

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of	:	DOCKET NO. 960833-TP
	:	DOCKET NO. 960846-TP
Petitions by AT&T Communications	:	DOCKET NO. 960916-TP
of the Southern States, Inc., MCI	:	
Telecommunications Corporation,	:	
MCI Metro Access Transmission	:	
Services, Inc., American	:	
Communications Services, Inc.	:	
and American Communications	:	
Services of Jacksonville, Inc.	:	
for arbitration of certain terms	:	
and conditions of a proposed	:	
agreement with BellSouth	:	
Telecommunications, Inc.	:	
concerning interconnection and	:	
resale under the	:	
Telecommunications Act of 1996.	:	

SECOND DAY - EVENING SESSION

VOLUME 10

Pages 1388 through 1547

PROCEEDINGS:	HEARING
BEFORE:	CHAIRMAN SUSAN F. CLARK COMMISSIONER J. TERRY DEASON COMMISSIONER JULIA L. JOHNSON COMMISSIONER DIANE K. KIESLING COMMISSIONER JOE GARCIA
DATE:	October 10, 1996
TIME:	Commenced at 5:15 p.m. Concluded at 6:30 p.m.
PLACE:	Betty Easley Conference Center 4075 Esplanade Way, Room 148 Tallahassee, Florida
REPORTED BY:	JANE FAUROT, RPR
APPEARANCES:	(As heretofore noted.)

DOCUMENT NUMBER-DATE

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I N D E X

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WITNESSES

Name:

MARVIN H. KAHN

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ALPHONSO J. VARNER

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EXHIBITS

Number:

Identified Admitted

41		1394
42	AJV-1	1397 1547
43	Varner's Summary Exhibit 1	1537
44	Further comments of BellSouth in FCC Docket 96-45	1544 1547

P R O C E E D I N G S

(Hearing convened at 5:15 p.m.)

Whereupon,

MARVIN H. KAHN

having been called as a witness on behalf of American Communications Services, Inc., and being duly sworn, continues his testimony as follows:

CONTINUED CROSS EXAMINATION

BY MS. BARONE:

Q Let me see. The question is asked whether you agree with this statement, and then you go on to say no. I would like for you to explain why you said no.

A Certainly. At this point, Dr. Emerson's (phonetic) two pieces of testimony where he suggests that the volume of joint and common costs of these particular LECs are approximately equal to TSLRIC, and it has been my experience from an empirical perspective and, in fact, the information provided by BellSouth in this case is that simply is not the case. That the volume of joint and common costs experienced by most telephone companies is far less than what is indicated here. What I believe Doctor Emerson is confusing, as I try to explain here, is the extent to which costs have been marked up over incremental costs in order to allow the recovery of revenue requirements, not of joint and common costs. I don't believe anybody would

1 identify any kind of embedded investment as a component of
2 joint and common costs. Nevertheless, embedded investment
3 is a very real part of revenue requirements, and correctly
4 so. So what he has done here is he has simply compared the
5 revenues of these individual companies with some aggregation
6 of the incremental costs for the services they offer, not
7 compare joint and common costs incurred by these companies
8 with the incremental cost of the services provided.

9 Q It is your testimony that ACSI is willing to pay
10 higher rates for loops that need conditioning, is that
11 correct?

12 A It would be my -- I believe the answer to that
13 question is correct, that ACSI would be prepared to pay the
14 cost of whatever services for elements that it takes.

15 Q In your direct testimony at Pages 30 through 32
16 you discuss nonrecurring charges. What type of nonrecurring
17 charges should apply to LECs?

18 A I'm sorry, I missed the end of your question.

19 Q What type of nonrecurring charges should apply to
20 ALECs, to competitive LECs?

21 A That is not where my difficulty is. I believe
22 that in every instance the cost of the activity necessary to
23 make the element available to the competitive carrier is
24 what the charge should reflect. It should not reflect the
25 activities that the telephone company is currently

1 undertaking in order to provide an element as part of a
2 service to an end user, nor should it necessarily include
3 the activities that the telephone company feels that it
4 would like to do in order to provide the service to the
5 competitive carrier as opposed to what it is the competitive
6 carrier needs in order to do business. And that I believe
7 are some of the issues that were described by the other ACSI
8 witnesses here. But whatever the cost of that set of
9 activities are is what should be included in that
10 nonrecurring charge.

11 Q Should the nonrecurring charges for two wire
12 analog voice grade loop and a four wire digital grade loops
13 be different?

14 A If the underlying activities are, and the costs of
15 those activities are, then they should.

16 Q Have you reviewed BellSouth's proposed
17 nonrecurring charges?

18 A Generally, yes.

19 Q Do you believe they are appropriate?

20 A No. My concern with the cost information and the
21 rate proposals can be summarized very simply. I find it
22 very difficult to believe that the activities necessary to
23 provide an unbundled loop are substantially greater than the
24 activities necessary to provide loop as a component of local
25 exchange service to an end user. It's my experience that

1 the nonrecurring charge for local exchange service usually
2 approximates the cost of that service. Most commissions
3 have attempted to accomplish that. I'm assuming the actions
4 of this Commission are similar to that. Consequently, the
5 existing rate for nonrecurring charges for local exchange
6 service should approximate the cost of that activity. I
7 find it very difficult to believe, as the company's cost
8 study suggests, that the cost of providing this activity for
9 an unbundled element to a competitive carrier is
10 substantially higher than the cost of providing this as part
11 of a service to an end user. For that reason, I believe
12 that those cost studies are simply unreasonable.

13 Q Doctor Kahn, were you present during the
14 examination of Mr. Woods earlier?

15 A I was.

16 Q Sir, did he make any statements about the Hatfield
17 model that you were not in agreement with?

18 A None stand out in my mind.

19 MS. BARONE: Thank you. That's all I have.

20 CHAIRMAN CLARK: Commissioners. Redirect.

21 MR. HORTON: No redirect. I would move Exhibit
22 41, please.

23 CHAIRMAN CLARK: Exhibit 41 will be entered in the
24 record without objection. Thank you very much, Doctor Kahn,
25 you are excused.

1 MR. HORTON: You said he was excused?

2 CHAIRMAN CLARK: Yes. We will take a break until
3 a quarter of 6:00, and we will begin with Mr. Varner.

4 MR. CARVER: Yes.

5 (Exhibit Number 41 received into evidence.)

6 (Recess.)

7 CHAIRMAN CLARK: Let's call the hearing back to
8 order. Mr. Varner, have you been sworn in?

9 WITNESS VARNER: No, I have not.

10 CHAIRMAN CLARK: Is there anyone else here who
11 will be a witness who has not been sworn in? If you would
12 please stand and raise your right hand and be sworn in at
13 the same time Mr. Varner is, I would appreciate it.

14 (Witnesses sworn.)

15 Whereupon,

16 ALPHONSO J. VARNER

17 having been called as a witness on behalf of BellSouth
18 Telecommunications, Inc., and being duly sworn, was examined
19 and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. CARVER:

22 Q Mr. Varner, I will just wait until you are ready,
23 and if you will let me know when you are settled.

24 A All right. Okay.

25 Q Mr. Varner, would you please state your full name

1 and business address?

2 A My name is Alphonso Varner, my business address is
3 675 West Peachtree Street, Atlanta, Georgia.

4 Q By whom are you employed and in what capacity?

5 A I am employed by BellSouth Telecommunications as
6 Senior Director for Regulatory Policy and Planning.

7 Q Did you cause testimony to be prefiled in this
8 case?

9 A Yes, I did.

10 Q Okay. Now, in the AT&T portion of the case, you
11 prefiled 23 pages of direct testimony, 31 pages of rebuttal
12 testimony, and 14 pages of supplemental testimony, is that
13 correct?

14 A That's correct.

15 Q And your supplemental testimony also had attached
16 to it one exhibit, is that correct?

17 A Yes, it is.

18 Q And in the MCI portion of the case, you filed 24
19 pages of direct testimony and 13 pages of rebuttal
20 testimony?

21 A Yes.

22 Q And you have no testimony in the ACSI portion of
23 the case?

24 A That's correct.

25 Q Do you have any changes to any of that testimony?

1 A Yes. In the AT&T direct testimony, on Page 25,
2 there is one change. On Line 18, it said there will be less
3 than ten interexchange companies, it should be less than 100
4 interexchange companies. That's the only change that I
5 have.

6 Q If I were to ask you today the questions that
7 appear in your prefiled testimony, would your answers be the
8 same?

9 A Yes, they would.

10 MR. CARVER: Madam Chairman, I would request that
11 all of the previously identified testimony be inserted into
12 the record as though read.

13 CHAIRMAN CLARK: Just so I'm clear, I have
14 prefiled direct testimony of Mr. Varner for AT&T, prefiled
15 direct testimony of Mr. Varner for MCI, prefiled
16 supplemental direct for AT&T. I have no supplemental for
17 MCI, is that correct?

18 MR. CARVER: That's correct.

19 CHAIRMAN CLARK: And then I have rebuttal for AT&T
20 for Mr. Varner, and again rebuttal for MCI for Mr. Varner.

21 MR. CARVER: That's correct, also.

22 CHAIRMAN CLARK: All that testimony will be
23 inserted in the record as though read.

24 MR. CARVER: And could I please have marked for
25 identification the exhibit to Mr. Varner's supplemental

1 direct testimony.

2 CHAIRMAN CLARK: For AT&T?

3 MR. CARVER: Yes, the supplemental for AT&T. It's
4 the exhibit attached to that exhibit.

5 CHAIRMAN CLARK: And it is marked AJV-1?

6 MR. CARVER: Yes, that's the one.

7 CHAIRMAN CLARK: All right. AJV-1 will be marked
8 as Exhibit 42.

9 (Exhibit Number 42 marked for identification.)

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BELLSOUTH TELECOMMUNICATIONS, INC.
DIRECT TESTIMONY OF ALPHONSO J. VARNER
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 960833-TP
AUGUST 12, 1996

Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION WITH
BELLSOUTH TELECOMMUNICATIONS, INC.

A. My name is Alphonso J. Varner and I am employed by BellSouth
Telecommunications, Inc. (hereinafter referred to as "BellSouth" or "the
Company") as a Senior Director in Regulatory Policy and Planning. My
business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE GIVE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND
EXPERIENCE.

A. I graduated from Florida State University in 1972 with a Bachelor of
Engineering Science degree in systems design engineering. I immediately
joined Southern Bell in the division of revenues organization with the
responsibility for preparation of all Florida investment separations studies for
division of revenues and for reviewing intrastate settlements.

Subsequently, I accepted an assignment in the Rates and Tariffs organization at
Company Headquarters with responsibility for administering selected rates and

1 tariffs, including preparation of tariff filings. In January 1994, I was appointed
2 Senior Director of Pricing for the nine-state region. I assumed my current
3 responsibilities in August 1994.

4

5 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

6

7 A. The purpose of my testimony is: 1) to present a brief overview of the
8 requirements of the Telecommunications Act of 1996 (hereinafter referred to as
9 "the Act"); 2) to briefly discuss some of AT&T's negotiating positions and the
10 purposes behind those positions; 3) to review the history of AT&T's support
11 for competition; and 4) to explain the role of the Company's witnesses who
12 will respond to specific issues in detail.

13

14 Q. DOES BELLSOUTH SUPPORT COMPETITION IN THE LOCAL
15 TELECOMMUNICATIONS MARKET?

16

17 A. Yes. BellSouth believes that competition for local exchange services can be in
18 the public interest when implemented in a competitively neutral manner,
19 devoid of artificial incentives and/or regulatory rules that advantage or
20 disadvantage a provider or a group of providers. Competition, properly
21 implemented, can provide business and residence customers with real choices
22 from numerous telecommunications providers. Properly implemented,
23 competition will allow efficient competitors to attract customers and be
24 successful in a competitive marketplace where regulatory oversight is
25 minimized. We believe that this is the environment that the Act intended to

1 create. It is this view of competition that BellSouth has taken as it negotiates
2 with prospective providers of local exchange service, and it is this view that
3 BellSouth believes Congress embraced with its emphasis on negotiated
4 agreements.

5
6 The Company has strong financial incentives to comply with all provisions of
7 the Act. Congress has mandated that local exchange companies must open
8 their markets to competition, unless specifically exempted. BellSouth has
9 already and is continuing to comply with the directives of the Act by entering
10 into numerous interconnection agreements with other providers. Significantly,
11 Congress tied the ability of BellSouth and the other Regional Bell Operating
12 Companies ("RBOCs") to enter the interLATA services market to its
13 compliance with the "competitive checklist" contained in the Act. BellSouth
14 has every intention of meeting the checklist as quickly as possible in order to
15 provide the full array of telecommunications services to its customers.

16
17 In its Petition, however, AT&T attempts to portray BellSouth as the bad guy in
18 this process, stating that BellSouth is unwilling to give up its monopoly over
19 the local telecommunications market. This is not only untrue, it is simply an
20 attempt by AT&T to camouflage its true intent. AT&T already knows the
21 terms and conditions that BellSouth is willing to offer to its competitors.
22 There are numerous signed agreements from which AT&T can determine
23 BellSouth's baseline negotiating positions. Put very simply, AT&T has
24 nothing to lose by requesting arbitration. Its hope is to convince the Florida
25 Public Service Commission, or some other state commission, of the

1 correctness of its positions and secure a better agreement than other
2 competitors. And, as is readily apparent from the many public statements
3 made by AT&T, they intend to keep BellSouth out of the interLATA long
4 distance business as long as possible. Arbitration is one way for AT&T to
5 achieve its business objectives.

6

7 **REQUIREMENTS OF THE TELECOMMUNICATIONS ACT OF 1996**

8 Q. WHAT ARE THE KEY COMPONENTS OF THE ACT?

9

10 A. First, by passing the Act, Congress sought to promote the development of
11 competition in all the various segments of the telecommunications industry.
12 Second, Sections 251 and 252 of the Act encourage negotiations between
13 parties to reach voluntary local interconnection agreements. Section 251(c)(1)
14 requires incumbent local exchange companies, like BellSouth, to negotiate the
15 particular terms and conditions of agreements to fulfill the duties described in
16 Sections 251(b) and (c)(2-6).

17

18 Through the Act, Congress opened all markets to any provider who wishes to
19 offer telecommunications services. AT&T, MCI, Sprint, cable television
20 companies and any other entity were given the freedom to enter the local
21 telecommunications business. BellSouth and the other RBOCs were given the
22 freedom to enter the interLATA long distance business after they comply with
23 the "competitive checklist" contained in the Act and are permitted to do so by
24 the Federal Communications Commission (hereinafter referred to as "the
25 FCC"). All existing and potential providers have the necessary incentives to

1 provide consumers the full range of telecommunications services.

2

3 Q. IF PARTIES ARE UNABLE TO REACH AGREEMENT THROUGH
4 NEGOTIATION, WHAT OPTIONS ARE AVAILABLE TO THE PARTIES?

5

6 A. The Act allows a party to petition a state commission for mediation at any time
7 during the negotiations and/or to petition for arbitration of unresolved issues
8 between the 135th and 160th day from the date a request for negotiations was
9 received. Importantly, the issues subject to arbitration are limited to those
10 activities necessary to fulfill the duties in Section 251. The arbitration petition
11 must identify the issues resulting from the negotiations which are unresolved,
12 as well as those which are resolved. The petitioning party must submit along
13 with its petition "...all relevant documentation concerning: (1) the unresolved
14 issues; (2) the position of each of the parties with respect to those issues; and
15 (3) any other issues discussed and resolved by the parties." A non-petitioning
16 party to the negotiations may respond to the other party's petition and provide
17 such additional information as it wishes within twenty-five days after the state
18 commission receives the petition. The Act expressly limits the state
19 commission's consideration to the unresolved issues set forth in the petition
20 and in the response.

21

22 Q. WHAT ARE THE OBLIGATIONS OF THE STATE COMMISSIONS?

23

24 A. In resolving the open issues in the arbitration process, a state commission
25 must: (1) ensure that such resolution and conditions meet the requirements of

1 Section 251 of the Act, including the regulations prescribed by the FCC
2 pursuant to Section 251; (2) establish any rates for interconnection, services,
3 or network elements according to Section 252(d); and (3) provide a schedule
4 for implementation of the terms and conditions by the parties to the agreement.

5
6 In accomplishing this, the state commission must ensure that the parties have
7 met their obligation to negotiate in good faith the terms and conditions of
8 agreements. In addition, the state commission must ensure that the incumbent
9 local exchange company has met its obligations relating to: (1)
10 interconnection; (2) unbundled access to network elements; (3) resale; (4)
11 notice of changes; (5) collocation; (6) number portability; (7) dialing parity;
12 (8) access to rights-of-way; and, (9) reciprocal compensation. These are the
13 obligations that are to be the basis of the negotiations and, if negotiations are
14 unsuccessful, then form the basis for arbitration. Issues or topics not
15 specifically related to these areas are outside the scope of an arbitration
16 proceeding.

17

18 Q. DOES THE ACT PROVIDE ANY GUIDANCE TO THE STATE
19 COMMISSIONS FOR PRICING ISSUES THAT ARE PART OF AN
20 ARBITRATION REQUEST?

21

22 A. Yes. The Act provides clear directions to state commissions on pricing issues.
23 Section 252(d) establishes the pricing standards related to interconnection,
24 unbundled network elements, reciprocal compensation, and resale.

25

1 Section 252(d)(1) of the Act states that the rates for interconnection and
2 unbundled network element charges:

3

4 “(A) shall be --

5 (i) based on the cost (determined without reference to a rate-of-
6 return or other rate-based proceeding) of providing the interconnection
7 or network element (whichever is applicable), and

8 (ii) nondiscriminatory, and

9 (B) may include a reasonable profit.”

10

11 Section 252(d)(2)(A) provides the general rule with regard to the pricing of
12 reciprocal compensation arrangements, stating that “a State commission shall
13 not consider the terms and conditions for reciprocal compensation to be just
14 and reasonable unless- (1) such terms and conditions provide for the mutual
15 and reciprocal recovery by each carrier of costs associated with the transport
16 and termination on each carrier’s network facilities of calls that originate on
17 the network facilities of the other company; and (2) such terms and conditions
18 determine such costs on the basis of a reasonable approximation of the
19 additional costs of terminating such calls.”

20

21 Section 252(d)(3) states that rates for resale shall be calculated on the basis of
22 “retail rates charged to consumers for the telecommunications service
23 requested, excluding the portion thereof attributable to any marketing, billing,
24 collection and other costs that will be avoided by the local exchange
25 company.”

1

2 Q. IN BELLSOUTH'S OPINION, DOES THE ACT PROVIDE A FAIR AND
3 BALANCED APPROACH FOR EXPANDING COMPETITION IN ALL
4 TELECOMMUNICATIONS MARKETS?

5

6 A. Yes. The Act is a balanced approach and, if implemented properly, can create
7 an environment in which efficient competition will occur in all markets and
8 provide the maximum benefits to consumers. There are no provisions of the
9 Act that, on their face, are intended to disadvantage any provider or group of
10 providers. In fact, the Act is intended to promote competition, not competitors.
11 The Act offers the full range of opportunities for entry into
12 telecommunications markets through: 1) resale for those providers lacking
13 sufficient capital to construct networks; 2) unbundled network elements for
14 those facilities-based providers wishing to combine existing capabilities of the
15 incumbent's network with those of their own facilities: or, 3) a combination of
16 resale and purchase of unbundled elements.

17

18 Q. HAS BELLSOUTH COMPLIED WITH THE REQUIREMENTS OF THE
19 ACT FOR NEGOTIATION OF LOCAL INTERCONNECTION
20 AGREEMENTS?

21

22 A. Yes. The Company has negotiated in good faith with every party requesting
23 negotiations. As Mr. Scheye's testimony will show, BellSouth has a track
24 record in negotiations with other companies that demonstrates its commitment
25 to opening up the local telecommunications market to competition, its

1 commitment to comply with the provisions and obligations of the Act, its
2 commitment to negotiations, and its willingness to compromise. The
3 agreements executed to date cover the full range of requirements and
4 obligations contained in the Act. Some of these agreements have already been
5 approved by state commissions, including the Florida Commission.

6

7 Q. YOU MENTIONED MEDIATION. WHAT ARE THE BENEFITS OF
8 MEDIATION?

9

10 A. Mediation is an option for one or both parties to the negotiations when
11 progress in reaching an agreement is stalled, but where progress is still
12 possible. Mediation allows a neutral third party to participate in the
13 negotiations and possibly move the parties from total disagreement on details
14 to agreement on issues at a higher level. Mediation can also provide a litmus
15 test as to the reasonableness of the parties' positions.

16

17 Earlier this year, BellSouth requested mediation with AT&T. AT&T,
18 however, torpedoed the mediation proceedings through its uncompromising
19 position on such things as confidentiality - a cornerstone of any mediation
20 process. The mediation was requested in Alabama, and Administrative Law
21 Judge John A. Garner, in his July 12, 1996 letter to BellSouth and AT&T,
22 stated the following:

23

24 "Given the Commission's position with respect to the confidentiality of
25 mediation proceedings, BellSouth's proposal to exclude from the

1 confidentiality requirements all matters except actual offers of
2 settlement and my recommendations and positions as mediator was a
3 reasonable effort to compromise. It is unfortunate that BellSouth's
4 proposal was not acceptable with AT&T."

5

6 It is unfortunate, because we will never know what progress could have been
7 made through mediations had AT&T agreed to this threshold issue that is
8 fundamental to the rules of any mediation proceeding.

9

10 Q. DOESN'T THE ACT PROVIDE INCENTIVES TO AT&T TO REACH A
11 NEGOTIATED AGREEMENT WITH BELLSOUTH AND PROVIDE A
12 FULL ARRAY OF SERVICES TO ITS CUSTOMERS?

13

14 A. One would think so. AT&T's objectives, however, appear to be: 1) to find a
15 way to circumvent the payment of access charges; 2) to enter local markets
16 either through resale or use of unbundled network elements at rates that are not
17 compensatory to BellSouth; and 3) to deter BellSouth's entry into the
18 interLATA long distance market. In an article published in the Wall Street
19 Journal on June 12, 1996, the Chairman of AT&T, Robert E. Allen, touched on
20 each of these apparent objectives.

21

22 In reference to access charges, Mr. Allen stated:

23

24 "There's a lot more potential savings on that one..."

25

1 In reference to entering local markets, Mr. Allen declared:

2

3 "AT&T is going after the local service with everything we've got..."

4

5 In reference to the entry of the RBOCs into the interLATA long distance
6 business, Mr. Allen predicted:

7

8 "...it could be well into the next century before any them serve their
9 first long distance customer in their own territory...We didn't send our
10 lawyers on vacation...We are already bird-dogging the FCC and state
11 regulatory commissions."

12

13 Q. AT&T SUGGESTS THAT BELL SOUTH HAS EVERY INCENTIVE TO
14 BLOCK COMPETITION. IS THIS AN ACCURATE PORTRAYAL?

15

16 A. Absolutely not. It is important to note that AT&T was neither driven to
17 arbitration by BellSouth, as will become clear from the testimony of other
18 BellSouth witnesses, nor has AT&T come to arbitration frustrated by
19 BellSouth's defenses and certainly not out of an altruistic concern for
20 consumers. The tone of AT&T's petition indicates that it believes BellSouth
21 must make all of the concessions; and to negotiate in good faith, BellSouth
22 must accept AT&T's view of the minimum requirements for effective
23 competition in the local exchange market. While defending its inability to
24 reach an agreement with BellSouth, AT&T criticizes the content and
25 minimizes the value of interconnection agreements BellSouth has reached with

1 other alternative local exchange companies ("ALECs"). Apparently, AT&T
2 believes that its yet-to-be-executed agreement (with anybody) will be superior
3 to already negotiated agreements and further expects that those companies
4 already signing agreements with BellSouth will wish to take advantage of
5 those "more favorable terms" negotiated by AT&T. These ALECs, however,
6 may find that terms and conditions AT&T is willing to agree to could be well
7 beyond what they would agree to on a reciprocal basis. Presumably, based on
8 their agreements, these companies are installing trunks, switches and facilities,
9 in preparation for facilities-based competition. Companies are reselling
10 BellSouth's services at reasonable resale rates and under conditions
11 contemplated by the Act. Apparently these companies are not content to hold
12 out for AT&T to negotiate the "right" agreement.

13
14 It is clear that AT&T has tremendous incentive to take whatever measures it
15 deems necessary to prevent BellSouth, indeed any RBOC, from meeting the
16 requirements of Section 271 of the Act and thereby obtain authority to enter
17 the interLATA services market. It appears that keeping BellSouth out of the
18 interLATA services market is at least as important to AT&T as negotiating
19 reasonable rates, terms and conditions for AT&T's entrance into the local
20 telecommunications market. It is not BellSouth that is trying to block
21 competition.

22

23 **AT&T NEGOTIATING POSITIONS**

24 Q. IN ITS PETITION, AT&T IS HIGHLY CRITICAL OF BELLSOUTH AND
25 STATES THAT BELLSOUTH, THROUGH THE POSITIONS THAT IT

1 HAS TAKEN IN THE NEGOTIATIONS, IS UNWILLING TO GIVE UP ITS
2 MONOPOLY CONTROL OVER LOCAL TELECOMMUNICATIONS
3 MARKETS. HOW DO YOU RESPOND?

4
5 A. BellSouth has attempted to negotiate a reasonable, mutually beneficial
6 agreement with AT&T, just as it has successfully negotiated with a number of
7 ALECs. AT&T, on the other hand, has entered the negotiations, and continues
8 through this arbitration, with extreme positions on issues that are either not
9 contemplated by the Act, that are in direct conflict with the plain wording of
10 the Act, that are based on misinterpretations of the Act, or that are beyond the
11 scope of the requirements and obligations of the Act.

12
13 Q. PLEASE PROVIDE AN EXAMPLE OF AN ISSUE AND AT&T'S
14 POSITION THAT IS NOT CONTEMPLATED BY THE ACT.

15
16 A. AT&T asserts that the Act requires "service parity" - "...a duty upon BellSouth
17 to provide AT&T with the capability to achieve parity of offerings when
18 competing against BellSouth -- the ability of AT&T to give its customers at
19 least the same experience that BellSouth gives its customers." AT&T uses this
20 term when discussing a number of issues, such as resale, operational interfaces
21 and branding.

22
23 As the Company stated in its response to AT&T's Petition, while BellSouth
24 agrees conceptually that such parity, although not a requirement under the Act,
25 is a goal worth pursuing, the Company has a different and more reasonable

1 understanding of what parity means. Parity does not mean that AT&T, or any
2 other ALEC's access to BellSouth's network or its facilities or its systems or
3 any piece of its business, must be identical to BellSouth's in all respects.

4

5 Q. PLEASE GIVE AN EXAMPLE OF AN ISSUE AND AT&T'S POSITION
6 THAT IS IN DIRECT CONFLICT WITH THE ACT.

7

8 A. AT&T proposes the implementation of "bill-and-keep" as the form of
9 intercompany compensation for the termination of local traffic, at least on an
10 interim basis. Mandatory bill-and-keep is in direct conflict with the wording of
11 the Act and raises significant legal issues.

12

13 Section 251(b)(5) of the Act obligates all local exchange companies to
14 establish reciprocal compensation arrangements for the transport and
15 termination of telecommunications traffic. Section 251(c)(1) requires
16 incumbent local exchange companies to negotiate in good faith in accordance
17 with Section 252 the particular terms and conditions of agreements to fulfill the
18 duties described in Section 251(b)(1-5) and Section 251(c). If a voluntary
19 agreement is reached with regard to reciprocal compensation, a state
20 commission must approve the agreement, unless it determines that the
21 agreement discriminates against a telecommunications company not a party to
22 the agreement, or the implementation of the agreement is not consistent with
23 the public interest. If an agreement cannot be voluntarily reached on the terms
24 of reciprocal compensation, then the Act contemplates that a state commission
25 will resolve the issue through arbitration. Commission resolution of the issue

1 must be based on the pricing standard contained in Section 252(d)(2)(A)
2 referenced earlier in my testimony.

3
4 This subsection of the Act also includes an additional provision titled "Rules of
5 Construction." While I am not an attorney and am not stating a legal opinion,
6 the specific language in this subsection is very important. It states, in relevant
7 part, that "[t]his paragraph shall not be construed ... to preclude arrangements
8 that afford the mutual recovery of costs through the offsetting of reciprocal
9 obligations, including arrangements that waive mutual recovery (such as bill-
10 and-keep arrangements) ...". (emphasis added) The concept of "waiving" ones'
11 right to mutual recovery would appear to me to contemplate the conscious and
12 intentional voluntary relinquishment of a known right. By using the term
13 "waive," the Act clearly allows the negotiating parties to voluntarily relinquish
14 the mutual recovery of costs should they so desire. It does not authorize a state
15 commission to mandate that any party accept bill-and-keep as the only
16 available method of cost recovery, as this would clearly run afoul of the pricing
17 standard included in Section 252(d)(2)(A), which requires that each company
18 be allowed to recover its costs associated with the transport and termination of
19 calls. AT&T's proposal is in direct conflict with the wording of the Act.

20
21 Further, AT&T's proposal, if accepted by the Commission, on an interim or
22 other basis would amount to taking our property without paying for it. Under
23 bill-and-keep, BellSouth would be obligated to utilize its facilities to provide
24 transport and termination of calls without receiving any compensation for
25 allowing these calls to transit its network.

1

2 Q. PLEASE PROVIDE AN EXAMPLE OF AN ISSUE AND AT&T'S
3 POSITION THAT IS BASED ON A MISINTERPRETATION OF THE ACT.

4

5 A. Two examples are appropriate. First, AT&T is proposing totally unreasonable
6 discount levels, artificially inflated further by additional discounts for lack of
7 operational parity and a purported competitive stimulus, for determining the
8 wholesale rates for BellSouth's retail services available for resale, based on
9 "avoidable" costs as opposed to "avoided" costs.

10

11 BellSouth has developed an avoided cost study which fully complies with the
12 standard in the Act. In fact, the Georgia Public Service Commission endorsed
13 BellSouth's methodology as the correct mathematical approach. AT&T's
14 proposal is fundamentally flawed in a number of respects and does not comply
15 with the standard set forth in the Act.

16

17 *Second, AT&T argues that the Act requires that local interconnection be priced*
18 *at cost (defined as TSLRIC by AT&T, which, per AT&T, already includes a*
19 *reasonable profit). That argument is absolutely incorrect.*

20

21 Apparently, AT&T equates the term "based on cost" with the term "at cost", an
22 equation that is totally unsound. Webster's New Collegiate Dictionary defines
23 "base" as "the bottom of something considered as its support - foundation",
24 and "on" as "a function word to indicate a position over and in contact with."
25 "At" is defined as "a function word to indicate presence or occurrence in, on

1 or near.” (emphasis added)

2

3 If all services provided by BellSouth were priced at TSLRIC, BellSouth would
4 not recover all of its costs much less make a profit. If AT&T’s
5 misinterpretation of the Act were accepted, BellSouth would not be permitted
6 to recover any joint and common costs in its prices for interconnection
7 services, and AT&T would receive the benefits of BellSouth’s economies of
8 scope without paying for them. In addition, mandating such pricing would
9 virtually ensure that no other facilities-based providers would enter the market.

10

11 Q. PLEASE PROVIDE AN EXAMPLE OF AN ISSUE THAT IS OUTSIDE
12 THE SCOPE OF THE REQUIREMENTS OF THE ACT AND THIS
13 ARBITRATION PROCEEDING.

14

15 A. AT&T has included a request that the Commission adopt an alternative dispute
16 resolution procedure as a part of its arbitration request. Dispute resolution
17 procedures are clearly not subject to arbitration under the Act. Issues regarding
18 the process, terms and conditions, confidentiality, or any other arbitration
19 procedure should be resolved in a separate proceeding, preferably prior to the
20 initiation of an arbitration request. This issue should be dismissed from these
21 proceedings. In fact, the Commission is addressing this issue as a separate
22 undertaking.

23

24 Q. WITH THE FILING OF AT&T’S PETITION, DOES BELLSOUTH HAVE A
25 CLEAR UNDERSTANDING OF ALL OF THE ISSUES THAT HAVE

1 BEEN PRESENTED TO THIS COMMISSION FOR ARBITRATION?

2

3 A. No, or at least, we cannot be certain. BellSouth has reviewed AT&T's Petition
4 and is now reviewing AT&T's direct testimony. Perhaps we will identify all
5 the unresolved issues. BellSouth is concerned, however, that at the conclusion
6 of this process, some issues will still be unresolved. If that happens, BellSouth
7 and AT&T may still be unable to finalize an agreement. That result is not in
8 anyone's interests and should be avoided. To avoid this result, BellSouth has
9 asked the Commission to require AT&T to provide a comprehensive list of all
10 unresolved and resolved issues.

11

12 Q. IN YOUR OPINION, BASED ON THE ISSUES PRESENTED BY AT&T
13 AND THEIR POSITIONS ON THOSE ISSUES, WHAT IS AT&T
14 ATTEMPTING TO ACCOMPLISH?

15

16 A. AT&T is attempting to 1) confuse an already complicated process, and 2)
17 guarantee itself a better cost structure than some of its potential rivals in the
18 local telecommunications markets. AT&T already knows the results of the
19 completed agreements with other ALECs. AT&T also knows that these
20 agreements establish a baseline level for local interconnection with BellSouth
21 because the terms in those agreements are available to AT&T. Thus, AT&T
22 has nothing to lose by going to arbitration. It can only attempt to improve on
23 what is contained in the completed agreements.

24

25 Q. PLEASE EXPLAIN FURTHER.

1

2 A. AT&T is creating confusion by first, not clearly identifying all of the
3 unresolved issues for which it is requesting Commission arbitration and
4 second, by identifying issues for arbitration that are outside the scope of the
5 responsibilities and obligations contained in the Act.

6

7 Most importantly, AT&T is attempting to guarantee itself a better cost
8 structure than its rivals through its extreme positions on resale discounts and
9 on the pricing of unbundled network elements at cost. As stated earlier, the
10 Act presents a balanced approach to opening local telecommunications markets
11 to competition. Congress did not intend to favor one type of competitor over
12 another, nor did it intend to favor one type of competition over another.

13

14 If AT&T's position on resale of a 70% discount were implemented, facilities-
15 based local competition would rarely, if ever, occur. It would make no
16 economic sense to build facilities, except in those instances where there existed
17 extremely high concentrations of high-volume customers. If AT&T's position
18 on the pricing of unbundled network elements were implemented, entry by new
19 competitors who intend to initially resell BellSouth's retail services until a
20 sufficient customer base is established that would support the capital necessary
21 to build a network, would be significantly curtailed. In neither case would
22 BellSouth receive just compensation for its services, nor would alternative
23 suppliers enter the market.

24

25 A more reasoned interpretation of the Act, both in the area of resale and in the

1 area of pricing of unbundled network elements, is that the implementation of
2 both were to be based on sound economic principles. In other words, if the
3 resale discount and the pricing of unbundled network elements is done
4 correctly, there would be no negative financial impact to BellSouth.
5 Specifically, if the resale discount is set correctly, the dollars given up by
6 BellSouth in a resale transaction would match the costs that it actually avoided
7 by not selling directly to the end user customer. Thus, if the avoided costs are
8 calculated correctly, BellSouth, as well as any other local exchange company,
9 would be financially indifferent as to whether it sold its services on a retail
10 basis or on a wholesale basis. Similarly, if the prices for unbundled network
11 elements are set correctly, BellSouth would be just as profitable selling
12 unbundled elements as it would be selling bundled services. AT&T's
13 proposals would not produce either result, and would in fact severely and
14 negatively impact BellSouth, not on the basis of true economic competition,
15 but on the basis of heavy-handed regulations.

16

17 Q. AT&T HAS REPRESENTED THAT IT IS IN THE BEST POSITION TO
18 BRING THE BENEFITS OF LOCAL TELECOMMUNICATIONS
19 COMPETITION TO CONSUMERS IN FLORIDA. DO YOU AGREE?

20

21 A. No. If, however, AT&T is successful in having its positions in this proceeding
22 accepted and guaranteeing itself a superior cost structure, AT&T may be the
23 only firm left. When you combine such attractive pricing options with
24 AT&T's dominant position in the long distance business, its wireless presence,
25 its cable television presence, its international presence, its brand name

1 identification and its size, no other firm will be able to compete on an equal
2 basis with AT&T.

3

4 **AT&T'S SUPPORT FOR COMPETITION**

5 Q. AT&T CONTINUALLY EXTOLS THE BENEFITS OF LONG DISTANCE
6 COMPETITION AND TRUMPETS THAT SUCH COMPETITION HAS
7 CAUSED LONG DISTANCE PRICES TO DECLINE. PLEASE
8 COMMENT.

9

10 A. A recent analysis shows this assertion by AT&T is incorrect. If competition
11 has caused long distance prices to decline, prices would have declined by at
12 least the sum of access charge reductions plus a substantial portion of non-
13 access cost reductions realized the by long distance providers. Since
14 divestiture, however, long distance prices have not even decreased by the
15 amount of the access charge reductions.

16

17 Based on the analysis, AT&T's annual access costs have been reduced by
18 \$10.3B from the time of divestiture to April 1995. During the same period,
19 AT&T has reduced its prices by only \$8.5B. It is completely illogical that a
20 competitive marketplace would have allowed AT&T to "pocket" all of its non-
21 access savings plus \$1.8B in access cost savings. These results show that
22 competition has not produced any long distance price reductions. On the
23 contrary, all long distance price reductions during that period were produced
24 by decreases in access charges.

25

1 The beneficiaries of this so-called competition have been AT&T's
2 stockholders, not the consumers of AT&T's services. During this period,
3 AT&T's margins have increased. In addition, long distance volumes have
4 increased due to stimulation by the portion of access charge reductions that
5 have been reflected, grudgingly in many cases, in prices. According to the
6 1994 AT&T Annual Report:

7
8 "Total cost of telecommunications services declined both years despite
9 higher volumes, in part because of reduced prices for connecting
10 customers through local networks. In addition, we improved our
11 efficiency in network operations, engineering and operator services.
12 With lower costs and higher revenues, the gross margin percentage rose
13 to 41.8% in 1994 from 39.0% in 1993 and 37.2% in 1992." (page 24)

14
15 These are not the type of results that a competitive market would produce.

16
17 Another analysis of prices during a more recent period further debunks
18 AT&T's assertion. During the period 1989 to 1996, access prices have
19 declined. During that same period, however, basic long distance prices of the
20 three largest long distance companies have actually increased. There is also
21 anecdotal evidence of this pattern in actions taken by AT&T in North Carolina
22 and South Carolina.

23
24 Given these results in the long distance market, it should not be overlooked
25 that the Act was not limited to bringing the benefits of competition to local

1 telecommunications markets. Notwithstanding the claims of AT&T, long
2 distance customers apparently have not realized the benefits of competition as
3 yet.

4

5 Q. YOU MENTIONED THAT AT&T WOULD NOT OFFER ACCESS TO ITS
6 COMPETITORS ON AN "ECONOMIC COST" BASIS. CAN YOU
7 PROVIDE AN EXAMPLE TO SUPPORT THIS VIEW?

8

9 A. Yes. AT&T's first access offering in the late 1970s created charges for MCI
10 and others to pay for use of the local exchange portion of the AT&T network.
11 The ingredients, the local switch, transport and the loop, were comparable to
12 the current access arrangements. AT&T demanded that the rates for these
13 services to be offered to MCI be based upon "separated" or fully distributed
14 costs, even though the form of the access was inferior to what AT&T provided
15 to itself. After a long debate, AT&T was forced to discount the portion of the
16 rate associated with the loop (in today's access environment, it is the carrier
17 common line element). Yet, even with this discount, the rate was well beyond
18 what AT&T would calculate using its economic cost standard. It is ironic that
19 AT&T once espoused a parity theory based on fully distributed costs, while
20 now claiming that only "economic costs" are appropriate.

21

22 Q. HAVE AT&T'S ACTIONS TOWARD RESALE OF ITS OWN SERVICES
23 BEEN CONSISTENT WITH THEIR POSITION THAT UNFETTERED
24 RESALE IS AN ABSOLUTE NECESSITY FOR LOCAL COMPETITION?

25

1 A. No. The history of AT&T's position on resale of its services has been one of
2 doing everything possible to restrict, retard or otherwise limit resale of its
3 services. These practices began in the mid-1970s and continue even today.
4 Initially, AT&T's position was clear - resale was simply prohibited. Beginning
5 in 1976 and continuing today, AT&T has established a history of trying to
6 impede and hinder resale to the extent possible.

7

8 Q. ARE BELLSOUTH'S POSITIONS WITH RESPECT TO RESALE FAR
9 DIFFERENT FROM THOSE OF AT&T WITH RESPECT TO RESALE?

10

11 A. Yes. As stated earlier, the Company has strong financial incentives to comply
12 with all provisions of the Act. BellSouth's efforts to limit the wholesale
13 discount to a level consistent with the intent of the Act and to limit the resale
14 of a few services is simply not comparable to AT&T's track record.

15

16 Q. AT&T HAS EXPRESSED A VIEW CONCERNING THE BENEFITS OF
17 POLICYMAKING ON COMPETITION INCLUDING THE
18 IMPLEMENTATION OF EQUAL ACCESS. DO YOU AGREE WITH
19 THAT VIEW?

20

21 A. No. Clearly, policymakers have a critical role to perform within the mandates
22 of the Act as evidenced by the strong role reserved for state commissions by
23 the Act. But, as the real history of equal access suggests, adequate
24 development time is the key factor in properly implementing new, complex
25 systems.

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In its petition, at pages 25-26, AT&T suggests that in 1982, equal access was not available and that because of the mandates of policymakers, it became available in 1984. AT&T's implication is that mandates by policymakers can resolve controversial issues. While it is clear why AT&T would benefit from this version of "history", events did not occur as AT&T implies. In the late 1970s, a line side (dial tone on the switch) access service, designated ENFIA, was provided to MCI and others by AT&T. It was essentially a business exchange line at a higher price. The interexchange companies demanded a trunk side arrangement, and by 1979, AT&T had developed ENFIA B and ENFIA C which included a 950-10XX dialing arrangement. The use of the 10XX pattern was premised upon the understanding that an "equal access" plan would use company codes, e.g., 10XX dialing.

In 1980, in filings with the FCC (Bell System Filing in FCC Docket No. 78-72, March 3, 1980), AT&T described an equal access plan that was based on each company having its own company code. At the time, AT&T envisioned that there would be less than ten interexchange companies, thus requiring only 10XX. With all this development already underway by Bell Laboratories and Western Electric, as well as specifications that could be made available to other switch manufacturers, it was relatively simple for AT&T in 1982 to meet the policymakers' mandate that equal access be made available by September, 1984 as required by the Modification of Final Judgment.

BELLSOUTH'S WITNESSES

1 Q. PLEASE DESCRIBE HOW BELLSOUTH INTENDS TO ADDRESS THE
2 ISSUES IN THIS PROCEEDING.

3

4 A. BellSouth intends to address all issues in this proceeding using the Florida
5 Public Service Commission's tentative list of issues as developed by the FPSC
6 Staff in the workshop held on July 31, 1996. Specifically, testimony will be
7 provided by BellSouth witnesses on the following issues:

8

9	WITNESS	ISSUES ADDRESSED
10	Mr. Robert C. Scheye	Interconnection, Unbundling &
11		Resale
12	Mr. Keith Milner	Network Issues/Technical Feasibility
13	Mr. Vic Atherton	Network Issues/Technical Feasibility
14	Ms. Gloria Calhoun	Operational Issues
15	Dr. Richard Emmerson	Economic Principles for Costing and
16		Pricing
17	Ms. D. Daonne Caldwell	Incremental Cost Methodology
18	Mr. Walter Reid	Avoided Cost Methodology

19

20 Mr. Scheye will provide a general overview of negotiations involving
21 BellSouth and numerous ALECs, the Company's overall response to AT&T's
22 Petition for Arbitration, and a discussion of the various issues in this
23 proceeding.

24

25 Mr. Milner will discuss the technical feasibility of unbundling the eight (8)

1 network elements for which agreement has not been reached between the
2 parties, as well as AT&T's request for access to Advanced Intelligent Network
3 ("AIN") capabilities.

4

5 Mr. Atherton will describe the interim service provider number portability
6 solutions that BellSouth will make available to ALECs and will respond to
7 AT&T's request for alternative solutions. In addition, Mr. Atherton will
8 describe the appropriate trunking arrangements for interconnection between
9 BellSouth's network and the networks of ALECs.

10

11 Ms. Calhoun will show that BellSouth has expended considerable resources to
12 develop the interfaces to allow ALECs, whether facilities-based providers or
13 resellers, to provide local telecommunications services to Florida consumers.
14 Further, Ms. Calhoun will explain how BellSouth's substantial implementation
15 efforts to develop the current interfaces and to continue development of more
16 advanced interfaces represent a balanced, reasonable and prudent approach to
17 meeting the operational needs of ALECs.

18

19 Dr. Emmerson will discuss the basic economic principles that should underlie
20 the Commission's consideration of costs and prices for the unbundled network
21 elements provided by BellSouth to ALECs, as well as the appropriate
22 wholesale/retail relationship for BellSouth's retail services that will be made
23 available for resale.

24

25 Ms. Caldwell will describe the cost methodology used by BellSouth to develop

1 the costs on which the Company's prices for unbundled network elements are
2 based and will present the Company's cost studies for those unbundled
3 elements.

4

5 Mr. Reid will address the appropriate methodology for use in determining the
6 Company's retail costs which will be avoided when services are provided to
7 resellers rather than end user customers and will present the Company's study
8 that calculates the appropriate whole discounts based on those avoided costs.

9

10 Q. DOES ANY OF BELLSOUTH'S TESTIMONY ADDRESS THE RULES
11 ISSUED BY THE FCC ON AUGUST 8, 1996, OR RESPOND TO AT&T'S
12 DIRECT TESTIMONY?

13

14 A. No. BellSouth is in the process of reviewing the FCC's Order and will file
15 supplemental testimony on August 16, 1996. Based on preliminary
16 information, it is clear that the FCC has misinterpreted various provisions of
17 the Act in the formulation of its rules. No doubt these rules will be challenged,
18 probably by state regulatory bodies whose authority appears to be gutted by
19 these rules, as well as by a number of existing local providers. Because of the
20 required testimony filing schedule in this proceeding, the testimony filed today
21 has been prepared without reference to the FCC's new rules.

22

23 With regard to AT&T's direct testimony, the Company will respond in rebuttal
24 testimony to be filed on August 23, 1996.

25

1 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

2

3 A. BellSouth is committed to opening the local exchange telecommunications
4 market to competition. The Company is complying with all the requirements
5 and obligations of the Act in furtherance of this commitment. Its track record
6 in achieving mutually satisfactory, negotiated local interconnection agreements
7 is proof of its commitment. In assessing AT&T's positions in this proceeding,
8 the Commission should weigh AT&T's current market incentives and
9 objectives and its historic actions in supporting competition against the intent
10 of Congress as expressed in the Act and what is in the best interests of Florida
11 consumers. Finally, the Commission must ensure that all relevant issues are
12 included in this proceeding so that the end result will be an agreement between
13 BellSouth and AT&T that is in compliance with all of the requirements and
14 obligations contained in the Act.

15

16 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

17

18 A. At this time, yes.

19

20

21

22

23

24

25

1 **BELLSOUTH TELECOMMUNICATIONS, INC.**
2 **DIRECT TESTIMONY OF ALPHONSO J. VARNER**
3 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**
4 **DOCKET NO. 960846-TP**
5 **SEPTEMBER 9, 1996**

6
7 Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION WITH
8 BELLSOUTH TELECOMMUNICATIONS, INC.

9
10 A. My name is Alphonso J. Varner and I am employed by BellSouth
11 Telecommunications, Inc. (hereinafter referred to as "BST" or "the Company")
12 as a Senior Director in Regulatory Policy and Planning. My business address is
13 675 West Peachtree Street, Atlanta, Georgia 30375.

14
15 Q. PLEASE GIVE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND
16 EXPERIENCE.

17
18 A. I graduated from Florida State University in 1972 with a Bachelor of Engineering
19 Science degree in systems design engineering. I immediately joined Southern Bell
20 in the division of revenues organization with the responsibility for preparation of
21 all Florida investment separations studies for division of revenues and for
22 reviewing interstate settlements.

23
24 Subsequently, I accepted an assignment in the rates and tariffs organization with
25 responsibilities for administering selected rates and tariffs including preparation of

1 tariff filings. In January 1994, I was appointed Senior Director of Pricing for the
2 nine state region. I assumed my current responsibilities in August 1994.

3
4 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY BEFORE THE FLORIDA
5 PUBLIC SERVICE COMMISSION (HEREINAFTER REFERRED TO AS
6 THE "FPSC" OR THE "COMMISSION")?

7
8 A. Yes. I have filed testimony in several proceedings before this Commission, most
9 recently in Docket No. 960833-TP.

10
11 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY BEING FILED TODAY?

12
13 A. The purpose of my testimony is to: 1) give a general overview of BST's position
14 on competition; 2) discuss broadly the requirements of the Telecommunications
15 Act of 1996 (hereinafter referred to as the "Act"); 3) address the issues raised in
16 the MCI Telecommunications Corporation and MCImetro Access Transmission
17 Services, Inc. (hereinafter collectively referred to as MCI) Petition for
18 Arbitration and the impact of the Federal Communications Commission's
19 (hereinafter referred to as "the FCC") First Report and Order in Docket No. 96-
20 98 (hereinafter referred to as the "FCC's Order") on those issues and the impact,
21 if any, on BST's positions; and 3) introduce the Company's additional witnesses
22 who will address the specific issues in more detail.

23
24 **I. OVERVIEW**

1 Q. WHAT EFFECT DOES THE ACT HAVE ON THE
2 TELECOMMUNICATIONS INDUSTRY?

3

4 A. The passage of the Act signified a new era for the telecommunications industry.
5 Through the Act, Congress sought to promote the development of competition in
6 all telecommunications market segments. The Act created the possibility for all
7 customers to have numerous choices of providers for the full range of both
8 existing telecommunications services and future services. Congress envisioned
9 and intended, through specific provisions in Sections 251 and 252 of the Act, that
10 the superior method for achieving fully competitive markets was through arms-
11 length negotiations between existing and potential providers of
12 telecommunications services. The Act encourages parties to negotiate to reach
13 voluntary local interconnection agreements, and creates significant incentives to
14 do so. Section 251(c)(1) requires incumbent local exchange carriers (hereinafter
15 referred to as "LECs") to negotiate the particular terms and conditions of
16 agreements to fulfill the duties described in Sections 251(b) and (c)(2-6).

17

18 Also through the Act, Congress opened all markets to any provider who wishes
19 to offer telecommunications services. All companies have been given the
20 freedom to enter the local telecommunications market. BellSouth and the other
21 Regional Bell Operating Companies ("RBOCs") have the freedom to enter the
22 interLATA long distance market after they comply with the "competitive
23 checklist" contained in Section 271 of the Act and are then permitted to do so by
24 the FCC. This gives all existing and potential providers the necessary incentives
25 to provide consumers the full range of telecommunications services.

1

2 Q. IF PARTIES ARE UNABLE TO REACH AGREEMENT THROUGH
3 NEGOTIATION, AS ENCOURAGED BY THE ACT, WHAT OPTIONS ARE
4 AVAILABLE TO THE PARTIES?

5

6 A. The Act allows a party to petition a state commission for mediation at any time
7 during the negotiations and/or to petition for arbitration of unresolved issues
8 between the 135th and 160th day from the date a request for negotiations was
9 received. This arbitration option has been taken by as both AT&T and MCI.
10 Importantly, the issues subject to arbitration are limited to those activities
11 necessary to fulfill the duties set forth in Section 251. The arbitration petition
12 must identify the issues resulting from the negotiations which are unresolved, as
13 well as those which are resolved. The Act requires the petitioning party to
14 submit along with its petition "...all relevant documentation concerning: (1) the
15 unresolved issues; (2) the position of each of the parties with respect to those
16 issues; and (3) any other issues discussed and resolved by the parties." A non-
17 petitioning party to the negotiations may respond to the other party's petition and
18 provide such additional information as it wishes within twenty-five days after the
19 state commission receives the petition. The Act expressly limits the state
20 commission's consideration to the unresolved issues set forth in the petition and
21 in the response.

22

23 Q. WHAT ARE THE OBLIGATIONS OF THE STATE COMMISSIONS IN THE
24 ARBITRATION PROCESS?

25

1 A. In resolving the open issues in the arbitration process, a state commission must:
2 (1) ensure that such resolution and conditions meet the requirements of Section
3 251 of the Act, including the regulations prescribed by the FCC pursuant to
4 Section 251; (2) establish any rates for interconnection, services, or network
5 elements according to Section 252(d); and (3) provide a schedule for
6 implementation of the terms and conditions by the parties to the agreement.

7
8 In accomplishing this, the state commission must ensure that the incumbent LEC
9 has met its obligations relating to: (1) interconnection; (2) unbundled access to
10 network elements; (3) resale; (4) notice of changes; (5) collocation; (6) number
11 portability; (7) dialing parity; (8) access to rights-of-way; and (9) reciprocal
12 compensation. These are the obligations that are to be the basis of the
13 negotiations and, if negotiations are unsuccessful, form the basis for arbitration.
14 Issues or topics not specifically related to these areas are outside the scope of an
15 arbitration proceeding.

16
17 Q. PLEASE DESCRIBE BST'S APPROACH TO NEGOTIATING
18 INTERCONNECTION AGREEMENTS WITH ALTERNATIVE LOCAL
19 EXCHANGE COMPANIES ("ALECS").

20
21 A. BST has entered into negotiations with prospective ALECs with the full intention
22 of reaching negotiated agreements covering all relevant issues. BST established
23 negotiating teams and dedicated resources from all areas of the Company to
24 develop positions, review ALEC interconnection requests and proposals, and
25 meet with ALEC representatives either by phone or face-to-face in a sincere

1 effort to reach agreements. Some carriers are relatively small having more
2 limited interests, while others are much larger with more far reaching needs.
3 Regardless of size or interests, BST has attempted to provide the necessary
4 information and meet the needs of each of these companies. In recognition of
5 certain ALEC business needs, BST has made significant compromises on many
6 important issues.

7
8 BST is committed to, and supports, competition and therefore, supports and is
9 committed to the negotiation process We have concluded negotiations and have
10 signed agreements with numerous new competitors. We continue to negotiate
11 with MCI even though MCI has requested arbitration in Florida and other
12 BellSouth states.

13
14 Q. HOW SUCCESSFUL HAVE BST'S NEGOTIATIONS BEEN TO DATE?

15
16 A. Negotiations have been very successful. Many of the agreements already
17 reached had their roots in negotiations that began prior to passage of the Act.
18 BST has been negotiating with companies since mid-1995, or long before
19 Congress determined that negotiations were the preferred method of reaching
20 interconnection agreements. In fact, BellSouth reached an agreement with
21 several parties in Florida in late 1995, allowing local competition to move
22 forward in this state. Since that time, the Company has successfully negotiated
23 twenty additional agreements within the BellSouth region with both facilities-
24 based and resale competitors. BST is not aware of any other LEC that has
25 reached agreements with this number of diverse new entrants. Thirteen of the

1 following twenty agreements have been filed with this Commission for approval:

2

3

American Communications Services, Inc. (ACSI)

4

American Metrocomm Corporation (MetroComm)

5

Business Telecom, Inc. (BTI)

6

Competitive Communications, Inc. (CCI)

7

Georgia Comm South

8

Hart Communications

9

Intermedia Communications, Inc. (ICI)

10

Intetech

11

MCImetro

12

MediaOne

13

MFS Communications Company (MFS)

14

National Telecommunications

15

NEXTLINK

16

Payphone Consultants, Inc.

17

SouthEast Telephone, Ltd.

18

Telephone Company of Central Florida

19

Teleport Communications Group (TCG)

20

Time Warner

21

TriComm, Inc.

22

WinStar Telecommunications, Inc.

23

24 Q.

HOW WOULD YOU DESCRIBE THE SUBSTANCE OF THESE

25

AGREEMENTS AND THE PARTIES THAT HAVE SIGNED THEM?

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2
3
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A. The simplest description of these agreements would be “diverse”. There are many differences contained in these agreements. Some are indeed partial agreements. The best examples of partial agreements are the MCI agreement (which I will discuss later) and those agreements which only deal with resale issues. For those parties desiring resale only, a partial agreement is the only practical answer. Other agreements are more comprehensive, covering interconnection, unbundling and resale, but not specifying the precise rates for each and every item. Some of the agreements include time frames for discussing specific pricing issues, such as the Time Warner agreement. The rationale for this type of agreement is that individual new entrants do not all have the same level of interest for each of the critical items of interconnection, unbundling and resale. An agreement of this type allows the new entrant to concentrate on its highest priority items, leaving other areas the subject of later discussions. This is a very sensible approach for any carrier with a more limited set of needs.

Other agreements are somewhat more comprehensive in that they do specify rates for interconnection, unbundling and resale. An example would be the Teleport agreement, although there are several others that are similar, e.g., ICI and Hart Communications.

The above agreements run the full spectrum with regard to company size and complexity of issues. Companies such as Time Warner, Teleport, MCI, ICI and others, whether signing partial or more comprehensive agreements with BST, are formidable competitors with strong financial, technical and marketing

1 capabilities. Additionally, their brands are well known both within and outside
2 the state of Florida.

3

4 Q. YOU REFER ABOVE TO THE MCI AGREEMENT AS BEING A PARTIAL
5 AGREEMENT. WOULD YOU PLEASE ELABORATE?

6

7 A. Yes. Although I have not been a party to the negotiations with MCI, I am
8 familiar with the process and the agreement. BST has essentially negotiated with
9 MCI in two phases. Phase one of the process resulted in an agreement signed on
10 May 13, 1996 to be effective on May 15, 1996, submitted to this Commission,
11 and approved by this Commission on August 13, 1996. The agreement was for a
12 period of two years and included agreement on the following issues:
13 interconnection (which includes trunking arrangements), reciprocal
14 compensation, interim number portability, access to 911/E911 services, matters
15 relating to directory listings and directory distribution, interchange of local 800
16 traffic, use of BellSouth's line information database ("LIDB"), and access to
17 BellSouth's SS7 database.

18

19 Phase two, begun at the completion of phase one, addressed the issues of resale
20 and unbundling. Since there was an agreement on the issues addressed in phase
21 one, revisiting these issues in phase two, or in an arbitration proceeding, would
22 be, not only inefficient but, inappropriate.

23

24 Q. ARE THERE ISSUES THAT MCI ADDRESSES IN THIS PROCEEDING
25 THAT ARE NOT APPROPRIATELY INCLUDED IN THIS ARBITRATION

1 PROCESS?

2

3 A. Yes. There are three types of issues that MCI has inappropriately included in
4 this proceeding. The most troublesome to BST are the issues that appeared to
5 have been settled with the signing of the partial agreement (which MCI refers to
6 as the "Interim Agreement") between MCImetro and BST. MCI has included in
7 its petition for arbitration several of the issues that, as I stated above and based
8 on the agreement, BST considered negotiated, agreed upon, and in other words,
9 settled. BST does not believe that these issues are appropriate to be included in
10 this proceeding. The specific issues will be identified and discussed briefly in
11 the testimony of Mr. Robert C. Scheye.

12

13 The second type of issue that BST does not believe is appropriate to include in
14 this proceeding, or any arbitration proceeding, is an issue on a subject that is not
15 covered by the act, i.e., logos on directory covers, the appropriate carrier billing
16 standards, liquidated damages, etc., and, in some cases, involve matters outside
17 the jurisdiction of this Commission. These will also be covered briefly by Mr.
18 Scheye.

19

20 The final type of issue that should not be included in this proceeding is an issue
21 that is the result of an FCC or State Commission Order rather than an inability to
22 agree in negotiations, i.e., cost recovery for dialing parity. This, like several
23 other issues raised by MCI, should not be part of this arbitration process but
24 should be raised, if necessary, in a separate proceeding where all affected parties
25 participate.

1

2 Q. DOES THE FCC'S ORDER HAVE A SIGNIFICANT IMPACT ON THE
3 ISSUES IN THIS PROCEEDING?

4

5 A. If the FCC's Order remains in effect as released, it will have a significant impact
6 on the issues in this proceeding, as well as the flexibility and extent of this
7 Commission's authority over such issues. As BST has stated in several other
8 proceedings, the FCC's Order appears to require regulatory micromanagement of
9 the telecommunications industry. Such micromanagement is inconsistent with
10 the Act. Congress, through the Act, clearly intended less regulation to encourage
11 rapid opening of markets. The FCC's approach to the opening of these markets
12 may well be the biggest barrier to one of the major objectives of Congress: the
13 development of facilities-based competition. Facilities-based competition was
14 intended to result from the implementation of the Act. The FCC's Order is not
15 consistent with that intent.

16

17 Q. HOW DOES THE FCC'S APPROACH PRESENT A BARRIER TO
18 FACILITIES BASED COMPETITION?

19

20 A. As stated in my supplemental testimony filed on August 23, 1996 in Docket No.
21 960833-TP, the best example of this barrier lies in the FCC's Rules for pricing of
22 unbundled network components which BST must provide to its competitors. If
23 the FCC's methodology of pricing these elements on the basis of forward-
24 looking economic costs is implemented, by definition, no other carrier will be
25 able to provide its own network any cheaper than it can obtain access to the

1 existing one. In fact, in light of BST's economies of scale which no other carrier
2 may want to, or be able to, duplicate, it may be that no other carrier can provide
3 its own facilities as cheaply as they could buy them from BST. Carriers will be
4 able to obtain an element from BST for a day, a week, a month, a year or
5 whatever timeframe they choose. When they no longer have a use for the
6 element, it reverts to BST. In contrast, BST must invest the capital, install the
7 equipment, and recover the investment over long periods of time. They have no
8 choice.

9
10 Some parties claim that network control issues may motivate carriers to build-out
11 their own network. Indeed, MCI is doing small amounts of this. Simple
12 economics, however, the real basis for investment decisions, says this is more
13 logically the exception than the rule.

14
15 Q. DOES THE FCC'S ORDER HAVE ANY EFFECT ON THE ROLE OF STATE
16 COMMISSIONS IN PROCEEDINGS OF THIS TYPE?

17
18 A. Yes. BST has always believed the states would, and should, play a critical role
19 in implementing the Act. Again, if the FCC's Order remains in effect as issued,
20 BST is concerned that, although the Act established discretion and flexibility for
21 the state commissions to exercise, the FCC's Order appears to limit this role in
22 an excessive and inappropriate manner. The FCC has issued Rules, in
23 excruciating detail, which appear to substantially undermine a state's ability to
24 carry out its role established by the Act. The FCC's dictating such fundamental

1 things as resale discounts, particularly in a manner that is inconsistent on its face
2 with the Act, simply eviscerates the role of the state commissions.

3

4 Q. HAS BST CHANGED ANY OF ITS POSITIONS TAKEN IN
5 NEGOTIATIONS WITH MCI AS A RESULT OF THE FCC'S ORDER?

6

7 A. Not at this time, although in the absence of a court or FCC order to the contrary,
8 BST and this Commission may be forced to accept different results than those
9 they have proposed. The Order and Rules touch upon many significant issues
10 that will impact the development of the telecommunications industry for many
11 years. The full impact of the FCC's Order cannot be completely assessed until
12 the legal appropriateness of the entire Order is determined. BST has announced
13 its intent to seek review of the Order. Many significant changes may be seen
14 before the Order and Rules are final. After a more complete review is
15 accomplished and decisions about the legal appropriateness of the Order and
16 Rules are made, BST may need to change some of its positions. We are simply
17 not prepared to do so now.

18

19 **II. ISSUES**

20

21 Q. ARE THERE ISSUES INCLUDED IN THE MCI PETITION THAT WERE
22 ALSO INCLUDED IN THE AT&T PETITION?

23

24 A. Yes. In fact, most of the issues presented were common to both companies'
25 petitions. For this reason, I adopt my supplemental testimony filed on August

1 23, 1996 and Part II of my rebuttal testimony filed on August 30, in Docket No.
2 960833-TP. I will address, in this portion of my testimony, only those issues
3 that I did not address in Docket No. 960833-TP or those that need additional
4 clarification.

5

6

7 Q. DO SECTIONS 251 AND 252 OF THE ACT APPLY TO THE PRICE OF
8 EXCHANGE ACCESS?

9

10 A. BST does not believe that the Act applies to the price of exchange access. The
11 Order is also very clear on this issue, leaving nothing to debate. In support of
12 BST's position, Paragraph 51.305(b) of the Rules states, "[a] carrier that requests
13 interconnection solely for the purpose of originating or terminating its
14 interexchange traffic on an incumbent LEC's network and not for the purpose of
15 providing to others telephone exchange service, exchange access service, or both,
16 is not entitled to receive interconnection pursuant to section 251(c)(2) of the
17 Act."

18

19 Q. DO THE RULES ADDRESS WHAT INTRASTATE ACCESS CHARGES
20 SHOULD BE COLLECTED ON A TRANSITIONAL BASIS FROM
21 CARRIERS WHO PURCHASE BST'S UNBUNDLED LOCAL SWITCHING
22 ELEMENT?

23

24 A. Yes. The Rules do allow assessment, by the incumbent LEC upon
25 telecommunications carriers that purchase unbundled local switching elements,

1 of the carrier common line charge (CCLC) and 75% of the residual
2 interconnection charge (RIC) currently applied on access traffic. These charges
3 continue to apply to those services where the CCLC and RIC already apply, i.e.,
4 interstate traffic and intrastate toll traffic. This is, in reality, a reduction in access
5 charges equal to 25% of the RIC when the access is provided using unbundled
6 facilities. There is no mandated change in the level of access charges under any
7 other condition.

8
9 The FCC recognized that opening the local exchange market to competition will
10 reduce revenues available for the support of universal service. By allowing the
11 incumbent LEC to continue to assess the carrier common line charge and a
12 charge equal to 75% of the residual interconnection charge on the interstate
13 minutes of use traversing the unbundled local switching elements, the
14 Commission also recognized the need for an incumbent LEC to continue
15 receiving some support for universal service until such time that it is determined
16 how much support is actually needed and from what sources that support should
17 be received, i.e., either at the conclusion of the Federal Universal Support
18 proceeding or the Interstate Access Reform proceeding. The Rules, in Paragraph
19 51.515 state that the assessment may continue "until the earliest of the following,
20 and not thereafter: (1) June 30, 1997; (2) the later of the effective date of a final
21 Commission decision in CC Docket No. 96-45, *Federal-State Joint Board on*
22 *Universal Service*, or the effective date of a final Commission decision in a
23 proceeding to consider reform of the interstate access charges described in part
24 69; or (3) with respect to a Bell operating company only, the date on which that
25 company is authorized to offer in-region interLATA service in a state pursuant to

1 section 271 of the Act.”

2
3 The FCC's Rules also allow BST to assess a comparable charge to that discussed
4 above on intrastate toll minutes of use for the same time period as the interstate
5 assessment unless the state commission makes a decision that the incumbent
6 cannot assess such charges. This Commission also acknowledged a need for
7 state support for universal service in its Order in Docket No. 950696-TP and said
8 that, for the interim, universal service support should continue to be funded
9 through existing implicit sources. This Commission must continue to allow this
10 intrastate assessment until the earlier of such time as it determines the final
11 support procedures for universal service or no later than June 30, 1997, as stated
12 in the FCC Rules. It should be noted, however, that this date, although allowing
13 the FCC to issue an order on universal service, allows no time for Florida to
14 complete its consideration of universal service support.

15
16 Q. ON PAGE 18 OF MCI'S PETITION, IT STATES THAT "IN ORDER TO
17 COMPLY WITH THE ACT, ACCESS CHARGES FOR BOTH SWITCHED
18 AND SPECIAL ACCESS MUST BE REDUCED TO TSLRIC AS QUICKLY
19 AS POSSIBLE, BUT IN NO EVENT LATER THAN THE DATE THAT
20 BELLSOUTH OBTAINS IN-REGION INTERLATA AUTHORITY." DO
21 YOU AGREE WITH THIS CONCLUSION?

22
23 A. Absolutely not. Nowhere in the Act are access charges, or other interconnection
24 or unbundled network elements charges, required to be priced at TSLRIC. In
25 addition, the Act does not have any requirements with regard to interexchange

1 access for BST to obtain in-region interLATA authority. Further, the FCC has
2 made it extremely clear that it intends to address access in a separate proceeding
3 and indeed have set a tentative to do such.

4
5 Q. MCI, ON PAGE 29 OF ITS PETITION, STATES THAT "UNBUNDLED
6 ELEMENTS MUST BE PRICED AT TSLRIC" AND GOES ON TO SAY ON
7 PAGE 30 THAT TSLRIC IS THE PROPER PRICING STANDARD UNDER
8 THE ACT. DO YOU AGREE WITH MCI'S CONCLUSION?

9
10 A. No. MCI appears again to be misinterpreting the Act. The Act states in Section
11 252(d)(1) that network element charges shall be 1) based on the cost of providing
12 the network element; 2) nondiscriminatory; and 3) may include a reasonable
13 profit. Nowhere in the pricing standards does it say that unbundled network
14 elements should be priced at cost.

15
16 Q. ON PAGE 46 OF THE PETITION, MCI STATES THAT IF THE
17 COMMISSION ULTIMATELY IMPOSES A SPECIFIC CHARGE FOR
18 LOCAL INTERCONNECTION, "THE COMMISSION MUST SET THE
19 RATE FOR INTERCONNECTION EQUAL TO TELRIC." IS THIS
20 CONSISTENT WITH THE FCC ORDER?

21
22 A. No. The FCC Order, in the paragraph referenced by MCI, specifies forward
23 looking economic cost rather than TELRIC as the basis for transport and
24 termination rates. The Order defines forward looking economic cost in
25 Paragraph 51.505 as TELRIC and a reasonable allocation of forward-looking

1 common costs.

2

3 Q. ON PAGE 31 OF ITS PETITION, MCI SUGGESTS THE USE OF THE
4 HATFIELD MODEL TO SUPPORT MCI'S VIEW OF ECONOMIC COST
5 FOR UNBUNDLED ELEMENTS. IS THIS AN APPROPRIATE METHOD?

6

7 A. No. The fundamental flaws inherent in the Hatfield Model make it an
8 inappropriate tool to estimate costs of any BST network element.

9

10 The basic areas of the model to which BST objects are:

11 *The Hatfield Model is based on a theoretical network that can never
12 exist, rather than the actual network used to provide service;

13 *The Hatfield Model has evolved over time, there being several
14 "versions, the results of which have varied greatly (point in fact: MCI
15 states on page 31 that it is preparing a "new version:" of the Hatfield
16 study);

17 *The Hatfield Model uses data, in part derived from another model, the
18 Benchmark Cost Model, which itself is *fatally* flawed;

19 *The Hatfield Model uses unusually low estimates of joint and common
20 costs;

21 *The Hatfield Model uses unrealistic cost of money;

22 *The Hatfield Model uses overly high plant utilization factor;

23 *The Hatfield Model uses overly long depreciation lives; and

24 *The Hatfield Model underestimates the economic cost of service,
25 especially in urban areas.

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The Hatfield Model, therefore, does not produce rates that are consistent with the actual costs incurred by BST and, therefore, should not be used by this Commission for this purpose.

In addition, assuming logically that the inclusion of joint and common costs recommended by the FCC for a forward-looking economic cost study would increase rather than decrease the level of costs, BST's proposed rates and LRIC studies provide a much more reasonable approximation of costs than do the FCC's proxy rates or the Hatfield Model rates, as proposed by MCI. This Commission should, therefore, adopt BST's proposed prices.

III. INTRODUCTION OF ADDITIONAL WITNESSES AND SUMMARY

Q. PLEASE LIST THE ADDITIONAL BST WITNESSES IN THIS PROCEEDING AND DESCRIBE BRIEFLY WHAT WILL BE COVERED IN THEIR TESTIMONY.

A. Each issue in this proceeding, using the Issues List included as Exhibit 5 of MCI's Petition, will be covered in detail by BST's additional witnesses. Specifically, testimony will be provided by the following BST witnesses:

WITNESS	ISSUES ADDRESSED
Mr. Vic Atherton	Network Issues/Technical Feasibility
Ms. D. Daonne Caldwell	Incremental Cost Methodology

1	Ms. Gloria Calhoun	Operational Issues
2	Dr. Richard Emmerson	Economic Principles for Cost and Price
3	Mr. Keith Milner	Network Issues/Technical Feasibility
4	Mr. Anthony Pecoraro	Network Issues/Technical Feasibility
5	Mr. Walter Reid	Avoided Cost Methodology
6	Mr. Robert C. Scheye	Interconnection, Unbundling & Resale

7

8 Mr. Atherton will describe the appropriate trunking arrangements for
9 interconnection between BST's network and the network of MCI.

10

11 Ms. Caldwell presents the Company's cost studies for unbundled elements, upon
12 which the Company's prices for those elements are based, and describes BST's
13 methodology for developing those costs.

14

15 Ms. Calhoun adopts her direct prefiled testimony in Docket No. 960833-TP and
16 clarifies BST's position on particular issues.

17

18 Dr. Emmerson discusses the basic economic principles that should underlie this
19 Commission's consideration of costs and prices for BST's unbundled network
20 elements. In addition, he discusses the appropriate wholesale/retail relationship
21 for BST's retail services that will be made available for resale.

22

23 Mr. Milner discusses the technical feasibility of unbundling the eight network
24 elements for which no agreement has been reached between MCI and BST and
25 includes a discussion on access to Advanced Intelligent Network ("AIN")

1 capabilities.

2
3 Mr. Pecoraro provides an assessment of the feasibility of using central office
4 switching capabilities to provide for the selective routing of calls requested by
5 MCI.

6
7 Mr. Reid addresses the appropriate methodology for use in determining the
8 Company's retail costs which will be avoided when services are provided to
9 resellers rather than end-users and presents the Company's study that calculates
10 the appropriate discounts based on those avoided costs. He also presents a study
11 that calculates a discount based on the guidelines set forth in the FCC's Order.

12
13 Mr. Scheye presents a general discussion of the MCI negotiation process and
14 discusses in detail each of the specific issues raised by MCI in this proceeding.

15
16 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

17
18 A. BellSouth believes that competition for local exchange services can be in the
19 public interest when implemented in a competitively neutral manner, devoid of
20 artificial incentives and/or regulatory rules that advantage or disadvantage an
21 individual provider or group of providers. Competition, properly implemented,
22 can provide business and residence customers with real choices from numerous
23 telecommunications providers. Properly implemented, competition will allow
24 efficient competitors to attract customers and be successful in a competitive
25 marketplace where regulatory oversight is minimized. The Company believes

1 that this is the environment that Congress, through the Act, intended to create. It
2 is this view of competition that BellSouth has taken as it negotiates with
3 prospective providers of local exchange service.

4
5 The Company has strong financial incentives to comply with all provisions of the
6 Act. Congress has mandated that, unless specifically exempted, local exchange
7 companies must open their markets to competition. BellSouth has already and is
8 continuing to comply with the directives of the Act by entering into numerous
9 interconnection agreements with other providers. Significantly, Congress tied
10 the ability of BellSouth and the other RBOCs to enter the interLATA services
11 market to its compliance with the "competitive checklist" contained in the Act.
12 BellSouth has every intention of meeting the checklist as quickly as possible in
13 order to provide a full array of telecommunications services to its customers.

14
15 One of the most important responsibilities of this Commission is to determine the
16 extent the FCC's Order comports with the Act. BST is not suggesting that the
17 FCC's Order be ignored since, until legal action is completed to the contrary, the
18 FCC's Rules are binding. Because it is clear, however, that there are major
19 conflicts between the FCC's Order and Rules and the Act, this Commission must
20 continue to exercise its judgment and authority in carrying out its responsibilities
21 in the implementation of the Act. This Commission must ensure that all relevant
22 issues are included and resolved in this proceeding so that the end result will be
23 an agreement between MCI and BST that is in compliance with the Act.

24
25 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

1

2 A. Yes.

1 **BELLSOUTH TELECOMMUNICATIONS, INC.**
2 **SUPPLEMENTAL TESTIMONY OF ALPHONSO J. VARNER**
3 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**
4 **DOCKET NO. 960833- TP**
5 **AUGUST 23, 1996**

- 6
- 7 Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION WITH
8 BELLSOUTH TELECOMMUNICATIONS, INC. (HEREINAFTER
9 REFERRED TO AS "BST" OR "THE COMPANY").
- 10
- 11 A. My name is Alphonso J. Varner. I am employed by BST as Senior Director for
12 Regulatory Policy and Planning for the nine state BellSouth region. My
13 business address is 675 West Peachtree Street, Atlanta, Georgia, 30375.
- 14
- 15 Q. ARE YOU THE SAME ALPHONSO J. VARNER WHO FILED DIRECT
16 TESTIMONY IN THIS DOCKET ON AUGUST 12, 1996?
- 17
- 18 A. Yes.
- 19
- 20 Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL TESTIMONY
21 BEING FILED TODAY?
- 22
- 23 A. My testimony provides BST's current assessment of the impact of the FCC's
24 First Report and Order in CC Docket No. 96-98 ("Order") on the issues

1 identified in this docket and BST's position on those issues. BST's assessment
2 is based on the presumption that the FCC's Order remains in effect as issued
3 and is not subsequently modified. Since BST has not completed its analysis of
4 the Order, nor have we determined if all of the provisions of the Order are
5 consistent with the Telecommunications Act of 1996 ("the Act"), we have not
6 decided what, if any, legal actions we will take concerning the Order.

7

8 Q. WHAT IS BELLSOUTH'S GENERAL ASSESSMENT OF THE ORDER?

9

10 A. As I stated in my testimony filed in Docket No. 960757 - TP, the Order appears
11 to be regulatory micromanagement of the telecommunications industry which
12 is inconsistent with the Act. Congress clearly intended less regulation and
13 rapid opening of markets. BST has attempted to help reach this goal by
14 negotiating interconnection agreements with many of its potential competitors
15 and opening its network to competition. The FCC's approach may be the
16 biggest barrier to the development of facilities based competition that results
17 from the implementation of the Act and surely was not the intended result of
18 Congress.

19

20 Q. WHAT IN THE FCC'S APPROACH PRESENTS A BARRIER TO THE
21 DEVELOPMENT OF FACILITIES BASED COMPETITION?

22

23 A. The best example lies in the pricing of unbundled network components which
24 BST must provide to competitors. If the FCC's methodology of pricing these

1 elements on the basis of forward-looking, incremental costs (plus a portion of
2 forward looking joint and common costs) stands, by definition, no other carrier
3 will be able to provide its own network any cheaper than it can obtain access to
4 the existing one. In fact, in light of BST's economies of scale which no other
5 carrier may want to, or be able to, duplicate, it may be that no other carrier can
6 provide its own facilities as cheaply as they could buy them from BST.

7 Despite claims that network control issues may motivate carriers to build-out
8 their own network, simple economics - the real basis for investment decisions -
9 says otherwise.

10

11 Q. WHAT IS THE AFFECT OF THE ORDER ON THE ROLE AND
12 JURISDICTION OF THE STATE COMMISSIONS?

13

14 A. BST has always believed the states would play a critical role in implementing
15 the Act. BST has and is working with each of the state commissions to meet
16 their specific needs in fulfilling those responsibilities. BST is concerned that
17 this important function will be undermined by many of the provisions of this
18 Order. State commissions have a better view than the FCC of how to promote
19 competition in the states. The FCC's dictating such fundamental things as
20 resale discounts, particularly in a manner that is inconsistent on its face with
21 the Act, simply eviscerates the role of the state commissions. While the FCC's
22 recent statements refer to a close association with the states and reliance on

1 decisions reached at the state level, the Rules in this Order appear to
2 significantly restrict state commission latitude.

3

4 Q. DOES THE FCC'S ORDER HAVE ANY AFFECT ON THE CONDUCT OF
5 STATE PROCEEDINGS?

6

7 A. Yes. BST is concerned that, although the Act established discretion and
8 flexibility for the state commissions to exercise, the FCC's Order appears to
9 limit, excessively and inappropriately, this role. BST's initial assessment of
10 the Order finds little left to the true discretion of the states. Indeed, the only
11 thing left, not surprisingly, to the sole discretion of the states, is the amount
12 ratepayers can be charged for basic local service. The FCC has issued Rules, in
13 excruciating detail, which appear to substantially limit a state's ability to carry
14 out its role established by the Act. In addition to the resale discount mentioned
15 above, a few examples of areas where the state's role has been diminished, if
16 not essentially eliminated, are:

17

18 -The states' ability to encourage facilities-based local competition;

19

-Setting prices of unbundled elements;

20

-The states' regulation of intrastate access;

21

-The states' ability to allow a local exchange carrier (LEC) to assess CMRS
22 providers for LEC originated traffic; and

23

-The states' ability to determine pricing rules for the transport and

24

termination of traffic.

1

2 No doubt, given the general tenor of the Rules, there are significant other areas
3 in which state commissions have traditionally had authority which is now lost
4 to them.

5

6 Q. WHAT ARE THE IMPLICATIONS OF THE FCC'S PRICING MODEL FOR
7 RATEPAYERS?

8

9 A. The most obvious is that while some ratepayers may benefit from reduced
10 rates, not everyone will. BST ultimately must recover its costs of doing
11 business--its real costs, not only its forward looking incremental costs. It will
12 not recover its investment from intermediary services or network elements
13 provided to competitors. Its retail rates in urban and, perhaps to a lesser extent,
14 in suburban areas, will be disciplined by competition. So, it is the rural
15 ratepayer who will bear the brunt of BST's need to recover its true costs.

16

17 Q. HAS BST CHANGED ANY OF ITS POSITIONS AS A RESULT OF THE
18 ORDER?

19

20 A. We have not, although in the absence of a court or FCC order to the contrary,
21 we and this Commission may be forced to accept different results than those
22 we have proposed. I would also note that, as has been previously stated, a full
23 assessment of the impact of the FCC's Order and Rules is not complete. It may

1 well be that, after a more complete review is accomplished and decisions about
2 the legal appropriateness of the Order and Rules are decided, it may be
3 appropriate to change our positions. We are simply not in a position to do so
4 now. I can say now, however, that it is clear that there are major conflicts
5 between the Order and Rules and the Act.

6
7 Q. CAN YOU GIVE EXAMPLES WHERE, IN YOUR OPINION, THE RULES
8 DO NOT COMPORT WITH THE ACT?

9

10 A. Yes. Two examples of where the FCC's Rules appear not to be consistent with
11 the Act are the identification of vertical services as unbundled network
12 elements and the development of the wholesale discount rate.

13

14 In the first example, the FCC has defined vertical services as unbundled
15 network elements. They have done this by including the vertical services as a
16 part of the unbundled local switching capability and specified that these
17 services should be priced at very low levels. It appears that BST will be unable
18 to recover even the costs of providing some of these features through the rates
19 allowed by the FCC. Not recovering the costs of providing an unbundled
20 element is not consistent with the Act. In addition, the states are given no
21 capability to manage any revenue loss caused by this Rule.

22

23 In the second example, the FCC has established the methodology to determine
24 the avoided costs associated with the resale process. In its methodology the

1 FCC uses costs that it considers reasonably avoidable in the development of the
2 wholesale discount rate. This appears to be inconsistent in two ways. First,
3 although the FCC gives its rationale for establishing national rules on this
4 issue, Section 252(d)(3) of the Act states, "a State commission shall determine
5 wholesale rates..." In addition, the Act, in the same section, goes on to say that
6 the wholesale rates will be determined on the basis of retail rates charged to
7 subscribers excluding costs that will be avoided by the local exchange carrier.
8 The FCC itself, in the discussion portion of the Order, recognizes that costs
9 that are reasonably avoidable and indeed different than costs that will be
10 avoided.

11
12 Q. ARE THERE ISSUES THAT BST BELIEVES WERE RAISED BY AT&T
13 IN THIS ARBITRATION PROCEEDING THAT ARE NOT ADDRESSED
14 BY THE FCC'S RULES?

15

16 A. Yes. The Order appears to be silent on Issues 3(b), 5, 12, 19, 20, 23, and 24 as
17 set forth in the issues list dated 8/2/96. Since the Order has no impact on these
18 issues and therefore will not affect the FPSC's process, the FPSC can accept
19 BST's position on these issues without regard to any consequences from the
20 FCC Order. A brief discussion of these issues is included in my testimony for
21 completeness.

22

23 Q. HOW IS THE REMAINDER OF YOUR TESTIMONY ORGANIZED?

1

2 A. The remainder of my testimony addresses the specific issues identified in this
3 docket. The testimony is divided into four sections:

4 A: Resale,

5 B: Interconnection,

6 C: Unbundled Network Elements, and

7 D: Additional Interconnection Requirements and Issues.

8

9 In each section, each issue is stated as it is in the proposed list of issues, dated
10 8-2-96; the BST position is stated briefly; and BST's preliminary assessment of
11 the impact of the Order is given for each issue. I have also attached Section 51
12 of the Final Rules as Exhibit AJV-1.

13

14 Again, though, while we are attempting to identify the impact of the FCC's
15 Order and Rules on these matters, we are not conceding that the FCC's position
16 is correct or should be adopted in this proceeding. The Order and Rules will
17 likely be attacked in various ways and through all available channels.

18 BellSouth believes that its positions should be sustained in the meanwhile.

19

20 **A: RESALE**

21

22 **Issue 1: WHAT SERVICES PROVIDED BY BELL SOUTH, IF ANY,**
23 **SHOULD BE EXCLUDED FROM RESALE?**

24

25 BellSouth Position: In accordance with Section 251(c)(4)(A) of the Act,
26 BellSouth must "offer for resale at wholesale rates any telecommunications

1 service that the carrier provides at retail to subscribers who are not
2 telecommunications carriers....” Certain options or service offerings which are
3 not retail services or have other special characteristics should be excluded from
4 resale. These include contract service arrangements, promotions,
5 grandfathered or obsoleted services, LifeLine assistance programs, N11
6 service, and E911/911 services.
7

8 Assessment of Order: Section 51.605 of the Final Rules says that an
9 incumbent LEC cannot impose restrictions on the resale of telecommunications
10 services offered by the incumbent LEC except as provided in Section 51.613.
11 Section 51.615 refers to the withdrawal of services and states, “[w]hen an
12 incumbent LEC makes a telecommunications service available only to a
13 limited group of customers that have purchased such a service in the past, the
14 incumbent LEC must also make such a service available at wholesale rates to
15 requesting carriers to offer on a resale basis to the same limited group of
16 customers that have purchased such a service in the past.” Sub-paragraph (a)
17 of Section 51.613 states that specific restrictions regarding cross-class selling
18 may be permitted by the state commission and that short term promotions are
19 exempt from the wholesale rate. Section 51.613 (b) goes on to state, “[w]ith
20 respect to any restrictions on resale not permitted under paragraph (a), an
21 incumbent LEC may impose a restriction only if it proves to the state
22 commission that the restriction is reasonable and nondiscriminatory.”
23

1 As a preliminary conclusion, BST believes that all of our proposed service
2 restrictions are permissible under paragraph 51.613(b) of the Rules. Based on
3 the discussion presented in Mr. Scheye's direct testimony in this proceeding,
4 BST believes that the restrictions that it proposes are narrowly tailored,
5 reasonable, and nondiscriminatory and, therefore, are permitted by the Order.
6 BST's position is consistent with the FCC's Order and we urge this
7 Commission to approve our proposal.

8
9 **Issue 2: WHAT TERMS AND CONDITIONS, INCLUDING USE AND USER**
10 **RESTRICTIONS, IF ANY, SHOULD BE APPLIED TO RESALE OF**
11 **BELLSOUTH SERVICES?**

12
13 BellSouth Position: Any use or user restrictions or terms and conditions found
14 in the relevant tariff of the service being resold should apply. Use and user
15 restrictions as well as terms and conditions are integral components of the retail
16 service that is being resold. These terms and conditions do not impose
17 unreasonable or discriminatory conditions on the resale of these services and
18 may be reflected in the rates being charged, and hence should be carried
19 through with the discount. Elimination of the terms and conditions may affect
20 the pricing or even the general availability of the service. An example of a
21 service with this type limitation is Saver Service, which is a discounted toll
22 service, priced based on the use of the retail end user. If it can be used by
23 multiple end users and the usage aggregated, then change in demand could

1 certainly impact its pricing.

2

3 Assessment of Order: Our assessment of the Order here is the same as it is for
4 Issue 1. Section 51.613(b) allows an incumbent LEC to impose restrictions if
5 it proves to the state commission that they are reasonable and
6 nondiscriminatory. Based on our preliminary analysis, we believe the terms
7 and conditions limitations requested by BST and discussed in Mr. Scheye's
8 direct testimony, are reasonable and nondiscriminatory, permitted by the Rules,
9 and should be allowed by this Commission.

10

11 **Issue 2 Unresolved: SHOULD BELLSOUTH BE REQUIRED TO PROVIDE**
12 **REAL-TIME AND INTERACTIVE ACCESS VIA ELECTRONIC**
13 **INTERFACES TO PERFORM THE FOLLOWING: PRE-SERVICE**
14 **ORDERING, SERVICE TROUBLE REPORTING, SERVICE ORDER**
15 **PROCESSING AND PROVISIONING, CUSTOMER USAGE DATA**
16 **TRANSFER, LOCAL ACCOUNT MAINTENANCE? IF SO, FOR**
17 **WHAT PROCESSES AND IN WHAT TIME FRAME SHOULD THEY**
18 **BE DEPLOYED? WHAT SHOULD BE THE METHODS AND**
19 **PROCEDURES FOR DELIVERY OF OPERATIONAL INTERFACES?**

20

21 BellSouth Position: BellSouth has made available or has under active
22 development electronic interfaces for ordering and provisioning, pre-ordering,
23 trouble reporting and billing data. For ordering and trouble reporting with

1 regard to unbundled elements, BellSouth is providing functionality similar to
2 the processes that have worked effectively in the exchange access world.
3 BellSouth has established interfaces to allow ALECs to obtain pre-ordering
4 information electronically. BellSouth has also provided electronic customer
5 usage data transfer and is modifying its original design to accommodate
6 AT&T's requests. The details of these interfaces and other work efforts were
7 contained in the direct testimony of Ms. Calhoun filed on August 12, 1996.

8
9 Assessment of Order: Paragraph 51.313 (c) of the Rules states that as a just,
10 reasonable and nondiscriminatory term and condition for the provision of
11 unbundled network elements, "[a]n incumbent LEC must provide a carrier
12 purchasing access to unbundled network elements with the pre-ordering,
13 ordering, provisioning, maintenance and repair, and billing functions of the
14 incumbent LEC's operations support systems." Paragraphs 517 and 518 of the
15 Order discuss that nondiscriminatory access to operations support systems
16 functions could be viewed as a "term and condition" of unbundling other
17 network elements under section 251(c)(3), or resale under section 251(c)(4) of
18 the Act. Paragraph 51.603 provides that "[a] LEC shall make its
19 telecommunications services available for resale to requesting
20 telecommunications carriers on terms and conditions that are reasonable and
21 non-discriminatory."

22

1 The FCC also concludes in its Order that providing nondiscriminatory access
2 to operations support systems functions is technically feasible and that all
3 incumbent LECs that currently do not comply with this requirement must do so
4 as expeditiously as possible, but in any event no later than January 1, 1997.

5
6 The FCC appears to be in favor of the use of national standards so that all
7 transactions between telecommunications companies may be processed via
8 nationally standardized electronic gateways. The FCC proposes to monitor
9 closely the progress of industry organizations as they implement the rules
10 adopted in this proceeding.

11
12 As discussed in Ms. Calhoun's direct testimony, BST has already made
13 available or has under accelerated development electronic operational
14 interfaces for ordering and provisioning, pre-ordering, trouble reporting, and
15 billing data and is in overall compliance with the FCC Order. BST believes
16 that January 1, 1997 is an unrealistic date to require completion of this project.
17 Should the FCC Order stand as it is, BST would have to provide all of the
18 electronic operational interfaces identified in this issue by January 1, 1997 to
19 be in compliance.

20
21 *BST believes that its existing electronic interfaces to support ALECs, as well*
22 *as those under development, are in overall compliance with the precepts*
23 *described in the FCC Order and in compliance with national standards, where*

1 they exist. Where new standards will be required as a result of the FCC's
2 Order, BST will continue its active role in the appropriate industry committees
3 to develop such standards.

4
5 Contrary to the general compliance with the Order on this issue, however, the
6 Company does believe that the FCC's requirement to provide electronic access
7 to all operational support functionality by January 1, 1997 is unrealistic. The
8 implementation timeline for each electronic interface is based on the
9 complexity of the requirements associated with that specific functionality.
10 BST has provided a realistic, firm schedule based on the actual work to be
11 done, as identified in the analysis and design phase of system development.
12 Even the Georgia Public Service Commission, in amending its initial
13 implementation date, recognized the fact that timing can only be determined on
14 the basis of a detailed analysis and design of each electronic interface.

15
16 **Issue 3(a): WHEN AT&T RESELLS BELLSOUTH'S SERVICES, IS IT**
17 **TECHNICALLY FEASIBLE OR OTHERWISE APPROPRIATE TO**
18 **BRAND OPERATOR SERVICES AND DIRECTORY SERVICES**
19 **CALLS THAT ARE INITIATED FROM THOSE RESOLD SERVICES?**

20
21 BellSouth Position: Branding is not required by the Act and is not required to
22 promote competition. BST cannot offer branding for AT&T or other resellers
23 when providing resold local exchange service because BST will not be able to

1 distinguish calls of AT&T resold customers from calls of customers of other
2 local resellers, or from BST. Mr. Milner's direct testimony in this docket
3 describes a significant problem with AT&T's request in that it is not
4 technically feasible.

5
6 Assessment of Order: Paragraph 877 of the Order states, "section 251(c)(4)
7 does not impose on incumbent LECs the obligation to disaggregate a retail
8 service into more discrete retail services. The 1996 Act merely requires that
9 any retail services offered to customers be made available for resale."

10 Paragraph 51.613 (c) of the Rules then states, inconsistently, that the failure by
11 an incumbent LEC to comply with reseller unbranding or rebranding requests
12 is a restriction on resale. The paragraph does go on, however, to state that an
13 incumbent LEC may impose such a restriction if it proves to the state
14 commission that the restriction is reasonable and nondiscriminatory, such as by
15 proving to a state commission that the incumbent LEC lacks the capability to
16 comply with unbranding or rebranding requests.

17
18 The direct testimony of Mr. Keith Milner shows that AT&T's request is not
19 technically feasible and, therefore, BST lacks the capability to comply with the
20 request even if it were otherwise appropriate. BST's position on this issue is,
21 therefore, consistent with the FCC Rules and should be adopted by this
22 Commission.

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Issue 4: WHEN AT&T RESELLS BELLSOUTH'S LOCAL EXCHANGE SERVICE, IS IT TECHNICALLY FEASIBLE OR OTHERWISE APPROPRIATE TO ROUTE 0+ AND 0- CALLS TO AN OPERATOR OTHER THAN BELLSOUTH'S, TO ROUTE 411 AND 555-1212 DIRECTORY ASSISTANCE CALLS TO AN OPERATOR OTHER THAN BELLSOUTH'S, OR TO ROUTE 611 REPAIR CALLS TO A REPAIR CENTER OTHER THAN BELLSOUTH'S?

BellSouth Position: BellSouth will route calls to AT&T's requested service if AT&T provides the appropriate unique dialing arrangements. BellSouth's retail service includes access via specified 0, 411, and 611 dialing arrangements to BellSouth's operator, directory assistance, and repair service. Therefore, the resold services include the same functionalities. As stated, routing of calls to various operator providers through the same dialing arrangements is not technically feasible or otherwise appropriate. Call routing was described in detail in Mr. Milner's direct testimony.

Assessment of Order: The actual issue here appears to be whether or not BST can offer selective routing of calls that are made by customers of AT&T when using a resold BST service. The assessment of this issue is the same as the assessment on Issue 3(a). BST has shown, in compliance with the Rules, that

1 providing what is being requested by AT&T is not technically feasible and,
2 therefore, does not have to be, and indeed cannot be, provided.

3

4 **Issue 3(b): WHEN BELLSOUTH'S EMPLOYEES OR AGENTS INTERACT**
5 **WITH AT&T'S CUSTOMERS WITH RESPECT TO A SERVICE**
6 **PROVIDED BY BELLSOUTH ON BEHALF OF AT&T, WHAT TYPE**
7 **OF BRANDING REQUIREMENTS ARE TECHNICALLY FEASIBLE**
8 **OR OTHERWISE APPROPRIATE?**

9

10 **BellSouth Position:** When BellSouth service technicians provide material, they
11 will not provide customer information provided by AT&T, but generic access
12 cards with the appropriate provider's name (AT&T). BellSouth personnel,
13 when providing services on behalf of AT&T, will not market directly or
14 indirectly to AT&T customers.

15

16 **Assessment of Order:** The Rules address branding. It is, however, limited to
17 the areas of operator, call completion, and directory assistance services. It does
18 not appear to consider what AT&T is requesting in this issue as branding and,
19 therefore, is not covered by the Rules. This should not be surprising because
20 what AT&T wants goes well beyond any requirements in the Act. BST's
21 position put forth in its direct testimony can, and therefore should be, allowed
22 by this Commission.

1

2 **Issue 6: SHOULD BELLSOUTH BE REQUIRED TO PROVIDE NOTICE**
3 **TO ITS WHOLESALE CUSTOMERS OF CHANGES TO**
4 **BELLSOUTH'S SERVICES? IF SO, IN WHAT MANNER AND IN**
5 **WHAT TIME FRAME?**

6

7 **BellSouth Position:** BellSouth will provide notice to wholesale customers of
8 changes in services offered for resale at the time BellSouth notifies its retail
9 customers of such changes.

10

11 **Assessment of Order:** BST initially concludes that the Resale section of the
12 Rules does not address this issue specifically and no reference is found in the
13 Order. The Rules do state in Paragraph 51.603(b), "[a] LEC must provide
14 services to requesting telecommunications carriers for resale that are equal in
15 quality, **subject to the same conditions, and provided within the same**
16 **provisioning time intervals** (emphasis added) that the LEC provides these
17 services to others, including end users." If addressed at all, it appears that the
18 Order confirms BST's position and, therefore, should be adopted by this
19 Commission.

20

21 **Issue 7: SHOULD PIC CHANGES RECEIVED FROM IXC'S BE TREATED**
22 **DIFFERENTLY FOR A BELLSOUTH EXCHANGE SERVICE BEING**
23 **RESOLD BY AT&T THAN FOR A BELLSOUTH RETAIL**

1 **EXCHANGE SERVICE?**

2

3 BellSouth Position: BellSouth plans to handle Primary Interexchange Carrier
4 (PIC) requests for all resellers under the same guidelines and framework used
5 to handle PIC requests today for IXCs.

6

7 Assessment of Order: The Rules do not specifically address the PIC.

8 Paragraph 51.603 (a), however, states that services must be made available for
9 resale on terms and conditions that are reasonable and non-discriminatory.

10 Further, Paragraph 51.603(b) states, “[a] LEC must provide services to
11 requesting telecommunications carriers for resale that are equal in quality,
12 subject to the same conditions, and provided within the same provisioning time
13 intervals that the LEC provides these services to others, including end users.”

14 Acceptance of AT&T’s position, that BST not process long distance carrier
15 designation changes sent to BST for AT&T customers served by resold
16 services, certainly would not appear to be in compliance with the
17 nondiscriminatory language of the Rules, and would appear to, in fact, give
18 AT&T an unfair competitive advantage.

19

20 BST’s proposed terms and conditions are both reasonable and
21 nondiscriminatory towards all competitors, not just AT&T, and should be
22 adopted by this Commission. Based on these preliminary observations, BST’s
23 position is consistent with the Order on this issue.

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Issue 8: WHAT ARE THE APPROPRIATE WHOLESALE RATES FOR BELL SOUTH TO CHARGE WHEN AT&T PURCHASES BELL SOUTH'S RETAIL SERVICES FOR RESALE?

BellSouth Position: The Act requires that rates for resold services shall be based on retail rates minus the costs that will be avoided due to resale.

BellSouth proposes a discount to be applied to both residential and business services based on avoided cost studies.

Assessment of Order: Wholesale pricing is addressed in Paragraphs 51.605 through 51.611 of the FCC's Rules. The Rules allow wholesale rates that are, at the election of the state commission, either consistent with the avoided cost methodology described in the Rules, or are interim wholesale rates, pursuant to the Rules.

The avoided cost methodology set forth in the Rules is different than the methodology used by BST in its original study submitted to this Commission and turns the pricing principle in the Act on its head. The Act clearly dictates the use of a "top down" approach to developing wholesale rates, and thus, the calculation begins with the retail rate and works down to the wholesale rate by deducting avoided costs. This is the only fair and logical approach, in light of the fact that BST's rates are not necessarily cost-based and reflect social

1 pricing considerations and a different competitive environment.

2

3 The FCC's approach, in essence, begins from the bottom and works up based
4 on costs that a pure wholesaler would incur (though disguised in terms of
5 reducing the retail rate by all costs that a pure wholesaler would not incur). As
6 discussed earlier, this is clearly inconsistent with the Act.

7

8 It should be noted, however, that the rates originally submitted by BST are
9 much closer to being consistent with the guidelines set forth in the Rules than
10 those submitted by AT&T. Paragraph 914 of the Order says that a study may
11 not calculate avoided costs based on non-cost factors or policy arguments nor
12 can it make disallowances for reasons not provided in the Pricing Standards
13 section of the Act. The Order specifically rejects several of AT&T's
14 arguments for items that should be included in a discount.

15

16 The Rules also refer to one discount that applies to all retail services. The FCC
17 does not, however, prohibit or require the development and state approval of
18 other than a single, uniform discount rate for all services, as has been presented
19 by BST.

20

21 BST believes that its original study is in compliance with the Federal Act. *If*
22 *the Order stands as issued on this subject, a new avoided cost study will be*
23 *necessary. Included as Exhibit WSR-3 in the supplemental testimony, filed in*

1 this docket by Mr. Walter Reid, BST submits a cost study performed based on
2 the guidelines set forth in the Rules. BST does not propose to change
3 wholesale discounts in accordance with this study. BST submits this study for
4 information purposes only.

5

6 **B. INTERCONNECTION**

7

8 **Issue 9: WHAT ARE THE APPROPRIATE TRUNKING ARRANGEMENTS**
9 **BETWEEN AT&T AND BELL SOUTH FOR LOCAL**
10 **INTERCONNECTION?**

11

12 **BellSouth Position:** Each interconnecting party should have the right to
13 determine the most efficient trunking arrangements for its network. Parties
14 should be free to work together and establish two-way arrangements if both
15 parties agree; however, such arrangements should not be mandated. Mr.
16 Atherton addressed this issue in detail in his direct testimony.

17

18 **Assessment of Order:** As an initial assessment of Paragraph 51.305 (f) of the
19 Rules, if technically feasible, BST must provide two-way trunking upon
20 request.

21

1 **Issue 10: WHAT SHOULD BE THE COMPENSATION MECHANISM FOR**
2 **THE EXCHANGE OF LOCAL TRAFFIC BETWEEN AT&T AND**
3 **BELLSOUTH?**

4
5 **BellSouth Position:** The rate for the transport and termination of traffic should
6 be set with recognition of the intrastate switched access rate. BellSouth has
7 proposed interconnection rates based on these charges exclusive of the residual
8 interconnection charge (RIC) and carrier common line (CCL) charge with a
9 105% cap applied on usage. BellSouth believes that the Act does not authorize
10 a commission to mandate that a party accept bill and keep as the method of
11 interconnection, eliminating the right to recover its costs.

12
13 **Assessment of Order:** Paragraph 51.705 of the Rules says that rates for
14 transport and termination of local telecommunications traffic are to be
15 established, at the election of the state commission, on the basis of: 1) the
16 forward-looking economic costs of such offerings, using a cost study pursuant
17 to the Rules; 2) default proxies as provided in the Rules; or 3) a bill-and-keep
18 arrangement. Paragraph 51.503 provides the general pricing standard for
19 interconnection. It states that rates are to be established , at the election of the
20 state commission, pursuant to the forward looking economic cost-based
21 methodology set forth in the Rules, or consistent with the proxy ceilings and
22 ranges set forth in the Rules.

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The rules for the forward-looking economic cost-based studies referred to in these sections are the same as those provided for unbundled network elements. Paragraph 51.713 of the Rules also gives the state commission the option to impose a bill-and-keep arrangement for reciprocal compensation if the commission determines that the amount of local telecommunications traffic from one network to the other is roughly balanced with the traffic flowing in the opposite direction, and is expected to remain so, and there has been no showing that rates should be asymmetrical.

If the state commission determines that the cost information available to it with respect to interconnection and transport and termination does not support adoption of rates that are consistent with the cost study procedures set forth in the Rules, it may establish rates for interconnection consistent with proxies specified in Paragraph 51.513 of the Rules or rates for transport and termination consistent with proxies specified in Paragraph 51.707 of the Rules. Any rate established in this manner is superseded once the state commission establishes rates based on an appropriate study or on a bill-and-keep arrangement for transport and termination.

If the Order stands as issued, our preliminary analysis concludes that BST will have to perform and submit cost studies to support its proposed rates, pursuant to the guidelines set forth in the Rules. No such cost studies are currently

1 available.

2

3 Until such time as cost studies are submitted and approved, the Commission
4 may set rates based on the default proxies provided in the Rules. The rates
5 proposed by BST are different than the default proxies provided in Paragraphs
6 51.513 and 51.707 of the Rules. Before using these, or any proxies, the FPSC
7 should determine whether or not these proxies are consistent with the Act.

8

9 In addition, the Rules give the Commission the option of ordering a bill-and-
10 keep arrangement with regard to transport and termination. As BST has
11 repeatedly stated and demonstrated, bill-and-keep is not an appropriate cost
12 recovery arrangement. BST does not believe that the Act permits bill-and-keep
13 to be mandated. Certainly if mandating bill-and-keep is not authorized by the
14 Act, it is not appropriate for the FCC's Order to allow state commissions to
15 mandate such arrangements.

16

17 **Issue 16: DO THE PROVISIONS OF SECTIONS 251 AND 252 APPLY TO**
18 **THE PRICE OF EXCHANGE ACCESS? IF SO, WHAT IS THE**
19 **APPROPRIATE RATE FOR EXCHANGE ACCESS?**

20

21 **BellSouth Position:** Sections 251 and 252 of the Act do not apply to the price
22 of exchange access. Therefore, BellSouth does not believe that the
23 Commission can arbitrate this issue and it should be dismissed.

1

2 Assessment of Order: Our initial review concludes that the Order is very clear
3 on this issue and leaves nothing to debate. In support of BST's position,
4 Paragraph 51.305(b) of the Rules states, "[a] carrier that requests
5 interconnection solely for the purpose of originating or terminating its
6 interexchange traffic on an incumbent LEC's network and not for the purpose
7 of providing to others telephone exchange service, exchange access service, or
8 both, is not entitled to receive interconnection pursuant to section 251(c)(2) of
9 the Act."

10

11 **C. UNBUNDLED NETWORK ELEMENTS**

12

13 **Issue 11(a): ARE THE FOLLOWING ITEMS CONSIDERED TO BE**
14 **NETWORK ELEMENTS, CAPABILITIES, OR FUNCTIONS? IF SO,**
15 **IS IT TECHNICALLY FEASIBLE FOR BELLSOUTH TO PROVIDE**
16 **AT&T WITH THESE ELEMENTS? (NETWORK INTERFACE**
17 **DEVICE, LOOP DISTRIBUTION, LOOP**
18 **CONCENTRATOR/MULTIPLEXER, LOOP FEEDER, LOCAL**
19 **SWITCHING, OPERATOR SYSTEMS, DEDICATED TRANSPORT,**
20 **COMMON TRANSPORT, TANDEM SWITCHING, SIGNALING LINK**
21 **TRANSPORT, SIGNAL TRANSFER POINTS, SERVICE CONTROL**
22 **POINTS/DATA BASES)**

1

2 BellSouth Position: BellSouth and AT&T have agreed on the definitions and
3 capabilities for four elements requested by AT&T -- tandem switching,
4 signaling link transport, signal transfer points, and service control points/data
5 bases. BellSouth has also agreed to provide unbundled loop facilities,
6 unbundled local switching, operator systems, and dedicated transport, however,
7 what BellSouth perceives as the definition of these elements is different than
8 AT&T's perception. AT&T has requested that additional capabilities, i.e., sub-
9 loop unbundling, be included in the definition of these unbundled elements.
10 As discussed in Mr. Milner's direct testimony, these additional capabilities are
11 not technically feasible.

12

13 Assessment of Order: Section D of the Rules discusses unbundling of network
14 elements. It specifies that where technically feasible, access to unbundled
15 network elements must be provided at just, reasonable and nondiscriminatory
16 terms. Paragraph 51.319 provides a list of specific network elements that are to
17 be offered on an unbundled basis. Those items are 1) local loop (without sub
18 loop unbundling); 2) network interface device; 3) switching capability; 4)
19 interoffice transmission facilities; 5) signaling networks (access to service
20 control points through the unbundled STP) and call-related databases; 6)
21 operation support systems functions; and 7) operator services and directory
22 assistance. Our initial assessment concludes that these seven elements must be
23 provided on an unbundled basis. Not included in this list are the sub loop

1 elements, i.e., loop distribution, loop concentrator/multiplexers, and loop
2 feeder, and the service control points requested by AT&T.

3
4 Paragraph 51.317 establishes the standards for the states to follow to identify
5 what additional network elements must be made available. Based on our initial
6 analysis of the Rules and the discussions put forth in BST's direct testimony, it
7 does not appear that AT&T's request for the unbundling of elements not
8 included in Paragraph 51.319 meet the criteria specified in Paragraph 51.317
9 and should, therefore, not be required by this Commission.

10
11 **Issue 13: SHOULD AT&T BE ALLOWED TO COMBINE BELLSOUTH'S**
12 **UNBUNDLED NETWORK ELEMENTS TO RECREATE EXISTING**
13 **BELLSOUTH SERVICES?**

14
15 BellSouth Position: ALECs should be able to combine BellSouth provided
16 elements with their own capabilities to create a unique service. However, they
17 should not be able to use only BellSouth's unbundled elements to create the
18 same functionality as a BellSouth existing service, i.e., it is not appropriate to
19 combine BST's loop and port to create basic local exchange service.

20
21 Assessment of Order: Paragraph 51.315 of the Rules states that an incumbent
22 LEC shall provide network elements in a manner that allows requesting
23 telecommunications carriers to combine such network elements in order to

1 provide a telecommunications service. An incumbent LEC that denies a
2 request to combine elements must prove to the state commission that the
3 requested combination is not technically feasible or that the requested
4 combination would impair the ability of other carriers to obtain access to
5 unbundled network elements or to interconnect with the incumbent LEC's
6 network.

7
8 Adoption of the FCC's Rules would clearly have a dramatic impact on, not
9 only the resale of BST's services but also on, the development of facilities
10 based competition. After our initial analysis, it appears clear that if the FCC's
11 Rules are adopted as issued, BST's position on this issue will need to change.

12

13 **Issue 11(b): WHAT SHOULD BE THE PRICE OF EACH OF THE ITEMS**
14 **CONSIDERED TO BE NETWORK ELEMENTS, CAPABILITIES, OR**
15 **FUNCTIONS?**

16

17 **BellSouth Position:** The price of unbundled network elements according to the
18 Act must be based on cost and may include a reasonable profit. Tariffed prices
19 for existing, unbundled tariffed services meet this requirement and are the
20 appropriate prices for these unbundled elements. The price for a new
21 unbundled service should be set to recover its costs, provide contribution to
22 shared and common costs and provide a reasonable profit.

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Assessment of Order: The general pricing standards for elements is discussed in Paragraph 51.503 of the Rules. Elements must be offered at rates, terms, and conditions that are just, reasonable, and nondiscriminatory. The rates for each element an incumbent LEC offers shall comply with the rate structure set forth in the Rules. One significant requirement of the general rate structure standard included in Paragraph 51.507 is that, “[s]tate commissions shall establish different rates for elements in at least three defined geographic areas within the state to reflect geographic cost differences.” Rates shall be established pursuant to the forward - looking economic cost pricing methodology set forth in the Rules, or consistent with the proxy ceilings and ranges in the Rules.

Based on our initial review and if the Order stands, BST must submit cost studies performed based on the guidelines set forth in the FCC’s Rules. In addition, rates must be deaveraged for at least three geographic areas as determined by the state commission.

The Rules provide that until such time as cost studies are submitted and approved, the Commission may set rates based on default proxies that are provided in Paragraph 51.513. The rates proposed by BST are different than the default proxies provided in the Rules. As mentioned in the discussion of

1 Issue 10, before using these proxies, the FPSC should determine whether or not
2 they are consistent with the Act.

3

4 **Issue 12: DO THE PROVISIONS OF SECTIONS 251 AND 252 APPLY TO**
5 **ACCESS TO UNUSED TRANSMISSION MEDIA (E.G., DARK FIBER)?**
6 **IF SO, WHAT ARE THE APPROPRIATE RATES, TERMS, AND**
7 **CONDITIONS?**

8

9 BellSouth Position: BellSouth believes that AT&T is referring to dark or dry
10 fiber only and knows of no other example of unused transmission facilities.
11 Sections 251 and 252 do not apply to unused transmission media. Dry fiber is
12 neither an unbundled network element, nor is it a retail telecommunications
13 service to be resold. If it is not a network element and it is not a retail service,
14 there is no other standard under the Act for its provision.

15

16 To be a retail service it must be currently available as a tariffed (or comparable)
17 service offering. Dry fiber is not. To be an unbundled network element, it
18 must contain some functionality inherent in BellSouth's network. Dry fiber is
19 no more a network element than the four walls surrounding a switch are an
20 unbundled element.

21

22 Assessment of Order: The Rules do not address dry fiber as an unbundled
23 network element and, therefore, have no affect on BST's position.

1

2 **Issue 15: WHAT ARE THE APPROPRIATE STANDARDS, IF ANY, FOR**
3 **PERFORMANCE METRICS, SERVICE RESTORATION, AND**
4 **QUALITY ASSURANCE RELATED TO SERVICE PROVIDED BY**
5 **BELLSOUTH FOR RESALE AND FOR NETWORK ELEMENTS**
6 **PROVIDED TO AT&T BY BELLSOUTH?**

7

8 **Issue 20: SHOULD BELLSOUTH BE REQUIRED TO PROVIDE PROCESS**
9 **AND DATA QUALITY CERTIFICATION FOR CARRIER BILLING,**
10 **DATA TRANSFER, AND ACCOUNT MAINTENANCE?**

11

12 **BellSouth Position:** BellSouth will provide the same quality for services
13 provided to AT&T and other ALECs that it provides to its own customers for
14 comparable services. The current Commission rules for service quality and
15 monitoring procedures should be used to address any concerns. It is premature
16 to specify DMOQs until adequate experience is available. It is appropriate,
17 however, to jointly develop quality measurements. Liquidated damages are not
18 subject to arbitration.

19

20 **Assessment of Order:** BST preliminarily concludes that its position on Issue
21 15 appears to be consistent with the FCC's Order and Rules. Provisioning of
22 unbundled network elements is covered in Paragraph 51.311 of the Rules. It
23 states that the quality of unbundled network elements, as well as the quality of

1 the access, that an incumbent LEC provides to a requesting carrier shall be the
2 same for all telecommunications carriers requesting access to that network
3 element. It goes on to say that, to the extent technically feasible, the quality of
4 the access to unbundled network elements must be at least equal in quality to
5 that which the incumbent LEC provides to itself. Also, to the extent
6 technically feasible, the quality of an unbundled network element as well as the
7 quality of the access to the element, upon request, shall be superior to that
8 which the incumbent LEC provides to itself.

9
10 Paragraph 311 of the Order discusses reporting requirements. The FCC
11 believes that the record is insufficient at this time to adopt requirements. They
12 do, however, encourage the states to adopt reporting requirements. In addition,
13 in Paragraphs 124 - 129, the FCC discusses several options that parties have for
14 seeking relief if they believe that a carrier has violated the standards under
15 Section 251 or 252. These include bringing action in federal district court;
16 using the section 208 complaint process; and seeking relief under the antitrust
17 laws, other statutes, or common law.

18
19 On Issue 20, the Order appears to be silent on data quality certification. It does
20 not appear that BST's position, that it will provide the same quality for services
21 provided to its competitors that it provides to its own end users, needs to
22 change.

1

2 **D. ADDITIONAL INTERCONNECTION REQUIREMENTS AND ISSUES**

3

4 **Issue 14: IS IT APPROPRIATE FOR BELLSOUTH TO PROVIDE COPIES**
5 **OF ENGINEERING RECORDS THAT INCLUDE CUSTOMER**
6 **SPECIFIC INFORMATION WITH REGARD TO BELLSOUTH'S**
7 **POLES, DUCTS, AND CONDUITS? HOW MUCH CAPACITY IS**
8 **APPROPRIATE FOR BELLSOUTH TO RESERVE WITH REGARD**
9 **TO ITS POLES, DUCTS AND CONDUITS?**

10

11 **BellSouth Position:** BellSouth will provide structure occupancy information
12 regarding conduits, poles, and other rights-of-way requested by AT&T and will
13 allow designated AT&T personnel or agents to examine engineering records or
14 drawings pertaining to such requests. It is reasonable for BellSouth to reserve
15 in advance five years of capacity in a given facility. Mr. Milner provides
16 additional detail on this issue in his direct testimony.

17

18 **Assessment of Order:** The Order does not appear to address the provision of
19 engineering records. BST's position on this portion of the issue does not
20 appear to be affected.

21

22 The Order does not appear to change existing portions of Section 224(f)(1),
23 addressing reserve capacity. On this portion of the issue, it is unclear at this

1 time what the affect will be on BST's position. The FCC's Order addresses
2 reserving capacity in Paragraph 1170. It states that section 224(f)(1) requires
3 nondiscriminatory treatment of all providers of telecommunications or video
4 services and does not contain an exception for the benefit of such a provider on
5 account of its ownership or control of the facility or right - of - way. Paragraph
6 1170 goes on to say that permitting an incumbent LEC to, for example, reserve
7 space for local exchange service, to the detriment of a would-be entrant into the
8 local exchange business, would favor the future needs of the incumbent over
9 the current needs of the new entrant. Section 224(f)(1) prohibits such
10 discrimination among telecommunications carriers.

11

12 **Issue 5: WHAT RATES SHOULD APPLY TO COLLECT, THIRD PARTY,**
13 **INTRALATA AND INFORMATION SERVICE PROVIDER CALLS?**

14

15 **BellSouth Position:** BST believes that this issue addresses AT&T's request for
16 a uniform regional system for the processing of intraLATA collect and third
17 number type calls in addition to information services calls. As BST
18 understands, the regional system AT&T envisions would be uniform across
19 states, call types and incumbent LECs. Although such a system may simplify
20 matters for AT&T in processing these types of calls, such a uniform system for
21 rating of calls for LECs, Independent Companies and other providers does not
22 currently exist. Current systems are more state specific. BellSouth is
23 investigating the feasibility of a uniform system. BST has no obligation,

1 however, to develop and implement a new system simply to meet AT&T's
2 desire for uniformity.

3

4 Assessment of Order: This does not appear to be an interconnection issue and
5 the Order does not appear to address it. It does not involve unbundled access
6 to existing elements or resale of a retail service. BST has said that it will work
7 with AT&T on its request and has no reason to change its position on this
8 issue.

9

10 **Issue 12 Unresolved: SHOULD BELLSOUTH BE REQUIRED TO**
11 **PROVIDE COPIES OF ALL INTERCONNECTION AGREEMENTS**
12 **ENTERED INTO BETWEEN BELLSOUTH AND OTHER CARRIERS?**

13

14 BellSouth Position: The Act does not require that all previous interconnection
15 agreements be filed with the Commission. The Act deals specifically with
16 agreements resulting from a request for interconnection pursuant to Section
17 251. BellSouth will provide all agreements that have been negotiated pursuant
18 to Section 251 once they become public.

19

20 Assessment of Order: Paragraph 51.303 addresses preexisting agreements. It
21 states that, "[a]ll interconnection agreements between an incumbent LEC and a
22 telecommunications carrier, including those negotiated before February 8,
23 1996, shall be submitted by the parties to the appropriate state commission for

1 approval pursuant to section 252(e) of the Act.” It goes on in, sub-paragraph
2 (b), to state that the interconnection agreements negotiated before February 8,
3 1996, between Class A carriers, shall be filed with the state commissions no
4 later than June 30, 1997, or earlier if the state commission requires.

5

6 Our preliminary assessment concludes that BST will be required to file all
7 negotiated interconnection agreements with the state commission if this portion
8 of the Order stands. As previously stated, however, we do not believe that this
9 is required by the Act.

10

11 **Issue 19: SHOULD BELLSOUTH BE REQUIRED TO PROVIDE CARRIER**
12 **BILLING USING INDUSTRY STANDARDS?**

13

14 **BellSouth Position:** There is no industry standard requiring billing for services
15 sold to resellers through the Carrier Access Billing System (CABS), nor is one
16 imminent. Billing through the Customer Record Information System (CRIS)
17 contains the necessary infrastructure to provide the line level detail associated
18 with resold services. Ms. Calhoun addresses this issue and BellSouth’s
19 position in her direct testimony.

20

21 **Assessment of Order:** The Order and Rules do not cover this specific issue
22 when addressing resale. In as much as this can be construed as a question or
23 issue regarding provisioning, Paragraph 51.603(b) states, “[a] LEC must

1 provide services to requesting telecommunications carriers for resale that are
2 equal in quality, subject to the same conditions, and provided within the same
3 provisioning time intervals that the LEC provides these services to others,
4 including end users.” BST provides billing to its end users through CRIS.
5 BST’s position is certainly consistent with this portion of the Rules and should,
6 therefore, be approved by the FPSC.

7

8 **Issue 23: SHOULD BELLSOUTH BE REQUIRED TO PROVIDE INTERIM**
9 **NUMBER PORTABILITY SOLUTIONS IN ADDITION TO REMOTE**
10 **CALL FORWARDING?**

11

12 BellSouth Position: BellSouth offers Remote Call Forwarding and Direct
13 Inward Dialing as interim number portability solutions. In addition, Mr.
14 Atherton’s testimony addresses the Local Exchange Routing (LERG) solution
15 requested by AT&T. He also discusses AT&T’s request for a five minute
16 conversion.

17

18 Assessment of Order: The rules governing number portability, according to
19 Paragraph 51.203 of the Rules, are set forth in part 52, subpart C, of the FCC’s
20 Rules. The First Report and Order does not modify part 52 and, therefore, has
21 no affect on BST’s position.

22

1 **Issue 24: WHAT ARE APPROPRIATE GENERAL TERMS AND**
2 **CONDITIONS THAT SHOULD GOVERN THE ARBITRATION**
3 **AGREEMENT (e.g. RESOLUTION OF DISPUTES, PERFORMANCE**
4 **REQUIREMENTS, AND TREATMENT OF CONFIDENTIAL**
5 **INFORMATION)?**

6
7 BellSouth Position: Issues regarding the process, terms and conditions,
8 confidentiality, or any other arbitration procedure should be resolved in a
9 separate proceeding, preferably prior to the initiation of an arbitration request.
10 *This issue should not be included in this arbitration proceeding.*

11
12 Assessment of Order: Our initial review revealed no mention of any specific
13 conditions concerning the arbitration procedure. There appears to be no reason
14 for BST's position on this issue to change, particularly as I stated in my direct
15 testimony, since the Commission is addressing this issue as a separate
16 undertaking.

17
18 **Issue 25: SHOULD AT&T RECEIVE, FOR ITS CUSTOMERS,**
19 **NONDISCRIMINATORY ACCESS TO WHITE AND YELLOW PAGE**
20 **DIRECTORY LISTINGS?**

21
22 BellSouth Position: Because AT&T has reached agreement with BellSouth's
23 directory publishing affiliate, BAPCO, on all issues covered under the Act,

1 BellSouth considers this issue moot. The Act requires inclusion of subscriber
2 listings in White Pages directories as a checklist item. BellSouth has already
3 agreed to ensure that AT&T and other ALEC subscribers' listings are included
4 in the White Pages directories and BAPCO has contracted directly with AT&T
5 to accomplish this purpose. Any Commission action beyond this agreed upon
6 provision would affect the interests of BAPCO, as publisher, which is not a
7 party to this proceeding.

8
9 BellSouth believes that the issue of placing a logo on a directory cover is not
10 subject to arbitration under Section 251 of the Act, and is neither a
11 telecommunications principle nor subject to the Commission's jurisdiction in
12 this matter and, therefore, requests that the Commission not arbitrate this issue.
13 AT&T should, as they have previously, attempt to negotiate this issue with
14 BAPCO.

15
16 Assessment of Order: Although the Rules do address a white page directory
17 listing in Paragraph 51.319(c), it is my understanding that, as stated above,
18 based on an agreement reached between AT&T and BAPCO, all directory
19 issues, except the one concerning logos, have been resolved. With respect to
20 logos, neither the Order nor the Act create any rights or jurisdiction over this
21 request by AT&T. BST's position should be accepted.

22

1 Q. WOULD YOU PLEASE SUMMARIZE YOUR TESTIMONY?

2

3 A. Yes. BST has completed its initial analysis of the FCC's First Report and
4 Order issued in CC Docket No. 96-98. While more conclusive responses
5 would obviously have been more helpful, the FCC's Order is extremely
6 comprehensive and detailed. My testimony has provided BST's preliminary
7 assessment on each of the issues established in this docket. Based on that
8 assessment, our positions on Issues 1, 2, 3(a), 4, 6, 7, 11(a), 15, 16, and 25
9 appear to be consistent with the Order as it has been issued. BST urges this
10 Commission to accept the Company's position on these issues, as well as the
11 positions on those issues referred to earlier in my testimony that do not appear
12 to be addressed by the Order.

13

14 This testimony, in general, has not attempted to identify the extent to which the
15 Order comports with the Act. This is, however, one of the most important
16 considerations to be made with regard to the Order and Rules.

17

18 My testimony has made the point on several issues of "if the Order stands as
19 issued". Many significant changes may be seen in the Order and Rules before
20 they are final. BST is not suggesting that the Order be ignored, however, the
21 FPSC must continue to exercise its authority in carrying out what it judges to
22 be its responsibilities in the implementation of the Act.

1

2 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

3

4 A. Yes.

BELLSOUTH TELECOMMUNICATIONS, INC.**REBUTTAL TESTIMONY OF ALPHONSO J. VARNER****BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION****DOCKET NO. 960846-TP****SEPTEMBER 16, 1996**1
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Q. Please state your name, address and position with BellSouth
Telecommunications, Inc.

A. My name is Alphonso J. Varner and I am employed by BellSouth
Telecommunications, Inc. (hereinafter referred to as "BellSouth" or "the
Company") as a Senior Director in Regulatory Policy and Planning. My
business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. ARE YOU THE SAME ALPHONSO J. VARNER THAT FILED DIRECT
TESTIMONY IN THIS DOCKET??

A. Yes. I filed direct testimony on September 9, 1996 in response to MCI's
Petition.

Q. WHAT IS THE PURPOSE OF THE TESTIMONY THAT YOU ARE FILING
TODAY?

1 A. My testimony responds to the direct testimony filed in this proceeding by MCI
 2 witnesses Wood, Cornell, Martinez and Caplan. I will address only issues that
 3 were not included in my direct testimony or a specific issue that I feel needs
 4 further clarification. I address the issues only with respect to the impact of the
 5 Federal Communications Commission's (hereinafter referred to as "the FCC")
 6 First Report and Order in Docket No. 96-98 (hereinafter referred to as the
 7 "FCC's Order"). My testimony is organized into five sections:

- 8 I. General
- 9 II. Cost
- 10 III. Interconnection and Unbundled Network Elements
- 11 IV. Switched Access
- 12 V. Summary

13
 14 **I. GENERAL**

15
 16 Q. MS. CORNELL'S TESTIMONY IDENTIFIES SIX PREMISES ON WHICH
 17 SHE SUGGESTS THE FCC'S ORDER RESTS. PREMISE SIX "IS THAT
 18 THE INCUMBENT LECs HAVE VIRTUALLY NO INCENTIVES TO
 19 VOLUNTARILY PROVIDE THE VARIOUS NETWORK ELEMENTS AND
 20 INTERCONNECTION NEEDED BY ENTRANTS AT PRICES OR UNDER
 21 THE TERMS AND CONDITIONS THAT WOULD MAKE EFFECTIVE
 22 COMPETITION A REALITY." PLEASE COMMENT.

23
 24 A. It appears that through this testimony, MCI is attempting to portray BST (the
 25 incumbent LEC) as the bad guy in this process. Ms. Cornell refers to several

1 references made by the FCC in its Order concerning LEC incentives to obstruct
2 competitive entry, superior bargaining power, etc. in order to illustrate the
3 premise. For BST, these references simply do not apply. As stated previously,
4 BST is committed to, and supports, competition and, therefore, supports and is
5 committed to the negotiation process. BST's negotiations have been extremely
6 successful due to the Company's recognition of the business needs of individual
7 alternative exchange carriers (hereinafter referred to as "ALECs") and the
8 willingness to make significant compromises on many important issues.

9

10 Even now BST continues to negotiate with MCI, trying to come to agreement
11 on outstanding issues, although MCI has requested arbitration.

12

13 Q. THE ABOVE PREMISE DISCUSSED BY MS. CORNELL SUGGESTS
14 THAT BST HAS SIGNIFICANT INCENTIVE TO BLOCK COMPETITION.
15 IS THIS AN ACCURATE PORTRAYAL?

16

17 A. No. Again, BST is not the bad guy in this scenario. It is important to note that
18 MCI was neither driven to arbitration by BST, as should be clear from the
19 testimony that has been submitted by the Company, nor has MCI come to
20 arbitration frustrated by BST's defenses. It should be clear that BST is more
21 than willing to negotiate by the agreements that have been signed, including the
22 partial agreement with MCI. Presumably, based on these agreements and in
23 preparation for facilities-based competition, many of the companies involved
24 are installing trunks, switches and facilities. Companies are reselling BST's
25 services at reasonable rates and under conditions contemplated by the Act.

1 Apparently these companies do not hold the same concerns as MCI about
2 BST's willingness to allow competition.

3

4 In addition, BST has made it very clear that it intends to enter the interLATA
5 market as quickly as possible. This, in itself, provides much of the necessary
6 incentive to negotiate agreements that will be approved by state commissions.

7

8 Q. MR. CAPLAN MAKES SEVERAL REFERENCES IN HIS TESTIMONY TO
9 PROBLEMS THAT MCI HAS ENCOUNTERED IN NEGOTIATING
10 AROUND THE COUNTRY. WOULD YOU PLEASE COMMENT ON
11 THIS?

12

13 A. Yes. Mr. Caplan, as well as other MCI witnesses, refer to problems that MCI
14 has had in negotiating in other Regional Bell Operating Company ("RBOC")
15 regions. His testimony, however, specifies no major problems with BST on any
16 of the issues to which he refers.

17

18 Q. MR. MARTINEZ USES THE CONCEPT OF SERVICE PARITY TO
19 SUBSTANTIATE THE REQUESTS MADE BY MCI IN HIS TESTIMONY.
20 PLEASE COMMENT ON HOW THIS CONCEPT RELATES TO THE FCC
21 ORDER AND TO THE REQUESTS MADE BY MCI.

22

23 A. Mr. Martinez uses the concept of service parity, i.e., offering service at least
24 equal in quality to that provided by the incumbent LEC to itself or to any
25 subsidiary, affiliate, etc., to cover many issues in his testimony. While BST

1 agrees conceptually that service parity, although not a requirement under the
2 Act, is a goal worth pursuing, the Company has a different understanding of
3 what parity means. Parity does not mean that MCI, or any other ALEC's access
4 to BST's network, or its facilities, or its systems, or any piece of its business,
5 must be identical to BST's in all respects. The FCC Order requires equal
6 quality and that, BST has agreed to provide.

7

8 **II. COST**

9

10 Q. MR. WOOD AND MS. CORNELL SUPPORT THE USE OF THE
11 HATFIELD MODEL TO DETERMINE THE RELEVANT COSTS OF
12 UNBUNDLED ELEMENTS TO BE PROVIDED BY BST PURSUANT TO
13 THE ACT, AS WELL AS TO DETERMINE THE COSTS OF
14 INTERCONNECTION AND ACCESS. DO YOU AGREE THAT THIS IS
15 AN APPROPRIATE MODEL TO USE FOR THESE PURPOSES?

16

17 A. Absolutely not. As I stated in my direct testimony, the fundamental flaws
18 inherent in the Hatfield Model make it an inappropriate tool to estimate costs of
19 any BST network element.

20

21 The basic objections BST has to the model are as follows:

22

23 *The Hatfield Model is based on a **theoretical** network that can never exist,
24 rather than the actual network used to provide service;

25

1 *The Hatfield Model has evolved over time, there being several “versions”, the
2 results of which vary greatly (Mr. Wood goes into great detail about how the
3 “new version” of the Hatfield study works);

4

5 *The Hatfield Model uses data in part derived from another model, the
6 Benchmark Cost Model, which itself is fatally flawed;

7

8 *The Hatfield Model uses unusually low estimates of joint and common costs;

9

10 *The Hatfield Model uses an unrealistic cost of money;

11

12 *The Hatfield Model uses overly high plant utilization factors;

13

14 *The Hatfield Model uses overly long depreciation lives; and

15

16 *The Hatfield Model underestimates the economic cost of service, especially in
17 urban areas.

18

19 The Hatfield Model, therefore, does not produce rates that are consistent with
20 the actual costs incurred by BST and, therefore, should not be used by this
21 Commission for these purposes. Use of the Hatfield Model is discussed in
22 greater detail in the testimony of Mr. Rick Emmerson, filed on behalf of BST in
23 this proceeding. Also in support of the BST position on this issue, attached to
24 my testimony, as Exhibit AJV-1, are the Further Comments of BellSouth in
25 FCC Docket No. 96-45 Dated August 9, 1996.

1

2 Q. DOES THE FCC RECOGNIZE THAT THE INCUMBENT LOCAL
3 EXCHANGE CARRIER (HEREINAFTER REFERRED TO AS "LEC") IS
4 BETTER PREPARED TO DETERMINE ITS OWN COSTS?

5

6 A. Yes. As both Mr. Wood and Ms. Cornell recognize in their testimony,
7 Paragraph 680 of the FCC Order states, "We note that incumbent LECs have
8 greater access to the cost information necessary to calculate the incremental cost
9 of the unbundled elements of the network. Given this asymmetric access to cost
10 data, we find that incumbent LECs must prove to the state commission the
11 nature and magnitude of any forward-looking cost that it seeks to recover in the
12 prices of interconnection and unbundled network elements." This paragraph
13 does not state, nor insinuate, that the incumbent LEC or the state commission,
14 must, or should, use a model prepared by someone other than the incumbent
15 LEC, with cost data gathered by someone other than the incumbent LEC. This
16 paragraph appears to be quite clear; the LECs have the cost data that they must
17 use to prove to the state commission that the costs they are seeking to recover
18 are appropriate. Using the Hatfield Model does not appear to be consistent with
19 this requirement.

20

21 Q. MS. CORNELL DISCUSSES THE FCC STRUCTURE FOR
22 COMPENSATION TO BE PAID FOR THE TERMINATION AND
23 TRANSPORT OF LOCAL TRAFFIC. DO YOU AGREE WITH THE
24 STRUCTURE AS SHE DISCUSSES IT?

25

1 A. Yes. Ms. Cornell appears to represent the FCC's Order appropriately. In fact,
2 many of the conclusions drawn by MCI agree, at least in principle, with those of
3 BST, e.g., the structure of compensation should follow the switched access
4 model of separate rate elements for different functions.

5

6 Q. DOES BST AGREE WITH ALL OF THE CONCLUSIONS AND/OR
7 RECOMMENDATIONS IN MS. CORNELL'S TESTIMONY REGARDING
8 COMPENSATION FOR TRANSPORT AND TERMINATION OF LOCAL
9 TRAFFIC?

10

11 A. No. One of the major disagreements with MCI is the recommendation to use
12 the Hatfield Model to set TELRIC based rates for compensation. As stated in
13 the discussion on the pricing of unbundled elements, BST does not believe that
14 the Hatfield Model is appropriate to use in these circumstances.

15

16 Q. DOES THE FCC ORDER ADDRESS NON-RECURRING COSTS
17 ASSOCIATED WITH UNBUNDLED ELEMENTS?

18

19 A. Yes. Paragraphs 745-752 of the FCC Order and Paragraph 51.507 (e) of the
20 Rules address non-recurring costs. In its discussion, the main concerns of the
21 FCC appear to be that an incumbent not over recover these costs and that non-
22 recurring costs, in general, not be recovered through recurring charges. In either
23 instance, the FCC recognizes that non-recurring charges are recoverable. In
24 Paragraph 745 they refer to a "general rule that costs should be recovered in a
25 manner that reflects the way they are incurred...".

1

2 Q. IN YOUR EARLIER TESTIMONY, YOU MENTIONED THE NECESSITY
3 FOR BST TO INVEST CAPITAL TO MEET THE NEEDS OF NEW
4 ENTRANTS. DOES MS. CORNELL ADDRESS THIS IN HER
5 TESTIMONY?

6

7 A. Yes. Ms. Cornell addresses this in her discussion of non-recurring charges for
8 unbundling of elements, and although she approaches it from a different
9 perspective than my original discussion, the outcome is really the same. Ms.
10 Cornell recognizes that some requests for unbundled network elements may be
11 filled by the incumbent LEC upgrading a facility. She goes on to say the
12 upgrade may be valuable to the incumbent in the future. As I stated earlier,
13 carriers will be able to obtain an element from BST for a day, a week, a month,
14 a year or whatever timeframe they choose. When they no longer have a use for
15 the element, yes, it then reverts back to BST. The point Ms. Cornell fails to
16 make, however, is that BST must invest the initial capital, install the equipment
17 and recover the investment over long periods of time, whether or not that
18 element ever reverts back, and whether or not it ever adds value to BST. BST
19 has no choice. Because of this, there must be a specific method for the recovery
20 of that cost, not just the possibility that BST will eventually receive some value
21 for its investment.

22

23 The actual non-recurring costs of unbundling must be recovered, just as any
24 cost of the business must. It is not appropriate to put off any of the cost

25

1 recovery in the hope that the investment might some day be beneficial to the
2 incumbent.

3

4 **III. INTERCONNECTION AND UNBUNDLING NETWORK ELEMENTS**

5

6 Q. MR. CAPLAN DISCUSSES IN DETAIL, ON PAGES 13-15 OF HIS
7 TESTIMONY, MCI'S REQUEST FOR TWO-WAY TRUNKING. DO YOU
8 HAVE FURTHER COMMENT ON THIS SUBJECT?

9

10 A. Yes. As I stated in my direct testimony, BST believes that each interconnecting
11 party should have the right to determine the most efficient trunking
12 arrangements for its network. Parties should work together and establish two-
13 way arrangements if both parties agree; however, such arrangements should not
14 be mandated. Mr. Atherton addressed trunking arrangements in detail in his
15 direct testimony.

16

17 Paragraph 51.305 (f) of the Rules states that, if technically feasible, BST must
18 provide two-way trunking upon request. The FCC Order does not, however,
19 require a company to relinquish control over its own network and network
20 planning. In fact, Paragraph 203 of the FCC Order states, "[e]ach carrier must
21 be able to retain responsibility for the management, control, and performance of
22 its own network." This paragraph supports BST's position that parties should
23 have the right to determine the most efficient trunking arrangements for its
24 network. Not to do so would be relinquishing management, control and/or
25 performance of its network.

1

2 Q. BOTH MR. CAPLAN AND MS. CORNELL DISCUSS MCI'S NEED FOR
3 THE UNBUNDLED LOOP DISTRIBUTION ELEMENT. IS THIS
4 UNBUNDLING REQUIRED BY THE FCC'S ORDER?

5

6 A. No. Section D of the Rules discusses unbundling of network elements. This
7 Section specifies that, where technically feasible, access to unbundled network
8 elements must be provided at just, reasonable and nondiscriminatory terms.
9 Paragraph 51.319 provides a list of specific network elements that are to be
10 offered on an unbundled basis. Those items are 1) local loop; 2) network
11 interface device; 3) switching capability; 4) interoffice transmission facilities; 5)
12 signaling networks (access to service control points through the unbundled
13 STP) and call-related databases; 6) operation support systems functions; and 7)
14 operator services and directory assistance. Nowhere in this list is the loop
15 distribution element.

16

17 Paragraph 51.317 establishes the standards for the states to follow in order to
18 identify what additional network elements must be made available. Based on
19 the discussions put forth in the direct testimony of BST, and our analysis of the
20 Rules, it does not appear that MCI's request for the unbundling of the loop
21 distribution element meets the criteria specified in Paragraph 51.317 and
22 should, therefore, not be required by this Commission. Mr. Milner addressed
23 this specific issue in his direct testimony.

24

25

1 Q. MCI RECOMMENDS THE USE OF PERCENT LOCAL USAGE FACTOR
2 TO DETERMINE THE PORTION OF TRAFFIC FOR WHICH LOCAL
3 INTERCONNECTION COMPENSATION IS DUE. IS SUCH A FACTOR
4 ADDRESSED IN THE FCC'S RULES?

5

6 A. No. The use of a percent local usage factor is not addressed in either the FCC
7 Order and Rules or the Act and is not an appropriate issue to be included in this
8 arbitration proceeding. Issues of this type are of an operational nature and
9 should be settled between the negotiating parties, not in arbitration.

10

11 **IV. SWITCHED ACCESS**

12

13 Q. MS. CORNELL ADDRESSES SWITCHED ACCESS REFORM IN HER
14 TESTIMONY. IS THIS ISSUE APPROPRIATELY INCLUDED IN AN
15 ARBITRATION PROCEEDING?

16

17 A. No. The rates for intrastate switched access is an issue that has far-reaching
18 ramifications. It is not an appropriate issue to be raised in an arbitration
19 proceeding between two competing local exchange carriers. Ms. Cornell states,
20 on page 46 of her testimony, "This arbitration proceeding provides the state
21 commission with the opportunity to price intrastate access charges at economic
22 cost." She goes on to state that the Hatfield Model provides a means to identify
23 the appropriate costs and prices. It is not clear, however, what she is actually
24 asking this Commission to do because, on page 47, she urges the "state to
25 initiate a proceeding now...". Regardless of her intent, this proceeding is not the

1 appropriate avenue for consideration of state access reform and, under no
2 circumstances is the Hatfield Model the appropriate tool to determine costs and
3 prices.

4

5 **V. SUMMARY**

6

7 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

8

9 A. The FCC has released an Order establishing rules for the implementation of
10 local competition that goes far beyond the authority given to it by Congress.
11 The Order appears to be extremely unbalanced, deciding almost every issue in
12 favor of the new entrants and the IXCs. Contrary to the intent of Congress, it is
13 not an Order that will encourage the development of facilities-based
14 competition, but one that threatens to undermine the maintenance of universal
15 service.

16

17 A lopsided result in favor of new entrants to the local telecommunications
18 services market could have devastating results as opposed to the results being
19 anticipated by Congress. If the incumbent loses substantial market share,
20 substantial revenues, and becomes, to some extent, less financially strong, the
21 incumbent will have less incentive to invest and may think more than once
22 before placing new services and technologically advanced capabilities in rural
23 areas when the company is struggling to compete head-on in all of the urban
24 areas. If the incumbent LEC is marginalized, the results can be far-reaching for

25

1 Florida in terms of the state's continuing to have universal access to modern
2 telecommunications services at reasonable rates.

3

4 MCI raises many issues that are inappropriate to be included in this arbitration
5 proceeding. The two major categories are those issues that are included in the
6 MCI/BST Partial Agreement and those issues that have ramifications for parties
7 other than those participating in this proceeding. This Commission is urged to
8 dismiss these issues from this proceeding.

9

10 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

11

12 A. Yes.

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1 **BELLSOUTH TELECOMMUNICATIONS, INC.**
2 **REBUTTAL TESTIMONY OF ALPHONSO J. VARNER**
3 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**
4 **DOCKET NO. 960833-TP**
5 **AUGUST 30, 1996**

6
7 Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION WITH
8 BELLSOUTH TELECOMMUNICATIONS, INC.

9
10 A. My name is Alphonso J. Varner and I am employed by BellSouth
11 Telecommunications, Inc. (hereinafter referred to as "BellSouth" or "the
12 Company") as a Senior Director in Regulatory Policy and Planning. My business
13 address is 675 West Peachtree Street, Atlanta, Georgia 30375.

14
15 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

16
17 A. Yes. I filed direct testimony on August 12, 1996 regarding AT&T's Petition, and
18 supplemental direct testimony on August 23, 1996 regarding the Federal
19 Communications Commission's (the FCC) August 8, 1996 Order.

20
21 **PART I: DIRECT REBUTTAL**

22 Q. WHAT IS THE PURPOSE OF PART I OF YOUR TESTIMONY?

23
24 A. The purpose of Part I of my testimony is to respond to the positions taken by
25 various AT&T witnesses in their direct testimony.

1

2 Q. IN ANALYZING AT&T'S TESTIMONY, HAVE YOU IDENTIFIED ANY
3 THEMES OR STRATEGIES OF AT&T?

4

5 A. Yes. It appears that AT&T intends to enter local exchange markets either on the
6 terms and conditions specified by AT&T, or not at all. Mr. Carroll stated the
7 following on page 2 of his direct testimony:

8

9 "...and that if AT&T is granted the relief found in AT&T's proposed
10 interconnection agreement attached as Exhibit JC2 to my testimony (the
11 "Interconnection Agreement"), then AT&T will commit to provide Florida
12 consumers with high quality services and technological innovations at
13 competitive prices in competition with BellSouth's monopoly." (emphasis
14 added)

15

16 It is not clear whether AT&T meant this as a scare tactic, or whether AT&T was
17 just forthrightly stating its conditions for entering the local exchange market in
18 Florida. Regardless, this statement reinforces BellSouth's opinion that AT&T's
19 position throughout the negotiations has been that BellSouth must compromise,
20 that BellSouth (and now this Commission) must accept AT&T's "minimum
21 requirements" (see Mr. Carroll's testimony, page 10, lines 6-7), and that
22 BellSouth (and now this Commission) must accept AT&T's position on each and
23 every issue.

24

25 Q. ARE THERE OTHER THEMES THAT PERMEATE AT&T'S TESTIMONY?

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A. Yes. For example, throughout the testimony of AT&T's witnesses, AT&T is attempting to convince the Florida Public Service Commission (hereinafter referred to as "the Commission" or "the FPSC") that the Commission has a duty and an obligation to "promote" competition. In plain English, AT&T is saying adopt each and every AT&T position or competition will never materialize. Mr. Cresse adds another dimension to this theme when, on page 3 of his testimony, he requests micromanagement of BellSouth in particular and the competitive process generally through the imposition of more stringent regulatory requirements on BellSouth. Obviously, the Commission should, after implementing the necessary mechanisms to allow local competition in Florida, monitor the competitive process. The Commission should not, however, tilt the rules of the game in AT&T's favor as AT&T desires under the guise of promoting competition.

Q. YOU DISCUSSED THE TONE OF AT&T'S PETITION ON PAGE 11 OF YOUR DIRECT TESTIMONY. DOES AT&T'S DIRECT TESTIMONY SUPPORT YOUR EARLIER CONCLUSION?

A. Yes. A clear example of the AT&T mindset is found on page 12 of Mr. Carroll's testimony. In describing AT&T's review of BellSouth's completed interconnection agreements, Mr. Carroll acknowledges that all AT&T is looking for from BellSouth is "detailed concessions." It is apparent after reviewing all of the AT&T testimony that AT&T's position is that only it has the right to pursue valid business interests, and that any position taken by BellSouth is nothing more than its "entrenched monopoly position."

1

2 Q. YOU ATTRIBUTED THREE APPARENT OBJECTIVES TO AT&T IN YOUR
3 DIRECT TESTIMONY. AFTER REVIEWING AT&T'S TESTIMONY, HAS
4 YOUR ASSESSMENT CHANGED?

5

6 A. No, for the following reasons. First, regarding AT&T's apparent objective to
7 circumvent the payment of access charges, Mr. Carroll on page 6 of his testimony
8 states the following:

9

10 "If AT&T is to compete with BellSouth on relatively equal terms in the
11 local market, I believe the interexchange access charges must be reduced
12 to reflect BellSouth's actual economic costs of providing those services."

13

14 Translated, this means that BellSouth should be required to price intrastate
15 interLATA access at TSLRIC, as TSLRIC is defined by AT&T. In financial
16 terms, this would require BellSouth to reduce its revenues significantly.
17 Obviously, this is not required by the Act; it ignores the fact that access charges
18 are being reduced per the Commission's Order in Docket No. 920260-TL; but it
19 does reflect AT&T's long-standing position that it should not have to provide
20 support for universal service.

21

22 Second, regarding AT&T's apparent objective to enter local markets either
23 through resale or use of unbundled network elements at rates that are not
24 compensatory to BellSouth, Mr. Carroll's and Mr. Lerma's resale proposals and
25 Mr. Ellison's pricing recommendations for unbundled elements provide ample

1 evidence of AT&T's objective. The goal is to secure the highest possible resale
2 discount and the lowest possible price for unbundled elements, both of which,
3 according to Dr. Kaserman and Mr. Gillan, are absolutely imperative if
4 "overmatched" AT&T is to stand a chance against BellSouth and provide all the
5 benefits of competition to Florida consumers.

6
7 Third, regarding AT&T's intention to keep BellSouth out of the interLATA long
8 distance market, Dr. Kaserman and Mr. Gillan plant the seeds for what AT&T
9 apparently hopes will be the justification for this Commission to delay
10 recommending that BellSouth be permitted to enter the interLATA market. On
11 page 6 of Dr. Kaserman's testimony, he plants the message that "widespread
12 facilities-based competition" is required to eliminate monopoly power and that
13 "...[t]ransformation of local exchange markets from monopoly to competition is
14 likely to be a prolonged, contentious, and complex process...". Translated, Dr.
15 Kaserman believes that BellSouth must lose significant market share to facilities-
16 based competition, that this will take some time to occur, and the Commission
17 should be in no hurry to support, and AT&T will strongly contest, BellSouth's
18 entry into the interLATA market. Mr. Gillan sends the same message with his
19 statement on pages 4-5 that "... allowing BellSouth to provide long distance
20 services in its territory -- while useful to understand the full impact of the Act -- is
21 a question that is relevant only *after* local markets become competitive." He
22 continues his message through a statement on page 13, conditioning BellSouth's
23 entry to "...once effective competition is firmly established...".

24
25 Q. MR. CRESSE OPINES THAT INCUMBENT LOCAL EXCHANGE

1 COMPANIES WILL DO EVERYTHING POSSIBLE TO HINDER
2 COMPETITION IN LOCAL MARKETS AND CITES EXAMPLES OF PAST
3 ACTIONS TO SUPPORT HIS POSITION. IS HIS PORTRAYAL OF
4 HISTORY ACCURATE?

5
6 A. Absolutely not. First, Mr. Cresse attributes his examples to conduct by local
7 exchange carriers when in fact the firm he should be referring to is AT&T. Mr.
8 Cresse, in testimony on behalf of AT&T, ignores the fact that today's situation is
9 totally different from the past. When competition was *initially introduced in this*
10 *industry, AT&T was in a "no win" situation. There was no incentive for AT&T*
11 *to support competition because the only possible result was that AT&T was going*
12 *to lose revenues and market share. No new opportunities were being created for*
13 *AT&T with the introduction of competition. Today, the situation is different.*
14 *Incumbent local exchange companies like BellSouth have the incentive to support*
15 *competition because their ability to offer the full range of telecommunications*
16 *services to consumers is predicated on their willingness to open the local markets*
17 *to competition and their compliance with the provisions of the*
18 *Telecommunications Act of 1996 (hereinafter referred to as "the Act").*

19

20 Q. ON PAGE 4 OF HIS TESTIMONY, MR. CRESSE CITES SIX EXPECTED
21 TACTICS BY BELL SOUTH TO LIMIT COMPETITION. ARE HIS
22 EXAMPLES ACCURATE?

23

24 A. No. Generally, Mr. Cresse deems any action by BST to level its ability to
25 compete with AT&T as a tactic to limit competition. Apparently he does not view

1 BST's participation as a competitor as increasing competition. He seems to have
2 a view that competition should not include the incumbent LEC.

3
4 The following restates each of Mr. Cresse's examples and provides a response:

5
6 "1. I would expect incumbent LEC's to attempt to minimize the discounts on
7 resale to the maximum extent possible."

8
9 Response: BellSouth has proposed discounts that are in compliance with the
10 pricing provisions of the Act. To the extent that AT&T or any other party
11 proposes discounts that are not in compliance with the provisions of the Act or
12 that are designed to specifically advantage the proposing party, BellSouth will
13 oppose them.

14
15 "2. I would expect incumbent LEC's to minimize the network functions or
16 elements they believe should be unbundled."

17
18 Response: BellSouth has proposed to offer numerous unbundled network
19 elements to its competitors, some of which are not required by the plain wording
20 of the Act. Further, BellSouth is committed to offering additional unbundled
21 elements when requested by competitors if such unbundling is technically
22 feasible.

23
24 "3. I would expect incumbent LEC's to attempt to enter into long term
25 contracts with existing customers under their Contract Service Arrangements

1 (“CSA’s”) authority prior to any actual competition.”

2
3 Response: This allegation is ridiculous on its face. CSAs are an appropriate
4 tool and are only permitted for responding to an existing competitive situation.
5 They do not permit BST to extend contracts prior to competition.

6
7 “4. I would expect incumbent LEC’s to offer differential pricing in those areas
8 where they have or soon expect competition, such as zone density-based access
9 charges.”

10
11 Response: BST has been seeking differential pricing for years before this
12 docket was established. We expect to continue to do so to enhance our ability to
13 compete. This is not a tactic to limit competition, but a means to provide
14 customers with choices. Moreover, if geographic deaveraging is appropriate for
15 ALECs, it would also be appropriate for BST.

16
17 “5. I would expect incumbent LEC’s to attempt to maximize their revenues
18 from interconnection and other services provided to new entrants.”

19
20 Response: If BellSouth were attempting to maximize its revenues as
21 suggested by Mr. Cresse, the Company would not be willing to negotiate and
22 compromise on as many of the rates as it has.

23
24 “6. I would expect incumbent LEC’s to use universal service as a means to
25 extract the highest contributions possible from their competitors.”

1

2 Response: Universal service is an issue that the Commission must keep in
3 mind when reaching its decisions in this proceeding. BellSouth's position is that
4 any decisions made in this proceeding should not create the potential for the
5 undermining of current sources of support for universal service. Once the
6 Commission decides on the methods and amounts for funding universal service in
7 the future, BellSouth is committed to making the appropriate adjustments to
8 existing sources of support.

9

10 Q. MR. CRESSE, ON BEHALF OF AT&T, IMPLIES THAT BELL SOUTH IS
11 REQUESTING PROTECTION FROM COMPETITION THROUGH ITS
12 POSITIONS ON THE VARIOUS ISSUES. HE GOES ON TO STATE THAT,
13 ALTHOUGH SUCH PROTECTION MIGHT HAVE BEEN APPROPRIATE
14 UNDER RATE BASE REGULATION, THIS IS NO LONGER APPROPRIATE
15 UNDER PRICE REGULATION. HOW DO YOU RESPOND?

16

17 A. Mr. Cresse is somehow equating the Commission's long-standing commitment to
18 universally available and affordable basic local telephone service for Florida
19 consumers to a protection from competition for Florida's local exchange
20 telephone companies.

21

22 Regarding Mr. Cresse's reference to price regulation, he is correct that it
23 represents a change from rate base regulation - a change which BellSouth
24 supports. Based on both existing competition and the expectations for future
25 competition, the Company realized that it would be better served to accept the risk

1 of success or failure in the marketplace than to attempt to rely on rate base - rate
2 of return regulation. Accepting the risks of competition, however, is not the same
3 as what AT&T and Mr. Cresse are proposing, which is an acceptance of
4 guaranteed market losses, resulting not from efficient competition, but from rules
5 and requirements designed to advantage AT&T.

6
7 Q. ON PAGES 4-5 OF HIS TESTIMONY, MR. SATHER GIVES HIS HISTORY
8 LESSON ON RATE-OF-RETURN REGULATION AND THE PRICING
9 PURSUANT TO SUCH REGULATION. HE THEN OPINES THAT WITH
10 PRICE REGULATION AND THE PASSAGE OF TIME, SUBSIDIZED
11 PRICES HAVE PRACTICALLY VANISHED. IS HE CORRECT?

12
13 A. Hardly. A change in the regulatory framework can not achieve Mr. Sather's result
14 without rebalancing and restructuring the entire existing system of social pricing.
15 Mr. Sather is asking this Commission to make a remarkable leap of faith without
16 one piece of valid evidence to support his contention.

17
18 Q. DR. KASERMAN WARNS THE COMMISSION THAT BELLSOUTH HAS A
19 STRONG INCENTIVE TO EXCLUDE COMPETITORS. IN ADDITION, HE
20 LISTS VARIOUS TACTICS THAT BELLSOUTH MAY USE TO
21 ACCOMPLISH SUCH EXCLUSIONS. PLEASE COMMENT.

22
23 A. Dr. Kaserman has a long history of testifying on behalf of AT&T and providing
24 his opinions on the incentives that local exchange companies face and the anti-
25 competitive actions they may theoretically take because of those incentives.

1 Never, in my recollection, has he testified about an actual occurrence of anti-
2 competitive behavior by BellSouth or any other local exchange company.

3 Further, assessing his theoretical anti-competitive actions in this proceeding
4 against the realities of what BellSouth has accomplished through negotiations
5 with providers other than AT&T reveals the frailty of his opinions.

6
7 **PART II: SUPPLEMENTAL REBUTTAL**

8
9 Q. WHAT IS THE PURPOSE OF THIS PORTION OF YOUR TESTIMONY?

10
11 A. This portion of my testimony addresses AT&T's testimony filed on August 23,
12 1996, with regard to their interpretation of the impact of the FCC's First Report
13 and Order in Docket No. 96-98 (hereinafter referred to as the "Order") on the
14 issues in this arbitration proceeding.

15
16 Q. HOW IS THIS PORTION OF YOUR TESTIMONY ORGANIZED?

17
18 A. In general, I have taken the matrix included in Mr. Carroll's testimony and
19 address the issues and comments as he has presented them. I also address any
20 specific testimony of the other AT&T witnesses on each issue, where necessary.

21
22 Q. IN GENERAL, DOES BST AGREE WITH THE ANALYSIS PUT FORTH IN
23 MR. CARROLL'S MATRIX AND IN THE TESTIMONY OF THE OTHER
24 AT&T WITNESSES?

25

1 A. No. Mr. Carroll and AT&T's other witnesses appear, in many instances, to have
2 selectively extracted words from the FCC Order or Final Rules (hereinafter
3 referred to as the "Rules") that will resolve the issues in a manner favorable to
4 AT&T. Although BST is not saying that the words AT&T has put forward are
5 not in the Order, what AT&T has failed to include, in many cases, are the
6 "exceptions" to the Rules that permit the positions put forth by BST to be
7 approved.

8
9 **ISSUE 1: What services provided by BellSouth, if any, should be excluded from**
10 **resale?**

11 **ISSUE 2: What terms and conditions, including use and user restrictions, if any**
12 **should be applied to resale of BellSouth services?**

13
14 Q. MR. SATHER STATES THAT THE FCC ORDER ALLOWS NO
15 EXCEPTIONS TO THE REQUIREMENT THAT BST MUST OFFER FOR
16 RESALE AT WHOLESALE RATES ANY TELECOMMUNICATIONS
17 SERVICE OFFERED AT RETAIL TO NON-TELECOMMUNICATIONS
18 CARRIERS. DO YOU AGREE WITH HIS CONCLUSIONS ON ISSUES 1
19 AND 2?

20
21 A. No. As I pointed out in my supplemental direct testimony, and what Mr. Sather
22 fails to address, is that Paragraph 51.613(b) of the FCC's Rules states, "[w]ith
23 respect to any restrictions on resale not permitted under paragraph (a), an
24 incumbent LEC may impose a restriction only if it proves to the state commission
25 that the restriction is reasonable and nondiscriminatory." Certainly, this

1 paragraph addresses not only appropriate use and user restrictions, but also
2 exceptions to the actual services that an incumbent LEC must offer for resale.

3
4 Although BST agrees that the Order concludes that many restrictions are not
5 appropriate, in my supplemental direct testimony and in the testimony of Mr.
6 Scheye, also filed in this proceeding, BST has proposed a list of service
7 restrictions that fall well within the FCC's requirement of being narrowly tailored,
8 reasonable and nondiscriminatory and, therefore, should be approved by this
9 Commission.

10
11 Q. MR. SATHER ALSO DISCUSSES THE PRESUMPTIVE
12 UNREASONABLENESS OF USE AND USER RESTRICTIONS WHEN
13 APPLIED TO RESALE. IS HIS ANALYSIS CONSISTENT WITH THE
14 ORDER?

15
16 A. No. Although BST acknowledges the "presumptively unreasonable" terminology
17 and discussion included in Paragraph 939 of the Order, we do not agree with Mr.
18 Sather's conclusion that the only restrictions that may be permissible apply to
19 promotions and cross class selling. As in the above discussion on services, BST
20 may impose any limitations that this Commission allows as reasonable and
21 nondiscriminatory, including restrictions on the resale of withdrawn
22 (grandfathered or obsoleted) services. Again, as I have stated previously, the
23 terms and conditions and use and user restrictions addressed by Mr. Scheye meet
24 these requirements and are, therefore permitted by the Rules and should be
25 approved by this Commission.

1

2 **ISSUE 3a: When AT&T resells BellSouth's services, is it technically feasible or**
3 **otherwise appropriate for BellSouth to brand operator services and directory**
4 **services calls that are initiated from those resold services?**

5 **ISSUE 4: When AT&T resells BellSouth's local exchange service, is it technically**
6 **feasible or otherwise appropriate to route 0+ and 0- calls to an operator other than**
7 **BellSouth's, to route 411 and 555-1212 directory assistance calls to an operator**
8 **other than BellSouth's, or to route 611 repair calls to a repair center other than**
9 **BellSouth's?**

10

11 Q. WHAT IS BST'S RESPONSE TO AT&T'S POSITION TAKEN IN MR.
12 SHURTER'S TESTIMONY ON ISSUES 3a AND 4?

13

14 A. BST generally agrees with what Mr. Shurter states is included in the Order. The
15 Rules say that branding for operator services and directory assistance service is
16 required unless an incumbent LEC can prove to the state commission that it lacks
17 the capability to comply with the request. With regard to the unbundling of local
18 switching, the Order requires selective call routing where technically feasible.

19

20 The actual question in both Issues 3a and 4 appears to be, whether or not it is
21 technically feasible for BST to offer selective call routing of calls that are made
22 by customers of AT&T when using BST's local switching. Mr. Shurter draws the
23 inappropriate conclusion that it is technically feasible for BST to selectively route
24 calls and therefore comply with AT&T's branding request.

25

1 As discussed in my previous testimony and in the testimony of Mr. Milner, even
2 if the request were otherwise appropriate, BST lacks the capability to comply with
3 these requests. Mr. Milner and Mr. Scheye also address why this request is not
4 appropriate in a resale environment and what alternatives AT&T can use to
5 achieve its desired outcome. The positions put forth by BST are consistent with
6 the FCC's Order and should, therefore, be adopted by this Commission.

7
8 **ISSUE 3b: When BellSouth's employees or agents interact with AT&T's customers**
9 **with respect to a service provided by BellSouth on behalf of AT&T, what type of**
10 **branding requirements are technically feasible or otherwise appropriate?**

11
12 Q. AT&T STATES THAT THE FCC PRINCIPLES RELATING TO BRANDING
13 AND PARITY REQUIRE BRANDING OF SERVICES AND MATERIALS?
14 DO YOU AGREE?

15
16 A. No. BST agrees with Mr. Shurter that the Rules do not address the issue
17 discussed here as branding. The Rules do not require BST to brand or unbrand
18 services other than operator services, call completion, or directory assistance
19 services. BST, in the testimony of Mr. Scheye, has made a proposal that meets
20 AT&T's request in a reasonable and nondiscriminatory manner, meeting the
21 parity requirement for all competitors. The FPSC should accept BST's position
22 on this issue

23
24 **ISSUE 5: Should BellSouth be required to provide notice to its wholesale customers**
25 **of changes to BellSouth's services? If so, in what manner and in what time frame?**

1

2 Q. ALTHOUGH MR. SHURTER RECOGNIZES THAT THE ORDER DOES NOT
3 ADDRESS THIS SPECIFIC ISSUE, HE CONCLUDES THAT THE CONCEPT
4 OF PARITY REQUIRES NOTICE. DO YOU AGREE?

5

6 A. No. On this issue, as well as many other issues, AT&T's request goes well
7 beyond any requirements of the Act or of the FCC's Order. Again under the
8 parity umbrella, AT&T asks that it be notified well in advance of the retail market
9 of any changes to be made to BST's services.

10

11 The Order discusses parity in the resale environment as making service available
12 at least equal in quality to that provided by the incumbent LEC to itself.

13 Additionally, incumbent LEC services are to be provisioned for resale with the
14 same timeliness as they are provisioned to any other parties to whom the carrier
15 provides the service, such as subsidiaries, end users, etc. Nothing in the Order
16 requires BST to give AT&T preferential advance notice of changes. In fact, as I
17 stated in my supplemental testimony, the Rules in Paragraph 51.603(b) actually
18 appear to confirm BST's position; provisioning should be subject to the same
19 conditions, and provided within the same provisioning time intervals that are
20 provided to others.

21

22 **ISSUE 6: How should BellSouth treat a PIC change request received from an IXC**
23 **other than AT&T for an AT&T local customer?**

24

25 Q. AGAIN, AT&T USES THE CONCEPT OF PARITY AND CONCLUDES THAT

1 BST MUST MEET AT&T'S REQUEST ON THIS ISSUE? PLEASE
2 COMMENT.

3

4 A. The Order, as Mr. Shurter agrees, does not specifically address this issue. AT&T
5 goes on to say, however, that the concept of parity requires that BST require the
6 IXC to contact AT&T, as the local exchange carrier, to effectuate the PIC change
7 request. BST believes that this is not only inconsistent with the concept of parity,
8 but would actually be discriminatory, and could, in fact, give AT&T an unfair
9 market advantage. For these reasons, BST does not agree with the position taken
10 by AT&T and urges the FPSC to adopt BST's position which, consistent with the
11 Order, is reasonable and nondiscriminatory.

12

13 **ISSUE 7: What are the appropriate wholesale rates for BellSouth to charge when**
14 **AT&T purchases BellSouth's retail services for resale?**

15

16 Q. MR. LERMA'S TESTIMONY CONCLUDES THAT THE APPROPRIATE
17 WHOLESALE RATES EQUAL RETAIL RATES LESS REASONABLY
18 AVOIDABLE RETAIL COSTS. IS THIS CONSISTENT WITH THE ORDER?

19

20 A. Yes. The Order discusses costs to be avoided and reasonably avoidable costs. As
21 has been presented in the testimony of several BST witnesses, BST does not
22 believe the FCC's Order is in compliance with the Act on this issue. Mr. Reid
23 discusses in detail the study presented in Mr. Lerma's supplemental testimony.

24

25 **ISSUE 8: What are the appropriate trunking arrangements between AT&T and**

1 **BellSouth for local interconnection?**

2

3 Q. MR. TAMPLIN'S TESTIMONY CONCLUDES THAT WHEN TRAFFIC
4 VOLUMES DO NOT JUSTIFY ONE-WAY TRUNKS, BELLSOUTH MUST
5 PROVIDE TWO-WAY TRUNKS WHERE TECHNICALLY FEASIBLE. DO
6 YOU AGREE?

7

8 A. Yes, BST agrees that the Rules, in Paragraph 51.305, says if technically feasible,
9 BST must provide two-way trunking upon request. This does not, however,
10 require a company to relinquish control over its own network and network
11 planning.

12

13 **ISSUE 9: What should be the compensation mechanism to the exchange of local**
14 **traffic between AT&T and BellSouth?**

15 **ISSUE 10(b): What should be the price of each of the items considered to be**
16 **network elements, capabilities, or functions?**

17

18 Q. AT&T STATES THAT THE FPSC HAS THREE OPTIONS UNDER THE
19 ORDER FOR DETERMINING A COMPENSATION MECHANISM: (1)
20 SYMMETRICAL RATES BASED ON FORWARD LOOKING, LONG RUN
21 ECONOMIC COST; (2) FCC PROXY PRICES; OR (3) BILL AND KEEP. ARE
22 THESE IN ACCORDANCE WITH THE ORDER?

23

24 A. Yes, these words are in accordance with the Order. BST does not necessarily
25 agree, however, with AT&T's interpretation of the options.

1

2 Q. MESSRS. ELLISON, GILLAN. AND KASSERMAN ALSO ADDRESS THE
3 ISSUE OF PRICING OF NETWORK ELEMENTS, CAPABILITIES OR
4 FUNCTIONS. DO YOU AGREE WITH THEIR CONCLUSIONS WITH
5 REGARD TO THE ORDER?

6

7 A. No. The following includes a discussion of BST's position on both compensation
8 mechanism and pricing of network elements.

9

10 First, with respect to forward-looking economic cost, the Order does not support
11 AT&T's position of pricing at TSLRIC or TELRIC. The Order requires pricing at
12 forward-looking economic cost, which includes both TELRIC and a reasonable
13 allocation of forward-looking common costs. Both Messrs. Kaserman and Ellison
14 appear to have problem with the concept of "reasonable allocation" of forward-
15 looking common costs. Mr. Kaserman asserts that allocation of costs is not really
16 an appropriate economic principle. Although I am not an economist and cannot
17 concur with or dispute Mr. Kaserman's assertion, allocation has been and
18 continues to be an appropriate *regulatory principle and must certainly be used in*
19 *determining the costs under consideration here.* Mr. Ellison puts forth an arbitrary
20 1% or 2% mark-up which is unsupported and should be ignored.

21

22 BST also does not agree with Mr. Ellison's discussion of default proxies. While
23 the Order does allow the state commission to establish interim rates based on the
24 default proxies provided in Paragraphs 51.513 and 51.707 of the Rules, before
25 using these, or any proxies, this Commission should determine whether or not

1 they are consistent with the Act. Under no circumstances should this Commission
2 adopt the unsupported default proxies suggested by AT&T.

3
4 Finally, with regard to the Commission's option of ordering a bill and keep
5 arrangement for the transport and termination of local exchange traffic, BST
6 agrees that the Order provides this option. We do not agree, however as we have
7 said repeatedly, that mandating bill and keep is authorized by the Act. Therefore,
8 it is not appropriate for the FCC's Order to allow states to mandate such
9 arrangements.

10
11 Q. MR. ELLISON'S TESTIMONY SUGGESTS THE USE OF THE HATFIELD
12 MODEL TO DISAGGREGATE LOOP RATES. IS THIS AN APPROPRIATE
13 METHOD?

14
15 A. The Hatfield Model has previously been discredited. The fundamental flaws
16 inherent in the Hatfield Model make it an inappropriate tool to estimate costs of
17 any BST network element.

18
19 The basic areas of the model to which BST objects are:

20 *The Hatfield Model has evolved over time, there being several "versions,
21 the results of which have varied greatly;

22 *The Hatfield Model uses data, in part derived from another model, the
23 Benchmark Cost Model, which itself is flawed;

24 *The Hatfield Model uses unusually low estimates of joint and common
25 costs;

1 *The Hatfield Model uses unrealistic cost of money;

2 *The Hatfield Model uses overly high plant utilization factors; and

3 *The Hatfield Model underestimates the economic cost of service,

4 especially in urban areas.

5
6 **ISSUE 10a: Are the following items considered to be network elements, capabilities,**
7 **or functions? If so, is it technically feasible for BellSouth to provide AT&T with**
8 **these elements? Network Interface Device, Loop Distribution, Loop**
9 **concentrator/Multiplexer, Loop Feeder, Local Switching, Operator Systems,**
10 **Dedicated Transport, Common transport, Tandem Switching, Signaling Link**
11 **Transport, Signal Transfer Points, Service Control Points/Databases**

12
13 Q. MR. CARROLL'S MATRIX STATES THAT BELLSOUTH MUST PROVIDE
14 ACCESS TO SEVEN OF THE ABOVE ELEMENTS. HE GOES ON TO SAY
15 THAT THE STATE COMMISSION MUST (EMPHASIS ADDED) REQUIRE
16 FURTHER UNBUNDLING UNLESS BELLSOUTH PROVES THAT THE
17 UNBUNDLING IS NOT TECHNICALLY FEASIBLE. IS THIS CONSISTENT
18 WITH THE ORDER AND RULES?

19
20 A. The Rules specify that 1)the local loop, 2)network interface device, 3)switching
21 capability, 4)interoffice transmission facilities, 5)signaling networks and call-
22 related databases, 6)operation support systems functions, 7)and operator services
23 and directory assistance must be offered on an unbundled basis, if technically
24 feasible. These capabilities must be offered at just, reasonable and
25 nondiscriminatory terms. On these issues, BST's initial assessment of the Order

1 agrees with Mr. Tamplin's testimony.

2
3 With regard to what additional unbundling the state commissions must require,
4 BST can find no reference in the Order and Rules to this. The Rules in Paragraph
5 51.317 do establish standards for the states to follow to identify what additional
6 elements should be made available. These standards do include technical
7 feasibility but go on to say that the state commission may decline to require
8 unbundling of the network element for certain reasons, even if the unbundling is
9 considered technically feasible. In addition, as stated in my supplemental direct
10 testimony, based on the initial analysis of the Rules and the direct testimony filed
11 by other BST witnesses, it does not appear that the unbundled elements requested
12 by AT&T in addition to those specifically identified by the Order, meet the
13 criteria specified in Paragraph 51.317 and their unbundling should not be required
14 by this Commission.

15
16 **ISSUE 11: Do the provisions of Sections 251 and 252 apply to access to unused**
17 **transmission media (e.g., dark fiber)? If so, what are the appropriate rates, terms,**
18 **and conditions?**

19
20 Q. DOES BST AGREE WITH AT&T THAT THIS ISSUE IS NOT ADDRESSED
21 IN THE ORDER?

22
23 A. Yes. Dry fiber is neither an unbundled network element nor a resold service,
24 therefore, there is no standard under the Act for its provision. In addition, and as
25 stated in my previous testimony, the Rules do not address dry fiber. BST's

1 position as previously filed should, therefore, be accepted by this Commission.

2

3 **ISSUE 12: Should AT&T be allowed to combine BellSouth's unbundled network**
4 **elements in any manner it chooses, including recreating BellSouth services?**

5

6 Q. DOES BST AGREE WITH AT&T'S INTERPRETATION OF THE ORDER ON
7 THIS ISSUE?

8

9 A. BST agrees that the Order and Rules say that, unless BST can prove to the state
10 commission that the requested combination is not technically feasible or that the
11 requested combination would impair the ability of other carriers to obtain access
12 to unbundled network elements or to interconnect with BST's network, that it
13 must allow AT&T to combine elements.

14

15 Again, BST would point out that the adoption of this Rule would have a dramatic
16 impact on, not only resale for BST, but the development of facilities based
17 competition. Rebundling of unbundled elements becomes just another form of
18 resale, although, in many instances cheaper. It also does not encourage the build-
19 out of facilities, thereby does not encourage entry by facilities based competitors.

20

21 **ISSUE 13: Is it appropriate for BellSouth to provide copies of engineering records**
22 **that include customer specific information with regard to BellSouth's poles, ducts,**
23 **and conduits? How much capacity, if any, is appropriate for BellSouth to reserve**
24 **with regard to its poles, ducts, and conduits?**

25

1 Q. MR. TAMPLIN, ON PAGE OF HIS SUPPLEMENTAL TESTIMONY STATES
2 THAT THE ORDER REQUIRES BST TO PROVIDE ENGINEERING
3 RECORDS. DO YOU AGREE?
4

5 A. As stated in my previous testimony, it does not appear that the Order addresses
6 the specific request that AT&T has made with respect to engineering records.
7 With regard to capacity, BST continues to analyze its position.
8

9 **ISSUE 14: What are the appropriate standards, if any, for performance metrics,
10 service restoration, and quality assurance related to services provided by BellSouth
11 for resale and for network elements provided to AT&T by BellSouth?**
12

13 Q. DOES THE ORDER REQUIRE DIRECT MEASURES OF QUALITY (DMOQ)
14 TO ENSURE THAT BST SATISFIES ITS STATUTORY OBLIGATIONS?
15

16 A. No. While BST acknowledges, recognizes and agrees with AT&T that it has
17 statutory obligations with regard to quality, the Company believes that, until
18 adequate experience is available, it is premature to specify DMOQs. This position
19 is consistent with the FCC's determination that the record is insufficient at this
20 time to adopt such requirements. At such time that adequate experience is
21 available, it is appropriate to jointly development quality measurements. At no
22 time is it appropriate for AT&T to unilaterally decide what should be measured.
23

24 **ISSUE 15: Do the provisions of Section 251 and 252 apply to the price of exchange
25 access? If so, what is the appropriate price for exchange access?**

1

2 Q. ISSUE 15 APPEARS TO BE ADDRESSED ONLY IN THE MATRIX
3 INCLUDED IN MR. CARROLL'S TESTIMONY. DO YOU AGREE WITH
4 HIS INTERPRETATION OF THE FCC RULES?

5

6 A. No. In general, the Rules change nothing with regard to assessing of access
7 charges.

8

9 Q. MR. GILLAN DISCUSSES WHAT HE REFERS TO AS THE "FCC'S
10 INTERIM SURCHARGE" ON LOCAL SWITCHING AS BEING
11 INAPPROPRIATE. WHAT IS BST'S POSITION ON THIS "SURCHARGE"?

12

13 A. What Mr. Gillan incorrectly characterizes as an interim surcharge is merely a
14 continuation of the carrier common line charge (CCLC) and 75% of the
15 interconnection charge (RIC) currently applied on access. These charges are only
16 applicable on those services where it already applies, i.e., interstate traffic and
17 intrastate toll traffic, not on local minutes of use. What Mr. Gillan represents as
18 an increased cost is, in reality, a reduction in access charges equal to 25% of the
19 RIC. Mr. Gillan's implication that this is some additional charge is simply wrong.

20

21 The FCC recognized that opening the local exchange market to competition will
22 reduce revenues available for the support of universal service. By allowing the
23 incumbent LEC to continue to assess the carrier common line charge and a charge
24 equal to 75% of the residual interconnection charge on the interstate minutes of
25 use traversing the unbundled local switching elements, the Commission also

1 recognized the need for an incumbent LEC to continue receiving some support for
2 universal service until such time that it is determined how much support is
3 actually needed and from what sources that support should be received, i.e., either
4 at the conclusion of the Federal Universal Support proceeding or the Interstate
5 Access Reform proceeding. The Rules, in Paragraph 51.515 state that the
6 assessment may continue "until the earliest of the following, and not thereafter:
7 (1) June 30, 1997; (2) the later of the effective date of a final Commission
8 decision in CC Docket No. 96-45, Federal-State joint Board on Universal
9 Service, or the effective date of a final Commission decision in a proceeding to
10 consider reform of the interstate access charges described in part 69; or (3) with
11 respect to a Bell operating company only, the date on which that company is
12 authorized to offer in-region interLATA service in a state pursuant to section 271
13 of the Act."

14
15 The FCC's Rules also allow BST to assess this interim surcharge on intrastate toll
16 minutes of use for the same time period as the interstate assessment unless the
17 state commission makes a decision that the incumbent cannot assess such charges.
18 The FPSC also acknowledged a need for state support for universal service in its
19 Order in Docket No. 950696 TP and said that for the interim this support should
20 continue coming from existing revenues rather than establishing an interim
21 universal service support mechanism. This commission must allow BST to assess
22 this surcharge until such time as it determines the final support procedures for
23 universal service or June 30, 1997 as stated in the Rules. It should also be noted
24 that this date, although allowing the FCC to issue an Order on universal service,
25 allows no time for the state to deal with the actual issue at hand.

1

2 **ISSUE 16: Should BellSouth be required to provide real-time and interactive access**
3 **via electronic interfaces, as requested, to perform the following: Pre-Service**
4 **Ordering; Service Trouble Reporting; Service Order Processing and Provisioning;**
5 **Customer Usage Data Transfer; Local Account Maintenance? If this process**
6 **requires the development of additional capabilities, in what timeframe should they**
7 **be deployed? What are the costs involved and how should these costs be recovered?**

8

9 Q. MR. SHURTER DISCUSSES ACCESS TO OPERATIONAL SUPPORT
10 SYSTEMS. DO YOU AGREE WITH HIS ANALYSIS?

11

12 A. In general, BST agrees that the operations support systems identified in the FCC
13 Order are the same systems that have been requested by AT&T and are the same
14 systems that BST is either providing or has agreed to provide on an accelerated
15 time schedule, as discussed in the testimony of Ms. Gloria Calhoun. The Rules
16 state that access to the unbundled network element (i.e., operational support
17 systems) must be of the same quality as that provided to the incumbent LEC itself
18 or that upon request, if technically feasible, the quality be superior to that
19 provided to itself. Upon request, access can also be of lesser quality.

20

21 BST also agrees that the Order requires the provision of these systems no later
22 than January 1, 1997. As stated in my supplemental testimony BST, however,
23 believes that because of the work effort involved, that the date put forth by the
24 FCC is unrealistic.

25

1 **ISSUE 18: Should BellSouth be required to provide copies of all interconnection**
2 **agreements entered into between BellSouth and other carriers, including other**
3 **LECs and including those agreements entered into before the Act was enacted?**
4

5 Q. ON PAGE 11 OF MR. SHURTER'S TESTIMONY, AT&T SAYS THAT THE
6 ORDER REQUIRES BST TO MAKE ANY OF ITS OTHER
7 INTERCONNECTION AGREEMENTS AVAILABLE TO AT&T. DO YOU
8 AGREE.

9
10 A. Although BST does not believe that the FCC Order and Rules are in compliance
11 with the Act on this issue, the Company does agree with AT&T that the Order
12 requires it to file all negotiated interconnection agreements with the state
13 commission. This does not mean, however, that BST must automatically make
14 any of those agreements available to AT&T. The Rules go on to say that BST
15 must file these other interconnection agreements with the state commissions by no
16 later than June 30, 1997 or earlier if the state commission requires it. The state
17 commission must then review and approve or reject such agreements. If the FCC
18 Order stands as issued, it will not be until an agreement is submitted and approved
19 that the terms and conditions of such agreement are available to AT&T.

20
21 **ISSUE 19: What billing system and what format should be used to render bills to**
22 **AT&T for services and elements purchased from BellSouth?**
23

24 Q. DOES THE FCC ORDER ADDRESS THIS ISSUE?
25

1 A. No. BST agrees with AT&T that this issue is not specifically addressed by the
2 Order, and that the Rules require BST to provide services and elements under
3 terms and conditions that are just, reasonable and non-discriminatory. The Rules
4 also require BST to provide services for resale that are equal in quality, subject to
5 the same conditions, and provided within the same provisioning time intervals
6 that BST provides the services to others, including end-users. BST's position on
7 billing is therefore consistent with the Rules, in that BST provides billing to its
8 end users through CRIS. The FPSC should approve the Company's proposal on
9 this issue.

10
11 **ISSUE 21: Should BellSouth be required to provide interim number portability
12 solutions in addition to remote call forwarding? If yes, what are the costs involved
13 and how should they be recovered?**

14
15 Q. DOES MR. TAMPLIN AGREE WITH BST'S POSITION WITH REGARD TO
16 THE IMPACT OF THIS ORDER ON NUMBER PORTABILITY?

17
18 A. Yes. Mr. Tamplin refers to the requirements of a previous FCC order that
19 addressed number portability. This Order has no affect on BST's position on the
20 interim number portability solutions originally put forth in Mr. Atherton's
21 testimony.

22
23 **ISSUE 23: Should BellSouth be required to allow AT&T to appear on the white
24 and yellow page directories (e.g., logo or name)?**

1 Q. MR. SHURTER AGREES THAT THE FCC'S ORDER DID NOT
2 SPECIFICALLY THIS ISSUE. HE GOES ON, HOWEVER, TO SAY THAT
3 TO ACHIEVE PARITY AT&T'S LOGO MUST BE INCLUDED ON THE
4 COVER OF THE WHITE AND YELLOW PAGE DIRECTORIES. DO YOU
5 AGREE WITH HIS CONCLUSION?

6

7 A. BellSouth agrees that the Order does not address this issue. We do not, however,
8 agree that this is a parity issue. This is an issue for AT&T to negotiate with
9 BellSouth Advertising and Publishing Company (BAPCO) who has the
10 responsibility for publishing the directories to which AT&T is referring.

11

12 Q. ARE THERE ANY ISSUES THAT YOU HAVE NOT ADDRESSED? IF SO,
13 WHY NOT?

14

15 A. I have not addressed issues 17, 20, and 22. These issues are not addressed in the
16 FCC's Order and on Issue 17 I did not find it addressed in AT&T's testimony.
17 Although AT&T agrees that Issues 20 and 22 are not addressed specifically by the
18 FCC's Order, Mr. Shurter's testimony concludes that they should be covered by
19 the concepts of parity or terms and conditions that are just, reasonable and
20 nondiscriminatory. As stated in my supplemental testimony on Issue 20, BST has
21 agreed that it will provide the same quality for services provided to its competitors
22 that it provides to its end users. Issue 22 is not only not included in the FCC's
23 Order but is not an issue for an arbitration proceeding. As I have stated in both of
24 my previous testimonies in this proceeding, the Commission is addressing this
25 issue as a separate undertaking.

1

2 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

3

4 A. My testimony addresses a variety of areas. Based on this testimony and the
5 testimony presented by the other BST witnesses in this proceeding, BST continues
6 to urge this Commission to accept the Company's position on the issues that
7 appear to be consistent with the FCC's Order, as well as the Company's positions
8 on the issues that do not appear to be addressed in the Order. In light of the
9 impending legal actions with regard to this Order, I would again emphasize the
10 importance of this Commission continuing to exercise its authority and judgment
11 in carrying out its responsibilities in implementing the Act.

12

13 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

14

15 A. Yes.

16

1 BY MR. CARVER:

2 Q Mr. Varner, have you prepared a summary of your
3 testimony?

4 A Yes, I have.

5 MR. CARVER: Mr. Varner has an illustrative chart
6 that he will be referring to during his summary, so I would
7 like to distribute it at this time.

8 CHAIRMAN CLARK: Thank you. Mr. Carver, should we
9 identify this is as an exhibit?

10 MR. CARVER: Yes, please.

11 CHAIRMAN CLARK: Let's make it the one-page
12 document entitled Florida Retail, Resale, and Rebundling
13 Comparisons. Varner's Summary Exhibit 1 will be marked as
14 Exhibit 43.

15 MR. CARVER: Thank you.

16 (Exhibit Number 43 marked for identification.)

17 BY MR. CARVER:

18 Q Mr. Varner, would you please summarize your
19 testimony?

20 A Yes. Good evening. You have recently heard from
21 the witnesses for AT&T, MCI, and ACSI regarding the things
22 that they want from BellSouth and from this Commission. Now
23 it's our turn to tell you our side of the story. Your task
24 is obviously not an easy one. You have heard terribly
25 complex testimony, and unfortunately you are going to hear a

1 little bit more.

2 But first, hasn't 1996 been amazing? Your
3 legislature's precedent decision in 1995 to authorize local
4 competition has now been embraced by the federal government
5 in the form of the federal Telecommunications Act of 1996.
6 But we need to give credit where credit is due. Competition
7 was not created in Washington, D.C., it was alive and well
8 in Florida well before February of 1996. Moreover,
9 BellSouth has embraced competition. There has been a lot of
10 talk about whether an alleged monopolist would willingly
11 give up control over their markets for the right to get into
12 other markets. Giving up whatever control the incumbent
13 local telephone companies may have had in the past isn't a
14 matter of choice, it's a matter of fact. Competition is
15 here, has been here for sometime, and all BellSouth asks for
16 is the opportunity to compete fairly with the people who are
17 beginning to provide not only local service, but complete
18 packages of telecommunications services.

19 We have a number of witnesses who will tell you of
20 the importance of fostering real competition among carriers
21 for the business of Floridians, and who caution against a
22 course of action that will simply result in a shifting of
23 margins from the incumbent local exchange companies to the
24 new entrants. This last point is very important. Making
25 AT&T and MCI a profit by understating our costs and moving

1 our margins to them benefits AT&T and MCI, but it doesn't
2 benefit consumers and it isn't competition.

3 What do we want you to do as a result of these
4 proceedings? There are several things which are outlined in
5 my testimony and which are expanded upon by the eight
6 witnesses who are appearing with me. However, some of these
7 are clearly more important than others. The issues of loop
8 prices, resale discounts, and unbundling of BellSouth's
9 network are the issues that have the most immediate and
10 serious impact on not only BellSouth, but the well-being of
11 competition in Florida.

12 There is one point that I especially need to draw
13 to your attention as you prepare to hear from the rest of
14 our witnesses. We believe that Congress and the Florida
15 Legislature intended that there be real facilities-based
16 competition in the telecommunications industry. We believe
17 that Congress and the Florida Legislature correctly decided
18 that not every new entrant could possibly have all of those
19 facilities it needed to compete instantaneously with the
20 incumbent companies. Therefore, both resale and unbundling
21 the local telephone company's network were approved as ways
22 for competition to begin. Congress could not have intended,
23 however, what AT&T and MCI propose in this proceeding.

24 Specifically in this regard, the first issue that
25 I want to touch upon is the recombination of our network

1 elements into services which are substantially like the ones
2 we currently offer. To illustrate the point that I'm making
3 here, I have a hypothetical example, which is what I just
4 passed out, which I want to use and which will be used by
5 others as they present their testimony. In this
6 hypothetical example, I have a business person in Rate Group
7 12. Let's use Commissioner Garcia as an example, living in
8 Miami. He has business lines with hunting, and a single
9 vertical feature on each of his lines. That is what is
10 shown in the first column. I have also included usage on
11 the lines to fully illustrate the example. Based on these
12 assumptions, Commissioner Garcia pays BellSouth \$69.52 each
13 month for his first line.

14 Now consider that Commissioner Garcia decides to
15 purchase local service from AT&T or MCI. Under resale, AT&T
16 or MCI calls BellSouth and says, "Commissioner Garcia is now
17 my customer and I want to resell your business line to him."
18 For the sake of ease, let's assume BellSouth's discount rate
19 is used. In that case, the reseller would pay us \$63.36 per
20 month for the line. And that is what is shown in Column 2.
21 Or roughly an effective discount of about 9 percent. Now
22 consider that all that AT&T and MCI do when they call us is
23 say, "Commissioner Garcia is now my customer, I want an
24 unbundled loop to his premises, and I want to rebundle that
25 with your switching." Using the AT&T proposal, the revenues

1 paid to BellSouth would drop to \$17.23, the last column on
2 the chart. An effective discount of 75 percent. Using the
3 MCI proposal, the discount would be 77 percent.

4 The point here is this, is that if MCI or AT&T
5 take the customer away because they have better plans,
6 better prices, better advertising, better services, or
7 whatever, that is competition and our only recourse is to
8 get better and win the customer back. But if they take the
9 customer and then just by saying the magic words rebundling,
10 and achieve a discount that is four times what resale is,
11 then that is not competition. What that really results to
12 is a regulatory loss or a government imposed loss due to the
13 rules that way of unbundling of facilities and the pricing
14 for that have been set up.

15 With regard to this point, the solution is easy,
16 and Mr. Scheye will discuss it in much more detail. The
17 answer in my simple terms, however, is that if AT&T, MCI, or
18 any other local competitor does this or tries to do this,
19 the Commission should have them pay for the service for what
20 it is. It is local service, it ought to be resold local
21 service and treated as resold local service and give it a
22 discount off the retail local service rate, and not as
23 rebundling of unbundled facilities.

24 You have several proposals regarding the price
25 that should be paid for loops in Florida, ranging from less

1 than \$12 to over \$24. Obviously, all of these prices you
2 have been given cannot be correct, so you will have to
3 select based on the results which seem most appropriate
4 given the evidence. In this regard, Doctor Emerson and I
5 have provided substantial evidence regarding the weaknesses
6 of the Hatfield model, which underlies MCI's proposal. The
7 Hatfield model is so flawed that it is useless as a tool for
8 comparing policy alternatives or as a basis for pricing.
9 Even though this model is represented as a TELRIC cost
10 study, it doesn't even comply with the FCC's rules
11 concerning what a TELRIC cost study should be.

12 The last subject I wanted to touch on is resale.
13 This is the way MCI got into the long distance business as
14 extensively as it did in the beginning. But resale does not
15 bring the benefits of true competition, alternative networks
16 do. Several witnesses have gone on about how cheap
17 interstate service has gotten. I would suggest that that is
18 because there are now at least four facilities-based
19 networks from which customers can choose. This should
20 happen in the local business, and resale is a good way to
21 start. But it will be hindered if you set resale discounts
22 at levels that will discourage facilities-based competition.
23 BellSouth fully supports resale, but the resale discount
24 should be fair. However, resale discounts such as those
25 proposed by MCI, and AT&T, and the FCC's methodology are not

1 permitted by the Telecom Act.

2 I hope that my discussion of several key issues
3 and the themes that BellSouth has woven throughout its
4 testimony will place our presentation in a context that will
5 be easier to deal with. I ask that you listen to us
6 carefully, as you always do, and I hope that you will find
7 after hearing all of the evidence what I have and what
8 BellSouth has to say makes sense, and I urge you to approve
9 the proposals that we make. Thank you. That concludes my
10 summary.

11 MR. CARVER: Madam Chairman, I have just
12 discovered that Mr. Varner also has another exhibit that I
13 neglected to have identified. I apologize. It is attached
14 to the rebuttal testimony, the MCI portion. It looks like
15 it is also marked AJV-1. Perhaps that should be changed to
16 2. If I could have that identified, please.

17 CHAIRMAN CLARK: I'm sorry, it's attached to what?

18 MR. CARVER: To his rebuttal testimony in the MCI
19 portion.

20 CHAIRMAN CLARK: I'm just trying to make sure that
21 I have the same exhibit. What does it start with?

22 MR. CARVER: The title page says, "Further
23 Comments of BellSouth in FCC Docket Number 96-45."

24 CHAIRMAN CLARK: All right. I've got it now. So,
25 what is currently marked as AJV-1 attached to the MCI

1 rebuttal testimony, which is entitled, "Further Comments of
2 BellSouth in FCC Docket 96-45," will be marked as Exhibit
3 44. I have an additional question with respect to Exhibit
4 43. The numbers didn't come out on the last column of my --

5 MR. CARVER: Those are proprietary. The bottom
6 line is not, but the particular elements are.

7 CHAIRMAN CLARK: Okay.

8 (Exhibit Number 44 marked for identification.)

9 MR. CARVER: The witness is available for cross
10 examination.

11 CHAIRMAN CLARK: Mr. Melson.

12 MR. MELSON: No questions.

13 MR. HOE: Madam Chair, my name is Sandy Hoe. I
14 understand an appearance has already been made for me, and I
15 will represent AT&T with respect to this witness. We, too,
16 have no questions.

17 MR. SELF: Madam Chairman, ACSI has no questions
18 for this witness.

19 MR. LACKEY: I guess that makes it my turn.

20 CHAIRMAN CLARK: I bet you would like that.

21 MR. PELLEGRINI: Staff has no questions.

22 CHAIRMAN CLARK: Questions, Commissioners. Thank
23 you, Mr. Varner, you are excused. We are going to take
24 five minutes, and I want you all to look at the
25 remaining witnesses and decide whether you have cross

1 examination. If you don't, we are going to stipulate
2 it into the record and excuse them now. Okay.

3 Thank you, Mr. Varner. And we will admit Exhibits
4 42, 43, and 44 into the record.

5 MR. HOE: Madam Chair, may I be heard on Exhibit
6 43?

7 CHAIRMAN CLARK: I'm sorry, Mr. Varner, maybe you
8 better sit at the stand again and I will hear Mr. Hoe on
9 Exhibit 43.

10 MR. HOE: My only question was simply to ask Mr.
11 Varner if he can point out where in his direct testimony the
12 figures that are in this document may be present. I don't
13 believe we had seen this in his direct testimony, and I
14 gathered there was some earlier exhibits that were used by
15 AT&T for identification that were not moved into the record
16 under similar circumstances, so I was simply asking whether
17 this came from his direct testimony.

18 CHAIRMAN CLARK: I don't know what you are talking
19 about with respect to AT&T, but your question to him is
20 where is this in your direct testimony?

21 MR. HOE: Yes. Is this covered in his direct
22 testimony, and is it an appropriate exhibit to be moved into
23 evidence.

24 MR. LACKEY: Madam Chairman, I'm afraid I need to
25 respond to that. You will recall that when this hearing

1 began, Mr. Hoe wasn't here, but there were four issues that
2 we were discussing, and one of them was the use of the
3 charts.

4 CHAIRMAN CLARK: Oh, that's right.

5 MR. LACKEY: And I said I didn't care if they used
6 theirs as long as we got to use ours. Now, he may have a
7 point that I don't know -- I don't know what we did with
8 their summary chartbook. There is something floating around
9 here that has got these things in it, but that was the
10 arrangement I believe at the beginning of the hearing.

11 MR. TYE: I need to respond to that, Madam
12 Chairman, because I'm the one that made the deal with
13 Mr. Lackey. The deal was that AT&T would be able to use its
14 charts for illustrative purposes, but none of those charts
15 were marked as exhibits, and none of them were moved into
16 evidence. The problem we have with Mr. Varner's summary
17 exhibit is moving it into evidence. It is clearly new
18 evidence, it is not an exhibit that appears anywhere in his
19 prefiled testimony, and for that reason we would object to
20 receiving it into evidence. Now we didn't have a problem
21 with it being used for illustrative purposes, just like our
22 charts were.

23 MR. LACKEY: I think that's fair.

24 CHAIRMAN CLARK: Okay. Then we will move into the
25 record Exhibit 42 and 43, but -- I'm sorry, 44 -- but 43

1 will not be moved into the record. Okay. Thank you, Mr.
2 Varner. I will, in fact, give you ten minutes, and I want
3 you to look and see if you have cross examination. If you
4 don't, we can let these witnesses go home.

5 (Exhibit Numbers 42 and 44 received into
6 evidence.)

7 MR. MELSON: Commissioner Clark.

8 CHAIRMAN CLARK: Mr. Melson.

9 MR. MELSON: Just so you are aware, we offered
10 BellSouth that opportunity this morning with Mr. Varner and
11 they elected to put him on.

12 CHAIRMAN CLARK: Oh, all right. You wanted him to
13 do a summary?

14 MR. CARVER: (Microphone not on.)

15 CHAIRMAN CLARK: It doesn't matter at this point.
16 There must have been some miscommunication, but let's take
17 until 6:30, and you all get together and see if we can
18 excuse some of these witnesses, all right. Thank you.

19 (Transcript continues in sequence in Volume 11.)
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