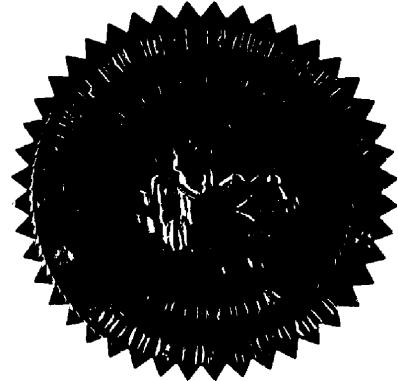


**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

**DOCKET NO. 000731-TP**

**In the Matter of**

**PETITION BY AT&T COMMUNI-  
CATIONS OF THE SOUTHERN STATES,  
D/B/A AT&T FOR ARBITRATION OF  
CERTAIN TERMS AND CONDITIONS OF  
A PROPOSED AGREEMENT WITH  
BELLSOUTH COMMUNICATIONS, INC.  
PURSUANT TO 47 U.S.C.  
SECTION 252.**



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AND DO NOT INCLUDE PREFILED TESTIMONY.**

**VOLUME 6**

**PAGES 803 THROUGH 958**

**PROCEEDINGS: HEARING**

**BEFORE: CHAIRMAN E. LEON JACOBS, JR.  
COMMISSIONER BRAULIO L. BAEZ  
COMMISSIONER MICHAEL A. PALECKI**

**DATE: Thursday, February 15, 2001**

**TIME: Commenced at 9:00 a.m.**

**PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida**

**REPORTED BY: JANE FAUROT, RPR  
FPSC Division of Records & Reporting  
Chief, Bureau of Reporting**

**APPEARANCES: (As heretofore noted.)**

DOCUMENT NUMBER-DATE

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**I N D E X****WITNESSES****NAME:****PAGE NO.****JOHN A. RUSCILLI**

**Direct Examination by Mr. Lackey**  
**Prefiled Direct Testimony Inserted**  
**Prefiled Rebuttal Testimony Inserted**  
**Cross-Examination by Mr. Lamoureux**

**806**  
**810**  
**867**  
**914**

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**EXHIBITS**

**NUMBER:**

**ID.**

**ADMTD.**

17     **JAR-1 through JAR-3**

**808**

**CERTIFICATE OF REPORTER**

**958**

**PROCEEDINGS**

1  
2 (Transcript continues in sequence from  
3 Volume 5.)

4 **CHAIRMAN JACOBS:** Thank you. BellSouth. Mr.  
5 Lackey.

6 **MR. LACKEY:** Mr. Chairman, if it is our turn,  
7 BellSouth calls Mr. Ruscilli to the stand.

8 Mr. Chairman, we have prepared an errata sheet  
9 that incorporates the changes to Mr. Ruscilli's testimony  
10 that resulted from our earlier joint stipulation and the  
11 issues that have been settled between the prehearing  
12 conference and today. So that should help you move  
13 through the testimony. May I begin?

14 **CHAIRMAN JACOBS:** By all means, go right ahead.

15 **JOHN A. RUSCILLI**

16 was called as a witness on behalf of BELL SOUTH  
17 TELECOMMUNICATION, INC. and, having been duly sworn,  
18 testified as follows:

**DIRECT EXAMINATION**

19  
20 **BY MR. LACKEY:**

21 **Q** Mr. Ruscilli, were you sworn yesterday?

22 **A** Yes, sir, I was.

23 **Q** Thank you. Would you state your name and  
24 address for the record?

25 **A** My name is John A. Ruscilli, I work for

1 **BellSouth Telecommunications. My address is 675 West**  
2 **Peachtree, Atlanta, Georgia.**

3 **Q And did you cause to be prefiled in this**  
4 **proceeding direct testimony consisting of 57 pages?**

5 **A Yes, sir.**

6 **Q Other than the changes that are on the errata**  
7 **sheet that have been submitted, do you have any other**  
8 **changes or corrections to your direct prefiled testimony?**

9 **A Yes, sir, one change.**

10 **Q Can you tell us where that is?**

11 **A Yes, sir. Page 28, Line 13, replace the period**  
12 **after FCC and place a comma, and strike out "BellSouth,**  
13 **therefore," and the comma that follows that.**

14 **Q Go through that one more time, please.**

15 **A Page 28, Line 13, replace the period after the**  
16 **word FCC with a comma and strike out, "BellSouth,**  
17 **therefore," and the commas that follow that.**

18 **Q With that change and the changes that are**  
19 **reflected on the errata sheet, if I were to ask you the**  
20 **same questions today that appear in your prefiled**  
21 **testimony would your answers be the same?**

22 **A Yes, sir.**

23 **MR. LACKEY: Mr. Chairman, I would like to have**  
24 **Mr. Ruscilli's direct testimony included in the record as**  
25 **if given orally from the stand.**

1                   **CHAIRMAN JACOBS: Without objection, show it**  
2 **included as though read as amended.**

3 **BY MR. LACKEY:**

4           **Q     Mr. Ruscilli, was your direct testimony**  
5 **accompanied by three exhibits?**

6           **A     Yes, sir.**

7                   **MR. LACKEY: Mr. Chairman, I believe the next**  
8 **Exhibit Number is 17.**

9                   **CHAIRMAN JACOBS: Yes.**

10                   **MR. LACKEY: Can we have Mr. Ruscilli's three**  
11 **prefiled exhibits marked as a Composite Exhibit 17?**

12                   **CHAIRMAN JACOBS: They are marked as Exhibit 17.**

13                   **MR. LACKEY: Thank you, sir.**

14                   **(Exhibit 17 marked for identification.)**

15 **BY MR. LACKEY:**

16           **Q     Mr. Ruscilli, do you have any changes or**  
17 **corrections to the exhibits that accompany your direct**  
18 **testimony?**

19           **A     No, sir.**

20           **Q     Now, Mr. Ruscilli, did you file 40 pages of**  
21 **rebuttal testimony in this proceeding?**

22           **A     Yes, sir.**

23           **Q     Other than the changes reflected on the errata**  
24 **sheet, do you have any changes or corrections to your**  
25 **rebuttal testimony?**

1           **A     No, sir.**

2           **Q     If I were to ask you the questions that appear**  
3 **in your rebuttal testimony today, would your answers be**  
4 **the same?**

5           **A     Yes, sir.**

6                   **MR. LACKEY: Mr. Chairman, I would like to ask**  
7 **that Mr. Ruscilli's rebuttal testimony be included into**  
8 **the record as if given from the stand.**

9                   **CHAIRMAN JACOBS: Without objection, show it**  
10 **entered into the record as though read as amended.**

11

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1                   **BELLSOUTH TELECOMMUNICATIONS, INC.**  
2                   **DIRECT TESTIMONY OF JOHN A. RUSCILLI**  
3                   **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**  
4                   **DOCKET NO. 000731-TP**  
5                   **NOVEMBER 15, 2000**  
6  
7    **Q.    PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH**  
8           **TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR**  
9           **BUSINESS ADDRESS.**  
10  
11   **A.    My name is John A. Ruscilli. I am employed by BellSouth as Senior Director**  
12           **for State Regulatory for the nine-state BellSouth region. My business address**  
13           **is 675 West Peachtree Street, Atlanta, Georgia 30375.**  
14  
15   **Q.    PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND**  
16           **AND EXPERIENCE.**  
17  
18   **A.    I attended the University of Alabama in Birmingham where I earned a**  
19           **Bachelor of Science Degree in 1979 and a Master of Business Administration**  
20           **in 1982. After graduation I began employment with South Central Bell as an**  
21           **Account Executive in Marketing, transferring to AT&T in 1983. I joined**  
22           **BellSouth in late 1984 as an analyst in Market Research, and in late 1985**  
23           **moved into the Pricing and Economics organization with various**  
24           **responsibilities for business case analysis, tariffing, demand analysis and price**  
25           **regulation. I served as a subject matter expert on ISDN tariffing in various**



1 commission and public service commission ("PSC") staff meetings in  
2 Tennessee, Florida, North Carolina and Georgia. I later moved into the State  
3 Regulatory and External Affairs organization with responsibility for  
4 implementing both state price regulation requirements and the provisions of the  
5 Telecommunications Act of 1996, through arbitration and 271 hearing support.  
6 In July 1997, I became Director of Regulatory and Legislative Affairs for  
7 BellSouth Long Distance, Inc., with responsibilities that included obtaining the  
8 necessary certificates of public convenience and necessity, testifying, Federal  
9 Communications Commission ("FCC") and PSC support, federal and state  
10 compliance reporting and tariffing for all 50 states and the FCC. I assumed my  
11 current position in July 2000.

12

13 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

14

15 A. The purpose of my testimony is to present BellSouth's position on numerous  
16 issues raised by AT&T Communications of the Southern States, Inc. and TCG  
17 South Florida (collectively "AT&T") in its Petition for Arbitration filed with  
18 the Florida Public Service Commission ("Commission") on June 16, 2000.  
19 BellSouth witnesses Ms. Daonne Caldwell, Mr. Keith Milner and Mr. Ron Pate  
20 will also file direct testimony in this case. In my testimony, I respond to the  
21 following issues as contained in the Commission's Order Establishing  
22 Procedure dated September 13, 2000: 4-12, 16, 22, 23, 27, 33 and 34.

23

24

25

1 ***Issue 1: Should calls to Internet service providers be treated as local traffic for the***  
2 ***purposes of reciprocal compensation? (Attachment 3, Section 6.1.2)***

3

4 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

5

6 A. Reciprocal compensation should not apply to Internet Service Provider  
7 ("ISP")-bound traffic. Based on the 1996 Act and the FCC's Local  
8 Competition Order, reciprocal compensation obligations under Section  
9 251(b)(5) only apply to local traffic. ISP-bound traffic constitutes access  
10 service, which is clearly subject to interstate jurisdiction and is not local traffic.  
11 BellSouth recognizes that the Commission has previously ruled in the  
12 ITC^DeltaCom, Intermedia and ICG arbitration proceedings that the parties  
13 should continue to operate under the terms of the current agreements until the  
14 FCC issues its final ruling on the issue of ISP-bound traffic. In this arbitration  
15 proceeding, and on an interim basis, BellSouth is willing to follow this same  
16 approach until the FCC establishes final rules concerning ISP-bound traffic.  
17 Once a permanent inter-carrier compensation mechanism is established, the  
18 parties would engage in a retroactive true-up based upon the established  
19 mechanism. By adopting this position, BellSouth does not intend to waive its  
20 right to seek judicial review on this issue, should that become necessary for  
21 any reason.

22

23

24

25

1 ***Issue 4: What does “currently combines” mean as that phrase is used in 47 C.F.R. §***  
2 ***51.315(b)? (UNEs Attachment 2, Section 2.7.1)***

3

4 ***Issue 5: Should BellSouth be permitted to charge AT&T a “glue charge” when***  
5 ***BellSouth combines network elements?***

6

7 Q. PLEASE BRIEFLY EXPLAIN THESE ISSUES.

8

9 A. These issues simply address whether BellSouth is obligated to combine  
10 unbundled network elements (“UNEs”) for Alternate Local Exchange Carriers  
11 (“ALECs”) when the elements are not already combined in BellSouth’s  
12 network.

13

14 Q. WHAT DID THE EIGHTH CIRCUIT COURT OF APPEALS (“EIGHTH  
15 CIRCUIT”) RULE REGARDING THIS ISSUE?

16

17 A. On July 18, 2000, the Eighth Circuit held that an ILEC is not obligated to  
18 combine UNEs, and it reaffirmed that the FCC’s Rules 51.315(c)-(f) remain  
19 vacated. Specifically, referring to Section 251(c)(3) of the Act that requires  
20 Incumbent Local Exchange Carriers (“ILECs”) to provide UNEs in a manner  
21 that allows requesting carriers to combine such elements in order to provide  
22 telecommunications services, the Eighth Circuit stated: “[h]ere Congress has  
23 directly spoken on the issue of who shall combine previously uncombined  
24 network elements. It is the requesting carriers who shall ‘combine such  
25 elements.’ It is not the duty of the ILECs to ‘perform the functions necessary

1 to combine unbundled network elements in any manner' as required by the  
2 FCC's rule."

3

4 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

5

6 A. BellSouth's position is that it will provide combinations to AT&T at cost-  
7 based prices if the elements are, in fact, combined and providing service to a  
8 particular customer at a particular location. That is, BellSouth will make  
9 combinations of UNEs available to AT&T consistent with BellSouth's  
10 obligations under the 1996 Act and applicable FCC rules. In light of the  
11 Eighth Circuit's ruling, BellSouth requests the Commission find that BellSouth  
12 is not obligated to combine UNEs that are not already physically combined.

13

14 Q. WHAT IS AT&T'S POSITION ON THIS ISSUE?

15

16 A. Apparently, AT&T continues to believe that "currently combined" and  
17 "currently combines" mean that if BellSouth combines the requested UNEs  
18 anywhere in its network, BellSouth has to produce the same combination of  
19 UNEs whenever and wherever AT&T demands.

20

21 Q. WHAT IS THE BASIS FOR BELLSOUTH'S POSITION?

22

23 A. As a general matter, it is neither sound public policy nor an obligation of  
24 BellSouth to combine UNEs. In the FCC's Third Report and Order and Fourth  
25 Further Notice of Proposed Rulemaking, FCC 99-238, released November 5,

1 1999 (“UNE Remand Order”), the FCC confirmed that ILECs presently have  
2 no obligation to combine network elements for ALECs when those elements  
3 are not currently combined in BellSouth’s network. The FCC rules, Section  
4 51.315(c)-(f), that purported to require incumbent LECs to combine unbundled  
5 network elements were vacated by the Eighth Circuit, and those rules were  
6 neither appealed to nor reinstated by the Supreme Court. On July 18, 2000, the  
7 Eighth Circuit reaffirmed its ruling that FCC Rules 51.315(c)-(f) are vacated.

8

9 Q. HOW DID THE FCC ADDRESS BELLSOUTH’S OBLIGATION TO  
10 COMBINE UNES IN ITS UNE REMAND ORDER?

11

12 A. The FCC concluded that BellSouth has no obligation to combine UNEs. As  
13 the FCC made clear, Rule 51.315(b) applies to elements that are “in fact”  
14 combined, stating that “[t]o the extent an unbundled loop is in fact connected  
15 to unbundled dedicated transport, the statute and our rule 51.315(b) require the  
16 incumbent to provide such elements to requesting carriers in combined form.”  
17 (§ 480, emphasis added) The FCC declined to adopt a definition of “currently  
18 combines,” as AT&T proposes in this case, that would include all elements  
19 “ordinarily combined” in the incumbent’s network. *Id.* (declining to “interpret  
20 rule 51.315(b) as requiring incumbents to combine unbundled network  
21 elements that are ‘ordinarily combined’...”) It is nonsensical to suggest that  
22 the FCC meant for its Rule 51.315(b) to cover anything other than specific pre-  
23 existing combinations of elements for a customer when the FCC’s orders  
24 specifically state that ILECs are not required to combine elements. As

1 previously discussed, the Eighth Circuit has reaffirmed that BellSouth has no  
2 such obligation.

3

4 Q. WHY IS IT GENERALLY NOT IN THE PUBLIC INTEREST TO REQUIRE  
5 BELLSOUTH TO COMBINE UNES?

6

7 A. First, requiring BellSouth to combine UNES does not benefit consumers as a  
8 general matter, and would unnecessarily reduce the overall degree of  
9 competition in the market. Congress established several means to introduce  
10 competition, namely, resale, unbundling and facilities constructed by new  
11 entrants. The requirements of the Act attempt to balance these three entry  
12 methods such that firms use the most efficient method. However, the greatest  
13 benefits occur when firms build their own facilities. Expanding BellSouth's  
14 obligations beyond the Act's requirements would upset the balance intended by  
15 the Act. This is not just BellSouth's view – Justice Breyer of the Supreme  
16 Court agrees. As Justice Breyer points out in his opinion concurring in the  
17 Supreme Court's vacating of the FCC's unbundling rules:

18

19 [i]ncreased sharing (unbundling) by itself does not automatically mean  
20 increased competition. It is in the unshared, not in the shared, portions  
21 of the enterprise that meaningful competition would likely emerge.

22

23

24

25

Rules that force every firm to share every resource or element of a  
business would create, not competition, but pervasive regulation, for  
the regulators, not the marketplace, would set the relevant terms.

1           The upshot, in my view, is that the statute's unbundling requirements,  
2           read in light of the Act's basic purposes, require balance. Regulatory  
3           rules that go too far, expanding the definition of what must be shared  
4           beyond that which is essential to that which merely proves  
5           advantageous to a single competitor, risk costs that, in terms of the  
6           Act's objectives, may make the game not worth the candle. (142 L. Ed.  
7           2d 834, 880)

8

9           Second, requiring BellSouth to combine UNEs at cost-based prices,  
10          particularly at Total Element Long Run Incremental Cost ("TELRIC")-based  
11          prices, reduces BellSouth's incentive to invest in new capabilities. TELRIC-  
12          based prices do not cover the actual cost of the elements, let alone do such  
13          prices represent a fair price in the market place. Again, Justice Breyer agrees,  
14          as evidenced by his observation that

15

16                 [n]or can one guarantee that firms will undertake the investment  
17                 necessary to produce complex technological innovations knowing that  
18                 any competitive advantage deriving from those innovations will be  
19                 dissipated by the sharing requirement. The more complex the facilities,  
20                 the more central their relation to the firm's managerial responsibilities,  
21                 the more extensive the sharing demanded, the more likely these costs  
22                 will become serious. (142 L. Ed. 2d 834, 879)

23

24          Finally, requiring BellSouth to combine elements where such combinations do  
25          not, in fact, exist is inconsistent with the Act's basic purpose, which is to

1 introduce competition into the local market. The intent was not to subsidize  
2 competitors where ALECs have reasonable alternatives to BellSouth  
3 combining UNEs. ALECs can combine the UNEs themselves in collocation  
4 spaces, use the assembly room option, use the assembly point option, or build  
5 their own facilities. Utilizing collocation to combine UNEs, the cost to the  
6 ALEC is just a few cents a month per combination. This view is also  
7 supported in Justice Breyer's opinion:

8

9 [i]n particular, I believe that, given the Act's basic purpose, it requires a  
10 convincing explanation of why facilities should be shared (or  
11 'unbundled') where a new entrant could compete effectively without  
12 the facility, or where practical alternatives to that facility are available.  
13 (142 L. Ed. 2d 834, 879)

14

15 Clearly, expanding BellSouth's obligation to include combining UNEs does  
16 not benefit consumers. Such action only provides an unwarranted subsidy to  
17 ALECs, removes incentives for BellSouth to invest in its network, and  
18 discourages ALECs from building their own networks.

19

20 Q. CAN AT&T STILL COMPETE VIGOROUSLY FOR LOCAL SERVICE  
21 WITHOUT HAVING BELL SOUTH COMBINE UNES AT COST-BASED  
22 PRICES?

23

24 A. They certainly can. There are over 6 million lines in service provided by  
25 BellSouth in Florida today. Each of those lines consists of existing combined



1 facilities that AT&T can, in fact, purchase from BellSouth at cost-based rates.  
2 In addition, AT&T has several means to serve both new and existing  
3 customers, other than by having BellSouth combine UNEs. Any argument that  
4 AT&T cannot compete because BellSouth won't put UNEs together just  
5 doesn't make sense.

6

7 Q. SPECIFICALLY REFERENCING ISSUE 5, WHAT IS BELLSOUTH'S  
8 POSITION REGARDING WHETHER A "GLUE CHARGE" SHOULD  
9 APPLY WHEN BELLSOUTH COMBINES UNES?

10

11 A. First, I need to explain what a "glue charge" is. Where BellSouth agrees to  
12 physically combine UNEs for an ALEC, the prices for such combinations will  
13 be market-based. AT&T contends that the Commission should order  
14 BellSouth to combine UNEs at cost-based prices. The difference between  
15 market-based and cost-based prices is referred to as a "glue charge" in this  
16 issue. The "glue charge" is not necessarily a separate charge; it is simply the  
17 difference in prices described above. As I have explained, BellSouth is not  
18 obligated to combine UNEs; therefore, the prices for this function are not  
19 subject to the cost-based pricing requirements of the Act. Consequently,  
20 BellSouth is permitted to include a "glue charge" in its prices for combining  
21 UNEs.

22

23 There is one exception to BellSouth's general position of requiring market-  
24 based prices to combine UNEs. BellSouth has elected to be exempted from  
25 providing access to unbundled local switching to serve customers with four or

1 more lines in Density Zone 1 of the Miami, Orlando and Ft. Lauderdale MSAs.  
2 To avail itself of this exemption, the FCC requires BellSouth to combine loop  
3 and transport UNEs (also known as the “Enhanced Extended Link” or “EEL”)  
4 in the geographic area where the exemption applies. The FCC also requires  
5 that such combinations be provided at cost-based rates. BellSouth will  
6 physically combine loop and transport UNEs at FCC mandated cost-based  
7 prices as required in the FCC’s UNE Remand Order in order to have the  
8 exemption from providing local circuit switching.

9  
10 Beyond this limited exception dictated by the FCC, BellSouth is under no  
11 obligation to physically combine network elements, where such elements are  
12 not in fact combined. Nevertheless, BellSouth is willing to negotiate rates for  
13 combining UNEs; however, such negotiations are outside of a Section 251  
14 arbitration, and the rates for this service are not subject to the pricing standards  
15 in Section 252 of the Act.

16  
17 Q. HAS BELLSOUTH REACHED AGREEMENT WITH ANY ALECS  
18 CONCERNING THE CONDITIONS UNDER WHICH BELLSOUTH WILL  
19 COMBINE UNES?

20  
21 A. Yes. Certain ALECs have requested that BellSouth provide the service of  
22 combining elements on the ALECs’ behalf. These ALECs have entered into  
23 amendments to their interconnection agreements with BellSouth. The rates  
24 these ALECs pay for new combinations are market-based and appropriately  
25 compensate BellSouth for the service it is providing.

1 Q. WHAT DOES BELLSOUTH REQUEST OF THIS COMMISSION?

2

3 A. BellSouth requests this Commission find that BellSouth is obligated to provide  
4 combinations to ALECs only where such combinations currently, in fact, exist  
5 and are providing service to a particular customer at a particular location.

6 Nothing further is required or should be required of BellSouth in this regard.

7

8 *Issue 6: Under what rates, terms, and conditions may AT&T purchase network*  
9 *elements or combinations to replace services currently purchased from BellSouth's*  
10 *tariffs? (UNEs, Attachment 2, Section 2.11)*

11

12 Q. PLEASE BRIEFLY EXPLAIN THIS ISSUE.

13

14 A. This issue involved the rates, terms and conditions that should govern the  
15 conversion of special access services and other services to unbundled network  
16 elements. All aspects of this issue have been resolved except for the following  
17 three areas:

18

19 1) Costs/Prices for converting other (non-special access) services to

20 UNEs;

21 2) The application of termination liability charges to services converted to

22 UNEs; and

23 3) The process for submitting requests for conversions.

24

25 I will address the pricing aspects of items 1 and 2 in my testimony, and

1           BellSouth witness Mr. Ron Pate will address item 3 in his testimony.

2

3           **Q. WHAT RATES DOES BELLSOUTH PROPOSE TO CHARGE AT&T FOR**  
4           **CONVERTING TARIFFED SERVICES TO UNES?**

5

6           **A. The prices that BellSouth proposes be included in the new interconnection**  
7           **agreement between the parties are those contained in Exhibit JAR-1 attached to**  
8           **my testimony. Exhibit JAR-1 contains prices for services that are being**  
9           **“switched-as-is,” which would be the situation when a tariffed service is being**  
10           **converted to UNES. For additional explanation of the rates that BellSouth**  
11           **proposes, please refer to my testimony regarding Issue 34.**

12

13           **Q. WHAT LANGUAGE HAS BELLSOUTH PROPOSED TO AT&T**  
14           **REGARDING THIS ISSUE?**

15

16           **A. The contract language that BellSouth proposed to AT&T for conversion of**  
17           **tariffed services to UNES is attached to my testimony as Exhibit JAR-2.**

18

19           **Q. WHAT IS BELLSOUTH’S POSITION REGARDING THE APPLICATION**  
20           **OF TERMINATION LIABILITY CHARGES AND VOLUME AND TERM**  
21           **DISCOUNTS WHEN SERVICES ARE CONVERTED TO UNES?**

22

23           **A. Whether the end user is currently purchasing service on a month-to-month**  
24           **(non-contractual) basis or under a volume and term or other contractual basis,**  
25           **BellSouth will convert such service to the appropriate pre-existing combination**

1 of UNEs upon request by AT&T at the rates in the agreement for the UNEs.  
2 However, if the end user is currently under a contractual agreement with  
3 BellSouth, then the terms of the retail agreement or contract that are applicable  
4 to early termination, including payment of early termination liabilities, must be  
5 satisfied. When AT&T becomes the end user's retail service provider for the  
6 services previously provided under a contract with BellSouth, the end user has  
7 clearly terminated that portion of the contract with BellSouth.

8

9 An end user who is under contract generally pays lower rates than he would  
10 pay if he were not under contract. One purpose of termination liabilities is to  
11 ensure that the service provider receives a fair price for the service in the event  
12 the customer terminates the contract early. Therefore, if a contract is  
13 terminated early, it is appropriate for BellSouth to receive payment of the early  
14 termination charges.

15

16 Q. WHAT DOES BELLSOUTH REQUEST OF THIS COMMISSION?

17

18 A. BellSouth requests this Commission find that BellSouth's proposed rates for  
19 converting services to UNEs, as reflected in Exhibit JAR-1 and BellSouth's  
20 proposed contract language, as reflected in Exhibit JAR-2, are appropriate.

21

22

23

24

25

1 ***Issue 7: How should AT&T and BellSouth interconnect their networks in order to***  
2 ***originate and complete calls to end-users? (Local Interconnection, Attachment 3)***

3

4 Q. WHAT IS THE ESSENCE OF THE DISPUTE BETWEEN THE PARTIES  
5 ON THIS ISSUE?

6

7 A. The issue is pretty simple. BellSouth has a local network in each of the local  
8 calling areas it serves in Florida. BellSouth may have 10, 20 or even more  
9 such local networks in a given LATA. Nevertheless, AT&T wants to  
10 physically interconnect its network with BellSouth's "network" in each LATA  
11 at a single point, or perhaps two points. This approach simply ignores that  
12 there is not one BellSouth "network" but a host of networks that are generally  
13 all interconnected. Importantly, BellSouth does not object to AT&T  
14 designating a single Point of Interconnection at a point in a LATA on one of  
15 BellSouth's "networks" for traffic that AT&T's end users originate. Further,  
16 BellSouth does not object to AT&T using the interconnecting facilities  
17 between BellSouth's "networks" to have local calls delivered or collected  
18 throughout the LATA. What BellSouth does want, and this is the real issue, is  
19 for AT&T to be financially responsible when it uses BellSouth's network in  
20 lieu of building its own network to deliver or collect these local calls.

21

22 AT&T, to contrast its position with BellSouth's, expects BellSouth to collect  
23 local traffic bound for AT&T's end users in each of BellSouth's numerous  
24 local calling areas in the LATA, and AT&T expects BellSouth to be financially  
25 responsible for delivering, to a single point (or, at most, to two points) in each

1           LATA, local calls that are destined for AT&T's local customers within the  
2           same local calling area where the call originated. I should point out that  
3           AT&T has said that, for network security reasons, AT&T may establish a  
4           second point of interconnection in a LATA. However, whether or not that  
5           point is ever established, AT&T maintains that the location of the point is  
6           solely at AT&T's discretion. Indeed, AT&T has only committed to establish a  
7           single point of interconnection in each LATA. BellSouth agrees that AT&T  
8           can choose to interconnect with BellSouth's network at any technically feasible  
9           point in the LATA. However, BellSouth does not agree that AT&T can  
10          impose upon BellSouth the financial burden of delivering BellSouth's  
11          originating local traffic to that single point. If AT&T wants local calls  
12          completed between BellSouth's customers and AT&T's customers using this  
13          single Point of Interconnection, that is fine, provided that AT&T is financially  
14          responsible for the additional costs AT&T causes.

15

16    Q.    DOES BELLSOUTH'S POSITION MEAN THAT AT&T HAS TO BUILD A  
17          NETWORK TO EVERY LOCAL CALLING AREA, OR OTHERWISE  
18          HAVE A POINT OF INTERCONNECTION WITH BELLSOUTH'S LOCAL  
19          NETWORK IN EVERY LOCAL CALLING AREA?

20

21    A.    No. AT&T can build out its network that way if it chooses, but it is not  
22          required to do so. AT&T can lease facilities from BellSouth or any other  
23          provider to bridge the gap between its network (that is, where it designates its  
24          Point of Interconnection) and each BellSouth local calling area. BellSouth will  
25          be financially responsible for transporting BellSouth's originating traffic to a

1 single point in each local calling area. However, BellSouth is not obligated to  
2 haul AT&T's local traffic to a distant point dictated by AT&T.

3

4 Q. WHAT IS A POINT OF INTERCONNECTION?

5

6 A. The term "Point of Interconnection" describes the point(s) where BellSouth's  
7 and AT&T's networks physically connect. In its First Report and Order, at  
8 paragraph 176, the FCC defined the term "interconnection" by stating that:

9 We conclude that the term "interconnection" under section 251(c)(2)  
10 refers only to the physical linking of two networks for the mutual  
11 exchange of traffic.

12 Therefore, the Point of Interconnection is simply the place, or places, on  
13 BellSouth's network where that physical linking of AT&T's and BellSouth's  
14 networks takes place. Simply put, the Point of Interconnection is the place  
15 where facilities that AT&T owns (or leases) connect to facilities owned by  
16 BellSouth.

17

18 On the other hand, the term "interconnection point" is used by AT&T and  
19 BellSouth to define the place where financial responsibility for a call changes  
20 from one carrier to the other. The "Point of Interconnection" and the  
21 "interconnection point" can be at the exact same physical point, or they can be  
22 at different points.

23

24

25



1 Q. IF AT&T CAN INTERCONNECT WITH BELLSOUTH'S NETWORK AT  
2 ANY TECHNICALLY FEASIBLE POINT, WHY IS THIS AN ISSUE?

3

4 A. Recall that what we are talking about here is the interconnection of "local  
5 networks." AT&T's network deployment is significantly different from  
6 BellSouth's, which is the main reason that this issue exists between the parties.  
7 BellSouth has a number of distinct networks. For example, BellSouth has  
8 local networks, long distance networks, packet networks, signaling networks,  
9 E911 networks, etc. Each of these networks is designed to provide a particular  
10 service or group of services. With regard to "local networks," BellSouth, in  
11 any given LATA, has several such local networks, usually interconnected by  
12 BellSouth's long distance network. For instance, in the Jacksonville LATA,  
13 BellSouth has local networks in Jacksonville, Lake City, St. Augustine and  
14 Pomona Park, as well as several other locations. Customers who want local  
15 service in a particular local calling area must be connected to the local network  
16 that serves that local calling area. For example, a BellSouth customer who  
17 connects to the Jacksonville local network will not receive local service in the  
18 Lake City local calling area because Lake City is not in the Jacksonville local  
19 calling area. Likewise, an ALEC who wants to connect with BellSouth to  
20 provide local service in Lake City has to connect to BellSouth's local network  
21 that serves the Lake City local calling area. BellSouth's local calling areas, I  
22 would add, have been defined and set out over the years either by this  
23 Commission or by BellSouth with the approval of this Commission.

24

25

1           When AT&T has a single switch in a LATA, then, by definition, that switch is  
2           located in a single BellSouth local calling area, for example, the Jacksonville  
3           local calling area, if that is where the switch is located. When a BellSouth  
4           local customer in Jacksonville wants to call an AT&T local customer in  
5           Jacksonville, BellSouth delivers the call to the appropriate point of  
6           interconnection between BellSouth's network and AT&T's network in  
7           Jacksonville. This network configuration is illustrated on Page 1 of Exhibit  
8           JAR-3 attached to my testimony. BellSouth would be financially responsible  
9           for taking a call from one of its subscribers located in the Jacksonville local  
10          calling area and delivering it to another point in the Jacksonville local calling  
11          area, the AT&T Point of Interconnection. This scenario is not a problem.

12

13          The problem arises when a BellSouth customer located in a distant local  
14          calling area from AT&T's Point of Interconnection wants to call his next-door  
15          neighbor who happens to be an AT&T local subscriber. For example, consider  
16          that a BellSouth customer in Lake City that wants to call an AT&T customer in  
17          Lake City picks up his or her telephone and draws dial tone from BellSouth's  
18          Lake City switch. The BellSouth customer then dials the AT&T customer.  
19          The call has to be routed from Lake City to AT&T's Point of Interconnection  
20          in the Jacksonville LATA, which, in my example, is in Jacksonville. AT&T  
21          then carries the call to its switch in Jacksonville and connects to the long loop  
22          serving AT&T's customer in Lake City. This call routing is shown on Page 2  
23          of Exhibit JAR-3. The issue here involves who is financially responsible for  
24          the facilities that are used to haul calls back and forth between AT&T's Point  
25          of Interconnection in Jacksonville and the BellSouth Lake City local calling

1           area.

2

3    Q.    HOW WOULD AT&T CONNECT TO BELLSOUTH'S LOCAL  
4           NETWORKS THAT ARE OUTSIDE THE LOCAL CALLING AREA  
5           WHERE AT&T'S SWITCH IS LOCATED?

6

7    A.    It is my understanding that AT&T has agreed to establish at least one Point of  
8           Interconnection in each LATA. This is necessary because BellSouth is still not  
9           authorized to carry traffic across LATA boundaries. AT&T would build  
10          facilities from its switch (wherever it is located) to the Point of Interconnection  
11          in the LATA where the BellSouth local network is located. Once that Point of  
12          Interconnection is established, the issue remains the same. Who is financially  
13          responsible for the facilities needed to carry calls between that Point of  
14          Interconnection and the distant BellSouth local calling area in which a local  
15          call is to be originated and terminated? Since AT&T must establish a Point of  
16          Interconnection in each LATA, whether or not AT&T also has a switch in each  
17          LATA is not relevant to resolving the problem that AT&T's network design  
18          has created.

19

20   Q.    WHY DO YOU SAY THAT AT&T MUST BE FINANCIALLY  
21          RESPONSIBLE FOR THE TRANSPORT OF THESE CALLS FROM  
22          LOCAL CALLING AREAS THAT ARE DISTANT FROM THE POINT  
23          WHERE AT&T HAS CHOSEN TO INTERCONNECT ITS NETWORK  
24          WITH BELLSOUTH'S?

25

1 A. First, that is the only approach that makes economic sense. I will explain the  
2 rationale for this statement later. Second, the Eighth Circuit determined that  
3 the ILEC is only required to permit an ALEC to interconnect with the ILEC's  
4 existing local network, stating that:

5 The Act requires an ILEC to (1) permit requesting new entrants  
6 (competitors) in the ILEC's local market to interconnect with the  
7 ILEC's existing local network and, thereby, use that network to  
8 compete in providing local telephone service (interconnection)....  
9 (Eighth Circuit Court Order dated July 18, 2000, page 2)

10 This is a very important point. When AT&T interconnects with BellSouth's  
11 local network in Jacksonville, it is not also interconnecting with BellSouth's  
12 local network in Lake City. AT&T is only interconnecting with the  
13 Jacksonville local network. The fact that AT&T is entitled to physically  
14 connect with BellSouth at a single point in the LATA cannot overcome the fact  
15 that the single Point of Interconnection cannot, by itself, constitute  
16 interconnection with every single local calling area in a LATA.

17  
18 Moreover, if that were true, think of the implications. Absent LATA  
19 restrictions, AT&T's theory would mean that AT&T could have a physical  
20 Point of Interconnection with BellSouth's "network" in Miami, and BellSouth  
21 would be required to haul local calls originating in Lake City and destined to  
22 terminate in Lake City all the way to Miami, at no cost to AT&T. That just  
23 does not make sense. Again, AT&T can build whatever network it wants, and  
24 it can interconnect with BellSouth's "network" wherever it is technically

1           feasible. However, AT&T cannot shift the financial burden of its network  
2           design to BellSouth.

3

4    Q.    PLEASE EXPLAIN HOW AT&T IS ATTEMPTING TO SHIFT ITS  
5           FINANCIAL RESPONSIBILITY TO BELLSOUTH.

6

7    A.    AT&T's network design results in additional costs that AT&T inappropriately  
8           contends BellSouth should bear. The best way to describe these additional  
9           costs that AT&T causes is to compare examples of two local calls in the same  
10          local calling area. One local call is between two BellSouth customers. The  
11          other local call is between a BellSouth customer and an AT&T customer.  
12          Assume that all of the customers in this example live on the same street in  
13          Lake City.

14

15          First, let's examine what happens if both customers are served by BellSouth as  
16          depicted on page 3 of Exhibit JAR-3. When one neighbor calls the other, the  
17          call originates with one customer, and is transported over that customer's local  
18          loop to a local switch in Lake City where the call is connected to the other  
19          customer's local loop. Importantly, the call never leaves the Lake City local  
20          calling area. Therefore, the only cost BellSouth incurs for transporting and  
21          terminating that call is end office switching in Lake City.

22

23          Now, let's compare what happens when one customer obtains local service  
24          from BellSouth, and the other customer obtains local service from AT&T.  
25          Assume that the BellSouth customer calls the AT&T customer next-door, as

1 depicted on page 2 of Exhibit JAR-3. The BellSouth customer is connected to  
2 BellSouth's switch in Lake City. The BellSouth switch then sends the call to  
3 Jacksonville because that is where AT&T told BellSouth to send the call. The  
4 call is then hauled over facilities owned by AT&T from the Jacksonville Point  
5 of Interconnection (e.g. access tandem) to AT&T's switch. AT&T then  
6 connects the call through its end office switch to the long loop serving AT&T's  
7 end user customer back in Lake City. Again, these two customers live next  
8 door to each other. In one case, the call never left the Lake City local calling  
9 area. In the other case, the call had to be hauled all the way to Jacksonville,  
10 and the only reason that BellSouth did so was because that is what AT&T  
11 wanted.

12  
13 Simply put, the point here is that AT&T wants BellSouth to bear the cost of the  
14 facilities used to haul the call I just described between Lake City and  
15 Jacksonville. There is nothing fair, equitable or reasonable about AT&T's  
16 position. Because AT&T has designed its network the way it wants, and has  
17 designed its network in the way that is most efficient and cheapest for AT&T,  
18 AT&T must bear the financial responsibility for the additional facilities used to  
19 haul the call between Lake City and Jacksonville. AT&T does not have to  
20 actually build the facilities. It does not have to own the facilities. It just has to  
21 pay for them. BellSouth objects to paying additional costs that are incurred  
22 solely due to AT&T's network design. It is simply inappropriate for AT&T to  
23 attempt to shift these costs to BellSouth.

24  
25

1 Q. DO BELLSOUTH'S LOCAL EXCHANGE RATES COVER THESE  
2 ADDITIONAL COSTS?

3  
4 A. No. BellSouth is, in theory at least, compensated by the local exchange rates  
5 charged to BellSouth's local customers for hauling all calls from one point  
6 within a specific local calling area to another point in that same local calling  
7 area. I say "in theory" because, as the Commission knows, there has always  
8 been a dispute about whether local exchange rates actually cover the costs of  
9 handling local calls. Certainly there would be no dispute that the local  
10 exchange rates that BellSouth's customers pay were not intended to cover and,  
11 indeed, cannot cover, the cost of hauling a local call from one Lake City  
12 customer to another Lake City customer by way of Jacksonville.

13  
14 Indeed, if AT&T is not required to pay for that extra transport which AT&T's  
15 network design decisions caused, who will pay for it? The BellSouth calling  
16 party is already paying for its local exchange service, and certainly will not  
17 agree to pay more simply for AT&T's convenience. Who does that leave to  
18 cover this cost? The answer is that there is no one else, and because AT&T has  
19 caused this cost through its own decisions regarding the design of its network,  
20 it should be required to pay for this additional cost.

21  
22 Q. DOES BELLSOUTH RECOVER ITS COSTS FOR HAULING LOCAL  
23 CALLS OUTSIDE THE LOCAL CALLING AREA THROUGH  
24 RECIPROCAL COMPENSATION CHARGES?

25

1 A. No. This is also a significant point. The facilities discussed in this issue  
2 provide interconnection between the parties' networks. The cost of  
3 interconnection facilities is not covered in the reciprocal compensation charges  
4 for transport and termination. Paragraph 176 of FCC Order 96-325 clearly  
5 states that interconnection does not include transport and termination:

6 Including the transport and termination of traffic within the meaning of  
7 section 251(c)(2) would result in reading out of the statute the duty of  
8 all LECs to establish 'reciprocal compensation arrangements for the  
9 transport and termination of telecommunications' under section  
10 251(b)(5).

11 Simply put, the cost of interconnection is to be recovered through  
12 interconnection charges, and the cost of transport and termination is to be  
13 recovered separately through reciprocal compensation. Reciprocal  
14 compensation charges apply only to facilities used for transporting and  
15 terminating local traffic on the local network, not for interconnection of the  
16 parties' networks.

17  
18 In the Lake City example, reciprocal compensation would only apply for the  
19 use of BellSouth's facilities within the Lake City local calling area. That is,  
20 reciprocal compensation would apply to the facilities BellSouth used within its  
21 Lake City local network to transport and switch an AT&T originated call.  
22 Reciprocal compensation does not include the facilities to haul the traffic from  
23 Lake City to Jacksonville.

24  
25



1 Q. IS THE ARRANGEMENT THAT AT&T IS PROPOSING EFFICIENT?

2

3 A. It might be efficient for AT&T, since AT&T seems to equate efficiency with  
4 what is cheapest for AT&T. Of course, that is not an appropriate measure of  
5 efficiency. Indeed, to measure efficiency, the cost to every carrier involved  
6 must be considered. Presumably, AT&T has chosen its particular network  
7 arrangement because it is cheaper for AT&T. A principal reason that it is  
8 cheaper for AT&T is because AT&T is expecting BellSouth's customers to  
9 bear substantially increased costs that AT&T causes by its network design. It  
10 simply makes no sense for BellSouth to bear the cost of hauling a local Lake  
11 City call outside the local calling area just because that is what AT&T wants  
12 BellSouth to do. AT&T, however, wants this Commission to require  
13 BellSouth to do just that. If AT&T bought these facilities from anyone else,  
14 AT&T would pay for the facilities. AT&T, however, does not want to pay  
15 BellSouth for the same capability.

16

17 AT&T's method of transporting local traffic is clearly more costly to  
18 BellSouth, but AT&T blithely ignores the additional costs it wants BellSouth to  
19 bear. Of course, these increased costs will ultimately be borne by customers,  
20 and if AT&T has its way, these costs will be borne by BellSouth's customers.  
21 Competition should reduce costs to customers, not increase them. Competition  
22 certainly is not an excuse for enabling a carrier to pass increased costs that it  
23 causes to customers it does not even serve. BellSouth requests that the  
24 Commission require AT&T to bear the cost of hauling local calls outside  
25 BellSouth's local calling areas. Importantly, AT&T should not be permitted to

1 avoid this cost, nor should AT&T be permitted to collect reciprocal  
2 compensation for facilities that haul local traffic outside of the local calling  
3 area.

4

5 Q. HOW HAS THE FCC ADDRESSED THE ADDITIONAL COSTS CAUSED  
6 BY THE FORM OF INTERCONNECTION AN ALEC CHOOSES?

7

8 A. In its First Report and Order in Docket No. 96-325, the FCC states that the  
9 ALEC must bear the additional costs caused by an ALEC's chosen form of  
10 interconnection. Paragraph 199 of the Order states that "a requesting carrier  
11 that wishes a 'technically feasible' but expensive interconnection would,  
12 pursuant to section 252(d)(1), be required to bear the cost of the that  
13 interconnection, including a reasonable profit." (Emphasis added) Further, at  
14 paragraph 209, the FCC states that "Section 251(c)(2) lowers barriers to  
15 competitive entry for carriers that have not deployed ubiquitous networks by  
16 permitting them to select the points in an incumbent LEC's network at which  
17 they wish to deliver traffic. Moreover, because competing carriers must  
18 usually compensate incumbent LECs for the additional costs incurred by  
19 providing interconnection, competitors have an incentive to make  
20 economically efficient decisions about where to interconnect." (Emphasis  
21 added)

22

23 Clearly, the FCC expects AT&T to pay the additional costs that it causes  
24 BellSouth to incur. If AT&T is permitted to shift its costs to BellSouth, AT&T  
25 has no incentive to make economically efficient decisions about where to

1 interconnect.

2

3 Q. HOW DOES BELLSOUTH PROPOSE TO DELIVER ITS ORIGINATING  
4 LOCAL TRAFFIC TO AT&T?

5

6 A. Although not required to do so, BellSouth proposes to aggregate all of its end  
7 user customers' originating local traffic to a single location in a local calling  
8 area where such traffic will be delivered to AT&T. For example, in the case of  
9 Lake City, BellSouth would transport the local traffic originated by all  
10 BellSouth customers in the Lake City local calling area to a single location in  
11 that calling area. Although this single location, where BellSouth aggregates its  
12 customers' local traffic, is not a Point of Interconnection as defined by the  
13 FCC. BellSouth, therefore, BellSouth uses the term "point of interconnection"  
14 to describe that central location. AT&T can then pick up all local traffic that  
15 BellSouth's customers originate in the Lake City local calling area at a single  
16 location rather than having to pick up the traffic at each individual end office.

17

18 However, AT&T is not required to pick up traffic at the central point  
19 designated by BellSouth. Indeed, if AT&T chooses to do so, it can pick up  
20 traffic at each individual end office instead of at the "point of interconnection"  
21 designated by BellSouth. That is AT&T's choice. Again, AT&T can pick up  
22 this traffic wherever it wants, as long as it is financially responsible for doing  
23 so.

24

25

1 Q. WOULD AT&T'S ABILITY TO COMPETE BE HAMPERED BY AT&T'S  
2 INABILITY TO OBTAIN FREE FACILITIES FROM BELLSOUTH?

3

4 A. Absolutely not. First, AT&T does not have to build or purchase  
5 interconnection facilities to areas that AT&T does not plan to serve. If AT&T  
6 does not intend to serve any customers in a particular area, its ability to  
7 compete cannot be hampered.

8

9 Second, in areas where AT&T does intend to serve customers, BellSouth is not  
10 requiring AT&T to build facilities throughout the area. AT&T can build  
11 facilities to a single point in each LATA and then purchase whatever facilities  
12 it needs from BellSouth or from another carrier in order to reach individual  
13 local calling areas that AT&T wants to serve.

14

15 Q. WHAT DOES BELLSOUTH REQUEST OF THIS COMMISSION?

16

17 A. BellSouth requests the Commission to find that AT&T is required to bear the  
18 cost of facilities that BellSouth may be required to install, on AT&T's behalf,  
19 in order to connect from a BellSouth local calling area to AT&T's Point of  
20 Interconnection located outside that local calling area. I believe this to be an  
21 equitable arrangement for both parties.

22

23

24

25

1 ***Issue 8: What terms and conditions, and what separate rates if any, should apply for***  
2 ***AT&T to gain access to and use BellSouth facilities to serve multi- unit***  
3 ***installations? (UNEs, Attachment 2, Section 5.2.5)***

4  
5 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

6  
7 A. The rates BellSouth proposes to charge AT&T for access to and use of  
8 BellSouth's facilities (network terminating wire and intrabuilding network  
9 cable) to serve multi-unit installations are contained in Exhibit JAR-1 attached  
10 to my testimony. BellSouth witness Mr. Milner's testimony addresses the  
11 terms and conditions for such access.

12  
13 ***Issue 9: Should BellSouth provide local circuit switching at UNE rates to allow***  
14 ***AT&T to serve the first three lines provided to a customer located in Density Zone 1***  
15 ***as determined by NECA Tariff No. 4 in effect on January 1, 1999 ("Density Zone***  
16 ***1")?***

17  
18 ***Issue 10: Should BellSouth preclude AT&T from purchasing local circuit switching***  
19 ***from BellSouth at UNE rates when a Density Zone 1 existing AT&T customer with***  
20 ***1-3 lines increases its lines to 4 or more? (UNEs, Attachment 2, Section 6.3.1.3 and***  
21 ***6.3.1.4)***

22  
23 ***Issue 11: Should BellSouth be allowed to aggregate lines provided to multiple***  
24 ***locations of a single customer to restrict AT&T's ability to purchase local circuit***  
25 ***switching at UNE rates to serve any of the lines of that customer? (UNEs,***

1 *Attachment 2, Section 6.3.1.3 and 6.3.1.4 )*

2

3 Q. WHAT IS THE BASIC DISPUTE BETWEEN THE PARTIES ON THESE  
4 ISSUES?

5

6 A. First, let me state that BellSouth's understanding is that AT&T has withdrawn  
7 Issues 9 and 10 from the arbitration. Therefore, at this time, I will only address  
8 Issue 11. This issue involves the application of FCC rules regarding the  
9 exemption for unbundling local circuit switching. BellSouth, in certain  
10 geographic areas, is not required to unbundle local circuit switching for  
11 customers having four or more lines. AT&T wants to prohibit BellSouth from  
12 aggregating a customer's lines in a specific geographic area when calculating  
13 how many lines the customer has for the purpose of determining whether  
14 unbundled local circuit switching will be available for the customer.

15

16 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

17

18 A. BellSouth believes that the FCC's position is quite clear. However, even if it  
19 were not, simple logic will lead to the conclusion that when a particular  
20 customer has four or more lines within a specific geographic area, even if those  
21 lines are spread over multiple locations, BellSouth does not have to provide  
22 unbundled local circuit switching as long as the other criteria for Rule  
23 51.319(c)(2) are met.

24

25

1 Q. WHAT IS THE FCC RULE THAT IS RELEVANT TO THIS DISPUTE?

2

3 A. The relevant FCC Rule is 51.319(c)(2), which states:

4

5 (2) Notwithstanding the incumbent LEC's general duty to unbundle local  
6 circuit switching, an incumbent LEC shall not be required to unbundle  
7 local circuit switching for requesting telecommunications carriers when  
8 the requesting telecommunications carrier serves end-users with four or  
9 more voice grade (DS0) equivalents or lines, provided that the  
10 incumbent LEC provides non-discriminatory access to combinations of  
11 unbundled loops and transport (also known as the "Enhanced Extended  
12 Link") throughout Density Zone 1, and the incumbent LEC's local  
13 circuit switches are located in:

- 14 (i) The top 50 Metropolitan Statistical Areas as set forth in  
15 Appendix B of the Third Report and Order and Fourth  
16 Further Notice of Proposed Rulemaking in CC Docket No.  
17 96-98, and  
18 (ii) In Density Zone 1, as defined in § 69.123 of this chapter on  
19 January 1, 1999.

20

21 Q. WHAT WAS THE FCC'S RATIONALE FOR THE "FOUR OR MORE  
22 LINES" CRITERIA IN RULE 51.319(c)(2)?

23

24 A. The FCC used the four-line cutoff to distinguish between the mass market and  
25 the medium to large business market. As long as the other criteria of Rule

1 51.319(c)(2) were met, the FCC determined that competitors were not impaired  
2 in their ability to serve medium to large business customers. The following  
3 portions of the UNE Remand Order demonstrate the FCC's rationale:  
4

5 294. We recognize that a rule that removes unbundling obligations  
6 based on line count will be marginally overinclusive or underinclusive  
7 given individual factual circumstances. We find, however, that in our  
8 expert judgment, a rule that distinguishes customers with four lines or  
9 more from those with three lines or less reasonably captures the  
10 division between the mass market – where competition is nascent – and  
11 the medium and large business market – where competition is  
12 beginning to broaden.

13  
14 297. In contrast, marketplace developments suggest that competitors  
15 are not impaired in their ability to serve certain high-volume customers  
16 in the densest areas.

17  
18 The FCC's logic here is that the biggest part of the consumer market involves  
19 customers who have three or fewer lines. By the time a customer has four or  
20 more lines, the customer is either a mid-sized or a large customer, and ALECs  
21 are not impaired if they don't have access to unbundled local circuit switching  
22 to address the telecommunications needs of these classes of customers.  
23 Nowhere in the rule, nor in the rationale supporting it, does the FCC suggest  
24 that the incumbent LEC still has an obligation to unbundle local circuit  
25 switching for a portion of a medium to large business customer's lines.



1 Q. WHAT IS THE SIGNIFICANCE OF EELS FOR THIS ISSUE?

2

3 A. Basically, the thought is that if the incumbent LEC provides EELs at UNE  
4 rates, the ALEC can haul the call anywhere in the area to the ALEC's switch.  
5 The FCC obviously concluded that, at least in the top 50 MSAs, switching is  
6 available from a number of sources. As long as the incumbent LEC allows the  
7 ALEC to have an EEL so that the end user could be connected to an ALEC's  
8 switch, it is not necessary for the incumbent LEC to unbundle local circuit  
9 switching.

10

11 Q. WHAT DOES BELLSOUTH REQUEST OF THE COMMISSION?

12

13 A. BellSouth requests this Commission to reject AT&T's attempt to violate the  
14 FCC's rules. ALECs are not impaired without access to unbundled local  
15 circuit switching when serving customers with four or more lines in Density  
16 Zone 1 in the top 50 MSAs. Consequently, ALECs are not entitled to  
17 unbundled local circuit switching in these areas for any of an end user's lines  
18 when the end user has four or more lines in the relevant geographic area, as  
19 long as BellSouth will provide the ALEC with EELs at UNE rates.

20

21

22

23

24

25

1 ***Issue 12: Should AT&T be permitted to charge tandem rate elements when its***  
2 ***switch serves a geographic area comparable to that served by BellSouth's tandem***  
3 ***switch? (Local Interconnection, Attachment 3, Section 1.3)***  
4

5 Q. PLEASE BRIEFLY EXPLAIN THIS ISSUE.

6  
7 A. The FCC's rules established that, when two carriers are involved in delivery of  
8 local traffic, the originating carrier would compensate the terminating carrier  
9 for certain additional costs incurred to transport and terminate local calls from  
10 the originating carrier's customers. The FCC limited such compensation to be  
11 symmetrical unless the ALEC could demonstrate that it was using an efficient  
12 configuration to transport and terminate the calls and that such configuration  
13 justified asymmetrical rates. Under symmetrical reciprocal compensation, the  
14 ALEC applies the ILEC's rate for transport and termination. The FCC  
15 determined that there should be two rates for transport and termination. One  
16 rate applies where tandem switching is involved (tandem rate) and the other  
17 rate applies where tandem switching is not involved (end office rate). The  
18 tandem rate simply consists of both the end office switching rate and the  
19 tandem switching rate. As a surrogate for these two rates, many commissions  
20 have used the UNE rates of the involved network components as the basis for  
21 reciprocal compensation. This is a reasonable surrogate when both parties'  
22 switches are in the same local calling area.

23

24

25

1 Q. HOW DOES BELLSOUTH USE TANDEM SWITCHES?

2

3 A. BellSouth has both local and access tandems. First, I will address local  
4 tandems. Sometimes there are so many local switches in a given local calling  
5 area that it makes economic sense to create a local tandem to help handle the  
6 flow of calls between the end office switches. In this case, the local tandem is  
7 connected to numerous end office switches in the local calling area, thereby  
8 eliminating the need to have every end office switch in that local calling area  
9 connected directly to every other end office switch in that local calling area. In  
10 this situation, a caller who is served by one end office switch can place a local  
11 call to a subscriber served by another end office switch, and the call can be  
12 routed through the local tandem, rather than being trunked directly to the called  
13 party's local end office switch. Obviously, if there are a lot of end office  
14 switches in a local calling area, using a tandem switch to aggregate traffic and  
15 to act as a central connection point makes economic sense and avoids a lot of  
16 extra trunking that would otherwise be required to ensure that call blockage  
17 was limited to acceptable levels.

18

19 The local tandem is functionally quite similar to what is often referred to as an  
20 access tandem. An access tandem is a tandem switch that is also connected to  
21 all of the local central offices in a given area. The difference is that the access  
22 tandem handles both local and long distance traffic while the local tandem only  
23 handles local traffic.

24

25

1 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

2

3 A. In order for AT&T to appropriately charge for tandem switching, AT&T must  
4 demonstrate to the Commission that: 1) its switches serve a comparable  
5 geographic area to that served by BellSouth's tandem switches and that 2) its  
6 switches actually perform local tandem functions. AT&T should only be  
7 compensated for the functions that it actually provides. BellSouth does not  
8 agree that AT&T's switches in Florida serve a geographic area comparable to  
9 the area served by BellSouth's tandem switches, nor does BellSouth agree that  
10 AT&T's switches are performing local tandem switching.

11

12 BellSouth proposes to bill AT&T for use of a tandem only when BellSouth  
13 incurs the cost of tandem switching on a particular local call. Further,  
14 BellSouth proposes to pay AT&T the tandem switching rate only when AT&T  
15 incurs the cost of tandem switching on a particular local call. To incur this  
16 cost, AT&T must provide the functionality of a tandem switch, as opposed to  
17 an end office switch, and AT&T must be serving a geographic area comparable  
18 to a BellSouth tandem. However, AT&T wants to charge BellSouth for  
19 tandem switching on every local call, regardless of whether AT&T incurs the  
20 cost.

21

22 Q. WHAT IS AT&T'S POSITION ON THIS ISSUE?

23

24 A. Apparently, because AT&T's switches can serve the same geographic area,  
25 AT&T's position is that AT&T should always receive the rate for tandem

1 switching, regardless of whether AT&T actually performs the tandem function  
2 for a particular local call.

3  
4 Q. WHAT IS THE BASIS FOR BELLSOUTH'S POSITION ON THIS ISSUE?

5  
6 A. In its Local Competition Order, the FCC stated that the "additional costs" of  
7 transporting and terminating local traffic vary depending on whether or not a  
8 tandem switch is involved. (¶ 1090) As a result, the FCC determined that state  
9 commissions can establish transport and termination rates that vary depending  
10 on whether the traffic is routed through a tandem switch or directly to a  
11 carrier's end-office switch. *Id.* To that end, BellSouth has separate rates for  
12 transport and termination depending upon whether tandem switching is  
13 involved. When an ALEC's end user originates a local call that terminates on  
14 BellSouth's local network, BellSouth charges the ALEC a different rate for  
15 reciprocal compensation based on whether or not local tandem switching is  
16 involved in that call. When a BellSouth end user originates a local call that  
17 terminates on the ALEC's network, the ALEC should only charge the tandem  
18 rate when the ALEC actual provides the tandem switching function.

19  
20 The FCC, of course, recognized that an ALEC might not use the same network  
21 architecture as BellSouth or any other incumbent carrier. In order to insure  
22 that an ALEC would receive the equivalent of a tandem switching rate if it  
23 were warranted, the FCC directed state commissions to do two things. First,  
24 the FCC directed state commissions to "consider whether new technologies  
25 (e.g., fiber ring or wireless network) performed functions similar to those

1        performed by an incumbent LEC's tandem switch and thus whether some or all  
2        calls terminating on the new entrant's network should be priced the same as the  
3        sum of transport and termination via the incumbent LEC's tandem switch."  
4        (Local Competition Order ¶ 1090) (emphasis added). Second, the FCC stated  
5        that "[w]here the interconnecting carrier's switch serves a geographic area  
6        comparable to that served by the incumbent LEC's tandem switch, the  
7        appropriate proxy for the interconnecting carrier's additional costs is the LEC  
8        tandem interconnection rate." *Id.*

9  
10       Therefore, the FCC posed two requirements that must be met before an ALEC  
11       would be entitled to compensation at both the end office and the tandem  
12       switching rate, as opposed to only the end office rate, for any particular local  
13       call. The tandem switch involved has to serve a comparable geographic area,  
14       and it has to perform the tandem switching function for the local call for which  
15       compensation is sought.

16  
17       BellSouth notes that in Section 51.711(a)(1) of its Rules, the FCC states that  
18       "symmetrical rates are rates that a carrier other than an incumbent LEC  
19       assesses upon an incumbent LEC for transport and termination of local  
20       telecommunications traffic equal to those that the incumbent LEC assesses  
21       upon the other carrier for the same services." (emphasis added) Again, in  
22       Section 51.711(a)(3), the Rule states that "[w]here the switch of a carrier other  
23       than an incumbent LEC serves a geographic area comparable to the area served  
24       by the incumbent LEC's tandem switch, the appropriate rate for the carrier  
25       other than an incumbent LEC is the incumbent LEC's tandem interconnection

1 rate.” The FCC clearly has two requirements that must be met before the  
2 tandem rate for transporting and terminating traffic applies.

3

4 Q. DOES THE COMMISSION NEED TO DECIDE WHETHER A NEW  
5 TECHNOLOGY USED BY AT&T PERFORMS A FUNCTION SIMILAR  
6 TO TANDEM SWITCHING?

7

8 A. No. The basic network architecture used by AT&T is the same as BellSouth,  
9 so the Commission does not need to attempt to determine whether some new  
10 technology used by AT&T performs functions similar to tandem switching.  
11 The Commission simply needs to determine whether AT&T is actually  
12 providing tandem switching on each and every local call. Thus, pursuant to  
13 Section 51.711, in order to charge BellSouth the tandem rate, AT&T must  
14 show not only that its switches serve a geographic area comparable to  
15 BellSouth’s tandem switches, but that AT&T’s switches are providing the  
16 same services as BellSouth’s tandem switches for local traffic.

17

18 Q. HAS THE FCC DEFINED WHICH FUNCTIONS A TANDEM SWITCH  
19 MUST PROVIDE?

20

21 A. Indeed it has. In its recently released Order No. FCC 99-238, the FCC’s rules  
22 at 51.319(c)(3) state:

23

*Local Tandem Switching Capability.* The tandem switching capability  
24 network element is defined as:

25

(i) Trunk-connect facilities, which include, but are not limited to,

- 1                   the connection between trunk termination at a cross connect  
2                   panel and switch trunk card;
- 3           (ii)    The basic switch trunk function of connecting trunks to trunks;  
4                   and
- 5           (iii)   The functions that are centralized in tandem switches (as  
6                   distinguished from separate end office switches), including but  
7                   not limited, to call recording, the routing of calls to operator  
8                   services, and signaling conversion features.

9

10           Of course, this definition of tandem switching capability has long been  
11           accepted and applied within the telecommunications industry. The  
12           introduction of local competition has no effect on the definition of tandem  
13           switching capability.

14

15   Q.    HOW DOES THE FCC'S DEFINITION OF TANDEM SWITCHING APPLY  
16           TO THIS ISSUE?

17

18   A.    To receive reciprocal compensation at the tandem rate, a carrier must be  
19           performing the functions described in the FCC's definition of tandem  
20           switching. It is not enough that the switch "can" provide the function of a  
21           tandem switch; it has to actually be providing those functions for the local call  
22           for which compensation is sought. This is true if for no other reason than  
23           because the difference between the end office and tandem rates for reciprocal  
24           compensation is the same as the UNE rate for tandem switching. That rate  
25           recovers the cost of performing, for local calls, the functions described in the



1 FCC's definition. If the ALEC were not performing those functions, the  
2 ALEC would simply be receiving a windfall.

3  
4 AT&T's switches are not providing a tandem function to transport any local  
5 calls, let alone all local calls, but are only switching traffic through AT&T's  
6 end office switches for delivery of that traffic from those switches to the called  
7 party's premises. As stated in the FCC's definition, to provide transport  
8 utilizing tandem switching, AT&T's switch must connect trunks terminated in  
9 one end office switch to trunks terminated in another end office switch. In  
10 other words, a tandem switch, as defined by the FCC, provides an intermediate  
11 switching function. As AT&T has admitted, its switch is not providing that  
12 function. During cross-examination in North Carolina Dockets No. P-140, Sub  
13 73 and No. P-646, Sub 7, AT&T witness Mr. David Talbott concurred that  
14 "[t]here is not an intermediate switching function within the AT&T network."  
15 (Transcript, Vol. 2, August 1, 2000, p. 227, lines 6-9) Further, when asked if  
16 AT&T's switch would qualify for the tandem rate if the North Carolina  
17 Commission concludes that an intermediate switching function is required, Mr.  
18 Talbott stated "[o]ur switch would not qualify." (Id., p. 227, line 21-p. 228,  
19 line 1)

20  
21 As confirmed by AT&T's own witness, AT&T's switch connects trunks to end  
22 user's lines, and does not connect trunks to trunks. In this regard, there is  
23 nothing different about AT&T's network design in Florida as compared to its  
24 network design in North Carolina. The end office rate for transport and  
25 termination fully compensates AT&T for the functions its end office switches

1 perform.

2

3 Q. HAS THIS COMMISSION PREVIOUSLY RULED ON THE ISSUE OF  
4 APPLICABILITY OF RECIPROCAL COMPENSATION TO TANDEM  
5 SWITCHING?

6

7 A. Yes. Most recently, in its August 22, 2000 Order No. PSC-00-1519-FOF-TP  
8 in Docket No. 991854-TP (Intermedia/BellSouth Arbitration), this  
9 Commission determined that Intermedia failed to satisfy its burden of proof on  
10 either criteria. The Commission specifically rejected Intermedia's claim that  
11 the larger capacity of its switch and its newer network architecture negate the  
12 need for a separate tandem switch. Further, the Commission found that,  
13 although the maps submitted by Intermedia indicate that Intermedia has  
14 established local calling areas that are comparable to BellSouth's, the  
15 Commission was unable to determine if Intermedia's switch actually serves  
16 those areas. As a result, the Commission declined to find that Intermedia  
17 proved that it provides the necessary geographic coverage. (Order at pages 13-  
18 14)

19

20 Earlier, in its January 14, 2000 Order No. PSC-00-0128-FOF-TP in Docket  
21 No. 990691-TP (ICG/BellSouth Arbitration), the Commission determined that  
22 BellSouth is not required to compensate ICG for the tandem switching  
23 element, finding that "the evidence of record does not provide an adequate  
24 basis to determine that ICG's network will fulfill this geographic criterion."

1 (p. 10) Also, in Order No. PSC-97-0294-FOF-TP, Docket 961230-TP, dated  
2 March 14, 1997, the Commission concluded at pages 10-11:

3 "We find that the Act does not intend for carriers such as MCI to be  
4 compensated for a function they do not perform. Even though MCI  
5 argues that its network performs 'equivalent functionalities' as Sprint in  
6 terminating a call, MCI has not proven that it actually deploys both  
7 tandem and end office switches in its network. If these functions are  
8 not actually performed, then there cannot be a cost and a charge  
9 associated with them. Upon consideration, we therefore conclude that  
10 MCI is not entitled to compensation for transport and tandem switching  
11 unless it actually performs each function."  
12

13 Similarly, Florida Order No. PSC-96-1532-FOF-TP, Docket No. 960838-TP,  
14 dated December 16, 1996, states at page 4:

15 "The evidence in the record does not support MFS' position that its  
16 switch provides the transport element; and the Act does not  
17 contemplate that the compensation for transporting and terminating  
18 local traffic should be symmetrical when one party does not actually  
19 use the network facility for which it seeks compensation. Accordingly,  
20 we hold that MFS should not charge Sprint for transport because MFS  
21 does not actually perform this function."  
22

23 BellSouth does not suggest that the Commission should find that AT&T does  
24 not qualify for the tandem rate simply because other ALECs' similar requests  
25 have been rejected by the Commission. Rather, each ALEC's request for the

1 tandem rate must be decided based on the specifics of that carrier's network,  
2 because the decision of whether the tandem rate applies is dependent upon how  
3 a particular carrier's network handles each individual local call.

4

5 Q. WHAT DOES BELLSOUTH REQUEST THE COMMISSION DO?

6

7 A. Importantly, BellSouth is not disputing AT&T's right to compensation at the  
8 tandem rate where the facts support such a conclusion. However, in this  
9 proceeding, AT&T is seeking a decision that allows it to be compensated for  
10 the cost of equipment it does not own and for functionality it does not provide.  
11 Absent real evidence that AT&T's switches actually serve a geographic area  
12 comparable to BellSouth's tandems, and absent evidence that AT&T's  
13 switches actually perform tandem switching functions for local traffic,  
14 BellSouth requests that this Commission determine that AT&T is only entitled,  
15 where it provides local switching, to the end office switching rate.

16

17 *Issue 16: What is the appropriate treatment of outbound voice calls over internet*  
18 *protocol ("IP") telephony, as it pertains to reciprocal compensation? (Local*  
19 *Interconnection, Attachment 3, Section 6.1.9)*

20

21 Q. PLEASE EXPLAIN BELLSOUTH'S UNDERSTANDING OF THIS ISSUE.

22

23 A. This issue addresses the appropriate compensation for phone-to-phone calls  
24 that utilize a technology known as Internet Protocol ("IP"). First, let me be  
25 clear on the distinction between "voice calls over the Internet" and "voice calls

1 over Internet Protocol (“IP”) telephony.” IP Telephony is, in very simple and  
2 basic terms, a mode or method of completing a telephone call. The word  
3 “Internet” in Internet Protocol telephony refers to the name of the protocol; it  
4 does not mean that the service necessarily uses the World Wide Web.

5

6 Q. WHAT IS PHONE-TO-PHONE IP TELEPHONY?

7

8 A. Phone-to-Phone IP Telephony is telecommunications service that is provided  
9 using Internet Protocol for one or more segments of the call. Technically  
10 speaking, Internet Protocol, or any other protocol, is an agreed upon set of  
11 technical operating specifications for managing and interconnecting networks.  
12 The Internet Protocol is a specific language that equipment on a packet  
13 network uses to intercommunicate. It has nothing to do with the transmission  
14 medium (wire, fiber, microwave, etc.) that carries the data packets between  
15 gateways, but rather concerns gateways, or switches, that are found on either  
16 end of that medium.

17

18 Currently there are various technologies used to transmit telephone calls, of  
19 which the most common are analog and digital. In the case of IP Telephony  
20 originated from a traditional telephone set, the local carrier first converts the  
21 voice call from analog to digital. The digital call is sent to a gateway that takes  
22 the digital voice signal and converts or packages it into data packets. These  
23 data packets are like envelopes with addresses which “carry” the signal across  
24 a network until they reach their destination, which is known by the address on  
25 the data packet, or envelope. This destination is another gateway, which

1 reassembles the packets and converts the signal to analog, or a plain old  
2 telephone call, to be terminated on the called party's local telephone  
3 company's lines.

4  
5 To explain it another way, Phone-to-Phone IP Telephony occurs when an end  
6 user customer uses a traditional telephone set to call another traditional  
7 telephone set using IP technology. The fact that IP technology is used at least  
8 in part to complete the call is transparent to the end user. Phone-to-Phone IP  
9 Telephony is identical, by all relevant regulatory and legal measures, to any  
10 other basic telecommunications service, and should not be confused with calls  
11 to the Internet through an ISP. Characteristics of Phone-to-Phone IP  
12 Telephony are:

- 13 ● IP Telephony provider gives end users traditional dial tone (not  
14 modem buzz);
- 15 ● End user does not call modem bank;
- 16 ● Uses traditional telephone sets (vs. computer);
- 17 ● Call routes using telephone numbers (not IP addresses);
- 18 ● Basic telecommunications (not enhanced); and
- 19 ● IP Telephone providers are telephone carriers (not ISPs).

20 Phone-to-Phone IP Telephony should not be confused with Computer-to-  
21 Computer IP Telephony, where computer users use the Internet to provide  
22 telecommunications to themselves.

23  
24  
25

1 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

2

3 A. As with any other local traffic, reciprocal compensation should apply to local  
4 telecommunications provided via IP Telephony, to the extent that it is  
5 technically feasible to apply such charges. To the extent, however, that calls  
6 provided via IP telephony are long distance calls, access charges should apply.  
7 Application of access charges for long distance calls does not depend on the  
8 technology used to transport such calls. Due to the increasing use of IP  
9 technology mixed with traditional circuit switching technology to switch or  
10 transport voice telecommunications, BellSouth's position is that it is important  
11 to specify in the agreement that long distance calls, irrespective of the  
12 technology used to transport them, constitute switched access traffic and not  
13 local traffic.

14

15 Switched access charges, not reciprocal compensation, apply to phone-to-  
16 phone long distance calls that are transmitted using IP telephony. From the  
17 end user's perspective – and, indeed, from the IXC's perspective – such calls  
18 are indistinguishable from regular circuit switched long distance calls. The  
19 IXC may use IP technology to transport all or some portion of the long  
20 distance call, but that does not change the fact that it is a long distance call.

21

22 Q. WHAT IS AT&T'S POSITION ON THIS ISSUE?

23

24 A. It appears that AT&T is attempting to inappropriately assert the ESP  
25 exemption to all calls, and treat all calls using IP telephony as local traffic.

1 Consider the example of a call from Orland to Chicago sent over AT&T's  
2 circuit switched network. Certainly, this call is a long distance call, and access  
3 charges would apply. However, if AT&T transported that same call using IP  
4 telephony, AT&T claims that the call from Orlando to Chicago is a local call  
5 and that reciprocal compensation applies. Now, AT&T makes this claim  
6 despite the fact that it charges the customer the same long distance price in  
7 either case. This position is ridiculous. AT&T's choice of transmission  
8 medium does not transform a long distance call into a local call.

9  
10 Q. DOES THE FCC VIEW CALLS TO INFORMATION SERVICE  
11 PROVIDERS ("ISP-BOUND TRAFFIC") DIFFERENTLY THAN PHONE-  
12 TO-PHONE IP TELEPHONY IN TERMS OF APPLICABLE CHARGES?

13  
14 A. Yes. Neither ISP-bound traffic nor the transmission of long distance services  
15 via IP Telephony traffic is local traffic; however, the FCC has treated the two  
16 types of traffic differently in terms of the rates that such providers pay for  
17 access to the local exchange company's network. Calls to Information Service  
18 Providers have been exempted by the FCC from access charges for use of the  
19 local network in order to encourage the growth of these emerging services –  
20 most specifically access to the Internet. The FCC has found that ISPs use  
21 interstate access service, but are exempt from switched access charges  
22 applicable to other long distance traffic. As a result of this FCC exemption,  
23 ISP-bound traffic is assessed at the applicable business exchange rate.

24



1           On the other hand, the transmission of long-distance voice services - whether  
2           by IP telephony or by more traditional means - is not exempt from switched  
3           access charges. The FCC has provided no exemption from access charges  
4           when IP telephony is used to transmit long distance telecommunications.

5  
6           The FCC's April 10, 1998 Report to Congress states: "The record...  
7           suggests... 'phone-to-phone IP telephony' services lack the characteristics that  
8           would render them 'information services' within the meaning of the statute,  
9           and instead bear the characteristics of 'telecommunication services'." Further,  
10          Section 3 of the Telecommunications Act of 1996 defines  
11          "telecommunications" as the "transmission, between or among points specified  
12          by the user, of information of the user's choosing, without change in the form  
13          or content of the information as sent and received." Thus, IP Telephony is  
14          telecommunications service, not information or enhanced service.

15  
16          Long distance service is a mature industry, and simply changing the  
17          technology that is used to transmit the long distance service does not change  
18          the service. All other long-distance carriers currently pay these same access  
19          charges, and there is no authority to exempt them, regardless of the protocol  
20          used to transport such calls. To do otherwise would unreasonably discriminate  
21          between long-distance carriers utilizing IP telephony and those who do not.

22  
23    Q.     WHAT IS BELLSOUTH REQUESTING THE COMMISSION DO?

24  
25    A.     BellSouth requests that the Commission determine that access charges, rather

1 than reciprocal compensation, apply to long distance calls, regardless of the  
2 technology used to transport them.

3

4 ***Issue 22: What are the appropriate recurring and nonrecurring charges for the***  
5 ***collocation items for which charges have not been established or are not TELRIC***  
6 ***compliant as listed in Exhibit A to Collocations, Attachment 4 of AT&T's Proposed***  
7 ***Interconnection Agreement? (Collocation, Attachment 4 and Exhibit A)***

8

9 Q. WHAT RATES DOES BELLSOUTH PROPOSE FOR COLLOCATION?

10

11 A. BellSouth's proposed rates for collocation are contained in Exhibit JAR-1.

12

13 ***Issue 23: Has BellSouth provided sufficient customized routing in accordance with***  
14 ***State and Federal law to allow it to avoid providing Operator Services/Directory***  
15 ***Assistance ("OS/DA") as a UNE?***

16

17 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

18

19 A. BellSouth witness Mr. Milner addresses the technical aspects of BellSouth's  
20 provision of customized routing and demonstrates that BellSouth is providing  
21 sufficient customized routing to allow BellSouth to avoid providing Operator  
22 Services/Directory Assistance as UNEs. I am addressing the rates for  
23 customized routing. The rates BellSouth proposes for its Line Class Code-  
24 based and AIN-based solutions for customized routing are contained in Exhibit  
25 JAR-1.

1

2 ***Issue 27: Should the Commission or a third party commercial arbitrator resolve***  
3 ***disputes under the Interconnection Agreement?***

4

5 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

6

7 A. BellSouth's position is that the appropriate regulatory authority should resolve  
8 disputes and that BellSouth should not be precluded from petitioning the  
9 Commission for resolution of disputes under the Interconnection Agreement.

10

11 Q. WHAT IS THE BASIS FOR BELLSOUTH'S POSITION?

12

13 A. BellSouth originally agreed to use third party arbitrators to resolve disputes  
14 involving its interconnection agreements because we thought that with the state  
15 commission's crowded calendars, commercial arbitration could provide a  
16 speedy and inexpensive way to resolve disputes. Although the first  
17 interconnection agreement between BellSouth and AT&T contained an  
18 alternative dispute resolution provision, the two parties have never used that  
19 provision. However, BellSouth has used it in disputes with other ALECs. The  
20 process has proven to be neither speedy, nor inexpensive. BellSouth believes  
21 that the parties would be better off to have a knowledgeable staff person, or a  
22 member of the Commission, participate in the resolution of issues under these  
23 agreements. Our experience shows that it is simply not possible to get neutral  
24 commercial arbitrators that are sufficiently experienced in the  
25 telecommunications industry. Consequently, a neutral arbitrator must be

1           trained on the very basics of our industry, and decisions are not made  
2           expeditiously. In short, commercial arbitration simply does not work very  
3           well. The Commission and its staff are clearly more capable of handling  
4           disputes between telecommunications carriers than are commercial arbitrators.  
5           BellSouth should not be obligated to waive its right to have the Commission  
6           hear disputes.

7  
8           Interestingly, although this is AT&T's issue, it evidently agrees with  
9           BellSouth's position. A "third party arbitration" clause was contained in the  
10          parties' prior interconnection agreement. Nonetheless, AT&T filed complaints  
11          with at least two state commissions during the term of the prior agreement,  
12          rather than seeking third party arbitration. Indeed, in one instance, based on  
13          the hearing officer's initial report, AT&T asserted that third party arbitrations  
14          are too slow. Therefore, it is not at all clear to BellSouth why AT&T continues  
15          to insist on including such a clause in its interconnection agreement.

16  
17          ***Issue 33: Should AT&T be allowed to share the spectrum on a local loop for voice***  
18          ***and data when AT&T purchases a loop/port combination and if so, under what***  
19          ***rates, terms and conditions? (UNE's, Attachment 2, Section 3.10)***

20  
21          **Q.     WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?**

22  
23          **A.     BellSouth is under no obligation to offer line sharing on the UNE Platform**  
24          **(UNE-P). BellSouth is willing, however, to incorporate rates, terms and**

1 conditions for line sharing in the parties' interconnection agreement that are  
2 consistent with the FCC's rules.

3

4 Q. PLEASE EXPLAIN "LINE SHARING" AND "SPECTRUM  
5 MANAGEMENT."

6

7 A. The local loop from the central office to the customer's premises can be used  
8 to provide both voice and packet data service. There are a number of carriers  
9 who want to use that loop to provide packet data service while the ILEC would  
10 continue to provide voice service. Inserting specific equipment on the line  
11 enables the spectrum to be "shared" by the voice provider and the data  
12 provider, a functionality also known as "line sharing." In its Line Sharing  
13 Order, the FCC specifically states "[t]he provision of xDSL-based service by a  
14 competitive LEC and voiceband service by an incumbent LEC on the same  
15 loop is frequently called 'line sharing.'" (Line Sharing Order at ¶ 4)

16

17 Q. UNDER WHAT CONDITIONS IS AN ILEC SUCH AS BELLSOUTH  
18 OBLIGATED TO PROVIDE LINE SHARING?

19

20 A. ILECs are only obligated to provide line sharing to a single requesting carrier  
21 at the same customer address as the traditional POTS analog voice service  
22 provided by the incumbent. Line sharing as ordered by the FCC is available  
23 under the following conditions:

- 24 • Two carriers – one voice provider (ILEC) and one data provider  
25 (ALEC) – serve one customer per loop (Id. ¶ 74);

- 1           ● The ILEC provides traditional POTS analog voiceband service to  
2           the customer on the line to be shared (Id. ¶ 19);
- 3           ● The ALEC provides xDSL-based service to the customer (Id. ¶ 13);
- 4           ● The ALEC's xDSL technologies do not use the frequencies  
5           immediately above the voiceband, thereby preserving them as a  
6           “buffer” zone to ensure the integrity of the voiceband traffic (Id. fn  
7           136);
- 8           ● The ALEC's xDSL technology does not interfere with analog  
9           voiceband transmission (Id. ¶ 70-71); and
- 10          ● If the ILEC's retail customer disconnects his/her POT's service, the  
11          data provider must purchase the entire stand-alone loop if it wishes  
12          to continue providing xDSL service to the customer. Similarly,  
13          ILECs are not required to provide line sharing to a requesting  
14          carrier when the CLP purchases a combination of network elements  
15          known as the UNE platform. (Id. ¶¶ 72-73)

16

17          The “platform” referred to is the loop/port combination. Clearly, BellSouth is  
18          obligated to provide line sharing to ALECs only where BellSouth is providing  
19          the voice service.

20

21          When an ALEC purchases the loop/port combination, BellSouth is not  
22          obligated to provide line sharing. In order for BellSouth to provide access to  
23          the high frequency portion of the loop when the ALEC has purchased the  
24          loop/port combination, BellSouth would have to physically separate the  
25          loop/port combination, add in a splitter, and then recombine. BellSouth

1 maintains that it is not required to perform these functions for ALECs.

2

3 Finally, the FCC's Line Sharing Order thoroughly examined whether ALECs  
4 would be impaired without access to line sharing when the ILEC is not  
5 providing the voice service. The FCC determined that no such impairment  
6 exists.

7

8 Q. WHAT RATES DOES BELLSOUTH PROPOSE FOR LINE SHARING?

9

10 A. BellSouth's proposed rates for line sharing are contained in Exhibit JAR-1.

11

12 ***Issue 34: What are the appropriate rates and charges for unbundled network***  
13 ***elements and combinations of network elements? (The parties anticipate that the***  
14 ***rates and charges will be resolved in the generic UNE costs docket, Docket No.***  
15 ***990649-TP.)***

16

17 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

18

19 A. BellSouth proposes that prices contained in Exhibit JAR-1 to my testimony be  
20 adopted as the appropriate prices to be included in the new interconnection  
21 agreement between the parties. Unless otherwise indicated on the exhibit, the  
22 source of BellSouth's proposed interconnection and UNE prices is BellSouth's  
23 cost study filed on August 16, 2000 in Docket No. 990649-TP<sup>1</sup>. BellSouth  
24 proposes that the prices on Exhibit JAR-1 be interim and subject to true-up

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<sup>1</sup> On November 14, 2000, BellSouth filed a letter with the Commission advising that the cost of Elements A.17.2 (Unbundled Loop Modification – Load Coil/Equipment Removal – long) and A.17.4 (Unbundled Loop Modification – Additive) have been modified. These modified costs are reflected in Exhibit JAR-1.

1           upon establishment of permanent prices by the Commission in Docket No.  
2           990649-TP. I would note that the Commission is not considering collocation  
3           prices in Docket No. 990649-TP. Therefore, BellSouth proposes that its  
4           collocation prices, which are equal to the costs sponsored by Ms. Caldwell in  
5           this proceeding, be interim until such time as the Commission establishes  
6           permanent collocation prices in a generic docket.

7

8    Q.    DOES THIS CONCLUDE YOUR TESTIMONY?

9

10   A.    Yes.

11   #228948



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BELLSOUTH TELECOMMUNICATIONS, INC.  
REBUTTAL TESTIMONY OF JOHN A. RUSCILLI  
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET NO. 000731-TP  
JANUARY 3, 2001

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS ADDRESS.

A. My name is John A. Ruscilli. I am employed by BellSouth as Senior Director for State Regulatory for the nine-state BellSouth region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. ARE YOU THE SAME JOHN RUSCILLI THAT FILED DIRECT TESTIMONY IN THIS PROCEEDING ON NOVEMBER 15, 2000?

A. Yes. I filed direct testimony, including three exhibits.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is to respond the policy aspect of numerous unresolved issues addressed in the testimony of Mr. Gregory Follensbee, Mr. David Talbott and Mr. Joseph Gillan filed on behalf of AT&T Communications of the Southern States, Inc. and TCG South Florida

1 (collectively “AT&T”).

2

3 ***Issue 4: What does “currently combines” mean as that phrase is used in 47 C.F.R. §***  
4 ***51.315(b)? (UNEs, Attachment 2)***

5

6 ***Issue 5: Should BellSouth be permitted to charge AT&T a “glue charge” when***  
7 ***BellSouth combines network elements?***

8

9 Q. HAS MR. GILLAN PROVIDED ANY RATIONALE TO THE  
10 COMMISSION AS TO WHY BELLSOUTH SHOULD BE REQUIRED TO  
11 COMBINE UNES FOR ALECS AT COST-BASED RATES?

12

13 A. No. In a futile attempt to make his point, Mr. Gillan first cites the specific  
14 federal rule that forbids ILECs such as BellSouth from separating requested  
15 network elements that are currently combined. BellSouth does not dispute that  
16 it cannot separate elements that are currently combined, unless asked to do so  
17 by the ALEC. Next, after Mr. Gillan cites federal rule 57 C.F.R. §51.315(c)  
18 that required ILECs to combine elements for ALECs, he then notes that this  
19 particular rule is vacated. Indeed, the fact that this rule is vacated makes clear  
20 that ILECs have no obligation under the Act to combine network elements for  
21 ALECs at all, and certainly not at cost-based rates.

22

23 Mr. Gillan states at page 5 that “Issue 4 of this arbitration is needed to clarify  
24 BellSouth’s obligation with respect to network elements that it ‘currently  
25 combines,’ but which may not yet be physically connected for a specific

1 customer location.” It is clear that Mr. Gillan, on behalf of AT&T, is asking  
2 that BellSouth be required to physically combine elements that are not currently  
3 combined, and that BellSouth forego any revenue for performing this work for  
4 ALECs even though BellSouth is not obligated to perform this activity.

5

6 Q. WHEN BELLSOUTH PROVIDES A CUSTOMER WITH AN  
7 ADDITIONAL LINE, OR SERVES A NEW PREMISES, DOESN'T  
8 BELLSOUTH HAVE TO COMBINE NETWORK ELEMENTS?

9

10 A. In many cases, yes. Physical work is required to combine the elements required  
11 to provide the service, and BellSouth incurs the cost of performing such work.  
12 Mr. Gillan makes the feeble argument that, because BellSouth would have to do  
13 this work if it is serving the customer, BellSouth should do the work when an  
14 ALEC is going to serve the customer. Indeed, Mr. Gillan opines at page 8 that  
15 “the most efficient solution is for BellSouth to combine these elements ... and  
16 then provide the entrant with the requested combination.” I certainly agree that  
17 Mr. Gillan’s suggestion would be the most efficient solution for the ALEC,  
18 because the ALEC would get the benefit of BellSouth having done the ALEC’s  
19 work, and BellSouth would have incurred all the cost with no compensation  
20 from the ALEC.

21

22 Q. PLEASE RESPOND TO MR. GILLAN’S CONTENTION THAT ACCESS  
23 TO UNE COMBINATIONS IS NECESSARY FOR WIDESPREAD  
24 COMPETITION.

25

1 A. First, I must reiterate that BellSouth provides AT&T with nondiscriminatory  
2 access to UNE combinations. That is simply not the issue here. What AT&T  
3 wants, but does not have, is a situation where BellSouth has to take  
4 uncombined UNEs and, at AT&T's request, put them together for AT&T.  
5 That is not required of BellSouth by either the law or FCC regulations;  
6 however, that does not seem to have much of an impact on AT&T when it  
7 comes to what it thinks it is entitled to have.

8  
9 At any rate, the accuracy of Mr. Gillan's contention that access to UNE  
10 combinations is necessary for widespread competition depends on which  
11 segments of the market are examined. Obviously, facilities-based ALECs have  
12 focused their efforts on the more lucrative business markets and all but ignored  
13 the residential market. The hallmark reform of the Act was to remove the  
14 statutory barriers and creating a three-pronged means for competition to  
15 develop – build facilities, resale, and UNEs. ALECs have varied in their desire  
16 to use each of these means, so measuring competition based solely on UNEs  
17 (including UNE combinations) is misguided.

18  
19 Q. WHAT DOES MR. GILLAN'S UNE-P DATA FOR NEW YORK AND  
20 TEXAS SHOW?

21  
22 A. First, his data does not show anything about the impact of UNE-P availability  
23 on local competition development in Florida, New York or Texas. UNE-P is  
24 available in all three states, so any disparity in ALECs' use of UNE-P in these  
25 states is not a result of availability. Second, Mr. Gillan conveniently ignores the

1 most important factor that has driven increased UNE-P utilization in New York  
2 and Texas, which was not the availability of the UNE-P, but rather the  
3 imminent likelihood of an RBOC gaining interLATA relief, which ultimately  
4 happened. In New York, UNE-P has been available since mid-1998. Mr.  
5 Gillan's Table 1 shows that ALECs had 75,000 UNE-Ps in New York in June,  
6 1999. By December 1999, just six months later, the number of UNE-Ps in New  
7 York had grown to 400,000. Interestingly, in September 1999, Bell Atlantic  
8 requested that the FCC grant it permission to provide interLATA service in  
9 New York. It was widely believed – even before Bell Atlantic's petition was  
10 filed - that Bell Atlantic would receive approval. The logical conclusion is that  
11 it was the imminence of interLATA relief for Bell Atlantic in New York, not the  
12 availability of UNE-P that spurred the growth of UNE-P in New York.

13

14 Likewise, Mr. Gillan's data for the levels of UNE-P subscription in Texas  
15 follow a similar pattern. He quotes Texas data for December 1999 and January  
16 2000. Of course, in January 2000, SBC requested that the FCC grant it  
17 permission to provide interLATA service in Texas. As with New York, the  
18 perception was that Texas had a high likelihood of succeeding. Indeed, Texas  
19 received interLATA relief in June 2000. Again, the high levels of UNE-P  
20 subscription in Texas are tied to the likelihood that interLATA relief was  
21 imminent for Texas. Based on his data, if Mr. Gillan wants to spur on the  
22 growth of UNE-P utilization in Florida, one would think he would support  
23 BellSouth's entry into the interLATA market in Florida, since the possibility of  
24 such entry seems to be what causes the ALECs to actually start providing  
25 service using these combinations.

1

2 Q. PLEASE RESPOND TO MR. GILLAN'S CITE AT PAGES 8-9 TO THE  
3 GEORGIA COMMISSION'S RULING ON THIS ISSUE IN ITS GENERIC  
4 COMBINATION DOCKET.

5

6 A. While Mr. Gillan quotes accurately from the Georgia Commission's Order, he  
7 fails to note that the Commission further stated that "if the Eighth Circuit Court  
8 of Appeals determines that ILECs have no legal obligation to combine UNEs  
9 under the Federal Act, the Commission will reevaluate its decision with regard  
10 to the requirement that BellSouth provide combinations of typically combined  
11 elements where the particular elements being ordered are not actually physically  
12 connected at the time the order is placed." (February 1, 2000 Order in Docket  
13 No. 10692-U at page 22).

14

15 ***Issue 6: Under what rates, terms, and conditions may AT&T purchase network***  
16 ***elements or combinations to replace services currently purchased from BellSouth's***  
17 ***tariffs? (UNEs, Attachment 2)***

18

19 Q. PLEASE RESPOND TO MR. FOLLENSBEE'S CONTENTION AT PAGES  
20 8-9 THAT BELLSOUTH MAY NOT APPLY TERMINATION LIABILITY  
21 CHARGES WHEN TARIFFED SERVICES ARE CONVERTED TO  
22 UNBUNDLED NETWORK ELEMENT ("UNE") COMBINATIONS.

23

24 A. First, as I explained in my direct testimony, the portion of this issue that the  
25 parties request the Florida Public Service Commission ("Commission") to

1 resolve deals with “termination liabilities.” Mr. Follensbee has chosen in his  
2 direct testimony to refer to these termination liabilities as “cancellation  
3 charges.” He alleges that BellSouth plans to charge AT&T “cancellation  
4 charges” when tariffed services AT&T is purchasing from BellSouth are, at  
5 AT&T’s request, converted to unbundled network elements.

6  
7 BellSouth originally understood this issue to address two situations. In one  
8 situation, an end user who has entered into a volume and term contract with  
9 BellSouth for tariffed services now wishes to terminate his or her retail  
10 relationship with BellSouth to move to another service provider. In the other  
11 situation, AT&T has purchased a tariffed service from BellSouth under a  
12 volume and term contract, and AT&T now wants to convert that tariffed  
13 service to UNEs. In either case, the entity that is terminating the contractual  
14 relationship will have the obligation to meet the termination provisions to which  
15 the entity agreed when the contract was made.

16  
17 Based on AT&T’s direct testimony in this case as presented by Mr. Follensbee,  
18 and based on the assertion made by AT&T during the arbitration hearing in  
19 Louisiana on December 19, 2000, BellSouth understands that AT&T has  
20 narrowed the dispute to only the situation where AT&T is the customer  
21 converting a tariffed service to UNEs. Therefore, I will only address that  
22 situation in my rebuttal testimony.

23  
24 Mr. Follensbee claims that “cancellation charges” are applicable only when a  
25 service is completely terminated and is not replaced with another service. Since

1 AT&T is converting tariffed services to UNE combinations, and is not  
2 “canceling” the service, Mr. Follensbee therefore contends that no termination  
3 charges are applicable. This is incorrect. When BellSouth has a relationship  
4 with a user of its services, and that relationship has certain conditions that have  
5 to be met if the relationship changes, then those conditions – in this case,  
6 termination charges - must be met.

7  
8 Q. PLEASE EXPLAIN WHAT YOU MEAN BY “VOLUME AND TERM”  
9 CONTRACT.

10  
11 A. Certain of BellSouth’s tariffed offerings include rate schedules that vary  
12 dependant upon the length of the contract or the quantity of lines the customer  
13 agrees to order and maintain. Such pricing structures are common in the  
14 industry. For example, a particular service might have a recurring monthly rate  
15 of \$20.00. If the end user agrees to sign a 24-month contract, meaning that the  
16 end user agrees to keep the service for a minimum of 24 months, the monthly  
17 recurring rate might be \$18.00. Likewise, the tariff might include a 48-month  
18 recurring rate of \$16.00. Typically, such tariffed services also include a  
19 termination liability that applies if the end user terminates the contract early.

20  
21 A customer who has entered into a volume and term contract with BellSouth  
22 has generally paid lower rates than the customer would have paid if it were not  
23 under the contract. In exchange for these favorable rates, the customer  
24 generally agrees to pay “termination” liabilities in the event the contract is  
25 terminated early.



1

2 Q. PLEASE ADDRESS MR. FOLLENSBEE'S CONTENTION AT PAGES 8-9  
3 THAT THE SERVICE IS NOT BEING TERMINATED.

4

5 A. BellSouth agrees that the service is not being terminated. However, the retail  
6 relationship with BellSouth is being terminated. If AT&T is currently  
7 purchasing tariffed services from BellSouth at month-to-month rates, then  
8 BellSouth will simply effect the conversion to UNE rates. However, if AT&T  
9 is currently purchasing tariffed services under contract at lower rates based on a  
10 volume and term commitment, then BellSouth will apply any applicable  
11 termination liabilities when the service is converted to UNEs. This has to be the  
12 case because, otherwise, a customer who purchases the service on a month-to-  
13 month basis will be the victim of discrimination. A customer who purchases  
14 service on a month-to-month basis in lieu of purchasing the same service on a  
15 contract basis presumably does so because that customer does not want to  
16 make a volume and term commitment or be exposed to a termination liability.  
17 AT&T's position on this issue, if adopted, would mean that even though AT&T  
18 agreed to a volume and term contract and obtained a lower rate than a  
19 customer purchasing on a month-to-month basis would receive, AT&T could  
20 avoid the termination liability simply by converting the service to UNEs prior to  
21 the expiration of the contract.

22

23 Q. HOW DO YOU RESPOND TO MR. FOLLENSBEE'S ALLEGATION AT  
24 PAGE 8 THAT AT&T HAD NO CHOICE BUT TO PURCHASE THESE  
25 TARIFFED SERVICES FROM BELL SOUTH?

1

2 A. I disagree completely with Mr. Follensbee's portrayal of BellSouth as  
3 "unwilling to provide combinations of network elements in lieu of special  
4 access." AT&T, had it chosen to do so, could have combined the UNEs  
5 necessary to provide the service that it wanted. However, in keeping with its  
6 position on several of the issues presented in this case, AT&T did not want to  
7 incur the expense of doing so. AT&T wanted, and this was the real issue, for  
8 BellSouth to combine the UNEs for AT&T, but BellSouth is not required to do  
9 this for AT&T at UNE rates. Because AT&T chose not to do the combining  
10 itself, and because BellSouth is not required to do the combining, AT&T chose  
11 to purchase the tariffed services from BellSouth, hoping to be able to convert  
12 those to UNEs at a later date. AT&T has done what it has done based on its  
13 own economic self-interest. Again, BellSouth is not required to combine  
14 elements for ALECs at UNE rates.

15

16 AT&T could have purchased these services on a month-to-month basis. Of  
17 course, doing so would have cost more, so AT&T chose instead to enter into a  
18 contract to receive lower rates based on a volume and term commitment and an  
19 agreement to pay termination liabilities if that commitment was not honored.  
20 Now, AT&T wants to keep the benefit of the lower rates and break the  
21 commitment without bearing the consequences it agreed to bear.

22

23

24 ***Issue 7: How should AT&T and BellSouth interconnect their networks in order to***  
25 ***originate and complete calls to end-users? (Local Interconnection, Attachment 3)***

1

2 Q. WHAT ARE THE CONSEQUENCES OF AT&T'S POSITION ON THIS  
3 ISSUE, AS REPRESENTED BY MR. TALBOTT?

4

5 A. First, AT&T's position means that it gets to designate where it will deliver calls  
6 originated by AT&T's end users to BellSouth for BellSouth to then deliver to  
7 the BellSouth end user being called. BellSouth agrees with AT&T that it can  
8 do this. However, AT&T's position also means that it gets to designate how  
9 many places on BellSouth's network AT&T will accept BellSouth-originated  
10 traffic destined for AT&T's end users. That is, there is absolutely no symmetry  
11 in terms of each party deciding where it is willing to hand off its originating  
12 traffic to the other party. AT&T, under its approach, may decide to have only  
13 one or two interconnection points in a LATA where it will hand its originating  
14 traffic off to BellSouth.

15

16 If AT&T prevails, then BellSouth will be limited to no more than one or two  
17 interconnection points as well, even if BellSouth has fifteen or twenty local  
18 calling areas in the LATA. This means that, in a LATA with numerous local  
19 calling areas, BellSouth would be required to incur the cost of hauling local  
20 calls from one local calling area to a distant interconnection point, where the  
21 call would then be handed off to AT&T to be switched and brought back by  
22 AT&T to the same BellSouth local calling area in which the call originated.  
23 Adopting AT&T's position means that even though AT&T itself has created  
24 the situation where a call has to be hauled fifty or a hundred miles to be  
25 switched, it will have managed to require BellSouth to pay for a portion of

1 these costs. Simply put, AT&T wants BellSouth to subsidize AT&T's selected  
2 network design.

3  
4 As I explained in my direct testimony, BellSouth's position on this issue does  
5 not mean that AT&T has to actually build a network to each of BellSouth's  
6 local calling areas. AT&T can build out its network that way if it chooses, but  
7 it is not required to do so. AT&T can lease facilities from BellSouth or from  
8 any other provider to bridge the gap between its network (that is, where it  
9 designates its Point of Interconnection) and each BellSouth local calling area.  
10 Again, BellSouth's position is that BellSouth will be financially responsible for  
11 transporting its originating traffic to a single point in each local calling area.  
12 However, BellSouth is not obligated to be financially responsible for hauling  
13 AT&T's local traffic to a distant point dictated by AT&T.

14

15 Q. MR. TALBOTT SUGGESTS, AT PAGE 3 OF HIS TESTIMONY, AND  
16 WHILE DISCUSSING HIS EXHIBITS DLT-3 THROUGH DLT-5, THAT  
17 BELLSOUTH IS ATTEMPTING TO IMPOSE ADDITIONAL COSTS ON  
18 AT&T, RATHER THAN THE OTHER WAY AROUND AS YOU  
19 MAINTAIN. SINCE YOU BOTH CANNOT BE RIGHT, CAN YOU  
20 EXPLAIN WHY MR. TALBOTT IS WRONG?

21

22 A. Mr. Talbott has created an illusion that is worthy of David Copperfield. First,  
23 let me say that I agree with what he has portrayed in his Exhibit DLT-3.  
24 Historically, when a BellSouth local subscriber in a BellSouth local calling area  
25 places a call to another BellSouth local subscriber in that same local calling

1 area, BellSouth incurs the cost of switching at the originating caller's office,  
2 transport to the called party's end office and switching at the called party's end  
3 office. We do not have a dispute about that.

4  
5 Similarly, I agree with Mr. Talbott's Exhibit DLT-4, provided that the call  
6 originates and terminates in the same BellSouth local calling area. A BellSouth  
7 customer originates a call, and BellSouth switches the call and delivers it to  
8 AT&T's Point of Interconnection located in that same local calling area.  
9 BellSouth will pay the expenses of getting the call to that Point of  
10 Interconnection in the BellSouth local calling area, because that is what  
11 BellSouth's local subscribers are paying BellSouth to do. When the call reaches  
12 the Point of Interconnection, and AT&T switches the call to its end user,  
13 BellSouth will pay reciprocal compensation in the form of end office switching  
14 to AT&T. BellSouth has absolutely no problem with that scenario. But  
15 remember, because it is critically important, that all of this is taking place in the  
16 same BellSouth local calling area.

17  
18 Turning to Mr. Talbott's Exhibit DLT-5, I must say that AT&T has the story  
19 wrong. Or, more precisely, Mr. Talbott has obfuscated the story. If everything  
20 that was pictured on Exhibit DLT-5 all took place within the BellSouth  
21 Jacksonville local calling area, Mr. Talbott would be absolutely wrong. The  
22 BellSouth customer would originate a call, and BellSouth, once again, would  
23 deliver it to the designated Point of Interconnection. AT&T would pick up the  
24 call at the Point of Interconnection and carry it back to its switch. AT&T  
25 would then switch the call, and terminate it to its local customer. If all this

1 happened in the Jacksonville local calling area, BellSouth would owe AT&T for  
2 call transport from the Point of Interconnection to AT&T's switch, and then  
3 would owe AT&T for local switching for terminating the call. On Exhibit  
4 DLT-5, the facility between the BellSouth switch and the AT&T switch appears  
5 to be a dedicated facility, so the transport paid in this situation by BellSouth  
6 would be some proportional share of the cost of the dedicated facility. The  
7 switching rate would be the normal end office rate established for reciprocal  
8 compensation.

9  
10 If the call were flowing the other way (i.e., from AT&T's end user to  
11 BellSouth's end user), AT&T would incur the cost of switching its customer's  
12 call as well as transporting the call to the Point of Interconnection, an amount  
13 that would be exactly equal to what BellSouth pays AT&T when BellSouth's  
14 customer originates a call to one of AT&T's customers.

15  
16 Q. SO WHY IS THIS EVEN AN ISSUE?

17  
18 A. It is an issue because Mr. Talbott failed to include something on his exhibit that  
19 is critical to this issue. If AT&T's and BellSouth's networks were set up as  
20 pictured in Mr. Talbott's exhibit, everything would be fine. What he has  
21 forgotten to point out is that even if AT&T has placed a local switch in a  
22 LATA, that switch may be located fifty or a hundred miles from the BellSouth  
23 local calling area that AT&T purports to serve. That is, in his Exhibit DLT-5,  
24 the BellSouth customer and the BellSouth switch may be located in Lake City,  
25 and the AT&T customer may be located in Lake City, but AT&T's switch

1 might be located in Jacksonville. In such a case, AT&T has made the decision  
2 to locate the switch in a distant location because that was what was economical  
3 for AT&T. That is fine. BellSouth does not care that AT&T has located its  
4 switch that far away from the local calling area it is serving.

5

6 However, it is absurd for AT&T to cry foul, as Mr. Talbott does in his  
7 discussion of his Exhibit DLT-5, because BellSouth objects to incurring the  
8 cost of hauling a call that originates and terminates in Lake City, out of the  
9 Lake City local calling area and over to Jacksonville. BellSouth will haul the  
10 call to a point in the Lake City local calling area, and BellSouth will pay for  
11 that. It is not equitable, however, to require BellSouth to incur the cost of  
12 hauling the call to Jacksonville because AT&T has chosen not to put a switch in  
13 Lake City, and that is the situation that is not accurately portrayed by Mr.  
14 Talbott's Exhibit DLT-5.

15

16 As I discussed in my direct testimony, the local exchange rates that BellSouth's  
17 local subscribers pay are not intended to cover the cost of hauling local calls  
18 beyond BellSouth's local calling area. Nevertheless, that is exactly what AT&T  
19 wants to force BellSouth (and other local service providers) to do. Evidently,  
20 AT&T refuses to pick up the traffic at the Point of Interconnection in each of  
21 BellSouth's local calling areas in, for example, the Jacksonville LATA. At the  
22 same time, AT&T has refused to compensate BellSouth for the additional cost  
23 of transporting these calls from the various BellSouth local calling areas to a  
24 distant location selected by AT&T solely for AT&T's own convenience. It is  
25 the additional cost of transporting local traffic from BellSouth's designated

1 Point of Interconnection to a distant location as desired by AT&T about which  
2 the parties disagree.

3

4 Q. WOULD THESE SAME COMMENTS APPLY TO MR. TALBOTT'S  
5 "SIMPLE HYPOTHETICAL" BEGINNING ON PAGE 24 OF HIS  
6 TESTIMONY?

7

8 A. Yes. Again, in Mr. Talbott's example, if AT&T's switch and BellSouth's  
9 switch were both located in the same local calling area, we would not have an  
10 issue. However, the problem occurs when AT&T's switch is located at a  
11 distant site. Following Mr. Talbott's logic in his example, AT&T could elect to  
12 provide local service to customers in Florida from AT&T's switch in California,  
13 and AT&T would expect BellSouth to pay for part of the facility necessary to  
14 get from Florida to California. Now, I am sure that AT&T would protest that I  
15 am overstating the matter; however, that is the ultimate result of AT&T's  
16 proposed solution to this issue. I urge the Commission to reject this effort on  
17 the part of AT&T to make BellSouth pay for AT&T's network design  
18 decisions.

19

20 Q. PLEASE RESPOND TO MR. TALBOTT'S STATEMENT THAT  
21 "BELLSOUTH HAS A SUFFICIENT VOLUME OF TRAFFIC WITHIN  
22 AND BETWEEN EACH [OF] ITS LOCAL CALLING AREAS TO COST  
23 JUSTIFY TRUNKING TO THAT AREA AND HAD DESIGNED ITS  
24 NETWORK ACCORDINGLY." (TALBOTT DIRECT, PAGE 10, LINES 16-  
25 18)



1

2 A. Mr. Talbott's statement reinforces the point that BellSouth is making  
3 concerning this issue. BellSouth has designed its local networks appropriately  
4 to transmit local traffic within each of its local calling areas, and has designed its  
5 toll network to carry traffic between each of its local calling areas. What  
6 BellSouth has not done, and what AT&T inappropriately insists that BellSouth  
7 must do, is design its network to transmit BellSouth's originating local traffic  
8 out of a local calling area to AT&T's single Point of Interconnection in the  
9 LATA when the call originates and terminates within the same local calling  
10 area.

11

12 Q. PLEASE COMMENT ON AT&T'S PROPOSED "NETWORK  
13 INTERCONNECTION SOLUTION" AS PRESENTED BY MR. TALBOTT.

14

15 A. Mr. Talbott's proposed "solution" is simply an elaborate ruse that AT&T  
16 attempts to use to impose the additional costs of its network design onto  
17 BellSouth. Adopting Mr. Talbott's solution would create the inequities that I  
18 discussed at length in my direct testimony. There is nothing equivalent,  
19 equitable, fair or reasonable about AT&T's solution, and it should be rejected.

20

21 Q. CAN YOU ILLUSTRATE YOUR POINT BY ADDRESSING EACH OF  
22 THE INDIVIDUAL COMPONENTS OF AT&T'S "SOLUTION"?

23

24 A. Yes. AT&T proposes that each parties' interconnection points (i.e., where it  
25 receives traffic for termination) should be situated at the "top" of its network.

1           Apparently, in Mr. Talbott's view, when AT&T interconnects with BellSouth's  
2           local network in Jacksonville, AT&T is interconnected to every BellSouth local  
3           network in the Jacksonville LATA. That is not true because BellSouth has  
4           numerous local networks within the Jacksonville LATA.

5  
6           AT&T proposes, in essence, that it will decide how many Points of  
7           Interconnection are convenient and appropriate for AT&T, and then BellSouth  
8           would be stuck with that same number. In effect, AT&T proposes that the  
9           party with the fewest number of interconnection points, which would usually, or  
10          at least for the foreseeable future, be AT&T, would require the other party to  
11          aggregate all of its traffic to that same number of points. Further, AT&T  
12          proposes that each party be responsible for delivering its interconnection traffic  
13          (i.e., traffic originating on or transiting through its network) to the other party's  
14          interconnection points. In other words, each party has to bear the cost of  
15          delivering traffic to the location or locations specified by the other party.  
16          Simply put, these parts of AT&T's solution operate together to force BellSouth  
17          to provide free facilities to AT&T.

18  
19          To illustrate the effect of each party having an equal number of interconnection  
20          points, let's look at the Jacksonville LATA. AT&T may only want to  
21          interconnect with BellSouth at one point in the LATA. Therefore, under  
22          AT&T's proposed solution, BellSouth would be required to aggregate all of the  
23          local traffic from every one of its local networks in the Jacksonville LATA at a  
24          single location for delivery to AT&T. Because BellSouth's existing local  
25          networks are not aggregated at a single point in the LATA, BellSouth would

1 have to create this new network configuration just to accommodate AT&T.

2

3 AT&T's proposal that each party has to bear the cost of delivering its  
4 originating traffic to the location or locations specified by the other party would  
5 require BellSouth to incur the cost of all of the new facilities needed to  
6 implement the portion of AT&T's solution that requires each party to have the  
7 same number of interconnection points. AT&T completely ignores the fact that  
8 it must connect to BellSouth's existing local networks. Instead, AT&T is  
9 attempting to force BellSouth to extend its existing local networks to  
10 accommodate AT&T, at no charge to AT&T.

11

12 Q. IS AT&T'S PROPOSED SOLUTION CONSISTENT WITH THE FCC'S  
13 LOCAL COMPETITION ORDER?

14

15 A. No. Under AT&T's proposed solution, where the Point of Interconnection and  
16 the interconnection point are at the same place, the terminating party establishes  
17 the Point of Interconnection. Of course, the FCC's Order established that the  
18 originating party is permitted to establish the Point of Interconnection. In  
19 Section IV of its Order, the FCC established the concept that, due to reciprocal  
20 compensation being paid by the originating company, the originating company  
21 may seek to determine its Point of Interconnection in order to minimize its  
22 reciprocal compensation obligation to the terminating company. At ¶ 209 of its  
23 Local Competition Order, the FCC states:

24

25

We conclude that we should identify a minimum list of technically  
feasible points of interconnection that are critical to facilitating entry by

1 competing carriers. Section 251(c) gives competing carriers the right to  
2 deliver traffic terminating on an incumbent LEC's network at any  
3 technically feasible point on that network rather than obligating such  
4 carriers to transport traffic to less convenient or efficient  
5 interconnection points. Section 251(c)(2) lowers barriers to competitive  
6 entry for carriers that have not deployed ubiquitous networks by  
7 permitting them to select the points in an incumbent LEC's network at  
8 which they wish to deliver traffic. Moreover, because competing  
9 carriers must usually compensate incumbent LECs for the additional  
10 costs incurred by providing interconnection, competitors have an  
11 incentive to make economically efficient decisions about where to  
12 interconnect.

13

14 AT&T is requesting this Commission to adopt a plan which conflicts with this  
15 ruling by the FCC. As I explained in my direct testimony, BellSouth simply  
16 requests that AT&T be required to bear the cost of facilities that BellSouth may  
17 be required to install, on AT&T's behalf, in order to connect from a BellSouth  
18 local calling area to AT&T's Point of Interconnection located outside that local  
19 calling area.

20

21 Q. HOW DOES BELLSOUTH PROPOSE TO RESOLVE THIS ISSUE?

22

23 A. BellSouth should be allowed to designate one Point of Interconnection in each  
24 of its local calling areas where AT&T must pick up BellSouth's originated local  
25 traffic destined for AT&T's local customers. BellSouth, not AT&T, is entitled

1 to designate the pickup point for such traffic, and that point can be on  
2 BellSouth's network. BellSouth is willing to accommodate AT&T's proposed  
3 network design that does not have a Point of Interconnection in each BellSouth  
4 local calling area. However, AT&T would have to compensate BellSouth for  
5 transporting BellSouth's originating traffic to an AT&T designated Point of  
6 Interconnection outside the basic local calling area (but inside the LATA) in  
7 which the local call originates. I believe this to be an equitable arrangement for  
8 both parties. This solution would also alleviate AT&T's concern that its  
9 collocation space is being used for both interconnection as well as accessing  
10 unbundled loops (Talbot, page 28, lines 3-28 and page 29, lines 1-2).  
11 BellSouth's proposal would alleviate this concern because BellSouth would  
12 deliver the BellSouth originated local traffic to a point in the LATA as  
13 designated by AT&T which is outside the BellSouth local calling area and thus  
14 not utilize additional collocation space.

15

16 ***Issue 11: Should BellSouth be allowed to aggregate lines provided to multiple***  
17 ***locations of a single customer to restrict AT&T's ability to purchase local circuit***  
18 ***switching at UNE rates to serve any of the lines of that customer? (UNEs,***  
19 ***Attachment 2)***

20

21 Q. PLEASE RESPOND TO MR. FOLLENSBEE'S ALLEGATION AT PAGE  
22 11 THAT BELLSOUTH'S POSITION ON THIS ISSUE IMPEDES  
23 COMPETITION.

24

25 A. BellSouth's position on this issue comports with the FCC's Rule 51.319(c)(2).

1 As I explained in my direct testimony, the specific dispute that this Commission  
2 must address involves the question of whether the four lines identified in the  
3 applicable FCC rule have to all be located at the same premises, or whether it is  
4 sufficient that the customer has four or more lines located anywhere in the  
5 Metropolitan Serving Area (“MSA”). AT&T’s position is that the lines all have  
6 to be located at the same premises. BellSouth’s position is that the availability  
7 of Enhanced Extended Links (“EELs”) renders the actual geographic location  
8 of the customer’s lines, as long as the lines are all within the same MSA,  
9 irrelevant.

10

11 BellSouth’s point is that it, in order to take advantage of this exemption, has to  
12 provide EELs at any technically feasible location in the relevant geographic  
13 area. Regardless of where the customer’s individual lines are located, AT&T  
14 can use the EELs to connect the customers to AT&T’s switch. For example  
15 assume that a customer has three different locations with three lines each, all  
16 within the same MSA. AT&T’s position is that aggregation of the lines at the  
17 three different locations in order to qualify BellSouth for the switching  
18 exemption should be precluded. That is absurd. AT&T can use EELs to  
19 connect those three locations to its own switch.

20

21 Q. WHAT IF THE CUSTOMER WANTS TO RECEIVE THREE SEPARATE  
22 BILLS – ONE AT EACH OF HIS THREE LOCATIONS?

23

24 A. The number of bills the customer wants to receive has no impact on this issue.  
25 When AT&T uses EELs to connect those three locations to its own switch,

1 AT&T can render bills to the customer in any form that the customer wants.  
2 There is absolutely no requirement in the rules that aggregation of the end  
3 user's lines cannot be accomplished because the end user wants multiple bills.  
4 Using that rationale, an end user with twenty lines into a single building who  
5 wanted ten different bills would prevent BellSouth from electing the local  
6 switching exemption.

7  
8 Clearly, the FCC intended no such gaming of its rule. The FCC determined that  
9 the four-line cut-off would be used to distinguish between the mass markets,  
10 where there was little competition, and the medium to large business market,  
11 where there is competition. In the example above, the customer with three  
12 locations is not a mass market customer, irrespective of whether the three  
13 locations are geographically separated or not. Indeed, if the customer is an  
14 astute business person, one would assume that the three different locations  
15 would be geographically dispersed.

16  
17 Q. PLEASE RESPOND TO MR. FOLLENSBEE'S CONTENTION THAT  
18 "SOME CUSTOMERS MAY ACTUALLY WANT TO HAVE SOME LINES  
19 SERVED BY ONE CARRIER AND SOME LINES SERVED BY  
20 ANOTHER." (FOLLENSBEE DIRECT, PAGE 11, LINES 12-13)

21  
22 A. BellSouth agrees it is likely that a customer might want to have some lines  
23 served by one carrier and other lines served by another carrier, and BellSouth's  
24 position on this issue does not prevent the customer from doing so. This issue  
25 is not about which carrier - or how many carriers - the customer gets his service

1 from. BellSouth's proposal recognizes the FCC's conclusion that there are  
2 sufficient options other than unbundled switching from the incumbent LEC that  
3 are available to the carrier wanting to serve customers. Despite AT&T's  
4 attempt to characterize this as a "customer problem," the customer is not  
5 inconvenienced. AT&T simply has to avail itself of another option to serve the  
6 customer.

7

8 BellSouth's position on this issue is clearly the correct interpretation of the  
9 FCC's rules using the logic that the FCC used to create the rule in the first  
10 instance. Where the end user is located in Density Zone 1 in a top 50 MSA and  
11 BellSouth is willing to provide AT&T with EELs, all of the customer's lines  
12 within the MSA should be aggregated in order to determine whether BellSouth  
13 is exempted from providing unbundled switching to serve that particular end  
14 user. An EEL is an EEL, and it should make no difference whether the EELs  
15 run to a single geographic location or to several such locations. The end result  
16 is the same; AT&T can connect the subscriber to its own switch using the EELs  
17 and that is all that is required in order to allow BellSouth to avail itself of the  
18 switching exemption.

19

20 ***Issue 12: Should AT&T be permitted to charge tandem rate elements when its***  
21 ***switch serves a geographic area comparable to that served by BellSouth's tandem***  
22 ***switch? (Local Interconnection, Attachment 3)***

23

24 Q. PLEASE ADDRESS MR. TALBOTT'S CONTENTION THAT THE ONLY  
25 RELEVANT CRITERIA FOR DETERMINING ELIGIBILITY FOR



1 TANDEM SWITCHING CHARGES IS THE GEOGRAPHIC AREA  
2 SERVED.

3  
4 A. Mr. Talbott is incorrect. As I explained in my direct testimony, the FCC has a  
5 two-part test to determine if a carrier is eligible for tandem switching: 1) a  
6 CLEC's switch must serve a geographic area comparable to the geographic  
7 area served by the ILEC's tandem switch, and 2) a CLEC's switch must  
8 perform tandem switching functions for local traffic. Indeed, various court  
9 decisions support BellSouth's contention that the FCC has established a two-  
10 part test. In a case involving MCI (MCI Telecommunication Corp. v. Illinois  
11 Bell Telephone, 1999 U.S. Dist. LEXIS 11418 (N.D. Ill. June 22, 1999)), the  
12 U.S. District Court specifically determined that the test required by the FCC's  
13 rule is a functionality/geography test. In its Order, the Court stated:

14  
15 In deciding whether MCI was entitled to the tandem interconnection  
16 rate, the ICC applied a test promulgated by the FCC to determine  
17 whether MCI's single switch in Bensonville, Illinois, performed  
18 functions similar to, and served a geographical area comparable with, an  
19 Ameritech tandem switch.<sup>9</sup> (emphasis added).

20  
21 <sup>9</sup>MCI contends the Supreme Court's decision in IUB affects resolution  
22 of the tandem interconnection rate dispute. It does not. IUB upheld the  
23 FCC's pricing regulations, including the 'functionality/geography' test.  
24 119 S. Ct. at 733. MCI admits that the ICC used this test. (Pl. Br. At  
25 24.) Nevertheless, in its supplemental brief, MCI recharacterizes its

1           attack on the ICC decision, contending the ICC applied the wrong test.  
2           (Pl. Supp. Br. At 7-8.) But there is no real dispute that the ICC applied  
3           the functionality/geography test; the dispute centers around whether the  
4           ICC reached the proper conclusion under that test. (emphasis added).

5

6           Indeed, the Ninth Circuit Court of Appeals viewed the rule in the same way,  
7           finding that:

8

9                     [t]he Commission properly considered whether MFS's switch performs  
10                    similar functions and serves a geographic area comparable to US West's  
11                    tandem switch." (U.S. West Communications v. MFS Intelenet, Inc. et.  
12                    al. 193 F. 3d 1112, 1124).

13

14           Furthermore, in evaluating whether a CLEC should receive the same reciprocal  
15           compensation rate as would be the case if traffic were transported and  
16           terminated via the incumbent's tandem switch, the United States District Court  
17           in Minnesota ruled that, "it is appropriate to look at both the function and  
18           geographic scope of the switch at issue" (*U.S. West Communications, Inc. v.*  
19           *Minnesota Public Utilities Commission*, 55 F. Supp. 2d 968, 977 (D. Minn.  
20           1999), emphasis added).

21

22    Q.    PLEASE ADDRESS MR. TALBOTT'S CONTENTION THAT AT&T'S  
23           SWITCHES PERFORM TANDEM FUNCTIONS.

24

25    A.    While contending that FCC rules ignore tandem functionality as it relates to this

1 issue, Mr. Talbott claims that AT&T's (including TCG's) switches, do, in fact,  
2 perform "certain tandem functions." On page 34 of his testimony, Mr. Talbott  
3 states that each of AT&T's switches "acts as an access tandem routing the  
4 preponderance of interLATA traffic directly to the applicable interexchange  
5 carrier." BellSouth doesn't take issue with that statement. However, it is  
6 wholly irrelevant to the issue at hand. The fact that AT&T's switches perform  
7 as tandems for interLATA service is simply not relevant to this issue –  
8 reciprocal compensation at the tandem switching rate is due only when tandem  
9 switching functions are performed for local traffic. Therefore, to qualify for  
10 reciprocal compensation at the tandem rate, the switch must be performing the  
11 tandem switching functions to transport local calls.

12

13 Further, on page 34, Mr. Talbott addresses the traffic at issue when he explains  
14 that "with respect to traffic between any AT&T customer and any BellSouth  
15 customer within the same LATA, AT&T has direct trunking to each BellSouth  
16 tandem in the LATA so that such traffic may be completed without transiting  
17 multiple AT&T switches or multiple BellSouth tandems." (emphasis added).  
18 Here, Mr. Talbott simply demonstrates that BellSouth's tandem switch  
19 performs the tandem function for such local traffic – AT&T's switch is  
20 functioning only as an end office switch. In fact, this statement further confirms  
21 that AT&T is not performing a tandem function. Mr. Talbott's description  
22 indicates that calls from BellSouth local customers to AT&T local customers  
23 are delivered directly to the switch serving the AT&T customer. Indeed, as  
24 evidenced by Mr. Talbott's testimony, there is no intermediate switch on  
25 AT&T's network for local calls, so AT&T can't be incurring tandem switching

1 costs.

2

3 Q. DO YOU AGREE WITH MR. TALBOTT'S CONTENTION THAT AT&T'S  
4 SWITCHES PERFORM THE "AGGREGATION" FUNCTION TYPICAL OF  
5 TANDEM SWITCHES?

6

7 A. No. As I explained in my direct testimony, local tandem switches are used to  
8 aggregate traffic from numerous end office switches in a local calling area when  
9 it is more economical to route local traffic in that manner than to install direct  
10 trunk groups between each and every end office switch. When there are a lot of  
11 end office switches in a local calling area, using a local tandem switch to  
12 aggregate traffic and to act as a central connection point makes economic sense  
13 and avoids a lot of extra trunking that would otherwise be required to ensure  
14 that call blockage was limited to acceptable levels.

15

16 BellSouth's local network generally consists of local tandem switches, end  
17 office switches and interoffice transport. However, AT&T's local network  
18 generally consists of a single switch and long loops connecting the switch to  
19 AT&T's subscribers.

20

21 When BellSouth routes a local call from an ALEC such as AT&T through one  
22 of BellSouth's tandems, BellSouth completes the call by first switching the call  
23 at the tandem, transporting the call to the appropriate local end office and then  
24 switching the call to the called party. BellSouth then charges AT&T reciprocal  
25 compensation based on the appropriate tandem switching rate, transport rate

1 and local switching rate, since all of these parts of BellSouth's network were  
2 used in transporting and terminating the call.

3

4 On the other hand, when BellSouth hands off one of its local calls to AT&T,  
5 AT&T carries the call back to its end office switch, where the call is switched  
6 once and then placed on the appropriate loop to reach the intended recipient of  
7 the call. That is, because of AT&T's network design, the call is only switched  
8 once, and there are no interoffice transport facilities involved. According to  
9 Mr. Talbott, AT&T has chosen this design because it is cheaper for AT&T to  
10 build long loops rather than to build switches.

11

12 Nevertheless, and in spite of the fact that only one switch is involved, AT&T  
13 wants BellSouth to pay reciprocal compensation to AT&T for calls placed from  
14 BellSouth's local subscribers to AT&T's local subscribers at a rate equal to the  
15 total of the tandem switching rate and the end office switching rate for every  
16 such call AT&T handles. Indeed, AT&T's position that it is entitled to  
17 reciprocal compensation from BellSouth at the tandem switching rate for every  
18 local call it terminates from BellSouth is simply nonsensical.

19

20 For example, consider an AT&T end office switch in Jacksonville that is  
21 connected directly to a BellSouth end office also located in Jacksonville. When  
22 an AT&T end user originates a local call in Jacksonville that is routed directly  
23 to BellSouth's end office switch in Jacksonville, BellSouth will bill AT&T  
24 reciprocal compensation at the end office switching rate because that is the only  
25 portion of BellSouth's network that was used to terminate the local call.

1           However, AT&T's position is that, in this example, if the local call originates  
2           from the same BellSouth end user and terminates to the same AT&T end user,  
3           AT&T is due reciprocal compensation from BellSouth at the tandem switching  
4           rate (again, the sum of the end office switching rate and the tandem switching  
5           rate). The exact same end users are involved in both calls, the same switches  
6           are used in both calls, yet AT&T's position results in one call generating  
7           reciprocal compensation at the end office switching rate, while the other call  
8           generates reciprocal compensation at the higher tandem switching rate. A  
9           position that leads to such an illogical conclusion simply cannot be right.

10

11    Q.    PLEASE RESPOND TO AT&T's CLAIM AT PAGE 32 THAT ITS  
12           SWITCHES COVER A GEOGRAPHIC AREA COMPARABLE TO THE  
13           AREA COVERED BY BELLSOUTH'S TANDEMS.

14

15    A.    Mr. Talbott has provided maps indicating the geographic area AT&T's switches  
16           "cover." Of course, it is a very simple matter to color in areas on a map and to  
17           claim that these areas are "covered" by switches. However, in order to  
18           establish that AT&T's switches actually serve a geographic area comparable to  
19           that served by the incumbent local exchange carrier's tandem switches, AT&T  
20           must show the particular geographic area it serves, not the geographic area that  
21           its switches can serve. (See 47 C.F.R. § 51.711(a)(3)). In order to make a  
22           showing that AT&T's switches serve a geographic area equal to or greater than  
23           that served by BellSouth's tandem switches, AT&T must provide information  
24           showing the location of its customers and give some indication as to how its  
25           customers are actually being served by AT&T's switches. (MCI

1           Telecommunications Corp. v. Illinois Bell Telephone, 1999 U.S. Dist. LEXIS  
2           11418 (N.D. Ill. June 22, 1999)).

3  
4           To illustrate the importance of this point, assume AT&T has one thousand  
5           customers in downtown Jacksonville, all of which are located in a single office  
6           complex next door to AT&T's Jacksonville switch. Under no set of  
7           circumstances could AT&T seriously argue that, in such a case, its switch  
8           serves a comparable geographic area to BellSouth's tandem switch. See  
9           Decision 99-09-069, In re: Petition of Pacific Bell for Arbitration of an  
10           Interconnection Agreement with MFS/WorldCom, Application 99-03-047,  
11           9/16/99, at 15-16 (finding "unpersuasive" MFS's showing that its switch served  
12           a comparable geographic area when many of MFS's ISP customers were  
13           actually collocated with MFS's switch).

14  
15           AT&T has offered no information to the Commission to demonstrate that its  
16           switches currently serve areas comparable to BellSouth's tandem. AT&T has  
17           not provided the Commission with the location of its customers in Florida,  
18           information which would be essential for the Commission to determine whether  
19           AT&T's switches actually serve areas comparable to BellSouth's tandem  
20           switches. Absent such evidence, AT&T has clearly failed to satisfy its burden  
21           of proof on this issue.

22  
23           ***Issue 16: What is the appropriate treatment of outbound voice calls over internet***  
24           ***protocol ("IP") telephony, as it pertains to reciprocal compensation? (Local***  
25           ***Interconnection, Attachment)***

1

2 Q. PLEASE ADDRESS MR. FOLLENSBEE'S VIEW OF HOW THE FCC HAS  
3 ADDRESSED THE ISSUE OF REGULATING PHONE-TO-PHONE  
4 INTERNET PROTOCOL TELEPHONY.

5

6 A. Mr. Follensbee's testimony makes clear that the FCC has danced around the  
7 issue of Internet Protocol ("IP") telephony without making any definitive  
8 rulings on how traffic routed via such protocol will be treated. As Mr.  
9 Follensbee says, the FCC has not ruled that switched access charges are  
10 applicable to such calls. Of course, neither has the FCC ruled that switched  
11 access charges are not applicable to such calls. Indeed, as I pointed out in my  
12 direct testimony, in its April 10, 1998 Report to Congress the FCC stated that  
13 "the record currently before us suggests that this type of IP telephony (i.e.,  
14 phone-to-phone service) lacks the characteristics that would render them  
15 'information services' within the meaning of the statute, and instead bear the  
16 characteristics of 'telecommunication services'." (§ 89) Because the FCC has  
17 not made a determination that voice calls transmitted using IP telephony  
18 represent information services, and because only information services are  
19 exempted from paying access charges, the FCC has obviously not determined  
20 that calls made over IP Telephony are exempt from access charges.

21

22 Indeed, a complete reading of the FCC's report makes clear that the FCC  
23 recognizes the significant impact that a decision to treat IP telephony as  
24 "information services" rather than as "telecommunications services" would have  
25 on existing universal service mechanisms. The FCC indicated that upcoming



1 proceedings with more focused records would ensue prior to any final  
2 determination. (*Id.*, ¶ 91)

3

4 Q. PLEASE ADDRESS MR. FOLLENSBEE'S RELIANCE ON A SPEECH  
5 GIVEN BY FCC CHAIRMAN KENNARD ON SEPTEMBER 12, 2000.

6

7 A. It is not clear from Chairman Kennard's September 12, 2000, speech that he  
8 was actually referring to "voice calls over IP telephony". Indeed, it is likely that  
9 he was referring to "voice calls over the Internet" which, as I explained in my  
10 direct testimony, is not what BellSouth is addressing in this issue.

11

12 Obviously, this terminology is unfamiliar and subject to misuse and  
13 misinterpretation. The bare fact is that a long distance voice communication  
14 does not become an enhanced service when it is transmitted over a packet  
15 switched network rather than over a circuit switched network.

16

17 Q. HASN'T THIS COMMISSION ALREADY ADDRESSED THIS SAME  
18 ISSUE IN ANOTHER ARBITRATION PROCEEDING?

19

20 A. Yes. In its Order No. PSC-00-1519-FOF-TP in the BellSouth/Intermedia  
21 arbitration proceeding, the Commission determined that phone-to-phone calls  
22 transmitted via IP telephony to which access charges would typically apply are  
23 switched access calls. The Commission's August 22, 2000 Order states:

24

25

...phone-to-phone IP Telephony is technology neutral. A call  
provisioned using phone-to-phone IP Telephony but not transmitted

1 over the internet, to which switched access charges would otherwise  
2 apply if a different signaling and transmission protocol were employed,  
3 is nevertheless a switched access call. Except for, perhaps, calls routed  
4 over the internet, the underlying technology used to complete a call  
5 should be irrelevant to whether or not switched access charges apply.  
6 Therefore, like other telecommunications services, it would be included  
7 in the definition of switched access traffic. (Order at page 57)

8

9 *Issue 27: Should the Commission or a third party commercial arbitrator resolve*  
10 *disputes under the Interconnection Agreement?*

11

12 Q. WHY IS AT&T'S LATEST PROPOSED LANGUAGE ON THIS ISSUE  
13 NOT ACCEPTABLE TO BELLSOUTH?

14

15 A. AT&T has offered BellSouth the sleeves out of AT&T's vest. AT&T's latest  
16 proposal, if accepted, would typically result in disputes under the  
17 Interconnection Agreement being resolved by a commercial arbitrator. I say  
18 this because AT&T's proposed language lays out three situations. First, the  
19 parties could agree that the dispute would be heard by the Commission.  
20 Second, the parties could agree that the dispute would be heard by a  
21 commercial arbitrator. Third, if the parties cannot agree, then the aggrieved  
22 party will choose the method of resolution.

23

24 Based on these three possibilities, it is hard to imagine an example where  
25 AT&T is the aggrieved party, and commercial arbitration does not end up being

1 the method of resolution. Mr. Follensbee makes clear in his testimony that  
2 AT&T believes disputes can be resolved more quickly through the alternative  
3 dispute resolution process than through the Commission. As I explained in my  
4 direct testimony, BellSouth disagrees with AT&T that using a commercial  
5 arbitrator is a speedy process. Because one party would likely be staked out as  
6 wanting disputes to be heard by a commercial arbitrator, and the other party  
7 would likely be staked out as wanting disputes to be heard by the Commission,  
8 it is unlikely that the parties would agree on the method of resolution.  
9 Therefore, assuming that AT&T is the aggrieved party, AT&T's proposed  
10 language would likely result in AT&T's choosing the method.

11

12 Q. PLEASE RESPOND TO MR. FOLLENSBEE'S CONCERN AS STATED AT  
13 PAGE 21 THAT SERVICE AFFECTING DISPUTES THAT REQUIRE  
14 IMMEDIATE RESOLUTION MIGHT BE DELAYED FOR NINE TO  
15 TWELVE MONTHS DUE TO THE COMMISSION HAVING A FULL  
16 CALENDAR.

17

18 A. First, I am certain that the Commission will take whatever steps are necessary  
19 to resolve service affecting disputes in as expeditious a manner as possible.  
20 Second, BellSouth does not share AT&T's view that commercial arbitration is a  
21 speedy process. Further, BellSouth has serious concerns about the ability to  
22 secure neutral arbitrators who have a sufficient understanding of the issues.  
23 Again, BellSouth believes that this Commission and its staff are more capable of  
24 handling disputes between telecommunications carriers than are commercial  
25 arbitrators. BellSouth should not be obligated to waive its right to have the

1 Commission hear disputes.

2

3 ***Issue 33: Should AT&T be allowed to share the spectrum on a local loop for voice***  
4 ***and data when AT&T purchases a loop/port combination and if so, under what***  
5 ***rates, terms and conditions? (UNEs, Attachment 2)***

6

7 Q. WILL BELLSOUTH ENABLE ALECS SUCH AS AT&T TO SHARE THE  
8 SPECTRUM ON A UNE LOOP IN ORDER TO PROVIDE DATA SERVICE  
9 WHEN BELLSOUTH PROVIDES THE VOICE SERVICE?

10

11 A. Yes, as required by the FCC in its Third Report and Order in CC Docket No.  
12 98-147 and Fourth Report and Order in CC Docket No. 96-98 (“Line Sharing  
13 Order”), BellSouth makes available to ALECs, as a UNE, the high frequency  
14 portion of the loop so that the ALEC can share the loop in order to provide  
15 data service to the customer when BellSouth is providing the voice service.

16

17 However, AT&T seeks to obligate BellSouth to offer line sharing when AT&T  
18 has purchased the loop/port combination (often called “UNE-platform” or  
19 “UNE-P”). As I explained in my direct testimony, BellSouth is clearly not  
20 obligated to provide line sharing when BellSouth is not the voice provider. The  
21 FCC has spoken definitively on this issue, stating in no uncertain terms that  
22 “ILECs are not required to provide line sharing to a requesting carrier when the  
23 ALEC purchases a combination of network elements known as the UNE  
24 platform.” (Third Report and Order in CC Docket No. 98-147 and Fourth  
25 Report and Order in CC Docket No. 96-98 ¶¶ 72-73)

1

2

Mr. Follensbee states that AT&T's "ability to compete will be significantly constrained unless BellSouth is required to implement nondiscriminatory line splitting procedures that enable it to add, modify, or remove xDSL capabilities operating in the high frequency portion of the loop of a new or already operating UNE loop." (Follensbee Direct, page 25, lines 3-7). As I explained in my direct testimony, BellSouth offers such nondiscriminatory access to the high frequency portion of the loop of a new or already operating UNE loop. BellSouth's proposed rates for such access are contained in Exhibit JAR-1 attached to my direct testimony.

11

12

Mr. Follensbee goes on to say that AT&T must "not be denied the opportunity to migrate existing BellSouth customers to a UNE-P architecture simply because BellSouth or its data affiliate provides advanced data services on the high frequency portion of the loop." (Follensbee Direct, page 25, lines 7-10). Of course, as Mr. Follensbee admits, what he addresses here is not "line sharing," because line sharing occurs when the ILEC is the voice provider and an ALEC shares the loop in order to provide data services. When an ALEC serves the customer with UNE-P, the ALEC becomes the voice provider. Indeed, the situation that Mr. Follensbee addresses is typically referred to as "line splitting."

22

23

Q. HOW HAS THE FCC ADDRESSED THE ISSUE OF LINE SPLITTING?

24

1 A. In the SBC Texas 271 order, the FCC referred to the situation where an ALEC  
 2 provides voice service over UNE-P and data is provided by the ALEC (or  
 3 another ALEC, with a pre-existing agreement) as “line splitting”. In that order,  
 4 the FCC determined that:

- 5 • line splitting is defined as a situation where the voice and data service  
 6 are provided by competing carriers over a single loop, rather than by the  
 7 incumbent LEC. (¶ 324).
- 8 • incumbent LECs have an obligation to permit competing carriers to  
 9 engage in line splitting over the UNE-P where the competing carrier  
 10 purchases the entire loop and provides its own splitter.<sup>1</sup> (¶ 325).
- 11 • incumbent LECs have no obligation to furnish the splitter when the  
 12 ALEC engages in line splitting over the UNE-P. (¶ 327).

13

14 Q. PLEASE RESPOND TO MR. FOLLENSBEE’S CLAIM THAT “WHEN  
 15 AT&T BUYS A LOOP, THE ILECs ARE OBLIGATED TO PROVIDE  
 16 ACCESS TO ALL OF THE FUNCTIONALITIES AND CAPABILITIES OF  
 17 THAT LOOP, INCLUDING ASSOCIATED ELECTRONICS (SUCH AS  
 18 THE LINE SPLITTER).” (FOLLENSBEE DIRECT, PAGE 28, LINE 22 –  
 19 PAGE 29, LINE 1).

20

21 A. First, I must point out that, when AT&T purchases the UNE-P, it is not “buying  
 22 a loop” but is buying a loop/port combination. Second, in its SBC Texas 271

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<sup>1</sup> The FCC further explained that “if a competing carrier is providing voice service over the UNE-P, it can order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment and unbundled switching combined with shared transport to replace its UNE-P with a configuration that allows provisioning of both data and voice service.” (¶ 325). The FCC also stated that the ILEC “provides the loop that was part of the existing UNE-P as the unbundled xDSL-capable loop, unless the loop that was used for the UNE-P is not capable of providing xDSL service.” (*Id.*).

1 Order, the FCC was clear that it “did not identify any circumstances in which  
2 the splitter would be treated as part of the loop, as distinguished from being  
3 part of the packet switching element.” (§ 327). Of course, in its UNE Remand  
4 Order, the FCC declined to require that packet switching be provided on an  
5 unbundled basis. Thus, it is clear that the FCC does not consider the splitter to  
6 be part of the “functionalities and capabilities” of the loop.

7  
8 Q. WHAT IS BELLSOUTH’S POSITION REGARDING LINE SPLITTING?

9  
10 A. Clearly, BellSouth is not required to provide the splitter when the ALEC is  
11 providing service via UNE-P. Several ALECs have requested that BellSouth  
12 provide a means to allow them to provide data service when the ALEC has won  
13 the voice customer and is providing the customer’s voice service via the UNE-  
14 P. BellSouth is willing to work with ALECs on procedures that will  
15 accommodate ALECs to provide data service over UNE loops in the following  
16 manner:

- 17 • BellSouth will deal with one ALEC of record. That ALEC must have  
18 an interconnection agreement that authorizes it to buy loops and ports.  
19 The voice provider, the data provider, or both the voice and data  
20 providers will need a collocation agreement and will need authorization  
21 to order cross-connections. If more than one ALEC is involved, they  
22 will need an agreement to share BellSouth’s ALEC of record’s loop.
- 23 • After a loop and port is ordered, the ALEC of record would order cross  
24 connections to a collocation space where an ALEC owned splitter is

1                   located. Another cross-connection would need to be ordered from the  
2                   splitter to the voice switch port.

3

4                   This arrangement would provide a UNE loop and port to provide the ALEC's  
5                   end user with voice service. The splitter owned and provisioned by the ALEC  
6                   would enable the high frequency portion of the loop to be available for data  
7                   service. BellSouth would bill the ALEC that is the customer of record and  
8                   would only deal with that customer of record.

9

10    Q.    DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

11

12    A.    Yes.

13    #238337

14



1 **BY MR. LACKEY:**

2 **Q Mr. Ruscilli, do you have a brief summary of**  
3 **your testimony?**

4 **A Yes, sir.**

5 **Q Could you please give it.**

6 **A Good afternoon. Or, excuse me, good morning.**  
7 **I'm here today to present BellSouth's position on several**  
8 **disputed issues that remain between BellSouth and AT&T.**  
9 **Each of the issues before the Commission is important to**  
10 **BellSouth. However, in the interest of time, I will limit**  
11 **my summary to the following issues: Interconnection of**  
12 **networks, tandem switching, conversion of tariff services**  
13 **to UNEs, use of a third party arbitrator, spectrum**  
14 **sharing, interconnection of networks.**

15 **Briefly, this issue is about whose customers**  
16 **should pay for the costs that AT&T creates as a result of**  
17 **its network design decisions. All of the discussion**  
18 **concerning who gets to establish points of**  
19 **interconnection, how many points there will be, when**  
20 **reciprocal compensation applies, et cetera, are simply a**  
21 **means to an end. And that end is whether BellSouth's**  
22 **customers should bear the additional cost that result from**  
23 **AT&T's network design or whether AT&T should bear them.**

24 **These additional costs are for the facilities to**  
25 **carry local calls that BellSouth subscribers originate to**

1 **AT&T subscribers when AT&T's designated point of**  
2 **interconnection is outside of the local call area in which**  
3 **the call originates and terminates. The best way to**  
4 **explain these additional costs is to start with the**  
5 **example of a local call between two customers in the same**  
6 **local calling area.**

7 **Consider two next door neighbors in Lake City,**  
8 **and let's examine what happens when both customers are**  
9 **served by BellSouth. The call originates with one**  
10 **customer and is connected to the other customer's local**  
11 **loop in the Lake City wire center. The call never leaves**  
12 **BellSouth's local network in the Lake City exchange.**

13 **Now let's compare what happens when one of these**  
14 **Lake City customers obtains its local service from AT&T**  
15 **and AT&T's point of interconnection is in Jacksonville.**  
16 **The local call originates with the BellSouth customer in**  
17 **Lake City and someone has to be responsible for carrying**  
18 **the call from Lake City to AT&T's point of interconnection**  
19 **in Jacksonville. AT&T then carries the call to its switch**  
20 **in Jacksonville where AT&T connects the call through its**  
21 **end office switch to the long loop that is serving AT&T's**  
22 **end user customer back in Lake City. Again, these two**  
23 **customers live next door to each other.**

24 **BellSouth does not object to AT&T using this**  
25 **round about routing to handle local traffic. However,**

1 **BellSouth does object to giving AT&T free use of the**  
2 **facilities provided by BellSouth to haul the call from**  
3 **Lake City to Jacksonville. AT&T wants this Commission to**  
4 **require BellSouth to haul calls that originate and**  
5 **terminate in Lake City all the way to Jacksonville, or to**  
6 **anywhere else that AT&T wants at no charge to AT&T. It**  
7 **simply does not make sense for BellSouth to bear the cost**  
8 **of hauling a local calling that originates and terminates**  
9 **in a particular local calling area to some distant point**  
10 **outside that local calling area just because AT&T wants us**  
11 **to do so.**

12 **BellSouth does not route local traffic between**  
13 **its end users in that manner and there is no valid policy**  
14 **or logical reason to think that BellSouth should be**  
15 **required to incur this cost on AT&T's behalf.**  
16 **Nevertheless that is exactly what AT&T wants this**  
17 **Commission to require BellSouth to do. BellSouth asks the**  
18 **Commission to simply require AT&T to pay for the**  
19 **facilities that as a result of AT&T's network design are**  
20 **necessary to haul a local call outside of the local**  
21 **calling area in which the call originates and then**  
22 **terminates.**

23 **Tandem switching. The issue of whether a**  
24 **particular ALEC is entitled to the tandem switching**  
25 **interconnection rate for completion of local calls depends**

1 on the specifics of that ALEC's network. AT&T should only  
2 be compensated for tandem switching if it performs that  
3 function for local traffic and if it actually serves an  
4 area comparable to the area served by BellSouth's tandem  
5 switch.

6 FCC Rule 51.711(a) establishes these two  
7 requirements, similar geographic coverage and similar  
8 functionality. AT&T wants this Commission to ignore Rule  
9 51.711(a)(1), which established the functionality  
10 requirement and to concentrate solely on Rule  
11 51.711(a)(3). That is simply wrong. AT&T has not  
12 demonstrated that it meets these requirements, therefore  
13 BellSouth asks the Commission to find that AT&T is not  
14 entitled to be compensated for the tandem switching  
15 function.

16 Conversion of tariff services to UNEs. This  
17 issue addresses the application of termination liabilities  
18 when tariff services are converted to UNEs. BellSouth  
19 does not dispute its obligation to convert tariff service  
20 to UNEs when requested to do so by an ALEC such as AT&T.  
21 However, if AT&T is currently under a contractual  
22 arrangement with BellSouth then the terms of the retail  
23 agreement or contract must be satisfied.

24 Specifically, AT&T has purchased tariffed  
25 special access service from BellSouth under a volume and

1 term contract and AT&T now wants to convert some of these  
2 tariffs circuits to UNE combinations because the rates for  
3 the applicable UNE combinations are cheaper than the  
4 tariff prices for special access services. Once AT&T  
5 converts these -- excuse me. Once AT&T converts these  
6 circuits to UNE combination, AT&T will no longer be  
7 meeting the volume and term commitment to which it is  
8 contracted. Thus, AT&T should be required to satisfy the  
9 termination liabilities to which it earlier agreed.

10 AT&T received the benefit of lower rates when it  
11 originally chose to purchase tariff services under  
12 contract. The contract includes termination liabilities  
13 that apply if the terms of the contract are not met.  
14 BellSouth asks the Commission to find that termination  
15 liabilities resulting from contractual obligations are  
16 appropriate and applicable when a tariff service is  
17 converted to UNEs.

18 Use of a third-party arbitrator. This issue  
19 involves whether the Commission or a third-party  
20 commercial arbitrator should resolve interconnection  
21 agreement disputes. BellSouth's position is that the  
22 parties are better off to have a knowledgeable staff  
23 person or a member of the Commission participate in the  
24 resolution disputes under these agreements. BellSouth  
25 does not object to third-party arbitration if both parties

1 agree to use that forum. BellSouth simply does not want  
2 to be forced to waive its right to have the Commission  
3 hear disputes.

4           **Spectrum sharing. Spectrum sharing enables an**  
5 **end user's loop to provide both voice and packet data**  
6 **services. When the ILEC is the provider and the ALEC is**  
7 **the -- excuse me, when the ILEC is the voice provider and**  
8 **the ALEC is the data provider, this spectrum sharing is**  
9 **typically referred to as line sharing. A device called a**  
10 **splitter is inserted on the line to accomplish the sharing**  
11 **of the line between the ILEC and the ALEC.**

12           **When BellSouth is the voice provider and an ALEC**  
13 **such as AT&T wants to share the local loop to provide data**  
14 **service, BellSouth performs the necessary work to enable**  
15 **AT&T to share the spectrum. In this proceeding, BellSouth**  
16 **has proposed cost-based rates for the splitter device that**  
17 **enables the lines to be shared. Now, what AT&T actually**  
18 **wants is for BellSouth to provide the splitter when**  
19 **BellSouth is no longer the voice provider.**

20           **In other words, AT&T has purchased the loop/port**  
21 **combination, known as the UNE-P, and AT&T is providing the**  
22 **end user's voice service. If the end user decides he also**  
23 **wants to use that line for data, AT&T can become the data**  
24 **provider or it can partner with a data LEC. In either**  
25 **event, because BellSouth is no longer the voice provider,**

1 **BellSouth is not required to provide the splitter. Either**  
2 **AT&T or the data LEC with which it partners is required to**  
3 **provide the splitter.**

4 **What BellSouth is required to do by FCC order is**  
5 **to permit competing carriers to engage in line splitting**  
6 **using the UNE-P where the competing carrier purchases the**  
7 **entire loop and provides its own splitter. When AT&T is**  
8 **using a UNE-P and wishes to change that to a line**  
9 **splitting arrangement, a splitter has to be inserted**  
10 **between the loop and the port. This means that the loop**  
11 **and the port have to be disconnected from each other and**  
12 **both the loop and the port have to be run to a collocation**  
13 **space where the loop can be hooked up to the splitter.**

14 **BellSouth will accept an order from AT&T to**  
15 **perform the necessary work to take the loop and the port**  
16 **to the collocation space where either AT&T or the data LEC**  
17 **with whom AT&T partners will furnish the splitter.**

18 **BellSouth requests the Commission to affirm that**  
19 **consistent with the FCC's rulings, BellSouth is not**  
20 **required to furnish the splitter when AT&T has furnished**  
21 **the UNE-P.**

22 **Thank you, that concludes my summary.**

23 **MR. LACKEY: Mr. Ruscilli is available for**  
24 **cross, Mr. Chairman.**

25 **CHAIRMAN JACOBS: Mr. Lamoureux.**

**CROSS-EXAMINATION**

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**BY MR. LAMOUREUX:**

**Q Good morning, Mr. Ruscilli. I'm Jim Lamoureux.**

**I represent AT&T.**

**A Good morning.**

**Q Let's begin with line splitting. Do you agree with me that under the most recent FCC -- for lack of a better word, line sharing/line splitting order, the one that was issued on January 19th, 2001, BellSouth has an obligation to facilitate line splitting, generally?**

**A Generally, yes.**

**Q However, in fulfilling that obligation, BellSouth refuses to provide the splitter to ALECs to allow them to engage in line splitting, is that correct?**

**A Yes, it is correct. BellSouth is not obligated to provide the splitter.**

**Q And BellSouth refuses to do so, correct?**

**A Yes, that is correct.**

**Q Okay. So the only way for ALECs to engage in line splitting would be for them to provide the splitter themselves, is that right, under your refusal?**

**A Well, yes, partially. Or they could partner with a data LEC that had a line splitter.**

**Q One of the ALECs would have to provide the splitter?**



1           **A**     **That is correct.**

2           **Q**     **Okay. So if an ALEC wants to provide service by**  
3 **buying loops and switching from BellSouth, okay?**

4           **A**     **Yes.**

5           **Q**     **So the ALEC wants to able to provide voice**  
6 **service without provisioning facilities on their own,**  
7 **okay? Providing their own loops or switches. By refusing**  
8 **to provide the splitter, what BellSouth is doing is**  
9 **forcing the ALECs to buy a discreet loop, discreet**  
10 **switching, and collocation space in which to combine that**  
11 **loop and switching and also to install the splitter, is**  
12 **that right?**

13          **A**     **Yes, that is actually outlined in the FCC order**  
14 **on that.**

15          **Q**     **But that is what -- that is the consequence of**  
16 **BellSouth's refusal to provide the splitter, correct?**

17          **A**     **That is the consequence of adhering to the FCC**  
18 **order, yes.**

19          **Q**     **Okay. I'm a big fan of visual aids, so I just**  
20 **want to see if we can visualize what we are talking about,**  
21 **okay?**

22                   **Let's say you have got line sharing or for some**  
23 **reason voice and data is already being provided over the**  
24 **same line to a particular customer. In general, what we**  
25 **would have is a loop coming into the MDF in the BellSouth**

1 central office, then going through a splitter, at which  
2 point the voice will go to the switch and the data will go  
3 to a DSLAM. Generally, at a high level will you agree  
4 with me that is generally what happens?

5 A Yes. I'm not an engineer, but generally I think  
6 that is what happens.

7 Q Okay. And that would be true whether it is  
8 BellSouth providing both voice and data over the same line  
9 to a customer or whether BellSouth is engaging in line  
10 sharing with a CLEC to provide both voice and data over a  
11 line to a customer, right?

12 A Again, generally true. I'm not an engineer,  
13 though.

14 Q Okay. Now, CLECs, ALECs, can't just come into  
15 the BellSouth central office and install splitters at the  
16 same point where BellSouth has its splitters, right?

17 A I don't know for certain. I don't think so, but  
18 I don't know for certain. I think they have to have a  
19 DSLAM in a collocation space to do this.

20 Q Well, I just want to make clear when you say  
21 ALECs have to deploy their own splitter, you are not  
22 talking about letting ALECs come into the BellSouth  
23 central office where BellSouth has its splitters and  
24 install their splitters in the same space. You are  
25 requiring them to have collocation space and install their

1 **splitters in that collocation space?**

2 **A Right. That is actually what the FCC said in**  
3 **the Texas order, that you would take it over to your**  
4 **collocation space where you owned your DSLAM and your**  
5 **splitter.**

6 **Q So by requiring ALECs to own their own splitter**  
7 **in order to do line splitting, what we would have is a**  
8 **situation where the loop would come into the MDF, then it**  
9 **would have to go to collocation space, you would also have**  
10 **to have the switching go to that collocation space as**  
11 **well, right?**

12 **A Yes.**

13 **Q And in my situation, I will just assume that**  
14 **AT&T is the voice provider and is partnering with COVAD.**  
15 **So assuming COVAD has their own collocation space where**  
16 **they have got their DSLAM, if AT&T installs its splitter**  
17 **in its collocation space, you then have to have some sort**  
18 **of connection between the AT&T collocation space and the**  
19 **COVAD collocation space to get the data over to the COVAD**  
20 **DSLAM?**

21 **A That's possible, Mr. Lamoureux. I'm not an**  
22 **engineer. It would seem more logical to me to take the**  
23 **voice coming into the MDF over to the DSLAM first because**  
24 **that is where your splitter is, and then you would just**  
25 **take it back up to the switch where the port is. But I**

1 guess if someone wanted to design it that way they could.

2 But we are way outside my area of expertise.

3 Q That's okay. So what you would have is -- say  
4 that for me again.

5 A That we are outside of my --

6 Q No, no, that part I understood. What you  
7 thought would be a more likely scenario?

8 A It would just seem to me that if COVAD had a  
9 DSLAM and the splitter that you would come off the MDF  
10 frame and go to the DSLAM and the splitter because that is  
11 what is going to separate your voice path out.

12 Q Okay. So from the MDF we would go to COVAD's  
13 collocation space, the splitter would be in COVAD's  
14 collocation space?

15 A Right.

16 Q You would send the voice back over to AT&T?

17 A Well, again, I don't know for certain. Mr.  
18 Milner might could address this a little better than I  
19 could, he is an engineer. But it would seem to me you  
20 would take the voice back to the -- if that box up there  
21 in the top right is supposed to be the voice switch, you  
22 would take the voice just directly to the port because  
23 that is the port that AT&T would own.

24 Q Okay. So your position is that AT&T wouldn't  
25 need any collocation space at this point?

1           **A**     Well, I think you could share it or have some  
2 arrangement with COVAD in that point.

3           **Q**     Now --

4           **A**     But, again, we are way beyond the bounds of my  
5 understanding.

6           **Q**     But, in any event, if AT&T were to have its  
7 petition granted where it could purchase from BellSouth in  
8 the entirety, the loop, the splitter, and switching, we  
9 wouldn't have any need for this additional collocation  
10 space, right? We could just buy the loop, switching, and  
11 the splitter from BellSouth?

12          **A**     Possibly, yes. And, honestly, I mean, we are --  
13 you might want to ask this to Mr. Milner if you get the  
14 opportunity, because I just don't know for sure.

15          **Q**     You don't know that because of your proposal we  
16 would have to purchase collocation space whereas if we  
17 were able to buy the splitter from BellSouth we would not  
18 have to buy collocation space?

19          **A**     Well, like I said earlier, in the case where you  
20 partner with COVAD, they would have the collocation space  
21 and you could have some arrangement with them for that  
22 splitting. So in that instance you wouldn't have to buy  
23 the collocation space.

24          **Q**     You don't believe that we would have to have  
25 collocation space and COVAD would also have to have

1 collocation space under your proposal?

2 A Under mine as I just outlined I don't think so.  
3 But we are, again, beyond my area of expertise.

4 Q Okay. I think we will have to ask those  
5 questions of Mr. Milner. Now, BellSouth engages in line  
6 sharing with ALECs, does it not?

7 A Yes.

8 Q And, in fact, it does so in Florida, does it  
9 not?

10 A Yes.

11 Q And in doing so BellSouth offers as an option  
12 BellSouth-provisioned splitters to those ALECs to engage  
13 in line sharing with BellSouth, correct?

14 A Yes, where they can provide the splitters  
15 themselves.

16 Q And BellSouth has rates for that and processes  
17 for that?

18 A Yes.

19 Q And BellSouth provides those splitters as an  
20 option even though it is under no legal obligation to do  
21 so, is that correct?

22 A That's right. The FCC gave discretion to the  
23 ILECs on the line sharing order if they wanted to provide  
24 the splitter or not.

25 Q And BellSouth has voluntarily agreed to provide

1 line splitters to those ALECs in order to engage in line  
2 sharing?

3 A Correct.

4 Q In fact, BellSouth is currently deploying  
5 splitters in its central offices in order to prepare for  
6 the possibility of providing splitters for ALECs to engage  
7 in line sharing, is it not?

8 A It may be. Again, I'm not the engineering type,  
9 so I don't know if we are doing it and at what pace we are  
10 doing it at.

11 Q You don't know that BellSouth is currently  
12 equipping its central offices --

13 A I know we have splitters in central offices,  
14 yes.

15 Q You are deploying splitters in central offices?

16 A Yes.

17 Q Okay. And that is true for Florida as well as  
18 other states?

19 A I assume so.

20 Q Now, you are voluntarily providing that splitter  
21 to a data CLEC that wants to engage in line sharing with  
22 you, but you will not voluntarily provide that splitter  
23 when a UNE-P ALEC wants to provide both voice and data and  
24 partner with a data CLEC to provide voice and data to the  
25 end user customer, is that right?

1           **A**    **Yes, that is correct.**

2           **Q**    **Would you agree there is no technical reason**  
3 **BellSouth cannot provide a splitter to allow a UNE-P**  
4 **carrier to share spectrum with another ALEC to provide**  
5 **both voice and data over the same line to a customer?**

6           **A**    **I'm not a technical expert, but I know our**  
7 **technical experts have said that in other proceedings.**  
8 **So, yes, I will agree.**

9           **Q**    **They have said there is no technical impediment**  
10 **to doing that?**

11          **A**    **Yes.**

12          **Q**    **And similarly there is no legal impediment to**  
13 **doing that, correct? There is nothing that prohibits you**  
14 **from doing it?**

15          **A**    **To my knowledge, no.**

16          **Q**    **To your knowledge, no, there is no legal**  
17 **impediment?**

18          **A**    **Yes.**

19          **Q**    **Okay. So the only basis for BellSouth's refusal**  
20 **to provide the splitter in a line splitting situation is a**  
21 **policy decision by BellSouth not to do so, right?**

22          **A**    **Yes, that is correct. I mean, if I can explain**  
23 **that a little better. In a line sharing arrangement,**  
24 **BellSouth has the voice for the customer and is sharing**  
25 **the high frequency spectrum or the data with the data LEC**



1 that wants to serve that customer. When you move into  
2 line splitting the scenario changes this way in that you  
3 now have an ALEC that owns the loop and the port and is  
4 providing voice to the customer and is electing to share  
5 that loop spectrum with another data provider.

6 BellSouth in that perspective is, and I'm not  
7 trying to be funny, but they are out of the loop. They  
8 are no longer in this game. This is strictly between an  
9 ALEC and the DLEC that are serving this one customer. So  
10 from that perspective, BellSouth sees no, from a policy  
11 perspective, reason to insert itself in the form of a  
12 splitter into that arrangement.

13 CHAIRMAN JACOBS: How do you respond to the -- I  
14 guess the statement in the FCC order that that could be a  
15 business opportunity for you?

16 THE WITNESS: I guess it certainly could be. We  
17 have not pursued or looked at that. It could be a  
18 business opportunity. But by the same token, if you look  
19 at what the Act was trying to set about, which was to  
20 encourage facilities-based competition, you know, this is  
21 another area where there is plenty of providers. There is  
22 plenty of providers of packet services, there is plenty of  
23 providers of data services. A lot of competition out  
24 there in the marketplace. So there is no requirement on  
25 BellSouth to provide that splitter. Whether or not it is

1 a business opportunity, we have not looked at that to my  
2 knowledge.

3 COMMISSIONER PALECKI: Apart from the  
4 competition from the ALECs, is there any down side to  
5 BellSouth providing the splitter?

6 THE WITNESS: There could be. Mr. Milner would  
7 be probably better equipped to answer the question. But  
8 what we have now is another device that is inserted in the  
9 middle between two competing carriers, one doing the data  
10 and one doing the voice, and BellSouth is in the middle.

11 And so it seems to me it could create a  
12 finger-pointing situation. But as I indicated to Mr.  
13 Lamoureux, we are sort of outside of my area of expertise.  
14 Because now you are putting BellSouth in the middle  
15 between two carriers providing service.

16 BY MR. LAMOUREUX:

17 Q Now, in fact, Mr. Ruscilli, that occurs in line  
18 sharing, right, because the line splitter would be  
19 installed in between your voice service and the ALEC data  
20 service?

21 A Absolutely. But we would have the voice  
22 customer.

23 Q In other words, you still have the revenue  
24 stream for the voice customer, right?

25 A No, no. Well, I disagree with your

1 characterization. In other words, we have the voice  
2 customer so the finger-pointing is either going to be  
3 between us and the data LEC. And if the voice customer  
4 has problems with the voice, it is our situation to deal  
5 with.

6 Q But in terms of installing a device in the  
7 middle of that relationship, that device is installed in  
8 the middle of the relationship in a line sharing  
9 situation, is it not?

10 A Yes.

11 Q Okay. And, in fact, if you require additional  
12 collocation space in order to engage in line splitting,  
13 there would be even more devices installed by requiring  
14 the ALEC to own the splitter, would there not?

15 A In addition to the splitter, I think there is  
16 some cross-connects that would be involved.

17 Q And would you agree with me that every time you  
18 install an additional cross-connect you install an  
19 additional point of failure in the network?

20 A That has been said. It is beyond, again, my  
21 knowledge to say it is yes or no.

22 Q All right. Let's talk a little bit more about  
23 this getting in between the relationship. Even in your  
24 situation where the ALEC has to own the splitter, you are  
25 still selling loops and switching to the voice provider,

1 right?

2 A Yes.

3 Q So even when there is a relationship between the  
4 voice ALEC and the data ALEC and one of those ALECs own a  
5 splitter, you are still in the middle of that  
6 relationship, aren't you?

7 A Well, we are providing the UNE-P -- excuse me,  
8 not UNE-Ps, but we are providing the UNEs for the port,  
9 for the voice.

10 Q So you are still providing loops and ports to  
11 one of those ALECs, right?

12 A Yes.

13 Q And the only difference --

14 A As UNEs.

15 Q And the only difference would be if you also had  
16 to provide the splitter, you would be providing a splitter  
17 to an ALEC, correct?

18 A Correct.

19 Q So you are already in the middle of the  
20 relationship between the voice ALEC and the data ALEC no  
21 matter what happens, aren't you?

22 A Not if we are not providing the splitter, no.

23 Q You don't consider providing the loop and the  
24 switching to one of the ALECs to be involved in the  
25 relationship between those two ALECs?

1           **A     No. Again, we are just wholesaling the**  
2 **components to them.**

3           **Q     It's not your testimony, is it, that the Florida**  
4 **Commission has no authority to order BellSouth to**  
5 **provision a splitter to allow for line splitting, is it?**

6           **A     No, it's not my testimony. Can I have one**  
7 **second?**

8           **Q     Now, in a line sharing situation where you**  
9 **continue to provide the voice and the data ALEC provides**  
10 **the data, you do retain the revenue stream for the voice**  
11 **service that is provided to that customer, right?**

12          **A     In line sharing, yes.**

13          **Q     Okay. If in a line splitting situation you**  
14 **would provide the splitter to a data ALEC, you would lose**  
15 **that revenue stream, correct? That was a poorly worded**  
16 **question, I apologize. Let me try another one.**

17                   **In a line splitting situation where one ALEC is**  
18 **providing the voice and another ALEC is providing the**  
19 **data, you would lose that voice revenue stream?**

20          **A     Yes.**

21          **Q     Let me turn back to a different subject which**  
22 **would be one that we have talked about for several years**  
23 **now, UNE combinations.**

24          **A     Okay.**

25          **Q     Okay. Now, on the issue of UNE combinations, I**

1 notice you mentioned the Eighth Circuit decision, but I  
2 didn't find any reference to the Supreme Court decision,  
3 and I just want to be clear. You will agree with me that  
4 the Supreme Court reinstated FCC Rule 315(b) as in boy?

5 A Yes.

6 Q And BellSouth is currently obligated to comply  
7 with the requirements of that rule?

8 A Right. That is the rule that says that we can't  
9 take things apart unless you want us to.

10 Q Now --

11 A A layman's explanation of that rule.

12 Q I understand. And I understand you are not a  
13 lawyer and I'm not asking for a legal interpretation.

14 A Okay.

15 Q Of anything, okay? In its essence, I understand  
16 your position to be that BellSouth will provide  
17 combinations to AT&T at cost-based prices if the elements  
18 are, one, in fact already combined; and, two, providing  
19 service to the particular customer at the particular  
20 location the ALEC wants to serve, is that right?

21 A That is mostly correct. As I indicated in my  
22 deposition to you, we also have some situations in  
23 BellSouth's territory where we serve customers by a  
24 process called Quickserve (phonetic), and if you think  
25 about an apartment complex where you will probably have a

1 high turnover of tenants in that complex, you might have a  
2 situation where the line is there but nobody is actually  
3 ordering service. And if you pick it up you can dial  
4 zero, I think, and get an operator, we'll provide UNE  
5 combos under that situation. So the service is not  
6 exactly flowing over that line, but it is already  
7 combined.

8 Q Well, Mr. Ruscilli, I read directly out of your  
9 direct testimony at Page 5, Line 6. You say there that  
10 BellSouth's position is that it will provide combinations  
11 to AT&T at cost-based prices if the elements are, in fact,  
12 combined and providing service to a particular customer at  
13 a particular location, correct?

14 A Right.

15 Q So there are two requirements. The elements  
16 have to be, in fact, combined and service has to be  
17 provided over those elements to a particular customer, is  
18 that right?

19 A That is what is in my testimony.

20 Q Okay. Can you identify for me the specific  
21 rule, or decision, or any legal authority that says  
22 BellSouth can refuse to provide a UNE combination if the  
23 component elements of that combination are not currently  
24 being used to provide service to the customer the ALEC  
25 wants to serve?

1           **A     One more time, please.**

2           **Q     Sure. Can you identify for me any legal**  
3 **authority that says that BellSouth can refuse to provide**  
4 **combinations if the components of that combination are not**  
5 **currently being used to provide service to the customer**  
6 **the ALEC wants to serve?**

7                   **MR. LACKEY: Mr. Chairman, let me -- I don't**  
8 **want to make an objection, but I just want to confirm that**  
9 **he is simply asking this witness as a layperson for such a**  
10 **reference, since the witness has stated he is not a**  
11 **lawyer?**

12                   **MR. LAMOUREUX: Well, Mr. Ruscilli has quite a**  
13 **bit of legal citation in his authority. I'm not asking**  
14 **him to interpret any legal authority, I'm just asking if**  
15 **his position is based at all on any legal authority.**

16                   **MR. LACKEY: Well, he actually asked him whether**  
17 **he could reference any legal authority. I mean, that is**  
18 **what lawyers do. We interpret, we read, we argue. If all**  
19 **he is asking him to do is can he point to words that a**  
20 **layperson could interpret that way, then I'm fine. I just**  
21 **want it make sure that he is not calling for a legal**  
22 **opinion which is what I think he said he wasn't going to**  
23 **do a few questions ago.**

24                   **MR. LAMOUREUX: I'm not asking for an opinion,**  
25 **I'm asking for a reference, because he has already got**



1 other legal references throughout his testimony. And if  
2 we want to take out all the legal references in his direct  
3 testimony or rebuttal testimony, that's fine.

4 CHAIRMAN JACOBS: As I understand it, you are  
5 asking for additional references beyond what is already in  
6 his testimony.

7 MR. LAMOUREUX: That's right, I'm asking if --

8 CHAIRMAN JACOBS: That he is aware of.

9 MR. LAMOUREUX: That he is aware of.

10 CHAIRMAN JACOBS: Not whether or not he has  
11 formed any opinion about what those --

12 MR. LAMOUREUX: That's right.

13 MR. LACKEY: That's fine.

14 THE WITNESS: Well, outside of the fact that the  
15 Eighth Court vacated (c) through (f) of the cite that you  
16 mentioned earlier, which was the combination area,  
17 paragraph I think it is 480 of the report and order, Third  
18 Report and Order had an opportunity to address what would  
19 happen in that situation. And they were talking about  
20 EELs. And I think the language was if it is, in fact,  
21 combined that we would provide those combinations. They  
22 actually declined in the Third Report and Order to address  
23 the situation of ordinarily combines. So, I think when  
24 they had the one opportunity to say something what they  
25 said is if something is, in fact, combined. And, again,

1 they were referencing special access, or EELs, at that  
2 point in time.

3 **BY MR. LAMOUREUX:**

4 **Q** Actually it's not the combination part that I'm  
5 after. I'm asking for the service requirement. What rule  
6 requires that service be provided currently over that  
7 combination of elements before we get to buy the  
8 combination from you?

9 **A** Outside of the two that I just mentioned, I  
10 can't recall any right now.

11 **Q** Well, let me hand you 315. Can you show me  
12 anywhere in Rule 315, be it (b), (c), or any other part of  
13 it that has any requirement that there be service  
14 currently being provided over a combination before we get  
15 to buy it from you?

16 **A** I didn't see any.

17 **Q** Now, when you mentioned EELs also as the other  
18 authority you were talking about, I think the source of  
19 that authority that you are referring to was the UNE  
20 remand order discussion of EELs?

21 **A** Yes.

22 **Q** It's a big order. I can hand it to you if you  
23 want. But do you happen to know if there is anywhere in  
24 that order to your knowledge that has any requirement that  
25 service has to be provided through a combination before we

1 get to buy the combination from you?

2 A There may be, I just don't recall.

3 Q You are not aware of any?

4 A Again, there may be, I just don't recall any.

5 Q Now, here is -- I want to understand the

6 particulars of what this restriction means. If there is

7 an end user customer in Florida, in BellSouth territory

8 building a new house in a new subdivision, okay?

9 BellSouth has already deployed all the facilities all the

10 way from the central office to that customer's house, they

11 are all hooked up, they are all connected, but there is no

12 service at all being provided over those facilities, okay?

13 Will you sell us the combination of those facilities as

14 UNE-P so that we can provide service to that customer?

15 A No. Again, our position is if it is, in fact,

16 combined and providing service.

17 Q So even though the facilities are already, in

18 fact, combined, you will not sell us those facilities as a

19 combination to be able to provide service to that

20 customer?

21 A No, with the exception of the Quickserve that we

22 talked about. But that is the your hypothetical.

23 Q Quickserve is basically warm dial tone, is that

24 right?

25 A Yes, sir.

1           **Q**    **So, in fact, in that case there actually is**  
2 **service of some sort being provided to a customer?**

3           **A**    **Yes, sir.**

4           **Q**    **Okay. Similarly, you will not provide**  
5 **combinations to an ALEC to serve a new business location**  
6 **where BellSouth has deployed all the facilities and they**  
7 **are all connected and all in place all the way to that**  
8 **location but where no service is currently being provided,**  
9 **you will not sell that as a combination to an ALEC to**  
10 **serve that business customer, right?**

11          **A**    **That's right, but if I can sort of expand on**  
12 **this. You mentioned the Supreme Court earlier. The**  
13 **purpose of the Act was to inspire competition. And the**  
14 **vision was that facilities-based combination would be the**  
15 **most robust form. Justice Breyer in the Supreme Court**  
16 **decision that we are talking about here actually goes to**  
17 **great length to talk about that, that that is where the**  
18 **game is, is we get more people providing facilities in the**  
19 **marketplace. You get more robust competition and you get**  
20 **varieties of services that can be offered.**

21               **And he also mentioned something that was quite**  
22 **interesting is that, you know, if you require the ILECs to**  
23 **do everything, to combine -- and this Supreme Court**  
24 **decision was talking about combination at this point -- to**  
25 **combine everything that is out there, even that that is**

1 not combined, you know, what is the purpose? Because  
2 nobody is going to be incented to go out there and provide  
3 facilities, nobody is going to be incented to go out there  
4 and provide new services. So, that's why BellSouth has  
5 this position.

6 **COMMISSIONER PALECKI:** But shouldn't this  
7 Commission be looking at the cost that it would require  
8 for the ALECs to provide those facilities and compare them  
9 to what that cost would be if they used the existing  
10 facilities that are already in place with the ILEC?

11 **THE WITNESS:** Well, they certainly could compare  
12 that. But, again, in most circumstances you would want  
13 more facilities players out there rather than just having  
14 everybody relying on the ILEC's facilities.

15 **COMMISSIONER PALECKI:** But you would agree that  
16 there are some circumstances when the costs for the ALECs  
17 to provide those additional facilities would be  
18 prohibitive and would, in fact, decrease the competition  
19 that you have?

20 **THE WITNESS:** There could be some limited  
21 circumstances. But, I think it was Mr. Follensbee  
22 yesterday mentioned the -- I'm sorry, Mr. Gillan yesterday  
23 mentioned the churn rate in the marketplace of new people  
24 moving in and out with reference to this subject, saying  
25 that 20 percent of the people change addresses and move

1 when we were talking about combinations.

2 Well, in Florida we have six million lines that  
3 are providing service right now and they are, in fact,  
4 combined. If you take 20 percent out of that you still  
5 have 4.8 million lines that ALECs such as AT&T could go  
6 out there and win today. And if they got 4.8 million  
7 lines they would be clearly the dominant provider in the  
8 marketplace. It's available today.

9 And now what we are talking about is something  
10 that is on the margin of that. And so to say that that is  
11 creating a stumbling block to completion, we are sort of  
12 looking at a little bit of a piece of bark on a tree  
13 instead of the whole forest here. There is a lot of  
14 opportunity for AT&T to compete and any other ALEC for  
15 that manner. There is plenty of lines that are already  
16 out there and combined today.

17 BY MR. LAMOUREUX:

18 Q Mr. Ruscilli, do you consider 1.2 million lines  
19 to be on the margin?

20 A No, I didn't mean to say that, if you thought I  
21 was suggesting that.

22 Q Would you agree with me that the FCC has said  
23 specifically that the Act does not favor one form of  
24 competition, be it resale, facilities investment, or UNEs  
25 over another?

1           **A     Subject to check, I would say they say that.**  
2 **But when I was reading Justice Breyer's opinion he seemed**  
3 **to be suggesting that that is where the more robust**  
4 **competition is going to come is from facility-based.**

5           **Q     Are you aware of any place in the Act that says**  
6 **that the Act itself favors facility-based competition over**  
7 **UNE competition?**

8           **A     No, I'm not.**

9           **Q     Who is Cynthia Cox?**

10          **A     She is senior director in our state regulatory**  
11 **department. She is one of our witnesses.**

12          **Q     Are you aware that she testified in a proceeding**  
13 **in North Carolina addressing the subject of UNE**  
14 **combinations?**

15          **A     Yes.**

16          **Q     Are you aware that in that proceeding she said**  
17 **that if facilities are in place and connected all the way**  
18 **to a customer premise, if service is not flowing to that**  
19 **customer premise but those facilities are all in place,**  
20 **BellSouth will provide those facilities as a combination?**

21          **A     I wasn't aware of that, no.**

22          **Q     Mr. Ruscilli, what I have handed you is a copy**  
23 **of a transcript from that proceeding which happened on**  
24 **October 23rd of 2000. And particularly I want to ask you**  
25 **about a couple of Q and As on Page 120 of that transcript,**

1 but feel free to read as much of the transcript as you  
2 want. And I will agree that not all the pages from that  
3 day are there, but most of them are.

4 A If I can have a moment.

5 Q Sure.

6 (Pause.)

7 THE WITNESS: Mine goes from Page 120 to 134.

8 MR. LAMOUREUX: Yes.

9 THE WITNESS: Is Page 121 available?

10 MR. LAMOUREUX: I could pull it up on my laptop  
11 for you, but I don't have a hard copy of that page.

12 THE WITNESS: No, it's not here.

13 BY MR. LAMOUREUX:

14 Q But with respect to the Q and As on Page 120,  
15 would you agree with me that Ms. Cox essentially said that  
16 as long as all the facilities are in place and connected  
17 to a customer prem, even if service might not be provided  
18 over those facilities, BellSouth would still sell that to  
19 ALECs as a combination?

20 A Right. Yes, she does say that in here, and says  
21 if everything that they would buy are combined; yes, she  
22 says that. But I don't know what is after it or before it  
23 to characterize this piece.

24 Q Is what Ms. Cox said on Page 120 correct or is  
25 what you have told me earlier in questions correct as to



1 what BellSouth's policy is?

2 A Well, BellSouth's policy is if they are combined  
3 and, in fact, providing service, we will sell them to you  
4 as combinations. I am -- this is really out of context,  
5 so I don't know exactly what she was understanding or what  
6 was being framed for her in the question for me to address  
7 what she says.

8 Q All right. I went over with you the situation  
9 of a new house in a new subdivision. Similarly, if an  
10 ALEC residential or business customer wants to add an  
11 additional line that had not been providing service to  
12 that premise before, even if all the facilities necessary  
13 for that additional line are all hooked up and connected,  
14 BellSouth will not provision that as a combination to  
15 ALECs to be able to provide service over that additional  
16 line to that premise, correct?

17 A That is correct.

18 Q Now, let's assume a customer is receiving  
19 service from BellSouth today but is receiving only plain  
20 old telephone service, okay? No vertical features, no  
21 call waiting, none of that sort of stuff. Suppose that  
22 customer calls a UNE-P ALEC here in Florida and wants to  
23 get service from that ALEC and wants to add call waiting  
24 to the service that they were getting from BellSouth  
25 before. Will you sell the combination of UNE-P, the loop

1 and the port, and call waiting as a combination to that  
2 ALEC to be able to serve that customer?

3 A Well, no, but if I could explain the example. I  
4 think if you have got a customer that has basic dial tone,  
5 a loop and a port from BellSouth and is going to go to an  
6 ALEC, in this case, who wants to buy it as a UNE-P, we  
7 would switch the loop and the port, the dial tone over to  
8 the ALEC. The ALEC has the opportunity at that -- and we  
9 switch that as is. The ALEC would have the opportunity at  
10 that point to add whatever vertical features that they  
11 would want to add.

12 Q And that is my point. When you say that you  
13 will provide a combination to AT&T or any other ALEC, you  
14 are limiting that to literally a switch as is from  
15 whatever service the customer has currently, that is the  
16 service that the ALEC has to provide in order to get UNE-P  
17 pricing from BellSouth to provide service to that  
18 customer, right?

19 A Well, I mean, that is what switch as-is is.  
20 Excuse my language there. That is exactly what that is.  
21 But then at that point when you are the UNE-P provider,  
22 you can add whatever vertical features or other  
23 combinations you want to add at that point in time.

24 Q Will you sell us those vertical features at the  
25 UNE prices established for those vertical features to add

1 onto the UNE-P service that we are already using?

2 A I'm not familiar exactly with what those UNE  
3 rates are, but I think there are UNE charges for vertical  
4 features.

5 Q All right. Let's assume there are UNE charges  
6 for vertical features, okay?

7 A Uh-huh.

8 Q Will you allow us to buy vertical features, call  
9 waiting at the UNE price for call waiting to add to the  
10 POTS service that we are using the UNE-P combination to  
11 provide?

12 A Sure. You can add whatever vertical features  
13 you want to a UNE-P combination you are providing.

14 Q I want to make sure we can -- and we purchase  
15 that from BellSouth, that vertical feature at the UNE  
16 price for that vertical feature?

17 A Whatever the charge is for UNE features to be  
18 added, certainly.

19 Q But you will not let us do that initially for  
20 that customer. You are going to make us have one order to  
21 buy the UNE-P to provide the POTS service, then you are  
22 going to make us have a second order to buy the vertical  
23 feature from BellSouth, right?

24 A Yes.

25 Q So you are going to make us incur two separate

1 ordering charges to do that?

2 A Yes.

3 Q Even though call waiting is a part of the switch  
4 and a functionality of the switch that we are already  
5 buying from you to provide the UNE-P combination to  
6 provide the POTS service to the customer?

7 A Certainly. But I think switch as is never said,  
8 or it was never intended that if you had a customer with  
9 basic local service that when we switched it to an ALEC we  
10 flip every switch on in the office and let you pick out  
11 what you want.

12 Q So would you agree with me there really are  
13 three restrictions. The facilities have to be in place  
14 and connected all the way to the customer's premise, there  
15 has to be service currently flowing through those  
16 facilities, and we can only switch as is?

17 A Yes, I guess you could say that that would be a  
18 restriction. I would sort of disagree with the  
19 characterization of the only switch as-is portion as being  
20 a restriction, though. That is the advantage you have  
21 with switch as is. You have very favorable rates to do  
22 that.

23 Q A second ordering charge that we would have to  
24 pay to get a vertical feature added to the UNE-P service  
25 is a favorable rate in your mind?

1           **A**     **Well, you are doing additional marketing and you**  
2 **are getting additional revenue from your service -- from**  
3 **your customer for that service at that point in time.**

4           **Q**     **We also have potential of more ordering problems**  
5 **because we have got two orders now, we could have more**  
6 **delay in getting service to that customer because we have**  
7 **two orders now, is that right?**

8           **A**     **Well, I don't know if that is true or not.**

9           **Q**     **You don't think that is a potential issue?**

10          **A**     **It could possibly be, but I'm not an ordering**  
11 **person.**

12          **Q**     **Do you know if your negotiators have told AT&T**  
13 **in negotiations that we cannot add vertical features at**  
14 **the time we order UNE-P?**

15          **A**     **I haven't talked to them about that issue, no.**

16          **Q**     **Do you coordinate with your negotiators as to**  
17 **BellSouth's position on these issues before you testify?**

18          **A**     **Yes, on the major issues, I certainly do. I**  
19 **didn't get down to this level of granularity, though.**

20          **Q**     **Would you agree with me that your position on**  
21 **our use of combinations would not only prevent us from**  
22 **providing service to new customers with new premises and**  
23 **customers who want additional lines, but also would impose**  
24 **further restrictions on our ability to serve customers who**  
25 **want to add service to the current service they are**

1 getting from BellSouth?

2 A One more time just to make sure I heard  
3 everything you said.

4 Q Sure. I had all the words just right. Let me  
5 see if I can get it again. Your position on our ability  
6 to use combinations would not only prevent us from using  
7 UNE-P to provide service to new customers at new locations  
8 where there is no service, and also customers who want new  
9 lines, but also would restrict our ability to provide  
10 additional service to customers who want additional  
11 service from what they are getting today from BellSouth?

12 A Well, I don't know that I completely agree with  
13 you. When you are providing new service, when anybody is  
14 providing new service to a customer they are going to  
15 incur the cost of assembling that service and marketing  
16 that service and putting it together, whether it's  
17 BellSouth or an ALEC. The scenario that you are laying  
18 out right now, somebody had to combine that loop and port,  
19 somebody had to do those translations.

20 If you are suggesting that the fact that  
21 BellSouth wants to be reimbursed for doing that is a  
22 restriction to your ability to market, then I would say  
23 no, because that work has to be done. What is going on  
24 here, I think, is a debate about whether or not you should  
25 pay for that work or we should give it to you for free.

1           **Q**     **We have never denied that we should have to pay**  
2 **you when we buy vertical features from you as a UNE, have**  
3 **we?**

4           **A**     **No, I'm not suggesting that.**

5           **Q**     **Okay. Now, let's assume in the UNE docket that**  
6 **the Commission agrees that vertical features really don't**  
7 **have any separate costs and that when we buy switching we**  
8 **get included with that switching access to all the**  
9 **vertical features that a switch is capable of providing,**  
10 **okay?**

11          **A**     **Okay.**

12          **Q**     **So there are no separate prices for any vertical**  
13 **ical features. Are you still going to require us to go**  
14 **through a separate order to add a feature to a customer in**  
15 **order to provide UNE-P service to that customer who may**  
16 **not be getting that feature today from BellSouth?**

17          **A**     **I don't know that I necessarily know. I'm not**  
18 **as familiar with the local service request ordering**  
19 **process as I need to be. So I don't know if I can answer**  
20 **that.**

21          **Q**     **Do you agree that BellSouth must provide a**  
22 **loop -- and when I say a loop, I mean a discreet loop, not**  
23 **a loop in combination with -- let me start that whole**  
24 **question again. I'm going to use the term discreet loop.**  
25 **And what I mean by that is a loop all by itself not in**

1 combination with switching, okay?

2 A Okay.

3 Q Would you agree that BellSouth must provide a  
4 discreet loop to an ALEC whether or not BellSouth was  
5 previously using that loop to provide service to the  
6 customer the ALEC wants to serve?

7 A Oh, boy. I'm not sure if I understand that,  
8 but --

9 Q Let me give it to you as a hypothetical.

10 A Okay.

11 Q AT&T has its own switches, okay. We want to  
12 serve a customer. That customer isn't getting service  
13 today from BellSouth, okay. But there is a loop there to  
14 that customer premise. We want to buy that loop to hook  
15 up to our switching to provide service to that service.  
16 Would you agree with me you cannot deny us that loop based  
17 on the fact that there is no service flowing through that  
18 loop?

19 A Sure, we will sell you that loop.

20 Q In other words, you will agree that you cannot  
21 deny us that loop?

22 A Yes.

23 Q Would you agree that, in fact, FCC Rule 51.309  
24 prohibits you from refusing to sell us that loop on the  
25 basis that there is no service going through it?



1           **A**     **I will agree.**

2           **Q**     **So you believe that you must provide a loop to**  
3 **an ALEC whether or not service is currently being provided**  
4 **over that loop, but you can refuse to provide that very**  
5 **same loop to that very same ALEC to serve that very same**  
6 **customer if that loop is connected to a BellSouth switch**  
7 **at the other end?**

8           **A**     **I'm sorry. I don't want to be slow with you**  
9 **here, I just want to make sure I'm understanding what you**  
10 **are saying.**

11          **Q**     **When it is our switch connected to the loop**  
12 **connected to the customer, you cannot refuse to sell us**  
13 **that loop based on the fact that there is no service going**  
14 **through it. But you believe for that very same loop to**  
15 **that very same customer you can refuse to sell us that**  
16 **loop when we want to buy it in combination with the**  
17 **BellSouth switch on the other end of that loop?**

18          **A**     **No, I think what we are saying is that we don't**  
19 **have to sell it to you as a UNE combo. We will sell you a**  
20 **loop and a port and let you put it together if you want.**

21          **Q**     **Well, I'm going to have to draw this out.**

22                 **All right. We have got a particular customer,**  
23 **okay. In the situation where we have got our own switch,**  
24 **okay. And let's see, this is the BellSouth switch, this**  
25 **is the AT&T switch, and this is the customer's loop, okay.**

1 **When we want to use that loop in connection with our**  
2 **switch, if there is no service over that loop, you agree**  
3 **you cannot refuse to sell us that loop, right?**

4 **A Yes.**

5 **Q For that very same loop to that very same**  
6 **customer, if we want to buy that as a combination with**  
7 **your switching, you are going to refuse to sell us that**  
8 **same loop simply because it is connected to your switch**  
9 **instead of our switch, right? And because there is no**  
10 **service going over the loop?**

11 **A Okay. Yes, if it is not, in fact, combined,**  
12 **there is no service, then we are not going to sell it to**  
13 **you as a combination. Is that what you are asking me?**

14 **Q That's right.**

15 **A Correct.**

16 **Q So somehow because there is no service going**  
17 **over that loop that loop becomes different in your mind**  
18 **when it is connected to your switch rather than our switch**  
19 **in terms of the prohibition on you refusing to sell us**  
20 **that loop?**

21 **A Well, I think we are doing apples and oranges**  
22 **unless I'm just totally missing your example here. In one**  
23 **case with the BellSouth switch up there, you are asking us**  
24 **about a UNE/port combination that is already together.**  
25 **And in the other instance you are just saying you just**

1 want the loop as an unbundled network element. We will  
2 sell you the loop as an unbundled network element.

3 What we are saying is that we don't have an  
4 obligation to combine that loop and port for you or sell  
5 it switch as is if it is, in fact, not combined and  
6 service isn't flowing through it.

7 Q I'm talking about a loop that is already  
8 connected to a BellSouth switch to a customer prem, okay?  
9 So we have got switch, we have got loop, okay? In the  
10 BellSouth network today they are connected, okay. But  
11 there is no service going over that. All right. You will  
12 sell us that loop for us to use with our switching. You  
13 won't sell us that loop if we also -- if instead of our  
14 switching we want to buy that as a combination with your  
15 switch, right?

16 A I'm sorry, I'm not following it. I don't know  
17 what I'm missing here.

18 Q Let me begin by asking it this way. When we buy  
19 a combination of a loop and a switch from you, okay, that  
20 is already connected, we are not asking you to do anything  
21 new, okay? We are still buying a loop and a switch from  
22 you, right?

23 A Yes.

24 Q There is no some third beast out there that is  
25 called a loop/switch, right? We are still buying a loop

1 and a switch from you, they just happen to be in  
2 combination?

3 A Correct.

4 Q Okay. In my hypothetical, that loop and that  
5 switch, they are all connected, all the way out to that  
6 customer prem, but there is no service flowing to that  
7 customer, okay? You will sell us that loop when we hook  
8 it up to our switch even though there is no service going  
9 to that customer premise, right?

10 A Yes.

11 Q For that very same loop, if we don't want to use  
12 our switching but we want to buy a combination of loop and  
13 switching from you, you will not sell us that loop simply  
14 because we are buying it with a BellSouth switch?

15 A Well, we will sell you the loop and the switch,  
16 the port, the loop and the port, we will sell you those  
17 UNEs and you can combine them or we can combine them for  
18 you. I mean, that is -- I guess that's where I'm getting  
19 tripped up. You are saying we won't sell you, and we will  
20 sell it to you. I think what we are arguing about is the  
21 price.

22 Q Will you sell it to us at the UNE prices for  
23 loops and switching?

24 A If you want to combine them, yes. But if you  
25 want us to combine them then we will charge you a rate for

1 that.

2 Q I thought it was pretty clear. My hypothetical  
3 is those facilities are already connected in the network  
4 today. There is no combining that needs to be done, okay.  
5 You will sell us that loop if we want to buy it to connect  
6 to our switch at the UNE price for the loop, right?

7 A Yes.

8 Q You will not sell us that very same loop to that  
9 very same customer at UNE prices if we want to buy that  
10 loop in combination with the BellSouth's switching?

11 A Because there is no service flowing over it,  
12 yes.

13 Q The rule that you agreed with me, Rule 51.309  
14 that you agreed would prohibit you from refusing to sell  
15 us that loop because there is no service going through it,  
16 do you believe that rule applies differently to a loop  
17 sold all by itself than a loop sold in combination with  
18 switching?

19 A I don't know that it does or it doesn't.

20 Q You agreed with me, though, that whether we use  
21 that loop to connect with our switch or we try and buy  
22 that loop in connection with your switching, we are still  
23 talking about a loop, right?

24 A Yes, just on the loop basis, yes.

25 Q And you are agreed with me that a combination of

1 **loop and switching is no separate beast, it's a**  
2 **combination of two elements, loops and switching?**

3 **A Yes.**

4 **Q All right. Now, let's go back to my new**  
5 **subdivision example, okay. Let's say there is a new**  
6 **subdivision being built in BellSouth territory, okay.**  
7 **Let's say BellSouth has not placed facilities yet to serve**  
8 **a customer in that new subdivision. In that situation,**  
9 **BellSouth actually will provide a loop to us upon request**  
10 **even though there is no loop in place today, won't you?**

11 **A Yes, I think with a little bit of a caveat on**  
12 **that. I mean, if there is a new subdivision in place and**  
13 **we were going to build-out to that subdivision, we would**  
14 **sell you a loop when we did that build-out. If we were**  
15 **not building out to that subdivision, then we wouldn't run**  
16 **a loop out there just for you.**

17 **Q Okay. So if there is special construction or**  
18 **something like that, you won't sell it to us as a loop.**  
19 **But let's say my subdivision is smack dab in the middle of**  
20 **BellSouth territory, but BellSouth hasn't yet deployed its**  
21 **facilities to that subdivision. If we get to that**  
22 **customer before you guys do and that customer says I want**  
23 **to take service from AT&T, if we come to you and ask you**  
24 **for a loop to that customer, you will deploy that loop to**  
25 **that customer and you will sell us that loop at UNE**

1 prices?

2 A Again, setting aside the discussion we just had  
3 on any kind of special construction.

4 Q In other words, if BellSouth would ordinarily  
5 deploy a loop to serve that customer, you will sell us  
6 that loop?

7 A Yes.

8 Q Even though that loop is not in the ground  
9 today?

10 A That's right. When that loop gets in the ground  
11 we will sell it to you under ordinary circumstances.

12 Q And yet you will not sell us that loop to that  
13 very same ALEC to serve that very -- I mean, you will not  
14 provide that same loop to serve that same customer if  
15 instead of using our own switching we want to use that  
16 loop in connection with your switching?

17 A And I guess that's where I'm -- and I apologize  
18 if I seemed to be a little fuzzy before, and I'm going to  
19 sound that way again. We will sell you the loop and we  
20 will sell you the port. And the loop, of course, when we  
21 build it out we will sell it to you and we will sell you  
22 the port, and we will combine them for you or we will let  
23 you combine them. So it's not a question of whether or  
24 not we will sell it to you, it's not a question of whether  
25 or not we will sell it to you at UNE prices. We will sell

1 it to you at UNE prices if you want to combine them. If  
2 you want us to do the combining, then we will charge a  
3 market rate for that.

4 Q All right. Let me be a little more specific in  
5 my hypothetical, then. For that new customer in that new  
6 subdivision where there is no loop in the ground today,  
7 you will deploy -- you will do all the installation  
8 necessary to deploy that loop and you will sell us that  
9 loop at the UNE prices established for loops, right?

10 A Yes.

11 Q And as part of that installation of that loop,  
12 you are actually going to have to hook up that loop to  
13 your central office to your main distribution frame,  
14 aren't you?

15 A Yes. I mean, I think it would be looked up to  
16 the MDF, but I'm not sure what would be hooked up beyond  
17 that.

18 Q Okay. And we would use our switching to provide  
19 service if we bought just a loop from you, right?

20 A Yes.

21 Q But for that very same loop, if instead of using  
22 our own switching we want to buy the switching from you,  
23 you will not sell us that combination of loops and  
24 switching at the UNE prices established for combinations  
25 of loops and switching, right?



1           **A**     **Everything is combined?**

2           **Q**     **Is that a yes or a no?**

3           **A**     **I'm sorry, I was trying to get some**

4 **clarification. Go through it again. I was trying to find**

5 **out if everything was combined.**

6           **Q**     **Okay. In my hypothetical there is no loop yet,**

7 **okay. So you would have to deploy one and you would have**

8 **to do all the connections necessary to get that loop**

9 **connected up to the house and your central office. You**

10 **will sell us that loop as a loop to be able to use with**

11 **our switching. Even though you have got to go out and do**

12 **all the deployment of the loop, you will still sell it to**

13 **us at UNE prices?**

14           **A**     **Yes, again, subject to just the ordinary**

15 **deployment there.**

16           **Q**     **Right. But if instead of our switching, if we**

17 **want that loop hooked up to your switch, you won't sell us**

18 **that combination of that loop and your switching at the**

19 **UNE prices established for combinations of loops and**

20 **switching?**

21           **A**     **That is correct.**

22           **Q**     **Would you agree with me that BellSouth generally**

23 **combines loops and switching in its own network and**

24 **provides service to Floridians using combinations of loops**

25 **and switching?**

1           **A     Yes.**

2           **Q     Would you agree that BellSouth also generally**  
3 **combines loops and transports, loops and transport in its**  
4 **own network in Florida and uses combinations of loops and**  
5 **transport to provide service?**

6           **A     Yes.**

7           **Q     The Georgia Commission has specifically ordered**  
8 **BellSouth to provide all combinations to ALECs that**  
9 **BellSouth ordinarily combines in its network, has it not?**

10          **A     Yes, it has. It did that prior to the Eighth**  
11 **Circuit.**

12          **Q     And the Georgia Commission has not reversed that**  
13 **decision, has it?**

14          **A     Not to my knowledge, no.**

15          **Q     Tennessee also recently specifically required**  
16 **BellSouth to provide to all ALECs all combinations that**  
17 **BellSouth combines anywhere in its network, has it not?**

18          **A     Yes, that is my understanding. I was a little**  
19 **fuzzy when I read that portion of the order, but that is**  
20 **my understanding.**

21          **Q     When you say that portion of the order, what**  
22 **order are you referring to?**

23          **A     Well, I remember seeing a footnote that was**  
24 **confusing to me, because I'm not a lawyer, but I will**  
25 **agree that Tennessee has done that.**

1           **Q**    You are referring to the footnote in the UNE  
2 combination -- the UNE -- the order on the UNE docket,  
3 right?

4           **A**    I think so, yes.

5           **Q**    Have you read the transcript from the Intermedia  
6 arbitration decision of February 6th, 2001?

7           **A**    No, I have not.

8           **Q**    Actually I'm going to skip this just a second.  
9 I think I lost my highlighted copy, so I can't remember  
10 what page in this I was looking for. And just to make  
11 things move smoothly, I'm going to come back to this in a  
12 second.

13          **A**    If you wish, that's fine.

14                   **CHAIRMAN JACOBS:** How much longer do you have, a  
15 little bit more?

16                   **MR. LAMOUREUX:** Yes.

17                   **CHAIRMAN JACOBS:** Would this be a good time to  
18 break for lunch?

19                   **MR. LAMOUREUX:** This is fine. I have a decent  
20 bit more, yes.

21                   **CHAIRMAN JACOBS:** Okay. Why don't we break for  
22 lunch now and come back at 1:10.

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**STATE OF FLORIDA )**

**: CERTIFICATE OF REPORTER**

**COUNTY OF LEON )**

**I, JANE FAUROT, RPR, Chief, FPSC Bureau of Reporting  
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