ORIGINAL

McWHIRTER REEVES
ATTORNEYS AT LAW

TAMPA OFFICE:
400 NORTH TAMPA STREET, SUITE 2450
TAMPA, FLORIDA 33602
P. O. BOX 3350 TAMPA, FL 33601-3350
(813) 224-0866 (813) 221-1854 FAX

PLEASE REPLY TO:

TALLAHASSEE

TALLAHASSEE OFFICE:
117 SOUTH GADSDEN
TALLAHASSEE, FLORIDA 32301
(850) 222-2525
(850) 222-5606 FAX

December 4, 2003

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: Docket Nos.: 030851-TP

Dear Ms. Bayo:

On behalf of the Florida Competitive Carriers Association (FCCA), enclosed for filing and distribution are the original and 15 copies of the following:

- Direct Testimony and Exhibits of Joseph Gillan on behalf of the Florida Competitive Carriers Association.

Please acknowledge receipt of the above on the extra copy of and return the stamped copies to me. Thank you for your assistance.

Sincerely,

Vicki Gordon Kaufman

Vicki Gordon Kaufman

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising From Federal Communications Commission Triennial UNE review: Local Circuit Switching For Mass Market Customers /	Docket No. 030851-TP Filed: December 4, 2003

DIRECT TESTIMONY AND EXHIBITS

OF

JOSEPH GILLAN

ON BEHALF OF

THE FLORIDA COMPETITIVE CARRIERS ASSOCIATION

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of Requirements Arising From Federal Communications Commission Triennial UNE Review: Local Circuit Switching For Mass Market Customers	)))))	**Docket No. 030851-TP** **Filed: December 4, 2003**

DIRECT TESTIMONY AND EXHIBITS OF JOSEPH GILLAN ON BEHALF OF THE FLORIDA COMPETITIVE CARRIERS ASSOCIATION

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I. Introduction and Witness Qualification

Q. Please state your name and address.

A. My name is Joseph Gillan. My business address is P. O. Box 541038, Orlando, Florida 32854. I am an economist with a consulting practice specializing in telecommunications.

Q. Please briefly outline your educational background and related experience.

A. I am a graduate of the University of Wyoming where I received B.A. and M.A. degrees in economics. From 1980 to 1985, I was on the staff of the Illinois Commerce Commission where I had responsibility for the policy analysis of issues created by the emergence of competition in regulated markets, in particular the telecommunications industry. While at the Commission, I served on the staff subcommittee for the NARUC Communications Committee and was appointed to the Research Advisory Council overseeing the National Regulatory Research Institute.

In 1985, I left the Commission to join U.S. Switch, a venture firm organized to develop interexchange access networks in partnership with independent local telephone companies. At the end of 1986, I resigned my position of Vice President-Marketing/Strategic Planning to begin a consulting practice. Over the

past twenty years, I have provided testimony and/or sworn affidavits before more than 35 state commissions, five state legislatures, the Commerce Committee of the United States Senate, the Federal Communications Commission, and the Federal/State Joint Board on Separations Reform. In addition, I have provided expert reports to the Canadian Radio-television and Telecommunications Commission, as well as the Finance Ministry of the Cayman Islands. I currently serve on the Advisory Council to New Mexico State University's Center for Regulation. A complete listing of my qualifications, publications and expert testimony is attached in Exhibit JPG-1.

Q. On whose behalf are you testifying?

A. I am testifying on behalf of the Florida Competitive Carriers Association ("FCCA"). The FCCA is a coalition of Florida competitors committed to the advancement of policies that encourage local and long distance competition in the state. The jobs, services and customer savings that these companies provide represent the competitive hopes of both the federal Telecommunications Act of 1996 ("federal Act") and Chapter 364, Florida Statutes, as well.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to provide the Commission with an understanding of competitive conditions in Florida's local exchange market so that it may

approach the issues in this proceeding fully appreciating the effects of its decisions on the residential and small businesses consumers in this state. This is not an abstract debate with intellectual appeal but little practical effect – the decisions that the Commission reaches in this proceeding will have a real and immediate impact on the choices available to Florida consumers, and on the prices that they pay for their telecommunications services.

As part of this overview, my testimony also provides a simplified "roadmap" to understanding the FCC's Triennial Review Order (TRO) as it applies to unbundled local switching and its use as part of the unbundled network element platform (UNE-P) used to serve "mass market" customers. The TRO unfortunately requires that the Florida Commission follow a relatively complex path to reach a relatively simple conclusion, namely that conditions in Florida do not warrant reversal of the FCC's *national* finding that CLECs are impaired in serving the mass market without access to unbundled local switching. Particularly in light of this state's policy *favoring* unbundling -- as I explain in more detail below, the Florida Legislature has soundly endorsed UNE-based competition – there is no basis to conclude that there are Florida-specific conditions that would justify overturning the FCC's national finding of impairment here. In addition, I explain why the Commission should not view its choices as favoring one form of entry over another, or as hampering incentives for greater facilities deployment. Unbundling the legacy telephone network encourages competition, and the more

competition that exists for *today's* customers, the more investment that will occur to retain these customers in the *future* as their needs and options change.

The stark reality is that before UNE-P became generally and operationally available to CLECs, there was no meaningful mass-market competition. If UNE-P is eliminated prematurely, there will be no viable alternatives for Florida consumers and the mass market will revert to a monopoly once again. In the BellSouth region alone, eliminating UNE-P would reduce local competition in 2004 (based on BellSouth's projections) *by nearly 90%* -- a fact that underscores the critical importance of this proceeding. If the Commission is interested in competition for the average "plain old telephone service" ("POTS") customer – and it is clear that the Florida Legislature is critically interested in there being competition for the POTS subscriber – then the continued availability of UNE-P is the vehicle to attain that result.

Q. Does your testimony also directly address the specific issues in this proceeding?

A. Yes. In addition to providing the Commission the appropriate context for its evaluation of impairment, my testimony also directly addresses a number of listed issues. Specifically:

Selecting the Appropriate Area for Impairment Analysis

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

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

a) the locations of mass market customers actually being served by CLECs;

b) the variation in factors affecting CLECs' ability to serve each group of customers; and

c) CLECs' ability to target and serve specific markets profitably and efficiently using currently available technologies?

Determining whether the FCC's "Triggers" are Satisfied

Issue 4a) In which markets are there three or more CLECs not affiliated with each other or the ILEC, including intermodal providers of service comparable in quality to that of the ILEC, serving mass market customers with their own switches?

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

Finally, the testimony concludes with recommended "next steps" to help the Commission to plan for the issues that will remain at the conclusion of this proceeding. First, it is useful to remember that BellSouth has voluntarily accepted, under the terms of Section 271's social contract, the obligation to offer unbundled local switching (at least as long as it desires to offer long distance services in its territory) at rates that are "just and reasonable and

nondiscriminatory" and which provide entrants "meaningful access." (TRO ¶ 603). As a result, the Commission will need to adjudicate (as the arbiter of interconnection disputes) rates that comply with this pricing standard for any local switching rate (such as the rate for DS-1 switch ports) that is no longer required under Section 251of the Act. Second, the FCC has requested that states develop procedures to conduct periodic review of the incumbent's unbundling obligations. (TRO ¶ 424). Consequently, at the conclusion of this proceeding,, the Commission should establish the process it will use to conduct future inquires.

II. The Unbundling Policy of the State of Florida

Q. Has the State of Florida adopted a policy concerning unbundling?

A. Yes. Nearly a year before the federal Act was enacted, the Florida Legislature passed groundbreaking legislation setting forth this state's policy concerning local competition, unbundling and retail deregulation. The critical elements of that policy are set forth in section 364.051 (Price Regulation) and section 364.161 (Unbundling and Resale) of the Florida Statutes. These sections were enacted as a package of reforms that deregulated the incumbent's profits, while requiring that the incumbent make available its local network to entrants so that local competition would develop.

The Legislature was quite clear that the policy of the State of Florida is to encourage competition, including competition that results from unbundling. This policy, as embodied in Florida law, is very specific and clear (emphasis added):

> 364.161 Unbundling and resale –
>
> (1) Upon request, each local exchange telecommunications company shall unbundle all of its network features, functions, and capabilities, including access to signaling databases, systems and routing processes, and offer them to any other telecommunications provider requesting such features, functions or capabilities for resale to the extent technically and economically feasible.

The question as to whether requiring the ILECs to unbundled their networks is an appropriate policy is not before the Commission; that decision has already been made by the Florida Legislature and the Governor in the context of an overall reform package that included deregulating the ILECs' profits. In exchange for the opportunity to have their profits deregulated, the ILECs must unbundle every part of their local network, so long as it is technically and economically feasible to do so. Obviously, there can be *no* question that the unbundling of switching is technically and economically feasible, as unbundled local switching underlies most local competition in Florida today. Moreover, the Legislature directly ordered that switching be unbundled, through its specific direction that the incumbent offer "...access to signaling databases, systems and routing processes" to other providers.

Q. Are you recommending that the Commission independently order the ILECs to offer unbundled local switching under state law?

A. No, but only because such an action is unnecessary. The FCC has made a national finding that CLECs are impaired without access to unbundled local switching (at least to serve mass market customers), and the record of this proceeding will demonstrate that there is no basis for overturning that finding in Florida. I do believe, however, that the Florida Commission should analyze the issues in this proceeding through the prism of the state law and the policy choices that have already been made, fully cognizant that it is the *express* policy of the State of Florida to rely on unbundling as a means to foster competitive markets in Florida for telecommunications services, and that the state's unbundling policy was adopted as a critical companion to its policy deregulating the incumbent's profits.

Q. Does Chapter 364 provide additional insight into the priorities of the Florida Legislature?

A. Yes. Over the past several years, the incumbents have waged a public-relations campaign to avoid their unbundling obligations based on the false assertion that these unbundling obligations discourage investment (a claim that I address in more detail later in my testimony). To begin, I note that the Florida Legislature found no such tension. To the contrary, in the legislative intent section of

Chapter 364, the Legislature expressed its belief that Chapter 364 *would* encourage investment in telecommunications infrastructure, even though its reforms required the incumbent to unbundle *every* feature and capability of its network:

> 364.01(3). The Legislature finds that the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications service, encourage technological innovation, and encourage investment in telecommunications infrastructure.

In addition to its commitment to customer choice, the Legislature is just as concerned with jobs as it is with investment. The Legislature further stated in section 364.01(3):

> The Legislature further finds that changes in regulations allowing increased competition in telecommunications services could provide the occasion for increases in the telecommunications workforce; therefore, it is in the public interest that competition in telecommunications services lead to a situation that enhances the high-technological skills and the economic status of the telecommunications workforce.

Just as most of the local competition in Florida today depends upon unbundled access to local switching, so too do most of the competitive telecommunications jobs in the state. As I explain in more detail later in this testimony, there is nothing mystically beneficial about encouraging the deployment of additional switching capacity in a state where switching capacity is already in excess supply.

The policy of the State of Florida is to encourage additional competition and jobs, in part as a counter-balance to the deregulation already granted the incumbents in *anticipation* of the competition that is only now developing.

III. Mass Market Competition in Florida

Q. Why would the Legislature have been so concerned with establishing local competition?

A. When the Legislature permitted the incumbents to elect price cap regulation, the only consumer protection from the incumbent earning unreasonably high profits would be competition that had not yet developed. Importantly, the basic POTS customer – i.e., the analog phone customer, principally interested in voice phone service, referred to in this proceeding as the "mass market" customer – provides the foundation of the incumbent's monopoly and the market most in need of competitive reform.

Q. Does the mass market include both residential and business customers?

A. Yes. Perhaps because we are all residential customers, we intuitively appreciate the fact that the residential marketplace is part of the mass market. The forgotten customer of telecommunications policy, however, is the average (which is to say in this context, voice-centric) small business customer. As I explain below

(Section V defining the Mass Market), there is a fundamental difference between the enterprise and mass market customer that essentially follows the line dividing analog and digital services.

The mass market POTS marketplace has long been the focus of traditional regulation, with users principally interested in basic voice services – dial tone, vertical features, local and long distance calling. Demonstrating the importance of this customer segment is the fact that a centerpiece of federal and state public policy has been the goal of "universal service" – i.e., assuring the widespread availability of these services at affordable prices. It would make little sense to adopt a commitment to the availability of POTS (i.e., universal service), without being equally committed to assuring that this same customer segment enjoys competitive choice.

Q. What evidence is there that UNE-P is the primary engine of competition in the POTS market?

A. The most obvious evidence is the FCC's national finding that "… requesting carriers are impaired without access to unbundled local circuit switching when serving mass market customers." (TRO ¶ 419). This conclusion is amply supported by the evidence before the FCC, as well as a review of local competition statistics here in Florida.

The fact is that mass market competition – that is, competition for the average POTS customer – depends today on competitive carriers being able to have access to ILEC unbundled local switching and UNE-P. The Commission's report to the Legislature confirms the importance of UNE-P -- the growth of UNE-P in the BellSouth region *alone* accounted for nearly 80% of the *statewide* growth in CLEC lines reported in the Commission's 2003 survey on local competition. As noted earlier, BellSouth expects that nearly 90% of the local competition in its region will be through UNE-P. Even in the Verizon region – not exactly the poster child for local competition -- UNE-P was responsible for approximately 80% of the competitive activity during 2003 (through August. Source: Verizon Response to FCCA Interrogatory No. 4).

These state-specific statistics are consistent with national data filed during at the FCC during the Triennial Review proceeding (and summarized below). As the following table shows, UNE-P is critical to POTS competition for residential customers *and* small businesses that desire analog-based telephone service.

UNE-P Penetration in Mass Market

Holding Company	Penetration Rate	
	Business	Residential
BellSouth	12.2%	4.6%
Qwest	7.4%	2.1%
Verizon (Bell Atlantic)	7.6%	7.7%
SBC	6.2%	8.5%
Total	7.6%	6.7%

Source: UNE-P lines are from RBOC *Ex Parte* Filings in CC Docket 01-338, or as reported by Commerce Capital Markets, December 20, 2002. Vintage of data varies, but is generally from August or September, 2002. Relative penetration rate calculated as UNE-P lines (business or residential) as a percentage of residential and business analog lines. Source: ARMIS 43-08.

Q. What type of carrier is using UNE-P to compete in the POTS market?

A. Not surprisingly, the largest competitors using UNE-P to compete in the mass market are the traditional long distance carriers, AT&T and MCI. More recently, Sprint has announced its intention to compete in the local exchange POTS market using UNE-P, and has given added meaning to that announcement by admitting that CLECs are impaired without local switching in its own local exchange territory. The fact that Sprint, the nation's largest incumbent local exchange carrier (not affiliated with an RBOC) has concluded that UNE-P is needed to compete for mass market customers provides further validation that UNE-P is the efficient, economic choice (and, conversely, that other approaches simply will not produce comparable results).

Because each of the traditional long distance carriers had a relatively large preexisting base of voice customers, they have also become the largest *individual* competitors using UNE-P. The largest *collective* purchaser of UNE-P, however, is the new wave of competitive entrants that rely on UNE-P to bring fresh energy and innovative ideas and services to this market segment. It is estimated that more than 40% of the UNE-P lines are purchased by non-IXC CLECs (nearly 1/3 more than AT&T or MCI), demonstrating the importance of UNE-P to reducing entry barriers in the POTS market. (Source: *UNE-P Fact Report*, published by the PACE Coalition, July 2003).

The bottom line is that UNE-P has brought needed competition to the POTS market to a degree that nothing else has (or can). The Commission must not eliminate the one entry strategy that is bringing competition and choice to the mass market throughout the state, until and unless it is confident that something else stands ready to take its place. This is particularly true where the ILEC is attempting to evade an unbundling obligation explicitly required by the Florida Legislature in *anticipation* of the very competition in the mass market that UNE-P is only just now beginning to provide Florida consumers.

IV. A Roadmap to the Triennial Review Order

Q. Did the FCC conduct a *comprehensive* evaluation of the impairment that limits mass market local competition?

A. No. It is important to remember that the FCC focused its analysis – and rested its conclusion -- on only one source of impairment, the manual hot cut process used to provision analog loops to CLEC switches. Based on this single factor, the FCC concluded that impairment exists on a national scale. (TRO ¶ 423). Significantly, the FCC did not determine that the hot-cut process was the only source of impairment – rather, having *already* found impairment nationally, it left it to the states to identify other sources of impairment that would remain (even if it were possible to correct the problems created by the manual hot-cut process).

Q. What tasks did the FCC outline for the states in the Triennial Review Order (TRO) as it relates to mass market local switching?

A. The basic structure of the TRO is essentially a three-pronged analysis:

* An "actual competition" analysis (i.e., triggers) to determine if there are markets where the level of actual competition is so vigorous, that the national finding of impairment must be wrong.

* A "potential competition" analysis to determine whether, despite the absence of "actual" competition and the finding of national impairment, there are factors that would make competition possible nonetheless.

* A "can impairment be fixed" analysis that looks at possible changes to provisioning systems – specifically, a batch hot-cut process combined with "rolling access" to unbundled switching – to determine whether the hot-cut impairment can be corrected.

It is important that the Commission not become distracted by the "scavenger hunt" feel of the various analyses that the FCC asked it to undertake in the TRO. Certainly the TRO instructs state commissions to evaluate a number of issues (at least to the extent that the ILEC demands that the state commission undertake such a comprehensive task). However, it is useful for the Commission to remember that this proceeding *starts* with a national finding that CLECs are impaired in serving mass market customers without access to ILEC unbundled local switching; the FCC simply asks the Commission to confirm there are no exceptions to this national finding.

Q. Which of these basic analyses specified in the TRO – i.e., actual deployment (triggers), potential deployment (the business case analysis), and operational improvements – does your direct testimony address in most detail?

A. The principal focus of my testimony is the role and application of the FCC's "actual competition" or "trigger" analysis set forth in the TRO. The FCC believed that the "principal mechanism" to judge impairment should be actual marketplace activity. (TRO ¶ 498). One cannot overstate the potential importance of the actual competition test – if satisfied, it *overrides* the FCC's national finding that CLECs are impaired without access to unbundled local switching to serve the mass market and *short circuits* further state review regarding the extent of economic and operational barriers (at least under the federal Act). Given the potentially critical role the trigger analysis plays, it is essential that the Commission apply the trigger analysis with a care that is scaled to the important consequences that could potentially follow if the trigger test is satisfied. (As I explain later in my testimony, there may be little consequence in the territory served by BellSouth from a trigger being satisfied because BellSouth would still be obligated to offer unbundled local switching under Section 271 of the Act). As a result, a discussion of the requirements for the FCC's "triggers" analysis forms the most detailed area of my testimony.

Q. Does your testimony also address the "potential deployment" analysis required by the TRO?

A. Yes, but not to the same extent as my discussion of "actual competition." The FCC's "potential deployment analysis" is mostly useful as a forensic examination designed to understand the *causes* underlying the CLECs' post-Act experience.

This is not a case where CLECs *have not* tried to enter local markets with their own facilities and the Commission must rely on *predictions* about profitability and competition. The widespread failure of CLECs over the past several years is a "fact" of actual market experience that cannot be ignored. The FCC's requirement that the states conduct a potential deployment analysis (at least where the incumbent insists) is useful mostly to determine *why* the CLECs' competitive results have been what they are, and as a means to help illustrate the additional impairments (beyond the manual hot-cut process) that the FCC did not consider.

Q. Would it be reasonable for the Commission to remove a network element based on a potential deployment analysis?

A. I realize that the incumbent LECs have the opportunity (under the TRO) to attempt to "explain away" the absence of local competition in their mass market by sponsoring a "model" that shows such competition *should* occur, even if it has not yet done so. But is it really reasonable to conclude that local competition for mass market POTS customers in the absence of UNE-P is possible, in direct contradiction of the past seven years of experience, and with the most relevant measure of existing competition (i.e., the actual competition test) showing that alternative approaches to serving the mass market have yet to work? No, of course not.

The "potential deployment" analysis should not be about placing the Commission in the role of an omniscient "super investor," able to design through a regulatory contested case the ultimate business case that has eluded real investors over the past seven years. If the ILECs were really interested in demonstrating that providing POTS services to mass market customers by deploying competitive switches to connect analog loops is feasible and profitable, they have had the same seven years to demonstrate this point by actually competing using this entry strategy in each other's regions. That they have not done so speaks volumes about the credibility of any potential deployment business model that the ILECs may present in this proceeding. Rather than enter and compete for mass market customers in other ILEC regions, the chosen "entry" strategy of the RBOCs has been to buy other RBOCs in an ever increasing spiral of consolidation. As previously discussed, the largest non-RBOC ILEC (Sprint) has concluded that the only feasible way to serve mass market customers outside of its ILEC territory is to utilize unbundled local switching and UNE-P. Conclusions supported by the ILECs' actual behavior should be given more weight than any model they present.

The point here is that a "potential deployment" model may be useful to explain why entry has *not* occurred, but only a flawed model with unrealistic revenue and cost assumptions will show that entry is possible after so much CLEC time, effort and capital has already been expended to actually test that claim in the real world.

Q. Should the Commission expect that a batch hot-cut process would eliminate impairment?

A. No, it should not. Although the operational impairment issues are discussed more fully in the testimony of other witnesses, the point that I would like to make here is that the manual batch hot-cut and rolling access "solution" that the FCC has suggested would be meaningful only if the manual hot-cut process were the only impairment preventing CLECs from serving mass market customers with their own switches. Although the FCC requires the states to consider such a "solution," in the end, the process would still require the manual provisioning and movement of mass market customers' analog loops from the ILEC switch to the CLEC switch. There is no reason to believe that such an approach would be satisfactory to serve the mass market POTS customers who "have come to expect the ability to move freely from carrier to carrier in a seamless and rapid manner," (TRO ¶ 474), similar to the consumers' change of long distance carrier with an automated PIC change

Moreover, as indicated above, the "solution" would only materially reduce impairment if the manual hot-cut process were the *only* impairment – that is, if the only reason entrants relied on unbundled local switching to serve the mass market was to avoid the operational and economic impairments created by the manual hot-cut process, then the batch-cut system (with significantly lower loop migration costs) might alleviate those impairments. There are, however, other

impairments and cost disadvantages that the approval of a batch hot-cut approach does nothing to lessen, including impairments and cost disadvantages associated with the requirement to digitize and backhaul traffic from the ILEC switch where all mass market analog loops terminate to a distant CLEC switch (as described in the testimony of AT&T's witness Steve Turner), as well as other cost consequences of the economies of scale and scope that the ILEC inherited, but that the new entrant must overcome.

Finally, there is no reason to believe that a batch hot-cut "solution" would be as reliable, cost-efficient and, perhaps most importantly, transparent to the customer as the "electronic hot-cut" effected when a CLEC customer is provisioned on UNE-P. In effect, the batch hot-cut approach presupposes that competitors can build a relatively stable customer base, with virtually all of the customers won from the incumbent (and few from each other). The FCC never explains in the TRO *why* a competitive local market would exhibit these characteristics – certainly these are not the lessons learned in the years after the long distance market became competitive, with customers frequently moving between carriers, including moving *among* competitive carriers and not just from AT&T (the long distance incumbent).

As a practical matter, in order for a new hot-cut system to materially change competitive conditions in the "mass market," it would have to facilitate rapid and inexpensive customer changes between competing providers on a scale

comparable to the electronic process that currently exists for provisioning of a CLEC customer via UNE-P. Thus, while it is important that the Commission work to improve the "hot-cut" process, it should not begin that work under the assumption that a batch-system is what will be needed to have a meaningful effect in the marketplace.

V. Defining the "Mass Market"

Q. What basic questions must the Commission address to fully define the "mass market"?

A. The mass market is generally defined by the FCC as the POTS market – that is, the market of customers obtaining analog voice service. There are two parameters, however, that the FCC has asked the state commissions to establish in order to define the "mass market" in its state. The first is to determine the "cross-over" that will define the upper boundary of the mass market in terms of the number of voice lines a customer should have before the customer should be viewed as an "enterprise customer." The second parameter is that the FCC has asked the states to determine the appropriate "geographic boundary" of the mass market in which it will conduct its impairment analysis.

Q. As a threshold question, does your direct testimony recommend a specific cross-over and geographic area for the Commission to use in evaluating impairment?

A. No, not at this time. As I have noted before, this proceeding begins with a national finding of impairment that justifies the unbundling of local switching to serve analog customers. I believe it is the ILECs' obligation in the first instance to explain *why* and *where* impairment does not exist, with that claim being tested by other parties in this proceeding. As a result, my testimony provides overall guidance as to how the Commission should approach these questions, while specific recommendations will be provided after I have reviewed the ILECs' claims in their direct testimony.

A. Establishing the Upper Bound of the Analog Mass Market

Q. How does the TRO define the mass market customer?

A. The TRO provides a basic definition of the "mass market customer" and contrasts it with the "enterprise customer." The mass market customer is (a) primarily interested in basic voice POTS service; (b) widely geographically dispersed; and (c) unaccustomed to complex or disruptive provisioning schemes. As the FCC explains, "mass market customers are analog voice customers that purchase only a limited number of POTS lines, and can only be economically served via DS0

lines." (TRO ¶ 497). Mass market customers are not located in concentrated geographic locations, such as central business districts; rather residential and small business customers are located across all urban, suburban, and rural locations. These customers expect that using their telephone services, as well as changing service providers, will not be a complicated transaction ("mass market customers demand reliable, easy-to-operate service and trouble-free installation," TRO ¶ 467).

Q. How does an "enterprise" customer differ from a "mass market" customer?

A. Enterprise customers demand a level of service and capacity – particularly for data services – quite different than for the mass market customer. As the FCC explained: "DS1 enterprise customers are characterized by relatively intense, often data centric, demand for telecommunications services sufficient to justify service via high-capacity loops at the DS1 capacity and above." (TRO ¶ 451).

Q. Does the TRO recognize this distinction in the DS0/DS1 cutover analysis to be performed by the Commission?

A. Yes. The TRO provides that a customer should be considered part of the DS1 enterprise market when "it is economically feasible for a competitive carrier to provide voice service with its own switch using a DS1 or above loop. We determine that this includes all customers that are served by the competing carrier

using a DS1 or above loop and all customers meeting the DS0 cutoff," (TRO ¶ 421, n.1296), with the cutoff defined as "the point where it makes economic sense for a multi-line customer to be served via a DS1 loop." (TRO ¶497).

Q. How should the DS0/DS1 cutover point be established?

A The most straightforward way to establish the cutover is through a simple calculation that determines when the cost of a UNE DS1 (including non-recurring activities and the installation of customer premises equipment necessary to utilize DS1 level service) is less than continued use of multiple UNE analog loops for voice service. This point forms the "upper bound" of the analog mass-market, i.e., the point at which a mass market customer should be considered an enterprise customer based on the number of analog lines used to obtain voice service.

Generally, to estimate the line-count of mass-market lines at which a DS-1 is the more efficient choice, the following formula should be used:

$$\text{Crossover} = \frac{(\text{CPE} + \text{UNE DS-1})}{\text{UNE Loop}}$$

Where "CPE" includes all the costs associated with the equipment and inside-wire changes needed to make the customer's analog service compatible with a DS-1 loop, and where the values for "UNE DS-1" and "UNE Loop" include all relevant costs of leasing these facilities from the incumbent (including non-

recurring charges to establish service). Although there are other factors that might be included in a more sophisticated analysis, the above approach captures the essence of the calculation.

Q. Are there any considerations that the Commission should keep in mind when it adopts the "DS0/DS1" cross-over?

A. Yes. The purpose of the cross-over is to establish a governmentally drawn upper boundary to the mass market – in effect, substituting the Commission's judgment of how a customer *should be* served (via a DS-1), for the customer's judgment of how it *has chosen* to be served (multiple analog loops). While the above formula complies with the direction of the TRO, the Commission should be aware that this simple calculation does not take into account a number of factors that, in the real world, would explain why a customer with multiple voice loops would not want to move its POTS service to a higher-capacity facility.

For example, a customer may not desire a DS1-based service because of the requirement that it make space available for channel bank equipment on its premises. Customers may not want to give up the space for such equipment, or may resist the telecommunications provider's need to have access to the premises to maintain or repair the equipment. Alternatively, because of provisioning problems or the customer's individual traffic patterns, the CLEC might need to use higher priced special access rather than UNE DS1 facilities (which would

significantly increase the cross-over). In these circumstances, the customer would have good reasons to preserve its analog POTS service, even if it were at or above the theoretical cut-over point described above.

By failing to consider these factors, the DS0/DS1 cut-over required by the FCC will strand some customers from competitive choice because they will not *really* be in a position to take advantage of a DS-1 connection, they will only be *presumed* able to do so. Consequently, the Commission should be especially careful that it not adopt a cut-over that is unreasonably low, because even a "theoretically correct" cut-over is likely to adversely effect some customers.

B. The Appropriate Geographic Area for the Evaluation of Impairment

Q. What general approach should the Commission use in selecting the geographic area for its impairment analysis?

A. The TRO lays out a relatively simple (yet reasonably useful) approach – look at the areas being served by a particular network element and determine whether an alternative could reasonably produce the same result. Such an approach is obviously (and correctly) customer-centric, with the states being directed to consider, among other things (TRO ¶ 495):

:

* The locations of customers actually being served (if any) by competitors;

* The variation in factors affecting competitors' ability to serve each group of customers; and,

* The competitors' ability to target and serve specific markets economically and efficiently using currently available technologies.

The only bounds that the FCC placed on the state's discretion in determining the geographic contours of a "market" (or, more properly stated, an impairment evaluation zone) is that the area must be smaller than an entire state. At the same time, it must not be so small that "...a competitor serving that market alone would not be able to take advantage of available scale and scope economies from serving a wider market."

Q. Have you reviewed data that identifies "the locations of customers actually being served (if any) by competitors?"

A. Yes. My review, however, is incomplete because Verizon has not yet provided a response to an Interrogatory that requests the in-service quantities of UNE-P lines in its territory. My review of what information is currently available, however, demonstrates that UNE-P exhibits a very distinct competitive profile – that is, UNE-P (and only UNE-P) brings competitive choice throughout the serving territory of the ILEC. As the Commission approaches its impairment analysis, it

is important that it define "geographic areas" in a manner that permits it to recognize the unique competitive signature of UNE-P, so that it may test other entry strategies to see whether they could produce the same level of competitive choice.

Q. Have you quantified the competitive profile of UNE-P in Florida?

A. Yes. Exhibit JPG-2 analyzes the competitive profile of UNE-P in the exchanges served by BellSouth, based on BellSouth's in-service UNE-P volumes (by exchange) reported in its Schedule 8 filing with the Florida Commission. The bar chart in Exhibit JPG-2 plots the competitive penetration achieved by UNE-P in each of BellSouth's exchanges in Florida, ranked by the size (measured in access lines) of the exchange. BellSouth's largest exchange (Miami with over 900,000 lines) is farthest on the left, while BellSouth's smallest exchange (Munson, with 600 lines) is on the right. BellSouth's remaining exchanges are arranged in-between according to size.

As the Exhibit JPG-2 clearly shows, CLECs utilizing UNE-P to serve mass market customers have brought competition to *every* BellSouth exchange in Florida, irrespective of the size of the exchange. The significance of this competitive profile cannot be overstated – the competitive signature of the UNE-P entry strategy is its ability to serve the mass market across the *entire* mass market

without geographic limitation. No other competitive entry strategy can provide this result.

Q. Have you also analyzed the competitive profile of *current* activity?

A. Yes. Exhibit JPG-3 evaluates the pattern of recent competitive activity in the BellSouth territory by analyzing the *growth* in UNE-P during 2003 (through September) across BellSouth's exchanges (again, ranked from largest to smallest). As Exhibit JPG-3 demonstrates, UNE-P is making it possible for customers throughout the state to benefit from local competition.

Q. Have you evaluated similar information for Verizon?

A. Yes. Although Verizon has not yet produced in-service quantities of UNE-P (by exchange), they have provided the number of UNE-P orders by exchange. This means that while the overall penetration of UNE-P cannot be calculated (at least until Verizon fully responds to FCCA Interrogatory #4), it is possible to analyze recent competitive activity.

Exhibit JPG-4 plots the average number of UNE-P lines/month provisioned by Verizon over the last six months for which data is available (March 2003 through August 2003). As with the earlier exhibits for BellSouth, Exhibit JPG-4 provides this data for each of Verizon's wire centers in Florida, ranked by size (measured

in access lines). Verizon's largest wire center (Brandon) is farthest on the left, while Verizon's smallest wire center (Bradley) is on the right. Verizon's remaining exchanges are arranged in-between according to size.

Q. Does the data indicate that UNE-P is similarly bringing local competition to all of Verizon's wire centers?

A. Yes. During the past six months, customers have chosen a competitor providing service using UNE-P in every wire center in the Verizon territory with the single exception of Bradley.

Q. What conclusion should the Commission draw from the competitive profile illustrated in Exhibits JPG-2 through JPG-4?

A. The competitive profile of UNE-P clearly demonstrates that "the locations of customers actually being served (if any) by competitors" is, in fact, the entire territory of the incumbent. This is not to say that *every* carrier will offer service across the entire profile, but rather the *strategy* itself supports competition in each wire center. As the Commission judges alternatives to UNE-P, it should do so fully aware that UNE-P produces statewide competition – and it should not restrict the availability of unbundled local switching and UNE-P unless it can conclude that an alternative will produce a similar competitive profile.

Q. Do you believe that statewide competition was intended by the federal Act and Chapter 364?

A. Yes. For its part, the Florida Legislature has certainly expressed concern that POTS services "...are available to all consumers in the state at reasonable and affordable prices," and that the Commission should "...ensure the availability of the widest possible range of consumer choice in the provision of all telecommunications services." (§ 364.01(4)(a) and (b), Florida Statutes, emphasis added). There is certainly nothing in Chapter 364 that would suggest that the Legislature intended for the Commission to favor particular geographic areas over others, permitting selected forms of competition in some areas, while denying customers in other areas of the state the same choices.

In addition, it is clear that one of the goals of the federal Act is to encourage broad competition throughout an entire state. For instance, the Act fundamentally judges whether local markets are open (in Section 271) on a state-by-state basis:

> The requirement of an operational competitor is crucial because ... whatever agreement the competitor is operating under must be made generally available throughout the State. Any carrier in another part of the State could immediately take advantage of the "agreement" and be operational fairly quickly. By creating this potential for competitive alternatives to flourish rapidly throughout a State, with an absolute minimum of lengthy and contentious negotiations once an initial agreement is entered into, the Committee is satisfied that the "openness and accessibility" requirement is met.

Ameritech Michigan Order, Federal Communications Commission, CC Docket 97-298, Footnote 169, citing House Report, emphasis added.

The bottom line is that the Commission is observing in the market exactly the type of statewide competitive activity that the Florida Legislature and the U.S. Congress hoped to see when they opened these markets to competition. Consequently, the Commission should take great care that it not take any action to curtail UNE-P based competition, unless it is confident that an alternative would produce the same result.

VI. Applying the Actual Competition Test: Triggers

Q. How should the Commission approach the trigger analysis?

A. When the FCC asked the states to conduct the trigger analysis, it did so with the expectation that the states would apply the "actual competition test" embodied in the trigger analysis with judgment as well as actual data. As the FCC indicated, "We find that giving the state this role [as fact-finder on triggers and other impairment issues] is most appropriate where, in our judgment, the record before us does not contain sufficiently granular information and the states are better positioned than we are to gather and assess the necessary information." (TRO ¶ 188).

The FCC is relying on the states to examine local markets based on the Commission's knowledge and familiarity with local conditions. The Commission's role in this context obviously is not to merely review the data that was already provided to the FCC regarding the deployment of CLEC switches, but rather to conduct a full inquiry into whether the trigger criteria set forth in the TRO are satisfied.

The application of the triggers requires an in-depth approach that gets at the key question of whether actual competition for mass market customers exists in a given market, other than through access to UNE-P. The FCC sought to create triggers "keyed to objective criteria," (TRO ¶ 498), (which criteria are described in more detail below) and provided insights into the judgment that the Commission should apply.

Q. Please describe the trigger analysis established by the FCC.

A. The trigger analysis is fleshed out by the FCC in several paragraphs in the TRO, but are summarized in the following (TRO ¶ 499):

> The triggers we set forth rely on the number of carriers that self-provision switches or the number of competitive wholesalers offering independent switching capacity in a given market. In both cases, the competitive switch providers that the state commission relies upon in finding either trigger to be satisfied must be unaffiliated with the incumbent LEC and with each other. In addition, they should be using or offering their own separate

> switches. This requirement avoids counting as a true alternative a provider that uses the switching facilities of the incumbent LEC or *another* alternative provider that has already been counted. Moreover, the identified competitive switch providers should be actively providing voice service to mass market customers in the market. Identified carriers providing *wholesale* service should be actively providing voice service used to serve the mass market and be operationally ready and willing to provide wholesale services to all competitive providers in the designated market. However, the competing carriers' wholesale offerings need not include the full panoply of services offered by incumbent LECs. (emphasis in original)

Additional criteria to be applied in the switching trigger analysis are included in portions of the TRO that both precede and follow the description above. For example, the FCC noted that CMRS providers should not be considered by a Commission in its analysis the triggers, (TRO ¶ 499, n.1549), and the FCC reiterated the importance of distinguishing between "enterprise switches" and "mass market switches" in the trigger analysis. (TRO ¶441 and n. 1354, ¶ 508).

Q. What criteria are included in the FCC's framework for the "Self-Provisioning Trigger"?

A. In the TRO, the FCC provides guidance and criteria as to the basic qualities a competitive LEC must exhibit in order to be considered a legitimate candidate for the "self-provisioning" trigger. At each step, these criteria are designed to conform to the touchstone purpose of the trigger evaluation -- to determine whether there is sufficient actual mass market competition being offered by

switch-based CLECs to justify a "no impairment" finding in a market in *spite* of the national finding of mass market switching impairment.

The self-provisioning trigger criteria can be organized into six categories. Before a "trigger candidate" can be found to qualify as satisfying the self-provisioning trigger, the criteria contained in the TRO for each of these categories must be satisfied. The six categories are as follows:

* The self-provisioning trigger candidate's switches must not be "enterprise" switches.

* The self-provisioning trigger candidate must be actively providing voice service to mass market customers in the designated market, including residential customers, and is likely to continue to do so.

* The self-provisioning trigger candidate should be relying on ILEC analog loops to connect the customer to its switch.

* If the self-provisioning trigger candidate provides an "intermodal service," its service must be comparable to the ILEC service in cost, quality, and maturity.

* The self-provisioning trigger candidate may not be affiliated with the ILEC or other self-provisioning trigger candidates.

* The existence of the self-provisioning trigger candidate should be evidence of sustainable and broad-scale mass market competitive alternatives in the designated market.

Only if each of these trigger criteria is met does a candidate qualify as one of the three self-provisioning providers necessary to satisfy the FCC's self-provisioning trigger.

Criteria 1: Enterprise Switches Do Not Qualify as Triggers

Q. You identify the first criterion as requiring that the self-provisioning trigger candidate's switches must be "mass market" switches rather than "enterprise" switches. Please describe the FCC's discussion of this criterion in the TRO.

A. The analytical importance of the distinction between the "mass market" and "enterprise market" pervades the TRO. The FCC found that, even based on the limited record before it, there was a clear distinction between the mass market and the enterprise market, both in terms of customer profile and the state of CLEC switch deployment.

I have already explained the difference between mass market and enterprise customers (see V.a. above). Similarly, the FCC found that CLEC switch deployment is significantly different in the mass market and the enterprise market: "[W]e find that the record demonstrates significant nationwide deployment of switches by competitive providers to serve the enterprise market, but extremely limited deployment of competitive LEC circuit switches to serve the mass market." (TRO ¶ 435).

Based on the demonstrated differences between mass market and enterprise switches deployed in the marketplace, the FCC specifically rejected ILEC arguments that mass market switches and enterprise switches should be reviewed together in the mass market triggers analysis. (TRO ¶ 441). While the FCC allows deployment of an enterprise switch to be considered as a factor in the mass market "potential deployment analysis," (TRO ¶ 508), the FCC recognized that the existence of an enterprise switch has no weight in determining whether a mass market switching trigger has been satisfied: "[S]witches serving the enterprise market," the FCC held, "do not qualify for the triggers" applicable to mass market switching. (TRO ¶ 508). The TRO thus directs the Commission to consider only mass market switches in the mass market switching trigger analysis.

Q. How does the FCC distinguish between "mass market" and "enterprise" switches?

A. To begin, the FCC recognized that enterprise switches may incidentally serve some non-enterprise customer lines. (TRO ¶ 441). This recognition is based on the simple fact that there are a variety of reasons a CLEC serving the enterprise market with its own switch may provide some incidental analog service and, therefore, obtain some analog loops as an ancillary extension of its operations. This could occur in the case of a CLEC's enterprise customer requesting fax lines (serving an analog data need, but not providing evidence that a mass market POTS service is made available). Incidental analog services and loops may also result from service to a large, multi-location enterprise customer buying a package of services from the CLEC that includes, for a particular branch office, a small number of analog lines. It would be contrary to common sense, as well as to the FCC's trigger criteria, to declare a switch to be serving the mass market when the number of analog loops provisioned to that enterprise switch is small compared to the number of digital loops serving enterprise customers. Consequently, the Commission must examine the type of customer loops (analog versus DS1 and above) being provisioned to a CLEC switch to determine whether the switch is, in fact, a "mass market switch" that potentially satisfies the requirements to be a self-provisioning trigger candidate for mass market switching.

Criteria 2: Self-Providers Must Be Actively Providing Mass Market Service

Q. The second trigger criterion you describe requires that the self-provisioning trigger candidate must be actively providing voice service to mass market customers in the designated market, including residential customers, and is likely to continue to do so. Please identify the provisions of the TRO which discuss this criterion.

A. This measure summarizes several criteria that the FCC requires before a CLEC satisfies the self-provisioning trigger. To break this category into its component parts, the TRO requires that a self-provisioning trigger candidate: (a) provide voice service to mass market customers, (TRO ¶ 499); (b) that it is "actively" providing such service, (TRO ¶ 499); and (c) that the self-provisioning trigger candidate is likely to continue actively providing voice service to mass market customers in the future. (TRO ¶ 500).

Q. How should the Commission determine whether a CLEC is providing "voice service to mass market customers"?

A. In determining whether this criterion is met, the Commission must first *exclude* potential trigger candidates who do not provide *voice service* and who do not serve *mass market customers*, including those that do not serve any residential customers. For example, as noted above, some analog loops that have been

provisioned to a CLEC switch are used for purely data purposes (e.g. DSL or fax lines), and thus do not provide voice service. Such lines should not be included in determining whether the self-provisioning trigger candidate provides voice services to the mass market.

Perhaps more significantly, the Commission must ensure that the voice services provided by self-provisioning trigger candidates are being provided to mass market customers rather than to enterprise customers. A customer purchasing voice and data services provisioned by a DS1 loop is by definition an enterprise customer (TRO ¶ 451) and not a mass market customer (even if only a small number of voice lines are being served along with the data pipe). The Commission's trigger analysis must focus on the appropriate customer market, and exclude self-provisioning trigger candidates that are not serving customers that are the proper focus of the mass market switching impairment analysis.

Q. How should the Commission determine whether a self-provisioning trigger candidate is "actively" providing voice service to mass market customers?

A. The FCC recognized the importance of evidence that a CLEC is actually in the marketplace and actively marketing POTS services to mass market customers. Without evidence that a self-provisioning trigger candidate is actively providing POTS services, a CLEC that no longer serves mass market customers could satisfy a trigger that is intended to assess actual competition in the present rather

than the past. In the real world (the world the triggers seek to analyze), this is a significant concern. There are CLECs who attempted to serve mass market customers using their own switches, but found the operational and economic impairments too formidable to overcome. As a result, these CLECs abandoned the mass market segment. Those CLEC switches may still serve a limited number of "legacy" analog loops connected to customers who took advantage of an early CLEC offering and may still be served even though the CLEC is no longer adding mass market customers. It would be nonsensical for such legacy analog lines (which are remnants of business plans scrapped due to impairment) to serve as evidence that the CLEC's switch today is being used to "actively" serve the mass market. The FCC captures this concern by requiring that self-provisioning in the mass market must be occurring in an active manner today, that the providers "are currently offering and able to provide service."

One way to assess whether a self-provisioning trigger candidate is "actively" serving mass market customers is to review the types of unbundled loops provisioned to the CLEC's switch more recently (for instance, in the last 6 month period). If the loops provisioned to the switch in the last 6 months are predominantly DS1 and above, that is strong evidence that the self-provisioning trigger candidate is not actively providing POTS services to mass market customers. Moreover, as previously discussed, even where there are analog loops being provisioned to the CLEC's switch, the Commission should evaluate whether the carrier is actively marketing to mass market customers, or whether

the analog lines that it is adding are the by-product of sales to enterprise customers or some other anomaly.

Q. How should the Commission determine that the self-provisioning trigger candidate is likely to continue actively providing POTS services to mass market customers in the future?

A. The TRO asks the Commission to determine whether the self-provisioning trigger candidate is "likely to continue" offering and able to provide voice POTS services to mass market customers in the future. This determination requires that the Commission make an informed assessment of the viability of the self-provisioning trigger candidate's mass market offerings in the future. This assessment, if it is to be meaningful, should include evidence regarding the CLEC's future business prospects. If a CLEC is on the verge of exiting the market for providing mass market services (or has already left it), then it is demonstrably not "likely to continue" providing POTS services to mass market customers in the future.

Admittedly, the FCC complicated the Commission's work in this regard with its comment that "states shall not evaluate any other factors, such as the financial stability or well-being of the competitive switching providers." (TRO ¶ 500). State Commissions are directed to carry out the FCC's mandate to consider whether CLECs are likely to continue providing competitive switching

alternatives, while simultaneously indicating that they not review what might be the most salient evidence on the topic – i.e., whether the CLEC's business plan has been successful to date. Nevertheless, the Commission must conduct the necessary review of financial information to determine whether a self-provisioning trigger candidate is "likely to continue" to provide POTS services to mass market customers after the close of the record in this proceeding. Otherwise, the competitive choices that supposedly would be available to consumers if UNE-P is eliminated due to the trigger analysis may be entirely illusory.

Criteria 3: Self-Providers Must Be Relying on ILEC Loops

Q. The third criterion you reference is that self-provisioning trigger candidates should be relying on ILEC loops. What is the reference point in the TRO for this trigger criterion?

A. Although the FCC suggested that the Commission "consider" intermodal alternatives in the switching trigger analysis, it also instructed the states to give less weight (as the FCC did) to switches that do not provide a means of access to the ILEC local loop. The TRO recognizes that for most entrants in a world without unbundled local switching, access to the ILEC's loops will be critical. It would make little sense, therefore, to eliminate unbundled local switching and UNE-P switching if the only alternative in a market was, for example, used by

cable telephony providers that utilize their own loops. That atypical situation would provide no meaningful evidence of whether new entrants without legacy cable plant could compete on a UNE-L basis. The FCC made this point several times in the TRO. For example:

> Specifically, many of the [CLEC residential] lines cited by the incumbents are served by carriers that, for one reason or another, are able to use their own loops. We have made detailed findings that competitors are impaired without access to incumbents' voice-grade local loops. Indeed, no party seriously contends that competitors should be required to self-deploy voice-grade loops. *Thus, for the typical entrant, entry into the mass market will likely require access to the incumbents' loops, using the UNE-L strategy. ... Indeed, as discussed above, a crucial function of the incumbent's local circuit switch is to provide a means of accessing the local loop.*" (TRO ¶ 439, emphasis supplied).
>
> ***
>
> "*We note that an important function of the local circuit switch is as a means of accessing the local loop.* Competitive LECs can use their own switches to provide services only by gaining access to customers' loop facilities, which predominantly, if not exclusively, are provided by the incumbent LEC. Although the record indicates that competitors can deploy duplicate switches capable of serving all customer classes, without the ability to combine those switches' with customers' loops in an economic manner, competitors remain impaired in their ability to provide service. *Accordingly, it is critical to consider competing carriers' ability to have customers' loops connected to their switches in a reasonable and timely manner.* (TRO ¶ 429, emphasis supplied).
>
> ***
>
> "We are unaware of any evidence that either [cable or CMRS] technology can be used as a means of accessing the incumbents' wireline voice-grade local loops. Accordingly, *neither technology provides probative evidence of an entrant's ability to access the incumbent LEC's wireline voice-grade local loop and thereby self-deploy local circuit switches.*" (TRO ¶ 446, emphasis supplied).

Q. What does the TRO direct the Commission to do when considering evidence regarding switch-based CLECs that do not rely on ILEC unbundled loops?

A. The TRO notes that the Commission should give such evidence less weight in the trigger analysis than evidence regarding a self-provisioning trigger candidate that relies on ILEC unbundled analog loops (i.e., a UNE-L based provider). In describing the self-provisioning trigger, the TRO states: "We recognize that when one or more of the three competitive providers is also self-deploying its own local loops, this evidence may bear less heavily on the ability to use a self-deployed switch as a means of accessing the incumbents' local loops." (TRO ¶ 501, n.1560).

The Commission should apply the terms of the TRO with the logic and rationale of the trigger analysis, and its consequences at the forefront. As the FCC notes, self-deployed switches tell us something about impairment only to the extent that they provide evidence that a CLEC using its own switch in conjunction with ILEC provisioned analog loops to provide mass market POTS services (i.e. the UNE-L entry strategy) is or is not impaired in a market. Evidence regarding a provider that does not need ILEC unbundled loops (because it has its own) may demonstrate the feasibility of market entry at some theoretical level for a limited set of entrants, but it does nothing (as the TRO itself recognizes) to show whether typical entrants are impaired. I recommend that the Commission follow the logic

of the TRO's trigger framework, the FCC's direction to give such evidence less weight, and the dictates of rational thought. This path leads to considering CLECs to have qualified as self-provisioning trigger candidates only if they use ILEC unbundled analog loops to actively compete for POTS services to mass market customers.

Criteria 4: Intermodal Self-Providers Must Be Comparable to the ILEC

Q. The fourth trigger criterion you identify is that if the self-provisioning trigger candidate provides "intermodal service," the service must be comparable to the ILEC's service in terms of cost, quality, and maturity. Please explain the TRO basis for this criterion.

A. The TRO directs the Commission to "consider carriers that provide intermodal voice service using their own switch facilities" that otherwise meet the "requirements of these triggers." (TRO ¶ 499, n.1549). However, the FCC also notes that states may exclude intermodal providers from the trigger analysis: "In deciding *whether to include* intermodal alternatives for purposes of these triggers, states should consider to what extent services provided over these intermodal alternatives are comparable in cost, quality, and maturity to ILEC services." (TRO ¶ 499, n.1549, emphasis supplied). Thus, any time an intermodal trigger candidate is identified, the Commission must first examine the nature of the mass

market voice services it offers before declaring the company has satisfied the self-provisioning trigger.

The FCC conducted such an analysis in the TRO in considering CMRS (wireless services) as an intermodal alternative. The FCC found that CMRS services fell short of the trigger criteria standard. (TRO ¶499, n.1549). "Thus," the FCC concluded, "just as CMRS deployment does not persuade us to reject our nationwide finding of impairment … at this time, we do not expect state commissions to consider CMRS providers in their application of the triggers." The FCC's analysis of CMRS providers and services under the "cost, quality, and maturity" standards in the TRO is instructive and demonstrates that the Commission should carefully consider intermodal trigger candidates under this same standard.. An intermodal provider that may be proffered as an self-provisioning trigger candidate and may appear to be a mass market competitive alternative on the surface – either due to industry hype or ILEC wishful thinking – may not hold up to the trigger criteria when the facts are carefully analyzed by this Commission.

Criteria 5: ILEC Affiliates Do Not Qualify as Triggers

Q. The fifth trigger criterion you identify is that the self-provisioning trigger candidate not affiliated with the ILEC or other self-provisioning trigger candidates. Please explain the TRO basis for this criterion.

A. The FCC held that the "competitive switch providers that the state commission relies upon in finding either trigger to be satisfied must be unaffiliated with the incumbent LEC and with each other." (TRO ¶ 499). The FCC added that affiliated companies will be counted together in the trigger analysis. The FCC held that this restriction is necessary to prevent the ILECs from "gaming" of the trigger criteria.

Criteria 6: De Minimus Competitive Activity Does Not Qualify as a Trigger

Q. Please explain the final trigger criterion you recommend the Commission apply: "The self-provisioning trigger candidate should be sufficiently large to offer sustainable broad-scale mass market competitive alternatives in the designated market."

A. The TRO establishes trigger analysis as a something of a "sudden death" round of analysis, where the outcome of the analysis could potentially eliminate unbundled local switching and UNE-P in a market without further analysis of economic and operational impairment, at least under section 251 of the Act. When it established

the trigger analysis, the FCC pointed out that it believed the application of the trigger-based analysis would identify where competition for mass market customers by CLECs using their own switches and ILEC analog loops was actually occurring and achieve the policy goal of ensuring the continued existence of mass market competition. (*See, e.g.*, TRO ¶ 501). Given this belief, it is critical that the Commission not undertake its "trigger analysis" untethered from the reality of the marketplace in Florida.

In addition, the FCC acknowledged it would be unreasonable to conclude that its national finding of impairment had been overcome based on relatively low levels of competitive share gain. Specifically, the FCC rejected BOC arguments that CLECs were not impaired in the mass market by noting the low relative number of residential lines served by CLEC-deployed switches. (TRO ¶ 438). The FCC dismissed the BOC argument finding that, at best, "less than three percent of the … residential voice lines" were being served by CLEC switches. The FCC understood the common sense notion that at a certain *de minimus* level of competition, it is simply not rational to declare that the facts show impairment has been overcome.

The need to recognize market reality in the trigger analysis is particularly acute in this proceeding. Today, UNE-P (the bedrock of which is unbundled local switching) is responsible for the vast majority of the bundled services (local and long distance) competition that is reshaping the voice services marketplace. As

discussed above, UNE-P reaches broadly and deeply into urban and rural markets throughout the state. If UNE-P availability is diminished or eliminated due to findings that the FCC's national finding of impairment" should be reversed, the Commission – and the FCC – should expect assurance from the record evidence that a real world (as in sizable and scalable) UNE-L strategy would offer a meaningful alternative to the statewide competitive choices that CLECs using UNE-P offer to the mass market today. The FCC could find no such assurances in its record when it rejected the BOC argument of "no impairment" for unbundled local switching based on the presence of CLEC switches. In doing so, the FCC made clear that it would not eliminate access to local switching as a section 251 UNE when the record showed only *de minimus* levels of mass market competition were being provided by alternative approaches.

Q. Must each of the trigger criteria be met before a State Commission declares that the "Self-Provisioning Trigger" is satisfied in a market?

A. Yes. Each of the trigger criteria for self-provisioning are rooted in the TRO. Each of them is tied to one of the specific rationales or findings the FCC made in establishing the trigger analysis as the "sudden death" playoff of the impairment analysis. As is clear from the discussion above, the TRO's trigger analysis for switching leaves questions, judgment calls, and ambiguities open for the Commission to resolve. It is up to the Commission to put flesh on the bones, in the form of informed analysis of the trigger criteria established by the FCC. Only

by applying judgment, experience and knowledge of local competitive conditions can the Commission implement the switching triggers as they are formulated in the TRO.

VII. The False Tension Between Unbundling and Facilities Deployment

Q. If the Commission retains the incumbents' obligation to unbundle local switching as you recommend, would it be discouraging facilities investment?

A. No. The "unbundling discourages investment" argument is a bogeyman, a copper-herring used by the ILEC to wrap their narrow self-interest in the public interest. There is no evidence that unbundling local switching discourages the deployment of new facilities or the introduction of advanced services. For its part, the FCC *rejected* the incumbent's claims that unbundling discourages investment, finding that the evidence was inconclusive. (TRO ¶ 447). To the contrary, unbundling the legacy network encourages competition, and the more competition that exists for *today's* customers, the more investment that will occur to retain these customers in the *future* as their needs and options change.

Although I would *also* disagree with the incumbents that unbundling discourages them from investing in new technologies, it is important to leave that debate for a future date. The issue here concerns access to the legacy switched network to

offer the most basic of telecommunications services, POTS. As I explain in this section of the testimony:

* The incumbent would be financially harmed by a shift of UNE-P lines to UNE-L. The only reason for an incumbent to dismantle UNE-P is if it expects a return of UNE-P lines to its retail services, thereby strengthening its local monopoly. If the lines were to shift to UNE-L, the incumbent would see a significant reduction in its wholesale revenues, without any decrease in its costs.

* The incumbent's network would be disrupted by a shift of UNE-P lines to UNE-L. The incumbent's interoffice network is designed to handle the traffic from UNE-P lines through a network of first-route and final trunk groups starting at the originating end-office, with the filter of the end-office directly terminating all traffic to nearby subscribers without ever relying on interoffice facilities. If the base of UNE-P lines were shifted to UNE-L, this traffic would re-enter the ILEC network at a different point in the interoffice network, increased by the minutes that must be returned to their initial end-office for termination. The result to the ILEC: a redesigned network and higher costs.

* The deployment of competitive advanced services to the consumer/small business market would be reduced substantially without access to unbundled local switching, in direct conflict with the *only* facilities-goal in the Act (i.e., to encourage the deployment of *advanced* technologies). With the elimination of line-*sharing* by the FCC, the only meaningful vehicle to market competitive DSL services to smaller users is through line-*splitting*. The effect has been to reduce the addressable market for a competitive xDSL provider (such as Covad) from the 9.8 million lines served by Florida's ILECs, to the 0.66 million lines served by UNE-P providers. If UNE-P is eliminated, the mass market closes entirely.

Q. Before you address each of these points in more detail, does it make sense for an incumbent to want its competitors to develop duplicative networks?

A. No. The Commission should be highly suspicious of ILEC claims that they support the elimination of unbundling so as to "encourage" CLEC investment. Why would an ILEC desire the replication of its network, when the effect of such a strategy (if successful) would be lower revenues, higher costs, and the very real possibility of excess capacity that produces a permanent reduction in the value of its network?

The issue here is whether the incumbent should make available local switching at cost-based, wholesale rates to competitors so that they may offer competitive POTS. There is *already* sufficient local switching capacity across the state. BellSouth and Verizon have seen a decline in their switched access lines of 11% in Florida over the past 3 years, indicating (if anything) that switch ports are in excess supply. There is no inherent gain to the economy or society – much less the incumbent – by encouraging/forcing additional investment in a commodity (analog switch ports) that is already in over-supply.

Q. Are you saying that a CLEC would never choose to install a competitive switch?

A. No. There are a number of reasons why a CLEC would decide to install a local switch; my point is that there is no reason for the ILEC to encourage the result unless it stood to gain financially by forcing such an investment by its rival.

One reason that a CLEC would install its own switch is to realize the same cost-structure as the incumbent. Because the ILEC leases switching at its forward looking average total cost (i.e., TELRIC), the additional cost to the CLEC is the *same* for each and every switch port that it orders. As a result, a CLEC that leases unbundled local switching pays the average cost for every switch port. In economics terms, this means that the CLEC's variable and marginal cost of switching is the same as its average cost (a fixed cost per port).

In contrast, a CLEC that purchases a local switch (as well as the ILEC itself) enjoys a lower marginal or variable cost per port, providing it greater flexibility in its pricing. For instance, a CLEC owning its own switch could offer the most price-sensitive customers lower prices based on the *incremental* cost of service (such as the cost of the switch's line card, or even lower if excess capacity existed on the switch), whereas a UNE-based competitor would always incur the full average total cost for each switch port. In addition, by owning its own switch, a CLEC controls when (and whether) to upgrade its software, and reduces its dependency on its principal rival, the incumbent. The point is that a CLEC leasing switching would still face the appropriate economic incentive to invest, even with the option of unbundled local switching (assuming that the cost to move a loop to a new switch were rendered inconsequential through an automated hot-cut system).

Q. Are entrants precluded from offering new services when they lease switching capacity from the incumbent?

A. No. First, it is important to emphasize again that this proceeding is fundamentally about competition -- more precisely, the impairments that would otherwise prevent competition -- in the POTS market. The reason that the market is known as "plain old telephone service" is because it is provided over technically standardized facilities, such as the circuit switches that have been deployed in the

ILEC network. These are *generic* facilities, deliberately engineered to provide a uniform, reliable and predictable customer experience. Whether a carrier leases capacity in a Lucent 5E – or purchases and installs an essentially identical Lucent 5E – does not fundamentally change the services that can be offered.

It is important to understand that most new services in the POTS marketplace are generally the product of pricing and service innovations unrelated to the underlying network, even where an entrant attempts to use its own facility. (Network-related innovations generally remove the customer from the POTS market, which is defined as basic voice service). There is nothing shameful, however, about pricing and service-related innovations – bundling, the elimination of distance from landline pricing, and more personalized customer service, not to mention lower prices, are useful and highly valued by customers. Moreover, competition is showing that there are ways to derive additional value from the existing network, by integrating other services with basic POTS. As illustration, I encourage the Commission to focus on the testimony of Z-Tel Communications, a Florida-based, but nationally-recognized leader in the integration of basic POTS with personal messaging service.

Q. Why would an ILEC want to force its competitors to install their own switches, thereby increasing the excess supply of switch ports in the market?

A. Obviously, an ILEC would not want to force its competitor to make any investment that improved the competitive position of its rival. The only reason an ILEC would want to encourage "facilities-based" competition would be if it believed that the result would be less competition, not more.

Nowhere are these incentives clearer than with respect to additional investment in local switching capacity. The financial performance of CLECs that installed circuit switching capacity has been abysmal, with most CLECs declaring bankruptcy to reduce/eliminate the debt they incurred to obtain the switching capacity they installed. The investment community is well aware of this track record, and is unlikely to provide more capital to pursue a business strategy that has a documented pattern of failure.

The reason that the incumbent is so interested in forcing its rivals into a switch-based entry strategy is because it expects that most UNE-P lines (in an environment where UNE-P is no longer available) will return to it as retail lines.

Q. Are there other effects on the ILEC from a forced UNE-P to UNE-L migration?

A. Yes. In Florida today, there are more than 660,000 UNE-P lines, spread over hundreds of wire centers. If each of the lines were actually forced to move to a UNE-L arrangement (assuming that it could actually be done successfully from

the CLEC's -- which is to say the customer's -- perspective , as claimed by the ILEC), there would be a significant impact on the incumbent's local network.

The ILECs' network has been engineered with the expectation that all of the traffic from these 660 thousand UNE-P lines will originate at the end-office currently serving the line today. The incumbent has engineered its interoffice network recognizing that much of this traffic will terminate on lines served by that same end-office (and, therefore, requiring no interoffice facilities). For minutes that do require interoffice transport to other end-offices, the ILEC has engineered the shared transport network to efficiently use "first-route" facilities where justified, with "overflow" traffic relying on more costly tandem-routes during peak periods (or for all traffic from very small end-offices).

If these minutes are forced into a UNE-L arrangement, however, they will no longer "originate" at the existing end-office, but rather would "reappear" on interconnection trunks located elsewhere in the network. Suddenly, the minutes that had terminated directly on lines connected to the same end-office as the customer had been served by, and which had required no interoffice transport, would now need to be transported back to the original end-office. Moreover, the remaining minutes would need new interoffice facilities to reach destination end-offices, and would frequently rely on tandem-switched transport facilities due to the relatively (compared to the ILEC) small traffic volumes of the CLEC.

The bottom line: The ILEC would only want to eliminate UNE-P if it was confident that there is, in fact, impairment and that the primary consequence of a forced migration would be the return of lines to the incumbent's retail monopoly.

Q. In your view, does UNE-P availability encourage investment?

A. Yes. As I have explained above, this proceeding is about whether CLECs should be allowed to use the legacy LEC network to offer conventional POTS services. Although I would disagree generally with the claim that unbundling discourages investment, there should be no debate as to whether sharing the inherited legacy network to offer conventional POTS has that effect.

First, UNE-P (like any business) requires investment – investment in billing systems, computer systems, offices and, perhaps most importantly, human capital (or, more colloquially, jobs). There is nothing magical about Class 5 circuit switching equipment that makes having more such investment socially desirable. These switches perform a commodity switching function that is necessary to offer basic POTS, but it is not a facility investment endowed with any particular opportunity for creativity. Indeed, the most useful "new function" offered by the circuit switch is its important role "… as a means of accessing the local loop" (TRO ¶ 429) -- i.e., as a critical component of the UNE-P wholesale offering that makes POTS competition possible.

Second, where new investment does hold the opportunity of dramatically changing the types of services that a customer receives (such as broadband capability), UNE-P is now the primary voice-option for carriers (such as Covad) that are making just such an investment. With the elimination of line-sharing, providers of advanced services have no more ability to provide their data service over the same loop as the incumbent provides its voice service. Consequently, to approach the mass market, these providers require a different "voice partner" so that they may offer data in combination with voice over the same facility (as so many mass market customers desire). UNE-P provides that capability.

Third, the mere fact that that a carrier does not invest in Class 5 circuit switching does not mean that it is not investing in other facilities. For instance, AT&T and MCI are two of the largest UNE-P purchasers in the nation, and each have invested billions of dollars in (what are commonly called) long distance networks. Ironically, the RBOCs compete in long distance in *exactly* the same manner that AT&T and MCI (and now Sprint) compete in local markets: leasing wholesale services that provide the generic capability of switching and transmitting voice calls. While such an approach has clearly been great for the "goose" – BellSouth now provides long distance service to 24% of the residential market and 34% of the business mass market – BellSouth complains that making available a similar local arrangement to others unfairly benefits the "gander" (even though competitors using UNE-P serve less than 10% of the local market).

UNE-P is central to mass market competition for basic POTS. The POTS market is shrinking as customers chose (for themselves, and not under regulatory direction) to move to more advanced services. There is no valid policy reason to encourage additional investment in the generic local exchange facilities that underlie UNE-P. POTS competition is essential, however, to the development of competition for more advanced services where investment is likely. The relevant question is "will there be more advanced services investment if the POTS market is competitive, or less?"

Q. Should the Commission expect more investment in advanced services if the POTS market is competitive?

A. Yes. First, the initial focus of mass market competition is bundling – offering consumers 'packages' that combine local and long distance services into a seamless offering. Over time, however, this form of differentiation will reach a competitive balance and companies will need to find other ways to differentiate themselves and their services. Moreover, as noted earlier, the POTS market is shrinking, with a natural evolution towards more advanced digital services. Consequently, with the market moving away from POTS, and the principal source of POTS differentiation (bundling) losing its advantage, companies will have to respond with different strategies. The more companies there are in the POTS market today, the more companies there will be that need to differentiate

their services in the future, and the more investment (in new technologies, not duplicative facilities) that will result.

Q. Assuming that UNE-P remains available, how would you expect to see the market evolve in the future?

A. As I indicated earlier, UNE-P is part of a natural market transition whose duration unknown because it is in the hands of customers themselves. The POTS market is shrinking, as customers increasingly desire services with higher bandwidth (for data) or different features. As the market changes, carriers that rely on UNE-P (to one degree or another) will have to evolve in response.

There are two directions where the evolution is most likely. The first will be a greater integration of voice/data customers onto shared platforms using soft-switch technology. In lay terms, soft-switches (i.e., software-defined switches) essentially treat voice conversations as a special type of "data" session that is governed by unique instructions. Soft-switches will become increasingly prevalent in the enterprise market because they (in the first instance) enable the digital-pipe to the customer to be used more efficiently. One consequence of this will be that more customers that are mass market today will chose to become enterprise customers in the future.

A different evolution is likely in the market of voice-oriented customers. Over the past several years, a silent transformation has been underway in the circuit switch network through the deployment of the "advanced intelligent network" (AIN) architecture. In lay terms, the AIN architecture is a system which moves the software that defines a particular service from the switch itself to a remote database. Various "triggers" are incorporated into the traditional local switch that, when activated, suspend call processing and signal a remote database (a "Service Creation Point" or SCP) to request an instruction as to how it should proceed. In an AIN environment, service definition is no longer controlled by the switch manufacturer when it releases a generic upgrade to its switch, but rather can be developed by the incumbent or CLEC.

Q. Why do you characterize the AIN architecture as effecting a "silent" transformation of the network?

A. The reason I characterize this as a "silent" evolution is because the architecture is generally underutilized, with few new services being introduced despite the fact that the architecture is now widely deployed. The reason, however, is that the AIN architecture is not yet open to *competitive* innovation and the incentive to deploy new services is different for an incumbent than an entrant. To the incumbent, a new service should produce incremental revenues, largely from existing customers; for a new entrant, however, a service can be justified by its ability to attract new subscribers, even if no discrete revenues are the result.

For instance, AIN could be used to replace the familiar dial-tone with an announcement (of the time, the weather or even the number of voice mails awaiting action). It is unlikely that an incumbent could charge its customers a higher price based on a different dial-tone, but a unique dial tone could be a way for an entrant to differentiate its services from the incumbent.

I offer these observations not as criticism of the incumbent, but rather to again emphasize that competitive differentiation (and consumer benefit) can arise from a variety of strategies, almost none of which requires duplication of the Class 5 switching hierarchy of the ILEC. It would be far more useful for regulators to open the AIN architecture so that non-ILEC service-defining databases could be accessed by switch triggers activated on switch ports leased from the incumbent, than to encourage the wasteful duplication of switching investment that is neither the source of innovation nor amenable to mass market competition.

Q. What would be the consequence of the ILEC maintaining a POTS monopoly?

A. If the ILEC retains its POTS monopoly, it will enjoy a base of captive customers and revenues that it will be able to leverage against rivals in those narrow submarkets where other entry strategies are beginning to take hold. The nation can ill afford the ILEC leveraging its inherited monopoly through narrowly

targeted rate reductions or other strategies that foreclose competition in other areas. The only way that competition can take root is if the core of the incumbent's monopoly – the POTS market – is the beneficiary of aggressive competition.

VIII. Next Steps

Q. Are there other issues that the Commission should prepare to address?

A. Yes, there are two follow-up proceedings that the Commission should prepare to conduct at the conclusion of this case. . The first concerns how the "post-251" price of unbundled local switching is determined, should there be any circumstance where a finding of non-impairment applies (such as switching used to serve enterprise customers). The second concerns the procedures that should be used to develop prescribed filing windows and other requirements to govern future challenges to impairment (for switching or other network elements).

As to the first point, it is important to recall that BellSouth is required to provide meaningful access to switching at just and reasonable rates, irrespective of whether it is also required to be offered under section 251 of the Act. This is because the social contract in section 271 establishes a separate obligation to offer items listed in the checklist, (TRO ¶ 653), which includes the requirement to offer

switching. Although the FCC has determined that such rates need not necessarily be TELRIC, they must still be "just and reasonable" (TRO ¶ 663):

> Thus, the pricing of checklist network elements that do not satisfy the unbundling standards in section 251(d)(2) are reviewed utilizing the basic just, reasonable, and nondiscriminatory rate standard of sections 201 and 202 that is fundamental to common carrier regulation that has historically been applied under most federal and state statutes, including (for interstate services) the Communications Act.

Even if one accepts the view (as does the FCC) that there may be a difference between a just and reasonable TELRIC rate, and a just and reasonable non-TELRIC rate, the difference can be no more than a just and reasonable difference. For instance, the section 271 rate could be established to produce a higher profit (i.e., return on equity), so long as it remained within just and reasonable levels.

For purposes of administrative efficiency, I recommend that the Commission initiate a new proceeding to establish the "replacement rate" for any network element that is no longer required under section 251 so as to avoid having to address this same issue in multiple, parallel arbitrations. Moreover, because the existing cost-based rate has already been found to be just and reasonable, that rate should remain in effect until the Commission establishes a new rate.

Q. How should the Commission approach developing procedures for subsequent hearings following this "9-month" case?

A. In addition to issues that the Commission must address within the 9-month proceeding, the FCC has also requested that states develop procedures to conduct periodic review of the incumbents' unbundling obligations. (TRO ¶ 424). Given the substantial requirements already outlined for the current proceeding, I recommend that the Commission take two actions here, to set the stage for any subsequent investigation.

First, I recommend that the Commission initiate a rulemaking to determine the "pre-filing" requirements that an incumbent must satisfy before requesting a reduction in its unbundling obligation. Because the FCC generally requires that a state must complete its review of any such request within six months, it will foster administrative efficiency to have agreement in advance as to the information needed to conduct such a review.

Second, I recommend that the Commission adopt "prescribed filing windows" that specify when an incumbent LEC may first request a further reduction in its unbundling obligations. The FCC specifically invites states to establish "prescribed filing windows," (*See*, for instance, footnote 1291), and I recommend that the Commission do so here. By establishing specific windows for additional review, the Commission can provide needed certainty to the industry. Following the FCC's lead, I recommend a 2-year quiet period during which the incumbent

LEC may not seek further reduction of its obligations at the conclusion of the 9-month proceeding, (TRO ¶ 710):

> We [the FCC] conclude that reopening every issue on a biennial basis is not in the public interest because it would increase regulatory uncertainty unnecessarily in this area. We also note that in the period between biennial reviews, it will be the policy of this Commission not to entertain *ad hoc* motions or petitions to remove or add UNEs, and we will summarily dismiss such petitions to ensure certainty in the marketplace.

IX. Summary

Q. Please summarize your testimony.

A. Florida remains in the early stages of local competition, with competitors just now beginning to gain traction, particularly in the mass market. A very simple truth is captured by the following quotation from John Gaule:

> A complex system that works is invariably found to have evolved from a simple system that works.

The reason that UNE-P is under pressure from the incumbents is because it works. Given time, local competition will transform industry pricing (through, for instance, the elimination of distance from telephone rates), and it will set the foundation for a competitive future using as its baseline the legacy POTS network.

In my testimony I have explained that UNE-P is critical to POTS competition, and why POTS competition is critical to competition overall. No other strategy is going to produce the competitive benefits in this market that have come from UNE-P.

The Florida Commission should stay the course. There is no reason – and no basis – to overturn the FCC's national impairment finding in Florida. The Florida Legislature has clearly established that the priority of the State of Florida is competition for all of its citizens, and has already deregulated the ILECs' profits (in 1995) and permitted rate rebalancing (in 2003) in *anticipation* of that result. This is the proceeding where the Florida Commission delivers on that promise.

Q. Does this conclude your direct testimony?

A. Yes.

Joseph Gillan
Experience and Qualifications

Education

B.A. Economics, University of Wyoming, 1978.
M.A. Economics, University of Wyoming, 1979.

Professional History

Gillan Associates, Economic Consulting (1987-Present)

In 1987, Mr. Gillan established a private consulting practice specializing in the economic evaluation of regulatory policies and business opportunities in the telecommunications industry. Since forming his consulting practice in 1987, Mr. Gillan has advised business clients as diverse as AT&T and TDS Telecom (a small entrant seeking the authority to compete in a rural area). Among other responsibilities, Mr. Gillan is the principal economic consultant to the Competitive Telecommunications Association, the national trade association representing competitive carrier interests.

Vice President, US Switch, Inc. (1985-1987)

Responsible for crafting the US Switch business plan to gain political acceptance and government approval. US Switch pioneered the concept of "centralized equal access," which positioned independent local telephone companies for a competitive long distance market. While with US Switch, Mr. Gillan was responsible for contract negotiation/marketing with independent telephone companies and project management for the company's pilot project in Indiana.

Policy Director/Market Structure - Illinois Commerce Commission (1980-1985)

Primary staff responsibility for the policy analysis of issues created by the emergence of competition in regulated markets, in particular the telecommunications industry. Mr. Gillan served on the staff subcommittee for the NARUC Communications Committee and was appointed to the Research Advisory Council overseeing NARUC's research arm, the National Regulatory Research Institute.

Mountain States Telephone Company - Demand Analyst (1979)

Performed statistical analysis of the demand for access by residential subscribers.

Professional Appointments

Guest Lecturer	School of Laws, University of London, 2002
Advisory Council	New Mexico State University, Center for Regulation, 1985 – Present
Faculty	Summer Program, Public Utility Research and Training Institute, University of Wyoming, 1989-1992
Contributing Editor	Telematics: The National Journal of Communications Business and Regulation, 1985 - 1989
Chairman	Policy Subcommittee, NARUC Staff Subcommittee on Communications, 1984-1985
Advisory Committee	National Regulatory Research Institute, 1985
Distinguished Alumni	University of Wyoming, 1984

Selected Publications

"The Local Exchange: Regulatory Responses to Advance Diversity", with Peter Rohrbach, Public Utilities Fortnightly, July 15, 1994.

"Reconcentration: A Consequence of Local Exchange Competition?", with Peter Rohrbach, Public Utilities Fortnightly, July 1, 1994.

"Diversity or Reconcentration?: Competition's Latent Effect", with Peter Rohrbach, Public Utilities Fortnightly, June 15, 1994.

"Consumer Sovereignty: An Proposed Approach to IntraLATA Competition", Public Utilities Fortnightly, August 16, 1990.

"Reforming State Regulation of Exchange Carriers: An Economic Framework", Third Place, University of Georgia Annual Awards Competition, 1988, Telematics: The National Journal of Communications, Business and Regulation, May, 1989.

"Regulating the Small Telephone Business: Lessons from a Paradox", Telematics: The National Journal of Communications, Business and Regulation, October, 1987.

"Market Structure Consequences of IntraLATA Compensation Plans", Telematics: The National Journal of Communications, Business and Regulation, June, 1986.

Selected Publications

"Universal Telephone Service and Competition on the Rural Scene", Public Utilities Fortnightly, May 15, 1986.

"Strategies for Deregulation: Federal and State Policies", with Sanford Levin, Proceedings, Rutgers University Advanced Workshop in Public Utility Economics, May 1985.

"Charting the Course to Competition: A Blueprint for State Telecommunications Policy", Telematics: The National Journal of Communications Business, and Regulation, with David Rudd, March, 1985.

"Detariffing and Competition: Options for State Commissions", Proceedings of the Sixteenth Annual Conference of Institute of Public Utilities, Michigan State University, held in Williamsburg, Virginia, December 1984.

Listing of Expert Testimony – Court Proceedings

Dwayne P. Smith, Trustee v. Lucent Technologies (Civil Action No. 02-0481 Eastern District of Louisiana)(Entry and CLEC Performance)

BellSouth Intellectual Property v. eXpeTel Communications (Civil Action No. 3:02CV134WS Southern District of Miss.)(Service definition, industry structure and Telecom Act of 1996)

CSX Transportation Inc. v. Qwest International, Inc. (Case No. 99-412-Civ-J-21C Middle District of Florida) (industry structure and wholesale contract arrangements).

Winn v. Simon (No. 95-18101 Hennepin Cty. Dist. Ct.)(risk factors affecting small long distance companies)

American Sharecom, Inc. v. LDB Int'l Corp. (No. 92-17922, Hennepin County District Court) (risk factors affecting small long distance companies)

World Com, Inc. et al. v. Automated Communications, Inc. et al. (No. 3:93-CV-463WS, S.D. Miss.) (damages)

International Assignments

Recovering Contribution: Lessons from the United States' Experience, Report submitted to the Canadian Radio-television and Telecommunications Commission on behalf of CallNet.

Forcing a Square Peg into a Round Hole: Applying the Universal Service Cost Model in the Cayman Islands, Analysis Presented to the Government of the Cayman Islands on behalf of Cable and Wireless.

Summary of Expert Testimony and Affidavits – Regulatory Proceedings

State	Docket/Case	Topic	Sponsor(s)
Florida	Docket No. 030851-TP	Switching Impairment	FCCA
Ohio	Case 03-2040-TP-COI	Switching Impairment	AT&T
Wisconsin	05-TI-908	Switching Impairment	AT&T
Washington	UT–023003	Local Switching Rate Structure	AT&T/MCI
Arizona	T-00000A-00-0194	UNE Cost Proceeding	AT&T/WCOM
Illinois	Docket 02-0864	UNE Cost Proceeding	AT&T
North Carolina	P-55, Sub 1013 P-7, Sub 825 P-19. Sub 277	Price Cap Proceedings	CLEC Coalition
Kansas	02-GIMT-555-GIT	Price Deregulation	Birch/AT&T
Texas	Docket No. 24542	Cost Case	AT&T
North Carolina	Docket P-100, Sub 133d	UNE Cost Proceeding	CLEC Coalition
Georgia	Docket No. 11901-U	DSL Tying Arrangement	WorldCom
Tennessee	Docket No. 02-00207	UNE Availability/Unbundling	CLEC Coalition
Utah	Docket No. 01-049-85	Local Switching Costs/Price	AT&T
Tennessee	Docket No. 97-00309	Section 271 Compliance	CLEC Coalition
Illinois	Docket No. 01-0662	Section 271 Compliance	AT&T
Georgia	Docket No. 14361-U	UNE Availability/Unbundling	CLEC Coalition
Florida	Docket 020507-TL	Unlawful DSL Bundling	CLEC Coalition
Tennessee	Docket No. 02-00207	UNE Availability/Unbundling	CLEC Coalition
Georgia	Docket No. 14361-U	UNE Costs and Economics	AT&T/WorldCom
Florida	Docket 990649-TP	UNE Cost and Price Squeeze	AT&T/WorldCom
Minnesota	P-421/CI-01-1375	Local Switching Costs/Price	AT&T
Florida	Docket 000075-TP	Intercarrier Compensation	WorldCom
Texas	Docket No. 24542	Unbundling and Competition	CLEC Coalition
Illinois	Docket 00-0732	Certification	Talk America
Indiana	Cause No. 41998	Structural Separation	CLEC Coalition
Illinois	Docket 01-0614	State Law Implementation	CLEC Coalition
Florida	Docket 96-0768	Section 271 Application	SECCA

Summary of Expert Testimony and Affidavits – Regulatory Proceedings

State	Docket/Case	Topic	Sponsor(s)
Kentucky	Docket 2001-105	Section 271 Application	SECCA
FCC	CC Docket 01-277	Section 271 for GA and LA	AT&T
Illinois	Docket 00-0700	Shared Transport/UNE-P	CLEC Coalition
North Carolina	Docket P-55 Sub 1022	Section 271 Application	SECCA
Georgia	Docket 6863-U	Section 271 Application	SECCA
Alabama	Docket 25835	Section 271 Application	SECCA
Michigan	Case No. U-12622	Shared Transport/UNEs	AT&T
Ohio	Case 00-942-TP-COI	Section 271 Application	AT&T
Alabama	Docket No. 25835	Structural Separation	SECCA
Alabama	Docket No. 27821	UNE Cost Proceeding	ITC^Deltacom
Louisiana	Docket U-22252	Section 271 Application	SECCA
Mississippi	Docket 97-AD-321	Section 271 Application	SECCA
South Carolina	Docket 2001-209-C	Section 271 Application	SECCA
Colorado	Docket 99A-577T	UNE Cost Proceeding	AT&T
Arizona	Case T-00000A-00-0194	UNE Cost Proceeding	AT&T
Washington	Docket UT-003013	Line Splitting and Combinations	AT&T
Ohio	Case 00-1368-TP-ATA Case 96-922-TP-UNE	Shared Transport	AT&T/PACE
North Carolina	P-100 Sub 133j	Standard Collocation Offering	CLEC Coalition
Florida	Docket 990649-TP	UNE Cost Proceeding	CLEC Coalition
Michigan	Case No. U-12320	UNE Combinations/Section 271	AT&T
Florida	Docket 00-00731	Section 251 Arbitration	AT&T
Georgia	Docket 5825-U	Universal Service Fund	CLEC Coalition
South Carolina	97-239-C	Universal Service Fund	CLEC Coalition
Texas	PUC Docket 22289/95	ETC Designation	Western Wireless
Washington	Docket UT-003013	UNE Costs and Local Competition	AT&T
New York	Docket 98-C-1357	UNE Cost Proceeding	Z-Tel
Colorado	Docket 00K-255T	ETC Designation	Western Wireless
Kansas	99-GCCZ-156-ETC	ETC Designation	Western Wireless

Summary of Expert Testimony and Affidavits – Regulatory Proceedings

State	Docket/Case	Topic	Sponsor(s)
New Mexico	98-484-TC	ETC Designation	Western Wireless
Illinois	Docket 99-0535	Cost of Service Rules	AT&T/MCI
Colorado	Docket 00-B-103T	U S WEST Arbitration	ICG Comm.
North Dakota	PU-1564-98-428	ETC Designation	Western Wireless
Illinois	Docket 98-0396	Shared Transport Pricing	AT&T/Z-Tel
Florida	Docket 981834-TP	Collocation Reform	CLEC Coalition
Pennsylvania	M-00001353	Structural Separation of Verizon	CompTel/ATX
Illinois	Docket 98-0860	Competitive Classification of Ameritech's Business Services	CompTel/ AT&T
Georgia	Docket 6865-U	Complaint re: Combinations	MCIWorldcom
Virginia	Case No. PUC 990100	GTE/Bell Atlantic Merger	AT&T
Florida	Docket 990649-TP	UNE Cost and Pricing	CLEC Coalition
Nebraska	Application C-1960/PI-25	IP Telephony and Access Charges	ICG Communications
Georgia	Docket 10692-U	Pricing of UNE Combinations	CLEC Coalition
Colorado	Docket 99F-141T	IP Telephony and Access	Qwest
California	Case A. 98-12-005	GTE/Bell Atlantic Merger	AT&T/MCI
Indiana	Case No. 41255	SBC/Ameritech Merger	AT&T
Illinois	Docket 98-0866	GTE/Bell Atlantic Merger	AT&T
Ohio	Case 98-1398-TP-AMT	GTE/Bell Atlantic Merger	AT&T
Tennessee	Docket 98-00879	BellSouth BSE	SECCA
Missouri	Case TO-99-227	§ 271 Review: SBC	AT&T
Colorado	Docket 97A-540T	Stipulated Price Cap Plan/USF	CLEC Coalition
Illinois	ICC Docket 98-0555	SBC/Ameritech Merger	AT&T
Ohio	Case 98-1082-TP-AMT	SBC/Ameritech Merger	AT&T
Florida	Docket 98-1121-TP	UNE Combinations	MCI WorldCom
Georgia	6801-U	§ 251 Arbitration: BellSouth	AT&T
Florida	92-0260-TL	Rate Stabilization Plan	FIXCA
South Carolina	Docket 96-375	§ 251 Arbitration: BellSouth	AT&T
Kentucky	Docket 96-482	§ 251 Arbitration: BellSouth	AT&T

Summary of Expert Testimony and Affidavits – Regulatory Proceedings

State	Docket/Case	Topic	Sponsor(s)
Wisconsin	05-TI-172/5845-NC-101	Rural Exemption	TDS Metro
Louisiana	U-22145	§ 251 Arbitration: BellSouth	AT&T
Mississippi	96-AD-0559	§ 251 Arbitration: BellSouth	AT&T
North Carolina	P-140-S-050	§ 251 Arbitration: BellSouth	AT&T
Tennessee	96-01152	§ 251 Arbitration: BellSouth	AT&T
Arizona		§ 251 Arbitration: US West	AT&T Wireless
Florida	96-0883-TP	§ 251 Arbitration: BellSouth	AT&T
Montana	D96.11.200	§ 251 Arbitration: US West	AT&T
North Dakota	PU-453-96-497	§ 251 Arbitration: US West	AT&T
Texas	Docket 16226	§ 251 Arbitration: SBC	AT&T/MCI
Alabama	Docket 25703	§ 251 Arbitration: BellSouth	AT&T
Alabama	Docket 25704	§ 251 Arbitration: GTE	AT&T
Florida	96-0847-TP	§ 251 Arbitration: GTE	AT&T
Kentucky	Docket 96-478	§ 251 Arbitration: GTE	AT&T
North Carolina	P-140-S-51	§ 251 Arbitration: GTE	AT&T
Texas	Docket 16630	§ 251 Arbitration: SBC	LoneStar Net
South Carolina	Docket 96-358	§ 251 Arbitration: GTE	AT&T
Texas	Docket 16251	§ 271 Review: SBC	AT&T
Oklahoma	97-0000560	§ 271 Review: SBC	AT&T
Kansas	97-SWBT-411-GIT	§ 271 Review: SBC	AT&T
Alabama	Docket 25835	§ 271 Review: BellSouth	AT&T
Florida	96-0786-TL	§ 271 Review: BellSouth	FCCA
Georgia	Docket 6863-U	§ 271 Review: BellSouth	AT&T
Kentucky	Docket 96-608	§ 271 Review: BellSouth	AT&T
Louisiana	Docket 22252	§ 271 Review: BellSouth	AT&T
Texas	Docket 16226	UNE Cost	AT&T/MCI
Colorado	97K-237T	Access Charges	AT&T
Mississippi	97-AD-321	§ 271 Review: BellSouth	AT&T
North Carolina	P-55 Sub 1022	§ 271 Review: BellSouth	AT&T

Summary of Expert Testimony and Affidavits – Regulatory Proceedings

State	Docket/Case	Topic	Sponsor(s)
South Carolina	97-101-C	§ 271 Review: BellSouth	AT&T
Tennessee	97-00309	§ 271 Review: BellSouth	AT&T
Tennessee	96-00067	Wholesale Discount	AT&T
Tennessee	97-00888	Universal Service	AT&T
Texas	Docket 15711	GTE Certification as CLEC	AT&T
Kentucky	97-147	BellSouth BSE Certification	SECCA
Florida	97-1056-TX	BellSouth BSE Certification	FCCA
North Carolina	P691 Sub O	BellSouth BSE Certification	SECCA
Florida	98-0696-TP	Universal Service	FCCA
New York	97-C-271	§ 271 Review: Bell Atlantic	CompTel
Montana	D97.5.87	§ 271 Review: US West	AT&T
New Mexico	97-106-TC	§ 271 Review: US West	AT&T/CompTel
Nebraska	C-1830	§ 271 Review: US West	AT&T
Alabama	Docket 25980	Universal Service	AT&T
Kentucky	Admin 360	Universal Service	AT&T
North Carolina	P100-S133B	Universal Service	AT&T
North Carolina	P100-S133G	Universal Service	AT&T
Illinois	95-0458/0531	Combined Network Elements	WorldCom
Illinois	96-0486/0569	Network Element Cost/Tariff	WorldCom
Illinois	96-0404	§ 271 Review: Ameritech	CompTel
Florida	97-1140-TP	Combining Network Elements	AT&T/MCI
Pennsylvania	A-310203-F0002	Local Competition	CompTel
Georgia	6415-U/6527-U	Local Competition	CompTel
Illinois	98-NOI-1	Structural Separation	CompTel/Qwest
New York	98-C-690	Combining Network Elements	CompTel
Texas	Docket 17579	§ 251 Arbitration: SBC (2nd)	AT&T/MCI
Texas	Docket 16300	§ 251 Arbitration: GTE	AT&T
Florida	Docket 920260-TL	Price Cap Plan	IXC Coalition
Louisiana	Docket U22020	Resale Cost Study	AT&T/LDDS

Summary of Expert Testimony and Affidavits – Regulatory Proceedings

State	Docket/Case	Topic	Sponsor(s)
California	Docket R.93-04-003	Rulemaking on Open Network Architecture	LDDS/WorldCom
Tennessee	Docket 96-00067	Avoidable Cost/Resale Discount	AT&T
Georgia	Docket 6537-U	Unbundled Loop Pricing	CompTel
Georgia	Docket 6352	Rules for Network Unbundling	AT&T
Pennsylvania	Docket A-310203F0002	Introducing Local Competition	CompTel
Florida	Docket 95-0984-TP	Interconnection Terms and Prices	AT&T
Kentucky	Case No. 365	Local Competition/Universal Service	WorldCom
Mississippi	Docket 95-UA-358	Introducing Local Competition	AT&T/WorldCom
Florida	Docket 95-0984-TP	Interconnection Terms and Prices	AT&T
Illinois	Docket 95-0458	Wholesale Local Services	WorldCom
California	Dockets R.95-04-043/044	Local Competition	WorldCom
Florida	Docket 95-0696-TP	Universal Service and Carrier of Last Resort Obligations	IXC Coalition
Georgia	Docket 5755-U	Removing Subsidies from Access	AT&T
South Carolina	Docket 95-720-C	Price Regulation	ACSI
Michigan	Case No. U-10860	Interconnection Agreement	WorldCom
Mississippi	Docket 95-US-313	Price Regulation Plan	WorldCom/AT&T
Missouri	Case TR-95-241	Expanded Local Calling	MCI
Washington	Docket UT-941464	Interconnection Complaint	IXC Coalition
Maryland	Case No. 8584 – Phase II	Introducing Local Competition	WorldCom
Massachusetts	DPU 94-185	Introducing IntraLATA and Local Competition	WorldCom
Wisconsin	Docket 6720-TI-111	IntraLATA Equal Access	Schneider Com.
North Carolina	Docket P-100, Sub 126	Expanded Local Calling	LDDS
Georgia	Docket 5319-U	IntraLATA Equal Access	MCI/LDDS
Mississippi	Docket 94-UA-536	Price/Incentive Regulation	LDDS

Summary of Expert Testimony and Affidavits – Regulatory Proceedings

State	Docket/Case	Topic	Sponsor(s)
Georgia	Docket 5258-U	Price Regulation Plan	LDDS
Florida	Docket 93-0330-TP	IntraLATA Equal Access	IXC Coalition
Alabama	Docket 23260	Access Transport Rate Structure	LDDS
New Mexico	Docket 94-204-TC	Access Transport Rate Structure	LDDS
Kentucky	Docket 91-121	Alternative Regulation Proposal	**Sprint**, AT&T and LDDS
Texas	Docket 12784	Access Transport Rate Structure	IXC Coalition
Illinois	Docket 94-0096	Customer's First Proposal	LDDS
Louisiana	Docket U-17949-D	Alternative Regulation	**AT&T**, Sprint and LDDS
New York	Case No. 93-C-0103	**Rochester Plan-Wholesale/Retail**	**LDDS**
Illinois	Dockets 94-0043/46	Access Transport Rate Structure	IXC Coalition
Florida	Docket 92-1074-TP	Expanded Interconnection	Intermedia
Louisiana	Docket U-20800	Access Transport Rate Structure	LDDS
Tennessee	Docket 93-008865	Access Transport Rate Structure	LDDS
Ohio	Docket 93-487-TP-ALT	Alternative Regulation	Allnet/LCI/LDDS
Mississippi	Docket 93-UN-0843	Access Transport Rate Structure	LDDS
South Carolina	Docket 93-756-C	Access Transport Rate Structure	IXC Coalition
Georgia	Docket 4817-U	Access Transport Rate Structure	IXC Coalition
Louisiana	Docket U-20710	Pricing and Imputation Standards	**LDDS**
Ohio	Case 93-230-TP-ALT	Alternative Regulation	MCI/Allnet/LCI
New Mexico	Docket 93-218-TC	Expanded Local Calling	LDDS
Illinois	Docket 92-0048	Alternative Regulation	LDDS
Mississippi	Docket 93-UN-0038	Banded Rates for Toll Service	LDDS
Florida	Docket 92-1074-TP	Expanded Interconnection	Florida Coalition
Louisiana	Docket U-20237	Preferential Toll Pricing	**LDDS**, MCI and AT&T
South Carolina	Docket 93-176-C	Expanded Local Calling	LDDS & MCI
Mississippi	Case 89-UN-5453	Rate Stabilization Plan	LDDS & ATC

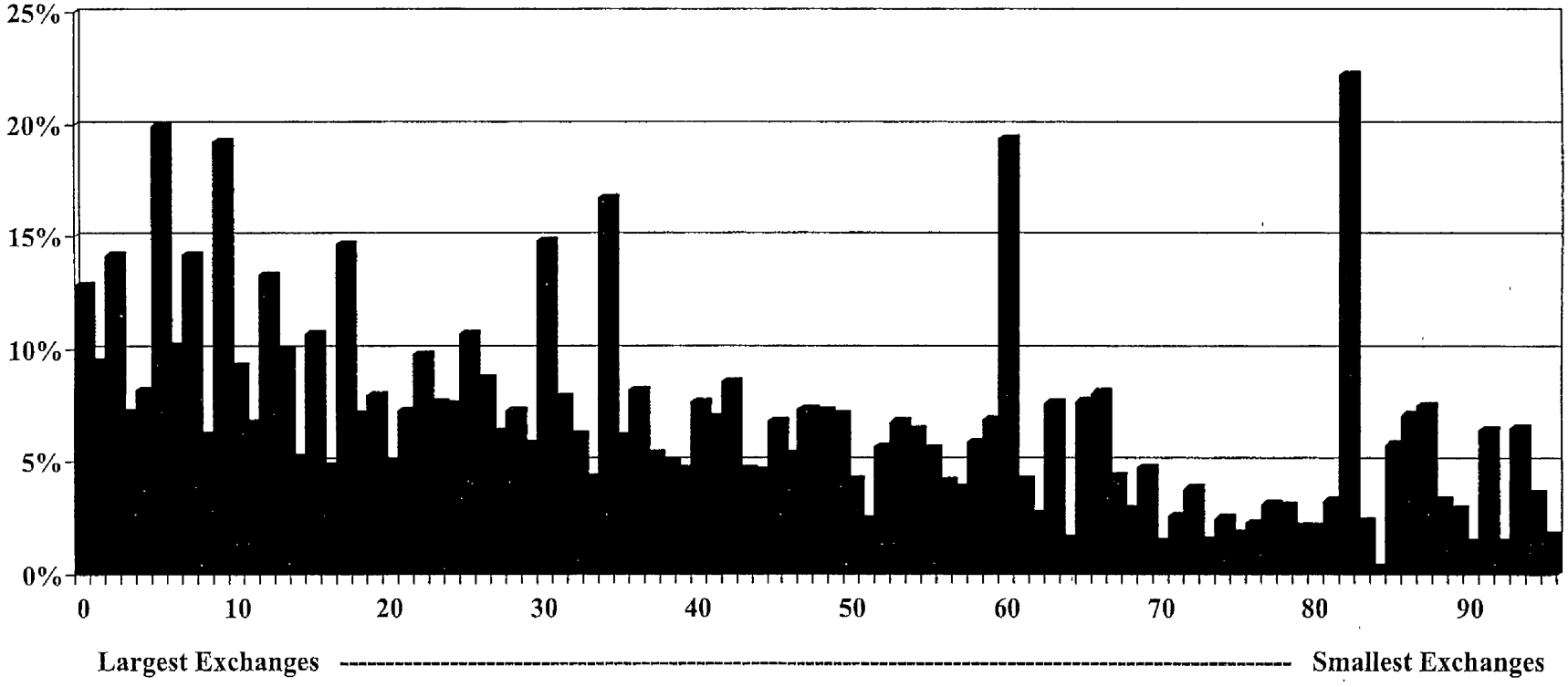
Summary of Expert Testimony and Affidavits – Regulatory Proceedings

State	Docket/Case	Topic	Sponsor(s)
Illinois	Docket 92-0398	Local Interconnection	CLEC Coalition
Louisiana	Docket U-19993	Payphone Compensation	MCI
Maryland	Docket 8525	Payphone Compensation	MCI
South Carolina	Docket 92-572-C	Payphone Compensation	MCI
Georgia	Docket 4206-U	Payphone Compensation	MCI
Delaware	Docket 91-47	Application for Rate Increase	MCI
Florida	Docket 88-0069-TL	Comprehensive Price Review	Florida Coalition
Mississippi	Case 92-UA-100	Expanded Local Calling	LDDS & ATC
Florida	Docket 92-0188-TL	GTE Rate Case	MCI & FIXCA
Wisconsin	Docket 05-TI-119	IntraLATA Competition	MCI & Schneider
Florida	Docket 92-0399-TP	Payphone Compensation	MCI & FIXCA
California	Docket I,87-11-033	Alternative Regulation	Intellical
Florida	Docket 88-0068-TL	Rate Stabilization	Public Counsel and Large Users
New York	Case 28425, Phase III	Access Transport Rate Structure	Empire Altel
Wisconsin	Docket 05-TR-103	Intrastate Access Charges	MCI & CompTel
Mississippi	Docket 90-UA-0280	IntraLATA Competition	Intellicall
Louisiana	Docket U-17949	IntraLATA Competition	Cable & Wireless
Florida	Docket 88-0069-TL	Rate Stabilization	Florida Coalition
Wisconsin	Docket 05-TR-103	Intrastate Access Charges	Wisconsin IXCs
Florida	Docket 89-0813-TP	Alternative Access Providers	Florida Coalition
Alaska	Docket R-90-1	Intrastate Toll Competition	Telephone Utilities of Alaska
Minnesota	Docket P-3007/NA-89-76	Centralized Equal Access	MCI & Telecom*USA
Florida	Docket 88-0812-TP	IntraLATA Toll Competition	Florida Coalition
Wisconsin	Docket 05-TR-102	Intrastate Access Charges	Wisconsin IXCs
Wisconsin	Docket 6655-NC-100	Centralized Equal Access	Wisconsin IXCs
Florida	Docket 88-0069-TL	Rate Stabilization	Florida Coalition
Wisconsin	Docket 05-NC-100	IntraLATA Toll Competition	Wisconsin IXCs

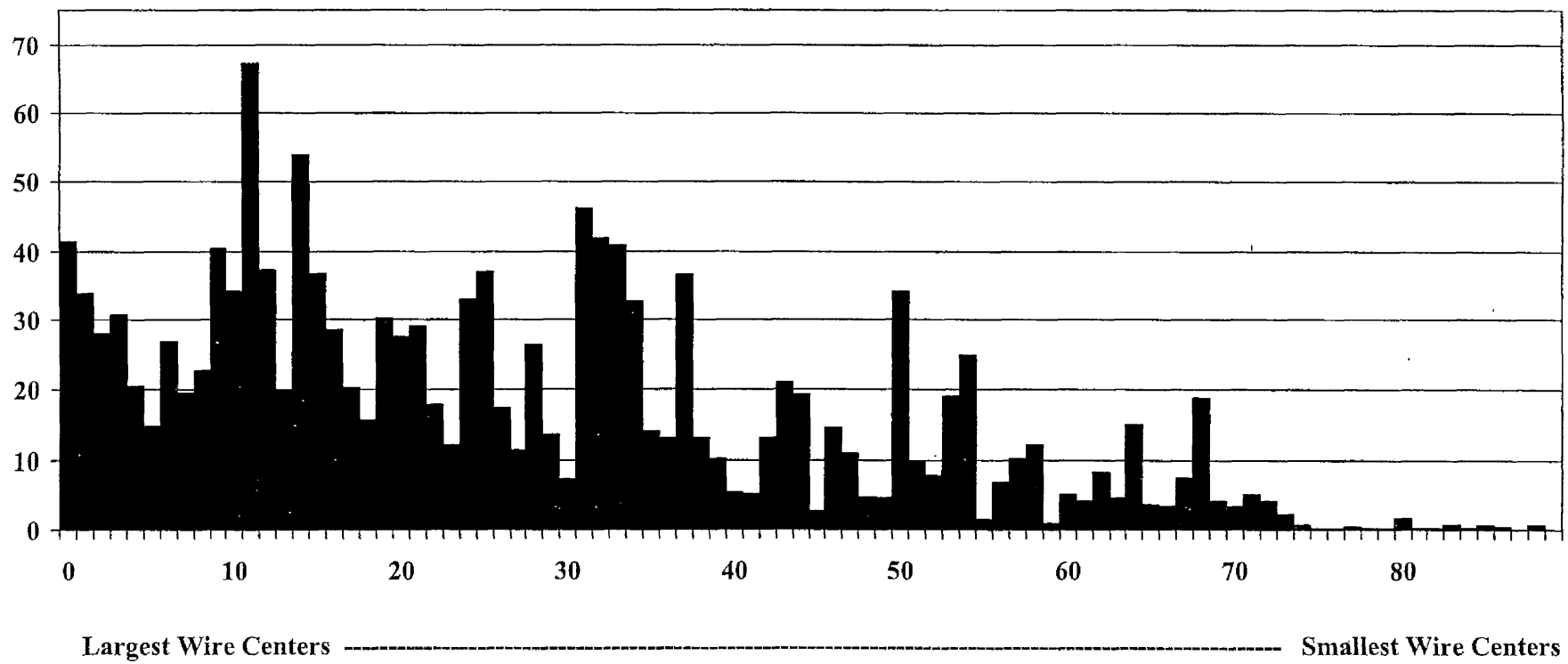
Summary of Expert Testimony and Affidavits – Regulatory Proceedings

State	Docket/Case	Topic	Sponsor(s)
Florida	Docket 87-0347-TI	AT&T Regulatory Relief	Florida Coalition.
Illinois	Docket 83-0142	Intrastate Access Charges	Illinois Consolidated
Texas	Docket 8218	WATS Prorate Credit	TEXALTEL
Iowa	Case RPU 88-2	Centralized Equal Access	MCI & Teleconnect
Florida	Docket 87-1254-TL	Regulatory Flexibility for LECs	Microtel
Wisconsin	Docket 05-TR-5, Part B	IntraLATA Competition and Access Charges	Wisconsin State Telephone Assc.
Florida	Docket 86-0984, Phase II	Intrastate Loop Cost Recovery	Florida Coalition

Competitive Profile of UNE-P – BellSouth Territory in Florida
(Competitive Share by Exchange – Ranked from Largest Exchange to Smallest)



Competitive Growth Profile of UNE-P – Verizon Territory in Florida
(Average UNE-P Lines Added Per Month -- Most Recent 6 Months 2003)



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Direct Testimony and Exhibits of Joseph Gillan on behalf of the Florida Competitive Carriers Association has been provided by (*) hand delivery, (**) email and U.S. Mail this 4th day of December 2003, to the following:

(*)(**)Adam Teitzman, Staff Counsel
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

(**) Nancy White
c/o Nancy Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, Florida 32301-1556

(**) Richard Chapkis
Verizon Florida, Inc.
201 North Franklin Street
MC: FLTC0717
Tampa, Florida 33602

(**) Susan Masterton
Sprint Communications Company
1313 Blairstone Road
Post Office Box 2214
MC: FLTLHO0107
Tallahassee, Florida 32301

(**) Donna Canzano McNulty
MCI WorldCom
1203 Governors Square Boulevard
Suite 201
Tallahassee, Florida 32301

(**) Norman H. Horton, Jr.
215 South Mornoe Street
Tallahassee, Florida 32302-1876

(**) Tracy Hatch
AT&T Communications of the
Southern States, LLC
101 North Monroe Street, Suite 700
Tallahassee, Florida 32301

(**) Michael Gross
Florida Cable Telecommunications
246 East 6th Avenue
Tallahassee, Florida 32302

(**) Matthew Feil
Florida Digital Network, Inc.
390 North Orange Avenue, Suite 2000
Orlando, Florida 32801

(**) Jeffrey J. Binder
Allegiance Telecom, Inc.
1919 M Street, NW
Washington, DC 20037

(**) Floyd R. Self
Messer, Caparello & Self
215 South Monroe Street, Suite 701
Tallahassee, FL 32301

(**) Nanette Edwards
ITC^DeltaCom
4092 S. Memorial Parkway
Huntsville, Alabama 35802

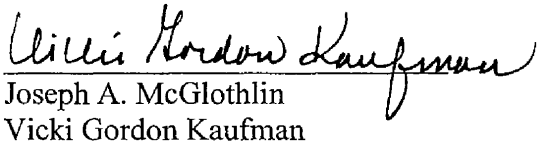
(**) Jake E. Jennings
Senior Vice-President
Regulatory Affairs & Carrier Relations
NewSouth Communications Corp.
NewSouth Center
Two N. Main Center
Greenville, SC 29601

(**) Jon C. Moyle, Jr.
Moyle, Flanigan, Katz, Raymond
& Sheehan, P.A.
The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301

(**) Rand Currier
Geoff Cookman
Granite Telecommunications, LLC
234 Copeland Street
Quincy, MA

(**) Andrew O. Isar
Miller Isar, Inc.
2901 Skansie Avenue, Suite 240
Gig Harbor, WA 98335

(**) Scott A. Kassman
FDN Communications
390 North Orange Avenue
Suite 2000
Orlando, FL 32801



Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin, Davidson,
Kaufman & Arnold, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301
(850) 222-2525
(850) 222-5606 (fax)
jmcglothlin@mac-law.com
vkaufman@mac-law.com

Attorneys for Florida Competitive Carriers
Association