

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 990649A-TP

In the Matter of

INVESTIGATION INTO PRICING
OF UNBUNDLED NETWORK
ELEMENTS (BELLSOUTH TRACK).

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VOLUME 4

Pages 418 through 606



PROCEEDINGS: HEARING

BEFORE: CHAIRMAN LILA A. JABER
COMMISSIONER J. TERRY DEASON
COMMISSIONER MICHAEL A. PALECKI

DATE: Tuesday, March 12, 2002

TIME: Commenced at 9:00 a.m.

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

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APPEARANCES: (As heretofore noted.)

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FLORIDA PUBLIC SERVICE COMMISSION

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P R O C E E D I N G S

(Transcript follows in sequence from Volume 3.)

CHAIRMAN JABER: Let's go ahead and get started this morning. I have one announcement to make so that you all can plan for lunch or breaks and also to have your witnesses here. We will break for an hour at noon today. And as I recall from last night, Mr. Williams is our next witness, BellSouth?

MR. SHORE: That's right.

CHAIRMAN JABER: Okay.

MR. SHORE: Madam Chair, before we get started, just one procedural issue, and just to make the Commission aware and Staff for planning purposes as well, we heard you yesterday both before we started the proceeding and at the conclusion about the opportunity to perhaps stipulate some witnesses and move this thing along to ensure that -- or at least do our best to make sure we can finish today.

Last night, we renewed our offer to the other side of the room to stipulate the testimony of Mr. Gillan as well as the testimony of Mr. Pitkin. It's our understanding that AT&T and WorldCom do not want to stipulate Mr. Gillan, and they certainly have the right to put him on if they so choose, but they have agreed to stipulate Mr. Pitkin, and Staff is considering that issue. And we're waiting on word from one of their folks, but that that possibility, I think, remains fairly strong. And as soon as we get word, we'll certainly let the

1 Chair and the Commissioners know that.

2 CHAIRMAN JABER: Thank you, Mr. Shore. That is good
3 news this morning, that is very good news. Mr. Gillan, is it
4 you just want him to prepare -- you want him to give a summary
5 of his testimony and see if the Commissioners have questions?
6 Is that --

7 MR. HATCH: Yes, ma'am, and respond to any questions
8 they may have.

9 CHAIRMAN JABER: Commissioners, I've read -- well,
10 and I'm sure we all have -- we've read Mr. Gillan's testimony.
11 Do you want to think about whether putting him on the stand
12 would add additional information to -- I mean, obviously we
13 can't require you to stipulate his testimony into the record,
14 but I think you'll need some Commissioner feedback. That may
15 help you make your decision.

16 COMMISSIONER DEASON: Madam Chairman, I don't have
17 any questions for Mr. Gillan sitting here right now, but I
18 reserve the right to ask questions in the future.

19 CHAIRMAN JABER: Uh-huh, yeah.

20 COMMISSIONER DEASON: I just don't know what the
21 course of the discussion is going to take place. If you do put
22 the witness on, there probably would be some cross-examination,
23 I would anticipate. And depending on what comes out in summary
24 and that sort of thing, you know, I may have some questions,
25 but sitting here right now, I can't -- don't put him on for my

1 account I guess is what I'm saying right now.

2 MR. HATCH: Well, I guess at the bottom line, if
3 there's no questions, he won't be up very long.

4 CHAIRMAN JABER: Well, and that's the feedback I
5 wanted to give you. And, Commissioner Deason, you said it
6 really well. Don't put him on for me either. I mean, we're --
7 you know, if I had a concern, I would tell you.

8 COMMISSIONER PALECKI: I'm in the same posture as
9 Commissioner Deason. I don't have any prepared questions for
10 Gillan. I've read his testimony. It's possible that when I
11 hear some of the other cross-examination I might have some
12 questions.

13 CHAIRMAN JABER: We can revisit this later. Think
14 about it some more. With respect to Mr. Pitkin, that's fine.
15 When it's his turn to take the stand, we'll just insert his
16 testimony without cross.

17 MR. SHORE: And as a follow-up to the comments of
18 Commissioner Palecki and Commission Deason, as you all know
19 from reading Mr. Ruscilli's testimony and hearing his summary
20 yesterday, it's our position that Mr. Gillan's testimony is not
21 relevant to the issues in this case. So unless something comes
22 up, a question from someone else, and I don't exactly see how
23 that would be the case, I don't plan to cross-examine him
24 because I don't feel there's any need to.

25 CHAIRMAN JABER: All right. Anything else before we

1 take up this witness?

2 MR. FEIL: Madam Chair, if I may, one other point of
3 clarification. Early on yesterday, BellSouth had withdrawn its
4 January 28th motion to submit a revised cost study, and just
5 for clarification, I wanted to make sure I understood the
6 reason for that. It was because the Chair ordered that
7 BellSouth file the study and therefore the motion was
8 superfluous. Is that a fair statement?

9 MR. MEZA: That's correct, Madam Chair.

10 MR. FEIL: Thank you.

11 CHAIRMAN JABER: Thank you. All right.

12 Mr. Williams, were you sworn yesterday? Were you
13 here when we administered the oath?

14 THE WITNESS: Yes, I was.

15 CHAIRMAN JABER: Go ahead, BellSouth.

16 MR. TURNER: Thank you, Madam Chair.

17 THOMAS G. WILLIAMS

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

21 DIRECT EXAMINATION

22 BY MR. TURNER:

23 Q Mr. Williams, would you give us your name and
24 business address, please.

25 A My name is Thomas Williams. My business address is

1 3535 Colonnade Parkway, Birmingham, Alabama 35243.

2 Q And by whom are you employed?

3 A BellSouth.

4 Q Mr. Williams, have you caused to be filed in this
5 docket surrebuttal testimony consisting of 25 pages?

6 A I have.

7 Q Do you have any revisions, corrections, or
8 modifications to your surrebuttal testimony?

9 A No.

10 Q If I ask you the same questions today that are set
11 forth in your surrebuttal testimony that you prefiled, would
12 your answers be the same as those set forth in that testimony?

13 A They would be.

14 MR. TURNER: Madam Chair, I'd like to have the
15 prefiled surrebuttal testimony of Mr. Williams inserted into
16 the record as if read.

17 CHAIRMAN JABER: The prefiled surrebuttal testimony
18 of Thomas Williams shall be inserted into the record as though
19 read.

20 BY MR. TURNER:

21 Q Mr. Williams, I believe you had three exhibits to
22 your surrebuttal testimony; is that correct?

23 A That is correct.

24 Q Do you have any revisions, modifications, or
25 corrections to your exhibits?

1 A No.

2 MR. TURNER: Madam Chair, at this time, and I
3 confess, I have lost track, but I'd like to ask that they be
4 identified for the record as the next three exhibits for
5 identification.

6 CHAIRMAN JABER: TGW-1, TGW-2, TGW-3 shall be
7 identified as Exhibit 54.

8 MR. TURNER: Thank you, ma'am.

9 (Exhibit 54 marked for identification.)

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1 BELLSOUTH TELECOMMUNICATIONS, INC.
2 SURREBUTTAL TESTIMONY OF THOMAS G. WILLIAMS
3 BEFORE FLORIDA PUBLIC SERVICE COMMISSION
4 DOCKET NO. 990649A-TP
5 December 26, 2001
6
7
8 Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH
9 TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR
10 BUSINESS ADDRESS.
11
12 A. My name is Thomas G. Williams. I am employed by BellSouth as the
13 Product Manager for Line Sharing and Line Splitting for the nine-state
14 BellSouth region. My business address is 3535 Colonnade Parkway,
15 Suite E511, Birmingham, Alabama, 35243.
16
17 Q. PLEASE DESCRIBE YOUR PROFESSIONAL AND EDUCATIONAL
18 EXPERIENCE.
19
20 A. My career at BellSouth spans over 14 years and includes various
21 product management positions. I also have seventeen years service
22 with AT&T and Southern Bell, during which time I held positions in
23 sales, marketing, and operations. I have a bachelor's degree in
24 Marketing.
25

1 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

2

3 A. No.

4

5 Q. HAVE YOU TESTIFIED PREVIOUSLY IN REGULATORY
6 PROCEEDINGS?

7

8 A. Yes. I have testified, or filed testimony, in various proceedings before
9 the Florida, Georgia, Louisiana, Kentucky, Mississippi and Alabama
10 Public Service Commissions, the Public Service Commission of South
11 Carolina, the North Carolina Utilities Commission, and the Tennessee
12 Regulatory Authority.

13

14 Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

15

16 A. The purpose of my Surrebuttal Testimony is to rebut the Rebuttal
17 Testimony of Florida Digital Network, Inc. ("FDN") witness Mr. Michael
18 Gallagher.

19

20 Mr. Gallagher, attached to his testimony portions of his Rebuttal
21 Testimony, attached his Direct Testimony from this Commission's
22 Docket No. 010098-TP, an arbitration proceeding between FDN and
23 BellSouth. Although the issues in this docket are different and
24 narrower than the issues in the FDN arbitration, I also have attached
25 my Direct Testimony, Rebuttal Testimony, and my Late Filed Exhibit

1 No. 12 from the FDN arbitration to my Surrebuttal Testimony as
2 Exhibits TGW-1, 2, and 3, respectively, so that the record in this
3 proceeding will be complete.

4

5 Q. DO YOU HAVE ANY GENERAL COMMENTS REGARDING THE
6 SCOPE OF MR. GALLAGHER'S TESTIMONY?

7

8 A. Yes. This docket is an Unbundled Network Element ("UNE") Cost
9 Docket, yet Mr. Gallagher is re-arguing the very same issues currently
10 being considered in the Arbitration proceeding between BellSouth and
11 FDN. Moreover, Mr. Gallagher is doing so despite the fact that the
12 Commission issued an Issues List, after soliciting input from all parties,
13 of the issues it will resolve in this docket. While I am not a lawyer or a
14 regulatory expert, it appears to me that the majority of Mr. Gallagher's
15 Rebuttal Testimony is well outside the scope of this proceeding.

16

17 To the extent the Commission deems it is appropriate to consider Mr.
18 Gallagher's testimony in deciding the issues in this docket, I will
19 respond to his Rebuttal Testimony.

20

21 Q. PLEASE SUMMARIZE YOUR SURREBUTTAL TESTIMONY.

22

23 A. My Surrebuttal Testimony establishes that:

24 1. Mr. Gallagher is asking this Commission to require BellSouth to
25 unbundle its switched packet network, which both this

- 1 Commission and the FCC have ruled previously is not required;
- 2 2. FDN's proposal that BellSouth make certain facilities available to
- 3 FDN inappropriately places 100% of all investment and risk on
- 4 BellSouth, with FDN receiving all of the benefits;
- 5 3. FDN's arguments regarding its alleged inability to provide xDSL
- 6 services to end-users using BellSouth's network are based upon
- 7 speculation rather than fact;
- 8 4. BellSouth provides reasonable and workable solutions to
- 9 Alternative Local Exchange Carriers ("ALECs") to offer x Digital
- 10 Subscriber Line ("xDSL") services to end-users served from a
- 11 Digital Loop Carrier ("DLC") remote terminal ("RT");
- 12 5. What FDN is requesting would not serve to increase the number
- 13 of broadband users, but rather would only change the provider of
- 14 these services.

15

16 Q. WHAT IS FDN ASKING THIS COMMISSION TO ORDER?

17

18 A. FDN wants this Commission to require BellSouth to unbundle its packet

19 switching function. Mr. Gallagher states numerous times that this

20 Commission should order BellSouth to offer "xDSL loops, with and

21 without voice capability, including unbundled packet switching and

22 transport between the customer and the central office, on a per loop

23 basis". See Gallagher Rebuttal Testimony at pages 6, 7, 8, 16 and 29.

24

25 Q. SHOULD THE COMMISSION GRANT FDN'S REQUEST AND ORDER

1 BELL SOUTH TO UNBUNDLE PACKET SWITCHING?

2

3 A. No. As Mr. Ruscilli explains in greater detail in his Surrebuttal
4 Testimony, both this Commission and the FCC have concluded that
5 ILECs are not required to unbundle the switched packet network,
6 except in the very limited circumstances detailed in FCC Rule
7 51.319(c)(5).

8

9 In its *UNE Remand Order*¹, the FCC stated that “regulatory restraint . . .
10 may be the most prudent course of action in order to further the Act’s
11 goal of encouraging facilities-based investment and innovation.” -*UNE*
12 *Remand Order*, 3840. The FCC declined to require ILECs to unbundle
13 packet switching out of concern that such a requirement would impede
14 competition and stifle innovation. *Id.*, 3839-40.

15

16 There have been no significant changes in the telecommunications
17 environment that would warrant any reconsideration of this issue, and
18 accordingly, this Commission should not rule inconsistent with the FCC.

19

20 Q. PLEASE EXPLAIN THE CAPITAL AND OTHER RESOURCES

¹ See *Implementation of the Local Competition Provisions in the Telecommunication Act of 1996*, CC Docket No. 96-98, *Third report and Fourth Further Notice of Proposed Rulemaking*, 15 FCC Rcd 3690 (1999) (“UNE Remand Order”).

1 BELL SOUTH WOULD BE REQUIRED TO EXPEND IF THE
2 COMMISSION GRANTED FDN'S REQUEST.

3

4 A. BellSouth's switched packet network was designed and established
5 based on the assumption that it would be used only by BellSouth. It is
6 my understanding that to take a very large, complex and detailed
7 internal system and convert it into an offering available to ALECs would
8 require a massive amount of money and work. The detailed,
9 quantifiable information is outside of my area of expertise. I do know,
10 however, that it would require a very large amount of resources.

11

12 Q. PLEASE ELABORATE ON THE RISK BELL SOUTH WOULD BE
13 EXPOSED TO IF THIS COMMISSION GRANTED FDN'S REQUEST.

14

15 A. In addition to FDN's proposal that BellSouth unbundle its switched
16 packet network, FDN desires BellSouth to structure the proposed new
17 offering to accommodate FDN's requests for a port at a time, at any
18 location that FDN may decide to serve a single customer. Some of the
19 risks that BellSouth would be exposed to if the Commission ruled in
20 favor of FDN include:

- 21 1. The risk of obsolescence of technology (equipment, systems,
22 etc.);
- 23 2. The risk of underutilization of equipment (especially Digital
24 Subscriber Line Access Multiplexers ("DSLAMs")); and
- 25 3. The risk that BellSouth may not recoup its investment from the

1 extensive research and development, including the extensive
2 rewriting of the hundreds of related sub-systems, and the
3 significant effort required to actually deploy such an offering.
4

5 Q. WOULD YOU PLEASE EXPLAIN THE CONCERNS REGARDING
6 THE RISK OF OBSOLESCENCE OF TECHNOLOGY REFERRED TO
7 ABOVE.

8
9 A. New technology is being developed at an unprecedented rate. While
10 this is often of great benefit to end-users, it does present significant
11 risks for ILECs purchasing this better and less expensive equipment.
12 Recent history has shown that within a relatively short period of time,
13 there will most likely be even a better, less expensive piece of
14 equipment available to perform the same (or probably even expanded)
15 tasks. The concern to an ILEC is that: (1) the network and system
16 architecture is designed based on the capabilities and performance of
17 the new equipment just purchased; (2) cost studies and pricing is
18 based on the actual funds expended to procure the equipment, and
19 deploy as designed; and (3) a newer, better and less expensive piece
20 of equipment will become available within a very short period of time.
21 The "risk" arises that the ILEC is granted "interim rates" based upon
22 TELRIC and then, during a cost proceeding, is ordered to comply with
23 the TELRIC principal of using "forward looking" design of the newest
24 equipment. Unfortunately, this situation may mean that an ILEC has to
25 price the new offering based on the cost of the most modern equipment

1 (scorched node concept) which costs significantly less than what the
2 ILEC just recently paid for the equipment just deployed. The result is
3 that the ILEC could possibly not even be able to recover its actual out-
4 of-pocket costs.

5

6 Q. WOULD YOU PLEASE EXPLAIN THE CONCERNS REGARDING
7 THE RISK OF UNDER UTILIZATION REFERRED TO ABOVE.

8

9 A. Under the FDN proposal, BellSouth is being asked to deploy the
10 proposed offering a port-at-a-time, at any location where FDN may
11 desire to obtain customers, and for only as long as FDN desires to use
12 it. What this means to BellSouth is that FDN could request that
13 BellSouth install a DSLAM at an RT located in a sparsely populated
14 rural location because of interest expressed to FDN by a single
15 potential customer in that area. The risk is that only one port of the
16 DSLAM will be used, and that port could potentially be disconnected in
17 a relatively short period of time, leaving BellSouth with a DSLAM in an
18 RT with no users attached. Even though BellSouth opted to use
19 DSLAMs with as few as sixteen (16) ports, the very real risk remains
20 that the DSLAM may become a "stranded investment" and BellSouth
21 would never recoup its actual investment. Ordering BellSouth to install
22 equipment solely for the benefit of ALECs serves only to shift the
23 associated risks of utilization from the ALEC who has requested the
24 equipment to BellSouth.

25

1 Q. WHY DO YOU FEEL THERE MAY BE A RISK THAT BELLSOUTH
2 WOULD NOT RECOUP ITS INVESTMENT?

3

4 A. In addition to the financial risks discussed in my response to the above
5 two questions, an additional risk remains that, in the name of fostering
6 competition or broadband deployment, a regulatory body could order
7 BellSouth to reduce its rates to some level below BellSouth costs.
8 While in theory, BellSouth may, at some time in the very distant future,
9 be able to recoup its original investment, it probably would not be able
10 to do so, much less be able to provide a return on investment to its
11 shareholders.

12

13 Additionally, there is the risk that although an ALEC or ALECs claim
14 that they "have to have" an offering such as FDN proposes, they will
15 not actually purchase it, and accordingly, the significant amount of
16 funds and other resources expended to deliver the offering will never
17 be recouped. This has recently happened to BellSouth with Remote
18 Site Line Sharing and again with Line Splitting.

19

20 Q. DO YOU FEEL THAT IT IS APPROPRIATE FOR BELLSOUTH TO
21 ASSUME THIS LEVEL OF RISK?

22

23 A. No. Although BellSouth policy is not within my area of expertise or
24 responsibility, I strongly feel that FDNs proposal stifles any potential
25 investment an ILEC might be considering in new technologies. Such a

1 result would prohibit Florida consumers from obtaining the opportunities
2 that widespread broadband deployment could offer. I believe BellSouth
3 has indicated its risk tolerance level in this regard in its recent response
4 to the National Telecommunications and Information Administration
5 (“NTIA”)¹, as follows:

6
7 Deployment of network equipment necessary to provide
8 broadband is extremely costly. As with any investment, risk
9 and reward determine the willingness of a carrier to commit
10 capital resources to innovative network equipment.
11 Requiring ILECs to open their investment, through
12 unbundling, to others carriers that incur no risk yet have the
13 ability to achieve the rewards, has a stifling effect on any
14 investment. If ILECs are forced to unbundle their network
15 investment in a nascent market to other carriers, they may
16 simply choose not to invest. The limited rewards will not
17 justify the investment. ... Required unbundling of either of
18 these or collocation of line cards, at TELRIC pricing, would
19 strain these margins beyond viability. In such an instance

¹ “COMMENTS OF BELLSOUTH CORPORATION” to the National Telecommunications and Information Administration, U.S. Department of Commerce, December 19, 2001, re: “Deployment of Broadband Networks and Advanced Telecommunications”, Docket No. 011109273-1273-01

1 BellSouth would simply abort further deployment of the
2 integrated solution.

3

4 Q. CAN AN ALEC CURRENTLY PROVIDE xDSL SERVICE TO A
5 FLORIDA END-USER SERVED BY A DLC RT?

6

7 A. Yes, all of the components are currently available through collocation
8 and UNE offerings to allow an ALEC to serve end-users, regardless of
9 the facilities serving the end-user.

10

11 When BellSouth provides its own ADSL service where DLC is
12 deployed, BellSouth must locate DSLAM equipment at the DLC RT
13 location. An ALEC desiring to provide its xDSL service where DLC is
14 deployed also must collocate its DSLAM equipment at the DLC RT
15 location. This will allow the ALEC to provide the high speed data
16 service in the same manner as BellSouth.

17

18 Q. ON PAGE 5 OF HIS TESTIMONY, MR. GALLAGHER STATES THAT
19 FLORIDA IS EFFECTIVELY CLOSED TO DSL COMPETITION
20 BECAUSE OF THE LARGE QUANTITY OF DLCs IN FLORIDA. IS
21 THIS AN ACCURATE STATEMENT?

22

23 A. No. FDN has the same options available to it as BellSouth has for
24 itself. If FDN wants to provide DSL service to customers served by

1 DLC, as I will show later in my testimony, FDN has the ability to do so.
2 All of the necessary components are available.

3

4 Additionally, FDN was well aware of the extent of BellSouth's DLC
5 deployment in Florida, as well as the solutions offered by BellSouth,
6 prior to commencing operations in Florida. BellSouth achieves
7 significant savings for the ratepayers of Florida by reducing the cost of
8 voice service through the use of DLC.

9

10 Q. SHOULD AN ALEC EXPECT TO ENCOUNTER INSUFFICIENT
11 SPACE AND INFRASTRUCTURE RESOURCES AT RT'S, AS MR.
12 GALLAGHER INDICATES ON PAGE 18 OF HIS REBUTTAL?

13

14 A. Not at all. BellSouth is committed to do everything within its power to
15 accommodate an ALEC's request for RT collocation, including
16 increasing the size of the RT if that is required.

17

18 Q. IN THE UNLIKELY EVENT THERE IS A PROBLEM LOCATING
19 SPACE IN AN RT FOR AN ALEC TO COLLOCATE, HOW DOES
20 BELL SOUTH RESOLVE IT?

21

22 If sufficient space exists within a DLC RT, BellSouth will allow an ALEC
23 to collocate its DSLAM in the RT, regardless of whether BellSouth has
24 installed its own DSLAM at that RT. If sufficient space does not exist
25 within the DLC RT and BellSouth has not installed its own DSLAM at

1 that DLC RT location, then BellSouth will file a collocation waiver
2 request with this Commission for that DLC RT site. If sufficient space
3 does not exist within the DLC and BellSouth has installed its own
4 DSLAM at the DLC RT location, then BellSouth will make good-faith
5 efforts to augment the space at that DLC RT, such that the ALEC can
6 install its own DLSAM at that DLC RT. In the very unlikely event that
7 BellSouth could not accommodate collocation at the particular RT
8 where BellSouth has a DSLAM, BellSouth will unbundle the BellSouth
9 packet switched network at that RT in accordance with FCC
10 requirements. BellSouth, therefore, provides ALECs the same
11 opportunity to offer DSL service where a DLC is deployed as BellSouth
12 provides itself. The 'viability' of an ALEC to collocate DSLAMs at RTs
13 is no different that what it would be for BellSouth. BellSouth has
14 absolutely no advantage or savings over an ALEC when it comes to
15 collocating DSLAMS at an RT.

16

17 Q. ARE MR. GALLAGHER'S CONCERNS ABOUT RT COLLOCATION,
18 RIGHTS-OF-WAY, ALEC'S HAVING TO CONSTRUCT NEW
19 FACILITIES AND EXPERIENCING OTHER DIFFICULTIES
20 ACCURATE, AS STATED ON PAGES 22-24 OF HIS REBUTTAL?

21

22 A. No. First, let me state that FDN has not submitted a single RT
23 Collocation Application. Its concerns are purely speculative. Moreover,
24 they are unfounded.

25

1 An ALEC certainly may construct its own facilities, however it is not at
2 all necessary. BellSouth offers sub-loop DS1, DS3, and OC3 feeder
3 UNEs that would provide all of the capacity required from an RT to a
4 CO. Accordingly, Rights-Of-Way and construction of new facilities is
5 not necessary.

6
7 Mr. Gallagher's statements regarding RTs being too small, lacking
8 sufficient power and connectivity, expansions of space, power
9 generation, climate control facilities that would be impossible, etc., and
10 his claims that the public interest would not be served by unnecessary
11 and inefficient expansions of RTs are simply not correct. While it is my
12 understanding that each of the above may occur from time-to-time, it is
13 highly unlikely that all of these, or even several of these, would be
14 present at the same time and at the same RT. I believe that when FDN
15 actually submits its first RT collocation application, it will be pleasantly
16 surprised.

17
18 Q. ON PAGE 3 OF HIS TESTIMONY, MR. GALLAGHER IMPLIES THAT
19 BELLSOUTH IS INTENTIONALLY DEPRIVING ALECs OF THE
20 OPPORTUNITY TO PROVIDE xDSL SERVICE TO END-USERS
21 SERVED FROM A DLC RT. IS THAT ASSERTION CORRECT?

22
23 A. Absolutely not. BellSouth has worked to accommodate ALECs in the
24 provisioning of their DSL services. As an example, since the inception
25 of Line Sharing and Line Splitting, BellSouth has hosted industry-wide

1 collaboratives, each one meeting from one/half day to two full days per
2 week, for the express purpose of having ALECs assist with the
3 development of Line Sharing and Line Splitting offerings and related
4 systems. Although FDN has always been welcome and encouraged to
5 attend, FDN has never participated, nor expressed any desire for any
6 information relating to the issues that were discussed and resolved
7 through the collaboratives. It would seem to me that if an ALEC was
8 desiring to target potential customers served out of an RT, it would
9 contact the local ILEC and obtain as much information, direction and
10 assistance as possible. FDN has not done so.

11

12 Q. PLEASE COMMENT ON MR. GALLAGHER'S STATEMENTS ON
13 PAGES 10 AND 17 OF HIS TESTIMONY REGARDING FDN'S NEED
14 TO PLACE ITS OWN DEDICATED DSLAM AND DS1 FEEDER IN
15 EVERY ONE OF BELL SOUTH'S 12,000 RT'S AND HOW
16 PROHIBITIVELY EXPENSIVE THAT WOULD BE.

17

18 A. When BellSouth, as well as most ALECs develop a business plan and
19 commence deployment and sales efforts of sDSL services, they are
20 targeted to those areas where the provider expects a large percentage
21 of end-users to subscribe. As experience is gained and resources are
22 built up, additional areas are targeted. BellSouth selectively placed
23 DSLAMs in the Central Offices ("CO") for several years before the first
24 RT based DSLAM was placed. As FDN is well aware, CO based xDSL
25 is far less expensive than RT based xDSL. BellSouth waited until

1 demand increased before it deployed the more expensive RT
2 infrastructure. Accordingly, Mr. Gallagher's claim that FDN would have
3 to incur the prohibitive cost of placing its own DSLAMs in every one of
4 BellSouth's 12,000 RTs in Florida is probably an exaggeration, and I
5 feel certain has never been part of FDN's business plan. To date,
6 BellSouth has placed DSLAMS in approximately 3200, or 25%, of its
7 RTs in Florida.

8
9 If FDN truly anticipates the exceptionally low take rate indicated on
10 page 16 of Mr. Gallagher's Rebuttal Testimony ('small, single-digit
11 percentage'), FDN may be best served by also being patient and
12 prudent. Additionally, it probably would be financially prudent not to
13 consider deployment in those RTs Mr. Gallagher categorizes on page
14 17, as serving a small number of customers, some as few as a hundred
15 lines.

16
17 It would be disappointing if this Commission rewards an ALEC who
18 comes to the party late, makes no capital investment, and is unwilling
19 to assume any of the risk, by allowing it to fully utilize all of the prudent
20 and patient (and capital intensive and potentially high risk sensitive)
21 investments of BellSouth.

22
23 Q. IF AN ALEC DOES NOT WANT RT COLLOCATION, ARE THERE
24 ANY OTHER OPTIONS AVAILABLE FOR AN ALEC TO PROVIDE
25 xDSL SERVICE TO AN END-USER SERVED BY A DLC RT?

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A. Yes. BellSouth will allow an ALEC to offer its end-users resold BellSouth voice service with BellSouth's ADSL Service. If the ALEC is an ISP, it can purchase the BellSouth wholesale ADSL transport service and provide xDSL data service to its end-users. If the ALEC is not an ISP, it can provide BellSouth® FastAccess® Internet Service as an authorized sales representative (ASR) or independently contract with an ISP of its choice. An alternative for an ALEC would be to enter into a Line Splitting agreement with another data-ALEC, or an ALEC could pursue an available 'home-run' loop.

In addition, end-users in Florida do have other alternatives for broadband service, including fixed satellite, wireless, and cable modem. In terms of total lines installed, cable modem is far ahead of any of these other competing technologies, including xDSL, and is the leader of broadband deployment and market penetration.

Q. MR. GALLAGHER, ON PAGES 5-8 OF HIS TESTIMONY, DISCUSSES HIS FRUSTRATION THAT THE BELLSOUTH "HYBRID COPPER/ FIBER xDSL-CAPABLE LOOP" COST STUDY DID NOT CONTAIN ALL THE ELEMENTS FDN ANTICIPATED, SUCH AS SUPPORTING EQUIPMENT NECESSARY TO PERFORM REQUIRED SWITCHING FUNCTIONS. PLEASE COMMENT ON THIS.

1 A. FDN is aware that this Commission and the FCC do not require the
2 unbundling of a switched packet network. The BellSouth "hybrid
3 copper/fiber xDSL-capable loop" cost study was prepared and
4 submitted exactly as requested. It is not, and never was intended to be
5 a total system or an end-to-end offering that included the unbundling of
6 BellSouth's switched packet network.

7
8 Q. ON PAGES 4 AND 24 OF HIS REBUTTAL, MR. GALLAGHER
9 DISCUSSES USING A DSL LINE CARD AT THE DLC AND THEN
10 ASKS THIS COMMISSION TO REQUIRE BELLSOUTH TO OFFER
11 THE SAME CAPABILITY TO FLORIDA ALECS THAT IT PROVIDES
12 FOR ITSELF. IS THIS A REASONABLE REQUEST?

13
14 A. No. Mr. Gallagher is correct when he says ALECs cannot collocate line
15 cards in DSLAMs at RTs, but not for the reason(s) he would have this
16 Commission believe. BellSouth does not deploy any equipment in
17 Florida, or anywhere in the BellSouth territory, capable of using the
18 integrated voice and data line cards Mr. Gallagher is referring to,
19 except for a very few currently under evaluation and testing.

20
21 Also, while BellSouth may have a very limited number of Next
22 Generation Digital Loop Carrier ("NGDLC") systems currently being
23 used in its network, they support voice only and are not capable of
24 using the 'combo card', except for a small number used solely for
25 testing purposes.

1
2 The inability of BellSouth to provide a NGDLC that uses an integrated
3 "combo card" and BellSouth not having a "hybrid copper/fiber xDSL-
4 capable loop" offering, does not limit FDN to line sharing only over
5 copper facilities. BellSouth provides several alternatives by which an
6 ALEC can serve its customers. For instance, FDN could collocate its
7 DSLAM in BellSouth's RT, acquire the unbundled loop distribution sub-
8 element, and acquire dark fiber from BellSouth to serve its customers,
9 as described by the FCC in its UNE Remand Order. Alternatively, FDN
10 can also provision its own fiber optic cable, install DSLAMs in its own
11 cabinetry in proximity to BellSouth's RT, and acquire only the
12 unbundled loop distribution sub-loop element to serve its customers.
13 Thus, BellSouth does not preclude ALECs from serving customers
14 regardless of whether or not those customers are served by copper
15 loops.

16
17 Q. ON PAGES 7 AND 23-24 OF HIS TESTIMONY, MR. GALLAGHER
18 REQUESTS THAT DSLAMs BE PROVIDED A 'PORT AT A TIME'
19 AND INDICATES IF THE NEW UNE IS NOT CREATED, FDN WILL
20 INCUR SIGNIFICANT DELAYS IN DEPLOYING SERVICE. PLEASE
21 COMMENT ON THIS STATEMENT.

22
23 A. The FCC specifically stated in its January 19, 2001 Order in CC Docket
24 No. 96-98, at ¶322, that ILECS have no obligation to provide DSLAMs,
25 much less provide them on a 'port-by-port' basis. Additionally,

1 BellSouth does not currently have any "common DSLAMs" or systems
2 which could support a "common DSLAM" referred to by Mr. Gallagher.

3
4 Mr. Gallagher asserts that if unbundled xDSL loops were offered on a
5 'line-at-a-time' basis, ALECs could obtain unbundled xDSL loops with
6 the same speed that BellSouth could provide for itself. That is exactly
7 what BellSouth is proposing. BellSouth had to obtain its own DSLAM
8 and DS1 feeder at every RT, and experienced delays in being able to
9 initiate service to its first customer served by a RT while these were
10 being installed, just as FDN claims it will have to do. Just how does
11 FDN believe BellSouth is now able to quickly provision new service to
12 BellSouth customers? Well, after an RT is equipped with the DSLAM
13 and DS1, the lead time is significantly shortened for subsequent new
14 service, just as it would be for FDN. What FDN is really asking this
15 Commission to do is provide FDN with all of the benefits and none of
16 the time and/or expense and/or risks that BellSouth had to incur. As
17 shown above, FDN has the exact same opportunity as BellSouth had,
18 and if it is willing to properly participate (time, money, effort, etc.), it will
19 be able to reap the benefits of its efforts.

20

21 Q. DO YOU AGREE THAT A SHARED FACILITIES MODEL, AS MR.
22 GALLAGHER DISCUSSES ON PAGES 17 AND 20 OF HIS
23 TESTIMONY, PROMOTES COMPETITION?

24

1 A. No. Actually, it discourages ALECs from building facilities. End-users
2 may feel they are buying from ALECs, but if the ALEC does not have
3 its own facilities, the features the end-user receives are the same as
4 those that BellSouth provides to its end-users. In addition to not
5 promoting competition, shared facilities discourage diversity and
6 innovation.

7
8 In his arguments, Mr. Gallagher uses examples of DSLAMs serving
9 only two (2) or four (4) customers. I do not believe that a prudent
10 business plan would consider expending the required capital, and
11 assuming all of the risks, in order to serve only four (4) end users.

12
13 Although I am not qualified to respond to all of the "cost" matters raised
14 by Mr. Gallagher, I wish to point out that the entirety of his explanations
15 compare a new UNE to existing services (retail, resale, etc.). What Mr.
16 Gallagher fails to mention is the extensive and expensive support
17 systems that would be necessary to provide what FDN requests. Had
18 BellSouth been ordered to provide a solution for ALECs at the same
19 time it was initially beginning to develop the solutions for itself, it might
20 be a different matter. But, to expect BellSouth to take an existing
21 solution, and the hundreds of related sub-systems designed for
22 BellSouth's own use, and convert this into a system capable of
23 providing the same solution to outside third parties, is a monumental
24 undertaking in both time and money.

25

1 For example, as I understand it, BellSouth ADSL was developed solely
2 for use with BellSouth voice customers. When the provisioning flows,
3 methods, procedures, etc. were developed, the assumption was made
4 that since all customers of ADSL solutions would be BellSouth voice
5 customers, it would be most efficient to use the "telephone number" as
6 the driver. Accordingly, all of the systems (and the hundreds of
7 supporting sub-systems) were developed using the telephone number.
8 Should BellSouth now have to provide this solution to end-users
9 without BellSouth telephone numbers, the provisioning systems (and it
10 is my understanding also the ordering, billing, repair and maintenance,
11 etc. systems) must be totally revamped. Accordingly, very extensive,
12 expensive and time consuming "re-writes" would be needed to all the
13 systems and sub-systems for BellSouth to do so.

14

15 Q. ON PAGE 18-20 OF HIS REBUTTAL TESTIMONY, MR. GALLAGHER
16 DISCUSSES THE VARIOUS BENEFITS THAT SHARED DSL
17 FACILITIES AT RTs WOULD AFFORD. PLEASE COMMENT.

18

19 A. Mr. Gallagher erroneously states that if each carrier has separate DSL
20 facilities at the RT, consumers would not be able to enjoy the benefits
21 of line sharing. This statement is incorrect.

22

23 If Mr. Gallagher is truly referring to line sharing, his understanding of
24 line sharing is incorrect. In line sharing, by FCC definition, the ILEC
25 (BellSouth) is the voice provider in all cases. Either BellSouth or the

1 data ALEC (the data ALEC's choice) provides a splitter at the RT, and
2 then collocates the DSLAM at the RT. The splitter routes the voice
3 portion back to the BellSouth switch at the CO, and the data portion to
4 the data ALECs collocated DSLAM for transport back to the data
5 ALECs DSLAM in the CO. Changing from one data provider to another
6 is a very simple matter.

7
8 If Mr. Gallagher is referring to line splitting, his understanding of line
9 splitting is incorrect. By FCC definition, line splitting is where a voice
10 ALEC and a data ALEC (or one ALEC performing both functions) place
11 a splitter (either BellSouth provided or ALEC provided) and a DSLAM in
12 the RT. Just as in line sharing, the splitter bifurcates the signal and
13 routes the voice portion to the voice provider and the data portion to the
14 data provider. Again, should the end-user desire to change either the
15 voice or the data provider, it is a relatively simple matter.

16
17 In either event, FDN's discussion regarding the difficulties of cross-
18 connections and potential space and resource limitations and/or
19 scarcity are totally incorrect and without merit.

20
21 Mr. Gallagher's statement that Florida consumers could often be
22 denied the ability to select different carriers to provide voice and data
23 services on the same telephone line is not correct. To my knowledge,
24 no customer in Florida, or anywhere in the BellSouth region, has ever
25 been denied the ability to select different voice or data carriers.

1

2 It is my understanding that BellSouth performs cutovers at RTs on a
3 routine basis. Although all cutovers are not identical, the basic
4 principals are the same, and normally there are no problems.

5

6 Q. ON PAGE 9 OF HIS REBUTTAL, MR. GALLAGHER STATES THAT
7 FDN MUST BE ALLOWED TO TAKE ADVANTAGE OF VARIOUS
8 "ECONOMIES OF SCALE." DOES THIS APPLY TO BELL SOUTH?

9

10 A. Absolutely. FDN is very "selective" in who should receive any benefits.
11 Mr. Gallagher goes to great length to argue that FDN must be allowed
12 to take advantage of the benefit of the economies of scale of
13 BellSouth's network. Yet, on page 7 of his rebuttal testimony, Mr.
14 Gallagher would have BellSouth purchase and deploy a full DSLAM
15 just so that FDN could use one (1) port, with total disregard to how
16 BellSouth might recover the cost of its investment with an
17 underutilization of the remaining ports.

18

19 Q. ON PAGE 10 OF HIS REBUTTAL TESTIMONY, MR. GALLAGHER
20 STATES THAT IRRESPECTIVE OF THE SIZE OF THE DSLAM
21 DEPLOYED AT AN RT, THE RESULT WOULD BE A NEGATIVE
22 CASH FLOW AND USES THIS AS HIS BASIS WHY FDN
23 ADVOCATES UNBUNDLED ACCESS TO BELL SOUTH FACILITIES.
24 WOULD YOU PLEASE COMMENT ON THIS?

25

1 A. As I have previously stated, xDSL started with a "level playing field" and
2 no one, including BellSouth, had an advantage. Accordingly, if
3 deployment of DSLAMs at an RT would cause negative cash flow to
4 FDN, BellSouth would have experienced a negative cash flow as well.
5 It would be unconscionable to require BellSouth, which expended all of
6 the capital and took all of the risk, to provide offerings to ALECs so that
7 they could avoid the negative situation, if true, that BellSouth would
8 have found itself in.

9

10 Q. WOULD YOU PLEASE BRIEFLY SUMMARIZE THE IMPACT OF
11 WHAT FDN IS PROPOSING?

12

13 A. Certainly. If BellSouth is ordered to unbundle its packet switched
14 network, no additional end-users would have broadband access
15 because ALECs would then only target those customers who currently
16 have BellSouth ADSL available to them. Such a result contradicts the
17 vision of wide-scale deployment of competitive broadband networks.
18 Instead, what would result would be nothing more than "customer
19 swapping", as no new deployment would result. In fact, such an
20 unbundling requirement would serve to dissuade ALECs from ever
21 deploying any of their own equipment.

22

23 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

24 A. Yes.

1 BY MR. TURNER:

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

4 A I have.

5 Q Could you please give it.

6 A Good morning. I'm employed by BellSouth as product
7 manager for line sharing and line splitting. The purpose of my
8 surrebuttal testimony is to review the rebuttal testimony of
9 Florida Digital Network, Incorporated, Witness Michael
10 Gallagher as it relates to line sharing and line splitting
11 issues.

12 Mr. Gallagher as part of his rebuttal testimony
13 attached his direct testimony from this Commission's Docket
14 Number 010098-TP, an arbitration proceeding between FDN and
15 BellSouth. The issues in this docket are different than the
16 issues in the FDN arbitration. This docket is an unbundled
17 network element cost study docket, yet FDN is rearguing the
18 very same issues currently being considered in the arbitration
19 proceeding.

20 It is not appropriate for the Commission to unbundle
21 either its DSLAM or packet switched in general. Mr. Ruscelli
22 explained in greater detail in his surrebuttal testimony both
23 this Commission and the FCC have concluded that ILECs are not
24 required to unbundle either the DSLAM or the packet switching
25 in general except in very limited circumstances detailed in FCC

1 Rule 51.319(c)(5).

2 In its UNE Remand Order, the FCC stated that, quote,
3 regulatory restraint may be the most prudent course of action
4 in order to further the Act's goal of encouraging
5 facilities-based investment and innovation, end of quote, UNE
6 Remand Order, 3840. The FCC declined to require ILECs to
7 unbundle packet switching out of concern that such a
8 requirement would impede competition and stifle innovation.

9 Unbundling BellSouth's packet switched network would
10 expose BellSouth to many unacceptable risks. These risks
11 include: Obsolescence of technology; underutilization of
12 equipment; potential failure to recoup BellSouth's investment
13 in the extensive research and development necessary to deploy
14 such technology, including the extensive rewriting of the
15 hundreds of related subsystems, and the significant effort that
16 would be required to actually deploy such an offering.

17 New technology is being developed at an unprecedented
18 rate. While this often is a great benefit to end users, it
19 does present significant risk for ILECs pursuing this better
20 and less expensive equipment. Within a relatively short period
21 of time, recent history has shown that there will most likely
22 be even better, less expensive equipment available to perform
23 the same, or perhaps even better, task.

24 Under the FDN proposal, BellSouth could be asked to
25 deploy the proposed offering one port at a time, at any

1 location where FDN may desire to obtain customers, and for only
2 as long as FDN desires to use it. What this means to BellSouth
3 is that FDN could request that BellSouth install a DSLAM at a
4 remote terminal located in a sparsely populated rural location
5 because of interest expressed to FDN by a single potential
6 customer in that area. The risk is that only one port of the
7 DSLAM would be used, and BellSouth would be unable to recoup
8 the investment of having to install that DSLAM.

9 The FCC recognized the risk inherent in deploying new
10 technology required to provide services. Such risk support the
11 FCC's decision in its January 19th, 2001 order in CC Docket
12 Number 96-98 at Paragraph 322, that ILECs have no obligation to
13 provide DSLAMs as UNEs, much less provide them on a
14 port-by-port basis. When BellSouth provides its own ADSL
15 service where DLC is deployed, BellSouth must locate DSLAM
16 equipment in the DLC remote terminal location. Like BellSouth,
17 an ILEC desiring to provide its xDSL service where DLC is
18 deployed can collocate its DSLAM equipment at the DLC remote
19 terminal location. This will allow the ALEC to provide the
20 high-speed data service in the same manner as BellSouth.

21 BellSouth's UNEs and its policy addressing
22 collocation of an ALEC's DSLAM at remote terminal foster an
23 ALEC's ability to serve end users regardless of the facilities
24 serving the end user. If FDN wants to provide DSL service to
25 customers served by DLC, FDN has the ability to do so. For

1 instance, BellSouth will do everything within its power to
2 accommodate an ALEC's request to collocate its own DSLAM at a
3 BellSouth remote terminal, including increasing the size of the
4 remote terminal at BellSouth's expense if that is required.
5 The concerns that FDN raises about such collocation are purely
6 speculative and unfounded because FDN has not submitted a
7 single remote terminal collocation application.

8 In addition to offering this collocation, BellSouth
9 offers subloop DS1 and DS3 and OC3 feeder UNEs that would
10 provide all the capacity required to carry DSL traffic from a
11 remote terminal to the central office. Accordingly,
12 rights-of-way and construction of new facilities is not
13 necessary. BellSouth also offers as a UNE distribution
14 facilities to carry DSL traffic from the remote terminal to the
15 end user.

16 In addition to collocation and UNEs, ALECs have other
17 options to provide xDSL service to its customers. BellSouth
18 will allow an ALEC to offer its end users resold BellSouth
19 voice service with BellSouth's ADSL service. If an ALEC is an
20 ISP, it can purchase the BellSouth wholesale ADSL service. If
21 the ALEC is not an -- pardon me. If an ALEC is an ISP, it can
22 purchase the BellSouth wholesale ADSL transport service and
23 provide xDSL service to its end users. If an ALEC is not an
24 ISP, it can provide BellSouth Fast Access Internet service as
25 an authorized sales representative or independently contract

1 with an ISP of its choice. An alternative for an ALEC would be
2 to enter into a line splitting agreement with another data-ALEC
3 or an ALEC could pursue an available home-run copper loop.

4 BellSouth's switched packet network was designed to
5 work with BellSouth voice service, and it uses BellSouth
6 telephone numbers. To convert our large and complex internal
7 system to accommodate ALEC telephone numbers would require a
8 massive amount of money and work. Mr. Gallagher's statement
9 that Florida consumers could often be denied the ability to
10 select different carriers to provide voice and data service on
11 the same telephone line is not correct. To my knowledge, no
12 customer in Florida or anywhere in the BellSouth region has
13 ever been denied the ability to select different voice and data
14 carriers.

15 Additionally, if the ALEC does not have its own
16 facilities, the features the end user receives are basically
17 the same as those that BellSouth provides to its end users. In
18 contrast, if ALECs install their own equipment, they will be
19 able to provide innovative and diverse offerings. Therefore,
20 in addition to not promoting competition, sharing facilities
21 discourages diversity and innovation.

22 It's important to keep in mind that it's been within
23 the last few years that BellSouth began deploying DSLAMs in
24 remote terminals in order to provide DSL service. FDN could
25 have been doing the same thing over the same period of time.

1 DSL started with a, quote, level playing field, and no one,
2 including BellSouth, has an advantage. Accordingly, if
3 deployment of DSLAMs at remote terminals would cause negative
4 cash flow to FDN, BellSouth would have experienced a negative
5 cash flow as well. It would be unfair to require BellSouth,
6 which expended all of the capital and took all of the risk, to
7 provide offerings to ALECs so that they could avoid the
8 negative situation, if true, that BellSouth would have found
9 itself in.

10 I strongly feel that FDN's proposal stifles any
11 potential investment an ILEC might be considering in new
12 technologies. Such a result would prohibit Florida consumers
13 from obtaining the opportunities that widespread broadband
14 deployment could offer.

15 Finally, if BellSouth is ordered to unbundle its
16 packet switched network, no additional end users would have
17 broadband access because ALECs could only provide DSL service
18 to those customers who already are able to receive that service
19 from BellSouth. Such a result contradicts the vision of wide
20 scale deployment of competitive broadband networks. Instead,
21 what would result would be nothing more than customer swapping,
22 as no new deployment would result. In fact, such an unbundling
23 requirement would serve to dissuade ALECs from ever deploying
24 any of their own equipment. In contrast, if an ALEC deployed
25 its own DSLAM at a remote terminal where BellSouth has not yet

1 mean that BellSouth's ADSL service offering makes a profit on a
2 stand-alone basis; is that right?

3 A That's right, that's what I meant.

4 Q When BellSouth sells its Fast Access to its end
5 users, it uses BellSouth's ADSL to provide that service,
6 doesn't it?

7 A Yes, it does.

8 Q And BellSouth advertises its Fast Access service;
9 isn't that correct?

10 A Yes.

11 Q So in addition to incurring costs of providing ADSL
12 to itself, BellSouth also incurs a cost of advertising Fast
13 Access?

14 A Yes, that's correct.

15 Q And BellSouth's Fast Access service to residential
16 end users includes access to an ISP or --

17 A It includes the services of an ISP.

18 Q Thank you. And BellSouth currently is selling its
19 Fast Access to residential end use for approximately \$50?

20 A That is correct.

21 MS. McNULTY: Thank you. I have no further
22 questions.

23 CHAIRMAN JABER: Mr. Feil.

24 MR. FEIL: Thank you.

25 CROSS EXAMINATION

1 BY MR. FEIL:

2 Q Good morning, Mr. Williams.

3 A Good morning.

4 Q Am I correct in understanding that line sharing is a
5 situation where there is ILEC voice and CLEC data over the same
6 line; is that correct?

7 A That is correct.

8 Q And line splitting is CLEC voice over CLEC data over
9 the same line; is that correct?

10 A That's correct.

11 Q In FDN's arbitration proceeding was FDN seeking a
12 line sharing product?

13 A No, I don't believe so.

14 Q In FDN's arbitration was it seeking a line splitting
15 product?

16 A No, I don't believe so.

17 Q I was a little confused by something you said in your
18 summary. Early on, you said you were rebutting Mr. Gallagher's
19 testimony as it relates to line sharing and line splitting
20 issues. Do you remember that?

21 A Yes, I do remember that.

22 Q Well, if FDN was not asking in the arbitration
23 proceeding for line splitting or line sharing products, what
24 did you mean by that in your summary?

25 A What I meant by that was, any issues involved in

1 shared loop products or DSL over UNE products, I consider those
2 to be related to line sharing and line splitting.

3 Q Okay. Referring to your testimony, Page 4, Lines 18
4 through 19, you say, "FDN wants this Commission to require
5 BellSouth to unbundle its packet switching function." Are you
6 saying that FDN is asking the Commission to unbundle all packet
7 switching?

8 A I believe that FDN is asking BellSouth to unbundle
9 its packet switched network.

10 Q Well, for example, are you asking that FDN is
11 requesting that BellSouth unbundle the functionality of the
12 DSLAM in COs?

13 A No, I don't recall that. I think what they're asking
14 is for remote terminal DSLAMs and also the connection all the
15 way back to the central office and the port on the ATM switch.
16 That's the packet switched network.

17 Q Okay. Is it clear to you that FDN is only asking for
18 BellSouth to unbundle packet switching functionality at DSLAMs
19 that BellSouth has already located at remote terminals?

20 A That's not clear. I'm not sure whether you're asking
21 us to unbundle our remote terminal DSLAMs that exist or
22 potentially be able to request additional ones. I'm not clear
23 about that.

24 Q Okay. Thank you.

25 COMMISSIONER DEASON: Well, that was something that I

1 had a question about, and maybe now is a good time to ask about
2 it. Let's just put aside the question of DSL and remote
3 terminals and DSLAMs and all of that. If you know, is it a
4 requirement of the Act -- of the '96 Act to have a CLEC come in
5 and to request you to unbundle something that doesn't exist?

6 THE WITNESS: It's my understanding that we have done
7 that in some cases, but I believe the answer to your question
8 is, the Act does not require that.

9 COMMISSIONER DEASON: So why are you concerned then
10 that FDN under their proposal could have you come in and
11 construct a DSLAM and then subscribe the one port off of it?

12 THE WITNESS: Well, Commissioner, because I'm not
13 sure what they may ask for. And if we were to get an adverse
14 ruling from this Commission, it would certainly be good if that
15 was spelled out, that there was no such requirement.

16 MR. FEIL: Thank you, Commissioner.

17 BY MR. FEIL:

18 Q Mr. Williams, you're aware, aren't you, that the
19 remote switching modules that FDN has collocated at BellSouth
20 COs have DSLAM functionality?

21 A I believe I have heard that before.

22 Q Okay. It's true, isn't it, that FDN cannot provide
23 DSL to most end users in BellSouth's footprint from those CO
24 collocated facilities?

25 A I'm not sure whether that's true or not. I don't

1 know exactly what the numbers are, but obviously we have a
2 large percentage of DLC, and you would not be able to serve
3 customers behind DLC with a central office based DSLAM, that is
4 true.

5 Q Okay. So in order for FDN to provide DSL service to
6 the customer served behind the remote terminals, FDN would have
7 to locate a DSLAM at an RT; correct?

8 A That is correct, just as BellSouth does.

9 Q BellSouth's position -- well, BellSouth's position is
10 as you've said, or it would have to accept this hybrid loop
11 proposal that BellSouth has proposed in this case?

12 A BellSouth didn't propose that. We were ordered to
13 provide a cost study.

14 Q Okay. So are you saying that BellSouth doesn't
15 support its cost study or doesn't support the product that it's
16 filed in this case?

17 A No. I thought your question implied that we proposed
18 a hybrid fiber/copper DSL loop, and we did not. It was an
19 order from this Commission to provide a cost study.

20 Q All right. You're familiar with -- generally
21 familiar with FDN's position in the arbitration proceeding, are
22 you not?

23 A I believe I am.

24 Q Okay. It's FDN's position that it's impaired from
25 provisioning its own DSLAMs in BellSouth remotes; correct?

1 A That's correct.

2 Q Is it fair to say that BellSouth's hybrid loop filing
3 in this case basically puts CLECs in the same position as if
4 they collocated their own DSLAMs at remote terminals?

5 A Well, it puts them in a better position because
6 collocation would not be required, and BellSouth would be
7 providing a so-called loop that had the electronics of a DSLAM
8 inserted into it.

9 Q So you're saying it's better because it eliminates
10 the collocation interval process when it comes to putting the
11 DSLAM into the remote?

12 A I think it would be a little better for you, yes.

13 Q But it's generally designed to put us in the same
14 position with regard to having our own dedicated DSLAM and
15 dedicated transport, similar to self-provisioning?

16 A Yes.

17 Q If in fact CLECs are impaired from collocating their
18 own DSLAMs, then wouldn't it be fair to say that the BellSouth
19 proposal would have the same effect?

20 A Would you repeat that question, please.

21 Q Sure. I'm sorry, it was rather clumsily worded. Let
22 me try that again. If CLECs are in fact impaired from
23 collocating their own DSLAMs, then the BellSouth proposed
24 hybrid loop, which it's priced out in this proceeding, would
25 likewise pose an impairment; is that not correct?

1 A I don't believe CLECs are impaired from deploying a
2 DSLAM.

3 Q Well, that's not the question. I'm saying, if there
4 is and the Commission finds that there is an impairment for
5 self-provisioning of DSLAMs, doesn't that logically follow that
6 they would also be impaired under BellSouth's proposed hybrid?

7 A I don't agree with that.

8 Q You mention in your summary that FDN has not
9 collocated any DSLAMs in BellSouth remotes; is that correct?

10 A To my knowledge, FDN has not collocated anything at a
11 remote terminal.

12 Q And it's correct to say, is it not, that no ALEC has
13 collocated a DSLAM in any remote terminal in Florida?

14 A That's correct, no one has in Florida. There are
15 several that are underway in other states.

16 Q In other states in BellSouth's region?

17 A Yes.

18 Q But none have been completed; is that correct?

19 A That's correct. The first will complete it's either
20 April or May and then another about a month later. One is in
21 Alabama and one is in Mississippi. We received a request from
22 another ALEC within last month that they were interested in
23 collocating DSLAMs at remote terminals as well.

24 Q Has BellSouth submitted in this docket -- withdraw
25 that.

1 On Page 5, Line 9 of your testimony --

2 CHAIRMAN JABER: Mr. Feil, before you leave that
3 point, for those ALECs in other states that have requested
4 collocation of DSLAMs, what pricing was used, number one, and
5 number two, did it take an action of a PSC to allow for that
6 collocation?

7 THE WITNESS: Let me do the last one first. There
8 was no action from a PSC. These ALECs came to our remote
9 terminal collocation and line sharing collaborative, learned
10 how the process works. And in answer to your other question,
11 we use the rates that are filed in Alabama for collocation and
12 line sharing from remote terminals, and we also use the rates
13 that are filed in Mississippi.

14 CHAIRMAN JABER: So those were rates that were
15 negotiated and arrived at through the interconnection agreement
16 process -- or the collocation agreement process?

17 THE WITNESS: Yes, yes.

18 BY MR. FEIL:

19 Q On Page 5, Line 9 of your testimony, you refer to the
20 UNE Remand Order, and actually, in your summary also you refer
21 to the regulatory restraint language. Didn't that same FCC
22 order refer to encouraging signs of investment in facilities
23 used to provide advanced services?

24 A I'm not sure about that.

25 Q Would it help if I show you a copy of the order?

1 A Sure.

2 CHAIRMAN JABER: And, Mr. Williams, while Mr. Feil
3 does that, in those other states we were just talking about as
4 it relates to collocation of DSLAMs in remote terminals, do the
5 other states have as many remote terminals as Florida does for
6 BellSouth?

7 THE WITNESS: Yes, I believe it's roughly the same.

8 CHAIRMAN JABER: Does the entire BellSouth
9 infrastructure -- just the whole infrastructure requires that
10 you have so many remote terminals?

11 THE WITNESS: Madam Chairman, BellSouth has been very
12 aggressive in deploying remote terminals because it holds down
13 the cost of providing voice service. We have been very
14 aggressive, more aggressive than most ILECs, I believe.
15 Verizon, for instance, has practically no remote terminals.

16 CHAIRMAN JABER: Recognizing that there might be some
17 confidentiality concerns, I don't know, the ALECs in the other
18 states that have taken advantage of collocation of DSLAMs, can
19 you give me an idea of their size and revenue?

20 THE WITNESS: They're very small. I believe that one
21 of them may only -- that may be their only location they ever
22 have. The other may have a few, but they're both very, very
23 small.

24 CHAIRMAN JABER: What payment arrangement did you use
25 for them?

1 THE WITNESS: No special payment arrangement, just as
2 we negotiate with every ALEC. I believe that we need to have
3 the same terms and conditions for all ALECs. I don't think
4 there should be anything special for anyone. That's my
5 personal opinion as a product manager.

6 CHAIRMAN JABER: Go ahead, Mr. Feil.

7 BY MR. FEIL:

8 Q Mr. Williams, Ms. McNulty handed you a copy of -- or
9 excerpts of the UNE Remand Order. If you look at the last page
10 in Paragraph 316, that's the language that I'm referring to
11 where it says, "Encouraging signs of investment in facilities."

12 A What was that paragraph number again?

13 Q I'm sorry, 316.

14 A 316. Yes. Yes, I see this.

15 Q Okay. And if you look also at Paragraph 307, which
16 is a few pages earlier. Does Paragraph 307 refer to some of
17 the encouraging signs of investment that the FCC referred to in
18 Paragraph 316?

19 A I believe it does.

20 Q Okay. Is it correct to say, Mr. Williams, that
21 Rhythms and NorthPoint went bankrupt and no longer exist?

22 A That is fair to say. However, the assets of both of
23 those companies were bought by stronger ALECs. And AT&T and
24 WorldCom have both bought those assets and have attended our
25 line sharing and line splitting collaboratives, and I think as

1 a result of that, you're going to see stronger players in the
2 DSL market offering competition.

3 Q Are they utilizing those assets in Florida for
4 providing DSL service behind remote terminals?

5 A No.

6 Q Thank you.

7 A NorthPoint and Rhythms didn't have any assets at
8 remote terminals.

9 Q Same questions with regard to Covad. Covad filed for
10 bankruptcy and is just now emerging from bankruptcy; is that
11 correct?

12 A That's correct.

13 Q Covad doesn't provide any DSL services in Florida
14 behind remote terminals; correct?

15 A That's correct, they do not.

16 Q Same questions with regard to Sprint, Qwest, KMC.

17 A That is correct.

18 Q Thank you.

19 A That's correct because I think they see no reason to
20 do that at this point. I think they're waiting to see what
21 this Commission and other commissions are going to do. Why
22 would they invest in those assets if you can force me to
23 unbundle mine? I think it's caused -- this whole proceeding
24 has caused the industry to freeze and wait and see what's going
25 to happen.

1 Q Mr. Williams, has the -- did the FCC in this order
2 and any other order you're familiar cite any situations where
3 the ILEC's architecture consisted of 75 to 80 percent or more
4 of access lines served through remote terminals?

5 A I'm not sure.

6 Q On Page 6, Lines 4 through 10 of your testimony, you
7 make the argument, as you referenced in your summary, that
8 making the changes necessary to accommodate your view of FDN's
9 request would require a massive amount of money and work. And
10 you repeat that argument elsewhere in the testimony on Pages
11 21 and 22.

12 A Right.

13 Q You say here also that quantifiable information is
14 outside your area of expertise. Do you know whether or not
15 BellSouth has submitted either in this docket or in any other
16 docket before the Commission any evidence or documentation
17 detailing what that cost would be and the changes required?

18 A No, they have not.

19 Q And you don't know what those changes would entail
20 specifically, do you?

21 A Well, I know that if we had to begin using ALEC
22 telephone numbers in our provisioning systems, it would be a
23 very expensive undertaking because those numbers don't exist
24 today.

25 Q But you don't know the details of what changes would

1 be needed or what costs would be involved, do you,
2 Mr. Williams?

3 A No. The only estimates I have is, our internal
4 people have told me it would be massive.

5 Q On Page 6 of your testimony toward the bottom, you
6 reference three risks regarding -- or that BellSouth would face
7 in an unbundling situation. You identify obsolescence,
8 underutilization, and nonrecoupment. I'd like to address those
9 briefly and turn, if I could, starting on Page 7 and going
10 through Line 8. It seems to me that you basically are saying
11 that TELRIC pricing doesn't permit BellSouth to recover its
12 costs because it's based on forward-looking technology and not
13 actual facilities BellSouth has in the ground. Is that a fair
14 summary?

15 A Yes, that's correct. We could find ourselves in a
16 situation where -- think about DSLAMs. Their costs are coming
17 down. We actually deployed DSLAMs two years ago. Whereas, if
18 you looked at the forward-looking cost of DSLAMs, they cost
19 less looking forward than they do today. So we could in fact
20 end up having to provide services at less money than it
21 actually cost us to deploy two years ago. That's what I mean.

22 Q So it seems to me that your argument is basically
23 with the TELRIC methodology, is it not, Mr. Williams?

24 A Well, yes, it probably is.

25 Q So --

1 COMMISSIONER DEASON: Let me ask a question. In
2 looking over the broader perspective of things, and correct me
3 if I'm wrong, I thought that's what the Act was all about and
4 what competition is all about; that if the cost of providing
5 service goes down, it doesn't matter what you have on your
6 books and what you invested years ago, you're limited by
7 competition to what it costs now to provide service, and you
8 better get efficient if you're going to be an able competitor.
9 Am I interpreting that incorrectly?

10 THE WITNESS: I believe you probably are interpreting
11 it correctly, Commissioner. I was just stating that we could
12 actually end up recouping less money than it cost us two years
13 ago to put DSLAMs at a remote terminal.

14 BY MR. FEIL:

15 Q Doesn't that same argument apply -- or doesn't that
16 same concern apply to all of the components that BellSouth is
17 required to unbundle now?

18 A Yes, I believe so.

19 Q On Page 8 starting at Line 9 through 24, you address
20 the risk of underutilization. Now, is this argument premised
21 on the assumption that -- or excuse me, premised on the belief
22 that FDN is asking that the Commission unbundle DSLAMs even in
23 areas where BellSouth does not presently have a remote
24 terminal?

25 A Yes, that's the assumption here.

1 Q Okay. So if that assumption changes and BellSouth --
2 or excuse me, or the Commission requires unbundling only where
3 BellSouth presently has DSLAM, is this argument completely
4 eliminated?

5 A Yes, it would go away.

6 Q Okay.

7 COMMISSIONER PALECKI: Let me ask a related question
8 about this situation of stranded investment. If BellSouth
9 installed its own 16-port DSLAM and only one or two of those
10 ports was being utilized, wouldn't BellSouth be in a position
11 where they would welcome the marketing assistance that the CLEC
12 community could provide to fill the other 14 ports on that
13 DSLAM?

14 THE WITNESS: Well, if that were to happen, I could
15 see where you may have a good point. However, we have not
16 found that to be true. We have a very sophisticated marketing
17 model that helps us select neighborhoods that are likely to
18 buy, and when we put DSLAMs in remote terminals, they fill up.

19 COMMISSIONER PALECKI: Are you familiar with Time
20 Warner Cable and their latest plan where they're allowing their
21 competitors to sell their service at a negotiated market rate,
22 but it's one of those things where they have welcomed the
23 marketing assistance of their competitors for business reasons?

24 THE WITNESS: That's a good point. And I am aware of
25 that, and BellSouth would welcome that as well at market rates.

1 We would be very interested in considering that.

2 COMMISSIONER PALECKI: Thank you.

3 BY MR. FEIL:

4 Q Along those lines, Mr. Williams, would you agree that
5 if ALECs have shared use of existing BellSouth DSLAMs in
6 remotes, that it increases the likelihood of reaching
7 100 percent utilization for those DSLAMs?

8 A Perhaps a little faster, but like I said, when we put
9 a remote terminal DSLAM in, we fill it up.

10 Q Do you have 100 percent utilization of all those
11 DSLAMs now?

12 A No, we don't, but we --

13 COMMISSIONER DEASON: Let me interrupt just a
14 second. It's great that you're able to assess your network and
15 your customers and make informed deployment decisions and that
16 you've had high utilization of the facilities that you put in
17 place. I guess my concern is, what about the more peripheral
18 areas, the areas where it's not a slam dunk that it's going to
19 be a successful business plan to go in and deploy these
20 facilities, and you have not deployed them?

21 And I guess my question is, is there a way that we
22 can facilitate deployment to those customers who want this
23 service and don't have it because you have not deployed it
24 because it doesn't make good business sense as of yet given the
25 economics? Whereas, if you went in jointly with another firm

1 and say you needed to deploy a 16-port DSLAM and you think that
2 you're only going to get six customers, and someone else
3 thinks, well, they're only going to get six customers, so it
4 never gets deployed, but if you did it together -- this is a
5 hypothetical -- you did it together and you get 12 customers
6 and you get 75 percent utilization of a 16-port DSLAM,
7 everybody wins. Why can't you do that?

8 THE WITNESS: You make an excellent point, and I'd
9 like to tell you what we are going to do. We've set a goal to
10 provide DSL service access to 76 percent of our customers in
11 Florida by the end of this year. We're deploying a lot of
12 DSLAMs. And in doing so, we plan to go into communities like
13 Chipley, Havana, Chiefland, Old Town, Trenton, Bronson,
14 Graceland (sic), Archer, Welaka, Yankeetown and a number of
15 others.

16 So we are moving out into network now. And, Madam
17 Chairman, you expressed interest yesterday in trying to get to
18 these rural areas. We are doing that, and the reason we're
19 doing that is we're in a real struggle, a real battle with
20 cable modem service. Competition is causing us to do this. So
21 we're going to compete, and we're going to win customers. We
22 are fighting a losing battle. Cable modem service is ahead of
23 us two to one. So we've got to move out in these communities,
24 and we're doing that. Mr. Milner mentioned yesterday the
25 integrated line cards, so we're going continue to do that. And

1 this will allow us to get into communities that would never
2 justify stand-alone DSLAMs. These communities I just listed
3 are going to have stand-alone DSLAMs. Well, these integrated
4 line cards are going to allow us to take our older digital loop
5 carrier systems and retrofit them so that we could put one
6 common card in and one line card and serve potentially one or
7 two customers. This is exciting technology, and it's going to
8 bring DSL service to Floridans that previously with the
9 existing technology we could not do it. So we're going to do
10 this, and we're going to take DSL out into the smaller
11 communities.

12 CHAIRMAN JABER: Mr. Williams, you have not answered
13 Commissioner Deason's question. His question was, why can't
14 you share in the cost and in the benefit with the ALECs that
15 are requesting the same sort of deployment? That's the
16 question, Commissioner Deason, I think you asked.

17 COMMISSIONER DEASON: That's the question.

18 CHAIRMAN JABER: And then the question from yesterday
19 that we'd like for you to address as well is, with respect to
20 the rural areas that BellSouth clearly will not deploy DSL in
21 the very near future, you know, why not price the DSLAM at a
22 discounted rate with the understanding that BellSouth is not
23 going into that area? And then a final question -- I'm going
24 to go ahead and just get it all out there -- you make the point
25 that you're competing with cable. Won't there be strength in

1 numbers? If all of the phone companies were providing DSL,
2 collectively you would be a better market participant in the
3 overall broadband market. Answer Commissioner Deason's
4 question first.

5 THE WITNESS: I will. Maybe I can answer them all at
6 the same time.

7 COMMISSIONER PALECKI: Can I throw in one more
8 question?

9 CHAIRMAN JABER: I need to start writing them down.

10 THE WITNESS: It's getting harder.

11 COMMISSIONER PALECKI: I want to know what the
12 pricing point is for BellSouth to allow a CLEC to use the DSLAM
13 and the packet switch where BellSouth can make a good profit
14 and would be willing to offer that service to the CLECs. I
15 want to know where is that pricing point.

16 THE WITNESS: Okay. BellSouth would be interested in
17 an arrangement where we could provide remote terminal DSLAMs if
18 we could market those at a market rate. Now, as far as what
19 that market rate is, we have begun an effort to see if it's
20 possible. We have started an effort right now to see -- a cost
21 study to see if it's possible. Can we do this at a market rate
22 and make it attractive enough so that somebody is willing to
23 buy it? Because that's what it takes. It takes a market rate
24 plus someone willing to buy it. We have a wholesale ADSL
25 offering today; it's \$33. They could buy -- ALECs could buy

1 this service on a resold line and serve their customers with
2 our remote terminal DSLAMs today. That's --

3 COMMISSIONER DEASON: That's only on a resold line;
4 correct?

5 THE WITNESS: Correct, only on a resold line because
6 our systems are only set up to work only with BellSouth
7 telephone service.

8 CHAIRMAN JABER: Mr. Williams, let me put you on
9 notice. I have decided to ask Mr. Gillan questions, and they
10 are going to be the questions I just asked you. So this is
11 your opportunity to answer what pricing structure would be
12 appropriate for a collocated DSLAM in a remote rural area, and
13 what partnership sharing opportunity would you recommend if
14 this Commission as a matter of policy found that there should
15 be a sharing.

16 THE WITNESS: BellSouth would be interested in
17 working with ALECs to share our remote terminal DSLAMs if we
18 were allowed to do that at a market rate. I don't have that
19 rate today, Madam Chairman.

20 COMMISSIONER DEASON: Well, that begs the question,
21 when are you going to have it?

22 THE WITNESS: By the end of April.

23 COMMISSIONER DEASON: By the end of April?

24 THE WITNESS: Yes, sir. What I will have by the end
25 of April is, we will know internally whether we can present a

1 market rate that makes sense for BellSouth and also makes sense
2 for ALECs, because like I said, they could buy this today at
3 \$33.

4 CHAIRMAN JABER: Why is the end of April the magic
5 date? What information are you waiting on?

6 THE WITNESS: I've assembled a product team, and they
7 are charged with determining what the costs are. So that's
8 what I'm doing. I'm working to arrive at that number.

9 CHAIRMAN JABER: Staff, when is the
10 recommendation -- no. When are the briefs due in this
11 proceeding? And, parties, if you know the answer to that, jump
12 in.

13 MR. SHORE: I believe it's April 1st. Right around
14 the first week of April.

15 CHAIRMAN JABER: That would be April Fool's day.

16 MR. KNIGHT: April 3rd. It's April 3rd, Chairman.

17 CHAIRMAN JABER: And our decision would have been
18 made when?

19 MS. McNULTY: June 11th is what I have.

20 CHAIRMAN JABER: And you will know the market rate
21 you would recommend the end of April. How realistic would it
22 be for our requesting that you provide that information by
23 April 1?

24 THE WITNESS: Well, it would be -- Madam Chairman, it
25 would be very difficult.

1 CHAIRMAN JABER: I want you to try really, really
2 hard.

3 THE WITNESS: We're trying really, really hard by the
4 end of April. What we had to do to do this is stop the efforts
5 of other teams to get the resources to work on this, but we
6 think it's important, and we have done that. We have pulled in
7 the resources we need to do it, and this effort is beginning
8 now.

9 CHAIRMAN JABER: Commissioners, can we brainstorm?
10 I'm very interested in having this information, but I don't
11 want to jeopardize the proceeding because we have to recognize
12 delay doesn't accomplish anything either.

13 COMMISSIONER PALECKI: Chairman Jaber, it seems that
14 the issues in this docket are somewhat intertwined with the
15 arbitration with Florida Digital and BellSouth. And it's one
16 of the areas that I wanted to question Mr. Williams on because
17 I'm not exactly clear where we draw the line.

18 And you started off your testimony, Mr. Williams,
19 with a statement as to what you believe were the issues that we
20 were to decide in this docket. And could you clarify for me
21 what your position is?

22 THE WITNESS: Well, I -- and Mr. Ruscilli talked more
23 about this yesterday than I did because he's the policy witness
24 and I'm the line sharing and line splitting policy manager, but
25 this is a UNE cost docket, and I thought that the cost issues

1 would be discussed, not whether a packet network should be
2 unbundled.

3 COMMISSIONER PALECKI: So we could go ahead and
4 decide on an unbundled UNE cost for BellSouth to allow the
5 CLECs to utilize the DSLAM and packet switches that they have
6 in place without actually making that decision yet. So we
7 could put a price out there that would be a TELRIC price
8 without actually determining whether that -- anyone would be
9 entitled to that particular service, could we not?

10 THE WITNESS: I'm not sure. You kind of lost me,
11 Commissioner.

12 COMMISSIONER PALECKI: Well, one of the things that
13 we've been doing is encouraging BellSouth and Florida Digital
14 to get together and try to negotiate this matter. If we went
15 ahead and set a TELRIC price but didn't yet rule on whether any
16 CLEC would be entitled to it and didn't yet rule on the issues
17 that are currently in the arbitration docket, would that
18 perhaps encourage the parties to get together and negotiate
19 seriously?

20 THE WITNESS: Commissioner, I believe what that would
21 do is convince FDN that they don't need to negotiate. They
22 have a TELRIC rate; that's what they want.

23 COMMISSIONER PALECKI: But there's nothing as far
24 as -- you told me that our issues here are to set UNE prices.
25 So we can go ahead and set a UNE price on TELRIC rates on this

1 DSLAM packet switch proposal without actually making a decision
2 on whether or not the CLEC community can utilize that, could we
3 not?

4 THE WITNESS: I'm not sure. I'm not sure I'm
5 qualified to answer the question.

6 COMMISSIONER PALECKI: I mean, it would seem like
7 we -- if we're only here for prices today, we could go ahead
8 and set a price and then make our decision on the basic issues
9 in the arbitration docket.

10 COMMISSIONER DEASON: Commissioner, I think this
11 witness is reluctant to answer that question. If it's
12 appropriate, I think we ought to address it to our legal Staff
13 and see if they have an answer or if they need to research it.

14 COMMISSIONER PALECKI: Yes, and perhaps it's
15 something that the parties could brief as well.

16 CHAIRMAN JABER: Yeah, absolutely. And then
17 Mr. Gallagher is also testifying, Commissioner, and you may
18 want to present the same question to him.

19 COMMISSIONER DEASON: Well, let me -- at this point,
20 does our Staff have anything in response to that question, or
21 do you need time to consider it?

22 MS. KEATING: I have to admit, Commissioner, I'm
23 struggling a little bit with the idea of setting a rate for
24 something that isn't necessarily going to be required. I don't
25 know that you couldn't define parameters. I'd really like the

1 opportunity to look into that a little bit more. But my
2 initial gut instinct is that you really wouldn't want to set a
3 rate for something that you aren't going to require.

4 COMMISSIONER DEASON: Let me say, a reason, it might
5 be just a question of scheduling. We're here; we have this
6 docket. We are looking at setting UNE prices, but we're not
7 for sure that we want to have DSLAMs as a UNE, a broader policy
8 question, which is beyond just the, and I don't want to make
9 this sound trite, beyond the mathematics of calculating a
10 TELRIC price. But while we've got everybody here and we're in
11 this, why can't we set the price and then reserve ruling on
12 whether we require the unbundling of the DSLAM?

13 MS. KEATING: I suppose if you were real specific in
14 your determination that by setting a rate you were not in fact
15 requiring that the UNE be provided, and if you were to state
16 real clearly where you would be making that determination.

17 CHAIRMAN JABER: My concern, Commissioners, is making
18 a link or a nexus to the FDN arbitration because actually
19 setting the price would benefit all of the industry. So to the
20 degree another ALEC wants to collocate a DSLAM or take
21 advantage of the price we'd set, I'd want to make that clear.
22 I wouldn't want to just reserve it for use by FDN in the
23 arbitration proceeding. That would be my only concern.

24 And then the second concern is one of a legal nature,
25 and we're going to take a lunch break, so we can revisit this

1 after you have thought about it some more but is one of a legal
2 nature. In setting the price, are we inherently making up a
3 decision with respect to the unbundling issue? I don't know
4 the answer to that, so you'll have to think about that for us.

5 MS. KEATING: That's my initial concern too,
6 Chairman.

7 MR. TURNER: Madam Chair, if I may. I certainly do
8 not want to prolong this. I do want to get on the record,
9 though, that BellSouth does have some opinions on that, and we
10 certainly reserve the right to brief it or address it as
11 appropriate. I simply don't want to do it now and take up time
12 that we need to be using for the hearing.

13 CHAIRMAN JABER: Well, here's what I do want you to
14 address in the brief, Mr. Turner, which brings us back to where
15 we started. The recommendation on what the market price would
16 be, I'd like to have that addressed in the brief. You need to
17 expedite your product team and their recommendation. I would
18 like to have an answer to that by the time you file your brief.

19 MR. TURNER: We'll certainly do everything we can.

20 CHAIRMAN JABER: And I mean, that's open to all the
21 parties in the brief, if you have a better guess on what the
22 price should be. And just to remind everyone, the question
23 was, if ALECs shared in the cost of the DSLAM, what would the
24 cost be? And then I guess inherent in that also, if there was
25 no sharing and BellSouth assessed the price, what would be the

1 market price?

2 Commissioners, is there something else you want to
3 add on to that?

4 COMMISSIONER DEASON: Well, I guess I just would
5 share some concern at this point, and it seems to me that it
6 may be difficult to come up with a market price which is
7 applicable in all situations. You know, in the ideal
8 situation, an ALEC would approach BellSouth and say, we need to
9 deploy facilities here. I think we can do it, you know, on a
10 joint basis, and we're willing to pay this much, you know, for
11 this much access to the DSLAM or whatever, you know, can you --
12 you know, and sit down and just negotiate; two business people
13 with the authority to make a decision, say, well, this makes
14 sense for my company, this makes sense for my company. Let's
15 do it and let's get service to customers, and let's deploy it
16 rapidly. And let's make sure that our customers are happy, and
17 we're both getting revenue as a result of this decision to
18 deploy facilities.

19 And I'm not so sure that you can come up with one
20 market rate which is going to apply in all situations. That's
21 my concern.

22 CHAIRMAN JABER: Right. No, I share that concern. I
23 think I'm just looking for options and information. Actually,
24 the other thing we're all looking for, I think you're hearing a
25 very unified message here. Making the parties go through that

1 analysis should generate discussion and dialogue among the
2 parties.

3 MR. TURNER: Madam Chair, I do want to point out,
4 along with Commissioner Deason's concerns, we want to get you
5 what you're asking for, and we're going to make good faith
6 efforts to do it. However, two weeks to get a market rate
7 study done is very fast.

8 And one other concern that we reserve the right to
9 maintain is, this is a TELRIC proceeding based on TELRIC costs.
10 And for the parties to submit in the form of briefs discussions
11 of market rates as Chairman Deason -- or as Commissioner Deason
12 mentioned very widely and generally are based on agreement
13 among parties in a UNE proceeding and not to have any
14 opportunity to cross-examination on it raises some very serious
15 procedural concerns. And we certainly reserve our right to
16 rely on those problems to the extent we need to.

17 CHAIRMAN JABER: That's so noted. I mean, either we
18 will be able to use it, or we won't be, but who knows. You all
19 may get an agreement out of this.

20 Mr. Williams, I want to take you back to the FCC
21 order, the Third Report and Order. Would you agree with me
22 that the FCC reserved its right to unbundle packet switching at
23 a later time?

24 THE WITNESS: Yes, I believe that's correct.

25 CHAIRMAN JABER: And would you agree with me that the

1 FCC did say it would be appropriate to unbundle packet
2 switching in limited circumstances?

3 THE WITNESS: That is absolutely correct.

4 CHAIRMAN JABER: Now, what were those limited
5 circumstances? Can you remind me?

6 THE WITNESS: Yes. It's those situations where an
7 end user served by a digital loop carrier, there's no available
8 copper loop, the ILEC has not permitted the CLEC to collocate
9 their DSLAM, but the ILEC has placed their DSLAM at the remote
10 terminal.

11 CHAIRMAN JABER: Okay. So you would agree with me
12 that where we would find those circumstances, it would be
13 appropriate for this Commission to order the unbundling of
14 packet switching?

15 THE WITNESS: Yes, I agree with that.

16 CHAIRMAN JABER: Okay. And my final question in this
17 area is, you would agree that the FCC used as the premise for
18 their finding that packet switching shouldn't be unbundled at
19 the time they were reviewing this issue, they used as the
20 premise the finding that there was deployment in business -- in
21 the business area of advanced services, that advanced services
22 were timely being deployed in certain market segments, and they
23 cited Qwest and Rhythms and NorthPoint as examples.

24 THE WITNESS: Yes, that's correct.

25 CHAIRMAN JABER: Okay. So to the degree those

1 circumstances have changed and this Commission finds that
2 deployment of advanced services is not occurring in a timely
3 fashion, that it would be appropriate for us to order
4 unbundling of packet switching.

5 THE WITNESS: I believe that the DSL market is
6 continuing to change. It is true that a lot of ALECs have gone
7 out of business; their assets were bought. I think the
8 industry is regrouping now and we see that happening. We also
9 see in the broadband NPRM that the FCC has preliminarily
10 decided that broadband service, more specifically DSL service,
11 are actually information services and not subject to
12 unbundling.

13 CHAIRMAN JABER: And not what?

14 THE WITNESS: Not subject to unbundling.

15 CHAIRMAN JABER: The NPRM goes that far,
16 Mr. Williams?

17 THE WITNESS: Well, I think -- I believe. I think
18 when they classify it as an information service, I think that's
19 what they're saying. That's my belief.

20 CHAIRMAN JABER: But does the broadband NPRM go as
21 far as to say therefore it should not be unbundled?

22 THE WITNESS: No, it doesn't say that.

23 CHAIRMAN JABER: I didn't think so. In this order,
24 would you also agree with me that the FCC concludes that
25 competitors may be impaired in their ability to offer service

1 without access to incumbent LEC facilities due in part to the
2 cost and delay of obtaining collocation in every CO, namely, in
3 the residential and small business market segment?

4 THE WITNESS: Yes, I believe it does address that.

5 CHAIRMAN JABER: Thank you.

6 COMMISSIONER PALECKI: I have just a couple of other
7 questions. I guess you can tell that we're really struggling
8 with this issue, and I think part of the reason -- I want you
9 to understand at least for me part of the reason that I'm
10 struggling with this issue is that BellSouth refuses to share
11 its line with the CLEC to allow the CLEC to continue to provide
12 voice service when BellSouth provides DSL service.

13 Is a possible solution to this difficulty that as
14 long as BellSouth refuses to share its line with the CLEC to
15 allow the CLEC to provide voice service when BellSouth provides
16 DSL service, that this Commission require BellSouth to unbundle
17 its DSLAM in its packet switch so that the decision then
18 becomes BellSouth's? You have a choice, either open up your --
19 share your line or unbundle your DSLAM and packet switch.
20 Would that be a fair resolution of this issue?

21 THE WITNESS: I don't believe it would be a fair
22 resolution. I think it would be an extremely unfair resolution
23 and extremely costly resolution.

24 COMMISSIONER PALECKI: Why would that be unfair?

25 THE WITNESS: I believe that, first of all, the FCC's

1 direction to us is that there's not a requirement to provide
2 DSL service when the ILEC loses the voice service. And
3 additionally --

4 COMMISSIONER DEASON: Let me interrupt just a second.
5 I mean, let's get back to my -- you know, let's forget about
6 regulation for a moment. What makes good business sense?
7 Isn't it better to get some revenue as opposed to 100 percent
8 or zero? Or do you feel that you're so entrenched that you
9 have so much market power that you can just by saying we're not
10 going to share, you can guarantee that you get 100 percent of
11 revenue?

12 THE WITNESS: Commissioner, no, that's not the
13 reason. The reason is, DSL equipment is expensive to deploy.
14 I think everyone knows the most expense to deploy is at the
15 remote terminal. If we have to continue to provide our ADSL
16 service when we lost the voice service, it's going to be a
17 money loser for us.

18 COMMISSIONER DEASON: You're saying that the
19 economics are such that if you don't provide the whole package
20 and you only provide part, that you are going to lose money?

21 THE WITNESS: We're going to make a lot less money.
22 I don't know if it completely goes under water. I can't speak
23 to that.

24 COMMISSIONER DEASON: Well, I guess that goes back to
25 my question. Isn't it better to make some profit than no

1 profit? Or do you think that by the threat by -- when a
2 customer approaches you and says, I want to switch my voice,
3 and you say, that's fine but you're going to lose your DSL
4 service, that that means that nobody is going to switch their
5 voice service; that you've got your thumb on top of them, and
6 you don't mind pressing it?

7 THE WITNESS: No, I don't believe we have our thumb
8 on top of them. I think they have lots of choices in the
9 marketplace. I think end users have multiple choices between
10 providers.

11 COMMISSIONER DEASON: What if a customer wants voice
12 service from FDN or someone else but wants to continue
13 BellSouth Fast Access service? They don't have that choice, do
14 they?

15 THE WITNESS: No, they don't.

16 COMMISSIONER DEASON: Okay.

17 CHAIRMAN JABER: Where were we? Mr. Feil.

18 MR. FEIL: If I could follow up on a few questions
19 the Commissioners asked Mr. Williams.

20 BY MR. FEIL:

21 Q When you were referencing a study for a market-based
22 rate for DSL sharing, was that assuming that the CLEC would be
23 able to provide the voice service over the same line?

24 A No, it does not. And I need to clarify that the cost
25 study that I mentioned doesn't look at all remote terminal

1 DSLAMs. It looks at these new integrated line cards only.

2 COMMISSIONER DEASON: I'm sorry, I didn't catch that.
3 Could you repeat that?

4 THE WITNESS: Yes. The cost study that I mentioned
5 earlier where we were going to try to determine if it's
6 possible to offer DSL service at a market rate only looks at
7 those situations where we're using these new integrated line
8 cards.

9 COMMISSIONER PALECKI: What percentage of your system
10 would that be?

11 THE WITNESS: I don't know right off. I can tell you
12 that as we start deploying these, it will be a large part of
13 the network because these particular line cards work with a
14 SLC 5 DSL -- DLC systems. We have a lot of those in place.
15 And once we have -- begin using those integrated line cards, we
16 will begin looking at our other newer DLC equipment, that would
17 be the Alcatel and Marconi equipment. It will be coming later.

18 COMMISSIONER DEASON: Well, just so I'm clear. When
19 you say the "cost study," you're talking about the market rate
20 study?

21 THE WITNESS: Yes, I am. We're not sure we can do
22 this and still offer a market rate. We need to see if we can.

23 COMMISSIONER DEASON: So you're not exploring it at
24 all, a market rate for the joint use of a DSLAM?

25 THE WITNESS: That was not the effort that I had

1 already undertaken. We were only looking at using these
2 integrated line cards because we feel that ALECs can place a
3 DSLAM just like we can. However, they can't place a card in
4 our DLC system, so we feel like we really need to be able to
5 offer them service on the same footing.

6 CHAIRMAN JABER: Commissioners, I have to -- you
7 know, when you brought up the cost study, the market study, it
8 was in conjunction with our asking about sharing of DSLAMs. So
9 we've gone through that whole exercise -- Commissioners, I
10 apologize.

11 COMMISSIONER DEASON: No, there's nothing to
12 apologize for because my understanding -- I mean, that's
13 what -- the impression that I got was that we were -- the
14 question that I asked was not in relation to utilizing
15 integrated line cards, it was in relation to sharing DSLAMs.
16 Is there some way that that could be done outside of the
17 regulatory umbrella and just have a market rate?

18 CHAIRMAN JABER: What part of our questions are not
19 real clear? Because what I really would appreciate, if you
20 don't understand the questions, you need to tell us. But you
21 took us down a road, and I went so far as to ask for
22 information in a brief, thinking I'd get information on a cost
23 study associated with sharing the cost of DSLAMs. We were not
24 talking about line cards. My request is withdrawn.

25 You are hereby admonished to answer the specific

1 questions you are asked, and if you're not clear on what those
2 questions are, you need to say something. Don't confuse this
3 Commission, we don't like it.

4 THE WITNESS: Madam Chairman, I apologize. Let me
5 try to explain how we got there. I think it was
6 Commissioner Palecki asked --

7 CHAIRMAN JABER: I am really hesitant to let you open
8 your mouth right now. We're going to take a ten-minute break
9 and come back and finish up.

10 (Brief recess.)

11 CHAIRMAN JABER: Let's go ahead and get back on the
12 record. Mr. Feil, you were cross-examining.

13 MR. FEIL: Yes, ma'am.

14 BY MR. FEIL:

15 Q Mr. Williams, does the wholesale rate that BellSouth
16 charges to ISPs for ADSL transport vary from geography to
17 geography within the state of Florida?

18 A No, it does not.

19 Q Commissioner Deason asked you a few questions
20 regarding BellSouth's business reasons for not allowing
21 BellSouth DSL service over ALEC voice. Do you recall those
22 questions?

23 A Yes, I do.

24 Q And I believe that you said that it was a money loser
25 for BellSouth to permit ALEC voice with BellSouth Fast Access

1 Internet service; is that correct?

2 A Well, there's a significant difference in the revenue
3 that BellSouth receives for BellSouth resold voice service and
4 UNE-P service. That's a fact.

5 Q Do you recall Ms. McNulty asking you whether or not
6 BellSouth was making money off of ADSL service on a stand-alone
7 basis?

8 A Yes.

9 Q And you said that BellSouth was; is that correct?

10 A That is correct.

11 Q Actually, I lost my place, Mr. Williams. Let's go to
12 your testimony at Page 9. On Pages 9 through 11, my question
13 is, I'm not exactly sure how to interpret what you're saying on
14 those pages other than that it's a threat that if the
15 Commission unbundles DSL or creates a broadband UNE as FDN has
16 requested, that BellSouth is going to cease deploying DSLAMs.
17 Is that a fair statement?

18 A Where is that?

19 Q I'm on Page 9 starting at Line 20 through Page 11,
20 Line 2.

21 A What I intended to say is, BellSouth's ADSL
22 service -- the business case for BellSouth's ADSL service makes
23 money today. We have a mix of DSLAM equipment. About half of
24 the lines are served by central office based DSLAMs, about half
25 are served by remote terminal DSLAMs. Everyone knows that

1 those DSLAMs at remote terminals cost significantly more money
2 than the ones at the central office. Everyone knows that, I
3 believe. If we were to start having to offer DSL service at
4 TELRIC rates for those remote terminal DSLAMs, we would have to
5 revisit that business case.

6 Q So are you saying that if the Commission unbundles or
7 creates an unbundled UNE for a broadband product as FDN
8 requests, that BellSouth will or will not stop deploying DSLAMs
9 in remote terminals?

10 A Well, what I said is, if we have to unbundle DSLAMs
11 at remote terminals because of that business case that assumes
12 a certain amount of revenue, we would have to revisit the
13 business case.

14 Q And is that -- your intention here on Page 9, Line 23
15 through Page 11, Line 2, it's your intention -- the summary you
16 just gave me is what you intended by these statements?

17 A That's correct.

18 Q Okay. Since I did get lost and I sort of skipped
19 over some, can I refer you to Page 9 starting at Line 13? Is
20 what you're saying here basically that ALECs wanted line
21 sharing and line splitting but haven't utilized those services?
22 Is that a fair summary?

23 A Pardon me, well, let me read this.

24 Q Sure.

25 A Ask your question again, please. I'm sorry.

1 Q Basically what you're saying here is that ALECs
2 wanted line sharing and line splitting but haven't utilized
3 those services.

4 A No. What I said was they asked for remote terminal
5 line sharing and line splitting, but we haven't actually put
6 any of those lines in the service today. I was talking about
7 remote site line sharing.

8 Q Okay. Well, the reason for that, though, is no ALECs
9 have been willing to or have asked to collocate DSLAMs at
10 remotes; correct?

11 A That's correct. In spite of the fact that there was
12 a lot of talk about doing so, there have only actually been
13 two. They're beginning to show some interest again, but it's
14 not in the great numbers we had hoped.

15 Q The revisiting the business case that you referred to
16 a little bit earlier, does that revisiting pertain in both
17 instances of one being when the Commission requires BellSouth
18 to unbundle all DSLAMs at remote terminals regardless of
19 whether or not BellSouth currently has one, and in the second
20 case where BellSouth has currently -- or just limited to where
21 BellSouth currently has a DSLAM in a remote terminal?

22 A Well, what I was talking about was unbundling
23 existing DSLAMs. I hadn't anticipated unbundling those that
24 are not there.

25 Q Okay. Thank you. I just wanted that clarification.

1 You said earlier, didn't you, that BellSouth said that
2 deployment of DSLAMs is such that now it has the capability of
3 serving 75 percent of households in its Florida footprint?

4 A The number is 76 percent, and that's a target by the
5 end of this year.

6 Q Okay. Thank you. And I think you said that the
7 investment of the DSLAMs had been made over a period of several
8 years; correct?

9 A That's correct.

10 Q Are you aware that for a good portion of that period
11 the FCC had a docket open to consider whether or not it should
12 unbundle DSLAMs located in remote terminals?

13 A I am aware of that.

14 Q Are you aware that during that time and at any time
15 states could have imposed additional unbundling requirements
16 regarding DSLAMs?

17 A Yes, I am.

18 Q Is it correct to say that you don't have any personal
19 knowledge with regard to how much space is available in
20 BellSouth's remote terminals in Florida?

21 A That would not be safe to say. I'm very familiar
22 with remote terminals.

23 Q Have you looked at schematics for all the remote
24 terminals in Florida to determine whether or not there's space
25 available for ALECs to collocate DSLAMs in them?

1 A There is space. We have a policy, and that policy
2 says, if we get an application for remote terminal collocation,
3 we will make space if space doesn't exist.

4 Q But you can't testify here today whether or not there
5 is space in all of BellSouth's remote terminals --

6 A I don't think it's relevant. We will make space at
7 our expense.

8 Q Starting on Page 17 of your testimony, Line 2, I
9 don't want to be redundant here of some of the things that
10 Commissioner Palecki asked you, but I wanted to parse through
11 some of these alternatives that you mention here at the top of
12 Page 17.

13 The first sentence -- or I guess actually it's the
14 second sentence after, "Yes. BellSouth will allow an ALEC to
15 offer its end users resold BellSouth voice service with
16 BellSouth's ADSL service." The BellSouth ADSL service, is that
17 the Fast Access Internet service you're referring to there?

18 A No, that's the BellSouth wholesale ADSL service that
19 we sell to ISPs.

20 Q Okay. And if the ALEC wanted to provide UNE or UNE-P
21 voice service, that wholesale service would not be available;
22 is that correct?

23 A That's correct.

24 Q Is it technically feasible for BellSouth to provide
25 that wholesale service over UNE or UNE-P voice service?

1 A It is technically feasible. It would be extremely
2 expensive, especially in the case of UNE loop.

3 Q Okay. The second option you refer to is, if the ALEC
4 is an ISP, it can purchase BellSouth's wholesale ADSL transport
5 service over a -- this, I guess, is the third sentence. That's
6 referring to over a separate line; is that correct?

7 MR. TURNER: I'm sorry. Could you refer us to the
8 line numbers that you're referring to?

9 MR. FEIL: Okay. I'm sorry, Mr. Turner, you're
10 correct. It's Line 3, the sentence beginning, "If the ALEC."

11 A No. That is referring to BellSouth wholesale ADSL
12 service over a BellSouth voice line.

13 Q Will BellSouth permit ISP affiliates of ALECs to
14 partner with the ALEC and provide ALEC voice service over this
15 type of arrangement?

16 A Let me be sure I understood. Will BellSouth allow
17 their ISPs using BellSouth ADSL wholesale service to work with
18 ALEC voice service?

19 Q Yes, sir.

20 A No.

21 Q Okay. The next option there starting at Line 5, the
22 sentence beginning, "If the ALEC," what is this authorized
23 sales representative arrangement that you're referring to? I
24 don't understand. Is that something that's required under the
25 Telecom Act?

1 A It's not required. It's a program that BellSouth
2 offers to people who are interested in selling BellSouth's Fast
3 Access service. They can be a marketer of that service, an
4 authorized sales representative, and they can sell that service
5 to end users and be paid a commission.

6 Q So basically it's an agent arrangement?

7 A It is an agent arrangement.

8 Q Okay. The sentence beginning, "An alternative," Line
9 8, "An alternative for an ALEC would be to enter into a line
10 splitting agreement with another data-ALEC," just to reiterate,
11 that has not been done in any situations where a customer is
12 served through a remote terminal; is that correct?

13 A That is correct.

14 Q And the clause beginning on Line 9, "Or an ALEC could
15 pursue an available home-run loop," didn't you testify
16 previously in FDN's arbitration proceeding that it would be
17 rare to have an available home-run loop that met DSL tolerances
18 and qualifications?

19 A I'm not sure "rare" is the right word. It would be
20 unusual.

21 Q Okay. Thank you. On Page 17 again starting at Line
22 12, you refer to end users have other alternatives. The
23 question on Page 16 on Line 24 refers to options available for
24 an ALEC.

25 A Yes.

1 Q Well, I guess my question is, doesn't the
2 Telecommunications Act pertain to options available to ALECs
3 and not to end users?

4 A Well, options are important for anyone. And, yes, it
5 does refer to options for ALECs, and we've listed here we have
6 multiple options for ALECs. And end users also have multiple
7 options. They can buy our DSL service, or they can buy cable
8 modem service.

9 Q I think in response to some of the questions that
10 maybe it was Commissioner Palecki was asking, you refer to
11 cable service, and I think you said that cable had a two-to-one
12 advantage over DSL; is that correct?

13 A That's my understanding.

14 Q Didn't you testify in the arbitration proceeding that
15 it was a three-to-one advantage at that time?

16 A I did say that at that time.

17 Q Are you aware that the FCC's most recent Advanced
18 Services Report released last month shows that DSL rates are
19 growing faster than cable?

20 A They are growing faster. We're working hard. We're
21 trying to deploy remote solutions so that we can penetrate
22 further into the market.

23 Q Hasn't BellSouth basically doubled its number of DSL
24 subscribers over the last year?

25 A We have been very aggressive, and we're going to

1 continue to do so.

2 Q And would you agree with me when I say that cable
3 companies serve very few small- to medium-size business
4 customers?

5 A I don't know that.

6 Q On Pages 18 and 19, you're referring to DSL line
7 cards at DLC in BellSouth's network. Was it your impression
8 that Mr. Gallagher is asserting that most of BellSouth's
9 network is NGDLC?

10 A No. Mr. Gallagher talked about NGDLC, but I don't
11 know that he said "most."

12 Q Do you know what he said with regard to its
13 prevalence or lack thereof?

14 A I don't recall.

15 Q Okay. I'm eliminating questions here, Mr. Williams,
16 that's why I'm pausing so much, sorry.

17 A Take your time in eliminating questions.

18 Q Referring to your testimony on Page 22, you're
19 referring to Mr. Gallagher's testimony regarding the benefits
20 or problems with line sharing and line splitting if there is an
21 ALEC collocation of DSLAMs at remote terminals. Do you have
22 Mr. Gallagher's testimony in front of you?

23 A No, I don't.

24 Q Let me refer counsel to Mr. Gallagher's December 14th
25 testimony on Page 21. You're familiar with Mr. Gallagher's

1 testimony, the Page 21 question starting at Line 7? I'm sorry,
2 Mr. Williams.

3 A Line 7?

4 Q Yes. The question starting at Line 7.

5 A "Are there any other reasons that the use of shared
6 DSL" --

7 Q You don't have to read it out loud. You can just
8 read it to yourself.

9 A Okay. How much would you like me to read?

10 Q Well, just that page and the question carries over --
11 or excuse me, the answer carries over to the next page. My
12 question is basically this, Mr. Williams is, is it -- your
13 testimony on Page 22, is it referring to this testimony of
14 Mr. Gallagher?

15 A The question goes back --

16 MR. TURNER: Madam Chair?

17 A -- and says Pages 7 --

18 MR. TURNER: Excuse me, Mr. Williams. Madam Chair, I
19 apologize, but I got lost again. Could I ask if we could
20 identify specifically which portion of Page 22 of Mr. Williams'
21 testimony Mr. Feil is asking him about in relation to
22 Mr. Gallagher's testimony?

23 CHAIRMAN JABER: And, Mr. Feil, I know that you threw
24 the question out for the sake of the witness's benefit, but
25 step back, refer him precisely to the page and then ask the

1 question.

2 MR. FEIL: Sure.

3 THE WITNESS: Each of my questions in my surrebuttal
4 refer to the page numbers that I'm speaking of.

5 BY MR. FEIL:

6 Q Okay. Let me find the reference in your testimony
7 here, Mr. Williams, so I make sure that I'm clear. I may have
8 been referring to the wrong page. Sorry this is taking so
9 long. I'm trying to find the reference. Oh, here it is. It
10 was on Page 22, the question starting at Line 15. And you're
11 referring to Mr. Gallagher's testimony on Pages 18 through 20.
12 Do you have Mr. Gallagher's testimony, Pages 18 through 20?

13 A Yes, I do.

14 Q Where in there does Mr. Gallagher refer to line
15 sharing and line splitting?

16 And, Mr. Williams, if I may sort of help you out
17 here, I think that perhaps the confusion is caused by FDN filed
18 Mr. Gallagher's testimony on December 7th and then again on
19 December 14th. You may have been looking at the December 7th
20 version when you identified the page numbers and the question
21 on Page 22 of your testimony, Line 15. So you may want to read
22 past Page 20 of Mr. Gallagher's rebuttal testimony is what I'm
23 saying.

24 MR. TURNER: Madam Chair, I may be wrong, but it
25 sounds to me like Mr. Feil is simply asking Mr. Williams if he

1 meant to cite to a different page number, and it may be a whole
2 lot quicker if we do it that way.

3 MR. FEIL: That's not what I'm driving at. What I'm
4 driving at is, what in Mr. Gallagher's testimony is
5 Mr. Williams taking issue with and why, with respect to
6 Mr. Williams' testimony on Page 22, starting at Line 15 going
7 through Page 23.

8 THE WITNESS: I do see on Line 21 where Mr. Gallagher
9 refers to line sharing.

10 BY MR. FEIL:

11 Q Line 21 of what page?

12 A I'm sorry. Page 21 beginning Line 9 and 10.

13 Q Okay. Now, on Page 21 of Mr. Gallagher's testimony
14 is all he's saying there that if you turn a remote terminal
15 into a collocation hotel, there are going to be space and
16 wiring problems?

17 A Mr. Gallagher said, if each carrier has separate DSL
18 facilities at the remote terminal, consumers would not be able
19 to enjoy the benefits of line sharing unless all voice and
20 data-CLECs place facilities at the remote terminal and
21 establish cross-connections to BellSouth and with each other,
22 and I don't understand that. Our arrangement for line sharing
23 at the remote terminal allows for multiple ALECs to collocate
24 multiple DSLAMs, so I don't understand the statement.

25 Q And you're saying that there is going to be space

1 available in the remote terminals for multiple collocations of
2 multiple DSLAMs by multiple ALECs?

3 A That's exactly what I'm saying.

4 Q Okay. Thank you. Is there anything that gave you
5 the impression from Mr. Gallagher's testimony here that he
6 didn't understand what line sharing or line splitting was?

7 A Yes.

8 Q What specific --

9 A Line 9 in parentheses, voice and ALEC services from
10 separate carriers on the same line.

11 Q Line 9 of Page 21 still?

12 A That's correct, in parentheses.

13 Q Oh, and you're saying because he didn't specify that
14 the voice provider was the ILEC?

15 A That's correct.

16 Q Okay. That's the only reason?

17 A That's the only reason.

18 Q Okay. Thank you. You state in your testimony, Page
19 23 at the bottom, starting at Line 23 of Page 23, "To my
20 knowledge, no customer in Florida or anywhere in the BellSouth
21 region has ever been denied the ability to select different
22 voice or data carriers." What about the BellSouth customer
23 that wants DSL and FDN voice over the same line?

24 A Well, that would be an exception.

25 Q In your summary, or I believe it was in your summary,

1 you said, I think, that BellSouth has the same economies of
2 scale as would FDN?

3 A Yes. What I intended to say is that FDN can buy
4 DSLAMs and place DSLAMs at remote terminals just like BellSouth
5 can.

6 Q Well, that's different from saying that BellSouth has
7 the same economies of scale as FDN, isn't it?

8 A Not to me.

9 MR. FEIL: Can I have a moment, please.

10 CHAIRMAN JABER: Uh-huh.

11 MR. FEIL: Nothing further.

12 COMMISSIONER PALECKI: I'd like -- Mr. Williams, if
13 you could, clarify that paragraph on the bottom of Page 23 of
14 your testimony.

15 THE WITNESS: Page 23, the paragraph at the bottom?

16 COMMISSIONER PALECKI: Yes. Starting with Line 23,
17 "To my knowledge, no customer in Florida or anyone in the
18 BellSouth region has ever been denied the ability to select
19 different voice or data carriers."

20 THE WITNESS: Yes, sir.

21 COMMISSIONER PALECKI: I guess it would require
22 separate lines. Is that how that would be accomplished?

23 THE WITNESS: I'm just not aware of any end user who
24 had been denied the ability to choose different carriers.
25 That's all I meant.

1 COMMISSIONER PALECKI: Well, correct me if I'm wrong,
2 I thought we had a situation, what we're discussing today,
3 where if a carrier that had CLEC voice service wanted DSL, they
4 could not -- they wanted BellSouth DSL, they couldn't have
5 both.

6 THE WITNESS: Yes, sir, that's correct. I was
7 referring to -- I thought Mr. Gallagher was talking about end
8 users not being able to chose different ALECs for service.

9 COMMISSIONER PALECKI: Oh, thank you.

10 CHAIRMAN JABER: Go ahead.

11 MR. PERRY: I have no questions.

12 CHAIRMAN JABER: Staff.

13 MR. KNIGHT: We do have a couple of questions.

14 CROSS EXAMINATION

15 BY MR. KNIGHT:

16 Q Mr. Williams, earlier you spoke about the integrated
17 line cards. Has BellSouth deployed those line cards?

18 A No. Currently we are testing integrated line cards.
19 We're testing several types of integrated line cards, but we
20 haven't started deploying any.

21 Q When does BellSouth plan to deploy the integrated
22 line cards?

23 A We're going to begin deploying integrated line cards
24 in some states, I believe, in the May time frame.

25 Q When do you plan to deploy them in Florida?

1 A We're going to wait and see how the proceedings in
2 this hearing turn out.

3 COMMISSIONER DEASON: Hold on just a second, I've got
4 to ask a question. Explain to me why this proceeding affects
5 your decision to deploy that particular facility with
6 integrated line cards.

7 THE WITNESS: Yes. The integrated line card, that's
8 the new technology I was talking about to work in the SLC 5.
9 We feel that we can deploy the integrated line cards, which is
10 very expensive technology, and deploy to support our wholesale
11 ADSL service, but the cost that those devices cost cannot be
12 justified at TELRIC.

13 COMMISSIONER DEASON: So you're saying that you can't
14 make a business plan to make that investment if you feel like
15 there's a possibility that you may have to share those at
16 TELRIC prices.

17 THE WITNESS: It would have to be revisited,
18 restudied, yes, sir.

19 COMMISSIONER PALECKI: Could you please explain -- we
20 had a diagram earlier that showed how the DSLAMs work with the
21 packet switches and, you know, the connection to the home and
22 how it went through the remote terminal. How -- there's, like,
23 a little scratch pad behind you. Could you draw up a diagram
24 showing how these integrated line cards would work? Do they
25 substitute for the DSLAM and the packet switch, or how do they

1 work?

2 THE WITNESS: Maybe I can just explain it, then if I
3 have to draw it, if I must, I must. But the integrated line
4 card -- it's called integrated or a combo card because it's got
5 voice capabilities and data capabilities on a card. This is a
6 DSLAM on a card. So rather -- our existing DLC equipment is
7 voice capable only.

8 With this new voice technology in addition to the
9 voice capabilities, it will have a splitter on the card, so the
10 signal coming in will be split. The voice would go to the
11 voice part of the card. The high frequency spectrum would go
12 for the data part of the card, and then the voice traffic would
13 be forwarded to the central office as normal, and the data
14 traffic would be forwarded separately to the central office to
15 the ATM switch.

16 COMMISSIONER PALECKI: Would you need a separate card
17 for every line, or is it something that can serve multiple
18 lines?

19 THE WITNESS: Well, there are different
20 manufacturers, but the one we're looking at using for the
21 SLC 5, which would be the first ones we're doing, each line
22 card can support two end users.

23 COMMISSIONER PALECKI: Thank you.

24 COMMISSIONER DEASON: How much do they cost?

25 THE WITNESS: I don't know. The economies are such

1 that it's a little bit less expensive. If you look at a fully
2 loaded 48-line --

3 MR. TURNER: I'm sorry, Madam Chair.

4 CHAIRMAN JABER: Mr. Williams, I think we're about to
5 have a caution here.

6 MR. TURNER: I simply wanted to caution the witness
7 not to put any cost information out as it may be proprietary,
8 any specific cost data.

9 THE WITNESS: Thank you.

10 MR. TURNER: Thank you, Madam Chair.

11 THE WITNESS: If you look at a fully deployed 48-line
12 DSLAM costs "X," if you look at 48 lines served by this
13 integrated line card, the cost is 10 percent less.

14 COMMISSIONER DEASON: Thank you.

15 CHAIRMAN JABER: Staff.

16 MR. KNIGHT: Yes.

17 BY MR. KNIGHT:

18 Q Regarding the integrated line cards, didn't you
19 earlier testify that BellSouth intended to deploy over
20 76 percent of its network utilizing the integrated line card?

21 A Well, that will be the vehicle we use to get it up
22 from where it is now to the 76. And actually, there will be
23 other technology too. There will be some other DSLAMs in
24 addition to the integrated line cards.

25 Q So that decision may change depending upon what this

1 Commission decides in this proceeding?

2 A Yes, that's correct.

3 Q Okay. Mr. Feil asked you earlier, I believe, that if
4 you're aware during the time you're planning the deployment of
5 DSLAMs, that any state within your territory could have ordered
6 the unbundling of a DSLAM; is that correct?

7 A Yes, that is correct.

8 Q Did BellSouth take that into consideration when they
9 were planning the business model?

10 A No. The business model was based on using the DSLAMs
11 for BellSouth's wholesale ADSL service and voice service.

12 Q Okay. So during the planning of the business model
13 to expand service to 76 percent of your customers, you did not
14 take into consideration the fact that at any point during that
15 deployment the Commission could have ordered the unbundling of
16 DSLAMs?

17 A No, sir. The business case assumed that the DSLAMs
18 would be used by BellSouth.

19 Q Okay. Are you aware that Sprint has already deployed
20 integrated line cards?

21 A Am I aware that who?

22 Q That Sprint has already deployed integrated line
23 cards.

24 A Yes, I am. I am aware that several ILECs have
25 deployed integrated line cards.

1 Q Okay.

2 CHAIRMAN JABER: Are those priced at TELRIC?

3 THE WITNESS: I don't believe so, not to my
4 knowledge.

5 CHAIRMAN JABER: Do you know what those other ILECs
6 used as a guide for pricing?

7 THE WITNESS: I don't know. I know that SBC, their
8 Project Pronto is an end-to-end DSL service supposedly at
9 market rates.

10 BY MR. KNIGHT:

11 Q Just one last question. You earlier testified that
12 lines are available on a resale basis of \$33?

13 A No, sir, I did not mean to imply that. Let me
14 clarify. We will provide our wholesale ADSL service at \$33 on
15 a BellSouth resold line. That's what I meant to say.

16 Q Okay. Do you know how many of ALEC resalers or
17 resellers have taken advantage of that offering --

18 A I don't know that, I'm sorry.

19 Q -- in Florida?

20 A I don't know that.

21 Q Do you know if any have taken advantage of that
22 offering in Florida?

23 A Yes, they have. I don't know the number, though, I
24 apologize.

25 MR. KNIGHT: Okay. That's all the questions I have.

1 CHAIRMAN JABER: Thank you. Commissioners?

2 COMMISSIONER PALECKI: I have just one question, and
3 it relates to your testimony at the bottom of Page 23 and
4 Mr. Gallagher's statement that Florida consumers could often be
5 denied the ability to select different carriers to provide
6 voice and data services on the same telephone line. I guess my
7 question is, are you aware if in other states consumers have
8 the ability to have voice service from a competitor and data
9 service from an incumbent on the same line?

10 THE WITNESS: I'm not aware of that situation.

11 COMMISSIONER PALECKI: What about vice versa, voice
12 service from the incumbent or data service from the CLEC?

13 THE WITNESS: Yes, sir, that would be line sharing.

14 COMMISSIONER PALECKI: And that is available in some
15 parts of the country?

16 THE WITNESS: Yes, sir, it is available everywhere
17 and including Florida. Let me be sure I'm answering your
18 question because I might be talking past you. We're talking
19 about a situation where we have BellSouth voice service and
20 Covad data service.

21 COMMISSIONER PALECKI: Over the same line.

22 THE WITNESS: Over the same line, yes, sir. There
23 are 1649 instances of that in Florida.

24 COMMISSIONER PALECKI: And is that because Covad has
25 their own collocated DSLAMs? What technology is able to

1 accomplish that?

2 THE WITNESS: Yes, sir. And I use Covad just as an
3 example. That is exactly right. Covad or other ALECs have a
4 collocated DSLAM, and they're providing data service over the
5 high frequency spectrum.

6 COMMISSIONER PALECKI: So BellSouth is willing and
7 able to provide line sharing in that circumstance. Why are
8 they not willing to provide line sharing in the opposite
9 circumstance where the CLEC is providing voice service?

10 THE WITNESS: In addition to the regulatory reason
11 which I won't go into. I think we're all familiar with that.
12 In those situations where a UNE loop is involved, we don't have
13 the telephone number. We can't determine if the loop is
14 qualified. We can't provision the loop. Our trouble reporting
15 systems don't have the number in it. Our maintenance tracking
16 system doesn't have the number in it. There's just numerous
17 operational problems.

18 COMMISSIONER PALECKI: Are those problems that could
19 be worked through with good communication between the ILEC and
20 the CLEC?

21 THE WITNESS: They could be looked through with good
22 communications, a lot of work and a lot of money.

23 COMMISSIONER PALECKI: What more than a
24 communications issue is it? I'm not sure that -- as long as
25 the CLEC that wanted to provide the voice service made you

1 aware of the phone number, what more than that would it
2 require?

3 THE WITNESS: Reprogramming of the 200 subsystems
4 that support our wholesale ADSL service.

5 COMMISSIONER PALECKI: And why is that?

6 THE WITNESS: Because those systems don't have ALEC
7 telephone numbers in them.

8 COMMISSIONER PALECKI: Thank you.

9 CHAIRMAN JABER: Mr. Williams, in the example you
10 gave Commissioner Palecki, the line sharing with the
11 collocation of DSLAMs that allows the line sharing to occur for
12 Covad, is that collocation in a central office?

13 THE WITNESS: Yes, it is in every case.

14 CHAIRMAN JABER: Right. So it's -- Covad has not
15 collocated DSLAMs in remote terminals.

16 THE WITNESS: That is correct, they have not.

17 CHAIRMAN JABER: So when they collocate in a central
18 office, isn't there a limitation on the amount of customers
19 they are able to reach? Is that that 18,000 feet restriction?

20 THE WITNESS: It is the 18,000 feet restriction, in
21 addition to the DLC restriction.

22 CHAIRMAN JABER: So just to bring that point home,
23 the 1649 instances you cite are collocation of DSLAMs related
24 to the central office?

25 THE WITNESS: That's correct.

1 CHAIRMAN JABER: Okay. Redirect.

2 MR. TURNER: Thank you.

3 REDIRECT EXAMINATION

4 BY MR. TURNER:

5 Q Mr. Williams, very early in your testimony you
6 discussed some instances in other states in which ALECs are in
7 fact collocating DSLAMs at the BellSouth remote terminal. Do
8 you remember that?

9 A Yes.

10 Q Now, as I understand -- tell me if I'm wrong, the
11 DSLAM that is collocated in those central terminals -- I'm
12 sorry, the remote terminals, who pays for that DSLAM?
13 BellSouth or the ALEC?

14 A The DSLAM will be provided and paid for the by the
15 ALEC.

16 Q Once the ALEC pays for and provides the DSLAM and
17 it's installed in the remote terminal, how are those ALECs
18 getting from the remote terminal to the customer premises?

19 A They will access the copper subloop from the remote
20 terminal back to the customer.

21 Q And is that a UNE?

22 A Yes, it is.

23 Q And is it priced at TELRIC?

24 A Yes, it is.

25 Q How do the -- once those ALECs place a DSLAM in a

1 remote terminal, how do they get from the remote terminal back
2 to their collocation space at the central office?

3 A We have UNE subloop feeder products. We have DS1; we
4 have DS3; we have OC3.

5 Q Are they priced at TELRIC?

6 A Yes, they are.

7 Q Does BellSouth offer that type of arrangement here in
8 Florida at TELRIC to get from the remote terminal back to the
9 central office?

10 A Yes, we do.

11 Q Does BellSouth offer at TELRIC UNEs that would allow
12 a CLEC to get from the DSLAM in the remote terminal to the
13 customer premises?

14 A Yes, we do.

15 Q You were asked about some language in an FCC order
16 discussing encouraging signs of investment in the DSL market.
17 Do you recall that?

18 A Yes.

19 Q Would you consider these ALEC collocation of DSLAMs
20 in other states to be encouraging signs of investment?

21 A Yes, I do. I think that -- I think once the air is
22 clear, clearly an ALEC would rather unbundle my DSLAM at the
23 remote terminal than place their own DSLAM, clearly. It's more
24 expensive to place a DSLAM. I think if we had an order saying
25 that we don't have a requirement to unbundle, I think we would

1 start seeing ALECs want to deploy their own networks.

2 Q You mentioned that BellSouth has been very aggressive
3 in deploying remote terminals. Do you remember that?

4 A Yes.

5 Q Is that a new development, or is that something that
6 has been going on for some time now?

7 A It's been going on for a couple of years, and we
8 continue to deploy DSLAMs. We continue to augment those at --

9 Q I'm sorry, Mr. Williams. I think you may have
10 misunderstood my question.

11 A I'm sorry.

12 Q I wasn't asking about putting DSLAMs in remote
13 terminals. I'm talking about just the deployment of remote
14 terminals in and of themselves. How long has that been going
15 on?

16 A Over 20 years.

17 Q Mr. Williams, are loops UNEs?

18 A Yes, they are.

19 Q How long have loops been in the ground in the
20 BellSouth region?

21 A How long have loops been in the ground?

22 Q Yes, sir.

23 A Oh, 110 years, I suppose.

24 Q How about switches? Are they UNEs? In certain
25 instances is switching a UNE function?

1 A Switching is offered as a UNE. It's a support is
2 what it is.

3 Q How long have circuit switches been in the BellSouth
4 network?

5 A Forever.

6 Q The same thing about the ports on the switches, that
7 they are also UNEs?

8 A Yes.

9 Q How long have DSLAMs been collocated in remote
10 terminals in the state of Florida?

11 A We've been doing it for the last two years.

12 Q I said "collocated," I meant located by BellSouth.

13 A Yes. About two years.

14 Q When BellSouth began buying these DSLAMs and
15 installing them in remote terminals in Florida, were those
16 DSLAMs UNEs?

17 A No, they were not.

18 Q You've been asked several questions about whether or
19 not the possibility of a state commission designating the DSLAM
20 as a UNE existed when those UNEs were being deployed. Do you
21 remember that?

22 A Yes.

23 Q Has any state in BellSouth's region designated the
24 DSLAM as a UNE?

25 A No, they have not.

1 Q In past arbitration decisions, before the FDN
2 arbitration, has this Commission been asked to designate the
3 DSLAM as a UNE?

4 A It's my understanding they were asked.

5 Q And what was that decision?

6 A The decision by the Commission was not to unbundle
7 the packet network.

8 Q And is the DSLAM a part of the packet network?

9 A Yes, it is.

10 Q So the decisions by the commissions in the past have
11 been not to unbundle the DSLAM; right?

12 A That's correct.

13 Q Has BellSouth installed DSLAMs in remote terminals in
14 the state of Florida since those commission decisions in the
15 prior arbitrations?

16 A Yes, we're continuing to deploy.

17 Q You were asked about the FCC rule that sets out the
18 four exceptions that have to be met if a DSLAM is going to be
19 unbundled. Do you remember that?

20 A Yes, I do.

21 Q Is that analysis to be performed on a statewide basis
22 or on a case-by-case remote terminal by remote terminal basis?

23 A It's my interpretation that it should be on a
24 case-by-case basis.

25 Q You were asked some questions about the deployment of

1 DSLAMs in remote terminals by ALECs and how quickly that was
2 and was not taking place. In your understanding of the
3 impairment analysis required by the FCC, is the issue how
4 quickly a particular DSLAM or other piece of equipment is
5 actually deployed by an ALEC, or is the issue whether ALECs are
6 impaired in their ability to deploy them?

7 A I believe the latter.

8 Q You were asked some questions about a further notice
9 of proposed rulemaking that talked about how certain ALECs may
10 be impaired in certain situations. Do you remember that?

11 A Yes.

12 Q Let me ask you this. Does the further notice of
13 proposed rulemaking that you were asked about, does that change
14 the impairment analysis that the FCC set out in its UNE Remand
15 Order?

16 A I don't believe so.

17 Q Mr. Feil asked you whether or not BellSouth had
18 doubled the number of DSL subscribers in its territory over the
19 past year or so. Can you tell us about how many DSL end user
20 subscribers are in BellSouth's entire region today?

21 A About 700,000.

22 Q How does that compare, that 700,000 BellSouth end
23 users with DSL service, how does that compare to the total
24 number of BellSouth end users in BellSouth's region?

25 A Gosh, it would be a small part of the 25 million

1 lines, I would think, roughly 25 million, very rough
2 25 million.

3 Q You were asked some questions about your statement
4 that you are unaware of any customer -- end user who had been
5 denied the opportunity to switch services to ALECs. Do you
6 recall that?

7 A Yes, I do.

8 Q Let me ask you this. If an end user wanted to go
9 with FDN and also wanted to continue receiving DSL services,
10 could that happen if FDN resold the voice line to its end user
11 customer?

12 A Yes, sir, we would allow that to happen.

13 Q Could that happen if FDN deployed a DSLAM at the
14 remote terminal serving that end user?

15 A Yes.

16 CHAIRMAN JABER: Mr. Williams, I can't leave that
17 alone. The Act allows for three ways for a competitor to enter
18 the market: Resale, UNE, and facilities-based. Obviously you
19 holdfast to the position that ALECs can and should become
20 facilities-based providers, so that's one option. You just
21 answered that FDN or any other ALEC could come in through the
22 resale provision and I assume resell your Fast Access service.

23 THE WITNESS: No. I meant on a resold line, we would
24 provide our ADSL service.

25 CHAIRMAN JABER: Okay. Fine. They can use the

1 resale provision to provide your ADSL service.

2 THE WITNESS: Our ADSL service on a resold voice
3 line, yes.

4 CHAIRMAN JABER: Okay. Haven't you precluded and
5 circumvented the Telecommunications Act in that the opportunity
6 to provide voice and keep BellSouth DSL is precluded? You've
7 precluded the UNE part of the Telecommunications Act. Do you
8 not see that?

9 THE WITNESS: No, I don't agree with that. I think
10 the Act was clear, and it was clear in the line sharing order
11 and the line sharing reconsideration order that an ALEC doesn't
12 have to continue to provide DSL service when they lose the
13 voice service to a UNE.

14 CHAIRMAN JABER: So you think the FCC has
15 circumvented part of the Act in their finding that that service
16 shouldn't be unbundled.

17 THE WITNESS: Yes, I do believe the line sharing
18 order and the line sharing reconsideration order say that.

19 CHAIRMAN JABER: So you think the FCC has disallowed
20 a portion of the Telecommunications Act by creating an
21 exception in not unbundling packet switching.

22 THE WITNESS: I can't say that they are disallowing
23 part of the Act, but I think the line sharing and line sharing
24 reconsideration orders are very clear on that point.

25 CHAIRMAN JABER: Go ahead, Mr. Turner.

1 MR. TURNER: Thank you. Madam Chair, if I could have
2 just one moment. Thank you, Madam Chair. I have no further
3 questions.

4 CHAIRMAN JABER: Mr. Williams, thank you for your
5 testimony.

6 THE WITNESS: Thank you.

7 (Witness excused.)

8 CHAIRMAN JABER: BellSouth, Exhibit 54. Admitted
9 into the record without objection.

10 (Exhibit 54 admitted into the record.)

11 CHAIRMAN JABER: AT&T, your witness is up next,
12 Mr. Darnell.

13 MS. McNULTY: Yes. Chairman Jaber?

14 CHAIRMAN JABER: Uh-huh.

15 MS. McNULTY: I don't know if this is a good time or
16 not, but we thought it might be a good time to talk about
17 stipulating Brian Pitkin into the record. I believe we have an
18 agreement among all the parties.

19 CHAIRMAN JABER: Yeah. He's the next witness, isn't
20 he?

21 MS. McNULTY: Yes.

22 CHAIRMAN JABER: Yeah. It's my understanding you all
23 have reached agreement, so if it's a question of whether he may
24 be excused, he certainly may be excused. Is that what your
25 question --

1 MS. McNULTY: That's fine.

2 CHAIRMAN JABER: I don't want to insert the testimony
3 into the record until we get there.

4 MS. McNULTY: Okay. That's fine.

5 MR. KNIGHT: He would have been up before
6 Mr. Darnell.

7 CHAIRMAN JABER: Oh, really? Okay. Not on my chart
8 but that's fine.

9 MR. KNIGHT: Okay. I'm sorry.

10 CHAIRMAN JABER: You know you guys need not confuse
11 me today. All right?

12 MR. KNIGHT: My fault.

13 CHAIRMAN JABER: It's okay. We will take up
14 Mr. Darnell right now.

15 MS. McNULTY: Thank you.

16 GREG DARNELL

17 was called as a witness on behalf of MCI WorldCom, Inc., and
18 AT&T Communications of the Southern States, Inc., and, having
19 been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. McNULTY:

22 Q Please state your name and business address for the
23 record.

24 A My name is Greg Darnell, and my business address is
25 6 Concourse Parkway, Atlanta, Georgia 30328.

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

2 A I'm employed by WorldCom as a senior manager of
3 public policy for the Southeast region.

4 Q Have you prefiled rebuttal testimony in this docket
5 consisting of 19 pages?

6 A Yes, I have.

7 Q Do you have any changes or corrections to make to
8 that testimony?

9 A No, I do not.

10 Q If I were to ask you those same questions today,
11 would those answers be the same?

12 A Yes, they would.

13 MS. McNULTY: Chairman Jaber, at this time I'd like
14 to request that his testimony be inserted into the record as
15 though read.

16 CHAIRMAN JABER: Yes. The prefiled rebuttal
17 testimony of Greg Darnell shall be inserted into the record as
18 though read.

19 BY MS. McNULTY:

20 Q Mr. Darnell, do you have any prefiled exhibits
21 attached to that testimony?

22 A Yes, I have two.

23 Q And those are GJD-1 and 2?

24 A GJD-1 and GJD-2.

25 MS. McNULTY: Chairman Jaber, at this time I'd like

1 to request that those be marked for identification.

2 CHAIRMAN JABER: GJD-1 and GJD-2 are identified as
3 Exhibit 55.

4 MS. McNULTY: Thank you.

5 (Exhibit 55 marked for identification.)
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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**
2 **REBUTTAL TESTIMONY OF**
3 **GREG DARNELL**
4 **ON BEHALF OF WORLDCOM and AT&T**
5 **DOCKET NO. 960649A-TP**
6 **December 10, 2001**
7

8 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

9 A. My name is Greg Darnell, and my business address is 6 Concourse Parkway,
10 Suite 3200, Atlanta, Georgia, 30328.

11

12 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

13 A. I am employed by WorldCom, Inc. (formerly known as MCI WorldCom, Inc.)
14 as Regional Senior Manager -- Public Policy.

15

16 **Q. HAVE YOU PREVIOUSLY TESTIFIED?**

17 A. Yes, I have testified in proceedings before regulatory commissions in Alabama,
18 California, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South
19 Carolina and Tennessee, as well as before the Florida Public Service
20 Commission ("Commission"), and on numerous occasions have filed comments
21 with the Federal Communications Commission ("FCC"). Attached as Exhibit
22 ____ (GJD-2) to this testimony is a summary of my academic and professional
23 qualifications.

24

25 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

1 A. The purpose of my testimony is to evaluate the overall UNE pricing proposal
2 filed by BellSouth in this proceeding and to rebut some of the statements made
3 by Ms. D. Daonne Caldwell and Mr. Jerry Kephart on behalf of BellSouth.
4

5 **Issue 1(a): Are the loop cost studies submitted in BellSouth's 120-day**
6 **filing complaint with Order No. PSC-01-1181-FOF-TP?**
7

8 **Q. ARE THE LOOP COST STUDIES SUBMITTED IN BELLSOUTH'S 120-**
9 **DAY FILING COMPLIANT WITH ORDER NO. PSC-01-1181-FOF-TP?**

10 A. No. This matter is explained further by WorldCom and AT&T witnesses Brian
11 Pitkin and John Donovan.
12

13 **Issue 1(b): Should BellSouth's loop rates or rate structure previously**
14 **approved in Order No. PSC-01-1181-FOF-TP be modified? If so, to what**
15 **extent, if any, should the rates or rate structure be modified?**
16

17 **Q. SHOULD BELLSOUTH'S LOOP RATES APPROVED IN ORDER NO.**
18 **PSC-01-1181-FOF-TP BE MODIFIED?**

19 A. Yes. As the Commission recognized in Order No. PSC-01-1181-FOF-TP ("FL
20 UNE Order"), BellSouth's method of developing UNE loop rates was not
21 acceptable. Specifically, regarding BellSouth's method of using three different
22 network designs to determine loop rates, the Commission stated at page 154 of
23 the order "In principle, it appears to us that a single unified network design is
24 most appropriate. However, we believe this goal is not attainable based on this
25 record." The Commission has therefore recognized it has not used the most

1 appropriate costing method to produce the current UNE loop rates. The method
2 used by BellSouth to develop UNE loop rates violates a number of the FCC's
3 minimum UNE pricing rules. In doing so, BellSouth has created UNE rate
4 levels that economically foreclose competitors from using UNEs as a market
5 entry strategy in areas where UNEs should provide an alternative.

6

7 **Q. WHAT CHANGES MUST BE MADE TO THE UNE RATES APPROVED**
8 **BY THE COMMISSION PREVIOUSLY IN THIS DOCKET?**

9 A. Forward looking inputs must be used in BSTLM for determination of loop rates
10 and the model must be run using the single most efficient network design to
11 serve all demand. The Commission in its FL UNE Order failed to do this on
12 both accounts. First, forward-looking inputs were not used in the determination
13 of loop rates, and second, the BellSouth's loop model did not use the single
14 most efficient network design to service all demand. In this proceeding,
15 however, the scope dose not include the single, most efficient network design.
16 Rather, we will review one of the input errors that currently exists in the UNE
17 rate development.

18 This error is BellSouth use of linear loading factors to determine Engineered,
19 Furnished and Installed (EF&I) Cost. BellSouth's material loading factors
20 make up approximately 1/2 of the total loop cost. This can be determined by
21 running BellSouth's cost models two times. The first model run has already
22 been done. This run is that which produced the currently effective loop rates.
23 The second model run should be done by simply resetting all of the loading
24 factors contained in the cost calculator to 1 and reviewing that output. This will
25 show the Commission how much of the current rate is caused by the current

1 loading factors and the potential magnitude of changes to BellSouth loop rates in
2 this proceeding. By not adjusting BellSouth's loading factors at all in the
3 previous phase of this proceeding, the Commission has permitted approximately
4 ½ of BellSouth's initial rate proposal to become effective without critical review
5 or adjustment. This is the primary reason why the approved loop rates in
6 Florida are not in line with either historical cost or a national standardized
7 TELRIC study.

8

9 **Q. HOW SHOULD BELLSOUTH'S UNE RATES IN FLORIDA COMPARE**
10 **TO BELLSOUTH UNE RATES IN OTHER STATES?**

11 A. As shown in exhibit GJD-1, using BellSouth's embedded cost information
12 contained in the FCC's automated reporting management information system
13 (ARMIS) as a guide, Florida has been BellSouth's lowest cost state for every
14 year for the past 5 years. While TELRIC certainly differs from embedded cost,
15 this is a good indication that BellSouth's Florida territory also should have the
16 lowest TELRIC of all BellSouth's states.

17

18 **Q. ARE BELLSOUTH'S UNE RATES IN FLORIDA THE LOWEST OF**
19 **ANY STATE?**

20 A. No, not when the average cost of UNE-P is used as a surrogate for BellSouth
21 total network cost. In Georgia and Tennessee UNE-P is less expensive than in
22 Florida.

23

1 **Q. ARE THERE OTHER REASONS WHY ONE SHOULD EXPECT THE**
2 **AVERAGE BELLSOUTH UNE-P LOOP COST IN FLORIDA TO BE**
3 **LESS THAN THE AVERAGE UNE-P LOOP COST IN GEORGIA?**

4 A. Yes. Population density is a primary driver of loop cost. BellSouth Florida
5 territory is significantly more densely populated than BellSouth Georgia
6 territory. In BellSouth Florida territory there is a population density of 176
7 households per square mile. In BellSouth Georgia territory there is a population
8 density of 85 households per square mile.

9

10 **Q. ARE THERE ANY STUDIES THAT SHOW HOW TELRIC COSTS**
11 **SHOULD COMPARE AMONG STATES?**

12 A. Yes. In November 2001, Z-Tel produced a policy paper titled, The TELRIC
13 Test: Determining the “Zone of Reasonableness” for UNE rates. One of the
14 conclusions that can be reached from this policy paper is that based on a
15 standardized application of the FCC Hybrid Cost Proxy Model, loop rates in
16 Florida should be significantly lower than loop rates in any other BellSouth
17 state.

18

19 **Q. ONCE THIS PROCEEING IS COMPLETED SHOULD THE**
20 **COMMISSION DO ANYTHING ELSE IN ITS EVALUATION OF**
21 **BELLSOUTH LOOP COST?**

22 A. Yes. The Commission should require BellSouth to refile its cost study using the
23 one least cost most efficient network configuration to serve all demand so that

1 the cost studies can be compliant with 47 C.F.R. 51.505(b) and 51.511(a) and so
2 that economies of scale and scope can be recognized in UNE rates.

3

4 **Q. PLEASE EXPLAIN WHY BELLSOUTH'S RATES MUST BE**
5 **RECALCULATED USING A SINGLE NETWORK DESIGN FOR ALL**
6 **ELEMENTS IN ORDER TO COMPLY WITH THE ACT'S COST**
7 **STANDARD.**

8 A. In its cost study filing in the UNE cost docket, BellSouth submitted three
9 distinct loop cost scenarios: (1) the BST 2000 Scenario used to determine the
10 cost of stand-alone loops; (2) the Combo Scenario used to determine the cost of
11 voice grade loops combined with a switch port; and (3) the Copper Only
12 Scenario used to derive the cost of copper-based xDSL loops. Although the
13 Commission found that the use of a single unified network design, in principle,
14 is the most appropriate for setting UNE rates (Order, page 154), it nevertheless
15 set UNE loop rates based on BellSouth's three-scenario approach. (Order, page
16 155) Under FCC Rule 51.505(b), however, the use of a single, unified
17 network design is not only the most appropriate in principle, but it is in fact
18 required. This requirement is in place so that the UNE rates can reflect the
19 economies of scope and scale enjoyed by the incumbent and as such provide
20 ALECs with a realistic opportunity to compete against the incumbent's services
21 using UNEs. The rates set using BellSouth's three-scenario approach are
22 therefore not "cost based" as required by the FCC's pricing rules.

23

24 **Q. WHY DO YOU SAY THAT A SINGLE UNIFIED NETWORK DESIGN IS**
25 **REQUIRED BY THE FCC'S RULES?**

1 A. FCC Rule 51.505(b) states:

2 (b) Total element long-run incremental cost. The total
3 element long-run incremental cost of an element is
4 the forward-looking cost over the long run of the
5 total quantity of the facilities and functions that
6 are directly attributable to, or reasonably
7 identifiable as incremental to, such element,
8 ***calculated taking as a given the incumbent***
9 ***LEC's provision of other elements.***

10 (1) Efficient network configuration.
11 The total element long-run incremental cost of an
12 element should be measured based on the use of
13 the ***most efficient telecommunications technology***
14 ***currently available and the lowest cost network***
15 ***configuration***, given the existing location of the
16 incumbent LEC's wire centers.

17 (Emphasis added.)

18
19 Under this rule, UNE rates must be set based on "the lowest cost network
20 configuration," not on several different network configurations. That single
21 network configuration must take into account "the incumbent LEC's provision of
22 other elements." That is, the single network must be designed taking into
23 account the demand for all elements, not just the element for which costs are
24 determined. This is necessary in order to capture the economies of scale and
25 scope that the LEC achieves as the result of offering its whole panoply of
26 elements and services.

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Q. HOW DOES BELLSOUTH'S USE OF THE THREE-SCENARIO APPROACH VIOLATE THIS RULE?

A. BellSouth's use of the three-scenario approach violates Rule 51.505(b) in three ways. First, BellSouth used different engineering assumptions for the entire network based on the type of UNE being costed. For loop/port combinations, BellSouth assumed an engineering design in the Combo Scenario based on the use of integrated digital loop carrier (IDLC) technology. For stand-alone loops, BellSouth assumed an engineering design in the BST 2000 Scenario based on the use of older, universal digital loop carrier (UDLC) technology. And for xDSL loops, BellSouth assumed an engineering design in the Copper Only Scenario based on the use of all copper loops. This violates the requirement in Rule 51.505(b) to use "the" lowest cost network configuration. The lowest cost network configuration for serving demand that includes stand-alone loops, loop/port combinations, and xDSL loops would be a single network that includes the appropriate mix of IDLC, UDLC and all copper loops. Yet despite the fact that the FCC's rules require the use of a single, most efficient network, BellSouth failed to provide cost studies that comply with those rules.

Second, by modeling an "all copper" network and an "all UDLC network" for pricing some loops, BellSouth did not model the use of the "most efficient technology currently available."

Third, BellSouth's use of three different scenarios violates the requirement in Rule 51.505(b) to calculate costs for UNEs taking into account as a given the

1 "incumbent LEC's provision of other elements." The purpose of this
2 requirement is to ensure that UNE cost studies take into account the efficiencies
3 that the incumbent LEC achieves from deploying a network to meet all demand
4 for all elements, thereby achieving economies of scale and scope. In order to
5 properly reflect the requirements of this rule, BellSouth must model a single
6 network that takes into account the expected demand for loop/port
7 combinations, stand-alone loops, and xDSL loops. That forecast must include
8 demand both for UNE loops and for loops to meet BellSouth's own retail
9 demand. The mix of IDLC, UDLC and copper loops in the resulting single
10 network thus would be optimized to meet the demand for the various types of
11 facilities, and that network would include the efficiencies resulting from
12 economies of scale and scope. Instead, BellSouth modeled three separate
13 networks, assuming alternatively that every customer location would require
14 service via IDLC loops (Combo), that every customer location would require
15 service via UDLC loops (BST 2000), and that every customer location would
16 require service via copper loops (Copper Only). That assumption is clearly
17 flawed. Some percentage of customer locations will require IDLC, some
18 percentage will require UDLC, and some percentage will require copper. Only
19 by projecting actual demand for each type of facility will the resulting network
20 include the appropriate economies of scale and scope.

21

22 **Q. IS THE REQUIREMENT THAT THE TOTAL ANTICIPATED**
23 **DEMAND FOR A NETWORK ELEMENT MUST BE USED IN THE**
24 **DEVELOPMENT OF THE UNE RATES COVERED BY FCC RULES?**

1 A. Yes. 47 C.F.R. 51.511(a) requires that total anticipated demand for a network
 2 element to be used in the development of UNE rates. Specifically, Rule
 3 51.511(a) requires:

4 The forward-looking economic cost per unit of an element.
 5 . . . , as defined in § 51.505 of this part, divided by a
 6 reasonable projection of the sum of the total number of
 7 units of the element that the incumbent LEC is likely to
 8 provide to requesting telecommunications carriers and the
 9 total number of units of the element that the incumbent
 10 LEC is likely to use in offering its own services, during a
 11 reasonable measuring period.

12
 13 **Q. DOES THE PROCESS UTILIZED BY BELL SOUTH AND ADOPTED BY**
 14 **THIS COMMISSION IN THE DEVELOPMENT OF UNE RATES**
 15 **COMPLY WITH THIS FCC RULE?**

16 A. No. BellSouth never forecasts the demand for UNEs in the development of its
 17 UNE rates. BellSouth develops its prices for UNE rates based on what it calls
 18 an “Rservice” technique. BellSouth’s Rservice method of costing, costs UNEs
 19 to all customers that could ever *potentially* want the UNE. This means for a
 20 typical residential POTS customer, BellSouth’s costing methodology assumes
 21 that this customer will want BellSouth’s retail voice service, an ALEC’s UNE-P
 22 voice service, service provided by an ALEC using a stand alone voice loop,
 23 DSL service provided by the BellSouth data affiliate, and DSL service provided
 24 by a data-ALEC using a DSL loop. As such, the rates established for

1 BellSouth's UNEs ignore certain economies of scale and scope enjoyed by
2 BellSouth.

3

4 **Issue 2(a): Are the ADUF and ODUF cost studies submitted in BellSouth's**
5 **120-day compliant filing appropriate?**

6 **Issue 2(b): Should BellSouth's ADUF and ODUF rates or rate structure**
7 **previously approved in Order No. PSC-01-1181-FOF-TP be modified? If**
8 **so, to what extent, if any, should the rates or rate structure be modified.**

9

10 **Q. WHAT IS YOUR OPINION ON ISSUE 2?**

11 A. The Commission should consider how DUF costs provided by BellSouth in this
12 proceeding relate to the overall rate development used for all UNE rates.

13

14 **Q. HOW DO THE DUF COSTS PROVIDED BY BELLSOUTH IN THIS**
15 **PROCEEDING RELATE TO THE OVERALL RATE DEVELOPMENT**
16 **USED FOR ALL UNE RATES?**

17 A. The cost used by BellSouth in the development of its DUF charges are the same
18 costs that BellSouth used in its development of the common cost factor.

19 BellSouth claims this is not true and the costs used in the development of its
20 DUF rates are incremental to the costs included in the common cost factor.

21 However, this can only be true if the currently approved common cost factor
22 does not include certain forward-looking common costs.

23

24 BellSouth's rate development for DUF is based on the following formula:

25 *forward looking cost = adjusted historical cost + incremental cost – nothing.*

1 Under the currently approved costing methodology for the development of
2 common cost, the foundation of the common cost factor is the relationship of its
3 adjusted historical common costs to BellSouth's embedded total cost. One must
4 keep in mind the dollar amount of common cost to be included in UNE rates is
5 not calculated. The amount of common cost that is included in UNE rates is
6 dependent upon how much direct and shared costs are produced by the costing
7 methodology. This is because common cost is a percentage added on to all costs
8 at the end of the process.

9
10 Included in the development of the common cost factor are costs associated with
11 the systems used to produce daily usage information. BellSouth should not be
12 permitted to charge ALECs for the cost of providing daily usage file information
13 both in the common cost factor and through separate DUF charges. This is
14 double recovery. Therefore, if the Commission permits BellSouth to charge
15 ALECs separate charges for daily usage information, the Commission should
16 lower the common cost factor to account for the system cost being directly
17 assigned to specific rate elements. If the amount of cost directly assigned to
18 DUF charges is so insignificant that it does not effect the common cost
19 percentage when this cost is removed from that percentage, the Commission
20 should reject DUF charges because the potential for costing mischief that they
21 create.

22 **Q. SHOULD BELLSOUTH CHARGE ALECS SEPARATELY FOR DUF**
23 **INFORMATION?**

24 **A.** No. BellSouth is adequately compensated for its cost to maintain daily usage
25 file systems by the common cost factor. The creation of a separate DUF charge

1 simply provides BellSouth an opportunity to create an additional barrier to entry
 2 and double recover costs. By proposing an additional rate element for DUF,
 3 BellSouth is making the argument that the historical cost used to develop the
 4 common cost factor is not enough to cover its forward looking cost. In doing
 5 so, BellSouth is contending that its forward-looking cost will be greater than its
 6 historical cost. BellSouth's historical common cost percentage should more
 7 than adequately compensate BellSouth for the forward looking cost of
 8 information systems used to provide daily usage information. There is no
 9 reason to have additional rate elements for DUF information.
 10

11 **Q. DOES BELLSOUTH ALWAYS CHARGE INDEPENDENT**
 12 **TELEPHONE COMPANIES FOR DAILY USAGE FILE**
 13 **INFORMATION?**

14 **A.** No. According to BellSouth data request responses received in other
 15 proceedings it has bill and keep arrangements with some ITCs.
 16

17 **Issue 5(a): What is a "hybrid copper/fiber xDSL-capable loop" offering**
 18 **and is it technically feasible for BellSouth to provide it?**

19 **Issue 5(b): Is BellSouth's cost study contained in the 120-day compliance**
 20 **filing for the "hybrid copper/fiber xDSL-capable loop"**
 21 **offering appropriate?**

22 **Issue 5(c): What should the rate structure and rates be?**
 23

24 **Q. BELLSOUTH'S WITNESS JERRY KEPHART STATES THAT THE**
 25 **HYBRID COPPER/FIBER xDSL CAPABLE LOOP OFFERING IS A**

1 **UNE (KEPHART DIRECT TESTIMONY, PAGE 2, LINE 13-14). DO**
2 **YOU AGREE?**

3 A. Yes.

4 **Q. BELLSOUTH’S WITNESS JERRY KEPHART STATES THAT THE**
5 **HYBRID COPPER/FIBER xDSL CAPABLE LOOP OFFERING IS**
6 **TECHNICALLY FEASIBLE (KEPHART DIRECT TESTIMONY, PAGE**
7 **3, LINE 13). DO YOU AGREE?**

8 A. Yes.

9

10 **Q. BELLSOUTH’S WITNESS JERRY KEPHART STATES THAT THE**
11 **FCC HAS EXEMPTED THE DSLAM FROM BEING A UNE**
12 **(KEPHART DIRECT TESTIMONY, PAGE 3, LINE 13). DO YOU**
13 **AGREE?**

14 A. No. Initially, it should be noted that there is a minor error in the testimony.
15 Mr. Kephart incorrectly cites the FCC rule that pertains to this matter. The cite
16 used by Mr. Kephart 51.319(c)(3)(B) was corrected by the FCC in an Errata.
17 The correct cite is 51.319(c)(5). (See, FCC ERRATA Third Report and Order
18 and Fourth Notice of Proposed Rulemaking, released January 14, 2000, page 3).
19 FCC rule 51.319(c)(5) does not exempt BellSouth or any ILEC from having to
20 provide DSLAMs to ALECs as UNEs. FCC rule 51.319(c)(5) simply does not
21 require BellSouth to provide DSLAMs as UNEs provided certain conditions are
22 met. Simply because the FCC does not **require** BellSouth to provide DSLAMs
23 as UNEs in all cases does not mean that BellSouth is **exempt** from ever having
24 to do so. This Commission certainly can require BellSouth to provide
25 DSLAMs as UNEs.

1

2 **Q. SHOULD THE FLORIDA COMMISSION REQUIRE BELL SOUTH TO**
3 **PROVIDE ALECS WITH DSLAMs AS A UNE?**

4 A. Yes and BellSouth should be commended for offering DSLAMs as a UNE. A
5 DSLAM is nothing more than a type of multiplexer. BellSouth already provides
6 ALECs with certain types of multiplexers as UNEs and there is no reason why
7 DSLAMs should be any different.

8

9 **Q. WOULD BELL SOUTH'S REFUSAL TO PROVIDE DSLAMs AS A UNE**
10 **IMPAIR AN ALEC'S ABILITY TO COMPETE WITH BELL SOUTH?**

11 A. Yes. As noted on Appendix A of BellSouth's filing in this proceeding,
12 DSLAMs are often deployed in the remote cabinet. The fact that DSLAMs are
13 deployed at the remote cabinet creates access and space constraint issues for
14 both BellSouth and ALECs. Further, telecommunications providers are moving
15 towards packet transport for all types of services and this is the future of
16 wireline telecommunications. DSLAMs provide the ability to turn a single
17 POTS loop carrying 64 kbps of information into a DSL loop carrying 128 times
18 that bandwidth using Carrierless Amplitude Phase modulation (CAP).

19

20 **Q. WHY IS THIS IMPORTANT?**

21 A. The added bandwidth opens the door for new applications (e.g. streaming video,
22 complex HTML websites, entertainment, VoIP) and will help facilitate
23 economic development. An effectively competitive broadband market is a
24 worthwhile objective of any public service commission.

25

1 **Q. WILL BELLSOUTH'S HYBRID FIBER/COPPER XDSL CAPABLE**
2 **LOOP OFFERING HELP THE DEVELOPMENT OF COMPETITION?**

3 A. Unfortunately no. The rigid way BellSouth has designed this UNE and the rates
4 BellSouth has proposed for this UNE eliminate any usefulness it could have.

5

6 **Q. HOW IS THIS BELLSOUTH'S PROPOSAL OVERLY RIGID?**

7 A. First, BellSouth only offers a 16-port DSLAM. There are many different size
8 DSLAMs, 8-Port, 16-Port, 24-Port and 96-Port. There is no reason why these
9 other size DSLAMs could not be used depending on the total demand. Second,
10 BellSouth arbitrarily decided that each ALEC must have a dedicated DSLAM.
11 There is no reason why LECs cannot share the DSLAM. Third, BellSouth
12 arbitrarily decided that this offering is only provided with between 1 and 4 DS1s
13 between the DSLAM and the Central office and those facilities are dedicated to
14 the ALEC that purchased the DSLAM. There is no reason why the packet
15 transport from the DSLAM to the CO could not be on DS3s and the transport
16 facilities shared by all local carriers. .

17

18 **Q. WHAT IS NEEDED BY ALECs?**

19 A. ALECs must be able to purchase packet transport at a rate that reflects the
20 economies of scale enjoyed by BellSouth. This packet transport should be
21 provided at specified Quality of Service (QoS) standards, such as unspecified
22 bit rate (UBR), available bit rate (ABR), variable bit rate (VBR) and committed
23 bit rate (CBR).

24

1 **Q. WHY DO YOU SAY BELLSOUTH'S CURRENT OFFERING WILL BE**
2 **OF NO USE TO ALECs?**

3 A. When added up, this offering would cost ALECs approximately \$150 per month
4 per ADSL line. ALECs cannot pay \$150 for an ADSL line and then attempt to
5 use it to compete in a market where the retail rate is about \$50. BellSouth sells
6 its Fast Access DSL service for \$49.95 in Florida and this includes access to the
7 internet service provider. Just like this Hybrid Copper /Fiber loop proposal,
8 BellSouth often provisions its Fast Access DSL service using subloop copper
9 distribution facilities, DSLAMs and remote terminal to central office packet
10 transport. As such, either BellSouth's cost support for this proposal is seriously
11 wrong or BellSouth is using funds from other services to cross subsidize its Fast
12 Access DSL offering.

13

14 **Q. WHAT ELSE IS WRONG WITH THIS BELLSOUTH OFFERING?**

15 A. BellSouth contends that when a 2-wire subloop distribution UNE is used by an
16 ALEC to connect to a DSLAM at the remote instead of a SLC 96 or some other
17 multiplexing device, it should for some reason cost more. Note that
18 BellSouth's diagram found on Appendix A of its filing shows the monthly and
19 nonrecurring charges for element A.2.2, 2-wire analog subloop distribution plus
20 a new nonrecurring charge, A.20.4, are deemed to apply for this segment of this
21 UNE combination. BellSouth claims this charge (A.20.4) is for each end user
22 channel activated. However, the nonrecurring charges for element A.2.2
23 subloop already recover those costs. Element A.2.2 recovers the cost of
24 engineering, connect and test (See, FL-USL.xls). There should be no additional
25 nonrecurring charge above the NRCs already determined for 2-wire subloop

1 distribution. Next, note the DS1 subloop feeder between the remote and the
2 central office. Again, this Commission has already determined that monthly
3 recurring and nonrecurring cost of subloop DS1 feeder. Elements A.9.2
4 already covers the cost of connect and turn-up testing, including Central office
5 installation and maintenance and Special Service installation and maintenance
6 (See, BellSouth cost support filed in Phase II of this docket). Therefore, the
7 only rates that should apply for this piece of this UNE combination are those
8 already established for DS1 subloop feeder. The only thing new in this UNE
9 Combination offering is the DSLAM.

10 **Q. IS BELL SOUTH'S COST SUPPORT FOR THE DSLAM COMPLIANT**
11 **WITH TELRIC?**

12 A. No. BellSouth seeks to recover a portion of the cost of replacing the remote
13 terminal from the DSLAM rate element. Under TELRIC principles, the remote
14 terminal is scorched and does not need replacing. Under TELRIC principles the
15 remote terminal is sized correctly to meet anticipated demand. Therefore, the
16 Remote Terminal Housing cost should be removed from the DSLAM rate
17 development.

18

19 **Q. IS THERE ANYTHING ELSE WRONG WITH THE COST SUPPORT**
20 **FOR THE DSLAM?**

21 A. Yes. It appears that the material prices (i.e. DSLAM, Hub Bay and DS1 Card)
22 and installation times (i.e. service inquiry) that BellSouth has used for the
23 development of proposed DSLAM recurring and non-recurring rates do not
24 reflect those of a forward looking, least cost telecommunications service
25 provider.

1

2 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

3 **A. Yes.**

1 BY MS. McNULTY:

2 Q Mr. Darnell, could you please provide a brief summary
3 of your testimony.

4 A Yes. Good morning, Commissioners. In this summary,
5 I'd like to highlight two areas of my rebuttal testimony. The
6 first being the magnitude of what's being addressed in this
7 proceeding. The loading factors being questioned in this
8 proceeding account for approximately one-half of the current
9 loop rate. These loading factors are the primary reason why
10 BellSouth's UNE rates are not in line with historical or
11 national standardized cost studies. As such, a lot is riding
12 on this Commission's decision in this proceeding.

13 The next item I'd like to highlight concerns
14 BellSouth's hybrid copper/fiber loop proposal. I purposely do
15 not call this proposal an offering because it offers ALECs
16 nothing. BellSouth's proposal is to establish a wholesale rate
17 that is approximately three times its retail rate and then
18 create availability conditions that would not ever let an ALEC
19 buy the combination if it even wanted to.

20 While most of the elements in this BellSouth proposal
21 are simply BellSouth attempting to try to increase rates for
22 existing UNEs and as such should be disallowed by this
23 Commission, there is one element in this proposal that is new,
24 and that is the DSLAM that we have heard so much discussion
25 about. This DSLAM, this digital subscriber access line

1 multiplexer, is when it's located at the remote terminal.
2 Different types of multiplexers are already UNEs and have
3 already been determined to be UNEs by this Commission.

4 As the name suggests, a digital subscriber access
5 line -- a digital subscriber line access multiplexer
6 multiplexes digital subscriber lines. They take information,
7 ones and zeros, from copper distribution plant and place
8 packets of ones and zeros on fiber feeder for transport to the
9 central office. By packetizing the information, significant
10 efficiencies are accomplished.

11 BellSouth's cost support for the DSLAM is not
12 compliant with TELRIC principles and is not based on
13 forward-looking inputs. In my testimony, I point out some
14 costing errors made by BellSouth in the development of DSLAM
15 cost. The most fundamental error, though, is BellSouth's
16 failure to assume total demand in the development of rate. FCC
17 TELRIC rules require that all demand for an element be studied
18 at the same time. In the cost support for the DSLAM, BellSouth
19 never evaluates its demand or ALEC demand and unilaterally
20 determines that each ALEC must purchase the DSLAM functionality
21 in increments of a 16-port DSLAM.

22 ALECs and BellSouth should share the DSLAM. Other
23 cost study errors also exist, including inflated material costs
24 and unnecessary equipment. Packet transport should be sold on
25 a per port basis, and the rate per port should be based on the

1 total forward-looking cost of the DSLAM functionality, the
2 element, divided by the total retail and wholesale demand. And
3 this would be in accordance with FCC Rule 51.551(a). The
4 Commission should establish a TELRIC-based rate for packet
5 transport through remote terminals. Thank you. That
6 concludes --

7 MS. McNULTY: The witness is available for
8 cross-examination.

9 CHAIRMAN JABER: Thank you. ALECs.

10 MR. PERRY: No questions.

11 CHAIRMAN JABER: BellSouth.

12 MR. SHORE: Thank you, Madam Chair.

13 CROSS EXAMINATION

14 BY MR. SHORE:

15 Q Good morning, Mr. Darnell.

16 A Good morning.

17 Q I'm Andrew Shore representing BellSouth. I want to
18 ask you some questions about your sworn testimony before this
19 Commission. Your title is the regional senior manager for law
20 and public policy at WorldCom; is that right?

21 A Actually, it's just public policy, but I'm under the
22 auspices of the entire law and public policy division.

23 Q Okay. I was just reading that from Exhibit 1, your
24 CV. I wasn't trying to confuse you.

25 And your job responsibilities, again reading from

1 your CV, Exhibit 1, are to define MCI or WorldCom's public
2 policy and to advocate that policy throughout the BellSouth
3 region; correct?

4 A That is correct.

5 Q Okay. And you do that -- what you told us at your
6 deposition is, you do that yourself like you are today and you
7 also do that through hiring other witnesses to advocate
8 policies that you're responsible for defining; correct?

9 A Right. To the extent I need outside expertise, we go
10 out and hire outside witnesses.

11 Q And in defining WorldCom's public policy, you do that
12 in a manner that would be advantageous to WorldCom's business
13 interest; correct?

14 A Yes.

15 Q In other words, you define those policies in ways
16 that will help WorldCom maximize its profits?

17 A Yes, within the realm of existing rules and existing
18 regulatory decisions in the area.

19 Q I think we can agree that the lower a state
20 commission sets a UNE rate, the more money WorldCom stands to
21 make from employing -- from serving customers using UNEs;
22 right?

23 A No. No, not at all. When this Commission sets a UNE
24 rate -- it lowers a UNE rate, WorldCom if it was first to
25 market would at least initially obtain some profit, only if it

1 was first to market. If it was not first to market, some other
2 ALEC would be the one getting the initial profit gain, but the
3 market would quickly change the retail rate and that profit
4 gain would go away, and the end user would get that money, not
5 the ALECs.

6 Q Well, let me ask the question a different way,
7 Mr. Darnell. Say WorldCom wants to serve a customer using a
8 UNE-P, and the UNE-P rate is "X." WorldCom would stand to make
9 more money serving that customer using UNE-P if the UNE-P rate
10 was half of "X;" correct?

11 A That is correct. However, the UNE-P rate is not
12 fixed. The market would adjust that rate so that would quickly
13 go away. The retail rates are not fixed. The market quickly
14 dynamically adjusts itself to entry. So your premise of your
15 question is flawed.

16 Q This Commission sets UNE-P rates; correct?

17 A No. They set the wholesale rate for UNE-P. Once an
18 ALEC obtains the UNE-P, they can sell it for whatever price
19 they can obtain in the marketplace.

20 Q That's right, but this Commission sets the rate that
21 BellSouth can charge in its territory WorldCom and other ALECs
22 for purchasing the UNE-P; right?

23 A For the UNE-P wholesale offering, yes.

24 Q You spend about a third of your prefiled testimony
25 arguing that the Commission should not use multiple scenarios

1 in the BSTLM to set UNE rates; correct?

2 A That's correct.

3 Q And you agree with me that that's not an issue in
4 this phase of the docket; correct?

5 A No, I do not. This docket asks in Issue 1b if other
6 changes should be made, and that is one change this Commission
7 should make is to study all demand at one time.

8 MR. SHORE: Madam Chair, if I can have permission to
9 approach the witness.

10 Q Mr. Darnell, I've given you a copy of your deposition
11 in this proceeding. Do you have that in front of you?

12 A Yes, I do.

13 Q Can you turn to Page 45 of that deposition, please.

14 A I have it.

15 Q Are you there?

16 A Uh-huh.

17 Q Do you see the question that I asked you beginning
18 down on Line 12 of your deposition? I say: "Okay. Is it fair
19 to say or is it fair to characterize your testimony there as an
20 admission that this phase of the proceeding is not appropriate
21 to consider whether the use of multiple scenarios in the BSTLM
22 is appropriate?"

23 And can you read the Commission the answer that you
24 gave me?

25 A Yes. I said, "Well, let me answer it this way. I

1 believe it -- I believe it should be considered that the
2 Commission should recognize that they haven't fulfilled the
3 requirements of the FCC rules, but I will grant that there
4 would have to be -- that that would have to occur in a
5 different proceeding, that this proceeding is targeted just at
6 implementing the changes of that order in the terms of
7 structural costs and running the bottoms-up analysis to
8 multiple scenarios."

9 Q You were under oath at your deposition; correct,
10 Mr. Darnell?

11 A Yes.

12 Q Let's talk about DUF rates.

13 A Could I explain why this appears to be inconsistent
14 with my prior statement?

15 CHAIRMAN JABER: Mr. Darnell, why don't we save that
16 for redirect?

17 THE WITNESS: Okay. Thank you.

18 CHAIRMAN JABER: You can elaborate on your answer
19 but --

20 THE WITNESS: I'll wait. That's fine.

21 BY MR. SHORE:

22 Q Your opinion -- turning to DUF rates -- is that
23 BellSouth -- let me step back for a second, Mr. Darnell, and
24 talk about these multiple scenarios because we're going to have
25 more discussion about it. I want to make sure I cover a few

1 more points.

2 That argument that the -- using multiple scenarios in
3 the BSTLM violates FCC's forward-looking cost methodology, you
4 made that argument in Phase I of this docket, and you also made
5 it in your reconsideration motion; correct?

6 A Yes.

7 Q And the Commission rejected it; correct?

8 A No. The Commission found at that time they were
9 making the decision they didn't have sufficient evidence to do
10 otherwise, so they adopted BellSouth's multiple scenarios and
11 left the door open to whether or not they would revisit the
12 issue. So "reject" is a word I don't completely agree with.

13 Q The Commission set rates using multiple scenario runs
14 of the BSTLM, did it not?

15 A Yes.

16 Q And you made the same argument that multiple
17 scenarios are inappropriate in cost cases throughout the
18 BellSouth region, haven't you?

19 A Yes.

20 Q And not a single state commission in BellSouth's
21 region has accepted your argument. Isn't that fair to say?

22 A That's fair to say. At this point most commissions
23 in the other states have taken their lead from the Florida
24 Commission on this matter.

25 Q Now, turning to DUF rates. Your opinion is that

1 BellSouth should not have a separate rate element for providing
2 DUFs, which are daily usage files, because you say the costs
3 are included in BellSouth's common cost factor; correct?

4 A That's correct.

5 Q I don't have many questions about this because
6 Ms. Caldwell addresses it in her surrebuttal and explains her
7 position, but let me follow up on a question regarding DUF
8 charges at your deposition. At your deposition, Mr. Knight
9 asked you if you had raised this alleged double counting issue
10 in the Louisiana case, and you testified that you had; correct?

11 A That's correct.

12 Q And you also testified that the Louisiana PSC
13 rejected your argument; correct?

14 A That's correct.

15 Q You also raised this issue in the Mississippi UNE
16 case; correct?

17 A That's correct.

18 MR. SHORE: Madam Chair, permission to approach.

19 CHAIRMAN JABER: Uh-huh.

20 BY MR. SHORE:

21 Q Mr. Darnell, I put in front of you a copy of the
22 Mississippi Commission's final order in its UNE cost case from
23 last year, and I would just ask you to read that paragraph I've
24 highlighted on Page 45, please.

25 A WorldCom Witness Mr. Darnell claims that BellSouth is

1 attempting to double recover the cost of collecting call
2 measurement detail because these costs are reflected in
3 BellSouth's shared and common cost factors. Mr. Darnell is
4 incorrect. BellSouth identified and removed costs that are
5 directly assigned in the cost studies from the development of
6 the shared and common cost factors. BellSouth's cost filing in
7 this proceeding outlines the adjustments made -- adjustments
8 BellSouth made to recover -- made to remove the directly
9 identified cost.

10 What this explains to me is that the Mississippi
11 Commission doesn't understand what TELRIC is.

12 Q And I guess the Louisiana Commission doesn't
13 understand either; is that --

14 A That's correct.

15 Q Let's talk about loop rates which are one of the
16 topics in your prefiled testimony that are at issue here. And
17 you say on Page 3 of your testimony that BellSouth has created
18 UNE rates that are too high and economically foreclose
19 competitors from using UNEs as a market industry strategy.

20 A You said Page 3?

21 Q Yeah, Lines 3 through 5.

22 A Yes, I see that.

23 Q Now, the rates that you say are too high, those are
24 the rates that this Commission established in its May 25th
25 final UNE order in this case and its subsequent recon order;

1 correct?

2 A That's correct.

3 Q You say they're too high in part at least because
4 WorldCom proposed lower rates; correct?

5 A No. I say they're too high because they're not based
6 on TELRIC. Half of those rates are based upon the matter we're
7 addressing in this proceeding and were not changed at all and
8 are based upon BellSouth's embedded plant, embedded accounting
9 systems and grossly overstate the rates.

10 Q We can agree that this Commission determined or was
11 of the opinion that the rates it established were TELRIC
12 compliant, can't we?

13 A We can agree for the purpose of their last two orders
14 they deemed them to be compliant with TELRIC to the best of
15 their ability at that time.

16 Q Well, in the prior hearing in this matter, WorldCom
17 made a rate proposal that was based on various adjustments and
18 input changes to the BellSouth cost model; correct?

19 A Yes.

20 Q And the Commission considered these proposed changes
21 in your arguments in favor of them in its 500-page final order,
22 did it not?

23 A Yes.

24 Q Now, when you say that UNE rates set by this
25 Commission economically foreclose competition using UNEs, are

1 you referring to the profit an ALEC can make using UNEs?

2 A No. I'm referring to the fact that UNE costs cost
3 more than retail rates. I'm not referring to profit at all.

4 Q We can agree, can't we, that the Telecommunications
5 Act requires that rates for UNEs be cost-based?

6 A Yes.

7 Q You said in your summary today and you said in your
8 prefiled testimony that the primary reason the Commission
9 approved loop rates are, in your opinion, too high is because
10 the Commission used loading factors to set those rates;
11 correct?

12 A Because they used embedded-based loading factors.

13 Q The cost for loops that BellSouth calculated using
14 the bottoms-up study in this phase of the proceeding are in
15 fact higher than those that calculated using the in-plant
16 loading factors; correct?

17 A Yes.

18 Q And that was even taking into account the fact that
19 in this phase BellSouth used the Commission-ordered
20 modifications to, among other things, cost of capital and
21 depreciation that tend to -- or that don't tend to, that do in
22 fact reduce the loop costs; correct?

23 A No. BellSouth used some of the Commission's ordered
24 changes, but they failed to use others and failed to do a
25 correct bottoms-up analysis and failed to reflect

1 forward-looking inputs in their loading -- in their new factors
2 that they have now put -- changed from the cost calculator into
3 the BellSouth loop model.

4 Q Are you the witness who addresses that, or is that
5 Mr. Donovan and Mr. Pitkin?

6 A I can address it if you'd like, but it's not in my
7 prefiled testimony.

8 Q Okay. Well, I'm not going to ask you what's not in
9 your prefiled testimony.

10 A You asked me a question, I answer it.

11 Q I don't want to argue with you, Mr. Darnell.

12 CHAIRMAN JABER: Mr. Darnell, if there's no question
13 pending to you, you don't have to say anything.

14 Q On Page 4 of your testimony, you say that since
15 embedded ARMIS data indicates that Florida has been BellSouth's
16 lowest cost state historically, that BellSouth's Florida
17 territory also should have the lowest TELRIC of all BellSouth
18 states.

19 A I say -- yes, I do. I say that that is one
20 indication that it would be likely to result that TELRIC would
21 also be the lowest in Florida.

22 Q You say that BellSouth's Florida territory also
23 should have the lowest TELRIC.

24 A It would be likely. I don't say "should also." I
25 say it is one indication that it should.

1 Q We can agree that the fact that Florida has the least
2 cost of any BellSouth state on an embedded basis does not mean
3 that it will have the lowest cost on a forward-looking basis,
4 can't we?

5 A Not definitively. It's not a definitive
6 determination that it is or is not.

7 Q No regulatory body has adopted or advocated using a
8 comparison with embedded costs to determine the reasonableness
9 of UNE rates, has it?

10 A No. But it would be reasonable to conclude that if
11 in the past for over a period of time, BellSouth has been able
12 to make things less costly in Florida than in any other state
13 in their region. It'd be -- making the assumption that
14 BellSouth is equally efficient in all the different nine
15 states, that it would also hold true that their costs in the
16 future would be the lowest cost in Florida.

17 Q Is it your testimony, Mr. Darnell, that it would hold
18 true, or that it's some indication but it's not conclusive?
19 You've got me confused now.

20 A I just say there was an indication it would hold
21 true.

22 Q So is it your testimony that if BellSouth Florida has
23 the lowest cost on an embedded basis, it necessarily would have
24 the lowest cost on a forward-looking basis, or that's just some
25 indication?

1 A It's some indication.

2 Q And again, no regulatory body has adopted that test
3 or adopted that analysis as something it looked at in
4 establishing UNE rates or deciding whether or not a UNE rate is
5 reasonable; correct?

6 A That's correct.

7 Q You talked about in your summary today a -- you said
8 something to the effect of UNE rates in Florida are not in line
9 with national cost studies. Do you recall that?

10 A Yes, I do.

11 Q You're relying on Dr. Ford's testimony to make that
12 assertion?

13 A On his testimony and my analysis of his testimony and
14 the attachment to a white paper that he produced and my
15 analysis that that white paper produced correct results, yes.

16 Q You said in your summary today and in your prefiled
17 testimony that this Commission can order that a DSLAM be an
18 unbundled network element. It's true, is it not, that before
19 this Commission can do that, it must find that ALECs are
20 impaired without access to the DSLAM as a UNE?

21 A I don't believe -- I don't know. I don't know
22 whether the impairment standard has to be found by this
23 Commission or not.

24 Q You talk about impairment just briefly in your
25 testimony by saying ALECs are impaired, but you don't know

1 whether or not this Commission has defined impairment; is
2 that --

3 A That's correct.

4 MR. SHORE: Then I don't have any further questions.

5 CHAIRMAN JABER: Staff.

6 MS. KEATING: Staff has no questions.

7 CHAIRMAN JABER: Commissioners.

8 COMMISSIONER PALECKI: On the DSLAM issue, would this
9 Commission have the authority rather than setting a traditional
10 rate to set a price to purchase on a per port basis the ports
11 of the DSLAM equipment that has been installed by BellSouth?

12 THE WITNESS: I believe so. There's been a lot of
13 discussion about the risks, the new technology out there. It
14 would have to be up to this Commission on what it would set the
15 rate for, but the TELRIC concept accepts risk in the
16 development of rates. So if it's deemed that the risk embedded
17 in the TELRIC concept is not appropriate in this one avenue of
18 the new UNE that you'd be developing, the Commission would be
19 able to change that amount of risk in terms of changing the
20 cost of capital for the DSLAM and reducing the cost of capital
21 for all other elements so that the total cost of capital would
22 stay the same if this Commission thinks it's a riskier
23 business. TELRIC certainly provides that opportunity for the
24 Commission to create a rate on a per port basis it sees
25 commensurate with that risk.

1 exchange company to enter a market? Isn't it by nature --

2 A Yes, because the incumbent is already there.

3 Q Okay. Thank you. There was also a discussion
4 between you and Mr. Shore regarding the use of multiple
5 scenarios. Do you recall that?

6 A Yes.

7 Q Is your answer in the deposition consistent with your
8 testimony today?

9 A Yes.

10 Q Could you explain why it's consistent?

11 A Because in my deposition, I was referring to just
12 this phase of this proceeding alluding there should be another
13 phase in the same docket. In this discussion here, I'm
14 referring to the same docket in this -- before this Commission.
15 This docket has been going on for quite a long time. So this
16 Commission could certainly keep the same docket open and
17 address this proceeding -- actually, this issue, sorry.

18 Q Mr. Shore also asked you some questions regarding the
19 Florida UNE order and its reconsideration order. Do you recall
20 that?

21 A Yes.

22 Q Did WorldCom file an appeal of those orders?

23 A Yes.

24 Q Generally, on what basis?

25 A The three scenario basis was one of the issues.

1 Q That's fine.

2 A There's a couple other issues, but it's been a year
3 or so, but I know the three scenario basis was one of them.

4 MS. McNULTY: Thank you. I have no further
5 questions.

6 CHAIRMAN JABER: Thank you, Mr. Darnell, for your
7 testimony.

8 (Witness excused.)

9 CHAIRMAN JABER: AT&T/WorldCom, Exhibit 55.

10 MS. McNULTY: Yes. WorldCom moves that.

11 CHAIRMAN JABER: Admitted into the record without
12 objection.

13 (Exhibit 55 admitted into the record.)

14 CHAIRMAN JABER: And that brings us to Mr. Pitkin's
15 testimony.

16 MS. McNULTY: Chairman Jaber, at this time the
17 parties have reached agreement on stipulating Pitkin's
18 testimony into the record. He had filed rebuttal testimony on
19 December 10th, 2001, and with that testimony there were
20 exhibits. Two through 9 were confidential exhibits which I ask
21 that you mark for identification as a separate composite
22 exhibit because they're confidential, and public exhibits he
23 has attached to the testimony, 1 through 10. And perhaps we
24 could have those identified separately.

25 CHAIRMAN JABER: Okay. Let's do it a step at a time.

1 The prefiled rebuttal testimony of Brian F. Pitkin shall be
2 inserted into the record as though read.

3 That's the prefiled rebuttal, and BFP-1 to that is
4 not confidential.

5 MS. McNULTY: That's correct.

6 CHAIRMAN JABER: So BFP-1 will be Exhibit 56.

7 MS. McNULTY: And as well as BFP-10. That's the only
8 other public exhibit attached to his rebuttal testimony.

9 CHAIRMAN JABER: I don't have a BFP-10 to his
10 rebuttal. I have a BFP-10 to the surrebuttal. Is that what
11 you're talking about?

12 MS. McNULTY: It should be attached to his rebuttal
13 testimony filed December 10th.

14 MR. KNIGHT: I believe that -- didn't BFP-19 replace
15 BFP-10?

16 MS. McNULTY: Well, it's an updated version, but for
17 clarity for the record, we would like to retain BFP-10 that was
18 filed December 10th.

19 MR. KNIGHT: Okay.

20 CHAIRMAN JABER: Well, 10 or 19, what I'm telling you
21 is I don't have it, so --

22 MS. McNULTY: Well, I could make copies and provide
23 them to you.

24 CHAIRMAN JABER: Give me the title of it.

25 MS. McNULTY: It's the unbundled network -- the UNE

1 recurring cost summary. It's a rather lengthy exhibit.

2 CHAIRMAN JABER: Okay. That's what I have is the
3 BFP-10 to surrebuttal. That's okay. BFP-1 and BFP-10 are
4 identified as Exhibit 56 for purposes of the hearing, and
5 Exhibit 57 will be BFP-2 through 9. And those are confidential
6 exhibits?

7 MS. McNULTY: Yes.

8 (Exhibits 56 and 57 marked for identification.)
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1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Brian F. Pitkin. I am a Director in the Financial Services
4 Division of FTI Consulting, Inc., with offices located at 66 Canal Center
5 Plaza, Suite 670, Alexandria, Virginia 22314.

6 **Q. PLEASE DESCRIBE YOUR BACKGROUND.**

7 A. My background, qualifications and experience are described in
8 Attachment BFP-1 to this testimony.

9 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS**
10 **COMMISSION?**

11 A. Yes, I previously testified in this proceeding on July 31, 2000 and August
12 28, 2000. In addition, I filed testimony in Docket No. 980696-TP on
13 September 2, 1998.

14 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

15 A. I have been asked by AT&T Communications of the Southern States, Inc.
16 (“AT&T”) and MCI WorldCom, Inc. (“WorldCom”) to review and
17 comment on the bottoms-up version of the BellSouth Telecommunications

1 Loop Model[®] (“BSTLM”) that the Florida Public Service Commission
2 (“Commission”) required BellSouth to file in this proceeding.

3 **Q. HOW IS YOUR TESTIMONY ORGANIZED?**

4 A. In Section II, I describe the requirements of Order No. PSC-01-1181-FOF-
5 TP (“*FL UNE Order*”), issued May 25, 2001, in Docket No. 990649-TP.
6 In Section III, I discuss the inputs and methodologies that have been used
7 by BellSouth in this filing and explain why they fail to satisfy the
8 Commission’s requirements. In addition, I explain the modifications I
9 have made in my restatement of BellSouth’s models. Finally, in Section
10 IV, I summarize my testimony and explain why the BSTLM and the
11 BellSouth Cost Calculator (“BSCC”), with proper modifications, can be
12 used to generate bottoms-up UNE results for the outside plant portion of
13 the local telephone network.

14 **II. REQUIREMENTS OF THE COMMISSION’S *FL UNE ORDER***

15 **Q. WHAT DID THE COMMISSION ORDER IN *FL UNE ORDER*?**

16 A. In its *FL UNE Order*, the Florida Public Service Commission
17 (“Commission”) required BellSouth to re-file its BSTLM and BSCC. The
18 new models were to “explicitly” model “all cable and associated
19 supporting structure engineering and installation placements” (*FL UNE*

1 *Order*, page 234), as opposed to utilizing ratios to develop engineered,
2 furnished and installed costs (“EF&I”) -- as was done in BellSouth’s
3 initial application of the BSTLM in this proceeding.

4 The Commission gave BellSouth 120 days to refile the model using a
5 “bottoms up approach,” including “all BellSouth assumptions used in
6 developing cable placements, the basis and source data for the revised
7 input values, and a clear identification and listing of all input values.” *Id.*

8 **Q. WHY DID THE COMMISSION ORDER BELLSOUTH TO REFILE**
9 **ITS COST MODELS?**

10 A. The Commission ordered the use of a “bottoms up approach” because it
11 was “troubled by BellSouth’s use of linear in-plant factors” which “distort
12 costs between rural and urban areas.” *Id.* The Commission also noted that,
13 “BellSouth could not provide any evidence demonstrating that installation
14 costs are directly proportional to material prices.” *Id.*

15 III. DEFICIENCIES IN THE BOTTOMS-UP BSTLM AND MY
16 MODIFICATIONS TO THE MODEL

17 **Q. DOES THE MODEL FILED BY BELLSOUTH SATISFY THE**
18 **COMMISSION’S REQUIREMENTS?**

19 A. No. BellSouth’s cost model fails to meet the Commission’s requirements
20 in a number of significant ways. First, as discussed in more detail by Mr.

1 Donovan in his testimony, many of the inputs used by BellSouth in its
2 most recent filing are unsupported, and continue to distort the costs
3 between urban and rural areas. Second, the bottoms-up version of the
4 BSTLM filed by BellSouth contains errors in its algorithms. Third, the
5 bottoms-up version of the BSTLM still relies on “loadings” that are
6 multiplied by material values in order to develop the total investments that
7 are used in this version of the BSTLM. Furthermore, these loadings are
8 overstated, double-count certain investments, and continue to distort costs
9 between rural and urban areas. Fourth, BellSouth failed to use a bottoms-
10 up approach to develop DLC investments and therefore continues to
11 overstate investment and distort de-averaged costs.

12 **Q. CAN THE MODEL BE CORRECTED TO PRODUCE A**
13 **BOTTOMS-UP UNE COST THAT SATISFIES THE**
14 **COMMISSION’S REQUIREMENTS?**

15 A. Yes. In his testimony, Mr. Donovan addresses the first of the deficiencies
16 identified in my previous answer, and describes the changes to the inputs
17 necessary to correctly estimate UNE costs using the model. My testimony
18 focuses on items two through four, and explains how the BSTLM uses the
19 inputs sponsored by Mr. Donovan.

1 A. *The BSTLM Contains Three Algorithm Errors that Must*
2 *Corrected*

3 Q. WHAT ARE THE ERRORS IN THE BOTTOMS-UP BSTLM
4 ALGORITHMS THAT YOU HAVE IDENTIFIED TO-DATE?

5 A. There are three errors in the bottoms-up BSTLM algorithms that cause the
6 model to overstate costs. The first error involves the calculation of EF&I
7 costs for fiber cable. The second error results from BellSouth including
8 additional, and unnecessary, costs for stub cable in underground facilities.
9 The third error occurs by using incorrect structure sharing values in certain
10 calculations.

11 Q. WHAT IS THE ERROR INVOLVING THE CALCULATION OF
12 EF&I COSTS FOR FIBER CABLE?

13 A. The bottoms-up model mistakenly applied *copper* placing and splicing
14 costs to *fiber* cable, which causes the model to overstate fiber investments.

15 Q. WERE YOU ABLE TO CORRECT THE EF&I CALCULATION
16 FOR FIBER CABLE?

17 A. Yes. I corrected this error by changing the calculation in the "3-Media"
18 sheet of the "InvestLogic.xls" file of the BSTLM. Specifically, I modified
19 the formulas in Cells "AD5" through "AD7" to use the *fiber* placing and

1 splicing cost in the calculation of the *fiber* cable EF&I cost. Attachment
2 BFP-2 walks through BellSouth's original calculation and shows my
3 corrections to these calculations.

4 **Q. WHAT IS THE ERROR REGARDING STUB CABLE**
5 **INVESTMENT?**

6 A. In its bottoms-up BSTLM, BellSouth inappropriately places additional
7 costs for stub cables in its underground facilities. In his testimony, Mr.
8 Donovan explains that this investment is not consistent with the way one
9 would construct a forward-looking network, and is unnecessary given that
10 the BSTLM does not model the network in a configuration that would
11 require copper cable stubs.

12 **Q. WERE YOU ABLE TO ELIMINATE THE STUB CABLE**
13 **INVESTMENT?**

14 A. Yes. I have corrected BellSouth's overstatement by removing the stub
15 cable investment from the underground facilities in the "3-Media" sheet of
16 the "InvestLogic.xls" file of the BSTLM by modifying the formulas in
17 Cell "AB2" to eliminate any investment associated with stub cables.
18 Attachment BFP-3 walks through BellSouth's original calculation and
19 shows my corrections to these calculations.

1 **Q. WHAT IS THE ERROR INVOLVING THE STRUCTURE**
2 **SHARING CALCULATIONS?**

3 A. The bottoms-up model mistakenly applied *urban* structure sharing
4 amounts to *rural* and *suburban* structure, which causes the model to
5 understate structure investments.

6 **Q. WERE YOU ABLE TO CORRECT THE STRUCTURE SHARING**
7 **CALCULATIONS?**

8 A. Yes. I corrected this error by changing the calculation in the
9 “StructureConduit Interim Calc” sheet and the “StructureBuried Interim
10 Calc” sheet of the “InvestLogic.xls” file of the BSTLM. Specifically, in
11 the “StructureConduit Interim Calc” sheet, I modified the formulas in
12 Cells “I34” through “I41” to use the *suburban* structure sharing amounts
13 in the calculation of the *suburban* structure and in Cells “I47” through
14 “I54” to use the *rural* structure sharing amounts in the calculation of the
15 *rural* structure. In the “StructureBuried Interim Calc” sheet, I modified
16 the formulas in Cells “I22” through “I33” to use the *suburban* structure
17 sharing amounts in the calculation of the *suburban* structure and in Cells
18 “I39” through “I50” to use the *rural* structure sharing amounts in the
19 calculation of the *rural* structure. Attachment BFP-9 walks through
20 BellSouth’s original calculation and shows my corrections to these
21 calculations.

1 **B. BellSouth's Material Loadings are Overstated**

2 **Q. DOES THE BOTTOMS-UP MODEL FILED BY BELL SOUTH**
3 **STILL CONTAIN LINEAR LOADING FACTORS?**

4 A. Yes. BellSouth still includes linear loading factors in the BSTLM --
5 exactly the type of linear loading factors that this Commission previously
6 concluded were the cause of cost distortions. These factors are intended to
7 recover the cost of exempt material, supplies, indirect labor, rights of way,
8 and interest during construction.

9 **Q. ARE THERE PROBLEMS ASSOCIATED WITH BELL SOUTH'S**
10 **USE OF LINEAR LOADING FACTORS?**

11 A. Yes. First, BellSouth has developed these factors using its historical data.
12 Data of this nature are not appropriate for use in a TELRIC model. One
13 simple reason for this is that experience from BellSouth's continuing
14 operations are not an appropriate basis for estimating start-up TELRIC
15 *investment*. Although these data may be appropriate for developing
16 certain on-going operating costs of a network, there is no evidence that
17 suggests historical data are relevant to the determination of investments.
18 For example, one would expect a higher ratio of exempt material
19 investment to non-exempt material investment when analyzing the repairs
20 and small rehabilitations that are reflected in the actual BellSouth
21 historical data but a smaller ratio would almost certainly be associated

1 with the large-scale projects that are inherent in the construction of the
2 entire network that underlies TELRIC. BellSouth has not provided any
3 evidence to support the use of ratios based on embedded data in
4 developing forward-looking investments.

5 Second, BellSouth's linear loading factors are problematic because they
6 rely on only a single year's data -- from 1998. Thus, a high ratio of
7 exempt material to non-exempt material in this single year would
8 significantly overstate TELRIC.

9 Third, use of linear loading factors as multipliers on non-exempt material
10 investment is not an appropriate basis for developing forward-looking
11 exempt material investments. As Mr. Donovan explains, exempt material
12 is typically treated as a proportion of labor, not as a proportion of material.
13 Thus, BellSouth's approach of using linear loading factors is incorrectly
14 developed and applied.

15 In addition to the above problems, there are errors in BellSouth's
16 development of linear loading factors for exempt material and indirect
17 labor.

18 **Q. WHY IS BELLSOUTH'S DEVELOPMENT OF A LINEAR**
19 **LOADING FACTOR FOR EXEMPT MATERIAL INCORRECT?**

20 A. Exempt material typically includes the investments associated with "minor
21 items of plant supplies." (BellSouth Cost Studies, Appendix B,

1 Attachment 5) These investments include items such as drop wires and
2 network interface devices (“NIDs”). In fact, Ms. Caldwell acknowledges
3 this in her Reply Affidavit before the Federal Communications
4 Commission in the Georgia 271 proceeding:

5 The material costs of the service drop wires and associated
6 NID units are classified to exempt material. The cost of
7 exempt material, however, is distributed as part of the
8 monthly allocations process to the various ACCs (including
9 ACC 248 and ACC 548) based on the direct labor dollars
10 associated with each ACC (Reply Affidavit of D. Daonne
11 Caldwell, CC Docket No. 01-277, paragraph 37)

12 Because the BSTLM explicitly models the costs of NIDs and drops, the
13 exempt material loading factor should exclude these items. BellSouth did
14 not remove any of the exempt materials associated with NIDs or drop
15 wires in its calculation of the exempt material loading factor and thus
16 double-counts these investments. In fact, BellSouth has not identified
17 each item that is included in exempt material. Unless BellSouth produces
18 information sufficient to determine that it properly eliminated all such
19 inappropriate and double-counted material from the calculation of the
20 exempt material loading factor, this Commission should reject BellSouth’s
21 loading factor estimates.

22 In addition, Ms. Caldwell’s above statements support Mr. Donovan’s
23 assertion that exempt materials are typically attributed on the basis labor

1 costs, not material costs. Thus, these costs should not be attributed to
2 material costs as BellSouth has chosen to do in this filing.

3 **Q. WHY IS BELLSOUTH'S DEVELOPMENT OF A LINEAR**
4 **LOADING FACTOR FOR INDIRECT LABOR INCORRECT?**

5 A. Indirect plant labor includes "the standard rated salaries and wages for
6 supervision and support above first level for work reporting plant labor
7 employees." (BellSouth Cost Studies, Appendix B, Attachment 5)

8 Again, I understand from Mr. Donovan that indirect labor is typically a
9 function of direct labor, not material investment. In addition, I understand
10 that BellSouth's labor rates are already "loaded" labor rates that include an
11 allowance for indirect labor.

12 **Q. HOW HAVE YOU IMPLEMENTED ADJUSTMENTS TO**
13 **CORRECT FOR BELLSOUTH'S INCORRECT LINEAR**
14 **LOADING FACTORS?**

15 A. While I am skeptical about the use of BellSouth's linear loading factors
16 for supplies, rights of way and interest during construction, I have left
17 them in my restatements -- which likely overstate the appropriate amount
18 of these factors that should be applied in a TELRIC environment. I urge
19 this Commission to require BellSouth to produce all necessary information
20 to determine exactly what items are included in each of these factors and

1 identify the source of these costs (*i.e.*, describe how interest during
2 construction is calculated and what it is applied to, on a detailed basis).

3 However, consistent with Mr. Donovan's testimony (and the testimony of
4 Ms. Caldwell), I have applied material loadings as a factor on labor
5 instead of material. Specifically, I have increased the labor costs by 20
6 percent to account for exempt material, consistent with the
7 recommendation of Mr. Donovan. In addition, I have removed the
8 indirect labor loading from BellSouth's linear loading factors, consistent
9 with the recommendation of Mr. Donovan.

10 I have included, as Attachment BFP-4, an illustration of BellSouth's
11 development of linear loading factors for underground cable.

12 **C. BellSouth's Inflation Factor is Overstated**

13 **Q. ARE THE INFLATION RATES USED BY BELLSOUTH**
14 **CORRECT?**

15 A. No. BellSouth uses inflation rates that are too high as well as unreliable.
16 In this proceeding, BellSouth uses a combination of actual and forecasted
17 inflation rates to adjust its costs. These inflation rates purport to be
18 BellSouth-specific indices reflecting the actual historical inflation that
19 BellSouth experienced through 1997. BellSouth then used these historical

1 data to estimate inflation for subsequent years, including the 2000, 2001
2 and 2002 data that are used in the model.

3 My first major concern is that BellSouth has provided no information
4 supporting its development of these inflation factors. Thus, I (and the
5 Commission) have no way of evaluating the reasonableness of BellSouth's
6 forecasts. This is important because BellSouth is using historical data to
7 estimate inflation three to five years in the future.

8 My second major concern is related. BellSouth could have used historical
9 data for the years 2000 and 2001, which is available and obviously is a
10 more reliable indicator of inflation during these two years than are the
11 unexplained forecasts for 2000 and 2001 that BellSouth has employed. I
12 compared BellSouth's forecasted data for these two years with the C. A.
13 Turner Telephone Plant Indices ("TPI") for these two years to evaluate the
14 reasonableness of BellSouth's forecast data. This evaluation showed that
15 BellSouth's forecast-based inflation assumptions are significantly
16 overstated.

17 Thus, I have revised BellSouth's inflation assumptions to reflect actual
18 data (as reported in the TPI) for the years 2000 and 2001. From this point,
19 I needed only to estimate inflation for the year 2002. In order to do so, I
20 used a simple linear trend. I have included, as Attachment BFP-5, a
21 comparison of BellSouth's inflation assumptions for underground copper

1 cable to the data contained in the TPI (and my estimate for 2002) for the
2 years 2000 to 2002.

3 **D. BellSouth's Engineering Factors are Overstated**

4 **Q. ARE BELLSOUTH'S ENGINEERING FACTORS APPROPRIATE?**

5 A. No. BellSouth uses engineering loading factors of 37 percent for fiber
6 facilities and 25 percent for copper facilities, conduit and pole. Based on
7 discussions with Mr. Donovan, I have changed both of BellSouth's
8 overstated engineering factors to 10 percent.

9 **E. BellSouth's DLC Loadings are Overstated**

10 **Q. DID BELLSOUTH RESTATE DIGITAL LOOP CARRIER**
11 **INVESTMENTS USING A BOTTOMS-UP APPROACH?**

12 A. No. BellSouth failed to use a bottoms-up approach to develop DLC
13 investment. This failure continues to distort the DLC costs that the model
14 develops for various geographic areas. Because BellSouth failed to make
15 these modifications, I was forced to use an in-plant factor to develop the
16 engineering and installation cost for DLC equipment.

1 **Q. WHAT FACTOR DID YOU USE FOR ENGINEERING AND**
2 **INSTALLATION COSTS OF DLC EQUIPMENT?**

3 A. I am using the same DLC in-plant factor that Mr. Donovan and I
4 recommended in the first phase of this proceeding. My rationale for this
5 approach is that the factor we developed at the time is based on a detailed,
6 bottoms-up approach. Thus, it is the most accurate approach before this
7 Commission to approximate what would result from a true, bottoms-up
8 approach.

9 Without wanting to repeat our prior testimony, Mr. Donovan previously
10 modified BellSouth's factors to reflect an appropriate amount of
11 engineering and installation costs. Specifically, the engineering and
12 installation cost should reflect the installation of equipment that has been

13 completely assembled and tested at the factory. Once the
14 equipment is on site and bolted to its mounting pad, the
15 only assembly required consists of connecting local power,
16 connecting drop facilities, connecting optical fiber
17 facilities, installing the back-up batteries, and plugging the
18 circuit packs into their assigned locations in the racks.

19 [Alcatel Litespan 2000 DLC practice]

20 We believe the appropriate number of hours required to install pre-
21 assembled DLC equipment are those which were used as inputs in the HAI
22 Model. Therefore, we have calculated the ratio of installed investment in
23 the HAI Model to material investment in the HAI Model to arrive at an

1 appropriate installation and engineering factor for DLC equipment.
2 Attachment BFP-6 details how these factors were derived.

3 **F. BellSouth's Bottoms-Up Inputs are Overstated**

4 **Q. ARE BELLSOUTH'S BOTTOMS-UP INPUTS APPROPRIATE**
5 **FOR USE IN THIS PROCEEDING?**

6 A. No. As Mr. Donovan explains in his testimony, BellSouth's inputs serve
7 to significantly overstate the TELRIC of providing UNEs in Florida. I
8 have worked with Mr. Donovan to evaluate the inputs in the BSTLM and
9 to understand how the inputs are used in the model. Based on those
10 discussions, I have included more appropriate inputs -- which are
11 supported in Mr. Donovan's testimony -- in my restatement of the
12 BSTLM.

13 I have included, as Attachment BFP-7 to my testimony, a comparison of
14 BellSouth's original inputs to the inputs that Mr. Donovan and I propose.

15 **Q. HAVE YOU PREPARED ANYTHING TO ASSIST THE**
16 **COMMISSION IN UNDERSTANDING THE CHANGES YOU ARE**
17 **ADVOCATING IN YOUR TESTIMONY?**

18 A. Yes. I have included, as Attachment BFP-8, a series of illustrations that
19 show how the changes I advocate in this testimony work in the BSTLM.

1 In other words, I attempt to take the algorithms in the BSTLM and break
2 them apart to show the Commission how BellSouth is developing its fully-
3 loaded, bottoms-up investments. I then incorporate the changes I identify
4 above into the illustrations to assist the Commission in evaluating my
5 restatements.

6 In addition, I have attempted to compare these modified inputs and
7 calculations, where appropriate, to the inputs developed by the FCC for
8 use in the Synthesis Model. I believe that this provides additional
9 valuable information for this Commission to evaluate when reaching its
10 conclusions. In others words, I believe that a comparison with the FCC's
11 inputs provides a sanity check on the inputs used in the BSTLM. This
12 Commission should question any inputs proposed by BellSouth that, once
13 put on an equivalent basis (*i.e.*, fully loaded) are significantly out of line
14 with what the FCC has concluded based on significant evaluation.

15 IV. SUMMARY AND CONCLUSIONS

16 **Q. WILL YOU PLEASE SUMMARIZE YOUR TESTIMONY?**

17 A. The model filed by BellSouth fails to satisfy the requirements of the
18 Commission's *FL UNE Order*. To correct the problems in BellSouth's
19 model and produce bottoms-up results, I urge the Commission to:

- 20 • Correct the algorithm errors in the BSTLM;

- 1 • Reject BellSouth's loading factors and rely on the corrections
2 developed by myself and Mr. Donovan;
- 3 • Reject BellSouth's installation and engineering factors for DLC
4 equipment and rely on the more appropriate factors we previously
5 sponsored, which are based on a bottoms-up analysis;
- 6 • Reject BellSouth's inputs and rely on Mr. Donovan's more appropriate
7 inputs.

8 If these corrections are made, the BSTLM would produce results that are
9 consistent with TELRIC and satisfy the Commission's requirement to
10 model "all cable and associated supporting structure engineering and
11 installation placements." (*FL UNE Order*, page 234). Attachment BFP-10
12 is the result of a revised BSTLM run incorporating the changes I have
13 described herein.

14 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

15 A. Yes.

1 CHAIRMAN JABER: Okay. The prefiled surrebuttal
2 testimony of Brian Pitkin shall be inserted into the record as
3 though read.

4 MS. McNULTY: Chairman Jaber, before we go to the
5 surrebuttal testimony, I'd like to clarify the status of
6 Exhibit 8. As you recall from our discussions yesterday, the
7 parties should have received on Friday an updated version of
8 Exhibit 8 and yesterday an updated version of Exhibit 8C. And
9 Mr. Hatch will provide the court reporter a complete set to
10 make sure the record is accurate.

11 CHAIRMAN JABER: Okay. Well, regardless, the
12 prefiled surrebuttal testimony is inserted into the record as
13 though read.

14 As it relates to Exhibit BFP-8, you will provide a
15 revised copy to the court reporter and to the Commissioners.

16 MS. McNULTY: It is confidential, so it would be in
17 the Clerk's office.

18 CHAIRMAN JABER: Okay. And that's included in the
19 already identified Exhibit 57.

20 MS. McNULTY: Thank you.

21 CHAIRMAN JABER: Okay. Now, there are other
22 exhibits, Ms. McNulty; right?

23 MS. McNULTY: Yes. Again, we have some that are
24 public and some that are confidential, so we ask that there be
25 two separate exhibits identified. And the public exhibits

1 attached to Mr. Pitkin's surrebuttal testimony are 14, 17, and
2 19, so that would be BFP-14, 17, and 19.

3 CHAIRMAN JABER: Those will be identified in
4 Composite Exhibit 58.

5 (Exhibit 58 marked for identification.)

6 MS. McNULTY: Thank you. And the confidential
7 exhibits attached to Mr. Pitkin's surrebuttal testimony are
8 BFP-11, 12, 13, 15, 16, and 18.

9 CHAIRMAN JABER: Okay. BFP-11, 12, 13, 15, 16, and
10 18 will become Composite Exhibit 59. And those are
11 confidential?

12 MS. McNULTY: Yes.

13 (Exhibit 59 marked for identification.)

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1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Brian F. Pitkin. I am a Director in the Financial Services
4 Division of FTI Consulting, Inc., with offices located at 66 Canal
5 Center Plaza, Suite 670, Alexandria, Virginia 22314.

6 **Q. ARE YOU THE SAME BRIAN PITKIN THAT PREVIOUSLY**
7 **FILED TESTIMONY IN THIS DOCKET?**

8 A. Yes.

9 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

10 A. The purpose of my testimony is to comment on BellSouth's January
11 28, 2002 revised cost studies and direct testimony. This testimony
12 should be considered in concert with my December 10, 2001 rebuttal
13 testimony in order to identify all of the changes I support to
14 BellSouth's original filing. In addition, I have avoided commenting on
15 BellSouth's surrebuttal testimony because I understand such
16 comments would be outside the scope of this additional testimony.
17 However, my silence on those issues should not imply agreement with
18 anything stated in the surrebuttal testimony of BellSouth's witnesses.

1 **Q. HOW IS YOUR TESTIMONY ORGANIZED?**

2 A. In Section II, I address Ms. Caldwell's statement that "BellSouth made
3 no adjustment to the inflation application in the January 28, 2002
4 filing." (Caldwell revised direct testimony, January 28, 2002, page
5 31). In Section III, I explain the modifications I have made (in
6 addition to those discussed in my direct testimony and the direct
7 testimony of John Donovan) in my restatement of BellSouth's January
8 28, 2002 model filing. In Section IV, I summarize my testimony and
9 explain the modifications necessary to generate bottoms-up UNE
10 results that comply with the Commission's May 25, 2001 Order.

11 **II. BELLSOUTH INCORRECTLY APPLIES INFLATION**

12 **Q. DID BELLSOUTH USE THE SAME INFLATION FACTORS IN**
13 **THIS PROCEEDING THAT IT PREVIOUSLY USED IN ITS**
14 **APRIL 17, 2001 FILING?**

15 A. Yes, BellSouth inappropriately applies the same inflation rates in this
16 120-day proceeding as it previously used in its April 17, 2001 cost
17 study.

1 **Q. WHY IS BELLSOUTH’S USE OF THE SAME INFLATION**
2 **FACTORS IN THIS PROCEEDING INAPPROPRIATE?**

3 A. The Commission has determined that BellSouth should include
4 inflation factors (as proposed by BellSouth in its April 17, 2001 cost
5 studies) in the development of UNE costs. However, BellSouth is now
6 applying its inflation factors in a manner that was not approved by this
7 Commission. Specifically, BellSouth is now applying an overall
8 *blended* inflation factor (which includes inflation for both *material and*
9 *labor*) to *material-only* investments, thereby artificially overstating
10 costs.

11 It is a cardinal rule of costing that cost factors, when used, should be
12 developed in a manner consistent with the way they are to be applied.
13 If BellSouth is applying inflation factors only to *material* investments,
14 the inflation factor itself should reflect *material-only* inflation, not a
15 blend of material and labor.

16 **Q. HOW WERE THE INFLATION FACTORS DEVELOPED AND**
17 **APPLIED IN THE PREVIOUS TOP-DOWN FILING?**

18 A. In the top-down version of its cost studies that BellSouth originally
19 filed in this proceeding, only material investments were generated by
20 the BellSouth Telecommunications Loop Model (“BSTLM”). These
21 material investments were then multiplied by linear loading factors

1 (referred to by BellSouth as “in-plant” factors) to develop total
2 installed investment amounts, including both *materials and labor*.
3 These total installed investment amounts were then multiplied by
4 *blended* inflation factors (reflecting inflation of both *material and*
5 *labor*) in the BellSouth Cost Calculator (“BSCC”) to develop inflated
6 investment amounts. In this way, the *blended* inflation factors
7 developed by BellSouth were consistent with the application of these
8 factors to combined *material and labor* investments.

9 **Q. HOW DO YOU KNOW THAT BELLSOUTH’S INFLATION**
10 **FACTORS ARE *BLENDED*?**

11 A. Data provided by BellSouth shows that the inflation factors developed
12 in its April 17, 2001 cost study filing represent a composite of both
13 *material and labor*. I have included, as Attachment BFP-11, an
14 illustration of BellSouth’s development of its inflation factor for aerial
15 copper cable. I have also included, for reference, BellSouth’s actual
16 worksheet developing these factors. Thus, there can be no argument
17 that the inflation factors used by BellSouth represent a *blended*
18 inflation factor.

1 **Q. HOW DO YOU KNOW THAT BELLSOUTH APPLIED THESE**
2 **INFLATION FACTORS TO A COMBINATION OF**
3 ***MATERIAL AND LABOR* INVESTMENT?**

4 A. I have included, as Attachment BFP-12, an illustration of BellSouth's
5 original inflation application for aerial copper cable (I have also
6 included the actual BSCC output report for element A.1.1 showing the
7 same data for all accounts). This exhibit shows that BellSouth applies
8 a *blended* inflation factor (discussed above) to total in-plant
9 investment (both *material and labor*). This was fully consistent
10 because BellSouth's prior filing applied a *blended* inflation factor of
11 both the *material and labor* components.

12 **Q. IS THE *BLENDED* INFLATION RATE PREVIOUSLY USED**
13 **BY BELLSOUTH APPROPRIATE FOR THE BOTTOMS UP**
14 **MODEL BELLSOUTH IS CURRENTLY USING?**

15 A. No, the *blended* inflation rate is not appropriate. Unlike the top down
16 version, inflation in the bottoms up model is applied separately to
17 labor investment and material investment. BellSouth recognizes this
18 and applies a *labor-only* inflation factor to its *labor* investment.
19 BellSouth fails, however, to apply a *material-only* inflation factor to its
20 *material* investment, instead continuing to apply its *blended* inflation
21 factor to the *material* component of investment. To correctly apply
22 inflation in the bottoms up model, BellSouth should apply a *labor-only*

1 inflation factor to *labor* investment and a *material-only* inflation factor
2 to *material* investment.

3 **Q. HOW DO YOU KNOW THAT BELLSOUTH IS APPLYING A**
4 ***LABOR-ONLY* INFLATION FACTOR TO LABOR**
5 **INVESTMENT?**

6 A. BellSouth's documentation of its labor rate makes clear that it is
7 applying union wage inflation factors to develop the inflated labor
8 rate. BellSouth's description of the inflation factor reinforces the fact
9 that they reflect union contract negotiations. In response to AT&T and
10 WorldCom's interrogatory Item 9, BellSouth notes, "BellSouth signed
11 a new union wage agreement in August 1998...those base changes
12 have been factored into the forecast for the 1998 - 2000 period." I
13 have included, as Attachment BFP-13, an illustration of BellSouth's
14 development of its labor rates using BellSouth's prior forecasted data
15 and BellSouth's most recent data.

16 **Q. HOW DO YOU KNOW THAT BELLSOUTH IS APPLYING A**
17 ***BLENDED* INFLATION FACTOR TO MATERIAL**
18 **INVESTMENT?**

19 A. There are several ways to verify that BellSouth is applying a *blended*
20 inflation factor to *material-only* investment. First, BellSouth

1 acknowledges this in its response to Staff's 1st Set of Interrogatories
2 No. 18e, stating, "The inflation loading factors are applied to base year
3 ... material costs." Second, my prior rebuttal testimony provides
4 illustrations of the BSTLM investment calculations. Attachment BFP-
5 8A of my rebuttal testimony illustrates how the inflation factor is
6 applied in the bottoms up model. It is clear from this exhibit that the
7 inflation factor is applied to material investment and not to the placing
8 cost and splicing cost showing in rows 19 and 20. Thus, it is clear that
9 the actual inflation factor application in this bottoms-up version of the
10 model does not apply to the labor activities (which, as previously
11 discussed, already reflects *labor-only* inflation).

12 **Q. DOES THIS USE OF A *BLENDED* INFLATION RATE**
13 **OVERSTATE COSTS?**

14 A. Yes. Material inflation, if any, has been significantly lower than labor
15 inflation. Because of this, BellSouth's application of a **blended**
16 inflation rate overstates the inflation applicable to material costs and,
17 therefore, overstates material investments. Documentation provided
18 by BellSouth in response to AT&T and WorldCom's discovery shows
19 that material prices have tended to decline in recent years while labor
20 costs have increased.

1 **Q. DO YOU HAVE A SIMPLE EXAMPLE OF THE**
2 **APPLICATION OF INFLATION IN THE TOPS DOWN**
3 **VERSUS BOTTOMS UP VERSION OF THE MODEL?**

4 A. Yes. Attachment BFP-14 illustrates how the *blended* inflation rate
5 used by BellSouth overstates costs in the bottoms up version of the
6 model. As "Illustration 1" in Attachment BFP-14 shows, BellSouth's
7 original methodology multiplies a blended material and labor
8 investment by a blended material and labor inflation factor. As
9 "Illustration 2" shows, this is conceptually the same as multiplying
10 *material* investment by a *material-only* inflation rate, and multiplying
11 *labor* investment by a *labor-only* inflation rate.

12 In this proceeding, however, BellSouth uses a bottoms-up estimate of
13 current labor costs and applies a *blended* inflation rate to only the
14 *material-only* portion of investment. The overstatement in costs
15 because of this can be seen in the third illustration of Attachment BFP-
16 14.

17 **Q. WERE YOU ABLE TO ADJUST BELLSOUTH'S INFLATION**
18 **FACTORS TO BE MATERIAL ONLY?**

19 A. Yes. I have updated the inputs to the BSTLM to reflect *material-only*
20 inflation factors. This ensures that the *material* investments generated
21 by the BSTLM will be inflated by a *material-only* inflation factor. In

1 my restatement, the *labor* rates continue to be inflated by the *labor-*
2 *only* inflation factors (and therefore *labor-only* investments). For both
3 the material inflation factors and labor inflation factors, I have used
4 BellSouth's actual inflation experience for 2000 and 2001 and
5 BellSouth's projected inflation for 2002. Attachment BFP-15 contains
6 the inflation factors that I used for material. (As stated previously,
7 Attachment BFP-13 contains the inflation factors that I used for labor).

8 **Q. CAN YOU PROVIDE AN EXAMPLE OF THE IMPACT OF**
9 **BELLSOUTH'S INAPPROPRIATE INFLATION**
10 **APPLICATION?**

11 A. Yes. I have included, as Attachment BFP-16, a comparison of
12 BellSouth's inappropriate application of *blended* inflation factors and
13 the correct method of applying *material-only* inflation to *material*
14 investment. This comparison demonstrates that BellSouth is
15 overstating total investment by approximately 10% for 1200-pair aerial
16 copper cable. This overstatement occurs because BellSouth uses a
17 projected *blended* inflation factor of approximately *** **BEGIN**
18 **PROPRIETARY *** *** END PROPRIETARY ***** in this
19 example instead of an actual *material-only* inflation factor which has
20 declined by almost *** **BEGIN PROPRIETARY *** *** END**
21 **PROPRIETARY *****.

1 **Q. DID THIS PROCESS IDENTIFY ANY OTHER PROBLEMS**
2 **WITH THE INFLATION FACTORS THAT BELL SOUTH HAS**
3 **USED IN THIS PROCEEDING?**

4 A. Yes. As I previously mentioned, BellSouth has provided actual recent
5 material-only, labor-only and blended inflation information. I have
6 compared the actual inflation BellSouth experienced for 1999-2002 to
7 the projected inflation it uses in its factors. The projected rates
8 significantly overstated the inflation BellSouth has actually
9 experienced from 1999-2001. As part of Attachment BFP-15, I show
10 the impact of adjusting BellSouth's prior inflation forecasts for actual
11 data (and more recent forecasted data).

12 **Q. HAS BELL SOUTH MADE OTHER ERRORS IN ITS**
13 **APPLICATION OF INFLATION?**

14 A. Yes. BellSouth has erred in its application of the *labor-only* inflation
15 factor to the labor rates. To account for inflation of its internal labor,
16 BellSouth inflated the labor rate for placing and splicing. This can be
17 seen in the increase in the placing and splicing labor rate used by
18 BellSouth before and after Order No. PSC-01-2051-FOF-TP ("*Order*
19 *on Reconsideration*"), issued October 18, 2001, in Docket No.
20 990649-TP. In its September 24, 2001 filing, BellSouth used a labor
21 rate of *** **BEGIN PROPRIETARY** *** *** **END**
22 **PROPRIETARY** *** (the support for this labor rate has recently been

1 provided in Daonne Caldwell's late filed exhibit number 4).
2 Subsequent to the Commission's *Order on Reconsideration* Order,
3 BellSouth then inflated this labor rate to *** BEGIN
4 PROPRIETARY *** *** END PROPRIETARY *** based
5 on projected union wage increases in salary, as shown in Attachment
6 BFP-13. However, BellSouth has not provided any documentation to
7 support its increase in this labor rate from the already inflated labor
8 rate of *** BEGIN PROPRIETARY *** *** END
9 PROPRIETARY *** to the *** BEGIN PROPRIETARY ***
10 *** END PROPRIETARY *** used in its cost study.

11 **Q. HAVE YOU CORRECTED THIS ERROR IN BELLSOUTH'S**
12 **APPLICATION OF ITS INFLATION FACTORS IN THIS**
13 **PROCEEDING?**

14 A. Yes. I have eliminated this error in BellSouth's labor inflation factor
15 application. In addition, I have replaced BellSouth's prior projected
16 union wage increases with the actual increases for 1999-2000 and the
17 updated projections for 2001 and 2002 (provided by BellSouth in
18 response to AT&T and WorldCom's discovery). A comparison of
19 BellSouth's original inflated labor to my updated labor rate is included
20 in Attachment 13. I use this labor rate as the basis for the exempt-
21 material adjustment, as described and supported in Mr. Donovan's
22 rebuttal testimony.

1 **III. OTHER MODIFICATIONS**

2 **Q. WHAT CHANGES DID BELLSOUTH MAKE TO ITS**
3 **JANUARY 28, 2002 MODEL?**

4 A. BellSouth has replaced its engineering factors with account specific
5 factors, corrected two of the logic errors I described in my December
6 10, 2001 testimony, corrected its FDI Placing hours, and changed its
7 underground excavation and manhole costs.

8 **Q. ARE ANY OF THESE CHANGES APPROPRIATE?**

9 A. Yes. BellSouth's correction of the logic errors and the correction to
10 the FDI placing hours appear to be appropriate.

11 **Q. WHICH CHANGES ARE NOT APPROPRIATE?**

12 A. As Mr. Donovan discusses in his testimony, the updates to the
13 engineering factors and the underground excavation and manhole costs
14 are not correct.

15 **Q. HAVE YOU CHANGED ANY OF THE INPUTS FROM YOUR**
16 **DECEMBER FILING?**

17 A. Yes. I have made the following changes to the inputs in this filing:

- 1 • Adjusted the BSTLM input inflation factors to: 1) use actual data
2 where available, 2) use more recent projections where available,
3 and 3) use material-only inflation factors for application to the
4 material investment;
- 5 • Adjusted the BSTLM labor rates to: 1) use actual data where
6 available, 2) use more recent projections where available, 3)
7 eliminate the error (or undocumented adjustment) that overstates
8 labor rates, and 4) reflect a mark-up for exempt material, consistent
9 with Mr. Donovan's rebuttal testimony; and
- 10 • Adjusted the BSTLM engineering factors, by account, consistent
11 with the supplemental rebuttal testimony of Mr. Donovan.

12 I have also included, as Attachment BFP-17, a list of the inputs I have
13 updated since my December 10, 2001 rebuttal testimony. For ease of
14 reference, I have also provided, as Attachment BFP-18, a list all of the
15 input changes to BellSouth's January 28, 2002 amended filing. Also, I
16 continue to make the formula correction in the Invest Logic worksheet
17 to remove for stub cable investment, as I discussed in my prior
18 testimony.

1 **IV. SUMMARY**

2 **Q. WILL YOU PLEASE SUMMARIZE YOUR TESTIMONY?**

3 A. Even with the most recent “corrections,” the model filed by BellSouth
4 fails to satisfy the requirements of the Commission’s *FL UNE Order*.
5 To correct the *additional* problems in BellSouth’s model and produce
6 bottoms-up results, I urge the Commission to:

- 7 • reject BellSouth’s overstated inflation factors and rely on the
8 corrections I present herein to consistently apply the inflation
9 factors with this Commission’s prior determinations;
- 10 • use the corrected engineering factors discussed in Mr. Donovan’s
11 testimony; and
- 12 • eliminate BellSouth’s inappropriate loadings on underground
13 structure by adopting the recommendations in Mr. Donovan’s
14 testimony.

15 If these corrections are made, the BSTLM would produce results that
16 are more consistent with TELRIC and better satisfy the Commission’s
17 requirement to model “all cable and associated supporting structure
18 engineering and installation placements.” (*FL UNE Order*, page 234).
19 Given that we just received BellSouth’s discovery responses on
20 Friday, February 8, 2002, the BSTLM and BSCC have not yet finished

1 running with the revised inputs that are based, in part, on BellSouth's
2 discovery responses. I will provide, as Attachment BFP-19, a late
3 filed exhibit to my testimony restating the UNE cost based on the
4 changes I discuss above as soon as BellSouth's models complete
5 running. However, all of the model inputs and changes have been
6 fully described in my prior testimony and in this testimony (and all
7 associated attachments).

8 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

9 **A. Yes.**

1 CHAIRMAN JABER: Now, Staff, you are straight on what
2 BFP-10 is? I don't have a BFP-19, so I'm assuming you know
3 what to use for purposes of the recommendation.

4 MR. KNIGHT: Yes. We were told that it was an update
5 of BFP-10 and should have replaced it, but --

6 CHAIRMAN JABER: Okay. I'm going to go ahead and
7 identify it. We're going to admit Exhibits 56, 57, 58, and 59
8 into the record without objection.

9 (Exhibits 56 through 59 admitted into the record.)

10 CHAIRMAN JABER: Ms. McNulty, I'd ask that you get
11 with Mr. Knight and make sure you all are real clear on what
12 that exhibit is so that there's no confusion later on.

13 MS. McNULTY: Yes. It's just an updated version of
14 WorldCom and AT&T's rate proposal.

15 CHAIRMAN JABER: Staff thought you were using a
16 different number, so just get with Staff later.

17 MS. McNULTY: Absolutely, I will.

18 MR. KNIGHT: No problem.

19 CHAIRMAN JABER: Okay. Anything else, Ms. McNulty,
20 related to this witness?

21 MS. McNULTY: That's it.

22 CHAIRMAN JABER: All right. We're going to come back
23 at one o'clock.

24 (Lunch recess.)

25 (Transcript continues in sequence with Volume 5.)

1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4

5 I, TRICIA DeMARTE, Official Commission Reporter, do hereby
6 certify that the foregoing proceeding was heard at the time and
7 place herein stated.

8

9 IT IS FURTHER CERTIFIED that I stenographically
10 reported the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript constitutes a true transcription of my notes of said
13 proceedings.

14

15 I FURTHER CERTIFY that I am not a relative, employee,
16 attorney or counsel of any of the parties, nor am I a relative
17 or employee of any of the parties' attorneys or counsel
18 connected with the action, nor am I financially interested in
19 the action.

20

21 DATED THIS 19th DAY OF MARCH, 2002.

22

23

Tricia DeMarte

24

TRICIA DeMARTE

25

FPSC Official Commission Reporter
(850) 413-6736