BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030852-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCATION-SPECIFIC REVIEW FOR DS1, DS3 AND DARK FIBER LOOPS, AND ROUTE-SPECIFIC REVIEW FOR DS1, DS3 AND DARK FIBER TRANSPORT.

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VOLUME 2

Pages 200 through 308

PROCEEDINGS:	HEARING
BEFORE:	CHAIRMAN BRAULIO L. BAEZ COMMISSIONER J. TERRY DEASON COMMISSIONER LILA A. JABER COMMISSIONER RUDOLPH "RUDY" BRADLEY COMMISSIONER CHARLES M. DAVIDSON
DATE:	Wednesday, March 3, 2004
TIME:	Commenced at 9:36 a.m. Concluded at 9:54 a.m.

PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	LINDA BOLES, RPR Official FPSC Reporter (850) 413-6734
APPEARANCES:	(As heretofore noted.)

I N D E X

WITNESSES

P R O C E E D I N G S

(Transcript follows in sequence from Volume 1.)

I. INTRODUCTION

Q. PLEASE IDENTIFY THE MEMBERS OF THIS PANEL, AND STATE ON WHOSE BEHALF THIS TESTIMONY IS SUBMITTED.

A. The members of this panel are Orville D. Fulp and John White. This testimony is submitted on behalf of Verizon Florida Inc. ("Verizon").

Q. DID MR. FULP AND MR. WHITE SUBMIT JOINT DIRECT TESTIMONY ON DECEMBER 22, 2003, AND JOINT SUPPLEMENTAL TESTIMONY ON JANUARY 9, 2004?

A. Yes.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR SUR-REBUTTAL TESTIMONY?

A. The purpose of this testimony is to rebut the testimony submitted by various other parties and to further support Verizon's triggers case regarding dedicated interoffice transport. In addition, we address the CLECs' responses to our testimony regarding high capacity loops, and demonstrate that the CLEC witnesses rely on irrelevant arguments and fabricate additional standards of proof that are not required under the *TRO*. Verizon's testimony and the CLECs' admissions in discovery demonstrate that the high capacity loop triggers are satisfied at the customer locations identified by Verizon.

Finally, we address why the Commission should not adopt a transition period in this nine-month proceeding where it finds that the triggers for dedicated transport and high capacity loops have been met. The FCC has made clear that the interconnection agreement negotiation/arbitration provisions of Sections 251 and 252 of the Act provide the appropriate transition mechanism to address

routes and customer locations where a triggers analysis indicates there is no impairment.

III. DEDICATED TRANSPORT

A. THE CLECS' OPPOSITIONS TO VERIZON'S TRANSPORT CASE REST ON ERRONEOUS INTERPRETATIONS OF THE FCC'S RULES

Q. WHAT IS YOUR REACTION TO THE CLECS' CLAIMS THAT THEIR FIBER TRANSPORT FACILITES DO NOT COUNT TOWARD THE TRANSPORT TRIGGERS?

A. The CLECs' rebuttal testimony relies *entirely* on unsupportable interpretations and misstatements of the FCC's Order to argue that *none* of their pervasive and robust fiber transport facilities in Florida "count" toward the FCC's transport triggers. This argument is wrong on at least four levels.

First, the CLECs would have the Commission believe that CLECs construct their fiber networks *not* to provide connectivity from one point to another. This claim is erroneous given how telecommunications networks are constructed in the 21st century.

Second, the CLECs would have this Commission believe that the FCC in the TRO proceeding conducted a detailed review of competitive carriers' transport facilities, and then devised triggers for the state commissions that apply to *no* CLEC transport facilities here in Florida or anywhere else in the country. That

is plainly wrong. The FCC's Order itself makes clear that FCC intended the transport triggers to apply to competitive networks materially identical to the networks described by the CLECs in this proceeding. In its Order, the FCC explained that CLECs "generally use dedicated transport as a means to aggregate end-user traffic to achieve economies of scale."[1] "When carriers self-deploy transport facilities, they typically deploy fiber rings" that connect one or more ILEC central offices, and then use those self-deployed fiber facilities to "backhaul" traffic to their switches.[2] This is exactly the sort of network architecture that AT&T, KMC, Xspedius, MCI, and other CLECs have acknowledged deploying in Florida – and now claim that the Commission cannot consider when applying the FCC's transport triggers.

Third, the FCC made clear in its rules that *all networks capable* of providing DS1s and DS3s "count" toward the transport triggers. For example, the FCC's rules require state commissions to consider the networks of "intermodal providers of service" when applying the transport triggers.[3] In applying the triggers, the only issue is whether a carriers network is *capable* of providing DS1 and DS3 transport between ILEC wire centers. There can be no doubt that the networks deployed by the CLECs in Florida are capable of transporting traffic between Verizon wire centers. Fourth, aside from the implausibility of their arguments that none of their network facilities "count" toward the FCC's triggers, the CLECs' legal arguments are meritless. AT&T claims that *none* of

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1 TRO ¶ 370.

2 TRO ¶ 370.

3 47 C.F.R. § 51.319(e)(1)(ii), (2)(i)(A), (2)(i)(B) (wholesale triggers for DS1 and DS3 transport, and self-provisioning trigger for DS3 transport).

its extensive fiber transport facilities in Florida "count" for purposes of the FCC's transport triggers because traffic from an AT&T collocation arrangement at a Verizon wire center may pass through an AT&T switch location before being delivered to an AT&T collocation arrangement at another Verizon wire center. Because its transport network may (or may not) involve an intervening switch or switching location, AT&T has refused to submit hard evidence concerning its own transport network and wholesale and retail business operations in this proceeding, let alone rebut Verizon's evidence on a route-by-route basis as required by the FCC. AT&T's position is flatly wrong given that the FCC expressly said in its Order that a dedicated transport route "*may pass through one or more intermediate* wire centers or *switches*."[4]

KMC makes a similarly erroneous argument. Although KMC admits that it has multi-directional SONET ring backbone architecture physically connecting multiple ILEC wire centers, it argues that it has *no* transport facilities that "count" toward the triggers because each ILEC wire center purportedly is on a separate piece of fiber within the same fiber cable.[5] Based on this, KMC claims not to be "operationally ready" to provide transport between Verizon wire

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[4] The FCC defined a dedicated transport "route" as "a transmission path between one of an incumbent LEC's wire centers or switches and another of the incumbent ILEC wire centers or switches. A route between two points (*e.g.*, wire center or switch 'A' and wire center or switch 'Z') may pass through one or more intermediate wire centers or switches (*e.g.*, wire center or switch 'X'). Transmission paths between identical end points (*e.g.*, wire center or switch 'A' and wire center or switch 'Z') are the same 'route,' irrespective of whether they pass through the same intermediate wire centers or switches, if any." 47 C.F.R. § 51.319(e).

[5] Rebuttal Testimony of Marva Brown Johnson on behalf of KMC Telecom III, LLC, at 4 and 15 ("KMC Rebuttal Testimony").

centers. This argument is incorrect. KMC is capable of providing dedicated transport along its fiber ring from one ILEC wire center to another, which is all the FCC's rules require. Indeed, KMC admits that it has at least one Digital Access Cross-Connect system, which is a "high speed data channel switch" capable of distributing traffic among ILEC wire centers.[6]

MCI and Xspedius make the same arguments as AT&T and KMC about why their extensive network facilities also cannot be considered under the FCC's triggers. The Commission should reject all of these arguments as directly contrary to the plain language and purpose of the FCC's rules.

Q. AT&T, KMC, MCI, AND XSPEDIUS OWN AND OPERATE EXTENSIVE FIBER FACILITIES IN FLORIDA THAT THEY CURRENTLY OPERATE AT AN OCN LEVEL AND USE FOR DEDICATED TRANSPORT. SHOULD THOSE TRANSPORT FACILITIES "COUNT" TOWARD THE FCC'S TRANSPORT TRIGGERS?

A. Yes. AT&T, KMC, MCI, and Xspedius do not dispute that they own and use extensive fiber transport facilities that provide physical connections among Verizon wire centers, and are fully capable of providing dedicated transport among Verizon wire centers:

- AT&T told the FCC in the TRO proceeding that it has over *17,000 route miles of local fiber, over 1,000 collocations in ILEC switching offices*, and

[6] KMC Rebuttal Testimony at 16.

transport facilities that typically *connect one or more ILEC wire centers.*[7]

- AT&T has also testified that it "has OCn fiber facilities terminating in collocation arrangements," and that all AT&T fiber facilities meet at a "central point" – an AT&T switch, thereby admitting that it has fiber facilities that provide connections that run from numerous Verizon wire centers, through AT&T's switching facilities, to numerous other Verizon wire centers.

- KMC reports that it "has deployed its own transport facilities" on its simultaneous and multidirectional "SONET ring backbone architecture," and established operational collocation arrangements at multiple ILEC wire centers that are physically connected to the KMC ring.[8] KMC's "central office configuration includes electronic digital cross connect devices" and "transport equipment."[9] KMC has deployed "a 72 pair-strand fiber network.[10]

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[7] Comments of AT&T Corporation, In the Matter of Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket Nos. 01-338, 96-98, and 98-147 (Apr. 5, 2002), at iv; Declaration of Michael Lesher and Robert J. Frontera on behalf of AT&T Corp., at 4. See Exhibit G.1.

[8] KMC Rebuttal Testimony, at 15.

[9] KMC Telecom Holdings, Inc.'s Annual Report (Form 10-K) for the fiscal year ended December 31, 2001, at 3-4. See Exhibit G.2.

[10] KMC 10-5, at 6.

- MCI confirmed that it has deployed fiber rings that physically connect ILEC wire centers.[11]

- Xspedius reports having a "vast fiber optic network," offering Special Access Service to local serving offices,[12] among other things.

The Commission should find -- as the FCC clearly intended -- that the CLECs' fiber facilities "count" toward the FCC's transport triggers. The FCC requires only that a CLEC has "deployed its own transport facilities" and be "operationally read to use those facilities to provide DS3 transport along the particular route." [13] AT&T's, MCI's, KMC's, and Xspedius' facilities clearly meet this test.

Q. AT&T AND OTHER CLECS ARGUE THAT, UNDER THE FCC'S RULES, DEDICATED TRANSPORT FACILITIES CANNOT BE "ROUTED" THROUGH INTERMEDIATE SWITCHING LOCATIONS. MUST CLEC TRANSPORT FACILITIES RUN DIRECTLY BETWEEN TWO VERIZON WIRE CENTERS TO "COUNT" UNDER THE FCC'S TRANSPORT TRIGGERS?

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[11] Rebuttal Testimony of Lonnie Hardin on behalf of MCI WorldCom Communications, Inc. and MCImetro Access Transmission Services, LLC ("MCI Rebuttal Testimony") at 6-7.

[12] www.mindspring.com/neilmavis/

[13] 47 C.F.R. §§ 51.319(e)(2)(i)(A)(1), (B)(1).

A. No. The CLECs' claims that they have *no* dedicated transport facilities in Florida for purposes of the FCC's triggers rests on their erroneous assertion that there can be no intermediate switch. The FCC's rules say precisely the opposite. The FCC's definition of "dedicated transport" expressly states that "[a] route between two points (e.g., wire center or switch 'A' and wire center or switch 'Z') *may pass through one or more intermediate* wire centers or *switches* (e.g., wire center or switch 'X')."[14] For purposes of the FCC's rule, only the end points are relevant in defining the route, even when the intermediate point is a switch. In sum, if CLEC fiber networks provide a physical connection between two or more Verizon wire centers – and AT&T, KMC, MCI, and Xspedius admit that their transport facilities do -- those facilities count toward the FCC's triggers, even if these carriers have chosen to route those facilities through centralized switching facilities.[15] Using the CLECs' faulty logic, Verizon would not be required to provide UNE interoffice facilities ("IOF") between two of its wire centers if it did not have a direct route between the two end points. Yet in many cases, Verizon routes traffic between two end offices through an intermediate office.

Despite the plain language of the FCC's rule, AT&T and the other CLECs argue that passing through an intermediate wire center or switch is impermissible because it requires carriers to combine transport links, known as "daisy chaining." But the FCC's bar on "daisy chaining" is irrelevant here. These rules prohibit ILECs from claiming a transport route that consists of linking the transport

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[14] 47 C.F.R. § 51.319(e) (emphasis added); *see TRO* ¶ 401.

[15] *See TRO* ¶ 401.

facilities of two or more *different* CLECs; they do not prohibit ILECs from claiming a route that consists of the linking the transport facilities of the *same* CLEC. For example, if AT&T has transport facilities from a Verizon wire center to an AT&T switch, and also has transport facilities from AT&T's switch to a different Verizon wire center, those transport facilities count as a route for purposes of the FCC's transport triggers.

The FCC's definition of a route to permit intermediate switching makes sense. For example, AT&T has deployed nationwide an "intelligent optical network," capable of aggregating lower-rate customer traffic, including DS1 and DS3 speeds, "up to high-speed (OC-48 or OC-192) pipes for routing across the network by the intelligent optical switches."[16] Again, the FCC's rules make clear that what matters is whether a CLEC network is capable of transmitting traffic between ILEC wire centers, regardless of the structure of the CLEC's network, the equipment used, or the path of the traffic.

Q. TO BE DEDICATED TRANSPORT FOR PURPOSES OF THE TRIGGERS, DOES THE FCC REQUIRE A PERMANENT DEDICATED CIRCUIT BETWEEN TWO ILEC WIRE CENTERS?

A. No. Contrary to the claim of AT&T (and perhaps other CLECs),[17] the FCC's definition of "dedicated transport" does not require dedicated transmission paths between pairs of incumbent LEC central offices or wire centers without the use of

[16] http://www.att.com/news/item/0,1847,4206,00.html; *see also* http://www.att.com/news/item/0,1847,12517,00.html.

any intermediate switching. The FCC's definition of dedicated transport – which is the only definition that matters for purposes of applying the transport triggers – is a facility on which a certain amount of capacity is "dedicated to a particular customer or carrier."[18] The FCC's definition is consistent with how the most modern telecommunications networks are constructed.

AT&T is attempting to re-write the FCC's Order by imposing an engineering definition of dedicated transport that means a dedicated circuit that is permanently established between two points and is always on. The FCC's Order, however, clearly provides that dedicated transport includes transport routed through switching facilities, so long as the transport is used to provide bandwidth dedicated to a particular customer or carrier. AT&T's transport facilities meet that definition.

Q: AT&T, KMC, AND MCI ARGUE THAT NONE OF THEIR EXTENSIVE, ROBUST TRANSPORT FACILITIES QUALIFY AS DEDICATED TRANSPORT FOR PURPOSES OF THE FCC'S TRIGGERS BECAUSE THEY ARE "BACKHAUL" FACILITIES. IS THIS CORRECT?

A: No. AT&T, KMC, and MCI contend that the FCC's exclusion of backhaul transport facilities from the definition of the UNE – *i.e.*, the dedicated transport

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[17] AT&T Rebuttal Testimony, at 8.

[18] 47 C.F.R. § 51.319(e)(2) (emphasis added); *see TRO* ¶ 361 ("Dedicated interoffice transmission facilities (transport) are facilities dedicated to a particular customer or competitive carrier that it uses for transmission among incumbent LEC central offices and tandem offices.").

facilities Verizon and other ILECs are required to provide CLECs as a UNEs at TELRIC prices -- means that competitive carriers' backhaul transport facilities cannot be considered when applying the FCC's transport triggers.[19] "Backhaul" facilities are simply the portion or "leg" of the transport facility that takes traffic from the Verizon wire center to the CLEC switch.

This argument is illogical. It confuses the FCC's definition of the "dedicated transport *UNE*" (that only ILECs are required to provide, not CLECs) with the CLEC competitive transport facilities (provided only by CLECs, not ILECs) that are evaluated under the FCC's triggers. AT&T, MCI, and other CLECs do not have UNE obligations, however; therefore, the UNE definition of dedicated transport does not apply to their networks. Nor does it have anything to do with the fundamental purpose of the FCC's transport trigger analysis, which is to determine whether there are sufficient competitive transport facilities on a particular transport route that CLECs are not impaired without use of ILECs' networks.

Second, the FCC's Order explicitly recognizes that CLEC use their self-provisioned transport facilities to "backhaul" traffic, and then expressly classifies those facilities as *dedicated transport.* For example, in Paragraph 361 of the Order, the FCC states that "[c]ompeting carriers generally use interoffice transport as a means to aggregate end-user traffic . . . *by using dedicated*

[19] AT&T Rebuttal Testimony, at 16-17; KMC Rebuttal Testimony, at 6; MCI Rebuttal Testimony, at 6.

transport to carry traffic from their end users' loops, often terminating at incumbent LEC central offices, through other central offices to a point of aggregation."[20] That is exactly what "backhaul" means – and the FCC clearly intends to count it.

Third, excluding CLEC backhaul transport facilities from the facilities subject to the transport triggers makes no sense in terms of the FCC's factual findings in its Order on competitive transport facilities or what the FCC is trying to accomplish through the application of its transport triggers. The Order makes clear that the FCC excluded backhaul transport facilities from the ILEC UNE requirement for dedicated transport precisely because backhaul facilities are the most competitive segment of the transport market.[21] Backhaul facilities are the very transport facilities that competing carriers have been most successful in self-provisioning. The argument against considering backhaul facilities for purposes of the FCC's trigger analyses would mean that, even if there were three or more competitors with competitive fiber in every ILEC wire center in the country, all of which were backhauling traffic to central hub facilities prior to routing that traffic to other ILEC wire centers, nonetheless, no transport competition would be deemed to exist. In other words, the CLECs are saying that if there are ***so many*** CLEC competitive transport facilities that they justify a national FCC finding of no impairment for one type of UNE ("backhaul"

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[20] (Emphasis added); *see also TRO* ¶ 370.

[21] *See TRO* ¶ 367 n.1122 ("Competing carriers agree that the most competitive type of transport is the link between an incumbent LEC wire center and a competitor's network.").

connections between ILEC and CLEC switching offices), then the FCC intended that those same pervasive CLEC facilities ***do not exist*** for purposes of assessing impairment for another UNE (connections from one ILEC switching office to another). This is illogical and clearly not what the FCC intended.

Fourth, excluding transport backhaul facilities from the trigger analysis would mean that *most if not all* of competitive fiber that AT&T, MCI, and other CLECs have admitted deploying would not "count" simply because competitive networks are not configured in precisely the same way as ILECs' networks. In its Order, however, the FCC expressly declares that the purpose of the transport trigger analysis is not to identify CLEC transport that mirrors ILEC networks, but to "identify[] specific point-to-point routes where carriers have the ability to use alternatives to the incumbent LEC's network."[22]

Q: PLEASE ADDRESS THE CLECS' CLAIMS THAT THEIR TRANSPORT FACILITIES DO NOT QUALIFY AS DEDICATED TRANSPORT UNDER THE FCC'S DEFINITION OF THAT TERM BECAUSE THEY ARE NOT "OPERATIONALLY READY" TO USE THEM TO PROVIDE DEDICATED TRANSPORT.

A: All of the CLECs filing rebuttal testimony claim not to be "operationally ready" to provide dedicated transport between two or more Verizon wire centers. For example, AT&T claims it is not operationally ready to provide dedicated transport because it routes all of its fiber facilities through a switch and (AT&T claims) it

would require considerable investment and work for AT&T to convert these facilities into dedicated circuits. AT&T's claim is representative of what KMC and the other CLECs are contending.

Whether or not these claims about CLECs' networks are accurate, they are irrelevant here: the FCC's definition of "dedicated transport" is a facility on which a certain amount of capacity is "dedicated to a particular customer or carrier." The FCC does not require a dedicated circuit. Therefore, the Commission does not need to evaluate what, if any, reconfiguring would be required for AT&T to dedicate circuits because AT&T's current network architecture already counts toward the transport triggers, regardless of whether it has dedicated circuits. AT&T has transport facilities in place that connect Verizon wire centers, and AT&T's transport facilities are operationally ready to provide dedicated bandwidth to *a particular customer or carrier*. Indeed, AT&T admits that it "has OCn fiber facilities terminating in collocation arrangements"; these fiber facilities meet at a "central point" – an AT&T switch; and that these facilities permit traffic to flow to *all* parts of their network, as well as directly or indirectly to the networks of other carriers.

The CLECs' claims about network modifications are also irrelevant because the FCC's "operationally ready" standard evaluates whether the facility is "*capable of operation* on that route," not "whether it actually does so." To be counted as

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[22] *TRO* ¶ 360; *see id.* ¶ 400; *see also id.* ¶ 406 n. 1257 ("impairment analysis recognizes alternatives outside the incumbent LEC's network").

operationally ready, it is not necessary to demonstrate that a competing carrier has already taken every possible step to use its transport facilities in a particular manner. It is enough to show that the competing carrier has the facilities in place, and the facilities are *capable of operation* on that route, even if making that facility operational requires some extra steps. Indeed, the only specific content the FCC gave to the "operationally ready" requirement was that a carrier have transport facilities and fully provisioned collocation arrangements in place. AT&T, MCI, KMC, and Xspedius have fully provisioned and operational collocation arrangements at Verizon wire centers and transport facilities that physically connect those collocation arrangements. Therefore, these carriers are – by the FCC's own definition -- operationally ready to provide dedicated transport under the FCC's rules.

Finally, although AT&T, Xspedius, and other CLECs claim that reconfiguring a route from a switched circuit to a dedicated circuit requires some financial outlay, they never quantify what is required. Furthermore, the list of items identified by the CLECs that supposedly must be performed to create dedicated circuits are equivalent to steps that the FCC has specifically classified as "routine network modifications to existing facilities," that present "no significant operational issues."[23] For example, although AT&T uses a SONET-based fiber network, and operates its transport facilities at an OC48 level, those fibers do not typically (if ever) terminate directly on AT&T's switches, but must, on entering the switching location, be cross-connected and de-

[23] *TRO* ¶¶ 632-638.

multiplexed to lower-capacity facilities, typically DS3 and DS1 facilities, before they may be connected to the switch. It is a straightforward process to peel off these DS3 or DS1 facilities on one side of the switch and connect it to a DS3 or DS1 facility that has been peeled off on the other side of the switch through a digital cross-connect. This is the sort of routine network provisioning activity that telecommunications carriers perform every day.

Q: AT&T CLAIMS THAT THE SELF-PROVISIONING TRANSPORT TRIGGER REQUIRES VERIZON TO SHOW THAT A CARRIER SELF-PROVISIONS TRANSPORT AT SPEEDS BETWEEN A FLOOR OF ONE DS3-LEVEL FACILITY TO NO MORE THAN TWELVE DS3-LEVEL FACILITIES.[24] IS THIS AN ACCURATE STATEMENT OF THE FCC'S RULES?

A: No. AT&T is attempting to re-write the FCC's self-provisioning trigger for DS3s. The FCC's rules unambiguously provide that a state commission shall find no impairment where three or more competing carriers have "deployed their own transport facilities and [are] operationally ready to provide dedicated DS3 transport along the particular route."[25] There is no "ceiling" in the FCC's rules on the number of DS3s provided on self-provisioned transport facilities, as AT&T erroneously claims in its testimony. The ceiling AT&T refers to applies to the number of DS3 transport *UNEs* that ILECs such as Verizon are required to lease to CLECs if a state commission finds that a route does not meet the DS3 self-

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[24] AT&T Rebuttal Testimony at 10-11.

[25] 47 C.F.R. § 51.319(e)(2)(i)(A)(1).

provisioning trigger. Tellingly, although most if not all CLECs described the FCC's triggers in their testimony, AT&T alone suggested this nonexistent requirement.

Q: PLEASE RESPOND TO THE CLECS' CLAIM THAT IT IS IMPROPER TO ASSUME THAT OCN LEVEL FIBER FACILITIES ARE USED FOR DS1 AND DS3 TRANSPORT?

A: The issue here is not the economics of deploying *new* fiber but the capabilities of that fiber once it has already been deployed. The CLECs' argument –that the existence of OCn fiber facilities deployed along a route is irrelevant to determining whether competing carrier could provide DS3 or DS1 transport along that route – is inconsistent with the FCC's Order. For example, to satisfy the DS3 self-provisioning trigger it is not necessary to prove that a carrier has actually deployed a facility that is only capable of providing DS3 transport (or multiple DS3s) *but no more.* The test is whether "[t]he competing provider has deployed its own transport facilities and is operationally ready to *use* those transport facilities to provided dedicated DS3 transport along the particular route."[26] Verizon therefore does not need to show that the underlying facility that the CLEC is using to provide transport is *only* a DS3 facility, but rather that, regardless of the maximum capacity of such facility, it is or can be used to provide DS3 transport service.

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[26] 47 C.F.R. §51.319(e)(2)(A)(1), (B)(1).

Not only is the argument that OCn facilities prove nothing inconsistent with the plain language of the FCC's rules, it is also obvious from the FCC's discussion in the Order of competitive transport facilities. In the Order, the FCC states that the transport networks deployed by competing carriers and incumbents alike invariably consist of OCn-level fiber, not pure DS3 or DS1 facilities.[27] There is no basis for the CLECs' suggestion that, on the one hand, the FCC recognized that all interoffice transport facilities are OCn-level fiber, but on the other hand, constructed a test that ignores such fiber in determining whether there is competitive transport.

B. THE CLECS' REBUTTAL TESTIMONY LARGELY CONFIRMS AND IS CONSISTENT WITH VERIZON'S EVIDENCE

Q. DOES THE CLECS' REBUTTAL TESTIMONY CONFIRM VERIZON'S EVIDENCE THAT COMPETITIVE CARRIERS HAVE OPERATIONAL COLLOCATION ARRANGEMENTS, FED WITH NON-VERIZON FIBER, AT THE VERIZON WIRE CENTERS IDENTIFIED BY VERIZON?

A. Yes. The CLECs have not challenged Verizon's evidence of the Verizon wire centers at which each carrier has operational collocation arrangements fed with

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[27] *See, e.g., TRO* ¶ 372, n. 1144 (citing AT&T's comment that "most carriers, including incumbent LECs, typically operate their transport networks at the OC48 capacity."), *id.* ("When carriers deploy new transport facilities, they deploy fiber optic facilities."); *id.* ("Incumbent LECs generally operate their interoffice transport networks at OCn capacity levels"); *id.* ¶ 382 ("The record indicates that when competing carriers self-deploy transport facilities, they often deploy fiber optic facilities that are activated at OCn levels.").

non-Verizon fiber. To be clear, no carrier has challenged Verizon's evidence concerning the carrier's own network for even a single wire center. Of course, these carriers know the Verizon wire centers at which they have operational collocation arrangements fed with non-Verizon fiber, and have every incentive to dispute evidence they believe mistaken. Verizon's evidence on these undisputed collocation arrangements should be deemed admitted.

Q. DOES THE CLECS' REBUTTAL TESTIMONY CONFIRM VERIZON'S CONCLUSIONS THAT COMPETITIVE CARRIERS GENERALLY BUILD THEIR TRANSPORT FACILITIES IN FIBER RINGS SO TRAFFIC CAN FLOW BETWEEN THEIR FIBER COLLOCATION ARRANGMENTS IN VERIZON WIRE CENTERS?

A. Yes. In our direct testimony, we explained that if a competitive carrier has operational, fiber-based collocations in two or more Verizon wire centers, it is very likely that those facilities are part of a fiber ring network connecting these wire centers. No carrier has submitted evidence showing that its collocation arrangements at Verizon wire centers are not physically connected to its fiber rings, or that its fiber rings (where there is more than one ring) are not physically connected to each other.

Q. DOES THE CLEC REBUTTAL TESTIMONY GENERALLY CONFIRM THAT CLECS "RUN" DS1 AND DS3 SPEEDS (AMONG OTHERS) OVER THEIR OCN TRANSPORT FACILITIES?

A. Yes. The CLECs' testimony confirms that CLEC fiber transport facilities operate at an OCn level, just as Verizon concluded in its direct testimony. We

also explained in our direct testimony that CLECs very typically build fiber networks at an OCn capacity and then offer the lower speeds required by customers, including DS1 and DS3 speeds. In their testimony, the CLECs do not seriously dispute that they operate their self-deployed facilities in precisely this manner.

C. RESPONSES TO THE HANDFUL OF SPECIFIC FACTUAL ALLEGATIONS IN CLEC TESTIMONY

Q. IN THEIR REBUTTAL TESTIMONY, DID ANY CLECS RAISE SPECIFIC FACTUAL ISSUES ABOUT THE DIRECT TRANSPORT ROUTES IDENTIFIED BY VERIZON IN ITS INITIAL AND SUPPLEMENTAL TESTIMONY?

A. The CLECs' rebuttal testimony overwhelming consists of misinterpretations of the FCC's rules, unspecific denials of Verizon's route-by-route evidence, and proclamations that ILECs bear the entire burden of proving each and every fact concerning the existence and uses of non-ILEC transport facilities. In a very few instances, however, the CLECs raise specific factual questions and concerns about the transport routes that Verizon identified as meeting one or both of the FCC's triggers. In the section below, we address this handful of issues, and show that most of them stem from the CLECs misstatements of the FCC's rules.

i. AT&T

Q. AT&T CLAIMS THAT IT "IS NOT A WHOLESALER" OF "DEDICATED TRANSPORT."[28] IS THIS CORRECT?

A. No. AT&T unquestionably provides wholesale transport, including at DS1 and DS3 levels. AT&T advertises its wholesale transport services on its website,[29] and has a competitive access tariff on file with the Commission.[30] And in its 2002 Annual Report (Form 10-K) filed with the SEC, AT&T reported that it provides "wholesale transport services." The pertinent paragraph in AT&T's 10-K provides:

> TRANSPORT
>
> AT&T Business Services provides wholesale networking capacity and switched services to other carriers. AT&T Business Services offers a combination of high-volume transmission capacity, conventional dedicated line services and dedicated switches services on a regional and national basis to Internet Service Providers (ISPs) and facility-based and switchless resellers. AT&T Business Services' wholesale customers are primarily large tier-one ISPs, competitive local exchange carriers, regional phone companies, interexchange carriers, cable companies and systems integrators. . . AT&T Business Services also has sold dedicated network capacity

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[28] AT&T Rebuttal Testimony, at 14-15, and 18.

[29] Verizon attached AT&T's website materials advertising AT&T's wholesale transport services, including dedicated transport at DS1 and DS3 speeds, to its initial testimony as Exhibit E.1.

[30] See AT&T website http://service.att.com/servicelibrary/business/ext/files/FLACCSDM.pdf.

through indefeasible rights-of-use agreements under which capacity is furnished for contract terms as long as 25 years.[31]

Q. IS AT&T CORRECT IN CLAIMING THAT IT DOES NOT SELF-PROVISION DS3 LEVEL DEDICATED TRANSPORT?

A. No. Once again, AT&T's claim – this time that it does not self-provision DS3 level transport -- rests on its misstatement of the FCC's rules concerning what CLEC facilities "count" toward the transport triggers.[32] There is no dispute that AT&T provides DS1s and DS3s for retail customers over its OCn transport facilities. AT&T witness Mr. Bradbury tries to avoid this fact by discussing the purported operational readiness of CLECs generally,[33] rather than AT&T's operational readiness on the specific transport routes identified by Verizon as meeting the self-provisioning trigger.

ii. KMC Telecom III

Q. DOES KMC HOLD ITSELF OUT AS OFFERING WHOLESALE TRANSPORT?

A. Yes. KMC argues that it would have to take various minor provisioning steps before it could actually provide transport among ILEC wire centers at wholesale. The Commission need not evaluate KMC's factual claims that it

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[31] AT&T Annual Report Form 10-K for 2002 (filed March 31, 2003). See Exhibit G.3

[32] AT&T Rebuttal Testimony, at 14.

[33] AT&T Rebuttal Testimony, at 25.

would face impediments in offering wholesale services because it is so clear from the public record that KMC holds itself out as a wholesale provider:

- KMC has an "on-net" special access service, including DS1 and DS3 speeds.
- KMC reports in its 2001 10-K that national interexchange carriers, "power and wireless telcom providers," "major long distance carriers, and "other competitive local exchange providers," are target customers.[34]
- KMC advertises its "comprehensive" wholesale services on its website.[35]

This Commission should not allow carriers to simultaneously hold themselves out in public filings and advertisements as offering wholesale transport while at the same time claiming in this proceeding that they are not willing to provide transport at wholesale.

iv. MCI

Q. IS MCI "OPERATIONALLY READY" TO TRANSPORT TRAFFIC AMONG VERIOZN WIRE CENTERS EVEN IF THOSE WIRE CENTERS ARE CONNECTED TO DIFFERENT FIBER RINGS OR FIBER STRANDS?

A. Yes, for at least two reasons. First, the FCC's "operationally ready" standard

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[34] KMC 10-K, at 5-6.

[35] KMC's "wholesale services" website materials are attached to Verizon's initial testimony as Exhibit E.3

evaluates whether the facility is "*capable of operation* on that route." To be counted as operationally ready, it is not necessary to demonstrate that MCI has already taken every possible step to use its transport facilities in a particular manner. Rather, it is enough to show that MCI has the facilities in place, and the facilities are *capable of operation* on that route, even if making that facility operational requires some extra steps. Indeed, the only specific content the FCC gave to the "operationally ready" requirement was that a carrier have transport facilities and fully provisioned collocation arrangements in place. Therefore, under the FCC's rules, it is irrelevant that MCI may (or may not) have to take certain additional provisioning steps.

Second, MCI's facilities more than meet the FCC's "capable of operation" standard. MCI admits that it has fiber rings; that Verizon wire centers are physically connected to those rings; that its separate fiber strands are physically connected to each other; and that it is fully capable of transporting traffic to any point on MCI's network, including Verizon wire centers.[36] MCI tries to obscure these simple facts -- which are fatal to its argument -- by suggesting that if traffic from an ILEC wire center goes to a MCI central node before being sent to another ILEC wire center, there may be "additional points of failure." MCI then tries to link its plea to continue to receive UNE dedicated transport at

[36] MCI Rebuttal Testimony, at 6-7.

TELRIC rates to the terrorist attacks on September 11, 2001.[37] MCI's argument is unseemly, as well as irrelevant and wrong.

iv. Xspedius

Q. XSPEDIUS ADMITS THAT IT OFFERS WHOLESALE TRANSPORT, BUT DENIES THAT IT PROVIDES WHOLESALE TRANSPORT "AS DEFINED BY THE FCC."[38] HOW DO YOU RESPOND?

A. Xspedius' claim that it does not offer wholesale transport rests on the same misstatements of the FCC's rules that we discussed above. Xspedius boasts that it offers "superior products and services to *carrier* customers in 30 markets across the United States," including Tampa, Florida. And Xspedius advertises its "Special Access service" as providing "connectivity" to "local serving offices," which of course include ILEC wire centers.[39]

IV. HIGH CAPACITY LOOPS

A. GENERAL CONTENTIONS REGARDING LOOP TRIGGERS

Q. SPRINT CONTENDS THAT VERIZON HAS FAILED TO PROVE THAT THE TRIGGERS ARE MET AT EACH CUSTOMER LOCATION

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[37] MCI Rebuttal Testimony, at 9 ("This introduces at least four additional points of failure. Customers are concerned about failure points within carriers' networks, particularly since September 11, 2001.")

[38] Rebuttal Testimony of James L. Falvey on behalf of Xspedius Communications, LLC ("Xspedius Rebuttal Testimony") at 7.

[39] Xspedius' website materials offering carrier services and special access are attached to Verizon's initial testimony as Exhibit E.11.

IDENTIFIED IN EXHIBIT F.5 TO YOUR SUPPLEMENTAL DIRECT TESTIMONY BECAUSE IT RELIED ON ASSUMPTIONS AND FAILED TO PROVIDE LOCATION SPECIFIC DATA REQUIRED TO OVERTURN THE FCC'S NATIONAL FINDINGS OF IMPAIRMENT (P. 3). WHAT IS YOUR RESPONSE?

A. As discussed in connection with transport, although we are not attorneys, we do not read the *TRO* as having a traditional "burden of proof" standard. Rather, under the TRO, no individual party bears the burden of proof of the triggers, and the Commission has the obligation to apply the triggers using all available data, including data in the hands of the CLECs. Indeed, the FCC decided not to "adopt a 'burden of proof' approach that places the onus on either competitors to prove or disprove the need for unbundling." *TRO* ¶ 92. It would make no sense for the FCC to require state commissions performing a more granular impairment analysis to follow an approach the FCC itself rejected.

Verizon based its loop trigger case on the facts available to it. Verizon does not have independent data about where other carriers have deployed loop facilities. This information was and is in the hands of those carriers. Thus, Verizon—as well as the Commission—is dependent on data provided by the CLECs. Some CLECs have apparently attempted to thwart the Commission's and Verizon's efforts to gather data necessary to identify the customer locations satisfying the triggers by providing incomplete responses to discovery requests. As a result, Verizon drew certain reasonable conclusions from the data the CLECs did provide. Verizon continues its efforts to collect more data from the CLECs, but the Commission should not accept their stonewall tactics and claims that Verizon

bears the sole burden for presenting the relevant facts. Absent evidence from the CLECs to the contrary, Verizon's conclusions are based on information provided by the CLECs, are reasonable and should be relied upon by the Commission.

Q. DID ANY OF THE CARRIERS IDENTIFIED IN EXHIBIT F.5 TO YOUR SUPPLEMENTAL DIRECT TESTIMONY DENY SATISFYING THE TRIGGER AT ANY OF THE CUSTOMER LOCATIONS VERIZON IDENTIFIED?

A. No.

Q. PLEASE COMMENT ON KMC'S CONTENTION THAT A UNE LOOP SHOULD REMAIN AVAILABLE EVEN WHERE THE TRIGGERS ARE SATISFIED. (JOHNSON P. 29-31).

A. The TRO made clear that if a trigger has been met, there is no impairment and no need to do a further analysis of operational and economic factors that might affect impairment in the absence of a trigger showing. Specifically, the FCC stated that if a state commission finds that either trigger is met for a specific loop capacity at a specific customer location, the state commission must make a finding of non-impairment, and the ILEC will no longer be required to unbundle that loop capacity to that customer location. *TRO* ¶ 328; see also 47 C.F.R. §51.319(a)(4)-(6). The FCC has already found that its impairment assumption is overcome where the triggers are met, and this Commission cannot reach a contrary result. In other words, the FCC's rules mandate that the Commission find that the national finding of impairment has been overcome for the relevant loop capacity at any customer location meeting one of the loop triggers.

Paragraph 336 of he *TRO* does grant state commissions the "analytical flexibility" to petition the FCC for a waiver to maintain an ILEC's unbundling obligation at a particular customer location where impairment remains due to the existence of a barrier to further competitive facilities deployment, until the barrier identified in the waiver petition no longer exists. This flexibility appears to apply only with respect to the self-provisioning trigger. In any event, none of the other parties have provided evidence of the existence of a barrier to the deployment of further competitive facilities at any customer location identified in Exhibit F.5, or asked the Commission to petition the FCC for waiver.

Q. KMC CONTENDS THAT ILECS DO NOT FACE THE SAME OBSTACLES IN CONSTRUCTING LOOPS AS CLECS (JOHNSON P. 30). HOW DO YOU RESPOND?

A. ILECs face certain challenges that CLECs do not with respect to loop deployment. For example, CLECs have the ability to choose which customers they wish to serve, and can refuse to serve customers who would be unwilling or unable to pay rates to recover the costs to deploy loops to their locations. An ILEC, however, must serve any customer, regardless of the cost to deploy facilities to serve that customer. Moreover, as KMC well knows, Verizon and BellSouth are no longer "legally protected monopolists guaranteed a return on their investments and a captive market share," but remain constrained in the rates it may charge by regulatory requirements.

Q. MR. BALL CRITICIZES VERIZON FOR NOT CONDUCTING A CAPACITY-SPECIFIC ANALYSIS. IS THIS ACCURATE?

A. No. Verizon conducted a capacity-specific analysis.

Q. HOW DID VERIZON IDENTIFY THE CAPACITY OF THE LOOP FACILITIES DEPLOYED BY THE CLECS IT COUNTED TOWARDS THE TRIGGERS?

A. The Staff's loop discovery questions asked carriers to specify the capacity or capacities of the facilities deployed by the carrier in Florida. **[BEGIN CLEC PROPRIETARY DATA]**

[END CLEC PROPRIETARY DATA]. In addition, in response to BellSouth's First Set of Interrogatories, **[BEGIN CLEC PROPRIETARY DATA]**

[END CLEC PROPRITARY DATA].

Q. HOW DID VERIZON IDENTIFY WHETHER A CLEC HAD DEPLOYED DARK FIBER TO A PARTICULAR LOCATION?

A. As discussed above, **[BEGIN CLEC PROPRIETARY DATA]**

[END CLEC PROPRIETARY DATA] However, for the reasons outlined in our supplemental direct testimony, evidence of lit fiber deployment is also evidence of dark fiber. It is standard industry network engineering design (as well as sound economics) to maintain spare dark fibers when deploying loop facilities. In light of **[BEGIN CLEC PROPRIETARY DATA]** **[END CLEC PROPRIETARY DATA]** silence on the existence of dark or spare fiber where they have deployed DS3s, the Commission should reasonably find that those carriers have maintained dark fiber at each location identified in Exhibit F.5 absent specific evidence to the contrary.

Q. HAS VERIZON "TRIVIALIZED" THE NEED FOR ADDITIONAL EQUIPMENT TO CONFIGURE DEDICTED DS3S AND DS1S ON AN OCN FACILITY (BRADBURRY P. 24-25)?

A. No. However, installation of these electronics is not as burdensome as AT&T would have the Commission believe. Indeed, based on ***CLEC*** arguments, the FCC found that attaching or changing electronic and other equipment that are ordinarily attached to activate a DS1 loop to be "routine network modifications" by an ILEC. *See* 47 C.F.R. § 51.319 (a)(8)(ii). Specifically, the FCC defined routine network modifications to include:

> rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that the incumbent LEC ordinarily attaches to a DS1 loop to activate such loop for its own customer. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings.

CLECs undergo the same routine network modifications to serve their own customers over their own facilities. The activities outlined by AT&T to channelize an OCn facility to either a DS3 or DS1 level falls within the FCC's definition of a routine network modification. And, as AT&T readily admits, the required equipment components are readily available. Moreover, the FCC found that attaching routine electronics, such as multiplexers, apparatus cases, and doublers, to high-capacity loops "is easily accomplished" and "present[s] no significant operational issues." *TRO* ¶ 635.

B. THE SELF-PROVISIONING TRIGGER

Q. HAVE THE OTHER PARTIES CORRECTLY DESCRIBED THE SELF-PROVISIONING TRIGGER?

A. No. Xspedius implies that the self-provisioning trigger requires that a CLEC have access to the entire customer location. (Falvey p. 10). However the self-

provisioning trigger for dark fiber and DS-3 loops does not contain this requirement. *See* 47 C.F.R. §§ 51.319(a)(5)(i) and (6)(i); *TRO* ¶¶ 332-333.

AT&T states that a CLEC can satisfy the DS3 self-provisioning trigger only if it is serving ***only 1 or 2 DS3s*** of demand at a specific customer location. (Bradbury P. 10-11). This is a blatant misreading of the FCC's rules for DS3 loops. Rule 319(a)(5)(1)(A) requires a finding of non-impairment where two or more unaffiliated CLECs have deployed their own DS3 facilities (or have deployed DS3 facilities by attaching their own optronics to activate dark fiber transmission facilities obtained under a long-term indefeasible right of use) and are serving customers via those facilities at that location. There is no requirement that the CLECs provide service over no more than two DS3s. Thus, the test is whether AT&T has deployed ***any*** DS3s and is using them to serve its end-user customers, not how many they have deployed. **[BEGIN CLEC PROPRIETARY DATA]**

END CLEC PROPRIETARY DATA].

AT&T appears to be relying on Rule 319(a)(5)(iii), which limits CLECs to obtaining a maximum of two unbundled (UNE) DS3 loops for any single customer location where DS3 loops are available as unbundled loops. This rule, however, has nothing to do with the DS3 triggers. Indeed, AT&T's claim makes no sense. To take AT&T's example, a CLEC that has deployed 6 DS3s to a customer location is clearly not impaired without access to an ILEC's unbundled

DS3 loops. It would make no sense to find that where two CLECs have deployed DS3 loops that impairment still exists simply because one has provisioned more that two DS3s.

Q. IS MR. BALL CORRECT THAT FOR THE SELF-PROVISIONING TRIGGER, IT MUST BE SHOWN THAT TWO OR MORE COMPETITIVE PROVIDERS USE THEIR OWN FACILITIES AND NOT FACILITIES OWNED OR CONTROLLED BY THE OTHER COMPETITIVE PROVIDER OR THE ILEC (P. 10)?

A. Mr. Ball is only partly correct. Dark fiber purchased on an unbundled basis from an ILEC does not count as self-provisioned dark fiber. 47 C.F.R. § 51.319(a)(6)(i). Moreover, the special access facilities of an ILEC or transmission facilities of the second self-provisioning CLEC do not count as a self-provisioned DS3. TRO ¶ 333. However, dark fiber obtained on a long-term indefeasible-right-of-use ("IRU") basis, counts as a carrier's "own facilities" for the dark fiber and DS3 self- provisioning triggers. *Id.* at n. 981; *see also* 47 C.F.R. §§ 319(a)(5)(i)(A) and (6)(i); *TRO* ¶ 333. Moreover, for the DS1 and DS3 wholesale trigger, a competing provider's DS1 or DS3 facilities may use dark fiber facilities that it has obtained on an unbundled, leased, or purchased basis if it has attached its own optronics to activate the fiber. 47 C.F.R. §§ 51.319(a)(4)(ii)(A) and (5)(i)(B)(1).

Q. HOW DID VERIZON IDENTIFY THE CUSTOMER LOCATIONS TO WHICH CLECS HAVE DEPLOYED THEIR OWN LOOP FACILITIES?

A. Staff's Data Request Loop Questions asked carriers to provide a list of the customer locations in Florida to which they have deployed high-capacity loop facilities. Loop Question 12 (Column AD of the spreadsheet) specifically asked carriers to indicate whether they own the loop. **[BEGIN CLEC PROPRIETARY DATA]**

[END CLEC PROPRIETARY DATA].

Q. MR. BALL STATES THAT VERIZON DID NOT CONDUCT A SELF-PROVISIONING ANALYSIS FOR HIGH CAPACITY LOOPS (P. 29). IS THIS CORRECT?

A. No. As outlined in our Supplemental Direct Testimony, Verizon Exhibit F.5 presented 12 customer locations that satisfy the self-provisioning trigger for dark fiber and 5 customer locations that satisfy the self-provisioning trigger for DS3s.

Q. SPRINT APPEARS TO CONTEND THAT THE DARK FIBER TRIGGER IS NOT SATISFIED UNLESS A CLEC THAT HAS DELOYED DARK FIBER OFFERS IT TO OTHER CLECS ON A WHOLESALE BASIS. (DICKERSON P. 18-19). IS THIS CORRECT?

A. No. The dark fiber trigger is a self-provisioning trigger, not a wholesale trigger. As the FCC explained:

> When applying the Self-Provisioning Trigger to eliminate an incumbent LEC's requirement to unbundle dark fiber loops at a particular customer location, the mere existence of two unaffiliated competitive providers

> (in addition to the incumbent LEC) that have deployed fiber to that location, ***whether or not they are offering dark fiber to other carriers to serve end-user customers at that location***, will satisfy the Self-Provisioning Trigger for dark fiber loops and require a finding of no impairment at that location.

TRO ¶ 334 (emphasis in original). For that reason, the FCC did not apply the wholesale trigger to dark fiber. *Id.; see also* 47 C.F.R. §51.319(a)(6)(i). The relevant question for the Commission is whether a CLEC has deployed dark fiber to a customer location, not whether it leases that dark fiber to another CLEC.

Q. DO YOU AGREE WITH KMC THAT FOR DARK FIBER, QUALIFYING FACILITIES MUST PROVIDE EACH COMPETITOR WITH THE ABILITY TO ATTACH ELECTRONICS THAT PERMIT IT TO PROVIDE SERVICE AT THE LEVEL OF ITS CHOOSING (JOHNSON P. 25)?

A. No. The dark fiber trigger contains no such requirement. See 47 C.F.R. § 51.319(a)(6)(i). Moreover, the rule cited by AT&T does not even relate to the proposition for which it is cited. Rule 319(a)(4)(ii)(A) states that if a CLEC has attached its own optronics to dark fiber obtained on an unbundled, leased, or purchased basis to create a DS1, that DS1 counts as a DS1 deployed by that CLEC. 47 C.F.R. § 51.319(a)(4)(ii)(A).

C. THE COMPETITIVE WHOLESALE TRIGGER

Q. MR. BALL STATES THAT VERIZON DID NOT CONDUCT A COMPETITIVE WHOLESALE ANALYSIS FOR HIGH CAPACITY LOOPS (P. 29). IS THIS CORRECT?

A. No. As outlined in our Supplemental Direct Testimony, Verizon Exhibit F.5 presented 4 customer locations that satisfy the competitive wholesale trigger for DS1 loops and 4 customer locations that satisfy the competitive wholesale trigger for DS3 loops.

Q. HAVE THE FCCA AND KMC CORRECTLY DESCRIBED THE COMPETITIVE WHOLESALE TRIGGER FOR HIGH CAPACITY LOOPS (BALL P. 32-35; JOHNSON P. 22-26)?

A. No. FCCA suggests that ILECs must first present evidence to satisfy the self-provisioning trigger in order to satisfy the competitive wholesale trigger. This is clearly not the case. The self-provisioning and competitive wholesale triggers for high capacity loops are separate tests requiring different facts. FCCA and KMC then blend together the wholesale trigger for loops and transport, claiming that to count towards the wholesale loop trigger, the loop facility must be operationally ready. KMC also claims that the alternative provider must have equipped its network to facilitate numerous wholesale customers and developed the appropriate procedures to manage a wholesale business. However, the wholesale triggers for DS1 and DS3 do not contain either of these requirements. Thus, the wholesale loop trigger does not require any showing that each wholesale carrier (a) has sufficient systems, methods and procedures for ordering, preordering, provisioning, maintenance and repair, and billing; (b) possesses the ability to

actually provision wholesale high capacity loops to each specific location identified; (c) has the ability to provide wholesale high capacity loops in reasonably foreseeable quantities, including having reasonable quantities of additional currently installed capacity; or (d) can provide service in a commercially reasonable timeframe. In addition, FCCA's claims notwithstanding, the triggers do not require a showing that the high capacity loop in question provides a connection into an ILEC's central office. Finally, KMC's claims notwithstanding, the triggers do not require a showing that Verizon's OSS are capable of handling LSRs that are provisioned to a wholesale provider's facilities or that competing providers are able to cross connect to the wholesaler's loops at the wholesaler's collocation space at the ILEC central office that is the traditional wire center of the customer's premises.

Q. UNDER THE COMPETITIVE WHOLESALE TRIGGER MUST A WHOLESALER OFFER AN "EQUIVALENT WHOLESALE LOOP PRODUCT AT A COMPARABLE LEVEL OF CAPACITY, QUALITY, AND RELIABILITY" AS THE ILEC (JOHNSON P. 23-24)?

A. No. KMC has taken the "comparable in quality" language in Paragraph 337 of the TRO out of context. That paragraph states:

> Specifically, where the relevant state commission determines that two or more unaffiliated alternative providers, ***including alternative transmission technology providers that offer an equivalent wholesale loop product at a comparable level of capacity, quality, and reliability***, have access to the entire multiunit

> customer premises, and offer the specific type of high-capacity loop over their own facilities on a widely available wholesale basis to other carriers desiring to serve customers at that location, then incumbent LEC loops at the same loop capacity level serving that particular building will no longer be unbundled.

(emphasis added). This means that for an ***inter***modal carrier to count towards the trigger, it must be providing an equivalent wholesale loop product comparable in quality to that of the ILEC. *See* 47 C.F.R. § 51.319(a)(4)(ii), 47 C.F.R. § 51.319(a)(5)(i)(B). The wholesale trigger does not require that an ***intra***modal carrier's wholesale loop product be "equivalent to" an ILEC's wholesale loop product.

Q. PLEASE COMMENT ON KMC'S DEFINITION OF AN "EQUIVALENT WHOLESALE LOOP PRODUCT." (JOHNSON P. 24).

A. It appears that KMC has simply rewritten the requirements of the TRO to make the trigger more difficult to attain. Nothing in the TRO or the FCC's rules support a definition of an "equivalent wholesale loop product" as one that terminates in the same central office where the ILEC loop serving the same customer premise is available. Moreover, nothing in the TRO requires that the high capacity loops counting towards the triggers be fiber optic loops. Instead, the TRO and FCC rules merely look at the deployment of DS1s and DS3s, irrespective of whether they are copper or fiber-based facilities.

Q. PLEASE COMMENT ON KMC'S CONTENTION THAT VERIZON MUST PROVIDE SUFFICIENT EVIDENCE TO DEMONSTRATE A "REASONABLE EXPECTATION" THAT EACH WHOLESALER COUNTING TOWARDS THE TRIGGERS WILL "CONTINU[E] TO PROVIDE WHOLESALE LOOP CAPACITY TO THAT CUSTOMER LOCATION" (JOHNSON P. 25-26).

A. The FCC instructed state commissions not to undertake a financial viability analysis of competing providers. TRO ¶ 338. However, in stating that there should be some reasonable expectation that wholesale loop providers are operationally capable of continuing to provide wholesale loop capacity to that customer location, the FCC did not place the burden on making such a showing on any particular party. *See id.* Indeed, only the wholesaler has the information necessary to make such a showing. No party has provided any evidence suggesting that the carriers identified in Exhibit F.5 to our Supplemental Testimony as wholesalers are not operationally capable of continuing to provide wholesale loop capacity to the specific customer locations identified as satisfying the wholesale trigger. One if the two is a party to this case, and its silence on its wholesale capabilities gives the Commission every reason to believe it can continue providing wholesale service at the specific locations identified in Exhibit F.5.

Q. PLEASE COMMENT ON KMC'S CLAIM THAT TO BE "WIDELY AVAILABLE", SERVICE MUST BE MADE AVAILABLE ON A COMMON CARRIER BASIS, FOR EXAMPLE, THROUGH A TARIFF OR STANDARD CONTRACT (JOHNSON P. 25).

A. The DS1 and DS3s provided by the carriers identified in Exhibit F.5 are offered on a common carrier basis through a tariff, standard contract, or general service/product guide on that company's web page. Specifically, MCI's DS1 and DS3 services are governed by the terms and conditions contained in its products service guide on its web page.[40] FPL's webpage indicates that it provides dark fiber and bandwidth under multiple interconnection agreements and partnership agreements across its 10,000-mile network.[41]

D. Additional Buildings Satisfying the Triggers

Q. HAVE ANY CLECS PRESENTED ADDITIONAL EVIDENCE OF HIGH CAPACITY LOOP DEPLOYMENT THAT SATISFIES THE TRIGGERS?

A. Yes. As noted in our Supplemental Direct Testimony, Time Warner served Verizon with responses to the Staff's discovery requests the day before we filed our testimony. In addition, ITC DeltaCom served Verizon with its responses to the Staff's discovery requests on January 9, 2004.

Specifically, **[BEGIN CLEC PROPRIETARY DATA]**

[42]

[40] *See* http://global.mci.com/publications/service_guide/products/, http://global.mci.com/publications/service_guide/products/products_currently_available/ (Direct Testimony Exhibit E.9).

[41] *See* http:www.fplfibernet.com/capabilities/contents/overview.shtml#topofpage (Direct Testimony Exhibit E.2).

[42]

[END CLEC PROPRIETARY DATA].

As a result of this additional data, Verizon presents a revised summary of the customer locations satisfying the loop triggers, attached as Revised Exhibit F.5. This summary shows that a total of 17 customer locations satisfy at least one trigger. All 17 satisfy the dark fiber trigger. Eleven satisfy the DS1 competitive wholesale trigger. With respect to DS3s, 10 satisfy the self-provisioning trigger and 11 satisfy the DS3 competitive wholesale trigger.

V. TRANSITION PERIOD FOR DEDICATED TRANSPORT AND LOOPS WHERE THE COMMISSION FINDS THE TRIGGERS HAVE BEEN MET

Q. FDN CRITICIZES BELL SOUTH AND VERIZON FOR NOT ADDRESSING TRANSITION ISSUES IN THE EVENT THE COMMISSION FINDS NO IMPAIRMENT ON CERTAIN DEDICATED TRANSPORT ROUTES OR CUSTOMER LOCATIONS (P. 7). ALLEGIANCE, THE FCCA, ITC DELTACOM (P. 66-70), AND KMC (P.

31-33) PRESENT TRANSITION PLANS FOR THE COMMISSION'S CONSIDERATION. SHOULD THE COMMISSION ADDRESS A TRANSITION PLAN IN THIS NINE-MONTH CASE?

A. No. The Commission should not address a transition plan in this nine-month case. The FCC's loop rules limit the nine-month state loop proceedings to the impairment review contained in rules 319(a)(4) – (6). 47 C.F.R. §51.319(a)(7). Likewise, the transport rules limit the nine-month transport proceedings to the impairment review contained in rules 319(e)(1) – (3). The trigger rules do not discuss adoption of a transition plan. 47 C.F.R §§ 51.319(a)(4) – (6) and (e)(1) – (3). Thus, while the FCC expected state commissions to develop a transition plan for transport routes and customer locations where it found no impairment, it did not require them to do so in the initial nine-month review. Given the significant amount of work the Commission must complete in its nine-month triggers review, it should not add an issue that could extend its decision-making process beyond the nine-month deadline. Instead, as detailed below, the Commission can (and should) address the transition period issue in a separate arbitration proceeding to determine the terms for amendments to interconnection agreements in connection with the *TRO*.

Q. DOES THE ORDER OFFER GUIDANCE ON A TRANSITION MECHANISM ONCE NON-IMPAIRMENT IS FOUND FOR A PARTICULAR UNE?

A. Yes. Recognizing that "the unbundling provisions of section 251 are implemented to a large extent through interconnection agreements between

individual carriers," the FCC rejected BOC requests for Commission intervention in the contract modification process:

> Although some parties believe that the contract modification process requires Commission intervention in this instance, we believe that ***individual carriers should be allowed the opportunity to negotiate specific terms and conditions necessary to translate our rules into the commercial environment***, and to resolve disputes over any new agreement language arising from differing interpretations of our rules.

TRO ¶ 700 (emphasis added). The FCC explained that "[p]ermitting voluntary negotiations for binding interconnection agreements is the very essence of section 251 and 252." *Id.* ¶ 701. The same holds true for any change in an ILEC's unbundling obligations as a result of a state's trigger analysis.

Consistent with the framework adopted in the *TRO,* on October 2, 2003, Verizon posted on its website a draft interconnection agreement amendment reflecting the new rules, and it sent industry letters to CLECs notifying them that such draft TRO amendment was available (and that, pursuant to the *TRO*, October 2nd is deemed to be the negotiation request date for future arbitrations of that amendment).[43]

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[43] This industry letter can be found at http://www22.verizon.com/wholesale/clecsupport/content/1,16835,east-wholesale-resources-2003_industry_letters-clec-10_02b,00.html, and the draft amendment can be found at http://www22.verizon.com/wholesale/attachments/industry-letters/TROAmendment-v102203.pdf.

Q. DOES VERIZON'S DRAFT AMENDMENT ADDRESS STATE FINDINGS OF NON-IMPAIRMENT?

A. Yes. Section 3.8.2 of the draft amendment provides as follows:

> 3.8.2 Other Nonconforming Facilities. With respect to any Nonconforming Facility not addressed in Section 3.8.1 above [regarding switching], Verizon will notify ***CLEC Acronym TXT*** in writing as to any particular unbundling facility previously made available to ***CLEC Acronym TXT*** that is or becomes a Nonconforming Facility, as defined herein [e.g., a loop at a specific customer location or transport facility along a particular route]. The Parties acknowledge that such notice was issued prior to the execution of this Amendment with respect to certain Nonconforming Facilities [e.g., OCn transport and dark fiber entrance facilities]. During a transitional period of thirty (30) days from the date of such notice, Verizon agrees to continue providing the Nonconforming Facilities addressed in the subject notice(s) to ***CLEC Acronym TXT*** under the terms of the Agreement. At the end of that thirty (30) day period, unless ***CLEC Acronym TXT*** has submitted an LSR or ASR, as appropriate, to

Verizon requesting disconnection of the Nonconforming Facility, Verizon shall convert the subject Nonconforming Facilities to an analogous access service, if available, or if no analogous service is available, to such other service arrangement as Verizon and ***CLEC Acronym TXT*** may agree upon (e.g. a separate arrangement at market-based rates or resale); *provided however*, that where there is no analogous access service, if ***CLEC Acronym TXT*** and Verizon have failed to reach agreement as to a substitute service within such thirty (30) day period, then Verizon may disconnect the Nonconforming Facilities; and *provided further*, that with respect to any dark fiber facility that, pursuant to the terms of this Amendment, is (or becomes) a Nonconforming Facility, the transition period shall be ninety (90) days from the date of the aforementioned notice; and *provided further*, that unless the parties have been able to negotiate a suitable transitional services agreement for such dark fiber facilities within that ninety (90) day period, Verizon shall no longer be obligated to provide the Nonconforming Facilities in question to

> ***CLEC Acronym TXT***. Where the Nonconforming Facilities are converted to an analogous access service, Verizon shall provide such access services at the month-to-month rates, and in accordance with the terms and conditions, of Verizon's applicable access tariff, with the effective bill date being the first day following the thirty (30) day notice period. ***CLEC Acronym TXT*** shall pay all applicable termination charges, if any, for any Nonconforming Facilities that ***CLEC Acronym TXT*** requests Verizon to disconnect, or that Verizon disconnects as a result of the Parties' failure to reach agreement on a substitute service.

Thus, upon the effective date of any Commission finding of non-impairment with respect to loop or transport facilities, Verizon would not simply stop providing loops or transport to CLECs, Instead, Verizon would provide Florida CLECs with 30 days' notice that (a) it intends to discontinue provisioning, as a UNE, the applicable facility in the subject location(s), and (b) upon the passage of the 30 day period, unless the CLEC submits LSRs/ASRs (as appropriate) to disconnect the subject facility, VZ ***will continue provisioning the facility*** as an access service (where an analogous access service exists).

Q. HAVE ANY CLECS IN FLORIDA PROVIDED INPUT WITH RESPECT TO NEGOTIATION OF A TRO AMENDMENT?

A. Yes. A number of carriers (including parties to this case) have submitted letters to Verizon commenting upon changes associated with the *TRO*, including Verizon's draft TRO amendment. However, thus far relatively few carriers have provided many substantive comments on that amendment. If the parties are unable to reach agreement on an amendment within 135 days after October 2, 2003, either party may request arbitration.[44] The transition mechanism described above and contained in the model amendment for nonconforming facilities – including, without limitation, for loops and/or transport facilities in respect of which the Commission finds no impairment– is reasonable and appropriate. However, if Verizon and the CLECs cannot agree to such a mechanism, this issue should be decided by the Commission in the context of a separate Section 252 arbitration proceeding determining terms for TRO amendments.

Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

A. Yes.

[44] *See TRO* ¶ 703.

Q1. PLEASE STATE YOUR NAME, POSITION AND BUSINESS ADDRESS.

A1. My name is Richard Anderson. I am Senior Vice President, Network Planning, Engineering and Operations for Allegiance Telecom, Inc. ("Allegiance"), the parent company of Allegiance Telecom of Florida, Inc. My business address is 700 East Butterfield, Road, Lombard, IL 60148.

Q2. WHAT ARE YOUR JOB RESPONSIBILITIES AT ALLEGIANCE?

A2. I am responsible for the planning, administration, engineering and operations of Allegiance's network infrastructure. These responsibilities include network and transport planning, traffic and capacity management, and network administration including 911, operator services and number administration. In addition, I oversee all engineering functions including switch, transport, central office and data. Finally, I am in charge of network operations which includes, among other things, the network operations control center, the installation, repair and maintenance force, internal communications and data operations.

Q3. BRIEFLY DESCRIBE YOUR PRIOR BUSINESS EXPERIENCE AND EDUCATIONAL BACKGROUND.

A3. I was one of the original founders of Allegiance in 1997. Prior to that, I was with Metropolitan Fiber Systems (MFS), planning and supervising the implementation of that carrier's rollout of several new markets. Prior to MFS, I held various planning, engineering and operations positions with Ameritech Services and Wisconsin Telephone Co. I have over 39 years experience in the

telecommunications industry with both incumbent and competitive local exchange carriers. I earned a Bachelor of Arts degree in liberal arts from DePaul University in Chicago.

Q4. HAVE YOU TESTIFIED PREVIOUSLY IN A REGULATORY PROCEEDING?

A4. Yes. I testified in an arbitration case between Allegiance and SBC Ohio before the Public Utilities Commission of Ohio, Case No. 01-724-TP-ARB concerning the terms and conditions of an interconnection agreement, and I am an Allegiance witness in the Triennial Review proceedings in several states.

Q5. PLEASE DESCRIBE ALLEGIANCE TELECOM.

A5. Allegiance is a national, facilities-based, integrated communications provider that offers a competitive, one-stop-shopping package of telecommunications services, including local, long distance and Internet services, to business, government and other institutional users in 36 metropolitan areas across the United States. In Florida, Allegiance provides service in the Miami, Ft. Lauderdale, West Palm Beach and Tampa markets through its local operating subsidiary, Allegiance Telecom of Florida, Inc.

Q6. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A6. The purpose of my testimony is to rebut the Joint Direct Testimony and Joint Supplemental Direct Testimony of Verizon witnesses Orville D. Fulp and John

White, the Direct Testimony and Supplemental Direct Testimony of BellSouth witness Shelley W. Padgett, and the Direct Testimony of BellSouth witness A. Wayne Gray, with respect to Issues 1, 3, 7, 9, 11, 14 and 16. Specifically, I address allegations by BellSouth as to whether Allegiance self-provisions transport on particular routes identified by those carriers. I also address allegations from BellSouth that Allegiance provides wholesale transport service, with regard to those routes. With respect to high-capacity loops, I rebut the assumptions employed by BellSouth to identify wholesale DS1 loop providers. In addition, I propose that this Commission establish a process to verify data provided by Verizon and BellSouth and the CLECs before any transport routes or loop locations are found to be non-impaired. Finally, I propose that the Commission develop a transition plan should the Commission find no impairment on specific dedicated transport routes or specific loop locations.

DEDICATED TRANSPORT

Q7. PLEASE DESCRIBE THE ALLEGIANCE NETWORK IN FLORIDA.

A7. Allegiance has installed two Class 5, 5ESS switches - one in Miami serving the Miami, Ft. Lauderdale and West Palm Beach markets and one in Tampa serving the Tampa market. In addition, we have built 21 collocations in Verizon wire centers and an additional 33 collocations in BellSouth wire centers. Connecting the switch and collocations is a distribution network. Exhibit RA-1 depicts a typical design for the Allegiance distribution network representative of our

network in Florida. We generally use DS3 or OCn transmission facilities to carry traffic between Allegiance collocation sites and our switching center. We lease loop facilities, primarily voice-grade and DS1, as UNEs from Verizon and Bell South, to connect end user customers to the various collocations.

Q8. PLEASE DESCRIBE THE DEDICATED TRANSPORT ALLEGIANCE HAS DEPLOYED IN ITS NETWORK IN FLORIDA.

A8. As I indicated above, Allegiance primarily uses dedicated interoffice DS3 and OCn transmission facilities to carry traffic between Allegiance's switch and collocation sites. There are two sources of dedicated transport available to Allegiance: 1) DS3 or dark fiber UNEs or special access provided by Verizon and BellSouth; or, in some locations, 2) DS3s, dark fiber or OCn facilities leased from a third party provider. Exhibit RA-1 shows the typical dedicated transport configurations that would be found in the Allegiance network in Florida. The illustration shows an OCn facility leased from a third-party provider connecting collocation sites to the Allegiance switch. In addition, Allegiance typically leases DS3s to interconnect our switch with additional collocation sites, again, either as UNEs from the incumbent carrier or from a third party where alternative providers offer these services.

Q9. HOW DOES ALLEGIANCE DECIDE ON THE TYPE OF TRANSPORT TO DEPLOY?

A9. Allegiance employs several criteria in making the decision between purchasing dark fiber and leasing a transport circuit. First and foremost is whether we have a choice of providers on particular routes. In many cases, we do not have any option other than to use the incumbent carrier. Where we do have a choice of providers, the relative cost of the options is obviously a prime consideration. However, availability and ease of deployment are also significant factors. Generally, a competitive carrier like Allegiance manages its facilities to ensure that there is capacity available to serve existing and future demand. Therefore, we are continually optimizing the distribution network as demand grows to take advantage of higher bandwidth and less costly transport. For example, when Allegiance first built its network in Florida, each collocation was served by a single DS3 circuit running from the wire center back to our switch. As the business grew, we investigated and ultimately leased OCn transport from a third party provider to connect several of our collocations to our switch because Sonet provided the best economic solution for our current and estimated future capacity needs in those locations.

Q10. HAVE YOU READ THE TESTIMONY OF SHELLEY PADGETT ON BEHALF OF BELLSOUTH?

A10. Yes, I have.

Q11. DO YOU AGREE WITH WITNESS PADGETT'S ASSUMPTION THAT A CARRIER HAS A SELF-PROVISIONED TRANSPORT ROUTE

BETWEEN ANY PAIR OF ILEC WIRE CENTERS IN THE SAME LATA WHERE IT HAS OPERATIONAL COLLOCATION ARRANGEMENTS?

A11. No. The mere presence of collocations tells one nothing about the existence or nature of the transport facilities in a carrier's network. Ms. Padgett's statement that "it is logical and reasonable to assume that a carrier's network within a LATA is fully interconnected..." (Padgett Direct Testimony, p. 15), is just wrong. Later on in her testimony, Ms. Padgett indicates that BellSouth developed the list of routes meeting the self-provisioning trigger for DS3 and dark fiber by conducting an inventory of the fiber-based collocations for each competitive carrier and "using the assumption that CLECs can route traffic between any pair of fiber-based collocation arrangements in a LATA" (Padgett Direct Testimony, p. 18). This is not the case. All of Allegiance's circuits are "home runned" at the electrical level to our switch, meaning there is no defined point-to-point electrical circuit between any of the offices in the Allegiance network. Thus, although a physical path could exist between various A and Z locations in the network, a logical point-to-point path does not exist between any pair of offices in Florida. Without network modifications, including the installation and provisioning of equipment at our switch site, Allegiance does not have any point-to-point transport capability between any A and Z locations in Florida. Therefore, the configuration of Allegiance's network, and perhaps the network configuration of other CLEC networks as well, brings into serious question the validity of the assumption that the mere existence of collocation arrangements in two or more

wire centers establishes the existence of a dedicated transport route between such wire centers.

Q12. DO YOU AGREE WITH THE ASSUMPTION OF BELLSOUTH WITNESS PADGETT AND VERIZON WITNESSES FULP AND WHITE THAT IT IS APPROPRIATE TO USE THE EXISTENCE OF OCn TRANSPORT TO SATISFY THE SELF-PROVISIONING TRIGGER FOR DEDICATED TRANSPORT?

A12. No. These witnesses argue that fiber can be used to support any transmission level, including DS3. This is obviously true but misses the point. An OC48 fiber facility, for example, can support as many as 48 DS3 circuits. But the fact that high-capacity fiber facilities exist at some OCn level does not establish that it is economical to provide some lesser included bandwidth such as DS3 at any of the locations touched by the OC48. The fact that carriers with sufficient traffic can self-provision fiber does not by itself determine that the carrier can and will self-provision at a lower capacity such as DS3.

Q13. HAS BELLSOUTH CORRECTLY IDENTIFIED ALLEGIANCE AS A SELF-PROVISIONING TRIGGER FOR DS3 AND DARK FIBER DEDICATED TRANSPORT ROUTES IN FLORIDA?

A13. No. Even putting aside the flaw I describe above, BellSouth, in the Direct Testimony of Shelley Padgett filed December 22, 2003, incorrectly included Allegiance as self-provisioning DS3 and dark fiber transport on 137 routes when,

in fact, Allegiance has not self-provisioned any facilities in Florida. All of our dedicated transport facilities in Florida are either leased from the incumbent carrier or a third-party. Even our entrance facilities, which are not included in the FCC's definition of dedicated transport, are leased not self-provisioned. Although some of our transport is provided over fiber, we do not have the long term leases or IRU interests that would be required for those transport facilities to be considered self-provisioned for purposes of the FCC's trigger analysis. Later I will describe the need for Commission oversight to verify and confirm on a route specific basis whether any of the triggers have been met.

Q14. HAS BELLSOUTH CORRECTLY IDENTIFIED ALLEGIANCE AS A WHOLESALE PROVIDER OF DS1, DS3 AND DARK FIBER DEDICATED TRANSPORT?

A14. No. Although BellSouth identifies Allegiance as a wholesale provider of dedicated transport (Padgett direct Testimony, Attachment SWP-6), we do not offer such services.

Q15. HAS ALLEGIANCE FILED A TARIFF IN FLORIDA THAT INCLUDES A DEDICATED TRANSPORT OFFERING?

A15. Yes. Our Florida Access Tariff does include dedicated transport. However, this tariff was filed in 2002 when Allegiance was just entering the Florida market and had not finalized its product offerings. Although the tariff is still on file, we have not sold any dedicated transport services to other carriers. We do not market

wholesale transport services today and are not capable of providing dedicated transport on a widely available basis. In addition, as I have already discussed concerning the fact that we have no point-to-point circuits between central offices on our leased transport, we are not operationally ready to provision, administer and actively maintain dedicated transport to other third parties.

HIGH-CAPACITY LOOPS

Q16. PLEASE DESCRIBE THE LOOP FACILIITIES THAT ALLEGIANCE UTILIZES IN FLORIDA.

A16. Allegiance purchases unbundled voice-grade and DS1 loop facilities exclusively from Verizon and BellSouth

Q17. DOES ALLEGIANCE SELF-PROVISION LOOP FACILITIES IN FLORIDA?

A17. No. Allegiance does not self-provision any loops.

Q18. DO YOU AGREE WITH BELLSOUTH WITNESS GRAY'S ANALYSIS OF HIGH-CAPACITY LOOP PROVISIONING?

A18. No. As I explain below, Mr. Gray's analysis of loop deployment is overly simplistic.

Q19. WHY DOESN'T ALLEGIANCE SELF-PROVISION ITS OWN LOOPS?

A19. There are three principal reasons why it does not make sense for Allegiance to self-provision loop facilities. First, we primarily serve customers using DS0 or DS1 loops, and it is very difficult to justify the expense of building such lower capacity loops to our end users. Second, since it is not feasible for us to build loop plant before we acquire a customer in a particular location, the decision to extend our own loops to particular customers can be made only after we have signed up a customer. Under the most favorable of circumstances, it still takes a minimum of several weeks, if not a few months, to build a loop to a customer. Customers will not wait such a long period of time for service to be provisioned. Third, even if one could solve these two problems, there is too great a risk that we would be left with stranded investment if the customer moved, went out of business or discontinued our service.

Q20. ARE YOU AWARE OF ANY DS1 LOOPS THAT ARE AVAILABLE FROM A THIRD-PARTY PROVIDER?

A20. I am not aware of any wholesale third-party providers of DS1 loops in Florida.

Q21. IF A THIRD-PARTY PROVIDER OF DS1 LOOPS WERE TO BE FOUND, WOULD ALLEGIANCE BE ABLE TO UTILIZE THESE FACILITIES?

A21. I doubt it. Allegiance serves the small to medium business market where the demand for DS1 loops for any one customer location is fairly small. Depending on the type of equipment deployed by the wholesale provider, it may not be in their interest to provision one or two DS1s to carrier such as Allegiance. Also, we

do not have operational and administrative processes in place to maintain and order third-party loop facilities in a timely fashion.

Q22. HAVE YOU IDENTIFIED ISSUES WITH RESPECT TO USING THIRD PARTY LOCAL LOOP PROVIDERS?

A22. Yes. There are basically two ways that Allegiance could integrate a third-party's DS1 loop into its network, if such a third party vendor existed. If the loop provider were collocated in the same wire center as Allegiance, we could pay BellSouth or Verizon to provide a cross-connect between the two collocations. This would certainly add additional cost. In the alternative, the loop provider could bring the DS1 loop facility directly to our switch. However, as I have stated before in my discussion of transport facilities, for practical and economic reasons the Allegiance network is built on a DS3 level so the equipment in our switch site used to terminate facilities is only equipped to terminate DS3s not DS1s. Therefore, a single DS1 loop provided by a third party would require the establishment of a DS3 in order to deliver the circuit to our switch, resulting in an inefficient and costly arrangement.

DATA VERIFCATION AND TRANSITION PLAN

Q23. IS ALLEGIANCE SATISFIED WITH THE ACCURACY OF THE DATA UTILIZED BY BELLSOUTH?

A23. No. BellSouth has incorrectly identified Allegiance as having self-provisioned transport routes, erroneously claims Allegiance as a self-provisioner of high-capacity loops and wrongly claims Allegiance as a wholesale provider for both transport and loops when we have in fact provided no wholesale transport or loops in Florida and are not operationally ready to do so. If our experience is representative of how BellSouth has collated the data for other CLECs, it is clear that BellSouth has grossly overstated the facts with respect to self-provisioned and wholesale transport triggers in Florida. The Commission needs to establish a formal verification process that is route and location specific before it can rely on data such as BellSouth, or Verizon for that matter, uses in its testimony to determine routes that meet the FCC's triggers for non-impairment.

Q24. WHAT TYPE OF A DATA VERIFICATION PROCESS SHOULD THE COMMISSION ESTABLISH?

A24. Allegiance suggests that the Commission act as a clearinghouse and require each certified CLEC and/or transport or loop provider identified by BellSouth and Verizon to verify under oath the transport routes and loop locations which it self-provisions and those which it offers up for wholesale. This verified data then should become the basis for determining whether the FCC's triggers for non-impairment on any given transport route have been met.

Q25. ARE THERE TRANSITION ISSUES THAT MUST BE ADDRESSED BY THE COMMISSION IF IT FINDS NO IMPAIRMENT ON A TRANSPORT ROUTE?

A25. Yes. Should the Commission conclude that there is no impairment on certain dedicated transport routes or loop locations, Allegiance and other CLECs will need time to identify other providers, verify available capacity and groom existing services on to alternative facilities.

Q26. WHAT TYPE OF TRANSITION PLAN WOULD BE APPROPRIATE?

A26. Allegiance believes that the Commission should order that the existing month-to-month TELRIC prices for the routes for which no impairment is found be maintained for 12 months to give CLECs adequate time to negotiate new prices with Verizon and BellSouth or to make arrangements with other providers. In addition, the pricing in any existing longer-term contracts that are in place on the affected routes should be maintained through the end of the contract period.

Q27. PLEASE SUMMARIZE YOUR TESTIMONY.

A27. As I have demonstrated in my testimony, BellSouth has made so many errors in the assumptions and conclusions that they have drawn with respect to Allegiance that it certainly calls into serious question the reliability of the non-impairment conclusions they have reached with respect to all of the data. Consequently, the Commission should adopt the Allegiance proposal for verification of all transport

routes and loop locations before the Commission concludes that any transport routes or loop locations satisfy any of the triggers.

Q28. DOES THIS CONCLUDE YOUR TESTIMONY?

A28. Yes.

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION TITLE.

A. My name is Jay M. Bradbury. My business address is 1200 Peachtree Street, Suite 8100, Atlanta, Georgia 30309. I am employed by AT&T Corp. ("AT&T") as a District Manager in the Law and Government Affairs Organization.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY.

A. I graduated with a Bachelor of Arts degree from The Citadel in 1966. I have taken additional undergraduate and graduate courses at the University of South Carolina and North Carolina State University in Business and Economics. I earned a Masters Certificate in Project Management from the Stevens Institute of Technology in 2000.

I have been employed in the telecommunications industry for more than thirty-three years with AT&T, including fourteen (14) years with AT&T's then-subsidiary, Southern Bell. I began my AT&T career in 1970 as a Chief Operator with Southern Bell's Operator Services Department in Raleigh, North Carolina. From 1972 through 1987, I held various positions within Southern Bell's (1972 – 1984) and AT&T's (1984 – 1987) Operator Services Departments, where I was responsible for the planning, engineering, implementation and administration of personnel, processes and network equipment used to provide local and toll operator services and directory assistance services in North Carolina, South Carolina, Kentucky, Tennessee and Mississippi. In 1987, I transferred to AT&T's

External Affairs Department in Atlanta, Georgia, where I was responsible for managing AT&T's needs for access network interfaces with South Central Bell, including the resolution of operational performance, financial and policy issues.

From 1989 through November 1992, I was responsible for AT&T's relationships and contract negotiations with independent telephone companies within the South Central Bell States and Florida. From November 1992 through April 1993, I was a Regulatory Affairs Manager in the Law and Government Affairs Division. In that position, I was responsible for the analysis of industry proposals before regulatory bodies in the South Central states to determine their impact on AT&T's ability to meet its customers' needs with services that are competitively priced and profitable. In April 1993, I transferred to the Access Management Organization within AT&T's Network Services Division as a Manager – Access Provisioning and Maintenance, with responsibility for ongoing management of processes and structures in place with Southwestern Bell to assure that its access provisioning and maintenance performance met the needs of AT&T's strategic business units.

In August 1995, as a Manager in the Local Infrastructure and Access Management Organization, I became responsible for negotiating and implementing operational agreements with incumbent local exchange carriers needed to support AT&T's entry into the local telecommunications market. I was transferred to the Law and Government Affairs Organization in June 1998, with the same responsibilities. One of my most important objectives was to ensure that BellSouth provided AT&T with efficient and nondiscriminatory access to

BellSouth's Operations Support Systems (OSS) throughout BellSouth's nine-state region to support AT&T's market entry.

Beginning in 2002 my activities expanded to provide continuing advice to AT&T decision makers concerning industry-wide OSS, network, and operations policy, implementation, and performance impacts to AT&T's business plans.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE REGULATORY COMMISSIONS?

A. Yes, I have testified on behalf of AT&T in numerous state public utility commission proceedings regarding various network and related issues, including arbitrations, performance measures proceedings, Section 271 proceedings, and quality of service proceedings, in all nine states in the BellSouth region. I also have testified on behalf of AT&T in proceedings before the FCC regarding BellSouth's applications to provide in-region interLATA long distance service.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My rebuttal testimony responds to portions of the testimony of BellSouth's witnesses A. Wayne Gray and Shelley W. Padgett, including the supplemental direct testimony of Shelley W. Padgett. I also respond to portions of the direct and supplemental direct testimony of Verizon's joint witnesses, Orville D. Fulp and John White.

The testimony of these witnesses contains (and repeats numerous times) terminology and concepts regarding the deployment of physical facilities (fiber

and copper) and the electronic components associated with them that obfuscate how high capacity loops and dedicated transport are actually provisioned. The witnesses then attempt to leverage the confusion they have created to support a number of false conclusions about actual and potential loop and transport deployment in Florida. I will clarify the facts as they relate specifically to AT&T's actual deployment of high capacity loops in Florida, and also demonstrate the fact that AT&T is *not* a self-provider of dedicated transport in Florida, and the fact that AT&T is *not* a wholesaler of either high capacity loops or dedicated transport in Florida. Further, I will discuss how the muddle of terminology and concepts that BellSouth's and Verizon's witness have created does not comport with the Triennial Review Order[1] (TRO), so that any conclusions based upon these defective foundations do not support either ILEC's claims that it should be relieved of its obligations to provide high capacity loops and transport as Unbundled Network Elements (UNE).

Q. PLEASE IDENTIFY THE ISSUES THAT YOUR REBUTTAL TESTIMONY ADDRESSES.

A. My testimony provides information related to Issues 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, and 18.

Q. CAN YOU PROVIDE A HIGH LEVEL OVERVIEW OF THE FCC'S

[1] Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers (CC Docket No. 01-338); Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (CC Docket No. 96-98); Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98-147)*, FCC No. 03-36 (rel. Aug. 21, 2003).

FINDINGS REGARDING HIGH CAPACITY LOOPS AND DEDICATED TRANSPORT AND THE ASSOCIATED "TESTS" SET OUT IN THE TRO?

A. Yes. However, before I do, I want to note for the Commission that the Florida Competitive Carrier Association (FCCA), of which AT&T is a member, has sponsored the testimony of Mr. Gary J. Ball. Mr. Ball's direct and rebuttal testimony contains comprehensive discussion of the FCC's findings and guidance contained in the TRO related to high capacity loops and dedicated transport. AT&T's view of the TRO is generally consistent with that presented in Mr. Gray's testimony. Therefore in my testimony I will only provide a summary of the relevant findings and guidance in the TRO.

In the TRO, the FCC determined that incumbent local exchange carriers ("ILECs") must continue to provide CLECs with access to unbundled loops and dedicated transport at the DS1, DS3, and dark fiber capacity levels ("high-capacity loops" and "dedicated transport"). In support of this, the FCC conducted a comprehensive analysis that resulted in the determination that CLECs are impaired without access to high-capacity loops (including DS3 loops at up to two DS3s of capacity per customer location) and dedicated transport (including DS3 transport at up to 12 DS3s of capacity per route) at the national level. In other words, the FCC made a national finding that CLECs are impaired without access to DS1, DS3, and dark fiber high capacity loops (TRO ¶202) and DS1, DS3 and dark fiber dedicated transport (TRO ¶359). As a result, the FCC rules require that competing carriers have access to these types and capacity levels of unbundled

high-capacity loops and dedicated transport everywhere unless a state commission finds a lack of impairment as to specific locations and routes.

Recognizing that there may be individual customer locations or transport routes where competitively provisioned high-capacity loops and dedicated transport have been deployed to such an extent that CLECs may not be deemed to be impaired, the FCC developed a procedure known as the trigger analysis ("triggers"). The two triggers (self-provisioning and wholesale) are intended to give ILECs an opportunity to demonstrate to their respective state commissions that CLECs are not impaired without access to unbundled high-capacity loops or dedicated transport at *specific* customer locations or on *specific* dedicated transport routes for specific capacity levels.

The FCC also provides that ILECs may attempt to demonstrate that no impairment exists for specific loop locations or specific transport routes even though neither the self-provisioning trigger nor the wholesale trigger has been satisfied by showing that there is potential for CLECs to deploy such facilities at specific capacity levels at specific building locations and on specific dedicated transport routes (the "potential deployment" analysis). However, the FCC recognized that there is essentially no likelihood that a CLEC would deploy its own DS1 level facilities, either as loops or transport. Therefore, only DS3 and Dark Fiber facilities are eligible for consideration in connection with ILEC potential deployment claims.

Q. PLEASE DESCRIBE THE LOOP TRIGGERS AND THE KINDS OF FACILITIES THE COMMISSION MUST REVIEW IN APPLYING THEM.

A. The local loop network element is defined as a transmission facility between a distribution frame (or its equivalent) in an incumbent LEC central office and the loop demarcation point at an end-user customer premises, including inside wire owned by the incumbent LEC. The local loop network element includes all features, functions, and capabilities of such transmission facility. Those features, functions and capabilities include, but are not limited to, dark fiber, attached electronics (except those electronics used for the provisioning of advanced services, such as Digital Subscriber Line Access Multiplexers), and line conditioning. The local loop includes, but is not limited to, DS1, DS3, fiber, and other high-capacity loops.

To be relieved of their obligation to provide local loops as an unbundled network element to a specific customer location, an incumbent LEC must demonstrate, using one of the FCC's specified trigger analyses, that (1) two or more competitive LECs have actually self-provisioned loops to that location at the appropriate capacity level or that (2) two or more competitive LECs are providing wholesale high-capacity loops at the appropriate capacity level at a specific location. In addition, the FCC has held that the wholesale trigger only applies to DS1 and DS3 loops, but not to dark fiber loops. The following table summarizes the Commission's responsibilities under the loop triggers:

LOOP TRIGGER ANALYSIS

The Presence of:	Trips the Following Loop Triggers and May Establish a Finding of No Impairment @ the Specific Customer Location		
	DS1	DS3	Dark Fiber
2 Self Providers @ a specific customer location.		X	X
2 Wholesale Providers @ a specific customer location.	X	X	

Q. DO YOU HAVE SIMILAR DEFINITION AND TABLE FOR DEDICATED TRANSPORT?

A Yes. Dedicated interoffice transmission facilities (dedicated transport) are facilities dedicated to a particular customer or carrier that are used to provide dedicated transmission paths between pairs of incumbent LEC central offices or wire centers without the use of any switching. Incumbent LEC transmission facilities include all technically feasible capacity-related services including, but not limited to, DS1, DS3, dark fiber and OCn levels. However, the FCC held that CLECs are not impaired in the absence of access to OCn facilities (provided that dark fiber is available) for dedicated transport, and that CLECs are not impaired without access to DS3 level facilities above a maximum of 12 DS3s of capacity per dedicated transport route.

To be relieved of their obligation to provide DS1, DS3 or dark fiber transport as an unbundled network element on a route between two specified incumbent LEC central offices or wire centers, the incumbent LEC must demonstrate, using the FCC's specified trigger analyses, that (1) three or more competitive LECs have actually self-provisioned dedicated transport at the appropriate capacity levels (less than 12 DS3s) on that route or (2) two or more non-affiliated competitive LECs are providing wholesale dedicated transport services at the appropriate capacity level (less than 12 DS3s) on the specific route. A route is defined as a connection between two wire centers (A and Z) with the connection at both A and Z terminating in a collocation and able to provide transport into or out of each wire center. The following table thus summarizes the Commission's responsibilities under the transport triggers:

TRANSPORT TRIGGER ANALYSIS

The Presence of:	**Trips the Following Transport Triggers and May Establish a Finding of No Impairment on the Specific ILEC CO to ILEC CO Route**		
	DS1	**DS3**	**Dark Fiber**
3 Self Providers on a specific ILEC CO to ILEC CO route and having collocations in each of the COs.		**X**	**X**
2 Wholesale Providers on a specific ILEC CO to ILEC CO route and having collocations in each of the COs.	**X**	**X**	**X**

Q. IS THE ILEC'S OBLIGATION TO PROVIDE UNBUNDLED DS3 HIGH CAPACITY LOOPS AND DS3 DEDICATED TRANSPORT LIMITED AS A RESULT OF THE TRO?

A. Yes. An ILEC is obligated to provide only 2 DS3 loops to a given customer location for a given CLEC (TRO ¶ 324) and only 12 DS3s of transport on a given route to a given CLEC (TRO ¶ 388). Thus, a carrier having one or more customers at a given location with a combined demand requiring 3 or more DS3s may not obtain more than two DS3s from the ILEC as a UNE, and a carrier that has aggregated demand at a collocation requiring 13 or more DS3s of dedicated transport may not obtain more than 12 DS3s from the ILEC as a UNE.

Q. WHY SHOULD THE COMMISSION BE INTERESTED IN THESE LIMITS?

A. These limits establish where and to what evidence the Commission must look in applying both the trigger tests and potential deployment tests.

Q. PLEASE EXPLAIN.

A. In setting these limits, the FCC has made the determination that CLECs are not impaired in their ability to deploy DS3s for high-capacity loops and dedicated transport at certain quantity levels. Thus the ILEC must demonstrate under the trigger tests that the requisite number of CLECs have deployed DS3s while only providing quantities that are *at or below* the 2 DS3 limit for high-capacity loops and 12 DS3 limit for dedicated transport. Evidence that any number of CLECs

have deployed, for example, 4 or more DS3s to a customer location or 13 or more DS3s of dedicated transport between a pair of ILEC central offices does not demonstrate that any other CLEC is not impaired economically if it needs to build, from scratch, 1 or 2 DS3s to serve a customer location or fewer than 12 DS3s of dedicated transport between a pair of ILEC wire centers.

For example, under the high-capacity loop self-provisioning triggers test, the ILEC must demonstrate that 2 CLECs have actually constructed facilities that serve only 1 or 2 DS3s of demand at a specific customer location in order to obtain relief from providing unbundled high-capacity loop facilities at those capacity levels to any other CLEC. If the ILEC identifies two CLECs that have built high-capacity loop facilities to a customer location each providing 6 DS3s, such information is not pertinent to the self-deployment trigger and the trigger test has not been met. This is because the FCC determined that CLECs are not impaired in constructing facilities at that (6 DS3) capacity level. Contrary to the ILECs' claims, this makes perfect sense. If complete unbundling relief were granted in such circumstances, it would permanently preclude all CLECs whose business plans and marketing efforts are directed to serving smaller enterprise customers whose demand is at the 1 to 2 DS3 level of capacity from utilizing ILEC unbundled high-capacity loop facilities. Such an outcome is not consistent

with the goals of the TRO or the obligations of this Commission to foster the development of competition.[2]

As FCCA's witness Mr. Gary Ball discusses more comprehensively in his rebuttal testimony, also being filed today, these capacity limits also play a significant role in evaluation of any potential deployment claims made by the ILECs. As discussed by Mr. Ball, in any potential deployment claim at the DS3 capacity level, an ILEC must demonstrate that the competitive providers would earn sufficient revenues relative to their significant fixed and sunk costs of providing two (or fewer) DS3s of traffic for high-capacity loops to a building location or 12 (or fewer) DS3s of traffic for dedicated transport between ILEC wire centers. These are the maximum amount of high-capacity loops and dedicated transport that CLECs may purchase as UNEs under the TRO.

Q. WHAT HAVE BELLSOUTH AND VERIZON REPORTED ABOUT AT&T IN THEIR VARIOUS DIRECT AND SUPPLEMENTAL DIRECT FILINGS?

A. The following table summarizes the ILECs' reporting:

BELLSOUTH AND VERIZON REPORTING OF AT&T's HIGH CAPACITY LOOP AND DEDICATED TRANSPORT IN FLORIDA

[2] Relief under the wholesale trigger, however, may be available if at least two of the "large" providers at the location meet the requirements for the wholesale triggers, because in such cases the "small" CLEC will have multiple options to the ILEC's special access services.

High Capacity Loop Reporting by:	Reports AT&T as Follows: Type of Provisioner (Self-Provisioner (SP) or Wholesaler (W) and Number of Locations		
	DS1	DS3	Dark Fiber
BellSouth	W (14)	SP & W (14)	SP (14)
Verizon	-	SP (5)	SP (9)
Dedicated Transport Route Reporting by:	**Reports AT&T as Follows: Type of Provisioning (SP or W), with Number of [Collocations] and Number of (Routes)**		
	DS1	DS3	Dark Fiber
BellSouth	W [38] (434)*	SP & W [38] (434)*	SP & W [38] (434)*
Verizon	W [5] (10)	SP [5] (10) W [6] (15)	SP [5] (10) W [6] (15)

* There is a mathematical expression for determining the number of routes necessary to directly connect any number of points: {n times (n-1) divided by 2}. This calculation can not be used in this table to find the number of routes reported in BellSouth's territory as the reporting covers several LATAs in which the routes must be calculated independently. The formula does, however, apply to Verizon's reporting, as all those collocations are in the same LATA. **Sources: BellSouth - Supplemental Exhibits SWP-1 through SWP-10. Verizon – Supplemental Exhibits F-1 through F-5**

Q. THIS SUMMARY TABLE REVEALS THAT BELLSOUTH HAS REPORTED AT&T AS BOTH A SELF-PROVISIONER AND A WHOLESALER OF BOTH HIGH CAPACITY LOOPS AND DEDICATED TRANSPORT AND THAT VERZION HAS REPORTED AT&T AS A SELF-PROVIDER OF HIGH CAPACITY LOOPS AND DEDICATED TRANSPORT AND A WHOLESALER OF DEDICATED TRANSPORT. DO YOU AGREE WITH THIS REPORTING?

A. No. AT&T is not a wholesaler of either high capacity loops or dedicated transport. In addition, AT&T is not a self-provider of dedicated transport as that functionality is defined by the TRO. Both BellSouth and Verizon knew this information well in advance of the preparation of their supplement direct testimony and exhibits. Moreover, all of the high capacity loops that AT&T has deployed at the identified locations are were provisioned to carry in excess of the 2 DS3s, the maximum limit for DS3 UNE high-capacity loop availability set by the FCC in the TRO. Accordingly, the data and information presented by both BellSouth's and Verizon's regarding AT&T does not demonstrate that AT&T qualifies as a self-provider "trigger firm" for purposes of the trigger analyses.

Additionally the inclusion of this information in the ILECs' cases with *knowledge* that it was contrary to information provided by AT&T in discovery, and without even a mention of that fact (or any other attempt to address this essential issue) creates a serious concern regarding the accuracy and reliability of the ILECs' other information and their commitment to presenting a case that complies with the requirements of the TRO. Indeed, the inaccuracies in what was reported by BellSouth and Verizon, which I will discuss later in my testimony, should cast serious doubt over all the information the ILECs have presented for consideration in their trigger claims regarding high-capacity loop and dedicated transport self-providers and wholesalers.

Q. PLEASE EXPLAIN WHY YOU HAVE STATED THAT AT&T IS NOT A WHOLESALER OF EITHER HIGH CAPACITY LOOPS OR DEDICATED TRANSPORT.

A. AT&T has made a business decision *not* to offer dedicated transport facilities to other CLECs connecting to any ILEC wire center in Florida. AT&T thus cannot qualify as a wholesale supplier of dedicated transport even if AT&T had dedicated transport facilities as defined by the TRO, which it does not, as I will explain below.

In fact, as AT&T has explained in its discovery responses provided to BellSouth and Verizon, AT&T does not self-provide *any* "dedicated transport" facilities in Florida as that term is defined in the TRO. The only transport facilities that AT&T has self-provisioned in Florida are entrance facilities that connect an ILEC wire center and AT&T's own switch -- which are expressly *excluded* from the revised definition of dedicated transport under the TRO. *TRO* ¶¶ 365-67.

Moreover, AT&T's local fiber networks are not configured to enable it to carry traffic from its collocation facilities in one ILEC wire center to its collocation facilities in another ILEC wire center passed by its fiber ring. The AT&T network, as are most CLEC networks, is more logically thought of as a hub-and-spoke arrangement where traffic flows from the AT&T collocation arrangement to the AT&T local switch. This is a central-point-to-any-point architecture, not an any-point-to-any-point architecture.

The reason for this architecture is simple. There is insufficient demand for AT&T to self-provision DS1 or DS3 dedicated transport between ILEC wire centers. In fact, AT&T buys access from BellSouth and Verizon to connect many of its off-net collocations to AT&T's fiber network. Given that any wire-center-to-wire-center demand is not likely to exceed 12 DS3s on any one particular route it is, in most instances, more economical to purchase these facilities from the ILEC rather than to self-provision the facilities The fact that wire center to wire center demand is not likely to exceed 12 DS3s od demand and justify self-provisioning of dedicated transport is confirmed by the FCC's national finding that CLECs are impaired for transport below 13 DS3s per CLEC and per route. Rather, AT&T's fiber transport network is configured to flow traffic between an AT&T switch and (1) either an ILEC tandem or end office switch (for example, for purposes of interconnection) or (2) an AT&T collocation arrangement at an ILEC wire center. The latter is commonly known as "backhaul" traffic and is discussed at length in my and other's testimony in the Mass Market Switching Docket No 030851-TP (See also Exhibit No ____, JMB-R1, AT&T Ex Parte Letter of November 25, 2002, to the FCC.)

The backhauling of traffic to a CLEC switch is the defining characteristic of modern CLEC networks. The FCC has ruled that the facilities used by CLECs for backhaul are not "dedicated transport" for purposes of access to unbundled network elements under § 251(c)(3) of the Telecommunications Act of 1996. *TRO* ¶¶ 365-67.

In terms of the FCC's self-provisioning triggers for dedicated transport, therefore, the AT&T fiber facilities connecting AT&T's collocation arrangements with the AT&T switch that are in place cannot reasonably be construed to begin and terminate at two collocation arrangements at ILEC wire centers. As a result, AT&T's self-provisioned transport fails to meet the requisite definition of a dedicated transport "route", as that term is used in the TRO. In addition, there is no evidence that AT&T meets the requirement of being "operationally ready" or is "immediately able to provision" dedicated transport service between each of the pairs of collocation arrangements claimed by BellSouth and Verizon.

Nor is it permissible under the TRO to assert that two such paths – for example, between collocation A and AT&T switch X, and between collocation Z and AT&T switch X – could be cobbled together at the location of switch X to constitute a dedicated transport route between A and Z. A transport circuit that requires the intervention of a switch between 2 locations is, by definition, not a dedicated transport route as described in the TRO. A switched route does not fit the definition of "dedicated" transport.

All of AT&T's transport routes in Florida are "entrance facilities" that directly connect an ILEC wire center to the AT&T switch and do not qualify as dedicated transport under the TRO. AT&T has no facilities in Florida that directly connect two ILEC wire centers. Thus, AT&T has no dedicated transmission paths between ILEC wire centers; rather, such connections can only be made through its switch, which is *not* dedicated transport.

Thus, AT&T has not self-provisioned any dedicated transport between two ILEC wire centers, which is the only transport defined to be "dedicated transport" in the TRO. Because AT&T does not self-provide any dedicated transport, it does not qualify as a "self-provider" on any transport route in Florida, and therefore cannot be considered a wholesaler of dedicated transport on any of the routes listed by BellSouth or Verizon.

Q. AS SUPPORT FOR THEIR POSITION THAT AT&T PROVIDES WHOLESALE TRANSPORT, MR. FULP AND MR. WHITE OF VERIZON POINT TO STATEMENTS ON AT&T'S OWN WEBSITE. ARE THEY CORRECT TO RELY ON THESE STATEMENTS TO SUPPORT THEIR POSITION?

A. No. AT&T does offer *some* services on a wholesale basis to other carriers, including some that involve forms of transport. However, AT&T does *not* offer at wholesale any services that fall under the TRO's definition of dedicated transport.

Carriers that obtain transport services from AT&T desire a particular kind of transport. They want the ability to move traffic between *their switches* to an ILEC wire center, which does not comply with the definition of dedicated transport created in the TRO. In fact, AT&T never has offered transport *between two ILEC wire centers*, which is the only type of transport defined in the TRO as "dedicated transport."

Q. MS. PADGETT OF BELLSOUTH ALSO ASSERTS THAT AT&T IS A WHOLESALE PROVIDER OF HIGH-CAPACITY LOOPS. DO YOU AGREE WITH MS. PADGETT'S CONCLUSION THAT AT&T IS A WHOLESALER OF HIGH-CAPACITY LOOPS?

A. No. There is a simple reason AT&T does not satisfy the wholesale trigger for loops: AT&T offers no high-capacity loops at wholesale. AT&T has made a choice not to engage in the wholesale business of providing high-capacity loops to other carriers.

Again, this information was available to both BellSouth and Verizon well in advance of their supplemental direct testimony in the form of discovery responses made by AT&T.

Q. YOU HAVE STATED THAT AT&T IS ALSO NOT A SELF-PROVIDER OF DEDICATED TRANSPORT AS DEFINED BY THE TRO. IN DISCUSSING THE FACT THAT AT&T IS NOT A WHOLESALE PROVIDER OF DEDICATED TRANSPORT, YOU PROVIDED INFORMATION SUPPORTING YOUR STATEMENT. IS THERE ADDITIONAL INFORMATION YOU WOULD LIKE TO PRESENT REGARDING BELLSOUTH'S AND VERIZON'S REPORTING OF AT&T AS A SELF-PROVIDER OF DEDICATED TRANSPORT?

A. Yes. Both BellSouth and Verizon have chosen to ignore AT&T's discovery responses in which AT&T specifically denied that AT&T self-provides dedicated

transport as defined by the TRO. They further fail to inform the Commission that they have ignored these discovery responses or their reasons for doing so.

Generically, dedicated transport is any carrier transmission facility that is dedicated to a particular customer for the provision of telecommunications services and requires no switching. It is contrasted to "common" or "shared " transport, which is a facility that may be shared among a number of customers and always requires the use of some form of switching.[3]

Despite AT&T's explicit denial that it provides its own dedicated transport between ILEC wire centers on its local fiber rings, both BellSouth and Verizon have elected to assume that each "fiber based", or "on-net" collocation AT&T has in a LATA (BellSouth) or in an MSA (Verizon) has dedicated connectivity to every other collocation operated by AT&T. It appears that they have made this same assumption with regard to other CLECs whom they have identified as having fiber-based or on-net collocations.

Q. DOES AT&T SELF-PROVIDE HIGH CAPACITY LOOPS TO CUSTOMER LOCATIONS TO PROVIDE 1 OR 2 DS3S OF SERVICE, WHICH WOULD MEET THE FCC'S TRIGGER TEST REQUIREMENTS?

A. No. When AT&T is deploying its own loops, it faces not only all of the hurdles that it faces when building interoffice transport, but a number of additional hurdles as well. Because loops generally serve only a single location (and often

[3] This is only natural, because whenever a circuit is switched it ceases to be dedicated to the use of a particular customer.

only one or a few customers at that location), it is even more difficult to accurately identify instances where the potential demand, the costs to build, and the difficulty of construction indicate that AT&T should make the investment in self-provisioning high-capacity loop facilities to a building location.

AT&T has determined that it is - at best - rarely economic to deploy a high capacity loop to a customer location unless there are at least 3 DS3s of traffic and revenue committed from that location[4]. And, in fact, none of the self-provisioned loop facilities that AT&T has built in Florida provides less than 3 DS3s of service. As a result, these self-provisioned high-capacity loops do not qualify under the triggers test in the TRO and are not indicative of the ability of any CLEC to self-provide either 1 or 2 DS3s to a customer location under a potential deployment claim by the ILECs.

Q. YOU HAVE STATED THAT BELLSOUTH AND VERIZON BOTH KNEW THE FACTS CONCERNING AT&T'S WHOLESALING POLICY AND NON-DEPLOYMENT OF DEDICATED TRANSPORT WELL BEFORE THE SUBMISSION OF THEIR RESPECTIVE SUPPLEMENTAL DIRECT TESTIMONY FILINGS. PLEASE EXPLAIN.

A. The facts concerning these issues were provided in responses to BellSouth discovery requests, filed on November 6, 2003 and December 15, 2003, and in responses to the Commission Staff filed on January 6, 2004; there simply is no reason for BellSouth and Verizon to have misrepresented the facts other than the

[4] See Exhibit No ____, JMB-R1, AT&T Ex Parte Letter of November 25, 2002, to the FCC.

obvious one: since the facts did not support their case, they elected to ignore them. The ILECs failure to note AT&T's actual answers to the discovery served or to make any attempt to demonstrate any defects in AT&T's responses is a clear indication that the ILECs simply do not care what the facts are. Verizon did not even seek to serve discovery until it was too late for any responses to be used in the preparation of its initial direct testimony. This sort of behavior by BellSouth and Verizon demonstrates a blatant attempt to shift their burden of proof to the CLECs and should cause the Commission to question the intent of both BellSouth and Verizon to construct their cases regarding high-capacity loop and dedicated transport triggers in compliance with the requirements of the TRO.

Q. YOU HAVE STATED THAT THE ILECS' REPORTED INFORMATION ABOUT AT&T ALSO CONTAINS INACCURACIES. PLEASE EXPLAIN.

A. As explained above the Commission cannot consider AT&T as a self-provider or wholesale provider for purposes of BellSouth's or Verizon's high-capacity loops and dedicated transport trigger claims. It should further be noted that even the data regarding AT&T that was presented by BellSouth and Verizon contain significant inaccuracies. These inaccuracies should cast further doubt on the accuracy and reliability of the information presented by BellSouth and Verizon concerning the other CLECs that they have identified as trigger candidates.

Q. WHAT ARE THE INACCURACIES IN THE INFORMATION THAT BELLSOUTH AND VERIZON HAVE PRESENTED WITH REGARD TO AT&T?

Both BellSouth and Verizon claim to have constructed their dedicated transport route determinations based upon the CLECs deployment of "fiber-based" or "on-net" collocations. As demonstrated in the table below, both have provided inaccurate data concerning the number and location of AT&T's on-net collocations.

***** Begin Confidential – Shaded Cells Contain Confidential Information**

LATA/ILEC	Reported Number of On-Net Collocations	Actual Active On-Net Collocations per AT&T's Discovery Response	ILEC Reported Calculated Routes Possible	Maximum Calculated Routes Possible*
Jacksonville BellSouth	3		3	
Orlando BellSouth	6		15	
SE Florida BellSouth	29		406	
Tampa Verizon	SP 5 W 6		SP 10 W 15	

*This is a calculation of the maximum possible number of routes, it is not the number of routes actually in existence, which in all cases for AT&T is zero (0).

***** End Confidential – Shaded Cells Contain Confidential Information**

Thus, even if AT&T did provide dedicated transport between ILEC wire centers, which it does not, BellSouth's inaccurate reporting overcounts on-net collocations by ***** Begin Confidential ***** [redacted] ***** End Confidential ***** and asserts that the triggers are met on ***** Begin Confidential ***** [redacted] ***** End Confidential ***** routes that can not possibly exist.

There is no reason to believe that the same types of errors do not exist in data presented by BellSouth and Verizon regarding the other CLECs' on-net collocations. The burden to produce accurate data in this case is on BellSouth and

Verizon who are required to present evidence to overcome the FCC's national finding of impairment for high-capacity loops and dedicated transport. They have simply failed to do so in this case and should not be allowed to shift that burden onto the CLECs.

Q. ONE OF THE "THEMES" IN THE TESTIMONY OF MR. GRAY AND MS. PADGETT OF BELLSOUTH, AND OF MR. FULP AND MR. WHITE OF VERIZON, IS THAT A CARRIER HAVING AN OCN FACILITY IS "OPERATIONALLY READY" TO PROVIDE LOOPS AND/OR TRANSPORT AT THE DS3 AND DS1 LEVELS. IN EFFECT, THEY EQUATE OCN FACILITIES AS BEING DS3 AND/OR DS1 FACILITIES. DO YOU AGREE?

A. No. Both BellSouth's and Verizon's witnesses agree that there is additional, unique equipment that must exist for dedicated DS3s and DS1s to exist on an OCn facility. But they then go on to attempt to trivialize this need. Mr. Gray does this in two ways. On page 4 of his direct testimony he states that such equipment components "are relatively inexpensive, are widely available and can be quickly installed". Second, in his exhibits (AWG-2 and AWG-5), while admitting that there are two ends to each dedicated loop or transport route, he depicts only one end in a manner that over simplifies reality.

While there are a number of vendors that manufacture the required equipment components, they are not free, cannot be procured at the corner electronics store and are not self-installing. Each application to "channelize" an OCn facility to

either a DS3 or DS1 level requires design, engineering, procurement, and installation. Where the installation is to occur in an ILEC wire center, it must be performed by installers certified by the ILEC and coordinated with the ILEC under the security requirements that they have imposed on CLECs.

In Exhibit No, ____, JMB-R2, I have replicated portions of Exhibits AWG-2 and AWG-5 and then combined them in ways that better depict the full requirements for channelization. Without the full complement of specific DS3 and DS1 equipment at both ends of either a loop arrangement or a transport arrangement, the exchange of DS3 and DS1 signals is simply not possible.

If AT&T were to be a self-provider of dedicated transport, which it is not, using the BellSouth data discussed above, AT&T would have to invest in 406 pairs of DS3 and DS1 equipment in the Southeast Florida LATA alone to have the channelization that BellSouth simply assumes would exist.

In addition, to be operationally ready to provide or offer DS3 and DS1 services, a CLEC must develop and invest in Operations Support Systems, methods and procedures, and a sales and marketing effort, all of which are conveniently ignored in the BellSouth and Verizon testimony. FCCA's witness Gary Ball provides additional detail on this aspect of operational readiness in his rebuttal testimony that is also being filed today.

Q. ANOTHER THEME IN THE TESTIMONY OF BOTH ILECS IS THAT THE FACT THAT THERE IS LIT FIBER MEANS THAT THERE IS AVAILABLE DARK FIBER. DO YOU AGREE?

A. No. Mr. Gray makes the statement that "CLECs typically deploy 144 fiber strands or more when extending a cable to large commercial buildings or ILEC wire centers." (Gray, Direct, page 9, lines 21-23) Ms. Padgett states "our billing records indicate that most CLECs that pulled fiber into BellSouth's wire centers requested 2 cables of 24 strands each, leaving plenty of spare strands to wholesale." (Padgett, Direct, page 19, lines 16-19). Verizon's witnesses Fulp and White at page 22, lines 2-3 of their joint direct testimony state "evidence of 'lit' fiber automatically is evidence that a carrier has self-provisioned dark fiber." None of these statements actually demonstrates that there is any available dark fiber on any specific route, or to any specific building.

Mr. Gray's and Ms. Padgett's testimony do, however, help to illustrate some of the problem. If a physical fiber ring contains, as Mr. Gray states, 144 strands, and if at every wire center it passes, the CLEC pulls 2 cables of 24 strands each (48 strands) into the building, as Ms. Padgett states, something has to give. In actuality, not all strands pulled into a building (either customer location or wire center) are in fact connected to the ring. The connection between the ring and any building is commonly called a "lateral." While a CLEC may build its lateral with, for example, 24 fibers, only the fibers necessary to deliver service are spliced into the ring. Once a ring fiber has been spliced to a lateral it is either "lit" or "dark," but most commonly "lit." If a ring fiber has not been spliced to a lateral or "lit"

directly when it passed through a collocation or a building directly on the ring, it is simply "unavailable", not dark. Un-spliced fibers, left "dead" are not available dark fibers.

Q. PLEASE SUMMARIZE THE KEY POINTS OF YOUR REBUTTAL TESTIMONY.

A. AT&T is not a wholesale provider of either high capacity loops or dedicated transport. AT&T is not a self-provider of dedicated transport. The high-capacity loops that AT&T self-provides all carry three or more DS3s of demand and therefore are not relevant as self-provisioning triggers under the prescribed actual deployment tests and provide no probative data for use in the prescribed potential deployment analysis. The ILECs were aware of, but chose to ignore, the facts about AT&Ts operations in Florida. The ILECs' actual reporting contains significant inaccuracies. The ILECs' conclusions that OCn facilities are the equivalent of DS3 and DS1 facilities, and that dark fiber must exist because there is lit fiber, are incorrect. The ILECs have failed to provide the evidentiary demonstration required by the FCC in the TRO for relief of their obligations to provide high-capacity loops and dedicated transport as UNEs.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION TITLE.

A. My name is Jay M. Bradbury. My business address is 1200 Peachtree Street, Suite 8100, Atlanta, Georgia 30309. I am employed by AT&T Corp. ("AT&T") as a District Manager in the Law and Government Affairs Organization.

Q. ARE YOU THE SAME JAY M. BRADBURY THAT PREVIOUSLY FILED REBUTTAL TESTIMONY IN THIS DOCKET ON JANUARY 21, 2004?

A. Yes, I am.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My surrebuttal testimony responds to portions of the rebuttal testimony of BellSouth's witnesses Shelley W. Padgett.

Ms.Padgett's testimony repeats yet again misleading terminology, concepts, and "interpretations" regarding the deployment of physical facilities and the electronic components associated with them, which obfuscate how dedicated transport is actually provisioned and which must be evaluated by this Commission using the guidance contained in the Triennial Review Order[1] (TRO). Ms. Padgett's testimony then relies upon these defective foundations to support BellSouth's claims that it should be relieved of the obligation to provide dedicated transport as

[1] Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers (CC Docket No. 01-338); Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (CC Docket No. 96-98); Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98-147)*, FCC No. 03-36 (rel. Aug. 21, 2003).

Unbundled Network Elements (UNE). I provide an overview of the reality of AT&T's, and other CLECs', deployment of collocations, fiber cables, and electronics that demonstrates BellSouth has not met the requirements of the TRO and is not eligible for the relief it seeks.

Q. DOES AT&T ENDORSE OR SUPPORT THE TESTIMONY OF FLORIDA COMPETITIVE CARRIER ASSOCIATION (FCCA) WITNESS GARY J. BALL FILED IN THIS DOCKET?

A. Yes, as I noted in my rebuttal testimony, AT&T is a member of FCCA and is therefore a sponsor of his testimony. In addition to sponsoring Mr. Ball's testimony, AT&T also filed rebuttal testimony on January 21, 2004, as the testimony of various witnesses had direct relevance to facts about AT&T's operations in Florida. Ms. Padgett's rebuttal testimony also relates directly to facts about AT&T's operations in Florida in a manner contrary to AT&T's interests in this docket.

Q. PLEASE IDENTIFY THE PORTIONS OF MS. PADGETT'S REBUTTAL TESTIMONY TO WHICH YOU ARE YOU RESPONDING.

A. I will be addressing Ms. Padgett's comments on pages 3 through 6 of her rebuttal testimony addressing the definition of a "route" for dedicated transport between ILEC central offices.

Q. ON PAGE 4 OF HER REBUTTAL TESTIMONY MS. PADGETT REPEATS THE BELLSOUTH CLAIM THAT "IT IS REASONABLE TO ASSUME THAT A CARRIER HAS A 'ROUTE' BETWEEN ANY PAIR OF INCUMBENT LEC WIRE CENTERS IN THE SAME LATA WHERE IT HAS OPERATIONAL COLLOCATION ARRANGEMENTS." IF A FIBER CABLE RUNS BETWEEN TWO COLLOCATIONS OF THE SAME CLEC, IS IT APPROPRIATE TO CONCLUDE THAT A "ROUTE" HAS BEEN ESTABLISHED AND THAT DEDICATED TRANSPORT IS PROVIDED?

A. No. The mere existence of a fiber cable running past (or even through) two points proves nothing with regard to its use to provide end-to-end direct (non-switched) connectivity between those points. First, the Commission should understand that a fiber cable is not a single continuous transmission path. Rather, a single fiber cable is composed of multiple bundles (sheaths) each of which contains multiple fibers strands. Although a cable route may "run through" both ILEC office A and office B, the two offices may not even be connected to the same fiber, much less to fiber in the same bundle. In fact, most of the fiber sheaths will only pass by the wire center, remaining in the conduit running down the street in front of the building rather than being split off to enter the wire center. In addition, there is no guarantee that all the fibers that are placed from a CLEC's collocation to the main cable are actually spliced to a fiber in the main cable. Once the fiber strands enter the cable vault of the wire center, the incumbent generally provides the connection between the cable vault and the collocation. Frequently, there is a

charge applied *per fiber strand* connected. Hence, the CLEC may not opt to connect all strands within a sheath to its collocation.

If the two ILEC offices have not been configured to provide termination of the same fiber pairs on the same transmission system, then the CLEC does not (and cannot) have physical connectivity between the two locations unless a grooming and cross-connection function is provided at a third physical location on the same pairs and system.

AT&T typically connects its on-net collocations, that is, collocations to which it has constructed fiber facilities to its network (i.e., an entrance facility), using two-point rings, where one point is the collocation and the second is the AT&T network location (e.g., an AT&T switching center or point of presence). Accordingly, it is not possible to provide "dedicated transport" because, even though more than one collocation is on the same cable route, the collocations are not on the same fibers. AT&T's practice is shown in Exhibit No. ____, JMB-SR1.

AT&T ring construction practices do not provide for multiple incumbent wire centers on the same ring. In the rare instances that multiple incumbent wire centers exist on the same ring, this condition is likely to be the result of (1) acquiring the fiber network of a company that deployed such configurations or (2) sales force error (e.g., sales personnel making commitments based on an erroneous belief that a building was on AT&T's network when it was not). In any event, the presence of multiple incumbent wire centers on the same ring transmission system is a rare operational exception to AT&T's network

engineering practices. From my discussions with other CLECs, I believe this to be true of most CLEC fiber deployments. However, as I will discuss later, even when multiple incumbent wire centers are on the same ring/transmission system one cannot "assume" that a route between them exists.

Q. WHY WOULD A CLEC PUT DIFFERENT COLLOCATIONS ON THE SAME FIBER CABLE BUT NOT THE SAME FIBER?

A. There are a number of practical reasons. First, the ability to place a collocation on a particular fiber presumes operational readiness of all the collocations on the fiber at essentially the same time the fiber strand/system was activated. Said another way, the entire transmission system can only be activated when the last node is ready. Past experience has shown that delay at one or more sites is frequently experienced.

Delays in collocation readiness or construction impediments at only one location may force the carrier to choose between deferring activation for the entire system or implementing a different network design. Such a delay, in turn, may make the difference between whether or not a large retail customer accepts service from the CLEC. Therefore, the more practical approach is to run the fiber cable into a location (or to the access point just outside the wire center), if possible, and then activate each collocation on its own two-point ring using its own fiber pair(s).[2]

[2] The term "fiber pair" is used here as a term of convenience. Typically, a protected transmission system utilizes one pair of fibers to transmit traffic in one direction (e.g., a clockwise direction) with a second pair is assigned to provide transmission in the opposite direction (e.g., the counterclockwise direction). This provides for immediate restoration capability in the event of a fiber cut or transmission equipment failure on the active path. Accordingly four fiber strands terminate on the optical multiplexer but two fiber strands (one in the primary and one in the backup direction) are required for the entire "circumference" of the ring.

This has the advantage of divorcing the timing of the cable construction from the timing of collocation activation or augment.

A second major advantage is that extremely precise projections of the demand accessible at the collocation are not required – just a reasonable assurance that a minimum critical mass will be achieved. After that, capacity needed to provide service can be achieved using the existing capacity of the two-point system (i.e., by adding plug-in modules) or by upgrading the system to higher transmission capacities (e.g., from OC48 to OC192). Should such an upgrade be required, it impacts only the customers served out of that particular wire center. In contrast, if multiple wire centers were on the same transmission system (i.e., fiber) all the wire centers on that fiber are potentially affected by a reconfiguration.

Q. ISN'T IT TECHNICALLY FEASIBLE FOR A CLEC TO CREATE A CONNECTION IF THE TWO OFFICES ARE ON THE SAME FIBER CABLE?

A. Yes, but there is a significant distinction between what is technically feasible and what is operationally and economically practical. Even though technology may permit a carrier to create a dedicated transport path between two points, the cost of doing so can be substantial, particularly given that the demand between the two endpoints in the incumbent's network will likely be very small. Accordingly, the FCC's trigger analysis properly requires that a "trigger firm" actually be providing service between the identified offices that form a dedicated transport route. As with all facilities construction, a carrier cannot reasonably be expected

to incur the costs of providing connections unless it is a rational approach to the serving arrangement and has the prospect to generate revenues sufficient to cover the costs incurred. And it is highly likely that a CLEC's demand for capacity between two ILEC wire locations on its own ring would be too small to justify such an approach.

Q. ON PAGE 5 AND 6 OF HER REBUTTAL TESTIMONY MS. PADGETT CHALLENGES THE CONCEPT THAT THE TRO REQUIRES THAT A CLEC MUST BE "PROVIDING TRANSPORT SERVICE BETWEEN THE TWO ILEC WIRE CENTERS," FOR A ROUTE TO BE COUNTED. MR. BALL'S DIRECT TESTIMONY MAKES THIS STATEMENT AT PAGE 21, YOUR REBUTTAL TESTIMONY SUPPORTS THE CONCEPT AT PAGE 9, AND YOU JUST REPEATED THE STATEMENT IN YOUR RESPONSE ABOVE. PLEASE EXPLAIN WHY YOUR AND MR. BALL'S INTERPRETATION OF THE TRO IS CORRECT.

A. It is only logical that the self-provisioning test must include only routes over which the named CLEC is actually providing service to itself. The TRO consists of 485 pages of commentary, including facts, analysis, discussions, findings and guidance to the industry and state regulators, and only 35 pages of rules, in Appendix B. Ms. Padgett's testimony focuses narrowly and exclusively upon the rule, without regard for the content of the text of the order. While I am not an attorney, it is my understanding that rules are to be applied using the associated

text from the body of the order for context and guidance. As a layperson, such a process only makes sense – otherwise, why bother publishing the 485 pages.

The body of the order contains multiple references supporting the proposition that the FCC intended that its self-provisioning test must include only routes over which the named CLEC is actually providing transport to itself.

> Dedicated interoffice transmission facilities (transport) are facilities dedicated to a particular customer or competitive carrier that it uses for transmission among incumbent LEC central offices and tandem offices. Competing carriers generally use interoffice transport as a means to aggregate end-user traffic to achieve economies of scale. They do so by using dedicated transport to carry traffic from their end user's loops, often terminating at incumbent LEC central offices, through other central offices to a point of aggregation. (TRO ¶ 361, emphasis added, citations deleted.)
>
> The first trigger is designed to identify routes along which the ability to self-provision is evident based on the existence of several competitive transport facilities. (TRO ¶ 400, emphasis added.)
>
> We also expect that the triggers we adopt will produce desirable incentives for competing carriers to build out their transport networks. As a policy matter, we find that unbundling can create a disincentive for competitive LECs to deploy transport. After incurring substantial fixed and sunk costs, a carrier that has deployed transport facilities must continue to compete against carriers able to obtain unbundled transport without incurring any large costs. Moreover, the triggers will benefit competing carriers that invest or have invested in their own transport facilities by attracting additional wholesale customers to mitigate the costs of deployment if their facilities trigger a finding of no impairment that eliminates unbundling. (TRO ¶ 404)
>
> As noted above, we give substantial weight to actual *commercial* deployment of an element by competing carriers. Therefore, our trigger identifies existing examples of deployment by multiple competitive LECs on a route-specific basis. (TRO ¶ 405, emphasis added, citations deleted.)
>
> Each counted self-provisioned facility along a route must be operationally ready to provide transport into or out of an incumbent LEC central office. TRO ¶ 406, emphasis added.)

Each of the FCC's concepts, guidance, or anticipated incentives discussed in these paragraphs would be devoid of meaning if, as Ms. Padgett suggests. CLECs do not have to be actually using self-provided transport for the trigger to be met.

Q. WHY WOULD A CLEC NOT BE IN THE BUSINESS OF PROVIDING THE EQUIVALENT OF DEDICATED TRANSPORT ON A RETAIL BASIS?

A. The practical purpose of connecting one ILEC office to another (as opposed to connecting each office to the CLEC's network) is either (1) to provide a dedicated (private line) retail service between two customer premises, one of which is served by a loop from office A and the other served by a loop from office B, or (2) to provide wholesale service to other carriers between those two endpoints. Only the first situation would result in a condition appropriate for consideration in a self-provisioning trigger, and even then only if the total demand were less than 12 DS3s worth of capacity (the only capacity that can be obtained as a UNE). Using such a configuration for retail service strains credibility. A customer that might have substantial demand between two ILEC wire centers would also (most likely) have even more traffic running to locations well beyond those two wire centers. That is, a customer is unlikely to have multi-megabits of transmission between two points in close proximity unless those two points are also connected to many other locations outside the local area. Given that such a hypothetical customer would be a very large enterprise customer, the CLEC would likely also build the loop out to the customer location. Accordingly, the CLEC would not be using or providing "dedicated transport" in that case, because the end-points of

the facility are two customer premises, not two incumbent wire centers. (AT&T's private line product and design specifications require that at least one end of the service be over an AT&T self-provided loop.)

Furthermore, the interconnection of the segments (loop and transport) would not likely occur in the incumbent's offices but would instead be made in a building where the CLEC has unrestricted access, typically one owned (or leased) by the CLEC. Again, such a configuration would not connect two ILEC wire centers and therefore could not even be considered a dedicated transport configuration.

Q. WHY WOULD THE CLEC PROVIDING A PRIVATE LINE SERVICE PREFER TO CONNECT THE SELF-PROVIDED LOOP AND INTER-PREMISES SEGMENT AT A LOCATION OTHER THAN THE TRADITIONAL SERVING WIRE CENTER (OF THE INCUMBENT)?

A. The self-constructed loop facility would generally run back to the CLEC's network node, rather than to ILEC collocation and then be connected to other fiber as the particular customer design warrants. This affords the CLEC a better ability to control service quality, because its nodes are generally manned round-the-clock, or at least are generally accessible. In addition, fewer potential points of failure (splice points and add/drop multiplexers) are generally involved. Furthermore, CLECs generally employ collocation to obtain interconnection with the incumbent LEC's network and to gain access to UNEs. In this instance, neither is involved. As a result, a CLEC would not ordinarily use costly

collocations to create the connection, particularly one that connects facilities that it self-provides entirely from the customer's premises to its network.

Q. ARE THERE OTHER REASONS WHY A CLEC WOULD NOT PROVIDE "DEDICATED TRANSPORT" DESPITE HAVING A CABLE BETWEEN TWO INCUMBENT OFFICES?

A. Yes. Equally important from an operational/network perspective, is the fact that transmission capacity on multi-node fiber ring is "zero sum." This means that if capacity is "drained off" to provide direct termination of traffic between two points on the ring (i.e., to provide dedicated transport between two ILEC offices), it reduces the CLEC's capacity to terminate traffic at other points on the same ring. This occurs because all traffic on a protected ring travels around the entire ring on a transmission system that has fixed capacity.[3]

A simple hypothetical example can help illustrate the constraint. (This example violates AT&T ring design policy.) Page 1 of Exhibit No. ____, JMB-SR2 depicts an OC48 system on a hypothetical CLEC ring that passes through two ILEC central offices and a CLEC node associated with the CLEC's switch. In this example, all traffic from ILEC office A is routed directly to the CLEC's node/switch and all traffic from ILEC office B is also routed directly to the CLEC's node/switch, and there are no connections between ILEC offices A and B. Each collocation uses 24 of the 48 DS3s. The entire capacity of the system is

[3] This characterization is a simplification. In actuality, it is more likely that the transmission segment will be active in only one direction. In the event that a transmission failure is detected, the system will automatically activate a transmission path in the opposite direction.

utilized in the above example. I have labeled the DS3s being carried on the ring between the nodes for the "primary" (clockwise transmission). If the "backup" (counter-clockwise transmission) activated, the numbers of DS3s would remain the same with the A, B and N labels reversing position.

If the CLEC were to reconfigure its ring to establish a transport route for traffic between ILEC offices A and B, the capacity available to permit ingress and egress at the CLEC's network (i.e., A to N and B to N) is reduced. If we assume 6 DS3s are required between A and B, the carrier's revised network configuration is shown on page 2 of Exhibit No. ____, JMB-SR2. Now, only 21 DS3s are available to carry traffic from each of the collocations to the switch.

Thus, the direct routing of traffic between intermediate points on a ring will be the rare exception rather than the rule, because it "steals" capacity from the mainstream purpose of the CLEC's self-provided facilities – to connect retail customers to its network.

Q. COULD THE SUB-OPTIMIZATION YOU DESCRIBED ABOVE BE EFFECTIVELY ADDRESSED BY MAKING A CONNECTION BETWEEN THE TWO INCUMBENT OFFICES AT THE CLEC'S NODE?

A. No, not without the insertion of additional grooming functionality. This grooming capability is provided through a device such as a Digital Cross-connection System (DCS). A DCS is not an inexpensive device and itself consumes floor space and power resources. In fact, in the example discussed above, for the 6 A to B DS3's to become operational there would have to be

additional equipment installed at A, B and N. Nevertheless, the Commission must keep in mind that technical feasibility is not sufficient evidence to conclude that there has been actual provisioning of dedicated transport.

Q. ON PAGES 3 AND 4 OF HER REBUTTAL TESTIMONY MS. PADGETT CLAIMS THAT UNDER THE TRO DEDICATED TRANSPORT INCLUDES SWITCHING. IS THIS CORRECT?

A. No. Nothing in the TRO changes the traditional separation of "dedicated" transport, which has never included switching, from "shared" or "common" transport which does, and in fact, can only be accessed by the use of switching.

BellSouth's sister ILEC SBC has no problem understanding this. In testimony filed before the California Public Utilities Commission on November 20, 2003, Mr. Scott J. Alexander provided the following definition of dedicated transport.

> Dedicated transport facilities connect two points within a communications network, so that information can be transmitted between those two points. "Dedicated" transport means all or part of the facility is dedicated to a particular carrier or use and that there is no switching interposed along the transport route.
>
> (Emphasis added – testimony in dockets R. 95-04-043 and I. 95-04-044, November 20, 2003) (See Exhibit No. ____, JMB-SR3)

Ms. Padgett's testimony on these two pages also incorrectly asserts that Mr. Ball and the CLEC have excluded routes between two end points that might happen to pass through other points from our "interpretation" of a route. Ms. Padgett is simply wrong. Dedicated transport does not include switching and the CLEC's testimony does not state that diverse routing negates the fact that two end points connected using dedicated transport constitute a route.

Q. IS AT&T A SELF-PROVIDER OR WHOLESALER OF DEDICATED TRANSPORT IN FLORIDA?

A. No. As discussed above and in my rebuttal testimony AT&T does not provide ILEC wire center to ILEC wire center dedicated transport to itself and therefore is incapable of being a provider of wholesale dedicated transport. BellSouth knows these facts from the discovery responses AT&T has submitted. Ms. Padgett's rebuttal testimony does not change these facts. BellSouth has not met the requirements of the TRO and is not eligible for the relief it seeks.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

Errata to the Rebuttal and Surrebuttal Testimony of Jay M. Bradbury in Florida Public Service Commission Docket No. 030852-TP

Rebuttal Testimony

Page 7, line 7	insert "to reach the demark" after "LEC"
Page 16, line 8	change "od" to "of"
Page 25, line 14	insert "wholesale" after "offer"

Surrebuttal Testimony

Page 10, line 15	change "only" to "maximum"
Page 11, line 8	strike "even"

(Transcript continues in sequence with Volume 3.)

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

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

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

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

DATED THIS 5TH DAY OF MARCH, 2004.

LINDA BOLES, RPR
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