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BELLSOUTH TELECOMMUNICATIONS, INC.
SURREBUTTAL TESTIMONY OF CHRISTOPHER J. PLEATSIKAS
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION.
DOCKET NO. 030851-TP
January 28, 2003

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME.

A. My name is Christopher J. Pleatsikas.

Q. ARE YOU THE SAME CHRISTOPHER J. PLEATSIKAS WHO FILED DIRECT AND REBUTTAL TESTIMONY IN THIS PROCEEDING?

A. Yes, I am.

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

A. I respond to comments regarding market definition made by Dr. Staihr (on behalf of Sprint), Dr. Bryant (on behalf of MCI), Dr. Johnson (on behalf of the Citizens of the State of Florida), Mr. Gillan (on behalf of FCCA), Mr. Bradbury (on behalf of AT&T), and Mr. Nilson (on behalf of Supra).

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1 Q. PLEASE PROVIDE YOUR OVERALL VIEW OF THE COMMENTS
2 MADE BY THESE PARTIES.

3
4 A. I have several general observations regarding the comments and recommendations
5 made by these parties. First, the various CLEC recommendations are inconsistent
6 with one another in terms of geographic area. Dr. Bryant claims that each
7 individual customer represents the appropriate economic market, although, he
8 contends, a wire center would be administratively simpler. Mr. Gillan recommends
9 that the entire service footprint, or else the LATA should be considered a market.
10 Mr. Gillan disparages the use of UNE Rate Zone/CEAs as “gratuitously granular,”
11 yet Mr. Nilson, like Dr. Bryant, recommends the even more granular existing wire
12 centers. (I note that Mr. Nilson says “retail rate centers” in summarizing his
13 position on page 4 of his rebuttal testimony, but specifically recommends the use of
14 “wire centers” at page 25, so I conclude that he actually intends to define the
15 market at the “wire center” level.) In addition, Dr. Johnson, on behalf of the
16 Citizens of the State of Florida, recommends wire centers or *ad hoc* aggregations of
17 wire centers that have “reasonably homogeneous [demand] characteristics.” Mr.
18 Bradbury appears to advocate the wire center definition as well.

19
20 Second, there is inconsistency in their basic approach to market definition. Most of
21 these witnesses are willing to commit to a geographic market definition prior to
22 conducting their impairment analyses. However, Dr. Johnson appears to support
23 the view that markets could be defined after the impairment analysis has been
24 conducted.

1 Third, none of the witnesses who propose a wire center definition has provided a
2 compelling economic rationale to explain why a wire center should be the relevant
3 geographic market in this instance. While there is no question that certain data are
4 available by wire center, this does not constitute an economic rationale for defining
5 a market, particularly when, as is intuitively obvious, data are as readily available
6 for aggregations of wire centers. In addition, the FCC's guidance on this issue is
7 inconsistent with the view that individual wire centers would generally be
8 appropriate relevant markets. That is, no witness proposing wire centers as
9 markets has explained how, absent any further market-based analysis, and as a
10 general economic proposition, such a definition can be reconciled with the TRO's
11 clear guidance that "[S]tates should not define the market so narrowly that a
12 competitor *servicing that market alone* would not be able to take advantage of
13 available scale and scope economies from serving a wider market." (TRO 495
14 (emphasis added))

15
16 Fourth, some witnesses have responded to the UNE Rate Zone/CEA definition by
17 separately criticizing the relevance of CEAs and of UNE Zones. In my opinion,
18 these criticisms are misguided, because these concepts are not used *separately* to
19 determine a relevant market. Instead, both concepts are used together to provide an
20 economically reasonable definition of the market. Thus, any criticisms that CEAs
21 or, alternatively, UNE Zones, by themselves, are too "large," too "vast," or too
22 "heterogeneous" [in demand] are not relevant to my analysis.

23

1 Finally, in my opinion, there is an undercurrent in the testimony of many of the
2 CLEC witnesses (as well as the State’s witness) that, unless all issues relating to the
3 ability of a CLEC to compete profitably in each and every wire center are
4 definitively resolved, markets must be defined according to the smallest possible
5 geography. In this manner, their testimony appears to seek to turn the impairment
6 analysis on its head. In other words, they contend that one should conduct the
7 impairment analysis at the wire center level first, then (possibly) decide, on the
8 basis of those results, the extent of the geographic market. This is inconsistent with
9 sound economic analysis and clearly at odds with the direction in the TRO that
10 “State commissions *must first define the markets in which they will evaluate*
11 *impairment* by determining the relevant geographic area to include in each market.”
12 (TRO 495 (emphasis added))
13

14 **II. RESPONSE TO DR. STAIHR**

15
16 **Q. WHAT DOES DR. STAIHR RECOMMEND AS THE APPROPRIATE**
17 **GEOGRAPHIC MARKET DEFINITION? (STAIHR REBUTTAL 2-3)**
18

19 **A.** Dr. Staihr recommends the use of MSAs. Dr. Staihr contends that MSAs represent
20 an aggregation of customers in urban areas and that this might be a relevant market.
21 For those areas not covered by MSAs, Dr. Staihr recommends using RSAs.
22
23
24

1 **Q. PLEASE COMMENT.**

2

3 A. The main problem with his proposal is, contrary to Dr. Staihr's assertions, MSAs
4 often contain some rural areas. Thus, while most of the population in an MSA
5 resides in urban and suburban areas, because MSAs are defined (outside of New
6 England) along county boundaries, MSAs are not strictly confined to urban and
7 suburban populations. There are several instances where the more rural UNE Zone
8 3 crosses into an MSA (using 1999 MSA definitions), including (but not limited to)
9 Panama City, Pensacola, Gainesville, Jacksonville, Daytona Beach, Orlando, West
10 Palm Beach, and Miami – Ft. Lauderdale.

11

12 Furthermore, it is my view that cost differences associated with serving customers
13 in different UNE Zones (e.g., UNE Zone 3, due to its lower density and higher loop
14 costs than UNE Zones 1 and 2) could lead to differences in the substitutability in
15 supply. The geographic market definition should reflect these differences. The use
16 of MSAs, without subdividing MSAs by UNE Rate Zones, does not reflect these
17 differences and therefore can lead to an inappropriate definition of the market.

18

19 I believe that the main distinction between my approach and Dr. Staihr's proposal
20 centers on the geographic concept used in conjunction with UNE Rate Zones to
21 develop the relevant market. Dr. Staihr proposes MSAs, without reference to UNE
22 Rate Zones, and I propose UNE Rate Zones with reference to CEAs. Dr. Staihr
23 contends that a reference to UNE Rate Zones is not required if MSAs are used
24 because MSAs already represent more urban areas. In doing so, however, he

1 ignores the fact that some parts of at least some MSAs are either rural in character
2 or have very low population densities.

3

4 **Q. DR. STAIHR CLAIMS THAT UNE ZONES 1 AND 2 ARE RELATIVELY**
5 **URBAN AND CAN BE COMBINED INTO A SINGLE GEOGRAPHIC**
6 **MARKET. (STAIHR REBUTTAL 3) DO YOU AGREE WITH THIS**
7 **CLAIM?**

8

9 A. No, the distinctions between UNE Rate Zone loop rates counsel against such
10 consolidation. My rationale for using the *intersection* of the areas defined by UNE
11 Rate Zones and CEAs (or MSAs) is based on an attempt to recognize a reasonable
12 amount of granularity in reflecting differences in cost factors (resulting from, *inter*
13 *alia*, differences in line density) that affect supply-side substitutability, while
14 maintaining a balance with other factors that would suggest a wider relevant
15 geographic market area. While it may turn out that any impairment analysis will
16 show that an efficient CLEC is unimpaired in both UNE Zones 1 and 2 in some (or
17 even all) MSAs, I do not believe that this is relevant for determining that these
18 Zones in some (or all) CEAs are part of the same relevant market.

19

20 **Q. DR. STAIHR CLAIMS THAT SUBDIVIDING CEAS BY UNE RATE**
21 **ZONES “NEGATES” THE COMMUNITY OF INTEREST ASPECT OF**
22 **CEAS. (STAIHR REBUTTAL 4) PLEASE COMMENT.**

23

1 A. A geographic market is not necessarily determined solely by whether an area
2 possesses a community of interest in the sense, for example, of being in the same
3 media market. While the scope of the media market, for example, can be one
4 determinant of the market's geographic scope, it need not be the only one. As I
5 have indicated, the willingness of a supplier that offers service in one part of an
6 area to also offer it in another part (i.e., the substitutability in supply) is an
7 important aspect of market definition, and this is generally determined by factors
8 other than mass-market advertising, such as differences in provisioning costs.
9 Accounting for these differences enhances the definition of the market by
10 considering *both* those community of interest factors considered by the BEA in
11 establishing CEAs and other factors that may influence the willingness of an
12 efficient CLEC to supply service in a geographic area.

13

14

III. RESPONSE TO DR. BRYANT

15

16 **Q. DR. BRYANT CLAIMS THAT A CEA IS OVERLY "BROAD." (BRYANT**
17 **REBUTTAL 3) DO YOU PROPOSE USING A CEA AS THE RELEVANT**
18 **MARKET DEFINITION?**

19

20 A. No, I do not. Dr. Byant contends that "[I]f a market as broad as a CEA is defined,
21 differences in profitability in wire centers will be obscured, and the impairment
22 analysis will thus fail to capture any areas where the CLECs cannot profitably
23 provide services." (Bryant Rebuttal 3) There are two problems with this
24 statement. First, it is irrelevant, because I did not propose the CEA as an

1 appropriate geographic market – rather, I proposed the intersection of CEAs and
2 UNE Zones, which is a smaller area than the CEA as a whole. Second, Dr. Bryant
3 seems to imply that there is an additional test in the TRO that CLECs must be able
4 to profitably provide service to all customers within the geographical area. The
5 FCC’s explicit *Errata* to the Order clarified that the TRO does *not* require that, for
6 the purposes of the switching triggers, self-provisioning competitors must be ready
7 and willing to serve all retail customers in the market.

8
9 **Q. DR. BRYANT CONTENDS THAT THE USE OF WIRE CENTERS**
10 **PROVIDES MORE ACCURACY REGARDING THE ABILITY OF CLECS**
11 **TO OFFER SERVICE. (BRYANT REBUTTAL 6) PLEASE COMMENT.**

12
13 A. In my opinion, Dr. Bryant’s reasoning is faulty on this point. The economies of
14 scale and scope available to CLECs in providing switch-based services are not, in
15 general, consistent with defining markets based on individual wire centers.
16 Therefore, by defining markets in this manner, the analysis would simultaneously
17 become more complex and less accurate (as the market definition would obscure
18 supply-side substitutability). Defining markets in this manner could also be more
19 time consuming and costly. Disagreement would inevitably arise as at least some
20 parties would attempt to compensate for the overly-narrow market definition by
21 citing factors that reflected supply-side substitutability over a broader area,
22 particularly factors associated with the scope and scale economies that would be
23 available to efficient CLECs.

24

1 Q. DR. BRYANT CONTENDS THAT THERE ARE COSTS THAT ARE NOT
2 CAPTURED BY THE UNE RATE ZONE/CEA CONCEPT, AND THAT
3 THESE COSTS SHOULD AFFECT THE MARKET DEFINITION.
4 (BRYANT REBUTTAL 3) PLEASE RESPOND.

5
6 A. Dr. Bryant lists a number of features that may vary across areas within the same
7 geographic market, such as the number of addressable lines, the number of lines
8 that are accessible by DSL or that are served by DLC, the relative number of
9 business and residential lines, and customer demographics. While I do not seek to
10 comment on all of the technical issues here, I will state that it is normally the case
11 that economic markets are not, and need not be, homogeneous in all respects.

12
13 Moreover, not all of Dr. Bryant's items necessarily have to do with market
14 definition. Some of his factors appear to have more to do with market structure.
15 For example, an area with a large number of customer lines (or a large number of
16 lines accessible by DSL) may allow *more firms* to economically enter than would
17 an area with a smaller number of lines (that is, the larger market may allow more
18 firms to achieve minimum efficient scale), but this variation would not necessarily
19 be a factor in determining the geographic contours of the market

20
21 The UNE Rate Zone concept, as I understand it, is designed to capture the variation
22 in the cost of the loops. To the extent that other costs or revenues vary
23 systematically with UNE Rate Zone, they will also be accounted for, at least in
24 part. More importantly, from the perspective of supply-side substitutability,

1 BellSouth's witness Wayne Gray has stated that some of the most important wire
2 center-related cost factors for an efficient CLEC to consider in deciding whether to
3 offer switched-based mass-market services are (1) loop costs, (2) transport costs
4 and (3) collocation costs. The UNE Zone concept, of course, captures the variation
5 in loop costs directly. Furthermore, Mr. Gray has also stated that transport costs
6 exhibit economies of scale and average per customer collocation costs in a wire
7 center decline as the number of customers served from that wire center increase.

8
9 Finally, certain cost factors are not noted in Dr. Bryant's list of factors. For
10 example, he does not include the costs of marketing and advertising, which tend to
11 support wider areas than wire centers as relevant economic markets.

12
13 My recommendation to define the market as the intersection of the UNE Rate Zone
14 and the CEA is a reasonable "middle ground" attempt to balance both the
15 community-of-interest aspect as well as some of the network-oriented cost factors
16 that can influence substitutability in supply. Dr. Bryant's definition appears to
17 focus on some network-oriented factors that relate more to market structure than
18 demand- or supply-substitutability, virtually ignoring such "community-of-interest"
19 factors as mass-market marketing and advertising costs. In contrast, Dr. Staihr's
20 proposal does just the opposite. I would submit that by accounting for both types
21 of factors the UNE Rate Zone/CEA concept provides the Commission with a
22 reasonable approach to market definition.

23
24

1 cannot support competitive entry, but, as part of a larger area, would experience
2 competitive entry).

3
4 Second, Dr. Johnson has added a requirement to defining markets – homogeneity in
5 demand characteristics – that is both too vague to apply and, more importantly,
6 unsupportable as an economic determinant of market definition. In fact, markets
7 need not be homogeneous in terms of demand characteristics either within or across
8 geographies, and economics does not recognize this factor as a determinant of
9 market definition.

10

11 Finally, the *ex post* approach introduces a third problem. It is logically impossible
12 to implement Dr. Johnson’s proposal because it presupposes some unspecified
13 definition of the market without making that definition explicit. One cannot
14 conclude anything about impairment *until* we determine the size and shape of the
15 relevant “market.” Further, an unspecified definition that is not clarified except *ex*
16 *post* invites regulatory gaming. I think for these reasons, sound economic analysis
17 and FCC requirements dictate that markets must be defined prior to conducting an
18 impairment analysis.

19

20 **Q. PLEASE COMMENT ON DR. JOHNSON’S CLAIM THAT MARKET**
21 **DEFINITION SHOULD BE BASED ON THE “START SMALL AND BUILD**
22 **UP PRINCIPLE.” (JOHNSON REBUTTAL 13.)**

23

1 A. While the general principle he cites is valid, in my opinion Dr. Johnson has
2 misinterpreted the meaning of this principle and the manner by which this principle
3 is applied by the DOJ/FTC Horizontal Merger Guidelines in at least two respects.
4 First, the Guidelines do not require that one start the market definition process
5 using the smallest possible geographic area. If this were correct, one might
6 (unnecessarily) begin the process of defining any telecommunications market at the
7 level of the individual customer, as Dr. Bryant suggests, or by defining a local
8 grocery market at the level of the few blocks surrounding an individual grocery
9 store. In reality, a sound economic approach to economic market definition
10 incorporates known, relevant information in proposing an initial market definition
11 for analysis. Thus, as the FCC suggests, one should consider the economies of
12 scale and scope available to CLECs before one proposes a market definition. (Note
13 that the Horizontal Merger Guidelines focus exclusively on demand-side
14 substitutability in defining the market, but use supply-side factors in determining
15 who does or could compete in the market (and whether any market participants
16 have market power), while economics more generally recognizes that there are
17 often benefits to using both demand- and supply-side substitutability as the bases
18 for defining relevant markets for competition analysis. This more general
19 economic view is entirely consistent with the FCC's directions in the TRO.)
20
21 I should note that there is no absolute preference in the Guidelines that indicates
22 that markets must be small in size. In fact, the Guidelines counsel that one should
23 *end* with the smallest possible market in which a hypothetical monopolist in the
24 provision of some product could profitably impose a small but significant and non-

1 transitory price increase. In some cases, application of this methodology will result
2 in markets that are quite large in size.

3
4 Second, by employing an ILEC-based perspective (i.e., the wire center) to defining
5 the relevant market, Dr. Johnson has misinterpreted the objective of the analysis.

6 Central to understanding the applications of the Guidelines (and, indeed, the more
7 general concept of market definition in economics) is the view that market

8 definition should not be conducted in a vacuum – that is, understanding the
9 objective of the exercise is important to defining an appropriate market for analysis.

10 Dr. Johnson states that he has employed the wire center as the starting point for his
11 analysis of market definition because he believes the Guidelines direct him to use

12 the locations of production facilities as a starting point (which he interprets as a
13 wire center). Even assuming the wire center were the appropriate notion of ILEC

14 production facilities in some circumstances, in the impairment analysis the
15 objective is to determine where CLECs, *not ILECs*, can compete. Thus, to the

16 extent that a focus on production facilities were warranted, this would presumably
17 require a focus on CLEC production facilities, not ILEC production facilities. In

18 my opinion, this is one of the main reasons that the FCC directed that market
19 definition be informed by the scale and scope economies available to CLECs.

20 Beyond this problem, one does not blindly focus on the location of individual
21 “production facilities” in defining a market. For example, in a large metropolitan

22 area, no one would seriously consider starting the process of defining a market for
23 automobile retailing based on the location of a single dealership.

24

1 **Q. DO YOU START FROM AN EXTREMELY LARGE MARKET SIZE AND**
2 **WORK SMALLER? (JOHNSON REBUTTAL 15-16, 32.)**

3
4 A. No. Dr. Johnson mischaracterizes the process I used in determining the extent of
5 the geographic market. Applying sound economic principles, one starts neither at
6 the most atomistic level possible nor at the most expansive level possible. Instead,
7 one reviews the information regarding the nature of the market, evaluates
8 substitutability in demand and supply and then makes a reasoned estimate of the
9 relevant geographic scope of the market. It may be the case that some
10 modifications, smaller or larger, are needed after making this initial estimate.
11 However, such fine tuning does not mean that one starts either at the smallest or
12 largest possible market size and works toward a middle ground. Either approach
13 would be costly, unnecessary, and prone to deriving inaccurate results.

14
15 **Q. HAS DR. JOHNSON UTILIZED THIS “START SMALL” APPROACH TO**
16 **DEFINE RELEVANT MARKETS IN FLORIDA?**

17
18 A. No, Dr. Johnson is unable to say what market definition is appropriate in this case.
19 That is, he apparently believes that, at least in some instances, wire centers may be
20 aggregated, but he is unprepared to identify these cases and the extent of the
21 markets involved.

22
23 **Q. PLEASE COMMENT ON DR. JOHNSON’S ALLEGATION THAT THE**
24 **USE OF THE UNE RATE ZONE/CEA MARKET DEFINITION CREATES**

1 **A RISK THAT “VAST GEOGRAPHIC AREAS” WILL BE TREATED AS A**
2 **SINGLE MARKET. (JOHNSON REBUTTAL 18.)**

3
4 A. The FCC requires that the market definition account for economies of scale and
5 scope. An area the size of a wire center usually does not satisfy this requirement.
6 For example, as I have noted, mass-market advertising costs are subject to
7 economies of scale and scope and support the view that the relevant markets in this
8 case are much broader than individual wire centers. The markets I have defined
9 balance the need to account for scale and scope economies and other factors, such
10 as loop costs, that are more local in nature. Dr. Johnson’s characterization of
11 certain UNE Rate Zone/CEA-based geographic markets as “vast” is simply a
12 subjective observation that provides no economic basis for challenging my
13 proposed market definition.

14
15 **Q. DR. JOHNSON HAS ASSERTED THAT, WITHIN THE MARKETS YOU**
16 **DEFINE, COST CONDITIONS RELEVANT TO PROVIDING SWITCHED-**
17 **BASED SERVICES TO MASS-MARKET CUSTOMERS WILL**
18 **GENERALLY BE SO VARIABLE AS TO REQUIRE THAT MARKETS BE**
19 **DEFINED USING WIRE CENTERS OR SMALL AGGREGATIONS OF**
20 **WIRE CENTERS. (E.G., JOHNSON REBUTTAL 22-23.) PLEASE**
21 **COMMENT.**

22
23 A. As I have previously noted, Dr. Johnson is not prepared to say what the appropriate
24 market boundaries are in Florida. More to the point, as I noted in my comments to

1 Dr. Bryant above, the UNE Zone concept is designed to capture at least some of the
2 variation in costs across wire centers. In addition, Mr. Gray has testified that the
3 factors that affect average cost conditions (which themselves affect supply-side
4 substitutability) are similar within the CEA by UNE Zone markets I have defined.
5 This is one of the important reasons why individual wire centers usually are not
6 appropriate as the definition of the relevant markets in this case.

7
8 **V. RESPONSE TO MR. GILLAN**

9
10 **Q. MR. GILLAN CLAIMS THAT HE HAS “NEVER COME ACROSS ANY**
11 **MENTION” OF CEAS (GILLAN REBUTTAL 10.) AND THAT THEY**
12 **“HAVE NOTHING TO DO WITH TELECOMMUNICATIONS” (GILLAN**
13 **REBUTTAL 3, 10) AND NOTHING TO DO WITH COMPETITIVE**
14 **ACTIVITY. (GILLAN REBUTTAL 8.) PLEASE RESPOND.**

15
16 **A.** Mr. Gillan may not be familiar with the term, but the FCC uses the CEA concept in
17 connection with telecommunications. According to 47 CFR 101.1401,
18 multichannel video distribution and data service (MVDDS) is licensed on the basis
19 of CEAs. That rule says, in part, that “Each CEA consists of a single economic
20 node and the surrounding counties that are economically related to the node.”
21 Thus, the FCC recognizes the economic basis for markets defined using the CEA
22 concept. In addition, the FCC’s Wireless Bureau provides some tools for those
23 interested in bidding for wireless spectrum to map the CEAs as well as other
24 geographic areas, such as MSAs. (These are found online at

1 www.fcc.gov/oet/info/maps/areas/.) Thus, contrary to Mr. Gillan's assertions,
2 CEAs have been used as the basis for defining markets in telecommunications. In
3 any event, whether Mr. Gillan is familiar with the CEA concept is hardly a basis for
4 deriving the definition of a market. In my opinion, the relevant consideration in
5 this instance is whether the intersections of UNE Rate Zones and CEAs reasonably
6 represent the relevant markets for the purposes of conducting the requisite
7 impairment analyses.

8
9 **Q. MR. GILLAN CLAIMS THAT CEAS ARE NOT THE BUREAU OF**
10 **ECONOMIC ANALYSIS'S "FINAL PRODUCT" AND ARE NOT**
11 **SUFFICIENTLY LARGE FOR THE BEA'S ECONOMIC PROJECTIONS.**
12 **(GILLAN REBUTTAL 10-11.) PLEASE COMMENT.**

13
14 A. In making this claim, Mr. Gillan confuses the different purposes of CEAs and the
15 (generally) larger BEA Economic Areas. As the article appended to Mr. Gillan's
16 rebuttal testimony ("Redefinition of the BEA Economic Areas," by Kenneth P.
17 Johnson, *Survey of Current Business*, February 1995, pp. 75-81) notes, CEAs were
18 defined as "a single economic node and the surrounding counties that are
19 economically related to the node." Thus, CEAs are not, in an economic sense,
20 "middle step[s]" but rather defined areas with an economic community of interest.
21 Most are defined with MSAs as their core. The CEAs were then combined into
22 BEA Economic Areas so that "each economic area is economically large enough to
23 be part of BEA's local area economic projections program." In other words, the
24 BEA determined that, for the purposes of their own particular economic forecasts,

1 many of the CEAs were too small to permit the development of reliable forecasts.
2 Thus, they were combined to form larger areas. Such a rationale does not in any
3 way undermine the economic rationale for using CEAs to define relevant
4 geographic markets. In fact, if anything this usage may be supported by footnote 5
5 in the Johnson article, which states: “Data for CEAs can be used by government
6 agencies for administering regulatory programs for small areas and by businesses
7 for developing marketing programs for small areas.”

8
9 **Q. PLEASE COMMENT ON MR. GILLAN’S CRITIQUE OF UNE RATE**
10 **ZONES. (GILLAN REBUTTAL 11-12.)**

11
12 A. Mr. Gillan claims that UNE prices vary modestly between UNE-L and UNE-P and
13 so UNE price variation has little effect on the relative ability of a CLEC to use its
14 own switching. (Gillan Rebuttal 11-12.) However, this criticism ignores two
15 important issues relevant to market definition. First, of course, I have not defined
16 markets *solely* on the basis of UNE Rate Zones. The rationale for my use of CEAs
17 in conjunction with UNE Rate Zones was to account for factors that affect supply-
18 side substitutability, including, but not limited to, the differences in loop costs
19 captured by the intersection of UNE Rate Zones and CEAs, and also to recognize
20 that there is a broader set of costs such as marketing and advertising costs that
21 affect the relevant geographic scope of the market.

22
23 Second, the objective of the market definition exercise is to provide an appropriate
24 economic context in which to evaluate whether CLECs are impaired in offering

1 switch-based services to mass-market customers, not to carry out some hypothetical
2 comparison between UNE-L and UNE-P CLECs. As I noted in my comments on
3 Dr. Bryant's testimony, this objective is relevant to the market definition exercise.
4 For this reason, the fact that UNE prices do not vary significantly for UNE-L as
5 compared with UNE-P is not an important consideration in market definition in this
6 case. What is important is that supply-side substitutability will likely be affected
7 for CLECs offering UNE-L as a result of the differences in costs associated with
8 offering service in different UNE Zones. Mr. Gillan's criticism appears to ignore
9 this issue.

10
11 **Q. PLEASE ADDRESS MR. GILLAN'S CLAIM THAT SOME CEAS ARE**
12 **SMALLER THAN SOME WIRE CENTERS. (GILLAN REBUTTAL 12.)**

13
14 **A.** It is not clear what Mr. Gillan's point is in making in this claim. Perhaps he is
15 simply claiming that some of the markets I have defined have fewer lines than the
16 number of lines in some of the largest individual wire centers in the State of
17 Florida. While this may be true, it is not a relevant fact for market definition
18 purposes, and therefore his claim is not a meaningful economic criticism of my
19 market definition analysis. For example, it is common for individual geographic
20 markets to vary in terms of the number of customers or sales potential contained
21 within them – often substantially (e.g., a local retailing market for a particular
22 product in a rural area of Florida may have a much lower population and/or sales
23 potential than a local retailing market for the same product in Miami or

1 Jacksonville). Markets are not defined by the number of actual or potential
2 customers but by demand- and supply-side substitutability.

3
4 **Q. PLEASE COMMENT ON THE USE OF LATAS IN DEFINING**
5 **GEOGRAPHIC MARKETS.**

6
7 A. LATAs, by themselves, are unlikely to represent relevant geographic markets
8 because it is likely that they do not adequately reflect differences in supply
9 substitutability. For example, there may not be reasonable substitutability in supply
10 between UNE Zone 1 and UNE Zones 2 and 3 within a particular LATA. It is my
11 understanding that LATAs, which were created by Judge Greene following the
12 breakup of AT&T, correspond loosely to Standard Metropolitan Statistical Areas.
13 An advantage of using UNE Rate Zones divided by CEAs rather than MSAs or
14 LATAs (without reference to UNE Rate Zones) is that the UNE Rate Zone/CEA
15 approach accounts for *both* differences in loop and other costs *and* for economies
16 of scale and scope related to factors such as mass-market advertising costs. It is
17 also worth noting, although Mr. Gillan is testifying on behalf of the FCCA,
18 witnesses for three of the FCCA's members (Dr. Bryant for MCI, Mr. Bradbury for
19 AT&T, and Mr. Nilson for Supra) have filed conflicting testimony.

20
21 **VI. RESPONSE TO MR. BRADBURY**

22
23 **Q. MR. BRADBURY CLAIMS THAT YOU MAKE AN "OUTLANDISH**
24 **[CLAIM] THAT THE WIRE CENTER CONCEPT HAS NO MEANING**

1 **AND THAT WHERE THE CUSTOMER IS LOCATED IS UNNECESSARY**
2 **INFORMATION IN DETERMINING WHETHER CLECS CAN USE**
3 **THEIR OWN SWITCHING FACILITIES TO ECONOMICALLY AND**
4 **EFFICIENTLY SERVE MASS-MARKET CUSTOMERS.” (BRADBURY**
5 **REBUTTAL 21-22.) PLEASE RESPOND.**

6
7 A. Mr. Bradbury’s immediately preceding discussion on CLEC network architecture is
8 consistent with my own discussion and supports my own analysis. However, some
9 of his apparent confusion about my meaning is understandable in that the specific
10 language to which he refers was inadvertently included in my testimony as filed
11 and was admittedly not clear. I had intended the sentence to which he refers to
12 read, “Therefore, the wire center concept is not relevant to market definition in this
13 context, and specifically not economically relevant in terms of how CLECs
14 provision services to their end users,” and the sentence he cites was subsequently
15 corrected to reflect this. With this correction, it is my opinion that Mr. Bradbury’s
16 views are consistent with my own. I note that Mr. Bradbury leads off his
17 discussion on network architecture by acknowledging that CLEC networks are not
18 configured in the same manner as BellSouth’s. He specifically states that,
19 compared to the traditional (BellSouth) network, CLECs are able to use fewer
20 switches than does BellSouth to provide service to a particular geographic area. It
21 is precisely this point – i.e., that AT&T has chosen a network architecture approach
22 different from BellSouth’s approach (e.g., to serve customers in a wider geographic
23 area with a single switch) – that I make in my own direct testimony.

1 I conclude that this fact provides evidence that the geographic market area in
2 Florida is not the BellSouth wire center because the switch-based CLEC's decision
3 to offer service in a geographic area is not limited by the area covered by the
4 BellSouth wire center. The reason is that AT&T (or any CLEC) is not obligated to
5 install a separate switch to customers in the different wire centers where it offers
6 (or could offer) switch-based services. One of the principles that I refer to
7 frequently herein and in my previously filed testimony in this matter is that supply
8 substitutability is an important determinant of geographic market definition. The
9 fact that CLECs such as AT&T are capable of serving customers in multiple wire
10 centers from a single switching location is one indicator that the single wire center
11 is not usually an appropriate definition of the relevant geographic market based on
12 supply-side substitutability (e.g., because CLECs are able to take advantage of
13 scale and scope economies, including switching, that allow them to serve much
14 larger areas than an individual wire center).

15
16 **VII. RESPONSE TO MR. NILSON**

17
18 **Q. PLEASE RESPOND TO MR. NILSON'S VIEW THAT UNE RATE**
19 **ZONE/CEA ARE "SIMPLY TOO LARGE" AND THAT WIRE CENTERS**
20 **SHOULD BE USED INSTEAD. (NILSON REBUTTAL 4 AND 25.)**

21
22 **A.** As I have noted in my previous testimony and in this surrebuttal testimony, use of
23 the wire center as the general principle for market definition, as proposed by Mr.
24 Nilson, is inconsistent both with the direction provided by the TRO (in particular,

1 with the need to consider the economies of scale and scope available to CLECs in
2 defining the market) and with sound economic analysis. Rather than mechanically
3 adhering to the wire center concept, one should consider the relevant factors
4 influencing substitutability in demand and in supply and come to a reasoned
5 conclusion about the geographic market on that basis.

6

7 **Q. IS IT TRUE THAT THE CLEC MUST BE OPERATIONALLY ABLE AND**
8 **WILLING TO PROVIDE SERVICE TO ALL CUSTOMERS IN THAT**
9 **MARKET? (NILSON REBUTTAL 29).**

10

11 A. I believe that Mr. Nilson may be referring to paragraph 499 of the TRO. This
12 paragraph was corrected in the FCC's September 17 2003 *Errata*. What it is
13 referring to is the "wholesale" triggers and the fact that a CLEC that offers
14 switching in an area must be willing to provide wholesale service (to other CLECs)
15 in the designated market. In my opinion, his views are inconsistent with the
16 *Errata*.

17

18 **Q. MR. NILSON HAS CONTENDED THAT "POPULATION DENSITY" IS AN**
19 **IMPORTANT FACTOR TO BE CONSIDERED IN DEFINING THE**
20 **GEOGRAPHIC MARKET IN THIS CASE (NILSON 15) AND THAT YOUR**
21 **ANALYSIS HAS NOT TAKEN THIS FACTOR INTO ACCCOUNT.**
22 **PLEASE RESPOND.**

23

1 A. I agree that population density is one factor that should be taken into account
2 because it, at least indirectly, can affect costs the CLECs face in providing switch-
3 based services. However, the UNE Zones do, in part, take this factor into account
4 because they divide the state into three separate zones based on loop costs. An
5 important determinant in this division of the state in three UNE Zones, in turn, was
6 loop density (which is related to population density). Since my market definition
7 explicitly uses the UNE Zones to derive geographic markets—a fact that Mr.
8 Nilson does not acknowledge given his claim that I only make “cursory mention of
9 UNE loop rates” (Nilson Rebuttal 13)—I believe that it does incorporate this factor
10 noted by Mr. Nilson.

11

12 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

13

14 A. Yes.