BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030300-TP

In the Matter of:

PETITION FOR EXPEDITED REVIEW OF BELLSOUTH TELECOMMUNICATIONS, INC.'S INTRASTATE TARIFFS FOR PAY TELEPHONE ACCESS SERVICES (PTAS) RATE WITH RESPECT TO RATES FOR PAYPHONE LINE ACCESS, USAGE, AND FEATURES, BY FLORIDA PUBLIC TELECOMMUNICATIONS ASSOCIATION.
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THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

Volume 2

Pages 182 through 284

PROCEEDINGS:	HEARING
BEFORE:	COMMISSIONER J. TERRY DEASON COMMISSIONER RUDOLPH "RUDY" BRADLEY COMMISSIONER CHARLES M. DAVIDSON
DATE:	Wednesday, May 12, 2004
TIME:	Commenced at 9:35 a.m. Concluded at 1:05 p.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	TRICIA DeMARTE, RPR Official FPSC Reporter (850) 413-6736
APPEARANCES:	(As heretofore noted.)

I N D E X

WITNESSES

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NUMBER:		ID.	ADMTD.
11	KKB-1 and KKB-2	186	230
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13	(Confidential) DDC-1 and DDC-2	233	282
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P R O C E E D I N G S

(Transcript follows in sequence from Volume 1.)

COMMISSIONER DEASON: Call the hearing back to order. Ms. Mays.

MS. MAYS: Yes, Commissioner Deason. BellSouth would call Ms. Kathy Blake to the stand. She's already been sworn.

KATHY BLAKE

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

DIRECT EXAMINATION

BY MS. MAYS:

Q Ms. Blake, could you give the Commission your full name and business address for the record, please.

A Yes. My name is Kathy Blake. My address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q And what is your present employment -- how are you employed by BellSouth?

A I'm the director of policy implementation for BellSouth.

Q And, Ms. Blake, did you cause to be prefiled 15 pages of direct testimony?

A Yes, I did.

Q Do you have any changes or corrections to your direct testimony?

A No, I do not.

Q And did you also cause to be prefiled two exhibits with your direct testimony?

A Yes, I did.

MS. MAYS: Commissioner Deason, if we could have those identified as Exhibit Number 11.

COMMISSIONER DEASON: They will be so identified.

(Exhibit 11 marked for identification.)

BY MS. MAYS:

Q Ms. Blake, did you cause to be prefiled 12 pages of rebuttal testimony?

A Yes, I did.

Q Do you have any changes or corrections to your rebuttal testimony?

A No, I do not.

Q And did you have one exhibit with your rebuttal testimony?

A Yes, I did.

MS. MAYS: Commissioner Deason, if we could have that identified as Exhibit 12.

COMMISSIONER DEASON: It will be so identified.

(Exhibit 12 marked for identification.)

BY MS. MAYS:

Q Ms. Blake, if I were to ask you the same questions that appear in your direct and rebuttal testimony, would your answers remain the same?

A Yes, they would.

MS. MAYS: Commissioner Deason, if we could have admitted Ms. Blake's direct and rebuttal testimony in the record as though read.

COMMISSIONER DEASON: It will be so inserted.

BELLSOUTH TELECOMMUNICATIONS, INC.

DIRECT TESTIMONY OF KATHY K. BLAKE

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030300-TP

NOVEMBER 17, 2003

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS ADDRESS.

A. My name is Kathy K. Blake. I am employed by BellSouth as Director – Policy Implementation. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE.

A. I graduated from Florida State University in 1981, with a Bachelor of Science degree in Business Management. After graduation, I began employment with Southern Bell as a Supervisor in the Customer Services Organization in Miami, Florida. In 1982, I moved to Atlanta where I have held various positions involving Staff Support, Product Management, Negotiations, and Market Management within the BellSouth Customer Services and Interconnection Services Organizations. In 1997, I moved into the State Regulatory Organization where my responsibilities included issues management and policy witness support. I assumed my current responsibilities in July 2003.

WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to put forth BellSouth's position on the policy issues related to the Petition for Expedited Review of BellSouth's Telecommunications, Inc.'s ("BellSouth's) intrastate tariffs for pay telephone access services ("PTAS") rate with respect to rates for payphone line access, usage, and features, by Florida Public Telecommunications Association ("FPTA"). The issues are as stated on Appendix A of the Florida Public Service Commission's ("FPSC" or the "Commission") Order No. PSC-03-1066-PCO-TP, dated September 24, 2003. However, before addressing the specific issues identified in this proceeding, I believe that a review of the events leading up to this point will be helpful.

Q. PLEASE SUMMARIZE THE EVENTS LEADING UP TO THE CURRENT DOCKET.

A. In 1996 and 1997, the Federal Communications Commission ("FCC") issued a series of orders[1] implementing section 276 of the federal Act. Among other things, these orders established that intrastate rates for PTAS lines must comply

[1] *See* Report and Order, *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, FCC 96-338 at ¶146 (rel. Sept. 20, 1996)("*Payphone Order*"); Order on Reconsideration, *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, FCC 96-439 at ¶163 n.492. (rel. November 8, 1996)("*Order on Reconsideration*").

with the new services test ("NST"), which generally requires a carrier to provide cost data to establish that the rate for a service will not recover more than a just and reasonable portion of the carrier's overhead costs.[2] These orders also concluded that, consistent with Section 276 of the Act, payphone service providers ("PSPs") were entitled to compensation for each and every completed intrastate and interstate call originated by their payphones.[3] Before collecting this "per-call" compensation, however, a local exchange carrier ("LEC") had to certify that its PTAS rates were compliant with the NST.[4]

On April 10, 1997, a coalition of regional Bell operating companies ("RBOCs") requested that the FCC grant a limited waiver of this prerequisite to collecting per-call compensation.[5] In making this request for a waiver, the RBOCs stated "that they voluntarily commit 'to reimburse or provide credit to those purchasing the services back to April 15, 1997' . . . 'to the extent that the new tariff rates are lower than the existing ones.'"[6] The FPTA has filed copies of this correspondence in this docket. In addressing this request, the FCC entered an order that said:

> [W]e grant all LECs a limited waiver until May 19, 1997 to file intrastate tariffs for payphone services consistent with the guidelines established in the Order on Reconsideration, subject to the terms discussed herein. This waiver enables

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[2] *See* 47 C.F.R. §61.49(h)(1).
[3] *See* Payphone Order at ¶¶48-76.
[4] *See* Order on Reconsideration at ¶131.
[5] *See* Order, *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, FCC 97-805 ¶13 (rel. April 15, 1997)("*Second Waiver Order*").
[6] *Id.*

> LECs to file intrastate tariffs consistent with the "new services" test of the federal guidelines required by the Order on Reconsideration and the Bureau Waiver Order, including cost support data, within 45 days of the April 4, 1997 release date of the Bureau Waiver Order and remain eligible to receive payphone compensation as of April 15, 1997, as long as they are in compliance with all of the other requirements set forth in the Order on Reconsideration. Under the terms of this limited waiver, a LEC must have in place intrastate tariffs for payphone services that are effective by April 15, 1997. The existing intrastate tariffs for payphone services will continue in effect until the intrastate tariffs filed pursuant to the Order on Reconsideration and this Order become effective. <u>A LEC who seeks to rely on the waiver granted in the instant Order must reimburse its customers or provide credit from April 15, 1997 in situations where the newly tariffed rates, when effective, are lower than the existing tariffed rates.</u> This Order does not waive any of the other requirements with which the LECs must comply before receiving compensation.[7]

BellSouth relied on this waiver, and BellSouth took the position that the PTAS rates in effect in Florida on April 15, 1997 complied with the NST.

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[7] *Id.* at ¶25 (emphasis added).

Q. HAS THIS COMMISSION ADDRESSED BELLSOUTH'S PTAS RATES IN FLORIDA?

A. Yes. The Commission's PAA Order No. PSC-98-1088-FOF-TL in Docket No. 97-281-TL, issued on August 11, 1998 ("*PAA Order*") reviewed BellSouth's rates and determined that the rates met the new services test, which finding conclusively establishes that no credit (or refund) was or is due to the FPTA. After the Commission issued the *PAA Order*, the FPTA filed a Petition protesting the order; but on December 31, 1998, the FPTA withdrew its Petition. By Order No. PSC-99-0493-FOF-TL issued March 9, 1999, the Commission approved the *PAA Order* with an effective date of January 19, 1999.

Q. HAS THE FCC REVISITED ITS PAYPHONE ORDERS?

A. Yes. On January 31, 2002, the FCC issued what is commonly known as the *Wisconsin Order*.[8] The FCC stated its belief that "this Order will assist states in applying the new services test to BOCs' intrastate payphone line rates in order to ensure compliance with the Payphone Orders and Congress' directives in section 276,"[9] and it generally established the following principles:

1. <u>Methodology for Computing Direct Costs.</u> The FCC ruled that: (a) states are not *required* to use TELRIC methodology to develop direct costs; (b) states *may* use TSLRIC (or another forward-looking methodology) to develop direct

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[8] *See* Memorandum Opinion and Order, *In the Matter of Wisconsin Public Service Commission*, Bureau/CPD No. 00-01, Order No. FCC 02-25, 17 FCC Rcd. 2051 (rel. January 31, 2002) ("*Wisconsin Order*").

[9] *Id* at ¶2.

costs; and (c) LECs may include in their direct costs retail costs that they can show are attributable to PTAS lines. Specifically, the *Wisconsin Order* provides that:

> LECs should use a forward-looking methodology that is "consistent" with the Local Competition Order. TELRIC is the specific forward-looking methodology described in 74 C.F.R. §51.505 and required by our rules for use by states in determining UNE prices. States often use "total service long run incremental cost" (TSLRIC) methodology in setting rates for intrastate services. It is consistent with the Local Competition Order for a state to use its accustomed TSLRIC methodology (or another forward-looking methodology) to develop the direct costs of payphone line service costs.
>
> As such, we do not impose on payphone line services the sections 251 and 252 pricing regime for local interconnection services. For example, while we have prohibited LECs from including certain "retail" costs in their prices for UNEs, no such prohibition applies to payphone line services. If they wish, the LECs may include in their direct cost calculations those "retail" costs, such as marketing and billing costs, that they can show are attributable to payphone line services.[10]

[10] *Id.* at ¶¶49-50.

2. Allocation of Overhead. The FCC decided that while states may use "UNE loading factors to determine an appropriate overhead allocation for payphone services," those UNE overhead loading factors do not establish a "default ceiling."[11] Instead, "[t]here are other approaches that are also consistent with our precedent regarding overhead assignments to new services provided to competitors."[12] Specifically, the FCC concluded that:

> [I]t is appropriate for states to adopt the same method for calculating a ceiling for overhead allocation as we did in the Physical Collocation Tariff Order, recognizing that states that continue to use UNE overhead allocations for payphone services are also in full compliance with section 276 and our precedent. Moreover, it is also consistent with our past application of the price cap new services test, and permissible in this context, for states to determine overhead assignments using the methodology that the Commission used to evaluate the reasonableness of ONA tariffs in the ONA Tariff Order. In that investigation, the Commission used ARMIS data to calculate an upper limit for both the ratio of direct cost to direct investment and the ratio of overhead cost to total cost. Analogously, states could use ARMIS data relating to the plant categories used to provide payphone services in calculating an upper limit on overhead loadings.[13]

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11 *Id.* at ¶52.
12 *Id.*
13 *Id.* at ¶54.

3. Treatment of SLC/EUCL. The FCC decided, "in establishing its cost-based, state-tariffed charge for payphone line service, a BOC must reduce the monthly per line charge determined under the new services test by the amount of the applicable federal tariffed SLC."[14]

4. Usage. The FCC determined that "any rate for local usage billed to a payphone line, as well as the monthly payphone line rate, must be cost-based and priced in accordance with the new services test."[15]

Q. HOW DOES THE *WISCONSIN ORDER* IMPACT THIS PROCEEDING?

A. As I will explain more fully in addressing the specific issues, the *Wisconsin Order* apparently was the basis for the FPTA's petition in this docket, which petition was filed March 26, 2003 (approximately fourteen months after the *Wisconsin Order* was issued).

Issue 1(a): Has BellSouth reduced its intrastate payphone line rates by the amount of the interstate EUCL? If not, has BellSouth ceased charging the EUCL on payphone lines?

Q. WHAT IS BELLSOUTH'S RESPONSE?

A. Yes. BellSouth filed a revision to its General Subscriber Service Tariff, Section A7.4 to reduce the Florida payphone rates by the EUCL amount. The tariff was

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14 *Id.* at ¶61.
15 *Id.* at ¶64.

filed October 27, 2003, and became effective on November 10, 2003. A copy of the revised tariff is attached to my testimony as Exhibit KKB-1.

Issue 1(b): As of what date was BellSouth required to reduce its intrastate payphone line rates by the amount of the interstate EUCL?

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. BellSouth was not required to reduce its intrastate payphone line rates by the amount of the EUCL on a specified date. At all times, BellSouth's rates have been charged pursuant to binding FPSC Orders and FCC tariffs that have not been challenged, appealed or modified.

Q. WAS IT BELLSOUTH'S RESPONSIBILITY TO VOLUNTARILY REDUCE ITS PTAS RATES PURSUANT TO THE *WISCONSIN ORDER*?

A. No. In any proceeding that establishes rates, a Commission's order remains in effect on a going forward basis, until modified.

Q. CAN YOU ELABORATE ON THE FPTA'S SUGGESTIONS THAT BELLSOUTH SHOULD HAVE REDUCED ITS RATES?

A. Yes. First, the fact that costs may go down (or up) over time does not require BellSouth to automatically reduce (or increase) its rates. Any party can petition the Commission to re-examine certain rates if it believes that requirements have changed, or circumstances have changed significantly that would necessitate resetting tariffed rates.

Second, the *Wisconsin Order* itself was appealed. This appeal was not concluded until July 11, 2003.

Third, in setting PTAS rates in Florida, the rates were directly tied to basic business rates (1FB),[16] which rates have increased over time, and have not decreased. Because PTAS rates were tied to basic business rates, BellSouth could have sought to raise its PTAS rates since 1999, although BellSouth has not done so.

Fourth, the FPTA completely ignores the fact that it willingly chose not to pursue any further regulatory and legal action after this Commission approved BellSouth's PTAS rates. In Florida, the FPTA never sought any regulatory or judicial review of BellSouth's PTAS rates, and instead waited years later (and for that matter, over a year after the issuance of the FCC's *Wisconsin* Order upon which it heavily relies) to lodge any formal request for a refund and for lower rates with this Commission.[17]

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[16] Chapter 364.3375, Florida Statutes, was amended to make each pay telephone station eligible to subscribe to flat-rate, single-line business local exchange services, effective July 1, 1995. *See* Order No. PSC-95-1235-FOF-TL, issued October 5, 1995.

[17] The FPTA did contact BellSouth in November 2002, informally requesting a refund and lower PTAS rates; however, even that contact was not made until ten months after the *Wisconsin Order* was issued.

Q. HAS BELLSOUTH ATTEMPTED TO RESOLVE THIS MATTER WITH THE FPTA?

A. Yes. The FPTA did not approach BellSouth until November 2002 regarding its position that BellSouth's PTAS rates are not in compliance with the FCC's new services test. The parties sought to resolve this matter without involving this Commission, but were unable to do so.

Issue 1(c): Can the FPSC order refunds to FPTA's members for the time period bracketed between (a) and (b)? If so, what is the amount of any required refunds and how should any refunds be effected?

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. Because BellSouth has been and continues to be in compliance with valid, binding orders of this Commission, there is no time period for which a refund is warranted. Moreover, BellSouth's PTAS rates have always been deemed to be compliant with the NST. Therefore, it is not appropriate or justified for the Commission to order BellSouth to pay any refunds to FPTA. BellSouth has also addressed the fact that this Commission has no legal authority to order such a refund in any event in its Motion to Dismiss filed in this docket. Attached as Exhibit KKB-2 is BellSouth's Motion to Dismiss filed on April 15, 2003, which fully addresses this issue.

Issue 2: In Docket No. 970281-TL, PAA Order No. PSC-98-1088-FOF-TL, issued on August 11, 1998, this Commission determined BellSouth's intrastate payphone rates to be in compliance with the FCC's "new services" test.

Issue 2(a) Are BellSouth's intrastate payphone rates no longer compliant with the new services test? If so, when did they become non-compliant?

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. As this Commission has found, BellSouth's PTAS rates have been, and are currently, in compliance with the FCC's new services test. BellSouth has taken certain steps in light of the additional guidance by the FCC in the *Wisconsin Order* and the fact that the parties were unable to reach a mutually acceptable resolution of this matter. First, BellSouth voluntarily revised its PTAS tariff to reduce its rates by the amount of the EUCL charge, although it had no obligation to do so. Second, BellSouth has studied its current PTAS costs, which cost study is being filed with the testimony of D. Daonne Caldwell.

Issue 2(b): If BellSouth's intrastate payphone rates are not compliant with the new services test, at what rate levels will BellSouth's intrastate payphone rates comply with the new services test?

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. BellSouth's existing rates are fully compliant with the new services test as ordered by this Commission. In the event that this Commission decides to revisit BellSouth's rates, there are two aspects of the *Wisconsin Order's* clarification of the new services test that may be considered on a prospective basis. First, the FCC ruled that "in establishing its cost-based, state-tariffed charge for payphone line service, a BOC must reduce the monthly per line charge determined under the new services test by the amount of the applicable federal tariffed SLC [now EUCL].[18] BellSouth has already effected this change with its revised tariff filing.

Second, although the underlying cost methodology in support of payphone rates did not change, the FCC provided additional guidelines on how the overhead loadings should be calculated. BellSouth's cost studies, incorporating a revised overhead allocation are described and provided with the testimony of BellSouth's witness Ms. Daonne Caldwell.

Q. IF THE COMMISSION DECIDES TO REVISIT BELLSOUTH'S PTAS COSTS, WHAT RATE WOULD BE APPROPRIATE?

A. The cost study sponsored by Ms. Caldwell shows that BellSouth's costs to provide PTAS, including overhead loadings, on a statewide average basis is $24.36. This average cost of $24.36 less the federal EUCL charge of $7.13[19] results in a rate of $17.23. This revised statewide average rate is appropriate

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[18] *Wisconsin Order*, at ¶61.
[19] Tariff FCC No. 1, page 4-7, EUCL for Multiline Business Subscriber, per individual line or trunk

considering that the current Florida statewide UNE-P rate is $15.12. Furthermore, this $17.23 rate is not out of line with the PTAS rates in the other BellSouth states.

Issue 2(c): Can this Commission order BellSouth to revise its intrastate payphone rates? If so, as of what date should any such rate changes be effective?

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. The Commission has the authority to order BellSouth to revise its intrastate payphone rates, if it deems revisions to be necessary. The effective date of any revisions can only be prospective.

Issue 2(d): If BellSouth's payphone rates became noncompliant with the new services test, can the FPSC order refunds to FPTA's members for the time period from when they became noncompliant to the date identified in Issue 2(c)? If so, what is the amount of any required refunds, and how should any refunds be effected?

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. BellSouth's position is that the FPTA is not entitled to any refunds because BellSouth has at all times has and is currently charging PTAS rates in Florida that comply with binding, effective, and unchallenged orders of this Commission.

FPTA's Petition asks for refunds of two categories: (1) refund of all amounts paid for EUCL charges since April 15, 1997 and (2) refund of all PTAS fees paid to BellSouth since January 20, 1999 that exceed a cost-based rate calculated in accordance with the NST. In requesting a refund of the EUCL amounts paid since April 15, 1997, the FPTA relies on the refund provisions in the FCC's *Second Waiver Order*. However, such an argument is meritless. After considering BellSouth's request for a waiver, the FCC issued an Order plainly stating that "[a] LEC who seeks to rely on the waiver granted in the instant Order must reimburse its customers or provide credit from April 15, 1997 in situations where the newly tariffed rates, when effective, are lower than the existing tariffed rates."[20] Because BellSouth's tariffed PTAS rates, which were cost based and in compliance with the New Services Test and were effective January 19, 1999, were not lower than the previously existing PTAS rates, refunds are not required. Likewise, the request for a refund of PTAS rates that allegedly exceed cost-based rates cannot stand for similar reasons. This Commission approved cost-based rates in 1999, which rates BellSouth is charging. No refunds are appropriate.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

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[20] *Second Waiver Order*, ¶2, 25.

BELLSOUTH TELECOMMUNICATIONS, INC.

REBUTTAL TESTIMONY OF KATHY K. BLAKE

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030300-TP

DECEMBER 19, 2003

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS ADDRESS.

A. My name is Kathy K. Blake. I am employed by BellSouth as Director – Policy Implementation. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

A. Yes. I filed direct testimony on November 17, 2003, including two exhibits.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is to respond to certain policy aspects of the testimonies of Don Wood and Bruce Renard put forth by the Florida Public Telecommunications Association ("FPTA") on November 17, 2003.

Q. MR. WOOD (ON PAGE 6, AND PAGES 32-38) AND MR. RENARD (PAGE 8) STATE THAT BELLSOUTH HAS NOT REDUCED ITS INTRASTATE PAYPHONE LINE RATES BY THE AMOUNT OF THE INTERSTATE EUCL. ARE THEY CORRECT?

A. No. As explained in my direct testimony, BellSouth filed revised intrastate tariffed rates for payphone access line service (GSST Section A7.4), reducing the rate for each of the twelve rate groups by the Interstate End User Common Line ("EUCL") charge of $7.13. This revised tariff was filed October 27, 2003, and became effective November 10, 2003. As such, Mr. Wood's and Mr. Renard's testimony on this point is moot.

Q. MR. WOOD EMPHASIZES THE FCC'S RULING THAT COST STUDY INPUTS AND ASSUMPTIONS SHOULD BE CONSISTENT WITH COST INPUTS "USED IN COMPUTING RATES FOR COMPARABLE SERVICES TO COMPETITORS." (PAGE 18) DO BELLSOUTH'S COST STUDIES COMPORT WITH THIS RULING?

A. Yes. I am having a little difficulty, however, in understanding the FCC's use of the phrase "to competitors" since BellSouth is exiting the payphone market by the end of this year. In fact, in reviewing the FCC's *Wisconsin Order,*[1] it

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[1] *See* Memorandum Opinion and Order, *In the Matter of Wisconsin Public Service Commission,* Bureau/CPD No. 00-01, Order No. FCC 02-25, 17 FCC Rcd. 2051 (rel. January 31, 2002) ("*Wisconsin Order").*

appears that the foundation for invoking the "new services test" for payphone services offered by the incumbents was because "incumbent LECs may have an incentive to charge their competitors unreasonably high prices for these services." (*Wisconsin Order*, ¶47) Since BellSouth is no longer a "competitor" for this service, it makes little sense to adhere to this requirement; however, the FCC has not released the incumbents from the process. (See Rebuttal Testimony of Daonne Caldwell for additional discussion of the FCC's requirements for PTAS rates to be cost-based.)

Q. ON PAGES 7-8 OF HIS TESTIMONY, MR. WOOD ASSERTS THAT THIS COMMISSION SHOULD ORDER BELLSOUTH TO REFUND AMOUNTS PAID TO BELLSOUTH FOR EUCL SINCE APRIL 15, 1997. DO YOU AGREE?

A. No. BellSouth complied with the FCC's Payphone Orders when issued, and complied with this Commission's order issued on August 11, 1998, setting rates in accordance with the FCC's New Services Test ("NST"). In the *Wisconsin Order,* the FCC provided additional details related to application of the NST in determining payphone access line rates. The fact that the FCC issued additional clarification in its *Wisconsin Order* did not require Bell Operating Companies ("BOCs") to automatically change their payphone rates. The telecommunications industry has been in a constant state of change since the 1996 Act. To follow the FPTA's logic, any time costs change, a BOC should immediately revise its tariff rates. This would lead to an absurd situation. For example, any time a state commission issues an order in a generic cost docket, under the FPTA's reasoning, such an order would be obsolete the very next day if any of the BOC's cost study inputs had changed. A BOC is not obligated to voluntarily change rates; such a review of rates must be initiated by the affected party or by the Commission itself. Thus, rates are changed only upon a proper review of all necessary evidence and documentation by the Commission.

Q. WOULD REQUIRING ANY REFUND CONTRADICT YOUR UNDERSTANDING OF THIS COMMISSION'S POLICY OF NOT PRACTICING RETROACTIVE RATEMAKING?

A. Yes. As discussed in BellSouth's Motion to Dismiss in this docket (see Exhibit KKB-2 attached to my Direct Testimony), the Commission's authority in setting rates is prospective only. This ruling was established by the Florida Supreme Court in 1968[2] and was later discussed in detail in Docket No. 971663-WS.[3] This Commission has consistently recognized that ratemaking is prospective and that retroactive ratemaking is prohibited. Both the Commission's pay telephone access services ("PTAS") Order issued August 11, 1998[4] and its Final PTAS Order issued March 9, 1999[5] direct the manner in

[2] *City of Miami v. Florida Public Service commission*, 208 So.2d 249, 259 (Fla. 1968).

[3] *In re Petition of Florida Cities Water Company*, Order No. PSC-98-1583-FOF-SC, November 25, 1998.

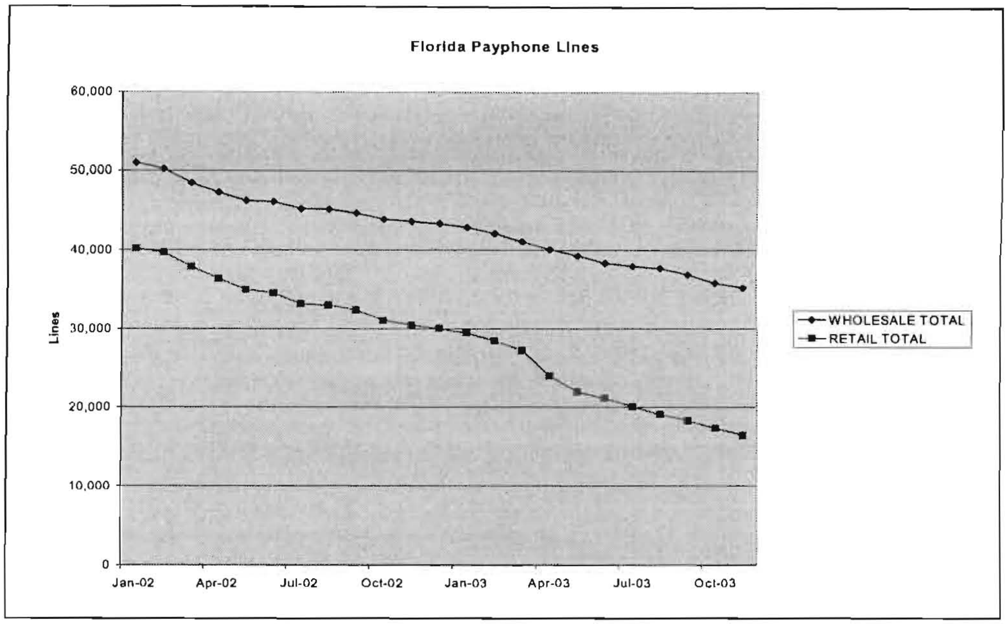
[4] PAA Order No. PSC-98-1088-FOF-TL in Docket No. 97-281-TL ("*PAA Order*").

[5] Order approving the PAA Order, Order No. PSC-99-0493-FOF-TL ("*Final PTAS Order*").

which BellSouth is to charge for payphone access lines in Florida. Those orders have not been appealed, revoked, or modified by the Commission. BellSouth should not be required to issue refunds for charging rates that comply with valid and effective Orders of the Commission. Any such refunds would violate the prohibition against retroactive ratemaking.

Q. ON PAGE 23, MR. WOOD ASSERTS THAT GRANTING THE FPTA'S REQUEST TO LOWER PAYPHONE ACCESS LINE RATES IS IN THE PUBLIC INTEREST. DO YOU AGREE?

A. No. Mr. Wood asserts that widespread deployment of payphones depends on the ability of payphone providers to obtain PTAS service at cost-based rates. However, data for the last two years for Florida (see chart below) shows that the wholesale payphone market (payphone providers who provide service by purchasing coin UNE-P or resale PTAS service from CLECs – both of which are cost-based rates) as well as the retail market has declined. Therefore, it is not just the level of retail rates that has caused the decline in payphone services – it is a decline in demand. BellSouth should not be required to reduce its tariffed rates simply in an effort to keep more payphone providers in business.



As evidenced by the above statistics, and by Mr. Wood's lack of support for his allegation, the level of payphone access line rates is not contrary to the public interest.

Q. MR. WOOD (ON PAGES 24-25) AND MR. RENARD (PAGES 9-10) STATE THAT REDUCING PAYPHONE ACCESS LINE RATES IS NECESSARY TO INSURE THE CONTINUED PROVISION OF PAYPHONE SERVICE. ARE THEY CORRECT?

A. Not necessarily. In a market with increasing (or even stable) demand, lowering rates will normally increase the number of providers and/or the volume of services provided. The payphone market, however, is one in which the product is becoming more and more obsolete, and one for which demand is decreasing. Contrary to Mr. Wood's assertions, the facts show that even reducing PTAS rates has not stimulated end-user demand. For example, for South Carolina and Tennessee, two states cited on pages 21-22 of Mr. Wood's testimony as having Commission ordered rates that he indicates are in line with the FCC's four part test,[6] reduced rates have not stimulated payphone growth. The following chart shows the decline of payphone lines in South Carolina, Tennessee and Louisiana since the PTAS rates in those states were reduced.

[6] *Id.*, at ¶¶49-64.

PTAS Retail Line Trends - post NST Rate changes

SOUTH CAROLINA
NST Rate effective July 1999

	Jul-99	Jan-00	Jul-00	Jan-01	Nov-03
All Other PSPs (1)	6,249	7,411	7,412	7,274	3,879

All Other PSPs % Change at 1 YR: 18.6%

All Other PSPs % Change From NST to Current: -37.9%

TENNESSEE
NST Rate effective February 2001

	Feb-01	Aug-01	Feb-02	Aug-02	Nov-03
All Other PSPs:	11,385	10,560	10,375	9,675	6,652

All Other PSPs % Change at 1 YR: -8.9%

All Other PSPs % Change From NST to Current: -41.6%

LOUISIANA
NST Rate effective Aug 2001 via Settlement Agreement with LPPA

	Aug-01	Feb-02	Aug-02	Feb-03	Nov-03
All Other PSPs:	10,123	9,926	8,318	7,621	5,190

All Other PSPs % Change at 1 YR: -17.8%

All Other PSPs % Change From NST to Current: -48.7%

(1) All Other PSPs denotes all Payphone Service Providers other than BellSouth Public Communications

Q. ON P. 7, MR. WOOD REFERS TO AN APRIL 10, 1997 LETTER FROM THE RBOC PAYPHONE COALITION PROMISING TO ISSUE A REFUND BACK TO APRIL 15, 1997 IN THE EVENT ITS PTAS RATES DID NOT

CONFORM TO THE NEW SERVICES TEST. HAS BELLSOUTH COMPLIED WITH THAT PROMISE?

A. Yes. The letter in question is a letter dated April 10, 1997 from Michael Kellogg, counsel for the RBOC Payphone Coalition, of which BellSouth was, and is, a member. As discussed in my direct testimony at page 15, that letter promised that RBOC Payphone Coalition members would provide a credit back to April 15, 1997 in situations where the newly tariffed rates pursuant to the FCC's *Second Waiver Order,*[7] when effective, were lower than the previous tariffed rates. Because BellSouth's tariffed PTAS rates, which were cost-based and in compliance with the NST and were effective January 19, 1999, were not lower than the previously existing PTAS rates, refunds to April 15, 1997 were not required. BellSouth has fully complied with the promise we made in April 1997. To imply that the April 15, 1997 letter obligated BellSouth and other BOCs to make retroactive refunds if, at any time in the future, the definition of the NST were to be changed, is completely unfounded. The FCC has, on numerous occasions, issued subsequent guidance on setting rates. For example, the FCC issued its Triennial Review Order,[8] changing the rules for determining elements that must be sold as Unbundled Network Elements ("UNEs"), and determining rates to be charged for UNEs. However,

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[7] See Order, *In the Matter of Implementation of the Pay Telephone reclassification and Compensation Provisions of the Telecommunications Act of 1996,* CC Docket No. 96-128, FCC 97-805, ¶13 (rel. April 15, 1997)(*"Second Waiver Order").*

[8] *Report and Order and Order on Remand and Further Notice of Proposed Rulemaking,* CC Docket Nos. 01-338, 96-98 and 98-147, Order No. FCC 03-36, Rel. August 21, 2003 (*"Triennial Review Order" or "TRO").*

the fact that the rules have changed does not mean that the FCC meant for differences in rates under the new rules and the UNE rates previously charged to be retroactively refunded.

Q. HAVE OTHER STATE COMMISSIONS HAD SIMILAR REFUND REQUESTS?

A. Yes. In cases analogous to the FPTA's Complaint, payphone associations in both Ohio and Kansas have initiated regulatory actions before their respective state commissions seeking refunds. Both state commissions denied the refund claims. The Kansas Commission stated:

> [a]ll Kansas local exchange companies have approved payphone line tariffs in place and there is no evidence they have not been billing payphone providers in accordance with those tariffs. Telephone companies are required to charge the rates set out in their approved tariffs. There is no basis for retroactive implementation of new tariffs, if we find the current tariffs must be revised.[9]

Likewise, the Ohio Commission "rejects the PAO's request for refunds. Such refunds would constitute unlawful, retroactive ratemaking."[10]

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[9] Order, *In Re: Matter of the Application of the Kansas Payphone Association Requesting the Commission Investigate and Revise the Dockets Concerning the Resale of Local Telephone Service by Independent Payphone Operators and Tariffs Pursuant to the FCC's "New services Test"*, Decision Issued January 31, 2002, Docket No. 02-KAPT-651-GIT (December 10, 2002) (p. 11).

[10] Order, In Re: the Commission's Investigation into the Implementation of Section 276 of the Telecommunications Act of 1996 Regarding Pay Telephone Services, Case No. 96-1310-TP-COI (November 26, 2002)

Q. ON PAGES 44-45 AND IN EXHIBIT DJW-2, MR. WOOD PROVIDES HIS ANALYSIS OF BELLSOUTH'S CURRENT PAYPHONE RATES. WHAT COMMENTS DO YOU HAVE REGARDING THIS ANALYSIS?

A. First, and most importantly, in his "analysis", he did not take into account the fact that BellSouth has already reduced its tariffed PTAS rates by the EUCL. Second, he uses a EUCL of $7.84, whereas the current EUCL is $7.13. Attached to my rebuttal testimony is Exhibit KKB-3, which shows the new monthly base rates (reduced by the EUCL) plus the EUCL charged separately. Mr. Wood uses his chart to demonstrate that BellSouth's tariffed rates are "well in excess of cost" for almost all rate groups and zones. However, both BellSouth and the FPTA (Wood, p. 45) agree that a statewide rate is preferable to multiple zone rates. In my direct testimony at page 13, I explained that, based on BellSouth's cost study filed with the testimony of Daonne Caldwell, the new statewide average monthly base rate would be $17.23. Taking the statewide average UNE-P rate of $15.12, plus local usage of $1.93 as used by Mr. Wood, results in a $17.05 rate. Although BellSouth disagrees that UNE rates and costs are an appropriate benchmark (see rebuttal testimony of Daonne Caldwell at pages 4-5), BellSouth's proposed new monthly base rate is comparable to the rate computed using Mr. Wood's analysis. Also, as stated in my direct testimony, the $17.23 rate is not out of line with the PTAS rates in the other BellSouth states.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

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MS. MAYS: The witness is available for cross.

COMMISSIONER DEASON: Mr. Tobin.

MR. TOBIN: Thank you, Commissioner.

CROSS EXAMINATION

BY MR. TOBIN:

Q Good morning, Ms. Blake.

A Good morning.

Q In your testimony, specifically at -- in your direct testimony at Page 3 on Line 10, you testified that on April 10th, 1997 a coalition of regional Bell operating companies requested that the FCC grant a limited waiver of their obligations to certify that PTAS rates were compliant with the new services test; is that correct?

A Yes, that's correct.

Q Was the purpose of that waiver request to ensure that Bell operating companies receive dial-around compensation for completed calls originating from their payphones?

A I believe the letter basically speaks for itself, but the intent was to make sure our payphone rates were compliant with the new services test and get that determination from the commissions.

Q It wasn't to collect dial-around compensation?

A Well, that was a by-product of the order. Payphone orders was a -- we were able to get the per-call compensation on our payphone subsidiary phones as well.

Q And you'd agree that the FCC granted that waiver request?

A Yes, they did.

Q Did BellSouth, in fact, collect dial-around compensation as a result of the waiver order?

A I was not involved in that aspect of our business. I would assume we collected per-call compensation based as we were allowed to.

Q Do you have any idea how much dial-around compensation BellSouth has received since April 15th, 1997?

A I would have no idea of that information.

Q You couldn't estimate that?

A I could not even venture a guess.

Q Okay. On Page 8 of your direct testimony, you testified beginning at Line 1 that as a result of the FCC second Wisconsin order, a Bell operating company must reduce the monthly line charge determined under the new services test by the amount of the applicable federal tariff SLC, which is also, of course, known as the EUCL; is that correct?

A Yes, that's what the FCC stated in the Wisconsin order.

Q Did BellSouth file a revision to its general subscriber service tariff that reduced the Florida payphone line rate by the EUCL?

A We did in November of last year.

Q What date was that effective?

A That was effective I believe November 11th. It's attached to my testimony. November 11th, 2003. Or it's Exhibit 1 to my direct -- November 10th, excuse me.

Q Okay. And did BellSouth voluntarily file the tariff revision?

A In November, yes, sir.

Q And what date did you file your direct testimony in this docket?

A I believe it was November 17th.

Q Okay. Did the filing of the testimony in this docket have any bearing on BellSouth's decision to file that tariff amendment?

A I don't believe so. The reason for filing that tariff, we had attempted to negotiate with the FPTA on a settlement, and those settlement discussions, you know, did not come to fruition or nothing was -- an agreement was not reached. So we knew this case was coming to a hearing and proceeding in that regard, so we went ahead and filed our tariff to reduce by the EUCL.

Q So the FPTA's filing of the petition in this docket did have a bearing on the filing of that tariff amendment?

A It was the FPTA's petition and the resulting Wisconsin order and the Circuit Court's affirmation of those orders and the breakdown of settlement discussions and negotiations with the FPTA. All that culminated together to get us where we are today.

Q Okay. In your rebuttal testimony on Page 3 at Line 19, you testified that BellSouth was and is not required to automatically change its rates as a result of the Wisconsin order; is that correct?

A Yes, that is correct. Our tariffs are -- the rates we charge our PTAS customers are the rates the Commission has approved and are in effect and we're authorized to charge and required to charge.

Q And in your rebuttal testimony at Page 4, Line 4, you further testified that a BOC is not obligated to voluntarily change rates; such review of rates must be initiated by the affected party or by the Commission itself. Thus, rates are changed only upon a proper review of all necessary evidence and documentation by the Commission; is that correct?

A Yes, that is correct.

Q If the FPTA had not filed its petition and assuming further that the Commission did not initiate a review of BellSouth PTAS rates, would BellSouth have continued charging PSPs the same rates prior to the tariff amendment?

A I can't supposed what exactly would have happened if the certain events hadn't, you know, been triggered. I mean, the action that we took is the action we took to lower the EUCL or reduce the PTAS rates by the EUCL. Again, there were negotiation discussions with the FPTA. We could not reach an agreement in those discussions, and we are before you today in this matter.

Q But you did testify that, just to confirm, that the reason you filed the amendment was the filing the petition and the negotiations with BellSouth -- I mean, with the FPTA that fell apart?

A That was that led up to that event, yes. I mean, it was a culmination of many events that led to that. And the -- I guess the Supreme Court, again I'm not an attorney, but the certiorari, you know, did not -- it wasn't going any further than where it had gone through the courts, so the determination was made to file that.

Q Okay. Thank you. You've also testified that the cost study sponsored by Ms. Caldwell shows that BellSouth's cost for PTAS, including overhead loadings, is $24.36 on a statewide average basis, and, of course, that 24.36 includes EUCL as previously testified; is that correct?

A Yes, it does.

Q Okay. And based on your testimony, BellSouth will, in fact, collect 24.36 per month from any payphone service provider that utilizes BellSouth to provide PTAS if this Commission were to adopt BellSouth's position; is that correct?

A Yes. Our proposed tariff rate would be a statewide rate that comprise of a state-approved tariff rate of the 17.23

and then the FCC-authorized EUCL charge of 7.13 for that total of 24.36.

Q Could you please refer to your Exhibit KKB-3 that's attached to your rebuttal testimony?

A Yes, I've got it.

Q Does that exhibit describe the current rates that BellSouth is charging for PTAS in the state of Florida broken out by 12 rate groups?

A Yes, it does. The, I guess, top row of numbers, the 12.67 in Rate Group 1 up to 21.97 in Rate Group 12, again adding the 7.13 from the FCC tariff, gets you to the range of 19.80 up to 29.10 from Rate Groups 1 through 12.

Q And how does the 29.10 from Rate Group 12 compare to the proposed rate by BellSouth in this proceeding?

A I'm sorry, can you say that again?

Q Yeah. Can you please compare the cost for Rate Group 12 to the payphone service provider with the cost proposed by BellSouth in this proceeding?

A It's basically a comparison of the 21.97, which is a Rate Group 12 rate versus a statewide rate. The comparable number will be your 17.23, so it's $3.

Q Would you agree that the payphone service provider has to pay BellSouth an aggregate rate of 29.10 after considering the EUCL in Rate Group 12?

A Yes, relative to the 24.36 in our proposed rate.

Q Right. Okay. And BellSouth is currently charging these rates; correct?

A Those are the rates approved in our tariff that's on file with the Commission, yes.

Q Okay. Just to clarify, the 29.10 includes $7.13 for EUCL; that's correct?

A Yes, that's what's stated here on my exhibit.

Q Okay. Also, on your exhibit, you show a $17.05 charge for UNE-P services and that's a statewide average; is that correct?

A Yes. That is comprised of the loop, the UNE-P loop, which is the 13.95 statewide average, along with the 1.17 for the port, and then we just utilized Mr. Wood's $1.93 estimated usage for that total of 17.05.

Q And does BellSouth charge the CLECs that it sells the UNE-P any EUCL? Is there an extra $7.13 charge on that?

A No. End user -- the FCC's end user line charge does not apply to wholesale customers such as CLECs, and it's not appropriate to charge the EUCL. They may in turn charge that to their PTAS provider that they're reselling or providing their service to.

Q So if we were to compare the EUCL rate to the rate that BellSouth proposes in this proceeding, the UNE-P rate compared, excuse me, to the PTAS rate, BellSouth would collect, including the EUCL, from the payphone service provider if this

Commission accepted its proposal $24.36, and it collects from a UNE-P provider $17.05; is that correct?

A Yes, that is correct. But again, we're talking apples and oranges here as far as the CLECs are a wholesale market, a PTAS provider is based on our general subscriber services tariff to retail customers. Again, CLECs can choose to buy our UNE-P. Just as was discussed earlier, the FPTA could be a CLEC and choose to buy that 17.05 rate, estimated rate, and provide that service to their membership and be afforded that opportunity to provide a lower priced service than our retail service. And again, CLECs could also resell that 24.36 rate or basically the 17.23 rate at a wholesale discount of about 17 percent. So those are options available to CLECs.

Q Your testimony was that CLECs could resell the 17.23 rate?

A Yes. Many CLECs do resell our PTAS service. And I think Mr. Renard indicated that there's quite a few providers that are not obtaining their service from BellSouth any longer.

Q Why did you put in the boxes to compare the 17.05 rate in your exhibit to the 17.23 rate?

A It was just showing the difference of the opportunities available to payphone providers in order to obtain the service from a CLEC at that price and the margins available to it versus what the direct cost BellSouth is recovering through our PTAS rate.

Q Is it your testimony that CLECs are reselling PTAS rates at $17.23?

A I'm not indicating -- I mean, they have the opportunity to -- actually, they would resell it at a discount off of that 17.23 that's available to them as a CLEC through our resale offering, or they could have the option to provide it via UNEs to the PTAS market.

Q If they resold PTAS service, would you charge them the end user common line charge as well?

A Yes.

Q Okay.

A All CLECs on resale, regardless of whether it's PTAS or residential or business, we do charge the EUCL charge on a resold line.

Q So then the CLEC would have to pay you 24.36, not 17.23.

A The CLEC would pay 17.23 less the 17 percent business discount plus the 7.13.

Q Okay. Thank you. Please refer to the table you include in your testimony on Page 8, your rebuttal testimony, excuse me. Does this table refer to the number of BellSouth PTAS lines after the new services test rate changes?

A No, it does not. This just includes the non-BellSouth public communications payphones.

Q Does it include lines that were resold either by resale or under UNE-P to payphone service providers in those states?

A No. This is just the retail, what we would charge, again like Mr. Renard said, a majority of the CLEC -- or the payphone providers are getting their services from CLECs, and so we're basically in these states down to, you know, 3,800 in South Carolina of what we're providing our tariffed PTAS rate in those states.

Q So you really have no idea how many payphone lines there are because you don't know how many CLECs are providing services to payphone service providers?

A Yes, we have that data.

Q You do?

A Uh-huh.

Q And how many CLEC lines are there in South Carolina?

A For South Carolina, I'm sorry, I don't have that data. We have another chart that's in my testimony relative to Florida that identifies the wholesale and the retail split for PTAS.

Q Do you have that information for Tennessee?

A No, I don't have any of the other states' specific wholesale data with me.

Q So you don't have that for Louisiana either?

A No, I do not, like I said.

Q So this really is not the number of lines in those states as set forth in your table, it's really the number of BellSouth retail PTAS lines in those states.

A Which is what the title says, "PTAS Retail Line Trends," which is the retail service we provide to PTAS providers in these states.

Q Okay. I just wanted to clarify that. Thank you.

A Yeah, it's not the wholesale side that we may provide to a CLEC to resell or provide the service directly to a PTAS.

Q Has BellSouth completed its exit from the payphone business?

A Yes, we have.

Q When was that exit completed?

A I believe in the March -- in the month of March it was completed. All the access lines, my understanding, have been removed. There may be some equipment, you know, enclosures or sets, that may still have not been removed, but the entire exit has been effectuated.

Q So although there's an enclosure and possibly a phone, it's disconnected, you're not providing PTAS service.

A That is correct.

Q And that's in the entire BellSouth region, including Florida?

A Yes, including Florida, all nine states.

Q Does BellSouth have any financial interest in a wireless provider?

A Yes, we do, with Cingular.

Q Do you know what that interest is?

MS. MAYS: Commissioner Deason, I would object as to not being relevant.

COMMISSIONER DEASON: There's been an objection as to relevancy. Do you care to respond to the objection?

MR. TOBIN: I'm sorry. I would like her to respond, please.

COMMISSIONER DEASON: I'm sorry. You need to respond to the objection.

MR. TOBIN: Oh, I think it's very relevant in this case particularly BellSouth has exited the payphone business. Obviously I believe BellSouth would get a financial benefit from the switch of end users and consumers in Florida from payphones now to wireless, and I believe they have an inherent benefit from doing that.

COMMISSIONER DEASON: I'll let the question stand. You may answer the question.

THE WITNESS: My understanding is we have 40 percent share of Cingular and SBC has 60 percent.

BY MR. TOBIN:

Q Would BellSouth receive any financial benefit if there were fewer payphones deployed in Florida?

A I'm not in a position to answer that question if you're asking it from Cingular or even within BellSouth what the financial benefit of having -- not having payphones.

Q Let me ask it a different way. If we assumed that there were less payphones and consumers felt forced to buy or to acquire cell phone service from Cingular, would BellSouth receive any financial benefit from that switch?

A I think anytime a provider's demand is increased, be it for whatever reason, there's some financial benefit to be gained, but I don't know that there is a direct correlation between the fact that there's fewer payphones that means it's going to stimulate wireless; you know, it could.

Q Do you believe that there is a trend in this country for people to substitute payphone calling with wireless calling?

A I don't know that I'm in a position to speculate one way or the other. I mean, just from my personal observation, I don't think I would stop and use a payphone if I had a cell phone obviously. And I think cell phone use is increasing. So I think just -- I don't know that the fact that there's more cellular phones makes it, you know, less need for the payphones. Again, if there's that base of customers that still needs payphones that don't have a wireless or a landline, then they're the need.

Q Do you believe that wireless calling is increasing while payphone calling is decreasing in this country?

A I don't know so much that payphone calling is decreasing. It appears from our numbers that the number of payphones that we're providing service to or through the PTAS market has decreased. And just from information I've read in the industry news is, you know, wireless usage is increasing.

Q Do you consider yourself to be an expert in the telecommunications industry?

A Oh, that's a loaded question. Expert. I've got a broad base of knowledge from my 22, 23 years of service with BellSouth, so.

Q Are you aware of what happened when people tried to use wireless phones after the tragedy that occurred on September 11th in lower Manhattan?

MS. MAYS: I'm just going to have to object again. I believe we're going way beyond the scope of this case. It's not relevant.

MR. TOBIN: I believe it's very relevant. I think the use of payphones after tragedies such as September 11th and the inability of people to use wireless is very relevant to this proceeding where we're trying to get this Commission to follow the federal mandate of widespread deployment of payphones for the benefit of the general public.

COMMISSIONER DEASON: Mr. Tobin, I've allowed you some leeway here in pursuing this, but I think that I agree with the objection. We're getting a little far afield at this point. So I'm going to ask you to move on to another line.

MR. TOBIN: Okay.

BY MR. TOBIN:

Q Have you seen any industry news describing what payphone service providers did after the 9/11 tragedy or what happened when the blackout occurred in the Northeast?

COMMISSIONER DEASON: Mr. Tobin, I'm going to ask you to move on to a different line.

MR. TOBIN: Okay. That's all I have, Commissioner.

COMMISSIONER DEASON: Staff.

MR. FORDHAM: No questions, Commissioner.

COMMISSIONER DEASON: Commissioners.

Redirect.

MS. MAYS: Just one question, please, Commissioner.

REDIRECT EXAMINATION

BY MS. MAYS:

Q Ms. Blake, do you recall the line of questions where Mr. Tobin was asking you to compare the Rate Group 12 current tariffed rate to the total costs we have submitted in this case?

A Yes, I do.

Q And if you compare the current rate in Rate Groups 1 through 5, can you make that same comparison, please?

A Yes. Again, it's a difference of a dollar. The Rate Groups 1 through 5, the rate would go up. I mean, there's an -- to our statewide rate of the 17.23 up through Rate Group 5, the rate is 16.72. So it is lower than the rate that we're proposing.

MS. MAYS: Thank you. Nothing else.

COMMISSIONER DEASON: Okay. Exhibits.

MS. MAYS: Yes, Commissioner. If we could have Exhibits -- I believe it's 10 and 11 -- I'm sorry, 11 and 12 admitted into the record.

COMMISSIONER DEASON: Without objection, show that Exhibits 11 and 12 are admitted.

(Exhibits 11 and 12 admitted into the record.)

COMMISSIONER DEASON: You may be excused, Ms. Blake.

(Witness excused.)

MS. WHITE: BellSouth would call Mr. Shell. Mr. Shell has adopted the direct and rebuttal testimony of Ms. Caldwell.

WILLIAM BERNARD SHELL

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

DIRECT EXAMINATION

BY MS. WHITE:

Q Mr. Shell, could you please state your name and address for the record.

A Yes. My name is William Bernard Shell. My address is 675 West Peachtree Street, Atlanta, Georgia.

Q For whom are you employed and in what capacity?

A I'm employed by BellSouth Telecommunications as a manager in the finance department.

Q Did you cause to be prefiled -- or did you cause to adopt in this case prefiled direct testimony filed by Daonne Caldwell consisting of 11 pages?

A Yes.

Q With the exception of the identifying information, do you have any changes to that testimony?

A No, I do not.

Q If I was to ask you the questions that are contained in that direct testimony, again without the identifying information, would your answers be the same?

A They would.

Q And did you also cause to adopt in this case rebuttal testimony consisting of six pages?

A Yes.

Q And except for the identifying information, do you have any changes to that testimony?

A No, I do not.

Q If I were to ask you the questions in that rebuttal testimony today, would your answers be the same?

A Yes.

MS. WHITE: I would ask that the direct and rebuttal testimony filed by Daonne Caldwell and adopted by Mr. Shell be moved into the record as though read.

COMMISSIONER DEASON: Without objection, it shall be so inserted.

BY MS. WHITE:

Q And there were three exhibits attached to Ms. Caldwell's direct testimony, DDC-1, DDC-2, and DDC-3; is that correct?

A That's correct.

Q And do you have any changes to those exhibits?

A No, I do not.

Q And is it correct that DDC-1 and DDC-2 are confidential exhibits?

A Yes, they are.

MS. WHITE: I would ask that the exhibits attached to Ms. Caldwell's direct testimony be identified as the next exhibit.

COMMISSIONER DEASON: Let me ask a question. Would it be beneficial to identify the confidential exhibits separately?

MS. WHITE: That probably would be a good idea.

COMMISSIONER DEASON: Okay. That will be DDC-1 and 2, that will be identified as composite Exhibit 13, and then DDC-3 will be identified as Exhibit 14.

MS. WHITE: Thank you.

(Exhibits 13 and 14 marked for identification.)

BELLSOUTH TELECOMMUNICATIONS, INC.

DIRECT TESTIMONY OF D. DAONNE CALDWELL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030300-TP

NOVEMBER 17, 2003

Q. PLEASE STATE YOUR NAME, ADDRESS AND OCCUPATION.

A. My name is D. Daonne Caldwell. My business address is 675 W. Peachtree St., N.E., Atlanta, Georgia. I am a Director in the Finance Department of BellSouth Telecommunications, Inc. (hereinafter referred to as "BellSouth"). My area of responsibility relates to the development of economic costs.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE.

A. I attended the University of Mississippi, graduating with a Master of Science Degree in mathematics. I have attended numerous Bell Communications Research, Inc. ("Bellcore") courses and outside seminars relating to service cost studies and economic principles.

My initial employment was with South Central Bell in 1976 in the Tupelo, Mississippi, Engineering Department where I was responsible for Outside Plant Planning. In 1983, I transferred to BellSouth Services, Inc. in Birmingham, Alabama, and was responsible for the Centralized Results System Database. I moved to the Pricing and Economics Department in 1984 where I developed methodology for service cost studies until 1986 when I accepted a rotational assignment with Bellcore. While at Bellcore, I was responsible for development and instruction of the Service Cost Studies Curriculum including courses, such as, "Concepts of Service Cost Studies", "Network Service Costs", "Nonrecurring Costs", and "Cost Studies for New Technologies". In 1990, I returned to BellSouth and was appointed to a position in the cost organization, now a part of the Finance Department, with the responsibility of managing the development of cost studies for transport facilities, both loop and interoffice. My current responsibilities encompass testifying in cost-related dockets, cost methodology development, and the coordination of cost study filings.

Q. HAVE YOU HAD ANY PREVIOUS EXPERIENCE IN TESTIFYING?

A. Yes. I have testified in arbitration hearings, generic cost dockets, and Universal Service Fund proceedings, providing evidence on cost-related issues before the state public service commissions in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, and South Carolina, the Tennessee Regulatory Authority, and the Utilities Commission in North Carolina.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to describe the cost methodology used in the cost study for Public Telephone Access Service ("PTAS") in Florida. Exhibit DDC-1 attached to this testimony is the cost study in electronic (CD-ROM) and paper format[1]. Since payphone service is a competitive offering, the costs are considered proprietary. Additionally, the cost studies include demand projections, vendor-specific data, and discount rates that BellSouth considers proprietary. Exhibit DDC-2 provides a summary of the cost results.

Q. WHY WERE THE COST STUDIES PERFORMED?

A. BellSouth reviewed its PTAS rates in connection with this proceeding and in light of the FCC's guidance as set forth in the *Wisconsin Order*.[2]

Q. WITH RESPECT TO COST DEVELOPMENT, WHAT WAS THE IMPACT OF THE FCC'S ORDER?

A. The underlying cost methodology that was used previously in support of payphone rates did not change. The FCC ruled that: "States often use 'total service long run incremental cost' (TSLRIC) methodology in setting rates for intrastate services. It is consistent with the *Local Competition Order* for a state to use its accustomed TSLRIC methodology (or another forward-looking methodology) to develop the direct costs of payphone line service costs." (*Wisconsin Order*, ¶49)

Payphone service has been given a "quasi-retail" status where cost-based rates are

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[1] The entire cost study has not been printed, however, all input and output files are contained on the CD.

[2] *See* Memorandum Opinion and Order, *In the Matter of Wisconsin Public Service Commission*, Bureau/CPD No. 00-01, Order No. FCC 02-25, 17 FCC Rcd. 2051 (rel. January 31, 2002) ("*Wisconsin Order*").

established to "promote competition among payphone service providers and promote the widespread deployment of payphone service to the benefit of the general public." (*Wisconsin Order*, ¶2) These cost-based rates, per the FCC's Order, would be equal to the TSLRIC plus overhead loadings. Traditionally, BellSouth's retail cost studies do not attempt to allocate shared and common costs nor calculate overhead loadings. The FCC's Order, however, required consideration of these types of costs and outlined "a flexible approach to calculating BOCs' overhead allocation for intrastate payphone line rates." (*Wisconsin Order*, ¶58)

Q. WHAT COST METHODOLOGY IS USED IN THE COST STUDY FILED IN THIS PROCEEDING?

A. Consistent with the FCC's Order, BellSouth utilized TSLRIC methodology. Additionally, this Commission has previously defined the cost standard to be used in preparing cost support for retail services as TSLRIC based Section 364.3381 (2), Florida Statutes. Specifically, the Commission has defined TSLRIC as "the costs to the firm, both volume sensitive and volume insensitive, that will be avoided by discontinuing, or incurred by offering an entire product or service, holding all other products or services offered by the firm constant." (Commission Order PSC-96-1579-FOF-TP, page 25) This was the methodology adhered to by BellSouth. In fact, these are the same types of incremental cost studies that BellSouth has filed in tariff filings and other proceedings before this Commission.

The models that were used to develop the recurring costs for PTAS have been filed with this Commission in Docket No. 990649-TP, conducted to establish cost-based rates for unbundled network elements ("UNEs") and interconnection and in Docket No. 030869-TL, initiated to review BellSouth's proposed rate rebalancing effort. Specifically the BSTLM© was used to develop the loop costs based on payphone locations; the SST© was used for switch-related costs; and the BellSouth Cost Calculator© converted investments into recurring costs. Furthermore, the factors (with the exception of the overhead loading factor) that were used are consistent with those currently under review in Docket No. 030869-TL.

As this Commission is aware, the BSTLM is a proxy model that reflects the least cost, most efficient network configuration in accordance with the FCC's pricing rules for UNEs. Thus, costs based upon the hypothetical network produced by the BSTLM, a network in which only the minimum cable route is considered and most-technically advanced equipment is placed, result in an understatement of the real-world loop-related costs. In other words, the costs BellSouth actually incurs, even from a forward-looking perspective, exceed those produced by the BSTLM.

Q. PLEASE EXPLAIN THE TSLRIC METHODOLOGY IN MORE DETAIL.

A. TSLRIC methodology uses incremental costing techniques to identify the additional costs associated with providing a service. Incremental costs are based on cost causation and include all of the costs directly generated by expanding

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production, or alternatively, costs that would be saved if the production levels were reduced. The production unit could be an entire service, or a unit of a service. For PTAS, if the level of production increased (i.e., the demand increases), additional costs would be incurred for loops, switch terminations, and interoffice connections, i.e. the physical network components of the service.

Direct costs may be volume sensitive and/or volume insensitive. Volume sensitive costs are considered to be Long Run Incremental Costs ("LRIC"). LRIC identifies the price floor, i.e. the level below which rates cannot be set and still cover their direct costs. TSLRIC includes both volume sensitive and volume insensitive costs. TSLRIC studies are the basis for testing for cross-subsidization. Additionally, long run incremental cost studies ensure that the time period studied is sufficient to capture all forward-looking costs affected by the business decision being studied. Another corollary to the long-run principle is that all costs are variable in the long run. The implication here is that all resources will exhaust and new purchases must be made to meet demand for the service or product.

Q. YOU STATED THAT THE FCC ALLOWED "A FLEXIBLE APPROACH" TO DETERMINING OVERHEADS. PLEASE EXPLAIN HOW BELLSOUTH DETERMINED ITS OVERHEAD FACTOR.

A. While TSLRIC methodology recognizes only the direct, forward-looking, long-run incremental cost of providing a service, BellSouth incurs substantial costs beyond that in order to function effectively – shared and common costs or "overheads". A shared cost is incurred when producing two or more services but is not a direct cost caused uniquely by any one of those services. Common costs are costs that are incurred by a firm to produce all of its services, but cannot be directly attributed to (i.e., are not caused uniquely by) any single service or service combination that includes fewer than all of the services provided. Examples of overheads are executive, accounting, vendor licensing fees, and legal costs. Such costs do not change with changes in the firm's service mix or volume of output. Thus, these costs are not included at the individual service level since only direct costs are considered in a TSLRIC analysis.

Shared and common costs, however, are true costs to the company and should not be ignored. In fact, if a company were to consistently set their rates at TSLRIC, the company would soon fail. Thus, in setting rates, consideration must be given to a reasonable level of contribution toward the overhead costs of the corporation.

In its order, the FCC described several options with respect to the development of an overhead factor. BellSouth chose to "use ARMIS data relating to the plant categories used to provide payphone services in calculating an upper limit on overhead loadings." (*Wisconsin Order*, ¶54) As the FCC explained, this is consistent with the FCC's evaluation of the reasonableness of Open Network Architecture ("ONA") tariffs. BellSouth's overhead calculations are contained in Exhibit DDC-1.

Q. DESCRIBE THE UNDERLYING NETWORK COMPONENTS OF PTAS.

A. PTAS is comprised of an exchange line, i.e., a connection from the payphone location to a central office, provided by BellSouth at the request of the payphone provider for telecommunications use by the general public at accessible locations. In order to allow a payphone customer access to the network, all of the following network components are required: a loop, a physical point of presence in the switch (termination), and interoffice connections. In order to make and complete calls, the payphone user also utilizes components of BellSouth's signaling system 7 ("SS7") network, tandem switches, and end-office switch functionality. Additionally, PTAS costs reflect costs associated with blocking and screening functionalities of the switch. Costs associated with these pieces of equipment are directly caused by the payphone provider's request for this service and thus, are appropriately included in the cost analyses conducted by BellSouth. Exhibit DDC-3 illustrates the basic network components considered in the cost study.

The local loop is the facility that extends from the main distributing frame ("MDF") in the BellSouth central office to the customer's premises. The loop costs reflect the MDF, all the outside plant components required for transmission, such as copper cable, fiber cable, electronic equipment, poles, conduit, etc., as well as all cable up to and including the connection at the customer's premises, the network interface device ("NID").

The line termination is the facility used to connect the local loop to a BellSouth end office switch. The line termination costs include the jumper to the switch and the non-traffic sensitive termination in the switch, for example the line card in the DMS100 switch.

Usage costs include the traffic sensitive switching cost of the end office for both intra-office and inter-office calls. Additionally, tandem switching, interoffice transport, and signaling costs are considered in the flat-rate usage costs considered in Exhibit DDC-1. Customer usage characteristics specific to payphone users (e.g., calls per month and minutes per call) were used to convert "per minute of use" elements to a flat-rate monthly cost.

Central office blocking and screening is a feature in the switch required for PTAS. Blocking and screening costs are both recurring and nonrecurring. The recurring costs are the incremental costs over and above a Plain Old Telephone Service ("POTS") call for using the switch processor and the Right-to-Use ("RTU") fees paid to vendors. The nonrecurring costs are the labor costs for performing the translations in the switch.

Q. HOW DID BELLSOUTH CALCULATE COSTS THAT ARE SPECIFIC TO PTAS?

A. As I mentioned previously, only PTAS locations were included in the BSTLM's output calculation. This does not mean that BellSouth ignored economies of scale by considering only a limited number of customer locations. In fact, all single line residence and single line business locations were considered in developing the equipment and investment requirements for the total narrowband network. However, only loops serving PTAS locations were included in the output report that generated the loop investments. Thus, the loop length, a cost driver, was specific to PTAS loops.

Another cost that is PTAS-specific is the flat rate usage. Customer usage characteristics – calls per month and minutes per call – reflect coin customers. The central office blocking and screening costs are based upon busy hour usage that is consistent with usage characteristics.

Central office termination costs reflect a line side, non-ISDN termination, appropriate for PTAS.

Q. WHAT TYPES OF COSTS ARE REFLECTED IN THE COST STUDIES?

A. Cost studies normally reflect both recurring and nonrecurring costs. Recurring costs include both capital and non-capital costs. Capital costs are associated with the purchase of an item of plant, i.e., an investment. In addition to the material price of the equipment, capitalized labor is also considered part of the investment in accordance with Part 32 of the FCC's Code of Federal Regulations which states: "In accounting for construction costs, the utility shall charge to the telephone plant accounts, all direct and indirect costs." Included in the direct and indirect costs are the "wages and expenses of employees directly engaged in or in direct charge of construction work." Thus, BellSouth has appropriately included these labor-related costs (construction costs) in the calculation of the investment; i.e., as part of the capitalized plant account. BellSouth considers these labor-related costs in its study through the use of in-plant factors that augment the material price to recognize the associated labor and incidental material required to install the piece of equipment. By including these costs as part of the investment, they are recovered over the useful life of the plant. The costs associated with the investment (material plus installation costs) are expressed on a recurring (monthly) basis and are comprised of capital costs (depreciation, cost of money, and income tax) and operating expenses (plant-specific expenses, such as maintenance, ad valorem taxes and gross receipts taxes).

Nonrecurring costs, on the other hand, reflect activities associated with provisioning the service after the equipment has been installed. In this case, translations to activate blocking and screening capabilities are preformed after the switch has been installed and thus, are nonrecurring in nature. These nonrecurring costs have been converted to a recurring cost based on a forecast of lines and an estimated location life.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

BELLSOUTH TELECOMMUNICATIONS, INC.
REBUTTAL TESTIMONY OF D. DAONNE CALDWELL
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030300-TP
DECEMBER 19, 2003

Q. PLEASE STATE YOUR NAME, ADDRESS AND OCCUPATION.

A. My name is D. Daonne Caldwell. My business address is 675 W. Peachtree St., N.E., Atlanta, Georgia. I am a Director in the Finance Department of BellSouth Telecommunications, Inc. (hereinafter referred to as "BellSouth"). My area of responsibility relates to economic costs.

Q. ARE YOU THE SAME D. DAONNE CALDWELL WHO FILED DIRECT TESTIMONY IN THIS DOCKET?

A. Yes, I filed direct testimony on November 17, 2003.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to respond to assertions made by the Florida Public Telecommunications Association ("FPTA") witness Mr. Don J. Wood.

Q. ON PAGE 8, MR. WOOD STATES THAT "BECAUSE ALL AVAILABLE EVIDENCE SUGGESTS THAT BELLSOUTH'S COSTS HAVE TRENDED

DOWNWARD OVER TIME" BELLSOUTH'S RATES WERE NONCOMPLIANT IMMEDIATELY AFTER THE COMMISSION'S INITIAL ORDER CONCERNING PAYPHONES AND THE NEW SERVICES TEST. PLEASE COMMENT.

A. First, when BellSouth conducts a cost study, the study period is longer than one-year. The use of inflation/deflation factors trends material prices and associated expenses over the study period (usually three years). Second, as this Commission is aware, cost inputs are in constant flux with cost results both increasing and decreasing. The study period is intended to account for these changes.

Additionally, as Mr. Wood is well aware, when the Commission ruled that BellSouth passed the new services test, the rate was not set at cost. Rather the Commission accepted a rate that allowed for contribution over and above the Total Service Long Run Incremental Cost ("TSLRIC"), a policy that was appropriate at that time. Thus, the fact that costs may have changed due to a passage of time is not the issue in this proceeding. Rather the question that must be resolved is what is the going-forward rate for payphones. For consideration in setting this rate, BellSouth filed a current payphone cost study attached to my direct testimony (Exhibit DDC-1). The study period for that study is 2003 to 2005 and contains current relevant cost inputs.

Q. MR. WOOD EMPHASIZES THE FCC'S RULING THAT COST STUDY INPUTS AND ASSUMPTIONS SHOULD BE CONSISTENT WITH COST INPUTS "USED IN COMPUTING RATES FOR COMPARABLE

SERVICES TO COMPETITORS." (PAGE 18) DO BELLSOUTH'S COST STUDIES COMPORT WITH THIS RULING?

A. Yes. The inputs and assumptions in BellSouth's cost study are consistent with those that would have been used to support a TSLRIC analysis of a service. Thus, the studies reflect the forward-looking, long-run incremental costs that BellSouth incurs in providing payphone lines to companies, e.g. the FPTA, and reflect the unique characteristics of the service under study.

Q. ON PAGE 19, MR. WOOD OUTLINES THREE DIFFERENT APPROACHES AUTHORIZED BY THE FCC TO DEVELOP OVERHEAD LOADINGS. IS BELLSOUTH'S CALCULATION COMPLIANT WITH THE FCC'S DIRECTIVE?

A. Yes. As I described in my direct testimony, BellSouth chose to "use ARMIS data relating to the plant categories used to provide payphone services in calculating an upper limit on overhead loadings." (*Wisconsin Order*, ¶54) As the FCC explained, this is consistent with the FCC's evaluation of the reasonableness of Open Network Architecture ("ONA") tariffs.

Q. MR. WOOD CLAIMS THAT "DIRECT COSTS MUST BE ADJUSTED TO ACCOUNT FOR THE APPLICATION OF FEDERAL CHARGES, SUCH AS THE SLC, IN ORDER TO AVOID A DOUBLE-RECOVERY OF COSTS." (PAGE 20) IS HE CORRECT?

A. No. First, let me emphasize that this is a rate issue dealing with cost recovery and thus, should not be confused with cost development as Mr. Wood has done. In fact, if one were to follow Mr. Wood's proposal, costs would be understated. The following simple example illustrates this:

Wood Method	
Direct Cost	$20.00
SLC Charge	$7.00
Direct - SLC	$13.00
Overhead Factor	50%
Rate	$19.50

Correct Method	
Direct Cost	$20.00
Overhead Factor	50%
Total Cost	$30.00
SLC Charge	$7.00
Rate	$23.00
Understatement	**-$3.50**

Q. MR. WOOD CLAIMS THAT "UNE COSTS AND RATES ARE AN APPROPRIATE BENCHMARK FOR EVALUATING THE LEVEL OF PAYPHONE ACCESS SERVICE RATES." (PAGE 29, LINES 16-17) IS HE CORRECT?

A. No. The FCC's current Total Element Long Run Incremental Cost ("TELRIC") methodology used in setting rates for unbundled network elements ("UNEs") is encumbered by additional constraints not required for a TSLRIC analysis. The use of a hypothetical network and most efficient, least-cost provider requirements have distorted the TELRIC results and understate the true forward-looking costs of the incumbents. These distortions are most evident in the calculation of loop elements. Additionally, the Commission has made adjustments (e.g., to the cost of capital, depreciation, placing, and splicing inputs) to the TELRIC economic costs proposed by BellSouth that further understate the actual costs BellSouth incurs. Thus, Mr. Wood's Exhibit DJW-2, which reportedly compares current rates to UNE rates, is meaningless.

Q. HAS BELLSOUTH "PRESENTED CONFLICTING DIRECT COST RESULTS FOR CERTAIN ELEMENTS AND HAS NOT PRESENTED INFORMATION THAT DEMONSTRATES THE REASONABLENESS OF THE EXISTING LEVEL OF OVERHEAD LOADINGS" AS MR. WOOD CLAIMS ON PAGE 31?

A. No. I find this claim unsupported by any facts or examples in his testimony. Thus, I have no way to respond to his allegation of "conflicting direct cost results." BellSouth's cost study filed with my direct testimony on November 17, 2003 is fully documented and demonstrates the calculation of the overhead factor. (See Section 3, Bates Stamped pages 89-93 of Exhibit DDC-1)

Q. ON PAGES 38-39 MR. WOOD DISCUSSES USAGE CALCULATIONS. PLEASE DESCRIBE HOW BELLSOUTH DETERMINED THE FLAT-RATE USAGE REFLECTED IN THE FILED COST STUDIES.

A. As discussed in my direct testimony, customer usage characteristics specific to payphone users (e.g., calls per month and minutes per call) were used to convert "per minute of use" elements to a flat-rate monthly cost. This data came from data extracts of measured payphone lines dated January-April 2002. Thus, Mr. Wood's concern that BellSouth potentially used "business usage rates" is unfounded. Additionally, let me note that the amount of usage (504 minutes per month) used by BellSouth is substantially lower than the 900 minutes reflected in Mr. Wood's Exhibit DJW-2.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

MS. WHITE: And Mr. Shell is available for cross-examination.

COMMISSIONER DEASON: Okay. Mr. Tobin.

MR. TOBIN: Thank you.

CROSS EXAMINATION

BY MR. TOBIN:

Q Mr. Shell, please refer to your direct testimony at Page 3, Lines 8 to 9. In that testimony, you indicate that BellSouth has reviewed its PTAS rates in connection with this proceeding and in light of the FCC's guidance as set forth in the Wisconsin order. Would BellSouth have reviewed its current Florida PTAS rates if FPTA had not filed its petition in this proceeding?

A I don't know if we would. BellSouth typically would not do a cost study unless there's some requirement to do so either from internal product managers or state commission orders or so forth. So it's not a standard process to review something without some impetus for it.

Q Okay. Mr. Shell, could you please refer to your testimony on Page 3 also at Line 21 and following through to Line 3 on Page 4. You indicate that payphone service has been given a, quote, quasi-retail status, close quote. Can you tell me what that means?

A What that means is if you refer back to the FCC's First Report and Order, Paragraph 876 specifically states that payphone providers are not wholesale providers. They are to be treated as retail providers of service similar to business. However, they did go on to state that, you know, for appropriate reasons that there should be a reasonable, just and reasonable overhead associated with it. So it's not exactly retail in that you don't set a rate based on the cost at a level that you choose, it's based on a reasonable contribution. So that's why the quasi-retail.

Q I'm sorry, you said you don't set the rate at a level of cost?

A No, no. In other words, if you have a retail service that we filed before this Commission, we determine the cost, and that's considered the price floor, but the price is based on several factors. What I'm saying is for the payphone industry the FCC has said that it should be based on your cost plus a reasonable overhead loading. And the case of the second Wisconsin order, they gave specific guidelines on that.

Q When BellSouth set the current payphone rate, what factors did it consider?

A Can you help me with the current rates, the rates you're referring to, which rates?

Q The current -- the rates that were in place prior to the tariff amendment on November 10th of 2003.

A Okay. The only costs that BellSouth has done and filed with this Commission are the costs that were filed back in '97.

Q But if it's a retail service, you said you consider other factors. What other factors did BellSouth consider?

A No. As the testimony states, this is a quasi-retail offering as you referred to on Page 3 of my testimony, which means that when the Commission set the rates for this service, they didn't treat it like a retail service. In some cases they look to see that the rate is above cost and that's it, but in this case they looked to see that the rates were just and reasonable based on a reasonable amount of overhead contribution. So they looked at that perspective. They saw the rate that was there, and they saw the cost, and they made a determination that it was just and reasonable. And that's not a requirement for typical tariff retail services.

Q And when were those costs originally adopted by BellSouth? When were those rates, excuse me, when were those rates originally adopted by BellSouth?

A It's my understanding and I'm not -- you know, this is based on -- I may not be totally correct, but I think the rates did not change. The Commission, I believe, just accepted the rates that we had in effect, as best I recall it.

Q Okay. And I believe that's correct. Do you know when those rates were put in effect by BellSouth?

A No, I do not.

Q If you can refer to Page 4 of your testimony, Lines 3 and 4. You refer on Line 4 to overhead loadings. Can you please define what overhead loadings means?

A Yes, I can. In general, overhead loadings -- in other words, you have -- it's a part of the rate development. You have the direct cost, which, I think, as everyone agrees, is based on TSLRIC, your direct cost. Overhead loadings are any additional costs that are required to recover the additional costs like shared and common type costs. And if you look in -- you know, the FCC order specifically defines three categories of -- the Wisconsin order defines three categories of overhead. And we simply chose to use the ONA methodology as opposed to the UNE methodology.

And as stated earlier today, it gives different numbers, and you can't just use a common cost, you have to use a shared and common with a direct cost number which would give you a number greater than 10 percent. For example, it will be 17 percent or more plus retail. But we chose to use the ONA methodology which the FCC stated in its Wisconsin order.

Q Okay. Is it your testimony that the original cost study filed -- I'm sorry. Is it your testimony that the cost study provided to FPTA only included direct costs?

A I'm trying to make sure I know which costs. You're talking about the costs we filed in this docket?

Q The exhibit that's attached to -- no, the cost study originally provided. BellSouth provided FPTA with a cost study as a part of our negotiations in an effort to resolve this matter. Did that cost study include only direct costs?

A I was not involved with the negotiations, but it's my understanding that it did include just -- the intent was that it should have just included direct. And I was told subsequently as a result of reviewing this cost study was that in one element did an error include a shared and common, but that was not filed with this Commission. The one we filed with this Commission does not have that error included.

Q In Docket 97028-TL, did BellSouth provide this Commission with the information necessary for the Commission to carefully review the reasonableness of BellSouth's overhead allocations for the existing PTAS rates?

A I would have to say yes. I mean, we provided the direct costs, and obviously the Commission would have known that the overhead would be the difference between the rate that we have in effect or that was proposed and the direct cost. So, I mean, they could have looked at the reasonableness of that overhead loading associated with the direct cost versus the rate. So, I mean, why would we provide them any definitive calculation of that overhead? They could determine what it is and see if it's reasonable based on their knowledge and experience with other services.

Q But you did not provide them with a calculation of the overhead?

A At that time the Wisconsin order had not -- the second Wisconsin order, which specifically detailed three different ways of doing it -- the UNE was one that was in effect, and they said, that's okay if you want to, but you don't have to use that. In fact, they went on to say, you should use the physical collocation or the ONA methodology. So what BellSouth has done subsequent to the Wisconsin order, we have chosen to use the ONA methodology as the one that works for us.

Q When did the FCC adopt the ONA methodology?

A That was probably in the early '90s, if I'm not mistaken. However, what the point is, is that the Wisconsin order in reviewing and trying to set an appropriate overhead referred to that order as well as the physical collocation tariff order, which was back in the early '90s as well, as appropriate methodologies to use.

Q Did BellSouth participate in that case before the FCC?

A I was not involved with that. We probably did. I'm assuming -- we had ONA interest, so we probably would have been involved. But the point is that the Wisconsin order modified or gave specific methodology on developing the overhead. The first order for payphone said just and reasonable. The Wisconsin order went further to define how that should be determined and how it should be proved by the ILECs.

Q But did BellSouth know of or was BellSouth aware of the ONA order and the collocation order when -- in 1997?

A Again, yes. BellSouth probably was involved with those, but the point is that we were following the order as it was at the time and same as this Commission, which was develop your direct cost and determine a just and reasonable overhead amount and that's what we did.

Q Were ONA and the collocation involved in the application of new services test proceedings prior to 1997?

A I'm not totally familiar with all the history of what was involved with the new services test as far as historical perspective with the FCC. I just know that the FCC, for physical collocation, they said, where you have a collocator come into your switch, do not charge them excessive overhead or contribution so that they cannot compete with your comparable services of DS1, DS3. So they said, let's make it comparable, even out the competitive market.

They looked at ONA, did the same thing. You unbundle your BSEs, which by the way are not features like custom calling features. They are basic service elements, optional network capabilities. They are significant items, as much as $500 for a simplified message desk interface. So they are not just basic features. But they said, unbundle those from your switched access service. And to make it even for those that want to pick and choose the elements, only put a reasonable amount of overhead on top of that so other parties can purchase that and compete against you as well. So it was all the same concept, but I don't know all the history of how they all got together. But the FCC said in the Wisconsin order to use those two methodologies. They said, if the Commission has already used UNEs, that's fine, but that you should use the physical collocation or the ONA tariff order methodology.

Q And did the FCC apply the new services test in the ONA order and the collocation order?

A Well, again, I may not have all the terminology correct, but by doing what they did, by establishing the methodology to determine overhead -- and I believe that's in Part 69 where that comes from that they use that methodology.

Q Okay. But you haven't answer the question, Mr. Shell.

A Okay. I'm sorry.

Q That's okay.

Did the FCC apply the new services test in the ONA order and the collocation order?

A Now, to be honest with you, I don't know the orders well enough to say that. I can only say that they ordered a methodology for calculating overhead. Whether the term "new services test," I have to review the orders again to see if those words were actually in there. If you have the order, I'd be glad to look at it and refer to it.

Q I'll suggest to you that they did apply the new services test.

A And I'll accept that, subject to check. I just don't remember those words being in there. I looked mainly for the methodology for calculating the overhead to see how it was referred to to know what BellSouth could do to comply with it.

Q Based on that assumption then, didn't BellSouth know of these overhead allocation methods in 1997 when it submitted a cost study to this Commission?

A I don't know if they knew that when the payphone order came out, that it intended to use the ONA methodology or the physical collocation order. I mean, those are two separate issues and areas that are in existence. And the only thing we had to work with was the payphone order which said, develop up your direct cost and set a reasonable -- a just and reasonable overhead. If the Commission at that time chose to do that, they could have told us at that time to apply the same methodology. We were just using the FCC payphone order at the time.

Q Okay. But the FCC's payphone orders from 1996, I believe, said to apply the new services test. And the new services test was, in fact, previously applied in the ONA order and the collocation order. Would you agree with that?

A Subject to check. Again, I don't know all the terminology used associated with that.

Q So if BellSouth was aware of that, they really didn't have to wait for the Wisconsin order to know that they should apply these overhead methodologies in connection with any new services test proceeding; is that correct?

A No, I disagree with that. You have a -- in my opinion, you have the physical collocation order, all of the proceedings, legal filings associated with it, you have the ONA order totally separate than the physical collocation order. You look at all three of those, I mean, there are different things being discussed. If you look at the physical collocation, it's dealing with specific areas of collocation, and that was one piece of it. I don't think you could have reasonably said, the physical collocation order says this, so use this methodology that's used over in these other two areas.

Q Would you agree that the Wisconsin order provides that the LEC has to make some -- I'm sorry, excuse me.

What's common to the ONA order and the collocation order is that the LEC has to make a reasonable allocation of overhead. Would you agree with that?

A I just want to make sure I understand your question. Did you say that what's common between the ONA -- repeat the question. I'm just not sure I followed your --

Q What those two orders have in common is that --

A Those two orders.

Q Both the ONA order and the collocation order --

A Okay.

Q -- those orders have in common that the LEC must make a reasonable allocation of overhead and demonstrate that their overhead allocation is reasonable. Would you agree with that?

A I think that's reasonable. And that's what we've done here. We've used the ONA methodology, and we're supporting why that's reasonable, why the overhead loading is reasonable.

Q But you didn't do that in 1997.

A The FCC didn't direct us to do that. Again, the FCC had the payphone order which told us to develop the direct cost and apply just and reasonable overhead. If they knew just as well as you're suggesting we knew that they have other orders out the -- and I don't know the time on all these, see, that's where I'm at a loss -- they had these orders out there, they could have just as easily said, use these as your basis for the new services test, but they didn't. They said, do it just and reasonable. We did it just as reasonable.

The Wisconsin order now made a change and said, show this based on these three flexible methodologies, and that's what we're doing here. But that does not state that what was done previously was done in error or wrong.

Q Okay. I'm going to refer to Pages 4 and 5 of your testimony in which you talk about cost models previously approved by this Commission. Was BellSouth's calculation of a reasonable level of overhead loading in this proceeding based on a methodology or model that has been previously approved by this Commission?

A Could you repeat that one more time? Let me make sure I caught the first part of that.

Q Was BellSouth's calculation of its reasonable level of overhead loading in this proceeding based on a methodology or model that was previously approved by this Florida Commission?

A I'm going to have to answer no because I'm not -- if I'm hearing your question correctly, you asked was the overhead calculation based on a model. The overhead calculation was not. The direct cost was based on models previously approved, but the overhead was not necessarily based on the models previously approved by the Commission. I'm not sure if that answered your question.

Q Yes, it does.

A Okay.

Q I'm going to refer you to Page 7, Lines 15 and 16 of your testimony. Can you list the options described by the FCC for the development of an overhead loading factor?

A Yes. For example, Paragraph 51 of the Wisconsin order 2002, it starts off by stating, the Bureau order said that you should use UNEs as a ceiling; then it said they don't agree with that. However, they list three -- if I'm answering your question. You're making a face.

Q No, no. Go ahead.

A Okay. You asked for three options. I just want to say that the UNE was one, but it was one that was there pursuant to the Bureau order. And the FCC said, yes, leave it there, but we don't agree that it should be the only one. What they said -- the physical collocation tariff order methodology, which is on Paragraph 53, and it goes on to talk about in Paragraph 54 of that same Wisconsin order the ONA methodology. And so the FCC said that you have three methodologies, the UNE, which is okay if you use it, but they said, you should use the physical collocation methodology or the ONA methodology. So those were the three.

Q Did you testify that the FCC said you should use?

A Yes.

Q Can you --

A On Paragraph 58, they state, to evaluate such a ceiling states should use the methodology from either the Commission's physical collocation order or ONA tariff order, which only makes sense because TELRIC is different. If you start with TELRIC, you have approximately again 15 to 17 percent dealing with the shared and common for the wholesale, but what's not included is the retail. And BellSouth did not include retail because we didn't propose the UNE, but that could easily double the total overhead because UNEs only deal with the wholesale component of it. So that's why BellSouth did not provide any retail data because we didn't think it was appropriate to use UNEs as the overhead loading.

Q Okay. In Paragraph 54 of the Wisconsin order, I'm going to read to you starting from eight lines down. It says, moreover, it is also consistent with our past application of the price cap new services test and permissible in this context for states to determine overhead assignments using the methodology that the Commission used to evaluate the reasonableness of ONA tariffs in the ONA tariff order. In that investigation, the Commission used ARMIS data to calculate an upper limit for both the ratio of direct cost to direct investment and the ratio of overhead cost to total cost. Analogously, states could use ARMIS data relating to the plant categories used to provide payphone services in calculating an upper limit on the overhead loadings.

Does the methodology the FCC used to evaluate the reasonable ONA tariffs and the overhead loadings and those rates consist of simply using ARMIS data in a nonspecific way, or does it involve using that data in a specific and detailed way?

A It's my understanding that it is the specific and detailed way which is specified in Attachment C of this -- get my order straight, Attachment C of the ONA order, not the Wisconsin order. But Attachment C of the ONA order provides the methodology which is the methodology BellSouth used.

Q So you are testifying that BellSouth used the ONA methodology to calculate the overhead loading factor --

A That's correct.

Q -- utilized in this proceeding.

A Just as specified in Attachment C of the ONA order.

Q And you didn't change it in any way?

A No. BellSouth did not change it in any way.

Q Are you familiar with the ONA tariff order?

A Based on my reading and preparing for the cost study in this hearing, yes, that's my knowledge on it, specifically dealing with the basis of the reason for it. In other words, similar to the CLEC world with UNEs, the FCC decided to unbundle local switching in an access tariff which meant unbundling basic service elements from basic serving arrangements. Basic service elements, they said, should be priced such that someone could get those and compete with the other party, but they shouldn't allow a significant amount of contribution. So that's where the development of the contribution came into play.

Q Okay. You've referred to BSEs. What kind of rates was the FCC setting in the ONA order? Can you tell me what a BSE is?

A Yes, I certainly can. Just a minute. What I have here is the state of Florida's access tariff on page -- Section

E2.6, definitions. The definition says that the term "basic service element" denotes an optional network capability associated with basic serving arrangements. And they go on to define several of those. For example, basic serving arrangements on Page 65 of E6.3 of the local switching access tariff defines several, including hunt group, uniform call distribution, simplified desk interface, and there are about eight or nine. I won't list them all. But then it goes on to provide the rates that this Commission ordered. For example, the rate for a simplified message desk interface is $518. The one rate for queueing is $77.

Q Okay. But, Mr. Shell, I was asking about the FCC's order, not the Florida's definition.

A Okay. I can go to the FCC tariff then. It's the same thing. The term "basic service arrangement" is defined as an optional network capability, and the rates -- I can give you the rates for those too.

Q Okay. I don't need the rates. I just asked for the definition of a BSE, which I think you provided.

A Oh, okay.

Q Is a local loop a BSE?

A No. A local loop would be more comparable to a basic serving arrangement, but again --

Q A BSA.

A Pardon me?

Q A BSA.

A Yes. It's more comparable to a basic serving arrangement. However, the ONA order specifically said, determine your overhead for basic service elements. Then they specifically said in the Wisconsin order, use that methodology for payphone, so that's what we're doing.

Q Is a switch line port a BSE?

A Pardon me?

Q Is a switch line port a BSE?

A I wouldn't say so, no.

Q Is local usage a BSE?

A No. And it shouldn't have to be for this purpose.

Q Why do you believe that the ONA methodology is appropriate for the development of a cost-based rate for service that consists of a local loop, a line port, and local usage if the FCC did not use the ONA methodology to establish cost-based rates for any of those network functions?

A Because the FCC said, use this methodology. It's one of the appropriate options of using it. We simply used the FCC's order that said use ONA. They did not specify anything about loops. They said, use this as an appropriate methodology.

Q Did the FCC use it in every instance for everything?

A They didn't use it for basic serving arrangements. They were residually priced. So the only thing that's left --

only -- maybe some complementary network features, but they used it for the basic serving arrangements which were similar to the unbundling of the local switching component.

Q But the key element, I believe, is that the element -- BSEs are optional in your definition. Is a local loop, a switch line port, and local usage optional for PTAS services?

A I would say no. But again, I go back to the only reason we're doing this, the FCC laid out three ways. You can use the UNEs if you've already done it, but they said, you should use the physical collocation methodology or the ONA tariff methodology. We used ONA tariff methodology. They didn't tell us to look at it and see if it's appropriate. They said, you can use it.

Q Okay. I'm referring to Pages 7 to 9 in which you describe the network facilities and equipment used to provide PTAS. Are the cost of each of these network facilities and equipment included in BellSouth's TSLRIC study?

A Yes. The components we describe here are components of our cost study, yes.

Q And referring to Pages 5 and 6 of your direct testimony describing the costs generally in -- what is specifically included in TSLRIC costs? Are network facility costs included?

A Yes.

Q How about depreciation and maintenance?

A All of your direct costs for investment, which would include your annual carrying costs are included, depreciation costs, income tax, ad valorem, all of those would be included.

Q Would the cost of money be included in that?

A Yes, it would.

Q Engineering and installation costs?

A Yeah, our costs to install would be there.

Q And how about miscellaneous materials needed for installation?

A We do have a factor that picks up miscellaneous material, yes.

Q Land and buildings?

A Land and building would be a portion to the study, yes.

Q Spare capacity?

A There would be some based on your utilization factors used, yes.

Q And are taxes included?

A Yes, taxes are included.

Q And what kind of taxes are included?

A Again, ad valorem tax and income tax.

Q Are gross receipts tax included?

A Yes, gross receipts tax is added at the end. That's true. That's more of a revenue tax, but yes.

Q Okay. Are payphones subject to gross receipts tax in the state of Florida?

A It's more of BellSouth's requirements. I mean, we have a gross receipts tax requirement that we have to pay based on revenues.

Q How about supporting equipment and power?

A What's the question? Is it included?

Q Yes.

A I believe it is. I'd have to look to verify. I can look at one and tell you. I am pretty sure it is. Some elements have different components depending on what it's actually for, but I'm pretty sure that -- I'm looking at the loop now just to verify that.

Well, see, it's included on certain components. Some components it's not. It just depends. I'll try to think of an example. It's included in the DLC type equipment, hard wire plug-ins, but it's not in the drop or the -- it's in building entrance type costs. It just depends. But as a rule, it's applied where applicable, if that answers the question.

Q It's not in there because it wouldn't be appropriate to use it -- include it in a TSLRIC; is that correct?

A No, it's appropriate to use. I'm just saying there's certain categories -- certain components it wouldn't be because there's no supporting equipment. It just depends on whether it's appropriate or not.

Q Okay. What specifically is not included in BellSouth's TSLRIC?

A What we call our shared and common costs, the costs that would not be directly associated with the offering.

Q What specific costs incurred by BellSouth to provide PTAS are not included in TSLRIC?

A Well, the way we do our studies, it's like we said in the direct testimony, it started off with the models that we use in the UNE filing. And the TSLRIC as a result is mainly a network cost. So the cost we provided would not have any marketing related retail cost in it, and it wouldn't have any general overhead cost like for attorneys or corporate executives. Your standard shared and common typed costs wouldn't be in there, but the direct cost from a network perspective are.

Q So you've labeled marketing and executives and attorneys.

A The general -- I mean, there's a list, but I don't know all of them off the top of my head. It's just common overhead costs that are not directly associated with the offering of the payphone, but there's a cost of keeping the business running.

Q But they're not directly associated with payphone?

A Not directly associated with any element.

Q Any others that you can think of that are not included in TSLRIC associated with providing PTAS service?

A That's the general category. I mean, there are other probably shared and common that I just can't think of off the top of my head.

Q Okay.

A I mean, it's no different than what we -- the same methodology we use for our UNE studies would be there, but again, we didn't file the UNE shared and common in this docket. So I don't really have all that material with me. We only filed the direct cost using the models that we had to develop the PTAS direct cost.

Q And have you had an opportunity to personally review the TSLRIC cost study sponsored in this proceeding and BellSouth's version of the ONA methodology to ensure that no costs appear in both places? In other words, you're not double counting?

A I have reviewed both studies. There is a small percentage of overlap in the category labeled "direct and overhead" simply because the way the ONA methodology is set up, it takes the -- based on the ARMIS report and identifying the accounts, you take the total and divide by the total direct and we use the direct and overhead category. In other words, there's three categories. There's direct, overhead, and there's a category labeled "direct and overhead" because they could be either way.

We used the overhead and the direct and overhead and divided by the direct to get the ratio. And what I'm saying is that there are a few. And we determined about maybe 8 percent of the costs in the direct and overhead that may be in our direct study. But we feel like that was really insignificant because what we were trying to do is develop a reasonable overhead factor that would apply.

Q But it's your testimony that the costs appear in both places and are double counted?

A What I'm saying is that what we're developing is a reasonable overhead loading, and that loading is based on a general calculation based on ONA methodology. And what we're trying to do -- and that methodology says even on Attachment C that it is a reasonable overhead, but that it could vary between service categories. I mean, it is just an approximation because different service categories could have different overheads associated with it. So we deemed that -- it as saying that it's an approximation anyway, so we used that overhead. To answer your question, yes.

Q Okay. So your answer was yes?

A There is a small percentage, yes.

Q Did BellSouth use the methodology to create a reasonable overhead, or did it create an overhead ceiling?

A We created a reasonable overhead.

Q Do you know what level of overhead this Commission approved for BellSouth when calculating cost-based rates for wholesale services?

A Are you referring to the UNEs now?

Q Yes, I am.

A Yeah, like I stated before, if you look at the filed year 2000 UNE filings, the two-wire voice grade loop and the two-wire voice grade loop for the UNE-P, the shared and common, which when applied on top of the direct is approximately 15 to 17 percent, and that does not include retail, it's just wholesale.

And one other point too. Just to say it again, I may have said it before, is that the FCC in its First Report and Order said that PTAS are not wholesale providers. They're not telecommunications carriers and, therefore, are not subject to 251 and 252. So they really should not have UNE-based rates.

Q Are you aware that this Commission in its prior order did recognize PTAS as a wholesale offering?

A I'm not familiar with the order you're referring to. To answer your question, no, I'm not familiar with that.

Q Okay. Mr. Shell, what is a customer operations cost factor?

A You're referring to something filed in the rate rebalance docket. I can tell you what it is, if that's the reference you're referring to.

Q I'm just asking you what it is. If that's where it comes from, that's fine.

A Yeah, it's just the factor we developed in the rate rebalance docket to approximate the amount of retail cost not included in our network-related TSLRIC cost.

Q Okay. So does that customer operations cost factor reflect a relationship between the retail portion of the customer-related costs and the total network costs?

A Could you -- I missed a word in there. Could you repeat it?

Q Okay. Does the customer operations cost factor reflect the relationship between the retail portion of the customer-related costs and the total network costs?

A Well, I think so. Let me restate what I think I heard you say and you tell me. It allows us to multiply times the network-related costs and gives us what we think is the incremental amount, which that is the retail. If that's what you said, I agree, yes.

Q All right. Mr. Shell, I'm going to refer you to the cost study documentation that's titled, "Overhead Factor Development Worksheet." It's Bates-stamped Pages 91, 92 in the cost study.

A Okay.

Q What is the vintage of the data used in that worksheet?

A The data starts with, as you stated at the top on

Page 91, the ARMIS report 2001 data. So it's the 2001 data as the base starting point. And if it's the expense, we put in exactly as is. If we got investment from there, we had to derive a capital cost factor to convert the investment to a cost number. But the starting point is 2001.

Q And does this data specifically relate to Florida?

A No, it's a regional number.

Q Regional meaning?

A BellSouth's nine-state region.

Q Who prepared this worksheet?

A Someone in the cost group that deals with the factors.

Q I'm sorry, could you repeat that?

A It's a person in the cost group that deals with the factor development for our cost studies.

Q But it wasn't you?

A No, I did not prepare this. No.

Q Page 2 of that refers to a lower limit and an upper limit for an overhead cost factor. What's the basis for the lower limit and upper limit?

A Wait a minute. I'm not with you. You say it refers to a lower limit on Page 2. Are you on Page 91, Bates-stamped 91?

Q One second. I'm sorry. Refer to Bates-stamped Page 90, please.

A   Page 90. Okay. I'm there.

Q   Okay. Towards the bottom in the bold point type, you refer to a lower limit and an upper limit for the overhead cost factor. What's the basis for the lower limit and the upper limit?

A   The lower limit as it pertains to the overhead would be where you simply divided the overhead -- in other words, again, the three columns: Direct, overhead, then direct and overhead. If you divide the overhead by the direct, then that would be the lower limit. You would not include anything from the category labeled "direct and overhead."

Q   And the upper limit?

A   Again, like I said before, it's where you take of the three categories, direct, overhead, direct and overhead, you divide the overhead and the direct and overhead by the direct.

Q   And are these limits -- did you get these limits from the ONA order?

A   Yes. We followed the methodology on Bates-stamped Page 90 which came right from Attachment C of the ONA order.

Q   Do you have Attachment C?

A   Pardon me?

Q   Do you have Attachment C?

A   I have it here someplace I'm sure.

Q   Okay. Could you get that, please.

A   Okay. I have it.

Q Can you show me where Attachment C provides for a lower limit? Can you show me where -- your testimony, I believe, was that the lower limit and the upper limit are in Attachment C, that's how you calculated them --

A Okay. Well, let me restate it now. I thought you were asking how we got the terminology of lower limit and upper limit. What I said it's in Attachment C is how you develop the methodology. And what I'm saying is obviously your lower limit would be if you just took what was definitively overhead and divided by direct. And your upper limit will be if you include that category that's a combination -- in other words, it could be direct, it could be overhead, if you include all those together, that's your upper limit. I don't know specifically if -- wait a minute, wait a minute.

Let me read part of Paragraph 5 of Attachment C. I think that will answer the question. Well, let me read the whole paragraph. The direct cost for local switching element in ARMIS --

Q Mr. Shell, you don't have to read the whole paragraph. If you want to just point me to the place where it provides for a lower limit.

A No, it doesn't refer to lower limit. But what it talks about is the fact that you have two categories that contain both direct and overhead. And we compute an upper limit -- this case is talking about the direct cost to direct investment. But they compute an upper limit of the direct cost to direct investment ratio from this data assuming all costs in these categories is direct. So, I mean, we simply said that obviously if you take only the category that's specifically overhead and divide by direct, that's your lower limit. I mean, I don't think they specifically said that, but, I mean, that's just what you get. It makes sense if you look at it that way.

Q Is that what -- what you just described, is that what BellSouth calls an annual charge factor?

A Could you repeat that question? I'm not sure how the annual charge factor fit into that discussion.

Q Well, you indicated that the direct cost to direct investment ratio I believe is how you calculated the -- what you're calling the lower limit; is that correct?

A Not really. I'm reading from Paragraph 5. In other words, the ONA order has two different ratios. One is the direct cost to direct investment and that would get into your annual cost. I mean, you have annual cost that takes your investment and gives you direct cost. They also have one that's the total cost or the rate divided by the direct cost, and we used that one. And this paragraph is dealing with the other one. So we really didn't use this one in our payphone calculations. We used the next one.

Q But does Paragraph 5 have anything to do with overheads?

A It doesn't. But Paragraph 5 and 6 are dealing with separate things but the same process. Paragraph 5 says -- well, what the ONA order says, develop your direct cost to direct investment ratio and your total cost to direct cost in a reasonable manner. We only used the second one. And the second one is dealt with in Paragraph 6, but Paragraph 5 gives more detail on how to do it, and it says in Paragraph 6 that it's similar. Let me find the exact words. It says somewhere that it's similarly done. Well, actually, Paragraph 7 said reasonable overhead loading factors were estimated in a similar manner. So the first paragraph gives more detail, and it just goes on to say that the total overhead should be done in a similar manner.

Q So essentially what I'm understanding is you took what the FCC called an annual charge factor -- no, I'm sorry, what the FCC used to develop an annual charge factor, and you're calling that a lower limit for overhead.

A No, no. I guess it goes back to -- in other words, we did not use in this calculation the direct cost to direct investment. We only used the other one which says, the total cost or the rate over the direct cost.

Q That would be the upper limit; correct?

A Well, not yet. It depends on how you calculate it. But that methodology is what we used. The way you get the upper limit is, again, you have three categories. You have what's called -- and it has nothing to do with our cost study. This methodology has nothing -- it's totally divorced from our cost study here, so leave that out of the picture.

Then you have from the ONA methodology a direct cost using our company books, the numbers in our company books, the direct cost identify per the specifications in Attachment C where it lists all those accounts, you develop your direct cost, and then you have your overhead cost which specifically identifies overhead from the accounts or the books. Then you have those accounts that could be direct or overhead. And all we said was that obviously to get your upper limit or your reasonable number, in our perspective, you take the total of the overhead and direct, those that could be both and overhead and divide by your direct.

And your lower limit will obviously have to be your overhead without any mixing in the one that could be direct or overhead. I mean, it's just three columns. You divide by either -- it just depends on how you divide by them.

Q Where does the FCC say that a direct cost to a direct investment ratio is a lower limit for overhead loading?

A I guess I messed up by reading Paragraph 5. I think we got confused. Again, we did not use anything with the direct cost and direct investment. We only used a ratio that said, once you get your direct cost, once you have the direct cost, how do you develop your overhead loading, and Paragraph 7 goes on to talk about how you do that. We did not do anything with direct cost and direct investment with the ONA order. We only used the direct cost we developed and added to an overhead loading.

Q Okay. So your report that refers to an upper limit -- a lower limit, excuse me. Your report that refers to a lower limit really doesn't have any meaning, there is no lower limit?

A If you calculate it in that manner, it would be the lower limit.

Q Okay.

A And I don't mean to be confusing on this. I'm sorry.

MR. TOBIN: That's all we have.

COMMISSIONER DEASON: Staff.

MR. FORDHAM: Staff has no questions.

COMMISSIONER DEASON: Commissioners.

Redirect.

MS. WHITE: No redirect. And BellSouth would move Exhibits 13 and 14 into the record.

COMMISSIONER DEASON: Without objection, show Exhibits 13 and 14 admitted.

(Exhibits 13 and 14 admitted into the record.)

COMMISSIONER DEASON: Mr. Shell, you may be excused.

(Witness excused.)

COMMISSIONER DEASON: That's the last witness; correct?

MS. WHITE: That's the last witness.

COMMISSIONER DEASON: Okay. Anything else to come before the Commission at this time?

MR. FORDHAM: Nothing from staff, Commissioner.

COMMISSIONER DEASON: BellSouth?

MS. WHITE: Nothing from BellSouth.

COMMISSIONER DEASON: Mr. Tobin?

MR. TOBIN: Nothing, Commissioner.

COMMISSIONER DEASON: Okay. Thank you all. This hearing is adjourned.

MR. FORDHAM: Commissioner, just a reminder that briefs are due June 15th.

COMMISSIONER DEASON: Very well.

(Hearing concluded at 1:05 p.m.)

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

I, TRICIA DeMARTE, 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 18th DAY OF MAY, 2004.

Tricia DeMarte

TRICIA DeMARTE, RPR
FPSC Official Commission Reporter
(850) 413-6736

BellSouth Telecommunications, Inc.
FPSC Docket No. 030300-TP
Exhibit KKB-1
November 17, 2003

3 Pages

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 030300-TP EXHIBIT NO. 11
COMPANY/ BellSouth
WITNESS: KKB-1 and KKB-2
DATE: 05-12-04

A7. COIN TELEPHONE SERVICE

A7.4 Access Line Service For Payphone Service Provider Telephones (Cont'd)

A7.4.5 Rates and Charges (Cont'd)

A. Access Line Service for PSP - Rates and Charges Applied by The Company (Cont'd)

2. Flat Rate Service for PSP Monthly Charges

a. PSP Access Line Service [1]

(1) Rate Groups 1-6

	Group 1	2	3	4	5	6	USOC	
(a) Per Access Line	*$12.67*	*$13.67*	*$14.77*	*$15.77*	*$16.72*	*$17.77*	NA	(R)

(2) Rate Groups 7 - 12

	Group 7	8	9	10	11	12	USOC	
(a) Per Access Line	*$18.62*	*$19.47*	*$20.27*	*$20.87*	*$21.47*	*$21.97*	NA	(R)

b. No monthly usage allowance applies for Access Line Service for PSP.

c. The following usage charges apply for calls in the Local Calling Plus exchanges specified in A3.8.50 and to calls in the Extended Calling Service exchanges specified in A3.3 other than those specified in c. following.

(1) Usage Charges

Initial Minutes or Fraction Thereof	Additional Minute, Each or Fraction Thereof
$.025	$.01

d. The following usage charges apply for calls in the Local Calling Plus exchanges specified in A3.8.50 placed between 12:00 P.M. and 2:00 P.M., 9:00 P.M. and 9:00 A.M., and Saturday and Sunday all day.

(1) Usage Charges

Initial Minutes or Fraction Thereof	Additional Minute, Each or Fraction Thereof
$.015	$.005

3. BellSouth SWA charges for usage as provided in Sections E3. and E6. of the Access Service Tariff apply. Charges are billable to the interexchange carrier.

4. Sent paid long distance charges apply on a per message basis based on toll rates (set forth in A18.3.1.H. of this Tariff).

Operator handled non-sent paid local calls will be rated to the end user at the rate (set forth in A3.10.1 of this Tariff) plus the appropriate additive operator services charges (set forth in A3.10.1 of this Tariff), plus the set use fee as provided in A7.6 of this Tariff.

The rates charged the caller for non-sent paid calls to the Extended Calling Service exchanges outlined in A3.3 and to the Local Calling Plus exchanges outlined in A3.8.50 will be rated at the Local Call rate specified in A3.10.1 plus appropriate operator services charges (as provided in A3.10.1 of this Tariff), plus the set use fee as provided in A7.6 of this Tariff.

5. The Access Line Service PSP subscriber who subscribes to Usage Rate Service as described in A7.4.5.A.1 will be charged on a per message basis for sent paid calls at the rates set forth in A7.4.5.A.1.c.(1) of this Tariff.

6. The Access Line Service PSP subscriber who subscribes to Flat Rate Service as described in A7.4.5.A.2 will be charged for sent paid calls to the Extended Calling Service exchanges outlined in A3.3 at the rates set forth in A7.4.5.A.2 of this Tariff.

Note 1: The exchanges for each rate group are identified in A3.4 of this tariff. (T)

A7. COIN TELEPHONE SERVICE

A7.4 Access Line Service For Payphone Service Provider Telephones (Cont'd)

A7.4.5 Rates and Charges (Cont'd)

A. Access Line Service for PSP - Rates and Charges Applied by The Company (Cont'd)

7. The Access Line Service PSP subscriber who subscribes to Flat Rate Service as described in A7.4.5.A.2 will be charged for sent paid calls to the Local Calling Plus exchanges outlined in A3.8.50 at the rates set forth in A7.4.5.A.2 of this Tariff.
8. Non-sent paid IntraLATA calls will be rated to the end user at the rate set forth in A18.3.1.H plus the appropriate additive operator services charges as provided in A18.3.1.H of this Tariff, plus the set fee as provided in A7.6 of this Tariff.
9. Rates as described in A3.9.2 and A18.7.2 are applicable to all Directory Assistance calls.
10. Service Charges as covered in Section A4 of this Tariff for business individual line service are applicable.
11. Listings in connection with Access Line Service for PSP are furnished under the same rates and regulations as other business service.
12. Suspension of service, as covered in A2.3, is not available to Access Line Service for PSP unless the instrument is totally inaccessible to the general public on a temporary basis. In all cases, the decision to permit temporary suspension of service for Access Line Service for PSP rests with the Company.
13. When service is temporarily suspended at the subscriber's request, a Secondary Service Ordering Charge and a restoration charge, as covered in A4.3, per telephone number restored, is applied.

B. Access Line Service for PSP - Rates and Charges Applied by The Subscriber

1. Rates charged any end user by a PSP, providing operator service within the pay telephone premises' equipment, shall not exceed the following:
   a. Local coin calls - the rate posted at the pay telephone station.
   b. Extended area service (EAS) coin calls - a rate equivalent to the local coin call rate.
   c. Extended calling scope (ECS) calls the rate equivalent to the local coin rate
   d. 0+ toll non-person-to-person - a maximum rate of $0.30 per minute, plus a $1.75 charge.
   e. 0+ toll person-to-person - a maximum rate of $0.30 per minute, plus a $3.25 charge.
   f. 0+ non-person-to-person local - a rate equivalent to the local coin rate, plus a $1.75 charge.
   g. 0+ per-to-person local - a rate equivalent to the local coin rate, plus a $3.25 charge.
2. A PSP shall not obtain services from an interexchange carrier or an operator service provider unless such carrier or provider has obtained a certificate of public convenience and necessity from the Commission.

C. BellSouth PSP Reward® Plan

1. Definition and Requirements
   a. The BellSouth PSP Reward® Plan provides the PSP a reward, ranging from 0 to *6.0* percent of the full price of the service, exclusive of taxes and fees, for a term commitment of 12 or 24 months to be applied monthly, one month in arrears. (C)
   b. Applicable taxes and fees will be based on the full price of all services, and no taxes or fees will be added to the amount of any reward under this program. The reward for each month will be reflected as a credit in the Other Charges and Credits section of the subscriber's BellSouth bill in the month following the month to which the reward relates.
   c. The BellSouth PSP Reward® Plan term structure will become effective when an authorized agent of the Company executes a Letter of Intent for the BellSouth PSP Reward® Plan but not prior to the approval of this Tariff.
   d. The BellSouth PSP Reward® Plan offers a reward on the access line rates in A.2.a. proceding. The reward applied will be based on the number of PSP access lines subscribed to the BellSouth PSP Reward® Plan and the term commitment agreed upon.
   e. The PSP must subscribe all its payphone lines to the Company's Public Telephone Access Service.
      (1) The BellSouth PSP Reward® Plan does not apply to the BellSouth® SMARTLine® service.
      (2) BellSouth® SMARTLine® service access lines do not apply toward the line count used to determine the reward level.
      (3) This plan does not apply to Inmate lines.

A7. COIN TELEPHONE SERVICE

A7.4 Access Line Service For Payphone Service Provider Telephones (Cont'd)

A7.4.5 Rates and Charges (Cont'd)

C. BellSouth PSP Reward® Plan (Cont'd) (T)

1. Definition and Requirements (Cont'd)

f. The PSP agrees to send all 0+ local and intraLATA calls (not previously encumbered as of the effective date of this tariff) to the Company. These calls must: (T)

(1) originate from a telephone line associated with the subscribing PSP's account,

(2) originate and terminate in the same LATA,

(3) be carried and completed by the Company via Company facilities and

(4) be billed by the Company.

g. ***Rewards*** will be applied only to Public Telephone Access Service lines that are subscribed to a Flat rate service. (T)

h. A ***charge*** may be assessed, at the discretion of the Company, to PSP subscribers who terminate or violate the requirements outlined in this section prior to the expiration of the term commitment. (C)

(1) The amount to be assessed ***for a Letter of Intent for the BellSouth PSP Reward® Plan executed on or before February 24, 2003*** will be assessed as follows: (C)

(a) If the termination or violation occurs within the first 12 months of a new agreement or contract extension, 50 percent of the monthly access line rate multiplied by the number of months remaining in the term agreement, then multiplied by the number of lines subscribed to the BellSouth PSP Reward® Plan on the termination date of the agreement; (T)

(b) If the termination or violation occurs within the second 12 months of a 24 month agreement or contract extension, 25 percent of the monthly access line rate multiplied by the number of months remaining in the term agreement, then multiplied by the number of lines subscribed to the BellSouth PSP Reward® Plan on the termination date of the agreement. (T)

(2) For Subscriber's under a BellSouth PSP Reward® Plan Letter of Intent dated after February 24, 2003, if the Subscriber terminates or becomes ineligible for the BellSouth PSP Reward® Plan prior to the expiration of the term commitment, the Subscriber may be billed an amount equal to the total amount of rewards previously received by the Subscriber under the BellSouth PSP Reward® Plan. (N)

i. The rates listed in ***A.7.4.5.A.1*** for access line service are stabilized under the BellSouth PSP Reward® Plan for the term of the agreement and these lines will be exempt from Company initiated increases. Decreases in the access line charges that are initiated by the Company will be passed along to the subscriber, however: (T)

(1) The Company reserves the right to restructure the BellSouth PSP Reward® Plan ***structure*** upon mandated rate reductions from the FCC, the Public Service Commissions and/or the Public Utility Commissions, to include rate rebalancing efforts. (T)

Any revisions to the BellSouth PSP Reward® Plan will be made such that the subscribers will be charged a rate not to exceed the mandated rate and not to exceed the previous Reward Plan contracted rate. (T)

2. **(DELETED)** (D)

A7.5 Reserved For Future Use

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BellSouth Telecommunications, Inc.
FPSC Docket No. 030300-TP
Exhibit KKB-2
November 17, 2003

42 Pages

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In Re:	)	
	)	
Petition of Florida Public Telecommunications Association for Expedited Review of BellSouth Telecommunications, Inc.'s Tariffs With respect to Rates for Payphone Line Access, Usage, and Features	))))))	Docket No. 030300-TP Filed: April 15, 2003

BELLSOUTH TELECOMMUNICATIONS, INC.'S MOTION TO DISMISS

INTRODUCTION

BellSouth Telecommunications, Inc. ("BellSouth") respectfully submits this Motion to Dismiss the refund claims asserted by the Florida Public Telecommunications Association ("FPTA"). The FPTA has asserted two refund claims; one claim seeks a refund of subscriber line charges ("SLC"), the other claim seeks a refund of pay telephone access service ("PTAS") fees. Both refund requests fail to state a claim for which the Florida Public Service Commission ("Commission") may grant relief. FPTA is not entitled to any refunds because BellSouth at all times has charged FPTA members tariffed PTAS rates that comply with binding, effective, and unchallenged Commission orders. Likewise, BellSouth has charged FPTA the subscriber line charges set forth in its applicable FCC tariff.

FACTUAL BACKROUND

The facts leading to the FPTA's petition are as follows. In a series of Orders implementing section 276 of the Federal Telecommunications Act of 1996, the FCC delegated to the state Commissions the responsibility of determining whether an incumbent LEC's intrastate payphone access line rates complied with the "new services test."[1] In 1997, the Commission staff sent a memorandum to BellSouth and other incumbent LECs with a copy of the FCC's *Second Waiver Order*. Staff's memo requested a detailed explanation and supporting documentation if a LEC believed its current intrastate payphone tariffs met the FCC's new services test. BellSouth had previously filed, in March 1997, its cost information for wholesale payphone offerings. On December 9, 1997, a staff workshop was held during which the FPTA and BellSouth decided to meet to resolve any issues by stipulation.

Between January 1998 through May 1998, BellSouth and the FPTA discussed PTAS rates. During these discussions, the FPTA was provided with BellSouth's cost studies concerning wholesale payphone offerings. BellSouth had notified the FPTA that "it is correct to charge the EUCL [end user common line charge, formerly referred to as the subscriber line charge or SLC] over and above the cost based rate established for the PTAS or Smartline service." The FPTA was fully aware that BellSouth would also charge an additional, line item EUCL on bills.[2]

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[1] *See, e.g.*, Order on Reconsideration, *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 11 F.C.C. Rcd 21,233 at ¶163 (November 8, 1996) ("Order on Reconsideration") ("We will rely on the states to ensure that the basic payphone line is tariffed by the LECs in accordance with the requirements of Section 276."); Order, *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 12 F.C.C. Rcd 20,997 at ¶19 (April 4, 1997) ("Waiver Order") ("The [FCC] has delegated to each state the review, pursuant to federal guidelines, of payphone tariffs filed in the state."); Order, *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 12 F.C.C. Rcd 21,370 at ¶11 (April 15, 1997) ("Second Waiver Order") ("On reconsideration, the [FCC] stated that although it had the authority under Section 276 to require federal tariffs for payphone services, it delegated some of the tariffing requirements to the state jurisdiction.").

[2] The imposition of the EUCL, formerly the SLC, stems from a long line of decisions relating to access charges. *See Access Charge Reform*, CC Docket No. 96-262, 12 FCC Rcd 15962 (1997) ("Access Charge Reform Order"); *and* Report and Order, *In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board On Universal Service* ("CALLs Order"), CC Docket Nos. 96-262, 94-1, 99-249, and 96-45, 15 FCC Rcd 12962 (May 31, 2000). In the *Access Charge Reform Order*, the FCC set certain guidelines and limitations governing the imposition of the SLC, which were subsequently modified in the *CALLs Order*. The EUCL that BellSouth charges is set forth in BellSouth's FCC tariffs and is an additional line-item charge, similar to other taxes, fees, and charges, that appears on end users' bills.

In May 1998, the FPTA contacted the Commission acknowledging, "tariffs and supporting documents have been studied in detail." The FPTA also requested that the Commission staff "present a recommendation to the commission for proposed action on the tariffs that have been filed." The FPTA indicated a staff recommendation would "sharpen everyone's focus and clearly identify whether there are any remaining disputed issues."

On August 11, 1998, the Commission issued Order No. PSC-98-1088-FOF-TL in Docket No. 970281-TL ("PTAS Order") setting forth its decision on the FCC's new services test. The Commission recognized that BellSouth had filed cost information, finding that:

> We have reviewed the information provided and believe when viewed in the aggregate the existing rates for payphone services are appropriate. This aggregate level considers both required and typically purchased features and functions. Moreover, based on our review of these studies, we believe that these LECs' current tariffed rates for intrastate payphone services are cost-based and thus meet the 'new services' test.

PTAS Order, p. 5.

The Commission noted Florida was unique to other states, as it had long had payphone tariffs in place. Moreover, the Commission referred to three prior evidentiary hearings and two stipulations, rate reductions, and other actions taken to ensure an open pay telephone market. PTAS Order, p. 6. The Commission concluded:

> We note again that in most cases the existing tariffs are the result of one or more of our payphone-related proceedings in which costs were considered. All payphone providers (LEC and non-LEC) will be purchasing the same wholesale services at the same rates from the existing tariffs; therefore, the tariffs are not discriminatory. Accordingly, we find that the existing LEC tariffs for payphone services are cost-based, consistent with Section 276 of the Act, and nondiscriminatory; therefore, no further filings are necessary to modify existing tariffs.

PTAS Order, p. 7.

On September 1, 1998, the FPTA filed a petition protesting Order No. PSC-98-1088-FOF-TL, and requesting a hearing. Thereafter, on December 31, 1998, the FPTA withdrew its petition, and the Commission issued Order No. PSC-99-0493-FOF-TL ("Final PTAS Order"), closing Docket No. 970281-TL, with a final, effective date of January 19, 1999.

BellSouth has charged payphone service providers ("PSPs") the Commission approved PTAS rates, plus the applicable federal EUCL charge, in compliance with applicable Commission orders and its approved tariffs. Neither the FPTA nor any individual PSP has objected to BellSouth's rates. Neither the FPTA nor any individual PSP has previously argued that BellSouth's PTAS rates should be reduced by the amount of the EUCL (aside from the current FPTA petition). The FPTA voluntarily withdrew its petition seeking a hearing, and has not sought any further rehearing or judicial review of the *Final PTAS Order*.

The basis for the FPTA's Complaint arose from the FCC's January 31, 2002, *Wisconsin Order*.[3] In the *Wisconsin Order*, the FCC established certain guidelines to "assist states in applying the new services test to BOCs' intrastate payphone line rates." *Wisconsin Order*, ¶ 2. The Wisconsin Order set forth a methodology for computing direct costs, explained how to allocate overhead, discussed the SLC (now EUCL), and addressed usage. As to the EUCL, the FCC stated that a BOC must reduce the monthly per line charge determined under the new services test by the amount of the applicable federal tariffed SLC. *Wisconsin Order*, ¶ 61. The *Wisconsin Order* is currently on appeal to the United States Court of Appeals for the District of Columbia Circuit. *See The New England Public Communications Council, Inc. et al. v. Federal Communications Commission and United States of America*, Case No. 02-1055 (oral argument scheduled May 9, 2003).

The FPTA apparently interprets the *Wisconsin Order* as providing it with (1) a right to a refund of previously paid SLC or EUCL charges; (2) a refund of PTAS fees paid since the date of this Commission's *Final PTAS Order;* and (3) new PTAS rates. BellSouth is willing to negotiate with the FPTA an appropriate consent order allowing BellSouth prospectively to reduce its intrastate PTAS rates by the amount of the EUCL, obviously reserving all rights it may have as a result of the pending appeal of the *Wisconsin Order*. However, based on the well-established legal doctrines, including the prohibition against retroactive ratemaking and the filed-rate doctrine, BellSouth is neither required nor willing to pay any refunds of EUCL charges or PTAS fees sought by the FPTA.

ARGUMENT

A. The FPTA's Request for Refunds Fails to State a Claim for Which Relief Can be Granted by the Commission

In considering a motion to dismiss, this Commission must accept the allegations in the complaint as true and consider whether the facts alleged state a cause of action. *See Meyers v. City of Jacksonville,* 754 So.2d 198 (Fla. 1st DCA 2000); *City of Gainesville v. Department of Transportation,* 778 So.2d 519 (Fla. 1st DCA 2001). The following allegations in the FPTA's complaint establish, as a matter of law, that any claim for refunds cannot stand:

> On August 11, 1998, in Docket No. 970281-TL, the FPSC issued an *Order* concluding that "[e]xisting incumbent local exchange company tariffs for smart and dumb line payphone services are cost-based, consistent with Section 276 of the Telecommunications Act of 1996, and nondiscriminatory. On March 9, 1999, the FPSC issued an *Order Closing Docket and Reinstating Order No. PSC-98-1088-FOF-TL,* and establishing the effective date of that *Order* as January 19, 1999.
>
> * * * *

[3] Memorandum Opinion and Order, *In the Matter of Wisconsin Public Service Commission,* 17 FCC Rcd 2051 (rel. Jan. 31, 2002).

> [S]ince April 15, 1997 BellSouth's intrastate PTAS rates have included an amount for the federally tariffed subscriber line charge . . . .
>
> * * * *
>
> To date, Petitioner has not asked this Commission to address this issue. However, issuance of the FCC's *January Order* clarified significant aspects of the FCC's position rendering the issues, five years after the issuance of the *Waiver Order*, ripe for full consideration by this Commission.

Complaint, ¶ 4, ¶ 22 and second ¶ 22. It is clear from the Complaint that the FPTA never sought any regulatory or judicial review of BellSouth's Florida PTAS rates, and instead waited years later (and for that matter, nearly over a year after the issuance of the FCC's *Wisconsin Order* upon which it heavily relies) to lodge any formal request for a refund and for lower rates with this Commission.[4]

B. The FPTA Is Not Entitled to Refunds Because the Commission Has No Authority to Make Retroactive Ratemaking Orders

The law governing the FPTA's claims is clear. Over thirty years ago the Supreme Court of Florida explained that:

> Petitioner contends that in both orders the Commission departed from essential requirements of law by allowing both companies involved herein to retain those past charges deemed excessive rather than making said reduction orders retroactive.
>
> * * * *
>
> It is Petitioner's contention that said rate reductions should be made retroactive to October 1, 1963 with appropriate refunds to the ratepayers. We do not agree with the petitioner's contention on this point. An examination of pertinent statutes leads us to conclude that the Commission would have no authority to make retroactive ratemaking orders.

City of Miami v. Florida Public Service Commission, 208 So.2d 249, 259 (Fla. 1968). The Florida Supreme Court explained that this Commission's statutory authority to set rates in

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[4] To be fair, the FPTA did contact BellSouth in November 2002 informally requesting a refund and lower PTAS rates; however, even that contact was not made until ten months *after* the *Wisconsin Order* was issued.

Section 364.14 is prospective only. The statutory language expressly limits rates to be fixed "thereafter." *City of Miami*, 208 So.2d at 260; *and* Section 364.14 (1)(c) ("the commission shall determine the just and reasonable rates, charges, tolls or rentals *to be thereafter observed and in force and fix the same by order*"). This Commission simply has no statutory authority to revise rates established years past, and order corresponding refunds.

The doctrine of retroactive ratemaking was addressed in detail in Docket No. 971663-WS, *In re Petition of Florida Cities Water Company*. In Order No. PSC-98-1583-FOF-WS, November 25, 1998, this Commission explained:

> This Commission has consistently recognized that ratemaking is prospective and that retroactive ratemaking is prohibited . . . . The general principal of retroactive ratemaking is that new rates are not to be applied to past consumptions. The Courts have interpreted retroactive ratemaking to occur when an attempt is made to recover either past losses (underearnings) or overearnings in prospective rates . . . In *City of Miami*, the petitioner argued that rates should have been reduced for prior period overearnings and that the excess earnings should be refunded. Both of these attempts were deemed to be retroactive ratemaking and thus were prohibited.

(citations omitted).

This Commission's *PTAS Order* and *Final PTAS Order* have not been appealed, they have not been revoked or modified by the Commission, and they have not been suspended or vacated by any court. These Orders direct the manner in which BellSouth is to charge for payphone access lines in Florida, and BellSouth has been charging (and continues to charge) for payphone access lines in compliance with these Orders. BellSouth simply cannot be required to issue refunds for charging rates that comply with valid and effective Orders of the Commission. Any such refunds would clearly violate the prohibition against retroactive ratemaking.

C. The FPTA Is Not Entitled to Refunds In Light of the Filed Rate Doctrine

The filed rate doctrine also prohibits the FPTA's claims for a refund. The "filed rate doctrine holds that where a regulated company has a rate for service on file with the applicable regulatory agency, the filed rate is the only rate that may be charged." *Global Access Limited v. AT&T Corp.*, 978 F. Supp. 1068 (S.D. Fla. 1997); *citing Florida Mun. Power Agency v. Florida Power & Light Co.*, 64 F.3d 614, 615 (11th Cir. 1995).. Stated simply, the filed rate doctrine precludes a party from disputing a filed rate. "Application of the filed rate doctrine can at times be harsh, but its justification lies in the principle that carriers should not be able to discriminate against customers in the setting of service rates; one rate – the filed rate – is the applicable rate for all . . . ." *Global Access Limited*, 978 F. Supp. at 1073; *see also MCI Telecomm. Corp. v. Best Tel. Co.*, 898 F. Supp. 868, 872 (S.D. Fla. 1994).

The FPTA had the opportunity to challenge the *PTAS Order* and the *Final PTAS Order*. It could have appealed those orders, it could have asked for reconsideration and a full hearing, it could have sought or requested an offset or deduction of the EUCL charge from the PTAS rate, or, given that the Commission was acting pursuant to authority delegated to it by the FCC, it may have been able to appeal those Orders to the FCC. The FPTA, however, decided not to challenge the Commission's orders in any forum, and for nearly four years it has paid the rates that are set forth in BellSouth's filed tariffs (and that are consistent with the Commission's unchallenged orders). Now, the FPTA comes back to this Commission, implies that BellSouth can ignore the requirements of this Commission's prior Orders, and asks this Commission to require BellSouth to pay refunds for having complied with binding, effective, and unchallenged Commission Orders.

In doing so, the FPTA indisputably is seeking relief for a purported injury that allegedly was caused by the payment of rates that were (and are) on file with this Commission and with the FCC. Moreover, the rates were (and are) consistent with unchallenged orders entered by the Commission. All such claims "are barred by the 'filed rate doctrine.'" *See Commonwealth v.*

Anthem Ins. Cos., 8 S.W.3d at 52. *Cf.* Order, *In Re Consumers Power Company*, 52 P.U.R. 4th 536 (Mich. P.S.C. April 12, 1983) ("The interim and final orders in Case No. U-4717 were appealable to the Ingham county circuit court . . . . The AG, who was a party to Case No. U-4717, did not appeal those orders. By requesting the commission to order the refund of money collected on the rates established by those orders, the AG seeks to overturn those prior orders in a subsequent proceeding rather than the statutorily required procedure of appeal to the circuit court. His collateral attack on those orders is, therefore, unlawful and unreasonable.").

In *Arizona Grocery Co. v. Atchison, T&SF Ry. Co.*, 284 U.S. 370, 390 (1932), the Supreme Court declared that

> Where the Commission has upon complaint, and after hearing, declared what is the maximum reasonable rate to be charged by a carrier, it may not at a later time, and upon the same or additional evidence as to the fact situation existing when its previous order was promulgated, by declaring its own finding as to the reasonableness erroneous, subject a carrier which conformed thereto to the payment of reparation measured by what the Commission now holds it should have decided in the earlier proceeding to be a reasonable rate.

Since then, federal appellate decisions consistently have held that a federal commission may not order refunds when it determines that a rate that it previously allowed to become effective is not appropriate. *See, e.g.,* AT*&T v. Federal Communications Commission*, 836 F.2d 1386, 1394 (D.C. Cir. 1987) ("when the Commission determines that existing rates are excessive, it cannot order a refund of past payments under the revoked rate. Rather, the FCC can only correct the problem through a *prospective* prescription under section 205. The courts have consistently adhered to this basic rule of ratemaking)(J. Starr, concurring)(emphasis in original); *Sea Robin Pipeline Co. v. Federal Energy Regulatory Commission*, 795 F.2d 182, 189 n.7 (D.C. Cir. 1986) ("Sea Robin had a right to rely on the legality of the filed rate once the Commission allowed it to become effective. FERC may not order a retroactive refund based on a post hoc determination of the illegality of a filed rate's prescription.").

This principle is firmly grounded in sound public policy. Any other rule "would lead to endless consideration of matters previously presented to the Commission and the confusion about the effectiveness of Commission orders." *Idaho Sugar v. Intermountain Gas Co.*, 100 Idaho 368, 373-74, 597 P.2d 1058, 1063-64 (1979). In the words of a federal appellate judge addressing the FCC's attempts to allow for refunds in violation of this rule:

> it is apparent that the refund rule that the Commission advances here does clear violence to the values of stability and predictability that Congress so carefully enshrined in the Communications Act. In the Commission's Orwellian world, carriers are no longer able to rely on filed rates; instead, they go about their business in constant jeopardy of being forced to refund enormous sums of money, even though they complied scrupulously with their filed rates.

AT&T v. Federal Communications Commission, 836 F.2d 1386, 1394 (D.C. Cir. 1987)(J. Starr, concurring). Clearly, the Commission should reject the FPTA's claims for refunds as a matter of law.[5]

D. There Are No Exceptions to the Application of Either Retroactive Ratemaking or the Filed Rate Doctrine that Apply Here.

BellSouth anticipates that the FPTA may argue that this Commission has and can issue refunds in situations where a carrier has overcharged its customers. Any such argument is simply wrong.

While this Commission has previously ordered refunds, such refunds result from unique sets of circumstances, which are not at issue in this case. For example, when this Commission has established interim rates, which rates are later modified, refunds from the date of any interim rates have been found to be appropriate. *See United Telephone Company of Florida v. Mann*, 403 So.2d 962 (Fla. 1981). Likewise, when this Commission improperly implemented the terms of a remand order, which order was subsequently appealed, rate changes dating back to the date of the improper Commission action were proper. *See GTE Florida Inc. v. Clark*, 668 So.2d 971 (Fla. 1996). In the *GTE* case, the Florida Supreme Court distinguished rate changes dating back to orders that were appealed from cases "where a new rate is requested and then applied retroactively" as the FPTA is requesting here. *GTE Florida Inc.*, 668 So.2d at 973.

In this case, the FPTA has never appealed the *Final PTAS Order*. Moreover, this Commission did not establish interim PTAS rates that would be subject to final regulatory action at a later date. Thus, the FPTA's refund request does not fall within any recognized exceptions to the prohibition against retroactive ratemaking.

Similarly, Section 204 of the federal Telecommunications Act provides that when a carrier files a new or revised charge with the FCC, the FCC may hold a hearing on that new or revised charge. *See* 47 U.S.C. §204(a)(1). If the FCC decides to hold such a hearing, it may suspend the new or revised charge, order the carrier to keep an accounting of the amounts collected under that charge, and then allow the rate to go into effect on the condition that the carrier pay refunds, with interest, for "such portion of such charge for a new service or revised charges as by its decision shall be found not justified." *Id.* Section 204 clearly was at play in the FCC's physical collocation docket:

> This physical collocation tariff investigation began when the Common Carrier Bureau (Bureau) partially suspended LECs' physical collocation tariffs pursuant to Section 204(a) of the Act, initiated an investigation into the lawfulness of these tariffs, [and] imposed an accounting order . . . .

Second Report and Order, *In the Matter of Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Physical Collocation for Special Access and*

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[5] Even if FPTA had a viable claim for refunds (which it does not), Section A2.4.3.A of BellSouth's Florida General Subscriber Services Tariff provides, in pertinent part, that "[a]ny objection to billed charges should be promptly reported to the Company." FPTA members have not objected to any of their bills.

Switched Transport, 12 FCC Rcd 18,730 (June 13, 1997) ("Physical Collocation Order"). It also was at play in the FCC's LIDB docket ("the Bureau suspended the transmittals for one day, imposed accounting orders, and initiated investigations of the tariff transmittals referenced above").[6]

The refunds the FCC ordered in the *Physical Collocation Order* and in the *LIDB Order* were *not* the result of some inherent right to refunds in cases involving the new services test. Nor were they the result of the Commission's decision to revisit the legality of rates that had already gone into effect and that had been in effect for several years. In other words, the FCC did *not* do what the FPTA is asking this Commission to do -- review rates that it had already approved (and that the carrier had already been charging in compliance with an unchallenged FCC Order), decide that those rates were too high, and then order refunds.[7]

Instead, the refunds the FCC ordered in the *Physical Collocation Order* and in the *LIDB Order* were the result of the FCC's decision to allow new or revised rates to go into effect on the condition that a hearing on those rates would be held and that the carrier collecting those rates would pay refunds based on the outcome of that hearing. Nothing in either the *Physical Collocation Order* or the *LIDB Order* suggest that having decided not to challenge the Commission's Orders nearly four years ago, the FPTA can now collaterally attack those Orders (and the rates established by those Orders) and receive refunds to boot.

E. Neither BellSouth's Position before the FCC when it Sought a Waiver of the Intrastate Tariff Filing Requirements Nor the FCC's *Second Waiver Order* Supports the FPTA's Request for Refunds.

FPTA will likely argue that not paying the refunds the FPTA seeks in this docket

[6] Order, *In the Matter of Local Exchange Carrier Line Information Database,* 8 FCC Rcd 7130 (August 23, 1993) ("LIDB Order").

conflicts with BellSouth's position before the FCC when it sought a waiver of the intrastate tariff filing requirements. *E.g.*, Complaint, second ¶ 22, p. 12. Any such an argument is meritless. After considering BellSouth's request for a waiver, the FCC issued an Order plainly stating that "[a] LEC who seeks to rely on the wavier granted in the instant Order must reimburse its customers or provide credit from April 15, 1997 in situations where the newly tariffed rates, *when effective*, are lower than the existing tariffed rates." *Second Waiver Order*, ¶ 2, 25. Because BellSouth's tariffed rates, which rates met the new services test and were effective January 19, 1999, were not lower than existing rates, no refunds were due to FPTA members then and no refunds are due now. BellSouth's actions are entirely consistent with its position in seeking a waiver from the FCC.

The FPTA implies that what BellSouth and the FCC really meant was that even after the rates the Commission established in the *PTAS Order* and the *Final PTAS Order* became effective, and even after all parties declined to seek reconsideration or appeal such orders, BellSouth would agree to pay refunds, all the way back to April 15, 1997, if any person or entity could, at any unspecified time in the future, convince any commission or court that the Florida Commission really should have established different rates way back in 1999. The FPTA's argument defies both common sense and the controlling legal principles discussed above and their refund claims should be rejected forthwith.

F. State Commissions With Similar Refund Requests Have Rejected Such Claims

In cases analogous to the FPTA's Complaint, payphone associations in both Ohio and Kansas have initiated regulatory actions before their respective state commissions seeking

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[7] As explained in above, the prohibition against retroactive ratemaking and the filed rate doctrine would preclude any such order.

refunds. Both state commissions denied the refund claims. The Kansas Commission noted:

> [a]ll Kansas local exchange companies have approved payphone line tariffs in place and there is no evidence they have not been billing payphone providers in accordance with those tariffs. Telephone companies are required to charge the rates set out in their approved tariffs. There is no basis for retroactive implementation of new tariffs, if we find the current tariffs must be revised.

Order, *In Re: Matter of the Application of the Kansas Payphone Association Requesting the Commission Investigate and Revise the Dockets Concerning the Resale of Local Telephone Service by Independent Payphone Operators and Tariffs Pursuant to the FCCs "New services Test" Decision Issued January 31, 2002,* Docket No. 02-KAPT-651-GIT (December 10, 2002) (Attachment 1, p. 11). Likewise, the Ohio Commission "rejects the PAO's request for refunds. Such refunds would constitute unlawful, retroactive ratemaking." Order, *In Re: the Commission's Investigation into the Implementation of Section 276 of the Telecommunications Act of 1996 Regarding Pay Telephone Services,* Case No. 96-1310-TP-COI (November 26, 2002) (Attachment 2, p. 11). This Commission should summarily reject the FPTA's claims for refunds, just as the Kansas and Ohio Commissions did with similar claims.

CONCLUSION

For the reasons explained above, the Commission should dismiss the portion of the FPTA's Petition seeking refunds from BellSouth.

Docket No. 030300-TP
BellSouth Exhibit No. KKB-3
Page 1 of 1
Testimony of Kathy K. Blake

Analysis of Current BellSouth Rates for Payphone Access Lines

Current Rates

Rate Group	1	2	3	4	5	6	7	8	9	10	11	12
Current Payphone Charges												
Monthly Base Rate	$ 12.67	$ 13.67	$ 14.77	$ 15.77	$ 16.72	$ 17.77	$ 18.62	$ 19.47	$ 20.27	$ 20.87	$ 21.47	$ 21.97
EUCL	$ 7.13	$ 7.13	$ 7.13	$ 7.13	$ 7.13	$ 7.13	$ 7.13	$ 7.13	$ 7.13	$ 7.13	$ 7.13	$ 7.13
Total Current Monthly Charges	$ 19.80	$ 20.80	$ 21.90	$ 22.90	$ 23.85	$ 24.90	$ 25.75	$ 26.60	$ 27.40	$ 28.00	$ 28.60	$ 29.10
Zone 1												
UNE Rate	$ 12.87	$ 12.87	$ 12.87	$ 12.87	$ 12.87	$ 12.87	$ 12.87	$ 12.87	$ 12.87	$ 12.87	$ 12.87	$ 12.87
Quantification of Excess Rate	$ 6.93	$ 7.93	$ 9.03	$ 10.03	$ 10.98	$ 12.03	$ 12.88	$ 13.73	$ 14.53	$ 15.13	$ 15.73	$ 16.23
Zone 2												
UNE Rate	$ 16.98	$ 16.98	$ 16.98	$ 16.98	$ 16.98	$ 16.98	$ 16.98	$ 16.98	$ 16.98	$ 16.98	$ 16.98	$ 16.98
Quantification of Excess Rate	$ 2.82	$ 3.82	$ 4.92	$ 5.92	$ 6.87	$ 7.92	$ 8.77	$ 9.62	$ 10.42	$ 11.02	$ 11.62	$ 12.12
Zone 3												
UNE Rate	$ 27.73	$ 27.73	$ 27.73	$ 27.73	$ 27.73	$ 27.73	$ 27.73	$ 27.73	$ 27.73	$ 27.73	$ 27.73	$ 27.73
Quantification of Excess Rate	$ (7.93)	$ (6.93)	$ (5.83)	$ (4.83)	$ (3.88)	$ (2.83)	$ (1.98)	$ (1.13)	$ (0.33)	$ 0.27	$ 0.87	$ 1.37

Statewide Average - BellSouth Cost Study	$ 24.36
Less EUCL	$ 7.13
Monthly Intrastate Base Rate	$ 17.23

Statewise average UNE-P Loop rate	$ 13.95
Statewide average UNE-P port rate	$ 1.17
Statewide average UNE-P	$ 15.12
Usage (Per Exhibit DJW-2)	$ 1.93
	$ 17.05

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 030300-TP EXHIBIT NO. 12
COMPANY/ BellSouth
WITNESS: KKB-3
DATE: 05-12-04

FLORIDA DOCKET NO. 030300-TP

PTAS STUDY

CALDWELL EXHIBIT DDC-1

PUBLIC

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 030300-TP EXHIBIT NO. 13
COMPANY/ BellSouth
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DATE 05-12-04

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PTAS STUDY
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PTAS STUDY
SECTION 1
EXECUTIVE SUMMARY

STATEMENT OF PURPOSE

BellSouth Telecommunications, Inc. (BellSouth) is providing Total Service Long Run Incremental Cost (TSLRIC) studies, which also reflect a reasonable allocation of overhead costs for Public Telephone Access Service (PTAS). The cost study complies with the Federal Communication Commission's (FCC's) Memorandum Opinion and Order dated January 31, 2002, which outlines the methodology to be used in support of the New Services Test.

Specifically, the FCC's Order directs that: "It is consistent with the *Local Competition Order* for a state to use its accustomed TSLRIC methodology (or another forward-looking methodology) to develop the direct costs of payphone line service costs." ¶49

With respect to the development of the overhead costs, the FCC's Order states: "It is also consistent with our past application of the price cap new services test, and permissible in this context, for states to determine overhead assignments using the methodology that the Commission used to evaluate the reasonableness of ONA tariffs in the *ONA Tariff Order*.[1] In that investigation, the Commission used ARMIS data to calculate an upper limit for both the ratio of direct cost to direct investment and the ratio of overhead cost to total cost. Analogously, states could use ARMIS data relating to the plant categories used to provide payphone services in calculating an upper limit on overhead loadings." ¶54 This is the methodology used by Bellsouth in the development of its overhead costs.

OVERVIEW

Historically, BellSouth prepared Long Run Incremental Cost (LRIC) studies to support tariff prices for telecommunications services. The LRIC result, which considered only the volume sensitive costs, constituted the price floor for the service in question, and was one of a number of factors considered when establishing the price for a service. BellSouth also conducted Total Service Long Run Incremental Cost (TSLRIC) studies that addressed not only the volume sensitive costs but also considered the directly attributable volume insensitive costs. TSLRIC studies were used to ensure that the service was not being subsidized and is the methodology utilized in this filing.

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[1] *In the Matter of Open Network Architecture Tariffs of Bell Operating Companies*, CC Docket No. 92-91, Order, 9 FCC Rcd 440, 458-59, para. 50, and 477-80, Attach. C (Dec. 15, 1993) (*ONA Tariff Order*).

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SECTION 1
EXECUTIVE SUMMARY

In order to develop the economic costs associated with PTAS, BellSouth initiated the basic study process as follows.

1. BellSouth determined the forward-looking, efficient architecture, engineering, and provisioning procedures associated with PTAS. This was accomplished through the use of models, special studies, and the involvement of key BellSouth personnel, such as cost analysts, product managers, and network employees.

2. Costs associated with the material and equipment required were developed.

3. BellSouth ensured that the costs associated with supporting structures and installation of material and equipment were appropriately included.

4. BellSouth determined the cost of PTAS by converting the installed investment into its capital costs and operating expenses, and included an appropriate amount of overhead costs and taxes.

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PTAS STUDY
SECTION 1
EXECUTIVE SUMMARY

FLORIDA

Line	Description	PTAS
1	Loop	[redacted]
2		
3	Termination	[redacted]
4		
5	Usage	[redacted]
6		
7	Blocking and Screening	[redacted]
8		
9		
10		
11	**Total**	**$24.36**

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SECTION 2
COST METHODOLOGY

TOTAL SERVICE LONG RUN INCREMENTAL COST (TSLRIC)

BellSouth follows TSLRIC methodology in developing costs for retail service offerings. The basic guidelines that form the foundation for a TSLRIC study are:

1) The studies should reflect a long-run perspective. Long run implies a sufficient period, long enough that all costs are variable. In other words, this principle assumes all costs are avoidable in the long run.

2) Cost causation is a key concept in incremental costing. Thus, only those costs that are directly caused by the particular item being studied are considered. This principle mandates the identification of costs directly attributable to providing a service.

3) The increment being studied should be the entire quantity of service.

4) Any function necessary to produce a service must have an associated cost. In essence, no sunk costs should be included.

5) While common overheads are not part of a long run incremental cost study, the FCC's Order allowed for consideration of a reasonable overhead in cost support associated with the New Services Test.

6) The technology used should reflect the least cost, most efficient technology.

7) Costs should be forward-looking.

There are two generic types of costs that have been studied: recurring and nonrecurring.

RECURRING COSTS

The monthly costs resulting from capital investments deployed to provision payphone service are called recurring costs. Recurring costs include capital and operating costs. Capital costs include depreciation, cost of money and income tax. Operating costs include the expenses for maintenance, ad valorem and other taxes and represent ongoing costs associated with upkeep of the initial capital investment. Gross receipts tax (which includes municipal license taxes and PSC fees) is added.

The generic steps for developing recurring cost can be summarized as shown below. The unique technical characteristics and physical makeup of each payphone service cost element must be taken into consideration.

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SECTION 2
COST METHODOLOGY

Step 1: Determine the forward-looking network designs (architectures), which will be used in deployment of payphone service.

Step 2: Determine current material prices for the items of plant used in each design. Material prices are obtained from BellSouth contracts with various vendors and thus reflect all applicable discounts.

Step 3: Apply material Telephone Plant Indexes (TPIs) as appropriate to determine the base year material prices. Material TPIs estimate the changes in material prices over time.

Step 4: Adjust the material prices for utilization to account for on-going spare capacity.

Step 5: Weight the material prices, as appropriate, to determine the average material price for a typical element by field reporting code (FRC), i.e., plant account.

Step 6: Apply material inflation factors, referred to as levelization factors, to the material prices to convert the utilized base year material prices to material prices representative of a three-year planning period.

Step 7: Apply in-plant loadings to the levelized material prices to convert the material prices to an installed investment, which includes the cost of material, engineering labor and installation labor.

Step 8: Apply support loadings to the investments to determine investments for support equipment and power, RTU fees, land, buildings, poles and conduit as appropriate.

Step 9: Convert the investments by FRC to annual costs by applying account specific annual cost factors to the various investments. The annual cost factors calculate the capital costs (depreciation, cost of money, and income tax) and operating expenses (plant specific expense, ad valorem taxes, and other taxes). Add the annual costs for the various FRCs. Next divide by 12 to determine the direct monthly cost. (Not all elements are expressed on a monthly basis. For example, elements charged on a per minute of use basis are not divided by 12.)

Step 10: Apply the gross receipts tax factor.

Step 11: Apply the overhead cost allocation factor.

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SECTION 2
COST METHODOLOGY

NONRECURRING COSTS

Nonrecurring costs are one-time expenses associated with provisioning a service. Subject matter experts identify the amount of time required to perform the task and also determine the probability that the activity will occur. Provisioning costs are developed by multiplying the work time for each work function by the direct labor rate for the work group performing the function.

STUDY PROCESSING

The BellSouth Cost Calculator©, a model developed by BellSouth, produces long run incremental cost studies adhering to either a TSLRIC or TELRIC (Total Element Long Run Incremental Cost) methodology depending on set-up and input parameters. The model was designed to accept variable inputs that are applied according to a user-controlled matrix. The BellSouth Cost Calculator was used to produce the TSLRIC studies included in this filing.

Underlying the BellSouth Cost Calculator inputs are fundamental cost models, e.g., SCIS/MO (Switching Cost Information System/Model Office), SST© (Simplified Switching Tool), the BellSouth Telecommunications Loop Model (BSTLM)©, and price calculators, e.g., the SONET and DLC (Digital Loop Carrier) Price Calculators. These models or price calculators produce some of the investment and expense inputs for the individual components being studied. For example, SCIS/MO outputs are used both for the payphone termination and usage calculations.

Additionally, these are the same models and inputs that were presented to the Commission in August, 2000, during the most recent generic unbundled network element (UNE) cost proceedings in Docket No. 990649-TP. The BSTLM however was updated to include year 2000 material prices.

Some of the outputs from the BellSouth Cost Calculator are expressed on a per minute of use (MOU) basis. Thus, additional work papers, outside the BellSouth Cost Calculator, were required to determine costs on a flat rated basis. These work papers follow the Summary of Results in Section 1.

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SECTION 2
COST METHODOLOGY

As discussed previously, BellSouth utilized the FCC-approved option of using the methodology outlined in the ONA proceeding for the calculation of the overhead costs. The 2001 regulated expense and investment amounts were extracted from the ARMIS 43-03 Report for BellSouth Telecommunications, Inc. Capital Cost Factors (Composite of Depreciation, Return, Income Tax, & Ad Valorem Tax components) used to convert 2001 investment into 2001 capital costs. The actual calculation of this overhead factor is included in Section 3.

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SECTION 3
COST STUDIES

INTRODUCTION
Section 3 contains a service description, flat rate usage calculation, BellSouth Cost Calculator outputs and a worksheet showing the development of the Overhead Cost Factor.

The studies included in this filing are all based on a three (3) year study period (2003-2005). All direct long run costs associated with providing the services are identified and included in the cost studies. Additionally, a reasonable allocation of overhead costs has been considered.

Service Description
PTAS
PTAS includes the local loop, the non-traffic sensitive (NTS) line termination in the switch, central office blocking and screening, and local usage. The local loop is the facility that extends from the main distributing frame (MDF) in the BellSouth central office to the customer's premises. The facility includes all the outside plant components required for transmission, such as copper cable, fiber cable, electronic equipment, poles, conduit, etc., as well as all cable up to and including the connection at the customer's premises, the network interface device (NID). The loop results reflect coin characteristics (i.e., costs associated with coin customer locations were determined by the BSTLM). Additionally the loop costs are based upon forward-looking technologies and the most efficient method of provisioning a local loop.

The NTS line termination is the facility used to connect the local loop to a BellSouth end office switch. The facility includes the connection on the MDF, the jumper to the switch, and the non-traffic sensitive termination, for example the line card in the DMS100, in the switch. BellSouth used the Switching Cost Information System (SCIS/MO), a Telcordia cost model, to develop the vendor engineered, furnished, and installed (EF&I) investment associated with these items of plant. The SCIS model outputs reflect vendor design criteria, BellSouth discount levels, and office-level usage characteristics.

Central office blocking and screening is a feature in the switch required for PTAS. Blocking and screening costs are both recurring and nonrecurring. The recurring costs are the incremental costs over and above a Plain Old Telephone Service (POTS) call for using the switch processor. The nonrecurring costs are the labor costs for performing the translations in the switch.

Billed number screening is an SS7-based feature that blocks collect and bill-to-third-party calls. This capability is available to residential, business, and payphone customers. The recurring costs reflect the investments associated with launching a query to the Line Identification Database (LIDB) for billing information associated with the called number. These costs are negligible (i.e., less than $.005 per line, per month) and thus, have not been included in the cost summary.

The local usage costs include the traffic sensitive switching cost of the end office for both intraoffice and interoffice calls within the local calling area of that end office. Additionally, local tandem switching, interoffice transport, and signaling costs are included. These costs reflect an average per minute of use of the network. These results are converted to a payphone flat-rate monthly cost by utilizing payphone specific call lengths and the typical number of payphone calls in a month.

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SECTION 3
COST STUDIES

Usage Calculations		**Florida**
% Intraoffice	% Intraoffice Study (8/1998)	[redacted]
% Interoffice	1-LN1	[redacted]
% Tandem Occurrence	Local Tandem Occurence Study (4/2000)	[redacted]
Local Minutes per month	UBP Report - Coin (Jan 2002 - Apr 2002)	[redacted]
Mileage	BCATS-ID	[redacted]

Per MOU Costs		**TSLRIC + ONA**
End Office Switching per MOU	BellSouth Cost Calculator Output	[redacted]
EO Interoffice Trunk Port per MOU	BellSouth Cost Calculator Output	[redacted]
Tandem Switching Function per MOU	BellSouth Cost Calculator Output	[redacted]
Tandem Interoffice Trunk Port per MOU	BellSouth Cost Calculator Output	[redacted]
Common Transport - per Mile per MOU	BellSouth Cost Calculator Output	[redacted]
Common Transport - Facilities per MOU	BellSouth Cost Calculator Output	[redacted]

Flat Rate, per Line, Per Month		
End Office Switching	(LN4*LN2*2+LN4*LN1)*LN9	[redacted]
EO Interoffice Trunk Port	LN4*LN2*2*LN10	[redacted]
Tandem Switching Function	LN4*LN2*LN3*LN11	[redacted]
Tandem Interoffice Trunk Port	LN4*LN3*LN2*LN12*2	[redacted]
Common Transport - per Mile	LN4*LN2*LN5*LN13	[redacted]
Common Transport - Facilities	LN4*LN2*LN14	[redacted]

Total Switching Usage Cost per Line per Month		**Florida**
	Sum (LN19...LN24)	[redacted]

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SECTION 3
COST STUDIES

BellSouth Cost Calculator 2.6 - Element Summary Report

Study Name:	Updated Coin Study using Aug 2000 loop mod and basket case factors
State:	Florida
Scenario:	State Average - coin Oct 2003
Study Type:	TSLRIC

Cost Element	Description	Recurring	ONA Factor	Total Cost
A.1.coin	2-Wire Analog Voice Grade Loop - Coin	[redacted]	[redacted]	[redacted]
B.3.1	Central Office Blocking and Screening	[redacted]	[redacted]	[redacted]
C.1.1	End Office Switching Function Per MOU	[redacted]	[redacted]	[redacted]
C.1.2	End Office Trunk Port - Shared, Per MOU	[redacted]	[redacted]	[redacted]
C.2.1	Tandem Switching Function Per MOU	[redacted]	[redacted]	[redacted]
C.2.2	Tandem Trunk Port - Shared, Per MOU	[redacted]	[redacted]	[redacted]
D.1.1	Common Transport - Per Mile, Per MOU	[redacted]	[redacted]	[redacted]
D.1.2	Common Transport - Facilities Termination Per MOU	[redacted]	[redacted]	[redacted]
P.1.2	Exchange Port - 2-Wire Coin Port	[redacted]	[redacted]	[redacted]

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SECTION 3
COST STUDIES

BellSouth Cost Calculator Output Sheets

These sheets are proprietary and only furnished under written agreement.

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SECTION 3
COST STUDIES

Overhead Cost Factor Development Worksheet

This worksheet is proprietary and only furnished under written agreement.

SUMMARY

FLORIDA

Line	Description	PTAS
1	Loop	[redacted]
2		
3	Termination	[redacted]
4		
5	Usage	[redacted]
6		
7	Blocking and Screening	[redacted]
8		
9		
10		
11	**Total**	**$24.36**

BellSouth Telecommunications, Inc.

Florida Public Service Commission
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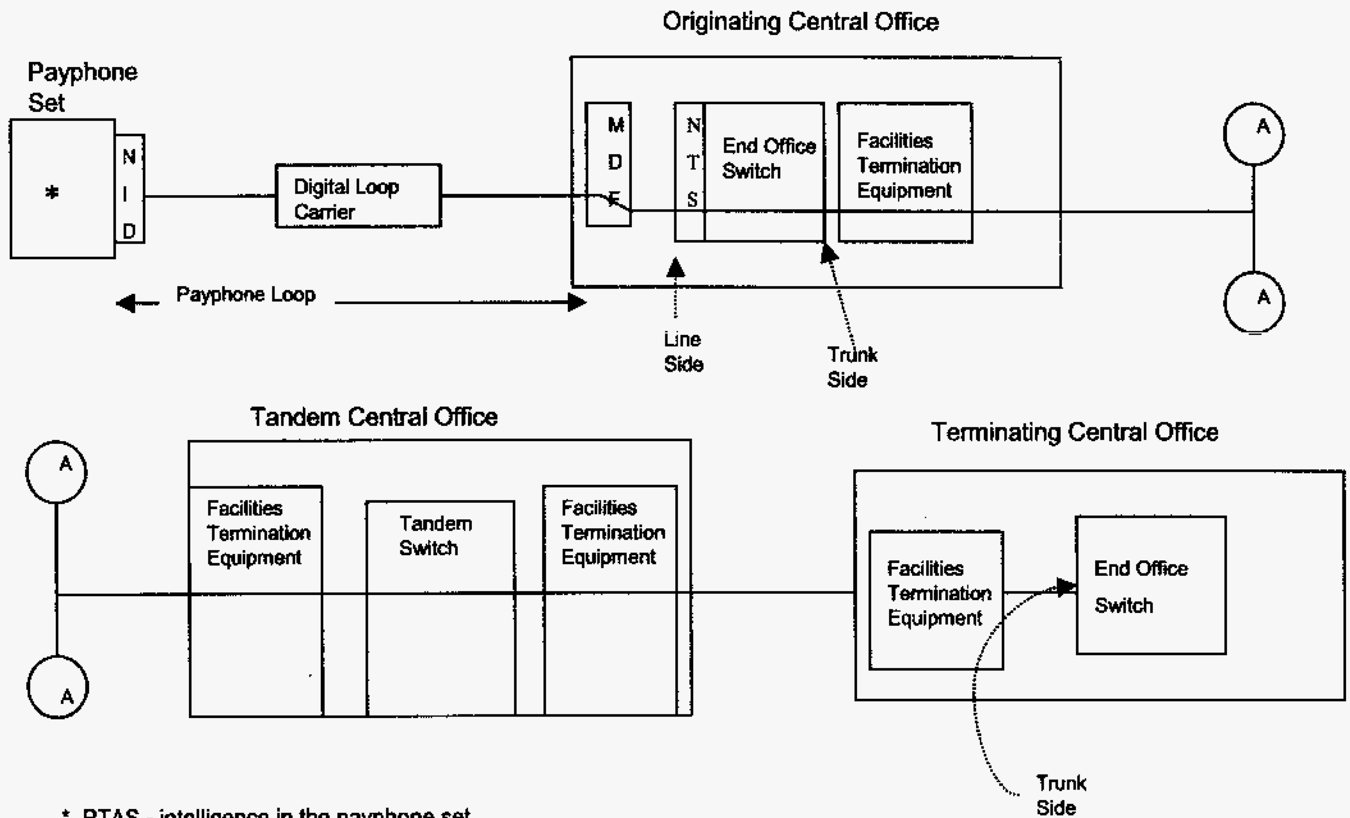
Exhibit DDC-3



* PTAS - intelligence in the payphone set

Payph one Service