qualify for an offer.

There are restrictions on whether the customer has remained with the ILEC or taken service from a CLEC under certain conditions. I don't know. There are as many different sets of conditions as there are different win-back tariffs, I guess.

Q Look at page 27 in your rebuttal. Let me know when you get there.

A Yes.

Q I want to ask you about your testimony about the decrease in the average level of interstate call prices during the periods of 1984 and 1993 that you talk about there.

A Yes.

Q What's the source for your information or the data that you present?

A It is the FCC's published -- it's the FCC's annual report on -- it's the annual report on market share, and I believe if you look at table 10.8 and 10.9 of that report.

Q Okay. That 5.1 percent figure that you talked about there, is that an industry weighted average? In other words, did it include new entry into any incumbent providers?

A Well, I guess, for this period of time, it has to begin with essentially all AT&T, and then it looks at prevailing prices over time. I believe since we started with AT&T, we've benchmarked it with AT&T in terms of the price difference.

This would be the change in prices reflected in AT&T's competitive response. The nondominant IXCs, during that period, would have had slightly lower rates than AT&T in order to entice customers to go with a

nondominant carrier.

Q Does the 5.1 percent figure -- I'm just a little bit confused. I want to make sure I understand this, Mr. Wood.

Does the 5.1 percent figure represent AT&T's prices, or the average price on which AT&T's retail prices declined?

A Yes.

Q And not some industry average; is that correct?

A I believe that's correct. I'll confirm that, but I believe it is because when you begin this process, you have AT&T.

Q Did you run the BASC model and change prices by an average of 5.1 percent per year?

A Yes.

Q How did you do that? How did you make that change in the model mechanically?

A I believe we had to go straight to the table to do it.

Q Did you do that personally?

A No.

Q Do you know how it would be done?

A I'm not sure what you mean how it would be done. We changed the table values.

Q Which tables?

A I'll have to look. It was one of the P tables.

Q Did you apply that in the BASC price curve tables?

A Price curve tables? In terms of how -- oh, the change over time for the bundled? I think the answer is yes. I think we looked at the a la carte and bundles.

MR. SHORE: Mickey, can I ask you-all to provide as late-filed exhibit what he did to make this change since he can't tell us today?

MR. HENRY: I think he just gave you the answer.

BY MR. SHORE:

Q Mr. Wood, do you know what was done when you went ahead and changed -- exactly what was done? You didn't do it personally. Do you know what was done to make this 5.1 percent change?

A I think we're agreeing that, to the extent there's additional information, I will provide it to you.

Q Back to my question, do you know what was done?

A I know the table, the price table values were

done -- were changed. In terms of exactly which sale entries in which tables, I would have to go back and look.

MR. SHORE: Mickey, do you object to providing that information?

MR. HENRY: No.

MR. SHORE: We'll just identify that as Wood Late-Filed Deposition Exhibit Number 2.

(Late-filed Exhibit Number 2 was marked for identification.)

MR. HENRY: That would be about mechanics of 5.1 percent price change.

MR. SHORE: Okay. Thank you.

BY MR. SHORE:

Q Mr. Wood, do you know whether or not BellSouth provided the preprocessing tables in the BASC model during discovery in this case?

A Not in a form that we can use. Whether they provided it in some other form, I don't know.

Q Have you reviewed what BellSouth has provided with respect to the preprocessing tables in the BASC model in discovery?

A I believe I have.

Q I think I'm clear on this from the prefiled testimony, but I want to make sure. Is it your opinion

that CLECs that offer local service and bundled using UNE-P do not creamskim?

MR. HENRY: Can you give us the cite of the testimony on that, Andrew?

MR. SHORE: I don't need to cite the testimony. I'm just asking his opinion.

THE WITNESS: I'm sorry, Mr. Shore. I was writing down a note to myself on the previous exhibit, and I missed part of your question. I apologize.

BY MR. SHORE:

Q Is it your opinion that CLECs offering local service and bundled using UNE-P do not creamskim?

A I think my position in my testimony is that I disagree with Dr. Aron's observation or any of the bases for her conclusion that they do. Is it possible that there's some CLEC out there that might engage in this strategy? I guess there could be.

Q You understand what creamskimming means, right?

A I understand what the ILECs usually hold it up to mean. It's not exactly an economic term of art.

Q Using your testimony, what is your understanding of what it means as you use it in your testimony?

A Well, as I use it in my testimony to respond to Dr. Aron's testimony and her use of the term, I use it to mean selectively choosing customers based only on high margin characteristics.

Q Is it your opinion that CLECs offering local service to mass market customers via UNE-P do not creamskim?

A Same response. My testimony in response to her assertions that they do and her foundation, I can give you, as an opinion, that it's not a viable business strategy, but in terms of what -- you know, if there's some individual CLEC that might be trying to do this, I couldn't answer.

Q You've attempted to assess whether there's CLECs in the market do, in fact, creamskim?

A Using UNE-P?

Q Yes, sir.

A I have not attempted to do that.

Q Have you asked AT&T, your client, whether or not it creamskims?

A No.

Q Now, same question with respect to switch-base service, a CLEC having its own switch. Do you have an opinion as to whether or not CLECs, using their own switch, creamskin?

A Well, I guess you would have to point me to a CLEC using its own switch to serve mass market customers.

Q Is it your opinion that there are no CLECs in Florida using their own switches to serve mass market customers?

A I haven't seen evidence of any.

Q Well, let's assume that there are some. Let's assume that BellSouth's evidence is correct, and that there are CLECs that do use their own switches to serve mass markets customers.

A All right.

Q Is it your opinion that CLECs do not creamskin?

A I'm sorry. I can't tell you what a hypothetical CLEC does or does not do. I can tell you whether it would be rational or irrational for a hypothetical CLEC to do.

Q Let's move away from a hypothetical and look at the real life. Have you made any observation or attempted to make any analysis of whether or not CLECs, using their own switches to provide local service, creamskin?

A Haven't found any CLECs using their own local switches, their own self-deployed switches to provide

mass market services.

Q Anywhere in the country?

A I have not seen one.

Q When you say you haven't seen one, how do you define mass market customers?

A Residential and small business customers.

Q Have you asked AT&T whether or not it provides service to any customers in Florida, any mass market customers in Florida providing its own switch?

A No. That would be Mr. Gaillan's testimony.

Q I just want to know whether or not you had asked your clients about that.

A No.

MR. HENRY: Actually, that would be Mr. Bradbury's testimony.

MR. SHORE: Oh, I stand corrected.

BY MR. SHORE:

Q If Mr. Bradbury were to testify that AT&T is today providing service to mass market customers in Florida using its own switch, you wouldn't have any reason to dispute Mr. Bradbury's testimony, would you, Mr. Wood?

MR. HENRY: I'm sorry, Andrew. Did you say that -- were you representing to Mr. Wood that Mr. Bradbury testified --

MR. SHORE: No. I said if he were to testify.

MR. HENRY: Well, he's got testimony. I don't think it's proper to ask this witness to speculate on --

MR. SHORE: I'm not asking that.

MR. HENRY: -- what it might be.

MR. SHORE: Pardon me, Mickey. I didn't hear that.

MR. HENRY: I said I think it's objectionable. There is testimony, on the record, of Mr. Bradbury. You're asking this witness to assume that witness testified to the exact opposite of what he testified to.

MR. SHORE: I disagree with that, but let's move onto another CLEC.

BY MR. SHORE:

Q Have you reviewed FDN's prefiled testimony, Mr. Wood?

A No. I haven't.

Q Well, assume with me, if you will, that FDN's corporate officer testified that FDN does, in fact, provide service to mass market customers in Florida using its own switch.

Would you have any reason to dispute that

evidence?

A I wouldn't have a basis one way or the other because I haven't been asked to look at that.

Q Is it your opinion that the fact that BellSouth has lost more high-spend customers to CLECs is not the result of CLECs creamskimming and targeting marketing at high revenue customers?

A (No response.)

Q I mean, I'm looking at your testimony on page 34.

A What line is that?

Q I don't have a specific line. It's just testimony generally.

A My testimony generally is that Dr. Aron's assumption that absent creamskimming, you would expect to see CLEC customers, existing CLEC customers, evenly distributed through the five quintiles has absolutely no basis whatsoever.

Q Dr. Aron's testimony is based, in part -- and I think you talked about it in your testimony -- about some BellSouth data that you looked at, right?

A Yes.

Q She's concluded that BellSouth data, is that BellSouth has lost more high-spend customers to CLECs than most spend customers, right?

A That is her testimony about that information, and I don't disagree with that at all.

Q Is it your opinion that that result is not a consequence of creamskimming by CLECs?

A It is absolutely my testimony that there is no reason at all to assume that that's true. In fact, it's demonstratively partially a result of BellSouth's statewide aggregation of customers into spend quintiles without regard to the significance difference in local rates across geographic areas.

Q What part is attributable to that?

A That would be great to know. Unfortunately BellSouth wraps this up together at the beginning based on statewide numbers.

Q So you don't know what part?

A No. I don't know what part for the same reason that I described to you early on today, and that is, the level of aggregation and revenues prohibits that analysis from being done.

Q Did you review Mr. Turner's testimony?

A I am generally familiar with the scope of Mr. Turner's testimony.

Q Have you read his testimony?

A I don't know that I have.

Q Have you reviewed what he calls the model that

he filed along with his testimony?

A No.

Q Do you have any opinion, one way or another, regarding that so-called model?

A No.

Q Now, assume with me for a moment that a CLEC deploys its own switch to serve mass market customers. Is it your opinion that the CLEC has incentive to add customers that would not add a positive contribution?

A No.

Q So your opinion is the CLEC would not have incentive to add such customers?

A It's my position that I put forth in my testimony that that CLEC would be in a position of attempting to drive its unit costs down to a level that might approach BellSouth's unit cost and network minutes. To do that -- are the same minutes and would have the same effect on unit costs whether it was a high-spend customer or a low-spend customer.

Q Is it your opinion that a CLEC that deployed its own switch to serve mass market customers would have incentive to add customers that the CLEC determines would not add a positive contribution?

A No. I'm not saying that they go out in order to lose money, but that's one end of a possible

spectrum, and Dr. Aron's assertions about creamskimming selectively only very high-spending customers is the other end of the spectrum.

The truth lies somewhere in between right about the level where a customer breaks even for the CLEC. Any break-even customer that comes to the CLEC or that the CLEC can find, they would be highly incentive to take that customer on because it would impact their unit cost.

They would not be in a position rationally to try and find only high-spend customers.

Q Have you done any analysis to determine whether or to what extent wireless substitution will replace wire line service over the next ten years?

A No. And the primary reason is that one of the key variables in that analysis, number portability, has just become available in the tier 1 areas, and will only be available in the non-tier 1 areas, I believe, in May; so we don't have a data history for that.

Q Is it your opinion, at the present time, it would not be possible to do such an analysis in a meaningful way?

A That's correct.

Q I know you said earlier that you aren't recommending any input changes -- did I get that

right -- for the BASC model in this case?

A I'm not sponsoring any inputs. That's correct.

Q Have you done any analysis to determine what any appropriate inputs ought to be in the BASC model in this case?

A Only the analyses that's put forth in my testimony that responds to Dr. Aron's and Dr. Billingsley's assertion about what the input should be.

Q Other than those, you have not done any analysis regarding what the appropriate input should be. Is that a fair statement?

A I think the answer is yes.

Q Have you done any analysis of what the appropriate G and A costs of an efficient CLEC deploying its own switch to serve mass market customers would be?

A No.

Q Have you done any analysis to determine what the churn rate for such an efficient CLEC would be?

A Only to the extent that I've tried to reflect the impact of BellSouth's win-back program in this analysis, and that can be done through churn, or it can be done through Dr. Aron's market share curve assumptions.

Given the construction of the model, we've pursued that as a change to the market growth curve rather than to the churn rate.

Q Have you done any analysis with the P curve?

A The P value is one input to that curve.

Q Have you done any analysis of what the P value ought to be to model an efficient CLEC deploying its own switch?

A Yes.

Q What have you done?

A I've looked at BellSouth's reported success in win-back, and I've looked at the characteristics of Dr. Aron's curve in order to determine how that should be adjusted. That's what we've presented in the surrebuttal testimony.

Q How should it be adjusted?

A According to BellSouth's claims, its winning back 50 percent of the mass market customers it loses, so in other words, for every customer that a CLEC is going to obtain that it's going to keep, it has to actually win two of them.

If you assume that BellSouth's assumptions are right -- and there's really no basis at all for them except Dr. Aron's kind of broad conclusion -- that her assumption is right, then, in fact, after adjusting

for win-back, CLECs are ending up with half the number of customers and half the growth rate.

Therefore, her P value is twice what should it be, and her terminal market share value is twice what it should be.

Q So your opinion is that the P value that BellSouth uses should be half based on your assessment?

A Well, let me be more precise. If Dr. Aron is correct in her assumptions about how quickly a CLEC can gain market share and to what level of market share it can ultimately attain, the current value -- well, let's say the current value of .5, and that's what she says in her testimony, but when you go in the BASC, you find out that that's not really true.

The current P values are, in fact, twice what they should be, but the actual value used and the actual terminal market share used for different market segments in the model is not exactly what she says the assumption is.

Q How does what's actually used differ from what Dr. Aron says?

A Hang on a minute. I think I've got a screen capture of some pages. She reports a 15 percent overall ultimate market share, and in her testimony, doesn't aggregate that or disaggregate that in any way. What

you actually find in the BASC run, as presented, is that the assumed CLEC market share, for any given quintile, is not 15 percent.

It ranges from 7.53 percent to 16.49 percent. Then the next problem is that the model, as it's constructed, doesn't actually let you change the P value directly. You can only change amongst the quality of choices in terms of slow, fast, medium rates of entry and the like.

You have to go back to the tables to determine what P value actually goes with slow, fast, medium, and in some cases, it's not possible, given the constraints of the model, to make the P value 50 percent of the current assumed value.

We have to approximate it based on the fact that our choices here are not .25 or .5, but slow, medium, medium plus, fast, and the like.

Q The market shares reflected across the quintiles, does it come up to be an average of 15 percent, if you know?

A It may if we had the right line waiting. We've been unable to uncover the correct line waiting to calculate that. If it does, that underscores two problems. Number 1, it's in violations with the FCC's instructions in terms of considering an average mass

market customer.

Two, this is exactly the waiting, in the quintile definition, that's distorted by the failure to consider that current high-spend customers may be doing that for different reasons based on their wire center and the model's failure to make the calculation on a wire center level.

Q Do you know whether or not it reflects that 15 percent average or not?

A Still don't know, but that's not what her testimony says. Her testimony doesn't refer to averages across quintiles. It says terminal value of 15, and that's factually not correct. By stating it that way, she creates this implication, by design or not, that BellSouth is assuming some constant measure across quintiles of customer loss, and, in fact, that's not what BellSouth is assuming at all.

Q Page 54 of your testimony, top paragraph there, says something to the effect of if you need switching for UNE-P and TELRIC rates isn't available, a CLEC will only have two choices: Discontinue service to mass market customers or deploy its own switch.

Do you see that?

A Yes.

Q Do you know whether or not BellSouth has an

obligation to provide switching under section 271 of the act?

A I'm sorry. Ask that again, Mr. Shore.

Q Do you know, sitting here today, whether or not BellSouth has an obligation to provide switching to CLECs pursuant to section 271 of the act?

A If you're asking me a legal question, I can't answer it. My understanding is that your 271 compliance would require you to offer UNE switching.

Q Is it your opinion that if BellSouth offers UNE switching combined with loops at any price higher than TELRIC so that the CLEC can essentially buy the same platform today to buy the UNE-P, but at a rate higher than TELRIC, is it your opinion that if it's priced anywhere above TELRIC, that the CLEC cannot effectively compete in Florida?

A No.

Q Would you agree with me then that if that switching and loop clock were made available at a price, some price higher than TELRIC, that it is possible that CLECs could compete for mass market customers?

A I'm sorry. I think that's the question that I answered, and the answer is I think, yes. TELRIC plus a penny is probably not going to change a CLEC business plan.

Q Have you made any analysis as to what amount above TELRIC would affect CLECs ability to compete for mass market customers in Florida?

A No.

Q Is it your opinion that the availability of UNE-P did not have any impact whatsoever in whether a business case can be made for a UNE deployment for the CLEC deploying its own switch?

A My only hesitation is no impact whatsoever is very, very broad. I mean, they are clearly two separate business case analyses that will have two separate results, and then, as we've discussed before, there are financial and nonfinancial factors that would cause a CLEC to choose one over the other.

Q All right. I want to know whether or not just as I've asked it. If it's your opinion, your expert opinion, whether or not UNE-P availability would have no impact whatsoever on whether a business case can be made for self-deployment by a CLEC?

Do you agree with that statement or disagree?

A Well, I'm trying to give you an answer, Mr. Shore, but no impact whatsoever is still very broad.

Q So would you disagree then with that statement?

A I guess the way you asked it I would have to

disagree until you told me what that meant. Clearly the business case for one is independent of the business case for the other.

Q Would you agree with the following statement, UNE-P availability has no impact whatsoever on whether a business case can be made for UNE-L?

MR. HENRY: I think he just answered that.

MR. SHORE: If he can just answer it again. Does he agree with that statement? Yes or no?

THE WITNESS: On a prospective basis, and we're looking at business case moving forward for UNE-P and a business case moving forward for UNE-L, they have no impact on each other whatsoever.

MR. ROJAS: Gentleman, this is Jason Rojas at the Commission.

MR. SHORE: Yes?

MR. ROJAS: How about if we take about a 15-minute break for the court reporter?

MR. SHORE: That would be fine.

MR. ROJAS: How much more do you have to go, Andrew?

MR. SHORE: Not very much. Maybe 30 minutes. It could be shorter. I'll look over my notes at the break. It may be shorter.

(Brief recess.)

BY MR. SHORE:

Q Don, a little while ago, before we broke, you referred in one of your answers to looking at some sort of screen saver. Can you tell us what you were talking about?

MR. SUSAC: Don, before you get started, Andrew can you speak a little more into the phone?

MR. SHORE: Yes. I'll try.

MR. HENRY: I don't think he said screen saver.

THE WITNESS: I may have referred to a screen shot or a screen capture which is simply --

MR. SHORE: Yes. That's what I meant. Thank you, Mickey.

THE WITNESS: It's simply printing what's on the screen at a given time.

BY MR. SHORE:

Q Have you ever designed a model with a CLEC entry deploying its own switch?

A No.

Q Can you look at page 17 of your surrebuttal? Just tell me when you're there.

A Yes.

Q At the bottom of the page, the very last two

sentences, you say that BellSouth's window of opportunity to win back a customer before it is actually lost is, also, greater in a UNE-L scenario.

UNE-P BellSouth has approximately 24 hours before the cutover of the customer is completed. With UNE-L BellSouth's win back before it actually lost the window expands to five days.

A Yeah. I'm sorry. For whatever reason, we have a different pagination.

Q Okay.

A Let me --

MR. HENRY: Adam or Jeremy, are you there?

MR. ROJAS: This is Jason Rojas here.

THE WITNESS: Have you got Don's testimony that was filed down there, his surrebuttal?

MR. ROJAS: I'm sure we can have it in a few minutes. I don't have it in front of me right now.

MR. SHORE: I don't know that we need it for this question. If Mr. Wood does, that's certainly fine with me, but I don't know that we do, Mickey.

THE WITNESS: The last file that I have may be missing a couple of pages, and we want to make sure we've got that correct.

MR. HENRY: Andrew, unfortunately I asked him

to make me a copy of this stuff as I was leaving last night, and I have the same thing. My concern was as much about whether we filed it this way, but go ahead with your questioning.

THE WITNESS: Let me see if I can do it without looking at the testimony.

BY MR. SHORE:

Q Do you recall your testimony to that effect, Mr. Wood?

A I'm sorry, Mr. Shore. I need you to run it by me again.

Q Let me quote it to you. BellSouth's window of opportunity to win back a customer before it has actually lost is, also, greater in a UNE-L scenario. With UNE-P, BellSouth has approximately 24 hours before the cutover of the customer is completed. With UNE-L, BellSouth's win-back before actually lost window expands to five days.

Do you recall that testimony?

A I do recall that testimony.

Q What exactly are you trying to say there?

A Well, I'm trying to say that in terms of an immediate win-back, you have more of an opportunity with UNE-L because you have a longer period of time to do that.

Q Are you making any allegations that BellSouth engages in any win-back activity before the customer is actually converted to the CLEC?

A No.

Q Now, I'm trying to understand parts of your direct testimony. Let me ask you a question that might help me understand it better. Is it your opinion if the Commission approves a model and willing to debate the merits of the model and it approves inputs to that model such that the model shows that there is no impairment in some markets in Florida, is it your opinion, Mr. Wood, that the Commission should still make a finding of impairment in that market or those markets?

This is under the potential deployment analysis.

A If I understand your hypothetical correctly, I think the answer is no. If the Commission decides that there is no impairment, it shouldn't -- it can reach the conclusion that there's no impairment.

Q And it can do that under the FCC's potential deployment test?

A It's my understanding that it can. I certainly don't agree that it should, but that's my understanding of what it can do.

MR. SHORE: That's all I have.

MR. ROJAS: So with no other parties, I guess we're going to conclude right now. I'm assuming that both of you want a copy of this?

MR. SHORE: Yes, sir.

MS. HYER: I need a copy, please.

MS. MASTERTON: I just need an electronic copy.

MS. HYER: Actually, all I need is an electronic copy as well.

MS. McNULTY: I, also, would like a copy of the transcript and an electronic copy, please.

MR. SHORE: We would like both an electronic copy and a hard copy, please.

MR. HENRY: I'd like an electronic copy, please.

MR. ROJAS: Any further questions, comments, or concerns?

(No response.)

MR. ROJAS: This deposition is concluded.

(The deposition concluded at 12:47 p.m.)

ERRATA SHEET

PAGE	LINE	CORRECTION
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Date of deposition Reporter

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF ALACHUA)

I, NANCY P. VETTERICK, Registered Professional Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 110 are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 15th day of February, 2004.

NANCY P. VETTERICK, RPR, CCR
Notary Public
1-800-934-9090
850-878-2221

Late-Filed Deposition Request 1: Labeled Carolina CLECs

Request: BellSouth counsel asked Mr. Wood what telecommunications firms did Mr. Wood consult with that decided to enter the market in the Carolinas.

Response: Mr. Wood responded that one firm decided to enter the market in Hilton Head, South Carolina and, after further review, can identify that firm as TelSouth Communications.

Late-Filed Deposition Request 2:

Request: BellSouth counsel asked Mr. Wood how he changed the prices in the BACE model to reflect year-over-year changes in prices.

Response: The changes were made as cumulative percentage changes in the cells of the Product Price Curves table.

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EXHIBIT NO. 41

DOCKET NO.: 030851-TP

WITNESS: NON-CONFIDENTIAL DR RESPONSES

PARTY: MISC.

DESCRIPTION:

Non-Confidential Responses to Staff's November 12, 2003 Data Request from:

ICG Telecom Group, Inc.		1
1.	ICG Telecom Group, Inc.	1
2.	Cox Florida Telcom, L.P. d/b/a Cox Communications	3
3.	Cable & Wireless USA, Inc.	6
4.	Gulf Long Distance, Inc. d/b/a Gulftel Communications	7
5.	City of Ocala	9
6.	Atlantic Telecommunication Systems, Inc. d/b/a ATS	10
7.	City of Bushnell	11
8.	City of Tallahassee	12
9.	Teligent Services, Inc.	13
10.	Southeastern Services, Inc.	15
11.	A.Sur Net, Inc.	17
12.	Comcast Business Communications, Inc.	22
13.	Latin American Nautilus U.S.A., Inc.	24
14.	Laser Telecom, LLC	29
15.	Hayes E-Government Resources, Inc.	30
16.	TSI Telecommunication Network Services Inc.	34
17.	Qwest Interprise America, Inc.	37
18.	Strategic Technologies, Inc.	38
19.	Cable & Wireless USA, Inc.	39
20.	EPICUS, Inc. d/b/a EPICUS	41
21.	T-Netix, Inc.	43
22.	Preferred Carrier Services, Inc. d/b/a Telefonos Para Todos and d/b/a Phones For All	45
23.	Talk America Inc.	48
24.	Excel Telecommunications, Inc.	50
25.	eMeritus Communications, Inc.	51
26.	Tallahassee Memorial Telephone Company	53
27.	Network Multi-Family Security Corporation d/b/a Priority Link	55
28.	Verizon Select Services Inc.	59
29.	Atlantic Telecommunication Systems, Inc. d/b/a ATS	62
30.	Available Telecom Services, Inc.	63
31.	The Other Phone Company, Inc. d/b/a Access One Communications	64
32.	ITS Telecommunications Systems, Inc.	66
33.	Alternative Phone, Inc.	67
34.	Unicom Communications, LLC	69
35.	City of Ocala	98
36.	MET Communications, Inc.	101
37.	Local Line America, Inc.	103
38.	USA Telecom, Inc.	104

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 41
COMPANY/ FPSC Staff/Misc.
WITNESS: NCDR-4
DATE: 02/24-27/04

DOCKET NO.: 030851-TP

WITNESS: NON-CONFIDENTIAL DR RESPONSES

PARTY: MISC.

39.	Florida Telephone Services, LLC	106
40.	TeleConex, Inc. d/b/a TeleConex	107
41.	BudgeTel Systems, Inc.	140
42.	Madison River Communications, LLC	141
43.	OnePoint Communications-Georgia, LLC d/b/a Verizon Avenue	142
44.	Mpower Communications Corp.	146
45.	BellSouth BSE, Inc.	147
46.	Florida City-Link Communications, Inc.	151
47.	Atlas Communications, Ltd.	153
48.	City of Tallahassee	156
49.	Global Crossing Telemanagement, Inc.	157
50.	Max-Tel Communications, Inc. d/b/a Florida's Max-Tel Communications, Inc.	158
51.	ElectroNet Intermedia Consulting, Inc.	159
52.	Alternative Access Telephone Communications Corp. d/b/a AA Tele-Com	160
53.	Burno, Inc. d/b/a Citywide-Tel	162
54.	Kenarl Inc. d/b/a Lake Wellington Professional Centre	167
55.	Intellicall Operator Services, Inc. d/b/a ILD	169
56.	Alternative Telecommunication Services, Inc. d/b/a Second Chance Phone	172
57.	Choctaw Communications, Inc. d/b/a Smoke Signal Communications	174
58.	NOW Communications, Inc.	175
59.	Microsun Telecommunications, Inc.	178
60.	Touch 1 Communications, Inc.	179
61.	Buy-Tel Communications, Inc.	182
62.	VarTec Telecom, Inc. d/b/a VarTec Telecom, Inc. and Clear Choice Communications	184
63.	1-800-RECONEX, Inc. d/b/a USTEL	185
64.	Z-Tel Communications, Inc.	195
65.	Esodus Communications, Inc. d/b/a Excelink Communications d/b/a Instatone	197
66.	Florida Digital Network, Inc. d/b/a FDN Communications	200
67.	Smart City Networks	207
68.	Image Access Communications, Inc. d/b/a NewPhone	208
69.	Ring Connection, Inc.	210
70.	Navigator Telecommunications, LLC.	211
71.	Intercontinental Communications Group, Inc. d/b/a Fusion Telecom	214
72.	Qwest Communications Corporation	217
73.	Ganoco, Inc. d/b/a American Dial Tone	221
74.	US South Communications, Inc.	223
75.	Telephone One Inc.	226
76.	Reliant Communications, Inc.	227
77.	Atlantic.Net Broadband, Inc.	231
78.	KingTel, Inc.	240
79.	ProfitLab, Inc.	241
80.	Rebound Enterprises, Inc. d/b/a REI Communications	244
81.	DSLnet Communications, LLC	246
82.	Universal Telecom, Inc.	251
83.	Phone-Link, Inc.	255
84.	Southeastern Services, Inc.	257
85.	Metromedia Fiber Network Services, Inc.	259
86.	Teligent Services, Inc.	260
87.	DialTek, LLC d/b/a DTK Telecommunications, LLC	262

DOCKET NO.: 030851-TP

WITNESS: NON-CONFIDENTIAL DR RESPONSES

PARTY: MISC.

88.	Access Integrated Networks, Inc.	265
89.	Sun-Tel USA, Inc.	302
90.	CI2, Inc.	304
91.	CAT Communications International, Inc.	308
92.	Telephone Systems of Georgia, Inc.	310
93.	Telecom Connection Corp.	311
94.	Premiere Network Services, Inc.	312
95.	Ciera Network Systems, Inc.	313
96.	Credit Loans, Inc. d/b/a Lone Star State Telephone Co.	314
97.	TelSouth Communications, Inc.	316
98.	Intelligence Network Online, Inc.	317
99.	Interactive Services Network, Inc. d/b/a ISN Communications	320
100.	Florida Phone Systems, Inc.	323
101.	Primus Telecommunications, Inc.	324
102.	QuantumShift Communications, Inc.	328
103.	AccuTel of Texas, Inc.	330
104.	Tallahassee Community College	333
105.	Universal Access, Inc. d/b/a UAI of Florida, Inc.	337
106.	American Fiber Network, Inc.	340
107.	LecStar Telecom, Inc.	343
108.	PNG Telecommunications, Inc. d/b/a PowerNet Global Communications	378
109.	Net One International, Inc.	381
110.	Southern Telecom, Inc. d/b/a Southern Telecom of America, Inc.	382
111.	Vycera Communications, Inc.	386
112.	Beauty Town, Inc. d/b/a Anns Communication	389
113.	Cogent Communications of Florida LHC, Inc.	390
114.	Backbone Communications Inc.	391
115.	High Tech Communications of Central Florida, Inc.	392
116.	Sandhills Telecommunications Group, Inc. d/b/a SanTel Communications	394
117.	Deland Actel, Inc.	396
118.	U.S. TelePacific Corp. d/b/a TelePacific Communications	431
119.	DV2, Inc.	435
120.	Network International Solutions, Inc.	436
121.	Basic Phone, Inc.	439
122.	AmeriMex Communications Corp.	441
123.	Coral Telecom, Inc. d/b/a TruComm Southeast	443
124.	One Call Communications, Inc. d/b/a Opticom, a Division of One Call Communications, Inc.	446
125.	GTC Telecom, Inc. d/b/a Curbside Communications	447
126.	Bellerud Communications, LLC	448
127.	RCN Telecom Services, Inc.	484
128.	Looking Glass Networks, Inc.	486
129.	Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch	488
130.	C2C Fiber of Florida, Inc.	489
131.	Express Phone Service, Inc.	490
132.	United Communications HUB, Inc.	500
133.	Seven Bridges Communications, L.L.C.	501
134.	Frontier Communications of America, Inc.	504
135.	Broadwing Local Services Inc.	505
136.	Utility Board of the City of Key West d/b/a Keys Energy Services	506

DOCKET NO.: 030851-TP

WITNESS: NON-CONFIDENTIAL DR RESPONSES

PARTY: MISC.

137.	Kissimmee Utility Authority	507
138.	Direct2Internet Corp.	510
139.	NetworkIP, L.L.C.	512
140.	Enron Telecommunications, Inc.	515
141.	360networks (USA) inc.	516
142.	Comm South Companies, Inc. d/b/a Florida Comm South	519
143.	Auglink Communications, Inc.	520
144.	Pacific Centrex Services, Inc.	528
145.	Florida Municipal Power Agency	530
146.	Intelogistics Corp.	534
147.	American Fiber Systems, Inc.	535
148.	Everest Broadband Networks of Florida, Inc.	537
149.	VIVO-FLA, LLC	539
150.	Quality Telephone Inc.	540
151.	Movie, Television & Graphics Corp. d/b/a M.T.G.	542
152.	nii Communications, Ltd.	544
153.	CTC Communications Corp.	549
154.	Business Communications, Inc.	550
155.	Globaltron Communications Corporation	553
156.	Global Connection, Inc of America	556
157.	New Access Communications LLC	558
158.	National Telecom, LLC	560
159.	Fast Phones, Inc. of Alabama	561
160.	Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone	563
161.	LPGA International Communications, LLC	565
162.	E.Com Technologies, LLC d/b/a Firstmile Technologies, LLC	566
163.	Telsys, Inc.	569
164.	ANEW Broadband, Inc.	572
165.	ReTel Communications, Inc.	574
166.	CityNet Telecom, Inc.	576
167.	SBA Broadband Services, Inc.	577
168.	TeleCents Communications, Inc.	578
169.	Intrado Communications Inc.	579
170.	Tel West Communications, LLC	583
171.	Dialtone Telecom, LLC	584
172.	Dominion Telecom, Inc.	589
173.	Calpoint (Florida), LLC	592
174.	Georgia Public Web, Inc.	596
175.	Verizon Florida Inc.	599
176.	Smart City Solutions, LLC	600
177.	LightWave Communications, LLC	603
178.	City of Daytona Beach	604
179.	El Paso Networks, LLC	615
180.	Bright House Networks Information Services (Florida), LLC	616
181.	Georgia Telephone Services, Inc.	620
182.	Transparent Technology Services Corporation d/b/a North Palm Beach Telephone Company	621
183.	Colmena Corp. of Delaware	622
184.	Cordia Communications Corp.	623
185.	Direct Telephone Company, Inc.	624

DOCKET NO.: 030851-TP

WITNESS: NON-CONFIDENTIAL DR RESPONSES

PARTY: MISC.

186.	Cinergy Communications Company	627
187.	Harbor Communications, LLC	628
188.	WS Telecom, Inc. d/b/a eXpeTel Communications	635
189.	Broadview Networks, Inc.	636
190.	Rightlink USA, Inc.	638
191.	National Telecom & Broadband Services, LLC	640
192.	OCMC, Inc. d/b/a One Call Communications, Inc., OPTICOM, 1-800-MAX-SAVE, Advanttel, RegionTel, LiveTel, and SuperTel	642
193.	Super-Tel.Com, Inc.	643
194.	Wireless One Network Management, L.P.	644
195.	Utilities Commission, New Smyrna Beach	647
196.	Cypress Communications Operating Company, Inc.	706
197.	Eagle Telecommunications, Inc.	707
198.	DukeNet Communications, LLC	720
199.	Laser Telecom, LLC	721
200.	Phone Club Corporation	723
201.	Terra Telecommunications Corp.	726
202.	Communications Xchange, LLC	727
203.	Adventist Health System/Sunbelt, Inc. d/b/a Florida Hospital Medical Center	730
204.	1 Com, Inc. d/b/a 1 Com South, Inc.	731
205.	Granite Telecommunications, LLC	732
206.	Network Operator Services, Inc.	735
207.	T3 Communications, LLC d/b/a Tier 3 Communications d/b/a Naples Telephone and d/b/a Fort Myers Telephone	736
208.	Trans National Communications International, Inc.	739
209.	Actel Wireless, Inc.	740
210.	American Phone Services Corp.	746
211.	Saturn Telecommunication Services Inc. d/b/a STS	747
212.	Enhanced Communications Network, Inc. d/b/a Asian American Association	786
213.	Vox2 Voice, L.C.	787
214.	Symtelco, LLC	790
215.	France Telecom Corporate Solutions L.L.C.	793
216.	The Gulas Group, L.L.C.	796
217.	America's Wireless Choice, Inc.	797
218.	McGraw Communications, Inc.	799
219.	OneStar Long Distance, Inc.	800
220.	Fort Pierce Utilities Authority d/b/a GigaBand Communications	802
221.	Essex Acquisition Corporation d/b/a VeraNet Solutions	806
222.	Metric Systems Corporation	809
223.	Volo Communications of Florida, Inc. d/b/a Volo Communications Group of Florida, Inc.	810
224.	Spectrotel, Inc.	811
225.	BAK Communications, LLC	816
226.	Baldwin County Internet/DSSI Service, L.L.C.	819
227.	Zone Telecom, Inc.	822
228.	Phone 1 Smart LLC	825
229.	RGT Utilities of Florida, Inc.	828
230.	ONS-Telecom, LLC	829
231.	Jax Telecom Inc.	833
232.	Lightyear Communications, Inc.	834
233.	Access Point, Inc.	842
234.	ACN Communication Services, Inc.	845

DOCKET NO.: 030851-TP

WITNESS: NON-CONFIDENTIAL DR RESPONSES

PARTY: MISC.

235.	Utilities Commission, New Smyrna Beach	848
236.	Southern Telcom Network, Inc.	883
237.	City of Quincy d/b/a netquincy d/b/a netquincy.com d/b/a www.netquincy.com	886
238.	Allegiance Telecom of Florida, Inc.	890
239.	ALLTEL Communications, Inc.	900
240.	AT&T Communications of the Southern States, LLC d/b/a AT&T	910
241.	TCG South Florida (AT&T)	910
242.	Atlantic.Net Broadband, Inc.	920
243.	City of Bartow	924
244.	BellSouth Telecommunications, Inc.	929
245.	Cable & Wireless Americas Operations, Inc.	999
246.	DIECA Communications, Inc. d/b/a Covad Communications Company	1011
247.	The Ultimate Connection, L.C. d/b/a DayStar Communications	1019
248.	Dedicated Fiber Systems, Inc.	1063
249.	Florida Digital Network, Inc. d/b/a FDN Communications	1073
250.	City of Gainesville, a municipal corporation d/b/a GRUCom	1080
251.	Gainesville Regional Utilities d/b/a GRU Communication Services/GRUCom/GRU	1080
252.	Global Crossing Local Services, Inc.	1097
253.	Grande Communications Networks, Inc.	1109
254.	IDS Telcom LLC	1142
255.	ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom d/b/a Grapevine	1170
256.	KMC Telecom III LLC	1171
257.	Knology of Florida, Inc.	1184
258.	City of Lakeland	1194
259.	City Leesburg	1205
260.	Level 3 Communications, LLC	1210
261.	Litestream Technologies, LLC	1211
262.	Intermedia Communications, Inc.	1240
263.	MCI WorldCom Communications, Inc.	1240
264.	MCI WorldCom Network Services, Inc.	1240
265.	MCImetro Access Transmission Services LLC	1240
266.	Metropolitan Fiber Systems of Florida, Inc.	1240
267.	Network Telephone Corporation	1241
268.	NuVox Communications, Inc.	1246
269.	OnFiber Carrier Services, Inc.	1255
270.	Orlando Telephone Company	1292
271.	PaeTec Communications, Inc.	1298
272.	Progress Telecom Corporation	1314
273.	Saturn Telecommunication Services Inc. d/b/a STS	1355
274.	SBC Telecom, Inc.	1391
275.	Southern Light, LLC	1399
276.	Southern Light, LLC	1399
277.	Sprint Communications Company Limited Partnership	1401
278.	Tallahassee Telephone Exchange, Inc.	1418
279.	Adelphia Business Solutions Investment, LLC d/b/a TelCove	1453
280.	Adelphia Business Solutions of Florida, Inc.	1453
281.	Adelphia Business Solutions of Jacksonville, Inc. d/b/a TelCove	1453
282.	Telepak Networks, Inc.	1456
283.	Tiburon Telecom, Inc.	1458

DOCKET NO.: 030851-TP

WITNESS: NON-CONFIDENTIAL DR RESPONSES

PARTY: MISC.

284.	Time Warner Telecom of Florida, L.P.	1475
285.	US LEC of Florida Inc.	1536
286.	WilTel Local Network, LLC	1547
287.	XO Florida, Inc.	1579
288.	Advantage Group of Florida Communications, L.L.C.	1584
289.	BullsEye Telecom, Inc.	1596
290.	NOS Communications, Inc. d/b/a International Plus d/b/a O11 Communications d/b/a The Internet Business Association d/b/a I Vantage Network Solutions	1601
291.	Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch	1614
292.	Focal Communications Corporation of Florida	1619
293.	NUI Telecom, Inc.	1628
294.	DSL Internet Corporation d/b/a DSLi	1630
295.	Florida Digital Network, Inc. d/b/a FDN Communications	1638

PROFFERING PARTY: STAFF

I.D. # NCDR-1

EXHIBIT NO. 42

DOCKET NO.: 030851-TP

WITNESS: Allegiance

PARTY: Allegiance

DESCRIPTION:

1. Allegiance's Responses to Staff's 3rd Set of Interrogatories (Nos. 12-17) – Page 1

PROFFERING PARTY: STAFF

I.D. # Allegiance-Stip-2

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 030851-TP EXHIBIT NO. 42
COMPANY/ FPSC Staff/ Allegiance
WITNESS. Allegiance Stip-2
DATE: 02/24-27/04

STAFF'S THIRD SET OF INTERROGATORIES TO
ALLEGIANCE TELECOM, INC. (NOS. 12 - 17)
DOCKET 030851-TP

Question 12

For the purpose of the following questions, please refer to the direct testimony of BellSouth witness Tipton, Exhibit PAT-4.

(a) Considering only UNE Zones 1 and 2, please identify in which of the following markets Allegiance has entered: Jacksonville, Orlando, Miami, Fort Lauderdale, West Palm Beach- Boca Raton, Pensacola, or Daytona Beach.

(b) Of those markets Allegiance has identified in (a) as having entered, please identify those markets where Allegiance provides service using UNE-L.

(c) For those markets identified in (b), please identify the CLLI of each switch that serves these markets.

(d) For each switch identified in (c), please identify the number of DS0 lines served in each market.

(e) For those DS0 lines served in each market identified in (d), please indicate the number of customer locations served by those DS0 lines.

(f) Of those customer locations identified in (e), please indicate the number of customer locations with 3 or fewer DS0 lines.

(g) For each switch identified in (c) that provides DS0 service, please state the percent of total capacity used to provide DS0 service.

(h) For each switch identified in (c) that provides DS0 service, please state the percent of spare capacity.

(i) For each switch identified in (c), please identify the ILEC wire centers served.

(j) Of those markets Allegiance has indicated in (a) as having entered, please state in which wire centers Allegiance has collocation arrangements.

(k) Of those markets Allegiance has indicated in (a) as having entered, please state in which markets Allegiance does not have a collocation arrangement in any wire center within that market.

Question 12 (cont.)

Answer

(a) Allegiance Telecom has entered the following markets:

Miami

Fort Lauderdale

West Palm Beach- Boca Raton

Jacksonville

Orlando

Pensacola

Daytona Beach

(b) Allegiance Telecom provides service in the following markets using UNE-L.

Miami

Fort Lauderdale

West Palm Beach- Boca Raton

(c) The Miami Switch serves the markets identified in 12 (b) and the CLLI is MIASFL68

(d) Miami DS0 Lines Served

XXXX

Fort Lauderdale DS0 Lines Served

XXXX

West Palm Beach- Boca Raton DS0 Lines Served

XXXX

Question 12 (cont)

(e) Miami Customer Locations

XXXX

Fort Lauderdale Customer Locations

XXXX

West Palm Beach- Boca Raton Customer Locations

XXXX

(f) Miami 3 or fewer DSO Lines

XXXX

Fort Lauderdale 3 or fewer DSO Lines

XXXX

West Palm Beach- Boca Raton 3 or fewer DSO Lines

XXXX

(g) The current utilization for all services is XX.X% in the Miami switch.

(h) There is XX.X% available switch capacity on the Miami switch.

(i) ILEC Wire centers served by the Allegiance Miami switch:

Redacted

Question 12 (cont)

(j) See response to Question 12 (i).

(k) Allegiance Telecom does not have collocation arrangements in the following markets:

Redacted

Question 13

For the purpose of the following questions, please refer to the direct testimony of BellSouth witness Tipton, Exhibit PAT-4.

(a) Considering only UNE Zones 1 and 2, please identify in which of the following markets Allegiance has entered: Fort Pierce- Port St. Lucie, Gainesville. Melbourne- Titusville- Palm Bay, or Panama City.

(b) Of those markets Allegiance has identified in (a) as having entered, please identify those markets where Allegiance provides service using UNE-L.

(c) For those markets identified in (b), please identify the CLLI of each switch that serves these markets.

(d) For each switch identified in (c), please identify the number of DS0 lines served in each market.

(e) For those DS0 lines served in each market identified in (d), please indicate the number of customer locations served by those DS0 lines.

(f) Of those customer locations identified in (e), please indicate the number of customer locations with 3 or fewer DS0 lines.

(g) For each switch identified in (c) that provides DS0 service, please state the percent of total capacity used to provide DS0 service.

(h) For each switch identified in (c) that provides DS0 service, please state the percent of spare capacity.

(i) For each switch identified in (c), please identify the ILEC wire centers served.

(j) Of those markets Allegiance has indicated in (a) as having entered, please state in which wire centers Allegiance has collocation arrangements.

(k) Of those markets Allegiance has indicated in (a) as having entered, please state in which markets Allegiance does not have a collocation arrangement in any wire center within that market.

Question 13 (cont.)

Answer

(a) Allegiance Telecom has entered the following markets:

Ft. Pierce-Port St. Lucie

Gainesville

Melbourne-Titusville-Palm Bay

Panama City

(b) Allegiance Telecom does not provide UNE-L in any of the markets identified in Question 13(a)

(c) See response to Question 13(b)

(d) See response to Question 13(b)

(e) See response to Question 13(b)

(f) See response to Question 13(b)

(g) See response to Question 13(b)

(h) See response to Question 13(b)

(i) See response to Question 13(b)

(j) Allegiance Telecom has no collocation arrangements in any of the markets identified in 13(a).

(k) See response to 13(j).

Question 14

For the purpose of the following questions, please refer to the direct testimony of Verizon's witness Fulp , Exhibit ODF-3.

(a) Considering only UNE Zones 1 and 2, please state whether Allegiance has entered the Tampa- St. Petersburg- Clearwater market.

(b) If the response to (a) is affirmative, please state whether Allegiance provides service using UNE-L.

(c) If the response to (b) is affirmative, please identify the CLLI of each switch which serves this market.

(d) For each switch identified in (c), please indicate the number of DS0 lines served in this market.

(e) For those DS0 lines served in this market identified in (d), please indicate the number of customer locations being served by those DS0 lines.

(f) Of those customer locations identified in (e), please indicate the number of customer locations with 3 or fewer DS0 lines.

(g) For each switch identified in (c) that provides DS0 service, please state the percent of total capacity used to provide DS0 service. For each switch identified in (c) that provides DS0 service, please state the percent of spare capacity.

(h) For each switch identified in (c), please identify the ILEC wire centers served.

(i) If the response to (a) is affirmative, please state the ILEC wire centers within this market in which Allegiance has collocation arrangements.

(j) If the response to (a) is affirmative, please state whether Allegiance does not have a collocation arrangement in any wire center within this market.

Question 14 (cont.)

Answer

(a) Allegiance Telecom has entered the Tampa-St. Petersburg-Clearwater market.

(b) Allegiance Telecom provides UNE-L service in the market identified in 14(a).

(c) The Tampa Switch serves the markets identified in 14(a) and the CLLI is TAMSFLZK

(d) Tampa-St. Petersburg-Clearwater DS0 Lines Served:

XXXX

(e) Tampa-St. Petersburg-Clearwater Customer Locations Served:

XXXX

(f) Tampa-St. Petersburg-Clearwater Customer Locations with 3 or fewer DS0 lines

XXXX

(g) The current utilization for all services is XX.X% in the Tampa switch.

(h) There is XX.X% available switch capacity on the Tampa switch.

(i) ILEC Wire Centers Served:

Redacted

Question 14 (cont)

(j) See response to Question 14 (i)

(k) See response to Question 14 (i)

Question 15

Please affirm or deny which of the following markets Allegiance has entered: Tarpon Spring, Newport Richey, Zephyrhills, Kissimmee, Reedy Creek, Windermere, Winter Garden, Apopka or Winter Park.

Answer

Allegiance Telecom has entered the following markets:

Tarpon Springs

Newport Richey

Question 16

For the purpose of the following questions, please refer to your response to Interrogatory 15.

(a) Of those markets Allegiance has identified as having entered, please identify those markets where Allegiance provides service using UNE-L.

(b) For those markets identified in (a) please identify the CLLI of the switch that serves these markets.

(c) For each switch identified in (b), please indicate the number of DS0 lines served in each market.

(d) For those DS0 lines served in each market identified in (c), please indicate the number of customer locations being served by those DS0 lines.

(e) Of those customer locations identified in (d), please indicate the number of customer locations with 3 or fewer DS0 lines.

(f) For each switch identified in (b) that provides DS0 service, please state the percent of total capacity used to identify DS0 service.

(g) For each switch identified in (b) that provides DS0 service, please state the percent of spare capacity.

(h) For each switch identified in (b), please identify the ILEC wire centers served.

(i) Of those markets Allegiance has identified as having entered, please state in which wire centers Allegiance has collocation arrangements.

(j) Of those markets Allegiance has identified as having entered, please state in which markets Allegiance does not have a collocation arrangement in any wire center within that market.

Question 16 (cont)

Answer

(a) Allegiance Telecom has entered the following markets:

Tarpon Springs

Newport Richey

(b) The Tampa Switch serves the markets identified in 16(a) and the CLLI is TAMSFLZK

(c) Tarpon Springs XXXX DS0 lines served

Newport Richey XXXX DS0 lines served

(d) Tarpon Springs XXXX customer locations

Newport Richey XXXX customer locations

(e) Tarpon Springs XXXX customer locations with 3 or fewer DS0 lines

Newport Richey XXXX customer locations with 3 or fewer DS0 lines

(f) See response to Question 12 (g)

(g) See response to Question 12(h).

(h) The following wire centers are served by the switch identified in 16(b):

Redacted

(i) See response to Question 16 (h)

(j) See response to Question 16 (h)

Question 17

For the purpose of the following questions, please refer to the direct testimony of MCI witness Lichtenberg, page 6, lines 13 through 16.

(a) Has Allegiance found certain locations where it makes economic and operational sense to pursue UNE-L?

(b) If the response to (a) is affirmative, please describe any such locations in Florida where this has been found to be the case.

(c) What advantages can be realized by using UNE-L, once the challenges to such service have been overcome?

(d) Has Allegiance begun cutting over any of its customers to its own switches in Florida?

(e) If the response to (d) is affirmative, when did Allegiance first cut over one of its customers to its own switch?

(f) If the response to (d) is affirmative, where is the switch located to which the first Allegiance customer was cut over?

(g) If the response to (d) is affirmative, has Allegiance continued to cut over customers to its own switches since testimony was filed?

(h) If the response to (g) is affirmative, how many additional customers have been cut over?

(i) If the response to (g) is negative, please explain why Allegiance has ceased cutting customers over to its switches.

Question 17 (cont)

Answer

(a) Allegiance Telecom provides service for UNE-L in Miami, Ft. Lauderdale, West Palm Beach-Boca Raton, Tampa-St. Petersburg-Clearwater.

(b) See responses to Questions 12, 14 and 15.

(c) Allegiance Telecom takes no position on the advantages of using UNE-L.

(d) Not applicable

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

(i) Not applicable

(j) Not applicable

EXHIBIT NO. 43

DOCKET NO.: 030851-TP

WITNESS: NewSouth

PARTY: NewSouth

DESCRIPTION:

1. NewSouth's Responses to Staff's 1st Request for PODs (Nos. 1-8) – Page 1
2. NewSouth's Responses to Staff's 2nd Request for PODs (No. 9) – Page 3
3. NewSouth's Responses to Staff's 3rd Set of Interrogatories (Nos. 12-17) – Page 4

PROFFERING PARTY: STAFF

I.D. # NewSouth-Stip-2

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030851-TP EXHIBIT NO. 43
COMPANY/ FPSC Staff/NewSouth
WITNESS: NewSouth-Stip-2
DATE: 02/24-27/04

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of Requirements Arising from Federal Communications Commission's Triennial UNE review: Local Circuit Switching for Mass Market Customers.	DOCKET NO. 030851-TP FILED: FEBRUARY 23, 2004

NEWSOUTH'S ANSWERS TO STAFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1 - 8)

Pursuant to Rule 1.340, Florida Rules of Civil Procedure, NewSouth Communications Corp. ("NewSouth"), by and through its undersigned attorney, hereby responds to Staff's Third Set of Interrogatories (Nos. 12 through 17).

DOCUMENTS REQUESTED

1. Please provide all documents that support your response to Interrogatory No. 2.

RESPONSE

See Answer to Interrogatory No. 2 for documents identified therein. In response to request for documents on hot cut issues, NewSouth has not raised any with the Florida Collaborative, and therefore, no documents exist.

2. Please provide all documents that support your response to Interrogatory No. 3.

RESPONSE

Please see ¶ 470 of the TRO.

3. Please provide all documents that support your response to Interrogatory No. 5.

RESPONSE

Please see ¶ 489 of the TRO.

4. Please provide all documents that support your response to Interrogatory No. 6 (b).

RESPONSE

Please see AT&T's Cheryl Bursh, Rebuttal Testimony in this docket (1/7/2004).

5. Please provide all documents that support your response to Interrogatory No. 6 (c).

RESPONSE

Please see AT&T's Cheryl Bursh, Rebuttal Testimony in this docket (1/7/2004).

6. Please provide all documents that support your response to Interrogatory No. 7 (a).

RESPONSE

None.

7. Please provide all documents that support your response to Interrogatory No. 7 (d).

RESPONSE

None, since NewSouth answered Interrogatory No. 7(d) as "nonapplicable".

8. Please provide all documents that support your response to Interrogatory No. 7 (e).

RESPONSE

None, since NewSouth answered Interrogatory No. 7(d) as "nonapplicable".

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of Requirements Arising from Federal Communications Commission's Triennial UNE review; Local Circuit Switching for Mass Market Customers.	DOCKET NO. 030851-TP FEBRUARY 23, 2004

NEWSOUTH'S RESPONSE TO STAFF'S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NO. 9)

Pursuant to Rule 1.340, Florida Rules of Civil Procedure, NewSouth Communications Corp. ("NewSouth"), by and through its undersigned attorney, hereby responds to Staff's Second Request for Production of Documents (No. 9).

DOCUMENTS REQUESTED

9. Referring to the company's response to Interrogatory No. 8(k), please provide a copy of the OSS methods and procedures documentation.

RESPONSE

None, since NewSouth answered Interrogatory No. 8(k) as "nonapplicable".

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Attorneys for NewSouth Communications, Inc.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of Requirements Arising from Federal Communications Commission's Triennial UNE Review: Local Circuit Switching for Mass Market Customers.	DOCKET NO. 030851-TP FEBRUARY 23, 2004

NEWSOUTH'S RESPONSES TO STAFF'S THIRD SET OF INTERROGATORIES (NOS. 12 - 17)

Pursuant to Rule 1.340, Florida Rules of Civil Procedure, NewSouth Communications Corp. ("NewSouth"), by and through its undersigned attorney, hereby responds to Staff's Third Set of Interrogatories (Nos. 12 through 17).

INTERROGATORIES:

12. **For the purpose of the following questions, please refer to the direct testimony of BellSouth witness Tipton, Exhibit PAT-4.**

12. (a) Considering only UNE Zones 1 and 2, please identify in which of the following markets NewSouth has entered: Jacksonville, Orlando, Miami, Fort Lauderdale, West Palm Beach- Boca Raton, Pensacola, or Daytona Beach.

RESPONSE

NewSouth has entered the Jacksonville, Orlando, Pensacola and Daytona Beach Markets.

12. (b) Of those markets NewSouth has identified in (a) as having entered, please identify those markets where NewSouth provides service using UNE-L.

4

RESPONSE

NewSouth provides UNE-L service in each of the markets identified in response to #12a.

12. (c) For those markets identified in (b), please identify the CLLI of each switch that serves these markets.

RESPONSE

JCVLFLJBDS0 serves the Jacksonville and Daytona Beach Markets.

WNHNFLBUDS0 serves the Orlando Market.

Both DESTFLSTDS1 and NWORLAMODS0 serve the Pensacola Market.

12. (d) For each switch identified in (c), please identify the number of DS0 lines served in each market.

RESPONSE

NewSouth does not provide service at the DS0 level.

12. (e) For those DS0 lines served in each market identified in (d), please indicate the number of customer locations served by those DS0 lines.

RESPONSE

N/A.

12. (f) Of those customer locations identified in (e), please indicate the number of customer locations with 3 or fewer DS0 lines.

RESPONSE

N/A.

12. (g) For each switch identified in (c) that provides DS0 service, please state the percent of total capacity used to provide DS0 service.

RESPONSE

N/A.

12. (h) For each switch identified in (c) that provides DS0 service, please state the percent of spare capacity.

RESPONSE

N/A.

12. (i) For each switch identified in (c), please identify the ILEC wire centers served.

RESPONSE

This information was provided in NewSouth's response to Question #11 in Staff's Second Set of Interrogatories.

12. (j) Of those markets NewSouth has indicated in (a) as having entered, please state in which wire centers NewSouth has collocation arrangements.

RESPONSE

NewSouth has collocations in the following Wire Centers:

JCBHFLMA
JCVLFLCL
JCVLFLSJ
JCVLFLSM
MNDRFLLO
DYBHFLMA
PNSCFLBL
ORLDFLPC
ORLDFLMA
KSSMFLXA
SNFLFLMA

12. (k) Of those markets NewSouth has indicated in (a) as having entered, please state in which markets NewSouth does not have a collocation arrangement in any wire center within that market.

RESPONSE

NewSouth has at least one collocation in each of the markets identified in response to #12a.

13. For the purpose of the following questions, please refer to the direct testimony of BellSouth witness Tipton, Exhibit PAT-4.

13. (a) Considering only UNE Zones 1 and 2, please identify in which of the following markets NewSouth has entered: Fort Pierce-Port St. Lucie, Gainesville. Melbourne-Titusville-Palm Bay, or Panama City.

RESPONSE

NewSouth has entered the Gainesville, Melbourne-Titusville-Palm Bay and Panama City Markets.

13. (b) Of those markets NewSouth has identified in (a) as having entered, please identify those markets where NewSouth provides service using UNE-L.

RESPONSE

NewSouth provides UNE-L service in each of the markets identified in response to #13a.

13. (c) For those markets identified in (b), please identify the CLLI of each switch that serves these markets.

RESPONSE

JCVLFLJBDS0 serves the Gainesville and Panama City Markets.
WNHNFLBUDS0 serves the Melbourne-Titusville-Palm Bay Market.

13. (d) For each switch identified in (c), please identify the number of DS0 lines served in each market.

RESPONSE

NewSouth does not provide service at the DS0 level.

12. (e) For those DS0 lines served in each market identified in (d), please indicate the number of customer locations served by those DS0 lines.

RESPONSE

N/A.

13. (f) Of those customer locations identified in (e), please indicate the number of customer locations with 3 or fewer DS0 lines.

RESPONSE

N/A.

13. (g) For each switch identified in (c) that provides DS0 service, please state the percent of total capacity used to provide DS0 service.

RESPONSE

N/A.

13. (h) For each switch identified in (c) that provides DS0 service, please state the percent of spare capacity.

RESPONSE

N/A.

13. (i) For each switch identified in (c), please identify the ILEC wire centers served.

RESPONSE

This information was provided in New South's response to Question #11 in Staff's Second Set of Interrogatories.

13. (j) Of those markets NewSouth has indicated in (a) as having entered, please state in which wire centers NewSouth has collocation arrangements.

RESPONSE

NewSouth has a collocation in the following Wire Center: MLBRFLMA.

13. (k) Of those markets NewSouth has indicated in (a) as having entered, please state in which markets NewSouth does not have a collocation arrangement in any wire center within that market.

RESPONSE

NewSouth is not collocated in any wire center in the Gainesville or Panama City Markets.

14. For the purpose of the following questions, please refer to the direct testimony of Verizon's witness Fulp, Exhibit ODF-3.

14. (a) Considering only UNE Zones 1 and 2, please state whether NewSouth has entered the Tampa-St. Petersburg-Clearwater market.

RESPONSE

NewSouth has entered the Tampa-St. Petersburg-Clearwater Market.

14. (b) If the response to (a) is affirmative, please state whether NewSouth provides service using UNE-L.

RESPONSE

NewSouth provides UNE-L service in each of the markets identified in response to #14a.

14. (c) If the response to (b) is affirmative, please identify the CLLI of each switch which serves this market.

RESPONSE

WNHNFLBUDS0 services the Tampa-St. Petersburg-Clearwater Market.

14. (d) For each switch identified in (c), please indicate the number of DS0 lines served in this market.

RESPONSE

NewSouth does not provide service at the DS0 level.

//

14. (e) For those DS0 lines served in this market identified in (d), please indicate the number of customer locations being served by those DS0 lines.

RESPONSE

N/A.

14. (f) Of those customer locations identified in (e), please indicate the number of customer locations with 3 or fewer DS0 lines.

RESPONSE

N/A.

14. (g) For each switch identified in (c) that provides DS0 service, please state the percent of total capacity used to provide DS0 service.

RESPONSE

(g) N/A.

14. (h) For each switch identified in (c) that provides DS0 service, please state the percent of spare capacity.

RESPONSE

(h) N/A.

14. (i) For each switch identified in (c), please identify the ILEC wire centers served.

RESPONSE

14. (i) This information was provided in NewSouth's response to Question #11 in Staff's Second Set of Interrogatories.

If the response to (a) is affirmative, please state the ILEC wire centers within this market in which NewSouth has collocation arrangements.

RESPONSE

NewSouth has collocations in the following Wire Centers:

CLWRFLXA
LKLDFLXA
SPBGFLXA
SRSTFLXA
WNHNFLXC
PNLSFLXA
TAMPFLXA
CNSDFLXA
CRWDFLXA
UNVRFLXA

14. (k) If the response to (a) is affirmative, please state whether NewSouth does not have a collocation arrangement in any wire center within this market.

RESPONSE

NewSouth is collocated throughout Tampa-St. Petersburg-Clearwater Market.

15. Please affirm or deny which of the following markets NewSouth has entered: Tarpon Springs, New Port Richey, Zephyrhills, Kissimmee, Reedy Creek, Windermere, Winter Garden, Apopka or Winter Park.

RESPONSE

Tarpon Springs (affirm), New Port Richey (affirm), Zephyrhills (deny), Kissimmee (affirm), Reedy Creek (deny), Windermere (deny), Winter Garden (deny), Apopka (affirm) and Winter Park (affirm).

16. For the purpose of the following questions, please refer to your response to Interrogatory 15.

16. (a) Of those markets NewSouth has identified as having entered, please identify those markets where NewSouth provides service using UNE-L.

RESPONSE

NewSouth provides UNE-L in all of the markets it has entered listed in response to #15.

16. (b) For those markets identified in (a) please identify the CLLI of the switch that serves these markets.

RESPONSE

The WNHNFLBUDS0 switch serves all of the affirmed markets.

16. (c) For each switch identified in (b), please indicate the number of DS0 lines served in each market.

RESPONSE

N/A.

16. (d) For those DS0 lines served in each market identified in (c), please indicate the number of customer locations being served by those DS0 lines.

RESPONSE

N/A.

16. (e) Of those customer locations identified in (d), please indicate the number of customer locations with 3 or fewer DS0 lines.

RESPONSE

N/A.

16. (f) For each switch identified in (b) that provides DS0 service, please state the percent of total capacity used to identify DS0 service.

RESPONSE

N/A.

16. (g) For each switch identified in (b) that provides DS0 service, please state the percent of spare capacity.

RESPONSE

N/A.

16. (h) For each switch identified in (b), please identify the ILEC wire centers served.

RESPONSE

This information was provided in NewSouth's response to Question #11 in Staff's Second Set of Interrogatories.

16. (i) Of those markets NewSouth has identified as having entered, please state in which wire centers NewSouth has collocation arrangements.

RESPONSE

New South is not collocated in any of the collocations affirmed in #15.

16. (j) Of those markets NewSouth has identified as having entered, please state in which markets NewSouth does not have a collocation arrangement in any wire center within that market.

RESPONSE

See answer to #16(i) above.

17. For the purpose of the following questions, please refer to the direct testimony of MCI witness Lichtenberg, page 6, lines 13 through 16.

17. (a) Has NewSouth found certain locations where it makes economic and operational sense to pursue UNE-L?

RESPONSE

NewSouth deploys UNE-L in every market it has entered. UNE-L is the core medium by which NewSouth serves its customers.

17. (b) If the response to (a) is affirmative, please describe any such locations in Florida where this has been found to be the case.

RESPONSE

See answer to question #17(a) above.

17. (c) What advantages can be realized by using UNE-L, once the challenges to such service have been overcome?

RESPONSE

Objection: This question is ambiguous, calls for speculation as to "advantages" once "challenges" have been overcome. What is meant by challenges is unclear and ambiguous. Moreover, the question asks one to speculate on future events, which may or may not occur.

17. (d) Has NewSouth begun cutting over any of its customers to its own switches in Florida?

RESPONSE

NewSouth has cut customers onto its switches and provided integrated services in this manner since the first day it entered Florida's markets.

17. (e) If the response to (d) is affirmative, when did NewSouth first cut over one of its customers to its own switch?

RESPONSE

NewSouth cut its first customer on 8/27/1999.

17. (f) If the response to (d) is affirmative, where is the switch located to which the first NewSouth customer was cut over?

RESPONSE

The first customer was cut on the Winter Haven Switch (WNHNFLBUDS0).

17. (g) If the response to (d) is affirmative, has NewSouth continued to cut over customers to its own switches since testimony was filed?

RESPONSE

Yes we have.

17. (h) If the response to (g) is affirmative, how many additional customers have been cut over?

RESPONSE

NewSouth has cut 77 customers in the State of Florida since 12/4/2003.

17. (i) If the response to (g) is negative, please explain why NewSouth has ceased cutting customers over to its switches.

RESPONSE

N/A.

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117 SOUTH GADSDEN
TALLAHASSEE, FLORIDA 32301
(850) 222-2525
(850) 222-5606 FAX

December 3, 2003

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: Data Request Related to Docket Nos. 030851-TP and 030852-TP

Dear Ms. Bayo:

On behalf of ICG Telecom Group, Inc., I am submitting ICG's response to the data request that ICG received from Staff. ICG has checked the box designated for carriers who do not provide services or provide services through resale. While the box does not describe ICG's situation precisely, it appears to be the appropriate selection for carriers to whom the data request is inapplicable for reasons other than those identified on the form. To explain its selection, ICG is including this additional statement, which is part of its response.

ICG's only customers in Florida are Internet Service Providers, to whom it provides only data services. ICG does not and, with its equipment, cannot provide voice services in Florida. As we understand the nature and purpose of the data request and its relationship to the "impairment" cases pending before the FPSC, ICG believes the questions are therefore not applicable to ICG.

Please contact us if you require anything further.

Yours truly,

Joseph A. McGlothlin

JAM/bae
Enclosure
Cc: Pat Lee (w/enclosure)
Adam Teitzman (w/enclosure)
Andrea Guzman (w/enclosure)

ICG response to data request
General

	A	B	C	D	E	F
1	Please enter the information requested below in column B in reference to your company					
2	FPSC CODE	AAV/CLEC - TA017/Reseller - TI1347	The FPSC code should be on the address label used to send the paper copies of this data request to you.			
3	Company Name, as it appears on your provider's certificate	ICG Telecom Group, Inc.	Use the company name that appears on the address label, as well.			
4	OCN from LERG	7247				
5	OCN Name from LERG	ICG Telecom Group				
6	tegory (CLEC, ILEC, WIRELESS)	CLEC				
7	OCN from LERG (administrative)	G082	Continue with additional affiliations or DBA Names down the columns --->			
8	FLPSC code for Affiliations	None				
9	DBA Names	None				
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No service				
11		ICG's only customers in Florida are Internet Service Providers, to whom it provides only data services. ICG does not and, with its equipment, cannot provide voice services in Florida. As ICG understands the nature and purpose of the data request and its relationship to the "impairment" cases pending before the FPSC, ICG believes the questions are therefore not applicable to ICG.				
12						
13	Thank you for completing this data request, since you do not provide service in Florida,					
14	please stop here and return this spreadsheet					

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP
Response of Cox Florida Telcom, L.P.

Dear Ms. Bayo and Ms. Lee:

Enclosed are the responses of Cox Florida Telcom, L.P. d/b/a Cox Communications to the reference Data Request, together with a signed notarized statement attesting to the accuracy of the information. No specified confidential treatment is requested

Should you have any questions regarding this data request, please contact Jill Broome at 757-369-4524 or jill.broome@cox.com

Sincerely

Jill Broome by RSW

Jill Broome
Vice President, Regulatory Affairs
Cox Florida Telcom, L.P. d/b/a Cox Communications

Enclosures (2)

2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP
Response of Cox Florida Telcom, L.P. to FPSC Staff Data Request

1. The FPSC code to certificate number registered with the FPSC.

   Code is TA027.

2. Company name:

   Company name is Cox Florida Telcom, L.P. d/b/a Cox Communications.

3. OCN:

   OCN is 7193.

4. OCN_NAME:

   OCN_NAME is Cox Cable Pensacola, Inc. (short name Cox Cable Pensacola).

5. LERG CATEGORY:

   LERG CATEGORY is CLEC.

6. AOCN:

   AOCN is 7987.

7. Affiliations to other telephone companies in Florida:

   Cox Florida Telcom, L.P. does not have any affiliations with other telephone companies in Florida.

8. D/b/a names:

   D/b/a name is Cox Communications.

9. Provision of service in Florida:

Cox Florida Telcom, L.P. does not provide switched telephone service in Florida. Cox Florida Telcom, L.P does not have connections to any ILEC in Florida. Cox Florida Telcom, L.P. does not provide any loops connecting end users to a switch nor does it provide any transport connecting ILEC central offices.

AFFIDAVIT

By my signature below, I, Jill Nickel Broome, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of Cox Florida Telcom, L.P.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

Jill Nickel Broome
Print Name

Jill Nickel Broome
Signature

Vice President, Regulatory Affairs
Title

12/3/2003
Date

757-369-4524
Telephone No.

757-369-4500
Fax No.

Cox Florida Telcom, L.P. d/b/a Cox Communications
Utility

Address: 225 Clearfield Ave.
Virginia Beach, VA 23462

STATE OF Texas

COUNTY OF Smith

Sworn to (or affirmed) and subscribed before me this 3 day of Dec, 2003, by Jill Nickel Broome

(NOTARY SEAL)

SUSAN G. PRICE
Notary Public, State of Texas
My Commission Expires
12-06-03

(Signature of Notary Public)

(Name of Notary Typed, Printed, or Stamped)

Personally Known _____ OR Produced Identification _____ Type of Identification Produced Virginia DL 307-60-3582

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

December 2, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TA029
LaRene Flack
Sr. Mgr., Reg, Tariffs & Compliance
Cable & Wireless USA, Inc.
11700 Plaza America Drive
Reston, VA 20190-4751

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 22, 2003)***

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On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[1] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

STATE OF FLORIDA

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BETH W. SALAK
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December 2, 2003

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TA033
Woodard S. Setzer
Senior Manager - Regulatory
Gulf Long Distance, Inc.
P. O. Drawer 670
Foley, AL 36536-0670

DBA GULTEL COMMUNICATIONS
CERTIFICATE WAS CANCELLED
BEFORE BECOMING ACTIVE.
GLD IS TOLL RESELER, ONLY.

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 22, 2003)***

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GULF TELEPHONE COMPANY

FAX COVER SHEET

TO: BLANCO BAYO / PAT LEE

FROM: WOODY SETZER - 251-952-5379
251-943-5920 FAX

DATE: 12/04/03

SUBJECT: TRO DATA REQUESTS

SENDER'S REFERENCE NUMBER:

NUMBER OF PAGES (INCLUDING COVER SHEET):

NOTES/COMMENTS: ATTACHED IS SHEET THAT I'VE CHECKED AS NOT ACTIVE LOCAL SERVICE PROVIDER. AT ONE TIME GULF LONG DISTANCE (GLD) WHO IS OUR TOLL RESELLER OBTAINED A CLEC CERTIFICATE UNDER GULFTEL COMMUNICATIONS, BUT CANCELLED IT BEFORE BECOMING ACTIVE. LET ME KNOW IF I NEED TO TAKE FURTHER ACTION. GLD STILL OPERATES AS TOLL RESELLER WITH NO LOCAL SERVICE ACCOUNTS.

STATE OF FLORIDA

COMMISSIONERS:
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RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

RECEIVED
DEC 03 2003
ELECTRIC ADMIN.

December 2, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TA036
Richard T. Kent, Jr.
Deputy Director
City of Ocala, % Ocala Electric Utility
2100 N.E. 30th Avenue
Ocala, FL 34470-4875

The City of Ocala is not utilizing any UNE components. KBH

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 22, 2003)***

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BETH W. SALAK
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Public Service Commission

December 2, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☐

TA042
Jerry Stabler
President
Atlantic Telecommunication Systems, Inc.
5849 Okeechobee Blvd., Suite 201
West Palm Beach, FL 33417-4352

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 22, 2003)***

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BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

December 2, 2003

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At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TA043
Vince Ruano
City Manager
City of Bushnell
P. O. Box 115
Bushnell, FL 33513-0115

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 22, 2003)***

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(850) 413-6600

Public Service Commission

December 2, 2003

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At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TA049
Gary S. Brinkworth
Mgr, Utility Business & Customer Serv.
City of Tallahassee
300 South Adams Street, A-36
Tallahassee, FL 32301-1731

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 22, 2003)***

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STATE OF FLORIDA

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LILA A. JABER, CHAIRMAN
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BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

December 2, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454.
(2 pages total - see attached)

TA051
Jennifer Martin
Manager, Regulatory Affairs
Teligent Services, Inc.
460 Herndon Parkway, Suite 100
Herndon, VA 20170-5293

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 22, 2003)***

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Teligent, Inc.
460 Herndon Parkway, Suite 100
Herndon, Virginia 20170
voice: 703.326.4400
fax: 703.326.4500
http://www.teligentinc.com

December 8, 2003

VIA FACSIMILE

Blanco S. Bayo
Division of the Commission Clerk
And Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: Docket Nos. 030851-TP and 030852-TP, Date Request Regarding Implementation Requirements Arising From the FCC's Triennial Unbundled Network Element Review – Local Circuit Switching for Mass Market Customers and High-Capacity Loops and Transport

Dear Ms. Bayo:

Teligent Services, Inc. ("Teligent") hereby submits its response to the above-referenced Docket Nos.

As the Commission is aware, Teligent emerged from Chapter 11 bankruptcy protection on September 12, 2002. As a result of its approximate 18-month Chapter 11 status, Teligent no longer provides facilities-based local exchange or long distance services anywhere in the State of Florida. Teligent merely resells long distance service of an underlying carrier. More importantly to these Docket Nos., Teligent does not own or operate switching facilities in Florida nor does it lease unbundled network elements (UNEs). As such, it has no information responsive to the above-referenced Dockets. To that end, Teligent respectfully requests dismissal from Docket Nos. 030851-TP and 030852-TP.

Should you have any questions regarding this matter, please feel free to contact the undersigned at 703.326.4496 or mailto:jennifer.martin@teligent.com.

Sincerely,

Jennifer Martin
Manager, Regulatory Affairs
Teligent Legal Department

LAW OFFICES OF
SUZANNE FANNON SUMMERLIN, P.A.

2536 CAPITAL MEDICAL BOULEVARD
TALLAHASSEE, FLORIDA 32309

TELEPHONE (850) 656-2288
TELECOPIER (850) 656-5589

December 22, 2003

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

Dear Madam/Sir:

Enclosed please find the 2003 TRO data request responses for Southeastern Services, Inc. for the above referenced dockets. As Southeastern Services, Inc. provides services only via resale in Florida, there are no appropriate responses to be provided in this data request.

Please do not hesitate to contact me if you have questions or concerns.

Sincerely,

Suzanne F. Summerlin
SUZANNE FANNON SUMMERLIN, P.A.

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE		The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Southeastern Services Inc	Use the company name that appears on the address label, as well.		
4	OCN from LERG	no service			
5	OCN Name from LERG	no service			
6	Category (CLEC, ILEC, WIRELESS)	no service			
7	AOCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the columns --->		
8	FLPSC code for Affiliations				
9	DBA Names				
10	If you do not provide service or are providing service only via (resale) in Florida, please enter "No Service" and return this information.	No Service			
11					
12					
13					
14	Please complete the above information as requested.				

NewWorld
Network

15950 West Dixie Highway
North Miami Beach, FL 33162
Tel 786 274 7400
Fax 786 274 7962

www.nwncable.com

December 19, 2003

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: 2003 TRO Data Request in Docket No. 030851-TP and 030852-TP

Dear Ms. Lee:

In response to the Data Request in Docket No. 030851-TP and 030852-TP, please find attached A.SUR Net's response.

Please do no hesitate to call me at 786 274 8693 should you have any questions.

Sincerely,

Florencia Maggi

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TA057	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	A.SUR Net, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	N/A			
5	OCN Name from LERG	N/A			
6	Category (CLEC, ILEC, WIRELESS)	Alternative Access Vendor			
7	AOCN from LERG (administrative)	N/A	Continue with additional affiliations or DBA Names down the columns --->		
8	FLPSC code for Affiliations	N/A			
9	DBA Names	N/A			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	NO SERVICE			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida, please stop here and return this spreadsheet				
14					

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

On this 19th day of December, 2003, I attest that the above-mentioned information is true and exact to the best of my knowledge.

Peter D. Collins
Vice President and Chief Technical Officer

STATE OF FLORIDA
COUNTY OF MIMI-DADE

The foregoing instrument was acknowledged before me this 19th day of December, 2003, by Peter D. Collins, Vice President and Chief Technical Officer of A.SUR Net, Inc., a Delaware corporation, on behalf of the corporation. He is personally known to me.

KRISTIN DITRAGLIA
Notary Public - State of Florida
My Comm. Expires Jul 14, 2006
Commission # DD133830
Bonded By National Notary Assn.

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

December 2, 2003

RESPONSE IS REQUIRED
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TA057
David M. Martin
General Counsel
A.SUR Net, Inc.
15950 West Dixie Highway
North Miami Beach, FL 33162-4939

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 22, 2003)***

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requested data is essential to ensure that each carrier's facilities are considered in conclusions reached regarding UNE obligations. Company responses are due to the Commission by **December 22, 2003**. The data request is similar to the October 3, 2003, data request of the New York Department of Public Service in Case 03-C-0821, modified by a few additional questions.

The trigger-related information is to be provided on electronic spreadsheets: (1) general_questions_FL.xls, (2) switching_questions_FL.xls, (3) transport_questions_FL.xls, and (4) loop_questions_FL.xls. Hard copies of the spreadsheets are attached to the data request and spreadsheet files can also be downloaded from the Commission's website to use in providing responses (http://www.floridapsc.com). The number of spreadsheet rows to which each CLEC will be required to respond depends upon the number of switches, transport routes, or customer locations for which each company has provisioned facilities. Detailed instructions are included in the data request as well as attached to the spreadsheets.

If your company holds a certificate but is not currently active in the marketplace, you may simply check the box at the top of this page and return it.

To the extent you are a party to either Docket No. 030851-TP or Docket No. 030852-TP and information requested has already been provided through responses to interrogatories or document requests, there is no need to provide a full response again. Simply respond by identifying the particular interrogatory or document request (serving party, item number, filing date) where the information can be found.

Once the spreadsheets are completed, they should be saved electronically using the company name in the saved file name; i.e., general_Company Name_FL.xls. A cover letter along with a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette or compact disk (CD) should be mailed to:

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

Once the completed data request is received by the Commission, the information will be public record. If you believe your response contains confidential information, you can request that your response be exempt from FS 119.07(1), General State Policy on Public Records. If you are claiming confidential classification, a written request for the specific material to which the confidentiality relates should be filed with the Division of the Commission Clerk and Administrative Services with a copy to Pat Lee, Division of Competitive Markets & Enforcement. Enclosed is a copy of Florida Public Service Commission Rule 25-22.006, Florida Administrative Code, which provides the necessary information for submitting confidential information to be exempt from FS 119.07(1). Please note that a claim of confidentiality does not alleviate the obligation to respond to the data request in a timely manner. In addition, claims of confidentiality should not be made for information that is publicly available from other sources (switch locations, for example, are available from the Local Exchange Routing Guide).

In order to meet the 9-month federal requirements, it is essential that we obtain this information in a timely manner, as required by Florida Public Service Commission Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Failure to comply with this rule can result in the Commission assessing penalties of up to $25,000 per offense, with each day of non-compliance constituting a separate offense per FS 364.285(1). We encourage you to retain a record confirming delivery of your company's response to the data request, such as a certified mail receipt, a fax log, or a copy of an e-mail.

Responses to the enclosed data request are due no later than **December 22, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,

Beth W. Salak

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

ORIGINAL

McFARLAIN & CASSEDY, P.A.

Attorneys at Law

CHRISTOPHER BARKAS
GINGER L. BARRY
P. DAVID BRANNON
MARSHALL R. CASSEDY, RETIRED
WILLIAM B. GRAHAM
DOUGLAS P. JONES
TERRELL C. MADIGAN
HAROLD R. MARDENBOROUGH, JR.
RICHARD C. McFARLAIN
H. LESTER McFATTER, JR.
ROBERT A. McNEELY
ELLEN C. PAPPAS
JASON C. TAYLOR
H. DARRELL WHITE, JR.
WILLIAM B. WILEY

305 SOUTH GADSDEN STREET (32301)
POST OFFICE BOX 2174
TALLAHASSEE, FLORIDA 32316-2174

TELEPHONE (850) 222-2107
TELECOPIER (850) 222-8475

FROM THE DESK OF:
WILLIAM B. GRAHAM
e-mail: bgraham@mcfarlain.com

RECEIVED - FPSC
03 DEC -3 PM 3:37
COMMISSION CLERK

December 3, 2003

Blanco S. Bayo
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0855

Re: Response of Comcast Business Communications, Inc. to the Data Request by the Florida Public Service Commission Regarding Implementation of Requirements Arising From FCC's Triennial Unbundled Network Element Review – Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP)

Dear Ms. Bayo:

In its November 12, 2003 Data Requests regarding Implementation of Requirements arising from the Federal Communication Commission's Triennial UNE Review ("Data Requests"), the Florida Public Service Commission ("the Commission") directed Florida ALECs to provide information relative to their switching facilities and the provision of dedicated transport and of high-capacity loops. Comcast Business Communications, Inc. ("CBC" or the "Company") has reviewed the Data Requests, and has determined, as further described below, that the Commission's Data Requests are inapplicable to CBC.

CBC does not have active ALEC operations in the State of Florida. As a result, CBC does not own, lease or operate Class 5 or similar switches that provide qualifying services in Florida. Additionally the Company does not purchase or self-provision transport between ILEC central offices.

Furthermore, with respect to high-capacity loops, the Commission's Data Requests appear to be inapplicable to CBC. CBC does not provide the DS1, DS3s or dark fiber services specified in the Commission's spreadsheet. Rather, CBC provides two types of advanced data-only services in and around the Tallahassee area: Type A and Type B services. Type A services provide connectivity of local area networks using Ethernet technology for symmetrical data rates including 1.5 Mbps, 4.0

AUS
CAF
CMP
COM
CTR
ECR
GCL
OPC
MMS
SEC 1
OTH 1 by facsimile

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
12321 DEC-3 03
FPSC-COMMISSION CLERK

Staff 0022

Mpbs and 10 Mbps. Type B services provide asynchronous transfer mode ("ATM") connectivity at rates of 10 Mbps, 25 Mbps, 45 Mbps, 100 Mbps to 155 Mbps. The foregoing services, as noted above, do not fit the Commission's request for information about DS1, DS3s or dark fiber services.

CBC appreciates your attention to this matter and will continue to cooperate with the Commission in this proceeding. If you have any questions with respect to this letter, please contact the undersigned at the address or telephone number above.

Sincerely,

J. C. T. for

William B. Graham, Esquire
Attorney for Comcast Phone of Florida, LLC

WBG/ktc

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

THE WASHINGTON HARBOUR
3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FACSIMILE (202) 424-7643
WWW.SWIDLAW.COM

NEW YORK OFFICE
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NY 10174
TELEPHONE (212) 973-0111
FACSIMILE (212) 891-9598

December 22, 2003

2003 DEC 24 AM 9:48
DIVISION OF
COMPETITIVE SERVICES

VIA FACSIMILE AND
OVERNIGHT DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

Dear Ms. Bayo:

Latin American Nautilus U.S.A. Inc. ("Latin American Nautilus"), through undersigned counsel, hereby submits its response to the data request received by Latin American Nautilus from Staff. Latin American Nautilus has checked the box designated for carriers who do not provide services in Florida or who provide services in Florida through resale. While the box does not describe Latin American Nautilus's situation precisely, it appears to be the appropriate response for carriers, such as Latin American Nautilus, to whom the data request is inapplicable for reasons other than those identified on the form. As further explanation of its response, Latin American Nautilus is providing the additional information set forth below.

Latin American Nautilus is authorized to provide Alternative Access Vendor services in Florida pursuant to Certificate No. 8056. Currently, Latin American Nautilus provides only international and related interstate telecommunications services to customers in Florida. Specifically, Latin American Nautilus's customers originate and terminate international traffic to and from Latin America. To the extent Latin American Nautilus owns facilities in Florida, those facilities are used exclusively for the origination and/or termination of international and interstate traffic, and are not currently used to provide local telecommunications services. As we understand the nature and purpose of Staff's data request and its relationship to the "impairment" cases pending before the Commission, Latin American Nautilus believes the questions are therefore not applicable to it.

An original and one (1) copy of this filing are enclosed. Please date stamp and return the enclosed extra copy of this filing in the self-addressed, postage-prepaid envelope. Should you have any questions concerning this matter, please do not hesitate to contact the undersigned.

Respectfully submitted,

Troy F. Tanner

Enclosure

cc: Pat Lee (w/enclosure)
Adam Teitzman (w/enclosure)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

December 2, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TA063
Eduardo Falzoni
Latin American Nautilus U.S.A. Inc.
200 South Biscayne Blvd., Suite 4600
Miami, FL 33131-2303

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 22, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[19] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the requested data is essential to ensure that each carrier's facilities are considered in conclusions

[19] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

reached regarding UNE obligations. Company responses are due to the Commission by **December 22, 2003**. The data request is similar to the October 3, 2003, data request of the New York Department of Public Service in Case 03-C-0821, modified by a few additional questions.

The trigger-related information is to be provided on electronic spreadsheets: (1) general_questions_FL.xls, (2) switching_questions_FL.xls, (3) transport_questions_FL.xls, and (4) loop_questions_FL.xls. Hard copies of the spreadsheets are attached to the data request and spreadsheet files can also be downloaded from the Commission's website to use in providing responses (http://www.floridapsc.com). The number of spreadsheet rows to which each CLEC will be required to respond depends upon the number of switches, transport routes, or customer locations for which each company has provisioned facilities. Detailed instructions are included in the data request as well as attached to the spreadsheets.

If your company holds a certificate but is not currently active in the marketplace, you may simply check the box at the top of this page and return it.

To the extent you are a party to either Docket No. 030851-TP or Docket No. 030852-TP and information requested has already been provided through responses to interrogatories or document requests, there is no need to provide a full response again. Simply respond by identifying the particular interrogatory or document request (serving party, item number, filing date) where the information can be found.

Once the spreadsheets are completed, they should be saved electronically using the company name in the saved file name; i.e., general_Company Name_FL.xls. A cover letter along with a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette or compact disk (CD) should be mailed to:

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

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In order to meet the 9-month federal requirements, it is essential that we obtain this information in a timely manner, as required by Florida Public Service Commission Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Failure to comply with this rule can result in the Commission assessing penalties of up to $25,000 per offense, with each day of non-compliance constituting a separate offense per FS 364.285(1). We encourage you to retain a record confirming delivery of your company's response to the data request, such as a certified mail receipt, a fax log, or a copy of an e-mail.

Responses to the enclosed data request are due no later than **December 22, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

December 2, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TA066
Raymond M. Chauncey
CEO
Laser Telecom, LLC
1896 South 14th Street, Suite 6
Fernandina Beach, FL 32034-3054

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 22, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[20] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[20] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

FROM : FAX NO. : 0000000000 Dec. 24 2003 01:20PM P1

HAYES
E-GOVERNMENT RESOURCES

Fax

To:	Pat Lee	**From:**	Bradford Hood
Fax:	850.413.6454	**Pages:**	4
Phone:	850.413.6453	**Date:**	December 3, 2003
Re:	Re: 2003 TRO Data Request in Docket Nos. 030851-TP and 030851-TP		

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

1355 Thomaswood Drive
Tallahassee, FL 32308

850.297.0551
800.825.9390

850-297-0638 Fax
www.hcs.net

December 3, 2003

Blanco S. Bayo
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: 2003 TRO Data Request in Docket Nos. 030851-TP and 030851-TP

To whom it may concern:

Enclosed is our response to the Data Request. A copy of this response was also faxed on Dec. 03, 2003 to Pat Lee at 850 413-6454. If you have any questions, I can be reached at 850.297.0551x182.

Sincerely,

Brad Hood

Enclosures: Hard copy of general_questions_FL, 3.5 floppy with electronic version

Brad Hood | 850.297.0551 | 850-297-0644 Fax
1355 Thomaswood Drive | Extension 182 |
Tallahassee, FL 32308 | 800.825.9390 | bhood@hcs.net

12/01/2003 09:47 8508790858 HCS ENG PAGE 02

general_questions_FL
General

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TA067	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Hayes E-Government Resources, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	We are not subscribed to the LERG			
5	OCN Name from LERG	We are not subscribed to the LERG			
6	Category (CLEC, ILEC, WIRELESS)	We are not subscribed to the LERG			
7	AOCN from LERG (administrative)	We are not subscribed to the LERG	Continue with additional affiliations or DBA Names down the columns -->		
8	FLPSC code for Affiliations	No Affiliates			
9	DBA Names	None			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida,				
14	please stop here and return this spreadsheet				

AFFIDAVIT

By my signature below, I, Donald Pace, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of Hayes E-Government Resources

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

Donald Pace	
Print Name	**Signature**
Director of Engineering	12/3/05
Title	**Date**
850-297-0551 x132	850-297-0644
Telephone No.	**Fax No.**

Hayes E-Government Resources
Utility

Address: 1355 ~~Thomasville~~ Thomaswood dr
Tallahassee, FL 32308

STATE OF Florida

COUNTY OF Leon

Sworn to (or affirmed) and subscribed before me this 3rd day of December, 2005, by Donald Pace.

Marsha B. Pittman
(Signature of Notary Public)

(NOTARY SEAL)

MARSHA B. PITTMAN
MY COMMISSION # DD 268640
EXPIRES: December 1, 2007
Bonded Thru Notary Public Underwriters

Marsha B. Pittman
(Name of Notary Typed, Printed, or Stamped)

Personally Known ✓ OR Produced Identification _____ Type of Identification Produced _____

TSI Telecommunication Network Services, Inc.
One Tampa City Center
Suite 700
Tampa, Florida 33602
Telephone: (813) 273-3307
Facsimile: (813) 273-3077
Email: drobinson@tsiconnections.com

December 10, 2003

Blanco S. Bayo
Division of Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, Florida 32399-0850

2003 DEC 24 AM 9:47
DIVISION OF COMPETITIVE SERVICES

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, Florida 32399-0850

RE: 2003 TRO Data Request in Florida PSC Docket Nos. 030851-TP and 030852-TP

To Whom It May Concern:

Per the request of the Commission, attached please find the response of TSI Telecommunication Network Services, Inc. to the above-referenced data request of the Florida Public Service Commission dated December 2, 2003. If you have any questions or need more information, please do not hesitate to contact me.

Sincerely,

David J. Robinson
TSI Telecommunication Network Services, Inc.

ATTACHMENTS

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TA070	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	TSI Telecommunication Network Services, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	267B			
5	OCN Name from LERG	TSI Telecommunications Services, Inc.			
6	Category (CLEC, ILEC, WIRELESS)	Other			
7	AOCN from LERG (administrative)	G103	Continue with additional affiliations or DBA Names down the columns --->		
8	FLPSC code for Affiliations	N/A			
9	DBA Names	N/A			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida,				
14	please stop here and return this spreadsheet				

VERIFICATION OF APPLICANT

STATE OF FLORIDA)
)
COUNTY OF Hillsborough)

I, Robert Gamota, being first duly sworn, state that I am VP - General Counsel of TELECOMMUNICATION NETWORK SERVICES, INC. the Respondent herein; that I have reviewed the matters set forth in the general questions of the Florida Public Service Commission in the Triennial Review Data Request in Docket Nos. 030851-TP and 030852-TP and the statements contained therein are true to the of my knowledge, except as to those matters which are stated on information or belief, and as to those matters I believe them to be true.

TSI TELECOMMUNICATION NETWORK SERVICES, INC.

Sworn to and subscribed before me this 11 day of December, 2003.

My Commission Expires:

Sep. 4, 2006

Notary Public

C. ROSQUET
Notary Public - State of Florida
My Commission Expires Sep 4, 2006
Commission # DD147773
Bonded By National Notary Assn

Staff 0036

Qwest
Spirit of Service

Qwest
1801 California Street, Suite 4900
Denver, Colorado 80202
Phone 303 672 2786
Facsimile 303 298.8197

Meraj Abdul-Qadir, CLA
Interrogatory Manager

OVERNIGHT MAIL

December 2, 2003

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

TX020
TX273

Re: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP
Response of Qwest Interprise America, Inc. ("QIA") and
Qwest Communications Corporation ("QCC")

Dear Ms. Bayo and Ms. Lee:

The purpose of this letter is to respectfully inform the Florida Public Service Commission that neither QCC nor QIA deploys any switches or maintains any facilities in the State of Florida.

If you have any questions, please feel free to contact the undersigned at 303 672-2786.

Very truly yours,

Meraj Abdul-Qadir

Meraj Abdul-Qadir
Interrogatory Manager

/mfa

Enclosures

DOCUMENT NUMBER-DATE
12281 DEC-3 8
FPSC-COMMISSION CLERK

Staff 0037

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TX021
Craig Johnson
President
Strategic Technologies, Inc.
790 N.W. 107th Avenue, Suite 310
Miami, FL 33172-3160

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[19] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TX022
LaRene Flack
Sr. Mgr., Reg, Tariffs & Compliance
Cable & Wireless USA, Inc.
11700 Plaza America Drive
Reston, VA 20190-4751

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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[20] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

Please deliver to:

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission

Epicus
Telecommunications

December 8, 2003

VIA FEDERAL EXPRESS

Blanco S. Bayo
Division of Commission Clerk & Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Epicus, Inc.
2003 TRO Data Request in Docket Nos. 030851-TP & 030852-TP

Dear Ms. Bayo:

Epicus Inc. [Epicus] submits the following information and Affidavit per the request of Beth W. Salak, Director, Division of Competitive Markets & Enforcement in the above referenced dockets.

FPSC Staff General Questions
FCC Rules, Section 51.319 (d) (2)

1.	FPSC Code:	TX023
2.	Company Name:	Epicus, Inc.
3.	LERG OCN Company Code:	5053
4.	LERG OCN Name:	Epicus, Inc. –FL
5.	LERG Category:	ULEC
6.	LERG AOCN:	5294
7.	DBA Names:	N/A
8.	No Service.	Epicus, Inc. provides local service in Florida exclusively via Resale or UNE-P. Epicus, Inc. does not currently provision high capacity loop, mass market switching or dedicated transport.

Please file stamp the enclosed copy of this letter and return it in the stamped self-addressed envelope enclosed.

Should you require additional information, please contact me at 407-942-1256.

With kind regards,

Barbara Greene

Barbara Greene
Regulatory Manager

cc: Pat Lee / Division of Competitive Markets & Enforcement

Enclosures

AFFIDAVIT

By my signature below, I, Mark Richards, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of Epicus, Inc.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

Mark Richards
Print Name

Signature

C.I.O.
Title

12/08/2003
Date

407-942-1250
Telephone No.

407-829-7397
Fax No.

Epicus, Inc.
Utility

Address: Epicus, Inc.
1025 Greenwood Blvd. Suite 470
Lake Mary, Florida 32746

STATE OF Florida

COUNTY OF Seminole

Sworn to (or affirmed) and subscribed before me this 8th day of Dec, 2003 by Virginia S. Bohrer.

(Signature of Notary Public)

(NOTARY SEAL)

VIRGINIA SCARTH BOHRER
MY COMMISSION # CC 956944
EXPIRES: July 30, 2004
Bonded Thru Budget Notary Services

(Name of Notary Typed, Printed, or Stamped)

Personally Known X OR Produced Identification _____ Type of Identification Produced _____

TECHNOLOGIES MANAGEMENT, INC.
210 North Park Avenue
Winter Park, Florida 32790-0200
(407) 740-8575
Fax: (407) 740-0613

FACSIMILE COVER SHEET

DATE: December 2, 2003

TO: NAME: Pat Lee

COMPANY: FL PSC

TELEPHONE: 850-413-6453 FAX: 850-413-6454

1262
ACCOUNT NUMBER

FROM: **Robin Norton**
TECHNOLOGIES MANAGEMENT, INC.
PHONE: (407) 740-8575 FAX: (407) 740-0613

NOTES: Re: DN 030851-TP and DN 030852-TP

Pat -- Attached, per your instructions, is the response of T-NETIX, Inc. to staff's TRO data requests. T-NETIX, Inc. is not providing service in FL, and I have been instructed to cancel their CLEC certification.

Robin

X Fax Only O Fax & Mail Billing $_____

Pages Sent (including cover) 2 Return to Robin

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communications is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address via the U.S. Postal Service. Thank you.

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☐

TX032
Kendall Euler Hollon
Regulatory Manager
T-Netix, Inc.
P. O. Box 701028
Dallas, TX 75370-1028

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[24] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

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[24] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

PREFERRED CARRIER SERVICES, INC.

December 5, 2003

alex.valencia@phonesforall.com

Blanco S. Bayo
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Preferred Carrier Services, Inc.'s ("PCS") Response to FPSC's 2003 TRO Data Requests in Docket Nos. 030851-TP and 030852-TP

Dear Ms. Bayo:

Please find attached a hard copy (an electronic version of the spreadsheet on 3.5 inch diskette is also attached) of the completed General Questions spread sheet and affidavit for PCS in response to the Data Requests issued in the above cited Dockets. I would like to apologize for the delay in submitting this information to the Commission.

In addition, please note that PCS is merely a switchless reseller and relies solely on the facilities of the incumbent local exchange carriers within the State of Florida. Should PCS commence provisioning its own switches, transport facilities or high capacity loops, PCS will submit completed spreadsheets for the remaining Data Requests.

If you have any questions or require further information, please contact me at (972) 503-3388. Thank you for your attention to this matter.

Sincerely,

PREFERRED CARRIER SERVICES, INC.

Alex Valencia
Vice President of Regulatory Affairs

Enc.

14681 MIDWAY ROAD, SUITE 105
ADDISON, TEXAS 75001

TEL: (972) 503-3388
FAX: (972) 503-3385

Preferred Carrier Services, Inc.'s Responses to General Info Requests.xls

General

	A	B	C
1	Please enter the information requested below in column B in reference to your company		
2	FPSC CODE	**TX035**	The FPSC code should be on the label used to send the paper copies of this data request to you.
3	Company Name as it appears on your provider's certificate	**PREFERRED CARRIER SERVICES, INC. D/B/A TELEFONOS PARA TODOS D/B/A PHONES FOR ALL**	
4	OCN from LERG	**5612**	
5	OCN Name from LERG	**PREFERRED CARRIER SERVICES, INC.**	
6	Category (CLEC, ILEC, WIRELESS)	**CLEC**	
7	AOCN from LERG (administrative)	**N/A**	Continue with additional affiliations or DBA Names down the columns→
8	FLPSC code for Affiliations	**None**	
9	DBA Names	**Telefonos Para Todos**	**Phones For All**
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information	**No Service**	
11			
12			
13			
14	Please complete the above information as requested		

Staff 0046

AFFIDAVIT

By my signature below, I, Alex Valencia, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of Preferred Carrier Services, In

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes; "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

Alex Valencia
Print Name

Signature

VP of Regulatory Affairs
Title

972-503-3385
Date

972-503-3388
Telephone No.

972-503-3385
Fax No.

Preferred Carrier Services, Inc.
Utility

Address: 14681 Midway Rd., Suite 105
Addison, TX 75001

STATE OF Texas

COUNTY OF Dallas

Sworn to (or affirmed) and subscribed before me this 5th day of Dec, 2003 by Beatriz G. Martinez.

(NOTARY SEAL)

BEATRIZ G. MARTINEZ
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES:
APRIL 29, 2006

Beatriz G. Martinez
(Signature of Notary Public

(Name of Notary Typed, Printed, or Stamped)

Personally Known X OR Produced Identification _____ Type of Identification Produced _____

Talk America®

December 2, 2003

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Pat Lee
Division of Competitive Markets and Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

RE: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

Dear Ms. Bayo and Ms. Lee:

Talk America Inc. ("Talk") hereby submits the following response to the Staff Data request in the above referenced proceedings, issued on November 12, 2003. Talk America was unable to download the spreadsheets accompanying the Staff data requests due to execution errors. However, as only the Staff General Questions are relevant to Talk America's Florida operations, Talk provides responses to those requests below:

1. FPSC code: TX036

2. Company Name: Talk America Inc.

3. OCN: 0086

4. OCN_NAME: Talk America Inc.

5. CATEGORY: CLEC

6. AOCN: 0067

7. AFFILIATIONS: Talk America is affiliated with The Other Phone Company, Inc. d/b/a Access One Communications, TX082

Staff 0048

8. DBA Names: None

9. Talk America provides local service in Florida exclusively via UNE-P or total service resale, and does not own nor does it use switching, transport, or loop facilities to provide local exchange services in Florida. Accordingly, Talk America has no relevant information to provide in response to the Switching Questions, Transport Questions, or High-Capacity Loop Questions.

Should you have any questions or require additional information, you may contact me at 407-313-1353.

Sincerely,

Sharon Thomas
Senior Director of Regulatory Affairs

EXCEL
Powered by VarTec Telecom

December 1, 2003

VIA OVERNIGHT DELIVERY

Ms. Blanco S. Bayo
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: TRO Data Request in Docket Nos. 030851-TP and 030852-TP
Excel Telecommunications, Inc.

Dear Ms. Bayo:

Excel Telecommunications, Inc. ("Excel") hereby submits this letter in response to the Florida Public Service Commission's information request in the above referenced matters.

Please note that Excel does not own or lease network facilities other than unbundled network elements for the provision of its local exchange services in the State of Florida. The Company currently provides these services through the utilization of Verizon's and BellSouth's unbundled network elements platform. As such, the questions contained in these dockets are not applicable to the Company. In an effort to minimize the use of Company and Commission resources, Excel respectfully requests that the Commission accept this letter as the Company's complete response to this data request. If this is not acceptable, please contact the undersigned immediately for additional information.

Acknowledgement and date of receipt of this filing are respectfully requested. Please date-stamp the enclosed extra copy of this letter and return it in the attached self-addressed stamped envelope. Should there be any questions concerning this filing, please do not hesitate to contact the undersigned directly at (214) 424-1776.

Respectfully submitted,

Courtney Weddington
Regulatory Analyst II

cc: Kevin Allen, Manager
Regulatory Affairs

Pat Lee
Division of Competitive Markets and Enforcement

Staff 0050

P. O. Box 223766
1600 Viceroy Drive
Dallas, Texas 75222-3766
Dallas, Texas 75235
(214) 424-1000
Fax (214) 424-1144

Courtney Weddington
Regulatory Analyst II
1600 Viceroy Drive
Dallas, TX 75235

facsimile transmittal

To:	Beth Salak	**Fax:**	(850) 413-6454
From:	Courtney Weddington	**Date:**	12/01/2003
Re:	TRO Data Request in Docket Nos. 030851-TP and 030852-TP **eMeritus Communications, Inc.**	**Pages:**	2 (including cover sheet)
CC:			

☐ Urgent ☑ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Ms. Salak

Please let me know if there are any problems with this transmittal. A hard copy of this information will follow by mail.

Thanks,
Courtney Weddington
(214) 424-1776

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TX039
Becky Gipson
Director, Regulatory Affairs
eMeritus Communications, Inc.
1600 Viceroy Drive
Dallas, TX 75235-2306

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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FAX TRANSMISSION

TALLAHASSEE MEMORIAL HEALTHCARE, INC.
FINANCE DEPARTMENT
1300 MICCOSUKEE ROAD
TALLAHASSEE, FLORIDA 32308
FAX: 850-431-6498

To: Beth Salak **Date:** FL Public Comm.

Fax #: 413-6454 **Pages:** 2 including this cover sheet.

From: B. Giudice

Subject:

COMMENTS:

** Notice **

This fax is intended only for the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the U. S. Postal Service or destroy it. Thank you for your consideration.

If you have questions or problems with this fax, please contact us at 850-431-5238.

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☐

TX048
William A. Giudice
Executive Vice President/CFO
Tallahassee Memorial Telephone Company
1401 Centerville Road, #210
Tallahassee, FL 32308-4638

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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NETWORK MULTIFAMILY

FAX TRANSMISSION

NETWORK MULTI-FAMILY
4221 W. JOHN CARPENTER FWY.
IRVING, TX 75063
214-277-7009
214-277-7240 Fax

TO:	Ms. Beth W. Salak Florida PSC	DATE:	November 18, 2003
FAX #:	850-413-6454	PAGES:	4 Pages, including this cover sheet.
FROM:	Lizsette J. Wygle, PACE Registered Paralegal		
RE:	Data Request dated November 12, 2003		

COMMENTS: Attached please find Network Multi-Family Security Corporation d/b/a Priority Link's response to the Data Request dated November 12, 2003.

This fax is confidential and may be covered by legal professional privilege. It must not be read, copied, disclosed or used by any person other than the addressee. Unauthorized use, disclosure or copying is strictly prohibited. If you have received this fax in error, please contact Network Multi-Family immediately.

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TX053
Stephen D. Parker
Vice President
Network Multi-Family Security Corporation d/b/a Priority Link
4221 West John Carpenter Freeway
Irving, TX 75063-2924

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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requested data is essential to ensure that each carrier's facilities are considered in conclusions reached regarding UNE obligations. Company responses are due to the Commission by **December 3, 2003**. The data request is similar to the October 3, 2003, data request of the New York Department of Public Service in Case 03-C-0821, modified by a few additional questions.

The trigger-related information is to be provided on electronic spreadsheets: (1) general_questions_FL.xls, (2) switching_questions_FL.xls, (3) transport_questions_FL.xls, and (4) loop_questions_FL.xls. Hard copies of the spreadsheets are attached to the data request and spreadsheet files can also be downloaded from the Commission's website to use in providing responses (http://www.floridapsc.com). The number of spreadsheet rows to which each CLEC will be required to respond depends upon the number of switches, transport routes, or customer locations for which each company has provisioned facilities. Detailed instructions are included in the data request as well as attached to the spreadsheets.

If your company holds a certificate but is not currently active in the marketplace, you may simply check the box at the top of this page and return it.

To the extent you are a party to either Docket No. 030851-TP or Docket No. 030852-TP and information requested has already been provided through responses to interrogatories or document requests, there is no need to provide a full response again. Simply respond by identifying the particular interrogatory or document request (serving party, item number, filing date) where the information can be found.

Once the spreadsheets are completed, they should be saved electronically using the company name in the saved file name; i.e., general_Company Name_FL.xls. A cover letter along with a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette or compact disk (CD) should be mailed to:

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

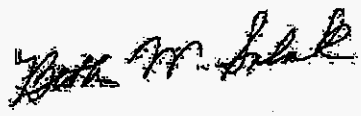
For proper identification of the data request responses, your cover letter should reference "2003 *TRO Data Request in Docket Nos. 030851-TP and 030852-TP*". *Additionally, your response should* include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

Once the completed data request is received by the Commission, the information will be public record. If you believe your response contains confidential information, you can request that your response be exempt from FS 119.07(1), General State Policy on Public Records. If you are claiming confidential classification, a written request for the specific material to which the confidentiality relates should be filed with the Division of the Commission Clerk and Administrative Services with a copy to Pat Lee, Division of Competitive Markets & Enforcement. Enclosed is a copy of Florida Public Service Commission Rule 25-22.006, Florida Administrative Code, which provides the necessary information for submitting confidential information to be exempt from FS 119.07(1). Please note that a claim of confidentiality does not alleviate the obligation to respond to the data request in a timely manner. In addition, claims of confidentiality should not be made for information that is publicly available from other sources (switch locations, for example, are available from the Local Exchange Routing Guide).

In order to meet the 9-month federal requirements, it is essential that we obtain this information in a timely manner, as required by Florida Public Service Commission Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Failure to comply with this rule can result in the Commission assessing penalties of up to $25,000 per offense, with each day of non-compliance constituting a separate offense per FS 364.285(1). We encourage you to retain a record confirming delivery of your company's response to the data request, such as a certified mail receipt, a fax log, or a copy of an e-mail.

Responses to the enclosed data request are due no later than **December 3, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,



Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851\data request letter.wpd November 10, 2003 (0931 am)

Anthony P. Gillman
General Counsel – Verizon Select Services Inc.
Legal Department

FLTC0007
201 North Franklin Street (33602)
Post Office Box 110
Tampa, Florida 33601-0110

Phone 813 483-2615
Fax 813 204-8870
anthony.gillman@verizon.com

Via Overnight Mail

December 1, 2003

Blanco S. Bayo
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0950

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0950

RE: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

Enclosed please find Verizon Select Services Inc.'s ("VSSI") responses to the Commission Staff's General Questions in the above-referenced matter. An electronic version is provided in the enclosed 3.5-inch diskette.

Questions regarding this filing may be directed to me at (813) 483-2615 or via email at Anthony.Gillman@verizon.com.

Respectfully submitted,

Anthony P. Gillman

APG:mcp
Enclosures

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TX071	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Verizon Select Services Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	Not Applicble			
5	OCN Name from LERG	Not Applicble			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)	Not Applicble	Continue with additional affiliations or DBA Names down the columns —>		
8	FLPSC code for Affiliations				
9	DBA Names	None			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida, please stop here and return this spreadsheet				
14					

VERIFICATION

STATE OF FLORIDA)
) ss.
COUNTY OF HILLSBOROUGH)

BEFORE ME, the undersigned authority, personally appeared Anthony P. Gillman, who stated that the responses to the Commission Staff's General Questions in the 2003 TRO Data Requests served on Verizon Select Services Inc. in Docket Nos. 030851-TP and 030852-TP were prepared at his request and he is informed that the responses contained therein are true and correct to the best of his information and belief.

DATED at Tampa, Florida, this 1st day of December 2003.

Anthony P. Gillman

Sworn to and subscribed before me this 1st day of December, 2003.

Notary Public
State of Florida

OFFICIAL NOTARY SEAL
TERESA ANN SCOBIE
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. DD158618
MY COMMISSION EXP. OCT. 21,2006

Teresa Ann Scobie
Name Typed or Printed/Commission No.

My Commission Expires:_____

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

ONLY LONG DISTANCE RESELLER

TX076
Jerry Stabler
President
Atlantic Telecommunication Systems, Inc. d/b/a ATS
5849 Okeechobee Blvd., Suite 201
West Palm Beach, FL 33417-4352

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[39] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[39] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

ONLY LONG DISTANCE RESELLER

TX513
Jerold Stabler
President
Available Telecom Services, Inc.
5849 Okeechobee Blvd., Suite 201
West Palm Beach, FL 33417-4352

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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TalkAmerica®

December 2, 2003

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Pat Lee
Division of Competitive Markets and Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

RE: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

Dear Ms. Bayo and Ms. Lee:

The Other Phone Company, Inc. dba Access One Communications ("Access One") hereby submits the following response to the Staff Data request in the above referenced proceedings, issued on November 12, 2003. Access One was unable to download the spreadsheets accompanying the Staff data requests due to execution errors. However, as only the Staff General Questions are relevant to Access One's Florida operations, Access One provides responses to those requests below:

1. FPSC code: TX082

2. Company Name: The Other Phone Company, Inc. d/b/a Access One Communications

3. OCN: 4898

4. OCN_NAME: The Other Phone Company dba Access One

5. CATEGORY: CLEC

6. AOCN: 4892

Staff 0064

7. AFFILIATIONS: The Other Phone Company, Inc. is affiliated with Talk America Inc. TX036

8. DBA Names: Access One Communications

9. Access One provides local service in Florida exclusively via UNE-P or total service resale, and does not own nor does it use switching, transport, or loop facilities to provide local exchange services in Florida. Accordingly, Access One has no relevant information to provide in response to the Switching Questions, Transport Questions, or High-Capacity Loop Questions.

Should you have any questions or require additional information, you may contact me at 407-313-1353.

Sincerely,

Sharon Thomas
Senior Director of Regulatory Affairs

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TX085
Don Hartsfield
Controller
ITS Telecommunications Systems, Inc.
P. O. Box 277
Indiantown, FL 34956-0277

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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The Alternative Phone Company
PO Box 4230
Ocala, FL 34478
800-930-4290

12/15/2003

Pat Lee
Division of the Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

Ref: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

Ms. Lee:

The enclosed information is in response to the Triennial Review Order data request. The General Questions section was the only portion that applied, because Alternative Phone, Inc. provides service via resale or UNEP Port Loop Combinations. If you have any questions please contact me at 352-622-3951 x306.

Sincerely,

Jeff Roaderick
President

	A	B	C	D
1	Please enter the information requested below in column B in reference to your company			
2	FPSC CODE	TX087	The FPSC code should be on the address label used to send the paper copies of this data request to you.	
3	Company Name, as it appears on your provider's certificate	Alternative Phone, Inc.	Use the company name that appears on the address label, as well.	
4	OCN from LERG	7007		
5	OCN Name from LERG	Alternative Phone, Inc.		
6	Category (CLEC, ILEC, WIRELESS)	CLEC		
7	AOCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the columns -->	
8	FLPSC code for Affiliations			
9	DBA Names			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service		
11				
12	Thank you for completing this data request, since you do not provide service in Florida, please stop here and return this spreadsheet			
13				
14				

November 10, 2003

INFORMATION REQUESTS

FPSC Staff General Questions
FCC Rules, Section 51.319 (d) (2)

Complete the electronic spreadsheet "general_questions_FL.xls" with the following information in reference to your company. The LERG refers to the Local Exchange Routing Guide.

1. The FPSC code refers to your company's certificate number as registered with FPSC. This number is available from the FPSC website and should appear on the address label on the envelope in which this was mailed. TX095
2. Your company name as it appears on your provider's certificate and appears on the address label on the envelope in which this was mailed. Unicom Communications
3. OCN refers to your LERG company code.
4. The OCN_NAME refers to your company's name in the LERG. UIO
5. CATEGORY refers to the type of company according to the LERG, such as CLEC or WIRELESS. CLEC
6. AOCN refers to the administrative company code according to the LERG. n/a
7. AFFILIATIONS refer to any other companies with whom your company might have affiliations. Please list the FPSC CODE and separate each new company in a new column. n/a
8. DBA NAMES refer to other names of your company by which you are also known. Different names should be placed in additional columns. n/a
9. If you do not provide service or are providing service only via resale in Florida, please enter "No Service," stop here and return this information. no service (reseller)

FPSC Staff Switching Questions
FCC Rules, Section 51.319 (d) (2)

Complete the electronic spreadsheet "switching_questions_FL.xls" with the following information **for each** Florida wire center in which you provide service, either to end users or carriers.

1. If you use a switch to provide qualifying service[1] in the given wire center, please provide the 11-digit COMMON LANGUAGE® Location Identifier (CLLI™) for the switch that provides

provide the full name of the company. *(Column W)*

ii. If leasing from a company other than (i), please provide the entity with which you entered into the lease or other such arrangement, by FPSC code or full name of the company. *(Column X)*

iii. Please provide the nature of the arrangement. (Offered by tariff, standard or negotiated agreement) *(Column Y)*

14. Please provide EQP TYPE (equipment type) and definition of any abbreviations given, including a brief description of the function performed. The list below provides some examples, but is in no way inclusive. Additional equipment types should be identified by manufacturer. Refer to LERG7, Section 5. *(Columns Z, AA and AB)*

Examples:	
5XB	AT&T #5 crossbar - 2 wire
4e	AT&T #4 ESS
DMT	Northern Telecom DMS 10-digital
5E-XC	Lucent
iGEN	Lucent
GX550	Lucent
LSS	Lucent Soft Switch
APX8000	Lucent
DMS100	Nortel
iTone	Nortel
CVX-1800	Nortel
MMCS	Nortel
DMS250	Nortel
DMS	Nortel
E10B	Alcatel
MAP	Harris
LH	Harris
LX	Harris
DMS50	Nortel
EWSD	Siemens
AFX-10	Erricson
SR	Nortel
DCO	Seimens

15. Does the switching entity perform both class 4 and class 5 functions? *(Column AC)*

16. Identify each NPA-NXX served. *(Beginning in column AD, use one column for each applicable NPA-NXX.)*

Complete the electronic spreadsheet "remote_switches_FL.xls" with the following information in

2. Collocation arrangement from ILEC central office address (Street address, City, State and Zip) (e.g., 3 Empire State Plaza, Tallahassee, FL 32301). *(Columns B-E)*

3. Collocation arrangement from ILEC central office vertical coordinate (e.g., 4620). *This is a four- or five-digit number related to the geographic location of a switching entity found in table 7 of the Local Exchange Routing Guider (LERG7). This should not be confused with the Rate Center found in Table 8 of the LERG (LERG8). Check each applicable category with an "X." (Column F)*

4. Collocation arrangement from ILEC central office horizontal coordinate (e.g.,1632). *See note above. (Column G)*

5. Type of collocation arrangement (caged, cageless, or virtual) for the from ILEC central office. Check each applicable category with an "X." For those categories that do not apply to the given transport route, leave blank. *(Columns H – J)*

6. Collocation arrangement to ILEC central office CLLI code (e.g., MIAMFLZZ). *(Column K)*

7. Collocation arrangement to ILEC central office address (Street address, City, State and Zip) (e.g., 123 Fourth St, Miami, FL, 33123). *(Columns L-O)*

8. Collocation arrangement to ILEC central office vertical coordinate (e.g., 4620). *This is a four- or five-digit number related to the geographic location of a switching entity found in table 7 of the Local Exchange Routing Guider (LERG7). This should not be confused with the Rate Center found in Table 8 of the LERG (LERG8). Check each applicable category with an "X." (Column P)*

9. Collocation arrangement to ILEC central office horizontal coordinate (e.g.,1632). *See note above. (Column Q)*

10. Type of collocation arrangement (caged, cageless, or virtual) for the to ILEC central office. Check each applicable category with an "X." For those categories that do not apply to the given transport route, leave blank. *(Columns R – T)*

11. SELF-PROVIDER: Is this transport facility used to provide service to your own end user retail customers? *(Column U) Please complete the following questions with regard to the self-provided service:*

    a. Dedicated transport type (dark fiber, DS1, DS3). Check each applicable category with an "X." For those categories that do not apply to the given transport route, leave blank. *(Columns V – X)*

C)

4. Customer serving wire center eight-digit CLLI code (e.g., TLHSFLZZ). *(Column D)*

5. SELF-PROVIDER: Do you use this loop to provide service to end users? *(Column E) If you asnwer yes, please answer the following questions:*

    a. High-capacity loop type (dark fiber, DS1, DS3). Check each applicable category with an "X." *(Column F – H)*

    b. The number of **provisioned** circuits serving the customer location (e.g., the number of dark fibers, the number of circuits at DS1 level, and the number of circuits at DS3 level). *(Columns I – K)*

    c. The number of **working** circuits serving the customer location (e.g., the number of dark fibers, the number of circuits at DS1 level and the number of circuits at DS3 level). *(Columns L – N)*

6. WHOLESALER: Do you lease this loop (in whole or in part) to another company? *(Column O) If you answer yes, please answer the following questions:*

    a. High-capacity loop type (dark fiber, DS1, DS3). Check each applicable category with an "X." *(Column P – R)*

    b. The number of **provisioned** circuits serving the customer location (e.g., the number of dark fibers, the number of circuits at DS1 level, and the number of circuits at DS3 level). *(Columns S – U)*

    c. The number of **working** circuits serving the customer location (e.g., the number of dark fibers, the number of circuits at DS1 level and the number of circuits at DS3 level). *(Columns V – X)*

7. CONFIGURATION: Is this loop provided on a point-to-point ("P") or a ring configuration ("R")? *(Column Y)*

8. ACCESSIBLE: Does your company have access to the entire customer location, including each individual unit within that location? [Section 51.319 (a)(5)(ii)(B)] *(Column Z)*

9. SOLE ACCESS: Is the customer location served solely by your company's facilities? *(Column AA)*

10. USING: Is the customer location served by attaching your company's optronics to activate dark fiber transmission facilities provided by another carrier? *(Column AB)*

11. GIVING: Indicate if the customer location is served via an unaffiliated carrier to which your company has provided dark fiber. *(Column AC)*

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE		The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate		Use the company name that appears on the address label, as well		
4	OCN from LERG				
5	OCN Name from LERG				
6	Category (CLEC, ILEC, WIRELESS)				
7	AOCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the columns --->		
8	FLPSC code for Affiliations				
9	DBA Names				
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.				
11					
12					
13					
14	Please complete the above information as requested				

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
1			Type of Switch *(X or Blank)*																		Y or N			
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
3	EXAMPLEXXX	XXXXXXXX	X							5000	893	1000	451	574	789	254	208	123	562	N			TX000	
4	ABDLFLXA96H																							
5	ALFAFLXA67H																							
6	ALFRFLXARS0																							
7	ALSPFLXADS0																							
8	ALTRFLXARSA																							
9	ALVAFLXARS1																							
10	ANMRFLXA77H																							
11	APPKFLXADS1																							
12	ARCDFLXADS0																							
13	ARCHFLMA																							
14	ASTRFLXARS0																							
15	AVPKFLXADS0																							
16	BAKRFLXADS0																							
17	BARTFLXA53H																							
18	BAYUFLXA54H																							
19	BBPKFLXARSA																							
20	BCGRFLXARS1																							
21	BCRTFLBT																							
22	BCRTFLMA																							
23	BCRTFLSA																							
24	BGPIFLMA																							
25	BHPKFLXA28H																							
26	BKVLFLJF																							
27	BLDWFLMA																							
28	BLGLFLMA																							
29	BLVWFLXADS0																							
30	BNFYFLXARS0																							
31	BNNLFLMA																							
32	BNSPFLXADS1																							
33	BRBAFLXA75H																							
34	BRJTFLXARSA																							
35	BRNDFLXA68H																							

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
36	BRSNFLMA																							
37	BRTNFLXX74H																							
38	BSHNFLXADS0																							
39	BVHLFLXADS0																							
40	BWLGFLXARS0																							
41	BYBHFLMA																							
42	BYSHFLXA84H																							
43	CCBHFLMA																							
44	CDKYFLMA																							
45	CFLDFLMA																							
46	CFVLFLXADS0																							
47	CHLKFLXARS0																							
48	CHPLFLJA																							
49	CHSWFLXARS0																							
50	CLMTFLXADS0																							
51	CLTNFLXARS0																							
52	CLWRFLXA44H																							
53	CNSDFLXA79H																							
54	CNTMFLLE																							
55	COCOFLMA																							
56	COCOFLME																							
57	CPCRFLXADS0																							
58	CPCRFLXBDS1																							
59	CPHZFLXADS0																							
60	CRRVFLXADS0																							
61	CRVWFLXADS0																							
62	CRWDFLXA96H																							
63	CSCYFLBA																							
64	CSLBFLXADS1																							
65	CTDLFLXARS0																							
66	CYGRFLXA32H																							
67	CYLKFLXADS0																							
68	CYLKFLXBRS0																							
69	DBRYFLDL																							

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
70	DBRYFLMA																							
71	DDCYFLXADS1																							
72	DELDFLMA																							
73	DESTFLXADS0																							
74	DFSPFLXADS0																							
75	DLBHFLKP																							
76	DLBHFLMA																							
77	DLSPFLMA																							
78	DNDNFLXA73H																							
79	DNLNFLWM																							
80	DRBHFLMA																							
81	DUNDFLXA43H																							
82	DYBHFLFN																							
83	DYBHFLMA																							
84	DYBHFLOB																							
85	DYBHFLOS																							
86	DYBHFLPO																							
87	EGLLFLBG																							
88	EGLLFLIH																							
89	ENWDFLXA47H																							
90	EORNFLMA																							
91	ESTSFLXARS0																							
92	EVRGFLXARS1																							
93	FHSDFLXA57H																							
94	FLBHFLMA																							
95	FRBHFLFP																							
96	FRPTFLXARS0																							
97	FRSTFLXA63H																							
98	FTGRFLMA																							
99	FTLDFLAP																							
100	FTLDFLCR																							
101	FTLDFLCY																							
102	FTLDFLJA																							
103	FTLDFLMR																							

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
104	FTLDFLOA																							
105	FTLDFLPL																							
106	FTLDFLSG																							
107	FTLDFLSU																							
108	FTLDFLWN																							
109	FTMBFLXARS0																							
110	FTMDFLXARS0																							
111	FTMYFLXADS0																							
112	FTMYFLXBRS0																							
113	FTMYFLXCDS2																							
114	FTPRFLMA																							
115	FTWBFLXADS0																							
116	FTWBFLXBDS0																							
117	FTWBFLXCRS0																							
118	GCSPFLCN																							
119	GCVLFLMA																							
120	GDRGFLXADS0																							
121	GENVFLMA																							
122	GLBRFLMC																							
123	GLDLFLXARS0																							
124	GLGCFLXADS0																							
125	GLRDFLXADS0																							
126	GNDYFLXA57H																							
127	GNVLFLXARS0																							
128	GNWDFLXARS0																							
129	GSVLFLMA																							
130	GSVLFLNW																							
131	GVLDFLXARS0																							
132	HAVNFLMA																							
133	HBSDFLMA																							
134	HDSNFLXA86H																							
135	HGLDFLXA64H																							
136	HLNVFLMA																							
137	HLWDFLHA																							

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
138	HLWDFLMA																							
139	HLWDFLPE																							
140	HLWDFLWH																							
141	HMSPFLXARS0																							
142	HMSTFLAF																							
143	HMSTFLEA																							
144	HMSTFLHM																							
145	HNCYFLXA42H																							
146	HNCYFLXN424																							
147	HOWYFLXARS0																							
148	HTISFLMA																							
149	HWTHFLMA																							
150	HYPKFLXADS0																							
151	IMKLFLXARS0																							
152	INLKFLXARSA																							
153	INRKFLXX59H																							
154	INVRFLXADS1																							
155	ISLMFLMA																							
156	JAY-FLMA																							
157	JCBHFLAB																							
158	JCBHFLMA																							
159	JCBHFLSP																							
160	JCVLFLAR																							
161	JCVLFLBW																							
162	JCVLFLCL																							
163	JCVLFLFC																							
164	JCVLFLIA																							
165	JCVLFLJT																							
166	JCVLFLLF																							
167	JCVLFLNO																							
168	JCVLFLOW																							
169	JCVLFLRV																							
170	JCVLFLSJ																							
171	JCVLFLSM																							

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
172	JCVLFLWC																							
173	JPTRFLMA																							
174	KGLKFLXARS0																							
175	KNVLFLXARS0																							
176	KSSMFLXADS0																							
177	KSSMFLXBDS1																							
178	KSSMFLXCRS1																							
179	KSSMFLXDRS0																							
180	KYHGFLMA																							
181	KYLRFLLS																							
182	KYLRFLMA																							
183	KYSTFLXA92H																							
184	KYWSFLMA																							
185	LBLLFLXADS0																							
186	LDLKFLXARS0																							
187	LEE FLXARS0																							
188	LGBKFLXA38H																							
189	LHACFLXADS0																							
190	LKALFLXA95H																							
191	LKBRFLXADS1																							
192	LKCYFLMA																							
193	LKHLFLXARS0																							
194	LKLDFLXA68H																							
195	LKLDFLXE66H																							
196	LKLDFLXN85H																							
197	LKMRFLMA																							
198	LKPCFLXARS0																							
199	LKWLFLXA67H																							
200	LKWLFLXERSA																							
201	LLMNFLXADS0																							
202	LNLKFLXA99H																							
203	LRGOFLXA58H																							
204	LSBGFLXADS0																							
205	LUTZFLXA94H																							

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
206	LWTYFLXARS0																							
207	LYHNFLOH																							
208	MALNFLXARS0																							
209	MCNPFLMA																							
210	MDBGFLPM																							
211	MDSNFLXADS0																							
212	MIAMFLAE																							
213	MIAMFLAL																							
214	MIAMFLAP																							
215	MIAMFLBA																							
216	MIAMFLBC																							
217	MIAMFLBR																							
218	MIAMFLCA																							
219	MIAMFLDB																							
220	MIAMFLFL																							
221	MIAMFLGR																							
222	MIAMFLHL																							
223	MIAMFLIC																							
224	MIAMFLKE																							
225	MIAMFLME																							
226	MIAMFLNM																							
227	MIAMFLNS																							
228	MIAMFLOL																							
229	MIAMFLPB																							
230	MIAMFLPL																							
231	MIAMFLRR																							
232	MIAMFLSH																							
233	MIAMFLSO																							
234	MIAMFLWD																							
235	MIAMFLWM																							
236	MICCFLBB																							
237	MLBRFLMA																							
238	MLBYFLXARSA																							
239	MLTNFLRA																							

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
240	MNDRFLAV																							
241	MNDRFLLO																							
242	MNDRFLLW																							
243	MNLKFLXA85H																							
244	MNSNFLMA																							
245	MNTIFLXADS0																							
246	MOISFLXADS1																							
247	MRHNFLXARS0																							
248	MRNNFLXADS0																							
249	MRTHFLVE																							
250	MTDRFLXARS0																							
251	MTLDFLXADS1																							
252	MTVRFLXARS0																							
253	MXVLFLMA																							
254	MYCYFLXA32H																							
255	NDADFLAC																							
256	NDADFLBR																							
257	NDADFLGG																							
258	NDADFLOL																							
259	NFMYFLXADS0																							
260	NFMYFLXBRS0																							
261	NGBHFLXA39H																							
262	NKLRFLMA																							
263	NNPLFLXADS1																							
264	NPLSFLXCDS0																							
265	NPLSFLXDDS0																							
266	NPRCFLXA84H																							
267	NRPTFLXA42H																							
268	NRSDFLXA35H																							
269	NSBHFLMA																							
270	NWBYFLMA																							
271	OCALFLXADS0																							
272	OCALFLXBDS0																							
273	OCALFLXCRS0																							

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
274	OCNFFLXARS0																							
275	OKCBFLXADS1																							
276	OKHLFLMA																							
277	OKLWFLXADS0																							
278	OLDSFLXA85H																							
279	OLTWFLLN																							
280	ORCYFLXADS0																							
281	ORCYFLXCRS0																							
282	ORLDFLAP																							
283	ORLDFLCL																							
284	ORLDFLMA																							
285	ORLDFLPC																							
286	ORLDFLPH																							
287	ORLDFLSA																							
288	ORPKFLMA																							
289	ORPKFLRW																							
290	OSPRFLXA96H																							
291	OVIDFLCA																							
292	PACEFLPV																							
293	PAHKFLMA																							
294	PANCFLXARS0																							
295	PCBHFLNT																							
296	PKCYFLXARSA																							
297	PLCSFLMA																							
298	PLMTFLXA72H																							
299	PLSLFLXA79H																							
300	PLTKFLMA																							
301	PMBHFLCS																							
302	PMBHFLFE																							
303	PMBHFLMA																							
304	PMBHFLTA																							
305	PMPKFLMA																							
306	PNCRFLXA73J																							
307	PNCYFLCA																							

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
308	PNCYFLMA																							
309	PNGRFLXADS1																							
310	PNISFLXADS0																							
311	PNLNFLXARS0																							
312	PNLSFLXA53H																							
313	PNSCFLBL																							
314	PNSCFLFP																							
315	PNSCFLHC																							
316	PNSCFLPB																							
317	PNSCFLWA																							
318	PNVDFLMA																							
319	POINFLXARSA																							
320	PRRNFLMA																							
321	PRSHFLXARSA																							
322	PRSNFLFD																							
323	PSDNFLXA34H																							
324	PTCTFLXADS0																							
325	PTCYFLXA75H																							
326	PTSLFLMA																							
327	PTSLFLSO																							
328	RSKNFLXA64H																							
329	RYHLFLXARS0																							
330	SARKFLXARSA																							
331	SBNGFLXADS1																							
332	SBSTFLFE																							
333	SBSTFLMA																							
334	SEKYFLXA34H																							
335	SGBEFLXA36H																							
336	SGBHFLXARS0																							
337	SGKYFLMA																							
338	SHLMFLXADS0																							
339	SKWYFLXADS0																							
340	SLHLFLXARS0																							
341	SLSPFLXA93H																							

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
342	SMNLFLXA23H																							
343	SNANFLXARS0																							
344	SNDSFLXARS0																							
345	SNFRFLMA																							
346	SNISFLXADS0																							
347	SNRSFLXARS0																							
348	SNSPFLXA37H																							
349	SPBGFLXA89H																							
350	SPBGFLXS86H																							
351	SPCPFLXARL0																							
352	SPRGFLXA37H																							
353	SRSTFLXA95H																							
354	SSDSFLXA92H																							
355	SSPRFLXARS0																							
356	STAGFLBS																							
357	STAGFLMA																							
358	STAGFLSH																							
359	STAGFLWG																							
360	STCDFLXARS0																							
361	STGRFLXA78H																							
362	STMKFLXARS0																							
363	STRKFLXADS0																							
364	STRTFLMA																							
365	SVSPFLXARS0																							
366	SVSSFLXARS0																							
367	SWTHFLXA88H																							
368	SYHSFLCC																							
369	TAMPFLXEDS0																							
370	TAMPFLXX22H																							
371	THNTFLXADS0																							
372	TLCHFLXARS0																							
373	TLHSFLXADS0																							
374	TLHSFLXBDS0																							
375	TLHSFLXCDS0																							

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
376	TLHSFLXDDS0																							
377	TLHSFLXERS0																							
378	TLHSFLXFDS0																							
379	TLHSFLXGRS0																							
380	TLHSFLXHDS0																							
381	TMTRFLXADS0																							
382	TRENFLMA																							
383	TRSPFLXA93H																							
384	TTVLFLMA																							
385	TVRSFLXADS0																							
386	UMTLFLXARS0																							
387	UNVRFLXA97H																							
388	VENCFLXA48H																							
389	VENCFLXSDS0																							
390	VERNFLMA																							
391	VLPRFLXADS0																							
392	VLPRFLXBRS0																							
393	VRBHFLBE																							
394	VRBHFLMA																							
395	WCHLFLXADS0																							
396	WELKFLMA																							
397	WIMMFLXA63H																							
398	WLCHFLXA97H																							
399	WLCRFLXA83H																							
400	WLSTFLXARS0																							
401	WLWDFLXARS0																							
402	WNDRFLXARS0																							
403	WNGRFLXADS0																							
404	WNHNFLXC29H																							
405	WNPKFLXADS1																							
406	WPBHFLAN																							
407	WPBHFLGA																							
408	WPBHFLGR																							
409	WPBHFLHH																							

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
410	WPBHFLLE																							
411	WPBHFLRB																							
412	WPBHFLRP																							
413	WSSDFLXA87H																							
414	WSTVFLXARS0																							
415	WWSPFLHI																							
416	WWSPFLSH																							
417	YBCTFLXA24H																							
418	YNFNFLMA																							
419	YNTWFLMA																							
420	YULEFLMA																							
421	ZLSPFLXARS0																							
422	ZPHYFLXA78H																							

	A	B	C	D	E	F	G	H
1	**Please list all of your remote switches. Any switches located at the central office, do not need to be added.**							
2	Switch CLLI	Host CLLI	Vertical Coord-inates	Horiz-ontal Coord-inates	Switch Street Address	City	State	Zip
3	EXAMPLXX	HOSTEXZZ	1234	5432	123 Main St.	Tallahassee	FL	32301

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1															
2	FROM ILEC										TO ILEC				
3		Central Office Address						Arrange-ment Type				Central Office Address			
4	CLLI	Street Address	City	State	Zip	Vert-ical Coord-inates	Horiz-ontal Coord-inates	Caged? (Y/N)	Cageless? (Y/N)	Virtual? (Y/N)	CLLI	Street Address	City	State	Zip
5	EXAMFRXXX	3 Empire State Plaza	Tallahassee	FL	32301	4321	1234	Y	N	N	EXAMTOXXX	123 Main Street	Miami	FL	33123

	AP
1	
2	
3	
4	Supplier?
5	

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R
1					Self-Providers													
2	Customer Infomation					High-Capacity Loop Type			Number of circuits							High-Capacity Loop Type		
3	Street Address	City	Zip	Wire Center CLLI	Self-Provider? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	# Dark Fiber **provisioned** circuits	# DS1 level **provisioned** circuits	# DS3 level **provisioned** circuits	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits	Wholesaler? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)
4	123 Main St.	Tallahassee	32301	TLHSFLXXX	Y	X	X		50	90	0	35	89	0	Y	X		

(3) Nothing in this rule shall preclude the Commission from making decisions during the course of or at the conclusion of a hearing.
Specific Authority: 350.01(7), 350.127(2), F.S.
Law Implemented: 120.525, F.S.
History: New 3/23/93

25-22.003 Emergency Meeting.
Specific Authority: 120.53, F.S.
Law Implemented: 120.53, F.S.
History--New 12/21/81, Formerly 25-22.03, Repealed 05/03/99.

25-22.004 Commission Forms.
Specific Authority: 120.53(1)(b), F.S.
Law Implemented: 120.53(1)(b), F.S.
History--New 6/7/84, Formerly 25-22.04, Amended 04/16/90, 08/21/90, 08/23/90, Repealed 05/03/99.

25-22.005 Noticing Address Files.
Specific Authority: 120.53, F.S.
Law Implemented: 120.53, F.S.
History--New 08/21/84, Formerly 25-22.05, Amended 07/11/96, Repealed 05/03/99.

25-22.006 Confidential Information.
(1) Definitions.
(a) "Confidential Information" means material that has been determined, pursuant to this rule, to be proprietary confidential business information under Section 350.121, 364.183, 366.093, or 367.156, F.S.
(b) "Formal proceeding" means a proceeding docketed in the Commission's Division of the Commission Clerk and Administrative Services.
(c) "Inquiry" means an investigation pursuant to section 350.121, F.S. An inquiry is set in motion by the Commission Chairman, the Executive Director, or the General Counsel to evaluate a complaint, allegation, or develop information as a basis to initiate action on or dispose of any matter within the Commission's jurisdiction.
(d) "Material" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, or other recorded information regardless of physical form or characteristics.
(e) "Obtaining material" means receiving material pursuant to filing or taking physical control of material by removing the original material or a copy of it from the utility's or other person's premises. Obtaining material also means the extraction of data from material for inclusion in working papers or memoranda.
(2) Material obtained during an inquiry.
(a) All material obtained incident to an inquiry by the Commission, its staff, or any consultant employed by the Commission is exempt from the public access requirements of Section 119.07(1), F.S., and will be accorded stringent procedural safeguards against public disclosure during the pendency of the inquiry. When the Commission or its staff is requesting information incident to an inquiry, the source shall be informed in writing that the request is made incident to an inquiry.
(b) An inquiry will terminate 40 days after the transmittal of a notice of termination by the Division of the Commission Clerk and Administrative Services. This notice will be sent to all sources from whom material was obtained during the

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inquiry and will include a list of all materials obtained from the source during the inquiry and any portions of staff work papers, analyses, and reports containing materials obtained from the source during the inquiry. The notice will indicate whether the Commission intends to retain, destroy, or return the materials listed. A source may, within 30 days after issuance of the notice, file with the Division of the Commission Clerk and Administrative Services a written request that the material the Commission intends to retain be classified as confidential and exempt from Section 119.07(1), F.S. Requests filed in response to the notice of termination shall meet the same criteria and be processed in the same manner as other requests for confidential classification under subsection (4) of this rule. If no timely request for confidential classification is filed, confidentiality is waived and the material becomes subject to inspection and examination pursuant to Section 119.01 (7), F.S.

(3) Material obtained outside of an inquiry. Material obtained by the Commission or its staff outside of an inquiry shall be subject to inspection and examination pursuant to Section 119.07(1), F.S., unless the utility or other person requests that it be classified as confidential information.

(a) 1. If the utility or other person believes information requested by staff is confidential, the utility or other person may require that the staff request be in writing. Prior to the staff obtaining any material, a utility or other person may receive temporary exemption from Section 119.07(1), F.S., by filing a notice of intent to request confidential classification. The notice of intent to request confidential classification shall be filed with the Division of the Commission Clerk and Administrative Services and shall have appended thereto a copy of any written request for the material to which it relates. A copy of the notice shall be provided to the division requesting the material. To maintain continued confidential handling of the material the utility or other person must, within 21 days after the staff has obtained the material, file a request for confidential classification with the Division of the Commission Clerk and Administrative Services. Absent good cause shown, failure to file such a request within 21 days shall constitute a waiver of confidentiality.

2. In the case of material obtained by the Commission's auditors, the utility shall indicate on the document request Form PSC/AFA 6 (2/95) whether the information is believed by the utility to be confidential. To maintain continued confidential handling of the material, the utility must, within 21 days after the audit exit conference or, if waived, the date the audit exit conference would have taken place, file a request for confidential classification with the Division of the Commission Clerk and Administrative Services. Absent good cause shown, failure to file such a request within 21 days shall constitute a waiver of confidentiality.

(b) When the material is obtained incident to a formal proceeding, the utility or other person requesting confidential classification shall also serve a copy or summary of its request on all parties of record and on Public Counsel. The summary shall describe the material in sufficient detail so as to reasonably inform the reader of the nature of the material. Any party to a formal proceeding may file an objection to the request for confidential classification within 14 days after service of the copy or summary.

(c) Requests for confidential classification, including motions for protective orders under Paragraph 6(a), and any objections filed in response thereto shall be ruled on expeditiously by the prehearing officer assigned to the docket. The Commission panel assigned to the case will hear any motion for reconsideration filed regarding the prehearing officer's ruling. If a request is received outside a docketed proceeding, the request itself will be docketed.

(d) All material that has been classified as confidential, for which a ruling on confidentiality is pending, is subject to a notice of intent to request confidential classification, or is subject to a claim of confidentiality as provided for in Section 364.183(1), F.S., shall be exempt from Section 119.07(1), F.S., and will be accorded stringent internal procedural safeguards against public disclosure. Any staff or consultant reports or work products containing confidential information extracted from material having been classified as confidential, or which has been claimed to be confidential or for which a ruling on confidentiality is pending, shall be handled in the same manner as the material so classified. The Commission shall have discretion to retain any confidential material in its possession. Upon the consent of the Department of State, the Commission may return or, after consulting with the source, destroy any material that is no longer needed.

(4) Requests for confidential classification.

(a) A request for confidential classification of material shall be filed in writing with the Division of the Commission Clerk and Administrative Services. All such requests, including motions for protective orders based on confidentiality, shall be styled to clearly indicate on their face that confidentiality is being requested. The utility or other person shall file with the request one copy of the material for which confidential treatment is requested. On this copy, the specific information asserted to be confidential shall be highlighted. Along with the highlighted copy, the utility or other person shall file two or more edited copies as required by the type of proceeding, which will be made available for public inspection. In the edited copies, the specific information asserted to be confidential shall be blocked out by the use of an opaque marker or other masking device. The utility or other person shall identify the page and line at which the confidential material is found and shall correlate the page and line identified with the specific justification proffered in support of the classification of such material.

(b) In the case of electronically stored material, one unedited version shall be submitted along with a written identification of the specific data fields for which confidential classification is requested along with a field-by-field justification for the confidential classification.

(c) In the line-by-line or field-by-field justification for confidential classification, the utility or other person must demonstrate how the information asserted to be confidential qualifies as one of the statutory examples listed in section 364.183(3), 366.093(3), or 367.156(3), F.S. If no statutory example is applicable, then the utility or other person shall include a statement explaining how the ratepayers or the person's or utility's business operations will be harmed by disclosure.

(d) The request shall include an affirmative statement that the material for which confidential classification is sought is intended to be and is treated by the utility or other person as private and has not been disclosed.

(e) The burden of proof shall be on the utility or other person to show that the material in question contains bona fide proprietary confidential business information. A request for confidential classification that fails to identify the material for which confidential classification is sought in sufficient detail to permit a reasoned analysis or which fails to provide the required justification for classification may be denied as insufficient on its face.

(f) The Division of the Commission Clerk and Administrative Services shall make available for public inspection a listing of daily filings with the Commission requesting confidentiality.

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(g) The Commission shall have the discretion to modify the requirements of this subsection in order to alleviate the financial burden of entities qualifying as small businesses under section 288.702, F.S.

(h) A utility may petition the Commission for a waiver of the justification for particular sections of certain routinized for filings. The Commission may require conditions to be met by the utility that may include, but not be limited to:

1. Filings which are routine, filed periodically, and which have been filed for a minimum of six months;

2. Information which has regularly been classified as confidential in the past; and

3. While the utility must identify material to be classified by line-by-line reference, the utility may cite to a previous order for justification.

If the waiver is approved, the Commission will issue an order referencing the appropriate previous order stating the relevant justification. No party will be denied the opportunity to object to a request for confidentiality made pursuant to this sub-paragraph.

(5) Claim of confidential treatment pursuant to section 364.183(1), F.S.

(a) Telecommunications companies or other persons claiming confidential treatment for materials pursuant to section 364.183(1), F.S., shall file with the Division of the Commission Clerk and Administrative Services one copy of all such materials and include a cover letter stating that confidentiality is being claimed. The telecommunications company or other person also shall file one copy of the material on which the specific information claimed as confidential shall be highlighted. Along with the highlighted copy, the telecommunications company or other person shall file two edited copies which will be made available for public inspection. In the edited copies, the specific information claimed to be confidential shall be blocked out by the use of an opaque marker or other masking device.

(b) In the case of electronically stored material, one unedited version shall be submitted along with a written identification of the specific data fields for which confidentiality is claimed, along with a field-by-field justification for the confidential classification.

(c) 1. The materials claimed to be confidential shall be kept confidential until returned to the provider pursuant to subsection (6)(d) of this rule, unless the materials will be used in a Commission proceeding or are the subject of a request pursuant to Section 119.07(1), F.S.

2. Any person may file a petition to inspect and examine any material which has been claimed confidential pursuant to 364.183(1), F.S. A copy of the petition must be served on the affected telecommunicatons company or person which shall have 10 days to file a response as to why the material should remain exempt. The petitioner shall have 7 days to file a reply to the filed response. The Commission may set the matter for hearing or issue a ruling on the pleadings.

(6) Discovery.

(a) In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure. The protective order shall specify how the confidential information is to be handled during the course of the proceeding and prescribe measures for protecting the information from disclosure

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outside the proceeding.

(b) The Commission's protective orders shall exempt proprietary confidential business information from section 119.07(1), F.S. While a request for a protective order is pending, the information asserted to be confidential shall also be exempt from section 119.07(1), F.S. Such exemption shall apply whether the information is in the possession of an entity, individual, or state agency, including the Office of Public Counsel.

(c) When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from section 119.07(1), F.S. If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under paragraph (a) above. If the information is not to be used in a proceeding before the Commission, then Public Counsel shall return the information to the utility in accordance with the record retention requirements of the Department of State.

(d) Confidential information which has not been entered into the official record of the proceeding shall be returned to the utility or person who provided the information no later than 60 days after the final order, unless the final order is appealed. If the final order is appealed, the confidential information which has not been made a part of the record shall be returned no later than 30 days after the decision on appeal.

(7)(a) Any person may file a petition to inspect and examine any material which the Commission has ruled exempt from s. 119.07(1), F.S., or which is exempted under paragraph 3(d) pending the Commission's ruling or as the result of the filing of a notice of intent to request confidentiality. A copy of the petition must be served on the affected utility or person which shall have 10 days to file a response as to why the material should remain exempt. The petitioner shall have 7 days to file a reply to the filed response. The Commission may set the matter for hearing or issue a ruling on the pleadings. Material obtained by the Commission in connection with an inquiry shall not be subject to requests for inspection and examination until after the inquiry is terminated.

(b) A finding of confidentiality notwithstanding, a source may consent to inspection or examination by any person. Such consent shall not constitute a waiver of confidentiality and only the person specified in the consent may inspect or examine the material. The Commission may be requested to issue a protective order to recognize the terms and conditions of the consent. All persons are urged to seek mutual agreement regarding access prior to bringing a controversy to the Commission.

(8) Use of confidential information during formal proceedings.

(a) The Commission may rely upon confidential information during a formal proceeding and such information, if otherwise admissible, will be received in evidence. In such event, reasonable precautions will be taken to segregate confidential information in the record and otherwise protect its integrity.

(b) When information subject to a claim of confidentiality pursuant to Section 364.183(1) or a request is admitted into the evidentiary record of a hearing, if such information is not otherwise subject to a request for confidentiality filed with the Commission, the parties to the case and the Commission shall treat the information as confidential pending a ruling on the confidentiality of the information. To maintain continued confidentiality, the party to whom the information belongs shall file a request for confidential

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classification within 21 days of the conclusion of the hearing.

(c) When information subject to a claim of confidentiality pursuant to Section 364.183(1) or a request is contained in a party's brief or other post hearing filing filed with the Commission, the party filing such information shall notify the owner of the information at least three working days prior to the date that the filing will be made. To maintain continued confidential treatment, the party to whom the information belongs shall file, on the same date the brief or other post-hearing filing is filed, either a notice of intent to request confidentiality treatment pursuant to (b) of this subsection, a request for confidential treatment, or a statement that the information is already subject to a request for confidentiality that has been filed with the Commission and the date that the request was filed.

(9) Duration of Confidential Classification.

(a) Orders of the Commission granting confidential classification shall limit the duration of such classification to a period not exceeding 18 months. The Commission may approve a longer period if it finds, for good cause, that such longer period is necessary to protect the ratepayers or the business operations of the utility or affected person.

(b) When confidential information is no longer needed for the Commission to conduct its business, the Commission shall order all persons holding such information to return it to the utility or person providing the information.

(c) Confidential information not returned at the conclusion of the period established under paragraph (a) of this subsection, shall no longer be exempt from s. 119.07(1), F.S., unless the utility or affected person shows, and the Commission finds, that the information continues to be confidential. Upon such finding, the duration of confidential classification may be extended for a period of up to 18 months, or for a longer period if the Commission finds, for good cause, that such longer period is necessary to protect the business operations of the utility or affected person. While the Commission is considering an extension under this paragraph, the information in question shall remain exempt from s. 119.07(1), F.S.

(10) Judicial Review. When the Commission denies a request for confidential classification, the material will be kept confidential until the time for filing an appeal has expired. The utility or other person may request continued confidential treatment until judicial review is complete. The request shall be in writing and filed with the Division of the Commission Clerk and Administrative Services. The material will thereafter receive confidential treatment through completion of judicial review.

Specific Authority: 350.127, F.S.
Law Implemented: 350.121, 364.183, 366.093, 367.156, F.S.
History: New 7/1/85, Amended 4/26/90, 4/21/96.

25-22.007 Reserved.

25-22.008 Practitioners.
Specific Authority: 120.53, F.S.
Law Implemented: 120.53, F.S.
History--New 09/24/81, Formerly 25-22.08, Amended 03/21/94, Repealed 05/03/99.

25-22.009 Size of Paper Filed With Commission.
Specific Authority: 120.53, F.S.
Law Implemented: 120.53, F.S.
History: New 2/12/90, Repealed 7/11/96.

Staff 0096

AFFIDAVIT

By my signature below, I, Charles D'Ascoli, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of Unicom Communications

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

Charles D. D'Ascoli	Charles D. D'Ascoli
Print Name	**Signature**
Managing Partner	11/17/03
Title	**Date**
828 369 1599	828-369 0910
Telephone No.	**Fax No.**

Unicom Communications, LLC
Utility

Address: 17 Smoky Mtn Drive
Franklin NC 28734

STATE OF North Carolina

COUNTY OF Macon

Sworn to (or affirmed) and subscribed before me this 17 day of Nov., 2003, by Charles D. D'Ascoli

Samuel Lee Fiske
(Signature of Notary Public

Notary Public, - North Carolina
Samuel Lee Fiske
County of Macon
My Commission Expires March 26, 2005

(NOTARY SEAL)

(Name of Notary Typed, Printed, or Stamped)

Personally Known ✓ OR Produced Identification _____ Type of Identification Produced _____

OEU Telecom
a division of Ocala Electric Utility

201 SE 3rd Street
Ocala, FL 34471-2174

Fax #: (352) 401-3905

FAX COVER SHEET

DATE: 11/18/03

TO: Pat Lee

FAX #: 850-413-6454

NUMBER OF PAGES (Including Cover Sheet): 3

FROM: Randolph S. Hahn

MESSAGE:

The City of Ocala is currently not utilizing any UNE components to provide its telecommunication service. The City does retain a Resale Agreement with Sprint, however it is not being used at this time.

Randolph S. Hahn
Manager of Telecom

IF THERE ARE ANY PROBLEMS WITH THIS TRANSMISSION,
PLEASE CALL (352) 401-3990.

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

RECEIVED
NOV 1[illegible] 2003
ELECTRIC ADMIN.

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TX097
Richard T. Kent, Jr.
Deputy Director
City of Ocala
% Ocala Electric Utility
2100 N.E. 30th Avenue
Ocala, FL 34470-4875

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[49] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related

[49] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

CLEC - UNE Review Data Request - Nov03
General

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TX097	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	City of Ocala	Use the company name that appears on the address label, as well.		
4	OCN from LERG	9897			
5	OCN Name from LERG	City of Ocala			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)	OLA	Continue with additional affiliations or DBA Names down the columns -->		
8	FLPSC code for Affiliations	None			
9	DBA Names	Ocala Electric Utility			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida, please stop here and return this spreadsheet				
14					

Staff 0101

=== COVER PAGE ===

TO: _____

FROM: MET COMMUNICATIONS

FAX: 8139362668

TEL: 8139360200

COMMENT: URGENT

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454.

TX104
Bryan Thompson
President
MET Communications, Inc.
P. O. Box 17180
Tampa, FL 33682-7180

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[50] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

TX106

EZ Phone **LOCAL LINE America** *Telefono Facil*

ORIGINAL

December 30, 2003

Blanco S. Bayo
Division of the Commission Clerk
And Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

We do not presently have any customers who are using unbundled network elements (UNEs) at this time. We are doing business through resell only. We wish to pursue UNEs if the rates remain the same.

This may be something that will affect our customers and us in the future, but not at the present time.

Sincerely,

Amy J. Topper
Chief Financial Officer

AJT:ckg

AUS
CAF
CMP
COM
CTR
ECR
GCL
OPC
MMS
SEC 1
OTH 1 cy to each docket

DOCUMENT NUMBER-DATE
00037 JAN-5 ⁰⁴
FPSC-COMMISSION CLERK

04 JAN -5 AM 9:15
DISTRIBUTION CENTER

EZ PHONE
P.O. Box 4656
Akron OH 44310
888-732-0277

LOCAL LINE AMERICA
P.O. Box 4551
Akron OH 44310
800-255-9943

TELEFONO FACIL
P.O. Box 4656
Akron OH 44310
888-732-0277

USA Telecom, Inc.
PO Box 2398
Hallandale, Florida 33008
954-893-8227 Fax: 954-893-0399

Memo

To: Pat Lee – Division of Competitive Markets & Enforcement

From: David Raymond

Date: 11/18/03

Fax: 850-413-6454

Pages: 2

Re: USA Telecom, Inc.

Dear Pat:

We have received a request for data in regard to the FCC Triennial Review. Please be advised that USA Telecom, Inc. has approximately 1,100 customers in Florida. These customers are resale only. USA Telecom, Inc. does not have any facilities in Florida nor do we process any orders through UNE-P. As discussed with David Dowds, we are sending this letter, as our completion of your data request is not required.

Please call us if you have any questions.

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☐

TX111
David Raymond
President
USA Telecom, Inc.
3201 Griffin Road, #210
Dania, FL 33312-6970

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[54] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

general_questions_FL.xls
General

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company.				
2	FPSC CODE	TX119	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Florida Telephone Services, LLC	Use the company name that appears on the address label, as well.		
4	OCN from LERG	8169			
5	OCN Name from LERG	FL Telephone			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the columns -->		
8	FLPSC code for Affiliations				
9	DBA Names	—NONE—			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	N/A No Service			
11					
12					
13					
14	Please complete the above information as requested.				

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TX117	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	TELECONEX	Use the company name that appears on the address label, as well.		
4	OCN from LERG	7814 AND 9662			
5	OCN Name from LERG	TELECONEX			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)	7814 AND 9662	Continue with additional affiliations or DBA Names down the columns --->		
8	FLPSC code for Affiliations	N/A			
9	DBA Names	TELECONEX, INC DBA TELECONEX			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	NO SERVICE			
11					
12					
13					
14	Please complete the above information as requested.				

Staff 0107

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R
1					Self-Providers													
2	Customer Infomation					High-Capacity Loop Type			Number of circuits							High-Capacity Loop Type		
3	Street Address	City	Zip	Wire Center CLLI	Self-Provider? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	# Dark Fiber **provisioned** circuits	# DS1 level **provisioned** circuits	# DS3 level **provisioned** circuits	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits	Wholesaler? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)
4	123 Main St.	Tallahassee	32301	TLHSFLXXX	Y	X	X		50	90	0	35	89	0	Y		X	

	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG
1	Wholesalers														
2	Number of circuits														
3	# Dark Fiber **provisioned** circuits	# DS1 level **provisioned** circuits	# DS3 level **provisioned** circuits	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits	Point-to-Point (P) or Ring (R) configuration	Accessible? (Y/N)	Sole Access? (Y/N)	Using? (Y/N)	Giving? (Y/N)	Owner? (Y/N)	Loop Owner?	Loop Wholesaler?	Nature of agreement?
4	0	60	0	0	52	0	R	Y	Y	N	N	Y			

	A	B	C	D	E	F	G	H
1	**Please list all of your remote switches. Any switches located at the central office, do not need to be added.**							
2	Switch CLLI	Host CLLI	Vertical Coord-inates	Horiz-ontal Coord-inates	Switch Street Address	City	State	Zip
3	EXAMPLXX	HOSTEXZZ	1234	5432	123 Main St.	Tallahassee	FL	32301

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
1			Type of Switch *(X or Blank)*																	Y or N				
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
3	EXAMPLEXXX	XXXXXXXX	X							5000	893	1000	451	574	789	254	208	123	562	N			TX000	
4	ABDLFLXA96H																							
5	ALFAFLXA67H																							
6	ALFRFLXARS0																							
7	ALSPFLXADS0																							
8	ALTRFLXARSA																							
9	ALVAFLXARS1																							
10	ANMRFLXA77H																							
11	APPKFLXADS1																							
12	ARCDFLXADS0																							
13	ARCHFLMA																							
14	ASTRFLXARS0																							
15	AVPKFLXADS0																							
16	BAKRFLXADS0																							
17	BARTFLXA53H																							
18	BAYUFLXA54H																							
19	BBPKFLXARSA																							
20	BCGRFLXARS1																							
21	BCRTFLBT																							
22	BCRTFLMA																							
23	BCRTFLSA																							
24	BGPIFLMA																							
25	BHPKFLXA28H																							
26	BKVLFLJF																							
27	BLDWFLMA																							
28	BLGLFLMA																							
29	BLVWFLXADS0																							
30	BNFYFLXARS0																							
31	BNNLFLMA																							
32	BNSPFLXADS1																							
33	BRBAFLXA75H																							
34	BRJTFLXARSA																							
35	BRNDFLXA68H																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
1										
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
3	EXAMPLEXXX	XXXXXXXX	STANDARD	APX8000	LUCENT		Y	850-386	850-422	850-921
4	ABDLFLXA96H									
5	ALFAFLXA67H									
6	ALFRFLXARS0									
7	ALSPFLXADS0									
8	ALTRFLXARSA									
9	ALVAFLXARS1									
10	ANMRFLXA77H									
11	APPKFLXADS1									
12	ARCDFLXADS0									
13	ARCHFLMA									
14	ASTRFLXARS0									
15	AVPKFLXADS0									
16	BAKRFLXADS0									
17	BARTFLXA53H									
18	BAYUFLXA54H									
19	BBPKFLXARSA									
20	BCGRFLXARS1									
21	BCRTFLBT									
22	BCRTFLMA									
23	BCRTFLSA									
24	BGPIFLMA									
25	BHPKFLXA28H									
26	BKVLFLJF									
27	BLDWFLMA									
28	BLGLFLMA									
29	BLVWFLXADS0									
30	BNFYFLXARS0									
31	BNNLFLMA									
32	BNSPFLXADS1									
33	BRBAFLXA75H									
34	BRJTFLXARSA									
35	BRNDFLXA68H									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
36	BRSNFLMA																							
37	BRTNFLXX74H																							
38	BSHNFLXADS0																							
39	BVHLFLXADS0																							
40	BWLGFLXARS0																							
41	BYBHFLMA																							
42	BYSHFLXA84H																							
43	CCBHFLMA																							
44	CDKYFLMA																							
45	CFLDFLMA																							
46	CFVLFLXADS0																							
47	CHLKFLXARS0																							
48	CHPLFLJA																							
49	CHSWFLXARS0																							
50	CLMTFLXADS0																							
51	CLTNFLXARS0																							
52	CLWRFLXA44H																							
53	CNSDFLXA79H																							
54	CNTMFLLE																							
55	COCOFLMA																							
56	COCOFLME																							
57	CPCRFLXADS0																							
58	CPCRFLXBDS1																							
59	CPHZFLXADS0																							
60	CRRVFLXADS0																							
61	CRVWFLXADS0																							
62	CRWDFLXA96H																							
63	CSCYFLBA																							
64	CSLBFLXADS1																							
65	CTDLFLXARS0																							
66	CYGRFLXA32H																							
67	CYLKFLXADS0																							
68	CYLKFLXBRS0																							
69	DBRYFLDL																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
36	BRSNFLMA									
37	BRTNFLXX74H									
38	BSHNFLXADS0									
39	BVHLFLXADS0									
40	BWLGFLXARS0									
41	BYBHFLMA									
42	BYSHFLXA84H									
43	CCBHFLMA									
44	CDKYFLMA									
45	CFLDFLMA									
46	CFVLFLXADS0									
47	CHLKFLXARS0									
48	CHPLFLJA									
49	CHSWFLXARS0									
50	CLMTFLXADS0									
51	CLTNFLXARS0									
52	CLWRFLXA44H									
53	CNSDFLXA79H									
54	CNTMFLLE									
55	COCOFLMA									
56	COCOFLME									
57	CPCRFLXADS0									
58	CPCRFLXBDS1									
59	CPHZFLXADS0									
60	CRRVFLXADS0									
61	CRVWFLXADS0									
62	CRWDFLXA96H									
63	CSCYFLBA									
64	CSLBFLXADS1									
65	CTDLFLXARS0									
66	CYGRFLXA32H									
67	CYLKFLXADS0									
68	CYLKFLXBRS0									
69	DBRYFLDL									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
70	DBRYFLMA																							
71	DDCYFLXADS1																							
72	DELDFLMA																							
73	DESTFLXADS0																							
74	DFSPFLXADS0																							
75	DLBHFLKP																							
76	DLBHFLMA																							
77	DLSPFLMA																							
78	DNDNFLXA73H																							
79	DNLNFLWM																							
80	DRBHFLMA																							
81	DUNDFLXA43H																							
82	DYBHFLFN																							
83	DYBHFLMA																							
84	DYBHFLOB																							
85	DYBHFLOS																							
86	DYBHFLPO																							
87	EGLLFLBG																							
88	EGLLFLIH																							
89	ENWDFLXA47H																							
90	EORNFLMA																							
91	ESTSFLXARS0																							
92	EVRGFLXARS1																							
93	FHSDFLXA57H																							
94	FLBHFLMA																							
95	FRBHFLFP																							
96	FRPTFLXARS0																							
97	FRSTFLXA63H																							
98	FTGRFLMA																							
99	FTLDFLAP																							
100	FTLDFLCR																							
101	FTLDFLCY																							
102	FTLDFLJA																							
103	FTLDFLMR																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
70	DBRYFLMA									
71	DDCYFLXADS1									
72	DELDFLMA									
73	DESTFLXADS0									
74	DFSPFLXADS0									
75	DLBHFLKP									
76	DLBHFLMA									
77	DLSPFLMA									
78	DNDNFLXA73H									
79	DNLNFLWM									
80	DRBHFLMA									
81	DUNDFLXA43H									
82	DYBHFLFN									
83	DYBHFLMA									
84	DYBHFLOB									
85	DYBHFLOS									
86	DYBHFLPO									
87	EGLLFLBG									
88	EGLLFLIH									
89	ENWDFLXA47H									
90	EORNFLMA									
91	ESTSFLXARS0									
92	EVRGFLXARS1									
93	FHSDFLXA57H									
94	FLBHFLMA									
95	FRBHFLFP									
96	FRPTFLXARS0									
97	FRSTFLXA63H									
98	FTGRFLMA									
99	FTLDFLAP									
100	FTLDFLCR									
101	FTLDFLCY									
102	FTLDFLJA									
103	FTLDFLMR									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
104	FTLDFLOA																							
105	FTLDFLPL																							
106	FTLDFLSG																							
107	FTLDFLSU																							
108	FTLDFLWN																							
109	FTMBFLXARS0																							
110	FTMDFLXARS0																							
111	FTMYFLXADS0																							
112	FTMYFLXBRS0																							
113	FTMYFLXCDS2																							
114	FTPRFLMA																							
115	FTWBFLXADS0																							
116	FTWBFLXBDS0																							
117	FTWBFLXCRS0																							
118	GCSPFLCN																							
119	GCVLFLMA																							
120	GDRGFLXADS0																							
121	GENVFLMA																							
122	GLBRFLMC																							
123	GLDLFLXARS0																							
124	GLGCFLXADS0																							
125	GLRDFLXADS0																							
126	GNDYFLXA57H																							
127	GNVLFLXARS0																							
128	GNWDFLXARS0																							
129	GSVLFLMA																							
130	GSVLFLNW																							
131	GVLDFLXARS0																							
132	HAVNFLMA																							
133	HBSDFLMA																							
134	HDSNFLXA86H																							
135	HGLDFLXA64H																							
136	HLNVFLMA																							
137	HLWDFLHA																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
104	FTLDFLOA									
105	FTLDFLPL									
106	FTLDFLSG									
107	FTLDFLSU									
108	FTLDFLWN									
109	FTMBFLXARS0									
110	FTMDFLXARS0									
111	FTMYFLXADS0									
112	FTMYFLXBRS0									
113	FTMYFLXCDS2									
114	FTPRFLMA									
115	FTWBFLXADS0									
116	FTWBFLXBDS0									
117	FTWBFLXCRS0									
118	GCSPFLCN									
119	GCVLFLMA									
120	GDRGFLXADS0									
121	GENVFLMA									
122	GLBRFLMC									
123	GLDLFLXARS0									
124	GLGCFLXADS0									
125	GLRDFLXADS0									
126	GNDYFLXA57H									
127	GNVLFLXARS0									
128	GNWDFLXARS0									
129	GSVLFLMA									
130	GSVLFLNW									
131	GVLDFLXARS0									
132	HAVNFLMA									
133	HBSDFLMA									
134	HDSNFLXA86H									
135	HGLDFLXA64H									
136	HLNVFLMA									
137	HLWDFLHA									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
138	HLWDFLMA																							
139	HLWDFLPE																							
140	HLWDFLWH																							
141	HMSPFLXARS0																							
142	HMSTFLAF																							
143	HMSTFLEA																							
144	HMSTFLHM																							
145	HNCYFLXA42H																							
146	HNCYFLXN424																							
147	HOWYFLXARS0																							
148	HTISFLMA																							
149	HWTHFLMA																							
150	HYPKFLXADS0																							
151	IMKLFLXARS0																							
152	INLKFLXARSA																							
153	INRKFLXX59H																							
154	INVRFLXADS1																							
155	ISLMFLMA																							
156	JAY-FLMA																							
157	JCBHFLAB																							
158	JCBHFLMA																							
159	JCBHFLSP																							
160	JCVLFLAR																							
161	JCVLFLBW																							
162	JCVLFLCL																							
163	JCVLFLFC																							
164	JCVLFLIA																							
165	JCVLFLJT																							
166	JCVLFLLF																							
167	JCVLFLNO																							
168	JCVLFLOW																							
169	JCVLFLRV																							
170	JCVLFLSJ																							
171	JCVLFLSM																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
138	HLWDFLMA									
139	HLWDFLPE									
140	HLWDFLWH									
141	HMSPFLXARS0									
142	HMSTFLAF									
143	HMSTFLEA									
144	HMSTFLHM									
145	HNCYFLXA42H									
146	HNCYFLXN424									
147	HOWYFLXARS0									
148	HTISFLMA									
149	HWTHFLMA									
150	HYPKFLXADS0									
151	IMKLFLXARS0									
152	INLKFLXARSA									
153	INRKFLXX59H									
154	INVRFLXADS1									
155	ISLMFLMA									
156	JAY-FLMA									
157	JCBHFLAB									
158	JCBHFLMA									
159	JCBHFLSP									
160	JCVLFLAR									
161	JCVLFLBW									
162	JCVLFLCL									
163	JCVLFLFC									
164	JCVLFLIA									
165	JCVLFLJT									
166	JCVLFLLF									
167	JCVLFLNO									
168	JCVLFLOW									
169	JCVLFLRV									
170	JCVLFLSJ									
171	JCVLFLSM									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
172	JCVLFLWC																							
173	JPTRFLMA																							
174	KGLKFLXARS0																							
175	KNVLFLXARS0																							
176	KSSMFLXADS0																							
177	KSSMFLXBDS1																							
178	KSSMFLXCRS1																							
179	KSSMFLXDRS0																							
180	KYHGFLMA																							
181	KYLRFLLS																							
182	KYLRFLMA																							
183	KYSTFLXA92H																							
184	KYWSFLMA																							
185	LBLLFLXADS0																							
186	LDLKFLXARS0																							
187	LEE FLXARS0																							
188	LGBKFLXA38H																							
189	LHACFLXADS0																							
190	LKALFLXA95H																							
191	LKBRFLXADS1																							
192	LKCYFLMA																							
193	LKHLFLXARS0																							
194	LKLDFLXA68H																							
195	LKLDFLXE66H																							
196	LKLDFLXN85H																							
197	LKMRFLMA																							
198	LKPCFLXARS0																							
199	LKWLFLXA67H																							
200	LKWLFLXERSA																							
201	LLMNFLXADS0																							
202	LNLKFLXA99H																							
203	LRGOFLXA58H																							
204	LSBGFLXADS0																							
205	LUTZFLXA94H																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
172	JCVLFLWC									
173	JPTRFLMA									
174	KGLKFLXARS0									
175	KNVLFLXARS0									
176	KSSMFLXADS0									
177	KSSMFLXBDS1									
178	KSSMFLXCRS1									
179	KSSMFLXDRS0									
180	KYHGFLMA									
181	KYLRFLLS									
182	KYLRFLMA									
183	KYSTFLXA92H									
184	KYWSFLMA									
185	LBLLFLXADS0									
186	LDLKFLXARS0									
187	LEE FLXARS0									
188	LGBKFLXA38H									
189	LHACFLXADS0									
190	LKALFLXA95H									
191	LKBRFLXADS1									
192	LKCYFLMA									
193	LKHLFLXARS0									
194	LKLDFLXA68H									
195	LKLDFLXE66H									
196	LKLDFLXN85H									
197	LKMRFLMA									
198	LKPCFLXARS0									
199	LKWLFLXA67H									
200	LKWLFLXERSA									
201	LLMNFLXADS0									
202	LNLKFLXA99H									
203	LRGOFLXA58H									
204	LSBGFLXADS0									
205	LUTZFLXA94H									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
206	LWTYFLXARS0																							
207	LYHNFLOH																							
208	MALNFLXARS0																							
209	MCNPFLMA																							
210	MDBGFLPM																							
211	MDSNFLXADS0																							
212	MIAMFLAE																							
213	MIAMFLAL																							
214	MIAMFLAP																							
215	MIAMFLBA																							
216	MIAMFLBC																							
217	MIAMFLBR																							
218	MIAMFLCA																							
219	MIAMFLDB																							
220	MIAMFLFL																							
221	MIAMFLGR																							
222	MIAMFLHL																							
223	MIAMFLIC																							
224	MIAMFLKE																							
225	MIAMFLME																							
226	MIAMFLNM																							
227	MIAMFLNS																							
228	MIAMFLOL																							
229	MIAMFLPB																							
230	MIAMFLPL																							
231	MIAMFLRR																							
232	MIAMFLSH																							
233	MIAMFLSO																							
234	MIAMFLWD																							
235	MIAMFLWM																							
236	MICCFLBB																							
237	MLBRFLMA																							
238	MLBYFLXARSA																							
239	MLTNFLRA																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
206	LWTYFLXARS0									
207	LYHNFLOH									
208	MALNFLXARS0									
209	MCNPFLMA									
210	MDBGFLPM									
211	MDSNFLXADS0									
212	MIAMFLAE									
213	MIAMFLAL									
214	MIAMFLAP									
215	MIAMFLBA									
216	MIAMFLBC									
217	MIAMFLBR									
218	MIAMFLCA									
219	MIAMFLDB									
220	MIAMFLFL									
221	MIAMFLGR									
222	MIAMFLHL									
223	MIAMFLIC									
224	MIAMFLKE									
225	MIAMFLME									
226	MIAMFLNM									
227	MIAMFLNS									
228	MIAMFLOL									
229	MIAMFLPB									
230	MIAMFLPL									
231	MIAMFLRR									
232	MIAMFLSH									
233	MIAMFLSO									
234	MIAMFLWD									
235	MIAMFLWM									
236	MICCFLBB									
237	MLBRFLMA									
238	MLBYFLXARSA									
239	MLTNFLRA									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
240	MNDRFLAV																							
241	MNDRFLLO																							
242	MNDRFLLW																							
243	MNLKFLXA85H																							
244	MNSNFLMA																							
245	MNTIFLXADS0																							
246	MOISFLXADS1																							
247	MRHNFLXARS0																							
248	MRNNFLXADS0																							
249	MRTHFLVE																							
250	MTDRFLXARS0																							
251	MTLDFLXADS1																							
252	MTVRFLXARS0																							
253	MXVLFLMA																							
254	MYCYFLXA32H																							
255	NDADFLAC																							
256	NDADFLBR																							
257	NDADFLGG																							
258	NDADFLOL																							
259	NFMYFLXADS0																							
260	NFMYFLXBRS0																							
261	NGBHFLXA39H																							
262	NKLRFLMA																							
263	NNPLFLXADS1																							
264	NPLSFLXCDS0																							
265	NPLSFLXDDS0																							
266	NPRCFLXA84H																							
267	NRPTFLXA42H																							
268	NRSDFLXA35H																							
269	NSBHFLMA																							
270	NWBYFLMA																							
271	OCALFLXADS0																							
272	OCALFLXBDS0																							
273	OCALFLXCRS0																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
240	MNDRFLAV									
241	MNDRFLLO									
242	MNDRFLLW									
243	MNLKFLXA85H									
244	MNSNFLMA									
245	MNTIFLXADS0									
246	MOISFLXADS1									
247	MRHNFLXARS0									
248	MRNNFLXADS0									
249	MRTHFLVE									
250	MTDRFLXARS0									
251	MTLDFLXADS1									
252	MTVRFLXARS0									
253	MXVLFLMA									
254	MYCYFLXA32H									
255	NDADFLAC									
256	NDADFLBR									
257	NDADFLGG									
258	NDADFLOL									
259	NFMYFLXADS0									
260	NFMYFLXBRS0									
261	NGBHFLXA39H									
262	NKLRFLMA									
263	NNPLFLXADS1									
264	NPLSFLXCDS0									
265	NPLSFLXDDS0									
266	NPRCFLXA84H									
267	NRPTFLXA42H									
268	NRSDFLXA35H									
269	NSBHFLMA									
270	NWBYFLMA									
271	OCALFLXADS0									
272	OCALFLXBDS0									
273	OCALFLXCRS0									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
274	OCNFFLXARS0																							
275	OKCBFLXADS1																							
276	OKHLFLMA																							
277	OKLWFLXADS0																							
278	OLDSFLXA85H																							
279	OLTWFLLN																							
280	ORCYFLXADS0																							
281	ORCYFLXCRS0																							
282	ORLDFLAP																							
283	ORLDFLCL																							
284	ORLDFLMA																							
285	ORLDFLPC																							
286	ORLDFLPH																							
287	ORLDFLSA																							
288	ORPKFLMA																							
289	ORPKFLRW																							
290	OSPRFLXA96H																							
291	OVIDFLCA																							
292	PACEFLPV																							
293	PAHKFLMA																							
294	PANCFLXARS0																							
295	PCBHFLNT																							
296	PKCYFLXARSA																							
297	PLCSFLMA																							
298	PLMTFLXA72H																							
299	PLSLFLXA79H																							
300	PLTKFLMA																							
301	PMBHFLCS																							
302	PMBHFLFE																							
303	PMBHFLMA																							
304	PMBHFLTA																							
305	PMPKFLMA																							
306	PNCRFLXA73J																							
307	PNCYFLCA																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
274	OCNFFLXARS0									
275	OKCBFLXADS1									
276	OKHLFLMA									
277	OKLWFLXADS0									
278	OLDSFLXA85H									
279	OLTWFLLN									
280	ORCYFLXADS0									
281	ORCYFLXCRS0									
282	ORLDFLAP									
283	ORLDFLCL									
284	ORLDFLMA									
285	ORLDFLPC									
286	ORLDFLPH									
287	ORLDFLSA									
288	ORPKFLMA									
289	ORPKFLRW									
290	OSPRFLXA96H									
291	OVIDFLCA									
292	PACEFLPV									
293	PAHKFLMA									
294	PANCFLXARS0									
295	PCBHFLNT									
296	PKCYFLXARSA									
297	PLCSFLMA									
298	PLMTFLXA72H									
299	PLSLFLXA79H									
300	PLTKFLMA									
301	PMBHFLCS									
302	PMBHFLFE									
303	PMBHFLMA									
304	PMBHFLTA									
305	PMPKFLMA									
306	PNCRFLXA73J									
307	PNCYFLCA									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
308	PNCYFLMA																							
309	PNGRFLXADS1																							
310	PNISFLXADS0																							
311	PNLNFLXARS0																							
312	PNLSFLXA53H																							
313	PNSCFLBL																							
314	PNSCFLFP																							
315	PNSCFLHC																							
316	PNSCFLPB																							
317	PNSCFLWA																							
318	PNVDFLMA																							
319	POINFLXARSA																							
320	PRRNFLMA																							
321	PRSHFLXARSA																							
322	PRSNFLFD																							
323	PSDNFLXA34H																							
324	PTCTFLXADS0																							
325	PTCYFLXA75H																							
326	PTSLFLMA																							
327	PTSLFLSO																							
328	RSKNFLXA64H																							
329	RYHLFLXARS0																							
330	SARKFLXARSA																							
331	SBNGFLXADS1																							
332	SBSTFLFE																							
333	SBSTFLMA																							
334	SEKYFLXA34H																							
335	SGBEFLXA36H																							
336	SGBHFLXARS0																							
337	SGKYFLMA																							
338	SHLMFLXADS0																							
339	SKWYFLXADS0																							
340	SLHLFLXARS0																							
341	SLSPFLXA93H																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
308	PNCYFLMA									
309	PNGRFLXADS1									
310	PNISFLXADS0									
311	PNLNFLXARS0									
312	PNLSFLXA53H									
313	PNSCFLBL									
314	PNSCFLFP									
315	PNSCFLHC									
316	PNSCFLPB									
317	PNSCFLWA									
318	PNVDFLMA									
319	POINFLXARSA									
320	PRRNFLMA									
321	PRSHFLXARSA									
322	PRSNFLFD									
323	PSDNFLXA34H									
324	PTCTFLXADS0									
325	PTCYFLXA75H									
326	PTSLFLMA									
327	PTSLFLSO									
328	RSKNFLXA64H									
329	RYHLFLXARS0									
330	SARKFLXARSA									
331	SBNGFLXADS1									
332	SBSTFLFE									
333	SBSTFLMA									
334	SEKYFLXA34H									
335	SGBEFLXA36H									
336	SGBHFLXARS0									
337	SGKYFLMA									
338	SHLMFLXADS0									
339	SKWYFLXADS0									
340	SLHLFLXARS0									
341	SLSPFLXA93H									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
342	SMNLFLXA23H																							
343	SNANFLXARS0																							
344	SNDSFLXARS0																							
345	SNFRFLMA																							
346	SNISFLXADS0																							
347	SNRSFLXARS0																							
348	SNSPFLXA37H																							
349	SPBGFLXA89H																							
350	SPBGFLXS86H																							
351	SPCPFLXARL0																							
352	SPRGFLXA37H																							
353	SRSTFLXA95H																							
354	SSDSFLXA92H																							
355	SSPRFLXARS0																							
356	STAGFLBS																							
357	STAGFLMA																							
358	STAGFLSH																							
359	STAGFLWG																							
360	STCDFLXARS0																							
361	STGRFLXA78H																							
362	STMKFLXARS0																							
363	STRKFLXADS0																							
364	STRTFLMA																							
365	SVSPFLXARS0																							
366	SVSSFLXARS0																							
367	SWTHFLXA88H																							
368	SYHSFLCC																							
369	TAMPFLXEDS0																							
370	TAMPFLXX22H																							
371	THNTFLXADS0																							
372	TLCHFLXARS0																							
373	TLHSFLXADS0																							
374	TLHSFLXBDS0																							
375	TLHSFLXCDS0																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
342	SMNLFLXA23H									
343	SNANFLXARS0									
344	SNDSFLXARS0									
345	SNFRFLMA									
346	SNISFLXADS0									
347	SNRSFLXARS0									
348	SNSPFLXA37H									
349	SPBGFLXA89H									
350	SPBGFLXS86H									
351	SPCPFLXARL0									
352	SPRGFLXA37H									
353	SRSTFLXA95H									
354	SSDSFLXA92H									
355	SSPRFLXARS0									
356	STAGFLBS									
357	STAGFLMA									
358	STAGFLSH									
359	STAGFLWG									
360	STCDFLXARS0									
361	STGRFLXA78H									
362	STMKFLXARS0									
363	STRKFLXADS0									
364	STRTFLMA									
365	SVSPFLXARS0									
366	SVSSFLXARS0									
367	SWTHFLXA88H									
368	SYHSFLCC									
369	TAMPFLXEDS0									
370	TAMPFLXX22H									
371	THNTFLXADS0									
372	TLCHFLXARS0									
373	TLHSFLXADS0									
374	TLHSFLXBDS0									
375	TLHSFLXCDS0									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
376	TLHSFLXDDS0																							
377	TLHSFLXERS0																							
378	TLHSFLXFDS0																							
379	TLHSFLXGRS0																							
380	TLHSFLXHDS0																							
381	TMTRFLXADS0																							
382	TRENFLMA																							
383	TRSPFLXA93H																							
384	TTVLFLMA																							
385	TVRSFLXADS0																							
386	UMTLFLXARS0																							
387	UNVRFLXA97H																							
388	VENCFLXA48H																							
389	VENCFLXSDS0																							
390	VERNFLMA																							
391	VLPRFLXADS0																							
392	VLPRFLXBRS0																							
393	VRBHFLBE																							
394	VRBHFLMA																							
395	WCHLFLXADS0																							
396	WELKFLMA																							
397	WIMMFLXA63H																							
398	WLCHFLXA97H																							
399	WLCRFLXA83H																							
400	WLSTFLXARS0																							
401	WLWDFLXARS0																							
402	WNDRFLXARS0																							
403	WNGRFLXADS0																							
404	WNHNFLXC29H																							
405	WNPKFLXADS1																							
406	WPBHFLAN																							
407	WPBHFLGA																							
408	WPBHFLGR																							
409	WPBHFLHH																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
376	TLHSFLXDDS0									
377	TLHSFLXERS0									
378	TLHSFLXFDS0									
379	TLHSFLXGRS0									
380	TLHSFLXHDS0									
381	TMTRFLXADS0									
382	TRENFLMA									
383	TRSPFLXA93H									
384	TTVLFLMA									
385	TVRSFLXADS0									
386	UMTLFLXARS0									
387	UNVRFLXA97H									
388	VENCFLXA48H									
389	VENCFLXSDS0									
390	VERNFLMA									
391	VLPRFLXADS0									
392	VLPRFLXBRS0									
393	VRBHFLBE									
394	VRBHFLMA									
395	WCHLFLXADS0									
396	WELKFLMA									
397	WIMMFLXA63H									
398	WLCHFLXA97H									
399	WLCRFLXA83H									
400	WLSTFLXARS0									
401	WLWDFLXARS0									
402	WNDRFLXARS0									
403	WNGRFLXADS0									
404	WNHNFLXC29H									
405	WNPKFLXADS1									
406	WPBHFLAN									
407	WPBHFLGA									
408	WPBHFLGR									
409	WPBHFLHH									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
410	WPBHFLLE																							
411	WPBHFLRB																							
412	WPBHFLRP																							
413	WSSDFLXA87H																							
414	WSTVFLXARS0																							
415	WWSPFLHI																							
416	WWSPFLSH																							
417	YBCTFLXA24H																							
418	YNFNFLMA																							
419	YNTWFLMA																							
420	YULEFLMA																							
421	ZLSPFLXARS0																							
422	ZPHYFLXA78H																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
410	WPBHFLLE									
411	WPBHFLRB									
412	WPBHFLRP									
413	WSSDFLXA87H									
414	WSTVFLXARS0									
415	WWSPFLHI									
416	WWSPFLSH									
417	YBCTFLXA24H									
418	YNFNFLMA									
419	YNTWFLMA									
420	YULEFLMA									
421	ZLSPFLXARS0									
422	ZPHYFLXA78H									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
1																
2	FROM ILEC										TO ILEC					
3		Central Office Address						Arrange-ment Type				Central Office Address				
4	CLLI	Street Address	City	State	Zip	Vert-ical Coord-inates	Horiz-ontal Coord-inates	Caged? (Y/N)	Cageless? (Y/N)	Virtual? (Y/N)	CLLI	Street Address	City	State	Zip	Vert-ical Coord-inates
5	EXAMFRXXX	3 Empire State Plaza	Tallahassee	FL	32301	4321	1234	Y	N	N	EXAMTOXXX	123 Main Street	Miami	FL	33123	3456

	Q	R	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG	AH	AI	AJ	AK	AL	AM	AN	AO	AP
1					TRANSPORT ROUTE																					
2					Self-Providers										Wholesalers											
3		Arrange-ment Type				Transport Type			Number of transport circuits								Transport Type			Number of transport circuits						
4	Horiz-ontal Coord-inates	Caged? (Y/N)	Cageless? (Y/N)	Virtual? (Y/N)	Self-Provider? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	# Dark Fiber transport circuits provisioned	# DS1 level transport circuits provisioned	# DS3 level transport circuits provisioned	# Dark Fiber working circuits	# DS1 level working circuits	# DS3 level working circuits	Wholesaler? (Y/N)	Carrier?	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	# Dark Fiber transport circuits provisioned	# DS1 level transport circuits provisioned	# DS3 level transport circuits provisioned	# Dark Fiber working circuits	# DS1 level working circuits	# DS3 level working circuits	Supplier?
5	6543	N	Y	N	Y	X	X		53	89	0	53	89	0	N											

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☐

Sent letter 12/3/03 11:45 AM

TX119
Paul B. Joachim
Manager
Florida Telephone Services, LLC
1667 South Highway 17 - 92, Suite 101
Longwood, FL 32750-6542

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[57] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[57] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

BudgeTel Systems, Inc.

A Public Service Commission Certificated
Local Exchange Telecommunications Service

Office (305) 899-1155
Fax (305) 899-1021

First Union Bank Bldg.
12550 Biscayne Blvd., Suite 220
N. Miami, FL 33181

Mail Address:
P.O. Box 6193
Surfside, FL 33154

December 1, 2003

Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Att: Blanco S. Bayo
Division of the Commission Clerk and Administrative Services

Att: Pat Lee
Division of Competitive Markets and Enforcement

Response to: Data Request Regarding Implementation of Requirements Arising from Federal Communications Commission's Triennial Unbundles Network Elements Review.

WE are hereby advising you that we are at this time REsellers and do not have our own switches or utilize switches of others

Yours truly,

H.B. Schlenger, Pres.
BudgeTel Systems, Inc.
TX126

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

RECEIVED
NOV 14 2003

TX129
Mike Skrivan
Managing Director - Revenues
Madison River Communications, LLC
P. O. Box 430
Mebane, NC 27302-0430

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[61] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

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[61] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

Verizon Avenue

Two Conway Park
150 Field Drive, Suite 300
Lake Forest, IL 60045

November 19, 2003

Blanco S. Bayo
Division of the Commission Clerk
And Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399 – 0850

Pat Lee
Division of Competitive Markets and Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399 – 0850

RE: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

OnePoint Communications – Georgia, LLC d/b/a Verizon Avenue ("Verizon Avenue" or "Company") respectfully responds to the Data Request issued by the Florida Public Service Commission ("Commission") on November 12, 2003 in the above cited Dockets.

Verizon Avenue is a certificated Competitive Local Exchange Carrier in the State of Florida, and also functions as an Internet Service Provider in the State. All regulated telephone services of the Company are provided by resale of such services obtained from ILECs in the State. Verizon Avenue neither owns nor controls switching or transport facilities in the State, and as such has no information to provide responsive to the Data Request discussed above. The Company attaches to this letter a paper copy of the response to the "general questions" spreadsheet of the Commission, a 3.5" diskette with this file , and a notarized statement from the undersigned attesting to the accuracy of the statements herein. No responses are provided to other data worksheets, per the instructions of the Commission.

DOCUMENT NUMBER-DATE
11839 NOV 21 &
FPSC-COMMISSION CLERK

If there are any questions concerning this response, or if the Commission requires any further information, please contact me at the address above, on my direct telephone line of 847-582-8722, via facsimile at 847-582-8801, or via email at ed.marsh@verizon.com.

Respectfully submitted,

Edward J. Marsh
Verizon Avenue Corp.

Attachments

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	5250	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	OnePoint Communicabons - Georgia, LLC	Use the company name that appears on the address label, as well		
4	OCN from LERG	3434			
5	OCN Name from LERG	OnePoint Communications - Georgia, LLC - GA			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)	3431, 3432, 3433	Continue with additional affiliations or DBA Names down the columns -->		
8	FLPSC code for Affiliations				
9	DBA Names	d/b/a Verizon Avenue			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information	No Service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida, please stop here and return this spreadsheet				
14					

AFFIDAVIT

By my signature below, I, EDWARD J. MARSH, JR attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of ONEPOINT COMMUNICATIONS - GEORGIA, LLC d/b/a VERIZON AVENUE

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

EDWARD J. MARSH, JR **Print Name**	 **Signature**
REGULATORY **Title**	11/19/03 **Date**
847-582-8722 **Telephone No.**	847-582-8801 **Fax No.**

ONEPOINT COMMUNICATIONS - GEORGIA, LLC d/b/a VERIZON AVENUE
Utility

Address: TWO CONWAY PARK
150 FIELD DRIVE, SUITE 3000
LAKE FOREST, IL 60045

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this ____ day of ____, 20__, by _____.

_____
(Signature of Notary Public

(NOTARY SEAL)

(Name of Notary Typed, Printed, or Stamped)

Personally Known _____ OR Produced Identification _____ Type of Identification Produced _____

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

STATE OF FLORIDA

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☐

TX136
Richard Heatter
Vice President - Legal and Regulatory
Mpower Communications Corp.
175 Sully's Trail, Suite 300
Pittsford, NY 14534-4558

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[64] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[64] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

BELLSOUTH

BellSouth BSE, Inc.
400 Perimeter Center Terrace
Suite 400
Atlanta, Georgia 30346

Mario L. Soto
President
678 443-3937
Fax: 678 443-3470

November 20, 2003

Ms. Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RE: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

Dear Ms. Lee:

Enclosed are BellSouth BSE, Inc.'s responses to the Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review – Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High Capacity Loops and Transport (Docket No. 030852-TP) as requested in the November 12, 2003 memo from Ms. Beth W. Salak. As directed, the responses include this cover letter, a notarized affidavit, a hard copy of the responses, and an electronic copy of the responses provided on a 3½ inch diskette.

BellSouth BSE, Inc. is currently certified in the State of Florida as a Competitive Local Exchange Carrier (CLEC) but is not currently offering local exchange service within the state. The only service that BellSouth BSE, Inc. is currently offering in the State of Florida is **resold** local frame relay service.

Please acknowledge receipt of this filing by date-stamping the extra copy of this cover letter and returning it to me in the self-addressed, pre-stamped envelope provided for this purpose.

Please feel free to contact me should you have any questions concerning the provided responses.

Sincerely,

Enclosures

Staff 0147

BellSouth BSE, Inc.
400 Perimeter Center Terrace
Suite 400
Atlanta, Georgia 30346

Mario L. Soto
President
678 443-3937
Fax: 678 443-3470

November 20, 2003

Ms. Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

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Please acknowledge receipt of this filing by date-stamping the extra copy of this cover letter and returning it to me in the self-addressed, pre-stamped envelope provided for this purpose.

Please feel free to contact me should you have any questions concerning the provided responses.

Sincerely,

Enclosures

Staff 0148

AFFIDAVIT

By my signature below, I, Maria L. Soto, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of BellSouth BSE, Inc.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

Maria L. Soto
Print Name

Signature

President
Title

11/20/03
Date

678-443-3937
Telephone No.

678-443-3470
Fax No.

BellSouth BSE, Inc.
Utility

Address: 400 Perimeter Center Terrace
Suite 400
Atlanta, Georgia 30346

STATE OF Georgia

COUNTY OF Gwinnett

Sworn to (or affirmed) and subscribed before me this 20th day of Nov, 2003, by Maria L. Soto.

(Signature of Notary Public)

(NOTARY SEAL)

Notary Public, Gwinnett County, GA
My Commission Expires May 10, 2004

Robin H. Taylor
(Name of Notary Typed, Printed, or Stamped)

Personally Known X OR Produced Identification _____ Type of Identification Produced _____

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TX137	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	BellSouth BSE, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	4384			
5	OCN Name from LERG	BellSouth BSE, Inc.			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the columns —>		
8	FLPSC code for Affiliations	TI1554 BellSouth Long Distance, Inc. TF790 BellSouth Public Communications, Inc. TI572 BellSouth Public Communications, Inc. TL720 BellSouth Telecommunications, Inc. TX031 BellSouth Telecommunications, Inc.			
9	DBA Names				
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida, please stop here and return this spreadsheet				
14					

Communications Technology Management, LLC

15715 Parrish Road, Berthoud, Colorado 80513
(303)665-3420 fax (303)651-7227 E-mail parrish@direcpc.com

FAX

From: Terry Parrish

Recipient: Florida PSC

Company:

Fax Number: 18504136454

Voice Number:

Date: 11/26/2003

Time: 9:27:51 AM

Total No. Pages: 2

Subject:

Message:

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☐

TX142
Terry Parrish
Consultant - Regulatory
Florida City-Link Communications, Inc.
15715 Parrish Road
Berthoud, CO 80513-8713

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[66] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TX151
Patrick D. Crocker
Attorney
Atlas Communications, Ltd.
900 Comerica Building
Kalamazoo, MI 49007-4752

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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requested data is essential to ensure that each carrier's facilities are considered in conclusions reached regarding UNE obligations. Company responses are due to the Commission by **December 3, 2003**. The data request is similar to the October 3, 2003, data request of the New York Department of Public Service in Case 03-C-0821, modified by a few additional questions.

The trigger-related information is to be provided on electronic spreadsheets: (1) general_questions_FL.xls, (2) switching_questions_FL.xls, (3) transport_questions_FL.xls, and (4) loop_questions_FL.xls. Hard copies of the spreadsheets are attached to the data request and spreadsheet files can also be downloaded from the Commission's website to use in providing responses (http://www.floridapsc.com). The number of spreadsheet rows to which each CLEC will be required to respond depends upon the number of switches, transport routes, or customer locations for which each company has provisioned facilities. Detailed instructions are included in the data request as well as attached to the spreadsheets.

If your company holds a certificate but is not currently active in the marketplace, you may simply check the box at the top of this page and return it.

To the extent you are a party to either Docket No. 030851-TP or Docket No. 030852-TP and information requested has already been provided through responses to interrogatories or document requests, there is no need to provide a full response again. Simply respond by identifying the particular interrogatory or document request (serving party, item number, filing date) where the information can be found.

Once the spreadsheets are completed, they should be saved electronically using the company name in the saved file name; i.e., general_Company Name_FL.xls. A cover letter along with a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette or compact disk (CD) should be mailed to:

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

Once the completed data request is received by the Commission, the information will be public record. If you believe your response contains confidential information, you can request that your response be exempt from FS 119.07(1), General State Policy on Public Records. If you are claiming confidential classification, a written request for the specific material to which the confidentiality relates should be filed with the Division of the Commission Clerk and Administrative Services with a copy to Pat Lee, Division of Competitive Markets & Enforcement. Enclosed is a copy of Florida Public Service Commission Rule 25-22.006, Florida Administrative Code, which provides the necessary information for submitting confidential information to be exempt from FS 119.07(1). Please note that a claim of confidentiality does not alleviate the obligation to respond to the data request in a timely manner. In addition, claims of confidentiality should not be made for information that is publicly available from other sources (switch locations, for example, are available from the Local Exchange Routing Guide).

In order to meet the 9-month federal requirements, it is essential that we obtain this information in a timely manner, as required by Florida Public Service Commission Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Failure to comply with this rule can result in the Commission assessing penalties of up to $25,000 per offense, with each day of non-compliance constituting a separate offense per FS 364.285(1). We encourage you to retain a record confirming delivery of your company's response to the data request, such as a certified mail receipt, a fax log, or a copy of an e-mail.

Responses to the enclosed data request are due no later than **December 3, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,

Beth W. Salak

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851\data request letter.wpd November 10, 2003 (0931 am)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
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TX153
Gary S. Brinkworth
Mgr, Utility Business & Customer Serv.
City of Tallahassee
300 South Adams Street, A-36
Tallahassee, FL 32301-1731

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TX154	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Global Crossing Telemanagement, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	7731			
5	OCN Name from LERG	Global Crossing Telemanagement, Inc.			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)	7731	Continue with additional affiliations or DBA Names down the columns —>		
8	FLPSC code for Affiliations	N/A			
9	DBA Names	N/A			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida, please stop here and return this spreadsheet				
14					

Kitessa Kennedy

From: Pat Lee
Sent: Wednesday, January 07, 2004 4:23 PM
To: Kitessa Kennedy
Subject: FW: Data Request

-----Original Message-----
From: norma@max-tel.com [mailto:norma@max-tel.com]
Sent: Thursday, December 18, 2003 3:33 PM
To: plee@psc.state.fl.us
Subject: Data Request

This is in response to the Data Request we received regarding the FCC Triennial Review.

Max-Tel Communications operates as resale only in Florida. We do not own facilities or switches. We do not provide unbundled services.

Should you have any questions, please call 940-427-8067. Please advise if we need to respond to the request anyway.

Thank you for your assistance.

Sincerely,
Norma Montgomery
Administrative Assistant

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TX160
James M. Hunt
CEO
ElectroNet Intermedia Consulting, Inc.
3411 Capital Medical Blvd.
Tallahassee, FL 32308-4425

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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WE'RE THE ANSWER

AA TELE-COM
3644 West Lantana Road
Lantana, Florida 33462
(561) 841-8020
(561)882-0606

Send to: Public Service Comm.	From: Kevin Clarke
Attention: Data Request	Date: 12/1/03
Office Location: Tall.	Office Location: WPB
Fax Number: 850-413-6454	Phone Number: 561-841-8020

- ☐ Urgent
- ☐ Reply ASAP
- ☐ Please comment
- ☒ Please Review
- ☐ For your information

Total pages, including cover: 2

Comments:

We are a resale service provider. We have a UNE-P Contract with Bell. At the time of your request we did not have any une-p customers.

We will be a UNE-P Resale provider. We are not facilities based, please contact us for reference to Completing this survey next year as a new facility UNE-P

Thank you

Cover

FAX Sheet

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

STATE OF FLORIDA

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TX169
Kevin D. Clarke
President
Alternative Access Telephone Communications Corp. d/b/a AA Tele-Com
3644 West Lantana Road
Lantana, FL 33462-2283

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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450 E. HWY 50
SUITE 4
CLERMONT, FL 34711
352 243 1320 Ext 10
352 242 6190 (FAX)

BURNO INC.
dba CITYWIDE-TEL

Fax

To:	PAT LEE	**From:** DON BURNO	352-243-9570
Fax:	1-850-413-6454	**Pages:**	5
Phone:	850-413-6600	**Date:**	12-8-03
Re:	Attachments	**CC:**	

☐ Urgent ☑ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• Comments:

Y5

p.1 352 242 6190 CITYWIDETEL DEC 06 2003 4:27PM

November 10, 2003

INFORMATION REQUESTS

FPSC Staff General Questions
FCC Rules, Section 51.319 (d) (2)

Complete the electronic spreadsheet "general_questions_FL.xls" with the following information in reference to your company. The LERG refers to the Local Exchange Routing Guide.

1. The FPSC code refers to your company's certificate number as registered with FPSC. This number is available from the FPSC website and should appear on the address label on the envelope in which this was mailed. TX 174
2. Your company name as it appears on your provider's certificate and appears on the address label on the envelope in which this was mailed. BURNO INC
3. OCN refers to your LERG company code. 8652, 399A
4. The OCN_NAME refers to your company's name in the LERG. BURNOINC
5. CATEGORY refers to the type of company according to the LERG, such as CLEC or WIRELESS. CLEC
6. AOCN refers to the administrative company code according to the LERG.
7. AFFILIATIONS refer to any other companies with whom your company might have affiliations. Please list the FPSC CODE and separate each new company in a new column.
8. DBA NAMES refer to other names of your company by which you are also known. Different names should be placed in additional columns. CITY WIDE - TEL
9. If you do not provide service or are providing service only via resale in Florida, please enter "No Service," stop here and return this information. NO SERVICE

FPSC Staff Switching Questions
FCC Rules, Section 51.319 (d) (2)

Complete the electronic spreadsheet "switching_questions_FL.xls" with the following information **for each** Florida wire center in which you provide service, either to end users or carriers.

1. If you use a switch to provide qualifying service[1] in the given wire center, please provide the 11-digit COMMON LANGUAGE® Location Identifier (CLLI™) for the switch that provides

2/5

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☐

TX174
Donald T. Burno
President
Burno, Inc. d/b/a Citywide-Tel
450 East Highway 50, Suite 4
Clermont, FL 34711-2581

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[81] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

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requested data is essential to ensure that each carrier's facilities are considered in conclusions reached regarding UNE obligations. Company responses are due to the Commission by **December 3, 2003**. The data request is similar to the October 3, 2003, data request of the New York Department of Public Service in Case 03-C-0821, modified by a few additional questions.

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If your company holds a certificate but is not currently active in the marketplace, you may simply check the box at the top of this page and return it.

To the extent you are a party to either Docket No. 030851-TP or Docket No. 030852-TP and information requested has already been provided through responses to interrogatories or document requests, there is no need to provide a full response again. Simply respond by identifying the particular interrogatory or document request (serving party, item number, filing date) where the information can be found.

Once the spreadsheets are completed, they should be saved electronically using the company name in the saved file name; i.e., general_Company Name_FL.xls. A cover letter along with a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette or compact disk (CD) should be mailed to:

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

p.4 8190 242 352 CLINTDELL Wd7:4 5003 90 Dec

Once the completed data request is received by the Commission, the information will be public record. If you believe your response contains confidential information, you can request that your response be exempt from FS 119.07(1), General State Policy on Public Records. If you are claiming confidential classification, a written request for the specific material to which the confidentiality relates should be filed with the Division of the Commission Clerk and Administrative Services with a copy to Pat Lee, Division of Competitive Markets & Enforcement. Enclosed is a copy of Florida Public Service Commission Rule 25-22.006, Florida Administrative Code, which provides the necessary information for submitting confidential information to be exempt from FS 119.07(1). Please note that a claim of confidentiality does not alleviate the obligation to respond to the data request in a timely manner. In addition, claims of confidentiality should not be made for information that is publicly available from other sources (switch locations, for example, are available from the Local Exchange Routing Guide).

In order to meet the 9-month federal requirements, it is essential that we obtain this information in a timely manner, as required by Florida Public Service Commission Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Failure to comply with this rule can result in the Commission assessing penalties of up to $25,000 per offense, with each day of non-compliance constituting a separate offense per FS 364.285(1). We encourage you to retain a record confirming delivery of your company's response to the data request, such as a certified mail receipt, a fax log, or a copy of an e-mail.

Responses to the enclosed data request are due no later than **December 3, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851\data request letter.wpd November 10, 2003 (0931 am)

p.5 0619 242 250 CLIMATEC Dec 06 2003 4:27PM

LAKE WELLINGTON PROFESSIONAL CENTRE
Phone: 561-227-1500
Fax: 561-227-1510

Facsimile Transmittal Sheet

To: Pat Lee **From:** Marianne Miller.

Company: _____ **Date:** 11.17.03

Fax Number: _____ **Total Pages Incl. Cover:** 2

Phone No.: _____ **Sender's Phone No.** _____

Re: _____

Urgent **For Review** **Please Comment** **Please Reply**

Notes/Comments:

Attn: Pat Lee
850-413-6454

pkczzzjo.xls
General

	A	B	C
1	Please enter the information requested below in column B in reference to your company		
2	FPSC CODE	TX175	The FPSC code should be on the address label used to send the paper copies of this data request to you.
3	Company Name, as it appears on your provider's certificate	Kenarl, Inc.	Use the company name that appears on the address label, as well.
4	OCN from LERG	Do Not own Aswitch	
5	OCN Name from LERG	Kenarl, Inc	
6	Category (CLEC, ILEC, WIRELESS)	CLEC	
7	AOCN from LERG (administrative)	Kenarl, Inc	Continue with additional affiliations or DBA Names down the
8	FLPSC code for Affiliations	NONE	
9	DBA Names	Lake Wellington Prof Centre	
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service	
11			
12			
13			
14	Please complete the above information as requested.		

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TX181
Marsha Pokorny
Manager of Regulatory Compliance
Intellicall Operator Services, Inc. d/b/a ILD
1270 Stone Street
Oviedo, FL 32765-8463

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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Sincerely,

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851\data request letter.wpd November 10, 2003 (0931 am)

ORIGINAL

A.T.S.I

Alternative Telecommunication Services Inc.

RECEIVED-FPSC
03 DEC -3 PM 2:19
COMMISSION
CLERK

2003 TRO Data Request in Docket Nos 030851-TP and 030852-TP

Telephone:352-797-5400
Fax:866-864-3797
Toll Free:1-800-797-0266
EMAIL: mrodgers@innet.com

November 20, 2003

Blanco S. Bayo
Division of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Fl 32399-0850

I have attached the requested information for the TRO Data Request regarding Alternative Telecommunication Service, Inc. If you should require further information, please contact me directly.

Sincerely,

Michael D. Rodgers
TX188

AUS
CAF
CMP
COM
CTR
ECR
GCL
OPC
MMS
SEC 1 cy to each docket

03 DEC -3 AM 10:33
DISTRIBUTION CENTER
DOCUMENT NUMBER-DATE
12305 DEC-3 03
FPSC-COMMISSION CLERK

Address: P.O BOX 487 BROOKSVILLE, FL 34605

	A	B	C	D	E	F
1	Please enter the information requested below in column B in reference to your company					
2	FPSC CODE	TX188	The FPSC code should be on the address label used to send the paper copies of this data request to you.			
3	Company Name, as it appears on your provider's certificate	Alternative Telecommunication Services, I	Use the company name that appears on the address label, as well.			
4	OCN from LERG	8776				
5	OCN Name from LERG					
6	egory (CLEC, ILEC, WIRELESS)	CLEC				
7	OCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the columns -->			
8	FLPSC code for Affiliations					
9	DBA Names	Second Chance Phone				
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	Resale " No Service "				
11						
12						
13	Error: Please enter No Service or leave the last question blank. Thank you.					
14						

Staff 0173

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454.

TX189
Marla J. Hanley
Regulatory Director
Choctaw Communications, Inc. d/b/a Smoke Signal Communications
8700 South Gessner
Houston, TX 77074-2916

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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Staff 0174

NOW COMMUNICATIONS, INC.

R. SCOTT SEAB, ESQ.
VICE PRESIDENT
REGULATORY AFFAIRS

LEGAL OFFICE
711 SOUTH TEJON STREET, SUITE 201
COLORADO SPRINGS, CO 80903

TELEPHONE (719) 633-3059
FACSIMILE (719) 623-0287
EMAIL: rss@nowcommunications.com

Nov. 24, 2003

Blanco S. Bayo, Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Pat Lee
Div. of Competitive Markets
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

Dear Ms. Bayo and Pat Lee:

Enclosed please find NOW's response in both paper and CD format. Only the general spreadsheet was required since NOW is a reseller with no switches, facilities, or plant in the provisioning of its Florida local exchange service.

Feel free to contact me with any questions.

Sincerely,

R-S

DOCUMENT NUMBER-DATE
13812 NOV 24 PM 2:57
FPSC-COMMISSION CLERK

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TX197	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	NOW Communications, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	7771			
5	OCN Name from LERG	NOW			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)	NOWC			
8	FLPSC code for Affiliations		Continue with additional affiliations or DBA Names down the columns -->		
9	DBA Names	none			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service (resale only)			
11					
12					
13					
14	*Error: Please enter No Service or leave the last question blank. Thank you.*				

AFFIDAVIT

By my signature below, I, R. Scott SEAB, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of NOW Communications, Inc..

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

R. Scott SEAB **Print Name**	R **Signature**
VP-Regulatory Affairs **Title**	11/21/03 **Date**
719 633 3059 **Telephone No.**	719 623 0287 **Fax No.**

NOW Communications, Inc.
Utility

Address: 211 S. Tejon St., Ste 201
Colorado Springs CO 80903

STATE OF Colorado

COUNTY OF El Paso

Sworn to (or affirmed) and subscribed before me this 21 day of NOV, 2003, by R. Scott Seab.

Laurie Ann Hall
(Signature of Notary Public)

(NOTARY SEAL)

(Name of Notary Typed, Printed, or Stamped)

Personally Known X OR Produced Identification _____ Type of Identification Produced _____

Kitessa Kennedy

From: Pat Lee
Sent: Friday, November 21, 2003 10:10 AM
To: Kitessa Kennedy
Subject: FW: rESPONSE TO dATA REQUEST

Microsun's response

-----Original Message-----
From: Sam Raman [mailto:sraman@voex.com]
Sent: Friday, November 21, 2003 10:10 AM
To: plee@psc.state.fl.us
Subject: rESPONSE TO dATA REQUEST

Microsun Telecommunications, Inc. [redacted] does not provide local service.

Regards,

Sam Raman
COO, VoEx, Inc.

sraman@voex.com
Tel: 616-774-8900 x2007
Fax: 616-774-8901
Cell: 561-504-4550

Touch 1 Communications, Inc.
100 Brookwood Road
Atmore, Al. 36502
(251) 368- 8600

facsimile transmittal

To:	Fl PSC	**Fax:**	850-413-6454
From:	Suzette C. Walker	**Fax:**	446- 368-2658
Re:	Data Request	**Pages:**	2
CC:		**Date:**	November 24, 2003

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

11-24-3

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TX204
Suzette C. Walker
Regulatory Specialist
Touch 1 Communications, Inc.
100 Brookwood Road
Atmore, AL 36502-3513

Touch 1 Com. maintains a local certificate but does not at this time actively market. It does provide Re-sold long distance

Suzette Walker 11-24-03

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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BUY-TEL communications, inc.
P.O. Box 136578 ~ 3024B Shawnee Tr. ~Ft. Wroth, Texas 76136
Ph. 817-238-6577 ~ Fax 817-238-6537

November 24, 2003

TO: Florida Public Service Commission

FAX COPY TO: 850-413--6454

RE: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review – Local Circuit Switching for Mass Market Customers (Docket 030851-TP and High Capacity Loops and Transport (Docket No. 030852-TP

Buy-Tel Communications is a certificated competitive local exchange carrier that provides service solely on the basis of resold incumbent local exchange carrier services in the State of Florida; therefore Buy-Tel respectfully requests permission to withdraw from the case referenced above.

Signed

Mary Beth Austin
Secretary
Date Signed 11-24-03
info@phonebuytel.com
18005838493

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
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DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
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Public Service Commission

November 12, 2003

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See attached
3 PAGES

TX211
Clyde D. Austin
President (800) 583-8493 or
Buy-Tel Communications, Inc.
6409 Colleyville Blvd.
P. O. Box 1170
Colleyville, TX 76034-1170

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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The trigger-related information is to be provided on electronic spreadsheets: (1) general_questions_FL.xls, (2) switching_questions_FL.xls, (3) transport_questions_FL.xls, and (4) loop_questions_FL.xls. Hard copies of the spreadsheets are attached to the data request and spreadsheet files can also be downloaded from the Commission's website to use in providing responses (http://www.floridapsc.com). The number of spreadsheet rows to which each CLEC will be required to respond depends upon the number of switches, transport routes, or customer locations for which each company has provisioned facilities. Detailed instructions are included in the data request as well as attached to the spreadsheets.

If your company holds a certificate but is not currently active in the marketplace, you may simply check the box at the top of this page and return it.

To the extent you are a party to either Docket No. 030851-TP or Docket No. 030852-TP and information requested has already been provided through responses to interrogatories or document requests, there is no need to provide a full response again. Simply respond by identifying the particular interrogatory or document request (serving party, item number, filing date) where the information can be found.

Once the spreadsheets are completed, they should be saved electronically using the company name in the saved file name; i.e., general_Company Name_FL.xls. A cover letter along with a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette or compact disk (CD) should be mailed to:

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of

VarTec Telecom, Inc.

December 1, 2003

VIA OVERNIGHT DELIVERY

Ms. Blanco S. Bayo
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: TRO Data Request in Docket Nos. 030851-TP and 030852-TP
VarTec Telecom, Inc.

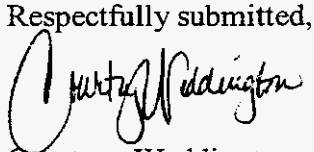
Dear Ms. Bayo:

VarTec Telecom, Inc. ("VarTec") hereby submits this letter in response to the Florida Public Service Commission's information request in the above referenced matters.

Please note that VarTec does not own or lease network facilities other than unbundled network elements for the provision of its local exchange services in the State of Florida. The Company currently provides these services through the utilization of Verizon's and BellSouth's unbundled network elements platform. As such, the questions contained in these dockets are not applicable to the Company. In an effort to minimize the use of Company and Commission resources, VarTec respectfully requests that the Commission accept this letter as the Company's complete response to this data request. If this is not acceptable, please contact the undersigned immediately for additional information.

Acknowledgement and date of receipt of this filing are respectfully requested. Please date-stamp the enclosed extra copy of this letter and return it in the attached self-addressed stamped envelope. Should there be any questions concerning this filing, please do not hesitate to contact the undersigned directly at (214) 424-1776.

Respectfully submitted,



Courtney Weddington
Regulatory Analyst II

cc: Kevin Allen, Manager
Regulatory Affairs

Pat Lee
Division of Competitive Markets and Enforcement

Staff 0184

1-800-RECONEX
Because Everybody Needs A Phone

November 25, 2003

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: 1-800-RECONEX, Inc.'s Responses to "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP"

Dear Ms. Lee:

Enclosed please find a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette for the above referenced matter.

Although RECONEX is a certified competitive local exchange carrier, our Company does not have any loops, switches or transports in Florida. As such, no relevant data pertinent to this matter is available and all answers to Commission's requests are either "None" or "N/A". The Affidavit to this response is attached to this letter.

Should you have any questions or require any additional information, please contact me at your earliest convenience at 503.982.5585 or jennifer.sikes@reconex.com.

Sincerely,

Jennifer E. Sikes
Paralegal

Enclosures
Doc/R&DR/FL/TROResponsLtrNov03-Lee

2500 Industrial Avenue • Hubbard, Oregon 97032
503-982-8000 • Fax: 503-982-9000 • www.reconex.com

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R
1					Self-Providers													
2	Customer Infomation					High-Capacity Loop Type			Number of circuits							High-Capacity Loop Type		
3	Street Address	City	Zip	Wire Center CLLI	Self-Provider? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	# Dark Fiber **provisioned** circuits	# DS1 level **provisioned** circuits	# DS3 level **provisioned** circuits	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits	Wholesaler? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)
4																		
5	**Although 1-800-RECONEX is a certified competitive local**																	
6	**exchange carrier, our Company does not have any loops,**																	
7	**switchs or transports in Florida. As such, no relevant data**																	
8	**pertinent to this matter is available and all answers to this**																	
9	**spreadsheet are either "None" or "N/A".**																	

	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG
1	Wholesalers														
2	Number of circuits														
3	# Dark Fiber **provisioned** circuits	# DS1 level **provisioned** circuits	# DS3 level **provisioned** circuits	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits	Point-to-Point (P) or Ring (R) configuration	Accessible? (Y/N)	Sole Access? (Y/N)	Using? (Y/N)	Giving? (Y/N)	Owner? (Y/N)	Loop Owner?	Loop Wholesaler?	Nature of agreement?
4															
5															
6															
7															
8															
9															

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
1			Type of Switch *(X or Blank)*																	Y or N			
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
3	ABDLFLXA96H																						
4	ALFAFLXA67H	Although 1-800-RECONEX is a certified competitive local exchange																					
5	ALFRFLXARS0	carrier, our Company does not have any loops, switchs or transports																					
6	ALSPFLXADS0	in Florida. As such, no relevant data pertinent to this matter is																					
7	ALTRFLXARSA	available and all answers to this spreadsheet are either "None" or																					
8	ALVAFLXARS1	"N/A".																					
9	ANMRFLXA77H																						
10	APPKFLXADS1																						
11	ARCDFLXADS0																						
12	ARCHFLMA																						
13	ASTRFLXARS0																						
14	AVPKFLXADS0																						
15	BAKRFLXADS0																						
16	BARTFLXA53H																						
17	BAYUFLXA54H																						
18	BBPKFLXARSA																						
19	BCGRFLXARS1																						
20	BCRTFLBT																						
21	BCRTFLMA																						
22	BCRTFLSA																						
23	BGPIFLMA																						
24	BHPKFLXA28H																						
25	BKVLFLJF																						
26	BLDWFLMA																						
27	BLGLFLMA																						
28	BLVWFLXADS0																						
29	BNFYFLXARS0																						
30	BNNLFLMA																						
31	BNSPFLXADS1																						
32	BRBAFLXA75H																						

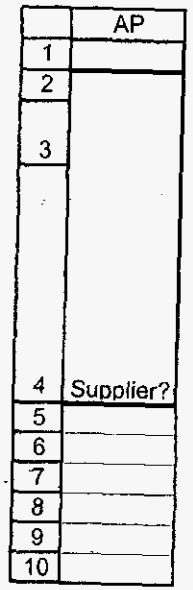
	A	B	X	Y	Z	AA	AB	AC	AD
1									
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
3	ABDLFLXA96H								
4	ALFAFLXA67H	Although 1-800-RE							
5	ALFRFLXARS0	carrier, our Compa							
6	ALSPFLXADS0	in Florida. As such							
7	ALTRFLXARSA	available and all an							
8	ALVAFLXARS1	"N/A".							
9	ANMRFLXA77H								
10	APPKFLXADS1								
11	ARCDFLXADS0								
12	ARCHFLMA								
13	ASTRFLXARS0								
14	AVPKFLXADS0								
15	BAKRFLXADS0								
16	BARTFLXA53H								
17	BAYUFLXA54H								
18	BBPKFLXARSA								
19	BCGRFLXARS1								
20	BCRTFLBT								
21	BCRTFLMA								
22	BCRTFLSA								
23	BGPIFLMA								
24	BHPKFLXA28H								
25	BKVLFLJF								
26	BLDWFLMA								
27	BLGLFLMA								
28	BLVWFLXADS0								
29	BNFYFLXARS0								
30	BNNLFLMA								
31	BNSPFLXADS1								
32	BRBAFLXA75H								

1-800-RECONEX's Response to Transport Spreadsheet.xls
Transport

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1															
2	FROM ILEC										TO ILEC				
3		Central Office Address						Arrange-ment Type				Central Office Address			
4	CLLI	Street Address	City	State	Zip	Vert-ical Coord-inates	Horiz-ontal Coord-inates	Caged? (Y/N)	Cageless? (Y/N)	Virtual? (Y/N)	CLLI	Street Address	City	State	Zip
5															
6	**Although 1-800-RECONEX is a certified competitive local exchange**														
7	**carrier, our Company does not have any loops, switchs or transports**														
8	**in Florida. As such, no relevant data pertinent to this matter is**														
9	**available and all answers to this spreadsheet are either "None" or**														
10	**"N/A".**														

1-800-RECONEX's Response to Transport Spreadsheet.xls
Transport

	P	Q	R	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG	AH	AI	AJ	AK	AL	AM	AN	AO
1						TRANSPORT ROUTE																				
2						Self-Providers										Wholesalers										
3			Arrange-ment Type				Transport Type			Number of transport circuits								Transport Type			Number of transport circuits					
4	Vert-ical Coord-inates	Horiz-ontal Coord-inates	Caged? (Y/N)	Cageless? (Y/N)	Virtual? (Y/N)	Self-Provider? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	transport circuits **provisioned**	# DS1 level transport circuits **provisioned**	# DS3 level transport circuits **provisioned**	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits	Wholesaler? (Y/N)	Carrier?	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	transport circuits **provisioned**	# DS1 level transport circuits **provisioned**	# DS3 level transport circuits **provisioned**	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits
5																										
6																										
7																										
8																										
9																										
10																										



Prepared by FPSC staff
11/25/2003

	A	B	C	D	E	F	G	H
1	**Please list all of your remote switches. Any switches located at the central office, do not need to be added.**							
2	Switch CLLI	Host CLLI	Vertical Coord-inates	Horiz-ontal Coord-inates	Switch Street Address	City	State	Zip
3	**Although 1-800-RECONEX is a certified competitive local**							
4	**exchange carrier, our Company does not have any loops, switchs**							
5	**or transports in Florida. As such, no relevant data pertinent to**							
6	**this matter is available and all answers to this spreadsheet are**							
7	**either "None" or "N/A".**							

AFFIDAVIT

By my signature below, I, Jennifer E. Sikes, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declared that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on the behalf of 1-800-RECONEX, Inc.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

JENNIFER E. SIKES
Print Name

Signature

PARALEGAL
Title

NOVEMBER 25, 2003
Date

(503) 982-5585
Telephone No.

(503) 982-6077
Fax No.

1-800-RECONEX, INC.
Utility

Address: 2500 INDUSTRIAL AVENUE
HUBBARD, OREGON 97032

STATE OF OREGON

COUNTY OF MARION

Sworn to and subscribed before me this 25th day of November, 2003, by Jennifer E. Sikes.

(Signature of Notary Public)

Personally Known.

OFFICIAL SEAL
ANNE LYNCH
NOTARY PUBLIC-OREGON
COMMISSION NO. 348839
MY COMMISSION EXPIRES OCT. 22, 2005

McWHIRTER REEVES

ATTORNEYS AT LAW

COPY

TAMPA OFFICE
400 NORTH TAMPA STREET, SUITE 2450
TAMPA, FLORIDA 33602-5126
P.O. BOX 3350, TAMPA, FL 33601-3350
(813) 224-0866 (813) 221-1854 FAX

PLEASE REPLY TO:
TALLAHASSEE

TALLAHASSEE OFFICE:
117 SOUTH GADSDEN
TALLAHASSEE, FLORIDA 32301
(850) 222-2525
(850) 222-5606 FAX

December 3, 2003

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: Data Request Related to Docket Nos. 030851-TP and 030852-TP

Dear Ms. Bayo:

On behalf of Z-Tel Communications, Inc., I am submitting the completed portion of the data request that the Staff sent to Z-Tel on November 12, 2003 that is applicable to Z-Tel.

Please regard this letter as part of Z-Tel's submission, as the forms included in the data request do not provide an opportunity to incorporate the following information, which explains Z-Tel's response.

Z-Tel is a UNE-P provider, and as such utilizes unbundled facilities obtained from ILECs to provide its services. Because Z-Tel owns no switches or transport facilities, the remaining questions and spreadsheets are not applicable to Z-Tel. We have not included the spreadsheets in this package, for the simple reason that they necessarily would be "blank."

Please contact me if you have any questions.

Yours truly,

Joe A McGlothlin

Joseph A. McGlothlin

JAM/bae
Enclosure
Cc: Pat Lee (w/enclosure)
Adam Teitzman (w/enclosure)
Peggy Rubino (w/enclosure)

Staff 0196

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TX223	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Z-Tel Communications, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	3840			
5	OCN Name from LERG	Z-Tel Communications, Inc. – FL			
6	tegory (CLEC, ILEC, WIRELESS)	CLEC			
7	OCN from LERG (administrative)	none	Continue with additional affiliations or DBA Names down the columns --->		
8	FLPSC code for Affiliations				
9	DBA Names				
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.				
11					
12	Please continue with the data request. We appreciate the time required to complete it.				
13					
14					

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

11-20-03

Public Service Commission

November 12, 2003

our Company is only a Reseller do not use any loops

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☐

TX228
Michael Servos
President
Esodus Communications, Inc. d/b/a Excelink Communications d/b/a Instatone
P. O. Box 6434
Clearwater, FL 33758-6434

MICHAEL SERVOS

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[106] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[106] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

requested data is essential to ensure that each carrier's facilities are considered in conclusions reached regarding UNE obligations. Company responses are due to the Commission by **December 3, 2003**. The data request is similar to the October 3, 2003, data request of the New York Department of Public Service in Case 03-C-0821, modified by a few additional questions.

The trigger-related information is to be provided on electronic spreadsheets: (1) general_questions_FL.xls, (2) switching_questions_FL.xls, (3) transport_questions_FL.xls, and (4) loop_questions_FL.xls. Hard copies of the spreadsheets are attached to the data request and spreadsheet files can also be downloaded from the Commission's website to use in providing responses (http://www.floridapsc.com). The number of spreadsheet rows to which each CLEC will be required to respond depends upon the number of switches, transport routes, or customer locations for which each company has provisioned facilities. Detailed instructions are included in the data request as well as attached to the spreadsheets.

If your company holds a certificate but is not currently active in the marketplace, you may simply check the box at the top of this page and return it.

To the extent you are a party to either Docket No. 030851-TP or Docket No. 030852-TP and information requested has already been provided through responses to interrogatories or document requests, there is no need to provide a full response again. Simply respond by identifying the particular interrogatory or document request (serving party, item number, filing date) where the information can be found.

Once the spreadsheets are completed, they should be saved electronically using the company name in the saved file name; i.e., general_Company Name_FL.xls. A cover letter along with a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette or compact disk (CD) should be mailed to:

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

Once the completed data request is received by the Commission, the information will be public record. If you believe your response contains confidential information, you can request that your response be exempt from FS 119.07(1), General State Policy on Public Records. If you are claiming confidential classification, a written request for the specific material to which the confidentiality relates should be filed with the Division of the Commission Clerk and Administrative Services with a copy to Pat Lee, Division of Competitive Markets & Enforcement. Enclosed is a copy of Florida Public Service Commission Rule 25-22.006, Florida Administrative Code, which provides the necessary information for submitting confidential information to be exempt from FS 119.07(1). Please note that a claim of confidentiality does not alleviate the obligation to respond to the data request in a timely manner. In addition, claims of confidentiality should not be made for information that is publicly available from other sources (switch locations, for example, are available from the Local Exchange Routing Guide).

In order to meet the 9-month federal requirements, it is essential that we obtain this information in a timely manner, as required by Florida Public Service Commission Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Failure to comply with this rule can result in the Commission assessing penalties of up to $25,000 per offense, with each day of non-compliance constituting a separate offense per FS 364.285(1). We encourage you to retain a record confirming delivery of your company's response to the data request, such as a certified mail receipt, a fax log, or a copy of an e-mail.

Responses to the enclosed data request are due no later than **December 3, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

our Company is only a Reseller do not use any Loops

Sincerely,

Beth W. Salak
Director, Division of Competitive Markets &Enforcement

MICHAEL SERVOS

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

11-20-03

030851\data request letter.wpd November 10, 2003 (0931 am)

ORIGINAL

FDN COMMUNICATIONS

RECEIVED FPSC
03 DEC -4 AM 10:53
COMMISSION CLERK
03 DEC -4 AM 10:41
DISTRIBUTION CENTER

December 3, 2003

Ms. Blanca Bayó, Director
Division of the Commission Clerk
& Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

via Overnight Mail

Re: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

Dear Ms. Bayó,

Please find enclosed the responses of Florida Digital Network, Inc., d/b/a FDN Communications ("FDN") to the data requests of the Florida Public Service Commission, transmitted to FDN by letter dated November 12, 2003, from Ms. Beth Salak.

A copy of this letter is enclosed for Ms. Lee of the Commission staff. Please forward this copy to Ms. Lee. Attached to Ms. Lee's copy is a 3.5" diskette containing the data response spreadsheets.

Please note that the spreadsheets regarding Remote Switches and High-Capacity Loops are blank. This is so because (1) FDN does not have "remote switches," and (2) FDN does not self-provide or obtain from third parties (i.e., non-ILECs) high-capacity loops. On the subject of switching, information regarding FDN owned switches is provided on the Switching spreadsheet.

Please also be advised that pursuant to Rule 25-22.006(5), Florida Administrative Code, Florida Digital Network, Inc., d/b/a FDN Communications ("FDN") claims confidentiality over certain portions of FDN's responses to the Commission staff's data requests. One highlighted copy and two edited copies of the confidential portions are therefore also enclosed.

AUS ___
CAF ___
CMP ___
COM ___
CTR ___
ECR ___
GCL 1
OPC ___
MMS ___
SEC 1
OTH 1 each dkt
1 cc: conf records

The identified information contains proprietary investment, market deployment, customer location information and competitive interest information. This information is valuable, is used by FDN in conducting its business, and FDN strives to keep it secret. Therefore, such information relates to competitive interests of FDN, the discloser of which would impair the competitive business of FDN. This information contains information that FDN strives to keep secret because it is elemental to FDN's business and status in the competitive market place. Therefore, such information is a trade secret.

LOCAL LONG DISTANCE INTERNET
390 North Orange Avenue Suite 2000 Orlando, FL 32801
407.835.0300 Fax 407.835.0309 www.fdn.com

DOCUMENT NUMBER-DATE
12392 DEC-4 03
Staff 0200

I have alerted Commission Staff of FDN's confidentiality request.

If you have any questions regarding the enclosed, please call me at 407-835-0460.

Sincerely,

Matthew Feil
FDN Communications
General Counsel

C: Pat Lee (FPSC, Div. of Competitive Markets & Enforcement)

390 North Orange Ave · Suite 2000 Orlando, Florida 32801
407.835.0300 · Fax 407.835.0309 · www.fdn.com

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	ALEC Cert.No. 5715. Company Code TX230.	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Florida Digital Network, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	4085			
5	OCN Name from LERG	Florida Digital Network			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)	G082	Continue with additional affiliations or DBA Names down the columns —>		
8	FLPSC code for Affiliations	N/A			
9	DBA Names	d/b/a FDN Communications			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.				
11					
12					
13					
14	Please continue with the data request. We appreciate the time required to complete it.				

Prepared by the FPSC staff
12/3/2003

DOCUMENT NUMBER-DATE
12392 DEC-4 03

FDN Response to remote_switches_questions_FL.xls
Remote Switch Addresses

	A	B	C	D	E	F	G	H
1	**Please list all of your remote switches. Any switches located at the central office, do not need to be added.**							
2	Switch CLLI	Host CLLI	Vertical Coord-inates	Horiz-ontal Coord-inates	Switch Street Address	City	State	Zip
3	EXAMPLXX	HOSTEXZZ	1234	5432	123 Main St.	Tallahassee	FL	32301
4	None							

Staff 0204

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG
1					Self-Providers										Wholesalers																		
2	Customer Infomation					High-Capacity Loop Type			Number of circuits							High-Capacity Loop Type			Number of circuits														
3	Street Address	City	Zip	Wire Center CLLI	Self-Provider? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	# Dark Fiber provisioned circuits	# DS1 level provisioned circuits	# DS3 level provisioned circuits	# Dark Fiber working circuits	# DS1 level working circuits	# DS3 level working circuits	Wholesaler? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	# Dark Fiber provisioned circuits	# DS1 level provisioned circuits	# DS3 level provisioned circuits	# Dark Fiber working circuits	# DS1 level working circuits	# DS3 level working circuits	Point-to-Point (P) or Ring (R) configuration	Accessible? (Y/N)	Sole Access? (Y/N)	Using? (Y/N)	Giving? (Y/N)	Owner? (Y/N)	Loop Owner?	Loop Wholesaler?	Nature of agreement?
4	123 Main St.	Tallahassee	32301	TLHSFLXXX	Y	X	X		50	90	0	35	89	0	Y		X		0	60	0	0	52	0	R	Y	Y	N	N	Y			
5	None																																

AFFIDAVIT

By my signature below, I, Matthew J. Blocha, Chief Technology Officer of FDN Communications, attest to the accuracy of the information contained in Columns A through Z of the Switching Questions Spreadsheet and the General Questions Spreadsheet. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of Florida Digital Network, Inc. d/b/a FDN Communications.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

Matthew Blocha	Matt Blocha
Print Name	**Signature**
CTO	12/03/03
Title	**Date**
407-835-0308	407-835-0309
Telephone No.	**Fax No.**

Florida Digital Network Inc.
Utility DBA FDN Communications

390 N. Orange Ave Ste 2000

Orlando, FL 32801
Address

STATE OF Florida
COUNTY OF ORANGE

Sworn to (or affirmed) and subscribed before me this 3rd day of December 2003, by Matthew Blocha

Hope Revaz
MY COMMISSION EXPIRES March 10, 2006
#DD095471
Bonded thru Troy Fain-Insurance
NOTARY PUBLIC, STATE OF FLORIDA

(NOTARY SEAL)

Hope Revaz
(Signature of Notary Public)

Hope Revaz
(Name of Notary Typed, Printed, or Stamped)

Personally Known X OR Produced Identification _____ Type of Identification Produced_____

AFFIDAVIT

By my signature below, I, M. Ryan Hand, Vice President of Engineering and Operations for FDN Communications, attest to the accuracy of the information contained in Columns Z through AD of the Switching Questions Spreadsheet and the information contained in the Remote Switching Questions Spreadsheet, High Capacity Loop Questions Spreadsheet and Transport Questions Spreadsheet. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of Florida Digital Network, Inc. d/b/a FDN Communications.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

RYAN HAND — **Print Name**

Ryan Hand — **Signature**

VP OPS/ENG. — **Title**

12/3/03 — **Date**

407-835-0303 — **Telephone No.**

407-835-0309 — **Fax No.**

FLORIDA DIGITAL NETWORK
Utility

390 N. ORANGE AVE. SUITE 2000

ORLANDO, FL 32768 32801
Address

STATE OF Florida
COUNTY OF ORANGE

Sworn to (or affirmed) and subscribed before me this 3rd day of December 2003 by Ryan Hand

Hope Revaz
MY COMMISSION EXPIRES March 10, 2006
#DD095471
Bonded thru Troy Fain-Insurance
NOTARY PUBLIC, STATE OF FLORIDA

(NOTARY SEAL)

Hope Revaz
(Signature of Notary Public)
Hope Revaz
(Name of Notary Typed, Printed, or Stamped)

Personally Known X OR Produced Identification _____ Type of Idetification Produced_____

Staff 0206

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☐

TX252
John Crowe
Accounting Manager
Smart City Networks
28 West Grand Avenue
Montvale, NJ 07645-2132

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[116] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[116] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

10636 Linkwood Ct. Suite 11, Baton Rouge, LA 70810
telephone – 225-757-5048
fax – 225-757-7412

Image Access, Inc. d/b/a NewPhone

Fax

To:	Pat Lee - FPSC	**From:**	Jim Dry
Fax:	1-850-413-6454	**Pages:**	2
Phone:		**Date:**	11/24/2003
Re:	FPSC data request	**CC:**	

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

These are items requested in the data requests. Thanks, Jim Dry.

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company.				
2	FPSC CODE	TX 254	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Image Access Inc. d/b/a NewPhone	Use the company name that appears on the address label, as well.		
4	OCN from LERG	6043			
5	OCN Name from LERG	na			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)	na			
8	FLPSC code for Affiliations	na	Continue with additional affiliations or DBA Names down the columns -->		
9	DBA Names	NewPhone			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida,				
14	please stop here and return this spreadsheet.				

Staff 0209

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TX266
Melanie Guthrie
CPA
Ring Connection, Inc.
P. O. Box 535
Crestview, FL 32536-0535

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[123] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

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[123] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

NAVIGATOR TELECOMMUNICATIONS, LLC.
8525 Riverwood Park Drive
P.O. Box 13860
North Little Rock, AR 72113-0860
Phone: (501) 954-4000
Fax: (501) 954-4002

December 8, 2003

Ms. Blanco S. Bayo
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

Dear Ms. Bayo,

Enclosed for filing with the Florida Public Service Commission are the responses of Navigator Telecommunications, LLC. to the Commission's data request in the above dockets. Also enclosed per instructions is a CD containing Navigator's responses. Note that we have responded only to the section titled "FPSC Staff General Questions" as none of the other questions are applicable. Navigator provides services to their customers in Florida using both UNE-P and resale and employs no facilities of any kind in the state.

Should you have any questions about Navigator's response to this data request please contact Mark Herring at (501) 954-4053. Thank you for your assistance in this matter.

Sincerely,

Michael McAlister
General Counsel
Navigator Telecommunications, LLC.
(501) 954-4051
mike@navtel.com

cc: Ms. Pat Lee

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TX267	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Navigator Telecommunications, LLC	Use the company name that appears on the address label, as well.		
4	OCN from LERG		1596		
5	OCN Name from LERG	Navigator Telecommunications, LLC			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)		2604 Continue with additional affiliations or DBA Names down the columns --->		
8	FLPSC code for Affiliations				
9	DBA Names				
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information				
11					
12					
13					
14	Please continue with the data request. We appreciate the time required to complete it				

AFFIDAVIT

By my signature below, I, Michael McAlister, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of Navigator Telecommunications LLC.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

Michael McAlister
Print Name

Signature

General Counsel
Title

December 8, 2003
Date

(501) 954-4051
Telephone No.

(501) 954-4002
Fax No.

Navigator Telecommunications, LLC.
Utility

Address: 8525 Riverwood Park Drive
P.O. Box 13860
North Little Rock, AR 72113-0860

STATE OF Arkansas
COUNTY OF Pulaski

Sworn to or affirmed and subscribed before me this 8th day of Dec., 2003, by Michael McAlister.

(NOTARY SEAL)

(Signature of Notary Public)

Cassandrea J. Nellum
(Name of Notary Typed, Printed, or Stamped)

Personally Known X OR Produced Identification _____ Type of Identification Produced _____

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TX270
William Heitz
General Counsel
Intercontinental Communications Group, Inc. d/b/a Fusion Telecom
1415 West Cypress Creek Road, #220
Ft. Lauderdale, FL 33309-1955

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[126] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[126] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

requested data is essential to ensure that each carrier's facilities are considered in conclusions reached regarding UNE obligations. Company responses are due to the Commission by **December 3, 2003**. The data request is similar to the October 3, 2003, data request of the New York Department of Public Service in Case 03-C-0821, modified by a few additional questions.

The trigger-related information is to be provided on electronic spreadsheets: (1) general_questions_FL.xls, (2) switching_questions_FL.xls, (3) transport_questions_FL.xls, and (4) loop_questions_FL.xls. Hard copies of the spreadsheets are attached to the data request and spreadsheet files can also be downloaded from the Commission's website to use in providing responses (http://www.floridapsc.com). The number of spreadsheet rows to which each CLEC will be required to respond depends upon the number of switches, transport routes, or customer locations for which each company has provisioned facilities. Detailed instructions are included in the data request as well as attached to the spreadsheets.

If your company holds a certificate but is not currently active in the marketplace, you may simply check the box at the top of this page and return it.

To the extent you are a party to either Docket No. 030851-TP or Docket No. 030852-TP and information requested has already been provided through responses to interrogatories or document requests, there is no need to provide a full response again. Simply respond by identifying the particular interrogatory or document request (serving party, item number, filing date) where the information can be found.

Once the spreadsheets are completed, they should be saved electronically using the company name in the saved file name; i.e., general_Company Name_FL.xls. A cover letter along with a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette or compact disk (CD) should be mailed to:

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

Once the completed data request is received by the Commission, the information will be public record. If you believe your response contains confidential information, you can request that your response be exempt from FS 119.07(1), General State Policy on Public Records. If you are claiming confidential classification, a written request for the specific material to which the confidentiality relates should be filed with the Division of the Commission Clerk and Administrative Services with a copy to Pat Lee, Division of Competitive Markets & Enforcement. Enclosed is a copy of Florida Public Service Commission Rule 25-22.006, Florida Administrative Code, which provides the necessary information for submitting confidential information to be exempt from FS 119.07(1). Please note that a claim of confidentiality does not alleviate the obligation to respond to the data request in a timely manner. In addition, claims of confidentiality should not be made for information that is publicly available from other sources (switch locations, for example, are available from the Local Exchange Routing Guide).

In order to meet the 9-month federal requirements, it is essential that we obtain this information in a timely manner, as required by Florida Public Service Commission Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Failure to comply with this rule can result in the Commission assessing penalties of up to $25,000 per offense, with each day of non-compliance constituting a separate offense per FS 364.285(1). We encourage you to retain a record confirming delivery of your company's response to the data request, such as a certified mail receipt, a fax log, or a copy of an e-mail.

Responses to the enclosed data request are due no later than **December 3, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851\data request letter.wpd November 10, 2003 (0931 am)

Qwest
Spirit of Service™

LAW DEPARTMENT
1801 CALIFORNIA STREET, 49TH FLOOR
DENVER, COLORADO 80202

To: Florida Public Service Commission

Fax No.: (850) 413-6454

Telephone:

From: Qwest - Law Department

Fax No:

Telephone:

Date: December 3, 2003

Number of pages including cover sheet: -4-

Special instructions/comments: Re: Docket Nos. 030851-TP
and 030852-TP

Responses of: Qwest Communications Corporation
and
Qwest Interprise America, Inc.

THE INFORMATION CONTAINED IN THIS COVER SHEET OR ACCOMPANYING DOCUMENT IS ATTORNEY-CLIENT OR WORK PRODUCT PRIVILEGED AND CONTAINS CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE ADDRESSEE OR HIS/HER DESIGNEE. IF YOU ARE NOT THE ADDRESSEE OR HIS/HER DESIGNEE, YOU ARE ADVISED THAT ANY DISCLOSURE, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION OR TAKING ACTION IN RELIANCE ON ITS CONTENTS IS PROHIBITED.

IF YOU RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

GCC

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

RECEIVED
STATE REGULATORY MATTERS
DATE: 11/19/03
TIME: 1:16 pm

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TX273
Carol P. Kuhnow
Regional Director, Policy & Law
Qwest Communications Corporation
4250 North Fairfax Drive, 5th Floor
Arlington, VA 22203-1607

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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[127] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

Q1A

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

RECEIVED - FPSC
11/19/03
DIVISION OF REGULATORY MATTERS
DATE: 11/19/03
TIME: 1:18 pm

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☐

TX273
Carol P. Kuhnow
Regional Director, Policy & Law
Qwest Communications Corporation
4250 North Fairfax Drive, 5th Floor
Arlington, VA 22203-1607

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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Qwest.
Spirit of Service

Qwest
1801 California Street, Suite 4900
Denver, Colorado 80202
Phone 303 672 2786
Facsimile 303 298.8197

Meraj Abdul-Qadir, CLA
Interrogatory Manager

OVERNIGHT MAIL

December 2, 2003

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP
Response of Qwest Interprise America, Inc. ("QIA") and
Qwest Communications Corporation ("QCC")

Dear Ms. Bayo and Ms. Lee:

The purpose of this letter is to respectfully inform the Florida Public Service Commission that neither QCC nor QIA deploys any switches or maintains any facilities in the State of Florida.

If you have any questions, please feel free to contact the undersigned at 303 672-2786.

Very truly yours,

/Meraj Abdul-Qadir

Meraj Abdul-Qadir
Interrogatory Manager

/mfa

Enclosures

ORIGINAL

Po Box 1437
Safety Harbor, FL 34695 Phone (727) 723-8663
Fax (727) 669-9451

AMERICAN DIAL-TONE

RECEIVED-FPSC
03 NOV 19 AM 10:55
COMMISSION
CLERK

November 14, 2003

Blanco S Bayo
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Dear Blanco:

Regarding: "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP"

Enclosed you will find a hard copy of the General Info spreadsheet, as well as a diskette containing the file "general_GANOCO_questions.xls".

We are a CLEC and provide service via resale, as instructed we are completing the General Spreadsheet.

If you have any questions please contact me at 727-723-8663, Ext. 102

Sincerely,

Lawrence L Wright
Vice President

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TX274	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	GANOCO, INC.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	4888			
5	OCN Name from LERG	GOO			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)	4888	Continue with additional affiliations or DBA Names down the columns -->		
8	FLPSC code for Affiliations	N/A			
9	DBA Names	AMERICAN DIAL TONE			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	NO SERVICE			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida, please stop here and return this spreadsheet				
14					

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TX277
Michael D. Gruenhut
Corporate Counsel
US South Communications, Inc.
250 Williams Street, Suite M100
Atlanta, GA 30303-1032

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[129] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[129] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

requested data is essential to ensure that each carrier's facilities are considered in conclusions reached regarding UNE obligations. Company responses are due to the Commission by **December 3, 2003**. The data request is similar to the October 3, 2003, data request of the New York Department of Public Service in Case 03-C-0821, modified by a few additional questions.

The trigger-related information is to be provided on electronic spreadsheets: (1) general_questions_FL.xls, (2) switching_questions_FL.xls, (3) transport_questions_FL.xls, and (4) loop_questions_FL.xls. Hard copies of the spreadsheets are attached to the data request and spreadsheet files can also be downloaded from the Commission's website to use in providing responses (http://www.floridapsc.com). The number of spreadsheet rows to which each CLEC will be required to respond depends upon the number of switches, transport routes, or customer locations for which each company has provisioned facilities. Detailed instructions are included in the data request as well as attached to the spreadsheets.

If your company holds a certificate but is not currently active in the marketplace, you may simply check the box at the top of this page and return it.

To the extent you are a party to either Docket No. 030851-TP or Docket No. 030852-TP and information requested has already been provided through responses to interrogatories or document requests, there is no need to provide a full response again. Simply respond by identifying the particular interrogatory or document request (serving party, item number, filing date) where the information can be found.

Once the spreadsheets are completed, they should be saved electronically using the company name in the saved file name; i.e., general_Company Name_FL.xls. A cover letter along with a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette or compact disk (CD) should be mailed to:

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

Once the completed data request is received by the Commission, the information will be public record. If you believe your response contains confidential information, you can request that your response be exempt from FS 119.07(1), General State Policy on Public Records. If you are claiming confidential classification, a written request for the specific material to which the confidentiality relates should be filed with the Division of the Commission Clerk and Administrative Services with a copy to Pat Lee, Division of Competitive Markets & Enforcement. Enclosed is a copy of Florida Public Service Commission Rule 25-22.006, Florida Administrative Code, which provides the necessary information for submitting confidential information to be exempt from FS 119.07(1). Please note that a claim of confidentiality does not alleviate the obligation to respond to the data request in a timely manner. In addition, claims of confidentiality should not be made for information that is publicly available from other sources (switch locations, for example, are available from the Local Exchange Routing Guide).

In order to meet the 9-month federal requirements, it is essential that we obtain this information in a timely manner, as required by Florida Public Service Commission Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Failure to comply with this rule can result in the Commission assessing penalties of up to $25,000 per offense, with each day of non-compliance constituting a separate offense per FS 364.285(1). We encourage you to retain a record confirming delivery of your company's response to the data request, such as a certified mail receipt, a fax log, or a copy of an e-mail.

Responses to the enclosed data request are due no later than **December 3, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851\data request letter.wpd November 10, 2003 (0931 am)

General_questions_TelephoneOne_FL
General

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company.				
2	FPSC CODE TX280		The FPSC code should be on the address label used to send the paper copies of this data request to you. Use the company name that appears on the address label, as well.		
3	Company Name, as it appears on your provider's certificate	Telephone One, Inc			
4	OCN from LERG	4880			
5	OCN Name from LERG	Telephone One, Inc			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)	N/A	Continue with additional affiliations or DBA Names down the columns -->		
8	FLPSC code for Affiliations	None			
9	DBA Names	None			
10	If you do not provide service or are not providing service only via resale in Florida, please enter "No Service" and return this information.	No Service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida,				
14	please stop here and return this spreadsheet				

TX280

NOWALSKY, BRONSTON & GOTHARD
3500 N. Causeway Boulevard
Suite 1442
Metairie, Louisiana 70002
Phone: (504) 832-1984
Facsimile: (504) 831-0892
Writer's E-Mail Address: esands@nbglaw.com

FAX TRANSMISSION COVER SHEET

TO:	Beth W. Salak	**FAX NO.:**	850-413-6454
SENDER:	EllenAnn G. Sands	**DATE:**	December 5, 2003
RE:	Reliant Communications, Inc.		

You should receive 4 page(s) including this cover sheet. If you do not receive all the pages, please call Sheree at (504) 832-1984.

CONFIDENTIALITY NOTICE

This facsimile transmission (and/or the documents accompanying it) may contain confidential information belonging to the sender which is protected by the attorney-client privilege. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone to arrange for return of the documents.

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TX282
Lisa Rogers
President
Reliant Communications, Inc.
% Nowalsky, Bronston & Gothard
3500 North Causeway Blvd., Suite 1442
Metairie, LA 70002-3525

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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the information.

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Sincerely,

Beth W. Salak

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851\data request letter.wpd November 10, 2003 (0931 am)

TELECOM PROFESSIONALS, INC.

Judith A. Riley, J.D.

2912 Lakeside Drive, Suite 100
Oklahoma City, OK 73120

December 2, 2003

Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Dear Ms. Lee,

Enclosed is the TRO Data Request in Docket Nos: 030851-TP and 030852-TP for @ccess, LLC. The only forms that needed to be filled out for them are the general questions and the affidavit.

If you have any questions, please let me know.

Sincerely,

Neta Green

Neta Green
Regulatory Agent

Enc.

Office (405) 755-8177
(800) 406-4777

Fax (405) 755-8377
E-mail jriley@telecompliance.net

general_questions_FL
General

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	8004	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	@ccess, LLC	Use the company name that appears on the address label, as well.		
4	OCN from LERG	TJ595			
5	OCN Name from LERG	@ccess, LLC			
6	Category (CLEC, ILEC, WIRELESS)	Switchless Reseller			
7	AOCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the columns -->		
8	FLPSC code for Affiliations				
9	DBA Names				
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida,				
14	please stop here and return this spreadsheet				

AFFIDAVIT

By my signature below, I, JUDITH A. RILEY, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of @CCESS, LLC.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

JUDITH A. RILEY	Judith A. Riley
Print Name	**Signature**
REGULATORY AGENT	12/2/03
Title	**Date**
(405) 755-8177	(405) 755-8377
Telephone No.	**Fax No.**
@CCESS, LLC	
Utility	

Address: 2912 LAKESIDE DRIVE
OKLAHOMA CITY, OK 73120

STATE OF OKLAHOMA

COUNTY OF OKLAHOMA

Sworn to (or affirmed) and subscribed before me this 2nd day of Dec, 2003 by Jennifer A Riley.

Jennifer A Riley
(Signature of Notary Public)

(NOTARY SEAL)

(Name of Notary Typed, Printed, or Stamped)

Personally Known _____ OR Produced Identification _____ Type of Identification Produced _____

TELECOM PROFESSIONALS, INC.

Judith A. Riley, J.D.

2912 Lakeside Drive, Suite 100
Oklahoma City, OK 73120

December 2, 2003

Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Dear Ms. Lee,

Enclosed is the TRO Data Request in Docket Nos. 030851-TP and 030852-TP for Advanced Telemanagement Group, Inc. The only forms that needed to be filled out for them are the general questions and the affidavit.

If you have any questions, please let me know.

Sincerely,

Neta Green

Neta Green
Regulatory Agent

Enc.

Office (405) 755-8177
(800) 406-4777

Fax (405) 755-8377
E-mail jriley@telecompliance.net

general_questions_FL
General

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	8237	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Advanced Telemanagement Group, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	TJ722			
5	OCN Name from LERG	Advanced Telemanagement Group, Inc.			
6	Category (CLEC, ILEC, WIRELESS)	Switchless Reseller			
7	AOCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the columns --->		
8	FLPSC code for Affiliations				
9	DBA Names				
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida, please stop here and return this spreadsheet				
14					

AFFIDAVIT

By my signature below, I, JUDITH A. RILEY, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of ADVANCED TELEMANAGEMENT GROUP, INC.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

JUDITH A. RILEY
Print Name

Judith a Riley
Signature

REGULATORY AGENT
Title

12/2/03
Date

(405) 755-8177
Telephone No.

(405) 755-8377
Fax No.

ADVANCED TELEMANAGEMENT GROUP, INC.
Utility

Address: 2912 LAKESIDE DRIVE

OKLAHOMA CITY, OK 73120

STATE OF OKLAHOMA

COUNTY OF OKLAHOMA

Sworn to (or affirmed) and subscribed before me this 2nd day of Dec, 2003 by Jennifer A Riley.

Jennifer a Rf
(Signature of Notary Public)

(NOTARY SEAL)

(Name of Notary Typed, Printed, or Stamped)

Personally Known _____ OR Produced Identification _____ Type of Identification Produced _____

Judith A. Riley, J.D.

TELECOM PROFESSIONALS, INC.

2912 Lakeside Drive, Suite 100
Oklahoma City, OK 73120

December 2, 2003

Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Dear Ms. Lee,

Enclosed is the TRO Data Request in Docket Nos. 030851-TP and 030852-TP for Atlantic.Net Broadband, Inc. The only forms that needed to be filled out for them are the general questions and the affidavit.

If you have any questions, please let me know.

Sincerely,

Neta Green

Neta Green
Regulatory Agent

Enc.

Office (405) 755-8177
(800) 406-4777

Fax (405) 755-8377
E-mail jriley@telecompliance.net

general_questions_FL
General

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company.				
2	FPSC CODE	8070	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Atlantic.Net Broadband, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	TX283			
5	OCN Name from LERG	Atlantic.Net Broadband, Inc.			
6	Category (CLEC, ILEC, WIRELESS)	Competitive Local Exchange			
7	AOCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the columns -->		
8	FLPSC code for Affiliations				
9	DBA Names				
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service			
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14					

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Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

JUDITH A. RILEY	Judith A. Riley
Print Name	**Signature**
REGULATORY AGENT	12/2/03
Title	**Date**
(405) 755-8177	(405) 755-8377
Telephone No.	**Fax No.**

Atlantic.Net Broadband, Inc.
Utility

Address: 2912 LAKESIDE DRIVE
OKLAHOMA CITY, OK 73120

STATE OF OKLAHOMA

COUNTY OF OKLAHOMA

Sworn to (or affirmed) and subscribed before me this 2nd day of Dec, 2003 by Jennifer A Riley.

Jennifer A Riley
(Signature of Notary Public

(NOTARY SEAL)

(Name of Notary Typed, Printed, or Stamped)

Personally Known _____ OR Produced Identification _____ Type of Identification Produced _____

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TX285
Worlking Pierre
President
KingTel, Inc.
P. O. Box 5416
Lighthouse Point, FL 33074-5416

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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STATE OF FLORIDA

COMMISSIONERS:
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RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

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TX286
Kim D. Carter
Founder
ProfitLab, Inc.
1003 Laurens Road, Suite 101
Greenville, SC 29607-1918

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[135] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[135] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

requested data is essential to ensure that each carrier's facilities are considered in conclusions reached regarding UNE obligations. Company responses are due to the Commission by **December 3, 2003**. The data request is similar to the October 3, 2003, data request of the New York Department of Public Service in Case 03-C-0821, modified by a few additional questions.

The trigger-related information is to be provided on electronic spreadsheets: (1) general_questions_FL.xls, (2) switching_questions_FL.xls, (3) transport_questions_FL.xls, and (4) loop_questions_FL.xls. Hard copies of the spreadsheets are attached to the data request and spreadsheet files can also be downloaded from the Commission's website to use in providing responses (http://www.floridapsc.com). The number of spreadsheet rows to which each CLEC will be required to respond depends upon the number of switches, transport routes, or customer locations for which each company has provisioned facilities. Detailed instructions are included in the data request as well as attached to the spreadsheets.

If your company holds a certificate but is not currently active in the marketplace, you may simply check the box at the top of this page and return it.

To the extent you are a party to either Docket No. 030851-TP or Docket No. 030852-TP and information requested has already been provided through responses to interrogatories or document requests, there is no need to provide a full response again. Simply respond by identifying the particular interrogatory or document request (serving party, item number, filing date) where the information can be found.

Once the spreadsheets are completed, they should be saved electronically using the company name in the saved file name; i.e., general_Company Name_FL.xls. A cover letter along with a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette or compact disk (CD) should be mailed to:

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

Once the completed data request is received by the Commission, the information will be public record. If you believe your response contains confidential information, you can request that your response be exempt from FS 119.07(1), General State Policy on Public Records. If you are claiming confidential classification, a written request for the specific material to which the confidentiality relates should be filed with the Division of the Commission Clerk and Administrative Services with a copy to Pat Lee, Division of Competitive Markets & Enforcement. Enclosed is a copy of Florida Public Service Commission Rule 25-22.006, Florida Administrative Code, which provides the necessary information for submitting confidential information to be exempt from FS 119.07(1). Please note that a claim of confidentiality does not alleviate the obligation to respond to the data request in a timely manner. In addition, claims of confidentiality should not be made for information that is publicly available from other sources (switch locations, for example, are available from the Local Exchange Routing Guide).

In order to meet the 9-month federal requirements, it is essential that we obtain this information in a timely manner, as required by Florida Public Service Commission Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Failure to comply with this rule can result in the Commission assessing penalties of up to $25,000 per offense, with each day of non-compliance constituting a separate offense per FS 364.285(1). We encourage you to retain a record confirming delivery of your company's response to the data request, such as a certified mail receipt, a fax log, or a copy of an e-mail.

Responses to the enclosed data request are due no later than **December 3, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,

Beth W. Salak

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

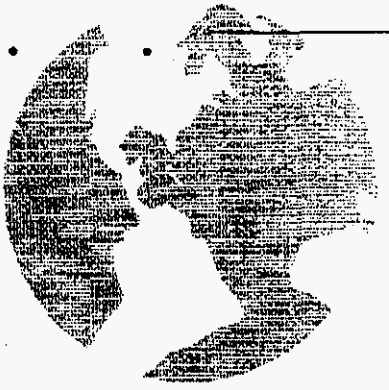
030851\data request letter.wpd November 10, 2003 (0931 am)

REI
Communications

facsimile transmittal

To:	Pat Lee (FPSC)	**Fax:**	850-413-6454
From:	Carl Burgess (Rebound Enterprises,	**Date:**	12/18/2003
Re:	TRO Report	**Pages:**	2
CC:			

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle



general_questions_PSCFL.xls
General

	A	B	C	D
1	Please enter the information requested below in column B in reference to your company:			
2	FPSC CODE (TX287)		The FPSC code should be on the address label used to send the paper copies of this data request to you.	
3	Company Name, as it appears on your provider's certificate:	Rebound Enterprises, Inc. d/b/a REI COMMUNICATIONS	Use the company name that appears on the address label, as well.	
4	OCN from LERG:	4997		
5	OCN Name from LERG:	REI COMMUNICATIONS		
6	Category (CLEC, ILEC, WIRELESS):	CLEC		
7	AOCN from LERG (administrative):	N/A		
8	FLPSC code for Affiliations:	N/A	Continue with additional affiliations or DBA Names down this column --->	
9	DBA Names:	N/A		
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	NO SERVICE		
11				
12				
13	Thank you for completing this data request, since you do not provide service in Florida, please stop here and return this spreadsheet			
14				

***** FACSIMILE COVER SHEET *****

DEC-01-2003 11:29

Message To:

☎918504136454

Message From:

04
Page(s)
Following This Cover Page

DSL.net

TO:	Beth W Salak, Pat Lee Florida PSC
Date:	12-1-03
Phone:	850-413-6453 (Pat Lee)
Fax:	850-413-6454
# pages:	4 (includes cover page)

MESSAGE: Docket No. 030852-TP - Data Request Regarding Implementation of FCC TRO - Local Switching (Hi Cap Loops & Transport)

→ DSLnet does not provide telecommunications services in Florida and is Responding by faxing your November 12th letter with the "Response is Required" box checked.

FROM: Schula Hobbs
Direct Phone: 203-782-7493
Email Address: SHOBBS@DSL.NET

DSL.net

545 Long Wharf Drive, 5th Fl
New Haven, CT 06511

Main Phone: (203) 772-1000
Main Fax: (203) 624-3612
www.dsl.net

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

Schula Hobbs
TX288 Sr. Manager - Regulatory
~~Wendy Bluemling~~ (No longer with Dsnet)
~~Director of Regulatory Affairs~~
DSLnet Communications, LLC
545 Long Wharf Drive, 5th Floor
New Haven, CT 06511-5960

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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Responses to the enclosed data request are due no later than **December 3, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,

Beth W. Salak

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851\data request letter.wpd November 10, 2003 (0931 am)

UNIVERSAL TELECOM

ORIGINAL

Universal Telecom, Inc.
P.O. Box 679
LaGrange, KY 40031

DISTRIBUTION CENTER
03 NOV 21 AM 8:01

November 17, 2003

Blanco S Bayo
Division of the Commission Clerk
And Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

RECEIVED-FPSC
03 NOV 21 AM 9:58
COMMISSION CLERK

RE: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

To Whom It May Concern:

Please find attached and enclosed a hard copy and a 3.5 inch diskette with Universal Telecom Inc.'s response to the data request, and a notarized statement attesting to the accuracy of the enclosed information. If you need any further information, please feel free to contact me.

Sincerely,

Jennifer Hart
Compliance Manager
Jenniferh@universaltelecominc.com

Cc: Pat Lee

AUS
CAF
CMP
COM 5
CTR
ECR
GCL
OPC
MMS
SEC 1
OTH Hwy.

Voice:(502) 222-9004 • Fax:(800) 217-7158 • Toll Free:(800) 349-6981

DOCUMENT NUMBER-DATE
11812 NOV 21 &
FPSC-COMMISSION CLERK

	A	B	C
1	Please enter the information requested below in column B in reference to your company		
2	FPSC CODE	TX295	*The FPSC code* should be on the address label used to send the paper copies of this data request to you.
3	Company Name, as it appears on your provider's certificate	Universal Telecom, Inc.	Use the company name that appears on the address label, as well.
4	OCN from LERG	4985	
5	OCN Name from LERG	Universal Telecom, Inc.	
6	Category (CLEC, ILEC, WIRELESS)	CLEC	
7	AOCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the
8	FLPSC code for Affiliations	N/A	
9	DBA Names	N/A	
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service	
11			
12			
13	Thank you for completing this data request, since you do not provide service in Florida,		
14	please stop here and return this spreadsheet		

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UNIVERSAL TELECOM

Universal Telecom, Inc.
P.O. Box 679
LaGrange, KY 40031

November 17, 2003

I, Jennifer Hart, Compliance Manager for Universal Telecom, Inc. do attest that the information enclosed is accurate.

Jennifer Hart
Signature

Compliance Manager
Title

11/17/03
Date

Subscribed and sworn to before me, a Notary Public in and for the County of Oldham, State of Kentucky, this 17th day of November, 2003.

Jennifer A. Bottorff
Notary Public Signature

March 26, 2007
Commission Expiration Date

Place Seal Below

November 10, 2003

INFORMATION REQUESTS

FPSC Staff General Questions
FCC Rules, Section 51.319 (d) (2)

Complete the electronic spreadsheet "general_questions_FL.xls" with the following information in reference to your company. The LERG refers to the Local Exchange Routing Guide.

1. The FPSC code refers to your company's certificate number as registered with FPSC. This number is available from the FPSC website and should appear on the address label on the envelope in which this was mailed.
   TX296
2. Your company name as it appears on your provider's certificate and appears on the address label on the envelope in which this was mailed.
   PHONE_LINK, INC.
3. OCN refers to your LERG company code.
   *¢)! 8601
4. The OCN_NAME refers to your company's name in the LERG.
   PHK
5. CATEGORY refers to the type of company according to the LERG, such as CLEC or WIRELESS.
   CLEC
6. AOCN refers to the administrative company code according to the LERG.
   A25
7. AFFILIATIONS refer to any other companies with whom your company might have affiliations. Please list the FPSC CODE and separate each new company in a new column.
   NONE
8. DBA NAMES refer to other names of your company by which you are also known. Different names should be placed in additional columns.
   NONE
9. If you do not provide service or are providing service only via resale in Florida, please enter "No Service," stop here and return this information.

   Resale Only. UNE-p

FPSC Staff Switching Questions
FCC Rules, Section 51.319 (d) (2)

Complete the electronic spreadsheet "switching_questions_FL.xls" with the following information **for each** Florida wire center in which you provide service, either to end users or carriers.

1. If you use a switch to provide qualifying service[1] in the given wire center, please provide the 11-digit COMMON LANGUAGE® Location Identifier (CLLI™) for the switch that provides

AFFIDAVIT

By my signature below, I, Annette Lee DeWitt, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of Phone-Link, Inc.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes; "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

Annette Lee DeWitt
Print Name

Signature

Vice President / General Manager
Title

11/24/03
Date

502-254-8500
Telephone No.

502-254-8535
Fax No.

Phone-Link, Inc.
Telecommunications
Utility

Address: PO Box 23447
Louisville, KY 40223

STATE OF Kentucky

COUNTY OF Jefferson

Sworn to (or affirmed) and subscribed before me this 24 day of Nov, 2003, by Annette Lee DeWitt.

(Signature of Notary Public)

(NOTARY SEAL)

JESSICA HANCOCK NOTARY PUBLIC KENTUCKY MY COMMISSION EXPIRES MARCH 12 2005

(Name of Notary Typed, Printed, or Stamped)

Personally Known ✓ OR Produced Identification _____ Type of Identification Produced _____

ORIGINAL

RECEIVED-FPSC
03 NOV 17 AM 10:30
COMMISSION
CLERK

Southeastern Services, Inc.

1165 South 6th Street
Macclenny, Florida 32063
Phone (904) 259-1300
Fax (904) 259-7606

markwood@setel.net

November 14, 2003

Blanco S. Bayo
Division of the Commission Clerk and Admin Svcs
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Dear Commission,

Pursuant to your data request regarding implementation of requirements arising from Federal Communication's Triennial Unbundled Network Element Review – Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) (Responses due by December 3, 2003):

Southeastern Services, Inc is only a reseller of services and at present we are negotiating an interconnect agreement. Until that agreement is completed, we will not be facilities based.

Thank you for your inquiry. If you need additional information, please do not hesitate contacting me.

Sincerely,

Mark Woods

President

AUS ___
CAF ___
CMP ___
COM 5
CTR ___
ECR ___
GCL ___
OPC ___
MMS ___
C 1
WH 1 to each docket

DOCUMENT NUMBER-DATE
11465 NOV 17 03

	A	B	C	D
1	Please enter the information requested below in column B in reference to your company			
2	FPSC CODE	TX301	The FPSC code should be on the address label used to send the paper copies of this data request to you.	
3	Company Name, as it appears on your provider's certificate	Southeastern Services, Inc.	Use the company name that appears on the address label, as well.	
4	OCN from LERG			
5	OCN Name from LERG			
6	Category (CLEC, ILEC, WIRELESS)	CLEC		
7	AOCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the columns -->	
8	FLPSC code for Affiliations			
9	DBA Names			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service		
11				
12	Thank you for completing this data request, since you do not provide service in Florida, please stop here and return this spreadsheet			
13				
14				

ORIGINAL

AboveNet

Tel 914 421 6700
Fax 914 421 6793

AboveNet, Inc.
360 Hamilton Avenue
White Plains, NY 10601
www.above.net

TX 517

Via Fax & Overnight Mail: (850) 413-6454

December 1, 2003

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED-FPSC
03 DEC -4 AM 10:58
COMMISSION CLERK

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: ***Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network element Review-Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP)***

Dear Ms. Bayo & Ms. Lee,

AboveNet Communications, Inc. ("AboveNet") is in receipt of the Florida Public Service Commission ("PSC") Data Requests in the above-referenced docket. This letter is being filed in response to those requests. AboveNet holds a certificate from the PSC, but is not currently active in the Florida marketplace. In response to the questions asked in the Data Requests, AboveNet 's response is "Not Applicable" to each question.

Please file the original and return the copy to me marked "filed" in the enclosed envelope. Please contact me if you have any questions or require additional information.

Sincerely,

Jill Sandford

AUS
CAF
CMP
COM
CTR
ECR
GCL
OPC
RAS
SEC 1
OTH 1 cy to each docket

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DISTRIBUTION CENTER
03 DEC -4 AM 8:45

DOCUMENT NUMBER-DATE
12395 DEC -4 03
FPSC-COMMISSION CLERK

Staff 0259

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

2 pages total (see next page)

TX322
Jennifer Martin
Manager, Regulatory Affairs
Teligent Services, Inc.
460 Herndon Parkway, Suite 100
Herndon, VA 20170-5293

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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Teligent, Inc.
460 Herndon Parkway, Suite 100
Herndon, Virginia 20170
voice: 703.326.4400
fax: 703.326.4500
http://www.teligentinc.com

December 2, 2003

VIA FACSIMILE

Blanco S. Bayo
Division of the Commission Clerk
And Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: Docket Nos. 030851-TP and 030852-TP, Date Request Regarding Implementation Requirements Arising From the FCC's Triennial Unbundled Network Element Review – *Local Circuit Switching for Mass Market Customers* and High-Capacity Loops and Transport

Dear Ms. Bayo:

Teligent Services, Inc. ("Teligent") hereby submits its response to the above-referenced Docket Nos.

As the Commission is aware, Teligent emerged from Chapter 11 bankruptcy protection on September 12, 2002. As a result of its approximate 18-month Chapter 11 status, Teligent no longer provides facilities-based local exchange or long distance services anywhere in the State of Florida. Teligent merely resells long distance service of an underlying carrier. More importantly to these Docket Nos., Teligent does not own or operate switching facilities in Florida nor does it lease unbundled network elements (UNEs). As such, it has no information responsive to the above-referenced Dockets. To that end, Teligent respectfully requests dismissal from Docket Nos. 030851-TP and 030852-TP.

Should you have any questions regarding this matter, please feel free to contact the undersigned at 703.326.4496 or mailto:jennifer.martin@teligent.com.

Sincerely,

Jennifer Martin
Manager, Regulatory Affairs
Teligent Legal Department

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TX323
Charles Power
Managing Member
DialTek, LLC d/b/a DTK Telecommunications, LLC
P. O. Box 2789
Woodinville, WA 98072-2789

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[149] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[149] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

requested data is essential to ensure that each carrier's facilities are considered in conclusions reached regarding UNE obligations. Company responses are due to the Commission by **December 3, 2003**. The data request is similar to the October 3, 2003, data request of the New York Department of Public Service in Case 03-C-0821, modified by a few additional questions.

The trigger-related information is to be provided on electronic spreadsheets: (1) general_questions_FL.xls, (2) switching_questions_FL.xls, (3) transport_questions_FL.xls, and (4) loop_questions_FL.xls. Hard copies of the spreadsheets are attached to the data request and spreadsheet files can also be downloaded from the Commission's website to use in providing responses (http://www.floridapsc.com). The number of spreadsheet rows to which each CLEC will be required to respond depends upon the number of switches, transport routes, or customer locations for which each company has provisioned facilities. Detailed instructions are included in the data request as well as attached to the spreadsheets.

If your company holds a certificate but is not currently active in the marketplace, you may simply check the box at the top of this page and return it.

To the extent you are a party to either Docket No. 030851-TP or Docket No. 030852-TP and information requested has already been provided through responses to interrogatories or document requests, there is no need to provide a full response again. Simply respond by identifying the particular interrogatory or document request (serving party, item number, filing date) where the information can be found.

Once the spreadsheets are completed, they should be saved electronically using the company name in the saved file name; i.e., general_Company Name_FL.xls. A cover letter along with a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette or compact disk (CD) should be mailed to:

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

Once the completed data request is received by the Commission, the information will be public record. If you believe your response contains confidential information, you can request that your response be exempt from FS 119.07(1), General State Policy on Public Records. If you are claiming confidential classification, a written request for the specific material to which the confidentiality relates should be filed with the Division of the Commission Clerk and Administrative Services with a copy to Pat Lee, Division of Competitive Markets & Enforcement. Enclosed is a copy of Florida Public Service Commission Rule 25-22.006, Florida Administrative Code, which provides the necessary information for submitting confidential information to be exempt from FS 119.07(1). Please note that a claim of confidentiality does not alleviate the obligation to respond to the data request in a timely manner. In addition, claims of confidentiality should not be made for information that is publicly available from other sources (switch locations, for example, are available from the Local Exchange Routing Guide).

In order to meet the 9-month federal requirements, it is essential that we obtain this information in a timely manner, as required by Florida Public Service Commission Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Failure to comply with this rule can result in the Commission assessing penalties of up to $25,000 per offense, with each day of non-compliance constituting a separate offense per FS 364.285(1). We encourage you to retain a record confirming delivery of your company's response to the data request, such as a certified mail receipt, a fax log, or a copy of an e-mail.

Responses to the enclosed data request are due no later than **December 3, 2003.** If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,

Beth W. Salak

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851\data request letter.wpd November 10, 2003 (0931 am)

Access
INTEGRATED NETWORKS

Toll Free 888-275-0777
Tel. 478-475-9800
Fax. 478-475-9988
www.accesscomm.com

Suite 107
4885 Riverside Drive
Macon, GA 31210

November 17, 2003

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

re: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

Dear Ms. Lee:

Enclosed are the responses of Access Integrated Networks, Inc. (TX326) to the Florida PSC Staff's data requests in dockets 030851-TP and 030852-TP.

Also, enclosed is a 3.5" diskette that contains a copy of each spreadsheet.

Please do not hesitate to contact should you have any questions regarding this filing.

Sincerely,

Mark A. Ozanick, Sr. Regulatory Analyst

DOCUMENT NUMBER-DATE
10124 NOV 24 PM 3:12
FPSC-COMMISSION CLERK

AFFIDAVIT

By my signature below, I William T. Wright, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of Access Integrated Networks, Inc.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

William T. Wright	William T. Wright
Print Name	**Signature**
Chairman	11-10-03
Title	**Date**
478-476-7970	478-405-3111
Telephone No.	**Fax No.**

CLEC

Utility

Address: 4885 Riverside Dr.
Macon, GA 31210

STATE OF GEORGIA

COUNTY OF CRAWFORD

Sworn to (or affirmed) and subscribed before me this 17TH day of NOV, 2003, by APRYLE OVELL, NOTARY PUBLIC

(NOTARY SEAL)

APRYLE L. OVELL NOTARY PUBLIC CRAWFORD COUNTY, GA Exp May 05, 2006

(Signature of Notary Public

(Name of Notary Typed, Printed, or Stamped)

Personally Known ____ OR Produced Identification ____ Type of Identification Produced ____

	A	B	C
1	Please enter the information requested below in column B in reference to your company.		
2	FPSC CODE	TX326	The FPSC code should be on the address label used to send the paper copies of this data request to you.
3	Company Name, as it appears on your provider's certificate	Access Integrated Networks, Inc.	Use the company name that appears on the address label, as well.
4	OCN from LERG	2721 and 7039	
5	OCN Name from LERG	ACCESS INTEGRATED NETWORKS, INC. - FL ACCESS INTEGRATED NETWORKS, INC. RSLR	
6	Category (CLEC, ILEC, WIRELESS)	CLEC and L RESELLER	
7	AOCN from LERG (administrative)	2720	Continue with additional affiliations or DBA Names down the columns --->
8	FLPSC code for Affiliations	N/A	
9	DBA Names	N/A	
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.		
11			
12			
13			
14	Please continue with the data request. We appreciate the time required to complete it.		

loop_Access Integrated Networks_FL
Loop

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R
1					Self-Providers													
2	Customer Infomation					High-Capacity Loop Type			Number of circuits							High-Capacity Loop Type		
3	Street Address	City	Zip	Wire Center CLLI	Self-Provider? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	# Dark Fiber **provisioned** circuits	# DS1 level **provisioned** circuits	# DS3 level **provisioned** circuits	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits	Wholesaler? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)
4	N/A																	

loop_Access Integrated Networks_FL
Loop

	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG
1	Wholesalers														
2	Number of circuits														
3	# Dark Fiber **provisioned** circuits	# DS1 level **provisioned** circuits	# DS3 level **provisioned** circuits	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits	Point-to-Point (P) or Ring (R) configuration	Accessible? (Y/N)	Sole Access? (Y/N)	Using? (Y/N)	Giving? (Y/N)	Owner? (Y/N)	Loop Owner?	Loop Wholesaler?	Nature of agreement?
4															

	A	B	C	D	E	F	G	H
1	**Please list all of your remote switches. Any switches located at the central office, do not need to be added.**							
2	Switch CLLI	Host CLLI	Vertical Coord-inates	Horiz-ontal Coord-inates	Switch Street Address	City	State	Zip
3	N/A							

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
1			Type of Switch *(X or Blank)*																	Y or N			
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
3	N/A																						
4	ABDLFLXA96H																						
5	ALFAFLXA67H																						
6	ALFRFLXARS0																						
7	ALSPFLXADS0																						
8	ALTRFLXARSA																						
9	ALVAFLXARS1																						
10	ANMRFLXA77H																						
11	APPKFLXADS1																						
12	ARCDFLXADS0																						
13	ARCHFLMA																						
14	ASTRFLXARS0																						
15	AVPKFLXADS0																						
16	BAKRFLXADS0																						
17	BARTFLXA53H																						
18	BAYUFLXA54H																						
19	BBPKFLXARSA																						
20	BCGRFLXARS1																						
21	BCRTFLBT																						
22	BCRTFLMA																						
23	BCRTFLSA																						
24	BGPIFLMA																						
25	BHPKFLXA28H																						
26	BKVLFLJF																						
27	BLDWFLMA																						
28	BLGLFLMA																						
29	BLVWFLXADS0																						
30	BNFYFLXARS0																						
31	BNNLFLMA																						
32	BNSPFLXADS1																						

	A	B	X	Y	Z	AA	AB	AC	AD
1									
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
3	N/A								
4	ABDLFLXA96H								
5	ALFAFLXA67H								
6	ALFRFLXARS0								
7	ALSPFLXADS0								
8	ALTRFLXARSA								
9	ALVAFLXARS1								
10	ANMRFLXA77H								
11	APPKFLXADS1								
12	ARCDFLXADS0								
13	ARCHFLMA								
14	ASTRFLXARS0								
15	AVPKFLXADS0								
16	BAKRFLXADS0								
17	BARTFLXA53H								
18	BAYUFLXA54H								
19	BBPKFLXARSA								
20	BCGRFLXARS1								
21	BCRTFLBT								
22	BCRTFLMA								
23	BCRTFLSA								
24	BGPIFLMA								
25	BHPKFLXA28H								
26	BKVLFLJF								
27	BLDWFLMA								
28	BLGLFLMA								
29	BLVWFLXADS0								
30	BNFYFLXARS0								
31	BNNLFLMA								
32	BNSPFLXADS1								

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
33	BRBAFLXA75H																						
34	BRJTFLXARSA																						
35	BRNDFLXA68H																						
36	BRSNFLMA																						
37	BRTNFLXX74H																						
38	BSHNFLXADS0																						
39	BVHLFLXADS0																						
40	BWLGFLXARS0																						
41	BYBHFLMA																						
42	BYSHFLXA84H																						
43	CCBHFLMA																						
44	CDKYFLMA																						
45	CFLDFLMA																						
46	CFVLFLXADS0																						
47	CHLKFLXARS0																						
48	CHPLFLJA																						
49	CHSWFLXARS0																						
50	CLMTFLXADS0																						
51	CLTNFLXARS0																						
52	CLWRFLXA44H																						
53	CNSDFLXA79H																						
54	CNTMFLLE																						
55	COCOFLMA																						
56	COCOFLME																						
57	CPCRFLXADS0																						
58	CPCRFLXBDS1																						
59	CPHZFLXADS0																						
60	CRRVFLXADS0																						
61	CRVWFLXADS0																						
62	CRWDFLXA96H																						
63	CSCYFLBA																						

	A	B	X	Y	Z	AA	AB	AC	AD
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
33	BRBAFLXA75H								
34	BRJTFLXARSA								
35	BRNDFLXA68H								
36	BRSNFLMA								
37	BRTNFLXX74H								
38	BSHNFLXADS0								
39	BVHLFLXADS0								
40	BWLGFLXARS0								
41	BYBHFLMA								
42	BYSHFLXA84H								
43	CCBHFLMA								
44	CDKYFLMA								
45	CFLDFLMA								
46	CFVLFLXADS0								
47	CHLKFLXARS0								
48	CHPLFLJA								
49	CHSWFLXARS0								
50	CLMTFLXADS0								
51	CLTNFLXARS0								
52	CLWRFLXA44H								
53	CNSDFLXA79H								
54	CNTMFLLE								
55	COCOFLMA								
56	COCOFLME								
57	CPCRFLXADS0								
58	CPCRFLXBDS1								
59	CPHZFLXADS0								
60	CRRVFLXADS0								
61	CRVWFLXADS0								
62	CRWDFLXA96H								
63	CSCYFLBA								

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
64	CSLBFLXADS1																						
65	CTDLFLXARS0																						
66	CYGRFLXA32H																						
67	CYLKFLXADS0																						
68	CYLKFLXBRS0																						
69	DBRYFLDL																						
70	DBRYFLMA																						
71	DDCYFLXADS1																						
72	DELDFLMA																						
73	DESTFLXADS0																						
74	DFSPFLXADS0																						
75	DLBHFLKP																						
76	DLBHFLMA																						
77	DLSPFLMA																						
78	DNDNFLXA73H																						
79	DNLNFLWM																						
80	DRBHFLMA																						
81	DUNDFLXA43H																						
82	DYBHFLFN																						
83	DYBHFLMA																						
84	DYBHFLOB																						
85	DYBHFLOS																						
86	DYBHFLPO																						
87	EGLLFLBG																						
88	EGLLFLIH																						
89	ENWDFLXA47H																						
90	EORNFLMA																						
91	ESTSFLXARS0																						
92	EVRGFLXARS1																						
93	FHSDFLXA57H																						
94	FLBHFLMA																						

	A	B	X	Y	Z	AA	AB	AC	AD
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
64	CSLBFLXADS1								
65	CTDLFLXARS0								
66	CYGRFLXA32H								
67	CYLKFLXADS0								
68	CYLKFLXBRS0								
69	DBRYFLDL								
70	DBRYFLMA								
71	DDCYFLXADS1								
72	DELDFLMA								
73	DESTFLXADS0								
74	DFSPFLXADS0								
75	DLBHFLKP								
76	DLBHFLMA								
77	DLSPFLMA								
78	DNDNFLXA73H								
79	DNLNFLWM								
80	DRBHFLMA								
81	DUNDFLXA43H								
82	DYBHFLFN								
83	DYBHFLMA								
84	DYBHFLOB								
85	DYBHFLOS								
86	DYBHFLPO								
87	EGLLFLBG								
88	EGLLFLIH								
89	ENWDFLXA47H								
90	EORNFLMA								
91	ESTSFLXARS0								
92	EVRGFLXARS1								
93	FHSDFLXA57H								
94	FLBHFLMA								

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
95	FRBHFLFP																						
96	FRPTFLXARS0																						
97	FRSTFLXA63H																						
98	FTGRFLMA																						
99	FTLDFLAP																						
100	FTLDFLCR																						
101	FTLDFLCY																						
102	FTLDFLJA																						
103	FTLDFLMR																						
104	FTLDFLOA																						
105	FTLDFLPL																						
106	FTLDFLSG																						
107	FTLDFLSU																						
108	FTLDFLWN																						
109	FTMBFLXARS0																						
110	FTMDFLXARS0																						
111	FTMYFLXADS0																						
112	FTMYFLXBRS0																						
113	FTMYFLXCDS2																						
114	FTPRFLMA																						
115	FTWBFLXADS0																						
116	FTWBFLXBDS0																						
117	FTWBFLXCRS0																						
118	GCSPFLCN																						
119	GCVLFLMA																						
120	GDRGFLXADS0																						
121	GENVFLMA																						
122	GLBRFLMC																						
123	GLDLFLXARS0																						
124	GLGCFLXADS0																						
125	GLRDFLXADS0																						

	A	B	X	Y	Z	AA	AB	AC	AD
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
95	FRBHFLFP								
96	FRPTFLXARS0								
97	FRSTFLXA63H								
98	FTGRFLMA								
99	FTLDFLAP								
100	FTLDFLCR								
101	FTLDFLCY								
102	FTLDFLJA								
103	FTLDFLMR								
104	FTLDFLOA								
105	FTLDFLPL								
106	FTLDFLSG								
107	FTLDFLSU								
108	FTLDFLWN								
109	FTMBFLXARS0								
110	FTMDFLXARS0								
111	FTMYFLXADS0								
112	FTMYFLXBRS0								
113	FTMYFLXCDS2								
114	FTPRFLMA								
115	FTWBFLXADS0								
116	FTWBFLXBDS0								
117	FTWBFLXCRS0								
118	GCSPFLCN								
119	GCVLFLMA								
120	GDRGFLXADS0								
121	GENVFLMA								
122	GLBRFLMC								
123	GLDLFLXARS0								
124	GLGCFLXADS0								
125	GLRDFLXADS0								

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
126	GNDYFLXA57H																						
127	GNVLFLXARS0																						
128	GNWDFLXARS0																						
129	GSVLFLMA																						
130	GSVLFLNW																						
131	GVLDFLXARS0																						
132	HAVNFLMA																						
133	HBSDFLMA																						
134	HDSNFLXA86H																						
135	HGLDFLXA64H																						
136	HLNVFLMA																						
137	HLWDFLHA																						
138	HLWDFLMA																						
139	HLWDFLPE																						
140	HLWDFLWH																						
141	HMSPFLXARS0																						
142	HMSTFLAF																						
143	HMSTFLEA																						
144	HMSTFLHM																						
145	HNCYFLXA42H																						
146	HNCYFLXN424																						
147	HOWYFLXARS0																						
148	HTISFLMA																						
149	HWTHFLMA																						
150	HYPKFLXADS0																						
151	IMKLFLXARS0																						
152	INLKFLXARSA																						
153	INRKFLXX59H																						
154	INVRFLXADS1																						
155	ISLMFLMA																						
156	JAY-FLMA																						

	A	B	X	Y	Z	AA	AB	AC	AD
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
126	GNDYFLXA57H								
127	GNVLFLXARS0								
128	GNWDFLXARS0								
129	GSVLFLMA								
130	GSVLFLNW								
131	GVLDFLXARS0								
132	HAVNFLMA								
133	HBSDFLMA								
134	HDSNFLXA86H								
135	HGLDFLXA64H								
136	HLNVFLMA								
137	HLWDFLHA								
138	HLWDFLMA								
139	HLWDFLPE								
140	HLWDFLWH								
141	HMSPFLXARS0								
142	HMSTFLAF								
143	HMSTFLEA								
144	HMSTFLHM								
145	HNCYFLXA42H								
146	HNCYFLXN424								
147	HOWYFLXARS0								
148	HTISFLMA								
149	HWTHFLMA								
150	HYPKFLXADS0								
151	IMKLFLXARS0								
152	INLKFLXARSA								
153	INRKFLXX59H								
154	INVRFLXADS1								
155	ISLMFLMA								
156	JAY-FLMA								

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
157	JCBHFLAB																						
158	JCBHFLMA																						
159	JCBHFLSP																						
160	JCVLFLAR																						
161	JCVLFLBW																						
162	JCVLFLCL																						
163	JCVLFLFC																						
164	JCVLFLIA																						
165	JCVLFLJT																						
166	JCVLFLLF																						
167	JCVLFLNO																						
168	JCVLFLOW																						
169	JCVLFLRV																						
170	JCVLFLSJ																						
171	JCVLFLSM																						
172	JCVLFLWC																						
173	JPTRFLMA																						
174	KGLKFLXARS0																						
175	KNVLFLXARS0																						
176	KSSMFLXADS0																						
177	KSSMFLXBDS1																						
178	KSSMFLXCRS1																						
179	KSSMFLXDRS0																						
180	KYHGFLMA																						
181	KYLRFLLS																						
182	KYLRFLMA																						
183	KYSTFLXA92H																						
184	KYWSFLMA																						
185	LBLLFLXADS0																						
186	LDLKFLXARS0																						
187	LEE FLXARS0																						

	A	B	X	Y	Z	AA	AB	AC	AD
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
157	JCBHFLAB								
158	JCBHFLMA								
159	JCBHFLSP								
160	JCVLFLAR								
161	JCVLFLBW								
162	JCVLFLCL								
163	JCVLFLFC								
164	JCVLFLIA								
165	JCVLFLJT								
166	JCVLFLLF								
167	JCVLFLNO								
168	JCVLFLOW								
169	JCVLFLRV								
170	JCVLFLSJ								
171	JCVLFLSM								
172	JCVLFLWC								
173	JPTRFLMA								
174	KGLKFLXARS0								
175	KNVLFLXARS0								
176	KSSMFLXADS0								
177	KSSMFLXBDS1								
178	KSSMFLXCRS1								
179	KSSMFLXDRS0								
180	KYHGFLMA								
181	KYLRFLLS								
182	KYLRFLMA								
183	KYSTFLXA92H								
184	KYWSFLMA								
185	LBLLFLXADS0								
186	LDLKFLXARS0								
187	LEE FLXARS0								

Staff 0283

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
188	LGBKFLXA38H																						
189	LHACFLXADS0																						
190	LKALFLXA95H																						
191	LKBRFLXADS1																						
192	LKCYFLMA																						
193	LKHLFLXARS0																						
194	LKLDFLXA68H																						
195	LKLDFLXE66H																						
196	LKLDFLXN85H																						
197	LKMRFLMA																						
198	LKPCFLXARS0																						
199	LKWLFLXA67H																						
200	LKWLFLXERSA																						
201	LLMNFLXADS0																						
202	LNLKFLXA99H																						
203	LRGOFLXA58H																						
204	LSBGFLXADS0																						
205	LUTZFLXA94H																						
206	LWTYFLXARS0																						
207	LYHNFLOH																						
208	MALNFLXARS0																						
209	MCNPFLMA																						
210	MDBGFLPM																						
211	MDSNFLXADS0																						
212	MIAMFLAE																						
213	MIAMFLAL																						
214	MIAMFLAP																						
215	MIAMFLBA																						
216	MIAMFLBC																						
217	MIAMFLBR																						
218	MIAMFLCA																						

	A	B	X	Y	Z	AA	AB	AC	AD
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
188	LGBKFLXA38H								
189	LHACFLXADS0								
190	LKALFLXA95H								
191	LKBRFLXADS1								
192	LKCYFLMA								
193	LKHLFLXARS0								
194	LKLDFLXA68H								
195	LKLDFLXE66H								
196	LKLDFLXN85H								
197	LKMRFLMA								
198	LKPCFLXARS0								
199	LKWLFLXA67H								
200	LKWLFLXERSA								
201	LLMNFLXADS0								
202	LNLKFLXA99H								
203	LRGOFLXA58H								
204	LSBGFLXADS0								
205	LUTZFLXA94H								
206	LWTYFLXARS0								
207	LYHNFLOH								
208	MALNFLXARS0								
209	MCNPFLMA								
210	MDBGFLPM								
211	MDSNFLXADS0								
212	MIAMFLAE								
213	MIAMFLAL								
214	MIAMFLAP								
215	MIAMFLBA								
216	MIAMFLBC								
217	MIAMFLBR								
218	MIAMFLCA								

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
219	MIAMFLDB																						
220	MIAMFLFL																						
221	MIAMFLGR																						
222	MIAMFLHL																						
223	MIAMFLIC																						
224	MIAMFLKE																						
225	MIAMFLME																						
226	MIAMFLNM																						
227	MIAMFLNS																						
228	MIAMFLOL																						
229	MIAMFLPB																						
230	MIAMFLPL																						
231	MIAMFLRR																						
232	MIAMFLSH																						
233	MIAMFLSO																						
234	MIAMFLWD																						
235	MIAMFLWM																						
236	MICCFLBB																						
237	MLBRFLMA																						
238	MLBYFLXARSA																						
239	MLTNFLRA																						
240	MNDRFLAV																						
241	MNDRFLLO																						
242	MNDRFLLW																						
243	MNLKFLXA85H																						
244	MNSNFLMA																						
245	MNTIFLXADS0																						
246	MOISFLXADS1																						
247	MRHNFLXARS0																						
248	MRNNFLXADS0																						
249	MRTHFLVE																						

	A	B	X	Y	Z	AA	AB	AC	AD
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
219	MIAMFLDB								
220	MIAMFLFL								
221	MIAMFLGR								
222	MIAMFLHL								
223	MIAMFLIC								
224	MIAMFLKE								
225	MIAMFLME								
226	MIAMFLNM								
227	MIAMFLNS								
228	MIAMFLOL								
229	MIAMFLPB								
230	MIAMFLPL								
231	MIAMFLRR								
232	MIAMFLSH								
233	MIAMFLSO								
234	MIAMFLWD								
235	MIAMFLWM								
236	MICCFLBB								
237	MLBRFLMA								
238	MLBYFLXARSA								
239	MLTNFLRA								
240	MNDRFLAV								
241	MNDRFLLO								
242	MNDRFLLW								
243	MNLKFLXA85H								
244	MNSNFLMA								
245	MNTIFLXADS0								
246	MOISFLXADS1								
247	MRHNFLXARS0								
248	MRNNFLXADS0								
249	MRTHFLVE								

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
250	MTDRFLXARS0																						
251	MTLDFLXADS1																						
252	MTVRFLXARS0																						
253	MXVLFLMA																						
254	MYCYFLXA32H																						
255	NDADFLAC																						
256	NDADFLBR																						
257	NDADFLGG																						
258	NDADFLOL																						
259	NFMYFLXADS0																						
260	NFMYFLXBRS0																						
261	NGBHFLXA39H																						
262	NKLRFLMA																						
263	NNPLFLXADS1																						
264	NPLSFLXCDS0																						
265	NPLSFLXDDS0																						
266	NPRCFLXA84H																						
267	NRPTFLXA42H																						
268	NRSDFLXA35H																						
269	NSBHFLMA																						
270	NWBYFLMA																						
271	OCALFLXADS0																						
272	OCALFLXBDS0																						
273	OCALFLXCRS0																						
274	OCNFFLXARS0																						
275	OKCBFLXADS1																						
276	OKHLFLMA																						
277	OKLWFLXADS0																						
278	OLDSFLXA85H																						
279	OLTWFLLN																						
280	ORCYFLXADS0																						

	A	B	X	Y	Z	AA	AB	AC	AD
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
250	MTDRFLXARS0								
251	MTLDFLXADS1								
252	MTVRFLXARS0								
253	MXVLFLMA								
254	MYCYFLXA32H								
255	NDADFLAC								
256	NDADFLBR								
257	NDADFLGG								
258	NDADFLOL								
259	NFMYFLXADS0								
260	NFMYFLXBRS0								
261	NGBHFLXA39H								
262	NKLRFLMA								
263	NNPLFLXADS1								
264	NPLSFLXCDS0								
265	NPLSFLXDDS0								
266	NPRCFLXA84H								
267	NRPTFLXA42H								
268	NRSDFLXA35H								
269	NSBHFLMA								
270	NWBYFLMA								
271	OCALFLXADS0								
272	OCALFLXBDS0								
273	OCALFLXCRS0								
274	OCNFFLXARS0								
275	OKCBFLXADS1								
276	OKHLFLMA								
277	OKLWFLXADS0								
278	OLDSFLXA85H								
279	OLTWFLLN								
280	ORCYFLXADS0								

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
281	ORCYFLXCRS0																						
282	ORLDFLAP																						
283	ORLDFLCL																						
284	ORLDFLMA																						
285	ORLDFLPC																						
286	ORLDFLPH																						
287	ORLDFLSA																						
288	ORPKFLMA																						
289	ORPKFLRW																						
290	OSPRFLXA96H																						
291	OVIDFLCA																						
292	PACEFLPV																						
293	PAHKFLMA																						
294	PANCFLXARS0																						
295	PCBHFLNT																						
296	PKCYFLXARSA																						
297	PLCSFLMA																						
298	PLMTFLXA72H																						
299	PLSLFLXA79H																						
300	PLTKFLMA																						
301	PMBHFLCS																						
302	PMBHFLFE																						
303	PMBHFLMA																						
304	PMBHFLTA																						
305	PMPKFLMA																						
306	PNCRFLXA73J																						
307	PNCYFLCA																						
308	PNCYFLMA																						
309	PNGRFLXADS1																						
310	PNISFLXADS0																						
311	PNLNFLXARS0																						

	A	B	X	Y	Z	AA	AB	AC	AD
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
281	ORCYFLXCRS0								
282	ORLDFLAP								
283	ORLDFLCL								
284	ORLDFLMA								
285	ORLDFLPC								
286	ORLDFLPH								
287	ORLDFLSA								
288	ORPKFLMA								
289	ORPKFLRW								
290	OSPRFLXA96H								
291	OVIDFLCA								
292	PACEFLPV								
293	PAHKFLMA								
294	PANCFLXARS0								
295	PCBHFLNT								
296	PKCYFLXARSA								
297	PLCSFLMA								
298	PLMTFLXA72H								
299	PLSLFLXA79H								
300	PLTKFLMA								
301	PMBHFLCS								
302	PMBHFLFE								
303	PMBHFLMA								
304	PMBHFLTA								
305	PMPKFLMA								
306	PNCRFLXA73J								
307	PNCYFLCA								
308	PNCYFLMA								
309	PNGRFLXADS1								
310	PNISFLXADS0								
311	PNLNFLXARS0								

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
312	PNLSFLXA53H																						
313	PNSCFLBL																						
314	PNSCFLFP																						
315	PNSCFLHC																						
316	PNSCFLPB																						
317	PNSCFLWA																						
318	PNVDFLMA																						
319	POINFLXARSA																						
320	PRRNFLMA																						
321	PRSHFLXARSA																						
322	PRSNFLFD																						
323	PSDNFLXA34H																						
324	PTCTFLXADS0																						
325	PTCYFLXA75H																						
326	PTSLFLMA																						
327	PTSLFLSO																						
328	RSKNFLXA64H																						
329	RYHLFLXARS0																						
330	SARKFLXARSA																						
331	SBNGFLXADS1																						
332	SBSTFLFE																						
333	SBSTFLMA																						
334	SEKYFLXA34H																						
335	SGBEFLXA36H																						
336	SGBHFLXARS0																						
337	SGKYFLMA																						
338	SHLMFLXADS0																						
339	SKWYFLXADS0																						
340	SLHLFLXARS0																						
341	SLSPFLXA93H																						
342	SMNLFLXA23H																						

	A	B	X	Y	Z	AA	AB	AC	AD
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
312	PNLSFLXA53H								
313	PNSCFLBL								
314	PNSCFLFP								
315	PNSCFLHC								
316	PNSCFLPB								
317	PNSCFLWA								
318	PNVDFLMA								
319	POINFLXARSA								
320	PRRNFLMA								
321	PRSHFLXARSA								
322	PRSNFLFD								
323	PSDNFLXA34H								
324	PTCTFLXADS0								
325	PTCYFLXA75H								
326	PTSLFLMA								
327	PTSLFLSO								
328	RSKNFLXA64H								
329	RYHLFLXARS0								
330	SARKFLXARSA								
331	SBNGFLXADS1								
332	SBSTFLFE								
333	SBSTFLMA								
334	SEKYFLXA34H								
335	SGBEFLXA36H								
336	SGBHFLXARS0								
337	SGKYFLMA								
338	SHLMFLXADS0								
339	SKWYFLXADS0								
340	SLHLFLXARS0								
341	SLSPFLXA93H								
342	SMNLFLXA23H								

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
343	SNANFLXARS0																						
344	SNDSFLXARS0																						
345	SNFRFLMA																						
346	SNISFLXADS0																						
347	SNRSFLXARS0																						
348	SNSPFLXA37H																						
349	SPBGFLXA89H																						
350	SPBGFLXS86H																						
351	SPCPFLXARL0																						
352	SPRGFLXA37H																						
353	SRSTFLXA95H																						
354	SSDSFLXA92H																						
355	SSPRFLXARS0																						
356	STAGFLBS																						
357	STAGFLMA																						
358	STAGFLSH																						
359	STAGFLWG																						
360	STCDFLXARS0																						
361	STGRFLXA78H																						
362	STMKFLXARS0																						
363	STRKFLXADS0																						
364	STRTFLMA																						
365	SVSPFLXARS0																						
366	SVSSFLXARS0																						
367	SWTHFLXA88H																						
368	SYHSFLCC																						
369	TAMPFLXEDS0																						
370	TAMPFLXX22H																						
371	THNTFLXADS0																						
372	TLCHFLXARS0																						
373	TLHSFLXADS0																						

	A	B	X	Y	Z	AA	AB	AC	AD
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
343	SNANFLXARS0								
344	SNDSFLXARS0								
345	SNFRFLMA								
346	SNISFLXADS0								
347	SNRSFLXARS0								
348	SNSPFLXA37H								
349	SPBGFLXA89H								
350	SPBGFLXS86H								
351	SPCPFLXARL0								
352	SPRGFLXA37H								
353	SRSTFLXA95H								
354	SSDSFLXA92H								
355	SSPRFLXARS0								
356	STAGFLBS								
357	STAGFLMA								
358	STAGFLSH								
359	STAGFLWG								
360	STCDFLXARS0								
361	STGRFLXA78H								
362	STMKFLXARS0								
363	STRKFLXADS0								
364	STRTFLMA								
365	SVSPFLXARS0								
366	SVSSFLXARS0								
367	SWTHFLXA88H								
368	SYHSFLCC								
369	TAMPFLXEDS0								
370	TAMPFLXX22H								
371	THNTFLXADS0								
372	TLCHFLXARS0								
373	TLHSFLXADS0								

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
374	TLHSFLXBDS0																						
375	TLHSFLXCDS0																						
376	TLHSFLXDDS0																						
377	TLHSFLXERS0																						
378	TLHSFLXFDS0																						
379	TLHSFLXGRS0																						
380	TLHSFLXHDS0																						
381	TMTRFLXADS0																						
382	TRENFLMA																						
383	TRSPFLXA93H																						
384	TTVLFLMA																						
385	TVRSFLXADS0																						
386	UMTLFLXARS0																						
387	UNVRFLXA97H																						
388	VENCFLXA48H																						
389	VENCFLXSDS0																						
390	VERNFLMA																						
391	VLPRFLXADS0																						
392	VLPRFLXBRS0																						
393	VRBHFLBE																						
394	VRBHFLMA																						
395	WCHLFLXADS0																						
396	WELKFLMA																						
397	WIMMFLXA63H																						
398	WLCHFLXA97H																						
399	WLCRFLXA83H																						
400	WLSTFLXARS0																						
401	WLWDFLXARS0																						
402	WNDRFLXARS0																						
403	WNGRFLXADS0																						
404	WNHNFLXC29H																						

	A	B	X	Y	Z	AA	AB	AC	AD
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
374	TLHSFLXBDS0								
375	TLHSFLXCDS0								
376	TLHSFLXDDS0								
377	TLHSFLXERS0								
378	TLHSFLXFDS0								
379	TLHSFLXGRS0								
380	TLHSFLXHDS0								
381	TMTRFLXADS0								
382	TRENFLMA								
383	TRSPFLXA93H								
384	TTVLFLMA								
385	TVRSFLXADS0								
386	UMTLFLXARS0								
387	UNVRFLXA97H								
388	VENCFLXA48H								
389	VENCFLXSDS0								
390	VERNFLMA								
391	VLPRFLXADS0								
392	VLPRFLXBRS0								
393	VRBHFLBE								
394	VRBHFLMA								
395	WCHLFLXADS0								
396	WELKFLMA								
397	WIMMFLXA63H								
398	WLCHFLXA97H								
399	WLCRFLXA83H								
400	WLSTFLXARS0								
401	WLWDFLXARS0								
402	WNDRFLXARS0								
403	WNGRFLXADS0								
404	WNHNFLXC29H								

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner
405	WNPKFLXADS1																						
406	WPBHFLAN																						
407	WPBHFLGA																						
408	WPBHFLGR																						
409	WPBHFLHH																						
410	WPBHFLLE																						
411	WPBHFLRB																						
412	WPBHFLRP																						
413	WSSDFLXA87H																						
414	WSTVFLXARS0																						
415	WWSPFLHI																						
416	WWSPFLSH																						
417	YBCTFLXA24H																						
418	YNFNFLMA																						
419	YNTWFLMA																						
420	YULEFLMA																						
421	ZLSPFLXARS0																						
422	ZPHYFLXA78H																						

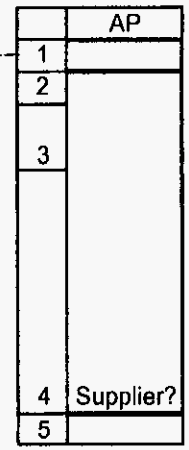
	A	B	X	Y	Z	AA	AB	AC	AD
2	Wire Center CLLI	Switch CLLI	FPSC code of Leasor	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX
405	WNPKFLXADS1								
406	WPBHFLAN								
407	WPBHFLGA								
408	WPBHFLGR								
409	WPBHFLHH								
410	WPBHFLLE								
411	WPBHFLRB								
412	WPBHFLRP								
413	WSSDFLXA87H								
414	WSTVFLXARS0								
415	WWSPFLHI								
416	WWSPFLSH								
417	YBCTFLXA24H								
418	YNFNFLMA								
419	YNTWFLMA								
420	YULEFLMA								
421	ZLSPFLXARS0								
422	ZPHYFLXA78H								

transport_Access Integrated Networks_FL
Transport

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1															
2	FROM ILEC										TO ILEC				
3		Central Office Address						Arrange-ment Type				Central Office Address			
4	CLLI	Street Address	City	State	Zip	Vert-ical Coord-inates	Horiz-ontal Coord-inates	Caged? (Y/N)	Cageless? (Y/N)	Virtual? (Y/N)	CLLI	Street Address	City	State	Zip
5	N/A														

	P	Q	R	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG	AH	AI	AJ	AK	AL	AM	AN	AO
1						TRANSPORT ROUTE																				
2						Self-Providers										Wholesalers										
3			Arrange-ment Type				Transport Type			Number of transport circuits								Transport Type			Number of transport circuits					
4	Vert-ical Coord-inates	Horiz-ontal Coord-inates	Caged? (Y/N)	Cageless? (Y/N)	Virtual? (Y/N)	Self-Provider? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	transport circuits **provisioned**	# DS1 level transport circuits **provisioned**	# DS3 level transport circuits **provisioned**	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits	Wholesaler? (Y/N)	Carrier?	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	transport circuits **provisioned**	# DS1 level transport circuits **provisioned**	# DS3 level transport circuits **provisioned**	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits
5																										

transport_Access Integrated Networks_FL
Transport



Sun-Tel USA, Inc.
TX330

10169 Foxcroft Rd W
Jacksonville, FL 32257

December 3, 2003

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commision
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Attn: Florida PSC

Enclosed is a copy of the data requested for the 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP. I Jahan Babadi have prepared the response for Sun-Tel USA, Inc. TX330; and to the best of my knowledge it is complete and accurate.

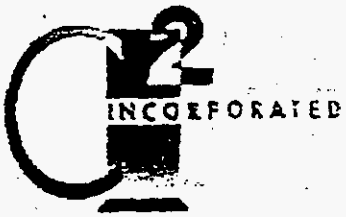
Sincerely,

Jahan Babadi
President

Matthew D Kirkland
My Commission DD253067
Expires October 24, 2007

Staff 0302

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TX330	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Sun-Tel USA, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	N/A			
5	OCN Name from LERG	N/A			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)	N/A	Continue with additional affiliations or DBA Names down the columns —>		
8	FLPSC code for Affiliations	NONE			
9	DBA Names	NONE			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	NO SERVICE			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida,				
14	please stop here and return this spreadsheet				



CI², Inc.
Corporate Headquarters
200 Galleria Parkway, N.W.
Suite 1200
Atlanta, GA 30339

FAX COVERSHEET

TO: State of Florida	FROM: Beverly Jackson
COMPANY: PSC	DATE: 12/01/03
FAX#: 850-413-6454	FAX#: 770-425-1338
VOICE:	VOICE: 770-425-2267
RE:	NO. OF PAGES (including cover): 4

CONFIDENTIALITY NOTICE

The information contained in the facsimile is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible to delivery it the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the US postal service. Anyone so cooperating will be reimbursed for any reasonable expense incurred.

STATE OF FLORIDA

COMMISSIONERS:
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J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TX334
Sharon Mendon
Operations Manager
CI2, Inc.
200 Galleria Parkway, Suite 1200
Atlanta, GA 30339-5967

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[152] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

requested data is essential to ensure that each carrier's facilities are considered in conclusions reached regarding UNE obligations. Company responses are due to the Commission by **December 3, 2003**. The data request is similar to the October 3, 2003, data request of the New York Department of Public Service in Case 03-C-0821, modified by a few additional questions.

The trigger-related information is to be provided on electronic spreadsheets: (1) general_questions_FL.xls, (2) switching_questions_FL.xls, (3) transport_questions_FL.xls, and (4) loop_questions_FL.xls. Hard copies of the spreadsheets are attached to the data request and spreadsheet files can also be downloaded from the Commission's website to use in providing responses (http://www.floridapsc.com). The number of spreadsheet rows to which each CLEC will be required to respond depends upon the number of switches, transport routes, or customer locations for which each company has provisioned facilities. Detailed instructions are included in the data request as well as attached to the spreadsheets.

If your company holds a certificate but is not currently active in the marketplace, you may simply check the box at the top of this page and return it.

To the extent you are a party to either Docket No. 030851-TP or Docket No. 030852-TP and information requested has already been provided through responses to interrogatories or document requests, there is no need to provide a full response again. Simply respond by identifying the particular interrogatory or document request (serving party, item number, filing date) where the information can be found.

Once the spreadsheets are completed, they should be saved electronically using the company name in the saved file name; i.e., general_Company Name_FL.xls. A cover letter along with a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette or compact disk (CD) should be mailed to:

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

Once the completed data request is received by the Commission, the information will be public record. If you believe your response contains confidential information, you can request that your response be exempt from FS 119.07(1), General State Policy on Public Records. If you are claiming confidential classification, a written request for the specific material to which the confidentiality relates should be filed with the Division of the Commission Clerk and Administrative Services with a copy to Pat Lee, Division of Competitive Markets & Enforcement. Enclosed is a copy of Florida Public Service Commission Rule 25-22.006, Florida Administrative Code, which provides the necessary information for submitting confidential information to be exempt from FS 119.07(1). Please note that a claim of confidentiality does not alleviate the obligation to respond to the data request in a timely manner. In addition, claims of confidentiality should not be made for information that is publicly available from other sources (switch locations, for example, are available from the Local Exchange Routing Guide).

In order to meet the 9-month federal requirements, it is essential that we obtain this information in a timely manner, as required by Florida Public Service Commission Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Failure to comply with this rule can result in the Commission assessing penalties of up to $25,000 per offense, with each day of non-compliance constituting a separate offense per FS 364.285(1). We encourage you to retain a record confirming delivery of your company's response to the data request, such as a certified mail receipt, a fax log, or a copy of an e-mail.

Responses to the enclosed data request are due no later than **December 3, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,

Beth W. Salak

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851\data request letter.wpd November 10, 2003 (0931 am)

Cat Communications International

Ph: (540) 265.2555 • Fax: (540) 265.7742
P.O. Box 11845, Roanoke, VA 24022-1845

December 12, 2003

Blanco S. Bayo
Division of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

Re: CAT Communications International, Inc.

Dear Ms. Bayo and Ms. Lee:

As required CAT Communications International, Inc. is supplying its answers to the General Questions spreadsheet.

If there are any questions, please let me know.

Sincerely,

Debra A. Waller
Paralegal

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TX336	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	CAT Communicatioons International, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG				
5	OCN Name from LERG				
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the columns --->		
8	FLPSC code for Affiliations	None			
9	DBA Names	CCI			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida, please stop here and return this spreadsheet				
14					

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TX340
Sharon Allen
Secretary/Treasurer
Telephone Systems of Georgia, Inc.
1013 S. Martin Luther King, Jr. Blvd.
Tallahassee, FL 32301-2242

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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[154] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

STATE OF FLORIDA

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CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TX341
Wayne Searson
President
Telecom Connection Corp.
432 West Boynton Beach Blvd.
Boynton Beach, FL 33435-4027

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TX346
Leo A. Wrobel
President and CEO
Premiere Network Services, Inc.
1510 North Hampton Road, Suite 120
DeSoto, TX 75115-8301

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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STATE OF FLORIDA

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RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☐

TX348
Robert W. Livingston
President
Ciera Network Systems, Inc.
1250 Wood Branch Park Drive
Houston, TX 77079-1207

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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LSST
LONE STAR STATE TELEPHONE CO.

" A Phone For Every Home!"

137 N Main St. Conroe, Texas 77301 1-936-788-5580

November 20, 2003

PUBLIC SERVICE COMMISSION
DIVISION OF COMPETITIVE MARKETS &
ENFORCEMENT
CAPITAL CIRCLE OFFICE CENTER
2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL 32399-0850

FPSC CODE: TX349

Dear Sir or Madam:

You will find enclosed page 1 of 1. We provide service in Florida via resale only.

Sincerely,

Larry E. Miller

Larry E. Miller
President
Lone Star State Telephone Co.

2003 NOV 24 AM 9:59
SERVICES

	A	B	C	D	E
1	*Please enter the information* requested below in column B in reference to your company				
2	FPSC CODE	TX349	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Credit Loans,Inc. d/b/a Lone Star State Telephone Co.	Use the company name that appears on the address label, as well.		
4	OCN from LERG				
5	OCN Name from LERG				
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the columns --->		
8	*FLPSC code for Affiliations*				
9	DBA Names				
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	"NO SERVICE"			
11					
12					
13					
14	Please complete the above information as requested.				

STATE OF FLORIDA

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DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
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(850) 413-6600

Public Service Commission

November 12, 2003

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TX353
Peter Buonaiuto
Executive Vice President
TelSouth Communications, Inc.
P. O. Box 20038
Knoxville, TN 37940-1038

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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BETH W. SALAK
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(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
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TX363
George Pilat
President - CEO
Intelligence Network Online, Inc.
1224 Rogers Street
Clearwater, FL 33756-5903

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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Once the spreadsheets are completed, they should be saved electronically using the company name in the saved file name; i.e., general_Company Name_FL.xls. A cover letter along with a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette or compact disk (CD) should be mailed to:

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

Once the completed data request is received by the Commission, the information will be public record. If you believe your response contains confidential information, you can request that your response be exempt from FS 119.07(1), General State Policy on Public Records. If you are claiming confidential classification, a written request for the specific material to which the confidentiality relates should be filed with the Division of the Commission Clerk and Administrative Services with a copy to Pat Lee, Division of Competitive Markets & Enforcement. Enclosed is a copy of Florida Public Service Commission Rule 25-22.006, Florida Administrative Code, which provides the necessary information for submitting confidential information to be exempt from FS 119.07(1). Please note that a claim of confidentiality does not alleviate the obligation to respond to the data request in a timely manner. In addition, claims of confidentiality should not be made for information that is publicly available from other sources (switch locations, for example, are available from the Local Exchange Routing Guide).

In order to meet the 9-month federal requirements, it is essential that we obtain this information in a timely manner, as required by Florida Public Service Commission Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Failure to comply with this rule can result in the Commission assessing penalties of up to $25,000 per offense, with each day of non-compliance constituting a separate offense per FS 364.285(1). We encourage you to retain a record confirming delivery of your company's response to the data request, such as a certified mail receipt, a fax log, or a copy of an e-mail.

Responses to the enclosed data request are due no later than **December 3, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851\data request letter.wpd November 10, 2003 (0931 am)

ISN
COMMUNICATIONS

December 2, 2003

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Commission
2540 Shunard Oak Boulevard
Tallahassee, Fl 32399

RE: 2003 TRO Date Request in Docket Nos. 030851-TP and 030852-TP

Enclosed please find the disk with the "general_questions_FL.xls" and the affidavit signed and notarized

Sincerely,

Consuelo Espinosa
Administrative Assistant

4770 Biscayne Boulevard - Suite 880 - Miami, Florida 33137 - Telephone 305.573.5300 - Facsimile 305.573.5199

1	FPSC CODE	TX364
2	Company Name	INTERACTIVE SERVICES NETWORK, INC
		D/B/A ISN COMMUNICATIONS
3	OCN from LERG	4508
4	OCN Name from LERG	INTERACTIVE SERVICES NETWORK, INC
		D/B/A ISN COMMUNICATIONS
5	Category	CLEC
6	AOCN from LERG	
7	FLPSC Code for Afiliations	NONE
8	DBA Names	D/B/A ISN COMMUNICATIONS
9		NO SERVICE

AFFIDAVIT

By my signature below, I, JONATHAN LIEBERMAN, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of INTERACTIVE SERVICES NETWORK INC

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

JONATHAN LIEBERMAN	
Print Name	**Signature**
PRESIDENT	12/01/03
Title	**Date**
305 · 573 5300	305 · 573 · 5199
Telephone No.	**Fax No.**

Utility

Address: 4770 BISCAYNE BLVD SUITE 880
MIAMI, FL 33137

STATE OF Florida

COUNTY OF Dade

Sworn to (or affirmed) and subscribed before me this 1st day of Dec, 2003 by _____.

Evangelina Benitez
(Signature of Notary Public

(NOTARY SEAL)

(Name of Notary Typed, Printed, or Stamped)
Evangelina Benitez
MY COMMISSION # DD201317 EXPIRES
April 8, 2007
BONDED THRU TROY FAIN INSURANCE, INC.

Personally Known _____ OR Produced Identification _____ Type of Identification Produced _____

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TX369
Leiann McInnis
Telco Manager
Florida Phone Systems, Inc.
3499 N.W. 97th Blvd., Suite 11
Gainesville, FL 32606-7346

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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[165] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

primus.

FAX COVER SHEET

1700 Old Meadow Road, McLean, VA 22102
* Phone 703-394-4503 * Fax 703-902-2814 *

Date: November 18, 2003

Number of Pages: 4 (including cover)

To: Fla PSC

Fax: 850-413-6454
Phone:

From: Kathleen Kerr Lawrence
Assistant General Counsel

Primus's Response to Docket No. 030852-TP follows.

Please let me know if you require any additional information.

Thank you.

If you do not receive all or part of this fax, please call +1-703-394-4503 immediately. Thank you.

PRIVELEGED AND CONFIDENTIAL

The information in this facsimile is intended only for the use of the addressee named above. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient(s), please note that any dissemination, distribution or copying of this communication is strictly prohibited. Anyone who receives this communication in error should notify us immediately by telephone and return the original message to us at the above address. Thank you.

PRIMUS Fax:17039022814 Nov 18 '03 11:37 P.01

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TX371
Kathleen Kerr Lawrence
Assistant General Counsel
Primus Telecommunications, Inc.
1700 Old Meadow Road, 3rd Floor
McLean, VA 22102-4302

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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Staff 0325

PRIMUS Fax:17039022814 Nov 18 '03 11:37 P.02

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Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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PRIMUS Fax:17039022814 Nov 18 '03 11:38 P.03

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Sincerely,

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851data request letter.wpd November 10, 2003 (0931 am)

PRIMUS Fax:17039022814 Nov 18 '03 11:38 P.04

Kitessa Kennedy

From: Pat Lee
Sent: Friday, December 05, 2003 7:59 AM
To: Kitessa Kennedy
Subject: FW: TX372 Response of QuantumShift Communications, Inc. in Staff's Data Request (Docket No. 030852-TP)

-----Original Message-----
From: Blanca Bayo
Sent: Thursday, December 04, 2003 2:29 PM
To: 'JBrown@quantumshift.com'
Cc: Kay Flynn; Pat Lee
Subject: FW: TX372 Response of QuantumShift Communications, Inc. in Staff's Data Request (Docket No. 030852-TP)

2nd try.

-----Original Message-----
From: Blanca Bayo
Sent: Thursday, December 04, 2003 2:27 PM
To: 'Jenna Brown'
Cc: Kay Flynn; Pat Lee
Subject: RE: TX372 Response of QuantumShift Communications, Inc. in Staff's Data Request (Docket No. 030852-TP)

December 4, 2003

Dear Ms. Brown,

You have misdirected this communication to my e-mail address. The PSC does not accept electronic filings. If and when electronic filings are authorized, filing must be sent to a generic agency e-mail address and not the e-mail address of a specific employee. As Clerk of the Commission it would not be feasible for me to receive e-mail filings all addressed to me personally. I regret any inconvenience this may cause you.

If your intent was to file this information in a docket, you may want to resubmit this and file as directed on our web page http://www.floridapsc.com/RandR/freq_asked.cfm#8.

Blanca S. Bayó
Commission Clerk &
Administrative Services Director
Florida Public Service Commission

-----Original Message-----

From: Jenna Brown [mailto:JBrown@quantumshift.com]
Sent: Tuesday, December 02, 2003 6:03 PM
To: bbayo@psc.state.fl.us; plee@psc.state.fl.us
Subject: TX372 Response of QuantumShift Communications, Inc. in Staff's Data Request (Docket No. 030852-TP)

Greetings:

QuantumShift Communications, Inc. is a marketer of proprietary telecommunications management software, and is also certificated to provide local exchange service in the state of Florida. The Company neither owns nor uses switches, dark fiber, loops, or transport, and is not collocated in any switching center in Florida. As such, no relevant information in this data request is available at this time.

If you have additional requirements, please let me know.

Thank you.

Jenna Brown
Manager, Regulatory Affairs
415-209-7044 Phone
1-877-712-6792 FAX
www.quantumshift.com

AccuTel of Texas Inc
7900 Carpenter Frwy.
Dallas, TX 75247

facsimile transmittal

To: Beth Salak Fax: 850-413-6454

From: AccuTel of Texas Date: 2-06-04

Re: TX3773 Pages: 3

Urgent | X For Review | ☐ Please Comment | ☐ Please Reply | ☐ Please Recycle

December 1, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

Company Code X379
Name
Title
Company Name
Street Address
City, State, Zip Code

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 21, 2003)***

Dear Mr./Mrs./Ms.:

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Sincerely,

Beth Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

I:\030851\CLEC Data Request\data request letter.doc November 10, 2003 (0931 am)

TCC

TALLAHASSEE COMMUNITY COLLEGE
GENERAL SERVICES DEPARTMENT
444 APPLEYARD DRIVE
TALLAHASSEE, FL 32304-2895

Telephone: (850) 201-7770
Suncom: 219-7770

Fax: (850) 201-8506
Suncom Fax: 219-8506

FAX COVER SHEET

To:	Beth Salak	**From:**	**General Services Dept.**
Company:	Public Service Commission	**Name:**	**Lannis Stephens**
Fax #:	(850) 413-6454	**Total Pages:**	4
Phone #:		**Date:**	**12/2/2003**
Ref:	Attached Letter	**CC:**	

☐ **Urgent** ☐ **For Your Information** ☐ **Please Comment** ☐ **Please Reply**

•COMMENTS:

Tallahassee Community College is an ALEC. We do not market telecommunication services, and have no plans to market services in the future.

Also, please note the name change for V.P. for Administrative Services from Liz Maryanski, to Glendon Forgey. Mr. Forgey has just been hired, and will be on board starting January 2, 2004. Liz Maryanski is no longer with TCC.

Lannis Stephens,
Communications & Services Manager

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

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TX379
Liz Maryanski
Vice Pres. for Administrative Services
Tallahassee Community College
444 Appleyard Drive
Tallahassee, FL 32304-2895

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

Once the completed data request is received by the Commission, the information will be public record. If you believe your response contains confidential information, you can request that your response be exempt from FS 119.07(1), General State Policy on Public Records. If you are claiming confidential classification, a written request for the specific material to which the confidentiality relates should be filed with the Division of the Commission Clerk and Administrative Services with a copy to Pat Lee, Division of Competitive Markets & Enforcement. Enclosed is a copy of Florida Public Service Commission Rule 25-22.006, Florida Administrative Code, which provides the necessary information for submitting confidential information to be exempt from FS 119.07(1). Please note that a claim of confidentiality does not alleviate the obligation to respond to the data request in a timely manner. In addition, claims of confidentiality should not be made for information that is publicly available from other sources (switch locations, for example, are available from the Local Exchange Routing Guide).

In order to meet the 9-month federal requirements, it is essential that we obtain this information in a timely manner, as required by Florida Public Service Commission Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Failure to comply with this rule can result in the Commission assessing penalties of up to $25,000 per offense, with each day of non-compliance constituting a separate offense per FS 364.285(1). We encourage you to retain a record confirming delivery of your company's response to the data request, such as a certified mail receipt, a fax log, or a copy of an e-mail.

Responses to the enclosed data request are due no later than **December 3, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851\data request letter.wpd November 10, 2003 (0931 am)

UniversalAccess℠

December 3, 2003

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RE: 2003 TRO Data Request
Docket Nos. 030851-TP and 030852-TP
Universal Access, Inc. d/b/a UAI of Florida, Inc.

Dear Mr. Bayo:

Enclosed for filing, please find a copy of the responses of Universal Access, Inc. d/b/a UAI of Florida, Inc. to the General Questions. Universal Access, Inc does not own or lease any facilities, local loop or transport equipment in Florida. Consequently, Universal Access requests that its participation as a mandatory party to this proceeding be removed and relieved of any obligation to respond to any further data requests. Should the Commission determine that Universal Access must remain a party to this proceeding, Universal Access would like this letter to serve as a response to any and all data requests in this proceeding.

Thank you for your attention to this reply, please contact me at (888) 747-1744 x5072 with any comments or questions

Yours truly,

Christina Weiksnar

Cc: Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Staff 0337

AFFIDAVIT

By my signature below, I, Christina Weiksnar, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of Universal Access, Inc. d/b/a UAI of Florida, Inc.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

Christina Weiksnar	
Print Name	**Signature**
Tax Manager	12-3-03
Title	**Date**
312-660-5072	312-660-5052
Telephone No.	**Fax No.**

Universal Access, Inc. d/b/a UAI of Florida, Inc.
Utility

Address: 233 S. Wacker Dr.
Chicago, IL 60606

STATE OF Illinois

COUNTY OF Cook

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20___, by _____.

(NOTARY SEAL)

OFFICIAL SEAL
PAMELA A BUCHANAN
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 04/23/05

Pamela A Buchanan
(Signature of Notary Public)

(Name of Notary Typed, Printed, or Stamped)

Personally Known _____ OR Produced Identification _____ Type of Identification Produced _____

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TX385	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Universal Access, Inc. d/b/a UAI of Florida, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	8175			
5	OCN Name from LERG	Universal Access, Inc.			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)	none			
8	FLPSC code for Affiliations	none	Continue with additional affiliations or DBA Names down the columns --->		
9	DBA Names	UAI of Florida, Inc.			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida,				
14	please stop here and return this spreadsheet				

AFN, INC.

November 24, 2003 *Via Certified Mail*

Blanco S. Bayo
Division of the Commission Clerk and Administrative Services

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket Nos. 030851-TP and 030852-TP

2003 TRO Data Request by Florida Public Service Commission

American Fiber Network, Inc. (AFN) is certified as a CLEC by the Florida Public Service Commission. AFN provides local telephone service and long distance service on a resale basis in Florida. AFN does not own, rent, or lease switches or any other network facilities in the State of Florida.

Attached are AFN's responses to the 2003 TRO Data Request by the Commission. A hard copy of the electronic spreadsheet, general_questions_FL.xls, is attached along with a copy on a 3.5-inch diskette. My notarized statement is also attached. Original copies were mail to Blanco S. Bayo

Sincerely,

Douglas C. Bethell
President

Attachments

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company.				
2	FPSC CODE	TX393	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate.	American Fiber Network, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	3862			
5	OCN Name from LERG	American Fiber Network, Inc.			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the columns -->		
8	FLPSC code for Affiliations				
9	DBA Names				
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida, please stop here and return this spreadsheet				
14					

AFFIDAVIT

By my signature below, I, Douglas Bethell, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of American Fiber Network, Inc.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

Douglas C. Bethell
Print Name

Douglas C Bethell
Signature

President
Title

Nov / 24 / 03
Date

(913) 338-2658
Telephone No.

(913) 661-0538
Fax No.

Telecommunications
Utility

Address: 9401 Indian Creek Parkway
Suite 140
Overland Park, KS 66210

STATE OF Kansas

COUNTY OF Johnson

Sworn to (or affirmed) and subscribed before me this 24 day of Nov, 2003 by MELINDA C. WOOLWORTH

NOTARY PUBLIC - State of Kansas
MELINDA C. WOOLWORTH
My Appt. Exp. 2/16/06

(NOTARY SEAL)

Melinda C. Woolworth
(Signature of Notary Public

(Name of Notary Typed, Printed, or Stamped)

Personally Known X OR Produced Identification _____ Type of Identification Produced _____

LecStar

December 1, 2003

Blanco S. Bayo
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Delivered via Overnight Delivery with Electronic Copies

Re: ***Data Request Regarding Implementation of Requirements Arising from Federal Communications Commission's Triennial Unbundled Network Element Review – Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High Capacity Loops and Transport (Docket No. 030852-TP)***

Dear Ms. Bayo:

LecStar Telecom, Inc, has prepared this response to the Florida Public Service Commission Data Request in the above mentioned Dockets. LecStar Telecom, Inc. serves a small number of customers in Florida with a mixture of UNE-P and Resale services. LecStar currently has no facilities in Florida.

Please review the attached files in hardcopy and in electronic form and let my office know if you need any additional information. I can be contacted through my office at 770-989-9814 or via email at michael.britt@lecstar.com.

Very Truly Yours,

Michael E. Britt

Michael Britt
Vice President - Regulatory Affairs
LecStar Telecom, Inc.
Office: 770-989-9814
Cell: 404-406-4812

Cc: Ms. Pat Lee (FPSC)

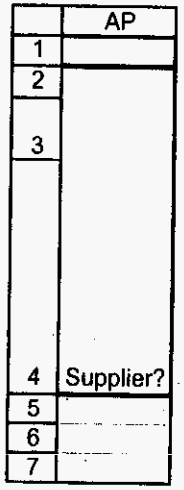
	A	B	C	D	E
1	Please enter the information *requested below in column B in* reference to your company				
2	FPSC CODE	*TX394*	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	*LecStar Telecom, Inc.*	Use the company name that appears on the address label, as well.		
4	OCN from LERG	*982*			
5	OCN Name from LERG	*LecStar Telecom, Inc. (f.k.a. Empire Telecom Services, Inc.)*			
6	Category (CLEC, ILEC, WIRELESS)	*CLEC*			
7	AOCN from LERG (administrative)		Continue with additional affiliations or DBA Names down the columns --->		
8	FLPSC code for Affiliations				
9	DBA Names	*Interlink*			
10	If you do not provide service or are *providing service only via resale in* Florida, please enter "No Service" and return this information				
11					
12					
13					
14	Please continue with the data request. We appreciate the time required to complete it.				

LecStar Telecom transport_responses_FL
Transport

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1															
2	FROM ILEC										TO ILEC				
3		Central Office Address						Arrange-ment Type				Central Office Address			
4	CLLI	Street Address	City	State	Zip	Vert-ical Coord-inates	Horiz-ontal Coord-inates	Caged? (Y/N)	Cageless? (Y/N)	Virtual? (Y/N)	CLLI	Street Address	City	State	Zip
5															
6															
7	***LecStar Telecom, Inc. does not have any dedicated transport. All Transport services are provided through the company's Interconnection Agreem***														

	P	Q	R	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG	AH	AI	AJ	AK	AL	AM	AN	AO
1						TRANSPORT ROUTE																				
2						Self-Providers										Wholesalers										
3			Arrange-ment Type				Transport Type			Number of transport circuits								Transport Type			Number of transport circuits					
4	Vert-ical Coord-inates	Horiz-ontal Coord-inates	Caged? (Y/N)	Cageless? (Y/N)	Virtual? (Y/N)	Self-Provider? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	transport circuits **provisioned**	transport circuits **provisioned**	transport circuits **provisioned**	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits	Wholesaler? (Y/N)	Carrier?	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	transport circuits **provisioned**	transport circuits **provisioned**	transport circuits **provisioned**	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits
5																										
6																										
7	***ent with BellSouth.***																									

LecStar Telecom transport_responses_FL
Transport



Staff 0347

Prepared by FPSC staff
12/1/2003

	A	B	C	D	E	F	G	H	I	J
1	**Please list all of your remote switches. Any switches located at the central office, do not need to be added.**									
2	Switch CLLI	Host CLLI	Vertical Coord-inates	Horiz-ontal Coord-inates	Switch Street Address	City	State	Zip		
3										
4	***LecStar does not own any switches used for local service.***									
5	***LecStar operates a Class IV switch located at the company's Operations Center located in Atlanta Georgia***									
6	***for its calling card long distance services and prepaid long distance offerings.***									

LecStar Telecom loop_responses_FL
Loop

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R
1					Self-Providers													
2	Customer Infomation					High-Capacity Loop Type			Number of circuits							High-Capacity Loop Type		
3	Street Address	City	Zip	Wire Center CLLI	Self-Provider? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	# Dark Fiber **provisioned** circuits	# DS1 level **provisioned** circuits	# DS3 level **provisioned** circuits	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits	Wholesaler? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)
4																		
5	***LecStar offers services using primarily UNE-P port loop combinations for its residential and business customers in Florida and does not***																	

Staff 0349

Prepared by the FPSC staff
12/1/2003

	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG
1	Wholesalers														
2	Number of circuits														
3	# Dark Fiber **provisioned** circuits	# DS1 level **provisioned** circuits	# DS3 level **provisioned** circuits	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits	Point-to-Point (P) or Ring (R) configuration	Accessible? (Y/N)	Sole Access? (Y/N)	Using? (Y/N)	Giving? (Y/N)	Owner? (Y/N)	Loop Owner?	Loop Wholesaler?	Nature of agreement?
4															
5	***have any high capacity loop customers at this time.***														

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
1			Type of Switch *(X or Blank)*																	Y or N				
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
3	ALL Wire Centers	***LecStar has no CO based switches. Al switching provided through LecStar's BellSouth Interconnection Agreement as UNE-P port loop combinations.***																						
4	ABDLFLXA96H																							
5	ALFAFLXA67H																							
6	ALFRFLXARS0																							
7	ALSPFLXADS0																							
8	ALTRFLXARSA																							
9	ALVAFLXARS1																							
10	ANMRFLXA77H																							
11	APPKFLXADS1																							
12	ARCDFLXADS0																							
13	ARCHFLMA																							
14	ASTRFLXARS0																							
15	AVPKFLXADS0																							
16	BAKRFLXADS0																							
17	BARTFLXA53H																							
18	BAYUFLXA54H																							
19	BBPKFLXARSA																							
20	BCGRFLXARS1																							
21	BCRTFLBT																							
22	BCRTFLMA																							
23	BCRTFLSA																							
24	BGPIFLMA																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
1										
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
3	ALL Wire Centers	***LecStar has no CO based switches. Al switching provided through LecStar's BellSouth Interconnection Agreement as UNE-P port loop combinations.***					Y	850-386	850-422	850-921
4	ABDLFLXA96H									
5	ALFAFLXA67H									
6	ALFRFLXARS0									
7	ALSPFLXADS0									
8	ALTRFLXARSA									
9	ALVAFLXARS1									
10	ANMRFLXA77H									
11	APPKFLXADS1									
12	ARCDFLXADS0									
13	ARCHFLMA									
14	ASTRFLXARS0									
15	AVPKFLXADS0									
16	BAKRFLXADS0									
17	BARTFLXA53H									
18	BAYUFLXA54H									
19	BBPKFLXARSA									
20	BCGRFLXARS1									
21	BCRTFLBT									
22	BCRTFLMA									
23	BCRTFLSA									
24	BGPIFLMA									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
25	BHPKFLXA28H																							
26	BKVLFLJF																							
27	BLDWFLMA																							
28	BLGLFLMA																							
29	BLVWFLXADS0																							
30	BNFYFLXARS0																							
31	BNNLFLMA																							
32	BNSPFLXADS1																							
33	BRBAFLXA75H																							
34	BRJTFLXARSA																							
35	BRNDFLXA68H																							
36	BRSNFLMA																							
37	BRTNFLXX74H																							
38	BSHNFLXADS0																							
39	BVHLFLXADS0																							
40	BWLGFLXARS0																							
41	BYBHFLMA																							
42	BYSHFLXA84H																							
43	CCBHFLMA																							
44	CDKYFLMA																							
45	CFLDFLMA																							
46	CFVLFLXADS0																							
47	CHLKFLXARS0																							
48	CHPLFLJA																							
49	CHSWFLXARS0																							
50	CLMTFLXADS0																							
51	CLTNFLXARS0																							
52	CLWRFLXA44H																							
53	CNSDFLXA79H																							
54	CNTMFLLE																							
55	COCOFLMA																							
56	COCOFLME																							
57	CPCRFLXADS0																							
58	CPCRFLXBDS1																							
59	CPHZFLXADS0																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
25	BHPKFLXA28H									
26	BKVLFLJF									
27	BLDWFLMA									
28	BLGLFLMA									
29	BLVWFLXADS0									
30	BNFYFLXARS0									
31	BNNLFLMA									
32	BNSPFLXADS1									
33	BRBAFLXA75H									
34	BRJTFLXARSA									
35	BRNDFLXA68H									
36	BRSNFLMA									
37	BRTNFLXX74H									
38	BSHNFLXADS0									
39	BVHLFLXADS0									
40	BWLGFLXARS0									
41	BYBHFLMA									
42	BYSHFLXA84H									
43	CCBHFLMA									
44	CDKYFLMA									
45	CFLDFLMA									
46	CFVLFLXADS0									
47	CHLKFLXARS0									
48	CHPLFLJA									
49	CHSWFLXARS0									
50	CLMTFLXADS0									
51	CLTNFLXARS0									
52	CLWRFLXA44H									
53	CNSDFLXA79H									
54	CNTMFLLE									
55	COCOFLMA									
56	COCOFLME									
57	CPCRFLXADS0									
58	CPCRFLXBDS1									
59	CPHZFLXADS0									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
60	CRRVFLXADS0																							
61	CRVWFLXADS0																							
62	CRWDFLXA96H																							
63	CSCYFLBA																							
64	CSLBFLXADS1																							
65	CTDLFLXARS0																							
66	CYGRFLXA32H																							
67	CYLKFLXADS0																							
68	CYLKFLXBRS0																							
69	DBRYFLDL																							
70	DBRYFLMA																							
71	DDCYFLXADS1																							
72	DELDFLMA																							
73	DESTFLXADS0																							
74	DFSPFLXADS0																							
75	DLBHFLKP																							
76	DLBHFLMA																							
77	DLSPFLMA																							
78	DNDNFLXA73H																							
79	DNLNFLWM																							
80	DRBHFLMA																							
81	DUNDFLXA43H																							
82	DYBHFLFN																							
83	DYBHFLMA																							
84	DYBHFLOB																							
85	DYBHFLOS																							
86	DYBHFLPO																							
87	EGLLFLBG																							
88	EGLLFLIH																							
89	ENWDFLXA47H																							
90	EORNFLMA																							
91	ESTSFLXARS0																							
92	EVRGFLXARS1																							
93	FHSDFLXA57H																							
94	FLBHFLMA																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
60	CRRVFLXADS0									
61	CRVWFLXADS0									
62	CRWDFLXA96H									
63	CSCYFLBA									
64	CSLBFLXADS1									
65	CTDLFLXARS0									
66	CYGRFLXA32H									
67	CYLKFLXADS0									
68	CYLKFLXBRS0									
69	DBRYFLDL									
70	DBRYFLMA									
71	DDCYFLXADS1									
72	DELDFLMA									
73	DESTFLXADS0									
74	DFSPFLXADS0									
75	DLBHFLKP									
76	DLBHFLMA									
77	DLSPFLMA									
78	DNDNFLXA73H									
79	DNLNFLWM									
80	DRBHFLMA									
81	DUNDFLXA43H									
82	DYBHFLFN									
83	DYBHFLMA									
84	DYBHFLOB									
85	DYBHFLOS									
86	DYBHFLPO									
87	EGLLFLBG									
88	EGLLFLIH									
89	ENWDFLXA47H									
90	EORNFLMA									
91	ESTSFLXARS0									
92	EVRGFLXARS1									
93	FHSDFLXA57H									
94	FLBHFLMA									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
95	FRBHFLFP																							
96	FRPTFLXARS0																							
97	FRSTFLXA63H																							
98	FTGRFLMA																							
99	FTLDFLAP																							
100	FTLDFLCR																							
101	FTLDFLCY																							
102	FTLDFLJA																							
103	FTLDFLMR																							
104	FTLDFLOA																							
105	FTLDFLPL																							
106	FTLDFLSG																							
107	FTLDFLSU																							
108	FTLDFLWN																							
109	FTMBFLXARS0																							
110	FTMDFLXARS0																							
111	FTMYFLXADS0																							
112	FTMYFLXBRS0																							
113	FTMYFLXCDS2																							
114	FTPRFLMA																							
115	FTWBFLXADS0																							
116	FTWBFLXBDS0																							
117	FTWBFLXCRS0																							
118	GCSPFLCN																							
119	GCVLFLMA																							
120	GDRGFLXADS0																							
121	GENVFLMA																							
122	GLBRFLMC																							
123	GLDLFLXARS0																							
124	GLGCFLXADS0																							
125	GLRDFLXADS0																							
126	GNDYFLXA57H																							
127	GNVLFLXARS0																							
128	GNWDFLXARS0																							
129	GSVLFLMA																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
95	FRBHFLFP									
96	FRPTFLXARS0									
97	FRSTFLXA63H									
98	FTGRFLMA									
99	FTLDFLAP									
100	FTLDFLCR									
101	FTLDFLCY									
102	FTLDFLJA									
103	FTLDFLMR									
104	FTLDFLOA									
105	FTLDFLPL									
106	FTLDFLSG									
107	FTLDFLSU									
108	FTLDFLWN									
109	FTMBFLXARS0									
110	FTMDFLXARS0									
111	FTMYFLXADS0									
112	FTMYFLXBRS0									
113	FTMYFLXCDS2									
114	FTPRFLMA									
115	FTWBFLXADS0									
116	FTWBFLXBDS0									
117	FTWBFLXCRS0									
118	GCSPFLCN									
119	GCVLFLMA									
120	GDRGFLXADS0									
121	GENVFLMA									
122	GLBRFLMC									
123	GLDLFLXARS0									
124	GLGCFLXADS0									
125	GLRDFLXADS0									
126	GNDYFLXA57H									
127	GNVLFLXARS0									
128	GNWDFLXARS0									
129	GSVLFLMA									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
130	GSVLFLNW																							
131	GVLDFLXARS0																							
132	HAVNFLMA																							
133	HBSDFLMA																							
134	HDSNFLXA86H																							
135	HGLDFLXA64H																							
136	HLNVFLMA																							
137	HLWDFLHA																							
138	HLWDFLMA																							
139	HLWDFLPE																							
140	HLWDFLWH																							
141	HMSPFLXARS0																							
142	HMSTFLAF																							
143	HMSTFLEA																							
144	HMSTFLHM																							
145	HNCYFLXA42H																							
146	HNCYFLXN424																							
147	HOWYFLXARS0																							
148	HTISFLMA																							
149	HWTHFLMA																							
150	HYPKFLXADS0																							
151	IMKLFLXARS0																							
152	INLKFLXARSA																							
153	INRKFLXX59H																							
154	INVRFLXADS1																							
155	ISLMFLMA																							
156	JAY-FLMA																							
157	JCBHFLAB																							
158	JCBHFLMA																							
159	JCBHFLSP																							
160	JCVLFLAR																							
161	JCVLFLBW																							
162	JCVLFLCL																							
163	JCVLFLFC																							
164	JCVLFLIA																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
130	GSVLFLNW									
131	GVLDFLXARS0									
132	HAVNFLMA									
133	HBSDFLMA									
134	HDSNFLXA86H									
135	HGLDFLXA64H									
136	HLNVFLMA									
137	HLWDFLHA									
138	HLWDFLMA									
139	HLWDFLPE									
140	HLWDFLWH									
141	HMSPFLXARS0									
142	HMSTFLAF									
143	HMSTFLEA									
144	HMSTFLHM									
145	HNCYFLXA42H									
146	HNCYFLXN424									
147	HOWYFLXARS0									
148	HTISFLMA									
149	HWTHFLMA									
150	HYPKFLXADS0									
151	IMKLFLXARS0									
152	INLKFLXARSA									
153	INRKFLXX59H									
154	INVRFLXADS1									
155	ISLMFLMA									
156	JAY-FLMA									
157	JCBHFLAB									
158	JCBHFLMA									
159	JCBHFLSP									
160	JCVLFLAR									
161	JCVLFLBW									
162	JCVLFLCL									
163	JCVLFLFC									
164	JCVLFLIA									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
165	JCVLFLJT																							
166	JCVLFLLF																							
167	JCVLFLNO																							
168	JCVLFLOW																							
169	JCVLFLRV																							
170	JCVLFLSJ																							
171	JCVLFLSM																							
172	JCVLFLWC																							
173	JPTRFLMA																							
174	KGLKFLXARS0																							
175	KNVLFLXARS0																							
176	KSSMFLXADS0																							
177	KSSMFLXBDS1																							
178	KSSMFLXCRS1																							
179	KSSMFLXDRS0																							
180	KYHGFLMA																							
181	KYLRFLLS																							
182	KYLRFLMA																							
183	KYSTFLXA92H																							
184	KYWSFLMA																							
185	LBLLFLXADS0																							
186	LDLKFLXARS0																							
187	LEE FLXARS0																							
188	LGBKFLXA38H																							
189	LHACFLXADS0																							
190	LKALFLXA95H																							
191	LKBRFLXADS1																							
192	LKCYFLMA																							
193	LKHLFLXARS0																							
194	LKLDFLXA68H																							
195	LKLDFLXE66H																							
196	LKLDFLXN85H																							
197	LKMRFLMA																							
198	LKPCFLXARS0																							
199	LKWLFLXA67H																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
165	JCVLFLJT									
166	JCVLFLLF									
167	JCVLFLNO									
168	JCVLFLOW									
169	JCVLFLRV									
170	JCVLFLSJ									
171	JCVLFLSM									
172	JCVLFLWC									
173	JPTRFLMA									
174	KGLKFLXARS0									
175	KNVLFLXARS0									
176	KSSMFLXADS0									
177	KSSMFLXBDS1									
178	KSSMFLXCRS1									
179	KSSMFLXDRS0									
180	KYHGFLMA									
181	KYLRFLLS									
182	KYLRFLMA									
183	KYSTFLXA92H									
184	KYWSFLMA									
185	LBLLFLXADS0									
186	LDLKFLXARS0									
187	LEE FLXARS0									
188	LGBKFLXA38H									
189	LHACFLXADS0									
190	LKALFLXA95H									
191	LKBRFLXADS1									
192	LKCYFLMA									
193	LKHLFLXARS0									
194	LKLDFLXA68H									
195	LKLDFLXE66H									
196	LKLDFLXN85H									
197	LKMRFLMA									
198	LKPCFLXARS0									
199	LKWLFLXA67H									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
200	LKWLFLXERSA																							
201	LLMNFLXADS0																							
202	LNLKFLXA99H																							
203	LRGOFLXA58H																							
204	LSBGFLXADS0																							
205	LUTZFLXA94H																							
206	LWTYFLXARS0																							
207	LYHNFLOH																							
208	MALNFLXARS0																							
209	MCNPFLMA																							
210	MDBGFLPM																							
211	MDSNFLXADS0																							
212	MIAMFLAE																							
213	MIAMFLAL																							
214	MIAMFLAP																							
215	MIAMFLBA																							
216	MIAMFLBC																							
217	MIAMFLBR																							
218	MIAMFLCA																							
219	MIAMFLDB																							
220	MIAMFLFL																							
221	MIAMFLGR																							
222	MIAMFLHL																							
223	MIAMFLIC																							
224	MIAMFLKE																							
225	MIAMFLME																							
226	MIAMFLNM																							
227	MIAMFLNS																							
228	MIAMFLOL																							
229	MIAMFLPB																							
230	MIAMFLPL																							
231	MIAMFLRR																							
232	MIAMFLSH																							
233	MIAMFLSO																							
234	MIAMFLWD																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
200	LKWLFLXERSA									
201	LLMNFLXADS0									
202	LNLKFLXA99H									
203	LRGOFLXA58H									
204	LSBGFLXADS0									
205	LUTZFLXA94H									
206	LWTYFLXARS0									
207	LYHNFLOH									
208	MALNFLXARS0									
209	MCNPFLMA									
210	MDBGFLPM									
211	MDSNFLXADS0									
212	MIAMFLAE									
213	MIAMFLAL									
214	MIAMFLAP									
215	MIAMFLBA									
216	MIAMFLBC									
217	MIAMFLBR									
218	MIAMFLCA									
219	MIAMFLDB									
220	MIAMFLFL									
221	MIAMFLGR									
222	MIAMFLHL									
223	MIAMFLIC									
224	MIAMFLKE									
225	MIAMFLME									
226	MIAMFLNM									
227	MIAMFLNS									
228	MIAMFLOL									
229	MIAMFLPB									
230	MIAMFLPL									
231	MIAMFLRR									
232	MIAMFLSH									
233	MIAMFLSO									
234	MIAMFLWD									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
235	MIAMFLWM																							
236	MICCFLBB																							
237	MLBRFLMA																							
238	MLBYFLXARSA																							
239	MLTNFLRA																							
240	MNDRFLAV																							
241	MNDRFLLO																							
242	MNDRFLLW																							
243	MNLKFLXA85H																							
244	MNSNFLMA																							
245	MNTIFLXADS0																							
246	MOISFLXADS1																							
247	MRHNFLXARS0																							
248	MRNNFLXADS0																							
249	MRTHFLVE																							
250	MTDRFLXARS0																							
251	MTLDFLXADS1																							
252	MTVRFLXARS0																							
253	MXVLFLMA																							
254	MYCYFLXA32H																							
255	NDADFLAC																							
256	NDADFLBR																							
257	NDADFLGG																							
258	NDADFLOL																							
259	NFMYFLXADS0																							
260	NFMYFLXBRS0																							
261	NGBHFLXA39H																							
262	NKLRFLMA																							
263	NNPLFLXADS1																							
264	NPLSFLXCDS0																							
265	NPLSFLXDDS0																							
266	NPRCFLXA84H																							
267	NRPTFLXA42H																							
268	NRSDFLXA35H																							
269	NSBHFLMA																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
235	MIAMFLWM									
236	MICCFLBB									
237	MLBRFLMA									
238	MLBYFLXARSA									
239	MLTNFLRA									
240	MNDRFLAV									
241	MNDRFLLO									
242	MNDRFLLW									
243	MNLKFLXA85H									
244	MNSNFLMA									
245	MNTIFLXADS0									
246	MOISFLXADS1									
247	MRHNFLXARS0									
248	MRNNFLXADS0									
249	MRTHFLVE									
250	MTDRFLXARS0									
251	MTLDFLXADS1									
252	MTVRFLXARS0									
253	MXVLFLMA									
254	MYCYFLXA32H									
255	NDADFLAC									
256	NDADFLBR									
257	NDADFLGG									
258	NDADFLOL									
259	NFMYFLXADS0									
260	NFMYFLXBRS0									
261	NGBHFLXA39H									
262	NKLRFLMA									
263	NNPLFLXADS1									
264	NPLSFLXCDS0									
265	NPLSFLXDDS0									
266	NPRCFLXA84H									
267	NRPTFLXA42H									
268	NRSDFLXA35H									
269	NSBHFLMA									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
270	NWBYFLMA																							
271	OCALFLXADS0																							
272	OCALFLXBDS0																							
273	OCALFLXCRS0																							
274	OCNFFLXARS0																							
275	OKCBFLXADS1																							
276	OKHLFLMA																							
277	OKLWFLXADS0																							
278	OLDSFLXA85H																							
279	OLTWFLLN																							
280	ORCYFLXADS0																							
281	ORCYFLXCRS0																							
282	ORLDFLAP																							
283	ORLDFLCL																							
284	ORLDFLMA																							
285	ORLDFLPC																							
286	ORLDFLPH																							
287	ORLDFLSA																							
288	ORPKFLMA																							
289	ORPKFLRW																							
290	OSPRFLXA96H																							
291	OVIDFLCA																							
292	PACEFLPV																							
293	PAHKFLMA																							
294	PANCFLXARS0																							
295	PCBHFLNT																							
296	PKCYFLXARSA																							
297	PLCSFLMA																							
298	PLMTFLXA72H																							
299	PLSLFLXA79H																							
300	PLTKFLMA																							
301	PMBHFLCS																							
302	PMBHFLFE																							
303	PMBHFLMA																							
304	PMBHFLTA																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
270	NWBYFLMA									
271	OCALFLXADS0									
272	OCALFLXBDS0									
273	OCALFLXCRS0									
274	OCNFFLXARS0									
275	OKCBFLXADS1									
276	OKHLFLMA									
277	OKLWFLXADS0									
278	OLDSFLXA85H									
279	OLTWFLLN									
280	ORCYFLXADS0									
281	ORCYFLXCRS0									
282	ORLDFLAP									
283	ORLDFLCL									
284	ORLDFLMA									
285	ORLDFLPC									
286	ORLDFLPH									
287	ORLDFLSA									
288	ORPKFLMA									
289	ORPKFLRW									
290	OSPRFLXA96H									
291	OVIDFLCA									
292	PACEFLPV									
293	PAHKFLMA									
294	PANCFLXARS0									
295	PCBHFLNT									
296	PKCYFLXARSA									
297	PLCSFLMA									
298	PLMTFLXA72H									
299	PLSLFLXA79H									
300	PLTKFLMA									
301	PMBHFLCS									
302	PMBHFLFE									
303	PMBHFLMA									
304	PMBHFLTA									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
305	PMPKFLMA																							
306	PNCRFLXA73J																							
307	PNCYFLCA																							
308	PNCYFLMA																							
309	PNGRFLXADS1																							
310	PNISFLXADS0																							
311	PNLNFLXARS0																							
312	PNLSFLXA53H																							
313	PNSCFLBL																							
314	PNSCFLFP																							
315	PNSCFLHC																							
316	PNSCFLPB																							
317	PNSCFLWA																							
318	PNVDFLMA																							
319	POINFLXARSA																							
320	PRRNFLMA																							
321	PRSHFLXARSA																							
322	PRSNFLFD																							
323	PSDNFLXA34H																							
324	PTCTFLXADS0																							
325	PTCYFLXA75H																							
326	PTSLFLMA																							
327	PTSLFLSO																							
328	RSKNFLXA64H																							
329	RYHLFLXARS0																							
330	SARKFLXARSA																							
331	SBNGFLXADS1																							
332	SBSTFLFE																							
333	SBSTFLMA																							
334	SEKYFLXA34H																							
335	SGBEFLXA36H																							
336	SGBHFLXARS0																							
337	SGKYFLMA																							
338	SHLMFLXADS0																							
339	SKWYFLXADS0																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
305	PMPKFLMA									
306	PNCRFLXA73J									
307	PNCYFLCA									
308	PNCYFLMA									
309	PNGRFLXADS1									
310	PNISFLXADS0									
311	PNLNFLXARS0									
312	PNLSFLXA53H									
313	PNSCFLBL									
314	PNSCFLFP									
315	PNSCFLHC									
316	PNSCFLPB									
317	PNSCFLWA									
318	PNVDFLMA									
319	POINFLXARSA									
320	PRRNFLMA									
321	PRSHFLXARSA									
322	PRSNFLFD									
323	PSDNFLXA34H									
324	PTCTFLXADS0									
325	PTCYFLXA75H									
326	PTSLFLMA									
327	PTSLFLSO									
328	RSKNFLXA64H									
329	RYHLFLXARS0									
330	SARKFLXARSA									
331	SBNGFLXADS1									
332	SBSTFLFE									
333	SBSTFLMA									
334	SEKYFLXA34H									
335	SGBEFLXA36H									
336	SGBHFLXARS0									
337	SGKYFLMA									
338	SHLMFLXADS0									
339	SKWYFLXADS0									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
340	SLHLFLXARS0																							
341	SLSPFLXA93H																							
342	SMNLFLXA23H																							
343	SNANFLXARS0																							
344	SNDSFLXARS0																							
345	SNFRFLMA																							
346	SNISFLXADS0																							
347	SNRSFLXARS0																							
348	SNSPFLXA37H																							
349	SPBGFLXA89H																							
350	SPBGFLXS86H																							
351	SPCPFLXARL0																							
352	SPRGFLXA37H																							
353	SRSTFLXA95H																							
354	SSDSFLXA92H																							
355	SSPRFLXARS0																							
356	STAGFLBS																							
357	STAGFLMA																							
358	STAGFLSH																							
359	STAGFLWG																							
360	STCDFLXARS0																							
361	STGRFLXA78H																							
362	STMKFLXARS0																							
363	STRKFLXADS0																							
364	STRTFLMA																							
365	SVSPFLXARS0																							
366	SVSSFLXARS0																							
367	SWTHFLXA88H																							
368	SYHSFLCC																							
369	TAMPFLXEDS0																							
370	TAMPFLXX22H																							
371	THNTFLXADS0																							
372	TLCHFLXARS0																							
373	TLHSFLXADS0																							
374	TLHSFLXBDS0																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
340	SLHLFLXARS0									
341	SLSPFLXA93H									
342	SMNLFLXA23H									
343	SNANFLXARS0									
344	SNDSFLXARS0									
345	SNFRFLMA									
346	SNISFLXADS0									
347	SNRSFLXARS0									
348	SNSPFLXA37H									
349	SPBGFLXA89H									
350	SPBGFLXS86H									
351	SPCPFLXARL0									
352	SPRGFLXA37H									
353	SRSTFLXA95H									
354	SSDSFLXA92H									
355	SSPRFLXARS0									
356	STAGFLBS									
357	STAGFLMA									
358	STAGFLSH									
359	STAGFLWG									
360	STCDFLXARS0									
361	STGRFLXA78H									
362	STMKFLXARS0									
363	STRKFLXADS0									
364	STRTFLMA									
365	SVSPFLXARS0									
366	SVSSFLXARS0									
367	SWTHFLXA88H									
368	SYHSFLCC									
369	TAMPFLXEDS0									
370	TAMPFLXX22H									
371	THNTFLXADS0									
372	TLCHFLXARS0									
373	TLHSFLXADS0									
374	TLHSFLXBDS0									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
375	TLHSFLXCDS0																							
376	TLHSFLXDDS0																							
377	TLHSFLXERS0																							
378	TLHSFLXFDS0																							
379	TLHSFLXGRS0																							
380	TLHSFLXHDS0																							
381	TMTRFLXADS0																							
382	TRENFLMA																							
383	TRSPFLXA93H																							
384	TTVLFLMA																							
385	TVRSFLXADS0																							
386	UMTLFLXARS0																							
387	UNVRFLXA97H																							
388	VENCFLXA48H																							
389	VENCFLXSDS0																							
390	VERNFLMA																							
391	VLPRFLXADS0																							
392	VLPRFLXBRS0																							
393	VRBHFLBE																							
394	VRBHFLMA																							
395	WCHLFLXADS0																							
396	WELKFLMA																							
397	WIMMFLXA63H																							
398	WLCHFLXA97H																							
399	WLCRFLXA83H																							
400	WLSTFLXARS0																							
401	WLWDFLXARS0																							
402	WNDRFLXARS0																							
403	WNGRFLXADS0																							
404	WNHNFLXC29H																							
405	WNPKFLXADS1																							
406	WPBHFLAN																							
407	WPBHFLGA																							
408	WPBHFLGR																							
409	WPBHFLHH																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
375	TLHSFLXCDS0									
376	TLHSFLXDDS0									
377	TLHSFLXERS0									
378	TLHSFLXFDS0									
379	TLHSFLXGRS0									
380	TLHSFLXHDS0									
381	TMTRFLXADS0									
382	TRENFLMA									
383	TRSPFLXA93H									
384	TTVLFLMA									
385	TVRSFLXADS0									
386	UMTLFLXARS0									
387	UNVRFLXA97H									
388	VENCFLXA48H									
389	VENCFLXSDS0									
390	VERNFLMA									
391	VLPRFLXADS0									
392	VLPRFLXBRS0									
393	VRBHFLBE									
394	VRBHFLMA									
395	WCHLFLXADS0									
396	WELKFLMA									
397	WIMMFLXA63H									
398	WLCHFLXA97H									
399	WLCRFLXA83H									
400	WLSTFLXARS0									
401	WLWDFLXARS0									
402	WNDRFLXARS0									
403	WNGRFLXADS0									
404	WNHNFLXC29H									
405	WNPKFLXADS1									
406	WPBHFLAN									
407	WPBHFLGA									
408	WPBHFLGR									
409	WPBHFLHH									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
2	Wire Center CLLI	Switch CLLI	End Office	Tandem Office	Multi-Function	Remote Line	Packet	Broadband	Other	# of VG provisioned	# of VG in use	Capacity (CCS)	# of Residential	# of Customers with 1 to 3 lines	# of Customers with 4 to 8 lines	# of Customers with 9 lines or more	# Voice only	# Data Service Only	# Voice and Data	Owner?	Wholesaler?	Self-Provider?	FPSC code of Owner	FPSC code of Leasor
410	WPBHFLLE																							
411	WPBHFLRB																							
412	WPBHFLRP																							
413	WSSDFLXA87H																							
414	WSTVFLXARS0																							
415	WWSPFLHI																							
416	WWSPFLSH																							
417	YBCTFLXA24H																							
418	YNFNFLMA																							
419	YNTWFLMA																							
420	YULEFLMA																							
421	ZLSPFLXARS0																							
422	ZPHYFLXA78H																							

	A	B	Y	Z	AA	AB	AC	AD	AE	AF
2	Wire Center CLLI	Switch CLLI	Nature of the arrangement	Equip-ment Type	Define Abbreviations	Function Performed	Class 4 and Class 5 Functions? (Y/N)	NPA-NXX		
410	WPBHFLLE									
411	WPBHFLRB									
412	WPBHFLRP									
413	WSSDFLXA87H									
414	WSTVFLXARS0									
415	WWSPFLHI									
416	WWSPFLSH									
417	YBCTFLXA24H									
418	YNFNFLMA									
419	YNTWFLMA									
420	YULEFLMA									
421	ZLSPFLXARS0									
422	ZPHYFLXA78H									

AFFIDAVIT

By my signature below, I, Michael E Britt, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of Lec Star Telecom, Inc.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

Michael E. Britt
Print Name

Michael E Britt
Signature

VP Regulatory
Title

12/1/03
Date

404- 659- 9500
Telephone No.

404- 659- 4900
Fax No.

Lec Star Telecom, Inc.
Utility

Address: 4501 Circle 75 Parkway
Suite D4200
Atlanta, GA 30339

STATE OF Georgia

COUNTY OF Cobb

Sworn to (or affirmed) and subscribed before me this 1st day of Dec. 20 03 by Michael E Britt

(Signature of Notary Public

(NOTARY SEAL)

CAROL ANN DIXON
Notary Public, Fulton County, Georgia
My commission expires August 11, 2006
(Name of Notary Typed, Printed, or Stamped)

Personally Known X OR Produced Identification _____ Type of Identification Produced _____

PowerNet Global COMMUNICATIONS

100 Commercial Drive
Fairfield, OH 45014

Phone: 513-942-7900
Fax: 513-942-5579

E-Mail: solutions@pngmail.com
www.powernetglobal.com

December 1, 2003

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Via Overnight Delivery

Re: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

Dear Mr. Lee:

Please find enclosed a copy of PNG's response and Affidavit to the 2003 TRO Data Request in Docket Nos. 030851-TP and 0308552-TP in hard copy form and on a 3.5-inch floppy diskette containing the General Spreadsheet with file name "general_PNG Telecommunications, Inc. dba PowerNet Global Communications_FL.xls".

Thank you for your attention to this matter.

Sincerely,

Karen S. Kovach

Karen S. Kovach
Associate Counsel

Encl.

SEC[illegible]

2003 DEC -8 [illegible]

	A	B	C
1	Please enter the information requested below in column B in reference to your company		
2	FPSC CODE	TX409 7369	The FPSC code should be on the address label used to send the paper copies of this data request to you.
3	Company Name, as it appears on your provider's certificate	PNG Telecommunications, Inc. d/b/a PowerNet Global Communications	Use the company name that appears on the address label, as well.
4	OCN from LERG	5225	
5	OCN Name from LERG	PNG Telecommunications, Inc. d/b/a PowerNet Global Communications	
6	Category (CLEC, ILEC, WIRELESS)	CLEC	
7	AOCN from LERG (administrative)	Neustar	Continue with additional affiliations or DBA Names down the columns --->
8	FLPSC code for Affiliations	N/A	
9	DBA Names	N/A	
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information	No Service	
11			
12			
13	Thank you for completing this data request, since you do not provide service in Florida,		
14	please stop here and return this spreadsheet		

AFFIDAVIT

By my signature below, I, Karen S. Kovach attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of PNG Telecommunications, Inc. d/b/a PowerNet Global Communica

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

Karen S. Kovach	Karen S. Kovach
Print Name	**Signature**
Associate Counsel	12/1/03
Title	**Date**
(513) 645-4933	(513) 645-4960
Telephone No.	**Fax No.**

PNG Telecommunications, Inc. d/b/a PowerNet Global Communications
Utility

Address: 100 Commercial Dr.
Fairfield, OH 45014

STATE OF Ohio

COUNTY OF Butler

Sworn to (or affirmed) and subscribed before me this 1ST day of DECEMBER, 2003 by KAREN KOVACH

(Signature of Notary Public

(NOTARY SEAL)

DENNIS M. PACKER, Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration Date
Section 147.03

(Name of Notary Typed, Printed, or Stamped)

Personally Known ✓ OR Produced Identification _____ Type of Identification Produced _____

RECEIVED NOV 14 2003

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

DOES NOT APPLY TO NET ONE. WE DO NOT PROVIDE DIAL TONE/LOCAL SERVICE IN FLORIDA.

TX412
Ken Wilson
Secretary
Net One International, Inc.
4037 Metric Drive, Suite 200
Winter Park, FL 32792-6808

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[185] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the

[185] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

FAX

SOUTHERN TELCOM, INC.
3003 Summit Blvd, Suite 700
Atlanta, Georgia 30339
Facsimile No. (678) 443-4132

SOUTHERN COMPANY
Energy to Serve Your World™

DATE SENT: November 18, 2003

TIME SENT: 9:30 AM (EST)

NUMBER OF PAGES SENT (INCLUDING COVER PAGE): 4

TO: Public Service Commission
State of Florida
Fax No. (850) 413-6454

RE: Data Request Docket No. 030851-TP and 030852-TP

FROM: Pat Kohler
Senior Attorney
Southern Telecom, Inc. (d.b.a. Southern Telecom of America, Inc.

PHONE NO.: (678) 443-4136

COMMENTS: Attached please find our response to the referenced Data Inquiry. We have checked the box on the cover of your letter indicating that we hold a certificate but are not currently active in the marketplace.

Thank you.

**IF PROBLEMS ARISE DURING TRANSMISSION,
PLEASE CONTACT THE SENDER OF THIS DOCUMENT.**

THE INFORMATION WHICH FOLLOWS AND IS TRANSMITTED HEREWITH IS ATTORNEY/CLIENT PRIVILEGED, TRADE SECRET AND/OR CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE VIEWING AND USE OF THE INDIVIDUAL RECIPIENT(S) NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY REVIEW, USE, COMMUNICATION, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY THE SENDER BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO THE SENDER AT THE ABOVE ADDRESS, VIA THE UNITED STATES POSTAL SERVICE OR OVERNIGHT DELIVERY, AT SENDER'S EXPENSE. THANK YOU FOR YOUR ASSISTANCE AND COOPERATION.

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TX414
Wayne A. Ellis
General Manager
Southern Telecom, Inc. d/b/a Southern Telecom of America, Inc.
3003 Summit Blvd., Suite 700
Atlanta, GA 30319-1468

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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requested data is essential to ensure that each carrier's facilities are considered in conclusions reached regarding UNE obligations. Company responses are due to the Commission by **December 3, 2003**. The data request is similar to the October 3, 2003, data request of the New York Department of Public Service in Case 03-C-0821, modified by a few additional questions.

The trigger-related information is to be provided on electronic spreadsheets: (1) general_questions_FL.xls, (2) switching_questions_FL.xls, (3) transport_questions_FL.xls, and (4) loop_questions_FL.xls. Hard copies of the spreadsheets are attached to the data request and spreadsheet files can also be downloaded from the Commission's website to use in providing responses (http://www.floridapsc.com). The number of spreadsheet rows to which each CLEC will be required to respond depends upon the number of switches, transport routes, or customer locations for which each company has provisioned facilities. Detailed instructions are included in the data request as well as attached to the spreadsheets.

If your company holds a certificate but is not currently active in the marketplace, you may simply check the box at the top of this page and return it.

To the extent you are a party to either Docket No. 030851-TP or Docket No. 030852-TP and information requested has already been provided through responses to interrogatories or document requests, there is no need to provide a full response again. Simply respond by identifying the particular interrogatory or document request (serving party, item number, filing date) where the information can be found.

Once the spreadsheets are completed, they should be saved electronically using the company name in the saved file name; i.e., general_Company Name_FL.xls. A cover letter along with a hard copy of each spreadsheet and an electronic version of each spreadsheet saved on a 3.5-inch diskette or compact disk (CD) should be mailed to:

Blanco S. Bayo
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

Once the completed data request is received by the Commission, the information will be public record. If you believe your response contains confidential information, you can request that your response be exempt from FS 119.07(1), General State Policy on Public Records. If you are claiming confidential classification, a written request for the specific material to which the confidentiality relates should be filed with the Division of the Commission Clerk and Administrative Services with a copy to Pat Lee, Division of Competitive Markets & Enforcement. Enclosed is a copy of Florida Public Service Commission Rule 25-22.006, Florida Administrative Code, which provides the necessary information for submitting confidential information to be exempt from FS 119.07(1). Please note that a claim of confidentiality does not alleviate the obligation to respond to the data request in a timely manner. In addition, claims of confidentiality should not be made for information that is publicly available from other sources (switch locations, for example, are available from the Local Exchange Routing Guide).

In order to meet the 9-month federal requirements, it is essential that we obtain this information in a timely manner, as required by Florida Public Service Commission Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Failure to comply with this rule can result in the Commission assessing penalties of up to $25,000 per offense, with each day of non-compliance constituting a separate offense per FS 364.285(1). We encourage you to retain a record confirming delivery of your company's response to the data request, such as a certified mail receipt, a fax log, or a copy of an e-mail.

Responses to the enclosed data request are due no later than **December 3, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,

Beth W. Salak

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851\data request letter.wpd November 10, 2003 (0931 am)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☑

TX415
Derek Gietzen
President and Chief Executive Officer
Vycera Communications, Inc.
12750 High Bluff Drive, Suite 200
San Diego, CA 92130-2083

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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and

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

For proper identification of the data request responses, your cover letter should reference "2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP". Additionally, your response should include a notarized statement signed by the responding individual and attesting to the accuracy of the information.

Nov 19 03 02:47p LRN-CORE 792-0050 p.2

Once the completed data request is received by the Commission, the information will be public record. If you believe your response contains confidential information, you can request that your response be exempt from FS 119.07(1), General State Policy on Public Records. If you are claiming confidential classification, a written request for the specific material to which the confidentiality relates should be filed with the Division of the Commission Clerk and Administrative Services with a copy to Pat Lee, Division of Competitive Markets & Enforcement. Enclosed is a copy of Florida Public Service Commission Rule 25-22.006, Florida Administrative Code, which provides the necessary information for submitting confidential information to be exempt from FS 119.07(1). Please note that a claim of confidentiality does not alleviate the obligation to respond to the data request in a timely manner. In addition, claims of confidentiality should not be made for information that is publicly available from other sources (switch locations, for example, are available from the Local Exchange Routing Guide).

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Responses to the enclosed data request are due no later than **December 3, 2003**. If you have any questions, please contact Pat Lee at (850) 413-6453 (plee@psc.state.fl.us).

Sincerely,

Beth W. Salak
Director, Division of Competitive Markets
&Enforcement

cc: Sally Simmons, Division of Competitive Markets &Enforcement
David Dowds, Division of Competitive Markets &Enforcement
Adam Teitzman, Office of General Counsel

030851\data request letter.wpd November 10, 2003 (0931 am)

Nov 19 03 02:47p LAN-CORE 792-0050 p.3

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

November 12, 2003

RESPONSE IS REQUIRED
At the outset, please note that if you are NOT providing telecommunications services in Florida, you may simply check the following box and fax this letter to (850) 413-6454. ☒

TX418
Timothy K. Shin
President
Beauty Town, Inc. d/b/a Anns Communication
% ABS Wireless
2010 West Tennessee Street
Tallahassee, FL 32304-3117

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

On February 20, 2003, the Federal Communications Commission (FCC) adopted new rules concerning an incumbent telecommunications exchange carrier's (ILEC) obligations to make unbundled network elements (UNEs) available to competing carriers. The *Triennial Review Order*[189] adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of the 1996 Telecommunications Act and sets forth a new list of UNEs. Additionally, the FCC requires state commissions to conduct a granular analysis within 9 months of the effective date of the order (i.e., July 2, 2004) to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Florida Public Service Commission must determine whether ILECs in Florida must continue to provide competing carriers in all markets with access to: (1) high-capacity loops; (2) mass market switching; and (3) dedicated transport.

On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related

[189] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

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TX426
Ried R. Zulager
Cogent Communications of Florida LHC, Inc.
1015 31st Street, N.W.
Washington, DC 20007-4406

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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On August 22, 2003, the Commission opened two dockets to address the implementation of the *Triennial Review Order*. The attached data request addresses targeted trigger-related information, pursuant to the unbundling requirements specified in 47 CFR §51.319. Providing the requested data is essential to ensure that each carrier's facilities are considered in conclusions

[191] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (*Triennial Review Order* or *TRO*).

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TX429
Lisa Derme
General Manager
Backbone Communications Inc.
515 South Flower, Suite 4350
Los Angeles, CA 90071-2222

Re: Data Request Regarding Implementation of Requirements Arising From Federal Communication Commission's Triennial Unbundled Network Element Review - Local Circuit Switching for Mass Market Customers (Docket No. 030851-TP) and High-Capacity Loops and Transport (Docket No. 030852-TP) ***(Responses due by December 3, 2003)***

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FAX FAX FAX FAX FAX FAX FAX FAX FAX

TO: FPSC Attn: Pat Lee FAX: (850) 413-6454

FROM: Affordable Phone Services, Inc.

DATE: 11/14/03

DESCRIPTION: Our Reply to Requested Date

Please confirm your receipt of this information. Our phone number is 352-369-0999 M-F 9AM-5PM EST and our fax number is 352-369-1950. Thank you!

NUMBER OF COPIES INCLUDING COVER SHEET: 2

general_questions_FL.xls
General

	A	B	C	D
1	Please enter the information requested below in column B in reference to your company			
2	FPSC CODE	TX432	The FPSC code should be on the address label used to send the paper copies of this data request to you.	
3	Company Name, as it appears on your provider's certificate	AFFORDABLE PHONE SERVICES, INC.	Use the company name that appears on the address label, as well.	
4	OCN from LERG	0620		
5	OCN Name from LERG	AFFORDABLE PHONE SERVICES, INC		
6		(RECENTLY CHANGED FROM HIGH TECH		
7		COMMUNICATIONS OF CENTRAL FLORIDA, INC.		
8	Category (CLEC, ILEC, WIRELESS)	CLEC		
9	AOCN from LERG (administrative)	N/A	Continue with additional affiliations or DBA Names down the columns --->	
10	FLPSC code for Affiliations	N/A		
11	DBA Names	HIGH TECH COMMUNICATIONS		
12	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	ONLY RESALE		
13				
14				
15				
16	Error: Please enter No Service or leave the last question blank. Thank you.			

Sandhills Telecommunications Group, Inc.
1648 Taylor Road, Suite 333
Daytona Beach, FL 32128
(386) 304-1007
(386) 304-1012 FAX

December 2, 2003

Pat Lee
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Fl 32399-0850

RE: TRO Data Request in Docket Nos. 030851-TP and 030852-TP.
Sandhills Telecommunications Group, Inc., d/b/a SanTel Communications – TX 433

In response to your November 12, 2003 letter, we are submitting the requested data. Our company is exclusively resale and just beginning UNE-P. We have no facility-based customers and do not own or operate any switches.

Enclosed please find a hard copy and electronic 3.5-inch diskette of our general file named "general_sandhillstelecom_FL.xls. According to your instructions, the other files are not applicable.

If you require additional information, please feel free to contact me directly.

Sincerely,

Michael C. Yovanovich, Ph.D.
President

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE	TX433	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Sandhills Telecommunications Group, Inc., d/b/a S	Use the company name that appears on the address label, as well.		
4	OCN from LERG	n/a			
5	OCN Name from LERG	n/a			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)	n/a	Continue with additional affiliations or DBA Names down the columns --->		
8	FLPSC code for Affiliations				
9	DBA Names	SanTel Communications'			
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.	No Service			
11					
12					
13	Thank you for completing this data request, since you do not provide service in Florida,				
14	please stop here and return this spreadsheet				

125 Basin St. Suite 100
Daytona Beach, FL 32114
386-257-1189 fax 386-255-3631
toll free 1-800-690-1140

12/03/2003

RE: 2003 TRO Data Request in Docket Nos. 030851-TP and 030852-TP

Dear Sir or Madam:

Enclosed is the information requested.

Sincerely,

Thomas E. Allen

DOCUMENT NUMBER-DATE
12813 DEC 03
FPSC-COMMISSION CLERK

AFFIDAVIT

By my signature below, I, Thomas E Allen, attest to the accuracy of the information contained herein and the attached documents. I have reviewed the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of DeLand Actel, Inc.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

Thomas E Allen	
Print Name	**Signature**
President	12.3.03
Title	**Date**
386-257-1189	386-255-3631
Telephone No.	**Fax No.**
DeLand Actel, Inc.	
Utility	

Address: 125 Basin St
Suite 100
Daytona Beach, FL 32114

STATE OF Florida
COUNTY OF Volusia

Sworn to (or affirmed) and subscribed before me this 3rd day of Dec, 2003, by Thomas E. Allen

Victoria D Brown
(Signature of Notary Public)

(NOTARY SEAL)

Victoria F. Brown
(Name of Notary Typed, Printed or Stamped)

Personally Known ✓ OR Produced Identification _____ Type of Identification Produced _____

	A	B	C	D	E
1	Please enter the information requested below in column B in reference to your company				
2	FPSC CODE:	TX435	The FPSC code should be on the address label used to send the paper copies of this data request to you.		
3	Company Name, as it appears on your provider's certificate	Deland Actel, Inc.	Use the company name that appears on the address label, as well.		
4	OCN from LERG	1224			
5	OCN Name from LERG	Deland Actel, Inc.			
6	Category (CLEC, ILEC, WIRELESS)	CLEC			
7	AOCN from LERG (administrative)	1224	Continue with additional affiliations or DBA Names down the columns —>		
8	FLPSC code for Affiliations	TX435			
9	DBA Names				
10	If you do not provide service or are providing service only via resale in Florida, please enter "No Service" and return this information.				
11					
12					
13					
14	Please continue with the data request. We appreciate the time required to complete it.				

Remote Switch Addresses

	A	B	C	D	E	F	G	H
1	**Please list all of your remote switches. Any switches located at the central office, do not need to be added.**							
2	Switch CLLI	Host CLLI	Vertical Coord-inates	Horiz-ontal Coord-inates	Switch Street Address	City	State	Zip
3	EXAMPLXX	HOSTEXZZ	1234	5432	123 Main St.	Tallahassee	FL	32301
4	We do not own any switches							

transport_DelandActel_FL
Transport

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1															
2	FROM ILEC										TO ILEC				
3		Central Office Address						Arrange-ment Type				Central Office Address			
4	CLLI	Street Address	City	State	Zip	Vert-ical Coord-inates	Horiz-ontal Coord-inates	Caged? (Y/N)	Cageless? (Y/N)	Virtual? (Y/N)	CLLI	Street Address	City	State	Zip
5	EXAMFRXXX	3 Empire State Plaza	Tallahassee	FL	32301	4321	1234	Y	N	N	EXAMTOXXX	123 Main Street	Miami	FL	33123
6		Street Address													
7		We own no switches													

Prepared by FPSC staff
12/3/2003

transport_DelandActel_FL
Transport

	P	Q	R	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG	AH	AI	AJ	AK	AL	AM	AN	AO
1	TRANSPORT ROUTE																									
2						Self-Providers										Wholesalers										
3			Arrange-ment Type				Transport Type			Number of transport circuits								Transport Type			Number of transport circuits					
4	Vert-ical Coord-inates	Horiz-ontal Coord-inates	Caged? (Y/N)	Cageless? (Y/N)	Virtual? (Y/N)	Self-Provider? (Y/N)	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	# Dark Fiber transport circuits **provisioned**	# DS1 level transport circuits **provisioned**	# DS3 level transport circuits **provisioned**	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits	Wholesaler? (Y/N)	Carrier?	Dark Fiber? (X or blank)	DS1? (X or blank)	DS3? (X or blank)	# Dark Fiber transport circuits **provisioned**	# DS1 level transport circuits **provisioned**	# DS3 level transport circuits **provisioned**	# Dark Fiber **working** circuits	# DS1 level **working** circuits	# DS3 level **working** circuits
5	3456	6543	N	Y	N	Y	X	X		53	89	0	53	89	0	N										
6																										
7																										