

BEFORE THE 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
ORDER NO. PSC-04-0168-PHO-TP
ISSUED: February 18, 2004

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on February 9, 2004, in Tallahassee, Florida, before Commissioner Charles M. Davidson, as Prehearing Officer.

APPEARANCES:

NANCY B. WHITE, Esquire, JAMES MEZA, III, Esquire, c/o Nancy Sims, 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301; and R. DOUGLAS LACKEY, Esquire, WILLIAM J. ELLENBERG, Esquire, ANDREW SHORE, Esquire, and MEREDITH E. MAYS, Esquire, Suite 4300, 675 W. Peachtree Street, NE, Atlanta, Georgia 30375

On behalf of BellSouth Telecommunications, Inc. (BST).

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On behalf of Florida Digital Network, Inc. d/b/a FDN Communications (FDN).

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On behalf of KMC Telecom III LLC (Joint CLECs).

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On behalf of Sprint-Florida Incorporated and Sprint Communications Company Limited Partnership (SPRINT).

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On behalf of Verizon Florida, Inc.(VERIZON).

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On behalf of Florida Competitive Carriers Association (FCCA) and DIECA Communications Inc. d/b/a Covad Communications Co. (Joint CLECs)

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On behalf of Z-Tel Communications, Inc. and Florida Competitive Carriers Association (FCCA), (Joint CLECs).

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On behalf of DIECA Communications Inc. d/b/a Covad Communications Co. (Joint CLECs)

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On behalf of ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom (Joint CLECs)

FLOYD SELF, Esquire, Messer Caparelo & Self, 215 South Monroe Street, Suite 701, Tallahassee, Florida 32302-1876
On behalf of KMC Telecom, III LLC, ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom, MCImetro Access Transmission Services, LLC, and MCI WorldCom Communications, Inc., Xspedius Communications, LLC (Joint CLECs)

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On behalf of MCImetro Access Transmission Services, LLC and MCI WorldCom Communications, Inc. (Joint CLECs)

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On behalf of AT&T of the Southern States, LLC (Joint CLECs)

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On behalf of AARP

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On behalf of Xspedius Communications, LLC on behalf of its Florida operating affiliates, Xspedius Management Co. of Jacksonville, LLC (Joint CLECs)

HAROLD MCLEAN, Esquire, H. F. MANN, Esquire, and CHARLES J. BECK, Esquire, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of Florida (OPC).

JEREMY L. SUSAC, Esquire, ADAM J. TEITZMAN, Esquire, and JASON P. ROJAS, Esquire, Office of the General Counsel, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399
On behalf of the Florida Public Service Commission (STAFF).

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Formal hearing proceedings before the Florida Public Service Commission are governed by Chapter 120, Florida Statutes, and Chapters 25-22, 25-40, and 28-106, Florida Administrative Code. To the extent provided by Section 120.569(2)(g), Florida Statutes, the Florida Evidence Code (Chapter 90, Florida Statutes) shall apply. To the extent provided by Section 120.569(2)(f), Florida Statutes, the Florida Rules of Civil Procedure shall apply.

Rule 28-106.211, Florida Administrative Code, specifically provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, to prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of this case. This Order is issued pursuant to that authority. The scope of this proceeding shall be based upon the issues raised by the parties up to and during the prehearing conference, unless modified by the Commission or Prehearing Officer.

II. CASE BACKGROUND

In response to the Federal Communications Commission's ("FCC's") August 21, 2003, Triennial Review Order ("TRO"), this Commission opened two dockets to ascertain whether a requesting carrier is impaired by lack of access to certain incumbent local exchange companies' network elements. Unbundled network elements ("UNEs") are those portions of telephone networks that incumbent local exchange companies ("ILECs") must, under applicable federal law, make available to competitive local exchange companies ("CLECs"). In the TRO, as it relates to this docket, the FCC held that whether an ILEC must offer unbundled local circuit switching as a UNE depends upon whether a CLEC would, according to the guidelines established by the FCC, be impaired in the provision of its telecommunications services without such. The TRO does not address the issue of UNE pricing or rates charged by ILECs or CLECs. This docket was initiated to implement those provisions of the TRO concerning whether CLECs are impaired without access to unbundled local circuit switching.

III. ATTENDANCE AT HEARING: PARTIES AND WITNESSES

Unless excused by the Presiding Officer for good cause shown, each party (or designated representative) shall personally appear at the hearing. Failure of a party, or that party's representative, to appear shall constitute waiver of that party's issues, and that party may be dismissed from the proceeding.

Likewise, all witnesses are expected to be present at the hearing unless excused by the Presiding Officer upon the staff attorney's confirmation prior to the hearing date that:

- (i) all parties agree that the witness will not be needed for cross examination; and
- (ii) all Commissioners assigned to the panel do not have questions for the witness.

In the event a witness is excused in this manner, his or her testimony may be entered into the record as though read following the Commission's approval of the proposed stipulation of that witness' testimony.

IV. PENDING MOTIONS

All motions pending at the time of the prehearing conference will either have been addressed by separate order or in the Rulings section of this Prehearing Order. Furthermore, to the extent possible, all other pending procedural motions will be addressed prior to hearing.

V. PROPOSED STIPULATIONS

Issue 4(b): In this proceeding, the ILECs are not attempting to make a showing under the competitive wholesale facilities trigger for switching. In view of this, all parties stipulated that the wholesale triggers are not met.

VI. OPEN PROCEEDINGS AND PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

- A. Confidential information should be treated in accordance with the provisions of the Order Establishing Procedure previously issued in this docket.
- B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.
 1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing by the Commission.
 2. In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:
 - a) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing, unless approved by the Prehearing Officer for good cause shown. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
 - b) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
 - c) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court

Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

- d) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- e) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of the Commission Clerk and Administrative Services' confidential files.

VII. PENDING CONFIDENTIALITY MATTERS

There are numerous pending requests for confidential classification that will be ruled upon by the Prehearing Officer in separate orders prior to the hearing.

VIII. HEARING FRAMEWORK/PRESENTATION OF CASES

The framework set forth herein reflects the unanimous agreement reached by the parties at the prehearing conference and reflects the most efficient means for receiving the evidence in this case within the time allotted for this hearing. As an overview, the hearing framework is as follows:

“No Impairment” Direct Case	--	4 hours
Parties’ Cross-Exam of “No Impairment” Case	--	11.5 hours
Staff, OPC, AARP Cross-Exam	--	2 hours
Re-Direct Exam	--	½ hour

OPC & AARP Direct Case	--	1 hour
Parties, Staff Cross-Exam of OPC & AARP	--	1 hour
Re-Direct Exam	--	½ hour
“Impairment” Direct Case	--	4 hours
Parties’ Cross-Exam of Impairment Case	--	11.5 hours
Staff, OPC, AARP Cross-Exam	--	2 hours
Re-Direct Exam	--	½ hour

The following discusses the hearing framework in greater detail:

- A. *Phases of Hearing.* The hearing will be divided into 2 main phases: (i) “No Impairment” phase; and (ii) “Impairment” phase. Parties with witnesses will present their case in either the “No Impairment” phase or the “Impairment” phase, depending upon the position that they are advocating.
- B. *Equal Hearing Time.* As discussed more specifically in this section, each phase will be afforded an equal amount of hearing time. How to allocate the allotted times between the parties in a particular phase is to be decided among the parties. For example, if BellSouth, Florida Digital Network, and Verizon are presenting the “No Impairment” direct case, they are responsible for determining how to allocate the four (4) hours for the direct case amongst themselves.
- C. *Stipulation of Hearing Testimony.* Testimony will be stipulated into the record at the outset of the hearing (or, preferably, prior thereto), subject to the outcome of any motions to strike.
- D. *Direct Case.* The parties presenting a direct case will collectively have four (4) hours to present their direct case.
 - i. The parties presenting the direct case are responsible for determining how to allocate the four (4) hours amongst themselves. Failing agreement by the parties, the four (4) hours of hearing time will simply be divided equally among the parties presenting the direct case.
 - ii. Presentation of the direct case will be coordinated among all participants on the side. It is up to the parties presenting the direct cases to determine, among other matters, how such case will be presented (*e.g.*, via opening statements, summaries of the evidence, demonstrative presentations, direct examination, friendly cross, etc.) and which witnesses will be called to the stand.

- iii. During the presentations of each side's direct case, only Commissioners and counsel on direct examination will be allowed to question the witnesses. Opposing counsel will only interject, if necessary, for purposes of objections.
 - iv. Each side shall coordinate to determine which witnesses will take the stand and shall provide a list of such witnesses to the Commission by February 19, 2004.
- E. *Cross-Examination by Parties.* After presentation of a direct case, the parties participating in cross-examination will collectively have eleven and one-half (11 ½) hours to conduct cross-examination.
- i. The parties conducting cross-examination are responsible for determining how to allocate the 11 ½ hours amongst themselves. Failing agreement by the parties, the 11 ½ hours of time will simply be divided equally among the parties wishing to cross-examine witnesses.
 - ii. Cross-examination will be based upon the prefiled testimony of the witnesses, as well as the live testimony of any witnesses during the hearing.
 - iii. During the cross-examination portion of the hearing, counsel conducting cross-examination may call to the stand any witness for the opposing side, even those witnesses that did not take the stand to present the direct case. Cross-examination during this period will be coordinated among all participants on the side. Neither side will be restricted in the order in which they call witnesses to the stand.
 - iv. Each side must identify the witnesses it intends to cross-examine and notify the Commission of those witnesses by February 19, 2004. Thereafter, the OPC, AARP, and Commission staff must identify which witnesses they intend to cross-examine by February 20, 2004.
- F. *Re-Direct Examination.* Re-direct examination will be limited to thirty (30) minutes after cross-examination has concluded.
- G. *Cross-Examination by Staff, OPC & AARP.* Commission staff will be allowed to conduct cross-examination of individual witnesses called to the stand while that witness is still on the stand for the cross-examination period of any side, as long as such examination is not anticipated to last longer than ten (10) minutes. Otherwise, Commission staff, together with OPC and AARP, will collectively be allotted a two-hour period at the conclusion of each side's cross-examination period (for a total of

four hours). The order of this cross-examination, if necessary, is as follows: Staff cross-examination; OPC cross-examination; and AARP cross-examination.

- H. *Presentation by OPC and AARP.* The OPC and AARP will, collectively, have one hour between the presentation of cases for “Impairment” and “No Impairment” to present their direct case. Cross-examination of the OPC’s witness will, collectively, be limited to one hour.
- I. *Conclusion.* This hearing framework is based on the agreement of the parties as to how this hearing can most efficiently proceed given the number of issues, parties, and witnesses. It is incumbent on the parties to proceed according to the framework set forth herein. It is also incumbent on the parties to resolve disputes relating to this framework amongst themselves. By having agreed to the framework, the parties cannot later claim that the framework did not provide them a fair and reasonable opportunity to present their cases.

IX. WITNESSES: OATH, PREFILED TESTIMONY, EXHIBITS, AND CROSS-EXAMINATION

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

Testimony of all witnesses to be sponsored by the parties has been prefiled and will be inserted into the record as though read. However, all testimony remains subject to appropriate objections. Upon insertion of a witness’ testimony into the record, exhibits appended thereto may be marked for identification. Each witness will be given five minutes to orally summarize his or her testimony, including both direct and rebuttal testimony, at the time he or she takes the stand.

Cross-examination will proceed as set forth in Section VIII above. Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and staff have had the opportunity to object and cross-examine, exhibits may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

X. WITNESSES

Witnesses will be heard pursuant to the hearing framework agreed upon by the parties at the prehearing conference and further elucidated in Section VIII of this Order. Discussion among the parties at the Prehearing Conference indicated that each side (“impairment” and “no impairment”) would only call those witnesses that are deemed most appropriate given the time constraints and the number of witnesses. As set forth explicitly in Section VIII above, the parties are to provide Commission staff counsel with a list of witnesses that they plan to call for direct or for cross prior to the hearing. Thus, while the witnesses identified below accurately reflect the prefiled testimony of the parties, the order in which the witnesses are identified may not reflect the order in which the witnesses take the stand, if at all.

<u>Witness</u>	<u>Proffered By</u>	<u>Issue Nos.</u>
<u>Direct</u>		
John A. Ruscilli	BST	1, 2, 3, 4, 5, 6
Christopher Jon Pleatsikas	BST	1, 2
Pamela A. Tipton	BST	4A, 4B, 5A, 5B, 5E
Debra J. Aron	BST	5D, 5E
James W. Stegeman	BST	2B, 2C, 5D, 5E
Randall S. Billingsley	BST	5D, 5E
W. Keith Milner	BST	5D, 5E
Ken L. Ainsworth	BST	3
Ronald M. Pate	BST	3A, 3C
Alfred A. Heartley	BST	3D
Alphonso J. Varner	BST	3D, 3E, 3G, 5C
Orville D. Fulp	VERIZON	1, 2, 4, 5, 6
Hot Cut Direct Panel:	VERIZON	3C, 3D, 3F, 3G
Carleen A. Gray	<i>(Note that by letter dated Feb. 2, 2004, Verizon indicated panel members Gray and Nawrocki will be replaced by Loughridge and White).</i>	
Maryellen T. Langstine		
Thomas Maguire		
James L. McLaughlin		
Michael A. Nawrocki		
Larry G. Richter		
William E. Taylor	VERIZON	1, 2, 3A, 3B, 3E
Joe Gillan	FCCA	1, 2A, 2B, 2C, 4A, 5B, 5F
Terry J. Alleman	SPRINT	3
Brian K. Staihr	SPRINT	1, 2, 4, 5E, 5F
Kent W. Dickerson	SPRINT	5

<u>Witness</u>	<u>Proffered By</u>	<u>Issue Nos.</u>
Jay Bradbury	AT&T	2C, 5C, 5D, 5E
Steve Turner	AT&T	2C, 5C, 5D
Mark Van De Water	AT&T	3, 5C, 6
Don Wood	AT&T	2B, 2C, 5
Mark Bryant	MCI	1, 2, 4, 5
James Webber	MCI	3, 5
Sherry Lichtenberg	MCI	3, 5C, 6
David E. Stahly ¹	SUPRA	1, 2, 3, 4, 5, 6
Michael Reith	Z-TEL	1, 2A, 2B, 2C
 <u>Supplemental Direct</u>		
James W. Stegeman	BST	2B, 2C, 5D, 5E
Steven Turner	AT&T	Corrected Errors in the DSO Impairment Tool and Revised Exhibit SET-2
 <u>Rebuttal</u>		
John A. Ruscilli	BST	1, 2, 3, 4, 5, 6
Christopher Jon Pleatsikas	BST	1, 2
Debra J. Aron	BST	5D, 5E
A. Wayne Gray	BST	5C
Ken L. Ainsworth	BST	3
Ronald M. Pate	BST	3A, 3C
Alfred A. Heartley	BST	3D
W. Keith Milner	BST	5D, 5E
Alphonso J. Varner	BST	3D, 3E, 3G, 5C
Milton McElroy	BST	3A, 3C, 3D
Eric Fogle	BST	3
Gary Tennyson	BST	5C, 5D
Orville D. Fulp	VERIZON	1, 2, 4, 5, 6

¹ Supra witness David A. Nilson has adopted the direct testimony of Stahly.

<u>Witness</u>	<u>Proffered By</u>	<u>Issue Nos.</u>
Hot Cut Direct Panel: Carleen A. Gray Maryellen T. Langstine Thomas Maguire James L. McLaughlin Michael A. Nawrocki Larry G. Richter	VERIZON	3C, 3D, 3F, 3G
William E. Taylor Michael P. Gallagher	VERIZON FDN	1, 2, 3A, 3B, 3E 1, 3A, 3B, 3C, 3F, 3G, 4A, 5C
Brian K. Stair	SPRINT	1, 2, 4, 5E, 5F
Kent W. Dickerson	SPRINT	5
Joe Gillan	FCCA	1, 2A, 2B, 2C, 4A, 5B, 5F
Jay Bradbury	AT&T	2C, 5C, 5D, 5E
Mark Van De Water	AT&T	3, 5C, 6
Don Wood	AT&T	2B, 2C, 5
Cheryl Bursh	AT&T	5C
Mark Bryant	MCI	1, 2, 4, 5
James Webber	MCI	3, 5
Sherry Lichtenberg	MCI	3, 5C, 6
David A. Nilson ²	SUPRA	1, 2, 3, 4, 5, 6
Mark Neptune	SUPRA	3, 4, 5, 6
Ben Johnson	OPC	1, 5F,

Supplemental Rebuttal

Joseph Gillan	FCCA	5B, 5F
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Surrebuttal

John A. Ruscilli	BST	1, 2, 3, 4, 5, 6
Christopher Jon Pleatsikas	BST	1, 2
Pamela A. Tipton	BST	4A, 4B, 5A, 5B, 5E
Debra J. Aron	BST	5D, 5E
James W. Stegeman	BST	2B, 2C, 5D, 5E
Randall S. Billingsley	BST	5D, 5E
A. Wayne Gray	BST	5C

² Has adopted direct testimony of David E. Stahly.

Ken L. Ainsworth	BST	3
Ronald M. Pate	BST	3A, 3C
Alfred A. Heartley	BST	3D
W. Keith Milner	BST	5D, 5E
Alphonso J. Varner	BST	3D, 3E, 3G, 5C
Milton McElroy	BST	3A, 3C, 3D
Eric Fogle	BST	3
Orville D. Fulp	VERIZON	1, 2, 4, 5, 6
Hot Cut Direct Panel:	VERIZON	3C, 3D, 3F, 3G
Carleen A. Gray		
Maryellen T. Langstine		
Thomas Maguire		
James L. McLaughlin		
Michael A. Nawrocki		
Larry G. Richter		
Michael P. Gallagher	FDN	3C, 3F
Brian K. Staihr	SPRINT	1, 2, 4, 5E, 5F
Kent W. Dickerson	SPRINT	5
Joe Gillan	FCCA	1, 2A, 2B, 2C, 4A, 5B
Jay Bradbury	AT&T	2C, 5C, 5D, 5E
Steve Turner	AT&T	2C, 5C, 5D
Mark Van De Water	AT&T	3, 5C, 6
Don Wood	AT&T	2B, 2C, 5
Cheryl Bursh	AT&T	5C
Richard J. Walsh	AT&T	5C
Mark Bryant	MCI	1, 2, 5
James Webber	MCI	3, 5
Sherry Lichtenberg	MCI	3, 5C, 6
David A. Nilson	SUPRA	1, 2, 3, 4, 5, 6
Ben Johnson	OPC	1, 5(f)

XI. EXHIBIT LIST

The following lists the exhibits proffered by parties and staff prior to the hearing. However, parties and staff reserve the right to identify additional exhibits for the purpose of cross-examination during the hearing.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Ainsworth	BST	(KLA-1)	Provisioning Process Flow (Coordinated Cuts)
Ainsworth	BST	(KLA-2)	Hot Cut Report Notification Summary
Ainsworth	BST	(KLA-3)	Hot cut Workload Calculation
Aron	BST	(DJA-1)	Curriculum Vitae of Dr. Debra J. Aron
Aron	BST	(DJA-2)	SECOND REVISED – Unimpaired Markets in Florida Where Triggers Not Met
Aron	BST	(DJA-3)	PROPRIETARY – Actual Versus Expected Competitive Losses of Residential Customers to CLECs by Spending Quintile
Aron	BST	(DJA-4)	PROPRIETARY – Actual Versus Expected Competitive Losses of SOHO Customers to CLECs by Spending Tercil (SOHO Customer Targeting Effect)
Aron	BST	(DJA-5)	Cross-Penetration Customer Propensities
Aron	BST	(DJA-6)	Customer Acquisition (“Sales”) Costs of AT&T and of CLECs that Market to Mass-Market Customers

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Aron	BST	<u>(DJA-7)</u>	Implication of Estimated Per Line Sales Expenses for the BACE Model
Aron	BST	<u>(DJA-8)</u>	REVISED – Additional Market Areas Where BACE Models Shows NPV is Positive in BellSouth Serving Area
Billingsley	BST	<u>(RSB-1)</u>	Resume of Dr. Randall S. Billingsley
Billingsley	BST	<u>(RSB-2)</u>	Nature and Applicability of the DCF Model in Cost of Equity Capital Analysis
Billingsley	BST	<u>(RSB-3)</u>	Sample of Public-Traded CLECs
Billingsley	BST	<u>(RSB-4)</u>	Capital Asset Pricing Model Analysis
Billingsley	BST	<u>(RSB-5)</u>	Calculation of 10-Year U.S. Treasury Note Futures' Implied Interest Rate
Billingsley	BST	<u>(RSB-6)</u>	Bond Rates for Value Line – Covered CLECs
Heartley	BST	<u>(AH-1)</u>	Top 20 Florida Wire Centers List
Milner	BST	<u>(WKM-1)</u>	Architecture Scenarios
Milner	BST	<u>(WKM-2)</u>	Collocation CLEC Facilities at BellSouth End Office
Milner	BST	<u>(WKM-3)</u>	CLEC Facilities Collocated at BellSouth Tandem Switching Central Office
Milner	BST	<u>(WKM-4)</u>	Interconnection with Other Service Providers

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Milner	BST	<u>(WKM-5)</u>	Network Design: Describing CLEC facilities – CLEC switching center
Pate	BST	<u>(RMP-1)</u>	Change Request Form
Pate	BST	<u>(RMP-2)</u>	UNE-Port/Loop Combination (UNE-P) to UNE-Loop UNE-L) Bulk Migration CLEC Information Package
Pleatsikas	BST	<u>(CJP-1)</u>	Curriculum Vitae of Dr. Christopher Jon Pleatsikas
Pleatsikas	BST	<u>(CJP-2)</u>	REVISED – Map of BellSouth Serving Area
Ruscilli	BST	<u>(JAR-1)</u>	REVISED – Map of BellSouth Serving Area
Ruscilli	BST	<u>(JAR-2)</u>	REVISED – BellSouth Markets of Where Trigger is Met
Ruscilli	BST	<u>(JAR-3)</u>	REVISED – Additional Market Areas Where BACE Model Shows NPV is Positive in BellSouth Serving Area
Stegeman	BST	<u>(JWS-1)</u>	List of Acronyms
Stegeman	BST	<u>(JWS-2)</u>	The BellSouth Analysis of Competitive Entry Model – User’s Guide
Stegeman	BST	<u>(JWS-3)</u>	REVISED – The BellSouth Analysis of Competitive Entry Model – Methodology Manual
Stegeman	BST	<u>(JWS-4)</u>	PROPRIETARY -CD of the BACE Model

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Tipton	BST	<u>(PAT-1)</u>	REVISED - CLEC Switches Deployed in Florida
Tipton	BST	<u>(PAT-2)</u>	REVISED – Map of BellSouth Serving Area
Tipton	BST	<u>(PAT-3)</u>	REVISED – Markets Where Self-Provisioning Trigger is Met
Tipton	BST	<u>(PAT-4)</u>	REVISED – Map of BellSouth Markets where Trigger is Met
Tipton	BST	<u>(PAT-5)</u>	SECOND REVISED - PROPRIETARY – CLECs That Meet Self-Provisioning Trigger (Based on Currently Available Data)
Tipton	BST	<u>(PAT-6)</u>	REVISED – Markets with Actual CLEC Deployment Where Triggers Not Met
Tipton	BST	<u>(PAT-7)</u>	REVISED – PROPRIETARY – CLECs with Actual Deployment in Markets Where Triggers Not Met
Varner	BST	<u>(AJV-1)</u>	Discussion of Performance Measurements Data for Hot Cuts and UNE Local Loops
Varner	BST	<u>(AJV-2)</u>	Florida Performance Metrics – Proposed Changes
Varner	BST	<u>(AJV-3)</u>	SEEM Submetrics – Proposed Changes

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Fulp	VERIZON	<hr/> (ODF-1)	Map showing locations of CLEC switches being used to provide local service in Florida
Fulp	VERIZON	<hr/> (ODF-2)	Chart showing results of Line Count Study
Fulp	VERIZON	<hr/> (ODF-3)	Map illustrating markets where CLEC activity meets the self-provisioning trigger in Florida
Fulp	VERIZON	<hr/> (ODF-4)	Chart of CLEC tariff references
Hot Cut Direct Panel: Gray Langstine Maguire McLaughlin Nawrocki Richter	VERIZON	<hr/> (EXH 1-A)	Background and qualifications of witness on hot cut panel
Hot Cut Direct Panel: Gray Langstine Maguire McLaughlin Nawrocki Richter	VERIZON	<hr/> (EXH I-B)	Complete list of exhibits
Hot Cut Direct Panel: Gray Langstine Maguire McLaughlin Nawrocki Richter	VERIZON	<hr/> (EXH I-C)	Definitions of certain acronyms

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Hot Cut Direct Panel: Gray Langstine Maguire McLaughlin Nawrocki Richter	VERIZON	<hr/> (EXH II-A)	Diagram of basic physical connections and disconnections involved in a typical hot cut
Hot Cut Direct Panel: Gray Langstine Maguire McLaughlin Nawrocki Richter	VERIZON	<hr/> (EXH II-B)	Worksheets, tabulations of backup data, relevant diagrams and flowcharts and electronic spreadsheet models used in preparing particular portions of the panel testimony
Hot Cut Direct Panel: Gray Langstine Maguire McLaughlin Nawrocki Richter	VERIZON	<hr/> (EXH II-C-1)	Flowchart describing basic hot cut process
Hot Cut Direct Panel: Gray Langstine Maguire McLaughlin Nawrocki Richter	VERIZON	<hr/> (EXH II-C-2)	Flowchart describing steps in large job Process
Hot Cut Direct Panel: Gray Langstine Maguire McLaughlin Nawrocki Richter	VERIZON	<hr/> (EXH II-C-3)	Flowchart of the batch process

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Hot Cut Direct Panel: Gray Langstine Maguire McLaughlin Nawrocki Richter	VERIZON	<hr/> (EXH III-A)	NRC Model
Hot Cut Direct Panel: Gray Langstine Maguire McLaughlin Nawrocki Richter	VERIZON	<hr/> (EXH IV-A)	Working, electronic copy of the Force-Load Model
Hot Cut Direct Panel: Gray Langstine Maguire McLaughlin Nawrocki Richter	VERIZON	<hr/> (EXH IV-B)	Force-Load Model documentation
Hot Cut Direct Panel: Gray Langstine Maguire McLaughlin Nawrocki Richter	VERIZON	<hr/> (EXH IV-C)	FCC data on U.S. telephone employment
Taylor	VERIZON	<hr/> (WET-1)	Witness Taylor's vita listing publications and testimonies
Taylor	VERIZON	<hr/> (WET-II)	Examples of bundled offerings of major communications suppliers
Taylor	VERIZON	<hr/> (WET-III)	Description of input data used in analysis to forecast volume of incremental hot cuts

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Taylor	VERIZON	<hr/> (WET-IV)	Summary of incremental hot cuts required over the conversion period
Taylor	VERIZON	<hr/> (WET-IV)	UNE-P migration data from January 2002 to present
Taylor	VERIZON	<hr/> (WET-V)	Winback orders originating from UNE-Ls
Taylor	VERIZON	<hr/> (WET-VI)	Calculation of embedded base of UNE-P
Taylor	VERIZON	<hr/> (WET-VII)	Analysis of incremental hot cut volumes resulting from conversion of embedded base
Taylor	VERIZON	<hr/> (WET-VIII)	FCC data on U.S. telephone employment showing dramatic reduction, continuing into 2003
Dickerson	SPRINT	<hr/> (KWD-1)	DS0 to DS1 Crossover
Gillan	FCCA	<hr/> (JPG-1)	Experience and Qualifications of Joseph Gillan
Gillan	FCCA	<hr/> (JPG-2)	Competitive Profile of UNE-P: BellSouth
Gillan	FCCA	<hr/> (JPG-3)	Competitive Growth Profile of UNE-P: BellSouth
Gillan	FCCA	<hr/> (JPG-4)	Competitive Profile of UNE-P: Verizon
Bradbury	AT&T	<hr/> (JMB-1)	Graph: The need for centralized switching
Bradbury	AT&T	<hr/> (JMB-2)	Graph: The Local Loop

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Bradbury	AT&T	<hr/> (JMB-3)	Graph: A distribution frame
Bradbury	AT&T	<hr/> (JMB-4)	Graph: The ILEC network architecture provides efficient call termination
Bradbury	AT&T	<hr/> (JMB-5)	Collocation and Backhaul
Bradbury	AT&T	<hr/> (JMB-6)	Graph: Collocation with ILEC transport
Bradbury	AT&T	<hr/> (JMB-7)	Graph: Collocation with CLEC Backhaul
Bradbury	AT&T	<hr/> (JMB-8)	Graph: Collocation Hubbing and Backhaul
Bradbury	AT&T	<hr/> (JMB-9)	Graph: Simplified CLEC Loop Network Architecture
Bradbury	AT&T	<hr/> (JMB-10)	Graph: The CLEC call termination requirements span multiple ILEC local calling areas, must use the ILEC network and cannot duplicate the ILEC call termination efficiencies.
Turner	AT&T	<hr/> (SET-1)	Resume of Steve Turner
Turner	AT&T	<hr/> (SET-2)	REVISED - CD Rom containing Technical Appendix and DS0 Impairment Analysis Tools
Turner	AT&T	<hr/> (SET-3)	SBC Communications, Inc. ("SBC") Ex Parte letter dated January, 2003, to Chairman Powell from James C. Smith, a Senior Vice president of SBC ("SBC Ex Parte").

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Turner	AT&T	<u>(SET-4)</u>	Ex Parte letter dated February 4, 2003, from Joan Marsh, AT&T Director of Federal Government Affairs, to Ms. Marlete Dortch, Secretary, Federal Communications Commission in CC Docket Nos. 01-338, 96-98, and 98-147.
Van De Water	AT&T	<u>(MDV-1)</u>	BellSouth's Response to AT&T Interrogatory No. 32
Van De Water	AT&T	<u>(MDV-2)</u>	BellSouth's Response to AT&T's Interrogatory No. 28
Van De Water	AT&T	<u>(MDV-3)</u>	Process Flow Document for a Hot Cut
Van De Water	AT&T	<u>(MDV-4)</u>	Hot Cut Video
Van De Water	AT&T	<u>(MDV-5)</u>	August 30, 2002 Letter
Van De Water	AT&T	<u>(MDV-6)</u>	BellSouth's Bulk Migration Package
Van De Water	AT&T	<u>(MDV-7)</u>	June 9, 2003 Letter from Denise Berger (AT&T) to Phillip Cook (BellSouth)
Van De Water	AT&T	<u>(MDV-8)</u>	Verizon Presentation
Van De Water	AT&T	<u>(MDV-9)</u>	BellSouth's Response to AT&T Interrogatory No. 8

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Van De Water	AT&T	<hr/> (MDV-10)	BellSouth pictorial depiction of the central office activities required to implement a hot cut including, pre- and post-cut testing, wiring, coordination, and cut-over of the circuit.
Van De Water	AT&T	<hr/> (MDV-11)	BellSouth's Response to AT&T Interrogatory No. 11
Van De Water	AT&T	<hr/> (MDV-12)	BellSouth's Response to AT&T Interrogatory No. 44
Van De Water	AT&T	<hr/> (MDV-13)	December 24, 2002 FCC Ex Parte Letter filed by Robert Blau (BellSouth)
Van De Water	AT&T	<hr/> (MDV-14)	BellSouth Response to AT&T Interrogatory No. 1
Van De Water	AT&T	<hr/> (MDV-15)	May 5, 2003 Letter from Laurel Mackenzie (BellSouth) to Denise Berger (AT&T)
Van De Water	AT&T	<hr/> (MDV-16)	BellSouth Response to AT&T's Request for Production of Documents ("POD") No. 14
Van De Water	AT&T	<hr/> (MDV-17)	BellSouth Response to AT&T Interrogatory No. 23
Van De Water	AT&T	<hr/> (MDV-18)	BellSouth line splitting arrangements with a D/CLEC providing the splitter, and with BellSouth providing the splitter

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Van De Water	AT&T	(MDV-19)	Depiction of a UNE-L Line Splitting arrangement using a single CLEC partner.
Van De Water	AT&T	(MDV-20)	Illustration of the complexity of loop splitting when a CLEC chooses to have business relationships with multiple data providers.
Van De Water	AT&T	(MDV-21)	July 21, 2003, Letter from Jim Schenk (BellSouth) to Denise Berger (AT&T)
Van De Water	AT&T	(MDV-22)	Denise Berger (AT&T) June 20, 2002, Letter James Schenk (BellSouth) to Denise Berger (AT&T)
Wood	AT&T	(DJW-1)	Listing of previously filed testimony filed in Florida and other state proceedings
Bryant	MCI	(MTB-1)	Qualifications and Experience
Bryant	MCI	(MTB-2)	CONFIDENTIAL - Electronic Analysis Tool
Bryant	MCI	(MTB-3)	Feasibility for MIAMIFLDB
Webber	MCI	(JDW-1)	Qualifications
Webber	MCI	(JDW-2)	UNE-L v. UNE-P Growth
Webber	MCI	(JDW-3)	UNE-P and Total UNE Line Growth (2000 – 2002) in BellSouth’s Service Territory
Webber	MCI	(JDW-4)	UNE-P to UNE-L Hot Cut

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Webber	MCI	(JDW-5)	Local Voice Network
Webber	MCI	(JDW-6)	Windows 2000 Server Documentation
Webber	MCI	(JDW-7)	IDLC Unbundling – Bypass the IDLC System
Webber	MCI	(JDW-8)	Unbundling a GR-303 IG
Webber	MCI	(JDW-9)	IDLC Unbundling Using Side Door Port
Webber	MCI	(JDW-10)	Simplistic EEL
Lichtenberg	MCI	(SL-1)	Retail to UNE-P Migration
Lichtenberg	MCI	(SL-2)	ILEC Retail to CLEC UNE-L Migration
Lichtenberg	MCI	(SL-3)	Retail to UNE-L Migration
Lichtenberg	MCI	(SL-4)	UNE-L Core Migration Scenarios
Lichtenberg	MCI	(SL-5)	BellSouth Change Control E-mail
Reith	Z-TEL	(MR-1)	Article, “Local Motion”
Reith	Z-TEL	(MR-2)	Announcement: High Tech Ranking
Reith	Z-TEL	(MR-3)	Z-Line PVA: Member’s Guide
Reith	Z-TEL	(MR-4)	Announcement: Best New Technology Award
Reith	Z-TEL	(MR-5)	Announcement: Expanded Business Services
Reith	Z-TEL	(MR-6)	Announcement/Description of “Operation Connect” service

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Reith	Z-TEL	<hr/> (MR-7)	Excerpt, 10-Q
<u>Supplemental Direct</u>			
Turner	AT&T	<hr/> (SET-2)	REVISED - CD Rom containing Technical Appendix and DS0 Impairment Analysis Tools
Turner	AT&T	<hr/> (SET-5)	Corrections to the DS0 Impairment Tool
Stegeman	BST	<hr/> (JWS-3)	REVISED – BACE Model; Also REVISED Exhibit DJA-02 to direct testimony of Dr. Aron
<u>Rebuttal</u>			
Ainsworth	BST	<hr/> (KLA-4)	Comparison of Sprint and BellSouth Conversion Process
Ainsworth	BST	<hr/> (KLA-5)	PROPRIETARY – Sample of Supra Ports and BellSouth Go-Ahead Report – November Data
Ainsworth	BST	<hr/> (KLA-6)	PROPRIETARY – LCSC Call Logs for October and November which are related to LNP issues
Ainsworth	BST	<hr/> (KLA-7a)	E-mail from Sam Blackstock to Bette Smith at Supra Telecom regarding bulk migration

Ainsworth	BST	(KLA-7b)	PROPRIETARY – BellSouth UNE-P to UNE-L Bulk Migration Project Notification
Ainsworth	BST	(KLA-8)	BellSouth Performance Data on Maintenance and Repair Products
Fogle	BST	(EF-1)	CO-Based Line Splitting
Fogle	BST	(EF-2)	CLEC Voice on BST UNE-P
Fogle	BST	(EF-3)	Line Splitting Migration Options Delivered to Date
Heartley	BST	(AH-1)	REVISED - Top 20 Florida Wire Centers List
McElroy	BST	(MM-1)	BellSouth’s Bulk Migration and Regional Tests
McElroy	BST	(MM-2)	Affidavit of Paul M. Gaynor of PwC
Pate	BST	(RMP-3)	Letter to Lisa Harvey at Florida Public Service Commission attaching BellSouth’s Flow-through Improvement Plan Progress Report
Ruscilli	BST	(JAR-4)	Notice from website of Supra Telecom informing Supra customers regarding rate increases effective 1/1/03
Tennyson	BST	(GT-1)	White Paper showing results of BellSouth IDLC Technical Trial
Staihr	SPRINT	(BKS-1)	BellSouth Winback Letter
Staihr	SPRINT	(BKS-2)	BellSouth Winback Advertisement
Dickerson	SPRINT	(KWD-2)	Protective Agreement Provision

Dickerson	SPRINT	<hr/>	BellSouth Letter to Blanca Bayó
		(KWD-3)	
Dickerson	SPRINT	<hr/>	CONFIDENTIAL - Summary of Collocation Buildout NPV Differences
		(KWD-4)	
Dickerson	SPRINT	<hr/>	CONFIDENTIAL - Calculation of DC Power Consumption Understatement
		(KWD-5)	
Dickerson	SPRINT	<hr/>	BACE Model Scenario Summary
		(KWD-6)	
Dickerson	SPRINT	<hr/>	CONFIDENTIAL - BACE Model Sales Costs Inputs
		(KWD-7)	
Dickerson	SPRINT	<hr/>	CONFIDENTIAL - BellSouth Inputs NPV Analysis
		(KWD-8)	
Gillan	FCCA	<hr/>	Redefinition of the BEA Economic Areas
		(JPG-5)	
Gillan	FCCA	<hr/>	Competitive Profile of UNE-P-BellSouth Territory - Last Six Months
		(JPG-6)	
Gillan	FCCA	<hr/>	Distinctions between Mass Market and Enterprise Customers State of CLEC Competition
		(JPG-7)	
Gillan	FCCA	<hr/>	REVISED - Preliminary Summary Comparison of Trigger Candidates to Criteria with Supplemental Rebuttal
		(JPG-8)	
Gillan	FCCA	<hr/>	PROPRIETARY - In- Service Analog UNE Loops Leased by Alleged Self-Provisioning Switch Triggers
		(JPG-9)	
Gillan	FCCA	<hr/>	
		(JPG10)	

Gillan	FCCA	<hr/> (JPG-11)	BellSouth Response to FCCA Interrogatory No. 24
Bradbury	AT&T	<hr/> (JMB-R1)	AT&T Supplemental Response to BellSouth Interrogatory No. 1 in docket No. 030851-TP
Bradbury	AT&T	<hr/> (JMB-R2)	Excerpt from Direct Testimony of David L. Talbot on behalf of AT&T Communications of the Southern States, LLC before the Florida Public Service Commission in Docket No. 000731-TP, dated November 16, 2000.
Bradbury	AT&T	<hr/> (JMB-R3)	Excerpt from Testimony of Christopher Nurse, John Schell, and David Talbot on behalf of AT&T Communications of New Jersey, LP, et al, before the New Jersey Board of Public Utilities in Docket No. T0110010893 dated February 25, 2003.
Van De Water	AT&T	<hr/> (MDV-R1)	BellSouth Response to Question re Bulk Migration Collaborative
Van De Water	AT&T	<hr/> (MDV-R2)	North Carolina Docket No. P55, Sub 1022, BellSouth Direct Testimony of Keith Milner dated April 12, 2001
Van De Water	AT&T	<hr/> (MDV-R3)	BellSouth's Response to AT&T Interrogatory No. 134

Van De Water	AT&T	<hr/>	BellSouth's Response to AT&T Interrogatory No. 44
		(MDV-R4)	
Van De Water	AT&T	<hr/>	BellSouth's Response to AT&T Interrogatory No. 45
		(MDV-R5)	
Van De Water	AT&T	<hr/>	BellSouth's Response to AT&T Request for Production of Document No. 40
		(MDV-R6)	
Van De Water	AT&T	<hr/>	BellSouth's Response to AT&T Interrogatory No. 137
		(MDV-R7)	
Wood	AT&T	<hr/>	Section A3.4, BellSouth General Subscribers Services Tariff
		(DJW-2)	
Wood	AT&T	<hr/>	Average Long Distance per Minute Revenues
		(DJW-R3)	
Wood	AT&T	<hr/>	BellSouth 2002 Annual Report
		(DJW-R4)	
Bryant	MCI	<hr/>	Investment per Customer
		(MTB-4)	
Bryant	MCI	<hr/>	Retail Trigger Criteria Flowchart
		(MTB-5)	
Bryant	MCI	<hr/>	CONFIDENTIAL - CLEC Marketing Information
		(MTB-6)	
Bryant	MCI	<hr/>	CONFIDENTIAL - News Article
		(MTB-7)	
Bryant	MCI	<hr/>	CONFIDENTIAL - Triggering Companies, BellSouth
		(MTB-8)	
Bryant	MCI	<hr/>	CONFIDENTIAL - Triggering Companies, Verizon
		(MTB-9)	
Bryant	MCI	<hr/>	BACE Sensitivity Test Results
		(MTB-10)	
Bryant	MCI	<hr/>	BACE Defaults without Filters
		(MTB-11)	

Bryant	MCI	<hr/>	Model Results with Other Variables
		(MTB-12)	
Neptune	SUPRA	<hr/>	BellSouth's batch hot-cut time line
		(MAK-1)	
Nilson	SUPRA	<hr/>	Hearing Transcript: <u>Supra v. BellSouth</u> , United States Bankruptcy Court, Southern District of Florida
		(DAN-1)	
Johnson	OPC	<hr/>	Qualifications Exhibit
		(BFJ-1)	
Johnson	OPC	<hr/>	Map 1: Florida MSAs
		(BFJ-2)	
 <u>Surrebuttal</u>			
Ainsworth	BST	<hr/>	UNE-P to UNE-L Order Summary
		(KLA-9)	
Ainsworth	BST	<hr/>	Mean Time to Repair report
		(KLA-10)	
Aron	BST	<hr/>	Example of Economies of Scope
		(DJA-9)	
Aron	BST	<hr/>	Residential Customer Acquisition Costs
		(DJA-10)	
Heartley	BST	<hr/>	Revised Force Model
		(AH-2)	
McElroy	BST	<hr/>	Mass Migration Conversion Process
		(MM-3)	
Milner	BST	<hr/>	PROPRIETARY – Supra Loop Migration Volumes
		(WKM-SR5)	
Pate	BST	<hr/>	BellSouth Local Ordering Handbook: Section 3 – Ordering
		(RMP-4)	
			(LSOG6/ELMS6)
Pate	BST	<hr/>	ENCORE User Requirements for UNE to UNE Bulk Migrations
		(RMP-5)	

Pate	BST	<hr/>	BellSouth UNE to UNE Bulk Ordering Specifications for EDI ELMS6 Trading Partners
		(RMP-6)	
Pate	BST	<hr/>	BellSouth Professional Training Services – LENS User’s Guide: UNE to UNE Bulk Migrations
		(RMP-7)	
Ruscilli	BST	<hr/>	Article regarding Voice over IP
		(JAR-5)	
Stegeman	BST	<hr/>	CD containing BACE Model
		(JWS-4)	
Tipton	BST	<hr/>	Decision Flow Chart to Determine if FCC Self-Provisioning Trigger is Met
		(PAT-8)	
Tipton	BST	<hr/>	Comcast Local Phone Service Website
		(PAT-9)	
Tipton	BST	<hr/>	Markets with 3 or More CLECs Self-Providing DS1 Switching
		(PAT-10)	
Tipton	BST	<hr/>	Three or More CLECs Self-Providing Switching with Any Quantity DSO Loops
		(PAT-11)	
Tipton	BST	<hr/>	MSAs Where Triggers are Met
		(PAT-12)	
Tipton	BST	<hr/>	LATAs Where the Self-Provisioning Trigger is Met
		(PAT-13)	
Dickerson	SPRINT	<hr/>	BellSouth’s Response to Sprint’s Interrogatory No. 15
		(KWD-9)	
Dickerson	SPRINT	<hr/>	Response to Sprint’s Interrogatory No. 6
		(KWD-10)	
Dickerson	SPRINT	<hr/>	Thomas Weisel’s Report re: Z-Tel
		(KWD-11)	

Dickerson	SPRINT	(KWD-12)	Sprint NPV Scenarios
Gillan	FCCA	(JPG-9)	REVISED – Preliminary Summary Comparison of Trigger Candidates to Criteria
Gillan	FCCA	(JPG-10)	PROPRIETARY - In-Service Analog UNE Loops Leased by Alleged Self – Provisioning Switch Triggers
Gillan	FCCA	(JPG-11)	PROPRIETARY – BellSouth Interrogatory Response to FCCA Interrogatory No. 24
Bradbury	AT&T	(JMB-SR1)	Electronic Loop Provisioning (ELP)
Van De Water	AT&T	(MDV-SR1)	BellSouth’s September 20, 2002, letter to Denise Berger (AT&T)
Van De Water	AT&T	(MDV-SR2)	December 11, 2003, BellSouth Line Sharing/Line Splitting Collaborative
Van De Water	AT&T	(MDV-SR3)	July 30, 2003, e-mail from Denise Berger
Van De Water	AT&T	(MDV-SR4)	December 19, 2003, letter to Denise Berger
Wood	AT&T	(DJW-5)	Summary of BACE Model Runs
Bryant	MCI	(MTB-13)	BellSouth TPIS Additions
Bryant	MCI	(MTB-14)	Investment Appropriately Stimulated TELRIC
Webber	MCI	(JDW-12)	White Paper on MDF

Johnson

OPC

(BFJ-3)

Summary of Parties'
Positions

XII. BASIC POSITIONS

ALLEGIANCE: The Commission should find that Alternative Local Exchange Carriers (“ALECs”) are not impaired without access to unbundled switching only in geographically contiguous UNE loop rate zones where at least three (3) ALECs are providing telecommunications services to mass market customers using their own switches in the vast majority of the wire centers in such geographic area, or at least two (2) providers of wholesale switching services who are not incumbent Local Exchange Carriers are providing wholesale switching that is used by ALECs to provide telecommunications services to mass market customers in the vast majority of the wire centers in such geographic area.

BST: The FCC, through its Triennial Review Order (TRO), issued August 21, 2003, has attempted to delegate to the state commissions, the duty and obligation to determine whether Competitive Local Exchange Carriers (“CLECs”) are “impaired” within the meaning of the Federal Telecommunications Act of 1996, without access to unbundled local switching provided by the Incumbent Local Exchange Company (ILEC) to serve “mass market” customers. The FCC required that the state commissions make a finding of “no impairment” in markets where there were three or more CLECs, not affiliated with the ILEC or each other, that were self-provisioning switching or two or more CLECs providing switching at “wholesale” that could be used to provide service “mass market” customers. In markets where these “triggers” are not met, the FCC created a “potential deployment” test, requiring the state commissions to find “no impairment” when an examination of the facts disclosed that there are no operational or economic barriers to deployment of switching alternatives. Finally, the FCC required the state commissions to establish an appropriate “hot cut” process that allows customers to move from one switch to another switch.

Within the framework that the FCC has established, this proceeding is about facilities-based competition in Florida; more specifically whether facilities-based will develop in those areas where it presently does not exist, and whether facilities-based competition will survive in those areas in Florida where it already exists. Many CLECs want to use BellSouth’s unbundled switching because it is cheap and easy for them to utilize, allows them to “cherry pick” the most lucrative customers in Florida, and allows them to avoid making their own substantial investments in Florida, in terms of money, capital and people. The evidence in this proceeding, however, will demonstrate that CLECs willing to invest in Florida can readily compete in a number of markets using their own

switching. Specifically, the evidence will demonstrate that the FCC switching trigger is met in 12 markets and that there are an additional 9 markets where the application of the FCC's "potential deployment" test demonstrates that CLECs are not impaired without unbundled switching. The Commission should find that CLECs are not impaired without access to BellSouth's unbundled switching in those markets.

With respect to the hot cut issues, BellSouth notes that this Commission has examined BellSouth's individual hot cut process extensively, including having the process audited by a third party, and has found that the process is appropriate and will not impede the development of competition in Florida. BellSouth's batch hot cut process incorporates that same proven provisioning process, but gains efficiencies via the batch migration order confirmation and its project management functionality. Finally, BellSouth's Mass Migration Process allows CLECs the ability to submit one spreadsheet and delegate the remaining conversion activities to BellSouth in order to gain the maximum provisioning efficiencies. BellSouth's Batch Hot Cut Process complies with the requirements of the Triennial Review Order. In addition BellSouth's Mass Migration Conversion Process, which BellSouth will implement when and where it receives unbundled switching relief, also complies with the TRO.

FDN: FDN is a self-provisioned circuit switching "trigger" company in FDN's serving markets in BellSouth and Verizon territory. Region-wide, FDN performs numerous hot cuts a day and believes that the current hot cut processes for BellSouth and Verizon work reasonably well. The Commission can ensure proper ILEC hot cut performance through stringent UNE-L focused performance plans and remedy payments. If the Commission establishes a batch process for hot cuts in this proceeding, FDN maintains that a batch process must incorporate certain features, namely: (1) the batch process must, as required by the TRO, cover hot cuts of the type FDN performs daily and not just one-time conversions of UNE-P to UNE-L as in BellSouth's proposal; (2) batch rates must be structured such that there is a significant and real overall reduction in non-recurring charges (NRCs), and (3) batch processes must reflect operational efficiencies and not needlessly extend hot cut intervals.

SPRINT: Sprint is both an ILEC and a CLEC in Florida. Therefore, Sprint is uniquely situated to understand the needs of both providers and purchasers of unbundled network elements, and to understand the competitive impacts of the availability or lack of availability of unbundled elements on providers and purchasers. Sprint's positions on the issues in this proceeding reflect this balance, are consistent with the rulings and policies of the FCC, as set forth in its Triennial Review Order, and should be adopted by the Commission.

The Commission must have clear factual findings in making any decision that CLECs are not impaired without access to unbundled mass market local switching or risk creating a situation in which competitive choices will be virtually non-existent in some Florida markets. Neither BellSouth nor Verizon has demonstrated sufficiently that the triggers set out by the FCC have been met. Neither has BellSouth provided any competent, substantial evidence to support its claim that CLECs can economically deploy their own mass market local switches in any BellSouth markets. Therefore, the Commission should deny BellSouth's and Verizon's claims of no impairment and deny their requests to be relieved of their obligations to provide access to unbundled local switching to serve mass market customers in Florida.

VERIZON: The Commission should find that Verizon has met the self-provisioning mass market switching trigger in the Density Zone 1 and 2 areas of the Tampa-St. Petersburg-Clearwater MSA, and that Verizon has implemented a batch hot cut process that meets the requirements of the *Triennial Review Order*. The Commission should therefore issue a finding of no impairment in each of these markets in Florida.

JOINT CLEC: The Florida Public Service Commission should maintain the FCC's national finding that competitive local exchange carriers (CLECs) are impaired without access to unbundled local switching (ULS). CLECs have the incentive to provide mass market service over their own networks wherever they can, but they have not done so on any scale and cannot do so because of the economic and operational barriers they face. UNE-P, of which ULS is a component, is the only entrance strategy that currently has the scope and scale essential to effective competition. To restrict the availability of ULS on the basis of arbitrary or artificial geographic distinctions would eliminate the basis for innovation and competition by CLECs that is just beginning to be realized.

In contrast, BellSouth and Verizon lack incentive to remove barriers to CLEC switch-based competition because doing so would reduce their revenue and enable CLECs to compete and innovate more effectively. The RBOCs gained long distance authority based on opening the local market to competition, which has begun to occur because of the use of UNE-P. Now that BellSouth and Verizon offer long distance service and are rapidly gaining market share, they seek to virtually eliminate local competition for the mass market by eliminating UNE-P, despite the express directive of the Florida Legislature, and the 271 obligation for BellSouth. In exchange for the opportunity to have their profits deregulated, the Florida Legislature requires that the ILECs must unbundle every part of their local network, so long as it is technically and economically feasible to do so. For BellSouth, it has voluntarily accepted, under the terms of Section 271's social contract, the obligation to offer ULS at rates that are "just and reasonable and nondiscriminatory" and which provides entrants "meaningful access."

The trigger analysis will reveal that economic and operational barriers have not been removed. The mere existence of CLEC-deployed switches in a market is not enough to meet the trigger. CLECs must be actively using their switches in a manner that demonstrates that they are not impaired without ULS. The ILECs have failed to demonstrate in any Florida market that there are three or more CLECs, not affiliated with each other or the ILEC, that are *actively* providing voice analog service to mass market consumers, including residential consumers, with their own switches and ILEC loops, at a level that demonstrates that new entrants in that market have surmounted barriers to entry.

Analysis of potential deployment also demonstrates that economic and operational barriers exist that prevent CLEC switch-based competition from emerging for Florida mass market customers. CLEC testimony demonstrates that even if operational impairment were removed, significant economic impairment would remain that would prevent CLECs from successfully entering the Florida mass market using UNE-L. BellSouth's testimony to the contrary is based (among other things) on improper market definition; overly rosy assumptions about CLECs' costs and revenues; and flaws in the BACE model. CLEC testimony demonstrates that significant operational impairment remains, arising from (among other things) the complex and manual nature of BellSouth's hot cut process; the prevalence of IDLC in BellSouth's network and the inadequate processes for migrating customers on IDLC loops; the utter lack of evidence that BellSouth's systems can handle mass market volumes of UNE-L loop cutovers; and the need for the entire industry to process migrations to and from all carriers in a variety of scenarios. Until BellSouth and the rest of the industry can migrate customers as seamlessly and efficiently as is done today for long distance and UNE-P customers, impairment will continue to exist. Rolling access to UNE-P would not remove this impairment because, for example, BellSouth's batch hot cut process in reality is only a batch ordering process; it does not provide for the seamless migration of mass market volumes of customers; and it only deals with migrations from the ILEC to a CLEC and not other situations.

Although Verizon's batch cut process has improvements that BellSouth has not adopted, Verizon's process still does not satisfy the FCC's requirement of a seamless, low-cost method for transferring large volumes of mass market customers as promptly and efficiently as ILECs can transfer customers using ULS.

Therefore, the Commission should reject the ILECs' requests that it find that the FCC's national findings of impairment without access to unbundled switching for the mass market have been overcome in Florida geographic markets.

OPC: All of the geographic market definitions proposed in the direct testimony of BellSouth, Verizon, and Sprint -- including MSAs, CEAs, and UNE rate zones -- are too broad. These proposals greatly increase the risk of inadvertently reaching a conclusion of non-impairment that is only valid with respect to a portion of the geographic area . The Commission should instead define the relevant market on the basis of a single wire center or small group of wire centers.

The Commission could use revenue per customer, or gross margin per customers, rather than the number of DS0 lines to distinguish between the enterprise and mass market. In addition, the Commission should consider another layer of granularity by considering demand factors that tend to distinguish which customers can be economically served using a CLEC's own switch. Residential and small business mass market customers have different demand characteristics which may impact the degree to which impairment exists.

AARP: AARP adopts in its entirety the Basic Position stated by the Citizens in this Prehearing Order.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

XIII. ISSUES AND POSITIONS

MARKET DEFINITION (§51.319(d)(2)(i))

ISSUE 1: For purposes of this proceeding, what are the relevant markets for purposes of evaluating mass market impairment and how are they defined?

ALLEGIANCE: The geographic market for purposes of evaluating mass market impairment should be each contiguous area consisting of the same UNE loop rate zone within each Metropolitan Statistical Area or within those portions of each LATA that are not within any Metropolitan Statistical Area.

BST: The appropriate geographic market definition to be used in this proceeding should be the UNE zones established by this Commission, further subdivided by Component Economic Areas (CEAs) established by the Bureau of Economic Analysis, United States Department of Commerce. The FCC has determined that the geographic market cannot be as large as the entire state, nor so small that a CLEC operating solely in that market

cannot realize economies of scope and scale. By selecting UNE zones subdivided by CEAs, each market area combines two geographic concepts that have specific economic meaning and that reflect both demand-side and supply-side factors that are important to establishing a market definition. More specifically, loop and other costs vary by UNE zone, which impacts supply-side substitutability (a factor that is used to determine market definition), and the CEAs were formed based on some of the factors that ensure that the area represents an economic community of interest.

FDN: FDN does not disagree with how BellSouth or Verizon have identified each geographic “market” in their territories for purposes of this proceeding, but FDN takes no position at this time on how the Commission should define “market.”

SPRINT: The relevant markets for purposes of evaluating mass market impairment are Metropolitan Statistical Areas (MSAs) as defined by the U.S. Census Bureau. The geographical unit for evaluating impairment represents the geographic area throughout which the concept of impairment will be evaluated. In another words, it must be acknowledged that the mass market is found throughout the entire MSA, not merely portions of the MSA as explained in Mr. Staihr’s testimony. To the extent that a party wishes to put forth a non-MSA area for consideration of “no impairment,” the geographical unit should be rural service areas (RSAs).

VERIZON: The Commission should adopt an existing geographic market definition for application of the self-provisioning trigger. Among the existing definitions, Metropolitan Statistical Areas (“MSAs”), as defined by the Office of Management and Budget, are the most appropriate. If the Commission nevertheless chooses to define the market more narrowly, the Commission should adopt unbundled network element (“UNE”) pricing Density Zones as the relevant geographic markets. Verizon has presented evidence that it meets the self-provisioning trigger in the Tampa-St. Petersburg-Clearwater MSA, as well as within pricing Density Zones 1 and 2 within that MSA.

JOINT CLEC: In testing any suggested market definition, the Commission should assure itself that each wire center in the suggested market will have facilities-based (UNE-L) competition at a level commensurate with that currently provided by unbundled switching (UNE-P). The Commission should adopt the Local Access and Transport Area (LATA) market definition, which is consistent with the factors considered significant by the FCC³ because each LATA, on a more granular level, is comparable to the current state-wide mass market competition profile, and is large enough to afford economies of scale to CLECs and competitive choice to rural, urban and suburban customers. Such economies of scale are essential to, among other things, the ability of CLECs to offer ubiquitous service and distribute specialized services. In addition, LATA boundaries are

³ See *FCC Triennial Review Order (“TRO”)* ¶ 495 & 496.

well understood, conform to wire center boundaries, and have defined Florida's "exchange markets" for the past two decades.

MCI: The relevant market is the wire center, generally because (a) CLECs must invest on a wire-center-by-wire center basis; (b) a number of factors such as loop cost, collocation cost, number of customers, and customer demographics vary by wire center; and (c) using a larger area could involve offsetting unprofitable areas with profitable areas, thus removing ULS were it is still needed.

OPC: The Commission should define the relevant market on the basis of a single wire center or small group of wire centers. The Commission could use revenue per customer, or gross margin per customers, rather than the number of DS0 lines to distinguish between the enterprise and mass market. In addition, the Commission should consider another layer of granularity by considering demand factors that tend to distinguish which customers can be economically served using a CLEC's own switch. Residential and small business mass market customers have different demand characteristics which may impact the degree to which impairment exists.

AARP: AARP adopts in its entirety the issues and positions put forth by the Office of Public Counsel.

STAFF: Staff has no position at this time.

ISSUE 2: In defining the relevant geographic areas to include in each of the markets, how should the following factors be taken into consideration and what relative weights should they be assigned:

- a) the locations of mass market customers actually being served by CLECs;
- b) the variation in factors affecting CLECs' ability to serve each group of customers; and
- c) CLECs' ability to target and serve specific markets profitably and efficiently using currently available technologies?

ALLEGIANCE: Only mass market customers served from wire centers in geographically contiguous areas consisting of the same UNE loop rate zone should be considered to be in the same geographic market.

Wire center density is the primary factor affecting CLECs' ability to serve the mass market customers in any given wire center.

BST: The market definition BellSouth supports clearly considers each of these three factors. The first factor relates to demand for switch-based mass-market service by CLECs (while CLECs currently serve customers in diverse parts of Florida, these customers tend to be largely grouped in UNE zones 1 and 2) and the second and third factors relate to “supply-side substitutability” (an important element in determining geographic markets) for switch-based CLEC mass-market service. The first factor is taken into account by differentiating between the density and size of the customer base, which is addressed with the UNE zones, and by the CEA, which distinguishes among the various economic nodes in the State. The second and third factors are taken into account both by the UNE zone and the CEA. UNE zones are related to various costs (e.g. loop costs), that affect supply-side substitutability, and by the density and size of the customer base, which also affects costs (and therefore supply-side substitutability). The CEA establishes that there is some commonality with respect to, e.g., mass market advertising.

FDN: No position at this time.

SPRINT: The TRO suggested that these criteria cannot be taken at face value. Given the minimis number of mass market customers being served, and mostly by enterprise switches, Sprint does not believe the location of customers to be a significant factor in determining the relevant geographic area for the market definition.

The factors affecting a CLEC’s ability to serve a group of customers and a CLEC’s ability to target and serve specific markets profitably and efficiently are relevant and instructive criteria for defining the geographic market and should, therefore, be given more weight. Of particular significance are the efficiencies that are gained from the scope of the market. These efficiencies are not limited to only the cost of provisioning service, but also reflect the cost of marketing services. For example, market areas are generally related to the reach of advertising media, i.e., newspaper, radio and television. Thus, Sprint has proposed that while there may be variations within a market area which will affect a CLEC’s ability to serve, e.g., UNE-L prices, the market should not be so narrowly defined as diminish the value of a CLEC’s marketing expenses and potential economies of scope.

VERIZON: The FCC did not assign these three factors different relative weights in articulating its market definition rule (47 C.F.R. § 51.319(d)(2)(i)). However, the FCC has recognized the primacy of “actual market place evidence” in determining impairment within the relevant geographic market. Thus, the most significant factor for defining the relevant geographic areas to include in each market is where CLECs have chosen to enter and compete for mass market customers using their own switches and the areas that they currently serve and could serve using those switches. The remaining two factors (items 2b and 2c above, should be given roughly equal consideration, and none is necessarily

dispositive. Verizon has presented evidence that the geographic market areas that strike the appropriate balance between these factors is the MSA or, alternatively, UNE pricing Density Zones.

JOINT CLEC: The competitive profile of UNE-P clearly demonstrates that the locations of customers actually being served (if any) by competitors is in fact, the entire territory of the incumbent. However, the ability to accept customers at all locations, regardless of geographic distinctions, is dependent upon a broadly defined market in which service to less profitable customers can be offset by service to more profitable areas. The location of all mass market customers actually served by CLECs, using UNE-P as well as UNE-L, is crucial to defining the relevant geographic markets because, in testing competitive entry strategies, the Commission should measure whether they will produce the same level of competitive choice currently provided to Florida consumers.

Within each proposed geographic area, the Commission should consider market-specific data on, including but not limited to: (1) the size, location, customer-served count, and customer-service profile of each wire center; (2) the existence of facilities-based competition or collocations in each wire center; (3) the current retail rates, costs, and the likelihood that rates will change over time; (4) the availability of sufficient collocation space and cost-effective backhaul facilities; (5) the ability to handle change in phone traffic patterns without call blocking if UNE-P is eliminated; and (6) the actual experience and ability of the ILECs to handle the large volume of hot cuts needed if UNE-P is eliminated.

Geographic markets should be defined in a manner that avoids geographic “dead zones,” which would leave some consumers with no competitive choice, and that allows CLECs to target and serve efficiently each segment of retail mass market customers, including, but not limited to: those whose loops are currently served with Integrated Digital Loop Carrier (IDLC) systems; Digital Subscriber Line (DSL)-only customers; customers receiving bundled voice and data services provided through line-splitting arrangements; and customers of other CLECs. Further, the broad availability of UNE-P is essential for, among other things, providing the cost-effective distribution channels necessary to enable CLECs to offer those innovative services that entail expensive up-front investments.

MCI: Telecommunications services are location specific, meaning that customers demand that services be delivered to their premises, and that substitutes that do not meet this criterion will be judged unsatisfactory. Customer locations can be aggregated for purposes of achieving administrative practicability and economies of scale and scope. Such an aggregation at the wire center level achieves both of these goals while preserving much of the accuracy of customer-by-customer analysis.

A number of factors vary by wire center, including but not limited to: (a) the number of customers served by the wire center; (b) the number of lines over which the CLEC may offer DSL services; (c) the number of lines served by DLC; (d) the proportion of business and residential customers; (e) the demographics of the customers served; (f) the demographics of customers served; (g) the cost of transport; and 8) the cost of loops.

Markets should not extend beyond individual wire centers. Service in one part of the market should imply that the carrier may serve all parts of the market, but the ability to apply service profitably in one wire center does not imply that ability in another. Moreover, using a larger geographic area may average profitable and unprofitable areas, inaccurately portraying CLECs' ability to serve the entire area. Economies of scale will not prompt CLECs to invest in wire centers where service cannot be provided profitably.

OPC: No position at this time.

AARP: No position at this time.

STAFF: No position at this time.

BATCH CUT PROCESS (§51.319(d)(2)(ii))

ISSUE 3A: Does a batch cut process exist that satisfies the FCC's requirements in the Triennial Review Order? If not, in which markets should the Commission establish a batch cut process?

ALLEGIANCE: Allegiance takes no position on this issue at this time.

BST: BellSouth's Batch Hot Cut Process satisfies the FCC's requirements in the Triennial Review Order. In addition, BellSouth will provide CLECs with the Mass Migration Process for those CLECs that wish for BellSouth to handle all aspects of the conversion at such time and in those areas where BellSouth receives unbundled switching relief. BellSouth's batch hot cut process is available region-wide.

FDN: The current hot cut processes of BellSouth and Verizon work reasonably well. However, if the Commission approves a batch process for BellSouth and/or Verizon, the batch processes proposed by BellSouth and Verizon do not satisfy the TRO requirements.

SPRINT: Sprint-Florida is not challenging the FCC's finding of impairment in any of its markets, therefore, the Commission need not review Sprint-Florida's hot cut process. In any event, Sprint-Florida's current hot cut process does not present impairment and there

is no need for the Commission to require Sprint-Florida to establish a batch hot cut process.

VERIZON: Verizon's existing hot cut process satisfies the requirements outlined in the FCC's Triennial Review Order and in FCC Rule 319(D)(2)(ii). Verizon is proposing in this proceeding an additional batch hot cut process that also complies with these requirements. These hot cut processes will be available in throughout the Verizon territory in Florida.

JOINT CLEC: No batch cut process exists that (1) satisfies the TRO requirement of a seamless, low-cost method for transferring large volumes of mass market customers "as promptly and efficiently as ILECs can transfer customers using unbundled switching"⁴ or (2) is comparable to the long distance market in which long distance carriers transfer new mass market customers at a very low cost, in very high volumes, and in short periods of time, using the automated Primary Interexchange Carrier ("PIC") change process. Customers today expect to be able to move from carrier to carrier seamlessly. Operational problems will affect customers, through provisioning delays, service problems, and even loss of dial tone. Customers will not stand for these problems, and if they are not resolved, ultimately will undermine local competition.

Indeed, BellSouth provides only batch ordering with individual hot cuts; it has no true batch cut process that includes the batch provisioning of loops. As long as the batch cut process is based on manual provisioning procedures, it should be viewed as an interim solution with limited opportunities for improvement over current hot cut processes. As such, the batch cut process resulting from this docket should be viewed as an important step toward the ultimate development of an electronic solution that creates the same opportunity for local competition that exists for mass market consumers in the long distance market. A batch cut process should be established for use in every market, absent detailed findings that hot cuts do not give rise to impairment in a particular market, and the ILECs have produced no data to support such findings.⁵

OPC: No position at this time.

AARP: No position at this time.

STAFF: No position at this time.

⁴ *Id.* ¶ 512, n.1574.

⁵ *Id.* ¶ 488.

ISSUE 3B: For those markets where a batch cut process should be established, what volume of loops should be included in the batch?

ALLEGIANCE: Allegiance takes no position on this issue at this time.

BST: In the Batch Hot Cut Process, BellSouth can perform at least 125 hot cuts per central office per day. BellSouth's process is scalable to handle volumes above 125 cuts per central office per day.

FDN: Any batch process approved must be available to convert ILEC to CLEC UNE-L service, and as few as two loops could be eligible for batch processing under a properly formulated batch process.

SPRINT: Sprint-Florida is not challenging the FCC's finding of impairment in any of its markets, therefore, the Commission need not review Sprint-Florida's hot cut process. In any event, Sprint-Florida's current hot cut process does not present impairment and there is no need for the Commission to require Sprint-Florida to establish a batch hot cut process.

VERIZON: To maximize the efficiency of the batch process, Verizon requires a "critical mass" of loops. The "critical mass" standard does not require an absolute minimum or maximum number of lines, and will vary from central office to central office. The manager of each individual central office, based on the volume of cuts and the optimum level of frame staffing, will determine the number of lines that will constitute a critical mass *in that office*.

JOINT CLEC: The batch size must permit the CLEC and ILEC to achieve cost efficiencies, so that the cost per line and the amount of time required to provision UNE-L customers are equivalent to the experience of changing carriers under UNE-P or changing long distance carriers. Batches should be sized to accommodate efficient transfers in a truly competitive market in which UNE-P is not available.

OPC: No position at this time.

AARP: No position at this time.

STAFF: No position at this time.

ISSUE 3C: For those markets where a batch cut process should be established, what specific processes should be employed to perform the batch cut?

ALLEGIANCE: Allegiance takes no position on this issue at this time.

BST: The Commission should adopt BellSouth's Batch Hot Cut Process as described in the testimony of Ken Ainsworth. In addition, the Commission can rely on BellSouth's individual hot cut process and mass migration hot cut process as providing additional effective and seamless ways to move loops from one carrier's switch to another carrier's switch.

FDN: Any batch process should reflect efficiencies of batch processing and not involve the protracted intervals proposed in this case by BellSouth and Verizon. Further, Verizon's batch process is flawed in that Verizon's proposal to notify NPAC on behalf of the CLEC may not work without real time coordination with the CLEC.

SPRINT: Sprint-Florida is not challenging the FCC's finding of impairment in any of its markets, therefore, the Commission need not review Sprint-Florida's hot cut process. In any event, Sprint-Florida's current hot cut process does not present impairment and there is no need for the Commission to require Sprint-Florida to establish a batch hot cut process.

VERIZON: The Commission should approve the proposed batch cut process described in Verizon's December 4, 2003 Direct Panel Testimony on Hot Cut Process and Scalability.

JOINT CLEC: Any batch cut process must operate in conjunction with, and provide for the same prompt and efficient customer loop transfer as, the existing UNE-P electronic customer acquisition process, and should include all mass market customers (residential and small business), all types of loops used to serve such customers, and all types of transfers between and among CLECs and ILECs.⁶

OPC: No position at this time.

AARP: No position at this time.

STAFF: No position at this time.

⁶ *Id.* ¶¶ 512, n.1574; 514.

ISSUE 3D: For those markets where a batch cut process should be established, is the ILEC capable of migrating multiple lines that are served using unbundled local circuit switching to CLECs' switches in a timely manner?

ALLEGIANCE: Allegiance takes no position on this issue at this time.

BST: BellSouth's commercial usage, performance data and third party test all confirm that BellSouth is capable of migrating multiple lines that are served using unbundled local circuit switching to CLECs' switches in a timely manner.

FDN: See FDN's positions on subparts (a) – (c) above. No position at this time on the ILECs' ability to "scale" if unbundled local switching is eliminated.

SPRINT: Sprint-Florida is not challenging the FCC's finding of impairment in any of its markets, therefore, the Commission need not review Sprint-Florida's hot cut process. In any event, Sprint-Florida's current hot cut process does not present impairment and there is no need for the Commission to require Sprint-Florida to establish a batch hot cut process.

VERIZON: Yes. As explained in Part IV of Verizon's December 4, 2003 Direct Panel Testimony on Hot Cut Process and Scalability, Verizon is capable of migrating multiple lines that are served using unbundled local circuit switching to CLECs' switches in a timely manner. Moreover, Verizon is capable of migrating the greater volumes of hot cuts that would be expected to result from the elimination of local switching using its Basic, Large Job, or proposed Batch processes described in Part II of Verizon's Direct Panel Testimony.

JOINT CLEC: No; both ILEC proposals for migration of the embedded UNE-P base rest on bare promises, untested procedures and faulty assumptions, and, even so, are far from timely and efficient.

OPC: No position at this time.

AARP: No position at this time.

STAFF: No position at this time.

ISSUE 3E: For those markets where a batch cut process should be established, should the Commission establish an average completion interval performance metric for the provision of high volumes of loops?

ALLEGIANCE: Allegiance takes no position on this issue at this time.

BST: BellSouth's current performance measurements plan provides extensive data on BellSouth's provision of unbundled loops, including hot cuts. However, in order to capture performance relating to batch hot cuts, BellSouth has presented new performance measures and changes to existing measures to address more completely certain aspects of the batch migration process that may not be captured in current individual hot cut measurements. The Commission should adopt these new measures.

FDN: Performance metrics and remedy payments should be established for any batch processes approved.

SPRINT: Sprint-Florida is not challenging the FCC's finding of impairment in any of its markets, therefore, the Commission need not review Sprint-Florida's hot cut process. In any event, Sprint-Florida's current hot cut process does not present impairment and there is no need for the Commission to require Sprint-Florida to establish a batch hot cut process.

VERIZON: The Commission is not required to establish performance metrics relating to Verizon's batch process. FCC Rule 319(D)(2)(ii)(A)(3). However, if the Commission wishes to address batch hot cut metrics, those issues should be addressed in a metrics-related proceeding, rather than in this proceeding, and should be adopted only after the Commission approves a batch hot cut process.

JOINT CLEC: Yes. These metrics should be equivalent to those for transferring customers using UNE-P and comparable to intervals for transferring mass market long distance customers. The existing measurement of each activity at the most granular level feasible should continue, and the percentage of service outages and corresponding recovery time, and percentages of batches started and completed on time, should be included. Benchmarks should be revised and established to drive performance that protects customers, with self-executing financial consequences for an ILEC's failure to meet relevant standards, such as a service outage penalty equal to *average net revenues x life of customer*.

OPC: No position at this time.

AARP: No position at this time.

STAFF: No position at this time.

ISSUE 3F: For those markets where a batch cut process should be established, what rates should be established for performing the batch cut processes?

ALLEGIANCE: Allegiance takes no position on this issue at this time.

BST: BellSouth has proposed different rates for each of the three hot cut processes. These rates reflect the varying degrees of efficiencies gained by each process:

- Individual hot cut process – Commission – approved NRCs
- Batch hot cut process – 10% off applicable NRC
- Mass Migration hot cut process – 15% off applicable NRC for 500-2000 telephone numbers; 25% off applicable NRC for greater than 2000 telephone numbers.

FDN: BellSouth's proposed discount to its nonrecurring charges (NRCs) and Verizon's proposal to change all hot cut rates so as to include an IDLC surcharge should be rejected. The Commission should approve batch rates that reflect real efficiencies of a batch process and that represent a real overall reduction to normal hot cut NRCs.

SPRINT: Sprint-Florida is not challenging the FCC's finding of impairment in any of its markets, therefore, the Commission need not review Sprint-Florida's hot cut process. In any event, Sprint-Florida's current hot cut process does not present impairment and there is no need for the Commission to require Sprint-Florida to establish a batch hot cut process.

VERIZON: The Commission should approve the rates proposed in Exhibit III-A (Non-Recurring Cost Model) to Verizon's Direct Panel Testimony on Hot Cut Process and Scalability.

JOINT CLEC: TELRIC rates should be established, and they should be comparable to rates provided to ILECs seeking to compete in the long distance market. To avoid economic and operational impairment, an ILEC's batch cut process must meet the needs of the competitive mass market for local services commensurate with the scale achieved in the long distance market, as all carriers compete in the mass market with bundled long distance and local service offerings.

OPC: No position at this time.

AARP: No position at this time.

STAFF: No position at this time.

ISSUE 3G: Are there any markets in which a batch hot cut process need not be implemented? If so, for those markets where a batch cut process need not be established because absence of such a process is not impairing CLECs' ability to serve end users using DS0 loops to serve mass market customers without access to unbundled local circuit switching,

- (1) what volume of unbundled loop migrations can be anticipated if CLECs no longer have access to unbundled local circuit switching;
- (2) how able is the ILEC to meet anticipated loop migration demand with its existing processes in a timely and efficient manner; and
- (3) what are the nonrecurring costs associated with the ILEC's existing hot cut process?

ALLEGIANCE: Allegiance takes no position on this issue at this time.

BST: BellSouth does not assert at this time that there are any markets in which a hot cut process need not be implemented, because BellSouth's individual and batch hot cut processes are regional and available in every market region-wide. BellSouth will make the Mass Migration Conversion Process available at such time as and in those areas where it receives unbundled switching relief.

- (i) not applicable
- (ii) not applicable
- (iii) The nonrecurring costs associated with BellSouth's existing individual hot cut process are those rates adopted by the Commission in Docket No. 990649A-TP.

FDN: Verizon's proposal to change all hot cut rates so as to include an IDLC surcharge should be rejected, since it will add to rather than alleviate impairment. The Commission should approve rates that will encourage UNE-L based competition.

SPRINT: Sprint-Florida is not challenging the FCC's finding of impairment in any of its markets, therefore, the Commission need not review Sprint-Florida's hot cut process. In any event, Sprint-Florida's current hot cut process does not present impairment and there is no need for the Commission to require Sprint-Florida to establish a batch hot cut process.

VERIZON: The Commission need not implement a batch process in any markets in Florida. As explained in Part III of Verizon's Direct Panel testimony, Verizon's existing hot cut processes are scalable and sufficient to migrate the embedded base of customers to CLEC-provided switching following the elimination of UNE-P. Thus, the absence of a batch cut process would not impair CLECs' ability to serve end users using DS0 loops. In any event, Verizon has proposed a batch hot cut process in this proceeding and will offer it throughout Florida.

The volume of unbundled loop migrations that can be anticipated if CLECs no longer have access to unbundled local circuit switching is provided in Exhibit IV-A (Force-Load Model) to Verizon's Direct Panel Testimony. As further explained in Part IV of Verizon's Direct Panel Testimony, Verizon would be able to meet the anticipated loop migration demand following the elimination of unbundled switching with its existing process.

Finally, the non-recurring costs associated with Verizon's existing hot cut processes are described in Appendix A to the Pricing Attachment to Verizon's Interconnection agreements in effect in Florida. Those rates are currently stayed pending appeal to the Florida Supreme Court. Verizon's proposed rates for its existing hot cut processes are described in Exhibit III-A (Non-Recurring Cost Model) to Verizon's Direct Panel testimony.

JOINT CLEC: No.

In the long distance market, which represents the local competition level sought by regulators, approximately 25% of all customer lines change carriers annually. Using this experience and BellSouth's current level of Florida POTs lines, BellSouth should expect to have 123,958 line-change requests per month, or 5,635 hot cuts per business day.

The ILECs' reliance on prior approvals in section 271 proceedings and future promises is misplaced and contrary to TRO requirements.⁷ For example, anticipated loop migration demand for BellSouth of 5,635 hot cuts each business day exceeds, on a daily basis, the total number BellSouth currently performs over a three-month period. Moreover, given the time-consuming, predominantly manual nature of the entire hot cut process, BellSouth cannot meet even the lower, current loop migration demand as efficiently as it transfers customers using unbundled switching: For the most prevalent loop categories ordered in a UNE-L environment, its order completion interval is five to ten times longer than UNE-P, and it consistently fails to meet performance metrics for completing the order process as well.

⁷ TRO ¶ 469.

For the most prevalent loop categories ordered in a UNE-L environment for mass market customers, BellSouth today charges a nonrecurring fee of \$83.11, and Verizon charges \$121.98 for a hot cut.

OPC: No position at this time.

AARP: No position at this time.

STAFF: No position at this time.

ACTUAL SWITCH DEPLOYMENT: LOCAL SWITCHING TRIGGERS(\$51.319(d)(2)(iii)(A))

ISSUE 4A: 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?

ALLEGIANCE: Allegiance takes no position on this issue at this time but reserves the right to take a post-hearing position, depending upon the evidence presented at the hearing.

BST: There are twelve (12) markets in Florida in which there are three or more CLECs not affiliated with each other or the ILEC, including intermodal providers of service, serving mass market customers with their own switches. The list of the twelve (12) markets is found in Ms. Tipton's Exhibit PAT-3 (revised). BellSouth does not assert at this time that the wholesale switching triggers have been met in Florida.

FDN: FDN is a trigger company in its Florida markets. The other ALECs improperly embellish the trigger TRO tests by adding criteria. No position at this time as to whether specific ALECs other than FDN may be trigger companies.

SPRINT: The identification of markets in which three or more CLECs are serving mass market customers with their own switches is more than just a counting exercise. The TRO lays out specific criteria that must be met before any CLEC can be counted toward meeting the triggers, including that enterprise switches do not count toward meeting the triggers, that the CLEC switches must serve a non de minimis number of mass market customers in the market, that the CLEC must be serving or capable of serving throughout the market, and that the CLEC must be actively serving the market and likely to continue to do so. BellSouth and Verizon have failed to demonstrate that the self-provisioning triggers are met in any of the markets identified in the testimony of their witnesses.

VERIZON: In the Tampa-St. Petersburg-Clearwater MSA, and in pricing Density Zones 1 and 2 within that MSA.

JOINT CLEC: None. The Commission should review claims of “actual deployment through triggers,” in a manner such that UNE-P competition is eliminated only from those markets where UNE-L alone will continue to provide the same level of competition currently enjoyed by Florida customers. This test is not met here, because the ILECs have failed to demonstrate that there are three or more unaffiliated CLECs “actively providing voice service to mass market customers”⁸ in accordance with the criteria discussed in the TRO.

OPC: No position at this time.

AARP: No position at this time.

STAFF: No position at this time.

STIPULATED

ISSUE 4B: In which markets are there two or more CLECs not affiliated with each other or the ILEC, including intermodal providers of service comparable in quality to that of the ILEC, who have their own switches and are offering wholesale local switching to customers serving DS0 capacity loops in that market?

POSITION: In this proceeding, the ILECs are not attempting to make a showing under the competitive wholesale facilities trigger for switching. In view of this, all parties stipulated that the wholesale triggers are not met.

POTENTIAL FOR SELF-PROVISIONING OF LOCAL SWITCHING (§51.319(d)(2)(iii)(B))

ISSUE 5A: In which markets are there either two wholesale providers or three self-provisioners of local switching not affiliated with each other or the ILEC, serving end users using DS1 or higher capacity loops? Where there are, can these switches be used to serve DS0 capacity loops in an economic fashion?

ALLEGIANCE: Allegiance takes no position on this issue at this time.

⁸ *Id.* ¶ 499.

BST: There are three or more CLECs self-provisioning local switching using DS1 or higher loops in 13 of BellSouth's geographic markets. These markets are identified in Ms. Tipton's Exhibit PAT-11.

FDN: FDN takes no position at this time on the economics of potential deployment.

SPRINT: BellSouth's decision to unreasonably prevent external users from having access to critical areas of the BACE Model's calculations, inputs, subroutines and results renders BellSouth's potential deployment case an unverifiable "black box." Because no external audit or evaluation can be made of the BACE Model, BellSouth has failed to provide any competent, substantial evidence to support its assertions that it is economic for CLECs to self-provision local switching to serve the mass market and, therefore, that CLECs are not impaired without access to unbundled local switching in any of BellSouth's markets.

VERIZON: Verizon does not intend to advance a potential deployment case in this nine-month proceeding, and is relying solely on the mass market self-provisioning trigger. Verizon's evidence demonstrates that there are at least 8 CLECs serving end users using DS0 capacity loops with self-provisioned switches in the Tampa-St. Petersburg-Clearwater MSA.

JOINT CLEC: None. To the extent that CLECs are serving the enterprise market with their own switches, these switches cannot be used to serve the mass market in an economic fashion. The operational and economic barriers to entering the mass market with self-provisioned switches are so high that CLECs choose not to use excess capacity on their enterprise switches to serve the mass market, even though they have every incentive to recover more quickly the fixed costs associated with their switches by spreading these costs over a broader base of customers.

OPC: Setting a high cut-over may exacerbate the risk that the impact of this proceeding will be to reduce competitive options for residential and small business customers. The Commission could use revenue per customer, or gross margin per customers, rather than the number of DS0 lines to distinguish between the enterprise and mass market. In addition, the Commission should consider another layer of granularity by considering demand factors that tend to distinguish which customers can be economically served using a CLEC's own switch. Residential and small business mass market customers have different demand characteristics which may impact the degree to which impairment exists.

AARP: Adopts OPC's position.

STAFF: No position at this time.

ISSUE 5B: In which markets are there any 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?

ALLEGIANCE: Allegiance takes no position on this issue at this time.

BST: BellSouth, in Dr. Aron's testimony, has identified 9 markets where the FCC's "potential deployment" test is met, even though the FCC's triggers test is not. With regard to those 9 markets, there are CLECs providing DS0 service in 8 of them. The specific markets and the CLECs serving those markets are reflected in Witness Tipton's Exhibits PAT-6 (revised) and PAT-7 (revised).

FDN: FDN takes no position at this time on the economics of potential deployment. FDN is a trigger company in the markets FDN serves.

SPRINT: BellSouth's decision to unreasonably prevent external users from having access to critical areas of the BACE Model's calculations, inputs, subroutines and results renders BellSouth's potential deployment case an unverifiable "black box." Because no external audit or evaluation can be made of the BACE Model, BellSouth has failed to provide any competent, substantial evidence to support its assertions that it is economic for CLECs to self-provision local switching to serve the mass market and, therefore, that CLECs are not impaired without access to unbundled local switching in any of BellSouth's markets.

VERIZON: Verizon does not intend to advance a potential deployment case in this nine-month proceeding, and is relying solely on the mass market self-provisioning trigger. Verizon's evidence demonstrates that there are at least 8 CLECs serving end users using DS0 capacity loops with self-provisioned switches in the Tampa-St. Petersburg-Clearwater MSA.

JOINT CLEC: No position at this time. The ILECs have failed to establish that any carriers are using their own switches to provide POTs service to the mass market in the manner envisioned by the FCC.

OPC: Setting a high cut-over may exacerbate the risk that the impact of this proceeding will be to reduce competitive options for residential and small business customers. The Commission could use revenue per customer, or gross margin per customers, rather than the number of DS0 lines to distinguish between the enterprise and mass market. In addition, the Commission should consider another layer of granularity by considering demand factors that tend to distinguish which customers can be economically served using a CLEC's own switch. Residential and small business mass market customers have

different demand characteristics which may impact the degree to which impairment exists.

AARP: Adopts OPC's position.

STAFF: No position at this time.

ISSUE 5C: In which markets do any of the following potential operational barriers render CLEC entry uneconomic absent access to unbundled local circuit switching:

1. The ILEC's performance in provisioning loops;
2. difficulties in obtaining collocation space due to lack of space or delays in provisioning by the ILEC; or
3. difficulties in obtaining cross-connects in the ILEC's wire centers?

ALLEGIANCE: Allegiance takes no position on this issue at this time.

BST: BellSouth's performance in provisioning loops, providing collocation space, and enabling cross connects in its central offices does not constitute an operational barrier rendering CLEC entry uneconomic in any market in Florida.

FDN: FDN believes BellSouth's and Verizon's hot cut processes work reasonably well. The Commission can ensure performance with appropriate performance measures and remedy payments.

SPRINT: BellSouth's decision to unreasonably prevent external users from having access to critical areas of the BACE Model's calculations, inputs, subroutines and results renders BellSouth's potential deployment case an unverifiable "black box." Because no external audit or evaluation can be made of the BACE Model, BellSouth has failed to provide any competent, substantial evidence to support its assertions that it is economic for CLECs to self-provision local switching to serve the mass market and, therefore, that CLECs are not impaired without access to unbundled local switching in any of BellSouth's markets.

VERIZON: Verizon does not intend to advance a potential deployment case in this nine-month proceeding, and is relying solely on the mass market self-provisioning trigger. Verizon's evidence demonstrates that there are at least 8 CLECs serving end users using

DSO capacity loops with self-provisioned switches in the Tampa-St. Petersburg-Clearwater MSA.

JOINT CLEC: All. Due to the physical structure of the ILEC network, as well as the manual nature of the hot cut process, operational barriers not faced by the ILEC render CLEC entry uneconomic for mass market competition in each geographic market. These processes will not hold up if order volumes increase exponentially, as they would if carriers moved from UNE-P to UNE-L. Because ILEC switches are located at the point where an aggregate number of local loops terminate, the ILEC need only secure a single jumper pair to connect the local ILEC analog loop to its switch. In contrast, an efficient CLEC cannot locate its switch in the location where ILEC local loops terminate, but must aggregate traffic from many such locations to its switch, which is always remotely located from the ILEC office where the loops terminate. Thus, even in the current market, where virtually all mass market consumers are served via UNE-P, the ILEC's use of the manual hot cut performance for provisioning loops results in significant operational impairments in every market in Florida. Not only are BellSouth's UNE-L provisioning systems manual, but its UNE-L ordering systems involve a great deal of manual processing as well. Moreover, hot cuts are more complicated for loops with IDLC feeder, because BellSouth currently requires facilities changes to accommodate such migrations. Further, although BellSouth proposes to make EEL-based loops available, they are not available as a practical matter, nor has BellSouth documented how they are to be ordered and provisioned. For EELs to be practical, concentration must be provided.

Although the economic impairment resulting from these barriers may be reduced somewhat, the *existence* of these operational barriers does not vary among the Florida markets. In addition, if UNE-P is eliminated, CLEC mass market phone traffic will no longer travel on the direct trunks within the ILEC transport network, but will shift to CLEC switches and be connected only through the ILEC tandem switches. Therefore, an efficient CLEC in each geographic market will face the additional operational barrier of "call blocking" because the trunks leading to and from the tandem switches become overloaded, resulting in consumer frustration with increased "fast busy" signals or the inability to make phone calls efficiently.

All. Physical collocation space presents operational barriers to CLEC facilities-based competition. The ILECs have failed to provide detailed information on physical collocation or hot cut working space in each central office, or on the number of new or expanded collocations that will be required to service CLEC customers at each center if UNE-P is not available.

All. The challenging ILECs' failure in any geographic market "to provide cross-connections between the facilities of two CLECs on a timely basis,"⁹ results in operational barriers and impairment. Although the ILECs, such as BellSouth, do *allow* for cross-connects, they do not *provide* them as required by the TRO, resulting in impairment.

OPC: Setting a high cut-over may exacerbate the risk that the impact of this proceeding will be to reduce competitive options for residential and small business customers. The Commission could use revenue per customer, or gross margin per customers, rather than the number of DS0 lines to distinguish between the enterprise and mass market. In addition, the Commission should consider another layer of granularity by considering demand factors that tend to distinguish which customers can be economically served using a CLEC's own switch. Residential and small business mass market customers have different demand characteristics which may impact the degree to which impairment exists.

AARP: Adopts OPC's position.

STAFF: No position at this time.

ISSUE 5D: In which markets do any of the following potential economic barriers render CLEC entry uneconomic absent access to unbundled local circuit switching:

1. the costs of migrating ILEC loops to CLECs' switches; or
2. the costs of backhauling voice circuits to CLECs' switches from the end offices serving the CLECs' end users?

ALLEGIANCE: Allegiance takes no position on this issue at this time.

BST: BellSouth has identified 9 markets in Florida using the FCC's "potential deployment" test, in which CLECs are not impaired without access to BellSouth's unbundled switching. Thus, CLEC entry into those 9 markets is not rendered uneconomic as a result of the cost of migrating loops to the CLEC's switches or by the cost of back hauling calls to the CLECs' switches. Those markets are identified in Dr. Aron's Exhibit DJA-02 (second revised). Further, even in those markets where neither the triggers nor the "potential deployment" tests are met, there is no evidence that costs of migrating loops or back haul costs are the determining factors as to the barriers that exist in those markets.

⁹ *Id.* ¶ 514.

FDN: No position at this time.

SPRINT: BellSouth's decision to unreasonably prevent external users from having access to critical areas of the BACE Model's calculations, inputs, subroutines and results renders BellSouth's potential deployment case an unverifiable "black box." Because no external audit or evaluation can be made of the BACE Model, BellSouth has failed to provide any competent, substantial evidence to support its assertions that it is economic for CLECs to self-provision local switching to serve the mass market and, therefore, that CLECs are not impaired without access to unbundled local switching in any of BellSouth's markets.

VERIZON: Verizon does not intend to advance a potential deployment case in this nine-month proceeding, and is relying solely on the mass market self-provisioning trigger. Verizon's evidence demonstrates that there are at least 8 CLECs serving end users using DS0 capacity loops with self-provisioned switches in the Tampa-St. Petersburg-Clearwater MSA.

JOINT CLEC: All. An efficient CLEC suffers absolute cost disadvantages, conservatively ranging from a high of \$19.74 per line per month to a low of \$11.86 per line per month. These cost disadvantages include both the "hot cut" costs of migrating ILEC loops to CLEC switches and the "backhaul infrastructure" costs of backhauling voice circuits to CLECs' switches from the ILEC offices serving the CLECs' end users, and result from the operational barriers described Issue 3(c)(1). Moreover, analysis of all related costs and revenues that CLECs reasonably could be expected to realize further demonstrates that CLECs cannot use a UNE-L strategy to serve mass market customers in any Florida geographic market.

OPC: Setting a high cut-over may exacerbate the risk that the impact of this proceeding will be to reduce competitive options for residential and small business customers. The Commission could use revenue per customer, or gross margin per customers, rather than the number of DS0 lines to distinguish between the enterprise and mass market. In addition, the Commission should consider another layer of granularity by considering demand factors that tend to distinguish which customers can be economically served using a CLEC's own switch. Residential and small business mass market customers have different demand characteristics which may impact the degree to which impairment exists.

AARP: Adopts OPC's position.

STAFF: No position at this time.

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ISSUE 5E: Taking into consideration the factors in (a) through (d), in what markets is it economic for CLECs to self-provision local switching and CLECs are thus not impaired without access to unbundled local circuit switching?

ALLEGIANCE: Allegiance takes no position on this issue at this time.

BST: BellSouth has identified 9 market areas in Florida, using the FCC's "potential deployment" test, where it is economic for CLECs to self-provision local switching and where CLECs are thus not impaired without access to unbundled local switching. These markets are identified in Exhibit DJA-02 (second revised), attached to Dr. Aron's direct testimony.

FDN: No position at this time.

SPRINT: BellSouth's decision to unreasonably prevent external users from having access to critical areas of the BACE Model's calculations, inputs, subroutines and results renders BellSouth's potential deployment case an unverifiable "black box." Because no external audit or evaluation can be made of the BACE Model, BellSouth has failed to provide any competent, substantial evidence to support its assertions that it is economic for CLECs to self-provision local switching to serve the mass market and, therefore, that CLECs are not impaired without access to unbundled local switching in any of BellSouth's markets.

VERIZON: Verizon does not intend to advance a potential deployment case in this nine-month proceeding, and is relying solely on the mass market self-provisioning trigger. Verizon's evidence demonstrates that there are at least 8 CLECs serving end users using DS0 capacity loops with self-provisioned switches in the Tampa-St. Petersburg-Clearwater MSA.

JOINT CLEC: None. To date, UNE-P has provided the only viable path for CLECs to enter local mass market competition, and the ILECs themselves have not entered the market this way by deploying competitive switches to serve mass market customers in each other's regions. Given the operational and economic barriers that exist today for UNE-L entry, CLECs are impaired without access to ULS in all markets.

OPC: Setting a high cut-over may exacerbate the risk that the impact of this proceeding will be to reduce competitive options for residential and small business customers. The Commission could use revenue per customer, or gross margin per customers, rather than the number of DS0 lines to distinguish between the enterprise and mass market. In addition, the Commission should consider another layer of granularity by considering demand factors that tend to distinguish which customers can be economically served using a CLEC's own switch. Residential and small business mass market customers have

different demand characteristics which may impact the degree to which impairment exists.

AARP: Adopts OPC's position.

STAFF: No position at this time.

ISSUE 5F: For each market, what is the appropriate cut-off for multiline DS0 customers (where it is economic to serve a multiline customer with a DS1 loop)? That is, taking 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 economically by higher capacity loops and a CLEC's own switching (and thus be considered part of the DS1 enterprise market), what is the maximum number of DS0 loops that a CLEC can serve using unbundled local switching, when serving multiline end users at a single location?

ALLEGIANCE: Allegiance takes no position on this issue at this time.

BST: With regard to the demarcation point that divides "mass market" customers from "enterprise" customers, BellSouth adopts the FCC's default demarcation point, by which customers having three or fewer CLEC lines at a location are mass market customers and customers having four or more lines are enterprise customers.

FDN: No position at this time.

SPRINT: The appropriate cut-off for multiline DS0 customers, that is, the point at which a multi-line DS0 customer is served more efficiently using a DS-1 capacity loop, is 12 or more.

VERIZON: This "cutoff" should be between customers actually being served with one or more voice grade DS0 circuits and customers actually being served by DS1 loops. It is the objective behavior of the CLEC that should drive the determination of whether or not it "makes economic sense" for that CLEC to serve particular customers over DS1 loops, rather than over multiple voice grade DS0 lines. If a CLEC is currently serving a customer using DS0 loops – regardless of how many – it has already made the determination on its own that it is most economical to serve the customer as a mass-market customer, rather than as a DS1 enterprise customer.

JOINT CLEC: For BellSouth's territory, a cross-over of 12 lines, as suggested by Sprint, should be used. It reflects a reasonable estimate of the point where the costs to a customer of a UNE DS1 are less than continued use of multiple UNE analog loops for voice service. For Verizon's territory, the Commission should accept Verizon's proposal to not impose an artificial upper band to the mass market..

OPC: Setting a high cut-over may exacerbate the risk that the impact of this proceeding will be to reduce competitive options for residential and small business customers. The Commission could use revenue per customer, or gross margin per customers, rather than the number of DS0 lines to distinguish between the enterprise and mass market. In addition, the Commission should consider another layer of granularity by considering demand factors that tend to distinguish which customers can be economically served using a CLEC's own switch. Residential and small business mass market customers have different demand characteristics which may impact the degree to which impairment exists.

AARP: Adopts OPC's position.

STAFF: No position at this time.

TRANSITIONAL USE OF UNBUNDLED LOCAL SWITCHING (§51.319(d)(2)(iii)(C))

ISSUE 6: If the triggers in §51.319(d)(2)(iii)(A) have not been satisfied for a given ILEC market and the economic and operational analysis described in §51.319(d)(2)(iii)(B) resulted in a finding that CLECs are impaired in that market absent access to unbundled local switching, would the CLECs' impairment be cured if unbundled local switching were only made available for a transitional period of 90 days or more? If so, what should be the duration of the transitional period?

ALLEGIANCE: Allegiance takes no position on this issue at this time.

BST: The evidence that will be presented by BellSouth demonstrates that CLECs are not impaired in 21 markets in Florida and therefore there is no need for a transition period. Should it be determined that for some reason that a transition period is required, it should not exceed 90 days.

FDN: No position at this time.

SPRINT: Given Sprint's position that BellSouth has failed to provide any competent evidence that it is economic for a CLEC to self-provision switches in any of its markets, Sprint has no position on this issue at this time.

VERIZON: Not applicable. The question of whether rolling access will cure the impairment found in a potential deployment case will not arise until a potential deployment case is under review. Verizon does not intend to advance a potential deployment case in this nine-month proceeding.

JOINT CLEC: No, the CLECs' impairment would not be cured. Temporary or "rolling" access to unbundled local switching would not remove most operational and economic barriers because it would rely on the ILECs' batch ordering process, and would suffer from the same infirmities. Moreover, rolling access does not solve the problem of how to migrate customers once they have moved to a CLEC.

Operational and economic barriers include, but are not limited to: (1) collocation, digitization, concentration and backhaul requirements to connect the ILEC analog loop to a CLEC switch; (2) service outages caused by hot cuts; (3) inefficiencies and errors caused by manual hot cut provisioning; (4) capacity constraints created by the volume of hot cuts required; (5) lack of access to significant segments of the mass market, including IDLC customers, DSL-only customers, customers receiving bundled voice and data services provided through line-splitting arrangements, and customers of other CLECs; and (6) capacity constraints on the trunks leading to and from the ILEC tandem switches.

Should the Commission establish temporary or rolling access to UNE-P, it should provide for customer acquisition of all ILEC features at TELRIC rates; there should be sufficient time for CLECs to accumulate enough customers to justify collocation and then to establish collocation in new central offices; and the amount of time customers may remain in "UNE-P acquisition" mode should be subject to adjustment, based on the CLEC's need to acquire collocation and backhaul equipment and the ILEC's ability to meet performance and service standards for migrations.

OPC: No position at this time.

AARP: Adopts OPC's position.

STAFF: No position at this time.

XIV. DECISIONS THAT MAY IMPACT COMMISSION'S RESOLUTION OF ISSUES

Various carriers have filed appeals of the FCC's Triennial Review Order which are pending in the United States Court of Appeals for the District of Columbia. See United States Telecom Ass'n v. FCC, No. 00-1012 (D.C. Circuit). Otherwise, the parties and Commission Staff are unaware of any pending FCC or court decision that may preempt or otherwise impact the Commission's ability to resolve any of the above issues.

XV. POST-HEARING PROCEDURES

The Commission has the authority and discretion to render a bench decision at the time of the hearing or to render a decision without any post hearing submissions by the parties. Such a determination may be with or without the oral or written recommendation of the Commission staff, at the Commission's discretion.

If the Commission does not make a bench decision at the hearing, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 75 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position. However, the position must be reduced to no more than 75 words. If a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 75 pages and shall be filed at the same time, unless modified by the Presiding Officer.

XI. RULINGS

- A. No witness shall be present in the deposition of another witness in this docket irrespective of whether that deposition is taken in person or telephonically.
- B. The following individuals are hereby authorized to appear as a Qualified Representative in this docket:

Qualified Representative
Meredith E. Mays
R. Douglas Lackey

On behalf of
BellSouth
BellSouth

Nancy B. White	BellSouth
William J. Ellenberg, II	BellSouth
Lisa S. Foshee	BellSouth
Andrew D. Shore	BellSouth
Charles V. Gerkin, Jr.	Allegiance
James I. Harlan	Allegiance
Scott A. Kassman	FDN
H. Edward Phillips, III	Sprint
Kenneth A Shifman	Sprint
Bill Magness	FCCA
Charles E. Watkins	Covad
Richard Chapkis	Verizon
Catherine K. Ronis	Verizon
Meredith B Halama	Verizon
Janis C. Kestenbaum	Verizon
Tami Azorsky	AT&T
Suzy Ockleberry	AT&T
Lorri Reese Patton	AT&T
Martha Ross-Bain	AT&T
Michael Henry	AT&T

C. The following motions were addressed at the Prehearing as follows:

Granted

- FCCA's Motion Requesting Leave to File the Supplemental Rebuttal Testimony and Exhibits of Joe Gillan. (Filed Jan. 22, 2004)
- MCI's Motion to Accept Supplemental Rebuttal Testimony and Exhibits of MCI Witness Lichtenberg. (Filed Jan. 22, 2004)
- Staff's Motion: Late Filing of Prehearing Statements

Denied in Part

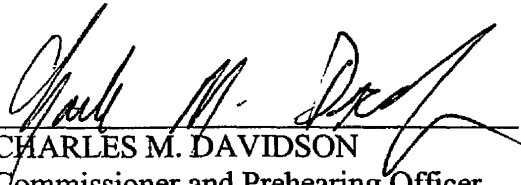
- BellSouth's Motion to Strike Supra's Surrebuttal Testimony and Motion for Protective Order (filed together on February 9, 2004) is denied in part. BellSouth's Motion for Protective Order is denied, but the merits of the Motion to Strike Supra's Surrebuttal Testimony will be addressed in an order to be issued at a later date.

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It is therefore,

ORDERED by Commissioner Charles M. Davidson, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Charles M. Davidson, as Prehearing Officer, this 18th day of February, 2004.


CHARLES M. DAVIDSON
Commissioner and Prehearing Officer

(SEAL)

JLS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule

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25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.