

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 960786A-TL

In the Matter of

CONSIDERATION OF BELLSOUTH  
TELECOMMUNICATIONS, INC.'S ENTRY  
INTO INTERLATA SERVICES PURSUANT  
TO SECTION 271 OF THE FEDERAL TELE-  
COMMUNICATIONS ACT OF 1996.

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VOLUME 3

Pages 243 through 389

PROCEEDINGS:

HEARING

BEFORE:

CHAIRMAN E. LEON JACOBS, JR.  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER LILA A. JABER  
COMMISSIONER BRAULIO L. BAEZ  
COMMISSIONER MICHAEL A. PALECKI

DATE:

Thursday, October 11, 2001

TIME:

Commenced at 9:30 a.m.

PLACE:

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

REPORTED BY:

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APPEARANCES:

(As heretofore noted.)

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(Transcript follows in sequence from Volume 2.)

CYNTHIA K. COX

continues her testimony under oath from Volume 2:

## CROSS EXAMINATION

BY MR. LAMOUREUX:

Q Good morning, Ms. Cox. My name is Jim Lamoureux. I represent AT&T.

A Good morning.

Q And I think after five years I am incapable of beginning cross without starting to talk about UNE combinations, so that's where we are going to start.

A Okay. We don't want to break your streak.

Q At Page 41 of your direct testimony you say that BellSouth will terminate UNEs in such a way as to allow the ALEC to provide cross-connections or other required wiring with the ALEC's collocation arrangement in order to effect a combination.

A Yes.

Q Along those lines, will BellSouth allow direct ALEC-to-ALEC cross-connects for this purpose?

A Yes. Based on a most recent FCC order, we will allow the ALECs to provide those cross-connects themselves.

Q So you will allow the ALECs to cross-connect with one another and not require the ALECs to purchase cross-connects

1 from BellSouth in order for an ALEC to cross-connect with  
2 another ALEC, is that right?

3 A Yes. My understanding of the recent FCC rule or  
4 order would require that we allow ALECs to provide their own  
5 cross-connects.

6 Q Do you know is it set forth in your SGAT that  
7 BellSouth will allow ALECs to cross-connect with one another  
8 and not have to purchase a cross-connect from BellSouth in  
9 order to cross-connect with another ALEC?

10 A It has not been incorporated in an SGAT filed in this  
11 docket. It will be. It has been in some of the SGATs in other  
12 states as we have filed updated SGATs.

13 Q Do you know if that is set forth in any  
14 interconnection agreements that BellSouth has with any ALECs in  
15 Florida?

16 A That I don't know. Interconnection agreements to the  
17 extent that we had arrangements in there for co-carrier  
18 cross-connects, and then the situation sort of got changed and  
19 we didn't have to provide them, we were continuing under the  
20 existing interconnection agreements, so there could be language  
21 out there reflecting different circumstances.

22 Q But sitting here today you are not aware of any  
23 specific language in any interconnection agreements in Florida  
24 along those lines, are you?

25 A No, I'm not.

1 Q I want to talk a little bit about your discussion in  
2 your direct testimony of QuickService. At Page 44 of your  
3 direct you say that where facilities are combined in  
4 BellSouth's network, that is where QuickService exists on a  
5 disconnected line, BellSouth will provide the combination to a  
6 requesting ALEC at cost-based rates. And I want to ask a  
7 couple of questions about that. QuickService essentially  
8 includes the ability to dial 911 and 611 on a previously  
9 disconnected line, but does not include any other services or  
10 features on that line, is that correct?

11 A That is my general understanding, yes.

12 Q So, in other words, if at my house I have terminated  
13 service with BellSouth, move out, if someone were to come into  
14 my house after I moved out, pick up a phone, they would still  
15 be able to dial 911 or 611, but wouldn't be able to make any  
16 phone calls and there wouldn't be any other features or  
17 services on that line, is that right?

18 A Yes, that is my understanding.

19 Q And that's what we are talking about when we talk  
20 about this QuickService, right?

21 A Yes, that is my understanding.

22 Q Okay. Now, it is my understanding that BellSouth  
23 will only allow ALECs to order UNE-P on a switch as-is basis,  
24 is that correct?

25 A I'm not sure what you mean by "will only allow."

1 Q The only way that we can order UNE-P is to place a  
2 switch as-is order with BellSouth, that is my understanding of  
3 the only way that we can order UNE-P, is that correct?

4 A Not to the extent that we have offered to do new  
5 combinations under negotiated arrangements.

6 Q Okay. So can we do a switch as specified order in  
7 order to get UNE-P?

8 A That I don't know.

9 Q Well, here is what I'm trying to find out. Let's say  
10 you have got a customer today and they have an active line,  
11 okay, it has not been disconnected in any way, but they are  
12 only getting plain old telephone service on that line, okay?  
13 We want to provide service to that customer using UNE-P, but  
14 that customer wants to add, say, call waiting to their line,  
15 okay? That would not be a switch as-is order because we are  
16 actually adding something to the service the customer is  
17 getting today, right?

18 A I don't know the specifics of whether it would be  
19 switch as-is or not.

20 Q Okay. Assume with me that that is switch as-is,  
21 okay, let's make it a hypothetical.

22 A I'm sorry, a hypothetical that it is or it is not?

23 Q That it is. Wait, wait. The situation I have  
24 described is not switch as-is. Okay. Because we are adding  
25 something. And I'm just trying to find out will BellSouth

1 still let us order UNE-P to serve that customer that had  
2 previously been getting just plain old telephone service, but  
3 when they came to us they want to add, say, call waiting, will  
4 you let us still be able to order UNE-P to be able to provide  
5 that service to that customer?

6 A Yes, to the extent that vertical features in your  
7 hypothetical would be a component of the switch, would be a  
8 function of the switch. There could be additional rates, but,  
9 yes, it's a part of the switch.

10 Q Okay. So as long as the vertical features that the  
11 customer wants to add is a component of the switch and has been  
12 activated in the switch, we can add a feature to what the  
13 customer currently has and still be able to order UNE-P to  
14 provide that service, is that right?

15 A You could order UNE-P to provide that service, yes.  
16 When you talk about switch as-is with changes and those things,  
17 that I don't know.

18 Q Let me talk a little bit about switch features. At  
19 Page 65 of your direct you say that switch ports are offered  
20 with access to all available vertical features that are loaded  
21 in the software of the switch. And at Page 66 you say that  
22 pursuant to the BFR, or bona fide request process, BellSouth  
23 will work with ALECs to provide features that are loaded in the  
24 switch but are not currently activated. And my question is  
25 does BellSouth in the provision of retail service generally



1 activate switch features that it does not offer as retail  
2 services?

3 A I don't know.

4 Q Do you know without having to resort to the BFR  
5 process whether an ALEC will be able to buy from BellSouth  
6 features that BellSouth does not offer as a retail service?

7 A That are activated?

8 Q No. Let me back up and set the stage for this  
9 question. One of the earlier criticisms about BellSouth's  
10 offering of vertical features was that it did not offer  
11 features in the switch that BellSouth did not offer as retail  
12 services, right?

13 A Yes, that is my recollection.

14 Q Okay. And your position is now that you will offer  
15 features that are activated in the switch, correct?

16 A Correct.

17 Q And that if we want something else we have to go  
18 through the BFR process?

19 A Yes.

20 Q What I'm trying to find out is, if it is still the  
21 case that essentially the only way we can get a feature that is  
22 not a retail service is by going through the BFR process,  
23 because the only features you have activated in the switch are  
24 the features that you offer as retail services?

25 A In answer to your previous question, I don't know if

1 the only features that are activated are those that we offer on  
2 a retail basis.

3 Q If it is true that the only features that you have  
4 activated are the ones that you offer as retail services, then  
5 the only way we can gain access to a feature that is loaded in  
6 the switch but that BellSouth doesn't offer in its retail  
7 services is to go through the BFR process, is that right?

8 A Yes, that would be the method for obtaining those  
9 type features. And Mr. Milner, I think, discusses that in more  
10 detail.

11 Q A few questions about your discussion of UNE rates in  
12 your testimony. For elements for which the Commission has not  
13 already approved UNE rates, you are requesting that the  
14 Commission establish interim rates, is that right?

15 A Yes.

16 Q So I take it then you believe it is appropriate that  
17 the establishment of UNE rates should be one of the purposes of  
18 this proceeding, is that correct?

19 A Yes. I believe that to the extent we have UNE cost  
20 studies that we have filed in this docket for UNEs that ALECs  
21 have requested, it is appropriate for the Commission to set  
22 those rates in this docket.

23 Q Would you agree with me, though, that that is not a  
24 purpose of this docket that is set forth anywhere by the  
25 Commission in any of the procedural orders for this proceeding?

1 A I will accept that, yes.

2 Q More generally, do you believe it is appropriate for  
3 the Commission to issue orders in this proceeding resolving any  
4 sort of disputes that exist between ALECs and BellSouth and to  
5 order BellSouth to implement solutions for those disputes?

6 A I'm not sure I understood that question.

7 Q All right. Would you agree with me that the primary  
8 purpose of this proceeding is to allow the Commission to gather  
9 evidence to be able to fulfill its consultative role to the FCC  
10 when BellSouth takes up its 271 application to the FCC?

11 A Yes, I would agree.

12 Q By also asking the Commission to establish UNE rates,  
13 you are also asking the Commission in addition to fulfilling  
14 its consultative role to actually use this proceeding to take  
15 action on an issue that is a dispute between ALECs and  
16 BellSouth, and that is the establishment of UNE rates, correct?

17 A I don't know that I would say this is an issue of  
18 dispute. I would say that the Commission has looked at UNEs  
19 rates in another docket. There are a few UNEs that were not  
20 included in that docket, yet are encompassed in the 14-point  
21 checklist, or are UNEs that ALECs have expressed interest in.  
22 So I think it is appropriate for the Commission to consider the  
23 evidence filed in this docket and to go ahead and rule on that.

24 Q All right. For the subset of issues that we are  
25 talking about that were not established rates for in what I

1 will call the generic UNE docket, okay, and particularly we are  
2 talking about some collocation rates, some line sharing rates,  
3 and some rates for the unbundled copper loop, right?

4 A Correct. The nondesigned unbundled copper loop.

5 Q I'm trying to leave out a couple of words, thank you.  
6 You are asking the Commission to set rates for those elements  
7 in this proceeding, correct?

8 A Yes, we are asking them to set interim rates, interim  
9 cost-based rates, yes.

10 Q And you are not suggesting that the ALECs have no  
11 disagreement with BellSouth as to what the rates for those  
12 elements should be, are you?

13 A No, and I think the Commission has heard extensive  
14 testimony from the ALECs on that point here. The real point I  
15 would make is that these are UNEs that were not looked at in  
16 the other docket. They just weren't there, and so this is an  
17 opportunity and an appropriate one, I believe, for the  
18 Commission to look at them here.

19 Q So you are asking the Commission to use this  
20 proceeding to resolve a dispute on an issue between ALECs and  
21 CLECs and that is in terms of establishing rates for these few  
22 elements, right?

23 A Not necessarily. I don't agree that we are looking  
24 for them to resolve a dispute. What we are looking for them to  
25 do is take the methodology and decisions that they rendered in

1 the generic UNE docket and apply them to these studies. And  
2 that is what I would expect would happen.

3 Q If I don't agree with the rates that you have  
4 proposed for these elements, would you agree that we have a  
5 dispute as to what the rates should be for these elements?

6 A Yes, generally I would.

7 Q And you are asking the Commission to resolve that  
8 dispute and set rates for those elements in this proceeding,  
9 aren't you?

10 A For these specific elements that were not in the  
11 generic UNE docket we are asking them to resolve this, these  
12 rates like they did in the UNE docket.

13 Q And all I want to ask you is more generally would you  
14 also agree that it is appropriate for this Commission to take  
15 other areas of disagreement that ALECs have with BellSouth to  
16 resolve those areas of disagreement and order solutions to  
17 those areas of disagreements in the context of this proceeding?

18 A Well, I would say yes and no. And my yes answer  
19 would be this docket is one big dispute. I mean, you know,  
20 there is disputes everywhere as to whether we met the checklist  
21 or whether we haven't. So, clearly that dispute, yes, the  
22 Commission will need to resolve that.

23 Now, disputes that -- I would say disputes that were  
24 heard in arbitrations cases and some cases were decided in  
25 arbitration cases, were decided in other dockets, then, no, I

1 don't believe those are disputes that need to be resolved here  
2 or should be. And I believe if you look at FCC orders in other  
3 271 cases they have reached that same conclusion.

4 Q Well, you have asked the Commission to establish  
5 interim rates for the few elements that we have talked about,  
6 correct?

7 A Yes, that is what we have suggested. It is our  
8 understanding that there are generic dockets planned that would  
9 address these issues.

10 Q Well, let me ask a question first. What do you  
11 exactly mean by interim when you ask for interim rates?

12 A We would ask the Commission to find that based on the  
13 evidence in this case that these rates are cost-based with the  
14 recognition that they had planned to look at this in generic  
15 dockets down the road as they have indicated.

16 Q And I guess my question was interim until what?

17 A Until they would establish rates in the generic  
18 dockets.

19 Q Okay. You have said these generic dockets a couple  
20 of times. There is a collocation docket that has been talked  
21 about for awhile to establish rates for collocation, correct?

22 A Yes.

23 Q What docket are you aware of that has been  
24 established to talk about rates for the nondesigned unbundled  
25 copper loop?

1           A     My understanding -- and Ms. Caldwell could probably  
2 give you more details -- there has been some discussion about  
3 looking at that in the context of the next phase of the generic  
4 UNE docket, but I don't know that for sure.

5           Q     Okay. Now, rates for at least some of these items  
6 have been established by the Commission in the Covad  
7 arbitration with BellSouth, haven't they?

8           A     That is my understanding, that in the last day or so  
9 the collocation rates and the line sharing rates, those cost  
10 studies were filed in the Covad arbitration, that is correct,  
11 and so they have been established.

12          Q     But the rates established by the Commission in the  
13 Covad arbitration are not the rates for these elements that  
14 BellSouth is proposing in this proceeding, are they?

15          A     Just to make sure I heard your question, the rates  
16 the Commission established?

17          Q     Yes.

18          A     My understanding is that the Commission made certain  
19 modifications in the Covad case.

20          Q     No, that wasn't my question. My question is the  
21 rates that the Commission established in the Covad arbitration  
22 are not the rates that BellSouth is requesting that the  
23 Commission adopt in this proceeding for those rate elements,  
24 are they?

25          A     I guess I wasn't clear in my answer. That is

1 correct. In the Covad arbitration we have proposed rates, we  
2 have filed cost studies, and as a result of that record the  
3 Commission issued an order that resulted in rates different  
4 than those proposed and different than those proposed in this  
5 docket.

6 Q Okay. So it's fair to say, then for some rates you  
7 want the Commission in this proceeding to ignore rates that the  
8 Commission has established in other proceedings, but for other  
9 rates you want the Commission to simply adopt rates that the  
10 Commission had already adopted in other proceedings?

11 A I lost you there. Could you repeat that?

12 Q Sure. For some rates the Commission established --  
13 or, I'm sorry, for some elements the Commission established  
14 rates in the generic UNE docket, right?

15 A Correct.

16 Q And you don't want the Commission to revisit those  
17 rates in this proceeding, you just want the Commission to  
18 pronounce those as TELRIC rates that allow you to be compliant  
19 with the 271 checklist, right?

20 A Yes. I believe the Commission has evaluated those  
21 and determined those are the appropriate TELRIC rates.

22 Q But for the rates established in the Covad  
23 arbitration you don't want the Commission to simply rely on  
24 those rates, you actually want the Commission to revisit those  
25 rates and establish new rates for those elements in determining



1 whether BellSouth is TELRIC compliant under the checklist?

2 A Well, not necessarily. If I had been able to predict  
3 the future in a way that I had known a determination would have  
4 been made in the Covad case at this point in time, then perhaps  
5 we would not have felt the need to file them in this case. It  
6 was just an uncertainty as to what would happen.

7 Q When were the Covad rates adopted by the Commission?

8 A To my understanding within the last couple of days.

9 Q You made some changes in your testimony when you got  
10 up on the stand to correct some numbers that were in your  
11 testimony on some other issues, right?

12 A Yes, I made a couple of corrections.

13 Q And you didn't make any offer to change the rates  
14 that were attached in Attachment A to your SGAT that is  
15 attached to your testimony to reflect the Covad arbitration  
16 rates, did you?

17 A No, I did not. But, I mean, the Commission is  
18 certainly with its jurisdiction or discretion to decide to go  
19 with those rates.

20 Q Are you aware that on September 24th, BellSouth  
21 revised its rates for various daily usage file, or DUF rate  
22 elements in Georgia?

23 A Generally, yes. I'm aware there was a revision, I'm  
24 not aware of the specifics.

25 Q And do you know whether BellSouth has similarly filed

1 to reduce its DUF rates in Florida along the same lines as it  
2 proposed to do in Georgia?

3 A I don't know the specifics. Ms. Caldwell could  
4 probably address that.

5 Q Well, the rates that you are asking the Commission to  
6 determine are TELRIC compliant are attached to your testimony,  
7 right?

8 A The rates?

9 Q Yes.

10 A In terms of the SGAT?

11 Q Yes.

12 A Yes.

13 Q And you are asking the Commission to pronounce the  
14 rates as TELRIC compliant, correct?

15 A Well, what we have asked is that the Commission has  
16 determined UNE rates in the UNE docket, we have said those are  
17 the rates that will go in the SGAT, to the extent that the  
18 Commission has determined DUF rates as part of that, then those  
19 would be incorporated.

20 Q I guess my question was actually you specifically are  
21 the witness that has the rates attached to your testimony and  
22 in your testimony you are advocating that those rates are  
23 TELRIC, correct?

24 A Yes, we advocated that the rates we proposed were  
25 TELRIC, and now the Commission has rendered a decision and

1 those rates will be the rates that go in the SGAT.

2 Q Well, how can you testify that the rates are TELRIC  
3 if you don't know what the rates are or you are not sure what  
4 the underlying assumptions are behind those rates?

5 A Because the rates are simply the costs, and Ms.  
6 Caldwell is the witness that addressed the underlying cost  
7 studies and their assumptions.

8 Q Well, how can you testify that they are TELRIC if you  
9 are not sure if there was something that needed to be changed  
10 in Georgia, whether that was also changed in Florida?

11 A Because I don't know the specifics of the change for  
12 one reason and the second reason is, as I said, this Commission  
13 has evaluated the rates, DUF included, and made a determination  
14 on those rates, and those are the rates that will go in the  
15 SGAT.

16 Q The Georgia Commission had also made a prior  
17 determination on the DUF rates, correct.

18 A I'm not sure. Could you give me more specific --  
19 that's sort of a wide open question.

20 Q Sure. Before BellSouth made its filing on September  
21 24th in Georgia, there was a prior determination by the Georgia  
22 Commission as to what the DUF rates should be and that those  
23 DUF rates were TELRIC, right?

24 A Yes, I imagine there was.

25 Q And BellSouth made a filing to reduce those rates

1 after the Commission had pronounced the rates TELRIC, correct?

2 A Yes. I don't recall the exact time at which the  
3 Georgia Commission made the ruling that the rates would have  
4 been compliant. We are in the process of starting a new UNE  
5 docket in Georgia, it has been sometime since the Georgia  
6 Commission looked at a lot of these rates.

7 Q Do you know whether BellSouth has done a  
8 comprehensive review of all the rates set forth in its SGAT and  
9 all the rates pronounced by the Commission in the UNE case to  
10 make sure that there is nothing that needs to be changed in any  
11 of those rates?

12 A I don't know.

13 Q At Page 11 of your surrebuttal you say that upon  
14 request BellSouth will negotiate amendments to interconnection  
15 agreements to incorporate rates adopted by the Commission.

16 A I'm sorry, on what page?

17 Q Page 11.

18 A Of my rebuttal?

19 Q Surrebuttal, yes.

20 A I just have a different page. It doesn't look like  
21 it's on there. Let me find it.

22 Q Well, that's probably the wrong page, too. Oh, I  
23 think it's your direct, I'm sorry. Yes, at the beginning of  
24 Page 11, up at the top of your direct, you say that upon  
25 request BellSouth will negotiate amendments to interconnection

1 agreements to incorporate rates adopted by the Commission. And  
2 my question is why should an ALEC have to negotiate an  
3 amendment to its interconnection agreement in order to avail  
4 itself of rates adopted by the Commission?

5 A My recollection is in the UNE order there was  
6 language that indicated that rates would become effective upon  
7 amendments being executed to interconnection agreements and  
8 that's really the way changes get made to interconnection  
9 agreements.

10 Q Do you know on average how long it takes to negotiate  
11 an amendment to an interconnection agreement in order to  
12 incorporate a rate established by a commission?

13 A No, I don't.

14 Q Do you know whether when an ALEC sits down to  
15 negotiate with BellSouth to incorporate new rates, BellSouth  
16 also requires the ALEC to negotiate the terms and conditions  
17 that go along with the element for which the rates have been  
18 established?

19 A Yes, we could to the extent there are relevant terms  
20 and conditions.

21 Q And do you know that the Tennessee Regulatory  
22 Authority has specifically refused to require ALECs to have to  
23 negotiate amendments to their interconnection agreements in  
24 order to avail themselves of UNE rates established by the TRA?

25 A I don't know that I am aware of that specifically.

1 no, but I will accept that.

2 Q I want to talk a little bit about the part of your  
3 testimony that deals with the state of competition in Florida.

4 A Okay.

5 Q Looking through some of the words you have used to  
6 describe the state of competition, your testimony is that there  
7 is thriving, substantial, broad, growing, and irreversible  
8 competition in Florida, is that correct?

9 A Generally, yes. I don't know that I have all of  
10 those words in there, but, yes.

11 Q I could go through and show you all the words, but  
12 that is generally the thrust of your testimony and the  
13 affidavit of Mr. Wakefield (phonetic) that is attached to your  
14 testimony, right?

15 A Mr. Wakeling (phonetic), yes.

16 Q I'm sorry, Wakeling.

17 A Yes.

18 Q Now, at Page 16 of your direct you say that the only  
19 certain way for the Commission to incent ALECs to engage in  
20 broad-based competition in BellSouth's local market is to allow  
21 BellSouth entry into the interLATA long distance market. Now,  
22 obviously, BellSouth has not yet been granted permission to  
23 enter the interLATA long distance market in Florida, right?

24 A Correct.

25 Q So would you agree with me that either your statement

1 about the current scope of competition in Florida is incorrect  
2 or your statement that the only certain way to incent  
3 broad-based competition to allow interLATA entry is incorrect?

4 A No.

5 Q Well, you have testified that you currently have  
6 broad-based entry, you have agreed with me that BellSouth  
7 doesn't currently have interLATA relief, and yet your testimony  
8 says the only way to ensure that there is broad-based entry is  
9 to allow interLATA relief. Those three statements logically  
10 can't all fit together, can they?

11 A Yes, I think they can. And here is how I would say  
12 they do fit together. We have broad-based entry in Florida.  
13 We have entry consistent with the Track A requirement of the  
14 Act, and that's what we are asking the Commission to rule on.  
15 Further, if you look at other indications from around the  
16 country, if you look at what the FCC has determined, they found  
17 that while New York and Texas had broad-based entry to meet the  
18 tracking requirement, after given authority the activity in the  
19 local competition market, the pace picked up, it got even more  
20 active.

21 Q Well, now your statement on Page 16 says the only  
22 certain way for the Commission to incent ALECs to engage  
23 broad-based competition in BellSouth's local markets is to  
24 allow BellSouth entry into the interLATA long distance market,  
25 correct?

1 A Yes, that's what it says.

2 Q Now, if your testimony is that there is currently  
3 broad-based competition in Florida, clearly the Commission has  
4 found some other ways to incent ALECs to enter the market in  
5 Florida, hasn't it?

6 A Well, I would say that there has been a number of  
7 incentives that have been out there. There are obligations  
8 under the Act. I would say the fact that BellSouth has met its  
9 obligations has resulted in the competitive entry that is out  
10 there. If you look at the question that goes with the answer,  
11 what it asks is is it reasonable for the Commission to conclude  
12 that competition in the local markets will increase after  
13 interLATA entry. And my answer is yes, that is a way, and  
14 based on the experience in Texas and New York it is a certain  
15 way to increase that further.

16 Q Now, in the statement that you just read you left out  
17 one word. Your statement in your testimony says the only  
18 certain way, does it not?

19 A Yes, it does.

20 Q And that simply is not correct given the other  
21 statements in your testimony that there is currently  
22 competition in Florida, is it?

23 A I don't agree for the reasons I have just said.

24 Q Do you believe the Commission in the last five years  
25 has found ways to encourage ALECs to enter into the local



1 market in Florida?

2 A Yes, I believe they have.

3 Q And that is something that has led to the state of  
4 competition that you have testified about in Florida, correct?

5 A Yes, but my --

6 Q So you would agree -- I'm sorry.

7 A But my point was if you look at the experience in the  
8 states based on the FCC's data where interLATA authority was  
9 granted, those commissions, too, had done a good bit. There  
10 was a good deal of local competition there. The point is it  
11 took off after that. But there is an incentive for even more  
12 activity and that the certain action that seem to draw that  
13 increased activity is granting interLATA relief.

14 Q We will talk about that in a second, but if you agree  
15 with me that the Commission has found other ways to incent  
16 competition, it is not correct that the only certain way to  
17 incent ALECs to engage in competition is to grant BellSouth  
18 interLATA relief, is it?

19 A I disagree. Based on the experience in Texas and New  
20 York, I think the certain way to cause it to really take off is  
21 granting interLATA relief.

22 Q You keep talking about New York and Texas. The only  
23 evidence in your testimony about interLATA relief incenting  
24 local competition is the amount of local competition in New  
25 York and Texas after Verizon and SBC were granted interLATA

1 relief, right?

2 A Yes, as reported by the FCC.

3 Q All right. Now, would you agree with me that a  
4 substantial majority of the increase in competition in those  
5 numbers reported by the FCC in both New York and Texas is  
6 associated with the provision of service using UNE-P?

7 A I would have to go back and check the specifics of  
8 the increase. I will accept that subject to check.

9 Q And are you aware that UNE-P did not become generally  
10 available in New York and Texas until about the same time that  
11 Verizon and SBC were given permission by their state  
12 commissions to apply for interLATA relief in New York and  
13 Texas?

14 A No, I'm not aware of that.

15 Q Do you think it's possible that the availability of  
16 UNE-P might have something to do with the ramp-up in  
17 competition in both New York and Texas?

18 A I don't know. I would just be surprised that Verizon  
19 and SBC were not providing UNE-P. I mean, BellSouth is  
20 providing UNE-P here in Florida.

21 Q When did BellSouth begin to offer UNE-P?

22 A Early 2000, I think.

23 Q About February of 2000 was when it first agreed to  
24 offer UNE-P?

25 A Yes, I believe so.

1 Q Four years after the Act was passed?

2 A When it was determined that it was an obligation.

3 Q And up until that BellSouth fought strenuously to  
4 provide UNE-P, correct?

5 A We made our arguments on the issue, yes, on our  
6 interpretation of the Act.

7 Q And yet it would surprise you that Verizon and New  
8 York were not offering UNE-P until a couple of years ago?

9 A I don't know.

10 Q And, in fact, in the numbers dealing with the state  
11 of competition in Florida that you have provided, a good bit of  
12 the amount of increase in competition over the last year or so  
13 has been UNE-P competition, correct?

14 A When you say the numbers, we present a snapshot as of  
15 February 2000, an estimate of the facility-based lines. I'm  
16 not sure when you say the increase.

17 Q Do you know whether an amount of competition in  
18 Florida, say from February 2000 to today is represented by  
19 UNE-P competition?

20 A Yes, I believe some of it would be, and there is also  
21 a good bit indicated in just the growth in 911 listings as  
22 reported by CLECs.

23 Q Let me turn to another subject that is going to  
24 traverse several checklist items. Would you agree that  
25 Checklist Item 1 requires BellSouth to allow interconnection at

1 any technically feasible point requested by the ALEC?

2 A Yes.

3 Q Would you agree that under Checklist Item 9,  
4 BellSouth must provide nondiscriminatory access to telephone  
5 numbers? And I'm not trying to quiz you on the items.

6 A Yes.

7 Q And along those lines, would you agree that  
8 nondiscriminatory access to telephone numbers means that all  
9 carriers have the same ability to obtain telephone numbers and  
10 that no one carrier has any greater ability to access telephone  
11 numbers than any other carrier?

12 A Generally, yes, I agree with that.

13 Q I mean, I don't think that is a requirement set forth  
14 anywhere, but would you agree that that is generally a fair  
15 description of what nondiscriminatory access means?

16 A Yes. And the FCC has given some guidance on this  
17 issue in their orders, and they talk about complying with the  
18 industry guidelines, because there has been some changes in  
19 this area since the early years and that the administration has  
20 been moved to a third party.

21 Q And that third party was originally NANPA and now it  
22 is NeuStar, right?

23 A Yes. It was, I think, Lockheed, and then moved to  
24 NeuStar.

25 Q Okay. Now would you agree with me that Checklist

1 Item 12, which deals with filing parity also has a requirement  
2 for nondiscriminatory access to telephone numbers? And I'm  
3 looking at Page 93 of your direct testimony. At the top in  
4 discussing Checklist Item 12 you mention that this item also  
5 requires nondiscriminatory access to telephone numbers, right?

6 A Yes.

7 Q Okay.

8 A That section of the Act.

9 Q Right. And flipping back to Item 9, again, that  
10 prohibits BellSouth from assigning telephone numbers to itself  
11 or to ALECs and requires that BellSouth adhere to industry  
12 numbering administration guidelines, correct?

13 A Yes. Generally, yes, and when this item was  
14 initially established the large ILECs were the administrators  
15 of the numbers so they were the ones making the assignments.

16 Q Okay. And I'm looking at Page 81 of your direct.  
17 Between Lines 11 and 17, in discussing Checklist Item 9 you  
18 specifically mention that Checklist Item 9 requires that a BOC  
19 cannot assign telephone numbers to itself or to ALECs, right?

20 A Yes.

21 Q And also that a BOC must demonstrate that it adheres  
22 to industry numbering administration guidelines, correct?

23 A Correct.

24 Q Are you aware that there are certain telephone  
25 numbers that BellSouth has given to its own retail customers in

1 Florida in connection with its UNISERV retail service which are  
2 not assigned to BellSouth by NeuStar and which are not assigned  
3 to BellSouth in the LERG?

4 A No, I'm not. Mr. Milner could probably address that.

5 Q Well, now at the very beginning of your testimony you  
6 said that you are testifying as to BellSouth's checklist  
7 compliance for all the checklist items, correct?

8 A I believe what I said was my testimony and the  
9 testimony of other witnesses.

10 Q So then you cannot testify as to the subject of  
11 whether BellSouth is meeting Checklist Item 1, Checklist Item  
12 9, Checklist Item 12 on the subject of how BellSouth is  
13 assigning certain telephone numbers to its customers?

14 A No, Mr. Milner will address that.

15 Q If BellSouth is assigning some telephone numbers to  
16 its own retail customers that BellSouth was not assigned by  
17 NeuStar and which are not assigned to BellSouth in the LERG,  
18 would you agree with me that that violates the prohibition that  
19 BellSouth may not assign telephone numbers to itself?

20 A I can't really say without knowing the specifics of  
21 it.

22 Q All right. Were you a part of the MCI arbitration in  
23 Florida?

24 A Yes, I was.

25 Q One of the issues in that arbitration was this

1 UNISERV issue, was it not?

2 A I believe it was.

3 Q Are you aware that in the decision in that  
4 arbitration in Florida the Commission specifically said that  
5 BellSouth could not force MCI to purchase interconnection  
6 trunks to the BellSouth TOPS, T-O-P-S, tandems in order for  
7 MCI's customers to be able to dial BellSouth's UNISERV  
8 customers?

9 A No. I don't recall that specifically, no. I just  
10 don't recall it from the order, I'm not disputing that that is  
11 what it says.

12 Q Are you aware that despite that decision when AT&T  
13 approached BellSouth about this issue about a month ago,  
14 BellSouth told AT&T that it would have to buy interconnection  
15 trunks to BellSouth's TOPS tandems in order for our customers  
16 to be able to dial your UNISERV customers?

17 A No, I don't know way one way or the other.

18 COMMISSIONER DEASON: Mr. Lamoureux, could you get  
19 the witness to describe what UNISERV customers are?

20 MR. LAMOUREUX: Sure.

21 BY MR. LAMOUREUX:

22 Q Would you describe for me what UNISERV is, Ms. Cox?

23 A Well, actually Mr. Milner covers this in his  
24 testimony, so I really can't even describe the specifics of  
25 them.

1 Q Let me give you a description generally and see if it  
2 comports with what your understanding of the service is.

3 MS. FOSHEE: Mr. Chairman, I would like to object to  
4 that. The witness has testified that she doesn't know what it  
5 is and that Mr. Milner is the appropriate witness to talk about  
6 that, so I think --

7 COMMISSIONER DEASON: Well, I guess I'm at fault  
8 here, because I want to understand this cross examination, and  
9 I need to understand -- have a better understanding of what  
10 that service is, and why it's relevant to this particular  
11 checklist item about the parity and the availability of  
12 numbers. So I need some help.

13 BY MR. LAMOUREUX:

14 Q Let me ask this question. Do you know even generally  
15 anything about the UNISERV customer -- UNISERV service that  
16 BellSouth offers?

17 A And this is just my understanding of what I believe  
18 UNISERV is, and that is -- and maybe I will use a hypothetical.  
19 An arrangement where customers can call a single number  
20 throughout an area and reach a pizza delivery, that is about  
21 the extent of it. That's not a very good explanation.

22 COMMISSIONER DEASON: That's all you had to do. I  
23 understand the service now. I was just having a hard time with  
24 the term and what the service was. I understand.

25 BY MR. LAMOUREUX:



1 Q Are you aware that the telephone numbers that  
2 BellSouth gives to its customers who subscribe to UNISERV are  
3 not portable for incoming calls if the customer were to switch  
4 to an ALEC for retail service?

5 A I don't know.

6 Q Are you aware that AT&T raised this issue on a  
7 business to business matter with BellSouth in early September?

8 A I don't know one way or the other.

9 Q I want to ask a couple of questions very briefly  
10 about the point of interconnection issue which you discuss in  
11 your surrebuttal testimony around Page 21. At Page 21 and 22  
12 you discuss some other commissions in the BellSouth region that  
13 have addressed the issue, correct?

14 A Yes.

15 Q And you refer to the South Carolina, the North  
16 Carolina, and the Kentucky commissions there, is that right?

17 A That is correct.

18 Q You do not discuss there the Georgia Commission, do  
19 you?

20 A No. And I don't know -- I don't remember when that  
21 order came out.

22 Q Would you agree with me that in a generic proceeding  
23 the Georgia Commission has also addressed this point of  
24 interconnection issue?

25 A Yes, I would agree, and this Commission plans to, as

1 well.

2 Q I will get to that in a minute.

3 A I'm sorry.

4 Q But would you agree with me that in the Georgia  
5 generic docket -- let me back up. Would you agree with me in  
6 the Georgia generic docket, that was not just an AT&T and  
7 BellSouth docket, that was several different CLECs, ALECs, and  
8 BellSouth in that docket?

9 A Yes. What happened in Georgia is much like what  
10 happened here. This issue showed up in a number of  
11 arbitrations and the Commissioner decided to address it  
12 generically.

13 Q And you were one of the witnesses for BellSouth in  
14 that case, right?

15 A I was. And you were one of the lawyers for AT&T.

16 Q Thank you, I just remembered that. And would you  
17 agree with me that in its order in that generic docket the  
18 Georgia Commission agreed with the CLEC position that BellSouth  
19 is responsible for transporting its originating traffic even if  
20 the ALEC happens to have its point of interconnection in a  
21 different basic local calling area?

22 A Yes, they did, I agree.

23 Q And AT&T's settlement of this issue with BellSouth in  
24 its arbitration with BellSouth does not change the decision of  
25 the Georgia Commission in that generic docket, does it?

1           A     No, it wouldn't change the decision the Commission  
2 made.

3           Q     Now, you mentioned that Florida also has a generic  
4 docket addressing this issue, but you do not mention that the  
5 Florida Commission has also addressed this issue in several  
6 arbitrations, correct?

7           A     They have addressed parts of it, parts of the issue.

8           Q     Well, in the AT&T arbitration in Florida and in the  
9 Level 3 arbitration in Florida the Commission addressed the  
10 issue, did it not?

11          A     I don't remember the specifics of whether they  
12 addressed the issue of the compensation for transport or just  
13 the single point of interconnection. I can't remember the  
14 specifics about that. I know the generic docket was  
15 established to look at the issue of compensation.

16          Q     You don't think AT&T would have raised the issue  
17 about financial responsibility on this issue in its arbitration  
18 with BellSouth?

19          A     I imagine they did.

20          Q     It has been a pretty contentious issue between AT&T  
21 and BellSouth, hasn't it?

22          A     Yes, but my recollection was AT&T was in the generic  
23 docket. For some reason I thought that, as well.

24          Q     And you testified in the Level 3 docket, correct?

25          A     Yes.

1 Q But you don't remember whether the question of  
2 financial responsibility was at issue there?

3 A Oh, no, I know the question was at issue. What I  
4 couldn't recall and can't recall is if in its order the  
5 Commission reached a decision on that aspect of the point of  
6 interconnection or deferred that to the generic docket, as  
7 well. Because I seem to recall Level 3 at one point filing  
8 testimony in the generic docket on the compensation issue.

9 Q Up until the generic docket, the Level 3 and the AT&T  
10 arbitrations were the most recent proceedings in Florida that  
11 addressed this issue, weren't they?

12 A Probably. I don't know for certain, but I imagine  
13 they were. And this is not an issue that is unique to the  
14 state. The FCC, in fact, in the most recent Pennsylvania order  
15 acknowledged that Verizon's position on this issue was really  
16 the same as BellSouth in that they drew a distinction between  
17 where the physical point of interconnection was and where the  
18 financial responsibility would switch. The FCC did not find  
19 that position to be a reason for noncompliance with their  
20 rules. They clarified that the only clear rule was to allow a  
21 single point of interconnection and even acknowledged that the  
22 FCC itself was looking at this issue.

23 Q And, in fact, that is an issue in the arbitration  
24 between AT&T and Verizon in the Virginia arbitration that is  
25 actually before the FCC, is that correct?

1           A     That I don't know. I know they are addressing it in  
2 a notice of further proposed rulemaking.

3           Q     In the intercarrier compensation rulemaking?

4           A     Yes, that's the one. Thank you.

5           Q     Briefly, a couple of questions about reciprocal  
6 compensation. Checklist Item 13 requires BellSouth to provide  
7 reciprocal compensation arrangements for the transport and  
8 termination of telecommunications traffic, is that correct?

9           A     Yes.

10          Q     And would you agree that BellSouth is required to  
11 provide such reciprocal compensation arrangements for all  
12 telecommunications traffic originated by an ALEC?

13          A     Could you repeat that, I'm sorry?

14          Q     Sure. I'm just trying to ask if you agree that this  
15 requirement means that BellSouth has to provide reciprocal  
16 compensation arrangements for all telecommunications traffic  
17 originated by an ALEC?

18          A     No, the FCC has put some parameters around that.

19          Q     What are those parameters?

20          A     In fact, they modified the language in their  
21 intercarrier compensation order where they specified that  
22 reciprocal compensation was not due for ISP-bound traffic, and  
23 I believe the language is to the extent it is not access  
24 service and not traffic bound for an ISP. That is not the  
25 exact wording, but they put some parameters around what it

1 would be paid for.

2 Q Well, I used the phrase telecommunications traffic  
3 for a specific reason. Would you agree that what the FCC did  
4 was it defined what is telecommunications traffic and then it  
5 said that for all telecommunications traffic BellSouth has to  
6 provide for reciprocal compensation arrangements?

7 A Yes. I will accept that, yes. But my point is there  
8 are parameters. You don't pay on all traffic.

9 Q Well, you said traffic, I said telecommunications  
10 traffic.

11 A Okay.

12 Q Would you agree with me that the rule sets up a  
13 definition of telecommunications traffic which excludes some  
14 things from the definition of telecommunications traffic, such  
15 as ISP traffic, and then the rule requires BellSouth to provide  
16 reciprocal compensation for all telecommunications traffic?

17 A Yes. And access traffic is another exclusion.

18 Q And in terms of what BellSouth would have to pay  
19 ALECs in terms of reciprocal compensation, they would have to  
20 pay reciprocal compensation for all telecommunications traffic  
21 originated by an ALEC, right?

22 A Well, we would pay for all originated by BellSouth.

23 Q That we terminate?

24 A Right.

25 Q And on the flip side, we would pay you reciprocal

1 compensation for all telecommunications traffic that you  
2 originate?

3 A Yes.

4 Q And that includes all such traffic --

5 A That we terminate -- I'm sorry, you would pay us for  
6 the traffic we terminate.

7 Q Right. We pay you reciprocal compensation for all  
8 the telecommunications traffic that we originate and you  
9 terminate, right?

10 A Right.

11 Q And that includes all telecommunications traffic  
12 within the scope of the local calling areas that are set forth  
13 in the interconnection agreements between the ALECs and  
14 BellSouth, is that correct?

15 A It could to the extent traffic in that area wouldn't  
16 fall under one of the excluded categories.

17 Q All right. To the extent that an interconnection  
18 agreement sets forth how local calling areas are defined, the  
19 reciprocal compensation arrangement would then apply to all the  
20 telecommunications traffic that occurs within that local  
21 calling area set forth by the interconnection agreement,  
22 wouldn't it?

23 A Yes, I believe it would.

24 BY MR. LAMOUREUX:

25 MR. LAMOUREUX: That's all I have. Thank you very

1 much, Ms. Cox.

2 CHAIRMAN JACOBS: Thank you. Ms. McNulty.

3 Ms. McNULTY: Just to continue to mix things up a  
4 little bit, we would like to have Matt Feil with Florida  
5 Digital Network go next, and then I will follow him if that is  
6 all right.

7 CHAIRMAN JACOBS: That's fine. Is that the order you  
8 would like to continue in?

9 Ms. McNULTY: I think just for this particular  
10 witness.

11 MR. FEIL: Commissioners, in the way of timing here,  
12 I would say I probably have an hour or so for Ms. Cox. I do  
13 have some stopping points where I go from one subject to  
14 another probably about midway through that.

15 CHAIRMAN JACOBS: Okay. We'll take a look at that in  
16 about half an hour and see where you are.

17 MR. FEIL: Ms. Cox, I want to pass out to everyone an  
18 exhibit, and to you an exhibit, and basically what this is are  
19 answers to FDN request for admission and other discovery  
20 requests. And, Mr. Chairman, if I may have this marked as an  
21 exhibit.

22 CHAIRMAN JACOBS: Very well. Show this marked as  
23 Exhibit 14.

24 MR. FEIL: And I would title it FDN composite  
25 discovery responses.



1 (Exhibit 14 marked for identification.)

2 CROSS EXAMINATION

3 BY MR. FEIL:

4 Q Basically, Ms. Cox, so you can sort of get your  
5 bearings here, what this is is the first 39 pages are FDN  
6 discovery requests and then from Page 40 on are BellSouth's  
7 answers. And what I wanted to start the questioning with is on  
8 Page 43 -- or, excuse me, actually the requests for admission  
9 begin at Page 43. And the page numbers are marked on the  
10 bottom right-hand corner written in handwriting.

11 A I see it, thank you.

12 Q Okay. And starting at Page 43, and for 44, and for  
13 45, and Page 46, BellSouth admits the request that FDN posed,  
14 but starting with Page 47 there is a denial and then there is  
15 some additional language that is in the response, and I want to  
16 ask some clarification about those, about the denials?

17 A Okay. Starting on Page 47, then?

18 Q Page 47, yes, ma'am.

19 A Okay.

20 Q Now, as I understand what BellSouth is saying here is  
21 you are saying that the end user may receive one bill, but he  
22 doesn't have to receive one bill, is that correct?

23 A Yes, that's what it says.

24 Q So is it correct to say that it is typically on one  
25 bill for the end user who is receiving both voice and fast

1 access service?

2 A I don't know if that is typical or not.

3 Q Okay. Since BellSouth Telecom is sending out the  
4 bills and administering the billing, BellSouth Telecom also  
5 handles the collection effort for fast access service, is that  
6 correct?

7 A Yes, that is my understanding.

8 Q So if there were notices of disconnection for  
9 nonpayment and so forth, BellSouth Telecom would administer  
10 those collection efforts, is that correct?

11 A That is my understanding.

12 Q Okay. Going to the next page, Page 48. And, I'm  
13 sorry, the page numbers are a little blurry there at the  
14 bottom. If I understand the clarification here that BellSouth  
15 has written, you are saying that there is not a price package  
16 for fast access and all voice services, but there is one for  
17 complete choice and fast access, is that correct?

18 A Yes, that's what it says.

19 Q And complete choice includes voice service, does it  
20 not?

21 A I'm not sure if it specifically includes voice or if  
22 it is just a package of vertical features.

23 Q Would you agree, subject to check, that complete  
24 choice includes business line features, listing, and rotary  
25 packaged together?

1 A Did you say business line features?

2 Q Business line service, features, a choice of  
3 features, listing service, and rotary service packed together,  
4 or bundled together, would you agree with that subject to  
5 check, or do you want me to show you the tariff?

6 A No, I will agree subject to check. I just didn't  
7 know specifically that is how it was done.

8 Q All right. Do you know whether or not fast access  
9 service is price packaged with any other BellSouth voice  
10 services?

11 A No, I don't. I don't know one way or the other.

12 Q Okay. On Page 49 that was an admission. Page 50 was  
13 denied, and I wanted to ask you a question about that. Is it  
14 your understanding that BellSouth.net does not typically have  
15 contact with end users?

16 A Yes.

17 Q I'm sorry, I didn't mean to ask you a question while  
18 you were reading.

19 A That's okay. Let me just finish reading it, if you  
20 don't mind. Okay.

21 Q Is it your understanding that BellSouth.net does not  
22 typically have contact with end users for customer carrier  
23 issues, typically it is BellSouth Telecom?

24 A I don't know which of those scenarios would be  
25 considered typical.

1 Q Okay. Is it your understanding that BellSouth.net  
2 provides services only to BellSouth companies?

3 A That is generally my understanding. That is just my  
4 understanding, though.

5 Q So you would not know then whether or not  
6 BellSouth.net has direct contact with end user customers, then?

7 A No, I don't know specifically.

8 Q On Page 51 it was admitted, but I wanted to make sure  
9 because there has been some confusion regarding this matter. I  
10 wanted to ask you whether or not to your knowledge any of this  
11 answer has changed in any way?

12 A This is still my understanding of the way it is  
13 structured.

14 Q And is it your understanding that BellSouth Telecom  
15 purchases the DSL service out of its own wholesale tariff?

16 A Yes, its interstate wholesale tariff.

17 Q Okay. So just as AOL or Earthlink would purchase out  
18 of that tariff, BellSouth Telecom purchases out of BellSouth  
19 Telecom's tariff?

20 A That's my understanding.

21 Q If I could get you to turn to some earlier pages,  
22 Pages 25 and 26. What these are are some advertisements to end  
23 users that BellSouth has admitted to. And there is reference  
24 on the first one in the teeny tiny small print to BellSouth's  
25 website. I just want to ask you a quick question of whether or

1 not BellSouth advertises fast access service on its website?

2 A Yes, I believe it does.

3 Q Does BellSouth advertise fast access service on its  
4 repair trucks?

5 A I don't know. I have seen it advertised in Atlanta  
6 on vans, I don't know if they are specifically repair trucks or  
7 not.

8 Q Could you -- well, never mind, I will withdraw that  
9 question. If a CLEC provides voice service via resale,  
10 BellSouth Telecom will resell the CLEC ADSL service provided  
11 over that same line, correct?

12 A Yes, over the resold line, that is correct.

13 Q But BellSouth Telecom will not resell ADSL service if  
14 the CLEC provides voice service via a UNE or UNE-P arrangement,  
15 is that correct?

16 A Yes, that is our position and it has been affirmed by  
17 the FCC in numerous 271 cases.

18 Q If a CLEC is providing voice service via UNE or  
19 UNE-P, BellSouth Telecom will not sell its wholesale DSL  
20 transport product to the CLEC, correct?

21 A Yes, that is correct. And as I said that has been  
22 affirmed by the FCC.

23 Q Is the answer to your question the same -- under the  
24 same arrangement BellSouth will not likewise sell wholesale DSL  
25 transport to a CLEC's ISP?

1           A     To the extent the ISP was looking to buy out of our  
2 wholesale tariff then, yes, the answer would be the same. It's  
3 still a wholesale service.

4           Q     So you are saying that if a CLEC provides voice over  
5 a UNE or UNE-P, it would be able to buy -- or a CLEC's ISP  
6 would be able to buy wholesale BellSouth DSL transport out of  
7 the BellSouth federal tariff?

8           A     I must have misunderstood your question. I thought  
9 you asked if my answer would be the same as the other scenario.

10          Q     I may have misstated it.

11          A     That's okay. It would be the same; whether it is  
12 BellSouth's ADSL enhanced internet service or the wholesale  
13 service bought by other ISPs.

14          Q     I'm sorry, let me just get to the bottom line. Would  
15 a CLEC's ISP be able to purchase that wholesale service if the  
16 CLEC was providing voice over a UNE line to an end user?

17          A     No.

18          Q     That's what I wanted to get clear.

19          A     And that, again, is what has been affirmed by the FCC  
20 in numerous cases.

21                COMMISSIONER DEASON: What cases?

22                THE WITNESS: In their original line sharing order,  
23 in their line sharing order on reconsideration that came out  
24 January of this year, I believe, and in every 271 decision  
25 where the issue has been raised by the ALECs, they have reached

1 that conclusion.

2 COMMISSIONER DEASON: That it is not necessary to  
3 obtain 271 approval to provide DSL service on a UNE basis for  
4 when the ALEC provides voice service, is that correct?

5 THE WITNESS: Yes, that would have been the context  
6 of the 271 cases. On the line sharing reconsideration order it  
7 was really just a ruling that it was not an obligation on the  
8 ILECs to provide that DSL when the CLEC is using a UNE loop or  
9 a UNE-P.

10 CHAIRMAN JACOBS: So in that scenario where the CLEC  
11 is providing voice over that only and they can't get DSL to  
12 share that line, that customer then has to -- there has to be a  
13 line splitting done on that line, correct?

14 THE WITNESS: Yes, that would be an option for the  
15 underlying voice provider to bring DSL to their voice customer.

16 CHAIRMAN JACOBS: And there is an additional cost for  
17 the line splitting equipment and service, is that correct?

18 THE WITNESS: Yes, I guess to the extent there would  
19 be additional costs. Of course, the voice CLEC can certainly  
20 negotiate with the data LEC for use of the high frequency  
21 portion of the loop just as this Commission has set cost-based  
22 rates or will set cost based rates for us in the line sharing  
23 environment.

24 CHAIRMAN JACOBS: Are you at liberty to say to what  
25 extent there are additional overhead or additional procedures

1 required for you to provide the CLEC's ISP DSL service? Is  
2 that an additional cost? Was the issue before the FCC having  
3 to do with cost issues or was it simply a matter of scope of  
4 interpretation of the Act?

5 THE WITNESS: It was really -- the issue was not  
6 cost, the issue was a number of parties had urged the FCC to  
7 require ILECs to provide their DSL in really what would amount  
8 to a line splitting environment, and the FCC just declined to  
9 do that. They said there is no obligation for the ILECs to do  
10 that. We have an obligation to provide line sharing when we  
11 are the voice provider, and we do that, they did not impose an  
12 obligation on us to also line split with a voice provider.

13 CHAIRMAN JACOBS: I see. Thank you.

14 COMMISSIONER PALECKI: Let me ask you about those FCC  
15 cases. Are any of those cases -- if you know, do you have  
16 utilities, ILECs that have operating systems similar to  
17 BellSouth's where you reach a very high percentage of your  
18 customers through remote terminals rather than central offices?

19 THE WITNESS: That I don't know.

20 COMMISSIONER PALECKI: So you are not aware in those  
21 FCC cases if there were factual situations as there are in  
22 BellSouth's territory that would actually require a CLEC to  
23 install hundreds or perhaps thousands of DSLAMs in order to  
24 provide DSL service to your entire territory?

25 THE WITNESS: I'm not aware of the specifics of the



1 other cases. And, again, in the line sharing reconsideration  
2 order, it was looked at really generically or nationally, if  
3 you will, so it wasn't even looked at at the state level, which  
4 would have been the cases in the 271 dockets. So I don't  
5 really know how circumstances would vary across the country on  
6 that point.

7 COMMISSIONER PALECKI: So there may be a factual  
8 difference between the situation with BellSouth that might  
9 impose a hardship on an ALEC that were not found in those FCC  
10 cases?

11 THE WITNESS: I don't really know. I mean, the FCC  
12 has clearly obligated BellSouth and other ILECS to allow  
13 collocation at the remote terminal to accommodate the need to  
14 do that, but I don't know to what extent whether an ILEC is  
15 using remote terminals or not would even have been relevant to  
16 the FCC's evaluation.

17 COMMISSIONER PALECKI: Well, since you brought that  
18 up, if an ALEC installed a DSLAM at one of BellSouth's remote  
19 terminals, would BellSouth provide that ILEC -- or that ALEC,  
20 excuse me, with information regarding the customers served off  
21 of that remote terminal so that that ALEC could market that  
22 territory surgically and perhaps recoup its costs on the DSLAM?

23 THE WITNESS: I'm not sure what information is  
24 provided in that context. Perhaps Mr. Milner could give more  
25 detail on that. I just don't know what is available and what

1 is made available.

2 COMMISSIONER PALECKI: It's my recollection from the  
3 other hearing that the answer is that BellSouth will not  
4 provide that type of information. They consider it  
5 confidential. Will you accept that subject to check?

6 THE WITNESS: Certainly.

7 COMMISSIONER PALECKI: So if that is confidential  
8 information, how could an ALEC install a DSLAM and expect to  
9 recoup its investment through marketing the particular location  
10 which is served from a remote terminal?

11 THE WITNESS: I would presume, and I really can't  
12 speak for an ALEC's business plan, but I would imagine they  
13 would have some indication of the area that they are going into  
14 before they decided to go to that remote terminal. I would  
15 imagine population density and publicly available information  
16 would provide some detail there.

17 COMMISSIONER PALECKI: Oh, I'm envisioning a  
18 situation where an ALEC provides voice service, they receive a  
19 call from a customer that wants DSL, the only way the ALEC can  
20 provide DSL is to install their own DSLAM for a very high cost.  
21 How does the ALEC find out what other customers are served from  
22 that remote terminal if BellSouth doesn't provide the  
23 information?

24 THE WITNESS: And I don't know specifically how they  
25 would do that.

1           COMMISSIONER PALECKI: And would that not put an ALEC  
2 at a competitive disadvantage to BellSouth?

3           THE WITNESS: Again, I don't think so, necessarily.  
4 I would imagine that they would have some indication of the  
5 area that they are serving from just publicly available  
6 information. But I don't know specifically how they find that  
7 out.

8           COMMISSIONER PALECKI: Well, BellSouth's argument  
9 throughout has been we have installed our own DSLAMs at very  
10 great expense and the ALEC should have too, also. But you have  
11 records of all of your customers, so you know how to market  
12 those customers and you can install a DSLAM in every one of  
13 your remote terminals and then make it a cost-effective  
14 investment. Is there any way an ALEC could do the same thing?

15          THE WITNESS: Again, I just don't know specifically  
16 if they could or not.

17          COMMISSIONER PALECKI: Thank you.

18          MR. FEIL: Thank you, Commissioners.

19          CHAIRMAN JACOBS: How are we looking?

20          MR. FEIL: I have got probably two more questions for  
21 this line, and then --

22          CHAIRMAN JACOBS: Okay. We will do that and then we  
23 will break.

24          MR. FEIL: Okay, thank you.

25 BY MR. FEIL:

1 Q Ms. Cox, are you familiar with the FCC's order in the  
2 Verizon 271 application in Connecticut?

3 A Generally, yes.

4 Q Do you know whether or not the FCC in that case said  
5 that the restriction on line sharing that you are referring to  
6 is a UNE and is inapplicable to Verizon's obligations relating  
7 to retail services?

8 A I'm sorry, could you repeat that.

9 Q Are you aware of whether or not the FCC said in that  
10 order that the restrictions on line sharing, the line sharing  
11 UNE that you are referring to, is inapplicable to Verizon's  
12 obligations relating to retail services?

13 A I'm not aware one way or the other. What I was  
14 referring to was the FCC's finding and Connecticut was another  
15 one that Verizon did not have to provide DSL service when the  
16 ALEC was using a UNE loop or a UNE-P.

17 Q Did not have to provide or do not have to resell? Is  
18 that what you meant by provide?

19 A Did not have to provide their DSL service.

20 Q Well, are you familiar with the reason for that  
21 stated in the FCC order?

22 A Well, I think it's the same reason they have cited in  
23 all of their orders. They just did not believe this was a  
24 requirement. They were not going to impose that requirement.

25 Q So you don't know -- you are not in a position to

1 agree with me or disagree when I said that the FCC said that we  
2 do not reach this issue in this proceeding?

3 A Well, to the extent that they made a statement that  
4 it was not an obligation, I guess I would disagree that they  
5 didn't make a finding on this point.

6 MR. FEIL: All right. Well, I won't quibble with you  
7 over it. That's all I have for that line, Mr. Chairman.

8 CHAIRMAN JACOBS: Very well. We will break for lunch  
9 and come back at 1:30.

10 (Lunch recess.)

11 CHAIRMAN JACOBS: We will go back on the record. Mr.  
12 Feil, I believe you were continuing your cross examination.

13 MR. FEIL: Thank you, Mr. Chairman.

14 BY MR. FEIL:

15 Q Ms. Cox, can I refer you to your direct testimony,  
16 Page 44, beginning at Line 16 and carrying over onto the next  
17 Page 45. You talk about converting special access facilities?

18 A Yes.

19 Q On Line 21, where you talk about a combination of  
20 unbundled local and unbundled transport, you mean what is  
21 commonly referred to as EELs, right?

22 A Yes, an EEL.

23 Q And when you use the term convert, what exactly do  
24 you mean by convert? What process -- could you describe the  
25 process of converting as you used it in this answer?

1           A       Basically, what it would be is in a case where an  
2 ALEC is providing special access. They wish to now be paying  
3 UNE rates for the same service, so what BellSouth does is  
4 convert those previously special access circuits to a UNE, a  
5 combination of loop and transport. The billing would be  
6 changed to reflect UNE rates as opposed to special access  
7 rates.

8           Q       Well, my question specifically concerned what do you  
9 mean by conversion? What must the ALEC do and what must  
10 BellSouth do in this conversion process that you are referring  
11 to?

12          A       The ALEC will certify, self-certify that they are  
13 going to use these circuits consistent with the FCC's June  
14 order, June 2000 order, which is they are going to use them to  
15 mainly provide local service, and the FCC specified three  
16 conditions that would meet that requirement. My understanding  
17 is we have what we call a spreadsheet methodology, and an ALEC  
18 can give us a spreadsheet identifying the circuits they want  
19 converted and then BellSouth will convert those and the billing  
20 will be adjusted to now bill UNE rates.

21          Q       So there is not a process whereby the special access  
22 circuits are disconnected and then EELs are somehow connected  
23 in this conversion you are referring to?

24          A       I don't know what technical steps might be taken.

25          Q       Do you know whether or not BellSouth permits ALECs to

1 convert special access circuits to individual UNEs rather than  
2 to EELs?

3 A No, I don't.

4 Q Do you know if any of the witnesses here today would  
5 know?

6 A I don't know. Perhaps Mr. Milner, perhaps  
7 Mr. Ainsworth, maybe.

8 MR. FEIL: Commissioners, the next thing I need to do  
9 is go into a line of questioning that involved a confidential  
10 exhibit. I have the requisite red folders here and I can pass  
11 them out to the Commissioners and the court reporter. The  
12 witness already --

13 THE WITNESS: Is this the one here?

14 MR. FEIL: Yes, ma'am. The witness already has a  
15 copy, and I handed a copy to Ms. White earlier. But how many  
16 copies will staff require, if any?

17 MS. KEATING: If you have got three, that would be  
18 helpful.

19 MR. FEIL: Okay. I will has those out now. May I  
20 have the next exhibit number, Mr. Chairman?

21 CHAIRMAN JACOBS: That will be Exhibit 15.

22 (Exhibit 15 marked for identification.)

23 MR. FEIL: And the short title or description for  
24 this, Mr. Chairman, I would suggest is confidential exhibit  
25 regarding win back results.

1 CHAIRMAN JACOBS: Very well.

2 Ms. McNULTY: Chairman, at this time for those  
3 parties who have signed a nondisclosure agreement with  
4 BellSouth, would we be able to see a copy of the exhibit that  
5 Mr. Feil has distributed?

6 MS. FOSHEE: BellSouth has no objection to that  
7 provided the parties have signed a protective agreement and  
8 treat the document as confidential pursuant to that agreement.

9 Ms. McNULTY: Thank you.

10 CHAIRMAN JACOBS: Thank you.

11 BY MR. FEIL:

12 Q And, Ms. Cox, so you are aware what this exhibit is  
13 basically is a response to a document production request that  
14 FDN imposed on BellSouth. And as I explained to Ms. White, it  
15 is not the entire exhibit, there were 140 pages that were  
16 removed from the back end which are not included there.

17 A Okay.

18 Q The first question I wanted to ask you regarding the  
19 exhibit pertains to Page 6. There is a reference in the fourth  
20 column -- I'm sorry, I numbered them all on the bottom,  
21 handwritten numbers, again.

22 A Oh, I see. Thank you.

23 Q In the fourth column where it says demand win back,  
24 could you describe to me what is meant by demand win back?

25 A I really don't know. I'm not familiar with this



1 particular document.

2 Q Okay. On Page 7 it refers to -- there in the  
3 left-hand corner, a welcome back. Are you familiar with that?

4 A Welcome back was a special promotion that was offered  
5 in the last year or so.

6 Q Was it a tariffed promotion?

7 A Yes, I believe it was. Well, I don't know  
8 specifically, that could have varied by state.

9 Q Did it include a price discount as part of the  
10 promotion?

11 A Yes, it did. And a service commitment time period.

12 Q Does BellSouth consider what is known as the key  
13 customer program a win back program? Let me ask this, are you  
14 familiar with the key customer program?

15 A Yes, generally.

16 Q Does BellSouth consider the key customer program a  
17 win back program?

18 A It could be. We really consider it -- I would refer  
19 to it more as a customer loyalty program.

20 Q But the key customer program does offer discounts for  
21 customers that would be ALEC customers as well as quite  
22 possibly BellSouth customers?

23 A Yes, it would be new customers and existing  
24 customers.

25 Q And the eligibility requirements for the key customer

1 program is basically you are served from wire centers in  
2 competitive situations I believe is the description?

3 A Yes, and certain, I think, total revenue.

4 Q There is a billed revenue minimum, is that what you  
5 are saying?

6 A Yes, and a discount based on that. And also a time  
7 period commitment.

8 Q Okay. To your knowledge is the key customer program  
9 still up and running?

10 A In Florida?

11 Q In Florida, yes, ma'am.

12 A Yes, to my knowledge it is.

13 Q Would you agree subject to check that it is tariffed  
14 through June of 2002?

15 A Yes, I believe that is correct.

16 Q And it is your understanding that the full circle  
17 program is by tariff expired, is that correct?

18 A In Florida, yes, that is my understanding.

19 Q Do you know whether or not this welcome back program  
20 is tariffed in Florida?

21 A To my knowledge, it is not currently.

22 Q Do you know whether or not -- for example, on Page 7,  
23 do you know whether or not the numbers reflected here include  
24 the key customer program numbers?

25 A No, I don't. I don't know whether they do or not.

1 Q Do you know whether or not it includes any other  
2 discounts that BellSouth may have available?

3 A No, I don't know the specifics of what is in the  
4 numbers.

5 Q Again, on Page 7, over to the right-hand side it  
6 refers to stimulated, stimulated win back. Do you know what is  
7 meant by stimulated as used in this reference?

8 A No, I don't.

9 Q If I could refer you to Page 12, Paragraph 4.  
10 Basically, I could summarize this. This says that a customer  
11 cannot migrate once they enroll in this program to another  
12 carrier prior to the end of the term unless it pays BellSouth  
13 the value of all the discounts the customer received up to the  
14 point in time that the customer wishes to leave.

15 A Looking at Paragraph 4?

16 Q Paragraph 4, yes, ma'am. I'm sorry, I was talking  
17 while you were reading again. Just tell me to stop when I do  
18 that.

19 A That's okay. Yes, it says in the event the  
20 subscriber discontinues business service, whether or not they  
21 migrate somewhere else or not.

22 Q Okay. But the customer -- if the customer did  
23 migrate say to an ALEC, or attempted to migrate to an ALEC then  
24 the customer would be liable to BellSouth for the discounts the  
25 customer had received, is that correct?

1           A     Yes.  And that is related to the fact that in order  
2 to get the discount the customer agreed to certain terms of  
3 service, which is not unusual.

4           Q     Would you agree that that provision would tend to  
5 prevent customers from migrating away from BellSouth?

6           A     No, not necessarily.  If the customer still thought  
7 that it was in their best interest to move to another carrier  
8 and they wanted to pay these charges, they could do that.

9           Q     Is this provision designed to discourage customers  
10 from migrating to other carriers?

11          A     Clearly the program is designed to build customer  
12 loyalty, I mean, as all companies I think strive to do.  So we  
13 are attempting to build customer loyalty through this program,  
14 yes.

15          Q     If I could refer you to Page 20.

16                COMMISSIONER JABER:  Mr. Feil, before you leave that  
17 page --

18                MR. FEIL:  Yes, ma'am, go ahead.

19                COMMISSIONER JABER:  Ms. Cox, is it unheard of to  
20 have ALECs compensate BellSouth for the actual termination  
21 charges that the customer might be liable for?  Is that  
22 something that routinely happens in the industry or is it --

23                THE WITNESS:  I don't know if it is routinely, it is  
24 clearly envisioned.  In fact, in the resale of our contract  
25 service arrangements that is one of the provisions that to the

1 extent the ALEC would continue the term of the original  
2 contract there would be no termination liability even applied  
3 in that case. But in this case, clearly it would be no  
4 problem. If the ALEC wanted to say we want this customer, we  
5 are going to take care of the commitment that the customer made  
6 to you in order to get the discounted rates, then that would  
7 not be a problem at all.

8 BY MR. FEIL:

9 Q Just in the way of a follow-up, I want to make sure I  
10 understood what you said. If a customer signs up for this  
11 program and the program -- an ALEC takes advantage of this  
12 program and the resale discount is applied to the customer who  
13 is enrolled in this program, are you following me or am I  
14 stammering too much?

15 A Well, no, I wouldn't say you are stammering.

16 Q Anyway, we have a customer who signed up for this  
17 program with BellSouth, the customer wishes to migrate to an  
18 ALEC. The ALEC wants to take advantage of this discount as  
19 well as the resale discount combined, which it is eligible for  
20 under the FCC rules, do you agree with that?

21 A Yes. To the extent it's a promotion of a certain  
22 length, and this one would be.

23 Q That is correct, that it meets the qualifications in  
24 the FCC rules?

25 A Right.

1 Q Okay. Are you suggesting then that as a condition to  
2 the ALEC providing resale service to that customer, the ALEC  
3 must pay BellSouth the amounts of the discount that the  
4 customer was liable for under this agreement?

5 A No, I'm saying that they could agree -- as long as  
6 they agree to the terms, they would need to agree to the terms  
7 of the agreement that the customer originally agreed to.

8 Q Now I follow what you are saying, thank you. Getting  
9 back to Page 20, I'm sorry. Now, the numbers on this page are  
10 not Florida-only numbers, right? Well, to your knowledge.

11 A I don't know for sure, really, so I can't really say.

12 Q Well, if you look there toward the bottom where it  
13 has January 1, is it correct that there was a jump in the  
14 number of win backs beginning in January that coincided with  
15 the full circle program?

16 A Well, I don't really know what these lines are, so I  
17 guess it's hard for me to say. I don't really know what these  
18 lines represent.

19 Q Okay, that's okay. Are you aware of whether or not  
20 BellSouth has made the commitment to make an investment in  
21 post-sales order processing as referenced on the bottom panel  
22 of the exhibit?

23 A Oh, I see here. I don't know.

24 Q Do you know whether or not BellSouth tracks win back  
25 situations that are caused by BellSouth? In other words, when

1 a BellSouth representative has the opportunity to engage in a  
2 win back sale to an ALEC customer, does BellSouth track whether  
3 or not that customer had experienced service problems that were  
4 caused by BellSouth versus the ALEC?

5 A I don't know if it is tracked or not.

6 MR. FEIL: That's all I had on this exhibit. And  
7 actually that concludes my questions.

8 MS. FOSHEE: Mr. Chairman, I would like that the  
9 confidential exhibits be recollected from all of the parties  
10 who have those.

11 COMMISSIONER PALECKI: I have a question on the win  
12 back program. When a customer goes over to an ALEC, is that  
13 information turned over to anybody involved in the win back  
14 program to call those particular customers?

15 THE WITNESS: No.

16 COMMISSIONER PALECKI: And is there a code of conduct  
17 or something that prevents that, why not?

18 THE WITNESS: Well, there are a couple of things.  
19 The FCC has addressed this issue in some CPNI orders, and they  
20 have clarified that, you know, you shouldn't be using  
21 information that you have learned because you are providing  
22 service to a carrier to use that information to then target end  
23 users. And so this would be an example that would fall under  
24 that restriction, and so BellSouth also has put in training  
25 programs, we have processes in place to prevent the use of what

1 we would call wholesale information. That is we only know this  
2 customer is leaving because we are providing service to this  
3 carrier, too. That's how we know they are going to that  
4 carrier, so it would not be appropriate and we don't use that  
5 information to then go and target that customer back.

6 COMMISSIONER PALECKI: So how do your win back  
7 personnel operate? I mean, do they just call people at random,  
8 how do they know who to target?

9 THE WITNESS: What happens is there is a list that is  
10 generated at some point in time that will say here are  
11 customers that have disconnected, and we can determine whether  
12 they moved or whether they, you know, left the area, those  
13 kinds of things. So we will take those off, and all we can do  
14 is assume that the rest went to a competitor somewhere. We  
15 don't know which competitor and we didn't know for sure that is  
16 what happened. But that is how we use that to target  
17 customers.

18 COMMISSIONER PALECKI: And how often do you gin up  
19 those lists, are they put together daily or is it something  
20 that occurs annually?

21 THE WITNESS: I'm not sure how often they are put  
22 together. I would guess it's probably not daily, and it's  
23 probably more often than annually, but I don't know where in  
24 the spectrum it would fall.

25 COMMISSIONER PALECKI: It just occurs to me that it



1 would be pretty -- by submitting a list like that on a regular  
2 basis, let's say weekly, it would be pretty easy for the win  
3 back people to get the information and basically to eliminate  
4 those that have moved and the others have gone over to ALECs.  
5 Would that be a reasonable assumption?

6 THE WITNESS: I don't think -- well, I know that we  
7 are not using the information in any way that would be  
8 improper, that the FCC has determined that we should not use  
9 it. Now, there is a list that win backs are targeted from,  
10 people making the calls don't know where the customer went,  
11 they don't know for sure they went to a competitor, but that is  
12 information that they use to target customers. And that would  
13 be the same type of information that any company would have  
14 people on customers that have left them. They don't learn of  
15 it -- I guess the distinction, they don't learn of it at the  
16 time that it happens, there is not an immediate rush to go  
17 contact that customer. Hey, we heard you're leaving to go to  
18 somebody else. The process does not work that way.

19 COMMISSIONER PALECKI: But basically at some point in  
20 time there is a list of all people that have left and those are  
21 the customers, or the X customers that are targeted for win  
22 back?

23 THE WITNESS: Yes.

24 COMMISSIONER PALECKI: And if you didn't do that, it  
25 wouldn't be reasonable to expect that you would contact every

1 one of your millions of customers in order to find out who is  
2 still -- who has left to go to an ALEC?

3 THE WITNESS: Well, as you probably know, we have a  
4 lot of customers that move and completely leave the state, so  
5 there would be no reason to call them. I mean, that wouldn't  
6 be sort of a customer that is in play with competitors here in  
7 Florida.

8 COMMISSIONER PALECKI: Is there any kind of a blanket  
9 marketing of BellSouth territory, such as newspaper or  
10 television in order to promote win back, or is it all just  
11 direct contact over the phone?

12 THE WITNESS: Well, I would say generally all of our  
13 advertising is probably also to promote win back. I mean, it  
14 is focused on our customers as well as all potential customers  
15 to tout our service and encourage them to take service from  
16 BellSouth.

17 COMMISSIONER PALECKI: Well, I understand that, but  
18 is there any that specifically refers to win back, talks about  
19 the promotional discounts, et cetera, the offers that are being  
20 made, those types of specific win back promotions?

21 THE WITNESS: I don't know if there are specific  
22 promotions and advertisements or not.

23 COMMISSIONER PALECKI: Thank you.

24 CHAIRMAN JACOBS: Ms. McNulty.

25 CROSS EXAMINATION

1 BY Ms. McNULTY:

2 Q Good afternoon, Ms. Cox. I am Donna McNulty with  
3 WorldCom.

4 A Hello.

5 Q Would you agree that the tandem interconnection issue  
6 falls under Checklist Item Number 13?

7 A Yes.

8 Q In its April 27th, 2001 order on remand, the FCC  
9 provides for a single-prong geographic test based on whether  
10 the ALEC's facilities serve a comparable geographic area as  
11 that served by BellSouth's facilities?

12 A Yes, I would agree that in that order the FCC  
13 clarified that the test for tandem interconnection was a  
14 single-prong as described in your question.

15 Q And on Page 39 of your rebuttal testimony, you state  
16 that BellSouth's SGAT, which is attached to your testimony,  
17 complies with the FCC's order on remand dated April 27th, is  
18 that correct?

19 A Yes.

20 Q Do you have a copy of the SGAT?

21 A I do.

22 Q Would you point us to the portion of the SGAT that  
23 complies with the FCC's order on remand regarding the  
24 single-prong geographic test?

25 A The SGAT does not describe what the test is for

1 tandem interconnection. There is no disagreement anymore  
2 between the parties as to what that is.

3 Q Is there no disagreement as to the fact that there is  
4 a test, or is there disagreement as to what the standards  
5 should be for the test?

6 A There is no disagreement as I understand that there  
7 is a test and what that test is. Because of the way the test  
8 is structured, and that is is an ALEC switch serving a  
9 comparable geographic scope, there would need to be made a  
10 showing on an individual basis, on an ALEC basis.

11 Q Is BellSouth currently paying any Florida ALEC based  
12 on geographic comparability?

13 A I don't know if we are currently paying on that or  
14 not. I know we are paying the tandem interconnection rate is  
15 my understanding.

16 Q Who would know?

17 A I don't know. Maybe Mr. Scollard.

18 Q Also in the April 27th remand order the FCC laid down  
19 ground rules for the reciprocal compensation rates. Do you  
20 recall that?

21 A Yes, they did.

22 Q And in that order the FCC established an interim  
23 mechanism to govern ISP-bound traffic for the next three years?

24 A Yes, that was part of that.

25 Q And also as part of that interim mechanism, the FCC

1 set rate caps for ISP-bound traffic that would apply only if an  
2 ILEC offers to exchange all traffic subject to compensation  
3 under Section 251(b)(5) at the same rate?

4 A Yes, I would generally agree with that.

5 Q And they have established a rebuttable presumption  
6 that a three-to-one ratio of terminating to originating minutes  
7 will serve as a proxy for identifying ISP-bound traffic, do you  
8 recall that?

9 A Yes, I do.

10 Q So, in other words, for traffic within the  
11 three-to-one ratio the State PSC reciprocal compensation rates  
12 would apply?

13 A They could, yes.

14 Q And would you agree that BellSouth is offering to  
15 exchange all traffic under Section 251(b)(5) at the same rates  
16 described by that April 27th order on remand?

17 A Yes, we have offered that.

18 Q In your rebuttal testimony on Page 38 you had  
19 mentioned that the issue of whether an ALEC's switch serves a  
20 geographic area comparable to BellSouth's tandem switch only  
21 arises when the ALEC declines BellSouth's offer to exchange  
22 local traffic at the same rate as the ISP traffic, is that  
23 correct?

24 A Yes.

25 Q But not all ALECs in Florida have accepted

1 BellSouth's offer?

2 A I don't know for sure whether all have or not.

3 Q WorldCom has not accepted BellSouth's offer to  
4 exchange local traffic at the same rate as ISP, has it?

5 A I don't know specifically if WorldCom has or not.

6 Q And for those ALECs that decline BellSouth's offer,  
7 the issue of whether or not an ALEC's switch serves a  
8 geographic area comparable to the ILEC's tandem switch would be  
9 relevant?

10 A Yes, it would, and will be addressed in the  
11 Commission's generic docket, I believe.

12 Q And the Commission has not issued an order on that  
13 yet, is that correct?

14 A That is correct. I think it is expected in December  
15 sometime. I guess the agenda session, maybe.

16 Q Moving on now. In your testimony you have also  
17 stated that the entry of Verizon into the long distance market  
18 in New York stimulated competition. Do you recall that?

19 A Yes. Actually what I said was the FCC had determined  
20 that in their report.

21 Q Are you aware that WorldCom, AT&T, and Sprint entered  
22 the local New York market to compete with Verizon?

23 A Yes, that would be my assumption as to why they  
24 entered.

25 Q And are you aware that they have -- that they are

1 offering, quote, unquote, one-stop shopping in those areas of  
2 New York?

3 A Yes, generally that is my understanding.

4 Q And are you aware that in New York, WorldCom entered  
5 the local residential market almost one year before New York  
6 obtained 271 approval?

7 A I would not be surprised, because as I said earlier  
8 in the New York evaluation the FCC determined there was Track A  
9 level of competition at the time Verizon got approval.

10 Q And today BellSouth is not prohibited by Section 271  
11 to provide a similar one-stop shopping outside of its region,  
12 say, for example, in New York, is that correct?

13 A That is correct.

14 Q But currently BellSouth is not providing the bundled  
15 product of local and LD outside of its region, is it?

16 A Not that I'm aware of.

17 Q Are you aware that MCI is in Michigan and Illinois  
18 offering local residential service?

19 A I don't know if I was aware -- I guess I did see that  
20 on the website. I think I checked the website and I did see  
21 Michigan and Illinois.

22 Q Are you aware that the RBHCs in Michigan and Illinois  
23 have not obtained 271 approval yet?

24 A Yes, I am aware of that. And the point really about  
25 Texas and New York is the level of competition really took off

1 according to the FCC's numbers after interLATA authority, it's  
2 not that there was no competition before.

3 Q Are you aware that in Massachusetts for Verizon and  
4 Oklahoma and Kansas for SBC that those RHBCs have obtained 271  
5 approval, but yet -- I mean, are you aware of that?

6 A Yes, I am.

7 Q I thought you were. But at this point in time, MCI  
8 is not offering local residential service in those states?

9 A That I don't know for sure. I don't recall seeing  
10 that on the website.

11 Q Ms. Cox, wouldn't you agree that the Commission  
12 approval of 271 is not the only way for commissions to provide  
13 incentives to enter the local residential market?

14 A Well, no, I wouldn't agree, and here is why. As I  
15 have said probably ad nauseam, in the states where 271 was  
16 granted and in other states across the country, if you look at  
17 the FCC's reports there has been a good level of competition in  
18 those states. When you look at the last FCC report, the two  
19 states that had interLATA authority at that time, and had it to  
20 cover that time period, the local competition just really took  
21 off to the point where the FCC acknowledged it in their press  
22 release. So I think it is the only way that has been  
23 determined so far, anyway, to really spur the competition to  
24 have big increases.

25 Q Ms. Cox, if I understood your testimony earlier -- I



1 just want to ask a couple of questions based on your testimony  
2 regarding DSL and resale. I'm a voice reseller, I would  
3 receive avoided cost rate under the Act to resell your voice  
4 service?

5 A Yes, you would.

6 Q Does BellSouth resell DSL service, DSL loops? I'm  
7 sorry, does BellSouth resell DSL?

8 A We offer our interstate wholesale service for resale,  
9 it is not offered at the resale discount because as the FCC  
10 determined, it is a wholesale service, so a resale discount  
11 would not be appropriate.

12 Q Does BellSouth offer fast access?

13 A Yes. That is our DSL-based Internet access service,  
14 and that is what the FCC calls an enhanced service.

15 Q Besides saying that it's a DSL-based service, could  
16 you be more specific when you explain what you mean by fast  
17 access?

18 A It is BellSouth's Internet access service that we  
19 sell to end users, and it would compete with fast or broadband  
20 access services such as cable modems, or service that Earthlink  
21 would provide, or other DSL providers, that is the type of  
22 service I'm talking about. It's an Internet access service.  
23 It uses the DSL technology as a component of that service.

24 Q What are the other components of that service?

25 A I couldn't tell you specifically. It would be

1 whatever is required to provide the Internet access piece.

2 Q And does BellSouth Telecommunications provide that  
3 Internet access piece?

4 A BellSouth Telecommunications provides the fast access  
5 service, the enhanced service.

6 Q And does BellSouth Telecommunications provide all of  
7 the components that comprise fast access?

8 A I don't know if they provide all the components.

9 Q Who would know?

10 A I don't know. Maybe -- I don't know.

11 Q Does BellSouth resell fast access?

12 A No. It's an enhanced service and the FCC has  
13 determined those services are not subject to regulation, so in  
14 effect it is an unregulated service and would not be subject to  
15 resale.

16 Ms. McNULTY: Thank you, Ms. Cox. I have no further  
17 questions.

18 THE WITNESS: Thank you.

19 CHAIRMAN JACOBS: Ms. Kaufman.

20 MS. KAUFMAN: Thank you, Mr. Chairman.

21 CROSS EXAMINATION

22 BY MS. KAUFMAN:

23 Q Good afternoon, Ms. Cox. I just want to follow-up  
24 for a minute on some of the questions that Commissioner Palecki  
25 was asking about win back. And if I understood your responses

1 to him, I think you told him that Bell identifies the customers  
2 to target for win back by reviewing a list of customers that  
3 have left BellSouth and eliminating those that have moved out  
4 of the area, and I guess maybe perhaps customers that are  
5 deceased or some other smaller category of customers. But  
6 putting aside customers that have moved, BellSouth makes the  
7 assumption that the remaining customers have gone to a  
8 competitor, correct?

9 A Yes.

10 Q And would you agree with me that as part of  
11 BellSouth's market strategy it makes a concerted effort to  
12 contact those customers and convince them to come back to  
13 BellSouth?

14 A I don't -- I really can't speak to the marketing  
15 strategy and whether it's a concerted effort. Clearly  
16 BellSouth, like any other competitor in the business market, is  
17 actively trying to solicit customers and build loyalty in its  
18 customer base.

19 Q And would it also be true, Ms. Cox, that -- I think  
20 you told Commissioner Palecki that you don't know how often  
21 Bell generates and reviews a list of customers that have left,  
22 but would it be true that when you target these win back  
23 customers there is no hiatus or waiting period? In other  
24 words, if you generate the list and you see a customer left  
25 yesterday, that customer is targeted; you don't wait 30 days or

1 60 days, is that correct?

2 A I don't know specifically about that. I'm not sure  
3 how quickly the list gets developed relative to when the  
4 disconnects occurred, so I don't know what the time frame is  
5 between when a customer might have disconnected and whoever is  
6 using the list might get the list.

7 Q But would you agree with me that there is no  
8 BellSouth policy or that BellSouth refrains, say, from  
9 contacting a customer in the first 30 days after they have left  
10 BellSouth?

11 A Not that I'm aware of.

12 Q Is there any witness in this proceeding that could  
13 tell us a little bit more about Bell's win back program?

14 A I don't think so.

15 Q So you are the person that has the most knowledge in  
16 that area?

17 A Probably.

18 Q And there is one other follow-up area I want to ask  
19 about before I turn to my questions, and that has to do with  
20 some questions that Mr. Lamoureux asked you regarding the Covad  
21 arbitration. And I believe that you discussed with him the  
22 fact that the Commission in that arbitration reviewed Bell's  
23 collocation study and various other prices and it entered a  
24 decision that did not accept Bell's cost study, is that  
25 correct?

1           A     Yes, the Commission made certain revisions to the  
2 cost studies. And, in fact, my recollection has asked  
3 BellSouth within some number of days to refile cost studies,  
4 which I'm sure they will then evaluate for compliance.

5           Q     And I believe you told Mr. Lamoureux that those -- we  
6 will call them the Covad prices -- are not incorporated in the  
7 SGAT, correct?

8           A     They have not been to date, no.

9           Q     Are they going to be, is it your intent to revise the  
10 SGAT, or are you asking the Commission to approve the SGAT as  
11 was filed?

12          A     Well, as indicated in my testimony, we know we are  
13 going to revise the SGAT to include the rates that were ordered  
14 in the UNE docket. To the extent the Commission orders  
15 cost-based rates for collocation and line sharing as a result  
16 of the Covad arbitration, that's fine. Those can go in the  
17 SGAT, as well.

18          Q     Well, maybe I'm confused. Hasn't the Commission  
19 already rendered its decision in the Covad arbitration?

20          A     Yes, they have, but as I said the next step as laid  
21 out in the order, as I recall, is we would refile cost studies  
22 within some 30 days, perhaps. The Commission would evaluate  
23 those for compliance and then the rates would be set.

24          Q     Okay. Maybe we're just making this more difficult  
25 than it has to be. When that process is completed, are those

1 rates going to be incorporated into the SGAT or not?

2 A They can be. Certainly if the Commission determines  
3 those are cost-based rates in Covad and those are the rates  
4 that they would like to go in SGAT, that's fine. That is not a  
5 problem.

6 Q So are you saying you are going to wait for the  
7 Commission to tell you, BellSouth, put those rates in the SGAT?

8 A Well, first, I'm going to wait for the Commission to  
9 establish those rates based on the refiling and the procedures  
10 they have laid out in the Covad arbitration.

11 Q Okay. Well, let's go through the process one more  
12 time. I don't want to really belabor this with you, but we  
13 have had an arbitration proceeding, we have had a  
14 recommendation, we have had a vote on the rates, and we have  
15 had an order in which the rates were established. And Bell has  
16 been told essentially to conform their study to those rates,  
17 correct?

18 A Yes, that is my understanding of the order.

19 Q And when that happens, is it your intent to  
20 incorporate those rates into the SGAT?

21 A Yes, we can do that at that time if those are found  
22 to be cost-based rates. Our real intent in filing the studies  
23 in this docket was to the extent costs based rates have not  
24 been set in another docket, and there were just these few cases  
25 where they hadn't, we would ask that they be set here. If they

1 get set in the Covad arbitration, then that's fine.

2 Q I want to turn to your direct testimony now for a  
3 moment and talk to you a little bit about that. And I think at  
4 the bottom of Page 14 you talk about the status of competition  
5 in Florida, correct?

6 A Yes.

7 Q So I would be correct in assuming, wouldn't I, that  
8 you think that that is a important topic for the Commission to  
9 consider in its deliberations here?

10 A Well, the Commission has got to look at Track A to  
11 the extent that BellSouth and the conditions in Florida meet  
12 the requirements for Track A, and Track A does require that  
13 there be a competitor providing residence and business service  
14 over their own facilities. This testimony gives, if you will,  
15 a more full picture of the status of competition.

16 Q And you think it is important, don't you, that the  
17 Commission look at the actual level of competition that is  
18 occurring in Florida as it makes its deliberations?

19 A Not necessarily. I think what is important is that  
20 the Commission look at the requirements of Track A, and in  
21 their evaluation look at the estimates that we have provided to  
22 demonstrate our compliance with Track A.

23 Q Okay. So let me understand, you don't think it is  
24 important for the Commission to look at the actual level of  
25 competition in the marketplace?

1           A     To the extent it provides evidence for Track A.  
2 Tracks A is not a market share test, as the Commission knows  
3 and the FCC has determined. So to the extent they are looking  
4 at the status of competition as some sort of a market share  
5 test, and that is not a relevant discussion for Track A.

6           Q     Okay. I didn't say market share, you said market  
7 share. All I'm asking you is is it important for the  
8 Commission to look at the actual level of competition that is  
9 occurring in Florida as they make their decision in this case?

10          A     Yes, as it relates to Track A deliberations.

11          Q     And, in fact, you have filed the testimony of Doctor  
12 Taylor, and you also have an extensive exhibit attached to your  
13 testimony that deals with that topic, correct?

14          A     Yes, and it responds to the testimony of other ALEC  
15 witnesses.

16          Q     Well, Mr. Wakeling's affidavit is attached to your  
17 direct testimony, isn't it?

18          A     Yes.

19          Q     So that was not in response to an issue that the  
20 ALECs raised, you proffered that in your direct case, correct?

21          A     Oh, yes, as evidence of Track A.

22          Q     I want to take a look at Mr. Wakeling's affidavit  
23 with you, and I think that is CKC-4?

24          A     It is.

25          Q     First of all, Mr. Wakeling isn't a witness here,



1 correct?

2 A Correct.

3 Q So he is not going to take the stand and we are not  
4 going to cross examine him, correct?

5 A Correct. I don't know if he was deposed in this case  
6 or not, he has been deposed in certain cases.

7 Q Well, I would like you to accept subject to check he  
8 was not deposed in this case.

9 A Okay.

10 Q But you are sponsoring Mr. Wakeling's affidavit,  
11 correct?

12 A Yes, I am.

13 Q And you are able to answer questions about the  
14 information that is contained therein and the calculations that  
15 he did in that affidavit?

16 A Yes. I guess we are about to find out for sure.

17 Q In Paragraph 5 in Mr. Wakeling's affidavit he says --  
18 and I'm paraphrasing here, but he says that there has been a  
19 demonstration within the materials he has filed that the local  
20 market is -- and this is a quote -- economically viable, is  
21 that correct?

22 A Yes.

23 Q Ms. Cox, do you know how many ALECs have gone out of  
24 business or filed for bankruptcy in the last 12 to 18 months?

25 A Not specifically, no.

1 Q Would you agree that there certainly has been a  
2 number of them in that situation?

3 A Yes, I would agree that is possible.

4 Q Mr. Wakeling also says on Page 3 of his affidavit,  
5 Paragraph 7, that the Florida market is -- and this is a  
6 quote -- irreversibly open to competition, correct?

7 A Yes.

8 Q And then he has got some exhibits. In fact, he has  
9 quite a few exhibits attached to his affidavit, correct?

10 A Correct.

11 Q And the first one that he has, I believe, is VW-1,  
12 right, and that is a list of Florida ALECs?

13 A Yes, that is correct, from the Commission's website.

14 Q I think you just anticipated my question, but  
15 essentially what he did was to pull off the Commission's  
16 website a list of ALECs who have received certificates in  
17 Florida, correct?

18 A Correct.

19 Q And that list doesn't tell us anything about how many  
20 of those companies are actually providing service in Florida,  
21 does it?

22 A No, it would just be one piece of information to  
23 indicate that there has been a large number of ALECs who have  
24 expressed interest in doing business in Florida.

25 Q And it also doesn't tell us that of the subset of

1 those companies that may be providing service what kind of  
2 service they are providing or where they are providing it,  
3 correct?

4 A No, I don't believe that exhibit does do that. It  
5 does not.

6 Q It doesn't tell us how many of those ALECs are in  
7 bankruptcy or have gone out of business, does it?

8 A No, it does not.

9 Q If you look at VW-2A, which I think is the next  
10 exhibit. Are you with me?

11 A I'm with you.

12 Q That is also a document, I believe, that was  
13 generated from PSC information. That is a list of negotiated  
14 agreements between BellSouth and ALECs, correct?

15 A Yes.

16 Q And, again, like the certificate list, this doesn't  
17 tell us anything about how many of these companies are  
18 providing service today, does it?

19 A No. This is just an indication of the level of  
20 activity with regard to approved interconnection agreements.

21 Q And it don't tell us even if any of these  
22 companies -- and I'm sure there are some -- but it doesn't tell  
23 us if any of these companies have actually provided any service  
24 in Florida, does it?

25 A This report in and of itself, no, it does not.

1 Q And it doesn't tell us how many companies are out of  
2 business or bankrupt, does it?

3 A No.

4 Q The next attachment he has is VW-2B, and would you  
5 agree that that is again, another compilation, and this one  
6 rather than interconnection agreements is a compilation of how  
7 many ALECs have adopted other company's agreements, correct?

8 A Yes, that is my recollection. I can't find the split  
9 between 2A and 2B, but I know there is one that draws the  
10 distinction between negotiated and adopted.

11 Q And, again, just because an ALEC has adopted an  
12 agreement, that doesn't tell us whether or not they are  
13 providing service, does it?

14 A No, in and of itself that does not.

15 Q And it doesn't tell us even whether they are still in  
16 business or whether they are in bankruptcy, correct?

17 A No, it would not. Or, yes, you're correct, I'm  
18 sorry.

19 Q Just so we are clear, it does not tell us whether any  
20 of those companies are actually providing service, right?

21 A Right.

22 Q I just wanted the record to be clear. There were too  
23 many double negatives there.

24 Mr. Wakeling in his affidavit on Page 4, I believe,  
25 talks about existing collocation arrangements, do you see that?

1 A Yes.

2 Q Toward the bottom, I believe? We are back on his  
3 affidavit.

4 A Right, on Page 4 of Item F there.

5 Q And I think he was careful in choosing his language.  
6 He says there, doesn't he, that Bell's existing collocation  
7 arrangements allow CLECs to serve over 90 percent of Bell's  
8 lines, correct?

9 A Correct.

10 Q Now, that is not intended in any way to imply that  
11 they do serve 90 percent of Bell's lines, correct?

12 A No, because it would have said serve. This is an  
13 indication of the positioning and the market potential based on  
14 current collocation arrangements.

15 Q It's just that the possibility exists that they might  
16 serve those lines, correct?

17 A That they could.

18 COMMISSIONER JABER: On what information did he rely  
19 in forming that opinion?

20 THE WITNESS: The data for F?

21 COMMISSIONER JABER: Uh-huh. How is it he was able  
22 to determine what CLECs are able to serve?

23 THE WITNESS: Well, what we do is we have each  
24 central office, if you will, and we can tell how many  
25 collocation arrangements are in each central office. And if

1 you look at the exhibit that went with this it will have a top  
2 tier that has over some number of collocation arrangements and  
3 the next has some lower number and above and so on and so  
4 forth. And so what he did here was take within those central  
5 offices where CLECs are collocated, what are the number of  
6 residence and business lines that are served out of those  
7 central offices.

8 BY MS. KAUFMAN:

9 Q I want to turn now to your rebuttal testimony, Ms.  
10 Cox.

11 A Okay.

12 Q And if you could turn to Page 28. And down in the  
13 middle of the page you are somewhat critical of Mr. Gillan's  
14 exhibit that discusses his analysis wherein he found that Bell  
15 wouldn't be able to operate in the black if it had to lease  
16 UNEs at the current rate, correct?

17 A Yes, I take issue with the relevance of it.

18 Q And as I understand your testimony there, and  
19 continuing over to the next page, basically your point is that  
20 that may be interesting, but it's irrelevant to the  
21 Commission's determination in this case?

22 A Yes. And I say that because in -- I don't know if it  
23 is every 271 decision from the FCC, if it's not it is almost  
24 every one, the FCC has addressed this point directly and  
25 clearly, and so that this analysis and this standard as to

1 profitability is not a part of the 271 decision. And the  
2 reason I say that is because to make that determination they  
3 would have to get involved in the issue of retail rates and  
4 that is an issue that is within the state jurisdiction.

5 Q So, Ms. Cox, you don't take issue with Mr. Gillan's  
6 analysis and you haven't provided us with an alternative  
7 analysis, you are just suggesting to us that it's not something  
8 the Commission should consider?

9 A Well, I'm suggesting and I'm saying it's something  
10 the FCC has heard and has rejected as something that should be  
11 considered. I believe Doctor Taylor provides some more  
12 rebuttal to the analysis itself.

13 Q You haven't provided any rebuttal to the actual  
14 analysis Mr. Gillan did, have you?

15 A No, I have not.

16 Q And similarly on Page 43 -- let me give you that  
17 back -- you are discussing Mr. Gillan's analysis regarding  
18 resale. And, again, you don't take issue with what he said,  
19 you just think it is irrelevant, correct?

20 A No, I wouldn't say that is exactly correct. I do say  
21 it is not relevant. Checklist Item 14 is do you allow your  
22 services to be offered at resale and that is what should be the  
23 standard for Checklist Item 14. I do take issue with his  
24 description of what he would call a restriction or a  
25 limitation, I guess, of the resale to the extent that the very

1 activity that he discusses is what was envisioned by the FCC  
2 and described in its First Report and Order as appropriate.

3 Q But Mr. Gillan's point, if you will, is that it is  
4 difficult for competitors to offer integrated local and long  
5 distance packages due to the pricing differentials, correct?

6 A That is generally, yes, his issue.

7 Q Right. And my only point is you don't take issue or  
8 rebut that, you just told us that it is irrelevant to this  
9 consideration?

10 A Well, I do more than that. I would say it's not  
11 relevant to this checklist item, and I also say it's not  
12 inappropriate. It is as the FCC has specified that the resale  
13 model would work.

14 Q So that this pricing differential he discusses is  
15 sort of the way things are is what you are saying?

16 A The issue that he points to, yes.

17 Q I want to go back to the big picture, what I started  
18 my opening statement with, and ask you if you have looked at  
19 Mr. Gillan's Exhibit Number 1, if you have a copy in front of  
20 you?

21 A I'm sure I have looked at it, but I don't have a copy  
22 up here.

23 Q Well, I don't know that you really are going to need  
24 it. If you do, I'll try to -- mine has got writing all over  
25 it --



1           A     Well, that would probably be a good one for you to  
2 let me look at.

3           Q     -- but we will try to scare one up for you.

4                     Mr. Gillan's Exhibit Number 1 is just a restatement  
5 of the BellSouth numbers of the level of competition that  
6 BellSouth claims, do you need to look at one?

7           A     It might be helpful if we can find one.

8           Q     Okay, we're going to find you one.

9           A     Thank you.

10          Q     Thank you very much, Mr. Feil.

11                     You now have Mr. Gillan's Exhibit Number 1 in front  
12 of you?

13          A     I do, thank you.

14          Q     Okay. And as I said, this is just a restatement by  
15 Mr. Gillan of Bell's own information regarding the level of  
16 competition that they believe exists in Florida, correct, using  
17 the two methods that Doctor Taylor talks about?

18          A     Well, actually the two methods are in Mr. Wakeling's  
19 affidavit.

20          Q     I'm sorry, Mr. Wakeling. So the numbers that are  
21 represented here are Bell's own numbers, correct?

22          A     Well, I don't have them all to memory, but they look  
23 close.

24          Q     Close enough for regulatory work. Okay. If you look  
25 either at method one or method two, would you agree with me

1 that it indicates that over half of the competition that  
2 BellSouth claims is occurring in Florida is occurring over  
3 carriers' own facilities, that would be the facilities line?

4 A Yes, that's what it indicates.

5 Q And when we say occurring over their own facilities,  
6 we mean that the carrier is essentially building all the way to  
7 the end user?

8 A Yes, they could be.

9 Q Now, if Bell's networks were open and it was  
10 providing nondiscriminatory access to its unbundled network  
11 elements, wouldn't you find it odd that over half of the  
12 carriers would be serving customers over their own facilities?

13 A No, not at all. I think that is what was envisioned  
14 by the act. Resale and UNEs were put out there as a way for  
15 companies to get into the market sooner. I think the  
16 expectation was always that they would move to their own  
17 facilities, and there is probably great service distinctions  
18 and different packaging and different innovations that a  
19 carrier feels they can bring by making use of their own  
20 facilities.

21 Q Is it not true that that last portion, I guess, what  
22 the industry refers to as the last mile you have to build that  
23 out to each and every customer that you want to serve if you  
24 are using your own facilities?

25 A You would have to find a way to reach them. I mean,

1 I guess it could be a wireless mechanism or a wire line.

2 CHAIRMAN JACOBS: May I ask a question real quick?  
3 Ms. Cox, quite frankly, I can agree with your statement that  
4 you made a moment ago, but I wonder if you could help me to  
5 understand because I think there is some contrast. I don't  
6 know if it is an inconsistency or not, and some other -- I  
7 think you had an earlier discussion about the issue of tandem,  
8 transport at tandem rates.

9 THE WITNESS: Tandem interconnection rates.

10 CHAIRMAN JACOBS: Right. And if I'm not mistaken  
11 historically the position of BellSouth was that you shouldn't  
12 have to carry the traffic of a facilities-based provider from  
13 their point of presence to you, or at least you should get a  
14 rate that is higher than you think they would offer. The  
15 inconsistency in my mind is if you are anticipating that the  
16 mode of entry for companies is going to transition to  
17 facilities-based entry, then that in and of itself begins to  
18 become an obstacle, would you agree? That policy becomes an  
19 obstacle because one of the reasons I have understood that that  
20 whole discussion arises is that facilities-based providers  
21 engineer their network differently, they set them up  
22 differently from ways that you do yours. And that policy -- I  
23 don't want to characterize it, but do you agree that there is  
24 some -- that there may be a challenge for a provider who wants  
25 to pursue the rationale that you say is a legitimate rationale

1 when they face that policy?

2 THE WITNESS: I don't think so, necessarily. And let  
3 me explain why. I think as facilities-based providers, as  
4 their service expands, the issue on the delivery of traffic  
5 from our point of interconnection, if you will, to a point  
6 outside of the local calling area, when the call is really  
7 going to stay within the local calling area, that I think over  
8 time as facilities-based providers expand their service and  
9 continue to expand their service, then I would think that more  
10 points of interconnection are going to spring up and that all  
11 the traffic is not going to go to that single point of  
12 interconnection would be my expectation. So I don't think it's  
13 inconsistent or would be a barrier to a company using their own  
14 facilities.

15 CHAIRMAN JACOBS: Okay. Thank you. Ms. Kaufman.

16 BY MS. KAUFMAN:

17 Q I just have one more line of questioning that I want  
18 to pursue with you, Ms. Cox, and I have an exhibit that I want  
19 to distribute.

20 A Are you done with Mr. Gillan's, do you think?

21 Q I am.

22 MS. KAUFMAN: Mr. Chairman, if I could have an  
23 exhibit number for that, please.

24 CHAIRMAN JACOBS: Show this marked as Exhibit 16.

25 (Exhibit 16 marked for identification.)

1 BY MS. KAUFMAN:

2 Q Ms. Cox, these are BellSouth's responses to the  
3 FCCA's first set of discovery interrogatories and PODs. And,  
4 unfortunately, I didn't have the foresight of Mr. Feil to  
5 number the pages down in the right-hand corner. If you would  
6 go about to the middle of the package and look at FCCA Item  
7 Number 1. It actually says Page 5 on the bottom, but it's  
8 further back than that.

9 A Is it like a cover sheet?

10 Q It is Request Number 1, and it says for the period  
11 reported in each Form 477 filed with the FCC. Identify the  
12 number of unbundled loops by, and then there are some  
13 categories. It's about three-quarters of the way to the back.  
14 It's past that FCC form.

15 A Okay. Oh, it's written like an interrogatory.

16 Q It says Item Number 1 up in the right-hand corner.

17 A Yes.

18 Q Are you with me?

19 A I am.

20 Q And that request asks you to identify for the period  
21 reported in the Form 477 that you file with the FCC the number  
22 of unbundled loops by three categories, analog, DS-1, and DS-3,  
23 right?

24 A Yes, it does.

25 Q And then the response refers us back to that Form 477

1 which you just flipped by, which is in the beginning of the  
2 discovery response. It actually follows POD Number 1, correct?

3 COMMISSIONER JABER: Ms. Kaufman, which request is  
4 it? I'm having trouble finding it.

5 MS. KAUFMAN: It is Item Number 1, Commissioner  
6 Jaber, and it is about three-quarters of the way back. And I  
7 apologize for not having numbered the page.

8 COMMISSIONER JABER: Item Number 1, and you say it  
9 had a page number?

10 MS. KAUFMAN: It says 5 down at the bottom middle,  
11 but it's not actually Page 5 in sequence.

12 BY MS. KAUFMAN:

13 Q And this refers us back to the FCC report, which  
14 follows the cover sheet, FCCA First Request for Production of  
15 Documents Number 1, correct?

16 A Yes.

17 Q Okay. That's a lot of paper flipping to get to my  
18 question, which is where on Form 477 does it tell us the number  
19 of unbundled loops in these categories?

20 A I don't know that I will be able to find it.

21 Q I would ask you to accept subject to check that it's  
22 not on there, unless you want to take the time to flip through.

23 A I don't know if it is on there or not. I am assuming  
24 it is since we referred to this, but I won't be able to point  
25 you to it. I'm not familiar with the report.

1 Q Okay. So you think that the information is on this  
2 report, but you can't point it, is that what you're saying?

3 A I can't tell you where it is on this report.

4 Q Okay. Well, I would ask you to accept subject to  
5 check that I don't see it on there. So if you need to take a  
6 minute to look through, maybe you could do that.

7 A I'm not familiar enough with this report to probably  
8 be able to find it.

9 Q Is there another witness that could help me with  
10 that?

11 A I doubt it.

12 MS. KAUFMAN: Commissioners, that information is not  
13 on this report that I could find it, and my purpose in this  
14 exercise was to ask for a late-filed exhibit with this  
15 information on it.

16 MS. FOSHEE: Mr. Chairman, I would object to that. I  
17 think there was ample opportunity for discovery in this  
18 proceeding. We answered the question, if there was a question  
19 about our response they were certainly able to approach us  
20 about it and ask us, and if there was a problem we could have  
21 responded appropriately. But I'm not sure at this stage of the  
22 game that is an appropriate request.

23 CHAIRMAN JACOBS: Ms. Kaufman.

24 MS. KAUFMAN: Well, Chairman Jacobs, these are  
25 supposed to be sworn answers to interrogatories. Ms. Cox, as I

1 understand it, is the policy witness. I think that we are  
2 entitled to have the information. It was represented to us  
3 that it was provided in the report. And as I said, I do not  
4 believe it's there. We are simply asking for it as a  
5 late-filed exhibit.

6 CHAIRMAN JACOBS: It was your understanding it was to  
7 have been included in your responses?

8 MS. KAUFMAN: Well, that's what Bell responded to our  
9 question, they said see this Form 477. The information is not  
10 there.

11 CHAIRMAN JACOBS: Okay.

12 MS. FOSHEE: We can provide it, but I did want to  
13 note it for the record that we object to a late-filed request  
14 given the extensive discovery that was connected to this  
15 docket, but we can certainly provide the information.

16 CHAIRMAN JACOBS: Okay. We will go ahead and mark  
17 that as Late-filed Exhibit 17.

18 MS. KAUFMAN: And I guess we could call it categories  
19 of unbundled loops. And, Chairman Jacobs, that's all I have  
20 for Ms. Cox, but I neglected to mention when I started my cross  
21 examination that Mr. McGlothlin and I have divided up the  
22 subject areas of Ms. Cox's examination and I would like your  
23 indulgence to allow us both to cross. There will be no  
24 repetition between what I asked her and what he is going to  
25 discuss with her.



1 CHAIRMAN JACOBS: So Mr. McGlothlin is going to  
2 continue cross, in essence, but on another subject?

3 MS. KAUFMAN: Exactly.

4 CHAIRMAN JACOBS: Very well.

5 MS. KAUFMAN: Thank you.

6 CROSS EXAMINATION

7 BY MR. MCGLOTHLIN:

8 Q Ms. Cox, I'm Joe McGlothlin. I would like to begin  
9 with a few more follow-up questions to the exchange between you  
10 and Commissioner Palecki on win back activities. Is it true  
11 that the Louisiana Public Service Commission recently placed  
12 restrictions --

13 MS. FOSHEE: Mr. Chairman, I'm sorry, I certainly  
14 stand to be corrected, but I believe that we have already had  
15 cross examination on this exact topic by Ms. Kaufman.

16 CHAIRMAN JACOBS: What topic are you covering,  
17 Mr. McGlothlin?

18 MS. FOSHEE: The win back topic was explored by Ms.  
19 Kaufman, I believe.

20 CHAIRMAN JACOBS: Actually, I think Mr. Feil had the  
21 exhibit on win backs, but --

22 MS. FOSHEE: I think she also asked him questions  
23 about it.

24 CHAIRMAN JACOBS: I may not have heard them.

25 MR. MCGLOTHLIN: Just for clarification, the division

1 of labor between Ms. Kaufman and myself related to the subject  
2 of combinations, which I intend to cover.

3 CHAIRMAN JACOBS: Could you come closer to your  
4 microphone, Mr. McGlothlin.

5 MR. McGLOTHLIN: I am also here representing ACCESS  
6 Integrated networks. The specific division of labor that Ms.  
7 Kaufman and I discussed had to do with the area of  
8 combinations, because that is of interest to both of my  
9 clients.

10 CHAIRMAN JACOBS: Combinations. When you say  
11 combinations, you mean UNE combinations?

12 MR. McGLOTHLIN: Yes, that is correct. And we did  
13 not discuss, nor was it our intent to get into the win back  
14 programs. The win back subject actually came up in terms of an  
15 exchange between Commissioner Palecki and the witness, and I  
16 think it's fair for the parties to be able to elicit further  
17 information on that so that the record is more complete for  
18 whatever purposes that the Commission believes is appropriate.

19 CHAIRMAN JACOBS: And that is the extent of your  
20 cross?

21 MR. McGLOTHLIN: I have three or four questions on  
22 this area and then I will move on.

23 CHAIRMAN JACOBS: I would encourage you to be as  
24 concise as you can on that subject since it has gone with two  
25 rounds of questioning thus far, but I will allow that.

1 BY MR. McGLOTHLIN:

2 Q Is it true, Ms. Cox, that the Louisiana Public  
3 Service Commission recently placed restrictions on BellSouth's  
4 ability to engage in win back activities?

5 A Yes, they put some -- I believe it was 7 days from  
6 the time the customer disconnected.

7 Q A 7-day hiatus before any win back activity could  
8 take place?

9 A That is my recollection, yes.

10 Q Did the Louisiana Commission also place restrictions  
11 on the ability of BellSouth's retail and wholesale divisions to  
12 exchange information regarding the decision of a customer to  
13 take another carrier?

14 A I don't remember specifically if that was addressed.  
15 There already are restrictions on that. I just don't recall if  
16 that was part of their decision or not.

17 Q Do you know whether the Louisiana Commission  
18 prohibited BellSouth from including any marketing information  
19 in the last bill, last bill sent to a departing customer?

20 A You know, I can't remember specifically, it could be.

21 MR. McGLOTHLIN: Counsel, I only have one copy of the  
22 Louisiana order, I would like to give it to the witness for a  
23 quick reference?

24 MS. FOSHEE: If I may approach the witness and look  
25 over her shoulder.

1 BY MR. MCGLOTHLIN:

2 Q Ms. Cox, I'm going to hand you a document entitled  
3 Louisiana Public Service Commission Order Number U22252(e),  
4 with the caption decided on September 19th, 2001, and ask you  
5 to look at the marked paragraph.

6 A Okay. I've read it.

7 Q Do you see the provision which restricts the  
8 wholesale and retail divisions of BellSouth from communicating  
9 information regarding departing customers?

10 A Yes, I do.

11 Q And do you also see the additional provision  
12 restricting -- prohibiting BellSouth from including any  
13 marketing information on the last bill sent to a departing  
14 customer?

15 A Yes, I do.

16 Q I now want to ask you several questions that relate  
17 to your revised surrebuttal testimony.

18 A Okay.

19 Q If you will look at Page 30 of the revised testimony.  
20 Ms. Cox, in this area of your revised testimony, you respond to  
21 certain statements by ALEC witnesses who address the subject of  
22 combinations of UNEs, do you not?

23 A Yes.

24 Q And beginning at Page 30, Line 24, you make this  
25 statement, "Where BellSouth agrees to physically combine UNEs

1 for an ALEC, the prices for such combinations will be a  
2 negotiated rate. The difference between negotiated prices and  
3 cost-based prices refer to a 'glue charge' in this issue." And  
4 if you will turn to Page 32, the first question and answer that  
5 appear there:

6 "Question: Is BellSouth obligated to offer new  
7 combinations at cost-based rates to comply with Section 271?"  
8 And your answer is no.

9 My question is this: These statements are couched in  
10 terms of whether such combinations would be based on cost-based  
11 rates. But as I understand BellSouth's position, it is that it  
12 has no obligation to provide new combinations at all, is that  
13 correct?

14 A Yes, that is our obligation. It is to provide  
15 existing combinations, or currently combined, or, in fact,  
16 combined as the FCC describes them. There is not an obligation  
17 to combine elements on behalf of ALECs. What I described on  
18 Page 30 is a situation where we negotiate a rate with an ALEC  
19 who wants us to do that on their behalf and we can work out a  
20 rate to do that on their behalf.

21 CHAIRMAN JACOBS: So the glue charge is a negotiable  
22 issue with you?

23 THE WITNESS: Yes, we have negotiated that rate with  
24 ALECs.

25 BY MR. MCGLOTHLIN:

1 Q But to be clear, BellSouth's position is that in  
2 response to a request for this call for shorthand new  
3 combinations, BellSouth has the ability or the right to say,  
4 no, not at any price, is that correct?

5 A Yes, that is correct.

6 Q And as a corollary to that, BellSouth would have the  
7 ability to say yes, at this price for you, ALEC A, but no, not  
8 at any price for you, ALEC B, that would be within the avenues  
9 available to BellSouth based on its position, is that correct?

10 A I don't know. Generally, where we have negotiated  
11 these issues with ALECs, it still gets incorporated into the  
12 interconnection agreement and so to the extent it is subject to  
13 pick and choose it is available for ALECs.

14 Q If BellSouth were to -- you have said that any  
15 so-called glue charges is a negotiated price, is it BellSouth's  
16 position that it could provide a new combination at one price  
17 for one ALEC and then try to negotiate a different price for  
18 another?

19 A I don't know. We really have a set of rates that we  
20 consider are rates that we provide new combinations at, so it  
21 has not really come up where we have negotiated different rates  
22 that I am aware of.

23 Q Well, as you understand BellSouth's position, does  
24 BellSouth have the right to charge different rates, different  
25 glue charges to different ALECs?

1           A     I believe the parties always have the right to  
2 negotiate unique terms to their contracts.

3           Q     Your answer is yes then?

4           A     Yes, that could happen. And there could be  
5 negotiations.

6           Q     At Page 32, you refer to the FCC's order in the Bell  
7 Atlantic New York case, do you not?

8           A     Yes, and the Texas order.

9           Q     Isn't it true that the Georgia Commission has  
10 interpreted the requirements of currently combined much  
11 differently than does BellSouth in this case?

12          A     Yes, they have. They have indicated that it is an  
13 issue they might relook at based on court rulings, and the  
14 Supreme Court is looking at the issue. But currently, yes,  
15 they interpret it differently.

16          Q     And specifically they interpret currently combined to  
17 mean that BellSouth has the obligation to combine those  
18 elements which are ordinarily found in combination within its  
19 network, correct?

20          A     Yes, that is correct.

21          Q     Is BellSouth complying with that interpretation in  
22 Georgia?

23          A     Yes.

24          Q     Isn't it true that the Louisiana Public Service  
25 Commission recently interpreted currently combined in the same

1 manner?

2 A Yes, they did recently.

3 Q So within BellSouth's nine state service area, two  
4 commissions, notwithstanding your reference to the FCC  
5 interpretation, two commissions have required BellSouth to  
6 combine those elements ordinarily combined in its network and  
7 BellSouth is in compliance with those orders?

8 A That is correct. This Commission, however, has not  
9 made that finding, nor has the FCC.

10 Q Let's go back to the FCC. You refer to the Bell  
11 Atlantic New York order and also to the Texas order. Do you  
12 know whether in those cases the RBHCs that were the subject of  
13 those cases are providing new combinations in those states?

14 A Based on my reading of the order in the Bell Atlantic  
15 case for New York they were providing new combinations in  
16 certain central offices, as I recall, because one of the areas  
17 of contention raised was whether that was enough to do it in  
18 certain central offices. The FCC really just reached the  
19 finding that they were providing the preassembled network  
20 elements and then noted that they were doing the new  
21 combinations in certain central offices.

22 In Texas, Kansas, and Oklahoma there was a footnote  
23 where SBC had committed to do new combinations for business  
24 customers for a date certain, and after that date they were  
25 saying we don't know if we will necessarily continue to do it



1 if there is some number of competitors in a central office. So  
2 there was some commitment on their part to do new combinations,  
3 it wasn't necessarily everywhere and it wasn't forever.

4 Q As a matter of fact, Ms. Cox, isn't it true that in  
5 those states in which an RBHC has been permitted to enter the  
6 interLATA market that RBHC has either offered to provide new  
7 combinations or has been ordered to provide new combinations?

8 A That I don't know. I'm thinking these are the orders  
9 where the FCC reached its conclusion which it always does that  
10 says they are providing combinations of preassembled network  
11 elements, and in these cases I referenced there was a footnote  
12 that noted that in that particular case Verizon or SBC agreed  
13 to do new combinations for these circumstances as outlined. I  
14 don't recall the similar footnotes in the other states, so I  
15 don't really know whether or not they had agreed to do them in  
16 those states or not.

17 Q Can you give me an example of any RBHC that has been  
18 permitted to enter the interLATA market that has not also  
19 either offered to provide new combinations or has been ordered  
20 to offer new combinations?

21 A No, I don't know the details of the other states  
22 other than the ones I mentioned.

23 MR. McGLATHLIN: I have no further questions.

24 CHAIRMAN JACOBS: I'm sorry, Mr. Lapain (sic).

25 MR. CAMPEN: Henry Campen, Mr. Chairman.

1 CHAIRMAN JACOBS: Campen, I'm sorry.

2 MR. CAMPEN: I have a few questions.

3 CHAIRMAN JACOBS: Go right ahead.

4 CROSS EXAMINATION

5 BY MR. CAMPEN:

6 Q Good afternoon, Ms. Cox.

7 A Hello.

8 Q When BellSouth wins back an ALEC customer served by  
9 an unbundled loop, BellSouth will reuse that facility --

10 A I'm sorry, I'm having trouble hearing you.

11 Q Okay. When BellSouth wins back an ALEC customer that  
12 has been served by an unbundled loop, BellSouth will reuse that  
13 facility if the customer wants the same service, is that right?

14 A That is my understanding, yes.

15 Q And isn't it true that many interconnection  
16 agreements expressly provide that BellSouth may reuse the UNE  
17 that serves the former ALEC customer?

18 A Yes, that is my understanding.

19 Q You would agree, would you not, that in this  
20 circumstance it is not necessary to install a new facility  
21 before BellSouth resumes service to that customer?

22 A In those cases it probably would not, not put it in a  
23 new loop if they are going to reuse the loop that is there.

24 Q In fact, to do so would require disconnection of the  
25 customer's service in the original loop and reconnection to a

1 new facility if that were to be required, would it not?

2 A It could be, I don't know specifically.

3 Q Would you agree that such a disconnection, if a  
4 disconnection were to take place, would risk a service outage  
5 for the customer?

6 A I don't know. I guess it would depend on the length  
7 of that disconnection and when it occurred, so I don't really  
8 know.

9 Q Okay. And such a process would entail additional  
10 costs to install the new facility and to disconnect the old  
11 facility, would it not?

12 A I would imagine so, it could.

13 Q Would you agree that in the situation that I have  
14 described the only step required by BellSouth to convert the  
15 customer back to the BellSouth customer base would be a billing  
16 change?

17 A I don't know if that is all that is required or not.

18 Q But there would be no installation or other  
19 nonrecurring charge to the customer that is coming back to  
20 BellSouth being served on that same loop, would there?

21 A I don't know. I mean, there would be, I imagine,  
22 service order type charges that would be nonrecurring costs  
23 associated with those. I don't know what others there may or  
24 may not be.

25 Q But there wouldn't be an installation charge, we can

1 agree on that, can't we?

2 A I don't know.

3 Q If you are reusing the same facility?

4 A Are you asking would there be an installation charge  
5 to the customer?

6 Q That is correct.

7 A Well, unless it's a service promotion to the extent  
8 we put service in for a new customer, they would pay the  
9 nonrecurring charges that go along with that service.

10 Q If you are reusing the facility that the ALEC used to  
11 serve that customer that you have won back, you are saying  
12 there may be an installation charge to the BellSouth customer?

13 A That is my understanding, there could be, yes.

14 Q On Page 44 of your direct testimony, you state that  
15 BellSouth will permit --

16 A I'm sorry, you said direct.

17 Q Page 44 of your direct.

18 A Okay.

19 Q And I don't have a line number because I don't have  
20 it in front of me, but you state there that BellSouth will  
21 permit ALECs to convert special access circuits to EELs,  
22 enhanced extended links, consistent with the FCC's UNE remand  
23 supplemental clarification order, is that correct?

24 COMMISSIONER JABER: Excuse me, Mr. Campen, is your  
25 microphone on? It should be the green light.

1 CHAIRMAN JACOBS: Yes, I think he is on. You may  
2 want to get a little bit closer, Mr. Campen.

3 MR. CAMPEN: Can I put it in my mouth?

4 COMMISSIONER JABER: That's much better, thank you.

5 CHAIRMAN JACOBS: I wouldn't advise it.

6 BY MR. CAMPEN:

7 Q We can agree, can't we, that an EEL and a special  
8 access circuit are both comprised of a loop and transport  
9 facility, can we not?

10 A Yes, they can be.

11 Q And you would agree there is no physical difference  
12 between the two?

13 A Not that I'm aware of, but I'm not really a technical  
14 expert.

15 Q Will BellSouth permit an ALEC to convert a special  
16 access circuit to an individual UNE that is say, for instance,  
17 a DS-1 loop?

18 A I'm not sure of our position on that.

19 MR. CAMPEN: Thank you. That's all I have.

20 MS. MASTERTON: Mr. Chairman, with your indulgence  
21 Sprint has a few questions, as well.

22 CROSS EXAMINATION

23 BY MS. MASTERTON:

24 Q Good afternoon, Ms. Cox. I am Susan Masterton  
25 representing Sprint.

1 A Hello.

2 Q In your testimony you summarize your educational  
3 background, including a Bachelor's in Finance and a Master's in  
4 Economics, is that correct?

5 A Yes.

6 Q So, is it correct to say that you are not  
7 representing yourself as qualified to give a legal opinion?

8 A Yes, that would be accurate. I offer interpretations  
9 of rules and so on and so forth, but I'm not offering legal  
10 advice.

11 Q All right. In several places in your direct  
12 testimony, you make -- you address the question of where  
13 BellSouth demonstrates its legal obligation to provide various  
14 checklist items. And as an example, on Page 110 of your direct  
15 testimony, Lines 18 to 24, you make the statement in reference  
16 to all the checklist items?

17 A Yes.

18 Q And my question to you is by these statements are you  
19 intending to express a legal opinion regarding BellSouth's  
20 compliance with the checklist items?

21 A What I'm doing here is -- and the term legal  
22 obligation is something the FCC has used in other 271  
23 decisions, and they have relied on that so we have used that  
24 language here. What my testimony is offering here is  
25 BellSouth's position that, yes, we have met all the 14

1 checklist items.

2 Q So that is what you are expressing, just BellSouth's  
3 policy position that you have met the checklist items and not  
4 any kind of legal opinion on that?

5 A Yes. Given your earlier question, I can't really  
6 offer a legal opinion.

7 Q Okay, thank you. Now I want to explore an area that  
8 you have already talked about somewhat and that is the effect  
9 of 271 authority on competition in a particular area. In your  
10 summary you noted that local competition is increasing in  
11 BellSouth's territory in Florida today, is that correct?

12 A I will have to pull my summary, but, yes, that would  
13 be correct whether I said it in my summary or not.

14 Q And in Mr. Wakeling's affidavit he also notes this  
15 growth trend, and specifically on Page 4 of the affidavit in  
16 Paragraph D, he refers to an 80 percent annual growth rate in  
17 access lines for facilities-based ALECs in BellSouth's  
18 territory, is that correct?

19 A Yes, that is our estimate based on the 911 listings  
20 that are offered by the ALECs.

21 Q And so in your summary and in your testimony, and in  
22 your testimony, specifically your direct testimony on Page 16,  
23 Lines 3 to 9, you refer to your proposition that wherever 271  
24 authority has been granted there has been an increase in the  
25 access lines served by competitive providers in those states,

1 specifically New York and Texas, is that correct?

2 A Yes.

3 Q Do you know how much of this growth in the New York  
4 and Texas access lines by competitive providers is due to  
5 normal growth such as what you have referred to in Florida and  
6 how much might be attributed to the granting of 271 authority?

7 A No. What I know is that the FCC has issued a series  
8 of local competition reports and there has been growth at each  
9 one, there has been growth. In the most recent one there was  
10 so much growth in New York and Texas that they took special  
11 notice and said that the competition has really taken off in  
12 these two states, and these happen to be the two states where  
13 we have granted interLATA authority.

14 Q But you don't know how much of that growth might have  
15 been attributed to just normal growth factors?

16 A Well, no, I don't. But the fact that the FCC  
17 recognized it as unique makes me think that it was not normal  
18 growth patterns.

19 Q Given that you have recognized an 80 percent growth  
20 rate in Florida just before without any 271 authority, do you  
21 think that that factor could be as much as 50 percent in those  
22 states attributed to normal growth as opposed to the granting  
23 of 271 authority?

24 A I don't know. The number that you reference here is  
25 just 911 listings, which is an indicator of facilities-based



1 competition, so I don't know that I could necessarily  
2 extrapolate that to the conclusion in New York and Texas that  
3 you reached.

4 Q Okay. So basically you're saying you don't know how  
5 much of that growth might be attributed to just normal growth  
6 factors in the industry?

7 A Yes, that's what I said. I said but my reading of  
8 the FCC's report is that they did not seem to think it was  
9 normal growth and they identified it for special discussion.

10 MS. MASTERTON: That's all the questions I have,  
11 thank you.

12 CHAIRMAN JACOBS: Very well. Any of other  
13 intervenors have cross?

14 MR. KLEIN: Yes. Mr. Chairman, Andy Klein with KMC  
15 Telecom.

16 CHAIRMAN JACOBS: We need you to come forward to the  
17 microphone and introduce yourself again. Now, I know someone  
18 entered an appearance for KMC, and you are the gentleman? I do  
19 not recall who it was.

20 MR. KLEIN: Andy Klein for KMC Telecom.

21 CHAIRMAN JACOBS: Now, I have heard the rumors  
22 emanating from the other side. Ms. Kaufman, who did you cross  
23 for?

24 MS. KAUFMAN: I crossed for the FCCA.

25 CHAIRMAN JACOBS: That's right.

1 MS. KAUFMAN: And I did not ask any questions, I  
2 don't believe there will be any overlap between Mr. Klein and  
3 myself. I did enter an appearance as local counsel for KMC  
4 Telecom.

5 CHAIRMAN JACOBS: Yes, I did hear that. I'm going to  
6 hold you to that. Mr. Klein, right?

7 MR. KLEIN: Yes.

8 CHAIRMAN JACOBS: Okay.

9 CROSS EXAMINATION

10 BY MR. KLEIN:

11 Q Good afternoon, Ms. Cox. My name is Andy Klein. I'm  
12 with the law firm of Kelley Drye & Warren, and I'm here on  
13 behalf of KMC Telecom. As you may know, KMC Telecom is a  
14 facilities-based competitor competing in seven regions across  
15 Florida.

16 Based on your testimony, I'm talking about your  
17 revised surrebuttal testimony filed on October 3rd, Pages 19  
18 and 20, am I correct in reading your assertion that BellSouth's  
19 interLATA entry will lead to more local competition as it did  
20 where other RBHCs were granted that authority?

21 MS. FOSHEE: Mr. Chairman, I'm going to object to  
22 this. I believe we have explored this several times, and I  
23 believe Ms. Kaufman specifically asked questions about this  
24 topic.

25 MR. KLEIN: This is really a foundation question, Mr.

1 Chairman, and I'm not going to repeat the other questions that  
2 the other attorneys had for this witness.

3 MS. FOSHEE: We have explored the topic of her  
4 statement about the New York and Texas and what the FCC has  
5 said about the amount of growth in those states as a result of  
6 interLATA entry, I believe, four or five times now at least.

7 MR. KLEIN: And it is for that reason, Mr. Chairman,  
8 that I do not plan to cover those issues.

9 CHAIRMAN JACOBS: So that was background to your  
10 first question?

11 MR. KLEIN: Right.

12 CHAIRMAN JACOBS: Okay. Let's go to your first  
13 question.

14 BY MR. KLEIN:

15 Q Ms. Cox, are you intimately familiar with all of the  
16 circumstances that were prevailing in New York at the time Bell  
17 Atlantic received its 271 entry?

18 A No.

19 MS. FOSHEE: Mr. Chairman, I'm going to object to  
20 that question. That has been asked and answered. We have  
21 covered that ground, I believe.

22 CHAIRMAN JACOBS: Hold on, let's get one person  
23 talking. I have an objection, Mr. Klein, your response.

24 MR. KLEIN: Mr. Chairman, I did not hear that  
25 question being asked or answered today.

1 CHAIRMAN JACOBS: Restate your question, please, for  
2 me.

3 MR. KLEIN: I asked the witness whether she was  
4 intimately familiar with all of the circumstances prevailing in  
5 New York at the time Bell Atlantic received its 271 authority,  
6 and the witness has already answered no. I am prepared to move  
7 on.

8 CHAIRMAN JACOBS: Yes. First of all, there was a  
9 line of questioning that dealt with the New York and the Texas  
10 issues, and I'm assuming you are going to something more  
11 specific than just the overall proceedings, correct?

12 MR. KLEIN: Well, frankly, Mr. Chairman, I am  
13 satisfied with that answer if that is the answer.

14 CHAIRMAN JACOBS: Let's go forward with your line of  
15 questioning and we will see how it goes.

16 MR. KLEIN: Thank you.

17 BY MR. KLEIN:

18 Q Ms. Cox, wouldn't you agree that it is important that  
19 entry into the local market be as easy as entry into the long  
20 distance market before 271 authority is granted?

21 A What is important for 271 to be granted is that the  
22 requirements of Section 271 are met, and that is what we are  
23 here to discuss. We are asking the Commission to determine  
24 that we have met the Track A requirements and the requirements  
25 of the 14-point checklist, and that is the requirement for 271

1 relief.

2 Q Okay. But I'm specifically thinking about your  
3 statement that interLATA authority leads to more local  
4 competition, and my question is whether you agree that unless  
5 all barriers to entry in the local market are at the same level  
6 as those in the long distance market, wouldn't BellSouth have  
7 an unfair advantage in the drive to provide end users with  
8 local and long distance service packaged together?

9 A No, I don't think we would have an unfair advantage.  
10 The fact that we would have demonstrated compliance with the  
11 checklist, the requirements of Section 271, which were  
12 specifically developed to lay out the obligations for the  
13 RBHCs, that should they meet those obligations then they have  
14 earned the right to enter the interLATA market. So I would say  
15 to the extent we demonstrate, and this Commission concurs, and  
16 the FCC concurs that we have met the requirements of the act,  
17 that is what should be determined.

18 Q So of what relevance, then, is this spurring of local  
19 competition?

20 A Well, I think it's a point for this Commission to  
21 consider. It's a point that was raised in Mr. Gillan's  
22 testimony and this particular discussion is a point where I'm  
23 rebutting his discussion on this issue. It's just a point to  
24 point out to the Commissioner that the FCC has looked at the  
25 status of local competition, they have done it over a period of

1 time, and they themselves have noted that in two states where  
2 271 relief was granted, the amount of local competition took  
3 off to the level where they made special notice and special  
4 discussion of it, so I think it is relevant.

5 Q But a decision on recommending 271 authority should  
6 be based on checklist compliance itself, I believe you just  
7 said, correct?

8 A Certainly, and that's what we are here to discuss,  
9 hopefully.

10 Q Okay. I would like to follow-up on some answers that  
11 you gave in response to questions from Chairman Jacobs and Ms.  
12 Kaufman in which you stated, I believe, that the act is  
13 designed to transition competitors to facilities-based service  
14 at some point in time. Is that an accurate restatement of your  
15 testimony?

16 A No, I don't think so. What I said was it has always  
17 been envisioned that competitors would transition to their own  
18 facilities. The act was designed to give two additional  
19 methods of entry, one is resale and one is the use of unbundled  
20 network elements. Even the FCC in its First Report and Order  
21 noted that their expectation was that companies would move to  
22 more and more using their own facilities.

23 Q So is it therefore your opinion, or BellSouth's  
24 position that you can cease providing resale and access to  
25 unbundled elements at some point in time?

1           A     Not without a determination from the FCC and this  
2 Commission that we can. But certainly carriers can self select  
3 to use their own facilities and use less resale and unbundled  
4 network elements, which was really my point.

5           Q     Is there anything in Section 251 of the Telecom Act  
6 of 1996 that supports the view you just espoused?

7           A     You are going to have to be more specific on which  
8 view you are talking about.

9           Q     The view that the act was designed to transition  
10 people away from access to elements and in favor of  
11 facilities-based service at some point?

12           MS. FOSHEE: I'm going object to that question,  
13 Mr. Chairman, I think he mischaracterized her testimony again.

14           CHAIRMAN JACOBS: Mr. Klein.

15           MR. KLEIN: I believe the witness is familiar with  
16 what she just testified to, I'm asking her to point to  
17 something in the Telecom Act which would support her view. If  
18 I misstated her testimony, I apologize, but I'm asking her with  
19 regard to the statement she just made, what in the Telecom Act  
20 would support that position.

21           CHAIRMAN JACOBS: I will allow the witness to give  
22 her correct statement as to what she has testified to, and then  
23 if she has a reference to a provision in the act that supports  
24 that, then she can give that, as well.

25           THE WITNESS: I would say there is language in the

1 act that lays out obligations on the ILECs, one of those is to  
2 allow for resale, one is to allow for the use of unbundled  
3 network elements, those are two methods of entry that are laid  
4 out in Section 251. There is also discussions in 271 about the  
5 use of carriers using their own facilities or predominately  
6 their own facilities, so it was clearly envisioned in the act  
7 that there would be carriers using their own facilities. And  
8 in the FCC order that I referenced there was specific  
9 acknowledgment by the FCC that they felt some of these methods  
10 would be transition methods and carriers would begin to more  
11 and more use their own facilities.

12 BY MR. KLEIN:

13 Q Okay. I would like to move on to some of the win  
14 back issues which I do not believe have been covered yet today.  
15 Has BellSouth has any independent analyses performed of the  
16 validity or the legality of its win back program?

17 A I'm not sure what you mean by independent review, is  
18 that what you said?

19 Q Yes. Any review performed by entities other than  
20 BellSouth itself?

21 A Not that I'm aware of. I don't know for sure.

22 Q Have there been internal reviews of your win back  
23 program?

24 A Yes.

25 Q And have there been reports produced in response to



1 that review?

2 A Yes, I believe so.

3 Q And have those reports been made available in this  
4 proceeding?

5 A One was attached to my testimony, but it was struck  
6 because that portion of my testimony got struck.

7 Q Was there a complete -- was the complete report of  
8 that review ever filed, or was it just a synopsis filed?

9 A I'm not sure if it was a complete report or not.

10 Q Ms. Cox, does BellSouth condone disparagement of  
11 competitors?

12 A No.

13 Q What in your view would be an example of customer  
14 disparagement, or competitors disparagement, rather?

15 A Gosh, these people give terrible service. I mean,  
16 the kinds of things we have heard complaints of as allegations  
17 that we have said people are going out of business. I mean,  
18 anything I think that would cast doubt on the ability of the  
19 competitor to provide service.

20 Q Would you consider the misrepresentation of the  
21 manner in which a competitor competes against BellSouth to be a  
22 type of disparagement? In other words, mischaracterizing a  
23 competitor as nonfacilities-based when, in fact, it is  
24 facilities-based?

25 A I don't know. I would think I would need to know

1 more about what was being said.

2 Q Well, I will ask you specifically with regard to the  
3 revised rebuttal of Jim Sfakianos of KMC Telecom.

4 Mr. Sfakianos in his testimony states at Page 5, beginning --

5 A I'm sorry, I don't have it up here.

6 CHAIRMAN JACOBS: Well, while we are at this moment  
7 in break, why don't we take a break. Come back in 15 minutes.  
8 And then she can have a chance to review that perhaps with her  
9 counsel, as well.

10 (Recess.)

11 CHAIRMAN JACOBS: We will go back on the record. Let  
12 me announce we do anticipate going late today, but I don't  
13 anticipate very late. I'm thinking in the neighborhood of 6:00  
14 o'clock. And we will be back tomorrow, and I assume we would  
15 like to begin at 9:00 o'clock in the morning. 8:30? I hear a  
16 vote for 8:30, so it is done. Let's say 8: 30 in the morning,  
17 then.

18 Okay. Mr. Klein, you may continue.

19 MR. KLEIN: Thank you, Mr. Chairman.

20 BY MR. KLEIN:

21 Q I believe the last question I had was would you  
22 consider the misrepresentation of the manner in which a  
23 competitor competes against BellSouth to be disparagement, and  
24 I believe you asked for more clarification. I pointed you to  
25 the testimony of Mr. Sfakianos of KMC Telecom, and particularly

1 at Page 5, beginning at Line 17. If you could just read from  
2 Line 7 through 20.

3 A Do you want me to start with the sentence that starts  
4 on 16? Maybe I've got different lines.

5 Q Yes.

6 A "I am told that these marketers are questioning KMC's  
7 viability and misrepresenting its status as a facility-based  
8 competitor. One customer relayed that it has been told by a  
9 BellSouth representative that KMC did not have a switch in  
10 Pensacola and was backhauling traffic to Mobile, Alabama, an  
11 obvious falsehood."

12 Q Okay. Given that statement and that testimony, which  
13 is still in this part of the proceeding, would you consider  
14 that to be an example of customer disparagement or competitor  
15 disparagement?

16 A I would say it could be. This would be the type of  
17 instance that if we were provided the details, we would  
18 investigate and attempt to determine what happened as we have  
19 in a number of other cases.

20 Q Okay. In general, it's my understanding that  
21 BellSouth has taken steps in response to the win back  
22 complaints as they have been raised by competitors, is that  
23 correct?

24 A Yes.

25 Q It's also my understanding that BellSouth has

1 terminated its relationship with one of the sales agents it had  
2 been employing after BellSouth discovered it had been  
3 improperly disparaging customers, or competitors, rather, is  
4 that correct?

5 A Yes.

6 Q Is the name of that entity Telechoice (phonetic)?

7 A I believe so.

8 Q Did BellSouth's review also demonstrate or reveal any  
9 instances of wrongdoing by BellSouth employees?

10 A There was one instance that had to do with access to  
11 a database, whether or not that was really necessary as part of  
12 their job that I can recall.

13 Q Could you be more specific, please?

14 A Unfortunately, no, I can't.

15 Q Do you know whether anyone else in this hearing could  
16 be more specific?

17 A They would not be able to.

18 Q When you say access to a database, did that database  
19 contain confidential information?

20 MS. FOSHEE: Mr. Chairman, I'm sorry, I'm going to  
21 have to object again. This information was all contained in  
22 Ms. Cox's testimony that was stricken from this proceeding. So  
23 while we certainly, you know, have allowed the CLECs lots of  
24 leeway into questions about the win back program, and if the  
25 Commission is interested we will certainly allow it to

1 continue, I did want to point out that this was specifically  
2 stricken from her testimony.

3 MR. KLEIN: Mr. Chairman, there is still testimony  
4 filed in the revised surrebuttal at Page 53 which does discuss  
5 BellSouth's dismissal of the sales agent and actions that  
6 BellSouth has taken in response to win back issues. So I would  
7 like to, you know, discuss that surrebuttal testimony.

8 MS. FOSHEE: Actually that has been stricken, too.

9 MR. KLEIN: I have October 3rd revised surrebuttal  
10 testimony of Cynthia K. Cox, Page 53, beginning at Line 11.

11 THE WITNESS: That was subsequent to. It was in Ms.  
12 White's October 8th, letter, I believe.

13 MS. WHITE: Yes. Thank you, Ms. Cox. I did send a  
14 letter --

15 CHAIRMAN JACOBS: We are very fluent today.

16 MS. WHITE: -- to all the parties on October 8th  
17 striking additional testimony. It was really kind of a clean  
18 up effort based on the order that the prehearing officer had  
19 rendered and the denial of reconsideration by the Commission.  
20 And then this morning, before the hearing started -- or, I'm  
21 sorry, when Ms. Cox first got on the stand, some more testimony  
22 was stricken.

23 CHAIRMAN JACOBS: I do show a letter here dated  
24 October 8th which struck on Page 53 through Line 16.

25 MR. KLEIN: If that is the case then I will

1    discontinue that line of questioning and state that I have no  
2    further questions.

3                   CHAIRMAN JACOBS: Very well. Thank you. And I  
4    believe unless there is someone else, staff.

5                   MS. KEATING: Thank you, Mr. Chairman.

6   CROSS EXAMINATION

7    BY MS. KEATING:

8           Q     Good afternoon, Ms. Cox. My name is Beth Keating,  
9    and I have just got a follow-up question on behalf of staff. I  
10   think you have been pretty clear in emphasizing that in the  
11   states in which 271 approval has been received competition has  
12   taken off?

13           A     Yes.

14           Q     Earlier in your response to Mr. McGlothlin's  
15   questioning on behalf of ACCESS, you had indicated that you  
16   really weren't aware of whether in those states in which 271  
17   approval was received whether or not new UNE combinations had  
18   either been required or voluntarily offered, is that correct?

19           A     That is correct. I was aware of the case in some of  
20   the states and not aware of what was the case in others.

21           Q     Okay. Well, in your opinion and assuming that Mr.  
22   McGlothlin is correct, is it possible that that take off in  
23   competition was due to the offering of new combinations as  
24   opposed to the approval of 271?

25           A     I don't think so. I mean, I guess anything is

1 possible, so when you say is it possible, but that was not the  
2 implication from the FCC's report. They are tying it to the  
3 interLATA entry.

4 MS. KEATING: Thank you, Ms. Cox. That's all that  
5 staff has.

6 CHAIRMAN JACOBS: Commissioners.

7 COMMISSIONER JABER: I have a couple. Ms. Cox, the  
8 UNE rates you want us to establish now, that is not critical to  
9 what we need to do as it relates to the consultative role that  
10 we have with the FCC, right?

11 THE WITNESS: I would yes and no. I mean, it's not a  
12 requirement. We could go with interim rates, but we would like  
13 to go with the full finding that we have cost-based rates for  
14 all these UNEs.

15 COMMISSIONER JABER: Okay. But it's not a  
16 requirement that we have to fulfill in this docket to the best  
17 of your knowledge?

18 THE WITNESS: That is correct.

19 COMMISSIONER JABER: Okay. Now, remind me, I know  
20 from Mr. Caldwell's (sic) testimony that the nondesigned  
21 unbundled copper loop, we didn't establish a UNE rate for that  
22 because this is a relatively new offering?

23 THE WITNESS: That is correct.

24 COMMISSIONER JABER: Okay. In the line sharing, we  
25 didn't establish a rate according to Mr. Caldwell -- is it

1 Mr. or Ms. Caldwell?

2 THE WITNESS: Ms.

3 COMMISSIONER JABER: We didn't establish a rate  
4 there. Do you remember why, can you refresh my memory?

5 THE WITNESS: To my recollection it was a decision to  
6 not include line sharing in the UNE proceeding, so it was  
7 consciously not included in that proceeding, I think with the  
8 idea that it would be looked at later.

9 COMMISSIONER JABER: Okay. And the same would be  
10 true for the physical collocation UNE?

11 THE WITNESS: Yes, that is my recollection.

12 COMMISSIONER JABER: Okay. And on Page 15 of your  
13 testimony, I want to make sure that in this record we have the  
14 most appropriate numerical information, and by appropriate I'm  
15 looking for the most recent information. On Lines 1 and 2 you  
16 say as of February 2001 over 120 ALECs are providing local  
17 service to approximately 836,000 lines in Florida. Do you have  
18 a more recent number?

19 THE WITNESS: I do not have a more recent complete  
20 picture. I have looked at more recent data for 911 listings  
21 and UNE-Ps, and those have continued to go up, but I do not  
22 have the complete rework of the methodology for a more recent  
23 time period.

24 COMMISSIONER JABER: On access lines in particular is  
25 what I'm looking for.



1 THE WITNESS: Right, I don't have that.

2 COMMISSIONER JABER: And, again, just for the  
3 purposes of having a complete record, what is BellSouth's local  
4 rate for the residential customer?

5 THE WITNESS: It varies. In the lowest rate group --  
6 let me make sure I get this right. In Rate Group 1 is \$7.41  
7 for -- I'm talking a basic 1-FR now -- and it ranges up to  
8 \$10.81 in Rate Group 12, I believe it was. And then  
9 corresponding rates for a 1-FB range from \$20.11 to \$29.55.

10 COMMISSIONER JABER: What is 1-FB?

11 THE WITNESS: Like a basic business line, single line  
12 business type service.

13 COMMISSIONER JABER: So would that be the response to  
14 my question what is BellSouth's rate for the business customer?

15 THE WITNESS: Yes. For a certain type of business  
16 customer. I don't have all the other rates. There could be  
17 more complex business services, as well. But for sort of a  
18 single line business that would be the rate.

19 COMMISSIONER JABER: You are anticipating the next  
20 question. To the best of your knowledge, what do you recall  
21 was the UNE price we established for just the basic loop?

22 THE WITNESS: It ranged -- and I've got it somewhere,  
23 hold on. And the only thing I jotted down was the SL-1 rate.  
24 If you will bear with me, I've got it somewhere. Sorry, I  
25 guess I'm not going to find it. My recollection is that it

1 varied from -- and these were the rates in the most recent  
2 recon order -- that they varied from Zone 1 in the mid \$12  
3 range to Zone 3 in the 30, to mid \$30 range, I just can't  
4 recall. I thought I had it up here with me.

5 COMMISSIONER JABER: Okay. Now, those are the latest  
6 UNEs rates that you have not implemented yet, correct?

7 THE WITNESS: Right. We have not added those to the  
8 SGAT yet. And that is for an SL-1 type loop.

9 COMMISSIONER JABER: So you are still using the  
10 interim UNE prices that we established?

11 THE WITNESS: We have used those in our SGAT. What  
12 is still currently in the SGAT is the rates that we had  
13 proposed in the UNE docket. At the time that we filed the SGAT  
14 originally those were the only rates available. So actually  
15 what will happen is the final rates will be the ones that go in  
16 right after those.

17 COMMISSIONER JABER: And do you recall what that  
18 interim price is for the loop?

19 THE WITNESS: This would have been the May -- I want  
20 to -- you know, I can't. The Zone 1 I can remember it was in  
21 the 11 -- high \$11 range, I believe. I can't remember the  
22 other zones.

23 COMMISSIONER JABER: Okay. High \$11, so the loop  
24 price is actually higher than the basic local service rate you  
25 offer.

1 THE WITNESS: For residence, yes.

2 COMMISSIONER JABER: Okay. And, finally, on  
3 Exhibit -- it's the affidavit that relies on the PSC's list of  
4 telecommunications services.

5 THE WITNESS: Yes.

6 COMMISSIONER JABER: I mean, telecommunications  
7 companies. Those are the companies that the PSC has  
8 certificated, correct?

9 THE WITNESS: That is correct.

10 COMMISSIONER JABER: And you would agree that just  
11 because those companies have been certificated that that really  
12 isn't an indication of the level of competition in Florida?

13 THE WITNESS: Yes. And really the purpose of that  
14 exhibit was to provide another piece of evidence, another piece  
15 of information for the Commission, really in calculating the  
16 estimate of facility-based lines. We relied on, I think it was  
17 56 carriers that we knew were providing service.

18 COMMISSIONER JABER: And my best indication of the  
19 level of competition should really be based on the number of  
20 access lines that are served by ALECs?

21 THE WITNESS: Yes.

22 COMMISSIONER JABER: And going back to your  
23 testimony, the estimate of -- it was 836,000 lines, I think.

24 THE WITNESS: Yes. Actually it got revised a little  
25 bit in my rebuttal, it's about 832,000 lines.

1           COMMISSIONER JABER: Now that accounts for how many  
2 customers in Florida?

3           THE WITNESS: That I don't know. And just to be  
4 clear, this is an estimate that, you know, we sort of had to  
5 pull together based on data that we had to look at. We really  
6 don't know with certainty how many lines obviously ALECs are  
7 providing, but this was our estimate based on some reliable  
8 data.

9           CHAIRMAN JACOBS: Ms. Cox, beginning on Page 28 of  
10 your surrebuttal where you address the discussion by Mr. Gillan  
11 on the profitability of the UNE rates?

12          THE WITNESS: I'm sorry, I must be on the wrong page.  
13 Let me find it.

14          CHAIRMAN JACOBS: I think it's 28, beginning at Line  
15 8. Actually it is whether or not BellSouth will be able to be  
16 profitable at the UNE rates.

17          THE WITNESS: Well, I know what you're talking about,  
18 I just can't find it.

19          CHAIRMAN JACOBS: In that discussion you acknowledge  
20 that there are some UNE rates that are higher than BellSouth  
21 retail rates, is that correct?

22          THE WITNESS: Correct.

23          CHAIRMAN JACOBS: And you accept this as a rational  
24 aspect of the marketplace, because as I understand your  
25 testimony, there are retail services that are being provided at

1 below their actual cost, is that a fair statement?

2 THE WITNESS: Yes and no. I would say yes, it's a  
3 fair statement that there are services that are being provided  
4 below cost and the residence line would be an example of that.  
5 I don't know I would say it's a rational result of the market.  
6 I think it is more of a rational explanation of why you see  
7 some of the results in the marketplace that you see, and that  
8 is why ALECs are initially targeting and being successful in  
9 the business market. They have over 20 percent of the business  
10 market based on our estimates, so I think that the relationship  
11 between the retail price and the UNE cost has an impact in how  
12 competition unfolds.

13 CHAIRMAN JACOBS: I'm trying to figure out how to ask  
14 this question without getting into a whole bunch of testimony.  
15 I mean, a whole bunch of proprietary exhibits. It certainly is  
16 not a proposition that BellSouth is incurring great losses in  
17 its provision of retail residential services, is it?

18 THE WITNESS: No, not necessarily. I mean, what has  
19 been set up over the years are cross-subsidies, if you will,  
20 certain services provided below costs, others provided above.  
21 And that worked pretty well when you had basically a single  
22 provider. But as competitors are introduced then you have the  
23 issue of the rates that have been priced above cost are more  
24 vulnerable to competition and those that are priced below  
25 aren't that attractive to competition. So you have that

1 dynamic that comes into play.

2 CHAIRMAN JACOBS: Right. And I guess my question is  
3 are there no services at the retail -- in the retail  
4 residential marketplace that fall into that category that you  
5 just described, i.e., where they are actually being provided at  
6 a price above their cost?

7 THE WITNESS: Yes, there would be some that are. I  
8 should have been specific. I was really talking about the line  
9 and the loop.

10 CHAIRMAN JACOBS: I understand. And, indeed, it has  
11 been found, in fact, we found in our prior order that the true  
12 test of compliance with the checklist has to give some  
13 consideration to provision of services in the retail  
14 residential marketplace, doesn't it?

15 THE WITNESS: Yes, Track A requires that. And we  
16 have provided evidence that shows that that is, in fact,  
17 occurring.

18 CHAIRMAN JACOBS: Okay. Now, going to the other  
19 discussion you just gave, that is that the natural tendency  
20 would be for companies to focus on the business market. If  
21 that is the case, then, first of all, those are going to be  
22 fairly high density areas and the cost structures are going to  
23 reflect that, you would agree?

24 THE WITNESS: Yes, I would agree that that has an  
25 impact on the cost.

1           CHAIRMAN JACOBS: And so if I am a facilities-based  
2 provider, and I'm looking to locate there, and I know that the  
3 incumbent facilities there are enjoying those kind of economies  
4 of scale, okay, that is going to have a significant impact on  
5 my strategy for looking at that marketplace, isn't it?

6           THE WITNESS: Yes, it could, I imagine, yes.

7           CHAIRMAN JACOBS: And so the more I begin to address  
8 that segment of the marketplace, the more I see the costs of  
9 service that are going to throw me out of line with the  
10 incumbent provider, then the less likely I am to compete with  
11 them one-on-one for a particular account, would you agree?

12          THE WITNESS: I would. And, likewise, to the extent  
13 that BellSouth or any incumbent is obligated to provide service  
14 throughout a territory, often an ALEC who can go in and target  
15 very specific areas has a competitive advantage in that aspect.

16          CHAIRMAN JACOBS: Okay. One of the concerns here is  
17 that, how do we -- how do you convey as many of those  
18 economies, economies that I think are reasonably and  
19 legitimately there for the incumbent company, how do we convey  
20 the economies of scope and scale to the costs that the entering  
21 companies are going to pay to serve those same areas? We have  
22 had some -- I know Ms. Caldwell is going to talk more about how  
23 we came up with the costs, but I'm concerned that in so much of  
24 the discussion that I have seen, when we discuss productivity  
25 enhancements, when we discuss economies, they don't seem to

1 work themselves into the wholesale scheme of service that are  
2 being offered. And let me be very specific, okay?

3 THE WITNESS: Okay.

4 CHAIRMAN JACOBS: In so many instances when we talk  
5 about the provisioning of certain services, one of the  
6 additives that comes across is oftentimes labor cost as well as  
7 additional glue charges as we have described today. And what  
8 becomes a concern to me is how then do I find a way -- if that  
9 is the concept here is that -- and I understand it's your  
10 interpretation that you are not required to provide a service  
11 without -- or a new UNE without breaking it apart and adding a  
12 glue charge, I accept that for the moment.

13 But if we are here as a public policymaker trying to  
14 figure out a way to ensure that new entering companies can  
15 enjoy those same economies of scale and scope, but then we are  
16 faced with a challenge of how do we also balance that against  
17 your obligation to get a glue charge, you would agree then that  
18 is a competitive market balancing issue?

19 THE WITNESS: Yes, I would. And I think that it has  
20 been addressed in a few ways in the whole structure of the  
21 Telecommunications Act. There has been a look at reselling  
22 service, and there is a standard for what is, if you will, the  
23 costs that we avoid by providing the service to an ALEC versus  
24 to an end user, and that has been specified how that will be  
25 calculated and that flows through to the ALECs.



1           On the UNE side, the FCC has been very specific in  
2 their pricing methodology, as Ms. Caldwell will discuss. I  
3 mean, it looks at most efficient technology, it's  
4 forward-looking, I mean, it reflects what the FCC felt would be  
5 necessary when you look out in the future for ALECs, sorry, to  
6 make use of this technology, that's how it ought to be priced.  
7 And then even an example that we have talked about briefly is  
8 this whole idea of the tandem interconnection rate. In the  
9 test as the FCC has clarified, they have said, well, as long as  
10 the competing carrier puts in a switch that serves a comparable  
11 territory then they can get that tandem interconnection rate.  
12 Well, that means they can put in much fewer switches. They  
13 don't really even serve the function of a tandem, wouldn't  
14 really have the cost of a tandem, they get compensated at that  
15 rate as a way to recognize new architectures and new  
16 technologies.

17           CHAIRMAN JACOBS: I haven't seen much discussion --  
18 this is a slightly different point. I haven't seen much  
19 discussion in the testimony here on the issue of trunk  
20 blocking, whereas the first go around it sounded like that was  
21 a big issue. Maybe I missed it. Is that an indication of  
22 where the company, your company has stepped back, and said,  
23 okay, we need to understand how to better allow for and plan  
24 for this new business activity?

25           THE WITNESS: I believe so. And I believe Mr. Milner

1 goes through some of the processes that we go through on that  
2 very point.

3 CHAIRMAN JACOBS: I will discuss that with him, then.  
4 Thank you. Any other questions, Commissioners? Redirect.

5 COMMISSIONER PALECKI: Yes, I have a few questions.  
6 Ms. Cox, I would like to back up and look at the forest as Ms.  
7 Kaufman has recommended that we do. Would it be accurate to  
8 say that the '96 Act has resulted in five years of continuous  
9 litigation between BellSouth and the ALEC community?

10 THE WITNESS: To some degree, yes. And part of that  
11 is built into the act in the negotiation and arbitration  
12 process that is part of the act. So to a certain extent it is  
13 built in there.

14 COMMISSIONER PALECKI: Now, that would be litigation  
15 before the Commission, before the FCC, before the courts, and  
16 also before third party arbitrators, isn't that correct?

17 THE WITNESS: Yes, that would be accurate. It could  
18 have occurred in all of those venues.

19 COMMISSIONER PALECKI: Do you have any idea of the  
20 cost to BellSouth of litigation with ALECs since 1996?

21 THE WITNESS: No, I don't.

22 COMMISSIONER PALECKI: What about last year?

23 THE WITNESS: No, I don't.

24 COMMISSIONER PALECKI: Do you have any idea how many  
25 times you have appeared before this Commission?

1 THE WITNESS: Me, personally?

2 COMMISSIONER PALECKI: Yes.

3 THE WITNESS: Maybe five. Does it seem like more?

4 COMMISSIONER PALECKI: You must be very tired of  
5 coming here.

6 THE WITNESS: Me, too.

7 COMMISSIONER PALECKI: In the states where 271 has  
8 been approved and we have seen a big increase in local  
9 competition in New York and Texas, do you know whether or not  
10 there is any less litigation between the ALECs and the ILECs in  
11 those states?

12 THE WITNESS: That I don't know.

13 COMMISSIONER PALECKI: Just in my own observation, it  
14 seems that in about 90 percent of the litigation we see there  
15 are assertions made by the ALECs of either discriminatory  
16 treatment or that they are not being treated with parity.  
17 Would you agree with that?

18 THE WITNESS: I would agree that that is often the  
19 case. I don't know about 90 percent, but that is often an  
20 issue that is raised.

21 COMMISSIONER PALECKI: Would it be possible for  
22 BellSouth to set up its processes so that its retail services  
23 section was treated in the same manner as an ALEC? And by the  
24 same manner, I mean they would use the same computer ordering  
25 system, the same application process, they would all be lined

1 up at the same ticket window. Orders would be taken in the  
2 orders that they are received, whether they came from BellSouth  
3 retail or from an ALEC. If an application contained errors, it  
4 would be kicked out, whether it came from BellSouth retail or  
5 an ALEC. ALECs and BellSouth retail would all use the same  
6 operational support system. Would that be possible?

7 THE WITNESS: I suppose it could be possible. The  
8 performance measures plan, you know, adopted by this Commission  
9 is designed to capture that. You know, it often uses a retail  
10 analog as a measure for whether or not we are providing parity.  
11 So there is a measure that compares our service to an ALEC to  
12 our service to ourselves, if you will. That doesn't really get  
13 to the scenario you talked about. And I imagine something like  
14 that could be done, technically.

15 COMMISSIONER PALECKI: Because what you are referring  
16 to is more or less, I guess you could call it separate but  
17 equal. You use completely separate systems. Do you have any  
18 idea of the expense of having to establish separate systems to  
19 provide separate discreet systems to BellSouth retail and to  
20 the ALECs and how much money has been spent by BellSouth to set  
21 up these systems that are specially for the ALECs?

22 THE WITNESS: I don't know specifically that cost.  
23 You are referring to the interfaces?

24 COMMISSIONER PALECKI: And the OSS, and the OSS  
25 testing, and all of the millions and millions of dollars that

1 are being spent not only in Florida, but across BellSouth's  
2 territories.

3 THE WITNESS: Well, just so I'm clear, the interfaces  
4 that we will have established don't necessarily require also  
5 the establishment of new OSS. The CLECs would make use of  
6 existing OSS by way of these interfaces. So we don't  
7 necessarily always have to set up duplicate systems.

8 COMMISSIONER PALECKI: Are some of the interfaces the  
9 same for your retail side as they are for the ALECs?

10 THE WITNESS: Yes. There would be some cases, for  
11 example, where we would need to do what we call a manual order  
12 and an ALEC would submit a manual order.

13 COMMISSIONER PALECKI: But what about in your  
14 automated systems, are they shared at all?

15 THE WITNESS: The systems, the interfaces would get  
16 the ALECs to the system, but our retail would not use those  
17 same interfaces.

18 COMMISSIONER PALECKI: Well, getting away from this  
19 specific question of sharing the interfaces, and getting back  
20 to the issue of continuous litigation between BellSouth and the  
21 ALEC community, whether or not this Commission approves this  
22 271 application, do you believe this docket provides a good  
23 platform for this Commission to send a very strong signal to  
24 the FCC that we need to stop the merry-go-round of constant  
25 litigation between the ALECs and the ILECs?

1           THE WITNESS: My answer to that would have to be no.  
2 And I'm saying that based on the readings of the FCC orders.  
3 They have always been so clear in their orders that their view  
4 that 271 process is a very specific process, it has very  
5 specific requirements, it has a very specific time frame, and  
6 that they really -- that is what they focus on and what they  
7 believe they are bound by, so I'm just not sure that they would  
8 view the 271 process as the appropriate venue for what you  
9 described.

10           COMMISSIONER PALECKI: Well, then try to be creative  
11 and use your imagination and let us know what would be a good  
12 platform for us to get that message across to the FCC, and how  
13 do you propose that we do that?

14           THE WITNESS: This isn't going to sound very  
15 creative, but, you know, participation in rulemakings at the  
16 FCC, ex partes, those type things. That is not very creative,  
17 I know.

18           COMMISSIONER PALECKI: Well, I certainly enjoy seeing  
19 you here as a witness, but I think -- and I'm not the youngest  
20 Commissioner, I'm the oldest, but I am the Commissioner who has  
21 been here the shortest period of time, and I'm feeling like I'm  
22 getting to know all of you pretty well.

23           THE WITNESS: You are more tired of seeing me than  
24 anybody else it seems like.

25           COMMISSIONER PALECKI: And it just seems to me that

1 there has to be something, and if it is not 271 approval, and I  
2 don't believe it is, there needs to be something to end this  
3 constant litigation. It has gone on long enough, I believe.

4 THE WITNESS: And we would certainly agree, and you  
5 probably wouldn't get much disagreement from the ALECs on that  
6 point, either. And a lot of the litigation, I believe, has  
7 been aimed at the 271 process, and so perhaps if we can get  
8 through that then we can eliminate some of that.

9 COMMISSIONER PALECKI: Thank you.

10 COMMISSIONER BAEZ: Ms. Cox, I have just one  
11 question, and I hope your attorneys won't jump down my throat  
12 if you have already answered it, so my apologies in advance.

13 THE WITNESS: I doubt that she will.

14 COMMISSIONER BAEZ: You have had a lot of questions  
15 asked trying to come up with alternative reasons for why  
16 competition has taken off after 271 has been granted. Can you  
17 walk me through what the relationship is between local  
18 competition taking off and the granting of 271 relief?

19 THE WITNESS: I can only give you my speculation, in  
20 that the FCC in their report didn't draw any conclusions other  
21 than it seemed to happen. I think that to the extent ALECs in  
22 previous 271s have used the fact that there was low market  
23 penetration, there was low residential penetration, these types  
24 of things as reasons to not grant 271. Once that reason was  
25 removed, then, you know, everybody was out there offering

1 bundles and packages and going after the customers.

2 COMMISSIONER BAEZ: So is your suggestion that the  
3 low market penetration, whatever that might be, is artificial?  
4 I mean, is that --

5 THE WITNESS: I don't know that I would say it's  
6 artificial. I think that once --

7 COMMISSIONER BAEZ: You're saying the reason for it  
8 being so low has been removed for whatever reason.

9 THE WITNESS: Yes. And I think also the fact that  
10 you now have another competitor that can offer the full range  
11 of services and is not tied up in some of the litigation,  
12 anyway. That all of the companies are on equal footing and  
13 sort of went after it, went after the customers.

14 COMMISSIONER BAEZ: Okay. Thanks.

15 COMMISSIONER DEASON: Redirect.

16 MS. FOSHEE: Thank you, Mr. Commissioner. I just  
17 have one question.

18 REDIRECT EXAMINATION

19 BY MS. FOSHEE:

20 Q Ms. Cox, I want to clarify one thing from your  
21 discussion with Commissioner Jacobs earlier on the level of  
22 basic residential phone service prices. Wouldn't you agree  
23 that the issue is not really one of economies of scale, but  
24 rather is one of social pricing and universal service?

25 A Yes, and that what is I was trying to get at. The



1 whole pricing structure has been developed for a reason and it  
2 was a very valid and a very good reason and it has reaped many  
3 benefits. However, it resulted in an unusual market for  
4 competitors to try to enter, and I think the results you have  
5 seen are fully rational based on good economic decisions made  
6 by competitors given those pricing structures.

7 MS. FOSHEE: Thank you. That's all the questions I  
8 have.

9 COMMISSIONER DEASON: Any exhibits?

10 MS. FOSHEE: Yes, sir. If I would move Exhibit 13  
11 into the record.

12 COMMISSIONER BAEZ: Without objection, show Exhibit  
13 13 is admitted.

14 (Exhibit 13 admitted into the record.)

15 MS. KAUFMAN: FCCA would move Exhibit 16.

16 COMMISSIONER DEASON: Without objection, show Exhibit  
17 16 is admitted.

18 (Exhibit 16 admitted into the record.)

19 MR. FEIL: Florida Digital moves 14 and 15.

20 COMMISSIONER DEASON: Without objection, Exhibits 14  
21 and 15 are admitted. And I show that Exhibit 17 is a  
22 late-filed.

23 MS. FOSHEE: Thank you.

24 (Exhibits 14 and 15 admitted into the record.)

25 MS. WHITE: May Ms. Cox be excused?

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COMMISSIONER DEASON: Yes, until we see you again.  
You may call your next witness.  
(Transcript continues in sequence with Volume 4.)

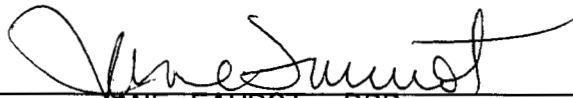
1 STATE OF FLORIDA     )  
2                             :     CERTIFICATE OF REPORTER  
3 COUNTY OF LEON     )

4  
5             I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter  
6 Services, FPSC Division of Commission Clerk and Administrative  
7 Services, do hereby certify that the foregoing proceeding was  
8 heard at the time and place herein stated.

9             IT IS FURTHER CERTIFIED that I stenographically  
10 reported the said proceedings; that the same has been  
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12 transcript constitutes a true transcription of my notes of said  
13 proceedings.

14             I FURTHER CERTIFY that I am not a relative, employee,  
15 attorney or counsel of any of the parties, nor am I a relative  
16 or employee of any of the parties' attorney or counsel  
17 connected with the action, nor am I financially interested in  
18 the action.

19             DATED THIS 15th day of October, 2001.

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