BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:	)	
	)	
Petition to Establish Generic Docket to Consider	)	**Docket No. 041269-TP**
Amendments to Interconnection	)	**Filed: September 22, 2005**
Agreements Resulting from Changes of Law	)	
	)	

REBUTTAL TESTIMONY AND EXHIBITS

OF
JOSEPH GILLAN

ON BEHALF OF

THE COMPETITIVE CARRIERS OF THE SOUTH, INC.
(COMPSOUTH)

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The Competitive Carriers of the South, Inc.

September 22, 2005

I. Introduction

Q. Please state your name, business address and occupation.

A. My name is Joseph Gillan. My business address is P. O. Box 541038, Orlando, Florida 32854. I previously filed direct testimony on behalf of CompSouth in this proceeding.

Q. What areas are addressed by your rebuttal testimony?

A. My rebuttal testimony is structured to respond to several key areas of disagreement highlighted by BellSouth's direct testimony.[1] Specifically, my rebuttal testimony addresses:

* BellSouth's suggestion that it is no longer required to offer unbundled access to fiber and hybrid loops used to serve enterprise customers. As I explain below, BellSouth remains obligated to offer access to DS1s, whether or not it has deployed a hybrid (or all fiber) architecture. FCC broadband policies do not exempt BellSouth from providing high-capacity loops to serve enterprise customers, which include any customer desiring service over a DS1.

* BellSouth's proposed wire center designations implementing the FCC's impairment determinations for high capacity loops and transport. In calculating the number of business lines, BellSouth adopted an assumption unsupported by FCC Order, common sense and the facts – that is, BellSouth assumes that every digital access line is used to its *maximum potential capacity* to provide switched access lines services to business customers. This assumption is not only facially unreasonable, it violates the most basic requirements of the TRO and is designed to accomplish one task – to artificially limit BellSouth's unbundling obligations and protect its market position. In addition, I explain that the Commission should not "double-count" by counting both SBC and AT&T, as these companies stand on the eve of their merger.

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[1] I note that the issues addressed by my rebuttal testimony are not the only areas where I disagree with BellSouth. In a number of areas, however, my direct testimony adequately addresses issues that were foreshadowed by the issues list in this proceeding. The focus of my rebuttal testimony is on new issues and areas where discovery and additional information is needed (for instance, with respect to the correct categorization of wire centers for purposes of defining BellSouth's obligations to offer high capacity loops and transport at TELRIC-based rates under §251 of the federal Act).

* BellSouth's refusal to address checklist items required under §271, despite the clear language in the federal Act that such offerings must be included in interconnection agreements approved pursuant to §252 (which includes this Commission's review and approval). In addition, I respond to BellSouth's claim that federal commingling obligations exclude wholesale offerings required under §271 and I explain why the Commission must establish interim §271-compliant rates in this proceeding.

In addition to these three main areas, my rebuttal testimony also addresses a number of other issues that, while individually important, are not as central to the fundamental dispute as those listed above.

Q. Does your testimony also identify areas where CompSouth has changed its position to move closer to BellSouth?

A. Yes. Attached to my testimony is a Revised Exhibit JPG-1 whose contract language has been modified, where possible, to narrow issues with BellSouth. Specifically, Revised Exhibit JPG-1 includes revised contract language to address the following areas:

* Contract language is revised to indicate that transitional rates will be applied retroactively to March 11, 2005. However, so as to ensure that all interrelated changes occur simultaneously, provisions incorporating revised EEL eligibility, commingling and conversions must treated as effective on that same date.

* The contract definition of a "business line" is revised to parallel the definition in the TRRO. It is clear that the dispute with

BellSouth involves an *interpretation* of how the definition should be read and not the definition itself.

* The contract definition of a "building" is modified to move towards the concepts discussed by BellSouth, recognizing, however, that where individual tenants are served by independent and distinct points-of-entry for telecommunications facilities – that is, each area is, from a telecommunications perspective, an independent structure – then each area served by such separate point-of-entry for telecommunications services would be considered a separate building.

In addition, Revised Exhibit JPG-1 includes contract language that implements the discussion concerning BellSouth's ongoing obligation to provide access to DS1 loops to serve enterprise customers (even loops that might not be available to serve a mass market customer), as well as editorial changes needed to clarify the original intent of the proposal.

II. BellSouth is Required to Provide Access to DS1s on all FTTC, FTTH and Hybrid Loops

Q. Please summarize BellSouth's claims regarding its unbundling obligations for broadband facilities.

A. In the TRO (and subsequent Orders), the FCC adopted reduced unbundling obligations for a variety of "broadband facilities," specifically "fiber to the home"

(FTTH),[2] "fiber to the curb" (FTTC) and "fiber to the predominantly residential multi-dwelling unit" (MDU). BellSouth's testimony, however, appears to extend the application of these reduced obligations beyond what the FCC intended

According to BellSouth, the "basic principle" that the FCC adopted in its broadband policies is simply that "CLECs continue to have access to currently existing last mile cooper facilities, for as long as those facilities continue to exist."[3] BellSouth goes on to describe its obligations as:

> BellSouth, per TRO Paragraph 273, is not obligated to "offer unbundled access to newly deployed or "greenfield" fiber loops.[4]
>
> ... the FCC ruled that hybrid loops should not be unbundled since they are part of the next generation network. [5]
>
> ... the same unbundling relief framework (including any unbundling relief) established by the FCC in the TRO for FTTH loops also applies to FTTC loops. [6]

Q. Is BellSouth's characterization of the FCC's Orders complete?

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[2] Although the FCC refers to fiber-to-the-home and abbreviates the architecture as FTTH, it defines the configuration as fiber-to-the-customer-premise.

[3] Fogle Direct, page 14.

[4] Fogle Direct, page 17.

[5] Fogle Direct, page 18.

[6] Fogle Direct, pages 19-20. FTTH and FTTC are abbreviations for "Fiber to the Home" and "Fiber to the Curb," where the later requires that fiber be deployed to within 500 feet of each premise

A. No. There is a critical *limiting* factor in the FCC's "broadband exclusions" that BellSouth completely ignores. That is, the *predicate* to BellSouth's reduced unbundling obligations for these network architectures is that the loops are used to serve mass market customers. BellSouth was not granted a *total* exception to its loop unbundling obligations for all fiber and hybrid loops; rather, the FCC's broadband exclusions were specifically limited to circumstances where these loops are used to serve mass market customers. This basic predicate permeates the FCC's Orders:

> ...we find that our unbundling rules for local loops serving the mass market must account for these different loop architectures.[7]

> Accordingly, we do not require incumbent LECs to provide unbundled access to new mass market FTTC loops for either narrowband or broadband services.[8]

> The Commission granted the greatest unbundling relief for dark or lit fiber loops serving mass market customers that extend to the customer's premises (known as fiber-to-the-home or FTTH loops) in new build or "greenfield" situations. For those loops, the Commission determined that no unbundling is required.[9]

> We decline to require incumbent LECs to unbundle the next-generation network, packetized capabilities of their hybrid loops to enable requesting carriers to provide broadband services to the mass market.[10]

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7 *TRO* ¶ 221.

8 Order on Reconsideration, Federal Communications Commission, CC Docket 01-338, October 14, 2004, ("*FTTC Order*"), ¶ 14.

9 *FTTC Order,* ¶ 6.

10 *TRO* ¶ 288 (emphasis added).

> ...with the knowledge that incumbent LEC next-generation networks will not be available on an unbundled basis, competitive LECs will need to continue to seek innovative network access options to serve end users and to fully compete against incumbent LECs in the mass market.[11]

> Thus, we determine that, particularly in light of a competitive landscape in which competitive LECs are leading the deployment of FTTH, removing incumbent LEC unbundling obligations on FTTH loops will promote their deployment of the network infrastructure necessary to provide broadband services to the mass market.[12]

> ... the rules we adopt herein do not require incumbent LECs to provide unbundled access to any electronics or other equipment used to transmit packetized information over hybrid loops, such as the xDSL-capable line cards installed in DLC systems or equipment used to provide passive optical networking (PON) capabilities to the mass market.[13]

> In the *Triennial Review Order*, the Commission limited the unbundling obligations imposed on mass market FTTH deployments to remove disincentives to the deployment of advanced telecommunications facilities in the mass market. We find here that those policy considerations are furthered by extending the same regulatory treatment to incumbent LECs' mass market FTTC deployments.[14]

> ... we conclude that, treating FTTC loops the same as FTTH loops will encourage carriers to further deploy fiber architectures necessary to deploy broadband services to the mass market, and

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11 *TRO*, ¶ 272 (emphasis added).

12 *TRO* ¶ 278 (emphasis added).

13 *TRO* ¶ 288 (emphasis added).

14 *FTTC Order* ¶ 2.

> the benefits of such deployment outweigh the limited impairment that competitive carriers face.[15]

The citations listed above are representative, not exhaustive, of the distinction drawn by the FCC. In effect, the FCC adopted a broadband policy intended to encourage broadband deployment in the mass market, principally to foster competition for "triple play" services that combine voice, data and video.[16] This rationale does not apply to serving the enterprise market.

Q. Does BellSouth recognize that the FCC's unbundling exclusions for broadband loop-types apply in the mass market?

A. Yes, BellSouth correctly *identifies* the limiting principal, but then ignores its importance. In BellSouth's own testimony, it states:

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[15] *FTTC Order*, ¶ 13.

[16] For instance, when extending its unbundling exclusion to the fiber-to-the-curb architecture, the FCC concluded (*FTTC Order*, ¶ 10 and ¶11):

> The record reflects that when fiber is brought within 500 feet of a subscriber's premise, carriers can provide broadband services comparable to that provided by FTTH architecture, including data speeds of 10 megabits per second (Mbps) in addition to high definition multi-channel video services.
>
> ***
>
> [A]s with FTTH loops, competitive LECs deploying FTTC loops have increased revenue opportunities through the ability to offer voice, multi-channel video, and high-speed data services. As the Commission found with respect to FTTH loops in the *Triennial Review Order*, the substantial revenue opportunities that arise from offering this "triple play" of services helps ameliorate many of the entry barriers presented by the costs and scale economies.

> BellSouth maintains that the FCC determined in the *TRO* that ILECs have no obligation to unbundle FTTH mass market loops serving greenfield areas or areas of new construction.[17]

What is missing from any of BellSouth's testimony is acceptance that the FCC's rules are not a *blanket* exemption from unbundling obligations. BellSouth remains obligated to provide access to carriers serving enterprise customers, even where the CLEC could not gain access to the loop facility to serve a mass market customer.

Q. When a CLEC requests a DS1 loop, is it serving a mass market or an enterprise customer?

A. When a CLEC requests a DS1 loop, by definition the customer it is seeking to serve is considered an enterprise (and not mass market) customer. For instance, in the *TRO*, the FCC distinguished enterprise business customers from the mass market, noting:

> All other business customers – whom we characterize as the enterprise market – typically purchase high-capacity loops, such as DS1, DS3, and OCn capacity loops. We address high-capacity loops provisioned to these customers as part of our enterprise market analysis.[18]

Thus, whenever a CLEC requests a DS1 loop to serve a customer, that request itself means that the customer is (or is becoming) a member of the enterprise

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17 Fogle Direct, page 19, emphasis added. (footnote deleted).

18 TRO, ¶ 209.

market and BellSouth must comply with loop unbundling requirements as defined for that market.[19]

Q. Did the FCC clearly require ILECs to provide CLECs DS1 loops without regard to whether the loop is FTTH, FTTC or a fiber/copper hybrid?

A. Yes. As I explain later in my testimony, BellSouth's unbundling relief for DS1 loops is defined by the number of fiber-based collocators/switched business lines in an end office, not by the type of loop architecture in place. (Not surprisingly, BellSouth is attempting to obtain relief under both). As the FCC explained in the *TRO*:

> DS1 loops will be available to requesting carriers, without limitation, regardless of the technology used to provide such loops, *e.g.*, two-wire and four-wire HDSL or SHDSL, fiber optics, or radio, used by the incumbent LEC to provision such loops and regardless of the customer for which the requesting carrier will serve unless otherwise specifically indicated. *See supra* Part VI.A.4.a.(v) (discussing FTTH). The unbundling obligation associated with DS1 loops is in no way limited by the rules we adopt today with respect to hybrid loops typically used to serve mass market customers. *See supra* Part VI.A.4.a.(v)(b)(i).[20]

Moreover, to the extent that there *had* been any confusion over the scope of the FCC's broadband loop polices, that confusion should have been put to rest by the

[19] I note that it is immaterial how may lines, or what type of facility, BellSouth may be using to initially serve the customer. If the CLEC is requesting a DS1 (or higher) loop facility for the customer, BellSouth must provide the DS1 so that the customer may become an enterprise customer.

[20] *TRO* ¶ 325, footnote 956. Emphasis added.

FCC's own description of its policies to the D.C. Circuit Court of Appeals. Responding to a pleading by Allegiance Telecom that expressed the fear that the FCC may have restricted access to DS1 loops, the FCC explained:

> Allegiance also claims that it will lose access to DS1 loops. Motion at 11. It based that claim on the theory that when the Commission changed "residence" to end user in the erratum, it removed business customers served by DS-1 loops from the unbundling obligation. That reading of the erratum is incorrect.... The text, as well as the rules themselves, make it clear that DS1 and DS3 loops remain available as UNEs at TELRIC prices.[21]

DS1 loops are available to CLECs, subject to the separate unbundling analysis discussed in the following section of my testimony concerning the appropriate wire center classifications governing access to high capacity loops and transport.

Q. Is there any limitation on hybrid loops?

A. Yes. The only "limitation" on BellSouth's unbundling obligations with respect to fiber/copper hybrid loops is that BellSouth need not provide access to the packet-based capability in the loop.[22] This limitation, however, should not affect CLECs ability to obtain access to DS1 (and DS3) loops in any meaningful way.

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[21] *Allegiance Telecom, Inc. et al. v. FCC*, D.C. Cir. No. 03-1316, Opposition of the Federal Communications Commission to Allegiance Telecom's Motion for Stay Pending Review (filed Oct. 31, 2003) at 12.

[22] *TRO* ¶ 288.

First, the FCC made clear that BellSouth must still provide DS1 and DS3 loops on such facilities:

> We stress that the line drawing in which we engage does not eliminate the existing rights competitive LECs have to obtain unbundled access to hybrid loops capable of providing DS1 and DS3 service to customers. These TDM-based services – which are generally provided to enterprise customers rather than mass market customers – are non-packetized, high-capacity capabilities provided over the circuit switched networks of incumbent LECs.... Incumbent LECs remain obligated to comply with the nondiscrimination requirements of section 251(c)(3) in their provision of loops to requesting carriers, including stand-alone spare copper loops, copper subloops, and the features, functions, and capabilities for TDM-based services over their hybrid loops.[23]
>
> ***
>
> Although packetized fiber capabilities will not be available as UNEs, incumbent LECs remain obligated, however, to provide unbundled access to the features, functions, and capabilities of hybrid loops that are not used to transmit packetized information. Thus, as discussed more specifically in the Enterprise Loops section, consistent with the proposals of HTBC, SBC, and others, incumbent LECs must provide unbundled access to a complete transmission path over their TDM networks to address the impairment we find that requesting carriers currently face. This requirement ensures that competitive LECs have additional means with which to provide broadband capabilities to end users because competitive LECs can obtain DS1 and DS3 loops, including channelized DS1 or DS3 loops and multiple DS1 or DS3 loops for each customer.[24]

Second, the FCC's policies are premised on the understanding that, to the extent that an ILEC does deploy a packet-based architecture, the packet-architecture

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[23] *TRO* ¶ 294. Footnotes omitted.

[24] *TRO* ¶ 289. Footnote omitted.

parallels its TDM-network, and would not isolate customers from access to CLEC DS1-based services.

> In their submissions in this proceeding, incumbent LECs demonstrate that they typically segregate transmissions over hybrid loops onto two paths, *i.e.*, a circuit-switched path using TDM technology and a packet-switched path (usually over an ATM network). *See, e.g.*, SBC Jan. 15, 2003 *Ex Parte* Letter at 4 (providing diagram to illustrate that its network architecture consists of a TDM-based portion and a packet-switched portion).[25]

Thus, the relatively narrow exception to BellSouth's general obligation to unbundle DS1 (and DS3) services should have little practical effect. To the extent that BellSouth is no longer required to provide access to DS1 (and DS3) loops, those circumstances are defined by the wire center list addressed in the following section of my rebuttal testimony (relating to the correctly establishing the number of switched business lines and unaffiliated fiber-based collocators at a wire center) and not by the loop architecture deployed by the incumbent.

III. Wire Center Designations

Q. Is the testimony of Mr. Wallis of Deloitte Financial Advisory Services relevant to any wire-center issue in dispute?

[25] *TRO* ¶ 294, footnote 846.

A. No. My understanding of the Deloitte analysis is that the firm merely confirmed that BellSouth's spreadsheets were free of mathematical error. The Wallis report makes clear that it does not:

* Verify the accuracy and completeness of the source data obtained for the calculation of the business lines;

* Verify the accuracy of the systems in which the business lines are captured (and the source data that was extracted);

* Validate BellSouth's methodology developed to calculate the business lines for FCC TRRO purposes; or

* Validate the definitions of "business lines" used by BellSouth.[26]

In other words, the testimony and analysis avoids the *issues* in question and, as such, does nothing to legitimize BellSouth's claims in this proceeding (other than its arithmetic).[27]

Q. What appears to be the two most significant errors with BellSouth's wire-center analysis?

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[26] Exhibit DW-2, Mathematical Calculation of BellSouth Business Line Counts for the Year 2004, July 15, 2005, Deloitte Financial Advisory Services ("Wallis Report"), page 2.

[27] Indeed, the Wallis Report fully discloses its exceedingly narrow purpose, explaining "we [Deloitte] obtained an understanding of BellSouth's methodologies, a set of its applicable data, and then replicated the mathematical calculation utilized by BellSouth ..." (Wallis Report, page 2). In other words, Deloitte performed the role of a "shadow spreadsheet," confirming only that BellSouth's arithmetic was correct.

A. Based on the review that I have been able to conduct,[28] two issues appear to the most significant. The first concerns an assumption used by BellSouth in how it converts UNE-L to switched business lines. In effect, BellSouth *assumes* that the *maximum potential capacity* of each UNE-L circuit is used to provide switched business line service when, in fact, that is not the case. The second key issue concerns fiber-based collocators and BellSouth's claim that several end offices are served by multiple competitive fiber networks.

Q. Please explain the first error in BellSouth's analysis, i.e., BellSouth's assumption that the maximum potential capacity of each UNE-L circuit is used as a switched access lines used to serve a business customer.

A. The FCC defines a "business line" (in part) as:[29]

> A business line is an incumbent LEC-owned switched access line used to serve a business customer, whether by the incumbent LEC itself or by a competitive LEC that leases the line from the incumbent LEC. The number of business lines in a wire center

[28] CompSouth's attempt to validate BellSouth's list of claimed unaffiliated fiber-optic collocators is ongoing. CompSouth only recently (August 11) obtained a list of the carriers that BellSouth claims are fiber-based collocators in Florida and CompSouth and BellSouth are serving discovery on such carriers in an effort to validate whether BellSouth's claims are accurate. BellSouth is only now collecting this information through discovery and has not yet provided a comprehensive collection of responses to CompSouth to enable us to perform our analysis. We expect the need to update our analysis during the hearing and may also require a post-hearing process to incorporate additional discovery in this important area. In fact, BellSouth and CompSouth have agreed to just such a process that we are finalizing and will be presenting to the Commission in the near future.

[29] As I indicated in the introduction, Revised Exhibit JPG-1 has been amended to incorporate this definition.

> shall equal the sum of all incumbent LEC business switched access lines, plus the sum of all UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements.[30]

Importantly, as BellSouth interprets this rule, it reads the second sentence in the rule as granting a waiver of the first sentence. That is, even though the FCC rule clearly defines a business line as "an incumbent LEC-owned switched access line used to serve a business customer," BellSouth believes that it is entitled to count the maximum potential capacity of every UNE-L circuit as a switched access line serving a business customers no matter *how* the circuit is actually configured and to *what* use it is put.

Q. Do you believe that the FCC sanctioned BellSouth's assumption that the maximum potential capacity of each UNE-L circuit is used to provide switched access line service to business customers?

A. No. I believe that the definition should be read completely – from top to bottom – in a manner where each sentence is consistent with the sentences that precede and follow it. The FCC did not sanction BellSouth's assumption, as the full business line definition makes clear:[31]

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[30] 47 CFR § 51.5 emphasis added

[31] I do not intend to suggest that BellSouth does not include the entire rule reference in its testimony. I will present the rule in components to more clearly illustrate why its selective *reading* of the rule is incorrect.

> Business line. A business line is an incumbent LEC-owned switched access line used to serve a business customer, whether by the incumbent LEC itself or by a competitive LEC that leases the line from the incumbent LEC. The number of business lines in a wire center shall equal the sum of all incumbent LEC business switched access lines, plus the sum of all UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, business line tallies (1) shall include only those access lines connecting end-user customers with incumbent LEC end-offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line. For example, a DS1 line corresponds to 24 64 kbps-equivalents, and therefore to 24 "business lines."[32]

As the rule definition above plainly states, the FCC went on to make clear that *among* these requirements (i.e., what should be counted, including UNE-L), the business line tallies "shall include *only* those access lines connecting end-user customers with incumbent LEC end-offices for switched services." Thus, while BellSouth claims that the FCC rule does not exclude any particular type of unbundled loop,"[33] the rule most plainly does. The rule specifically requires that only those access lines connecting end-user customers with incumbent LEC end-offices for switched services shall be counted. It could not be clearer.

Q. Does the directive that digital access lines should count "each 64 kbps-equivalent as one line" override every other requirement in the rule?

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32 47 CFR § 51.5 emphasis added.

33 Tipton Direct, pages 16-17.

A. No. There is nothing in the rule that suggests the final instruction overrides the entire rest of the rule. The rule should be read in its entirety and a circuit must satisfy all requirements in the rule in order to be counted: it must be a switched line, it must be ILEC-owned, it must be used to serve a business customer and, for digital circuits that *satisfy* these requirements, each 64 kbps channel used to provide switched service to a business customer should be counted as a line. But this final instruction does not mean BellSouth may count unused capacity or capacity that is not used to provide switched services to a business customer merely because it is part of a digital circuit.

Q. Do CLECs routinely offer non-switched services using UNE-L?

A. Yes. Indeed, a staple of the CLEC product offering is the "integrated" service that combines voice and data on the same access facility (typically a DS1). In addition, CLECs offer data-only services and sometimes only partially-fill DS-1s (even where only switched service is provided). It is patently unreasonable to assume that the maximum potential capacity of each UNE-L is used to provide business customers with switched services, which is the assumption that BellSouth makes.

Q. How significant is BellSouth's assumption that all UNE-L capacity is used to provide switched access line service to business customers?

A. BellSouth's assumption is extremely significant. Exhibit JPG-2 identifies how many of BellSouth's claimed business lines are associated with the total maximum potential capacity of the UNE-L that it counted.[34] Overall, 20% of the total claimed business lines depend upon BellSouth's assumption that the total maximum potential capacity of every UNE-L is used to provide switched access line service to business customers.

Q. Are BellSouth's claims regarding the number of business lines filed here substantially different than the evidence that BellSouth provided the FCC during its deliberations leading to the *TRRO*?

A. Yes, there is a dramatic difference between the number of business lines at each wire center that BellSouth provided the FCC (and which it used in establishing its impairment thresholds) and the number that BellSouth claims here. For the BellSouth region overall, the following table compares the number of wire centers that BellSouth told the FCC would fall in each category to its claims now.[35]

[34] The analysis in Exhibit JPG-2 is limited to only those wire centers relevant (at least at the time BellSouth filed its direct testimony) to this proceeding – that is, those wire centers that BellSouth claims satisfy one or more of the FCC's requirements such that BellSouth would no longer be required to offer access to high capacity loop or transport (either at DS1 or DS3 levels).

[35] Source: BellSouth Ex Parte, WC Docket No. 04-313 and 01-338, filed December 7, 2004.

Table 1: Comparing the Number of Wire Centers BellSouth Told the FCC Would Meet Impairment Criteria to BellSouth's Claims Today

Criterion: WC lines>	Use of Criteria under TRRO[36]	Told FCC	Claims Now	Change
60,000	Restricts Access to DS1 Loops	3	11	267%
38,000	Restricts Access to DS3 Loops and DS1/DS3 Transport	15	34	127%
24,000	Restricts Access to DS3 Transport	54	100	85%

In addition, as shown on Exhibit JPG-3, a primary driver for the changes illustrated in Table 1 is the number of business lines that BellSouth claims exist at its wire centers. Exhibit JPG-3 compares the number of business lines BellSouth informed the FCC it had at wire centers in Florida to the number of business lines BellSouth now claims exist. On average, BellSouth now claims that its relevant wire centers have nearly 20% more business lines than they did when they filed data with the FCC.

As Table 1 and Exhibit JPG-3 make clear, the evidentiary basis to the FCC's decision rested upon data quite different than that which BellSouth presents here. The FCC specifically indicated that the *TRRO* "is based on ARMIS 43-08 business lines, plus business UNE-P, plus UNE-Loops" and cites *specifically* to BellSouth for the basis of its analysis. BellSouth is engaged in a game of bait-

[36] In addition to business line counts, the FCC criteria also considers, as either an alternative qualifying requirement (for transport), or a mandatory additional criteria (for loops), the number of fiber-based collocators.

and-switch, attempting to implement the FCC's *TRRO* with data far different than the data the FCC relied upon in establishing its criteria.

Q. Does BellSouth manipulate its own switched business line counts to impose the same assumption that it applied to UNE-L?

A. Yes. As further evidence of how extreme BellSouth's assumption is, BellSouth went so far as to manipulate its own ARMIS 43-08 data – data that the FCC specifically used[37] – in order to make it consistent with the assumption it applies to the UNE-L data. As BellSouth "explains:"

> ARMIS 43-08 line counts only include provisioned or "activated" 64 kbps channels that ride high capacity digital lines. For example, if a switched DS1 Carrier System had eighteen (18) 64 kpbs channels provisioned as business lines for a customer, the ARMIS 43-08 would count only 18 business lines. The TRRO definition business lines requires that the full system capacity be counted as business lines, so for TRRO purposes, the business line count for that DS1 Carrier System would be the full system capacity, or 24 business lines.[38]

In other words, BellSouth began its analysis with correct information – that is, ARMIS 43-08 only counts lines that are actually used to provide switched access line service to business customers – and then expanded the count so that it would assume that the maximum potential capacity of each circuit was being used.

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37 *TRRO*, ¶ 105.

38 Tipton Direct, page 34.

There is no greater indictment of BellSouth's interpretation than this, where BellSouth elevates its unreasonable assumption to the point where it is used to mask actual facts.

Q. What changes do you believe the Commission must make to ensure that the business line counts "shall include only those access lines connecting end-user customers with incumbent LEC end-offices for switched services" as required by 47 CFR § 51.5?

A. I recognize that the FCC did not provide specific guidance as to the best way to ensure that UNE-L counts appropriately include only those access lines used to provide switched services to business customers. However, BellSouth's approach – *to simply assume that the maximum potential capacity of each UNE-L is entirely used to provide switched services* – is clearly unreasonable and dramatically overstates the number of business lines at each wire center. The fact that BellSouth then expands its own business line count to mirror the assumption -- rather than to use its actual business line count -- underscores the unreasonableness of the approach. Fortunately, however, BellSouth's approach provides the information needed to correct both deficiencies.

Q. Please explain how BellSouth's data can be used to correct for both errors.

A. First, BellSouth's workpapers permit me to directly correct for its phantom business lines – i.e., the maximum potential capacity that its ARMIS 43-08 data properly excludes because the capacity is not used to provide switched access line service to business customers.

Second, however, this same data provides a *reasonable* estimate of the percentage of digital capacity that is used to provide switched access line service to business customers. That is, BellSouth's data reveals exactly what percentage of its digital access capacity is used to provide switched access line service to business customers. All that the Commission needs to do is to accept the simple and straightforward assumption that the average utilization for the CLECs is equal to the average utilization for BellSouth.

Q. Did you correct BellSouth's business line count in this manner?

A. Yes. Exhibit JPG-4 provides a corrected business line count by removing BellSouth's phantom business lines and applying to the CLEC's digital UNE-L capacity the same percentage of used-to-potential capacity that BellSouth experiences.[39] I believe that it is plainly more reasonable to assume that CLECs use approximately the *same* percentage of their potential digital capacity to provide switched access line services to business customers as BellSouth, than it

[39] The percentage I applied is the average over the wire centers (shown in Exhibit JPG-4) that BellSouth claims satisfy one or more criteria for non-impairment.

is to assume that CLECs use *all* of their maximum potential capacity in this manner (an assumption that is unquestionably false).

Q. Have you also validated BellSouth's claims regarding the number of fiber-based collocators?

A. Yes, to the extent that discovery permits. As I indicated, we have only recently received from BellSouth the names of those carriers that it claims have fiber-based collocations in the wire centers at issue in this proceeding. BellSouth is seeking confirmation from its named "fiber-based collocators" through Requests for Admissions and is receiving a number of responses from carriers denying that they are, in fact, fiber-based collocators in the claimed offices (as well as obtaining the necessary validations). The key is assuring that the claimed fiber-based collocators "...operate(s) a fiber-optic cable or comparable transmission facility that (1) terminates at a collocation arrangement within the wire center; (2) leaves the incumbent LEC wire center premises; and (3) is owned by a party other than the incumbent LEC or any affiliate of the incumbent LEC.[40]

Q. Are you prepared to provide a fully correct alternative to BellSouth's claimed list of wire centers?

[40] 47 CFR § 51.5 emphasis added.

A. CompSouth is not yet in a position to validate each of its claimed fiber-based collocators. However, we do have sufficient responses to provide a partially-complete list of wire centers for Florida, which is attached as Exhibit JPG-5. As CompSouth is provided additional discovery from BellSouth – in particular, discovery responses from those carriers named by BellSouth as a fiber-based collocator – we intend to update Exhibit JPG-5.

Q. Does Exhibit JPG-5 correct for any other errors in BellSouth's analysis?

A. Yes. One requirement of the FCC's standards to count a fiber-based collocator is that two affiliated carriers should not be counted in the same wire center:

> In tallying the number of fiber-based collocators for purposes of our transport impairment analysis, parties shall only count multiple collocations at a single wire center by the same or affiliated carriers as one fiber-based collocation.[41]

BellSouth, however, is attempting to exploit the timing anomaly of the pending AT&T-SBC merger by counting both carriers in the same wire center. I recognize that the AT&T-SBC merger is pending (and has not yet closed), but it would clearly be inappropriate for BellSouth to evade its unbundling obligation merely because this merger has not yet closed.[42] One can question whether SBC's

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[41] *TRO*, ¶ 102.

[42] It was recently reported in Telecommunications Reports that the SBC-AT&T merger may close as early as next month.

out-of-region facilities should ever be counted as "competitive collocations,"[43] but even if that were the case, counting *both* SBC and AT&T is to count one entrant too many.

IV. Section 271 Prices and Commingling

Q. As a threshold point, BellSouth claims that only elements required under §251 must be provided in interconnection agreements.[44] Do you agree with this claim?

A. No. As I explain in my direct testimony, BellSouth has a separate obligation under §271 to offer checklist items (for instance, loops, switching and transport) in interconnection agreements, even where the FCC does not require such items to unbundled pursuant to §251.[45] This requirement is clearly stated in §271(c)(1)(A)

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[43] BellSouth's reliance on SBC-collocation facilities is itself given that SBC's entry decisions were (at least in part) adopted to satisfy regulatory mandates (and not market conditions) as part of its earlier merger with Ameritech and given that SBC's Chairman had earlier told investors it did not intend to compete against its wireless partner, BellSouth. As SBC Chairman Whitacre explained:

> UNIDENTIFIED PARTICIPANT: Apparently you're going to be offering a voice over IP product out of region; won't that anger perhaps Bell South and -
>
> EDWARD WHITACRE: Well, absolutely it will. And just like if they come in (inaudible) it's going to anger us. Of course, the answer to that is, yes, but it's a non-issue since we have a good partnership and it's not happening. Impossible to speculate on things that don't happen. It's kind of a curt answer wasn't it but I don't know how to answer that any differently.

SBC Communications Analyst Meeting, Minutes, November 13, 2003,

[44] Blake Direct, page 5; Tipton Direct, page 42.

[45] See Gillan Direct, pages 38-45.

of the federal Act and requires that such offerings be included in interconnection agreements approved by state commissions under §252:

> PRESENCE OF A FACILITIES-BASED COMPETITOR- A Bell operating company meets the requirements of this subparagraph if it has entered into one or more binding **agreements that have been approved under section 252** specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service (as defined in section 3(47)(A), but excluding exchange access) to residential and business subscribers.[46]

This unambiguous requirement that checklist items must be offered in interconnection agreements was cited by a Federal District Court upholding fines imposed by the Minnesota Commission on Qwest for failing to file certain interconnection agreements:

> Citing the fair notice doctrine, Qwest argues additionally that it should not be penalized for failing to file some of the twelve ICAs [interconnection agreements] because it did not know which agreements were subject to the Act's filing requirement.
>
> ***
>
> … despite the absence of a definition [for the term interconnection agreement] in the Act, other sources outlined the scope of §252 and provided notice. For example, §271 includes a comprehensive checklist of items that must be included in ICAs before an ILEC may receive authority to provide regional long distance service.

[46] 47 U.S.C. § 271(c)(1)(emphasis added).

> This list reveals that any agreement containing a checklist item must be filed as an ICA under the Act.[47]

Section 271 is clear that the wholesale requirements of the competitive checklist are to be offered through interconnection agreements, and interconnection agreements are subject to the arbitration and approval process of §252.

Q. BellSouth also claims that the FCC excluded the wholesale offerings of the competitive checklist when it adopted its commingling rules.[48] Do you agree that this is a proper interpretation of the FCC's rules?

A. No. To begin, the FCC's discussion of commingling and its rule does not have reference any exclusions, as shown by the following rule and discussion:

> 47 C.F.R. §51.5: Commingling means the connecting, attaching, or otherwise linking of an unbundled network element, or a combination of unbundled network elements, to one or more facilities or services that a requesting telecommunications carrier has obtained at wholesale from an incumbent LEC, or the combining of an unbundled network element, or a combination of unbundled network elements, with one or more such facilities or services. Commingle means the act of commingling.
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> ***
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> By commingling, we mean the connecting, attaching, or otherwise linking of a UNE, or a UNE combination, to one or more facilities or services that a requesting carrier has obtained at wholesale from an incumbent LEC pursuant to any method other than unbundling

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47 *Qwest Corporation v. Minnesota Public Utilities Commission*, 2004 WL 1920970, at *7 (D. Minn. 2004) (citations omitted) (emphasis added).

48 Tipton Direct, pages 52-53.

> under Section 251(c)(3) of the Act, or the combining of a UNE or UNE combination with one or more such wholesale services.[49]

Q. If the FCC did not exclude the wholesale offerings required by the competitive checklist in the rule or by its Order, why does BellSouth claim that its commingling obligations do not apply to these important offerings?

A. BellSouth's claim rests upon (1) a single paragraph in the *TRO* (¶579) as adopted, and (2) an Errata that eliminated one sentence from an earlier "draft" of the *TRO*.[50]

First, BellSouth claims that paragraph 579 of the *TRO* limits wholesale service subject to commingling to "switched and special access services offered pursuant to tariff."[51] The complete text of ¶ 579, however, provides important context and language that BellSouth fails to acknowledge in its testimony:

> We eliminate the commingling restriction that the Commission adopted as part of the temporary constraints in the *Supplemental Order Clarification* and applied to stand-alone loops and EELs. We therefore modify our rules to affirmatively permit requesting carriers to commingle UNEs and combinations of UNEs with services (*e.g.*, switched and special access services offered pursuant to tariff), and to require incumbent LECs to perform the necessary functions to effectuate such commingling upon request. By commingling, we mean the connecting, attaching, or otherwise linking of a UNE, or a UNE combination, to one or more facilities

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49 *TRO* ¶ 579, emphasis added

50 Tipton Direct, pages 52-53.

51 *Ibid*.

> or services that a requesting carrier has obtained at wholesale from an incumbent LEC pursuant to any method other than unbundling under section 251(c)(3) of the Act, or the combining of a UNE or UNE combination with one or more such wholesale services. Thus, an incumbent LEC shall permit a requesting telecommunications carrier to commingle a UNE or a UNE combination with one or more facilities or services that a requesting carrier has obtained at wholesale from an incumbent LEC pursuant to a method other than unbundling under section 251(c)(3) of the Act. In addition, upon request, an incumbent LEC shall perform the functions necessary to commingle a UNE or a UNE combination with one or more facilities or services that a requesting carrier has obtained at wholesale from an incumbent LEC pursuant to a method other than unbundling under section 251(c)(3) of the Act. As a result, competitive LECs may connect, combine, or otherwise attach UNEs and combinations of UNEs to wholesale services (*e.g.*, switched and special access services offered pursuant to tariff), and incumbent LECs shall not deny access to UNEs and combinations of UNEs on the grounds that such facilities or services are somehow connected, combined, or otherwise attached to wholesale services.

Importantly, neither of the parentheticals that mention "switched and special access services" includes any discussion that *limits* the FCC's commingling decision to only these services. Rather, each parenthetical is introduced by (what was dropped from BellSouth's testimony citation) the abbreviation "*e.g.*," defined by Black's Law Dictionary as *exempli gratia*, "for the sake of any example." Thus the FCC was *illustrating* its commingling rules, not *limiting* their application.

Moreover, the FCC had good reason for using these particular access services as *examples* of wholesale services to which its commingling rules would apply. As the very first sentence of the paragraph explains, one consequence of its decision

would be that the FCC's new commingling rules would supersede the "commingling restriction that the Commission adopted as part of the temporary constraints in the *Supplemental Order Clarification*." The temporary constraints in the *Supplemental Order* were adopted in order to prevent interexchange carriers from substituting UNEs for access services. Thus, it would stand to reason that the FCC would point to access services as a specific *example* to remove any question that it was changing its prior approach.

Q. BellSouth also points to one sentence deleted from the TRO to argue that the FCC's commingling rules exclude the wholesale offerings required by §271.[52] Is this argument reasonable?

A. No. The fact is that BellSouth cannot find support in any Order for its claim that the wholesale services required by §271 were singled out by the FCC to be uniquely (and discriminatorily) excluded from the commingling obligations. Because BellSouth cannot find anything <u>in</u> an FCC Order that justifies its position, it claims the policy was established by what was left <u>out</u>.

Before addressing the specifics of the Errata that BellSouth relies upon so heavily, it is useful to put its claim in context. The competitive checklist represents mandatory wholesale offerings that Congress insisted BellSouth <u>must</u> offer if it wanted to provide long distance service. These are not just "any" wholesale

[52] Tipton Direct, page 53.

offerings – these are offerings that the Congress of the United States wrote as *specific* obligations that apply even where the FCC concludes there is no impairment. BellSouth's position is that not only that the FCC could relegate these wholesale offerings to an inferior standing that excluded from them from the ILEC's general commingling obligations,[53] but that the *way* the FCC would choose to effect such a remarkable policy was through an Errata deleting a single sentence.

Q. In you view, does the Errata accomplish the changes claimed by BellSouth?

A. No. The Errata made two changes relevant to the issue at hand.

First, the portion of the Errata that BellSouth emphasizes effected the following deletion [in brackets]:

> As a final matter, we require that incumbent LECs permit commingling of UNEs and UNE combinations with other wholesale facilities and services, including [any network elements unbundled pursuant to section 271 and] any services offered for resale pursuant to section 251(c)(4) of the Act.[54]

[53] The FCC adopted its commingling requirements concluding that a refusal to commingle would constitute an "unjust and unreasonable practice," as well as an "undue and unreasonable prejudice or advantage." BellSouth never even attempts to explain what it is about its §271 wholesale offerings that would reverse the FCC's analysis and find that a refusal to commingle these services/facilities would be a reasonable practice.

[54] *TRO*, ¶ 584.

In the same Errata, the FCC also made the following change, deleting the final sentence draft [in brackets below][55] to footnote 1989:[56]

> We decline to require BOCs, pursuant to section 271, to combine network elements that no longer are required to be unbundled under section 251. Unlike section 251(c)(3), items 4-6 and 10 of section 271's competitive checklist contain no mention of "combining" and, as noted above, do not refer back to the combination requirement set forth in section 251(c)(3). [We also decline to apply our commingling rule, set forth in Part VII.A. above, to services that must be offered pursuant to these checklist items.]

Obviously, had the FCC intended to exempt the § 271 competitive checklist from its commingling rules, it would not have eliminated this express finding. BellSouth has characterized any discussion of this footnote as an attempt to "confuse the issue,"[57] claiming the FCC deleted this statement because the text was now clear. With all due respect to BellSouth, the facts simply cannot support that claim.

At one time, the *TRO* included two contradictory statements regarding the RBOC's obligation to commingle §251 elements with the wholesale offerings listed in §271. Both citations were removed. Importantly, even if the Commission focuses exclusively on the editorial deletion favored by BellSouth,

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[55] I realize that "underlining" a deletion is not a standard editorial format, but I have done so to make clear exactly what sentence the FCC deleted from the draft *TRO* by its Errata.

[56] This footnote appears as footnote 1990 in the pre-Errata *TRO*.

[57] Tipton Direct, page 53.

the edit does not result in a sentence that limits BellSouth's commingling obligations. The cited passage (post-Errata) still reads "...we require that incumbent LECs permit commingling of UNEs and UNE combinations with other wholesale facilities and services," which would include by definition, wholesale facilities and services required by the § 271 competitive checklist.

One would expect that if the FCC had decided to eliminate an entire category of wholesale offerings specifically adopted by Congress, they would have done so expressly and not through the (absurdly) subtle method of issuing text in error and correcting it. The plain language of the *TRO* applies the commingling rules to wholesale services obtained "pursuant to any method other than unbundling under section 251,"[58] and the language that would have exempted § 271 offerings from commingling obligations was removed from the *TRO* by the Errata.

The Errata simply cannot be read as excusing BellSouth's wholesale offerings required by §271 from its general commingling obligations.

Q. Are you prepared to offer specific pricing recommendations for BellSouth's §271 offerings?

A. No, not at this time. CompSouth has propounded discovery to BellSouth that would provide us information needed to propose just and reasonable rates.

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[58] *See TRO* ¶ 579 (emphasis added).

BellSouth has objected to these questions and, as a result, necessary information for detailed analysis is not available at this time.

There is, however, a need for the Commission to establish interim §271 prices that would remain in effect until the conclusion of a permanent rate proceeding. The Missouri Commission recently confronted the identical timing dilemma – that is, there is a need for §271 prices, but the record did not provide the information needed to establish such prices.

> SBC offered no rates because its view is that these ICAs should not contain prices for § 271 UNEs. Likewise, the [CLEC] Coalition's original suggestion that TELRIC rates be continued is not appropriate given that the appropriate standard is now "just and reasonable." However, the Commission concurs that the Coalition's compromise position – rates patterned on the FCC's transition period rates for declassified UNEs – constitutes a suitable interim rate structure for § 271 UNEs.[59]

Because BellSouth has not provide the data to even propose permanent prices, I believe that the "Missouri Approach" is the best avenue for loops and transport (to the extent it is no longer available as a §251 network element under Exhibit JPG-5).

Q. Would establishing interim §271 rates in this manner fully compensate BellSouth?

[59] Arbitration Order, Public Service Commission of Missouri, TO-2005-0336, July 11, 2005, page 30.

A. Yes. The network elements at issue in this proceeding are local switching and high-capacity (DS-1) transport. BellSouth has acknowledged (*see* testimony attached Exhibit JPG-6[60]), that its principal concerns relating to the FCC's TELRIC methodology do not apply to *these* network elements, and that, therefore, existing UNE prices are a reasonable, if not conservative, estimate of its costs:

> ... it is the additional constraints currently mandated by the FCC that the incumbent local exchange carriers ("ILECs") object to with respect to TELRIC-based rates. The use of a hypothetical network and most efficient, least-cost provider requirements have distorted the TELRIC results and normally understate the true forward-looking costs of the ILEC.
>
> These distortions, however, are most evident in the calculation of unbundled loop elements, and they are less evident in the switching and transport network elements that make up switched access. In fact, if BellSouth had conducted a TSLRIC study for switched access, the underlying assumptions with respect to forward-looking equipment and architectures would have been consistent with those used in the TELRIC studies for switching and transport UNEs.[61]

Although the service being addressed was switched access, BellSouth's testimony was focusing on the underlying cost of the network components used by switched access, i.e., the switching and transport UNEs. As BellSouth explained:

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[60] Testimony of Robert McKnight on behalf of BellSouth, Public Service Commission of South Carolina, Docket No. 1997-239-C, December 31, 2003 ("McKnight Testimony"), Attached as Exhibit JPG-6.

[61] McKnight Testimony, pages 7-8, emphasis in the original.

> BellSouth is using these UNE rates to show that the existing rates for intrastate switched access service are above their costs, and, therefore, provide implicit support for universal service...
> ... Use of existing ordered UNE rates, which were supported by detailed cost studies and which have already been thoroughly reviewed by the Commission, provide a "conservative" cost surrogate and price floor to make such a demonstration. [62]

Moreover, BellSouth recognizes that TELRIC rates are above TSLRIC, which is otherwise the appropriate cost standard to ensure a service is fully compensatory.

> ... all else being held constant, the allowance of shared and common costs under the TELRIC cost methodology increases costs above those that would have been obtained from a comparable TSLRIC switched access study.[63]
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> ***
>
> Since TSLRIC reflects all of the direct costs ... TSLRIC studies are the basis of testing for cross-subsidization. If rates for a service exceed the service's TSLRIC ..., then the service is not being subsidized by other services.[64]

My point here is that the CLECs are not seeking some unreasonable "ride" on BellSouth's network – these competitors stand willing to pay a just and reasonable rate to BellSouth for the use of network facilities at rates that BellSouth has admitted (at least when it suited them to do so) are already compensatory. Obviously, if the existing UNE rates already exceed TSLRIC,

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62 McKnight Testimony, page 3.

63 McKnight Testimony, page 8.

64 McKnight Testimony, page 6.

then agreeing to pay those rates *plus a premium*[65] is clearly a reasonable offer. What the CLECs cannot accept, however, is being forced to pay rates unilaterally established by BellSouth without regulatory oversight. As the FCC stated:

> It would be a hideous irony if the incumbent LECs, simply by offering a service, the pricing of which falls largely within their control, could utterly avoid the structure instituted by Congress to, in the words of the Supreme Court, "give aspiring competitors every possible incentive to enter local retail telephone markets, short of confiscating the incumbents' property."[66]

V. Other Issues

Issue 2: General Implementation

Q. BellSouth is proposing a complete UNE Attachment for "all new CLECs and all new interconnection agreements."[67] Do you agree this is appropriate?

A. No. My understanding of this proceeding is that it is to address changes required by the TRO and TRRO, with respect to the issues listed. While obviously some of the decisions the Commission reaches will require BellSouth to modify its standard offering, this proceeding is not intended to short-circuit BellSouth's

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65 In the case of switching, agreeing to pay $1 more per month, and with respect to transport, agreeing to pay a 15% premium.

66 TRRO ¶ 59.

67 Blake Direct, footnote 2, page 5.

obligation to negotiate amendments or new agreements with CLECs. When the Commission resolves the issues in this proceeding, it will require the parties to modify existing or new interconnection agreements (as discussed below) and its decision will affect the relative negotiation/arbitration postures of both BellSouth and the CLECs. The proceeding should not, however, be used to obtain a blanket-approval of BellSouth's complete Attachment 2, which has not been the focus of this proceeding (nor the negotiations between BellSouth and many CompSouth members). The issues identified do not impact every aspect of each Attachment 2 currently in place between or subject to arbitration BellSouth and CompSouth's members. Nor do they take account of agreements on language already reached by BellSouth and many of CompSouth's members. Surely, the goal of this proceeding cannot be to supplant what has been voluntarily negotiated and agreed to between particular CLECs and BellSouth with a new standardized Attachment 2, neither voluntarily agreed to nor designated for arbitration.

Issue 1: Transition Requirements

Q. BellSouth claims that CLECs must complete all transitions by March 10, 2006.[68] Do you agree?

[68] Tipton Direct, page 5. With respect to dark fiber, the transition period ends September 10, 2006. Tipton Direct, pages 4 and 5.

A. No. As I discussed in my direct testimony,[69] I believe that once a CLEC submits an order it has satisfied its obligations and the "ball is in BellSouth's court" to implement that order. I also emphasize that I believe that the significance of this issue will diminish once the Commission resolves other questions in this proceeding.

Strategically, BellSouth wants to pressure CLECs to reconfigure their wholesale offerings *before* CLECs even know precisely which wire centers and what transport routes will no longer be available under §251,[70] and without *any* knowledge as to the §271 offerings available as an option. BellSouth's "squeeze play" is preventing sound planning because the planning itself first requires decisions by this Commission.

There is no provision in the *TRRO* permitting BellSouth to establish arbitrary cut-off dates in advance of March 10, 2006 by which CLEC orders must be placed.[71] Before BellSouth can reasonably expect CLECs to make informed choices the Commission must establish (at least on an interim basis) the appropriate rate for BellSouth's parallel §271 offering. BellSouth is clearly able to "change prices"

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69 Gillan Direct, page 11.

70 BellSouth's attempt to "cap" the number of DS1 transport circuits CLECs may obtain even on transport routes where the FCC Order clearly does not impose such a limitation (Gillan Direct, page 33) is the most glaring example of BellSouth attempting to force a CLEC into "false planning" for a transition that is unnecessary.

71 For instance, BellSouth's proposal for UNE-P would require that CLEC orders be placed by October 1, 2005, more than *five months* before the transition date chosen by the FCC and *three weeks before* briefs are even filed in this proceeding. (Tipton Direct, page 46.)

for a large number of orders on short notice – indeed, BellSouth's proposal for UNE-P lines that have not been migrated is to unilaterally change both the *price* and the *service* that the CLEC is receiving (to resale). Consequently, it is hard to conclude that it would be unable to handle other orders in a reasonable manner.

Q. Does the TRRO permit transitional rates to be applied retroactively to March 11, 2005?

A. Yes. The problem, however, is that the *TRO* (which was adopted nearly two years *before* the *TRRO*),[72] adopted a number of other changes in unbundling policy that are necessary to establish a consistent regime that reflects the environment assessed by the FCC in making its *TRRO* impairment determinations. Thus, if the Commission applies the transitional rates retroactively to March 11, 2005, it must also include the retroactive application effective date of these the *TRO* provisions as well. Specifically, the TRO:

* Made it simple and more efficient for EELs (i.e., loop/transport) combinations to qualify for UNE pricing by adopting new high capacity EEL eligibility criteria;

* Permitted CLECs to commingle UNE and non-UNE offerings to obtain complete circuits (thereby eliminating commingling restrictions contained in the old EEL eligibility criteria), and

[72] The *TRO* was adopted February 20, 2003.

* Clarified that CLECs are permitted to convert special access circuits to individual UNEs, as well as to combinations of UNEs.

In CompSouth's view, to the same extent that BellSouth is able to reach back in time and treat part of a circuit as a non-251 offering (and thus subject to higher transitional rates), these complementary *TRO*-mandated changes must also be in place. To do otherwise would mean that only those portions of the FCC's unbundling framework that enable BellSouth to charge higher rates would be effective, while the tools/options the CLECs need to adjust to the new §251 unbundling regime would not be in place.

Q. Can you give an example as to why these provisions must be effective together?

A. Yes. As mentioned above, one consequence of the *TRRO* is that high-capacity loops and transport will not necessarily be available as §251 UNEs in every wire center. (Indeed, one of the key issues in this proceeding is determining precisely where high-capacity loops and transport will no longer be available). One consequence of being "de-listed" is that an EEL (loop/transport combination) that had been comprised of all §251 elements will become a "commingled arrangement" consisting of a §251 element subject to standard UNE pricing and a non-§251 element subject to transitional rates.

It is vital that at the very same time that BellSouth is able to treat a portion of the circuit as a non-§251 offering (and thus subject to the higher transitional rates), the CLEC must have language that entitles it to such a configuration that is part-§251/part-other offering (commingling), including the ability to qualify under the new rules for EEL combinations.[73] Unless commingling and the revised EEL eligibility criteria are in place, it is possible that BellSouth might try to argue that CLECs have no concurrent contractual right to commingle §251 loops with non-§251 transport. Moreover, full conversion rights must be incorporated into interconnection agreements, to allow CLECs to make full use of the remaining §251 loop and transport offerings, regardless of whether such offerings are used in combinations.

Q. Is it unreasonable to make these provisions effective retroactively?

A. No. The March 11, 2005 date is more than two years after the FCC adopted the *TRO* giving CLECs "theoretical access" to commingling, conversions of special access to individual UNEs or combinations of UNEs, and clearer, "architectural" EEL eligibility criteria. It makes no sense to implement transition rates that apply to a non-§251 portion of an EEL without making effective the language that permits the arrangement in the first place (i.e., provisions that permit

[73] The *TRO* simplified eligibility requirements for EELs and clarified that the right of CLECs to convert circuits that had been ordered as special access to UNE status was not limited to UNE combinations, such as EELs, but that CLECs could convert special access circuits to individual UNEs, as well.

commingling and remove the commingling restrictions that the FCC jettisoned when it adopted its new EEL eligibility criteria). Thus, to the same extent that BellSouth is able to apply non-UNE rates retroactively, CLECs must have language in their agreements to retroactively:

a. Qualify circuits for UNE treatment (i.e., new high capacity EEL eligibility criteria and full conversion rights), and

b. Grant access to circuit configurations that mix non-251 offerings with §251 arrangements (commingling).

Q. BellSouth proposes that CLECs provide BellSouth with spreadsheets that identify all circuits that will no longer be available under §251.[74] Is this reasonable?

A. No, I do not believe that it is. It is *BellSouth* that is withdrawing a service from the market, not the CLEC. Consequently, it should be incumbent (no pun intended) upon BellSouth to initially inform their customers of exactly which circuits it will no longer offer as UNEs under §251, not the other way around. CLECs would then have the opportunity (and obligation) to review BellSouth's information and inform BellSouth of any disagreements.

[74] Tipton Direct, pages 10 and 11.

Issue 3: Building Definition

Q. Have you revised the definition of a "building' in Revised Exhibit JPG-1?

A. Yes. I have revised the proposed "building definition" taking, as a starting point, BellSouth's concept of a "reasonable person."[75] The main difference is that the recommended building definition in Revised Exhibit JPG-1[76] is based on the concept of a "reasonable *telecom* person," to ensure that the deciding factor in defining a "building" is that the area is served by a single point of entry for telecom services. Thus, a high-rise building with a general telecommunications equipment room would be considered a single building, while a strip mall with separate telecom-service points for each individual business in the mall would not. Such circumstances should be treated, for loop-aggregation purposes, as individual premises, even though they may share common walls.

Issue 12: SQM/PMAP/SEEM

Q. Please summarize the fundamental issue concerning the continuing application of the SQM/PMAP/SEEM plans.

[75] Tipton Direct, page 19.

[76] *Ibid*.

A. BellSouth's view is that the elements that are no longer required to be unbundled under §251 of the Act should no longer be subject to these plans.

> The purpose of establishing and maintaining a SQM/PMAP/SEEM plan is to ensure that BellSouth provides nondiscriminatory access to elements required to be unbundled under section 251(c)(3), and if BellSouth fails to meet such measurements, it must pay the CLEC and/or the state a monetary penalty.[77]

Q. Do you agree that the SQM/PMAP/SEEM plan is intended to ensure compliance with section 251(c)(3)?

A. No. These plans were developed in order to ensure continuing compliance with §271, which includes but is not limited to BellSouth's obligations under §251(c)(3). As the FCC explained:

> In prior orders, the Commission has explained that one factor it may consider as part of its public interest analysis is whether a BOC would have adequate incentives to continue to satisfy the requirements of section 271 after entering the long distance market. Although it is not a requirement for section 271 authority that a BOC be subject to such performance assurance mechanisms, the Commission previously has found that the existence of a satisfactory performance monitoring and enforcement mechanism is probative evidence that the BOC will continue to meet its section 271 obligations after a grant of such authority.[78]

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[77] Blake Direct, page 10.

[78] Memorandum Opinion and Order, Federal Communications Commission Docket CC 02-307, December 19, 2002, ¶ 167. Emphasis added.

As I explained in my direct testimony, the FCC's impairment findings with respect to loops, transport, switching and signaling do not eliminate BellSouth's obligations under §271 to continue to offer these elements.[79] As the above makes clear, the "purpose" of establishing and maintaining a SQM/PMAP/SEEM plan is not to comply with §251 (as claimed by BellSouth), but to ensure that BellSouth will continue to meet its section 271 obligations. As such, the Commission should continue to apply these plans to any offering required under §271.

Issue 29: The All or Nothing Rule and Deemed Amended

Q. What is the issue with respect to language implementing the "All or Nothing Rule"?

A. The issue is not with the language proposed by BellSouth itself, but rather BellSouth's suggestion in discussing this issue that once the Commission rules, all interconnection agreements should be "deemed amended."[80] The Commission is addressing a number of issues in this proceeding and in most (if not all) instances, is provided with competing contract language. It is the CLECs view that once the Commission rules, the parties will need to amend their contracts, including (perhaps) developing language that tracks any Commission decision that only partially adopts a party's position. What the CLECs cannot accept is BellSouth's

[79] *See* Gillan Direct, page 38.

[80] Blake Direct, page 13.

unilateral interpretation of any decision such that the contracts are "deemed amended."

Q. Do you oppose BellSouth's suggestion that after the Commission rules in this proceeding, the parties should be directed to file conforming ICA amendments with 45 days?[81]

A. No. Of course, the time-frame should accommodate any requests for reconsideration, which the Commission should address expeditiously. So long as the parties retain the right to seek meaningful reconsideration and have the ability to address the unique circumstances of any individual negotiation/arbitration process underway with BellSouth, it would be reasonable for the Commission to establish a timeframe for the filing of amendments to implement its decision.

Q. Does this conclude your rebuttal testimony?

A. Yes.

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[81] Blake Direct, page 16.

COMPSOUTH PROPOSED CONTRACT LANGUAGE FOR ISSUES IDENTIFIED IN JOINT ISSUES LIST

ISSUE 1:
What is the appropriate language to implement the FCC's transition plan for (1) switching, (2) high capacity loops and (3) dedicated transport as detailed in the FCC's Triennial Review Remand Order (TRRO), issued February 4, 2005?

CompSouth's proposed contract language establishes the following processes for the transition of Section 251(c)(3) switching, high-capacity loops, dedicated transport, and dark fiber UNEs.

2.2
Transition for Certain DS1 and DS3 UNE Loops Under Section 251.

2.2.1
For purposes of this Section 2, the Transition Period for the Embedded Customer Base of DS1 and DS3 Loops (defined in 2.2.2) and for the Excess DS1 and DS3Loops (defined in 2.2.3) is the twelve (12) month period beginning March 11, 2005 and ending March 10, 2006.

2.2.2
For purposes of this Section 2, Embedded Customer Base means customers served by DS1 and DS3 Loops that were in service for CLEC as of March 10, 2005 in those wire centers that, as of such date, ~~met the criteria~~ exceed the thresholds ~~-~~set forth in Section 2.2.4.1 or 2.2.4.2. CLEC shall be entitled to order and BellSouth shall provision DS1 and DS3 Loops that CLEC orders for the purpose of serving CLEC's Embedded Customer Base, and such facilities are included in the Embedded Customer Base. Subsequent disconnects or loss of customers by CLEC shall be removed from the Embedded Customer Base.

2.2.3
Excess DS1 and DS3 Loops are those CLEC DS1 and DS3 Loops in service as the Effective Date of this Agreement, in excess of the caps set forth in Sections 2.2.4.1and 2.2.4.2, respectively, or that are otherwise no longer available as section 251 UNEs. Subsequent disconnects or loss of customers, by CLEC shall be removed from Excess DS1 and DS3 Loops.

2.2.4
Notwithstanding anything to the contrary in this Agreement, BellSouth shall make available DS1 and DS3 UNE Loops to the Embedded Customer Base ~~as described in this Section 2.2 only~~ during the Transition Period.~~:~~

2.2.5~~4~~.1

BellSouth shall provide CLEC nondiscriminatory access to DS1 Loops to any Building not served by a wire center with at least 60,000 Business Lines and at least four Fiber-Based Collocators. CLEC shall be entitled to obtain up to ten (10) DS1 UNE Loops to each Building in which DS1 Loops are available on an unbundled basis pursuant to Section 251(c)(3).

2.2.54.2
BellSouth shall provide CLEC nondiscriminatory access to DS3 Loops to any Building not served by a wire center with at least 38,000 Business Lines and at least four Fiber-Based Collocators. CLEC shall be entitled to obtain one DS3 UNE Loop to each Building in which DS3 UNE Loops are available on an unbundled basis pursuant to Section 251(c)(3).

2.2.54.3
The initial list of wire centers that exceed the thresholds ~~meeting the criteria~~ set forth in Sections 2.2.54.1 and 2.2.54.-2 above as of the Effective Date of this Agreement is attached as Exhibit C.

2.2.6
Transition Period Pricing. From the Effective Date of this Agreement through the completion of the Transition Period, BellSouth may charge a rate for CLEC's Embedded Customer Base and CLEC's Excess DS1 and DS3 Loops described in this Section 2.2, except pursuant to the self-certification process as set forth in Section 1.8 of this Attachment 2, a rate equal to the higher of:

115% of the TELRIC rate paid for that element on June 15, 2004; or

115% of a new TELRIC rate the Commission establishes, if any, between June 16, 2004 and March 11, 2005.

In addition, to the extent that language implementing the new high capacity EEL eligibility criteria, conversion and commingling rights/obligations is effective retroactively to March 11, 2005, BellSouth may apply transition rates retroactively to March 11, 2005 as well.

These rates shall be set forth in Exhibit B.

2.2.7
Once a wire center exceeds both of the thresholds set forth in Sections 2.2.54.1 and 2.2.54.2, BellSouth will not be required to provide CLEC access to new DS1 UNE Loops for such wire center. In such cases, BellSouth will provide access to new DS1 Loops as required pursuant to section 271.

2.2.8
Once a wire center exceeds ~~both of~~ the thresholds set forth in Sections ~~2.2.4.1 and~~ 2.2.54.2, BellSouth will not be required to provide CLEC access to new DS3 UNE Loops for such wire center. In such cases, BellSouth will provide access to new DS3 Loops as required pursuant to section 271.

2.2.9
BellSouth will provide written notice to CLEC no later than February 10, 2006 of the specific DS1 and DS3 UNE Loops, including the Embedded Customer Base and Excess DS1 and DS3 UNE Loops that are required to be transitioned to other facilities. CLEC may transition from these DS1 and DS3 UNE Loops to other available UNE Loops, wholesale facilities provided by BellSouth, including special access, DS1 and DS3 Loops unbundled under Section 271, wholesale facilities obtained from other carriers or self-provisioned facilities. No later than March 10, 2006, CLEC shall submit spreadsheet(s) identifying all of the Embedded Customer Base of circuits and Excess DS1 and DS3 Loops to be either (1) disconnected and transitioned to wholesale facilities obtained from other carriers or self-provisioned facilities; or (2) converted to other available UNE Loops or other wholesale facilities provided by BellSouth, including special access and DS1 and DS3 Loops unbundled under section 271. Such spreadsheet also shall identify circuits for which there is a dispute regarding its classification as part of the Embedded Customer Base or Excess DS1 and DS3 UNE Loops; the identification of such disputed circuits on the spreadsheet shall constitute self-certification as described in Section 1.8. Such spreadsheet shall take the place of an LSR or ASR. If CLEC chooses to convert the DS1 and DS3 UNE Loops into special access circuits, BellSouth will include such DS1 and DS3 Loops once converted within CLEC's total special access circuits and apply any discounts to which CLEC is entitled.

2.2.9.1
If CLEC fails to submit the spreadsheet(s) specified in Section 2.2.9 above for its Embedded Customer Base and Excess DS1 and DS3 UNE Loops prior to March 11, 2006, BellSouth may transition such circuits to the equivalent section 271 service.

2.2.9.2
For Embedded Customer Base circuits and Excess DS1 and DS3 UNE Loops transitioned pursuant to Section 2.2.9 or 2.2.9.1, the applicable recurring charges for alternative services provided by BellSouth shall apply as of the date such services are provided to CLEC, whether ordered from BellSouth or designated by spreadsheet pursuant to Section 2.2.9 by March 10, 2006. No nonrecurring charges shall apply to the transition of Embedded Customer Base and Excess DS1 and DS3 UNE Loops to (1) wholesale facilities obtained from other carriers or self-provided facilities; or (2) other available UNE Loops or other wholesale facilities provided by BellSouth, including special access and DS1 and DS3 Loops unbundled under Section 271. The transition of

the Embedded Customer Base and Excess DS1 and DS3 UNE Loops pursuant to Section 2.2.9 and 2.2.9.1 should be performed in a manner that avoids, or otherwise minimizes to the extent possible, disruption or degradation to CLEC's customers' service.

2.3.6.1
Transition for Certain UNE Dark Fiber UNE Loops under Section 251

2.3.6.1.1
For purposes of this Section 2.3.6, the Transition Period for the Embedded Customer Base of Dark Fiber Loops (defined in 2.3.6.1.2) is the eighteen (18) month period beginning March 11, 2005 and ending September 10, 2006.

2.3.6.1.2
For purposes of this Section 2.3.6, Embedded Customer Base means end user customers served by Dark Fiber Loops that were in service for CLEC as of the Effective Date of the Agreement. CLEC shall be entitled to order and BellSouth shall provision Dark Fiber Loops that CLEC orders for the purpose of serving CLEC's Embedded Customer Base and such facilities are included in the Embedded Customer Base. Subsequent disconnects or loss of end user customers by CLEC shall be removed from the Embedded Customer Base.

2.3.6.2
Notwithstanding anything to the contrary in this Agreement, BellSouth shall make available Dark Fiber UNE Loops as described in this Section 2.3.6 only for CLEC's Embedded Customer Base during the Transition Period.

2.3.6.3
Transition Period Pricing. From the Effective Date of this Agreement through the completion of the Transition Period, BellSouth may charge a rate for CLEC's Embedded Customer Base as described in this Section 2.3.6, as set forth below:

A rate equal to the higher of:

115% of the TELRIC rate CLEC paid for that element on June 15, 2004; or

115% of the TELRIC rate the Commission establishes, if any, between June 16, 2004 and March 11, 2005.

In addition, to the extent that language implementing the new high capacity EEL eligibility criteria, conversion and commingling rights/obligations is effective retroactively to March 11, 2005, BellSouth may apply transition rates retroactively to March 11, 2005 as well.

These rates shall be set forth in Exhibit B

2.3.6.4
BellSouth will provide written notice to CLEC no later than June 10, 2006 of the specific Dark Fiber UNE Loops that are required to be transitioned to other facilities. CLEC may transition from these Dark Fiber UNE Loops to other available wholesale facilities provided by BellSouth, including special access, Dark Fiber Loops unbundled under section 271, wholesale facilities obtained from other carriers or self-provisioned facilities. No later than September 10, 2006, CLEC shall submit spreadsheet(s) identifying all of the Embedded Customer Base of circuits to be either (1) disconnected or transitioned to wholesale facilities obtained from other carriers or self-provisioned facilities; or (2) converted to other wholesale facilities provided by BellSouth, including special access and Dark Fiber Loops unbundled under section 271. Such spreadsheets also shall identify circuits for which there is a dispute regarding its classification as part of the Embedded Customer Base. Such spreadsheet shall take the place of an LSR or ASR. If CLEC chooses to convert the Dark Fiber UNE Loops into special access circuits, BellSouth will include such Dark Fiber Loops once converted within CLEC's total special access circuits and apply any discounts to which CLEC is entitled.

2.3.6.5
If CLEC fails to submit the spreadsheet(s) specified in Section 2.3.6.4 above for its Embedded Customer Base prior to September 11, 2006, BellSouth may transition such circuits to the equivalent BellSouth section 271 service.

2.3.6.6
For Embedded Customer Base circuits transitioned pursuant to Section 2.3.6.4 or 2.3.6.5, the applicable recurring charges for alternative services provided by BellSouth shall apply as of the date such services are provided to CLEC, whether ordered from BellSouth or designated by spreadsheet pursuant to Section 2.3.6.4 by September 10, 2006. No nonrecurring charges shall apply to the transition of Embedded Customer Base to (1) wholesale facilities obtained from other carriers or self-provided facilities; or (2) other wholesale facilities provided by BellSouth, including special access and Dark Fiber Loops unbundled under Section 271. The transition of the Embedded Customer Base pursuant to section 2.3.6.4 and 2.3.6.5. should be performed in a manner that avoids, or otherwise minimizes to the extent possible, disruption or degradation to CLEC's customers' service.

4.4
Transition for Certain UNE Local Switching Under 251

4.4.1
For purposes of this Section 4.4, the Transition Period for the Embedded Customer Base of Local Switching (defined in 4.4.2) is the twelve (12) month period beginning March 11, 2005 and ending March 10, 2006.

4.4.2

For the purposes of this Section 4.4, Embedded Customer Base means end user customers served by Local Switching that was in service for CLEC as of the Effective Date of the Agreement. CLEC shall be entitled to order and BellSouth shall provision Local Switching orders for the purposes of serving CLEC's Embedded Customer Base and such facilities are included in the Embedded Customer Base. Subsequent disconnects or loss of end user customers by CLEC shall be removed from the Embedded Customer Base.

4.4.3
Notwithstanding anything to the contrary in this Agreement, BellSouth shall make available Local Switching as described in this Section 4.4 only for CLEC's Embedded Customer Base during the Transition Period.

4.4.3.1
BellSouth shall also make available the following elements relating to Local Switching, as such elements are defined at 47 C.F.R. §51.319(d)(4)(i), during the Transition Period: signaling networks, call-related databases, and shared transport. After the completion of the Transition Period, such elements may be transitioned to the equivalent BellSouth Section 271 offering, pursuant to the transition provisions herein applicable to Local Switching arrangements

4.4.4
Transition Period Pricing. From the Effective Date of this Agreement through the completion of the Transition Period, BellSouth may charge a rate for CLEC's Embedded Customer Base described in this Section 4.4 as set forth below

A rate equal to the higher of:

The TELRIC rate at which CLEC leased that combination of elements on June 15, 2004, plus one dollar; or

The TELRIC rate the Commission established, if any, between June 16, 2004, and the effective date of the TRRO, plus one dollar

In addition, to the extent that language implementing the new high capacity EEL eligibility criteria, conversion and commingling rights/obligations is effective retroactively to March 11, 2005, BellSouth may apply transition rates retroactively to March 11, 2005 as well.

4.4.5
BellSouth will provide written notice to CLEC no later than February 10, 2006 of the specific UNE Local Switching arrangements that are required to be transitioned to other facilities. CLEC may transition from these UNE Local Switching arrangements to other

available wholesale facilities provided by BellSouth, including Local Switching unbundled under section 271, wholesale facilities obtained from other carriers or self-provisioned facilities. No later than March 10, 2006, CLEC shall submit spreadsheet(s) identifying all of the Embedded Customer Base of circuits to be either (1) disconnected or transitioned to wholesale facilities obtained from other carriers or self-provisioned facilities; or (2) converted to other wholesale facilities provided by BellSouth, including Local Switching unbundled under section 271. Such spreadsheets also shall identify circuits for which there is a dispute regarding its classification as part of the Embedded Customer Base. Such spreadsheet shall take the place of an LSR or ASR.

4.4.6
If CLEC fails to submit the spreadsheet(s) specified in Section 4.4.5 above for its Embedded Customer Base prior to March 11, 2006, BellSouth may transition such circuits to the equivalent BellSouth section 271 service.

4.4.7
For Embedded Customer Base circuits transitioned pursuant to Section 4.4.5 or 4.4.6, the applicable recurring charges for alternative services provided by BellSouth shall apply as of the date such services are provided to CLEC, whether ordered from BellSouth or designated by spreadsheet pursuant to Section 4.4.5 by March 10, 2006. No nonrecurring charges shall apply to the transition of Embedded Customer Base to (1) wholesale facilities obtained from other carriers or self-provided facilities; or (2) other wholesale facilities provided by BellSouth, including special access and Local Switching unbundled under Section 271. The transition of the Embedded Customer Base pursuant to section 4.4.5 and 4.4.6 should be performed in a manner that avoids, or otherwise minimizes to the extent possible, disruption or degradation to CLEC's customers' service.

5.3.3
Transition Period for Certain UNE-P Under Section 251

5.3.3.1
For purposes of this Section 5.3.3, the Transition Period for the Embedded Customer Base of UNE-P (defined in 5.3.3.2) is the twelve (12) month period beginning March 11, 2005 and ending March 10, 2006.

5.3.3.2
For the purposes of this Section 5.3.3, Embedded Customer Base shall mean end user customers served by UNE-P as of the Effective Date of the Agreement. CLEC shall be entitled to order and BellSouth shall provision UNE-P that CLEC orders for the purpose of serving CLEC's Embedded Customer Base and such facilities are included in the Embedded Customer Base. Subsequent disconnects or loss of end user customers by CLEC shall be removed from the Embedded Customer Base.

5.3.3.3

BellSouth shall also make available the following elements relating to Local Switching, as such elements are defined at 47 C.F.R. §51.319(d)(4)(i), during the Transition Period: signaling networks, call-related databases, and shared transport. After the completion of the Transition Period, such elements may be transitioned to the equivalent BellSouth Section 271 offering, pursuant to the transition provisions herein applicable to UNE-P arrangements.

5.3.3.4
Transition Period Pricing. From the Effective Date of the Agreement through the completion of the Transition Period, BellSouth may charge a rate for CLEC's Embedded Customer Base as set forth below.

A rate equal to the higher of:

The TELRIC rate at which CLEC leased that combination of elements on June 15, 2004, plus one dollar; or

The TELRIC rate the Commission established, if any, between June 16, 2004, and the effective date of the TRRO, plus one dollar

In addition, to the extent that language implementing the new high capacity EEL eligibility criteria, conversion and commingling rights/obligations is effective retroactively to March 11, 2005, BellSouth may apply transition rates retroactively to March 11, 2005 as well.

These rates shall be set forth in Exhibit B

5.3.3.5
BellSouth will provide written notice to CLEC no later than February 10, 2006 of the specific UNE-P arrangements that are required to be transitioned to other facilities. CLEC may transition from these UNE-P arrangements to other available wholesale facilities provided by BellSouth, including Local Switching unbundled under section 271 commingled with DS0 capacity loops unbundled under Section 251, wholesale facilities obtained from other carriers or self-provisioned facilities. No later than March 10, 2006, CLEC shall submit spreadsheet(s) identifying all of the Embedded Customer Base of circuits to be either (1) disconnected or transitioned to wholesale facilities obtained from other carriers or self-provisioned facilities; or (2) converted to other wholesale facilities provided by BellSouth, including Local Switching unbundled under section 271 commingled with DS0 capacity loops unbundled under Section 251. Such spreadsheets also shall identify circuits for which there is a dispute regarding its classification as part of the Embedded Customer Base. Such spreadsheet shall take the place of an LSR or ASR.

5.3.3.6
If CLEC fails to submit the spreadsheet(s) specified in Section 5.3.3.5 above for its Embedded Customer Base prior to March 11, 2006, BellSouth may transition such circuits to the equivalent BellSouth section 271 service, including Local Switching unbundled under section 271 commingled with DS0 capacity loops unbundled under Section 251

5.3.3.7
For Embedded Customer Base circuits transitioned pursuant to Section 5.3.3.5 or 5.3.3.6, the applicable recurring charges for alternative services provided by BellSouth shall apply as of the date such services are provided to CLEC, whether ordered from BellSouth or designated by spreadsheet pursuant to Section 5.3.3.6 by March 10, 2006. No nonrecurring charges shall apply to the transition of Embedded Customer Base to (1) wholesale facilities obtained from other carriers or self-provided facilities; or (2) other wholesale facilities provided by BellSouth, including special access and UNE-P unbundled under section 271. The transition of the Embedded Customer Base pursuant to section 5.3.3.5 and 5.3.3.6 should be performed in a manner that avoids, or otherwise minimizes to the extent possible, disruption or degradation to CLEC's customers' service.

6.2
Transition for Certain DS1 and DS3 UNE Dedicated Transport Including DS1 and DS3 UNE Entrance Facilities Under Section 251

6.2.1
For purposes of this Section 6.2, the Transition Period for the Embedded Customer Base of DS1 and DS3 UNE Dedicated Transport, including all DS1 and DS3 UNE Entrance Facilities (defined in 6.2.2) and for the Excess DS1 and DS3 UNE Dedicated Transport (defined in 6.2.3) is the twelve (12) month period beginning March 11, 2005 and ending March 10, 2006.

6.2.2
For purposes of this Section 6.2, Embedded Customer Base means DS1 and DS3 UNE Dedicated Transport including DS1 and DS3 UNE Entrance Facilities that were in service for CLEC as of March 10, 2005 in those wire centers that, as of such date, ~~meet the criteria~~ exceed the thresholds set forth in Sections 6.2.4.1 and 6.2.4.2. CLEC shall be entitled to order and BellSouth shall provision DS1 and DS3 UNE Dedicated Transport, including DS1 and DS3 UNE Entrance Facilities that CLEC orders for the purpose of serving CLEC's Embedded Customer Base and such facilities are included in the Embedded Customer Base. Subsequent disconnects or loss of end user customers by CLEC shall be removed from the Embedded Customer Base.

6.2.3

Excess DS1 and DS3 Dedicated Transport are those CLEC DS1 and DS3 Dedicated Transport facilities in service as of the Effective Date of the Agreement, in excess of the caps set forth in Sections 6.2.4.1 and 6.2.4.2 respectively, or that are otherwise no longer available as section 251 UNEs. Subsequent disconnects or loss of end user customers by CLEC shall be removed from Excess DS1 and DS3 Dedicated Transport.

6.2.4
Notwithstanding anything to the contrary in this Agreement, BellSouth shall make available to CLEC's Embedded Customer Base DS1 and DS3 Dedicated Transport, including DS1 and DS3 Entrance Facilities, as defined in this Section 6.2 during the Transition Period.

6.2.4.1
BellSouth shall provide CLEC nondiscriminatory access to unbundled DS1 UNE Dedicated Transport on any Route connecting a pair of wire centers where neither ~~both~~ wire centers at the end points of the Route contains 38,000 or more Business Lines or four (4) or more Fiber-Based Collocators. In other words, BellSouth shall not be required to provide such unbundled DS1 UNE Dedicated Transport if both of the wire centers defining the CLEC requested Route are Tier 1 Wire Centers, as defined in this Attachment. CLEC shall be entitled to obtain up to (10) DS1 UNE Dedicated Transport circuits on each Route where there is no unbundling obligation for DS3 UNE Dedicated Transport but for which impairment exists for DS1 transport. Where DS3 Dedicated Transport is available as UNE under Section 251(c)(3), no cap applies to the number of DS1 UNE Dedicated Transport circuits CLEC can obtain on each Route.

6.2.4.2
BellSouth shall provide CLEC nondiscriminatory access to unbundled DS3 UNE Dedicated Transport on any Route connecting a pair of wire centers where neither ~~both~~ wire centers at the end points of the Route contains 24,000 or more Business Lines or three (3) or more Fiber-Based Collocators. In other words, BellSouth shall not be required to provide such unbundled DS3 UNE Dedicated Transport if both of the wire centers defining the CLEC requested Route are either Tier 1 or Tier 2 Wire Centers, as defined in this Attachment. CLEC may obtain up to twelve (12) DS3 UNE Dedicated Transport circuits on each Route where such DS3 UNE Dedicated Transport is available on an unbundled basis pursuant to Section 251(c)(3).

6.2.4.3
The initial list of wire centers meeting the criteria set forth in Section 6.2.4.1 and 6.2.4.2 above as of the Effective Date of this Agreement is attached as Exhibit C~~D~~.

6.2.4.4
Transition Period Pricing. From the Effective Date of this Agreement through the completion of the Transition Period, BellSouth may charge a rate for CLEC's Embedded Customer Base and CLEC's Excess DS1 and DS3 UNE Dedicated Transport described in

this Section 6.2, except pursuant to the self-certification process as set forth in Section 1.8 of this Attachment.

A rate equal to the greater of:

115% of the TELRIC rate CLEC paid for that element on June 15, 2004; or

115% of the TELRIC rate the Commission establishes, if any, between June 16, 2004 and March 11, 2005.

In addition, to the extent that language implementing the new high capacity EEL eligibility criteria, conversion and commingling rights/obligations is effective retroactively to March 11, 2005, BellSouth may apply transition rates retroactively to March 11, 2005 as well.

6.2.4.5
Once a wire center exceeds either of the thresholds set forth in this Section 6.2.4.1, BellSouth will not be required to provide CLEC access to new DS1 UNE Dedicated Transport on such Routes. BellSouth will provide access to new DS1 Dedicated Transport as required pursuant to section 271.

6.2.4.6
Once a wire center exceeds either of the thresholds set forth in Section 6.2.4.2, BellSouth will not be required to provide CLEC access to new DS3 UNE Dedicated Transport on such Routes. BellSouth will provide access to new DS3 Dedicated Transport as required pursuant to section 271.

6.2.4.7
BellSouth will provide written notice to CLEC no later than February 10, 2006 of the specific DS1 and DS3 UNE Dedicated Transport circuits, including the Embedded Customer Base of DS1 and DS3 Dedicated Transport circuits, including DS1 and DS3 UNE Entrance Facilities and Excess DS1 and DS3 UNE Dedicated Transport circuits that are required to be transitioned to other facilities. CLEC may transition from these DS1 and DS3 UNE Dedicated Transport circuits, including DS1 and DS3 UNE Entrance Facilities to other available UNE Dedicated Transport circuits, wholesale facilities provided by BellSouth, including special access, DS1 and DS3 Dedicated Transport circuits unbundled under Section 271, wholesale facilities obtained from other carriers or self-provisioned facilities. No later than March 10, 2006, CLEC shall submit spreadsheet(s) identifying all of the Embedded Customer Base of circuits and Excess DS1 and DS3 Dedicated Transport circuits to be either (1) disconnected and transitioned to wholesale facilities obtained from other carriers or self-provisioned facilities; or (2) converted to other available UNE Dedicated Transport circuits or other wholesale facilities provided by BellSouth, including special access and DS1 and DS3 Dedicated

Transport circuits unbundled under section 271. Such spreadsheet also shall identify circuits for which there is a dispute regarding its classification as part of the Embedded Customer Base or Excess DS1 and DS3 UNE Dedicated Transport; the identification of such circuits on the spreadsheet shall constitute self-certification as described in Section 1.8. Such spreadsheet shall take the place of an LSR or ASR. If CLEC chooses to convert the DS1 and DS3 UNE Dedicated Transport circuits into special access circuits, BellSouth will include such DS1 and DS3 Dedicated Transport circuits once converted within CLEC's total special access circuits and apply any discounts to which CLEC is entitled.

6.2.4.8
If CLEC fails to submit the spreadsheet(s) specified in Section 6.2.4.~~7~~6 above for its Embedded Customer Base and Excess DS1 and DS3 UNE Dedicated Transport circuits prior to March 11, 2006, BellSouth may transition such circuits to the equivalent BellSouth section 271 service.

6.2.4.9
For Embedded Customer Base circuits and Excess DS1 and DS3 UNE Dedicated Transport circuits transitioned pursuant to Section 6.2.4.7 or 6.2.4.8, the applicable recurring charges for alternative services provided by BellSouth shall apply as of the date such services are provided to CLEC, whether ordered from BellSouth or designated by spreadsheet pursuant to Section 6.2.4.~~7~~6 by March 10, 2006. No nonrecurring charges shall apply to the transition of Embedded Customer Base and Excess DS1 and DS3 UNE Dedicated Transport circuits to (1) wholesale facilities obtained from other carriers or self-provided facilities; or (2) other available UNE Loops or other wholesale facilities provided by BellSouth, including special access and DS1 and DS3 Dedicated Transport circuits unbundled under section 271. The transition of the Embedded Customer Base and Excess DS1 and DS3 UNE Dedicated Transport circuits pursuant to Section 6.2.4.7 and 6.2.4.8 should be performed in a manner that avoids, or otherwise minimizes to the extent possible, disruption or degradation to CLEC's customers' service.

6.9.1
Transition for Certain Dark Fiber UNE Transport and Dark Fiber UNE Entrance Facilities

6.9.1.1
For purposes of this Section 6.9, the Transition Period for the Embedded Customer Base of Dark Fiber UNE Transport, including all Dark Fiber UNE Entrance Facilities (defined in 6.9.1.2) is the eighteen (18) month period beginning March 11, 2005 and ending September 10, 2006.

6.9.1.2

For purposes of this Section 6.9, Embedded Base means Dark Fiber UNE Transport, including Dark Fiber UNE Entrance Facilities that were in service for CLEC as of the Effective Date of the Agreement. CLEC shall be entitled to order and BellSouth shall provision Dark Fiber UNE Transport, including Dark Fiber UNE Entrance Facilities that CLEC orders for the purpose of serving CLEC's Embedded Customer Base and such facilities are included in the Embedded Customer Base. Subsequent disconnects or loss of end user customers by CLEC shall be removed from the Embedded Base.

6.9.1.3
Notwithstanding anything to the contrary in this Agreement, BellSouth shall make available Dark Fiber UNE Transport, including Dark Fiber UNE Entrance Facilities as defined in this Section 6.9 for CLEC's Embedded Customer Base only during the Transition Period.

6.9.1.4
BellSouth shall provide CLEC nondiscriminatory access to unbundled DS3 UNE Dedicated Transport on any Route connecting a pair of wire centers where both wire centers at the end points of the route contain 24,000 or more Business Lines or three (3) or more Fiber-Based Collocators. In other words, BellSouth shall not be required to provide such unbundled DS3 UNE Dedicated Transport if both of the wire centers defining the CLEC requested Route are either Tier 1 or Tier 2 Wire Centers, as defined in this Attachment.

6.9.1.4.1
The initial list of wire centers meeting the criteria set forth in Section 6.9.1.4 as of the Effective Date of this Agreement is Attached hereto as Exhibit CD.

6.9.1.5
Transition Period Pricing. From the Effective Date of this Agreement through the completion of the Transition Period, BellSouth may charge a rate for CLEC's Embedded Customer Base described in this Section 6.9, except pursuant to the self-certification process has set forth in Section 1.8.

A rate equal to the greater of:

115% of the TELRIC rate CLEC paid for that element on June 15, 2004; or

115% of the TELRIC rate the Commission establishes, if any, between June 16, 2004 and March 11, 2005.

In addition, to the extent that language implementing the new high capacity EEL eligibility criteria, conversion and commingling rights/obligations is effective retroactively to March 11, 2005, BellSouth may apply transition rates retroactively to March 11, 2005 as well.

These rates shall be set forth in Exhibit B

6.9.1.6
Once a wire center exceeds the threshold set forth in Section 6.9.1.4.1, BellSouth will not be required to provide CLEC access to new Dark Fiber UNE Transport on such Routes. BellSouth will provide access to new Dark Fiber UNE Transport as required pursuant to section 271.

6.9.1.7
BellSouth will provide written notice to CLEC no later than June 10, 2006 of the specific Dark Fiber UNE Transport circuits, including the Embedded Customer Base of Dark Fiber UNE Transport circuits and Dark Fiber UNE Entrance Facilities that are required to be transitioned to other facilities. CLEC may transition from these Dark Fiber UNE Transport circuits, including Dark Fiber UNE Entrance Facilities to other available Dark Fiber UNE Transport circuits, wholesale facilities provided by BellSouth, including special access, Dark Fiber Transport circuits unbundled under section 271, wholesale facilities obtained from other carriers or self-provisioned facilities. No later than September 10, 2006, CLEC shall submit spreadsheet(s) identifying all of the Embedded Customer Base of circuits to be either (1) disconnected and transitioned to wholesale facilities obtained from other carriers or self-provisioned facilities; or (2) converted to other available Dark Fiber UNE Transport circuits or other wholesale facilities provided by BellSouth, including special access and Dark Fiber Transport circuits unbundled under section 271. Such spreadsheet also shall identify circuits for which there is a dispute regarding its classification as part of the Embedded Customer Base; the identification of such circuits on the spreadsheet shall constitute self-certification as described in Section 1.8. Such spreadsheet shall take the place of an LSR or ASR. If CLEC chooses to convert the Dark Fiber UNE Transport circuits into special access circuits, BellSouth will include such Dark Fiber UNE Transport circuits once converted within CLEC's total special access circuits and apply any discounts to which CLEC is entitled.

6.9.1.8
If CLEC fails to submit the spreadsheet(s) specified in Section 6.9.1.7 above for its Embedded Customer prior to September 11, 2006, BellSouth may transition such circuits to the equivalent BellSouth section 271 service.

6.9.1.9
For Embedded Customer Base circuits transitioned pursuant to Section 6.9.1.7 or 6.9.1.8, the applicable recurring charges for BellSouth provided services shall apply as of the date such services are provided to CLEC, whether ordered from BellSouth or designated by spreadsheet pursuant to Section 2.2.9 by September 10, 2006. No nonrecurring charges shall apply to the transition of Embedded Customer Base circuits to (1) wholesale facilities obtained from other carriers or self-provided facilities; or (2) other available

Dark Fiber UNE Transport or other wholesale facilities provided by BellSouth, including special access and Dark Fiber Transport circuits unbundled under section 271. The transition of the Embedded Customer Base pursuant to Section 6.9.1.7 and 6.9.1.8 should be performed in a manner that avoids, or otherwise minimizes to the extent possible, disruption or degradation to CLEC's customers' service.

ISSUE 2:

a) *How should existing ICAs be modified to address BellSouth's obligation to provide network elements that the FCC has found are no longer Section 251(c)(3) obligations?*

b) *What is the appropriate way to implement in new agreements pending in arbitration any modifications to BellSouth's obligations to provide network elements that the FCC has found are no longer Section 251(c)(3) obligations?*

CompSouth Language:

The CompSouth proposed contract language for Issue 1 (TRRO Transition) implements the changes in BellSouth's obligations to provide loops, transport, switching, and dark fiber UNEs pursuant to Section 251(c)(3) obligations. CompSouth's contract language proposals also provide for availability of Section 271 checklist elements that will serve as substitutes for Section 251(c)(3) UNEs. In addition, specific contract language regarding commingling addresses how network elements that were previously "combined" will be "commingled" in instances where BellSouth no longer has an obligation to provide a UNE under Section 251(c)(3).

Existing ICAs should be amended to incorporate modifications in BellSouth's obligations to provide network elements pursuant to Section 251(c)(3), as well as BellSouth's obligations to provide Section 271 checklist items that will, in many cases, provide the wholesale service that will replace Section 251(c)(3) network elements.

ISSUE 3

What is the appropriate language to implement BellSouth's obligation to provide Section 251 unbundled access to high capacity loops and dedicated transport and how should the following terms be defined?

(i) Business line
(ii) Fiber-based collocation
(iii) Building
(iv) Route

10.1

For purposes of this Attachment 2, a "Building" is a permanent physical structure including, but not limited to, a structure in which people reside, or conduct business or work on a daily basis and through which ~~has a unique street address assigned to it. With respect to multi-tenant property with a single street address, an individual tenant's space shall constitute one "building" for purposes of this Attachment (1) if the multi-tenant structure is subject to separate ownership of each tenant's space, or (2) if the multi-tenant structure is under single ownership and~~ there is oneno centralized point of entry in the structure through which all telecommunications services must transit. As an example only, a high rise office building with a general telecommunications equipment room through which all telecommunications services to that building's tenants must pass would be a single "building" for purposes of this Attachment 2. ~~A building for purposes of this Attachment 2 does not include convention centers, arenas, exposition halls, and other locations that are routinely used for special events of limited duration.~~ Two or more physical areas~~structures that share a connecting wall or are in close physical proximity shall not be considered a single building~~ served by ~~a~~ individual points of entry through which telecommunications services must transit will be considered separate buildings. For instance, a strip mall with individual businesses obtaining telecommunication services from different access points on the building(s) will be considered individual buildings, even though they might share common walls. ~~solely because of a connecting tunnel or covered walkway, or a shared parking garage or parking area so long as such structures have a unique street address. Under no circumstances shall educational, governmental, medical, research, manufacturing, or transportation centers that consist of multiple permanent physical structures on a contiguous property and are held under common ownership be considered a single building for purposes of this Attachment 2.~~

10.2

For purposes of this Attachment 2, a "Business Line" is, as defined in 47 C.F.R. § 51.5 and paragraph 105 of the *TRRO*, a BellSouth-owned switched access line used to serve a business customer, whether by BellSouth itself or by a CLEC that leases the line from BellSouth. ~~ARMIS 43-08 business line data reports shall be used in calculating business lines.~~ The number of business lines in a wire center shall equal the sum of all incumbent LEC business switched access lines, plus the sum of all UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, business line tallies (1) shall include only those access lines

connecting end-user customers with incumbent LEC end-offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line. For example, a DS1 line corresponds to 24 64 kbps-equivalents, and therefore to 24 "business lines." ~~Business lines *do not* include (i) non-switched loop facilities; (ii) lines used to serve residential customers; (iii) dedicated or shared transport; (iv) ISPs' transport facilities; (v) lines used to serve subsidiaries or affiliates of the ILEC; (vi) data lines, or any portions of data lines, not connected to the end office for the provision of switched voice services interconnected to the PSTN; (vii) unused capacity on channelized high capacity loops; (viii) lines used for VoIP unless such facilities are switched at the wire center; and (ix) any lines not confirmed by the ILEC to conform to the above requirements. BellSouth may not "round up" when calculating 64 Kbps equivalents for high capacity loops (e.g., a 144 Kbps service is equal to two business lines, not three). In addition, when calculating data speeds for purposes of determining 64 Kbps equivalents, BellSouth must use the lowest data speed associated with the line when sold to the customer, not a higher potential use or a higher one way speed. Any Centrex extensions located in a wire center will be calculated with a value of 1/9 of a business line, consistent with the Centrex Equivalent Factor developed by the FCC in its Second Order on Reconsideration and Memorandum Opinion and Order, Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Transport Rate Structure, 12 FCC Red 16606, ¶¶ 31-32 (1997) and its Order and Second Order on Reconsideration, (FCC Docket 96-45) ____ FCC Red _____, ¶¶ 3-4 (2003).~~ HDSL-capable copper loops are not the equivalent of DS1 loops for the purpose of counting Business Lines.

10.4

For purposes of this Attachment 2, a "Fiber-Based Collocator" is, as defined in 47 C.F.R. § 51.5, any carrier, unaffiliated with BellSouth, that maintains a collocation arrangement in a BellSouth wire center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a collocation arrangement within the wire center; (2) leaves the BellSouth wire center premises; and (3) is owned by a party other than BellSouth or any affiliate of BellSouth. For purposes of this definition: (i) carriers that have entered into merger and/or other consolidation agreements, or otherwise announced their intention to enter into the same, will be treated as affiliates and therefore as one collocator; provided, however, in the case one of the parties to such merger or consolidation arrangement is BellSouth, then the other party's collocation arrangement shall *not* be counted as a Fiber-Based Collocator, (ii) a Comparable Transmission Facility means, at a minimum, the provision of transmission capacity equivalent to fiber-optic cable with a minimum point-to-point symmetrical data capacity exceeding 12 DS3s; (iii) the network of a Fiber-Based Collocator may only be counted once in making a determination of the number of Fiber-Based Collocators, notwithstanding that such single Fiber-Based Collocator leases its facilities to other collocators in a single wire center; provided, however, that a collocating carrier's dark fiber leased from an unaffiliated carrier may only be counted as a separate fiber-optic

cable from the unaffiliated carrier's fiber if the collocating carrier obtains this dark fiber on an IRU basis.

ISSUE 4:

a) Does the Commission have the authority to determine whether or not BellSouth's application of the FCC's Section 251 non-impairment criteria for high capacity loops and transport is appropriate?

b) What procedures should be used to identify those wire centers that satisfy the FCC's Section 251 non-impairment

c) What language should be included in agreements to reflect the procedures identified in (b)?

Procedures for additional designations of "non-impaired" wire centers by BellSouth

__.1
If BellSouth seeks to designate additional wire centers as "non-impaired" for purposes of the FCC's Triennial Review Remand Order (*TRRO*), BellSouth shall file with the Commission a proposed list of any new wire centers on April 1 of each year (coincident with its filing of ARMIS 43-08 data with the FCC). The list filed by BellSouth shall reflect the number of business lines and fiber-based collocators, as of December 31 of the previous year, in each wire center that BellSouth proposes be considered "non-impaired."

__.2
In any such filing designating additional wire centers as "non-impaired," BellSouth shall file all supporting documentation that each new wire center meets *TRRO* criteria, including the following information. BellSouth agrees to make such documentation available to CLEC under the terms of a Commission protective order:

a. The CLLI of the wire center.
b. The number of switched business lines served by RBOC in that wire center as reported in ARMIS 43-08 for the year just ending.
c. The number of UNE-P or equivalent lines used to serve business customers.
d. The number of analog UNE-L lines in service.
e. The number of DS-1 UNE-L lines in service.
f. The number of DS-3 UNE-L lines in service.
g. A completed worksheet that shows, in detail, any conversion of access lines to voice grade equivalents.
h. The names of claimed independent fiber-optic networks (or comparable transmission facilities) terminating in a collocation arrangement in that wire center.

__.3
CLEC shall have until May 1 to file a challenge to any new wire center named by BellSouth in any such April 1 filing.

__.4
BellSouth and CLEC agree to resolve disputes concerning BellSouth's additional wire center designations in dispute resolution proceedings before the Commission.

__.5
Changes to the wire center designations shall become effective on July 1 following the April 1 filing by BellSouth, to the extent that such changes are approved by the Commission by that date.

__.6
After the completion of the annual process for additional wire center designations described above, BellSouth shall identify the additional wire centers that have been approved by the Commission in a carrier notification letter (CNL). Each such list of additional wire centers shall be considered a "Subsequent Wire Center List".

__.7
Effective ten (10) business days after the date of a BellSouth CNL providing a Subsequent Wire Center List, BellSouth shall not be required to ~~unbundle~~offer DS1 and/or DS3 Loops, Dedicated Transport circuits, or Dark Fiber Loops or Transport, as applicable, pursuant to Section 251 in such additional wire center(s).

ISSUE 5:
Are HDSL-capable loops the equivalent of DS1 loops for the purpose of evaluating impairment?

See Issue 3: The CompSouth proposed definition of "Business Line" includes the following as its last sentence:

HDSL-capable copper loops are not the equivalent of DS1 loops for the purpose of counting Business Lines or impairment determinations. TRRO footnote 454 makes it clear that the FCC anticipated HDSL-capable loops would remain available even where DS-1 loops would not.

The proposed definition of HDSL-capable loop is as follows:

2.3.5 2-wire or 4-wire HDSL-Compatible Loop. This is a designed Loop that meets Carrier Serving Area (CSA) specifications, may be up to 12,000 feet long and may have up to 2,500 feet of bridged tap (inclusive of Loop length). It may be a 2-wire or 4-wire circuit and will come standard with a test point, OC, and a DLR.

ISSUE 6:

Once a determination is made that CLECs are not impaired without access to high capacity loops or dedicated transport pursuant to the FCC's rules, can changed circumstances reverse that conclusion, and if so, what process should be included in Interconnection Agreements to implement such changes?

CompSouth does not advocate language that permits "changed circumstances" to alter the designation of wire centers considered "non-impaired" pursuant to the *TRRO*. CompSouth does, however, advocate that the Commission approve language that addresses the situation in which BellSouth mistakenly lists a wire center and CLEC relies on such mistaken designation to its detriment. CompSouth urges that the following language be incorporated to address this situation:

__.1
Should BellSouth mistakenly list a wire center as non-impaired and CLEC relies to its detriment on BellSouth's designation, BellSouth shall immediately notify CLEC of its error and promptly refund CLEC of any overpayments, including but not limited to any charges associated with the unnecessary conversion from UNE to other wholesale services.

ISSUE 7:

(a) *Does the Commission have the authority to require BellSouth to include in its interconnection agreements entered into pursuant to Section 252, network elements under either state law, or pursuant to Section 271 or any other federal law other than Section 251?*

(b) *If the answer to part (a) is affirmative in any respect, does the Commission have the authority to establish rates for such elements?*

(c) *If the answer to part (a) or (b) is affirmative in any respect, (i) what language, if any, should be included in the ICA with regard to the rates for such elements, and (ii) what language, if any, should be included in the ICA with regard to the terms and conditions for such elements?*

CompSouth's contract language proposals also provide for availability of Section 271 checklist elements that will serve as substitutes for Section 251(c)(3) UNEs. In addition, specific contract language regarding commingling addresses how network elements that were previously "combined" will be "commingled" in instances where BellSouth no longer has an obligation to provide a UNE under Section 251(c)(3) but retains its obligation to provide wholesale facilities and services pursuant to Section 271.

The Commission has authority to establish rates for Section 271 checklist items. Until the Commission establishes permanent "just and reasonable" rates for Section 271 items, the Commission should establish interim rates. The *TRRO* adopted specific transitional pricing rules to apply to UNEs that are no longer required to be unbundled under §251 of the Act. These transitional rates imposed a 15% increase on loops and transport prices where §251 no longer compelled TELRIC-based rates and a $1 per month increase in the rates for local switching. These transitional increases would be a reasonable first approximation of "just and reasonable" §271 rates if the Commission is unable to establish permanent rates at this time.

The contract language implementing Section 271 checklist items is incorporated throughout CompSouth's proposals. (For example, see the proposed language on Issue 1, regarding the TRRO Transition). Where a provision applies to only a section 251 UNE, CompSouth proposes using the term "UNE". For example, CompSouth defines Loops to include both section 251 and 271 Loops, but when referring to requirements such as a cap that apply only to 251 Loops, CompSouth proposes using the term "UNE Loop".

CompSouth's proposed language on interim Section 271 rates is as follows:

Interim Rates For Section 271 Checklist Items

__.1

Interim Just and Reasonable Rates for DS1, DS3, and Dark Fiber Loops and Dedicated Transport

BellSouth may charge a rate for DS1, DS3, and Dark Fiber Loops and DS1, DS3 and Dark Fiber Dedicated Transport offered pursuant to Section 271 that is equal to the higher of:

115% of the TELRIC rate paid for the same element as it was provided to CLEC by BellSouth under Section 251(c)(3) on June 15, 2004; or

115% of a new TELRIC rate the Commission establishes, if any, between June 16, 2004 and March 11, 2005.

__.2
Interim Just and Reasonable Rates for Commingled Section 271 Switching and Section 251 UNE DS0 Loops

BellSouth may charge a rate for Commingled Section 271 Switching and Section 251 UNE DS0 Loops offered pursuant to Section 271 that is equal to the higher of:

The TELRIC rate at which CLEC leased the combination of unbundled Local Switching and DS0 Loop pursuant to Section 251(c)(3) on June 15, 2004, plus one dollar; or

The TELRIC rate the Commission established, if any, between June 16, 2004, and the effective date of the TRRO, plus one dollar

ISSUE 8:
What conditions, if any, should be imposed on moving, adding, or changing orders to a CLEC's respective embedded bases of switching, high-capacity loops and dedicated transport, and what is the appropriate language to implement such conditions, if any?

CompSouth's language regarding the *TRRO* Transition is detailed in response to Issue 1. In addition, the following proposed provisions address the definition of "embedded base" and the related restrictions imposed by the *TRRO*.

2.1.4.2
For purposes of the Transition Period in this Section 2, Embedded Customer Base is defined as (1) business entities, including corporations, limited liability companies, partnerships, sole proprietorships, cooperatives and other entities; (2) governmental and non-profit organizations; and (3) residential customer that had executed a valid contract or service order or were subscribed to CLEC's services as of March 10, 2005. CLEC shall be entitled to order and BellSouth shall provision DS1 and DS3 loops that CLEC orders for the purpose of serving CLEC's Embedded Customer Base. CLEC shall self-certify, if requested to do so by BellSouth, that a DS1 or DS3 CLEC orders is to be used to serve CLEC's Embedded Customer Base. Any DS1 or DS3 Loop that BellSouth provisions prior to March 11, 2005, and that does not satisfy the criteria set out in Section 2.1.5 for access to DS1 and DS3 Loops under Section 251 shall be subject to the transition set forth in this Section 2.1.4. BellSouth shall provision any DS1 or DS3 Loop that CLEC orders that it self-certifies; BellSouth shall have the right to dispute CLEC's ability to obtain such Loop after provisioning utilizing the process set forth in Section 2.1.5.2 below.

4.2.2

For the purposes of the Transition Period in this Section 4, Embedded Customer Base is defined as (1) business entities, including corporations, limited liability companies, partnerships, sole proprietorships, cooperatives and other entities; (2) governmental and non-profit organizations; and (3) residential customers that had executed a valid contract or service order or were subscribed to CLEC's services as of March 10, 2005. Local Switching to be provided to CLEC for service to its Embedded Customer Base includes any additional elements that are required to be provided in conjunction therewith. Subsequent loss of End Users by CLEC shall be removed from the Embedded Customer Base.

5.4.3.2

For the purposes of the Transition Plan in this Section 5.4.3 , Embedded Customer Base is defined as (1) business entities, including corporations, limited liability companies, partnerships, sole proprietorships, cooperatives and other entities; (2) governmental and non-profit organizations; and (3) residential customers that had executed a valid contract or service order or were subscribed to CLEC's services as of March 10, 2005. UNE-P

to be provided to CLEC for service to its Embedded Customer Base includes any additional elements that are required to be provided in conjunction therewith. Subsequent loss of End Users by CLEC shall be removed from the Embedded Customer Base.

ISSUE 9:
What rates, terms, and conditions should govern the transition of existing network elements that BellSouth is no longer obligated to provide as Section 251 UNEs to non-Section 251 network elements and other services and (a) what is the proper treatment for such network elements at the end of the transition period; and (b) what is the appropriate transition period, and what are the appropriate rates, terms, and conditions during such transition period, for unbundled high capacity loops, high capacity transport, and dark fiber transport in and between wire centers that do no meet the FCC's non-impairment standards at this time, but that meet such standards in the future?

This issue is addressed by the CompSouth proposed language included under Issue 1.

CompSouth proposes the following language for UNEs that were declassified under the terms of the *TRO*.

1.6
Except to the extent expressly provided otherwise in this Attachment, CLEC may not maintain a UNE or UNE Combination offered pursuant to a prior interconnection agreement that is no longer offered pursuant to this Agreement (e.g., DS1 capacity and above "enterprise" Local Switching) (collectively Arrangements). In the event BellSouth determines that CLEC has in place any Arrangements after the Effective Date of this Agreement, BellSouth will provide notice to CLEC identifying specific service arrangements (by circuit identification number) that it no longer is obligated to provide as UNEs under Section 251(c)(3) and that CLEC must disconnect or convert to Other Services or other service arrangements. CLEC may transition from these UNEs to other available UNEs, wholesale facilities provided by BellSouth, including special access, Section 271 checklist items, wholesale facilities obtained from other carriers or self-provisioned facilities. CLEC will acknowledge receipt of such notice and will have thirty (30) days from the date of such notice to verify the list, notify BellSouth of initial disputes or concerns regarding such list, or select alternative service arrangements (or disconnection). If CLEC fails to submit disputes or orders to disconnect or convert such Arrangements within such thirty (30) day period, BellSouth will transition such circuits to the equivalent tariffed BellSouth service(s). The transition of such UNE(s) shall take place in a seamless manner without any customer disruptions or adverse affects to service quality. There will be no service order, labor, disconnection, project management or other nonrecurring charges associated with the transition of UNEs to Other Services or other service arrangements. The Parties will absorb their own costs associated with effectuating the process set forth in this section. Recurring charges for comparable 271 services (as set forth in Exhibit B), or rates associated with the selected Other Service (as set forth in Exhibit B or the relevant BellSouth tariff) shall apply to all service arrangements as of the date that conversion to such BellSouth provided services is complete. If CLEC chooses to convert DS1 or DS3 Loops to special access circuits,

BellSouth will include such DS1 and DS3 Loops once converted within CLEC's total special access circuits and apply discounts for which CLEC is eligible.

In addition, CompSouth proposes the following language to apply to bulk migrations of lines from one service platform to another associated with the transition off certain Section 251(c)(3) UNEs.

Bulk Migration

2.1.9.4
BellSouth will make available to CLEC a Bulk Migration process pursuant to which CLEC may request to (1) migrate port/loop combinations, provisioned pursuant to either an Interconnection Agreement or a separate agreement between the parties, to Loops (UNE-L); (2) migrate BellSouth retail customers to CLEC using UNE-L or EELs; ~~and~~ (3) migrate another CLEC's customer base to CLEC using UNE-L; and (4) migrate the CLEC's customer base from UNE-P to UNE-L with switching provided by a third party, pursuant to migration orders from the third party based on an LOA signed by the CLEC . The Bulk Migration process may be used if such loop/port combinations being used to serve the customer before migration are (1) associated with two (2) or more Existing Account Telephone Numbers (EATNs); and (2) located in the same Central Office. The terms and conditions for use of the Bulk Migration process are described in the BellSouth CLEC Information Package, incorporated herein by reference as it may be amended from time to time. The CLEC Information Package is located at www.interconnection.bellsouth.com/guides/html/unes.html. The rates for the Bulk Migration process shall be the nonrecurring rates associated with the Loop type being requested on the Bulk Migration, as set forth in Exhibit A. Additionally, Operations Support Systems (OSS) charges will also apply. Loops connected to Integrated Digital Loop Carrier (IDLC) systems will be migrated pursuant to Section 2.6 below.

2.1.9.5
Should CLEC request migration for two (2) or more EATNs containing fifteen (15) or more circuits, CLEC must use the Bulk Migration process referenced in 2.1.11.1 above.

Hot Cut Performance

4.2.6
BellSouth is required to meet hot cut demand and shall work with CLEC to take all reasonable steps to prevent avoidable disruption to CLEC's customers' service. If BellSouth causes an outage lasting longer than 15 minutes or in any way fails to honor its commitments to the FCC and/or state commission regarding the hot cut or batch migration process, BellSouth will refund all non-recurring charges applicable to the service to which CLEC's customers are being migrated. If BellSouth can not complete the hot cuts and batch migration process in accordance with the volumes and ordering

process BellSouth has established, then BellSouth shall provide Local Switching at the rates set forth in Exhibit A plus $1.00, until the migration is completed.

ISSUE 10:

What rates, terms, and conditions, if any, should apply to UNEs that are not converted on or before March 11, 2006, and what impact, if any, should the conduct of the parties have upon the determination of the applicable rates, terms, and conditions that apply in such circumstances?

The conversion of Section 251(c)(3) UNEs to Section 271 checklist items or other services is addressed in the CompSouth language included under Issue 2. ~~In addition, CompSouth proposes the following language for UNEs that were declassified under the terms of the TRO.~~

~~1.6~~

~~Except to the extent expressly provided otherwise in this Attachment, CLEC may not maintain a UNE or UNE Combination offered pursuant to a prior interconnection agreement that is no longer offered pursuant to this Agreement (e.g., DS1 capacity and above "enterprise" Local Switching) (collectively Arrangements). In the event BellSouth determines that CLEC has in place any Arrangements after the Effective Date of this Agreement, BellSouth will provide notice to CLEC identifying specific service arrangements (by circuit identification number) that it no longer is obligated to provide as UNEs under Section 251(c)(3) and that CLEC must disconnect or convert to Other Services or other service arrangements. CLEC may transition from these UNEs to other available UNEs, wholesale facilities provided by BellSouth, including special access, Section 271 checklist items, wholesale facilities obtained from other carriers or self-provisioned facilities. CLEC will acknowledge receipt of such notice and will have thirty (30) days from the date of such notice to verify the list, notify BellSouth of initial disputes or concerns regarding such list, or select alternative service arrangements (or disconnection). If CLEC fails to submit disputes or orders to disconnect or convert such Arrangements within such thirty (30) day period, BellSouth will transition such circuits to the equivalent tariffed BellSouth service(s). The transition of such UNE(s) shall take place in a seamless manner without any customer disruptions or adverse affects to service quality. There will be no service order, labor, disconnection, project management or other nonrecurring charges associated with the transition of UNEs to Other Services or other service arrangements. The Parties will absorb their own costs associated with effectuating the process set forth in this section. Recurring charges for comparable 271 services (as set forth in Exhibit B), or rates associated with the selected Other Service (as set forth in Exhibit B or the relevant BellSouth tariff) shall apply to all service arrangements as of the date that conversion to such BellSouth provided services is complete. If CLEC chooses to convert DS1 or DS3 Loops to special access circuits, BellSouth will include such DS1 and DS3 Loops once converted within CLEC's total special access circuits and apply discounts for which CLEC is eligible.~~

ISSUE 11:

Should identifiable orders properly placed that should have been provisioned before March 11, 2005, but were not provisioned due to BellSouth errors in order processing or provisioning, be included in the "embedded base"?

CLEC orders that are properly and timely placed should be considered part of the "embedded base" of customers for purposes of the *TRRO* transition. Specific contract language addressing the definition of "embedded base" is included under Issue 9. CompSouth's proposed contract language regarding the *TRRO* transition is included under Issue 1.

ISSUE 12:
Should network elements de-listed under section 251(c)(3) be removed from the SQM/PMAP/SEEM?

1.3
CLEC may purchase and use Network Elements and Other Services from BellSouth in accordance with 47 C.F.R § 51.309, 47 U.S.C. § 271, and this Agreement. Performance Measurements associated with this Attachment 2 are contained in Attachment _____. The quality of the Network Elements, whether provided pursuant to Section 251 or Section 271, as well as the quality of the access to said Network Elements that BellSouth provides to CLEC shall be, to the extent technically feasible, at least equal to that which BellSouth provides to itself, and its affiliates.

1.4
The Parties shall comply with the requirements as set forth in the technical references within this Attachment 2. BellSouth shall comply with the requirements set forth in the technical reference TR73600, as well as any performance or other requirements identified in this Agreement, to the extent that they are consistent with the greater of BellSouth's actual performance or applicable industry standards. If one or more of the requirements set forth in this Agreement are in conflict, the technical reference TR73600 requirements shall apply. If the parties cannot reach agreement, the dispute resolution process set forth in the General Terms and Conditions of this Agreement shall apply.

ISSUE 13: TRO – COMMINGLING

What is the scope of commingling allowed under the FCC's rules and orders and what language should be included in Interconnection Agreements to implement commingling (including rates)?

1.11 Commingling of Services

1.11.1 Commingling means the connecting, attaching, or otherwise linking of a Network Element, or a Combination, to one or more Telecommunications Services or facilities that *CLEC* has obtained at wholesale from BellSouth, or the combining of a Network Element or Combination with one or more such wholesale Telecommunications Services or facilities. The wholesale services that can be commingled with Network Elements or a Combination include network elements required to be unbundled under Section 271. *CLEC* must comply with all rates, terms or conditions applicable to such wholesale Telecommunications Services or facilities.

1.11.2 Subject to the limitations set forth elsewhere in this Attachment, BellSouth shall not deny access to a Network Element or a Combination on the grounds that one or more of the elements: 1) is connected to, attached to, linked to, or combined with such a facility or service obtained from BellSouth; or 2) shares part of BellSouth's network with access services or inputs for mobile wireless services and/or interexchange services.

1.11.3 Unless expressly prohibited by the terms of this Attachment, BellSouth shall permit CLEC to Commingle an unbundled Network Element or a Combination of unbundled Network Elements with wholesale (i) services obtained from BellSouth, (ii) services obtained from third parties or (ii) facilities provided by CLEC. For purposes of example only, CLEC may Commingle unbundled Network Elements or Combinations of unbundled Network Elements with other services and facilities including, but not limited to, switched and special access services, or services purchased under resale arrangements with BellSouth.

1.11.3 Unless otherwise agreed to by the Parties, the Section 251 Network Element portion and the Section 271 unbundled network element portion of a commingled arrangement will be billed at the rates set forth in this Agreement and the remainder of the circuit or service that is provided under tariff or under another agreement between the Parties will be billed in accordance with BellSouth's tariffed rates or rates set forth in that separate agreement.

1.11.4 When multiplexing equipment is attached to a commingled arrangement , the multiplexing equipment will be billed at the cost based rate contained herein . Central Office Channel Interfaces (COCI) will be billed from the interconnection agreement.

1.11.5 BellSouth shall not change its wholesale or access tariffs in any fashion, or add new access tariffs, that would restrict or negatively impact the availability or provision of Commingling under this Attachment or the Agreement, unless BellSouth and *CLEC* have amended this Agreement in advance to address BellSouth proposed tariff changes or additions. BellSouth shall cooperate fully with *CLEC* to ensure that operational policies and procedures implemented to effect commingled arrangements shall be handled in such a manner as to not operationally or practically impair or impede *CLEC's* ability to implement new comm*ingled arrangements. BellSouth* acknowledges and agrees that the language of this Attachment complies with and satisfies the requirements of Bellsouth wholesale and access tariffs with respect to commingling.

1.11.6 Where processes, including ordering and provisioning processes, for any commingling or commingled arrangement available under this Agreement (including, by way of example, for existing services sought to be converted to a commingled arrangement) are not already in place, the Parties will develop and implement processes. BellSouth shall use existing ordering and provisioning processes already developed for other Network Elements, if possible; if doing so is not possible, BellSouth shall promptly determine what new processes are necessary. Until such processes are developed, BellSouth agrees (i) to accept *CLEC*'s orders for commingling via an electronic spreadsheet specifying the information reasonably necessary to complete such orders and to provision all such orders within fourteen (14) days of receipt, or (ii) if *CLEC* desires to issue a BFR, then BellSouth will allow CLEC to follow the BFR process. The Parties will comply with any applicable Change Management guidelines or BFR guidelines as applicable, provided however, that compliance with such Change Management guidelines shall not negate BellSouth's obligation to provide the Commingled Arrangements listed in Exhibit X as of the effective date of this Agreement. An electronic process will be developed through Change Management within 180 days.

1.11.7 Upon the effective date of this Agreement, BellSouth shall provide local switching unbundled under Section 271 commingled with unbundled Loops (provided as a Network Element under Section 251 or unbundled under Section 271) as Port/Loop Commingled Arrangements in the Arrangements identified in Exhibit X.

1.11.8 BellSouth shall only charge *CLEC* the non-recurring service order charge as set forth in Exhibit A that are applicable to the Section 251 Network Element(s), facilities or services that *CLEC* has obtained at wholesale from BellSouth.

~~1.12Terms and conditions for order cancellation charges and Service Date Advancement Charges will apply in accordance with Attachment 6 and are incorporated herein by this reference. The charges shall be as set forth in Exhibit A.~~

EXHIBIT X: COMMINGLED ARRANGEMENTS IMMEDIATELY AVAILABLE

I. Commingled loop and transport:

(a) UNE DS1~~/~~ loop connected to:
(1) a commingled wholesale/special access M13 multiplex and DS3 or higher capacity interoffice transport;
(2) a UNE DS1~~/~~ transport which is then connected to a commingled wholesale/special access M13 multiplex and DS3 or higher capacity interoffice transport; or,
(3) a commingled wholesale/special access DS1~~/~~ transport.

(b) UNE DS1~~/~~ transport connected to a commingled wholesale/special access M13 multiplex and DS3 or higher capacity interoffice transport.

(c) UNE DS3 transport connected to a commingled wholesale/special access higher capacity interoffice transport.

(d) High Cap Loop connected to a special access multiplexer

(e) Special Access DS1 loop to:
(1) UNE M13 multiplex and DS3 transport; or
(2) UNE DS1 transport

(f) Special Access DS3 loop connected to UNE DS3 transport

(g) UNE DS1 or DS3 loop provisioned onto 3rd party's interoffice transport or multiplexers

II. Commingled Port/Loop Arrangements:

(a) 2-wire voice grade port, voice grade loop, unbundled end office switching, unbundled end office trunk port, common transport per mile per MOU, common transport facilities termination, tandem switching, and tandem trunk port.

(b) 2-wire voice grade DID port, voice grade loop, unbundled end office switching, unbundled end office trunk port, common transport per mile per MOU, common transport facilities termination, tandem switching, and tandem trunk port.

(c) 2-wire CENTREX port, voice grade loop, CENTREX intercom functionality, unbundled end office switching, unbundled end office trunk port, common transport per mile per MOU, common transport facilities termination, tandem switching, and tandem trunk port.

(d) 2-wire ISDN Basic Rate Interface, voice grade loop, unbundled end office switching, unbundled end office trunk port, common transport per mile per MOU, common transport facilities termination, tandem switching, and tandem trunk port.

(e) 4-wire ISDN Primary Rate Interface, DS1 loop, unbundled end office switching, unbundled end office trunk port, common transport per mile per MOU, common transport facilities termination, tandem switching, and tandem trunk port.

(f) 4-wire DS1 Trunk port, DS1 Loop, unbundled end office switching, unbundled end office trunk port, common transport per mile per MOU, common transport facilities termination, tandem switching, and tandem trunk port.

ISSUE 14: **TRO – CONVERSIONS** *Is BellSouth required to provide conversion of special access circuits to UNE pricing, and if so, at what rates, terms and conditions and during what timeframe should such new requests for such conversions be effectuated?*

__.1

Conversion of Wholesale Services to Network Elements or Network Elements to Wholesale Services. Upon request, BellSouth shall convert a wholesale service, or group of wholesale services, to the equivalent Network Element or Combination that is available to CLEC pursuant to this Agreement or convert a Network Element or Combination that is available to CLEC under this Agreement to an equivalent wholesale service or group of wholesale services offered by BellSouth (collectively "Conversion"). BellSouth shall charge the applicable nonrecurring switch-as-is rates for Conversions to specific Network Elements or Combinations found in Exhibit A. BellSouth shall also charge the same nonrecurring switch-as-is rates when converting from Network Elements or Combinations. Any rate change resulting from the Conversion will be effective as of the next billing cycle following BellSouth's receipt of a complete and accurate Conversion request from CLEC. A Conversion shall be considered termination for purposes of any volume and/or term commitments and/or grandfathered status between CLEC and BellSouth. Any change from a wholesale service/group of wholesale services to a Network Element/Combination, or from a Network Element/Combination to a wholesale service/group of wholesale services that requires a physical rearrangement will not be considered to be a Conversion for purposes of this Agreement. BellSouth will not require physical rearrangements if the Conversion can be completed through record changes only. Orders for Conversions will be handled in accordance with the guidelines set forth in the Ordering Guidelines and Processes and CLEC Information Packages as referenced in Sections 1.13.1 and 1.13.2 below.

ISSUE 15: **TRO – CONVERSIONS** *What are the appropriate rates, terms, conditions, and effective dates, if any, for conversion requests that were pending on the effective date of the TRO?*

Conversions pending on the effective date of the TRO should be handled using conversion provisions set forth in the amended ICAs. See issue 14 for proposed CompSouth contract language on conversions.

ISSUE 16: TRO – LINE SHARING

Is BellSouth obligated pursuant to the Telecommunications Act of 1996 and FCC Orders to provide line sharing to new CLEC customers after October 1, 2004?

Line Sharing

2.11 BellSouth shall provide CLEC access to the high frequency portion of the local loop as an unbundled network element ("High Frequency Spectrum") at the rates set forth in Exhibit C. BellSouth shall provide CLEC with the High Frequency Spectrum irrespective of whether BellSouth chooses to offer xDSL services on the loop.

2.11..1 The High Frequency Spectrum is defined as the frequency range above the voiceband on a copper loop facility carrying analog circuit-switched voiceband transmissions. Access to the High Frequency Spectrum is intended to allow CLEC the ability to provide Digital Subscriber Line ("xDSL") data services to the end user for which BellSouth provides voice services. The High Frequency Spectrum shall be available for any version of xDSL presumed acceptable for deployment pursuant to 47 C.F.R. Section 51.230, including, but not limited to, ADSL, RADSL, and any other xDSL technology that is presumed to be acceptable for deployment pursuant to FCC rules. BellSouth will continue to have access to the low frequency portion of the loop spectrum (from 300 Hertz to at least 3000 Hertz, and potentially up to 3400 Hertz, depending on equipment and facilities) for the purposes of providing voice service. CLEC shall only use xDSL technology that is within the PSD mask parameters set forth in T1.413 or other applicable industry standards. CLEC shall provision xDSL service on the High Frequency Spectrum in accordance with the applicable Technical Specifications and Standards.

2.11..2 The following loop requirements are necessary for CLEC to be able to access the High Frequency Spectrum: an unconditioned, 2-wire copper loop. An unconditioned loop is a copper loop with no load coils, low-pass filters, range extenders, DAMLs, or similar devices and minimal bridged taps consistent with ANSI T1.413 and T1.601. The process of removing such devices is called "conditioning." BellSouth shall charge and CLEC shall pay as interim rates, the same rates that BellSouth charges for conditioning stand-alone loops as provided in this Interconnection Agreement (e.g., unbundled copper loops, ADSL loops, and HDSL loops) until permanent pricing for loop conditioning are established either by mutual agreement or by a state public utilities commission. The interim costs for conditioning are subject to true up as provided in this agreement.

BellSouth will condition loops to enable CLEC to provide xDSL-based services on the same loops the incumbent is providing analog voice service, regardless of loop length. BellSouth is not required to condition a loop in connection with CLEC's access to the High Frequency Spectrum if conditioning of that loop impairs service from the end users perspective. If CLEC requests that BellSouth condition a loop longer than 18,000 ft. and such conditioning significantly degrades the voice services on the loop, CLEC shall pay for the loop to be restored to its original state.

2.11..3 CLEC's termination point is the point of termination for CLEC's on the toll main distributing frame in the central office ("-Termination Point"). BellSouth will use jumpers to connect CLEC's connecting block to the splitter. The splitter will route the High Frequency Spectrum on the circuit to the CLEC's xDSL equipment in the CLEC's collocation space.

2.11..4 For the purposes of testing line shared loops, CLEC shall have access to the test access point associated with the splitter and the demarcation point between BellSouth's network and CLEC's network.

2.11..5 The High Frequency Spectrum shall only be available on loops on which BellSouth is also providing, and continues to provide, analog voice service directly to the end user. In the event the end-user terminates its BellSouth provided voice service for any reason, and CLEC desires to continue providing xDSL service on such loop, CLEC shall be required to purchase the full stand-alone loop unbundled network element. In the event BellSouth disconnects the end-user's voice service pursuant to its tariffs or applicable law, and CLEC desires to continue providing xDSL service on such loop, CLEC shall be permitted to continue using the line by purchasing the full stand-alone loop unbundled network element. BellSouth shall give CLEC notice in a reasonable time prior to disconnect, which notice shall give CLEC an adequate opportunity to notify BellSouth of its intent to purchase such loop. The Parties shall work collaboratively towards the method of notification and the time periods for notice. In those cases in which BellSouth no longer provides voice service to the end user and CLEC purchases the full stand-alone loop, CLEC may elect the type of loop it will purchase. CLEC will pay the appropriate recurring and non-recurring rates for such loop as set forth in Attachment 2 of the Agreement, including a voice grade loop.

2.11..6 CLEC and BellSouth shall continue to work together collaboratively to develop systems and processes for provisioning the High Frequency Spectrum in various real life scenarios. BellSouth and CLEC agree that CLEC is entitled to purchase the High Frequency Spectrum on a loop that is provisioned over fiber-fed digital loop carrier. BellSouth will provide CLEC with access to feeder sub-loops at UNE prices. BellSouth and CLEC will work together to establish methods and

procedures for providing CLEC access to the High Frequency Spectrum over fiber fed digital loop carriers.

2.11..7 Only one competitive local exchange carrier shall be permitted access to the High Frequency Spectrum of any particular loop.

2.11..8 To order High Frequency Spectrum on a particular loop, CLEC must have a DSLAM collocated in the central office that serves the end-user of such loop. BellSouth shall allow CLEC to order splitters in central offices where CLEC is in the process of obtaining collocation space. BellSouth shall install such splitters before the end of CLEC's collocation provisioning interval.

2.11..9 BellSouth will devise a splitter order form that allows CLEC to order splitter ports in increments of 8, 24 or 96 ports.

2.11..10 BellSouth will provide CLEC the Local Service Request ("LSR") format to be used when ordering the High Frequency Spectrum.

2.11..11 BellSouth will provide CLEC with access to the High Frequency Spectrum of the unbundled loop as follows:

2.12 For 1-5 lines at the same address within three (3) business days from BellSouth's issuance of a FOC; 6-10 lines at the same address within 5 business days from BellSouth's issuance of a FOC; and more than 10 lines at the same address is to be negotiated.

2.12..1 BellSouth shall test the data portion of the loop to insure the continuity of the wiring for CLEC's data using the LSVT test-set for both the provisioning and maintenance of a loop. This test shall be performed from the CLEC designated tie cable pair (which is connected to CLEC's DSLAM) to the Main Distribution Frame (MDF) where the customer's cable pair leaves the BellSouth central office. This process will be implemented unless, and until, CLEC and BellSouth mutually agree on another process. If BellSouth delivers a line shared loop that is not properly wired by BellSouth, BellSouth shall adjust the monthly recurring charge to reflect the day that the line shared loop was placed in service.

2.12..2 CLEC will use the Central Office Synch Test (COST) as referenced at [insert web site address].

MAINTENANCE AND REPAIR

2.12..3 CLEC shall have access, for test, repair, and maintenance purposes, to any loop as to which it has access to the High Frequency Spectrum. CLEC may access the loop at the point where the combined voice and data signal exits the splitter.

2.12..4 BellSouth will be responsible for repairing voice services and the physical line between the network interface device at the customer premise and the Termination Point of demarcation in the central office. CLEC will be responsible for repairing data services. Each Party will be responsible for maintaining its own equipment.

2.12..5 If the problem encountered appears to impact primarily the xDSL service, the end user should call CLEC. If the problem impacts primarily the voice service, the end user should call BellSouth. If both services are impaired, the end user should contact BellSouth and CLEC.

2.12..6 BellSouth and CLEC will work together to diagnose and resolve any troubles reported by the end-user and to develop a process for repair of lines as to which CLEC has access to the High Frequency Spectrum. The Parties will continue to work together to address customer initiated repair requests and other customer impacting maintenance issues to better support unbundling of High Frequency Spectrum.

2.12..6.1 The Parties will be responsible for testing and isolating troubles on its respective portion of the loop. Once a Party ("Reporting Party") has isolated a trouble to the other Party's ("Repairing Party") portion of the loop, the Reporting Party will notify the end user to report the trouble to the other service provider. The Repairing Party will take the actions necessary to repair the loop if it determines a trouble exists in its portion of the loop.

2.12..6.2 If a trouble is reported on either Party's portion of the loop and no trouble actually exists, the Repairing Party may charge the Reporting Party for any dispatching and testing (both inside and outside the central office) required by the Repairing Party in order to confirm the loop's working status.

2.12..7 In the event CLEC's deployment of xDSL on the High Frequency Spectrum significantly degrades the performance of other advanced services or of BellSouth's voice service on the same loop, BellSouth shall notify CLEC and allow twenty-four (24) hours to cure the trouble. If CLEC fails to resolve the trouble, BellSouth may discontinue CLEC's access to the High Frequency Spectrum on such loop.

2.12..8 CLEC will use the Central Office Synch Test (COST) as referenced at [insert web site address].

ISSUE 17: TRO – LINE SHARING – TRANSITION

If the answer to foregoing issue is negative, what is the appropriate language for transitioning off a CLEC's existing line sharing arrangements?

3 Line Sharing

3.1 General

3.1.1 Line Sharing is defined as the process by which CLEC provides digital subscriber line "xDSL" service over the same copper loop that BellSouth uses to provide Retail voice service, with BellSouth using the low frequency portion of the loop and CLEC using the high frequency spectrum (as defined below) of the loop.

3.1.2 Line Sharing arrangements in service as of October 1, 2003, under a prior Interconnection Agreement between BellSouth and CLEC, will be grandfathered until the earlier of the date the End User discontinues or moves XDSL service with CLEC. Grandfathered arrangements pursuant to this Section will be billed at the rates set forth in Exhibit A.

3.1.3 No new line sharing arrangements may be ordered.

3.1.4 Any Line Sharing arrangements placed in service between October 2, 2003 and October 1, 2004, and not otherwise terminated, shall terminate on October 2, 2006.

3.1.5 The High Frequency Spectrum is defined as the frequency range above the voiceband on a copper loop facility carrying analog circuit-switched voiceband transmissions. Access to the High Frequency Spectrum is intended to allow CLEC the ability to provide xDSL data services to the End User for which BellSouth provides voice services. The High Frequency Spectrum shall be available for any version of xDSL complying with Spectrum Management Class 5 of ANSI T1.417, American National Standard for Telecommunications, Spectrum Management for loop Transmission Systems. BellSouth will continue to have access to the low frequency portion of the loop spectrum (from 300 Hertz to at least 3000 Hertz, and potentially up to 3400 Hertz, depending on equipment and facilities) for the purposes of providing voice service. CLEC shall only use xDSL technology that is within the PSD mask for Spectrum Management Class 5 as found in the above-mentioned document.

3.1.6 Access to the High Frequency Spectrum requires an unloaded, 2-wire copper loop. An unloaded loop is a copper loop with no load coils, low-pass filters, range extenders, DAMLs, or similar devices and minimal bridged taps consistent with ANSI T1.413 and T1.601.

3.1.7 BellSouth will provide Loop Modification to CLEC on an existing loop for Line Sharing in accordance with procedures as specified in Section 2 of this Attachment. BellSouth is not required to modify a loop for access to the High Frequency spectrum if modification of that loop significantly degrades BellSouth's voice service. If CLEC requests that BellSouth modify a loop and such modification significantly degrades the voice services on the loop, CLEC shall pay for the loop to be restored to its original state.

3.1.8 Line Sharing shall only be available on loops on which BellSouth is also providing, and continues to provide, analog voice service directly to the End User. In the event the End User terminates its BellSouth provided voice service for any reason, or in the event BellSouth disconnects the End User's voice service pursuant to its tariffs or applicable law, and CLEC desires to continue providing xDSL service on such loop, CLEC or the new voice provider, shall be required to purchase a full stand-alone loop UNE. To the extent commercially reasonable, BellSouth shall give CLEC notice in a reasonable time prior to disconnect. In those cases in which BellSouth no longer provides voice service to the End User and CLEC purchases the full stand-alone loop, CLEC may elect the type of loop it will purchase. CLEC will pay the appropriate MRC and NRC rates for such loop as set forth in Exhibit A to this Attachment. In the event CLEC purchases a voice grade loop, CLEC acknowledges that such loop may not remain xDSL compatible.

3.1.9 In the event the End User terminates its BellSouth provided voice service, and CLEC requests BellSouth to convert the Line Sharing arrangement to a Line Splitting arrangement (see below), BellSouth will discontinue billing CLEC for the High Frequency Spectrum and begin billing the voice CLEC. BellSouth will continue to bill the Data LEC for all associated splitter charges if the Data LEC continues to use a BellSouth splitter.

3.1.10 Only one CLEC shall be permitted access to the High Frequency Spectrum of any particular loop.

3.1.11 After the transition period, any new customer must be served through a line splitting arrangement, through use of stand-alone copper loop, or through an arrangement that a competitive LEC has negotiated with the incumbent LEC to replace line sharing.

3.1.12 Once BellSouth has placed cross-connects on behalf of CLEC and CLEC chooses to rearrange its splitter or CLEC pairs, CLEC may order Subsequent Activity. BellSouth will bill and CLEC shall pay the Subsequent Activity charges as set forth in Exhibit A of this Attachment.

3.1.13 BellSouth will provide CLEC the LSR format to be used when ordering the High Frequency Spectrum.

3.2 *Maintenance and Repair – Line Sharing*

3.2.1 CLEC shall have access for test purposes to any Loop for which it has access to the High Frequency Spectrum. CLEC may test from the collocation space, the Termination Point or the NID.

3.2.2 BellSouth will be responsible for repairing voice services and the physical line between the NID and the Termination Point. CLEC will be responsible for repairing its data services. Each Party will be responsible for maintaining its own equipment.

3.2.3 CLEC shall inform its End Users to direct data problems to CLEC, unless both voice and data services are impaired, in which event CLEC should direct the End Users to contact BellSouth.

3.2.4 Once a Party has isolated a trouble to the other Party's portion of the Loop, the Party isolating the trouble shall notify the End User that the trouble is on the other Party's portion of the Loop.

3.2.5 Notwithstanding anything else to the contrary in this Agreement, when BellSouth receives a voice trouble and isolates the trouble to the physical collocation arrangement belonging to CLEC, BellSouth will notify CLEC, and bill CLEC accordingly. If BellSouth reports a trouble to CLEC for the High Frequency Spectrum on the Loop, and no trouble actually exists within CLEC's portion of the network, CLEC may charge BellSouth, and BellSouth shall pay, for any dispatching and testing (both inside and outside the central office) required by CLEC in order to confirm the trouble is not within CLEC's portion of the network.

ISSUE 18: **TRO – LINE SPLITTING** *What is the appropriate ICA language to implement BellSouth's obligations with regard to line-splitting?*

3 Line Splitting

3.3 Line splitting shall mean that a provider of data services (a Data LEC) and a provider of voice services (a Voice CLEC) deliver voice and data service to End Users over the same Loop. The Voice CLEC and Data LEC may be the same or different carriers.

3.4 Line Splitting – UNE-L. In the event CLEC provides its own switching or obtains switching from a third party, CLEC may engage in line splitting arrangements with another CLEC using a splitter, provided by CLEC or a third party, in a Collocation Space at the central office where the loop terminates into a distribution frame or its equivalent.

3.5 Line Splitting –Loop and UNE Port (UNE-P) or commingled Loop and Unbundled Local Switching provided pursuant to Section 271.

3.5.13 To the extent CLEC is purchasing UNE-P pursuant to this Agreement, or is using a commingled arrangement that consists of a Loop and Unbundled Local Switching provided by BellSouth pursuant to Section 271, BellSouth will permit CLEC to utilize Line Splitting. The UNE-P arrangement will be converted to a stand-alone Loop, a Network Element switch port, two collocation cross-connects and the high frequency spectrum line activation. Where the converted arrangement replaces UNE-P that CLEC is using to provide service to its embedded base of customers, the resulting arrangement shall continue to be included in CLEC's Embedded Customer Base as described in Section 5.4.3.2.

3.5.14 CLEC shall provide BellSouth with a signed LOA between it and the Data LEC or Voice CLEC with which it desires to provision Line Splitting services, if CLEC will not provide voice and data services.

3.5.15 Line Splitting arrangements in service pursuant to this Section 3.3 that are provided using UNE-P must be disconnected or provisioned pursuant to Section 3.2 on or before the end of the transition plan specified by the FCC in the TRRO (March 10, 2006) unless such date is revised or eliminated, in which case the transition plan if it not eliminated, will continue until such date as may be specified by the FCC, the applicable state commission or court of competent jurisdiction.

3.6 Provisioning Line Splitting and Splitter Space

3.6.13 The Data LEC, Voice CLEC, a third party or BellSouth may provide the splitter. When CLEC or its authorized agent owns the splitter, Line Splitting requires the following: a non-designed analog Loop from the serving wire center to the NID at the End User's location; a collocation

cross-connection connecting the Loop to the collocation space; a second collocation cross-connection from the collocation space connected to a voice port; the high frequency spectrum line activation, and a splitter. When BellSouth owns the splitter, Line Splitting requires the following: a non-designed analog Loop from the serving wire center to the NID at the End User's location with CFA and splitter port assignments, and a collocation cross-connection from the collocation space connected to a voice port.

3.6.14 An unloaded 2-wire copper Loop must serve the End User. The meet point for the Voice CLEC and the Data LEC is the point of termination on the MDF for the Data LEC's cable and pairs.

3.6.15 The foregoing procedures are applicable to migration from a UNE-P arrangement to Line Splitting Service, including a Line Splitting Service that includes a commingled arrangement of Loop and unbundled local switching pursuant to Section 271.

3.7 CLEC Provided Splitter – Line Splitting

3.7.13 To order High Frequency Spectrum on a particular Loop, CLEC must have a DSLAM collocated in the central office that serves the End User of such Loop.

3.7.14 CLEC must provide its own splitters in a central office and have installed its DSLAM in that central office.

3.7.15 CLEC may purchase, install and maintain central office POTS splitters in its collocation arrangements. CLEC may use such splitters for access to its customers and to provide digital line subscriber services to its customers using the High Frequency Spectrum. Existing Collocation rules and procedures and the terms and conditions relating to Collocation set forth in Attachment 4-Central Office shall apply.

3.7.16 Any splitters installed by CLEC in its collocation arrangement shall comply with ANSI T1.413, Annex E, or any future ANSI splitter Standards. CLEC may install any splitters that BellSouth deploys or permits to be deployed for itself or any BellSouth affiliate.

3.8 Maintenance – Line Splitting.

3.8.13 BellSouth will be responsible for repairing voice troubles and the troubles with the physical loop between the NID at the End User's premises and the termination point.

3.8.14 CLEC shall indemnify, defend and hold harmless BellSouth from and against any claims, losses, damages, and costs , which arise out of actions related to the other service provider, except to the extent caused by BellSouth's gross negligence or willful misconduct.

3.8.15 BellSouth must make all necessary network modifications, including providing non-discriminatory access to operations support systems necessary for pre-ordering, ordering, provisioning, maintenance and repair, and billing for loops used in line splitting arrangements.

ISSUE 19: TRO – SUB-LOOP CONCENTRATION

a) What is the appropriate ICA language, if any, to address sub loop feeder or sub loop concentration? B) Do the FCC's rules for sub loops for multi-unit premises limit CLEC access to copper facilities only or do they also include access to fiber facilities?

CompSouth does not propose contract language on this issue at this time. CompSouth reserves the right to offer alternatives to contract language proposed by BellSouth on this issue.

ISSUE 20: TRO – PACKET SWITCHING *What is the appropriate ICA language, if any, to address packet switching?*

CompSouth does not propose contract language on this issue at this time. CompSouth reserves the right to offer alternatives to contract language proposed by BellSouth on this issue.

ISSUE 21: **TRO – CALL-RELATED DATABASES** *What is the appropriate language, if any, to address access to call related databases?*

CompSouth proposes language as part of the *TRRO* transition that ensures that call-related databases associated with unbundled Local Switching are provided during the transition period. After the transition, call-related databases will be available as Section 271 checklist items. (This language is included as part of the transition language in 1 and is repeated here.)

4.4.3.1
BellSouth shall also make available the following elements relating to Local Switching, as such elements are defined at 47 C.F.R. §51.319(d)(4)(i), during the Transition Period: signaling networks, call-related databases, and shared transport. After the completion of the Transition Period, such elements may be transitioned to the equivalent BellSouth Section 271 offering, pursuant to the transition provisions herein applicable to Local Switching arrangements

MCI offers additional language in its proposed Pre-Ordering, Ordering, Provisioning, Maintenance And Repair attachment. The MCI language requires that BellSouth provide a download with daily updates to directory assistance database, without regard to unbundled Local Switching availability. BellSouth is required to provide nondiscriminatory access to call-related databases under Sections 251(b)(3) of the Act and any other applicable law. Nondiscriminatory access contemplates use of the data without use restrictions, and at a price that is nondiscriminatory. MCI's proposed language is as follows:

8 Directory Assistance Data

8.1 Consistent with applicable laws and regulations, and as set forth herein, BellSouth shall
provide to CLEC via its Directory Assistance Database Service (DADS), the subscriber records used by BellSouth to create and maintain its Directory Assistance Data Base, in a non-discriminatory manner. The records shall include all records in BellSouth's Directory Assistance Database, including those of its own customers, independent telephone companies' customers, and customers of CLECs. Neither Party shall use the records for any
purpose, which violates federal or State laws, statutes, or regulatory orders.

8.2 Directory Assistance Data shall be provided in a nondiscriminatory manner on the same terms, conditions, and pricing that BellSouth provides to itself or other third parties.

8.2.1 Unless otherwise directed by CLEC, BellSouth shall provide CLEC subscriber records along with BellSouth subscriber records to third party carriers that request directory assistance records from BellSouth. If CLEC does direct otherwise, BellSouth shall remove CLEC's subscriber records from BellSouth's Directory Assistance database.

8.2.2 BellSouth shall provide CLEC, to the extent authorized, a complete list of ILECs, CLECs, and independent Telcos that provided data contained in the database.

8.2.3 BellSouth will provide daily updates that will reflect all listing change activity occurring since CLEC's most recent update. BellSouth shall provide updates to CLEC on a Business, Residence, or combined Business and Residence basis.

8.2.4 BellSouth shall provide complete refresh of the Directory Assistance Data upon mutual agreement of BellSouth and CLEC and subject to applicable charges pursuant to Attachment 1 of this Agreement.

8.2.5 Provided that CLEC maintains, at its own expense, equipment and systems necessary at CLEC's end for the Parties to exchange directory assistance data in the Intermediate Record Format (IRF), negotiated and agreed upon by the Parties, as such format may be amended by further mutual agreement, all directory assistance data shall be provided in IRF. CLEC is not responsible for providing any equipment or systems on BellSouth's end in order for the Parties to exchange records using IRF.

8.2.6 Subject to amendments to the IRF that may be agreed to by the Parties, records exchanged using IRF shall include all identifiers and indicators currently used for processing Subscriber Listing Information ("SLI").

8.2.7 CLEC and BellSouth, upon mutual agreement, will designate a Technically Feasible point at which the data will be provided.

8.2.8 Directory Assistance Data Information Exchanges and Interfaces.

8.2.8.1 BellSouth shall provide to CLEC the following:

8.2.8.1.1 List of NPA-NXXs relating to the listing records being provided.

8.2.8.1.2 List of directory section names and their associated NPANXXs.

8.2.8.1.3 List of community names expected to be associated with each of the NPA-NXXs for which listing records are provided.

8.2.8.1.4 List of independent company names and their associated NPA-NXXs for which their listing data is included in BellSouth's listing data.

8.2.8.1.5 Identification of any area wide or universal service numbers which may be listed.

8.2.8.1.6 Identification of the telephone number to be provided to callers outside the servicing area.

8.2.8.1.7 Identification of any listing condition(s) unique to BellSouth's serving area which may require special handling in data processing in the directory. Indented listings (Captions) must be identified and delivered and handled as specified.

8.2.9 BellSouth and CLEC shall exchange records using Network Data Mover (NDM), or another electronic transmission method on which the Parties may agree. BellSouth shall identify tracking information requirements (for example, use of header and trailer records for tracking date and time, cycle numbers, sending and receiving site codes, volume count for the given dataset).

8.2.10 BellSouth shall identify dates CLEC should not expect to receive daily update activity.

ISSUE 22: TRO – GREENFIELD AREAS

a) What is the appropriate minimum point of entry ("MPOE)? B) What is the appropriate language to implement BellSouth's obligation, if any, to offer unbundled access to newly –deployed or "greenfield" fiber loops, including fiber loops deployed to the minimum point of entry of a multiple dwelling unit that is predominantly residential, and what, if any, impact does the ownership of the inside wiring from the MPOE to each end user have on this obligation?

2.1.2 Fiber to the Home (FTTH) loops are local loops consisting entirely of fiber optic cable, whether dark or lit, serving an End User's premises or, in the case of predominantly residential multiple dwelling units (MDUs), a fiber optic cable, whether dark or lit, that extends to the MDU minimum point of entry (MPOE). Fiber to the Curb (FTTC) loops are local loops consisting of fiber optic cable connecting to a copper distribution plant that is not more than five hundred (500) feet from the End User's premises or, in the case of predominantly residential MDUs, not more than five hundred (500) feet from the MDU's MPOE. The fiber optic cable in a FTTC loop must connect to a copper distribution plant at a serving area interface from which every other copper distribution subloop also is not more than five hundred (500) feet from the respective End User's premises.

2.1.2.1 In new build (Greenfield) areas, where BellSouth has only deployed FTTH/FTTC facilities, BellSouth is under no obligation to provide such FTTH and FTTC Loops. FTTH facilities include fiber loops deployed to the MPOE of a MDU that is predominantly residential regardless of the ownership of the inside wiring from the MPOE to each End User in the MDU.

2.1.2.2 In FTTH/FTTC overbuild situations where BellSouth also has copper Loops, BellSouth will make those copper Loops available to CLEC on an unbundled basis, until such time as BellSouth chooses to retire those copper Loops using the FCC's network disclosure requirements. In these cases, BellSouth will offer a 64kbps second voice grade channel over its FTTH/FTTC facilities. BellSouth's retirement of copper Loops must comply with Applicable Law.

2.1.2.3 Notwithstanding the above, nothing in this Section shall limit BellSouth's obligation to offer CLECs an unbundled DS1 loop (or loop/transport combination) in any wire center where BellSouth is required to provide access to DS1 loop facilities.

ISSUE 23: TRO- HYBRID LOOPS

What is the appropriate ICA language to implement BellSouth's obligation to provide unbundled access to hybrid loops?

2.1.3
A hybrid Loop is a local Loop, composed of both fiber optic cable, usually in the feeder plant, and copper twisted wire or cable, usually in the distribution plant. BellSouth shall provide CLEC with nondiscriminatory access to the time division multiplexing features, functions and capabilities of such hybrid Loop, including DS1 and DS3 capacity under Section 251 where impairment exists, on an unbundled basis to establish a complete transmission path between BellSouth's central office and an End User's premises. Where impairment does not exist, BellSouth shall provide such hybrid loop at just and reasonable rates pursuant to Section 271 at the rates set forth in Exhibit B. This access shall include access to all features, functions, and capabilities of the hybrid loop that are not used to transmit packetized information.

2.1.3.1
BellSouth shall not engineer the transmission capabilities of its network in a manner, or engage in any policy, practice, or procedure, that disrupts or degrades access to a local loop or subloop, including the time division multiplexing-based features, functions, and capabilities of a hybrid loop, for which a requesting telecommunications carrier may obtain or has obtained access pursuant to this Attachment.

ISSUE 24: **TRO- END USER PREMISES** *Under the FCC's definition of a loop found in 47 C.F.R. § 51.319(a), is a mobile switching center or cell site an "end user customer's premises"?*

CompSouth's proposed language on this issue is included with proposed Section 2.1:

Facilities that do not terminate at a demarcation point at an End User premises, including, by way of example, but not limited to, facilities that terminate to another carrier's switch or premises, a cell site, Mobile Switching Center or base station, do not constitute local loops under Section 251, except to the extent that CLEC may require loops to such locations for the purpose of providing telecommunications services to its personnel at those locations.

ISSUE 25: TRO – ROUTINE NETWORK MODIFICATIONS

What is the appropriate ICA language to implement BellSouth's obligation to provide routine network modifications?

CompSouth's proposed language for Routine Network Modifications (RNM) is provided below. CompSouth notes that BellSouth may contend that issues regarding "Line Conditioning" should be addressed as part of RNM. CompSouth strongly disagrees, and provides its proposed contract language on Line Conditioning below.

1.9 **Routine Network Modifications**

1.9.1 BellSouth will perform Routine Network Modifications (RNM) in accordance with FCC 47 C.F.R. § 51.319 (a)(7) and (e)(4) for Loops and Dedicated Transport provided under this Attachment. BellSouth shall make all routine network modifications to unbundled loop and transport facilities used by CLEC at CLEC's request where the requested loop and/or transport facility has already been constructed. BellSouth shall perform these routine network modifications to facilities in a non-discriminatory fashion, without regard to whether the loop or transport facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier. A routine network modification is an activity that BellSouth regularly undertakes for its own customers. Routine network modifications include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that BellSouth ordinarily attaches to a loop or transport facility to serve its own customers. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the construction of a new loop, or the installation of new aerial or buried cable for a CLEC.

1.9.2 BellSouth shall perform routine network modifications pursuant to the existing non-recurring charges and recurring rates ordered by the state commission for the loop and transport facilities set forth in Exhibit A and not at an additional charge. RNM shall be performed within the intervals established for the Network Element and subject to the performance measurements and associated remedies set forth in Attachment 9 of this Agreement except to the extent BellSouth demonstrates that such RNM were not anticipated in the setting of such intervals. If BellSouth believes that it has not anticipated a requested network modification as being a RNM and has not recovered the costs of such RNM in the rates set forth in Exhibit A, BellSouth can seek resolution from the state commission. However, in the interim, BellSouth will perform the RNM at the existing recurring and non-recurring rates associated with the provision of the loop or transport facility. There may not be any double recovery or retroactive recovery of these costs.

Line Conditioning:
(a) How should Line Conditioning be defined in the Agreement? (B) What should BellSouth's obligations be with respect to Line Conditioning? (b) Should the Agreement contain specific provisions limiting the availability of Line Conditioning to copper loops of 18,000 feet or less? (c) Under what rates, terms and conditions should BellSouth be required to perform Line Conditioning to remove bridged taps?

Line Conditioning

2.5.1 BellSouth shall perform line conditioning in accordance with FCC 47 C.F.R. 51.319 (a)(1)(iii). Line Conditioning is as defined in FCC 47 C.F.R. 51.319 (a)(1)(iii)(A). Insofar as it is technically feasible, BellSouth shall test and report troubles for all the features, functions, and capabilities of conditioned copper lines, and may not restrict its testing to voice transmission only.

2.5.2 BellSouth will remove load coils on copper loops and subloops of any length at the rates set forth in Exhibit A.

2.5.3 Any copper loop being ordered by CLEC which has over 6,000 feet of combined bridged tap will be modified, upon request from CLEC, so that the loop will have a maximum of 6,000 feet of bridged tap. This modification will be performed at no additional charge to CLEC. Line conditioning orders that require the removal of other bridged tap will be performed at the rates set forth in Exhibit A of this Attachment.

2.5.4 CLEC may request removal of any unnecessary and non-excessive bridged tap (bridged tap between 0 and 2,500 feet which serves no network design purpose), at rates set forth in Exhibit A.

ISSUE 26: TRO – RNM (Pricing)

What is the appropriate process for establishing a rate, if any, to allow for the cost of a routine network modification that is not already recovered in the Commission-approved recurring or non-recurring rates? What is the appropriate language, if any, to incorporate into the ICAs?

See Issue 25 for CompSouth proposed contract language.

ISSUE 27: TRO – FIBER TO THE HOME

What is the appropriate language, if any, to address access to overbuild deployments of fiber to the home and fiber to the curb facilities?

See Issue 22 for CompSouth proposed contract language.

ISSUE 28: TRO-EEL Audits
What is the appropriate ICA language to implement BellSouth's EEL audit rights, if any, under the TRO?

CompSouth notes that Issue 28 is limited to the question of "EELs audits." The issue of implementation of EELs "service eligibility criteria is also a critical TRO implementation issue. CompSouth includes proposed language on that issue here because EELs eligibility criteria are not otherwise identified as an issue in the Issues List.

EELs Audit provisions

5.3.4.3 BellSouth may, on an annual basis and only based upon good and sufficient cause, conduct an audit of CLEC's records in order to verify material compliance with the high capacity EEL eligibility criteria. To invoke its limited right to audit, BellSouth will send a Notice of Audit to CLEC, identifying the particular circuits for which BellSouth alleges non-compliance and the cause upon which BellSouth rests its allegations. The Notice of Audit shall also include all supporting documentation upon which BellSouth establishes the cause that forms the basis of BellSouth's allegations of noncompliance. Such Notice of Audit will be delivered to CLEC with all supporting documentation no less than thirty (30) calendar days prior to the date upon which BellSouth seeks to commence an audit. For purposes of this Section, an "annual basis" means a consecutive 12-month period, beginning upon BellSouth's written notice that an audit will be performed for a {state}.

5.3.4.4 The audit shall be conducted by a third party independent auditor mutually agreed-upon by the Parties and retained and paid for by BellSouth. The audit shall commence at a mutually agreeable location (or locations) no sooner than thirty (30) calendar days after the parties have reached agreement on the auditor. The audit must be performed in accordance with the standards established by the American Institute for Certified Public Accountants (AICPA) which will require the auditor to perform an "examination engagement" and issue an opinion regarding CLEC's compliance with the high capacity EEL eligibility criteria. AICPA standards and other AICPA requirements related to determining the independence of an auditor shall govern the audit of requesting carrier compliance. The concept of materiality governs this audit; the independent auditor's report will conclude whether or the extent to which CLEC complied in all material respects with the applicable service eligibility criteria. Consistent with standard auditing practices, such audits require compliance testing designed by the independent auditor, which typically include an examination of a sample selected in accordance with the independent auditor's judgment.

5.3.4.5 To the extent the independent auditor's report finds material non-compliance with the service eligibility criteria, BellSouth may file a complaint with the Commission pursuant to the dispute resolution process as set forth in this Agreement. In the event

BellSouth prevails, CLEC must true-up any difference in payments, convert all noncompliant circuits to the appropriate service, and make the correct payments on a going-forward basis.

5.3.4.6 To the extent the independent auditor's report concludes that CLEC failed to comply in all material respects with the service eligibility criteria, CLEC shall reimburse BellSouth for the reasonable and demonstrable cost of the independent auditor. Similarly, to the extent the independent auditor's report concludes that CLEC did comply in all material respects with the service eligibility criteria, BellSouth will reimburse CLEC for its reasonable and demonstrable costs associated with the audit, including, among other things, staff time. The Parties shall provide such reimbursement within thirty (30) calendar days of receipt of a statement of such costs.

~~**EELS Eligibility Criteria**~~

~~5.3 Enhanced Extended Links (EELs)~~

~~5.3.1EELs are combinations of Loops and Dedicated Transport as defined in this Attachment, together with any facilities, equipment, or functions necessary to combine those Network Elements. BellSouth shall provide CLEC with EELs where the underlying Network Element are available and are required to be provided pursuant to this Agreement and in all instances where the requesting carrier meets the eligibility requirements, if applicable.~~

~~5.3.2High capacity EELs are (1) combinations of Loop and Dedicated Transport, (2) Dedicated Transport commingled with a wholesale loop, or (3) a loop commingled with wholesale transport at the DS1 and/or DS3 level as described in 47 C.F.R. § 51.318(b).~~

~~5.3.3By placing an order for a high capacity EEL, CLEC thereby certifies that the service eligibility criteria set forth herein are met for access to a converted high capacity EEL, a new high capacity EEL, or part of a high capacity commingled EEL as a UNE. BellSouth shall have the right to audit CLEC's high capacity EELs as specified below.~~

~~5.3.4Service Eligibility Criteria~~

~~5.3.4.1High capacity EELs are Combinations of loops and transport as described in 47 CFR Section 51.318(b). EELs consisting of DS0 loops with higher capacity transport, or with DS0 transport are not "high capacity EELs" and are not required to meet the service eligibility criteria set forth in Section 5.3.4. High capacity EELs must comply with the following service eligibility requirements. CLEC must certify for each high capacity EEL that all of the following service eligibility criteria are met:~~

~~5.3.4.1.1CLEC has received state certification to provide local voice service in the area being served;~~

~~5.3.4.2For each combined circuit, including each DS1 circuit, each DS1 EEL, and each DS1 equivalent circuit on a fully utilized DS3 EEL:~~

~~5.3.4.2.11) Each circuit to be provided to each End User will be assigned a local number prior to the provision of service over that circuit;~~

~~5.3.4.2.22) Each DS1 equivalent circuit on a fully utilized DS3 EEL must have its own local number assignment so that each fully utilized DS3 must have at least twenty-eight (28) local voice numbers assigned to it;~~

~~5.3.4.2.33) Each circuit to be provided to each End User will have 911 or E911 capability prior to provision of service over that circuit;~~

~~5.3.4.2.44) Each circuit to be provided to each End User will terminate in a collocation arrangement that meets the requirements of 47 C.F.R. § 51.318(c); if the EEL is commingled with a wholesale service, the wholesale service must terminate at the collocation arrangement;~~

~~5.3.4.2.55) Each circuit to be provided to each End User will be served by an interconnection trunk over which CLEC will transmit the calling party's number in connection with calls exchanged over the trunk;~~

~~5.3.4.2.66) For each twenty four (24) DS1 EELs or other facilities having equivalent capacity, CLEC will have at least one (1) active DS1 local service interconnection trunk over which CLEC will transmit the calling party's number in connection with calls exchanged over the trunk; CLEC is not required to associate the individual EEL collocation termination point with a local interconnection truck in the same wire center; and~~

~~5.3.4.2.77) Each circuit to be provided to each End User will be served by a switch capable of switching local voice traffic.~~

~~5.3.4.2.8For a new circuit to which Section 5.3.4.2.3 applies, CLEC may initiate the ordering process if CLEC certifies that it will not begin to provide any service over that circuit until a local telephone number is assigned and 911/E911 capability is provided. In such case, CLEC shall satisfy EEL eligibility criteria if it assigns the required local telephone number(s) and implements 911/E911 capability within 30 days after BellSouth provisions such new circuit.~~

~~5.3.4.2.9CLEC may provide the required certification by sending a confirming letter to BellSouth on a blanket basis. A disconnect notice for any single circuit shall be sufficient to constitute notification to BellSouth that a blanket certification for multiple circuits that were part of a single order has been modified. In addition, CLEC may provide written notification from time to time, or will provide written confirmation in response to a request from BellSouth made no more often than once each calendar year, certifying that CLEC's EELs circuits satisfy all of the eligibility criteria set out above.~~

~~5.3.4.2.10Existing circuits, including conversions or migrations, are governed by Section~~

ISSUE 30: ISP Remand Core Forbearance Order

What language should be used to incorporate the FCC's ISP Remand Core Forbearance Order into interconnection agreements?

The FCC's Core Forbearance Order requires that reciprocal compensation provisions delete references to the "new markets" and "growth cap" restrictions that were part of the FCC's ISP Remand Order. CompSouth proposes that such deletions be made from the reciprocal compensation provisions of BellSouth's ICAs.

ISSUE 31: General Issue

How should determinations made in this proceeding be incorporated into existing § 252 interconnection agreements?

CompSouth does not propose contract language associated with this Issue. Issue 31 is a legal/procedural issue to be determined by the Commission this proceeding. To the extent that BellSouth and CLECs have an Abeyance Agreement or similar agreement, those agreements present unique bilateral issues that should be addressed separately.

Significance of UNE-L Assumption on Business Line Count

Wire Center	2004 Claimed Business Lines	Business Lines from UNE-L Assumption	Percent
MIAMFLGR	68,580	16,340	24%
ORLDFLMA	57,966	18,389	32%
FTLDFLMR	55,881	11,408	20%
GSVLFLMA	55,681	8,305	15%
ORLDFLPC	45,792	13,830	30%
MIAMFLHL	43,021	8,603	20%
JCVLFLCL	42,452	13,102	31%
MIAMFLAE	41,912	7,876	19%
BCRTFLMA	40,746	8,822	22%
PRRNFLMA	37,969	6,006	16%
HLWDFLPE	37,415	7,524	20%
WPBHFLHH	36,053	7,052	20%
HLWDFLWH	34,022	6,637	20%
PMBHFLMA	33,993	8,129	24%
WPBHFLAN	33,521	4,992	15%
ORLDFLPH	33,148	7,822	24%
MLBRFLMA	32,547	6,813	21%
DYBHFLMA	32,282	6,061	19%
FTLDFLCY	31,487	6,960	22%
ORLDFLAP	31,234	7,444	24%
PNSCFLFP	30,863	9,338	30%
FTLDFLPL	29,469	6,224	21%
FTLDFLJA	29,209	5,136	18%
PNSCFLBL	28,685	9,013	31%
BCRTFLBT	26,601	5,541	21%
WPBHFLGR	26,527	4,530	17%
ORLDFLSA	26,126	8,163	31%
PMBHFLFE	25,909	5,906	23%
STRTFLMA	25,577	2,597	10%
WPBHFLGA	24,885	3,672	15%
MIAMFLRR	24,740	3,729	15%
DRBHFLMA	24,695	6,143	25%
MIAMFLBR	24,482	5,490	22%
MIAMFLPB	24,380	4,752	19%
JCVLFLSJ	24,088	8,349	35%
MIAMFLSO	23,802	4,123	17%
MIAMFLWM	23,310	5,208	22%
FTLDFLOA	23,008	5,688	25%

Significance of UNE-L Assumption on Business Line Count

Wire Center	2004 Claimed Business Lines	Business Lines from UNE-L Assumption	Percent
MIAMFLCA	22,645	2,329	10%
ORLDFLCL	20,828	4,708	23%
WPBHFLRB	20,393	3,586	18%
MNDRFLLO	20,180	6,127	30%
SNFRFLMA	20,140	4,334	22%
NDADFLGG	18,239	6,630	36%
COCOFLMA	18,097	2,144	12%
JCVLFLSM	17,820	5,337	30%
BYBHFLMA	17,675	2,413	14%
DLBHFLMA	17,230	3,434	20%
WPBHFLLE	13,622	1,978	15%
JCVLFLAR	13,101	3,544	27%
MIAMFLBA	11,560	2,448	21%
Total	1,610,511	357,240	22%

Comparing BellSouth's Claims at the FCC to its Claims Here

Wire Center	Business Lines BellSouth Told FCC[1]	Business Lines Claimed Now[2]	Change	Percent
MIAMFLPL	64,906	86,923	22,017	25%
MIAMFLGR	52,436	68,580	16,144	24%
ORLDFLMA	41,847	57,966	16,119	28%
FTLDFLMR	46,327	55,881	9,554	17%
GSVLFLMA	48,816	55,681	6,865	12%
ORLDFLPC	31,594	45,792	14,198	31%
MIAMFLHL	34,608	43,021	8,413	20%
JCVLFLCL	31,337	42,452	11,115	26%
MIAMFLAE	35,084	41,912	6,828	16%
BCRTFLMA	32,082	40,746	8,664	21%
PRRNFLMA	29,801	37,969	8,168	22%
HLWDFLPE	30,799	37,415	6,616	18%
WPBHFLHH	29,080	36,053	6,973	19%
HLWDFLWH	29,701	34,022	4,321	13%
PMBHFLMA	26,945	33,993	7,048	21%
WPBHFLAN	29,106	33,521	4,415	13%
ORLDFLPH	25,525	33,148	7,623	23%
MLBRFLMA	27,114	32,547	5,433	17%
DYBHFLMA	27,199	32,282	5,083	16%
FTLDFLCY	25,461	31,487	6,026	19%
ORLDFLAP	23,218	31,234	8,016	26%
PNSCFLFP	20,858	30,863	10,005	32%
FTLDFLPL	24,459	29,469	5,010	17%
FTLDFLJA	25,302	29,209	3,907	13%
PNSCFLBL	20,182	28,685	8,503	30%
BCRTFLBT	21,612	26,601	4,989	19%
WPBHFLGR	21,543	26,527	4,984	19%
ORLDFLSA	18,148	26,126	7,978	31%
PMBHFLFE	21,252	25,909	4,657	18%
STRTFLMA	25,456	25,577	121	0%
WPBHFLGA	21,158	24,885	3,727	15%
MIAMFLRR	21,165	24,740	3,575	14%
DRBHFLMA	19,245	24,695	5,450	22%
MIAMFLBR	19,420	24,482	5,062	21%

[1] Tipton Direct Testimony – Exhibit PAT-3

[2] Tipton Direct Testimony – Exhibit PAT-4.

Comparing BellSouth's Claims at the FCC to its Claims Here

Wire Center	Business Lines BellSouth Told FCC[1]	Business Lines Claimed Now[2]	Change	Percent
MIAMFLPB	19,434	24,380	4,946	20%
JCVLFLSJ	15,996	24,088	8,092	34%
MIAMFLSO	19,960	23,802	3,842	16%
MIAMFLWM	18,590	23,310	4,720	20%
FTLDFLOA	18,580	23,008	4,428	19%
MIAMFLCA	20,377	22,645	2,268	10%
ORLDFLCL	16,849	20,828	3,979	19%
WPBHFLRB	17,659	20,393	2,734	13%
MNDRFLLO	14,165	20,180	6,015	30%
SNFRFLMA	16,393	20,140	3,747	19%
NDADFLGG	10,885	18,239	7,354	40%
COCOFLMA	15,976	18,097	2,121	12%
JCVLFLSM	12,943	17,820	4,877	27%
BYBHFLMA	15,353	17,675	2,322	13%
DLBHFLMA	13,947	17,230	3,283	19%
WPBHFLLE	11,921	13,622	1,701	12%
JCVLFLAR	10,393	13,101	2,708	21%
MIAMFLBA	9,314	11,560	2,246	19%
	1,281,521	1,610,511	328,990	20%

Correcting BellSouth's Business Line Count for Unreasonable Digital Line Assumptions – 2004 Data

Wire Center	BellSouth Claimed Lines[1]	Corrections		Corrected Business Lines
		Retail Lines[2]	Wholesale Lines[3]	
MIAMFLPL	86,923	(647)	(5,666)	80,610
MIAMFLGR	68,580	(5,276)	(2,314)	60,990
ORLDFLMA	57,966	(1,781)	(2,147)	54,038
FTLDFLMR	55,881	(2,264)	(2,960)	50,657
GSVLFLMA	55,681	(1,657)	(400)	53,624
ORLDFLPC	45,792	(438)	(3,352)	42,002
MIAMFLHL	43,021	(395)	(2,924)	39,702
JCVLFLCL	42,452	(1,726)	(2,551)	38,175
MIAMFLAE	41,912	(436)	(2,421)	39,055
BCRTFLMA	40,746	(206)	(3,233)	37,307
PRRNFLMA	37,969	(366)	(3,338)	34,265
HLWDFLPE	37,415	(132)	(2,466)	34,817
WPBHFLHH	36,053	(92)	(3,203)	32,758
HLWDFLWH	34,022	(37)	(3,203)	30,782
PMBHFLMA	33,993	(233)	(3,337)	30,423
WPBHFLAN	33,521	(1,056)	(1,763)	30,702
ORLDFLPH	33,148	(22)	(2,916)	30,210
MLBRFLMA	32,547	(93)	(936)	31,518
DYBHFLMA	32,282	(685)	(493)	31,104
FTLDFLCY	31,487	0	(2,814)	28,673
ORLDFLAP	31,234	(100)	(2,230)	28,904
PNSCFLFP	30,863	(218)	(630)	30,015
FTLDFLPL	29,469	(224)	(2,082)	27,163
FTLDFLJA	29,209	0	(2,309)	26,900
PNSCFLBL	28,685	(541)	(731)	27,413
BCRTFLBT	26,601	(813)	(1,886)	23,902
WPBHFLGR	26,527	(474)	(1,618)	24,435
ORLDFLSA	26,126	(123)	(2,220)	23,783
PMBHFLFE	25,909	(626)	(2,032)	23,251

[1] Source: BellSouth Exhibit PAT-4.

[2] Correction to BellSouth retail lines eliminates BellSouth adjustment to its ARMIS 43-08 business line data that increased the *actual* number of switched business lines to include the maximum *potential* capacity of such facilities.

[3] Correction to UNE-L assumes that the average utilization of CLEC digital UNE-L to provide switched access line service to business customers is the same as BellSouth's average utilization.

Correcting BellSouth's Business Line Count for Unreasonable Digital Line Assumptions – 2004 Data

		Corrections		
STRTFLMA	25,577	(101)	(1,156)	24,320
WPBHFLGA	24,885	0	(2,642)	22,243
MIAMFLRR	24,740	(345)	(1,486)	22,909
DRBHFLMA	24,695	(431)	(2,225)	22,039
MIAMFLBR	24,482	(90)	(1,539)	22,853
MIAMFLPB	24,380	0	(1,868)	22,512
JCVLFLSJ	24,088	(117)	(2,202)	21,769
MIAMFLSO	23,802	(331)	(1,326)	22,145
MIAMFLWM	23,310	0	(1,853)	21,457
FTLDFLOA	23,008	(240)	(1,681)	21,087
MIAMFLCA	22,645	(73)	(879)	21,693
ORLDFLCL	20,828	(364)	(1,359)	19,105
WPBHFLRB	20,393	(58)	(1,774)	18,561
MNDRFLLO	20,180	(295)	(1,811)	18,074
SNFRFLMA	20,140	(182)	(1,739)	18,219
NDADFLGG	18,239	(414)	(3,382)	14,443
COCOFLMA	18,097	(8)	(471)	17,618
JCVLFLSM	17,820	(657)	(1,109)	16,054
BYBHFLMA	17,675	(133)	(1,264)	16,278
DLBHFLMA	17,230	(266)	(1,708)	15,256
WPBHFLLE	13,622	(82)	(1,506)	12,034
JCVLFLAR	13,101	(376)	(1,575)	11,150
MIAMFLBA	11,560	0	(1,013)	10,547

Corrected Wire Center Classifications (09/17/2005)

Wire Center	Business Lines		Fiber-Based Collocator			Transport Tier			No §251 Loop	
	Claimed	Corrected	Claimed	Validated	Denied[1]	Tier 1	Tier 2	Tier 3	DS3	DS1
MIAMFLPL	86,923	80,610	5	3		X			X	
MIAMFLGR	68,580	60,990	11	6	1*	X			X	X
ORLDFLMA	57,966	54,038	11	5	2*	X			X	
FTLDFLMR	55,881	50,657	8	5		X			X	
GSVLFLMA	55,681	53,624	5	1	2	X				
ORLDFLPC	45,792	42,002	7	4	2*	X			X	
MIAMFLHL	43,021	39,702	7	3	3*	X			X	
JCVLFLCL	42,452	38,175	6	4		X			X	
MIAMFLAE	41,912	39,055	5	4	1*	X			X	
BCRTFLMA	40,746	37,307	5	3			X			
PRRNFLMA	37,969	34,265	3	2			X			
HLWDFLPE	37,415	34,817	4	3			X			
WPBHFLHH	36,053	32,758	4	2	2*		X			
HLWDFLWH	34,022	30,782	-				X			
PMBHFLMA	33,993	30,423	4	2	1*		X			
WPBHFLAN	33,521	30,702	5	3	2*		X			
ORLDFLPH	33,148	30,210	6	3	1		X			
MLBRFLMA	32,547	31,518	4	3			X			
DYBHFLMA	32,282	31,104	7	4	1	X				
FTLDFLCY	31,487	28,673	4	2	1*		X			
ORLDFLAP	31,234	28,904	5	3	1		X			
PNSCFLFP	30,863	30,015	-				X			

[1] Denial counts highlighted by an asterisk (*) include a reduction to prevent the double counting of SBC and AT&T.

Corrected Wire Center Classifications (09/17/2005)

Wire Center	Business Lines		Fiber-Based Collocator			Transport Tier			No §251 Loop	
	Claimed	Corrected	Claimed	Validated	Denied[1]	Tier 1	Tier 2	Tier 3	DS3	DS1
FTLDFLPL	29,469	27,163	5	3	1*		X			
FTLDFLJA	29,209	26,900	5	3	1*		X			
PNSCFLBL	28,685	27,413	4	1	2		X			
BCRTFLBT	26,601	23,902	-	1				X		
WPBHFLGR	26,527	24,435	4	2	1		X			
ORLDFLSA	26,126	23,783	9	4	1*	X				
PMBHFLFE	25,909	23,251	5	2	2*			X		
STRTFLMA	25,577	24,320	-				X			
WPBHFLGA	24,885	22,243	-					X		
MIAMFLRR	24,740	22,909	4	3	1		X			
DRBHFLMA	24,695	22,039	3	1	2			X		
MIAMFLBR	24,482	22,853	-					X		
MIAMFLPB	24,380	22,512	4	3	1*		X			
JCVLFLSJ	24,088	21,769	4	1	1			X		
MIAMFLSO	23,802	22,145	4	3	1		X			
MIAMFLWM	23,310	21,457	5	4	1	X				
FTLDFLOA	23,008	21,087	5	2	1*			X		
MIAMFLCA	22,645	21,693	3	3			X			
ORLDFLCL	20,828	19,105	6	3			X			
WPBHFLRB	20,393	18,561	3	2	1			X		
MNDRFLLO	20,180	18,074	4	2	1			X		
SNFRFLMA	20,140	18,219	4	2	2			X		
NDADFLGG	18,239	14,443	5	3			X			
COCOFLMA	18,097	17,618	4	3			X			

Corrected Wire Center Classifications (09/17/2005)

Wire Center	Business Lines		Fiber-Based Collocator			Transport Tier			No §251 Loop	
	Claimed	Corrected	Claimed	Validated	Denied[1]	Tier 1	Tier 2	Tier 3	DS3	DS1
JCVLFLSM	17,820	16,054	5	3			X			
BYBHFLMA	17,675	16,278	3	2	1			X		
DLBHFLMA	17,230	15,256	3	2	1			X		
WPBHFLLE	13,622	12,034	3	3			X			
JCVLFLAR	13,101	11,150	3	1	1			X		
MIAMFLBA	11,560	10,547	3	2	1			X		

§ 251 Transport Decision Rule				
Category	Business Lines		Fiber-Based Collocator	Consequence
Tier 1	>38,000	OR	4 or more	No DS1 or DS3
Tier 2	>24,000		3 or more	No DS3

§251 Loop Decision Rule			
Business Lines		Fiber-Based Collocator	Consequence
> 60,000	AND	4 or more	No DS1 or DS3
>38,000		3 or more	No DS3

BELLSOUTH TELECOMMUNICATIONS, INC.

DIRECT TESTIMONY OF ROBERT McKNIGHT

BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

DOCKET NO. 1997-239-C

DECEMBER 31, 2003

Q. PLEASE STATE YOUR NAME, OCCUPATION AND ADDRESS.

A. My name is Robert McKnight. I am a Director in the Finance Department of BellSouth Telecommunications, Inc. (hereinafter referred to as "BellSouth" or "the Company"). My area of responsibility relates to the development of economic costs. My business address is 3535 Colonnade Parkway, Birmingham, Alabama 35243.

Q. PLEASE STATE YOUR PROFESSIONAL EXPERIENCE AND EDUCATION RELATED TO THE ISSUES IN THIS PROCEEDING.

A. I joined South Central Bell in 1975 in the Investment and Cost Department where I was responsible for various types of cost studies. I also managed South Central Bell's Capital Recovery studies and had assignments in strategic planning and regulatory issues management. In 1988, I returned to the cost organization with the responsibility of managing the development of customer specific cost studies. My current responsibilities encompass directing the preparation of universal service cost studies and loop and interoffice unbundled network element cost studies. Additionally,

I oversee the execution of several fundamental models for central office investments, loop investments, and interoffice transport investments.

I attended Auburn University, graduating with a Bachelors of Science Degree in Economics. I also completed course work towards a Master of Science Degree in Economics from Auburn University. I have attended numerous Bellcore courses and internal and outside seminars relating to service cost studies and economic principles.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is two-fold: (1) to explain why Unbundled Network Element ("UNE") rates set by the Public Service Commission of South Carolina ("Commission") in Docket No. 2001-65-C are appropriate surrogates for BellSouth's intrastate switched access costs; and (2) to support the fact that the rates for intrastate switched access service in BellSouth's proposed tariff are above BellSouth's cost for these services. BellSouth witness Edward Matejick addresses these rates in his pre-filed direct testimony, and BellSouth witness Kathy Blake addresses policy issues related to BellSouth's tariff filing in her pre-filed direct testimony.

Q. WHAT COST INFORMATION IS BELLSOUTH USING IN THIS DOCKET FOR THE COST OF THE INTRASTATE SWITCHED ACCESS SERVICE THAT IS THE SUBJECT OF BELLSOUTH'S TARIFF FILING?

A. The costs presented in this docket are the UNE rates ordered by the Commission in Docket No. 2001-65-C. These UNE rates include any adjustments that the Commission deemed appropriate to the original UNE cost studies filed by BellSouth in that docket.

Q. WHY DID BELLSOUTH USE RATES FROM THE UNBUNDLED NETWORK ELEMENT DOCKET TO SUPPORT ITS TARIFF FILING?

A. BellSouth is using these UNE rates to show that the existing rates for intrastate switched access service are above their costs and, therefore, provide implicit support for universal service. BellSouth also is using these UNE rates to show that the proposed intrastate switched access rates in BellSouth's tariff cover their associated costs and, therefore, that these proposed rates are not set so low that they require subsidization.

BellSouth used existing UNE rates as cost support in this proceeding because this Commission has already reviewed these rates and adjusted them as it deemed necessary. As this Commission is well aware, cost studies involve numerous inputs and assumptions. Use of existing ordered UNE rates, which were supported by detailed cost studies and which have already been thoroughly reviewed by the Commission, provide a

"conservative" cost surrogate and price floor to make such a demonstration.

Q. WOULD THERE BE ANY DIFFERENCES BETWEEN COST STUDIES CONDUCTED TO SUPPORT INTRASTATE SWITCHED ACCESS VERSUS THE COST STUDIES THAT SUPPORT BELLSOUTH'S UNE RATES?

A. Yes, there would be some minor differences. If BellSouth were to conduct a switched access cost study, it typically would use the Total Service Long Run Incremental Cost ("TSLRIC") methodology, and TSLRIC differs somewhat from the cost methodology used to develop UNE rates. Thus, there would be some minor differences in both methodology and inputs if BellSouth had developed and used a TSLRIC study instead of relying on UNE rates as a surrogate. As I explain below, however, using UNE rates as a surrogate is a conservative approach because these rates for intrastate switched access service are higher than the TSLRIC of intrastate switched access.[1]

[1] The most problematic aspect of the Total Element Long Run Incremental Cost ("TELRIC") methodology used to price UNEs is the requirement that costs be based on a hypothetical, least-cost, most-efficient network. This requirement significantly understates the incumbent local exchange carrier's ("ILEC's") loop costs, and it understates the costs of some other components of the network to a somewhat lesser extent. The switched access rate elements included in BellSouth's tariff filing do not include loops, rather they include switching and interoffice transport. Additionally, as explained later in my testimony, TSLRIC includes only the direct costs of providing a service, i.e. TSLRIC does not include any shared or common costs of the firm, and thus is not designed to recover all of a firm's costs. TELRIC, which is used to

As displayed in BellSouth's September 2, 2003 filing and as shown below, the rates for intrastate switched access in BellSouth's proposed tariff are still above the UNE rates for this service.

END OFFICE SWITCHING FUNCTION	UNE Rate	Proposed Tariffed Rate
(LS1/LS2), Per MOU	$0.0010519	$0.0021580
(LS3/LS4), Per MOU	$0.0010519	$0.0021480
INTEROFFICE TRANSPORT – DEDICATED – DS1		
DS1 Facility Termination	$77.14	$81.00
Per Mile	$0.34	$20.70
▪ Converted to Minutes of Use – assumes13,300 minutes per voice grade equivalent and 21 miles of transport.	$0.000264	$0.001620

Thus, since the proposed switched access rates in BellSouth's tariff filing are greater than these UNE rates, they necessarily are also greater than the TSLRIC of switched access.

Q. PLEASE BRIEFLY DESCRIBE THE TSLRIC METHODOLOGY.

A. Incremental costing technique is the foundation for TSLRIC and TELRIC methodologies. Incremental cost methodology is based on cost causation and thus, only considers costs directly caused by expanding production levels, or alternatively, costs saved by reducing production levels. For

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develop UNE rates, includes the wholesale portion of a firm's shared and common costs.

TSLRIC, incremental cost is calculated for the total volume of a *service*; hence the term Total *Service* Long Run Incremental Costs. TSLRIC methodology considers all volume sensitive costs (i.e., costs that change with a change in unit demand) and all volume insensitive costs (i.e., costs that do not change with a change in unit demand, but are required by the service[2]) directly caused by and associated with that service. In contrast, Long Run Incremental Cost ("LRIC") methodology only considers the volume sensitive costs associated with providing a service. LRIC methodology is generally used to establish the absolute "price floor", i.e., the minimum rate for the individual rate element. Since TSLRIC reflects all of the direct costs, i.e., both volume sensitive and volume insensitive costs, TSLRIC studies are the basis for testing for cross-subsidization. If rates for a service exceed the service's TSLRIC (both volume sensitive and volume insensitive costs directly caused by the service), then the service is not being subsidized by other services.

Furthermore, because TSLRIC considers both the service's volume sensitive and volume insensitive cost, it is either equal to (if there are no direct volume insensitive costs) or greater than LRIC. Therefore, if the switched access rates exceed TSLRIC costs, they also exceed LRIC costs.

[2] Generally BellSouth converts the volume insensitive costs to a "per unit" cost based on demand projections.

Q. HOW DOES THE TELRIC METHODOLOGY DIFFER FROM THE TSLRIC METHODOLOGY?

A. The TELRIC methodology was initially defined by the Federal Communications Commission ("FCC") in Paragraph 678 of the First Report and Order[3]

> "While we are adopting a version of the methodology commonly referred to as TSLRIC as the basis for pricing interconnection and unbundled elements, we are coining the term "total element long run incremental cost" (TELRIC) to describe our version of this methodology."

Furthermore, in Paragraph 682 of the First Report and Order, the FCC states:

> "Directly attributable forward-looking costs also include the incremental costs of shared facilities and operations.... More broadly, certain shared costs that have conventionally been treated as common costs (or overheads) shall be directly attributed to the individual elements to the greatest extent possible."

It is important to note that even though the fundamental cost methodologies (i.e., TSLRIC and TELRIC methodologies) are similar (as the FCC noted in Paragraph 678 of the First Report and Order), it is the additional constraints currently mandated by the FCC that the incumbent local exchange carriers ("ILECs") object to with respect to TELRIC-based

[3] The FCC has recently issued a Notice of Proposed Ruling Making ("NPRM") concerning TELRIC methodology. BellSouth filed comments on December 16, 2003.

rates. The use of a hypothetical network and most efficient, least-cost provider requirements have distorted the TELRIC results and normally understate the true forward-looking costs of the ILEC.

These distortions, however, are most evident in the calculation of unbundled loop elements, and they are less evident in the switching and transport network elements that make up switched access. In fact, if BellSouth had conducted a TSLRIC study for switched access, the underlying assumptions with respect to forward-looking equipment and architectures would have been consistent with those used in the TELRIC studies for switching and transport UNEs. Furthermore, in its Order in Docket No. 2001-65-C, the Commission adopted BellSouth's proposed switching and transport cost results without modification. Additionally, the Commission did not adjust BellSouth's proposed cost of capital and depreciation inputs. If a TSLRIC study had been conducted, these same parameters would have been used.

Q. AS YOU NOTED ABOVE, THE FCC PROVIDED FOR THE INCLUSION OF SHARED AND COMMON (OVERHEAD) COSTS IN TELRIC CALCULATIONS. ARE THESE TYPES OF COSTS APPROPRIATE FOR TSLRIC STUDIES?

A. No. In a TSLRIC study, all shared and common costs are omitted from cost results while a reasonable portion of these costs are included in TELRIC studies. Thus, all else being held constant, the allowance of

shared and common costs under the TELRIC cost methodology increases costs above those that would have been obtained from a comparable TSLRIC switched access study.

Q. ARE OTHER INPUTS AND ASSUMPTIONS USED IN THE TELRIC STUDIES FOR THESE NETWORK ELEMENTS THE SAME AS THOSE THAT WOULD BE USED IN A TSLRIC STUDY FOR SWITCHED ACCESS?

A. Yes, with the exception of minor differences that would not increase the TSLRIC above the UNE rates that BellSouth is using in this proceeding. As I explained earlier, the major cost drivers for the network components required to provide switched access are identical in a TSLRIC and a TELRIC study. However, there are some minor differences between a TSLRIC study for switched access and a TELRIC study for local UNEs. These differences would affect the switching cost component of switched access.

Those differences are associated with local call processing. Therefore, the input characteristics in the UNE cost study used to derive the end office switching per minute of use cost would differ slightly for switched access. However, I emphasize that the main cost drivers for end office switching

are the fundamental unit investments[4], which are identical in switching TSLRIC and TELRIC studies.

The table below lists the cost inputs that would vary between UNEs and the TSLRIC of intrastate switched access.

	UNE	TSLRIC (SWITCHED ACCESS)
Distribution of Calls		
Percent Intra-office Calls (O+T)	33.4%	0.0%
Percent Inter-office Calls	66.6%	100.0%
Busy Hour Conversion Factors		
Busy Hour to Full Day Ratio	8.75%	8.21%
Call Characteristics		
Call Completion Ratio	70.9%	71.9%
Average Non-Conversation Time per Call (Seconds)	13.28	19.06

BellSouth has conducted sensitivity analyses with these input differences to determine their impact on costs. If the UNE costs had been revised to include the switched access-specific inputs, holding all else constant, the results (including shared and common costs) would have been lower than the UNE rates used; $.00086 compared to $.00105.

[4] The Switching Cost Information System/ Model Office ("SCIS/MO") produced the unit investments associated with the end office switch. Fundamental studies were conducted to identify the Signaling System Seven ("SS7") investments required for call processing. These supporting studies were filed in Docket No. 2001-65-C.

Q. YOU MENTIONED DIFFERENCES IN CALL PROCESSING ASSUMPTIONS BETWEEN SWITCHED ACCESS AND LOCAL ACCESS THAT WOULD SLIGHTLY AFFECT SWITCHING COSTS. ARE THERE SIMILAR DIFFERENCES IN ASSUMPTIONS RELATED TO THE TRANSPORT PORTION OF SWITCHED ACCESS?

A. No. The characteristics of the transport of traffic from one switch to another in BellSouth's network would not differ whether it is local traffic or switched access traffic. Thus, with the exception of shared and common cost allocation in the UNE rates (which increases cost), the results would be the same for transport UNEs as for the transport portion of switched access.

Q. HOW DO THE COST METHODOLOGIES DISCUSSED ABOVE (LRIC, TSLRIC AND TELRIC) COMPARE TO THE COST METHODOLOGY USED TO ESTABLISH THE UNIVERSAL SERVICE FUND IN SOUTH CAROLINA?

A. In Order 98-322, the Commission selected the Benchmark Cost Proxy Model ("BCPM") Release 3.1 to determine the costs for use in establishing the appropriate size of the Universal Service Fund for BellSouth's territory in South Carolina. In that Order, the Commission modified certain BCPM input values proposed by BellSouth. As explained by BellSouth witness Kathy Blake, cost results based on the Commission-adjusted inputs were used to determine the size of the BellSouth-specific portion of the State Universal Service Fund size.

From a cost methodology perspective, the BCPM approach is similar in concept to that of a TELRIC methodology. The BCPM develops the network design for the most efficient service provider taking the existing wire center locations as given. The cost results reflect the long run, forward-looking incremental costs associated with providing basic local service.

Q. WHY WAS THE BCPM 3.1 NOT USED TO DETERMINE COSTS FOR SWITCHED ACCESS IN THIS PROCEEDING?

A. The BCPM 3.1 was not designed to determine switched access service costs. The BCPM 3.1 was specifically built to calculate the cost of providing basic local service on a per line basis for the purpose of determining the size of the Universal Service Fund. It does not compute the cost of other retail services, wholesale services such as switched access service, or unbundled network elements. More specifically, it cannot produce the cost of the switched access rate elements – end office switching per minute of use and DS1 dedicated interoffice transport -- under consideration in this proceeding.

Q. WOULD YOU PLEASE SUMMARIZE YOUR TESTIMONY?

A. The UNE rates presented in this proceeding, i.e., end office switching function and dedicated DS1 transport, are for the same components of the network required to provide switched access service. The intrastate switched access rates in BellSouth's proposed tariff are greater than the Commission-approved UNE rates for these network components. This necessarily means that the rates in BellSouth's proposed tariff are above the LRIC and the TSLRIC of switched access service.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

519997

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-239-C

IN RE: Proceeding to Establish Guidelines)
for an Intrastate Universal Service Fund)
)

This is to certify that the undersigned, Nyla M. Laney, is employed by the Legal Department for BellSouth Telecommunications, Inc. and that she has caused the Direct Testimony of Robert McKnight in the foregoing matter to be served upon the person(s) named below this 31st day of December, 2003, by placing copies of same in the United States Mail, postage prepaid, addressed as follows:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Rebuttal Testimony and Exhibits of Joseph Gillan on Behalf of The Competitive Carriers of the South, Inc., was served on the following by (*) hand delivery and U.S. Mail this 22nd day of September, 2005:

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