

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS  
ARISING FROM FEDERAL COMMUNICATIONS  
COMMISSION'S TRIENNIAL UNE REVIEW:  
LOCAL CIRCUIT SWITCHING FOR MASS  
MARKET CUSTOMERS.



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VOLUME 16

Pages 2177 through 2248

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN BRAULIO L. BAEZ  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER LILA A. JABER  
COMMISSIONER RUDOLPH "RUDY" BRADLEY  
COMMISSIONER CHARLES M. DAVIDSON

DATE: Thursday, February 26, 2004

TIME: Commenced at 9:00 a.m.

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

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 03028 MAR-16

FPSC-COMMISSION CLERK

1 REPORTED BY: LINDA BOLES, RPR  
Official FPSC Reporter  
2 (850) 413-6734

3 APPEARANCES: (As heretofore noted.)

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## P R O C E E D I N G S

(Transcript follows in sequence from Volume 15.)

CHAIRMAN BAEZ: We're going to go back on the record.

Good morning, everyone. We've got a couple of housekeeping matters before we take up the first witness this morning.

Mr. Susac, do you want to walk us through those things?

MR. SUSAC: Yes. Good morning, Chairman. Good morning, parties.

Due to new information that was coming in during the course of the hearing, we are amending Exhibit Number 8. With that we are adding a document number to Number 17; the document number is 02645-04. You are now getting a copy of this. Also on Number 20, adding document number 02612-04.

The second amended exhibit is Exhibit Number 11, which were the data requests.

MR. FEIL: Excuse me, Mr. Chairman. Could I ask Mr. Susac to slow down a little bit here.

MR. SUSAC: Oh, I'm sorry.

MR. FEIL: If we go first to Exhibit Number 8, there are enumerated items on there. Are you saying they are adding an enumerated item or you're changing an enumerated item?

CHAIRMAN BAEZ: Mr. Feil, I think what they're doing is adding, especially on Number 8 specifically is adding

1 document numbers to already existing documents.

2 MR. SUSAC: So it's easier to identify down the road.  
3 These are filings that came in late that are just now getting  
4 document numbers.

5 MR. FEIL: You're adding documents to the pile and  
6 document numbers --

7 CHAIRMAN BAEZ: Already existing documents, they are  
8 assigning document numbers. Is that correct, Mr. Susac?

9 MR. SUSAC: Correct.

10 CHAIRMAN BAEZ: That's on Exhibit 8.

11 MR. SUSAC: 8 and 11.

12 CHAIRMAN BAEZ: And 11. And I think the, the new  
13 amended list that you're getting ought to have the numbers, the  
14 additions shaded. And you can -- it'll be self-evident. And  
15 you have one more?

16 MR. SUSAC: Yes, Chairman, we have one more. This  
17 document was inadvertently left off staff's list. This is --  
18 this can be given a new exhibit number. It is the responses to  
19 BellSouth's subpoena. These are confidential document number  
20 1733-04.

21 CHAIRMAN BAEZ: Hold on. I'm going to need you to  
22 give me that number again. Document number --

23 MR. SUSAC: Document number is 1733-04.

24 CHAIRMAN BAEZ: Okay.

25 MR. SUSAC: Is also -- there is Allegiance



1 confidential responses to staff's third set of interrogatories,  
2 document number 02683-04. And then we have Sprint's  
3 confidential response to staff's third set and staff's fourth  
4 request for PODs. Those document numbers are 02366-04. I  
5 believe we're up to Exhibit Number 99; is that correct?

6 CHAIRMAN BAEZ: 99. Confidential Exhibit 99 will  
7 show those confidential responses already listed.

8 MR. MEZA: Mr. Chairman?

9 CHAIRMAN BAEZ: Yes, sir.

10 MR. MEZA: May I suggest also an addition to this  
11 exhibit or a clarification from staff? BellSouth received  
12 Comcast responses to request for admissions, and I don't know  
13 if, if that is the same as the documents produced pursuant to  
14 subpoena as referenced in staff's exhibit. It may not.

15 CHAIRMAN BAEZ: I don't -- can anyone clarify or  
16 clear that up?

17 MR. SUSAC: Yes, we'll clarify. May I get the  
18 documents from Mr. Meza?

19 CHAIRMAN BAEZ: Go ahead.

20 MR. SUSAC: Can we take this up during maybe break?  
21 I'll review the documents and compare it to what we have.

22 CHAIRMAN BAEZ: Okay.

23 (Exhibit 99 marked for identification.)

24 CHAIRMAN BAEZ: Do we have anything else, any other  
25 preliminary matters this morning?

1 All right. We have, we're going to continue AARP's  
2 cross, and I think we have Witness Ruscilli up this morning.  
3 Mr. Twomey, we had talked yesterday; you've taken 30 minutes  
4 off of, off of your block of time.

5 MR. TWOMEY: 35.

6 CHAIRMAN BAEZ: 35. That's correct. Thank you. The  
7 witness is yours.

8 MR. TWOMEY: Thank you, Mr. Chairman.

9 CHAIRMAN BAEZ: He's been sworn.

10 JOHN A. RUSCILLI

11 was called as a witness on behalf of BellSouth  
12 Telecommunications, Inc., and, having been duly sworn,  
13 testified as follows:

14 CROSS EXAMINATION

15 BY MR. TWOMEY:

16 Q Good morning, sir.

17 A Good morning.

18 Q I view your testimony, Mr. Ruscilli, as saying that,  
19 that the UNE-P services you offer now or that you have to offer  
20 at the rates set by the Florida Public Service Commission  
21 provide your competitors with, I think in your words, cheap  
22 access. Is that true?

23 A Yes.

24 Q I heard Mr. Lackey say words to the effect in, in  
25 y'all's rather excellent presentation the other day that, that

1 they wanted to stop having to sell these services at their  
2 current rates to your competitors because it was unfair. Do  
3 you recall that, words to that effect?

4 A I don't recall that precisely, but --

5 Q Okay. But isn't that, isn't that BellSouth's goal,  
6 to stop having to provide UNE-P services to your competitors at  
7 the rates now set by the Florida Public Service Commission?

8 A Our goal in this proceeding is where the Commission  
9 finds that there's no impairment for switching, that we want to  
10 offer that as a commercially viable product, and we're willing  
11 to commit that we will continue to do that. We're calling it a  
12 local wholesale platform as opposed to calling it UNE-P, but we  
13 will, we will do that. That's what we want to do, but we want  
14 to do it in a commercially viable product.

15 Q Okay. On that point, let me ask you this. I believe  
16 I heard somebody question one of the BellSouth witnesses the  
17 other day, and I think it may have been you, about whether you  
18 had to continue offering the wholesale, pardon me, the  
19 wholesale platform in the areas that were not impaired as a  
20 result of apparently y'all seeking a waiver of the FCC. Were  
21 those questions of you?

22 A Yes.

23 Q And are you seeking a waiver from having to do that?

24 A We have filed a petition with the FCC for a number of  
25 things. But notwithstanding that petition with the FCC, let me

1 be very clear on this; we have been and we still are willing to  
2 enter into any kind of contract with any CLEC that wants to  
3 provide our wholesale platform service, we just want to do so  
4 at a commercially viable rate. We still have the obligation to  
5 provide 251, which would be the unbundled network element loop,  
6 and we still have an obligation under 271 to provide the  
7 switching. And we will put those together and we are willing  
8 to enter into contracts. We've actually always been willing to  
9 enter into a contract, as long as we can do so at a  
10 commercially viable rate. And notwithstanding what the FCC  
11 rules one way or the other, we're still committed to doing  
12 that.

13 Q I see. But you would set the rate?

14 A Yes.

15 Q Okay.

16 A For the switching, yes.

17 Q Right. Now am I correct in understanding that --  
18 I've seen the number of, I believe the current number is in the  
19 range of \$2 for the, for the switching in certain zones; is  
20 that roughly correct?

21 A For the TELRIC rate --

22 Q Yes, sir.

23 A -- for switching? I think it's \$1.17 for the port,  
24 and then there's usage charges on top of that and then feature  
25 charges.

1           Q     I also believe I've heard someplace, I don't know if  
2 this is correct or not, but I've heard that some companies  
3 believe, perhaps yours, that a market base rate would be more  
4 in the range of \$14. Is that at all correct?

5           A     The current market rate that we offer for those  
6 customers that are subject to the four-line carve-out, which  
7 would be business customers having four lines or more, we've  
8 been offering that at \$14 for some time. I think as of the end  
9 of December we had almost 50,000 lines that we were billing at  
10 that market rate. So it's a rate customers are paying.

11          Q     Okay. Mr. -- did you hear my cross of Mr. Fulp last  
12 night?

13          A     I heard parts of it. I was outside moving my car  
14 because it was raining.

15          Q     Yes, sir. I understood Mr. Fulp to say that, that  
16 Verizon thought that the, the UNE-P rates established by the  
17 Commission most recently for Verizon would have caused them to  
18 sell the switching services at below cost. Did you hear that  
19 part?

20          A     I heard parts of that. Yes.

21          Q     Is it, is it BellSouth's position that the, the  
22 Commission-approved UNE-P rates are below your cost?

23          A     Yes.

24          Q     In all three zones?

25          A     Yes.

1           Q       Okay.  So consistent with that and consistent with  
2 whatever -- isn't it true that it would be your desire to  
3 eliminate selling any services to your competitors that are at  
4 below cost; right?  Is that fair?

5           A       Well, I would characterize it differently.  Just like  
6 I said earlier, when there's a lack of impairment, we want to  
7 be able to offer those kinds of services that we're required to  
8 offer now at TELRIC at a commercially viable rate.  
9 Irrespective of that though, we do not want to be offering  
10 services below our cost.  You cannot sustain a business doing  
11 that.  You cannot sustain competition when you're providing  
12 something to your competitors cheaper than what it's costing  
13 you to provide.

14          Q       But -- yes, sir, thank you.  And consequently though,  
15 isn't it, isn't it BellSouth's goal in this proceeding to try  
16 and get this Commission, through the use of its discretion, to,  
17 to approve nonimpairment areas that would encompass the  
18 greatest number of your customers possible?

19          A       No, that's not our goal at all with respect to the  
20 last part.  Let me, let me phrase that back to you.

21                 Our goal is we're seeking impairment -- a finding of  
22 nonimpairment for mass market switching based on what we have  
23 presented as far as a geographic market area, which is  
24 something that the Commission has the discretion to determine,  
25 and a crossover point.  I think if you look at the testimony of

1 Witness Tipton for BellSouth, if you were to take the  
2 geographic areas of, recommended by other parties in this case,  
3 you'd find larger numbers of customers would be unimpaired  
4 without switching. So it wasn't our goal to maximize the  
5 number of customers that would be unimpaired. Our goal was to  
6 be consistent with what we interpret the Act to be telling us  
7 to do or, excuse me, the TRO to be telling us to do.

8 Q I see. The -- do you have a copy of Exhibit 82?

9 A No, sir.

10 Q The competition report.

11 A Okay. I have to apologize. I have not memorized  
12 exhibit numbers.

13 Q I apologize for telling -- I should have just said  
14 the report. Do you have it?

15 A Yes, sir.

16 Q Would you turn to Page 14, please. I asked this of  
17 Mr. Fulp; I want to ask the same question to you. Do you  
18 believe that the Public Service Commission should at all take  
19 into consideration the impacts of, of -- on competition in the  
20 findings it reaches in this, in this case?

21 A I think the Commission should be concerned with  
22 making sure that there's going to be sustainable competition  
23 out there in the marketplace.

24 Q So the answer is yes?

25 A Yes.

1 Q Okay. On Page 14, Table 6, does that table  
2 correctly, to your knowledge, reflect the, the changes this  
3 Commission has ordered in, in BellSouth's UNE-P rates?

4 A Yes, I believe so. I don't have the UNE-P rates  
5 memorized, but it looks correct.

6 Q They have over time since, that table shows, doesn't  
7 it, since December 2000 to September 2002, the Commission has  
8 made fairly large reductions in the UNE-P rates in all three  
9 zones; correct?

10 A Well, it made reductions from December 2000 to  
11 May 2001. And then in the October column they're a little bit  
12 higher, and they went back down again in September 2002.

13 Q Yes, sir. I meant just from December to, December to  
14 September 2002 there's a net reduction that's fairly  
15 substantial in your view, isn't it?

16 A Yes. There's a reduction there.

17 Q The, the end rates, that is the current rates  
18 approved by the Commission in September 2002, is it your  
19 position that, that each of those rates requires you to sell  
20 the switching service at below cost?

21 A Yes. We filed the cost study with what we believed  
22 would be TELRIC compliant costs and work times, and the  
23 Commission made adjustments downward on those work times.

24 Q Did BellSouth --

25 A Excuse me. Among other things. I didn't finish. It



1 wasn't just work times.

2 Q Yes, sir. To your knowledge, did BellSouth appeal  
3 any of the Commission orders ordering these rates?

4 A I don't recall if they, throughout those orders if we  
5 appealed them or not.

6 Q Now the -- is it also true as suggested -- did you  
7 read over the, the competition report in preparation for this  
8 morning and look at the BellSouth portions?

9 A I've scanned it. Yes.

10 Q Yes, sir. The -- I believe there's a suggestion in  
11 the report that your level of approved UNE-P rates was due at  
12 least in part because of your 271 proceeding. Is that, is that  
13 all correct?

14 A I don't remember reading that our level of rates was  
15 due -- maybe you better rephrase the question, because I may  
16 not be hearing it.

17 Q Let me ask it differently. Wasn't there a  
18 requirement as part of the 271 proceeding that you have  
19 available, part of the checklist that you have available to  
20 your competitors cost-based switching?

21 A Yes. That's a requirement of 252. Yes.

22 Q Okay. Now the -- you are aware, are you not, as  
23 shown by this report that, that you've had substantial  
24 increases in your competitors taking, taking UNE-P service from  
25 you; correct?

1 A Yes.

2 Q Okay. And would you, would you -- and that's  
3 reflected, is it not, on Table 1 on Page 8? I'm sorry. That's  
4 the general. Look at Page 9, Table 2. That shows, does it  
5 not, the, the increases in -- no. Wait a minute.

6 Table 2 shows the increase in CLEC lines, correct, in  
7 your service territory?

8 A Well, Table 2 represents ILEC lines, CLEC lines and  
9 total lines, and CLEC share for the rural companies and the  
10 three ILECs.

11 Q And the CLECs now have 14 percent of your residential  
12 market; correct?

13 A Yes.

14 Q Okay. And this particular, this particular table  
15 doesn't show, however, what percentage of the 14 percent is  
16 taken by UNE-P; correct?

17 A No. There's no reflection, UNE-P or resale or  
18 facilities-based. This is just a general share table.

19 Q Now, but the -- I apologize because I've lost my  
20 place. But the, the report does speak to the increase in UNE-P  
21 by your competitors in your service territory; correct?

22 A Yes. It speaks to it. And, again, I'm going to  
23 assume that what you're saying by increase in UNE-P, you mean  
24 UNE-P penetration. Yes, it speaks to that. It attributes it  
25 to several factors, one of which, UNE-P. As the staff had

1 noted in this report and we've noted across the country, as we  
2 got closer to being able to offer long distance service,  
3 competitors started ramping up their activities to compete in  
4 our market. That was seen in Texas, that was seen in New York,  
5 we've seen it in all the BellSouth states that once we made the  
6 filing with the FCC, competition started getting vigorous.

7 Q Now would you, would you agree that the, whether  
8 they're tied together or not, the evidence in the report would  
9 suggest that the level of increase in UNE-P takes by the, the  
10 CLECs in your service territory are, are tied to the, the  
11 decreases in your UNE-P rates by the Commission?

12 A The report suggests that in part just from the date  
13 of the timing because one of the UNE orders came out just  
14 around the time we were making that filing with the FCC. But,  
15 again, the report also attributes and recognizes a significant  
16 increase in the marketing activities by the CLECs as we were  
17 approaching our long distance entry.

18 Q Now you would like to stop -- I mean, there's  
19 obviously a revenue loss associated with the 14 percent of  
20 residential customers taken by your CLEC customers; right?

21 A Well, when you lose a customer, you lose the revenue.  
22 Yes.

23 Q And, and one of the goals of what you want to have  
24 done here is you want to stop that, right, or you want to slow  
25 it?

1           A     No, that's, that's not a goal.  What we're doing here  
2 is we're complying with the requirements of the TRO, which  
3 instructed the state Commissions with nine months, within  
4 nine months to make a finding on mass market switching.  And  
5 compliant with that, we have filed evidence demonstrating what  
6 we believe the areas and the crossover should be and where  
7 there's a lack of impairment based on what the CLECs are doing.  
8 It wasn't a goal; we're complying with the TRO.

9           Q     Yes, sir.  But looking at it a different way, I mean,  
10 do you know where, do you generally know where the 14 percent  
11 of your residential customers are located that you've lost to  
12 your competitors, that is, what, what geographic areas they are  
13 generally?

14          A     I mean, I personally do not know, but BellSouth  
15 knows, yes.

16          Q     But, I mean, this, this report at someplace says  
17 that, that it's occurred in, in some of your more dense urban  
18 service territories; right?

19          A     Yes.  Yes.  It's -- I think the report says the  
20 higher concentration of losses are in the more urban areas or  
21 something to that effect.

22          Q     Right.  I mean, and to the extent you know, isn't it  
23 true that a large number of that 14 percent residential  
24 customers you've lost over the last couple of years are located  
25 in the geographic areas that you're asking the Commission to

1 find no impairment in?

2 A They may be. But the point behind the finding of no  
3 impairment is a demonstration that there are CLECs out there  
4 using their switches to provide service to those customers, and  
5 these are people who are actually using their own switches.  
6 And, and to that effect, we're presenting evidence to this  
7 Commission that the CLECs are not impaired from getting their  
8 own switches in the ground and getting access to that to  
9 provide competition for those customers.

10 As a matter of fact, in seven of the 12 markets we're  
11 asking for that on the triggers test, we have twice as many as  
12 what the FCC said was the minimum.

13 Q Yes, sir. But help me understand what the outcome  
14 will be eventually if the Commission rules in your favor in  
15 this proceeding.

16 That is, if, if a customer, a residential customer  
17 that is receiving service from a CLEC that is providing that  
18 service by purchasing or leasing a UNE-P switching service from  
19 you is in one of the zones that you're asking the Commission to  
20 find nonimpairment and the Commission, in fact, does, as I  
21 understand it, there would be a transition period of some 27  
22 months or so, after which that CLEC will no longer have access  
23 to the UNE-P at the current regulated rates; is that correct?

24 A Yes, that's correct. There is a 27-month transition  
25 period if there's a finding of nonimpairment. But the point

1 behind the whole finding of nonimpairment is that there are  
2 carriers out there that are able to provide their own  
3 switching, and that's how you form the basis of sustainable  
4 competition which this Commission should be looking at.

5           And so the CLECs have got the options. They've got  
6 several options: They could, they could resell; they could  
7 offer the service at our market rate that we want to offer for  
8 that wholesale local platform, and we're willing to enter into  
9 contracts to do so; they could put their own switch in the  
10 ground; or, and we do anticipate this, there are a number of  
11 switches in our, in our region alone, 77, we anticipate with  
12 that excess capacity that some of these other carriers will  
13 begin to offer their own version of a wholesale platform in  
14 competition with BellSouth. So there are plenty of options for  
15 the CLECs to continue to provide service.

16           Q       Wouldn't you expect that if, that if the, if the  
17 other CLECs with switches that might become wholesale, wouldn't  
18 you expect that they're going to offer services at rates that  
19 would be more consistent with your idea of a market rate as  
20 opposed to the, to the current approved rates by the  
21 Commission?

22           A       I think that what will happen and what should happen  
23 and I believe that what the goal is of the Act and what's  
24 certainly implied in the TRO is that when these services are  
25 found to be unimpaired, you begin to have a true market. And

1 when you have a true market, I go out and I offer a product,  
2 and I'll look at Mr. Feil over there with FDN, he may decide he  
3 wants to offer something and he can cut my price a little bit  
4 and sell it to competitors, and AT&T, they've got eight  
5 switches out there right now, they've got capacity, maybe  
6 they'll come out with a price, and we'll all start competing  
7 with each other to sell wholesale type platforms to other  
8 companies. And the benefit of that is that when you have that  
9 competition, you have -- you're starting to reach what the  
10 market rate should be for that, and, you know, theoretically  
11 those prices start moving around and sometimes you get more  
12 competitors wanting to enter into the marketplace for that.

13 Q Do you, do you have any reason to expect that that  
14 competition would result in UNE-P rates that might go back down  
15 to \$1.17 or a total of, of \$2?

16 A I don't know where they'll ultimately end up at, but  
17 I suspect that whatever rate BellSouth offers, that somebody  
18 that wants to compete in that marketplace will try to offer a  
19 cheaper rate. In addition, since they have other switches out  
20 there and there's other technologies out there, they're  
21 probably going to offer services that we don't offer with our  
22 current switches. So you'll have more opportunity for  
23 competition; and not only the kind of competition that you have  
24 today, but you'll have more opportunity for different services  
25 in competition. That's the whole purpose of having a free

1 market is so that you get innovation and competition and  
2 variety for consumers, which is what the TRO talks about in the  
3 first six paragraphs.

4 Q Let's go back to Table 7 for a minute on Page 16, or  
5 go to Table 7.

6 A Yes, sir. I'm there.

7 Q The -- in addition to showing what the, the UNE-P  
8 rates are for Zone 1 and Zone 2, this table shows, does it not,  
9 the average monthly residential rates in those zones; correct?

10 A It shows an average monthly residential rate. It  
11 doesn't show it by zone.

12 Q The -- okay. Taking that, it shows what the margin  
13 is; right?

14 A Yes.

15 Q Profit margin.

16 A Yes, sir.

17 Q Okay. Now, and isn't it necessarily true that if a  
18 competitor loses -- let's say there's a competitor that's  
19 making a profit right now serving in your Rate Zone 1 by taking  
20 UNE-P and they're, they're making a profit, but couldn't make a  
21 profit if they had to pay your market rate, if they lost the  
22 availability of UNE-P with regulated rates. Wouldn't you  
23 expect that there's a certain percentage of those competitors  
24 that exist now that will fall out?

25 A There's, there's certainly a chance that could



1 happen. Dr. Aron had offered a little testimony on that  
2 yesterday on that very subject, and she's an economist. I  
3 would note that the TRO, when I read it, Paragraph 112 looked  
4 specifically at that particular issue, that they were going to  
5 reject arguments that CLECs might sell less or they may make,  
6 you know, their cost may go up and their margins may go down as  
7 far as their analysis because you have to have a balance here  
8 between sustainable competition and the number of competitors  
9 in market entry. And the purpose of this proceeding that we're  
10 in today is to looking at is there an opportunity for  
11 sustainable competition, and BellSouth is demonstrating in its  
12 case that there is.

13 Q So you don't expect -- you don't expect that if you  
14 achieve the results you want from this Commission, that you'll  
15 lose -- you'll gain back any of the 14 percent you've lost?

16 A Well, we're going to compete even today to try to  
17 gain back customers that we've lost. But those customers that  
18 we lost could very well go to another CLEC that, and I'll use  
19 FDN as an example, or Supra, who has actually put a switch in  
20 the ground and offering service on it. They won't necessarily  
21 come back to us, but we want them, if we can.

22 Q Now is it your -- I take it your testimony is, is  
23 that there's adequate competition in your service territory  
24 now.

25 A I don't believe I have that anywhere in the testimony

1 I've filed in this proceeding today.

2 Q Well, let me ask you, is it BellSouth's position that  
3 there's adequate testimony -- is there adequate competition in  
4 your service territory now with the UNE-P rates that exist?

5 A No. In this proceeding today, this proceeding today  
6 based on the TRO is not about competition and the levels of  
7 competition. The testimony that BellSouth has offered, that  
8 I've offered and other witnesses in the BellSouth case has  
9 offered is that there are CLECs out there, we've got 77 CLEC  
10 switches in our testimony, in our territory, and they are  
11 providing facilities-based service to customers in the mass  
12 market. And it's BellSouth's testimony that that demonstrates  
13 conclusively in the triggers test and in the potentials test  
14 that there's not impairment for mass market switching, that  
15 CLECs can go out there today and provide switching using their  
16 own switching, using their own switches, excuse me. But this  
17 proceeding is not about levels of competition that are out  
18 there. I don't believe I even speak to that at all in my  
19 testimony.

20 Q What I'm trying to understand is that you have, you  
21 have currently, just in the residential market as shown by the  
22 competition report, you have lost 14 percent of your  
23 residential customers to competitive companies; correct?

24 A Yes. That's in the competition report.

25 Q Okay. And that's as of the end of last year or June

1 of last year.

2 A It was June of last year. Not the end of last year,  
3 but June of last year.

4 Q I would assume I'm correct in understanding that you  
5 don't want to lose any more than 14 percent on a going-forward  
6 basis; is that correct?

7 A Well, I would characterize it differently. BellSouth  
8 is in the marketplace, it wants to compete, it wants to compete  
9 for customers and get as many customers as it can. It doesn't  
10 have some magic number that it feels is safe to lose, it  
11 doesn't have some magic number that it thinks it ought to get.  
12 BellSouth is competing with the customer -- for the customers  
13 and we're competing with the CLECs. The facts are right now  
14 that as far as this report is concerned 14 percent were lost.

15 Q Let me ask it this way. Does BellSouth want to lose  
16 anymore customers, residential customers than it already has?  
17 Yes or no. Is that an answer that -- question that is capable  
18 of a yes or no answer?

19 MS. WHITE: Excuse me. I'm going to object. This  
20 has been going on for almost 25 minutes. I've reviewed the  
21 issues that are in the issue list attached to the procedural  
22 order. I can't see an issue that these questions relate to.  
23 If Mr. Twomey can point me to one, that's fine. Otherwise, I  
24 object on the basis of relevance.

25 CHAIRMAN BAEZ: Mr. Twomey?

1 MR. TWOMEY: Mr. Chairman, I have to look over them,  
2 but I think this is fair, fair comment on, on where we're going  
3 in this case and where you're going to have to, what you're  
4 going to be left with in terms of competition if they achieve  
5 what they're asking for here. But I'll move on.

6 CHAIRMAN BAEZ: Let me -- you move on. But  
7 Mr. Ruscilli did answer a question, I think, put to him by  
8 Mr. Twomey that, that kind of opened this a little bit. I, I  
9 do understand that you've asked it, I have heard you ask more  
10 or less the same question two or three times, so if you can  
11 move on from it.

12 BY MR. TWOMEY:

13 Q Do you concede that the Commission has a measure of  
14 discretion they can exercise in determining what size your  
15 geographic markets are?

16 A Yes, they have some discretion. The FCC in the  
17 Triennial Review Order with respect to geographic market size  
18 gave one specific requirement that said it cannot be as large  
19 as a state, so by default you have to have at least two  
20 geographic areas.

21 The other discretion -- well, not discretion, but the  
22 other guidance that it gave is that it should not be so small  
23 that CLEC competitors would not be able to advantage, or take  
24 advantage of economies of scale and scope. Dr. Pleatsikas from  
25 BellSouth offers the most precise testimony on that.

1 Q Right. But there's, so there's a, there is a very  
2 specific maximum size, that is to say that it can't be the  
3 entire state; right?

4 A Yes.

5 Q And there is a -- there's less specificity as to what  
6 the minimum size the Commission could pick; right?

7 A Yes.

8 Q And, and for the reasons, whatever their reasons are,  
9 MCI, as I understand it, has suggested that wire centers would  
10 be the appropriate size; isn't that correct?

11 A Well, MCI did, yes. Being a member of FCCA,  
12 Mr. Gillan chose LATA, and MCI is a member of FCCA. So you  
13 sort of have two choices there.

14 Q I understood that MCI took a little dogleg there.  
15 Aren't they -- am I correct in understanding that they're  
16 suggesting that wire centers would be the appropriate size?

17 A Yes.

18 Q Okay. And that's, that's the smallest suggestion to  
19 the Commission in this case, is it not?

20 A I believe so. I have to be honest, I thought I sort  
21 of understood Dr. Johnson's testimony making some other  
22 analysis there, but, yes, it's somewhat of a wire center.

23 Q Okay. If, if the Commission picked the wire center  
24 geographic market size suggested by, by MCI, doesn't that  
25 protect customers more from being in a, in a nonimpaired area

1 than if the Commission were to pick one of the geographic zones  
2 that was larger?

3 A I'm not sure I understand what you mean by the  
4 question when you say "protect."

5 Q Well, let me try again.

6 The, the, the -- as I understand it, the, the CLEC  
7 self-provisioning switch competitors that constitute the  
8 triggers don't have to, don't have to serve all throughout the  
9 geographic market area; isn't that correct?

10 A I, I don't know precisely what the, the legal  
11 requirements are in the state of Florida with where they have  
12 to serve. They file tariffs, and I don't remember seeing  
13 anybody's tariff that has a CLEC out there that has limited  
14 their tariff to a wire center or a street or just in this one  
15 city. I think they filed their tariffs recognizing  
16 availability statewide wherever they have facilities that  
17 permit it.

18 Q Well, let me ask you this. The -- if in the extreme,  
19 if the entire state can't be a geographic area and we excluded  
20 the Keys, okay, then at least in theory legally the entire rest  
21 of the state, rest of the state, that is your service territory  
22 and the rest of the state could technically be a geographic  
23 market area if there were three competitive switches located in  
24 that remaining part of the state; correct?

25 A Just to -- I think you're correct, but I want to

1 repeat it back to you just to make sure I'm understanding what  
2 you're saying. You're saying you're taking the Keys and  
3 calling that one market area?

4 Q Yes, sir. And the rest of the state another market  
5 area.

6 A And if there were three CLECs self-providing  
7 switching to mass market areas, the state could do that. It's  
8 not BellSouth's recommendation. I don't think anybody has  
9 recommended anything larger than a LATA in this case because  
10 the FCC and the TRO, and, again, we're really outside the scope  
11 of my testimony, but I do remember the FCC and the TRO offered  
12 some guidance about scale and scope of economies. And Dr.  
13 Pleatsikas specifically gave some testimony on this about the  
14 relationship between two or three different cities in the state  
15 that have a pretty large geographic distance.

16 Q Yes, sir. I understand that. I just want to try and  
17 make, I want to try and make a point by using the extreme.

18 A Yes, sir, and I understand. I just want to make sure  
19 we were separating the Keys from the state.

20 Q Yes, sir. Let's say, let's say that the, the  
21 triggers switches, the CLECs were all in Metro-Dade County.  
22 Okay?

23 A Okay.

24 Q Now couldn't one safely argue that, that the  
25 possibility of a customer in the Panhandle receiving the

1 benefits of competition from those three switches in Miami  
2 would be less likely than customers in the Metro-Dade area?

3 A It's possible. But, again, Mr. Pleatsikas, Dr.  
4 Pleatsikas, excuse me, was the one that really offered a lot of  
5 testimony on this, not me. So I've not done that analysis to  
6 make those determinations.

7 Q Yes, sir. I'm just saying, not going into the very  
8 specifics, aren't you qualified enough to make an opinion on  
9 whether the, the likelihood of a customer in Pensacola or  
10 Panama City receiving the benefits of competition from three  
11 switches in Miami-Dade would be less likely than a BellSouth  
12 customer located in Miami-Dade if the switches are there and  
13 they're not -- and that's it, the three switches in Miami-Dade?

14 A It may or may not be possible. What I would tell you  
15 is that in the state of Florida, in arbitrations in the state  
16 of Florida between us and AT&T and us and MCI, they represented  
17 that they could serve areas larger than our tandem. They could  
18 get anywhere they wanted to with one single switch, you know,  
19 within whatever they were testifying to at the time. At that  
20 time it was saying that they could cover as much as our tandem.  
21 So they're saying they can do it and they can do it  
22 economically. But I'm not qualified to the extent beyond that  
23 in that I didn't do the analysis that Dr. Pleatsikas did.

24 Q Isn't it true that the more concise, that is the  
25 smaller the geographic areas are, the more likely there is to



1 be more competitors outside those geographic zones that have  
2 potential access to competitors that will still have UNE-P  
3 offerings at regulated rates? Doesn't that necessarily follow?

4 A It may be. And I can't answer it yes or no because  
5 where I'm conflicted is I've seen the testimony of the other  
6 side talking about how far they can reach with their switches.  
7 And even though they may have a switch in Dade County in a  
8 single building, they've represented in the past they can serve  
9 these huge areas with that switch. So that's where I'm  
10 conflicted. There might be that one switch there. Maybe  
11 there's a possibility they wouldn't, you know, go out X amount  
12 of 100s of miles, but in the past they have represented that.

13 In a proceeding that I was in with AT&T in Louisiana,  
14 they represented in that proceeding in testimony they were  
15 serving customers in New Orleans with a switch out of Missouri,  
16 out of St. Louis. So I don't know if the geographic dispersity  
17 or distance is actually that much of a factor with the CLECs.  
18 Maybe you should ask them. But the testimony I've seen in the  
19 past would say, you know, they can pop a switch out there and  
20 serve a huge area.

21 Q Here's my concern. The -- it strikes me that if you  
22 have a large geographic market you're requesting, whether it's  
23 you or it's the competitive companies, then you basically are  
24 rolling the dice on the whole works, you're betting the farm  
25 essentially. The -- if you have a very large area and it

1 includes a, a core center and then rural areas and the  
2 Commission finds that there's impairment, then the competitive  
3 people are good in that whole area for still having access to  
4 the UNE-Ps at regulated rates; right?

5 If the Commission finds -- if you have a large  
6 geographic market and the Commission rules in favor of  
7 impairment, then the UNE-Ps at regulated rates are available  
8 throughout the entire geographic zone; correct?

9 A I think so. I kind of got lost, and so -- because of  
10 the way you were using the word "impairment." Whatever the  
11 size of the market is determined by the, this Commission, if  
12 they find that there is impairment, which means that the CLECs  
13 are impaired without access to UNEs and UNE-P, then in that  
14 particular market, whatever that definition is, then TELRIC  
15 pricing will prevail.

16 Q Throughout the entire market?

17 A Throughout the market that they define. And then the  
18 converse of that is also true throughout the market that's been  
19 determined by this Commission. If they find that CLECs are not  
20 impaired in that marketplace without access to switching, then  
21 the wholesale platform that BellSouth will continue to offer  
22 will be available, but we will price the switching at the  
23 market rate. And, again, the evidence in this case, just  
24 looking at the triggers alone, the requirement is that you have  
25 three. In seven of those trigger areas we've got six; in all

1 but one of them I think we've got more than three. So the  
2 CLECs, via the TRO, are not impaired in the geographic market  
3 areas that we've presented.

4 MR. TWOMEY: That's all I have.

5 CHAIRMAN BAEZ: Thank you, Mr. Twomey. I think we're  
6 done with, with that. That closes the cross.

7 MR. TWOMEY: Yes, sir.

8 CHAIRMAN BAEZ: And, Ms. White, we can move on to  
9 redirect at this point.

10 COMMISSIONER JABER: Mr. Chairman?

11 CHAIRMAN BAEZ: Yes.

12 COMMISSIONER JABER: Would it be appropriate if I  
13 have questions of Mr. Ruscilli to ask them now before redirect?

14 CHAIRMAN BAEZ: Sure.

15 COMMISSIONER DAVIDSON: Same here.

16 CHAIRMAN BAEZ: I'm sorry, Commissioners. I've  
17 neglected you. Go ahead, Commissioner Jaber.

18 COMMISSIONER JABER: It's okay. I don't feel  
19 neglected at the moment.

20 Mr. Ruscilli, good morning.

21 WITNESS RUSCILLI: Good morning, Commissioner Jaber.

22 How are you?

23 COMMISSIONER JABER: Pretty good. I just, I want to  
24 follow up on the percentages. It got me to thinking about some  
25 things -- the 14 percent CLEC share in the residential market

1 that was reflected in the competition report.

2 WITNESS RUSCILLI: Yes.

3 COMMISSIONER JABER: It's okay if you don't have an  
4 updated number, but it got me thinking about whether you did  
5 have an updated number for what that market share is as of, I  
6 don't know, as of the end of January. I don't know how, how  
7 recent your numbers might be.

8 WITNESS RUSCILLI: I don't have a number with me,  
9 ma'am. I'm sorry.

10 COMMISSIONER JABER: Okay. But is it a number that  
11 you know BellSouth keeps up with?

12 WITNESS RUSCILLI: I know we can figure it out and we  
13 could get that number for you.

14 COMMISSIONER JABER: Okay. And then I'm going to  
15 come back to that because, Mr. Chairman, I think I'm going to  
16 ask for a late-filed exhibit with all of this information  
17 perhaps. And to the degree there is an update to that number  
18 for BellSouth, do you know what percentage of that new number  
19 reflects CLECs that are using UNE-P?

20 WITNESS RUSCILLI: Well, I don't know the percentage,  
21 so I don't know. But I suspect I can find out for you.

22 COMMISSIONER JABER: Okay. And then does BellSouth  
23 know what percentage of that number -- I guess the better  
24 question is would you also be able to figure out what  
25 percentage of that number reflects CLECs that have transitioned

1 from UNE-P to something else, whether it's UNE-L or, or just,  
2 you know, using another, another provider that offers switching  
3 services? I think you mentioned Supra and FDN.

4 WITNESS RUSCILLI: To a less precise degree we can  
5 find that information, Commissioner Jaber. And the reason why  
6 is that, you know, some customers will leave us and go to a  
7 cable company or a wireless company, and so they really should  
8 be appropriately counted as a customer that's being provided  
9 service from a facilities-based carrier. But with respect to  
10 UNE-L, we will certainly do our best.

11 COMMISSIONER JABER: And I guess to leave it general,  
12 because I really would want it to be general, how should we  
13 phrase that? It's transitioning from UNE-P to a  
14 facilities-based competition, or should we just say UNE-P to  
15 something else?

16 WITNESS RUSCILLI: I think the appropriate framing of  
17 that would be from a customer going from -- you either have  
18 UNE-P or you know that customers are being provided service  
19 another way and it's not through your UNE-L. One of the ways  
20 that you can look at that is if you have a residential number  
21 in your database and that number was ported to somebody but you  
22 don't know what they're doing with it, it might have gone to a  
23 cable company. So --

24 COMMISSIONER JABER: Okay. Well, I would like to  
25 allow that flexibility. So maybe in the late-filed exhibit I

1 request, however you reach that percentage, maybe you could  
2 just provide an index showing what the number reflects, whether  
3 it be that they transitioned to cable or wireless or UNE-L or  
4 something else.

5 WITNESS RUSCILLI: Yes, ma'am. I will do my best.

6 COMMISSIONER JABER: Okay. Mr. Chairman, can I ask  
7 for a late-filed exhibit to the degree that BellSouth has any  
8 of these percentages?

9 CHAIRMAN BAEZ: Sure, Commissioner Jaber. And I've  
10 been trying to jot down exactly what it is that you're  
11 requesting, and let me read it back to you and see if, see if  
12 I've got it straight.

13 You would like that 14 percent CLEC share number  
14 updated?

15 COMMISSIONER JABER: Right. The competition report,  
16 I think, goes through June of -- is it 2003, Mr. Ruscilli?

17 CHAIRMAN BAEZ: I believe it is; right?

18 WITNESS RUSCILLI: Yes, it is.

19 CHAIRMAN BAEZ: It's June 2003. So update it for the  
20 last, call it eight months, if possible, or as close as your  
21 numbers get it. Out of that, out of that new updated number --  
22 and I guess here's where I start getting confused. You want  
23 the percent --

24 COMMISSIONER JABER: From that updated number what  
25 are the, what's the percent of CLECs that use UNE-P?

1 CHAIRMAN BAEZ: Or the percent of lines being served;  
2 right?

3 COMMISSIONER JABER: Yes.

4 CHAIRMAN BAEZ: The representative number of lines  
5 being served by UNE-P?

6 COMMISSIONER JABER: Yes.

7 CHAIRMAN BAEZ: And the last, the last item, I  
8 thought it was a fallout number, but it may not be.

9 COMMISSIONER JABER: No. I don't think it's a  
10 fallout number. Mr. Ruscilli can correct us if I'm wrong, but  
11 the last number would be what percentage of those lines served  
12 by UNE-P have been transitioned to something else now?

13 CHAIRMAN BAEZ: Well, now -- and, Mr. Ruscilli, does  
14 that -- are you seeing what Commissioner Jaber is asking?  
15 Because I've got to tell you, Commissioner Jaber, I'm, I'm not  
16 clear on that.

17 COMMISSIONER JABER: Okay. Well, let's talk to  
18 Mr. Ruscilli about it.

19 Mr. Ruscilli, I have always heard there are two  
20 schools of thought. There are, there are competitors that  
21 perhaps for whatever economic reasons or competitive entry  
22 reasons want to remain on UNE-P because they see that as a  
23 viable strategy. Then there's another school of thought that  
24 has used UNE-P as a transitional mode of competitive entry.  
25 I'm looking for that transitional percentage.

1           WITNESS RUSCILLI: Yes, ma'am. And what I feel that  
2 I can remember that we have is we certainly know the number of  
3 hot cuts, as an example, that we've done. 157,000 UNE-Ls have  
4 been hot cut over. I don't remember those databases and those  
5 people to look at it, but I will, I will give it my best effort  
6 to try to accommodate you on that number.

7           CHAIRMAN BAEZ: Okay. I think I understand now,  
8 Commissioner Jaber.

9           COMMISSIONER JABER: Okay. And honestly, Chairman,  
10 just to be flexible on this exhibit, these are, perhaps the  
11 last one is something that they cannot comply with and I  
12 understand that. Maybe an explanation of what can be done  
13 would be helpful.

14          WITNESS RUSCILLI: I will do my best, ma'am.

15          COMMISSIONER JABER: Thank you.

16          CHAIRMAN BAEZ: And how long might it take for that,  
17 Mr. Ruscilli or Ms. White, if you have any idea at this point?

18          MS. WHITE: If you have until Tuesday?

19          WITNESS RUSCILLI: Of next week?

20          MS. WHITE: Yeah.

21          WITNESS RUSCILLI: I might need a little bit more  
22 time than that. I've just --

23          CHAIRMAN BAEZ: Wednesday.

24          WITNESS RUSCILLI: Oh, thank you.

25          COMMISSIONER JABER: Mr. Chairman, I don't know when



1 staff would need this, but I can tell you I'm in no rush.

2 WITNESS RUSCILLI: Okay. Well, thank you. I'm in  
3 another TRO next week, as is everybody else in the room.

4 CHAIRMAN BAEZ: No. No. I was half joking,  
5 Mr. Ruscilli.

6 WITNESS RUSCILLI: Thank you.

7 CHAIRMAN BAEZ: Two weeks?

8 MS. WHITE: Two weeks?

9 WITNESS RUSCILLI: Two weeks is doable, yes.

10 CHAIRMAN BAEZ: Two weeks, Commissioner Jaber, is  
11 that all right with you?

12 COMMISSIONER JABER: I think so.

13 CHAIRMAN BAEZ: Very well.

14 COMMISSIONER JABER: Thank you.

15 CHAIRMAN BAEZ: And that late-filed, do we have to,  
16 do we have to number it now? Anybody know? Yes. Correct?

17 COMMISSIONER JABER: Yeah. We have to.

18 CHAIRMAN BAEZ: Okay. We'll show that Share Update  
19 and Miscellaneous Percentages as Exhibit 100.

20 COMMISSIONER JABER: Thank you.

21 (Late-Filed Exhibit 100 identified.)

22 CHAIRMAN BAEZ: Commissioners, do you have questions  
23 of Mr. Ruscilli?

24 COMMISSIONER DAVIDSON: Mr. Chairman.

25 CHAIRMAN BAEZ: Commissioner Davidson, I'm sorry.

1           COMMISSIONER DAVIDSON: Thanks. And Chairman Jaber  
2 or Commissioner Jaber, I apologize, thank you for asking for  
3 that late-filed exhibit. I was thinking the same thought. I'd  
4 be curious to know what those numbers are. Frankly, I suspect  
5 that until the federal government and then the states get all  
6 these rules straightened out, there's not a whole lot of  
7 incentive for companies to actually transition off of UNE-P to  
8 UNE-L, so I don't know what type of data we'll actually get.  
9 But if there's something out there, that will be useful.

10           I wanted to follow up on sort of the -- some of the  
11 lines of questioning that Mr. Twomey engaged in related to sort  
12 of competition in general. And I do agree that sort of the  
13 overall state of competition is not the specific focus of this  
14 proceeding as set forth in the issues. But since the door was  
15 opened, I'm going to walk through the door and ask a few  
16 questions.

17           Is it BellSouth's aim in this proceeding to actually  
18 reduce the choice to consumers or is it to promote  
19 facilities-based competition?

20           WITNESS RUSCILLI: Well, again, BellSouth's goal in  
21 this proceeding is to comply with the TRO and demonstrate that  
22 there's a lack of impairment. I think the TRO certainly speaks  
23 for itself, that it is trying to create a sustainable  
24 competition and it sees that sustainable competition being  
25 facilities-based. And BellSouth's data is demonstrating that

1 CLECs are out there providing their own switching and that  
2 they're not impaired doing so, and that when this changes over  
3 with the finding of nonimpairment, facilities-based competition  
4 will increase and there will be more investment.

5 COMMISSIONER DAVIDSON: Are you familiar with the  
6 company Florida Digital Network?

7 WITNESS RUSCILLI: Yes, sir.

8 COMMISSIONER DAVIDSON: In your opinion, is there  
9 something that Florida Digital Network is doing or can do that  
10 other CLECs simply cannot do that enables Florida Digital  
11 Network to self-provision switching?

12 WITNESS RUSCILLI: I can only speak generally because  
13 I don't know the business skills and the acumen of each of the  
14 individual companies around here. But Florida Digital Network,  
15 Knology is an example of that, Supra is an example of that;  
16 these are companies that are investing their own switching  
17 coming up with unique products and selling, you know, a  
18 different mousetrap to the consumers out there saying, hey,  
19 I've got something that's better than BellSouth. And it's  
20 something that can be done; they've demonstrated it.

21 You know, you can buy switches -- there was testimony  
22 offered in the last two days, you can go out and buy switches,  
23 you can put them in the ground and you can do this. They have  
24 chosen a path that's creating a sustainable business model for  
25 them that says I can make money doing this, I can be different,

1 I can provide a different service than BellSouth, and I'll  
2 argue that mine is better than BellSouth's, et cetera. So I  
3 don't think any other CLEC would be prohibited from taking that  
4 same course of action.

5 COMMISSIONER DAVIDSON: In markets where both Florida  
6 Digital Network and BellSouth provide services, does BellSouth  
7 face price competition from Florida Digital Network?

8 WITNESS RUSCILLI: Yes. We face competition from  
9 them. Yes, sir.

10 COMMISSIONER DAVIDSON: What do you predict would  
11 occur if BellSouth raised its price in those markets above a  
12 competitive price?

13 WITNESS RUSCILLI: Well, I'm not an economist, but my  
14 general experience in the industry for the last 20 years is  
15 that if you have your price set too high and you've got  
16 competitors who can come in there, they will undercut you and  
17 take your business, and we've seen that happen.

18 COMMISSIONER DAVIDSON: To the extent you know, can  
19 you explain whether a UNE-L provider provides services of a  
20 lesser quality than a UNE-P provider?

21 WITNESS RUSCILLI: That's a tough one for me to  
22 answer because I don't have that much technical knowledge of  
23 the switches that they're using. I mean, when you're providing  
24 service over UNE-P, you're using BellSouth's network, and I  
25 would say we have the top quality network that's out there in

1 the land.

2           When you're providing service using UNE-L, you're  
3 using your own switch. And I think switches out there are  
4 fairly common: Lucent makes switches, Nortel makes switches,  
5 et cetera, and those are, those are fine machines that offer  
6 products. So you can offer good quality yourself as far as the  
7 technology that's out there.

8           COMMISSIONER DAVIDSON: To the extent you know, does  
9 BellSouth manufacture its own switches?

10          WITNESS RUSCILLI: No, we do not.

11          COMMISSIONER DAVIDSON: Those are procured in the  
12 market?

13          WITNESS RUSCILLI: Yes, as everybody else's are.

14          COMMISSIONER DAVIDSON: Could others provide --  
15 procure switches from the same companies from which BellSouth  
16 procures switches?

17          WITNESS RUSCILLI: Yes, and they do today. The  
18 switches that you see out there are the same ones that we have  
19 in our central offices.

20          COMMISSIONER DAVIDSON: Do you think that if  
21 ultimately switching is removed from the national UNE list,  
22 that will enhance or harm the ability of companies like FDN and  
23 Knology to compete with BellSouth?

24          WITNESS RUSCILLI: I think that's an interesting  
25 question because FDN or any other facilities-based provider

1 like Knology or any of the other companies, they, in fact, are  
2 competing with carriers like AT&T who is buying switching from  
3 BellSouth below our cost. So they are at a cost disadvantage  
4 just coming right out of the gate because FDN has its own  
5 switch that it's got to pay for and it's put money in and it's  
6 got to recover that money.

7           AT&T, even though they have a bunch of switches in  
8 the state, they're buying our UNE-P, so they're not putting,  
9 you know, any money in it. They're just leasing from us at a  
10 rate that's really below the cost of what we have to provide  
11 them. So they're at a cost disadvantage. And so I think if it  
12 goes away and that goes towards a market rate, it will even out  
13 the marketplace and let companies like FDN and Knology, et  
14 cetera, compete on a more fair basis.

15           COMMISSIONER DAVIDSON: To the extent you can answer,  
16 and this is my last question, does defining the market --  
17 would -- strike that.

18           Would defining the market as a wire center reflect  
19 how products and services are developed and rolled out in  
20 today's communications market?

21           WITNESS RUSCILLI: Well, yes, sir. The way I would  
22 answer that is no. If you define it down to a wire center, I'm  
23 not familiar with any carrier that's competing in Florida or  
24 anywhere else in our region that advertises its products to the  
25 wire center and say, you know, we'll provide this service, but

1 if you're on the left side of 14th Avenue, we won't go to you  
2 because that's another wire center. They, they market their  
3 services in metro areas, they market their services statewide.  
4 They don't advertise in just a wire center. For that matter,  
5 consumers probably do not know what wire center they're in. So  
6 if you take it down to the wire center level, it's not really  
7 representing the reality that's out there today.

8 COMMISSIONER DAVIDSON: Thank you. I have no further  
9 questions, Chairman.

10 CHAIRMAN BAEZ: Thank you, Commissioner.

11 Ms. White, I don't know if you have a pre-set order  
12 for your redirect, but we have Mr. Ruscilli on the stand.

13 MS. WHITE: Mr. Ruscilli is not going to have any  
14 redirect.

15 CHAIRMAN BAEZ: Okay.

16 MS. WHITE: So if he could be excused.

17 CHAIRMAN BAEZ: Thank you, Mr. Ruscilli. And you are  
18 excused.

19 MS. WHITE: And if we could have one minute to --

20 CHAIRMAN BAEZ: Perhaps Mr. Lackey is changing your  
21 luck.

22 Go ahead, Mr. Lackey.

23 MR. LACKEY: No, sir, I'm not. What I was going to  
24 say is what we'd like to do is just take the three or four  
25 witnesses we'd like to redirect and just line them up in the

1 seat behind the microphone and let them pop up one at a time,  
2 ask the questions and get through it.

3 CHAIRMAN BAEZ: Fortunately we seem to be set up for  
4 another chorus, so I think, I think that's a pretty efficient  
5 way of doing it.

6 Thank you, Mr. Ruscilli.

7 WITNESS RUSCILLI: Thank you.

8 CHAIRMAN BAEZ: Can the witnesses state their name  
9 for the court reporter's benefit and for the record?

10 WITNESS PLEATSIKAS: Christopher Pleatsikas.

11 WITNESS AINSWORTH: Ken Ainsworth.

12 WITNESS TIPTON: Pam Tipton

13 WITNESS HEARTLEY: Alfred Heartley.

14 CHAIRMAN BAEZ: Thank you, and good morning. Go  
15 ahead, Mr. Lackey.

16 MR. LACKEY: Mr. Chairman, I'm going to ask Dr.  
17 Pleatsikas a couple of questions, then Mr. Shore is going to  
18 redirect Ms. Tipton, and Mr. Meza is going to redirect the  
19 other two.

20 CHRISTOPHER JON PLEATSIKAS  
21 was called as a witness on behalf of BellSouth  
22 Telecommunications, Inc., and, having been duly sworn,  
23 testified as follows:

24 REDIRECT EXAMINATION

25 BY MR. LACKEY:



1 Q Dr. Pleatsikas, do you recall being cross-examined by  
2 the attorney for Sprint yesterday?

3 A Yes.

4 Q Do you recall being given a document which has been  
5 marked as Exhibit 83, which was, I believe, represented to be a  
6 MapInfo map?

7 A Yes.

8 Q Do you remember being questioned about whether  
9 Fairbanks and Micanopy were in the same market?

10 A Yes.

11 Q And do you remember being questioned about whether  
12 Lake City and Micanopy were in the same market?

13 A Yes.

14 Q I want to hand you an exhibit, and if I could have  
15 the next exhibit number, Mr. Chairman.

16 CHAIRMAN BAEZ: That would be 101, and we'll title it  
17 "BellSouth's Serving Area Map/Northeast Florida."

18 (Exhibit 101 marked for identification.)

19 BY MR. LACKEY:

20 Q Do you have Exhibit 101 in front of you, Doctor?

21 A Yes, I do.

22 Q Can you tell us what it is?

23 A Yes. It's a map of northern, northeastern Florida  
24 showing the different wire centers, different CEA zones, I'm  
25 sorry, different UNE zones and different CEAs in that area.

1 Q Does it reasonably approximate the map that was  
2 reflected in Exhibit 83 in terms of the general outlines?

3 A Yes. In terms of the general area and the locations  
4 of specific cities, yes.

5 Q To the extent that there was any implication  
6 yesterday that the five cities that we were discussing were in  
7 a different CEA, would that be accurate?

8 A No, it would not be. They're, they're all in the  
9 same CEA.

10 Q Is the reason that Fairbanks and Micanopy are in  
11 different markets a result of the use of CEAs or the use of the  
12 Commission's UNE zones?

13 A It's, it's the latter. It is the -- Fairbanks is in,  
14 is in Zone 2, UNE Zone 2, and the other cities are in  
15 UNE Zone 3.

16 Q So the CEA has nothing to do with that?

17 A The CEA has nothing to do with that. Yes.

18 Q Now just to complete the loop, do you happen to know  
19 whether BellSouth is asserting that there's no impairment in  
20 Micanopy?

21 A I happen to know that -- yes, I do happen to know  
22 that. BellSouth is not asserting a nonimpairment in Micanopy.

23 Q And would the same thing be true of Lake City?

24 A Yes.

25 Q Pomona Park?

1 A Yes.

2 Q And Horseshoe Beach?

3 A Yes.

4 Q And is BellSouth asserting, based on the potential  
5 deployment test, that there is no impairment in Gainesville and  
6 Fairbanks?

7 A Yes, it is asserting that.

8 MR. LACKEY: Could I have the next exhibit number,  
9 Mr. Chairman? 102, I hope.

10 CHAIRMAN BAEZ: 102. And we'll title this  
11 "BellSouth's Serving Area Map/MSA Overlay."

12 MR. LACKEY: Thank you, Mr. Chairman.

13 (Exhibit 102 marked for identification.)

14 BY MR. LACKEY:

15 Q Dr. Pleatsikas, can you identify this document for  
16 us?

17 A Yes. This map has similar geographic coverage, but  
18 has MSAs overlaid over the CEAs in UNE zones and wire centers.

19 Q And do you recall what Sprint's market definition  
20 offered in this proceeding was?

21 A I believe it was MSAs.

22 Q If the Commission were to adopt the MSA here, what  
23 MSA would Pomona Park, Lake City and Horseshoe Bend (sic.) fall  
24 in?

25 A They would, they would fall in no MSA.

1 Q That would be outside the market definition Sprint's  
2 offering?

3 A Yes.

4 Q And if the Commission adopted MSA, would the  
5 Commission actually have a larger geographic area around  
6 Gainesville to find no impairment in than with BellSouth's  
7 proposal?

8 A I believe they would, yes.

9 MR. LACKEY: That's all I have for this witness.  
10 Thank you, Mr. Chairman.

11 CHAIRMAN BAEZ: Thank you.

12 COMMISSIONER DEASON: I'm sorry. I need a follow-up.

13 CHAIRMAN BAEZ: Question, Commissioner Deason, of Dr.  
14 Pleatsikas?

15 COMMISSIONER DEASON: Dr. Pleatsikas, using the MSA  
16 and looking at the Gainesville MSA, Micanopy would be in the  
17 MSA; is that correct?

18 WITNESS PLEATSIKAS: That's correct.

19 COMMISSIONER DEASON: But Micanopy being in Zone 3, I  
20 believe, yeah, Zone 3, it would not be BellSouth's position  
21 that Micanopy would be nonimpaired; is that correct?

22 WITNESS PLEATSIKAS: Well, I'm not sure how the  
23 impairment test would -- what result there would be from the  
24 impairment test, from the potential deployment impairment test  
25 if an MSA was used instead of UNE zones subdivided by CEAs.

1           COMMISSIONER DEASON: Okay. Well, let me back up for  
2 a moment then. So when you're suggesting, you know, I know  
3 you're not suggesting the use of MSA, but for illustrative  
4 purposes here, when you have MSAs drawn here, you're not  
5 further subdividing that by UNE rate group; is that correct?  
6 It's just MSA on its own; is that correct?

7           WITNESS PLEATSIKAS: Well, in using, in using the  
8 definition that I believe Sprint put forward, they've used just  
9 MSAs, and I don't believe they were subdivided, that they used  
10 UNE zones subdivided by MSAs.

11           COMMISSIONER DEASON: So using the cost model applied  
12 to the Gainesville MSA, the entire MSA would be considered --  
13 what would it be considered? Do you know?

14           WITNESS PLEATSIKAS: I just don't know how the --  
15 what the potential -- what the BACE model, for instance,  
16 would -- what result would be obtained from it for the entire  
17 MSA if it was just considered to be one single area.

18           COMMISSIONER DEASON: Okay. Thank you.

19           WITNESS PLEATSIKAS: Sure.

20           CHAIRMAN BAEZ: Thank you, Dr. Pleatsikas. I think  
21 we can excuse you now unless -- none of the other redirect  
22 or -- he's done; right?

23           MR. MEZA: That's correct.

24           CHAIRMAN BAEZ: Okay. Thank you, Doctor. You can  
25 stay there or --

1 WITNESS PLEATSIKAS: Thank you. I'll lend moral  
2 support.

3 CHAIRMAN BAEZ: Go ahead, Mr. Shore.

4 PAMELA A. TIPTON

5 was called as a witness on behalf of BellSouth  
6 Telecommunications, Inc., and, having been duly sworn,  
7 testified as follows:

8 REDIRECT EXAMINATION

9 BY MR. SHORE:

10 Q Ms. Tipton, do you recall the series of questions or  
11 maybe it was several series of questions last night about the  
12 information BellSouth produced, I think it was produced on  
13 Monday to supplement some discovery responses?

14 A Yes, I do.

15 Q Was there any new information or new underlying data  
16 produced in that discovery, in those discovery responses that  
17 BellSouth had not produced previously in this case?

18 A No, there was no new data. And let me explain  
19 something. In the handout that Mr. Magness presented to the  
20 Commission, on Page 5 there was a header at the top of the page  
21 that reads, "The data produced on February 23rd, 2004, in  
22 response to staff's fourth request for production provides new  
23 information." And the way that I heard that question was that  
24 we provided a response to a POD request that had not been  
25 provided before, and that is a true statement. We had not

1 provided before the set of pages Bates numbered 296 through  
2 412, but the underlying data had been provided before, just not  
3 in this particular format. There was no new data and no new  
4 information. It was just provided in a different format in  
5 response to the staff's POD.

6 Q Ms. Tipton, did you provide it in that format at the  
7 specific request of one of the staff's data requests?

8 A Yes. I provided it in the format specifically as a  
9 result of staff's specific request.

10 Q Thank you, Ms. Tipton.

11 CHAIRMAN BAEZ: Commissioners, just for your  
12 reference, I don't know if the number was given. Ms. Tipton  
13 was referring to Exhibit 94.

14 WITNESS TIPTON: I believe it was Exhibit Number 95.

15 CHAIRMAN BAEZ: Is it 95? The summary or the trigger  
16 data?

17 WITNESS TIPTON: "Tipton Trigger Data" was the title.

18 CHAIRMAN BAEZ: I have it here as 94.

19 WITNESS TIPTON: Okay.

20 MR. SHORE: I think that's right.

21 CHAIRMAN BAEZ: Okay. Thank you.

22 Mr. Meza.

23 ALFRED A. HEARTLEY

24 was called as a witness on behalf of BellSouth  
25 Telecommunications, Inc., and, having been duly sworn,

1 testified as follows:

2 REDIRECT EXAMINATION

3 BY MR. MEZA:

4 Q Mr. Heartley, I can't see you, so I'm looking at you  
5 on the screen here.

6 CHAIRMAN BAEZ: I'm sure he can hear you.

7 BY MR. MEZA:

8 Q Do you remember when Mr. O'Roark was asking you a  
9 series of questions relating to the churn rate BellSouth  
10 applied in its force model?

11 A Yes.

12 Q Do you know when BellSouth applied the 4 percent  
13 churn rate in the model, what time period?

14 A We did not apply the 4 percent churn rate until  
15 August of 2005.

16 Q And what is the significance of August of 2005?

17 A August of 2005 is the date that we would start the  
18 migration of the embedded base in those areas that, where  
19 there's no impairment.

20 Q So up until August of 2005 BellSouth did not apply  
21 the 4 percent churn rate in the model; is that correct?

22 A That's correct.

23 Q All right. Now after August of 2005 BellSouth did  
24 apply the 4 percent churn rate to the UNE-P growth that was  
25 represented in Mr. O'Roark's chart; is that right?



1 A That's correct.

2 Q Now do you know if the force model decreased the  
3 embedded base of UNE-P between the date that UNE-P was no  
4 longer available in August of 2005 to account for churn?

5 A We did not. That would have been between December of  
6 2004 and August of 2005. We left the embedded base that we had  
7 grown to 3.84 million. If we had applied the churn rate, that  
8 base would have been reduced to 2.77 million. But we did not  
9 do that.

10 Q Why, why didn't you apply the churn from  
11 December 2004 to August of 2005?

12 A Because we were looking at a worst-case scenario  
13 where we would be by August of 2005 when we would have to  
14 migrate the embedded base.

15 Q Okay. Do you know if BellSouth assumed a churn rate  
16 of higher than 4 percent in the model?

17 A We did. In my surrebuttal in response to information  
18 in the testimony of Mr. Van De Water from AT&T, he had  
19 suggested that we have a higher number of migrations in  
20 Florida, some 5,600 per day. So we increased the churn rate  
21 starting in August of 2005 to 48 percent a month to actually  
22 generate that. And that is in my rebuttal, in my surrebuttal  
23 testimony, and there is an exhibit that shows what it does in  
24 Florida if you increase the churn rate to 48 percent per month.

25 Q And can you tell us what it does when you do increase

1 the churn rate?

2 A What it does, it does drive a lot more hot cuts. And  
3 we were looking at offices that we could not handle the hot  
4 cuts. And of the 198 offices that we have in Florida, there  
5 were two to six offices where we would have to work greater  
6 than three shifts, and BellSouth would have to take another  
7 look at those two to six out of 198 offices that we possibly  
8 could have a problem with.

9 Q But in your opinion, using a 48 percent churn rate,  
10 could BellSouth meet the demand?

11 A Yes, we can.

12 Q Thank you.

13 CHAIRMAN BAEZ: Thank you, Mr. Heartley.

14 MR. MEZA: Mr. Ainsworth is the final witness.

15 CHAIRMAN BAEZ: Okay.

16 KEN L. AINSWORTH

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

20 REDIRECT EXAMINATION

21 BY MR. MEZA:

22 Q Mr. Ainsworth, are there more than -- well, strike  
23 that.

24 Can a CLEC order something other than an  
25 uncoordinated hot cut?

1           A       Yes.  You have the coordination, you have coordinated  
2 hot cuts, which fall in the category of SL2s, which are  
3 coordinated, and also SL1s, which you can order coordinated.  
4 They allow -- they actually allow the coordination, the contact  
5 prior to the due date and also a direct contact on the due  
6 date, which gives you minimal contact for a hot cut cutover  
7 process.

8           Q       And do you remember Mr. Cruz-Bustillo's questions  
9 relating to the two-hour window in an uncoordinated cut from  
10 the time of a cut to the notification to the CLEC?

11          A       Yes, I do.

12          Q       Is that two-hour window also present in a coordinated  
13 cut?

14          A       No.  On a coordinated cut our target is five minutes,  
15 and we are under that.  We're two minutes plus on that, on that  
16 contact.

17          Q       Do you know who makes the decision of whether to  
18 order a coordinated or uncoordinated cut?

19          A       That's a CLEC decision.

20          Q       Okay.  So when a CLEC orders an uncoordinated cut,  
21 would you agree that it's making the decision that there is  
22 going to be a larger period of time in which the customer will  
23 be without the ability to receive inbound calls?

24          A       Yes.  I would agree that they would understand the  
25 difference between coordination and uncoordination.

1 Q And if they wanted to reduce that time period, they  
2 would order coordinated cuts?

3 A Yes, I would.

4 Q Do you know how many cuts BellSouth has performed on  
5 a single day in a single central office?

6 A I know -- I think in my testimony for a single  
7 central office we had 264 cuts in one single central office on  
8 a single day.

9 Q Now do you remember the series of questions relating  
10 to the time intervals associated with the batch process?

11 A Yes, I do.

12 Q Okay. Do you know if when a CLEC is converting a  
13 life from UNE-P to UNE-L, if that CLEC customer is currently  
14 receiving service from the CLEC?

15 A UNE-P to UNE-L, yes, they are currently receiving  
16 service from that CLEC. We're talking a batch migration  
17 process. They would be -- they would currently be a UNE-P  
18 customer of that CLEC, yes.

19 Q So during the interval that BellSouth is proposing  
20 through its batch cut process the customer will continue to be  
21 a CLEC customer?

22 A Yes. The batch migration process that we have today  
23 and the intervals that are established are to handle the  
24 volumes of an embedded base type migration. That embedded base  
25 today would belong to the CLEC and they would be converting

1 that embedded base of UNE-P to UNE-L. So the customer, the  
2 end-user would continue to be, remain a customer of that CLEC.

3 Q And that's different from when a BellSouth -- when a  
4 CLEC wins a customer from BellSouth; is that right?

5 A Yes. They are acquiring customers in that situation.

6 Q Okay. Now I believe Mr. O'Roark asked you a question  
7 or two relating to CLEC-UNE-L-to-CLEC-UNE-L and whether  
8 BellSouth had an electronic process. Do you remember that?

9 A Yes, I do remember that.

10 Q Do you know if BellSouth has a manual process that  
11 allows for CLEC-UNE-L-to-CLEC-UNE-L migrations?

12 A Yes. Yes. We do currently have a  
13 CLEC-UNE-L-to-CLEC-UNE-L manual process.

14 Q And I believe staff asked you a series of questions  
15 relating to the 14-day interval associated with the batch cut  
16 process. Do you remember that?

17 A Yes, I do.

18 Q All right. Do you know if the 14-day period is a  
19 minimum or maximum period?

20 A The 14-day provisioning period is a minimum period.  
21 If the CLECs chose to expand that, they certainly could.  
22 Again, it's to, it's to handle the volumes of orders that are  
23 related in that process, and what our expectation would be that  
24 we would continue to see multiple batch migrations to  
25 effectuate the transfer of large volumes of embedded base

1 customers.

2 Q In your testimony during cross-examination you were  
3 asked a series of questions relating to the enhancements that  
4 BellSouth has included to the batch cut process and will  
5 include in the batch cut process. Do you remember those  
6 answers and questions?

7 A Yes, I do.

8 Q Do you know if the batch cut process that BellSouth  
9 is proposing to this Commission, is it operational today?

10 A Absolutely. It is operational today.

11 MR. MEZA: Thank you. I have no further questions.

12 CHAIRMAN BAEZ: That concludes redirect? It looks  
13 like -- oh, I'm sorry, Mr. Chapkis. You were sitting there so  
14 quietly.

15 MR. CHAPKIS: Well, you may be pleased to learn that  
16 Verizon has decided that we have no redirect.

17 CHAIRMAN BAEZ: How about that. All right. Mr.  
18 Feil, you had completed your redirect earlier.

19 MR. FEIL: That's correct. We're done.

20 CHAIRMAN BAEZ: And your witness is gone, so. All  
21 right. That concludes the redirect. We're going to -- what I  
22 would like to do now is to take all, all the, the no impairment  
23 exhibits and we'll go through them. I think there may be one  
24 that I can remember that had an objection. I don't know if Mr.  
25 Shore has thought otherwise of it, but we'll give him his

1 chance. I've got it marked down. And then we're going to  
2 break for ten minutes and let the impairment case set up  
3 whatever presentations they have. I'm sorry.

4 MR. SUSAC: Chairman --

5 CHAIRMAN BAEZ: Oh, OPC and AARP go first. Oh, okay.  
6 I'm sorry. I'm not looking at my sheet. Forgive me. All  
7 right. We had 1 through 43 admitted already, so we're starting  
8 with 44. And Mr. Meza, I'm assuming -- I have done my best to  
9 mark the sponsors. I have BellSouth sponsoring 44, 45, 46, 60,  
10 61, 63, 64, 65, 66, 67 and 68 through 75, and I also have  
11 BellSouth sponsoring 101 and 102. Does that match up with your  
12 numbers?

13 MR. MEZA: That's correct, Mr. Chairman.

14 CHAIRMAN BAEZ: All right. And I'm going to take  
15 five seconds to make sure nobody raises their hands on  
16 objections: Five, four, three, two, one. Without objection,  
17 those exhibits shall be moved into the record.

18 (Exhibits 44, 45, 46, 60, 61, 63, 64, 65, 66, 67, 68,  
19 69, 70, 71, 72, 73, 74, 75, 101 and 102 admitted into the  
20 record.)

21 CHAIRMAN BAEZ: Now, Verizon, I have Verizon  
22 sponsoring Exhibits 47, 76, 77, 78, and I think that's it.  
23 Does that match up?

24 MR. CHAPKIS: That's correct, Mr. Chairman.

25 CHAIRMAN BAEZ: Okay. And without objection, those

1 exhibits will be admitted into the record.

2 (Exhibits 47, 76, 77 and 78 admitted into the  
3 record.)

4 CHAIRMAN BAEZ: Next I have FDN. Mr. Feil, I have  
5 your client sponsoring Exhibit 48, and I think that's it.

6 MR. FEIL: Yes, sir.

7 CHAIRMAN BAEZ: Okay. And without objection, Exhibit  
8 48 will be moved into the record.

9 (Exhibit 48 admitted into the record.)

10 CHAIRMAN BAEZ: I'm going to go down the line.  
11 Mr. Phillips, Ms. Masterton, I have Sprint sponsoring Exhibits  
12 49, and that's all -- I'm sorry, and 83. That's all I'm  
13 showing for you all. Is that accurate?

14 MS. MASTERTON: That's correct.

15 CHAIRMAN BAEZ: Okay. Then show Exhibits 49 and  
16 83 moved into the record without objection.

17 (Exhibits 49 and 83 admitted into the record.)

18 CHAIRMAN BAEZ: Who's, who's standing for Covad? Ms.  
19 Kaufman?

20 MS. KAUFMAN: Yes, Mr. Chairman.

21 CHAIRMAN BAEZ: Okay. I'm only showing Covad on  
22 Exhibit 51.

23 MS. KAUFMAN: I think that's correct.

24 CHAIRMAN BAEZ: Okay. Without objection, show it  
25 moved into the record.



1 (Exhibit 51 admitted into the record.)

2 CHAIRMAN BAEZ: Mr. Hatch, I have AT&T sponsoring  
3 Exhibits 52 through 55, Exhibits 81, 82, 87, 88, 89, 90.  
4 That's all I have for AT&T.

5 MR. HATCH: I believe that's correct.

6 CHAIRMAN BAEZ: Okay. If that's accurate, show those  
7 exhibits moved into the record.

8 (Exhibits 52, 53, 54, 55, 81, 82, 87, 88, 89 and 90  
9 admitted into the record.)

10 CHAIRMAN BAEZ: And, again, this may seem out of  
11 order, but it's how they're showing up, and I promise you we  
12 will get everyone.

13 Ms. McNulty, I have MCI sponsoring Exhibit 56 and 84.  
14 Is that -- does that match up for you?

15 MS. McNULTY: I believe so.

16 CHAIRMAN BAEZ: Okay. Without objection, show  
17 Exhibits 56 and 84 moved into the record.

18 (Exhibits 56 and 84 admitted into the record.)

19 CHAIRMAN BAEZ: Excuse me. KMC, is that you,  
20 Mr. Self?

21 MR. SELF: Yes, sir, Mr. Chairman.

22 CHAIRMAN BAEZ: I'm only showing Exhibit 57. Is that  
23 accurate?

24 MR. SELF: That's correct.

25 CHAIRMAN BAEZ: Okay. Without objection, show that

1 moved into the record.

2 (Exhibit 57 admitted into the record.)

3 CHAIRMAN BAEZ: And Z-Tel.

4 MS. KAUFMAN: Mr. Chairman, I'll vouch for Z-Tel.

5 CHAIRMAN BAEZ: You'll stand for Z-Tel? I see Mr.  
6 McGlothlin, he may not, he may not have to make the run up.  
7 I'm only showing them on composite Exhibit 58.

8 MR. MCGLOTHLIN: At this point that's correct, sir.

9 CHAIRMAN BAEZ: Okay. Then at this point we'll move,  
10 we'll move Exhibit 58 into the record.

11 (Exhibit 58 admitted into the record.)

12 CHAIRMAN BAEZ: Supra, Mr. Cruz, I'm showing Supra  
13 sponsoring Exhibits 59, 62, 85 and 86. Does that match up?

14 MR. CRUZ-BUSTILLO: Could you give me a minute to  
15 check, Mr. Chairman?

16 CHAIRMAN BAEZ: Okay.

17 MR. CRUZ-BUSTILLO: Could you repeat those numbers  
18 again, please?

19 CHAIRMAN BAEZ: I have you 59, 62, 85 and 86. And I  
20 think, Mr., Mr. Shore, I'm not showing you having a problem  
21 with any of these, but I guess since you've stepped up, let us  
22 -- I think we had a tête-a-tête over the arbitration, but  
23 although we didn't admit it, I think we settled that issue;  
24 right?

25 MR. SHORE: That was my understanding, that you had

1 overruled my objection.

2 CHAIRMAN BAEZ: I did. I did. Mr. Cruz, are you  
3 done checking up?

4 MR. CRUZ-BUSTILLO: Mr. Chairman, we're not talking  
5 about exhibits that we're going to --

6 CHAIRMAN BAEZ: I'm sorry?

7 MR. CRUZ-BUSTILLO: Are we talking about exhibits  
8 that were attached to the direct testimony that we're going to  
9 put on?

10 CHAIRMAN BAEZ: I have a long list of exhibits and --

11 MR. CRUZ-BUSTILLO: It's been -- yes, Mr. Chairman,  
12 that's --

13 CHAIRMAN BAEZ: We got to keep --

14 MR. CRUZ-BUSTILLO: We have it correct, the number of  
15 exhibits is correct for this part.

16 CHAIRMAN BAEZ: The number of exhibits. Okay.

17 Without objection, show Exhibit 59, 62, 85 and 86 moved into  
18 the record. See, the point is if we can move fast on this and  
19 I can do it all at once; otherwise, you know, there's a lot of  
20 exhibits flying around.

21 (Exhibits 59, 62, 85 and 86 admitted into the  
22 record.)

23 CHAIRMAN BAEZ: Next, I haven't gotten to FCCA, so is  
24 there anybody else that I have not called up to now other than  
25 FCCA? I don't think so. All right.

1           FCCA, I have Exhibits 79, 80, 91 -- I'm sorry. Let  
2 me, let me back up. I have Exhibit 50, 79, 80, 91, 92, 93, 94,  
3 and 95 through 98.

4           MS. KAUFMAN: That's correct, Mr. Chairman.

5           CHAIRMAN BAEZ: That's correct? And without  
6 objection, we'll move those into the record.

7           (Exhibits 50, 79, 80, 91, 92, 93, 94, 95, 96, 97 and  
8 98 admitted into the record.)

9           CHAIRMAN BAEZ: Staff, were you able to confirm  
10 Exhibit 99?

11          MR. SUSAC: Not yet, Chairman.

12          CHAIRMAN BAEZ: Okay. We'll hold, we'll hold that  
13 one off. I think that's everyone. Did I get everyone?

14          MR. CHAPKIS: Mr. Chairman, if I could just make a  
15 point of clarification.

16          CHAIRMAN BAEZ: Yes, Mr. Chapkis.

17          MR. CHAPKIS: With Verizon's Exhibits 76, 77 and 78,  
18 because we inadvertently failed to list the confidential  
19 information, you had created an A and a B, and I just wanted to  
20 make it clear.

21          CHAIRMAN BAEZ: That is correct. And I think I also,  
22 I think we also did it for, for BellSouth's. And let's  
23 identify those now. I believe we have BellSouth -- and what  
24 I'm going to do is I'm just going to identify them and have the  
25 record reflect that those do have an A and B, and I have those

1 as Exhibits 60, 61, 63, 64, 65, 66, 67, and 68 through 75.

2 Does that match up with the exhibits that have confidential --

3 MR. MEZA: We are checking. I think we have a little  
4 less than you.

5 CHAIRMAN BAEZ: Okay. All right. You're going to  
6 check on which of those -- those are the exhibits of the  
7 possible exhibits that have confidential and you're going to  
8 pare it down.

9 MR. MEZA: That's right. We've actually prepared a  
10 summary of proprietary and public.

11 MS. FOSHEE: Do you want to just mark that as an  
12 exhibit?

13 CHAIRMAN BAEZ: I don't, I don't, I don't think I  
14 have enough pages to mark anything else as an exhibit. What I,  
15 what I need, what I need you to do is we've got to line these  
16 up because I think Ms. White's good suggestion to just have  
17 Exhibits A and B stand for the public and confidential, and I  
18 think the record already reflects that whatever confidential  
19 information in those exhibits shall be designated with sub B,  
20 you know. I don't know if that's enough to, to clear it up or  
21 not. Mr. Chapkis, you have three, which is 67 -- I mean, 76,  
22 77 and 78.

23 MR. CHAPKIS: That's correct, Mr. Chairman.

24 CHAIRMAN BAEZ: And those -- and each of those  
25 exhibits contains confidential information, the confidential

1 portions of which shall be designated with a B as well.

2 MR. CHAPKIS: Yes, sir.

3 MR. HATCH: Mr. Chairman, just to be clear, the A  
4 version is the public version?

5 CHAIRMAN BAEZ: A is public, B is confidential. Do  
6 you have that same issue? Not yet?

7 MR. HATCH: Not yet.

8 CHAIRMAN BAEZ: Okay. Well, food for thought.

9 Ms. McNulty.

10 MS. McNULTY: Yes. Just one point of clarification,  
11 if BellSouth and Verizon happen to have a list of what exactly  
12 is denoted as confidential, I think that would be helpful to  
13 the parties and to the court reporter for clarification for the  
14 brief.

15 CHAIRMAN BAEZ: I think that's the very thing that  
16 Mr. Meza was offering up, and if she's got copies of that now.  
17 I don't think it's necessary to have it as, as an exhibit to it  
18 if we're clear on what --

19 MS. McNULTY: Thank you.

20 CHAIRMAN BAEZ: -- which one is which. Thank you.

21 MS. FOSHEE: And, Chairman, we've gone through our  
22 list. We could tell you the witnesses, if it would be helpful,  
23 that have A and B. Do you want us to do that now?

24 CHAIRMAN BAEZ: I'm sorry, Ms. Foshee.

25 MS. FOSHEE: We went through the exhibits that you

1 just read and we could tell you real quick which ones --

2 CHAIRMAN BAEZ: Just let me know the numbers so we  
3 can get that in the record.

4 MS. FOSHEE: Okay. 63, 64, 68, 69. And, sir, a  
5 correction to Exhibit 71, Mr. Gray's testimony had no exhibits,  
6 so we may want to just leave --

7 CHAIRMAN BAEZ: We'll just cross 71.

8 MS. FOSHEE: -- 71 as vacant. And that's all, sir,  
9 for BellSouth.

10 CHAIRMAN BAEZ: So I have 63, 64, 68 and 69.

11 MS. FOSHEE: Have A and B, everyone else has just A.

12 CHAIRMAN BAEZ: Okay. Thank you. Very well.

13 All right. I think but for confidential Exhibit 99,  
14 which staff will clear up hopefully by the time we get back, I  
15 think, I think we've got everybody so far.

16 Great. We'll take a ten-minute break and let the,  
17 the impairment case or, I'm sorry, OPC set up. Forgive me.

18 (Transcript continues in sequence with Volume 17.)

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1 STATE OF FLORIDA )  
2 COUNTY OF LEON ) : CERTIFICATE OF REPORTER

3

4 I, LINDA BOLES, RPR, Official Commission  
5 Reporter, do hereby certify that the foregoing proceeding was  
6 heard at the time and place herein stated.


7 IT IS FURTHER CERTIFIED that I stenographically  
8 reported the said proceedings; that the same has been  
9 transcribed under my direct supervision; and that this  
10 transcript constitutes a true transcription of my notes of said  
11 proceedings.

12 I FURTHER CERTIFY that I am not a relative, employee,  
13 attorney or counsel of any of the parties, nor am I a relative  
14 or employee of any of the parties' attorneys or counsel  
15 connected with the action, nor am I financially interested in  
16 the action.

17 DATED THIS 1ST DAY OF MARCH, 2004.

18

19

  
LINDA BOLES, RPR  
FPSC Official Commission Reporter  
(850) 413-6734

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