

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of	:	DOCKET NO. 960833-TP
	:	DOCKET NO. 960846-TP
Petitions by AT&T Communications of	:	DOCKET NO. 960916-TP
the Southern States, Inc., MCI	:	
Telecommunications Corporation, MCI	:	
Metro Access Transmission Services,	:	
Inc., and American Communications	:	
Services, Inc., and American	:	
Communications Services of	:	
Jacksonville, Inc., for arbitration	:	
of certain terms and conditions of a	:	
proposed agreement with BellSouth	:	
Telecommunications, Inc., concerning	:	
Interconnection and Resale under the	:	
Telecommunications Act of 1996.	:	

SECOND DAY - LATE EVENING SESSION

VOLUME 12

Pages 1719-A through 1906

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN SUSAN F. CLARK
COMMISSIONER J. TERRY DEASON
COMMISSIONER JULIA L. JOHNSON
COMMISSIONER DIANE K. KIESLING
COMMISSIONER JOE GARCIA

DATE: Thursday, October 10, 1996

TIME: Commenced at 6:30 p.m.

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

REPORTED BY: RAY D. CONVERY, Court Reporter

APPEARANCES:
(As heretofore noted.)

DOCUMENT NUMBER - DATE

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FPSC-RECORDS/REPORTING

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WITNESSES

ROBERT C. SCHEYE

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EXHIBITS

NUMBER		ID	ADMTD.
46	RCS-1, RCS-2, Docket No. 960833	1836	---
47	RCS-3, RCS-4, RCS-5, RCS-6		
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48	RCS-1, Docket No. 960846	1837	---
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	North Carolina Docket P-55, Sub 1010	1906	---

1 **BELLSOUTH TELECOMMUNICATIONS, INC.**
2 **DIRECT TESTIMONY OF ROBERT C. SCHEYE**
3 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**
4 **DOCKET NO. 960846-TP**
5 **SEPTEMBER 9, 1996**
6

- 7 Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION WITH
8 BELLSOUTH TELECOMMUNICATIONS, INC. (HEREINAFTER
9 REFERRED TO AS "BELLSOUTH" OR "THE COMPANY").
10
- 11 A. My name is Robert C. Scheye and I am employed by BellSouth as a Senior
12 Director in Strategic Management. My business address is 675 West Peachtree
13 Street, Atlanta, Georgia 30375.
14
- 15 Q. PLEASE GIVE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND
16 EXPERIENCE.
17
- 18 A. I began my telecommunications company career in 1967 with the Chesapeake
19 and Potomac Telephone Company (C&P) after graduating from Loyola
20 College with a Bachelor of Science in Economics. After several regulatory
21 positions in C&P, I went to AT&T in 1979, where I was responsible for the
22 Federal Communications Commission ("FCC") Docket dealing with
23 competition in the long distance market. In 1982, with the announcement of
24 divestiture, our organization became responsible for implementing the
25 Modification of Final Judgment (MFJ) requirements related to

1 nondiscriminatory access charges. In 1984, our organization became part of
2 the divested regional companies' staff organization which became known as
3 Bell Communications Research, Inc. (Bellcore). I joined BellSouth in 1987 as
4 a Division Manager responsible for jurisdictional separations and other FCC
5 related matters. In 1993, I moved to the BellSouth Strategic Management
6 organization where I have been responsible for various issues including local
7 exchange interconnection, unbundling and resale.

8

9 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

10

11 A. The purpose of my testimony is to provide a framework for BellSouth's
12 response to MCI's request for arbitration and to respond to the issues identified
13 by the parties and the Florida Public Service Commission ("Commission") in
14 this proceeding. My testimony is divided into the following sections:

15

16 **Section I: General Overview of Negotiations with MCI**

17 **Section II: BellSouth's Discussion of Issues in this Arbitration Proceeding**

18 **Section III: Summary and Recommendations for the Commission**

19

20 In addition, attached to my testimony as Exhibit RCS-1, is a modified copy of
21 "Term Sheet Items" (Exhibit 4 to MCI's Petition) to provide a clear description
22 of the issues that are agreed upon and the unresolved issues. These corrections
23 are provided in the left margin in our attempt to more fully define BellSouth's
24 position on the resolved and unresolved issues between MCI and BellSouth.

25

1 I. GENERAL OVERVIEW OF NEGOTIATIONS WITH MCI

2

3 Q. WOULD YOU PLEASE DESCRIBE BELLSOUTH'S VIEW OF
4 NEGOTIATIONS WITH MCI?

5

6 A. Yes. BellSouth has negotiated with MCI in essentially two phases. BellSouth
7 negotiated under the auspices of the Act in both these phases. The issues that
8 were discussed were those included in the Act as requiring negotiations and
9 any agreements had to comport with the requirements of the Act. The reason
10 for negotiating in this manner was quite simple, i.e., the only basis of
11 negotiations was the requirements of the Act. The Act defined the issues and
12 established the timeframes. Entering into negotiations on any other basis
13 would have been somewhat useless.

14

15 During the first phase of the negotiations, the parties resolved the financial and
16 technical arrangements for local interconnection, directory (both yellow and
17 white pages) listings, 911 and E911 issues, and several other related issues.

18 The resolution of these items was included in a MCI/BellSouth agreement for
19 several states, including Florida, signed on May 13, 1996 to be effective on
20 May 15, 1996. This agreement was filed with this Commission under the
21 provisions of Section 252 of the Act and approved by the Commission on
22 August 13, 1996. MCI has sometimes referred to this as an interim agreement.
23 The provisions of the items included in the agreement are for a two-year
24 period. This is typical of the duration that BellSouth has negotiated with most
25 carriers. Partial is a more descriptive term for this agreement than interim.

1
2 Once the partial agreement, Exhibit II of MCI's Petition for Arbitration, was
3 completed, MCI initiated additional discussions, i.e., phase two. BellSouth
4 entered these discussions to negotiate those issues not included in phase one,
5 e.g., resale and unbundling. Revisiting the issues that were resolved in phase
6 one would have been highly inefficient. As MCI's arbitration filing depicts,
7 there are several areas that were agreed to in phase two. During both these
8 phases, BellSouth worked toward reaching a comprehensive agreement that
9 would encompass the resolution of all outstanding issues. BellSouth dedicated
10 personnel to these discussions, including BellSouth officers at times.

11
12 Throughout these negotiations, BellSouth participated with the understanding
13 that 1) it was always negotiating under the provisions of the Act, and 2) only
14 those issues not resolved in either the phase one partial agreement or phase two
15 would be subject to arbitration.

16
17 Even as we proceed through this arbitration phase, BellSouth continues to
18 negotiate with MCI in a effort to reach mutually agreeable rates, terms, and
19 conditions for unbundling of network elements and resale of services.

20
21 Q. GIVEN THE MAY 15, 1996 AGREEMENT BETWEEN BELLSOUTH AND
22 MCI, ARE ISSUES CONTAINED IN THE AGREEMENT SUBJECT TO
23 ARBITRATION?

24
25

1 A. No. The partial agreement, Exhibit II of MCI's Petition for Arbitration,
2 already covers the agreed upon issues and are therefore not subject to
3 arbitration. The partial agreement was negotiated under the terms of the Act;
4 there is no other basis for negotiating such items. The agreement was
5 submitted for approval under Section 252 of the Act to this Commission and
6 this Commission approved it under the provisions of the Act. "Negotiated
7 under", "filed under", "approved under" does not lead to "arbitrated under". If
8 it did then there would be absolutely no purpose for negotiation and approval
9 except to consume the resources of all parties for non-productive purposes.

10

11 It is apparent that MCI has a different view of whether issues covered by the
12 Partial Agreement can be arbitrated. MCI apparently relies on Section II B of
13 the agreement which indicates that MCI may maintain its positions in
14 proceeding in Florida and Tennessee. BellSouth believes that this section is
15 not relevant to arbitration.

16

17 At the time the partial agreement was being negotiated, both Florida and
18 Tennessee had proceedings underway on the interconnection issues. MCI
19 wanted to continue its participation in these proceedings and the language of II
20 B. was developed. BellSouth was aware that MCI could (and most likely
21 would) be filing for arbitration in several states beyond Florida and Tennessee,
22 e.g. North Carolina, Georgia, and Kentucky. The only differentiation was
23 states with ongoing proceedings, not states in which arbitration would be
24 conducted. Section II B is not relevant to arbitration, as MCI suggests.

25

1 Further, Section I.B. of the Agreement states the following:

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“The parties agree that (1) if the Federal Communications Commission (“FCC”) or a state public utilities commission or other state or local body having jurisdiction over the subject matter of this Agreement (“State Authority”) finds that the terms of this Agreement are inconsistent in one or more material respects with any of its or their respective decisions, rules or regulations promulgated, or (2) if the FCC or a State Authority preempts the effect of this Agreement, then in the event of the occurrence of (1) or (2), which occurrence is final and no longer subject to administrative or judicial review, the parties shall immediately commence good faith negotiations to conform this Agreement with any such decision, rule, regulation or preemption. ...”
(emphasis added)

These issues, therefore, must be dismissed from consideration in this proceeding.

Q. WHAT IS YOUR OVERALL RESPONSE TO MCI’S PETITION FOR ARBITRATION?

A. MCI’s Petition for Arbitration is linked to the approval of the Mediation Plus concept and is confusing. MCI’s Mediation Plus approach would have bifurcated the proceeding whereby many of the operational and technical details would be addressed separately from the main issues. Mediation Plus

1 was denied by this Commission for administrative efficiency reasons. In
2 reality, many of the issues put forth by MCI in Mediation Plus have actually
3 already been agreed upon in the continuing negotiation process. MCI
4 recognizes this in their petition and its attachments. MCI proposed that if
5 Mediation Plus was denied then the actual language of the agreed upon issues
6 had not been solidified and that each and every previously agreed upon issue
7 (and numerous technical sub-elements of each issue found in MCI's Exhibit
8 III) should be arbitrated. Basically, MCI has directed the Commission, and
9 BellSouth, to the choice of arbitrating "their way" or arbitrating "their way".
10 This clearly is not the intent of arbitration, which is to be limited to only those
11 items for which agreement cannot be reached. Negotiations, not arbitration, is
12 the process to use to finalize language and work out operational details as
13 recognized by this Commission in Order No. PSC-96-1107-PCO-TP issued on
14 August 29, 1996.

15

16 **II. BELLSOUTH'S DISCUSSION OF ISSUES IN THIS ARBITRATION**

17

18 Q. PLEASE DESCRIBE HOW BELLSOUTH INTENDS TO ADDRESS THE
19 ISSUES IN THIS SECTION.

20

21 A. At the conclusion of this proceeding, it is BellSouth's hope and intent that,
22 with the resolution of issues identified by the Commission, the parties can then
23 finalize a comprehensive agreement, in short order, to submit to this
24 Commission. In this testimony, I identify the issues and state the positions of
25 MCI, as we understand them, and of BellSouth. For some issues, I provide all

1 of BellSouth's testimony. In several cases, however, I defer more detailed
2 discussion to other BellSouth witnesses. For example, to the extent Mr.
3 Varner's testimony discusses the provisions of the FCC's Order I will not
4 repeat them here.

5

6 The issues in this section are organized under the major headings of A) Resale;
7 B) Interconnection; C) Unbundled Network Elements; and, D) Additional
8 Interconnection Requirements/Issues.

9

10 **A. RESALE**

11

12 **WHAT SERVICES PROVIDED BY BELLSOUTH, IF ANY, SHOULD**
13 **BE EXCLUDED FROM RESALE?**

14

15 MCI Position: The FCC Competition Rules require BellSouth to offer all
16 telecommunications services for resale. Resale means the provision to MCI of
17 any telecommunications service that BellSouth provides to end-user customers
18 who are not telecommunication companies.

19

20 BellSouth Position: In accordance with Section 251(c)(4)(A) of the Act,
21 BellSouth must "offer for resale at wholesale rates any telecommunications
22 service that the carrier provides at retail to subscribers who are not
23 telecommunications carriers; and (B) not to prohibit, and not to impose
24 unreasonable or discriminatory conditions or limitations on, the resale of such
25 telecommunications service, except that a State commission may, under this

1 section, prohibit a reseller that obtains at wholesale rates a telecommunications
2 service that is available at retail only to a category of subscribers from offering
3 such service to a different category of subscribers.” (emphasis added)

4

5 Once again, the plain wording of the Act is clear. BellSouth is to make
6 available its retail services for resale. BellSouth is permitted, however, to
7 impose reasonable and nondiscriminatory conditions and limitations on the
8 resale of its services, in addition to the explicit use and user restriction and the
9 joint marketing restriction specified in the Act. Certain options or service
10 offerings which are not retail services or have other special characteristics
11 should be excluded from resale.

12

13 As a preliminary conclusion, BellSouth believes that all of our proposed
14 service restrictions are permissible under paragraph 51.613(b) of the Rules,
15 because the restrictions that it proposes are narrowly tailored, reasonable, and
16 nondiscriminatory and, therefore, are permitted by the Order.

17

18 Q. PLEASE LIST EACH OF THE SERVICES OR OPTIONS IN DISPUTE
19 AND PROVIDE BELLSOUTH’S RATIONALE FOR ITS EXCLUSION
20 FROM RESALE.

21

22 A. **Obsoleted/Grandfathered Services** are no longer available for sale to, or
23 transfer between, end users, nor should they be transferable between providers.
24 The Company has made available new services to replace the existing services.
25 To the extent that MCI or any other competitor wishes to entice the customer

1 of a grandfathered service to change providers, it may do so by either reselling
2 the replacement service at a discount or by providing its own new service to
3 the customer through the purchase of unbundled network elements combined
4 with its own facilities. BellSouth does not agree with the FCC's conclusion on
5 this issue and believes this restriction is reasonable and nondiscriminatory,
6 permissible by the FCC's Order, and should be approved by this Commission.

7
8 **Contract Service Arrangements ("CSAs")** are utilized to respond to specific
9 competitive threats on a customer-by-customer basis and contain rates
10 established specifically for each competitive situation. It is completely
11 illogical for BellSouth to develop a customer-specific proposal containing non-
12 tariffed rates, only to have MCI walk-in, purchase the proposal from BellSouth
13 at a discount and offer the same proposal to the customer at a slightly lower
14 price than BellSouth had developed. Elimination of this restriction as
15 proposed by MCI effectively takes BellSouth out of the competition game and
16 ensures that MCI can win every customer-specific competitive encounter with
17 BellSouth. As with obsoleted/grandfathered services, if MCI wishes to entice
18 the customer to select MCI in lieu of BellSouth, MCI can purchase the
19 necessary service(s) to meet the customer's needs from BellSouth at the
20 wholesale rate and resell the service(s) alone or add additional value by
21 including other options or offerings. BellSouth does not agree with the FCC's
22 conclusion on this issue and believes this restriction is reasonable and
23 nondiscriminatory and should be approved by this Commission.

24
25 **Promotions** are not retail services. In most instances, they are simply limited

1 time waivers of nonrecurring charges. It would be completely illogical for
2 BellSouth to run promotions to attract customers, only to be required to give
3 MCI the same limited time waiver for nonrecurring charges, in addition to the
4 already discounted wholesale monthly recurring rate, so that MCI can attract
5 customers. In effect, BellSouth would be subsidizing MCI's marketing
6 program. If MCI wishes to conduct promotions, its stockholders should have
7 to bear the consequences just as BellSouth's do. Competitive advantage
8 should be earned in the marketplace, not given through an inappropriate resale
9 requirement or discount. The FCC Order agrees with BellSouth's position and
10 allows promotions used for 90 days or less and not in a continuous manner to be
11 restricted from resale.

12
13 **LinkUp and Lifeline** are subsidy programs designed to assist low income
14 residential customers by providing a monthly credit on recurring charges and a
15 discount on nonrecurring charges for basic telephone service. If MCI or any
16 other competitor wishes to provide similar programs through resale, they
17 should be required to purchase BellSouth's standard basic residence service,
18 resell it at an appropriate rate, and apply for and receive certification from the
19 appropriate agency to receive whatever funds may be available to assist in
20 funding its subsidy program. The FCC Order recognizes this issue and allows
21 resale restrictions to be placed upon services for which other subscribers would
22 be ineligible.

23
24 **N11** services, including 911 and E911, are not retail services provided to end
25 users. BellSouth provides N11 services to other companies or government

1 entities who in turn provide the actual service to end user customers. Thus,
2 BellSouth should not be required to offer these services for resale.

3

4 MCI has also raised a question concerning the resale of Public (Pay Telephone)
5 Access Line Service, and service offerings that include volume or term pricing
6 (beyond contract service arrangements). Whether it be negotiations or
7 arbitrations, both parties need to try to achieve a balanced approach. In light of
8 the FCC's Order and MCI's request, BellSouth believes that a balanced
9 outcome to the issue of resale service limitations would be to allow the
10 limitations BellSouth has described herein, but allow the resale of Public
11 Access Lines (with the caveat that they be used for its intended class of
12 service) and any generally available retail offering with term or volume
13 pricing.

14

15 Q. MCI, ON PAGE 33 OF ITS PETITION, STATES THAT "ALTHOUGH
16 BELLSOUTH HAS STATED TO MCI THAT IT WOULD NOT
17 CAPRICIOUSLY GRANDFATHER SERVICES IN AN ANTI-
18 COMPETITIVE MANNER, BELLSOUTH'S RECENT TARIFF FILING TO
19 OBSOLETE ESSX SERVICE CASTS GRAVE DOUBT ON THE
20 SINCERITY OF THAT ASSERTION" (FOOTNOTE 27). IS THIS
21 PORTRAYAL OF BELLSOUTH'S ACTIONS ACCURATE?

22

23 A. Absolutely not. BellSouth is not abusing the grandfathering process. Rather,
24 the Company is using this established process to honor subscriber contracts
25 and to provide reasonable options to its existing customers. The internal

1 decision to obsolete ESSX® service and Digital ESSX® service was made
2 almost three years before the first tariff filing to accomplish this was made.
3 Obsoleting ESSX services and replacing them with MultiServ was intended to
4 restructure the service to make it easier for customers to understand, and to
5 simplify sales, administration, and billing, and to provide a more feature-rich
6 service. To imply that BellSouth has or will use the grandfathering process to
7 gain a competitive advantage is pure conjecture.

8

9 Q. PLEASE DESCRIBE THE TARIFF FILING TO GRANDFATHER ESSX
10 AND DIGITAL ESSX.

11

12 A. With the grandfathering of ESSX service and Digital ESSX service, the sale of
13 new systems ceased. Existing customers who were under a Term Payment
14 Plan contract were allowed to retain their existing systems. The Company
15 committed to honor those contracts and allow the retention of the
16 grandfathered service until the contracts expired. These subscribers were also
17 allowed to add and delete features, lines, etc., on their systems until their
18 contract expired. Customers who were not under a current contract were
19 allowed to keep their ESSX service until a specific date.

20

21 When the tariff was initially introduced, there was no provision for customers
22 to retain their existing service. After concerns were expressed that customers
23 needed time to evaluate the new MultiServ offerings as well as other
24 telecommunications options available in the marketplace, the Company made
25 available a recast offer. This option allowed customers to recast their service

1 by entering into a written agreement no later than a date certain and retain their
2 current service for a period of time selected by the customer, up to three years
3 from the tariff effective date. Customers who were not under a contract of
4 greater than thirty-six (36) months in duration were given the option to extend
5 their ESSX service period to a maximum of 36 months. This recast option was
6 made available in all states. The customers who chose not to recast their
7 existing service and were no longer under contract were given a minimum of
8 ten months to make a decision regarding their telecommunications service.

9

10 Q. WAS THE GRANDFATHERING OF ESSX AND DIGITAL ESSX
11 SERVICE HANDLED ANY DIFFERENTLY THAN PAST INSTANCES OF
12 GRANDFATHERING SERVICES?

13

14 A. No. Whenever BellSouth has grandfathered a service, the Company has
15 attempted to address the needs of its customers.

16

17 Q. WILL MCI BE COMPETITIVELY DISADVANTAGED IF
18 GRANDFATHERED ESSX SERVICE IS NOT AVAILABLE FOR
19 RESALE?

20

21 A. Absolutely not. MCI will have the same opportunity to move ESSX customers
22 to MultiServ offerings as BellSouth. The current tariff for MultiServ permits
23 ESSX customers to change to MultiServ without incurring nonrecurring
24 charges or a termination liability. MCI will be able to utilize the same terms
25 and conditions when offering MultiServ via resale to existing ESSX customers.

1 Additionally, MCI can purchase MultiServ with the wholesale discount
2 applicable to resold services which gives MCI a pricing advantage. Similarly,
3 MCI can use their own facilities in combination with unbundled network
4 elements to offer unique services.

5

6 **WHAT TERMS AND CONDITIONS, INCLUDING USE AND USER**
7 **RESTRICTIONS, IF ANY, SHOULD BE APPLIED TO RESALE OF**
8 **BELLSOUTH SERVICES?**

9

10 MCI Position: BellSouth should be ordered to impose no use, user or other
11 restrictions that restrict or limit the resale of any of its services. (In footnote 15
12 on page 15, MCI does not object to specific restrictions that the state
13 Commission is permitted to allow. They do, however, misinterpret the Order
14 specific to the cross class of service resale whereby residential service may not
15 be resold to business customers. MCI indicates that cross class of service is
16 applicable only to flat-rate residential lines. The Order does not limit this to
17 flat-rate residential lines.)

18

19 BellSouth Position: Any use or user restrictions or terms and conditions found
20 in the relevant tariff of the service being resold should apply. Use and user
21 restrictions, as well as terms and conditions, are integral components of the
22 retail service that is being resold. These terms and conditions do not impose
23 unreasonable or discriminatory conditions on the resale of these services and
24 may be reflected in the rates being charged. Elimination of the terms and
25 conditions may affect the pricing or even the general availability of the service.

1

2 The Company's assessment of the FCC's Order here is the same as it is for the
3 previous issue. Section 51.613(b) allows an incumbent LEC to impose
4 restrictions if it proves to the state commission that they are reasonable and
5 nondiscriminatory. The terms and conditions limitations requested by
6 BellSouth are reasonable and nondiscriminatory, permitted by the Rules, and
7 should be allowed by this Commission.

8

9 Q. PLEASE EXPLAIN YOUR RATIONALE FOR RETAINING USE AND
10 USER RESTRICTIONS AND TERMS AND CONDITIONS ON SERVICES
11 AVAILABLE FOR RESALE.

12

13 A. First, the Act requires BellSouth to offer for resale any telecommunications
14 service that it provides at retail to its subscribers. The rate for a particular
15 offering varies based on the terms and conditions of the service. If the terms
16 and conditions were different, the price would likely be different or the
17 particular retail service might not even be offered. An example is Saver
18 Service, which is a discounted toll service, priced based on the use of the retail
19 end user. If it can be used by multiple end users and the usage aggregated,
20 then the change in demand could certainly impact BellSouth's pricing of this
21 service. Rates, terms and conditions are an integral part of the service.

22

23 In general, the terms and conditions contained in BellSouth's tariffs, along
24 with the tariffed rates, are an integral part of the tariffed services. If the terms
25 and conditions for a particular service were non-existent or different, BellSouth

1 might choose not to offer the service or the price would likely be different. The
2 Act requires that BellSouth make available for resale its retail
3 telecommunications services. The Act does not require that BellSouth offer its
4 retail services "minus their associated terms and conditions" or that BellSouth
5 create new retail services.

6
7 Second, use and user restrictions are basically class of service restrictions. The
8 Act specifically permits the Commission to apply such class of service or use
9 and user restrictions. Section 251(c)(4)(B) of the Act states that the LEC is
10 "not to prohibit, and not to impose unreasonable or discriminatory conditions
11 or limitations on, the resale of such telecommunications service, except that a
12 State commission may, consistent with the regulations prescribed by the
13 Commission under this section, prohibit a reseller that obtains at wholesale
14 rates a telecommunications service that is available at retail only to a category
15 of subscribers from offering such service to a different category of
16 subscribers." The most predominant use and user restriction in place today is
17 for basic residence and business service such that residence service cannot be
18 purchased at the lower residence rate and used for business purposes. This,
19 however, is certainly not the only restriction of this type.

20
21 If accepted, MCI's recommendation to eliminate cross class selling restrictions
22 would allow MCI to undermine the rate structure and rate levels for business
23 services by purchasing basic residence service and reselling it as basic business
24 service. A significant level of support for universal service is provided by
25 business services. Most, if not all, of that support would flow to MCI's

1 stockholders under MCI's proposal. The Act requires the resale of a service,
2 not just the picking and choosing of various prices. Such terms and conditions
3 including use or user restrictions do not pose any unreasonable or
4 discriminatory condition on MCI or any other reseller. Resellers will be able
5 to offer the same service under the same conditions that BellSouth offers the
6 service to its own customers. If MCI wishes to provide a service with different
7 terms and conditions than BellSouth's offering, or with different or no use or
8 user restrictions, it can do so by leasing unbundled features and combining
9 them with its own capabilities to provide the service.

10

11 Q SHOULD THERE BE ANY ADDITIONAL LIMITATIONS ON RESALE
12 OF SERVICES?

13

14 A. Yes. As stated in the Act, new entrants serving more than 5% of the nation's
15 presubscribed access lines, which includes MCI, AT&T and Sprint, are not
16 permitted to jointly market local exchange services obtained through resale,
17 with interLATA services until such time as the Bell Operating Company is
18 authorized to provide interLATA services in-region, or until thirty-six months
19 have passed since the date of enactment of the Act, whichever is earlier
20 (Section 271(e)(1) of the Federal Act). MCI seems to have omitted this
21 requirement of the Act in its discussions.

22

23 **SHOULD BELLSOUTH BE REQUIRED TO PROVIDE REAL-TIME**
24 **AND INTERACTIVE ACCESS VIA ELECTRONIC INTERFACES TO**
25 **PERFORM THE FOLLOWING: PRE-ORDERING, ORDER**

1 **PROCESSING, PROVISIONING AND INSTALLATION,**
2 **MAINTENANCE AND TROUBLE RESOLUTION, BILLING**
3 **(INCLUDING CUSTOMER USAGE DATA TRANSFER), LOCAL**
4 **ACCOUNT MAINTENANCE? IF SO, FOR WHAT PROCESSES AND**
5 **IN WHAT TIME FRAME SHOULD THEY BE DEPLOYED? WHAT**
6 **SHOULD BE THE METHODS AND PROCEDURES FOR DELIVERY**
7 **OF OPERATIONAL INTERFACES?**

8
9 MCI Position: BellSouth must provide real-time interactive electronic
10 interfaces to MCI as quickly as possible, but in any event by January 1, 1997,
11 as required by the FCC Competition Order.

12
13 BellSouth Position: BellSouth has made available or has under active
14 development electronic interfaces for ordering and provisioning, pre-ordering,
15 trouble reporting and billing data. For ordering and trouble reporting with
16 regard to unbundled elements, BellSouth is providing functionality similar to
17 the processes that have worked effectively in the exchange access world.
18 BellSouth has established interfaces to allow ALECs to obtain pre-ordering
19 information electronically. BellSouth has also provided electronic customer
20 usage data transfer and is modifying its original design to accommodate MCI's
21 requests.

22
23 The FCC also concludes in its Order that providing nondiscriminatory access
24 to operations support systems functions is technically feasible and that all
25

1 incumbent LECs that currently do not comply with this requirement must do so
2 as expeditiously as possible, but in any event no later than January 1, 1997.

3
4 The FCC appears to be in favor of the use of national standards so that all
5 transactions between telecommunications companies may be processed via
6 nationally standardized electronic gateways. The FCC proposes to monitor
7 closely the progress of industry organizations as they implement the rules
8 adopted in this proceeding.

9
10 As discussed in Ms. Calhoun's direct testimony, BellSouth has already made
11 available or has under accelerated development electronic operational
12 interfaces for ordering and provisioning, pre-ordering, trouble reporting, and
13 billing data and is in overall compliance with the FCC Order. The Company
14 believes, however, that January 1, 1997 is an unrealistic date to require
15 completion of this project. Should the FCC Order stand as is, BST would have
16 to provide all of the electronic operational interfaces identified in this issue by
17 January 1, 1997 to be in compliance. The implementation timeline for each
18 electronic interface is based on the complexity of the requirements associated
19 with that specific functionality. BellSouth has provided a realistic, firm
20 schedule based on the actual work to be done, as identified in the analysis and
21 design phase of system development.

22
23 BellSouth's existing electronic interfaces to support ALECs, as well as those
24 under development, are in overall compliance with the precepts described in
25 the FCC Order and in compliance with national standards, where they exist.

1 Where new standards will be required as a result of the FCC's Order, the
2 Company will continue its active role in the appropriate industry committees to
3 develop such standards.

4

5 **WHEN MCI RESELLS BELLSOUTH'S SERVICES, IS IT**
6 **TECHNICALLY FEASIBLE OR OTHERWISE APPROPRIATE TO**
7 **BRAND OPERATOR SERVICES AND DIRECTORY SERVICES**
8 **CALLS THAT ARE INITIATED FROM THOSE RESOLD SERVICES?**

9

10 MCI Position: BellSouth should brand with the MCI name BellSouth's
11 operator services and directory assistance services when calls are initiated from
12 resold services.

13

14 BellSouth Position: Branding is not required by the Act and is not required to
15 promote competition. BellSouth cannot offer branding for MCI or other
16 resellers when providing resold local exchange service because BellSouth will
17 not be able to distinguish calls of MCI resold customers from calls of
18 customers of other local resellers, or from BellSouth.

19

20 Paragraph 877 of the FCC Order states, "section 251(c)(4) does not impose on
21 incumbent LECs the obligation to disaggregate a retail service into more
22 discrete retail services. The 1996 Act merely requires that any retail services
23 offered to customers be made available for resale." Paragraph 51.613 (c) of the
24 Rules then states, inconsistently, that the failure by an incumbent LEC to
25 comply with reseller unbranding or rebranding requests is a restriction on

1 resale. The paragraph does goes on, however, to state that an incumbent LEC
2 may impose such a restriction if it proves to the state commission that the
3 restriction is reasonable and nondiscriminatory, such as by proving to a state
4 commission that the incumbent LEC lacks the capability to comply with
5 unbranding or rebranding requests.

6
7 As discussed in Mr. Milner's and Mr. Pecoraro's testimonies, BellSouth lacks
8 the capability to comply with the request even if it were otherwise appropriate.
9 The Company's position on this issue is, therefore, consistent with the FCC
10 Rules and should be adopted by this Commission.

11
12 Beyond the technical feasibility issue, there is a question of how significant the
13 branding issue truly is. While carriers have raised this issue in terms of
14 competitive marketplace, unbranding (where no one brand is associated with
15 the service) may be equally appropriate. For example, BellSouth does not
16 typically brand calls to its directory assistance bureau or operator services
17 positions. While it may be argued by some that this is atypical behavior, one
18 need only observe MCI's own practices. 1-800-COLLECT is a heavily
19 advertised service and presumably a fairly successful service. Ads for 1-800-
20 COLLECT are typically unbranded; calls to a 1-800-COLLECT operator will
21 not necessarily reveal that this is an MCI product. If branding is a competitive
22 tool, it is apparent that unbranding must also be.

23

24 **WHEN MCI RESELLS BELL SOUTH'S LOCAL EXCHANGE**
25 **SERVICE, IS IT TECHNICALLY FEASIBLE OR OTHERWISE**

1 **APPROPRIATE TO ROUTE 0+ AND 0- CALLS TO AN OPERATOR**
2 **OTHER THAN BELLSOUTH'S SERVICE, TO ROUTE 411 AND 555-**
3 **1212 DIRECTORY ASSISTANCE CALLS TO AN OPERATOR OTHER**
4 **THAN BELLSOUTH'S, OR TO ROUTE 611 REPAIR CALLS TO A**
5 **REPAIR CENTER OTHER THAN BELLSOUTH'S?**

6
7 MCI Position: BellSouth must provide direct routing to MCI's operator
8 services and directory assistance services from resold services using the
9 identical digits BellSouth uses to route calls to its own operators, etc. This
10 issue is another version of the MCI routing issue, simply described from a
11 different perspective.

12
13 BellSouth Position: BellSouth will route calls to MCI's requested service if
14 MCI provides the appropriate unique dialing arrangements. BellSouth's retail
15 service includes access via specified 0, 411, and 611 dialing arrangements to
16 BellSouth's operator, directory assistance, and repair service. Therefore, the
17 resold services include the same functionalities. As stated previously, routing
18 of calls to various operator providers through the same dialing arrangements is
19 not technically feasible or otherwise appropriate.

20
21 The actual issue here appears to be whether BellSouth can offer selective
22 routing of calls that are made by customers of MCI when using a resold
23 BellSouth service. The assessment of this issue is the same as the assessment
24 on Issue 3(a). The Company has shown, in compliance with the FCC Rules,
25 that providing what is being requested by MCI is not technically feasible and,

1 therefore cannot be provided.

2

3 Q PLEASE EXPAND ON BELLSOUTH'S POSITION.

4

5 A. MCI has raised the routing issue as another resale issue. BellSouth will not
6 keep MCI from directing calls from resold services to MCI operators, repair or
7 directory assistance services. The issue is how the call is dialed, i.e., "0", as
8 opposed to some other code. MCI has publicized other options and customers
9 are already accustomed to dialing "00" and 1+800-XXX-XXXX for various
10 operator services. Similarly, customers dial different directory assistance
11 numbers by area code today. Repair in some states today is dialed on a seven-
12 digit basis rather than using three digits (611).

13

14 MCI also ignores a significant problem, i.e., how the end user would reach a
15 BellSouth operator should it desire to do so. For example, the customer is still
16 entitled to obtain BellSouth's intraLATA toll service if it so desires. Under
17 MCI's plan to route all calls to the MCI operator, it would be impossible for
18 the end user to reach the BellSouth operator. BellSouth's proposal gives the
19 customer the option to reach both BellSouth's and MCI's operators through
20 explicit dialing plans. MCI's plan would seem to offer the customer only one
21 choice.

22

23 MCI also fails to point out that, with intraLATA toll presubscription as it is
24 being implemented in Florida, an end user presubscribed to MCI for
25 intraLATA services, whether MCI is reselling that customer service or not,

1 will reach an MCI operator on any 0+ intraLATA toll call. As stated,
2 BellSouth's retail service includes access to BellSouth's operator, repair and
3 directory assistance service through specific dialing arrangements. Therefore,
4 the resold service includes these same functionalities. Routing calls to
5 multiple providers through the same dialing arrangements is not technically
6 feasible, as Mr. Milner discusses in detail in his testimony.

7
8 Finally, in requesting the same routing and dialing arrangements as BellSouth,
9 MCI is actually and inappropriately requesting a newly created hybrid service
10 that adds some type of unique routing capabilities, yet also continues to
11 employ all of BellSouth's capabilities via resale. Neither the FCC Order nor
12 the Act require BellSouth to create a new bundled retail service for resale or to
13 create capabilities when there are reasonable options readily available. The
14 best solution is for MCI to provide different dialing arrangements or lease
15 unbundled elements to combine with its own switch capabilities to provide
16 access to its operator or repair functions.

17

18 Q. DO YOU EXPECT THAT NEW DIALING ARRANGEMENTS FOR
19 OPERATOR SERVICES, DIRECTORY ASSISTANCE, OR REPAIR
20 CALLS WILL CAUSE CONFUSION?

21

22 A. No. BellSouth believes that customers are more adept than MCI implies. The
23 customer confusion or competitive disadvantage issue raised by MCI is non-
24 existent. Interestingly, BellSouth at one time used seven-digit numbers to
25 reach repair and moved to a three digit code without causing any particular

1 problems. Today, large business customers in Florida dial unique seven digit
2 numbers and not 611. Currently, customers have available to them an array of
3 dialing arrangements to place operator type calls. Given the number of carriers
4 and calling arrangements provided, it is doubtful that customers would be
5 particularly confused by dialing "00" to reach an operator or a different seven
6 digit number to reach a repair center. The issue is even further simplified by
7 the propensity of inexpensive handsets with speed dialing capabilities which
8 can be programmed with "1" for operator, "2" for telephone repair, and "3" for
9 directory assistance. Indeed, it may be substantially cheaper to equip all
10 "potentially confused" customers with an inexpensive telephone, than to
11 replace all of BellSouth's switches to accomplish what MCI has in mind.

12

13 By further example of dialing differences, MCI provides, in addition to access
14 to its operators, MCI calling cards. With this card the customer is instructed
15 to:

16

17 dial an 11 digit access number and listen for the chime;

18

19 then a MCI card number (also 11 digits), then a PIN code (4 digits)

20

while listening for the double tone; and finally,

21

22 the number they are trying to reach (Area code first - 10 digits).

23

24 In essence, MCI customers that use their calling cards are trained in dialing 26
25 extra digits to place a long distance call! End users are becoming increasingly

1 more adept at selecting carriers, cards and dialing arrangements when placing
2 calls from home, business, public pay telephones, etc. MCI's purported
3 "concern" over customer confusion seems to be inconsistent with the current
4 realities of the marketplace and MCI's own practices.

5

6 Q. ASIDE FROM TECHNICAL FEASIBILITY, IS MCI'S REQUEST FOR
7 DIRECT ROUTING APPROPRIATE?

8

9 A. No. Such routing is not required by the Act. What MCI is requesting is that
10 BellSouth create and offer a new basic local exchange retail service and make
11 it available for resale - one that does not include access to BellSouth's Operator
12 Services or its Directory Assistance Services. As I indicated earlier in my
13 discussion concerning the enforcement of existing terms and conditions in
14 BellSouth's tariffs, the Act requires that BellSouth make its retail services
15 available for resale. The Act does not require BellSouth to offer its retail
16 services for resale without capabilities dictated by the purchaser or that
17 BellSouth create new retail services. Further, the Act does not permit MCI to
18 apply the concept and requirement of unbundling to a resold BellSouth retail
19 service. Resale and unbundling are not the same, regardless of MCI's desires.
20 If MCI wishes to offer a unique basic local exchange service that includes
21 direct access to its platforms, MCI can purchase unbundled network elements
22 from BellSouth and combine them with its own platforms.

23

24 **WHEN BELLSOUTH'S EMPLOYEES OR AGENTS INTERACT WITH**
25 **MCI'S CUSTOMERS WITH RESPECT TO A SERVICE PROVIDED**

1 **BY BELLSOUTH ON BEHALF OF MCI, WHAT TYPE OF**
2 **BRANDING REQUIREMENTS ARE TECHNICALLY FEASIBLE OR**
3 **OTHERWISE APPROPRIATE?**

4
5 MCI Position: BellSouth should be required to provide branding in all
6 situations where BellSouth employees or agents interact with MCI customers
7 with respect to the provision of resold BellSouth services or unbundled
8 elements provided to end users on behalf of MCI.

9
10 BellSouth Position: BellSouth service technicians will advise customers that
11 they are providing service on behalf of MCI. Service technicians will not
12 provide customer information provided by MCI, but will provide generic
13 access cards with the appropriate provider's name (MCI). BellSouth
14 personnel, when providing services on behalf of MCI, will not market
15 BellSouth Services directly or indirectly to MCI customers.

16
17 Q. PLEASE PROVIDE AN EXPLANATION OF YOUR POSITION.

18
19 A. In most instances, BellSouth does not expect to communicate with the end user
20 customer regarding resold services, but will be communicating with the
21 reseller regarding such services. Those individuals who must have customer
22 contact, such as service technicians making installations or repairs at the
23 customers' premises, have been trained to advise the end user that they are
24 acting on behalf of the reseller.

25

1 Q. MCI CLAIMS THAT, TO AVOID CONFUSION, BELLSOUTH
2 PERSONNEL SHOULD REPRESENT THEMSELVES AS MCI ON
3 REPAIR CONTACTS. PLEASE COMMENT.

4
5 A. As stated previously, in these limited contacts, BellSouth employees will
6 represent themselves as providing service on behalf of MCI, not as MCI.
7 Representing themselves as MCI would be inaccurate possibly deceitful and
8 may appear to create more confusion rather than less, especially if the customer
9 knows that the underlying provider of local service is BellSouth. This
10 condition is fairly common in the IXC arena where a reseller may state who the
11 underlying service provider is. Further, in the era of "outsourcing," it is
12 common to contract with one entity, only to have the work performed by
13 another. This is a common practice which appears to work quite well, e.g.,
14 Home Depot, cable companies, carpet companies, heating and air conditioning.
15
16 Finally, there would be additional costs to provide the branding that MCI has
17 requested. Costs would be incurred, not avoided, to meet many of MCI's
18 requests for branding.

19
20 **SHOULD BELLSOUTH BE REQUIRED TO PROVIDE NOTICE TO**
21 **ITS WHOLESALE CUSTOMERS OF CHANGES TO BELLSOUTH'S**
22 **SERVICES? IF SO, IN WHAT MANNER AND IN WHAT TIME**
23 **FRAME?**

24
25 MCI Position: MCI requires that BellSouth communicate knowledge of any

1 engineering changes associated with BellSouth's network elements,
2 deployments of new technologies, or changes to its retail services as soon as
3 they are known to BellSouth. While BellSouth appears to agree in principle to
4 advance notification, there is no agreement on the timing or the manner of
5 notification.

6
7 BellSouth Position: BellSouth agrees that this issue is essentially resolved.
8 BellSouth will provide scheduled notices to MCI and all other carriers
9 concerning network changes that can impact interconnection or network
10 unbundling arrangements. Further, regularly scheduled joint engineering
11 meetings, coupled with typical tariff notification for retail and resold services,
12 will provide adequate time for MCI to make any necessary changes.
13 It appears that the Order confirms BellSouth's position and, therefore, should
14 be adopted by this Commission. The Resale section of the Rules does not
15 address this issue specifically and no reference is found in the Order. The
16 Rules do state in Paragraph 51.603(b), "[a] LEC must provide services to
17 requesting telecommunications carriers for resale that are equal in quality,
18 **subject to the same conditions, and provided within the same provisioning**
19 **time intervals** (emphasis added) that the LEC provides these services to
20 others, including end users."

21
22 **SHOULD PREFERRED INTEREXCHANGE CARRIERS (PIC)**
23 **CHANGES RECEIVED FROM IXC_s BE TREATED DIFFERENTLY**
24 **FOR A BELLSOUTH EXCHANGE SERVICE BEING RESOLD BY**
25 **MCI THAN FOR A BELLSOUTH RETAIL EXCHANGE SERVICE?**

1

2

MCI Position: BellSouth should be prohibited from implementing any PIC changes for services resold by MCI except in response to a request submitted to it through MCI.

5

6

BellSouth Position: BellSouth plans to handle PIC requests for all resellers under the same guidelines and framework used to handle PIC requests today for IXC's.

7

8

9

10

The FCC Rules do not specifically address the PIC. Paragraph 51.603 (a), however, states that services must be made available for resale on terms and conditions that are reasonable and non-discriminatory. Further, Paragraph 51.603(b) states, "[a] LEC must provide services to requesting telecommunications carriers for resale that are equal in quality, subject to the same conditions, and provided within the same provisioning time intervals that the LEC provides these services to others, including end users." Acceptance of MCI's position, that BellSouth not process long distance carrier designation changes sent to BellSouth for MCI customers served by resold services, certainly would not appear to be in compliance with the nondiscriminatory language of the Rules, and would appear to, in fact, give MCI an unfair competitive advantage.

11

12

13

14

15

16

17

18

19

20

21

22

23

Q. WHY HAS BELLSOUTH REFUSED TO COMPLY WITH MCI'S REQUEST TO REJECT ALL PIC CHANGES INITIATED BY OTHER IXC'S FOR MCI'S RESALE CUSTOMERS?

24

25

1

2 A. BellSouth believes that the local service offered by BellSouth for resale
3 includes the capability for IXC's, with proper end user authorization, to change
4 the PIC on the resold line via the industry's mechanized interface, known as
5 "CARE". Throughout the industry, PIC changes are made by the IXC's via an
6 electronic CARE system. For example, if a customer chooses an IXC other
7 than MCI for its long distance service, that IXC today would electronically
8 notify BellSouth of the PIC change through CARE, and BellSouth would
9 update the line records accordingly. In a resale environment, however, if
10 another IXC succeeded in being selected as the pre-subscribed IXC for an MCI
11 local customer, MCI would prefer that BellSouth reject the mechanized CARE
12 transaction from the other IXC, notify MCI, and await a local service request
13 from MCI before processing the PIC change.

14

15 There are problems with MCI's approach. MCI is asking for extraordinary
16 treatment that would raise the issue of parity among the IXC's. Further,
17 implementation of MCI's proposal would appear to hinder a customer's ability
18 to choose their preferred interexchange carrier. Resale has always had the
19 intended purpose of helping competition, not hindering it. Complying with
20 MCI's request would place BellSouth in the position of refusing properly
21 processed PIC change requests from its other IXC customers. Further, MCI's
22 request also would needlessly increase the volume of local service requests
23 submitted by MCI to BellSouth. BellSouth believes this Commission should
24 recognize the continued use of the mechanized CARE process as the
25 appropriate vehicle for processing PIC changes in a local resale environment.

1

2 Nonetheless, to accommodate MCI's concerns about maintaining current
3 information about its end users' accounts, including PIC information,
4 BellSouth is analyzing the feasibility of a separate electronic process that
5 would notify an ALEC that a PIC change has occurred on a resold line. Of
6 course, cost recovery for that interface must be addressed.

7

8 Q. PLEASE DESCRIBE HOW BELLSOUTH PLANS TO PROCESS PIC
9 CHANGES FOR CUSTOMERS OF LOCAL RESOLD SERVICES.

10

11 A. Existing tariffed processes, procedures, and charges provide the framework for
12 changes of intraLATA or interLATA presubscription for customers of record
13 of ALECs operating as resellers.

14

15 When MCI is a reseller of BellSouth's local service for the provision of local
16 service to its end user customers, MCI becomes BellSouth's customer of
17 record for that line. For these situations, BellSouth will accept PIC changes
18 from MCI as the customer of record or from other IXCs. All applicable
19 charges associated with intraLATA and/or interLATA PIC changes would
20 apply. To process PIC changes differently for MCI than for other resellers
21 could create parity issues among the IXCs.

22

23 The Company's proposed terms and conditions are both reasonable and
24 nondiscriminatory towards all competitors, not just MCI, and should be
25 adopted by this Commission. This issue is not specifically addressed by the

1 FCC's Order.

2

3 **WHAT ARE THE APPROPRIATE WHOLESALE RATES FOR**
4 **BELLSOUTH TO CHARGE WHEN MCI PURCHASES**
5 **BELLSOUTH'S RETAIL SERVICES FOR RESALE?**

6

7 MCI Position: The FCC Competition Rules require BellSouth's wholesale
8 price for resold services to reflect all costs that reasonably can be avoided by
9 BellSouth when services are provided on a wholesale basis. The FCC Rules
10 permit a state commission to establish interim wholesale rates that are between
11 17% and 25% below the incumbent LEC's existing retail rates. The wholesale
12 price adjustment in this case should be set at the top end of the default range
13 established by the FCC Competition Rules, or at such higher level as is
14 supported by the record in this proceeding.

15

16 BellSouth Position: The Act requires that rates for resold services shall be
17 based on retail rates minus the costs that will be avoided due to resale.
18 BellSouth proposes a discount to be applied to both residential and business
19 services based on avoided cost studies.

20

21 The Company believes that its avoided cost study filed with the testimony of
22 Walter Reid is in compliance with the Federal Act. Even though BellSouth
23 disagrees with the FCC Rules, Mr. Reid's testimony also includes an avoided
24 cost study developed under the FCC rules.

25

1 Q. WHAT IS THE BASIS IN THE RATIONALE FOR BELLSOUTH'S
2 POSITION?

3

4 A. Section 252(d)(3) prescribes the following:

5

6 "...a State commission shall determine wholesale rates on the basis of retail
7 rates charged to subscribers for the telecommunications service requested,
8 excluding the portion thereof attributable to any marketing, billing, collection,
9 and other costs that will be avoided by the local exchange carrier." (emphasis
10 added). For every dollar of revenue foregone through the wholesale discount,
11 the company loses a corresponding dollar of cost. If the avoided cost discount
12 is calculated correctly, the company offering services for resale should be no
13 worse off by selling on a wholesale basis than it would have been if it offered
14 the service to its own end users. This methodology, or "tops-down" approach,
15 also takes into account the fact that an incumbent's rates are not necessarily
16 cost-based and may reflect social pricing considerations, such as support for
17 universal service.

18

19 The language of the Act is very clear. It limits the adjustment to retail rates to
20 only those costs that will in fact be avoided. The adjustment does not include
21 costs that may be avoidable or costs that a competitor wishes were avoidable or
22 adjustments for any reason other than costs that will be avoided costs.

23

24 **B. INTERCONNECTION**

25

1 **WHAT ARE THE APPROPRIATE TRUNKING ARRANGEMENTS**
2 **BETWEEN MCI AND BELLSOUTH FOR LOCAL**
3 **INTERCONNECTION?**

4
5 **MCI Position:** It appears by this issue that MCI requests requires the
6 flexibility to combine both local and intraLATA traffic over a single trunk
7 group where such combination enables MCI to increase the efficiency with
8 which such trunk groups are utilized. In the eventuality that there is good
9 reason for traffic separation, then the carrier receiving the traffic should
10 determine the types of traffic that can be combined (e.g., local, intraLATA toll,
11 interLATA access). Other issues, such as two way trunking, may be part of
12 this issue but it is impossible to tell based on the references included in MCI's
13 submission.

14
15 **BellSouth Position:** Each interconnecting party should have the right to
16 determine the most efficient trunking arrangements for its network. Parties
17 should be free to work together and establish mutually agreeable arrangements,
18 however, such arrangements should not be mandated. These issues are
19 discussed in more detail in Mr. Atherton's testimony.

20
21 Q. **GIVEN THE MAY 15, 1996 AGREEMENT BETWEEN BELLSOUTH AND**
22 **MCI, IS THIS ISSUE SUBJECT TO ARBITRATION?**

23
24 A. No. The partial agreement, Exhibit II of MCI's Petition for Arbitration,
25 already covers the agreed upon trunking arrangements and as stated previously

1 issues covered by that agreement are not appropriate for arbitration.. As is
2 clearly indicated by the language of the Agreement, which has been approved
3 by this Commission, Section III.E.(2) of the Agreement states that the parties
4 will mutually agree to trunking arrangements. This issue, therefore, must be
5 dismissed from consideration in this proceeding.

6
7 **WHAT SHOULD THE COMPENSATION MECHANISM FOR THE**
8 **EXCHANGE OF LOCAL TRAFFIC BE BETWEEN MCI AND**
9 **BELLSOUTH?**

10
11 MCI Position: The Commission should reaffirm its prior decision in Order No.
12 PSC-96-0445-FOF-TP that mutual traffic exchange is the appropriate method
13 of compensation for the exchange of local traffic. In the event that the
14 Commission ultimately imposes a specific charge for local interconnection, as
15 a result of BellSouth prevailing in its appeal of the referenced order, the
16 Commission must set the rate for the interconnection equal to Total Element
17 Long Run Incremental Cost (TELRIC). For any interim period for which a
18 rate must be set, the Commission should apply the lower end of the FCC's
19 default proxy range for termination of local traffic.

20
21 In its August 8, 1996 Order, the FCC specifically approved the use of mutual
22 traffic exchange in cases where a state has either found, or adopted a
23 presumption, that a traffic balance exists and will continue. Alternatively, a
24 state is permitted either to set the rate at TELRIC, based on a cost study which
25 complies with the FCC-prescribed methodology, or to use FCC default rates

1 for transport and termination on an interim basis pending the completion of
2 such a study.

3

4 BellSouth Position: The rate for the transport and termination of traffic should
5 be set with recognition of the intrastate switched access rate. BellSouth has
6 negotiated interconnection rates based on these charges exclusive of the
7 residual interconnection charge (RIC) and carrier common line (CCL) charge
8 with a 105% cap applied on usage. The Act does not authorize a commission
9 to mandate that a party accept bill-and-keep as the method of interconnection,
10 eliminating the right to recover its costs.

11

12 Q. GIVEN THE MAY 15, 1996 AGREEMENT BETWEEN BELLSOUTH AND
13 MCI IN WHICH MCI AGREED TO A LOCAL INTERCONNECTION
14 RATE, IS THIS ISSUE SUBJECT TO ARBITRATION?

15

16 A. No. This issue is covered by the BellSouth MCI agreement and for the reasons
17 stated previously not subject to arbitration. There is no ambiguity in the
18 agreement because the rates are clearly set forth. Further, as is clearly
19 indicated by the language of the Agreement stated earlier, until BellSouth
20 exhausts all avenues of administrative or judicial review, MCI must abide by
21 the terms of Section III. and Attachment A of the Agreement, unless modified
22 pursuant to Section I.C.

23

24 Q. DID THE FCC'S RECENT ORDER ADDRESS THIS ISSUE?

25

1 A Yes. Paragraph 51.705 of the Rules says that rates for transport and
2 termination of local telecommunications traffic are to be established, at the
3 election of the state commission, on the basis of: 1) the forward-looking
4 economic costs of such offerings, using a cost study pursuant to the Rules; 2)
5 default proxies as provided in the Rules; or 3) a bill-and-keep arrangement.

6
7 The rules for the forward-looking economic cost-based studies referred to in
8 these sections are the same as those provided for unbundled network elements.
9 Paragraph 51.713 of the Rules also gives the state commission the option to
10 impose a bill-and-keep arrangement for reciprocal compensation if the
11 commission determines that the amount of local telecommunications traffic
12 from one network to the other is roughly balanced with the traffic flowing in
13 the opposite direction, and is expected to remain so, and there has been no
14 showing that rates should be asymmetrical.

15
16 If the state commission determines that the cost information available to it with
17 respect to interconnection and transport and termination does not support
18 adoption of rates that are consistent with the cost study procedures set forth in
19 the Rules, it may establish rates for interconnection consistent with proxies
20 specified in Paragraph 51.513 of the Rules or rates for transport and
21 termination consistent with proxies specified in Paragraph 51.707 of the Rules.
22 Any rate established in this manner is superseded once the state commission
23 establishes rates based on an appropriate study or on a bill-and-keep
24 arrangement for transport and termination.

25

1 If the Order stands as issued, BellSouth will have to perform and submit cost
2 studies to support its proposed rates, pursuant to the guidelines set forth in the
3 Rules. No such cost studies are currently available.

4

5 Until such time as cost studies are submitted and approved, the Commission
6 may set rates based on the default proxies provided in the Rules. The rates
7 proposed by BellSouth are different than the default proxies provided in
8 Paragraphs 51.513 and 51.707 of the Rules. Before using these, or any
9 proxies, the FPSC should determine whether or not these proxies are consistent
10 with the Act.

11

12 In addition, the Rules give the Commission the option of ordering a bill-and-
13 keep arrangement with regard to transport and termination. As BellSouth has
14 repeatedly stated and demonstrated, bill-and-keep is not an appropriate cost
15 recovery arrangement. BellSouth does not believe that the Act permits bill-
16 and-keep to be mandated. Certainly if mandating bill-and-keep is not
17 authorized by the Act, it is not appropriate for the FCC's Order to allow state
18 commissions to mandate such arrangements.

19

20 Q. IS THE RECIPROCAL TRANSPORT AND TERMINATION RATE FOR
21 LOCAL CALLS CONTAINED IN THE MCI AGREEMENT
22 REASONABLE?

23

24 A. Yes. BellSouth believes the local interconnection rate should be based on the
25 intrastate switched access rate to the extent possible. The components of local

1 interconnection and toll access are functionally equivalent, and therefore, the
2 rate structure should be similar. This conclusion seems to be accepted by MCI
3 and BellSouth. Basing the local interconnection rate on the switched access
4 rate will facilitate the transition of all interconnection types into a single
5 interconnection rate. As technology changes, competition increases, and
6 interconnection types (e.g., local, toll, independent, cellular/wireless) become
7 more integrated. Such a transition is imperative.

8

9 BellSouth has reached agreements with other carriers that include a local
10 interconnection rate based on the current switched access rate minus any non-
11 traffic sensitive rate elements. In Florida, the resulting negotiated reciprocal
12 compensation rate averages approximately \$0.01 per minute.

13

14 Q. HOW DOES MCI'S NEGOTIATED RATE COMPARE TO OTHER
15 AGREEMENTS NEGOTIATED BY OTHER REGIONAL COMPANIES?

16

17 A. A compelling piece of evidence as to the reasonableness of the rate agreed to
18 by MCI and BellSouth is the agreement MFS reached with Ameritech. MFS
19 agreed to a local interconnection rate of \$0.009 per minute which is clearly in
20 line with MCI's rate of \$0.011 and the \$0.01 BellSouth average rate.

21

22 Q. DOES THE NEGOTIATED RATE MEET THE PRICING STANDARDS IN
23 SECTION 252(d) OF THE ACT?

24

25 A. Yes. The Act outlines pricing standards for the transport and termination of

1 traffic such that the terms and conditions for reciprocal compensation are
2 considered just and reasonable when:

3

4 “(i) such terms and conditions provide for the mutual and reciprocal
5 recovery by each carrier of costs associated with the transport and
6 termination on each carrier’s network facilities of calls that originate on
7 the network facilities of the other carrier; and, (ii) such terms and
8 conditions determine such costs on the basis of a reasonable
9 approximation of the additional costs of terminating such calls.”

10 Section 252(d)(2)(A).

11

12 BellSouth’s average local interconnection rate of \$0.01 per minute meets that
13 standard in that it allows for the recovery of BellSouth’s costs and is
14 reasonable. The reasonableness of BellSouth’s rate is further demonstrated by
15 the agreements that BellSouth has reached with other facilities-based carriers.
16 Companies such as Time Warner, Intermedia Communications Inc., and others
17 have found BellSouth’s rates to be reasonable, allowing them a fair opportunity
18 to compete for local exchange customers. If the rates these companies agreed
19 to were not reasonable, they would not have signed an agreement, but would
20 have filed for arbitration of the local interconnection rate.

21

22 Q. PLEASE EXPLAIN WHY BELLSOUTH SUPPORTS A CAP ON
23 INTERCONNECTION COMPENSATION.

24

25 A. A cap on local interconnection means that neither interconnecting party would

1 be required to compensate the other more than a specified percent of the total
2 billed local interconnection minutes of use of the party with the lower total
3 minutes of use. In effect, a cap provides financial stability for an
4 interconnecting party in circumstances where an imbalance in the traffic flow
5 could exist. In those situations where traffic is virtually in balance, as might be
6 expected between two wireline local exchange carriers, the cap would not
7 impact the billing amounts. As such, the cap can, indeed, provide for an
8 adequate recovery of costs.

9
10 Early in the negotiating process BellSouth became aware that many of the
11 parties wanted this cap. Since that time, each agreement BellSouth has signed
12 with another party has contained a cap on local interconnection minutes of use
13 compensation. These agreements have two or three year terms and items such
14 as the cap can be renegotiated at that time. BellSouth believes that this is a
15 reasonable approach for all parties in order to provide some stability during the
16 start-up phase of competition.

17

18 Q. DOES BELLSOUTH AGREE WITH MCI'S POSITION THAT BILL-AND-
19 KEEP SHOULD BE IMPLEMENTED AS A COMPENSATION
20 MECHANISM FOR LOCAL INTERCONNECTION?

21

22 A. No. BellSouth recognizes that the Florida Commission ordered bill-and-keep
23 for local interconnection in Docket No. 950985-TP. BellSouth disagrees with
24 that decision and with the Commission's denial of BellSouth's request for
25 reconsideration on the bill-and-keep provision. BellSouth plans to appeal that

1 decision.

2

3 First, and most fundamentally, although I am not a lawyer, it is my
4 understanding that mandatory bill-and-keep violates Section 252 of the Act.
5 The Act clearly allows negotiating parties to relinquish the mutual recovery of
6 costs voluntarily should they so desire and enter voluntarily into bill-and-keep
7 arrangements. The Act does not authorize a state commission to mandate that
8 a party accept bill-and-keep as the method of cost recovery.

9

10 Second, as mentioned above, with this arrangement there is no mechanism for
11 the recovery of costs associated with the termination of local calls. For
12 example, if it costs BellSouth three cents a minute to terminate a local call and
13 it costs a new entrant five cents a minute to terminate a local call, this
14 arrangement will not allow either party to recover its costs. At best, in the
15 situation illustrated, if the traffic were perfectly balanced, the carrier with the
16 lower cost might be able to conclude that it was somehow okay because the
17 payments it avoided making to the other carrier exceeded its own costs. Using
18 the numbers above, however, the new entrant would be unable to recover the
19 net difference of two cents per minute under any theory. This problem could
20 be accentuated if there is a traffic imbalance.

21

22 Third, a compensation arrangement of this type prevents BellSouth from being
23 compensated for access to, and use of, its valuable, ubiquitous network. Also,
24 it does not recognize different types of technical interconnection arrangements
25 that may exist. Because there will be varying interconnection arrangements,

1 there must be a way to differentiate the charges based upon these differences.
2 Under bill-and-keep, there would be no way to differentiate the charges and
3 this would discourage the development of efficient networks by the new
4 entrants. New entrants would simply take advantage of the functionalities in
5 BellSouth's network, having no incentive to build their own capabilities
6 because they could obtain them for free from BellSouth.

7
8 Fourth, the distinction between local and toll calls can no longer be assured.
9 The industry must move to a common interconnection structure. Bill-and-keep
10 cannot serve that function. Adoption of bill-and-keep will undermine long
11 distance competition as well as local competition.

12
13 Fifth, it should be noted that bill-and-keep does not eliminate the need for
14 billing and administrative systems. There will continue to be a need to hand-
15 off toll and 800 traffic to interexchange carriers, to LECs and to new entrants,
16 which will require the billing of switched access rates. Because new entrants
17 will bill switched access to many different carriers, BellSouth's proposal to
18 apply switched access elements for local interconnection places no significant
19 additional billing requirements on new entrants.

20
21 Finally, bill-and-keep establishes an inappropriate arrangement between
22 competing carriers. Bill-and-keep is similar to a barter arrangement, which is
23 not a typical method used for compensating businesses for services provided.

24

25 **DO THE PROVISIONS OF SECTIONS 251 AND 252 APPLY TO THE**

1 **PRICE OF EXCHANGE ACCESS? IF SO, WHAT IS THE**
2 **APPROPRIATE RATE FOR EXCHANGE ACCESS?**

3
4 **WHAT INTRASTATE ACCESS CHARGES, IF ANY, SHOULD BE**
5 **COLLECTED ON A TRANSITIONAL BASIS FROM CARRIERS WHO**
6 **PURCHASE BELLSOUTH'S UNBUNDLED LOCAL SWITCHING**
7 **ELEMENT? HOW LONG SHOULD ANY TRANSITIONAL PERIOD**
8 **LAST?**

9
10 MCI Position: The FCC Competition Rules prohibit either interstate or
11 intrastate access charges from being imposed on a carrier who offers local
12 exchange service or exchange access service through the use of unbundled
13 network elements. During a specified transitional period, ending no later than
14 June 30, 1997, BellSouth can collect from carriers who purchase BellSouth's
15 unbundled local switching, the interstate CCLC and 75% of the interstate RIC.
16 The FCC Competition Order permits states to also impose a transitional access
17 charge on top of the unbundled switching charge, to the extent that the state
18 finds that such a charge is necessary to ensure that universal service goals are
19 not jeopardized prior to the issuance of the FCC's implementation of Sections
20 254 and 214(e) of the Telecommunications Act of 1996, which require the
21 establishment of a competitively-neutral universal service mechanism.
22 However, the state transitional charge, like the interstate transitional charge,
23 must terminate no later than June 30, 1997. MCI believes that universal
24 service in Florida will not be jeopardized by the availability of unbundled
25 network elements at economic cost in the short interim between resolution of

1 this arbitration and implementation of the FCC's universal service plan.
2 Therefore, MCI opposes any requirement that requires new entrants to pay the
3 state equivalent of the interstate CCLC or RIC for a transitional period. MCI
4 further believes that the burden of proof that such charges are required should
5 be on BellSouth. Additionally, in order to comply with the Act, access charges
6 for both switched and special access must be reduced to TSLRIC as quickly as
7 possible, but in no event later than the date that BellSouth obtains in-region
8 interLATA authority.

9
10 BellSouth Position: Sections 251 and 252 of the Act do not apply to the price
11 of exchange access, and in general, the FCC's Order changes nothing with
12 regard to the assessment of access charges. Further, MCI is attempting to
13 arbitrate the applicability of the FCC's Order to all carriers in Florida. Such an
14 issue is not appropriate for an arbitration proceeding. To the extent this issue is
15 to be resolved, the Commission can initiate an appropriate proceeding which
16 can include the involvement of all pertinent parties.

17
18 Regardless of which proceeding is involved, the FCC's Order is nevertheless
19 very clear on the issue of access charges and leaves nothing to debate.

20
21 Regarding the interstate transitional charge applicable to purchasers of
22 unbundled network elements, the charges are only applicable on those services
23 to which they already apply (i.e., interstate and intrastate toll traffic).
24 Effectively, purchasers of unbundled network elements will receive an access
25 charge reduction amounting to 25% of the Residual Interconnection Charge.

1 The FCC's Order allows BellSouth to assess the interim surcharge on intrastate
2 toll minutes of use for the same time period as the interstate charge unless the
3 state commission makes a decision that the incumbent cannot assess such
4 charges.

5
6 Further the FCC's Order was adopted on August 8, 1996, while the
7 negotiations with MCI began months earlier. The items in the Order could not
8 have been "negotiated" based on the timing of the two events, (i.e., the
9 initiation of negotiations and the adoption of the Order). As a practical matter,
10 BellSouth cannot "negotiate" an FCC Order with an individual party.

11

12 Q. WHAT IS THE RATIONALE FOR BELLSOUTH'S POSITION
13 REGARDING INTRASTATE SWITCHED ACCESS PRICING?

14

15 A. The Act explicitly addresses resale, unbundling and local transport and
16 termination services and the associated pricing standards that the Commission
17 should use for arbitration. Switched access is not a new or insignificant
18 service because it represents more than three billion dollars annually for
19 BellSouth. If the intent of Congress was to change the pricing or structure for
20 switched access, it would have explicitly identified these requirements in the
21 Act. No such requirements are included in the Act.

22

23 This is not to say that the Act is totally silent on access matters -- quite the
24 contrary. The Act spells out that, in designing arrangements between the
25 incumbent and new LECs, provisions should include the ability of exchanging

1 both local and access traffic. BellSouth's negotiated agreements explicitly
2 cover meet point, technical and billing arrangements associated with access
3 services. Why? Because the Act requires it. Further, not one of the twenty
4 agreements already signed includes any negotiated access charges or
5 arrangements similar to what MCI believes is needed.

6

7 The Act also states clearly that incumbent LECs must continue to meet their
8 obligation to provide access to IXCs consistent with regulatory requirements.
9 This provision presumably prohibits an incumbent's ability to interfere with
10 the long distance market by withdrawing some or all of its existing access
11 offerings. With this level of specificity on so many access issues, how can one
12 expect that the need to negotiate access would not have been clearly spelled
13 out? In fact, the FCC confirms this conclusion in its recognition of the need
14 for a proceeding on access reform.

15

16 Q. SHOULD THIS COMMISSION PROHIBIT BELLSOUTH FROM
17 CHARGING THE EQUIVALENT OF THE INTERSTATE TRANSITIONAL
18 CHARGE FOR INTRASTATE TOLL MINUTES OF USE?

19

20 A. Absolutely not. This Commission has already recognized the need for state
21 support for universal service and must allow BellSouth to assess an equivalent
22 charge until such time as final universal support procedures are finalized or no
23 later than June 30, 1997.

24

25 **C. UNBUNDLED NETWORK ELEMENTS**

1
2 Q. ARE THE FOLLOWING ITEMS CONSIDERED TO BE NETWORK
3 ELEMENTS, CAPABILITIES, OR FUNCTIONS? IF SO, IS IT
4 TECHNICALLY FEASIBLE FOR BELLSOUTH TO PROVIDE MCI
5 WITH THESE ELEMENTS? (NETWORK INTERFACE DEVICE,
6 LOOP DISTRIBUTION, LOOP CONCENTRATOR/MULTIPLEXER,
7 LOOP FEEDER, LOCAL SWITCHING, OPERATOR SYSTEMS,
8 DEDICATED TRANSPORT, COMMON TRANSPORT, TANDEM
9 SWITCHING, SIGNALING LINK TRANSPORT, SIGNAL TRANSFER
10 POINTS, SERVICE CONTROL POINTS/DATA BASES)

11

12 MCI Position: MCI is requesting the following unbundled network elements:

13

14 Unbundled Local Loops

- 15 - Network Interface Devices
16 - Local Loops
17 - Loop Distribution
18 - Digital Loop Carrier/Analog Cross Connect
19 - Loop Feeder

20 Unbundled Local Transport

- 21 - Dedicated Interoffice Trunks (with & without electronics)
22 - Common Interoffice Trunks
23 - Multiplexing/Digital Cross Connect
24 - Dark Fiber

25 Unbundled Local Switching

- 1 - Local and Tandem Switching Capability (including all
2 software features provided by such switches)
3 - Access to Signaling Networks and Call-Related Databases
4 **Unbundled Tandem/Transit Switching**
5 - Establishment of Temporary Path Between Two Switching
6 Offices Through a Third (tandem) Switch
7 **Unbundled Ancillary Services**
8 - Operator Service
9 - Directory Assistance Service
10 - 911 Service
11 **Unbundled Data Switching**
12 - Switching Functionality for Data Services (such as frame
13 relay or ATM)
14 **Unbundled Intelligent Network & Advanced Intelligent Network**
15 **Capabilities**
16 **Unbundled Operations Support Systems**
17 - Back Office and Business Processes (order processing,
18 provisioning and installation, trouble resolution, maintenance,
19 customer care, monitoring service quality, recording and
20 billing)

21
22 BellSouth should be ordered to make available each of the unbundled loop
23 elements, local transport elements, switching elements, and other elements
24 requested by MCI. The unbundling of many of the requested elements has
25 been required by the FCC Competition Rules. The unbundling of the

1 remaining requested elements is technically feasible and is not proprietary.

2

3 BellSouth Position: BellSouth anticipates providing unbundled network
4 elements consistent with the requirements of the Act. This includes providing
5 elements that are technically feasible and implementing a bonafide request
6 process for additional items.

7

8 Q. PLEASE IDENTIFY THE ELEMENTS REQUESTED BY MCI THAT
9 BELL SOUTH WILL PROVIDE. PLEASE EXPLAIN YOUR
10 UNDERSTANDING AND POSITION ON THESE REQUESTED
11 ELEMENTS.

12

13 A. BellSouth does offer unbundled loops, switching, transport (including
14 dedicated), and operator systems.

15

16 Local loop facilities -- BellSouth will provide a variety of unbundled loops as a
17 single element. BellSouth is offering 2-wire and 4-wire analog voice grade
18 loops, 2-wire ISDN digital grade loops, and 4-wire DS-1 grade loops. MCI's
19 request for "sub-loop" unbundling, however, is not technically feasible as
20 indicated in Mr. Milner's testimony.

21

22 Local Switching -- BellSouth does offer unbundled local switching. The
23 fundamental local switching capability involves the line termination (port) and
24 the line side switching (dialtone) capability in the central office. These
25 functions provide connectivity to the switching features associated with the

1 telephone line and telephone numbers, routing capability to BellSouth's end
2 users and other BellSouth capabilities as well as the capability to reach other
3 new entrants and interexchange carriers. With these functionalities a new
4 entrant, who has not fully deployed its own switching functionality, can use
5 BellSouth's unbundled switching to reach a broader base of customers.

6
7 Contrary to the FCC's Order, BellSouth does not agree that software features
8 should be provided as part of the unbundled local switching element. These
9 features, while technically provided in the central office are not local switching
10 features. These functions are retail services and should be made available as
11 part of the resale of retail services offering.

12
13 The Commission must also recognize that these features currently provide
14 significant contribution to the social pricing objectives of this Commission
15 keeping local residence rates lower. If these features are to be offered as
16 proposed by the FCC, then alternate recovery methods will must be
17 implemented.

18
19 Unbundled elements will generally be used in conjunction with a new entrant's
20 own facilities and functions to provide competitive local exchange services.
21 The capabilities that BellSouth provides through its unbundled switching,
22 including the line termination (port), will meet the needs of carriers as they
23 begin to develop and ultimately expand their own networks. In addition to line
24 side local switching, BellSouth provides unbundled trunk side switching which
25 is already available in the Company's switched access tariffs. The selective

1 routing capability MCI includes in its definition of unbundled switching is
2 identical to its request for resale. As discussed by Mr. Milner and Mr.
3 Pecoraro, these capabilities are not feasible.

4

5 MCI has also raised the routing issue in its request for unbundled local
6 switching. MCI also requests access to AIN triggers in its request for
7 unbundled local switching. Mr. Milner describes the technical infeasibility of
8 providing these features.

9

10 Operator Systems -- BellSouth does offer access to stand-alone operator
11 services. In reality, MCI is talking about routing of "0" or "411" calls to its
12 operator services under resale arrangements or as part of its request for
13 unbundled switching. MCI has commingled the provision of BellSouth's
14 unbundled operator services with the provision of its own unbundled operator
15 services. These are two entirely different structures and circumstances.
16 BellSouth does offer unbundled operator services. These capabilities,
17 including Busy Line Verification and Interrupt, operator call assistance and
18 directory assistance, are included in many of BellSouth's negotiated
19 agreements.

20

21 Local Transport -- BellSouth does offer unbundled local transport. BellSouth
22 offers dedicated transport through its Special Access Tariff. Common
23 Transport by its nature is used by multiple carriers. As noted in this
24 Commission's March 29th Order in Docket No. 950984, page 8, "ALECs
25 currently have the option to lease these facilities from the LEC or to provide

1 the facilities themselves. Thus, we find that it is unnecessary to require
2 BellSouth to create a new pricing element because loop transport facilities are
3 currently available in BellSouth's tariff."

4

5 **SHOULD MCI BE ALLOWED TO COMBINE BELLSOUTH'S**
6 **UNBUNDLED NETWORK ELEMENTS TO RECREATE EXISTING**
7 **BELLSOUTH SERVICES?**

8

9 MCI Position: MCI can use unbundled network elements in any manner that it
10 chooses in order to provide service to its customers. The FCC Competition
11 Rules require BellSouth to allow MCI to use unbundled elements in any
12 combination. This rule permits limited exceptions only where BellSouth
13 proves that it is not technically feasible to combine elements or that the
14 combination of elements would impair other carriers' ability to obtain access to
15 *unbundled elements.*

16

17 BellSouth Position: ALECs should be able to combine BellSouth-provided
18 elements with their own capabilities to create a unique service. They should
19 not, however, be able to use only BellSouth's unbundled elements to create the
20 same functionality as BellSouth's existing services which are available under
21 the resale provisions.

22

23 Q IS MCI'S INTERPRETATION OF THE ORDER CORRECT?

24

25

1 A Yes. It should be noted, however, if MCI is allowed to do what it has
2 requested, resale as well as the development of facilities-based competition
3 will be significantly affected.

4

5 Paragraph 51.315 of the Rules states that an incumbent LEC shall provide
6 network elements in a manner that allows requesting telecommunications
7 carriers to combine such network elements in order to provide a
8 telecommunications service. An incumbent LEC that denies a request to
9 combine elements must prove to the state commission that the requested
10 combination is not technically feasible or that the requested combination would
11 impair the ability of other carriers to obtain access to unbundled network
12 elements or to interconnect with the incumbent LEC's network.

13

14 Adoption of the FCC's Rules would clearly have a dramatic impact on, not
15 only the resale of BellSouth's services, but also on the development of
16 facilities-based competition. It appears clear that if the FCC's Rules are
17 adopted as issued, BellSouth's position on this issue will need to change.

18

19 Q. EXPLAIN THE RATIONALE FOR BELLSOUTH'S POSITION.

20

21 A. In many instances, combining unbundled elements provided by BellSouth in
22 conjunction with a new entrant's capabilities is practical and appropriate. It is
23 not appropriate, however, that the recombination be totally unbundled elements
24 provided only by BellSouth and, when taken together, create the identical
25 functionality as an existing BellSouth service. Nowhere in the Act does it

1 anticipate the recreation of an existing service by the simple reassembling of
2 the LEC's unbundled elements. If that is what Congress had in mind, it would
3 have eliminated the resale provision.

4
5 Unbundling is the purchase of underlying network elements that can be
6 combined with a carrier's own elements to offer services, while resale involves
7 the purchase of underlying network elements that are already combined and
8 offered as a finished service. Based on this understanding, when the
9 combination of unbundled elements produces the finished service, then the
10 recombination should be purchased as a resold service. To do otherwise is to
11 condone tariff arbitrage without any justification. The most apparent
12 recombination of elements that would produce a finished service is the loop
13 and port (local switching) which is the functional equivalent of a basic local
14 exchange service.

15

16 Q. HOW IS BELLSOUTH'S POSITION CONSISTENT WITH THE
17 REQUIREMENTS OF THE ACT?

18

19 A. BellSouth's position is entirely consistent with the requirements and the intent
20 of the Act. Clearly the intent of the Act was to promote both facilities-based
21 and resale competition. The Act clearly obligates BellSouth to both unbundle
22 components and provide for the resale of its services. Consistent with this
23 intent, two pricing standards were established. Allowing the same service to
24 be purchased through unbundled components or through resale at two different
25 prices would be contrary to this intent. Further, such pricing would lead to

1 total arbitrage and provide no incentives for a carrier to invest in new
2 capabilities.

3

4 **WHAT SHOULD BE THE PRICE OF EACH OF THE ITEMS**
5 **CONSIDERED TO BE NETWORK ELEMENTS, CAPABILITIES, OR**
6 **FUNCTIONS?**

7

8 MCI Position: Prices of unbundled elements should be set at TELRIC.

9

10 BellSouth Position: The price of unbundled network elements according to the
11 Act must be based on cost and may include a reasonable profit. Tariffed prices
12 for existing, unbundled tariffed services meet this requirement and are the
13 appropriate prices for these unbundled elements. The price for a new
14 unbundled service should be set to recover its costs, provide contribution to
15 shared and common costs and provide a reasonable profit.

16

17 Q DOE THE FCC'S ORDER IMPACT BELLSOUTH'S POSITION?

18

19 A Yes. The general pricing standards for unbundled elements are discussed in
20 Paragraph 51.503 of the Rules. Elements must be offered at rates, terms, and
21 conditions that are just, reasonable, and nondiscriminatory. The rates for each
22 element an incumbent LEC offers shall comply with the rate structure set forth
23 in the Rules. One significant requirement of the general rate structure standard
24 included in Paragraph 51.507 is that, "[s]tate commissions shall establish
25 different rates for elements in at least three defined geographic areas within the

1 state to reflect geographic cost differences.” Rates shall be established
2 pursuant to the forward-looking economic cost pricing methodology set forth
3 in the Rules, or consistent with the proxy ceilings and ranges in the Rules.

4

5 Based on an initial review and if the Order stands, BellSouth must submit cost
6 studies performed based on the guidelines set forth in the FCC’s Rules. In
7 addition, rates must be deaveraged for at least three geographic areas as
8 determined by the state commission.

9

10 The Rules provide that until such time as cost studies are submitted and
11 approved, the Commission may set rates based on default proxies that are
12 provided in Paragraph 51.513. The rates proposed by BellSouth are different
13 than the default proxies provided in the Rules. As mentioned in the discussion
14 of Issue 10, before using these proxies, the FPSC should determine whether or
15 not they are consistent with the Act.

16

17 Q. PLEASE EXPAND ON BELLSOUTH’S POSITION ON THE PRICING OF
18 UNBUNDLED ELEMENTS.

19

20 A. As stated previously, BellSouth provides through its tariffs some services
21 which are already unbundled as a general offering to either end users or to
22 other telecommunications providers. Therefore, the prices have already been
23 set and approved by the Commission. These prices meet the pricing standards
24 in the Act and no adjustment is needed. Pricing at rates other than those that
25 currently exist will create opportunities for tariff shopping and arbitrage. For

1 new or additional unbundled elements, BellSouth proposes a price which
2 covers cost, provides contribution to recovery of shared and common costs,
3 includes a reasonable profit and is not discriminatory.

4

5 Q. WHY ARE BELLSOUTH'S PROPOSED RATES APPROPRIATE?

6

7 A. BellSouth proposed the special access line rate for the 2-wire analog voice
8 grade loop in the unbundling Docket No. 950984-TP. The Commission
9 established the recurring rate for this unbundled loop at \$17.00. Therefore,
10 BellSouth has proposed and offered this \$17.00 rate to MCI and other
11 providers. This rate covers the incremental cost of providing the loop, as well
12 as some contribution to shared and common costs. This rate is below the
13 special access rate and has been negotiated and agreed to by such local
14 competitors as Intermedia Communications, Inc.

15

16 BellSouth currently offers an unbundled 4-wire voice grade analog loop and a
17 4-wire digital grade loop service. BellSouth proposes using the existing
18 tariffed recurring special access rates for these unbundled services for which
19 BellSouth filed cost studies on May 28, 1996. The proposed rates cover the
20 cost of the loops and provide a minimal amount of contribution to shared and
21 common costs.

22

23 Q. DO THESE PRICES MEET THE PRICING STANDARDS IN THE ACT?

24

25

1 A. Yes. Section 252(d)(1) of the Act states that the rates for interconnection and
2 network elements:

3

4 “(A) shall be --

5 “(i) based on the cost (determined without reference to a rate-of-return
6 or other rate-based proceeding) of providing the interconnection or
7 network element (whichever is applicable), and

8 “(ii) nondiscriminatory, and

9 “(B) may include a reasonable profit.”

10

11 As stated above, BellSouth has filed cost studies on these services that meet the
12 requirements of the Act. These same rates are available to other providers who
13 request these unbundled elements.

14

15 **DO THE PROVISIONS OF SECTIONS 251 AND 252 APPLY TO**
16 **ACCESS TO UNUSED TRANSMISSION MEDIA (E.G., DARK FIBER)?**
17 **IF SO, WHAT ARE THE APPROPRIATE RATES, TERMS, AND**
18 **CONDITIONS?**

19

20 MCI Position: MCI requires the ability to obtain interoffice transport in
21 whatever manner is most efficient, given the number and location of its
22 customers and the amount of traffic interchanged with BellSouth. This
23 includes the use of both common and dedicated transport facilities, and the use
24 of both dark and dim fiber (e.g., without the associated electronics). Such
25 facilities are subject to the Act’s unbundling requirements, and it is technically

1 feasible to provide them on an unbundled basis.

2

3 BellSouth Position: Sections 251 and 252 do not apply to unused transmission
4 media. Dry fiber is neither an unbundled network element, nor is it a retail
5 telecommunications service to be resold. If it is not a network element and it is
6 not a retail service, there is no other standard under the Act for its provision.

7

8 To be a retail service, it must be currently available as a tariffed (or
9 comparable) service offering. Dry fiber is not. To be an unbundled network
10 element, it must contain some functionality inherent in BellSouth's network.
11 Dry fiber is no more a network element than the four walls surrounding a
12 switch are an unbundled element.

13

14 Q DID THE FCC'S RULES ADDRESS THIS ISSUE?

15

16 A No.

17

18 **WHAT ARE THE APPROPRIATE STANDARDS, IF ANY, FOR**
19 **PERFORMANCE METRICS, SERVICE RESTORATION, AND**
20 **QUALITY ASSURANCE RELATED TO SERVICE PROVIDED BY**
21 **BELLSOUTH FOR RESALE AND FOR NETWORK ELEMENTS**
22 **PROVIDED TO MCI BY BELLSOUTH?**

23

24 **SHOULD BELLSOUTH BE REQUIRED TO PROVIDE PROCESS AND**
25 **DATA QUALITY CERTIFICATION FOR CARRIER BILLING, DATA**

1 **TRANSFER, AND ACCOUNT MAINTENANCE?**

2

3 **MCI Position:** BellSouth should be ordered to adhere to performance metrics,
4 installation intervals, repair intervals and other standards that are equal to the
5 higher of the standards that BellSouth is required to provide, or actually
6 provides, to its own customers or to customers of any other carrier. MCI
7 proposes that BellSouth be required to compensate MCI through a credit
8 against bills for resold services and unbundled network elements for any failure
9 to provide service to MCI that is at least equal in quality to that provided to
10 BellSouth itself.

11

12 **BellSouth Position:** BellSouth will provide the same quality for services
13 provided to MCI and other ALECs that it provides to its own customers for
14 comparable services. The current Commission rules for service quality and
15 monitoring procedures should be used to address any concerns. It is, however,
16 appropriate to jointly develop quality measurements. Damages are not subject
17 to arbitration. BellSouth's position on performance metrics appears to be
18 consistent with the FCC's Order and Rules.

19

20 Q WHAT IMPACT DID THE FCC'S ORDER HAVE ON THE COMPANY'S
21 POSITION?

22

23 A BellSouth has preliminarily concluded that its position on performance metrics
24 appears to be consistent with the FCC's Order and Rules. Provisioning of
25 unbundled network elements is covered in Paragraph 51.311 of the Rules. It

1 states that the quality of unbundled network elements, as well as the quality of
2 the access, that an incumbent LEC provides to a requesting carrier shall be the
3 same for all telecommunications carriers requesting access to that network
4 element. It goes on to say that, to the extent technically feasible, the quality of
5 the access to unbundled network elements must be at least equal in quality to
6 that which the incumbent LEC provides to itself. Also, to the extent
7 technically feasible, the quality of an unbundled network element as well as the
8 quality of the access to the element, upon request, shall be superior to that
9 which the incumbent LEC provides to itself.

10

11 Q. ARE FINANCIAL PENALTIES FOR FAILURE TO MEET QUALITY
12 STANDARDS APPROPRIATE FOR ARBITRATION?

13

14 A. No. BellSouth believes that the issues of financial penalties, and other
15 liquidated damages or credits are not subject to arbitration under Section 251
16 of the Act. To the extent that MCI attempts to include penalties in its request
17 for arbitration of service standards, the Commission should dismiss that
18 portion of the issue. Financial penalty clauses are not appropriate for
19 negotiated agreements subject to arbitration since Florida law and Commission
20 procedures are adequate to handle a breach of contract situation should it arise.

21

22 **D. ADDITIONAL INTERCONNECTION REQUIREMENTS AND ISSUES**

23

24 **IS IT APPROPRIATE FOR BELL SOUTH TO PROVIDE COPIES OF**
25 **ENGINEERING RECORDS THAT INCLUDE CUSTOMER SPECIFIC**

1 **INFORMATION WITH REGARD TO BELLSOUTH'S POLES,**
2 **DUCTS, AND CONDUITS? HOW MUCH CAPACITY IS**
3 **APPROPRIATE FOR BELLSOUTH TO RESERVE WITH REGARD**
4 **TO ITS POLES, DUCTS AND CONDUITS?**

5

6 MCI Position: MCI's access to BellSouth's rights-of-way, poles, ducts and
7 conduits should not be limited by BellSouth to BellSouth's excess capacity.
8 MCI should have access to all capacity which is currently available or which
9 can be made available. BellSouth should be required to provide regular reports
10 on the capacity status and planned increase in capacity of all their poles, ducts
11 and conduits so that MCI can identify whether or not they are full and plan
12 accordingly. Also, BellSouth should provide engineering records for
13 unbundled facilities that MCI obtains from BellSouth.

14

15 BellSouth Position: BellSouth will provide structure occupancy information
16 regarding conduits, poles, and other rights-of-way requested by MCI and will
17 allow designated MCI personnel or agents to examine engineering records or
18 drawings pertaining to such requests. It is reasonable for BellSouth to reserve
19 in advance five years of capacity in a given facility. Access by MCI to
20 engineering records for unbundled facilities is not necessary. Mr. Milner
21 provides additional detail on this issue in his testimony.

22

23 The FCC Order indicates that allowing an incumbent LEC to reserve space for
24 local exchange service, to the detriment of a would-be entrant into the local
25 exchange business, would favor the future needs of the incumbent over the

1 current needs of the new entrant. There is no basis to believe that BellSouth's
2 plans to manage its conduit in an efficient manner will in any way favor the
3 incumbent. If, indeed, MCI believed in the future that BellSouth's procedures
4 somehow created an advantage, MCI has ample recourse at that time. If it
5 chose it could come to BellSouth and recommend changes based on actual
6 experience. If it did not want to take that avenue or if MCI felt BellSouth did
7 not adequately respond, it could submit a complaint to this Commission. In
8 this, as in so many other areas, actual experience, rather than hypothetical
9 concerns, will lead to a more sustainable result.

10
11 **SHOULD BELLSOUTH REQUIRED TO USE THE CMDS PROCESS**
12 **FOR LOCAL AND INTRALATA CALLS IN THE SAME MANNER AS**
13 **USED TODAY FOR INTERLATA CALLS?**

14
15 **WHAT ARE THE APPROPRIATE RATES TERMS AND**
16 **CONDITIONS, IF ANY, FOR RATING INFORMATION SERVICES**
17 **TRAFFIC BETWEEN MCI AND BELLSOUTH?**

18
19 MCI Position: BellSouth is not totally clear on MCI's request but believes that
20 MCI is asking BellSouth to rate calls through a uniform system
21 (region/nationwide) for processing intraLATA collect and third number type
22 calls.

23
24 BellSouth Position: Such a uniform system for rating of calls for LECs,
25 Independent Companies and other providers does not currently exist. Current

1 systems are more state specific. However, BellSouth is investigating the
2 feasibility of a uniform system.

3

4 Q. DESCRIBE BELLSOUTH'S POSITION ON THIS ISSUE.

5

6 A. It is my understanding that MCI has requested a uniform regional system for
7 the processing of intraLATA collect and third number type calls in addition to
8 information services calls. This issue is not clearly defined in MCI's petition
9 for arbitration. Given the lack of specificity of the issue itself, BellSouth is
10 responding to what it believes to be. Further analysis may determine that there
11 are other aspects of this issue that can not be discerned by the information that
12 has been provided.

13

14 As BellSouth understands, the regional system MCI envisions would be
15 uniform across states, call types and incumbent LECs (e.g., BellSouth or
16 independent companies). Such a system may, indeed, simplify matters for
17 MCI in processing these types of calls. There appears to be a one "small"
18 problem -- such a system does not exist today. BellSouth can and will provide
19 the capabilities MCI is requesting, but because the current systems are state
20 specific, the level of uniformity will not exist. BellSouth has also indicated
21 that it has been examining the feasibility of systems modification based on
22 some Belcore proposals which could create national uniformity (if adopted by
23 all systems users).

24

25 However, BellSouth has no obligation to develop and implement a new system

1 simply to meet MCI's desire for uniformity. There are no such obligations
2 under the Act. Presumably, the information services part of this request is
3 linked to this regional system but the relationship is not clear.

4

5 **SHOULD BELLSOUTH BE REQUIRED TO PROVIDE CARRIER**
6 **BILLING USING INDUSTRY STANDARDS?**

7

8 MCI Position: MCI has requested BellSouth to provide billing for unbundled
9 network elements in a carrier access billing system (CABS) format to facilitate
10 standard industry auditing practices. The use of Customer Record Information
11 System (CRIS) billing, which BellSouth proposes to use for unbundled
12 elements other than access-like services, is unacceptable.

13

14 BellSouth Position: Neither the Act, nor the FCC's Order specify which
15 billing system(s) BellSouth must use. BellSouth must be able to employ the
16 most efficient means to render accurate and timely bills. While BellSouth
17 works with carriers on bill entries, formats, etc., in the end, the systems are
18 BellSouth's responsibility. As such, this issue should not be arbitrated in this
19 proceeding or in any other similar proceeding.

20

21 **SHOULD MCI RECEIVE, FOR ITS CUSTOMERS,**
22 **NONDISCRIMINATORY ACCESS TO WHITE AND YELLOW PAGE**
23 **DIRECTORY LISTINGS?**

24

25 MCI Position: BellSouth understands this issue to be MCI's request to place

1 customized covers on directories published by BellSouth's affiliates, and the
2 inclusion of MCI's listings in BellSouth's directories.

3

4 BellSouth Position: BellSouth does not believe that the issue of customized
5 directory covers is subject to arbitration under Section 251 of the Act, and
6 BellSouth requests that the Commission not arbitrate this issue. Where
7 directory publishing is concerned, the contracting party is BellSouth
8 Advertising and Publishing Company ("BAPCO"), not BellSouth. BAPCO
9 should be allowed to determine what it can provide to all local exchange
10 companies beyond what is required by the Act. They have negotiated
11 extensively and independently with MCI. Such private negotiations should not
12 be hindered.

13

14 The Act requires inclusion of subscriber listings in White Pages directories.
15 BellSouth has already agreed to ensure that MCI and other ALECs' subscriber
16 listings are included in the White Pages directories. Any Commission action
17 beyond this agreed upon provision would affect the interests of BAPCO as
18 publisher which is not a party to this proceeding. Further, the issue of
19 directory listings is included in the BellSouth/MCI Partial Agreement, Exhibit
20 II of MCI's Petition for Arbitration, and as such should not be subject to any
21 arbitration. It would appear that MCI's submission supports the fact that the
22 directory listing issues are effectively resolved.

23

24 **WHAT SHOULD BE THE COST RECOVERY MECHANISM FOR**
25 **REMOTE CALL FORWARDING (RCF) USED TO PROVIDE**

1 **INTERIM LOCAL NUMBER PORTABILITY IN LIGHT OF THE**
2 **FCC'S RECENT ORDER?**

3
4 MCI Position: BellSouth must be ordered to provide RCF on a competitively
5 neutral basis as required by the FCC's recent order on interim local number
6 portability. The cost recovery mechanism adopted by this Commission in
7 Order No. PSC-95-1604-FOF-TP issued on December 28, 1995 in Docket No.
8 950737-TP violates the FCC's criteria, since it places the burden of recovering
9 the entire incremental cost of providing RCF as an interim number portability
10 mechanism on new entrants. The costs incurred by BellSouth and MCI in
11 implementing interim number portability should be recovered from their
12 respective customers in a "bill-and-keep" type of arrangement. This method
13 avoids the need to set specific rates and to implement billing systems to
14 support an interim mechanism which will soon be supplanted by a permanent
15 database solution.

16
17 BellSouth's Position:

18 The issue of cost recovery for interim local number portability is included in
19 the BellSouth/MCI Partial Agreement, Exhibit II of MCI's Petition for
20 Arbitration, and as such should not be subject to any arbitration. As is clearly
21 indicated by the language of the Partial Agreement, the rates for interim
22 number portability have been established and are not to be arbitrated. Further,
23 any aspects of the FCC's Order that need to be decided will require input from
24 parties beyond those in this proceeding.

25

1 To the extent this issue involves the FCC Order, arbitration is not the forum for
2 resolution. Decisions on this issue can effect many parties beyond those in this
3 proceeding.

4

5 **WHAT TERMS AND CONDITIONS SHOULD APPLY TO THE**
6 **PROVISION OF LOCAL INTERCONNECTION BY BELLSOUTH TO**
7 **MCI?**

8

9 MCI Position: BellSouth must be ordered to allow interconnection at any
10 technically feasible point and must not be allowed to require more than one
11 point of interconnection (POI) per local calling area.

12

13 BellSouth Position: The issue of points of interconnection is included in the
14 BellSouth/MCI Partial Agreement, Exhibit II of MCI's Petition for Arbitration,
15 and as such should not be subject to any arbitration. The terms describing the
16 point of interconnection, which MCI must abide by, establish procedures for
17 designating POIs.

18

19 **WHAT ARE THE APPROPRIATE PRICE, TERMS AND**
20 **CONDITIONS FOR COLLOCATION?**

21

22 MCI Position: BellSouth must allow BellSouth-provided services or
23 unbundled elements to be connected at an MCI collocation space to any other
24 facility provided by MCI, BellSouth, or any other party. BellSouth must give
25 MCI the option to convert existing virtual collocations to physical collocations

1 and BellSouth must bear the cost of such conversions.

2

3 **BellSouth Position:** There are several aspects to MCI's issue. First, MCI is
4 requesting the ability to allow unbundled elements to be connected via
5 collocation. This is precisely the purpose of collocation, i.e., to allow the cross
6 connection of a BellSouth provided capability with the facility or capability of
7 another carrier. BellSouth already provides this using virtual collocation and,
8 in accordance with the Act, will implement physical collocation. BellSouth's
9 Handbook for Physical Collocation submitted with my testimony in the AT&T
10 arbitration proceeding describes BellSouth's Proposal.

11

12 MCI apparently also expects to be able to convert virtual to physical
13 collocation at no charge. This assertion is somewhat astounding. Both the Act
14 and the FCC Order clearly state that when costs are incurred, the LEC has the
15 right to recover these costs. When virtual collocation is changed to physical,
16 costs will be incurred and should be recovered from the cost causer. As such,
17 unless BellSouth considered collocation as one of its eleemosynary
18 responsibilities it expects payments when it has incurred costs.

19

20 Secondly, as stated above, BellSouth will offer both virtual and physical
21 collocation so MCI can continue to maintain its current arrangements. If MCI
22 decides it wants to physically collocate all its facilities, it can clearly do so, but
23 it must pay for the services it desires. If MCI does not wish to incur such
24 expenses, it can maintain virtual collocation.

25

1 Further, the issues surrounding this arbitration have to do with local
2 interconnection and network unbundling matters. Whatever facilities MCI
3 currently has collocated for its interexchange business is not at issue in this
4 proceeding.

5

6 **WHAT ARE THE APPROPRIATE PRICE, TERMS AND**
7 **CONDITIONS FOR ACCESS TO TELEPHONE NUMBERS?**

8

9 MCI Position: MCI has requested that BellSouth provide the ability for MCI
10 to obtain code assignments and other numbering resources on the same terms
11 and conditions that BellSouth makes available to itself.

12

13 BellSouth Position: BellSouth agrees that NXX assignments should be made
14 on a nondiscriminatory basis. Until the issue of a neutral administrator is
15 decided at the federal level, BellSouth as current code administrator, shall
16 provide nondiscriminatory NXX assignments to ALECs on the same basis that
17 such assignments are made to itself and other code holders today.

18

19 Q HAS THE COMMISSION ADDRESSED THIS ISSUE?

20

21 A In most part, this issue is covered by the BellSouth-MCI Partial Agreement
22 and for the reasons stated previously, not subject to arbitration proceedings.
23 The remaining issue raised by MCI deals with use of various 555-XXXX
24 numbers. Apparently in other parts of the country these numbers are used for
25 specialized purposes and MCI wishes to gain access to these numbers.

1 BellSouth currently has no such numbers, so there is nothing to which MCI
2 can avail itself. For this reason, BellSouth believes this non-issue needs to be
3 dismissed.

4

5 **WHAT ARE THE APPROPRIATE PRICE, TERMS AND**
6 **CONDITIONS RELATED TO THE IMPLEMENTATION OF DIALING**
7 **PARITY?**

8

9 MCI Position: MCI has requested that BellSouth provide dialing parity with no
10 unreasonable dialing delays.

11

12 BellSouth Position: The issue, like several others raised by MCI, is a result of
13 an FCC Order, not the result of an inability to agree in negotiations. Clearly if
14 the issues of cost recovery for dialing parity is to be resolved, this Commission
15 will require input from parties other than BellSouth and MCI. As such, this
16 issue should be dismissed for the purposes of this proceeding and raised, if
17 necessary, in a proceeding open to all effected or interested parties.

18

19 **WHAT OTHER REQUIREMENTS SHOULD BE INCLUDED IN THE**
20 **ARBITRATED AGREEMENT WITH RESPECT TO**
21 **INTERCONNECTION AND ACCESS, UNBUNDLING, RESALE,**
22 **ANCILLARY SERVICE, AND ASSOCIATED ARRANGEMENTS?**

23

24 MCI Position: MCI proposes the Mediation Plus arbitration procedure as the
25 method for handling arbitration of many of these issues. As MCI's request for

1 Mediation Plus has been denied, each of the technical, operational and
2 administrative issues shown in Annotated Term Sheet 3 will require resolution
3 through the normal Commission-established arbitration process.

4
5 BellSouth Position: The purpose of an arbitration proceeding is clear: to
6 resolve those issues the parties cannot agree to in negotiations. MCI's
7 suggestion that if Mediation Plus is denied, these issues should be arbitrated, is
8 not appropriate. Rather, the parties may need to continue to discuss several of
9 these issues without the involvement of the Commission. Arbitration must be
10 reserved for those issues that clearly cannot be negotiated. If arbitration is
11 used any differently, the Commission will be faced with a morass of technical
12 issues to resolve that cannot be adequately explored in such a proceeding. The
13 answer to the denial of Mediation Plus is not arbitration, it is: 1) a recalibration
14 of the issues to determine those of greatest significance, followed by; 2) further
15 discussion by the parties.

16

17 **WHAT ACTIONS SHOULD THE COMMISSION TAKE TO**
18 **SUPERVISE THE IMPLEMENTATION OF ITS DECISION?**

19

20 MCI Position: MCI requests that upon conclusion of the arbitration
21 proceeding, the Commission expressly reserve its jurisdiction over the parties
22 to enforce the terms and conditions, including the implementation schedules, in
23 the arbitrated agreement.

24

25 BellSouth Position: Commission jurisdiction concerning arbitrated agreements

1 is not an issue for arbitration. Once issues are resolved through arbitration,
2 they become part of an overall agreement which is then submitted to this
3 Commission for approval. This is what the Act requires. Any complaints or
4 concerns that MCI may have after the agreements are reached may be filed and
5 resolved through the normal procedures of this Commission.

6

7 Q IN LIGHT OF THE UNCERTAINTY RELATING TO THE ULTIMATE
8 OUTCOME OF THE FCC'S ORDER IN CC. NO. DOCKET 96-98, HOW
9 WOULD BELLSOUTH PROPOSE THAT THIS COMMISSION DEAL
10 WITH THESE ISSUES?

11

12 A As described in my testimony and that of the other BellSouth witnesses, the
13 Commission should adopt the positions put forth by BellSouth because they
14 are consistent with the intent and meaning of the Act. To the extent that the
15 Commission feels compelled to adopt provisions of the FCC's Order that are
16 inconsistent with BellSouth's provisions, a true-up mechanism must be
17 adopted.

18

19 The need for such a mechanism is straight forward: the rights of both this
20 Commission and BellSouth must be preserved. Any rate, term, or condition
21 implemented as a result of this proceeding that is inconsistent with BellSouth's
22 position and is subsequently found to be inconsistent with the Act through
23 appeals or reconsideration, must be amended as soon as it is determined to be
24 inconsistent. Further and equally important, BellSouth must be entitled to
25 recoup, to the extent possible, whatever financial losses it has incurred due to

1 this decision. While such a recoupment can never fully correct the potential
2 harms that can occur, it is the minimum correction required in such a
3 circumstance.

4

5 **III. SUMMARY AND RECOMMENDATIONS**

6

7 Q. PLEASE SUMMARIZE YOUR TESTIMONY AND PROVIDE
8 BELLSOUTH'S RECOMMENDATIONS FOR THE COMMISSION.

9

10 A. BellSouth appreciates the opportunity to respond to MCI's petition for
11 arbitration. BellSouth has developed a track record in recent months of
12 negotiating in good faith with numerous ALECs with very diverse interests.
13 The results of these negotiations have been fruitful, producing twenty
14 agreements, thirteen of which have been filed in Florida.

15

16 BellSouth requests that this Commission find that BellSouth has been
17 reasonable in its approach to negotiations and requests that this Commission
18 adopt its positions on the issues in this proceeding. BellSouth looks forward
19 to a speedy resolution of the issues in this proceeding and further hopes that the
20 progress made in this arbitration will allow BellSouth and MCI to complete an
21 agreement covering all remaining issues for filing with this Commission.

22

23 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

24

25 A. Yes.

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BELLSOUTH TELECOMMUNICATIONS, INC.
REBUTTAL TESTIMONY OF ROBERT C. SCHEYE
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 960846-TP
SEPTEMBER 16, 1996

Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. (HEREINAFTER REFERRED TO AS "BELLSOUTH" OR "THE COMPANY").

A. My name is Robert C. Scheye and I am employed by BellSouth as a Senior Director in Strategic Management. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

A. Yes. I filed direct testimony on behalf of BellSouth on September 9, 1996.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my testimony is to address the positions taken by MCI witness Don Price, in his Direct and Additional Direct testimonies, on the issues in this arbitration proceeding.

1 Q. ARE THERE ANY ISSUES THAT THE PARTIES AGREE ARE NO
2 LONGER APPROPRIATE FOR THIS ARBITRATION PROCEEDING?

3

4 A. It is my understanding that MCI and BellSouth Advertising & Publishing
5 Corporation ("BAPCO") have reached agreement concerning any and all
6 directory issues raised in MCI's Petition, other than MCI's request to place its
7 customized cover on directories published by BAPCO. As I stated in my
8 direct testimony, however, the issue of customized covers is not appropriate for
9 arbitration. Where directory publishing is concerned, MCI should continue to
10 negotiate with BAPCO because BAPCO is the appropriate contracting party.
11 Further, this issue is not subject to arbitration under Section 251 of the
12 Telecommunications Act of 1996 (hereinafter referred to as "the Act"). The
13 Act requires inclusion of subscriber listings in white page directories, but does
14 not have any requirements regarding customized directory covers.

15

16 Q. HAS BELLSOUTH PROVIDED A LIST OF ISSUES WHICH SHOULD BE
17 ARBITRATED?

18

19 A. Yes. BellSouth responded to the MCI list of issues by providing an exhibit
20 (RCS-1) to my direct testimony. BellSouth's exhibit provided a clear
21 indication of the issues to be resolved and the issues that remain unresolved,
22 and, therefore, need to be arbitrated.

23

24 Q. MR. PRICE, ON PAGE 3 OF HIS DIRECT TESTIMONY, REFERS TO THE
25 ANNOTATED TERM SHEET (EXHIBIT 3 OF MCI'S PETITION FOR

1 ARBITRATION) AS A LIST OF THE ISSUES TO BE ARBITRATED. IS
2 THE ANNOTATED TERM SHEET PROVIDED BY MCI AN
3 APPROPRIATE LIST OF ISSUES TO BE ARBITRATED?
4

5 A. Absolutely not. The list contains hundreds of sub items and operational issues
6 that are not subject to arbitration, yet MCI petitions that every item be
7 arbitrated. Even MCI's witness, Mr. Farmer, points out on page 7, lines 10 -
8 14, of his testimony, that "[p]arity -- in the FCC context of being at least equal
9 in quality -- can only be measured in terms of detailed technical standards,
10 interfaces, and performance measures (such as installation intervals,
11 maintenance and repair times) that are better addressed in mediated
12 negotiations or industry forums than in contested hearings." As I indicated in
13 my previous testimony, with the denial of their request for Mediation Plus,
14 MCI is now attempting to bog down the arbitration proceeding until each
15 technical detail, many of which they recognize are agreed upon in principle in
16 their terms sheet, is somehow waded through in this proceeding and codified
17 into an order.

18
19 Q. MR. PRICE INDICATES, ON PAGE 4 OF HIS TESTIMONY, THAT THE
20 TWO YEAR INTERIM AGREEMENT PROVIDES A BASIS FOR THE
21 RESURFACING OF ALL OF THESE ITEMS. IS THIS CORRECT?
22

23 A. No. At the time the Partial Agreement was being negotiated, both Florida and
24 Tennessee had proceedings underway on the interconnection issues. MCI
25 wanted to continue its participation in these proceedings and the language of

1 Section II B of the partial agreement was developed. BellSouth was aware that
2 MCI could, and most likely would, be filing for arbitration in several states
3 beyond Florida and Tennessee, e.g., North Carolina, Georgia, and Kentucky.
4 The only unique characteristic was that Florida and Tennessee had ongoing
5 state interconnection and unbundling proceedings. Therefore, Section II B of
6 the Partial Agreement is not relevant to arbitration.

7

8 **RESALE**

9

10 Q. MR. PRICE, ON PAGE 9, OF HIS DIRECT TESTIMONY, DISCUSSES
11 ADJUSTMENTS, BASED ON THE FCC ORDER, TO SUPPORT THE
12 DEVELOPMENT OF A WHOLESALE DISCOUNT OF 25.38% BY MCI.
13 DOES THE ORDER ALLOW THIS?

14

15 A. Mr. Price cites the FCC Order (paragraph 910) as the basis for the state to
16 select avoided cost methodologies beyond the minimum criteria put forth by
17 the FCC to determine wholesale rates. Using that basis MCI developed their
18 version of a wholesale discount. The correct cite he is quoting, however, is
19 actually paragraph 909 which does give the states the latitude to make
20 adjustments. However, the Order goes on in the same paragraph to state that
21 "...for example, our rules for identifying avoided costs by USOA expense
22 account are cast as rebuttable presumptions, and we do not adopt as
23 presumptively correct any avoided cost model." (Emphasis added) Mr. Reid
24 will provide more detail in his rebuttal.

25

1 Q. MR. PRICE, ON PAGE 11, STATES THAT ALL RETAIL SERVICES
2 SHOULD BE AVAILABLE FOR RESALE AT A DISCOUNT. DO YOU
3 AGREE?

4
5 A. For the most part, BellSouth does agree. However, there are several, narrowly
6 defined services that BellSouth believes should be excluded from the resale
7 requirement. These are identified in my direct testimony. Mr. Price cites the
8 FCC Order, paragraphs 898 - 906, as the basis of state activity identifying
9 services available for resale and the need for unrestricted resale. This cite is
10 also incorrect. Those paragraphs discuss state activity in examining potential
11 wholesale discounts and do not discuss services or restrictions. However, in
12 paragraphs 935 - 968, the Order does discuss narrowly defined exceptions to
13 unrestricted resale that support the conclusions outlined in my direct testimony.

14
15 Q. MR. PRICE DOES ALLOW FOR LIMITED EXCEPTIONS TO RESALE
16 ON PAGE 13 OF HIS DIRECT TESTIMONY. DOESN'T THIS SUPPORT
17 BELL SOUTH'S CONCLUSION?

18
19 A. Not entirely. Mr. Price states that resale of flat rate residential service could be
20 limited to residential customers. BellSouth does not agree that resale of **flat**
21 **rate residential** service should be limited to residential customers. The Order
22 explicitly states, in paragraph 962, that the Act permits states to prohibit
23 resellers from selling residential services to customers ineligible to subscribe to
24 such services from the incumbent Local Exchanger Carrier (LEC). It does not
25 limit this cross class of service restriction to only flat rate services. Allowing

1 MCI to purchase a residential measured/message line, with a wholesale
2 discount, and to resell it to its preferred business customers would have a
3 deleterious effect on the pricing practices put forth by this Commission to
4 obtain social objectives. BellSouth also disagrees that any other use or user
5 restrictions would limit MCI's ability to compete.

6

7 Q. PLEASE COMMENT ON THIS FURTHER?

8

9 A. MCI is requesting that BellSouth provide Contract Service Arrangements at a
10 discount. Contract Service Arrangements ("CSAs") are utilized to respond to
11 specific competitive threats on a customer-by-customer basis and contain rates
12 established specifically for each competitive situation. It is completely
13 illogical for BellSouth to develop a customer-specific proposal containing non-
14 tariffed rates, only to have MCI walk in, purchase the proposal from BellSouth
15 at a discount, and offer the same proposal to the customer at a slightly lower
16 price than BellSouth had developed. Elimination of this restriction, as
17 proposed by MCI, effectively takes BellSouth out of the game. As with
18 obsolete/grandfathered services, if MCI wishes to entice the customer to
19 select MCI in lieu of BellSouth, MCI can purchase the necessary service(s)
20 included in the CSA to meet the customer's needs from BellSouth at the
21 wholesale rate and resell the service(s) alone or add additional value by
22 including other options or offerings.

23

24 Q. PLEASE IDENTIFY THE OTHER SERVICES THAT BELLSOUTH
25 PROPOSES TO EXCLUDE FROM RESALE AND PROVIDE

1 JUSTIFICATION FOR SUCH EXCLUSIONS.

2

3 A. As included in my direct testimony, besides CSAs, the following restrictions
4 are also narrowly tailored, just, reasonable, and non-discriminatory:

5

6 **Obsoleted/Grandfathered Services** are no longer available for sale to, or
7 transfer between, end users, nor should they be transferable between providers.

8 The Company has made available new services to replace the existing services.

9 To the extent that MCI or any other competitor wishes to entice the customer
10 of a grandfathered service to change providers, it may do so by either reselling
11 the replacement service at a discount or by providing its own new service to
12 the customer through the purchase of unbundled network elements combined
13 with its own facilities. BellSouth does not agree with the FCC's conclusion on
14 this issue and believes this restriction is reasonable and nondiscriminatory,
15 permissible by the FCC's Order, and should be approved by this Commission.

16

17 **Promotions** are not retail services. In most instances, they are simply limited
18 time waivers of nonrecurring charges. It would be completely illogical for
19 BellSouth to run promotions to attract customers, only to be required to give
20 MCI the same limited time waiver for nonrecurring charges, in addition to the
21 already discounted wholesale monthly recurring rate, so that MCI can attract
22 customers. In effect, BellSouth would be subsidizing MCI's marketing
23 program. If MCI wishes to conduct promotions, its stockholders should have
24 to bear the consequences just as BellSouth's do. Competitive advantage
25 should be earned in the marketplace, not given through an inappropriate resale

1 requirement or discount. The FCC Order agrees with BellSouth's position and
2 allows promotions used for 90 days or less and not in a continuous manner to be
3 restricted from resale.

4
5 **LinkUp and Lifeline** are subsidy programs designed to assist low income
6 residential customers by providing a monthly credit on recurring charges and a
7 discount on nonrecurring charges for basic telephone service. If MCI, or any
8 other competitor, wishes to provide similar programs through resale, they
9 should be required to purchase BellSouth's standard basic residence service,
10 resell it at an appropriate rate, and apply for and receive certification from the
11 appropriate agency to receive whatever funds may be available to assist in
12 funding its subsidy program. The FCC Order recognizes this issue and allows
13 resale restrictions to be placed upon services for which other subscribers would
14 be ineligible.

15

16 **N11** services, including 911 and E911, are not retail services provided to end
17 users. BellSouth provides N11 services to other companies or government
18 entities who in turn provide the actual service to end user customers. Thus,
19 BellSouth should not be required to offer these services for resale.

20

21 MCI has also raised a question concerning the resale of Public (Pay Telephone)
22 Access Line Service, and service offerings that include volume or term pricing
23 (beyond contract service arrangements). Whether it be through negotiations or
24 arbitrations, both parties need to try to achieve a balanced approach. In light of
25 the FCC's Order and MCI's request, BellSouth believes that a balanced

1 outcome to the issue of resale service limitations would be to allow the
2 limitations BellSouth has described herein, but allow the resale of Public
3 Access Lines (with the caveat that they be used for its intended class of
4 service) and any generally available retail offering with term or volume
5 pricing.

6

7 **BRANDING**

8

9 Q. MR. PRICE'S DIRECT TESTIMONY, ON PAGE 16, REQUESTS THAT
10 BRANDING BE MADE AVAILABLE AT ALL POINTS OF CUSTOMER
11 CONTACT AND THAT BELL SOUTH BE BARRED FROM
12 UNREASONABLY INTERFERING WITH SUCH BRANDING. IS
13 BELL SOUTH INTERFERING WITH MCI IN ITS ATTEMPTS TO BRAND
14 SERVICES?

15

16 A. Absolutely not. The branding issue, surfaced in the petition and in Mr. Price's
17 testimony, is being held out as an item ordered by the FCC and critical to the
18 success of the reseller to successfully compete. Mr. Price cites paragraph 971
19 of the FCC's Order as the basis for this argument. While paragraph 971 does
20 discuss branding, and the FCC points out the critical nature of branding, it also
21 indicates that this presumption may be rebutted by the LEC proving to the state
22 commission that it lacks the capability to comply. As pointed out in Mr.
23 Milner's testimony, BellSouth cannot route resold services to MCI's operator,
24 call completion service or directory assistance service with the dialing of the
25 same string of digits as a BellSouth customer dials. To do so requires the

1 creation of a new service. BellSouth is not required by the Act or by the Order
2 to create such a service. Furthermore, the paragraph cited by Mr. Price limits
3 the branding to operator, call completion service or directory assistance
4 services and does not indicate all the points of contact that MCI is seeking.

5
6 Beyond the technical feasibility issue, there is a question of how significant the
7 branding issue truly is. While carriers have raised this issue in terms of the
8 competitive marketplace, unbranding (where no one brand is associated with
9 the service) may be equally appropriate. For example, BellSouth does not
10 typically brand calls to its directory assistance bureau or operator services
11 positions. While it may be argued by some that this is atypical behavior, one
12 need only observe MCI's own practices. 1-800-COLLECT is a heavily
13 advertised service and presumably a fairly successful service. Ads for 1-800-
14 COLLECT are typically unbranded; calls to a 1-800-COLLECT operator will
15 not necessarily reveal that this is an MCI product. If branding is a competitive
16 tool, it is apparent that unbranding is also.

17
18 Further, in response to any concerns over the "confusion" that may occur if
19 customers have to dial different numbers, one only needs to look at MCI's own
20 marketing practices. As I stated on page 26 of my direct testimony, MCI
21 seems to have little concern over instructing their current long distance
22 customers in the dialing of 26 extra digits and listening to various chimes to
23 place a call.

24

25 **ANCILLARY ISSUES**

1

2 Q. WHAT RELIEF SHOULD THIS COMMISSION PROVIDE MCI
3 REGARDING COST RECOVERY OF INTERIM LOCAL NUMBER
4 PORTABILITY (PAGE 5, MR. PRICE'S ADDITIONAL DIRECT
5 TESTIMONY)?

6

7 A. None. The issue of cost recovery for interim local number portability is
8 included in the BellSouth/MCI Partial Agreement, Exhibit 2 of MCI's Petition
9 for Arbitration, and as such should not be subject to arbitration. As is clearly
10 indicated by the language of the Partial Agreement, the rates for interim local
11 number portability have been established and are not to be arbitrated. Further,
12 any aspects of the FCC's Second Order that need to be decided will require
13 input from parties beyond those in this proceeding.

14

15 Q. WITH RESPECT TO DIRECTORY ASSISTANCE AND OPERATOR
16 SERVICES, HAS BELLSOUTH REFUSED TO PROVIDE ANY OF THE
17 CAPABILITIES REQUESTED BY MCI RELATED TO SERVICE PARITY
18 (PAGE 11-17, MR. PRICE'S ADDITIONAL DIRECT TESTIMONY)?

19

20 A. BellSouth has only refused to provide direct routing from resold BellSouth
21 services to MCI's Operator Services and Directory Assistance Services
22 platforms using the same digits that route to BellSouth's operators. On all the
23 other requests made by MCI related to service parity, BellSouth has offered
24 what it believes are reasonable solutions to MCI's requests. As indicated in
25 MCI's attached terms sheet, most items are already agreed to in principle by

1 both parties. To re-emphasize, however, these issues are not subject to
2 arbitration under the Act, and should be negotiated between the parties after the
3 major issues are arbitrated.

4

5 Q. YOU INDICATED THAT BELLSOUTH HAD REFUSED TO PROVIDE
6 DIRECT ROUTING TO CERTAIN MCI PLATFORMS. WHY?

7

8 A. Very simply, because not only is such routing not required by the Act, more
9 importantly, it is not technically feasible as explained by Mr. Milner in his
10 direct testimony. MCI is requesting that BellSouth create and offer a new basic
11 exchange local retail service that does not include access to BellSouth's
12 Operator Services or its Directory Assistance Services and make it available
13 for resale. The Act requires that BellSouth make its retail services available
14 for resale. The Act does not require BellSouth to offer its retail services
15 "without capabilities dictated by the purchaser" or that BellSouth create new
16 retail services. If MCI wishes to offer a unique basic local exchange service
17 that includes direct access to its platforms, MCI can purchase unbundled
18 network elements from BellSouth and combine them with its own platforms.

19

20 Dialing parity has a very specific meaning in terms of local competition: a
21 customer of MCI or any other competitor shall not have to dial any more digits
22 when placing a local call than the customer had to dial when placing a local
23 call as a customer of BellSouth. Dialing parity does not mean that an MCI
24 customer should be able to dial the same string (page 11, line 13, Price's
25 Additional Direct Testimony) to reach MCI's Directory Services and Operator

1 Services platforms as the customer dials to reach BellSouth's platforms. It is
2 MCI's responsibility to set up its own telephone numbers to support its
3 offering of these services, as well as unique telephone numbers for other
4 customer support operations such as repair bureaus.

5

6 Q. WHAT ISSUES PERTAINING TO DIALING PARITY SHOULD BE
7 RESOLVED BY THIS COMMISSION AS PART OF THESE
8 ARBITRATION PROCEEDINGS (PAGE 10, MR. PRICE'S ADDITIONAL
9 DIRECT TESTIMONY)?

10

11 A. None. This issue, like several others raised by MCI, is a result of an FCC
12 Order, not the result of an inability to agree in negotiations. Clearly, if the
13 issue of cost recovery for dialing parity is to be resolved, this Commission will
14 require input from parties other than BellSouth and MCI. As such, this issue
15 should be dismissed for the purposes of this proceeding and raised, if
16 necessary, in a proceeding open to all affected or interested parties.

17

18 Q. WHAT ARE THE ISSUES PERTAINING TO EMERGENCY (911)
19 SERVICE TO BE RESOLVED IN THIS PROCEEDING (PAGE 24, MR.
20 PRICE'S ADDITIONAL DIRECT TESTIMONY)?

21

22 A. None. 911 service was covered in the Partial Agreement, Exhibit 2 of MCI's
23 Petition for Arbitration, entered into by BellSouth and MCImetro. This
24 Commission should not waste resources arbitrating issues that have been
25 agreed upon.

1

2

Furthermore, of the issues raised by Mr. Price, MCI admits in its term sheets,

3

Exhibit 3 of MCI's Petition for Arbitration, that the parties agree in principle to

4

trunking, signaling, and routing. Access to any mechanized system to edit the

5

Master Street Address Guide, is not listed in MCI's petition. However, the

6

parties, as I understand it, have agreed in principle to provide access to

7

Automatic Location Identification (ALI) so that MCI can update and maintain

8

its database. In Item 2, restoration level, BellSouth has requested MCI to

9

explain why it needs this item "without the imposition of Telecommunication

10

Service Priority".

11

12

Q. WHAT IS THE NEED FOR A PROCESS BY WHICH MCI CAN REQUEST

13

FURTHER UNBUNDLING OF BELL SOUTH'S NETWORK (PAGE 28,

14

MR. PRICE'S ADDITIONAL DIRECT TESTIMONY)?

15

16

A. This request, as are many of MCI's requests, is outside the scope of this

17

proceeding. The purpose of arbitration is to resolve issues that cannot be

18

negotiated. It is not to develop new policy and procedures. Should MCI wish

19

to pursue such a development of a process it should do so through normal

20

Commission procedures. However, as I stated in my direct testimony,

21

BellSouth anticipates providing unbundled network elements consistent with

22

the requirements of the Act. This includes providing elements that are

23

technically feasible and implementing a bonafide request process for additional

24

items.

25

1 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

2

3 A. Yes.

4

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1 BELLSOUTH TELECOMMUNICATIONS, INC.
2 DIRECT TESTIMONY OF ROBERT C. SCHEYE
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
4 DOCKET NO. 960916-TP
5 SEPTEMBER 9, 1996
6

7 Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION WITH
8 BELLSOUTH TELECOMMUNICATIONS, INC. (HEREINAFTER
9 REFERRED TO AS "BELLSOUTH" OR "THE COMPANY").
10

11 A. My name is Robert C. Scheye and I am employed by BellSouth as a Senior
12 Director in Strategic Management. My business address is 675 West Peachtree
13 Street, Atlanta, Georgia 30375.
14

15 Q. PLEASE GIVE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND
16 EXPERIENCE.
17

18 A. I began my telecommunications company career in 1967 with the Chesapeake
19 and Potomac Telephone Company (C&P) after graduating from Loyola
20 College with a Bachelor of Science in Economics. After several regulatory
21 positions in C&P, I went to AT&T in 1979, where I was responsible for the
22 Federal Communications Commission ("FCC") Docket dealing with
23 competition in the long distance market. In 1982, with the announcement of
24 divestiture, our organization became responsible for implementing the
25 Modification of Final Judgment (MFJ) requirements related to

1 nondiscriminatory access charges. In 1984, our organization became part of
2 the divested regional companies' staff organization which became known as
3 Bell Communications Research. I joined BellSouth in 1987 as a Division
4 Manager responsible for jurisdictional separations and other FCC related
5 matters. In 1993, I moved to the BellSouth Strategic Management
6 organization where I have been responsible for various issues including local
7 exchange interconnection, unbundling and resale.

8

9 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

10

11 A. In this testimony, I clarify BellSouth's positions relative to the following three
12 items identified by ACSI in its Petition for Arbitration dated August 13, 1996:
13 1) prices for unbundled loops; 2) price of the loop cross-connect and, 3) price
14 for loop channelization. I also provide information to support BellSouth's
15 positions relative to these items.

16

17 Q. WHAT IS THE CURRENT STATUS OF NEGOTIATIONS WITH ACSI?

18

19 A. BellSouth and ACSI successfully negotiated the terms of an interconnection
20 agreement which was signed by both parties on July 25, 1996. The agreement
21 has since been filed with the Florida Public Service Commission ("FPSC" or
22 "Commission") on August 20, 1996. The rates, terms and conditions of
23 interconnection of networks established in the agreement allow ACSI and
24 BellSouth to connect their networks for the exchange of local traffic.

25

1 Beyond those items in the agreement, ACSI believes the Commission must
2 decide certain issues related to the price of unbundled loops, a loop cross-
3 connect and loop channelization.

4

5 **Prices For Unbundled Loops**

6

7 Q. WHAT ARE THE UNBUNDLED LOOPS ACSI HAS REQUESTED?

8

9 A. ACSI has requested that BellSouth provide the following unbundled loops: 2-
10 wire analog, 4-wire analog, 2-wire ISDN, 2-wire Asymmetrical Digital
11 Subscriber Line (ADSL), 2-wire High-bit-rate Digital Subscriber Line (HDSL)
12 and 4-wire HDSL loops. BellSouth is prepared to offer all of these loop types
13 to ACSI at appropriate cost-based prices. BellSouth submitted both long run
14 incremental cost (LRIC) studies for the analog and ISDN loop types on May
15 28, 1996 and subsequently updated those studies and presented them to the
16 Commission on August 12, 1996. Regarding the ADSL and HDSL loops, once
17 the rate structure is established and the technical specifications of the loops are
18 finalized, cost studies will be conducted and rates will be proposed.

19

20 Q. ACSI HAS ALSO INCLUDED INTEGRATED DIGITAL LOOP CARRIER
21 (IDLC) IN ITS EXHIBIT "H" ATTACHED TO ITS PETITION. WHAT IS
22 YOUR UNDERSTANDING OF ACSI'S REQUEST FOR A LOOP WITH
23 IDLC?

24

25 A. The requested network element is a complete contiguous loop from the

1 BellSouth Central Office to the end-user premises, where that loop is provided
2 via IDLC. BellSouth generally has two methods of providing loops: (1)
3 copper loops and (2) loops served by digital loop carrier. BellSouth uses two
4 types of digital loop carrier, *universal and integrated*. IDLC facilities contain
5 loop feeder interfaces that terminate directly to the digital switch at the DS1
6 level without the requirement for a central office terminal or other
7 demultiplexing equipment.

8

9 Q. WILL BELL SOUTH PROVIDE THE REQUESTED UNBUNDLED
10 NETWORK ELEMENT?

11

12 A. BellSouth cannot provide an unbundled loop through integrated facilities in all
13 cases because:

14

15 1. Loops served by IDLC do not have an analog (copper) appearance in
16 the central office and therefore cannot be provided to an ALEC. The
17 multiplexed loops are attached directly to the switch without digital to
18 analog conversion.

19

20 2. Integrated facilities were designed not to have a copper appearance in
21 *the central office and thereby eliminate costly electronics associated*
22 *with carrier systems. The switch handles the*
23 *concentration/channelization of the carrier system. Use of integrated*
24 *facilities results in considerable savings.*

25

1 3. Converting an integrated DLC system to a universal DLC system (non-
2 integrated) would cause economic penalties in provisioning the switch.
3 Considerable labor is required to convert an integrated carrier system to
4 a non-integrated carrier system.

5

6 4. If BellSouth were to be forced to provide loops through integrated
7 systems, the use of integrated systems will decrease causing the cost of
8 providing service to BellSouth's customers to increase.

9

10 Q. WHAT ALTERNATIVES CAN BELLSOUTH OFFER FOR THIS
11 FUNCTIONALITY?

12

13 A. BellSouth has identified two alternatives for providing access to those loops
14 served by IDLC. The following describes those alternatives:

15

16 Alternative 1: Reassign the loop from an integrated carrier system and use a
17 physical copper pair. This is a technically feasible alternative in cases where
18 sufficient physical copper pair facilities are available. If sufficient physical
19 copper pairs are available, BellSouth will "roll" the unbundled loop to a
20 physical copper pair. Available facilities are those that are generally available
21 for use rather than those specifically placed there for other reasons. Such cases
22 could include but are not limited to the following: Unloaded pairs in a loaded
23 area reserved for digital services, or limited physical pairs placed in a Carrier
24 Serving Area (CSA) for services that cannot be integrated.

25

1 Alternative 2: In the case of Next Generation Digital Loop Carrier (NGDLC)
2 systems, "groom" the integrated loops to form a virtual Remote Terminal (RT)
3 set up for universal service. In this context, "groom" means to assign certain
4 loops (in the input stage of the NGDLC) in such a way that discrete
5 combinations of multiplexed loops may be assigned to transmission facilities
6 (in the output stage of the NGDLC).

7
8 This is a technically feasible alternative in cases where NGDLC facilities are
9 available. Both of the NGDLC systems currently approved for use in the
10 BellSouth network have "grooming" capabilities. However, the availability of
11 this option is limited. Given that NGDLC is still a relatively new technical
12 capability, currently there is an insufficient amount of NGDLC in the
13 BellSouth network to meet ACSI's total demand. Availability will be limited
14 due to the fact that the universal portion of a NGDLC system is sized only for
15 those special service circuits that cannot be integrated that were forecast for a
16 given site. This option is available only where fully approved NGDLC systems
17 are operating. As in the case of Alternative 1 described above, available
18 facilities are those that are generally spare and available for use rather than
19 those specifically placed there to meet other specific needs.

20

21 Q. WITH RESPECT TO THE UNBUNDLED LOOPS ACSI HAS
22 REQUESTED, WHAT DOES BELLSOUTH PROPOSE AS THE
23 APPROPRIATE UNBUNDLED LOOP?

24

25 A. BellSouth proposes the currently tariffed special access line as the appropriate

1 unbundled loop. Unbundled loop facilities do not terminate at the BellSouth
2 switch. Rather, they are provisioned and maintained in a manner that is more
3 analogous to a Special Access dedicated line than to a regular switched
4 exchange line. As far as BellSouth's network is concerned, these are non-
5 switched facilities. In addition, companies such as ACSI have indicated the
6 desire for a detailed record of each circuit used as an unbundled loop.
7 Currently, this record, known as a Design Layout Record (DLR) can only be
8 provided when the loop is provisioned as a special access line and handled
9 through the Carrier Access Billing System (CABS).

10

11 Further, special access or private line facilities such as a 2-wire analog line are
12 used for a variety of purposes, e.g., voice, data and alarm service. While the
13 use of the facility can vary, the actual cost and resulting price would not
14 necessarily vary. This flexibility makes the special access line the appropriate
15 candidate for an unbundled loop.

16

17 Q. HAS ACSI CORRECTLY CHARACTERIZED BELLSOUTH'S POSITION
18 REGARDING PRICING OF THE UNBUNDLED LOOP?

19

20 A. No. In its Petition at page seven, ACSI states that "BellSouth's position during
21 the negotiations was that negotiated rates need not be cost-based." This
22 statement is not at all correct. It has been and continues to be BellSouth's
23 position that its proposed loop rates are cost-based and meet the pricing
24 standards of the Telecommunications Act of 1996 (the "Act"). What appears
25 to be in dispute is exactly what one means by cost-based. BellSouth derives its

1 definition of cost-based interconnection and network elements directly from
2 Section 252(d)(1) of the Act dealing with the pricing standards for
3 interconnection and network elements which states that the rates shall be just
4 and reasonable and:

5

6 “(A) shall be --

7 “(i) based on the cost (determined without reference to a
8 rate-of-return or other rate-based proceeding) of providing
9 the interconnection or network element (whichever is
10 applicable), and

11 “(ii) nondiscriminatory, and

12 “(B) may include a reasonable profit.”

13

14 BellSouth’s proposed rates cover incremental costs, provide a minimal
15 contribution to shared and common costs, and are nondiscriminatory. These
16 same rates are available to other providers who request these unbundled
17 elements.

18

19 Q. WHAT PRICES DOES BELLSOUTH PROPOSE FOR ITS UNBUNDLED
20 LOOPS?

21

22 A. BellSouth proposes the rates listed below for the 2-wire and 4-wire analog and
23 2-wire ISDN unbundled loops requested by ACSI. As stated, the ADSL and
24 HDSL specifications have not yet been fully determined, therefore, cost studies
25 and prices for these unbundled loops are not yet available.

Loop	Recurring Price	Nonrecurring Price
2-wire analog voice grade loop	\$17.00 per mo.	\$140.00 (1st) 45.00 (add'l)
4-wire analog voice grade loop	\$31.90 per mo.	\$140.00 (1st) 45.00 (add'l)
2-wire ISDN digital grade loop	\$43.00 per mo.	\$360.00 (1st) 325.00 (add'l)

10 Q. WHY ARE BELLSOUTH'S PROPOSED RATES APPROPRIATE?

12 A. BellSouth proposed the tariffed special access line rates for the 2-wire voice
 13 grade analog loop in the unbundling Docket No. 950984-TP. The Commission
 14 established the recurring rate for this unbundled loop at \$17.00. Therefore,
 15 BellSouth has proposed and offered this \$17.00 rate to ACSI. This rate covers
 16 the incremental cost of providing the 2-wire voice grade analog loop, as well as
 17 some contribution to shared and common costs. This rate is below the special
 18 access rate and has been negotiated and agreed to by such local competitors as
 19 Intermedia Communications, Inc., and Teleport Communications Group.

21 BellSouth proposes using the existing tariffed recurring special access rates for
 22 the unbundled 4-wire voice grade analog loop. BellSouth filed cost studies for
 23 these unbundled loops on May 28, 1996 and filed updated cost studies on
 24 August 12, 1996. The proposed rates cover the cost of the loops and provide a
 25 minimal amount of contribution to shared and common costs.

1

2 BellSouth does not currently offer a service comparable to the requested
3 unbundled 2-wire ISDN loop. BellSouth provided a cost study for the 2-wire
4 ISDN loop at the same time it provided studies for the 2-wire and 4-wire
5 analog loops. The proposed rate covers the cost of this service and provides
6 some contribution to shared and common costs.

7

8 Q. YOU HAVE STATED THAT BELLSOUTH'S PROPOSED PRICES MEET
9 THE STANDARDS OF THE ACT. DO BELLSOUTH'S PROPOSED
10 PRICES ALSO MEET THE STANDARDS OF THE FLORIDA STATUTES?

11

12 A. Yes. The above proposed prices cover direct costs as required by Florida
13 Statute 364.051(6)(c). The statute requires that services offered to consumers
14 cover their direct costs. To the extent that such rates must cover costs for
15 services offered to consumers, the same standard should be applied to
16 unbundled network elements which will eventually be sold to consumers.
17 Further, Florida Statute 364.161(1) states that local exchange companies are
18 not required to offer unbundled services, network features, functions or
19 capabilities or unbundled loops at prices that are below cost.

20

21 Q. WHAT IS BELLSOUTH'S POSITION REGARDING THE LOOP PRICES
22 PROPOSED BY ACSI IN EXHIBIT "H" ATTACHED TO ITS PETITION?

23

24 A. First, ACSI proposes interim rates using the Hatfield Model as the basis for
25 establishing the total element long run incremental cost (TELRIC) for an

1 unbundled loop. TELRIC, a concept introduced in the FCC's August 8, 1996
2 Order, will be discussed later in this testimony. The Hatfield Model is not an
3 appropriate model even as a surrogate for TELRIC or any other type of actual
4 cost methodology. Attached to my testimony as Exhibit RCS-1 are BellSouth's
5 Comments in FCC Docket No. 96-45 which provide an analysis of the Hatfield
6 Model and the Benchmark Cost Model and demonstrate that neither model is
7 appropriate as a surrogate for actual unbundled loop costs. In addition,
8 BellSouth witness Dr. Richard Emmerson discusses these cost models in his
9 testimony filed in this proceeding.

10

11 Second, ACSI fails to recognize variances in the costs and the resulting prices
12 of different kinds of loops. ACSI proposes to price 2-wire and 4-wire analog,
13 ISDN, ADSL and HDSL loops at the same rate, an unbelievable \$9.11 per
14 loop. BellSouth's cost studies, however, for such elements as the 2-wire and 4-
15 wire analog loops, show that costs vary depending on the type of loop
16 provisioned. The prices resulting from these cost studies also reflect these
17 differences. What is particularly surprising about ACSI's position is that Mr.
18 Robertson's testimony strongly demonstrates that these loops are different.
19 Mr. Robertson explains that ACSI requires the 4-wire analog, 2-wire ISDN,
20 ADSL and HDSL compatible loops because they meet the needs of more
21 sophisticated end users that require advanced technology. These loops are
22 indeed more sophisticated and require more involved provisioning than a
23 standard 2-wire voice grade analog loop. Their costs and prices, therefore,
24 reflect these differences.

25

1 Third, ACSI proposes deaveraged pricing of unbundled loops. This has very
2 serious implications that are well beyond the scope of this proceeding. It is
3 inconsistent with the existing pricing practices for retail rates for local
4 exchange service established by this Commission. The present rate structure in
5 Florida incorporates long standing policies of intentionally pricing some
6 services markedly above incremental costs in order to price other services at or
7 below cost. Further, basic local exchange rates have been based on statewide
8 average rates according to the number of lines in a particular exchange -- the
9 greater the number of lines in an exchange, the higher the price. As a result of
10 these two policies, Florida currently has some of the lowest residential rates in
11 the nation, around \$9 per month.

12

13 Unbundled loops are the primary component of basic local exchange service.
14 Pricing these loops based on density and usage would be contrary to the
15 pricing practices for basic local exchange service. While BellSouth believes
16 that rate rebalancing and economic pricing should be implemented for all
17 services in the long run, the Commission should not require such pricing of
18 unbundled loops until such time as the Commission provides for the pricing of
19 retail services in the same manner.

20

21 Finally, since ACSI did not dispute the charges proposed by BellSouth as
22 outlined in ACSI's Exhibit "I" relating to fixed and mileage sensitive
23 interoffice channel charges, BellSouth assumes that ACSI accepts these
24 charges as proposed.

25

1 Q. ON AUGUST 8, 1996, THE FCC RELEASED ITS FIRST REPORT AND
2 ORDER IN DOCKET NO. 96-98. WHAT IS BELLSOUTH'S POSITION
3 ON THE ORDER AS IT RELATES TO THE ISSUES IN THIS CASE?
4

5 BellSouth strongly disagrees with specific aspects of the FCC's Order. In fact,
6 BellSouth filed its Notice of Appeal with the Court on September 6, 1996. It is
7 BellSouth's expectation that soon several other interested parties will either file
8 court appeals or Petitions for Reconsideration with the FCC. BellSouth
9 understands that GTE and Southern New England Telephone filed for a stay of
10 the Order on August, 28, 1996, and the National Association of Regulatory
11 Utility Commissioners (NARUC) filed its appeal with the Court also on
12 August 28, 1996.
13

14 Specifically, BellSouth disagrees with the FCC's proposed pricing requirement
15 that unbundled elements be priced equal to TELRIC. Rather, prices should
16 reflect costs, contribution to joint and common costs, plus a reasonable profit.
17 Assuming that the FCC's decision is upheld and implemented, however, its
18 methodology allows for the recovery of joint and common costs plus other
19 changes in methodology which would increase, not decrease, the level of cost
20 as compared to a LRIC or total service long run incremental cost (TSLRIC)
21 study. The Company has conducted and filed with this Commission multiple
22 LRIC and TSLRIC studies for unbundled elements requested by local
23 providers. As Ms. Caldwell states in her testimony, BellSouth is currently
24 developing the methodology to support a TELRIC study.
25

1 For illustrative purposes only, BellSouth has prepared under proprietary
2 protection a comparison of its LRIC results, hypothetical TELRIC results
3 reflecting joint and common costs, BellSouth's prices for unbundled loops and
4 loop channelization, and ACSI's proposed prices for unbundled loops. This
5 comparison is attached as Exhibit No. RCS-2. The point of this comparison is
6 to illustrate that a TELRIC study would yield higher costs than a
7 TSLRIC/LRIC study and that BellSouth's proposed prices are reasonable and
8 may not be high enough based on this comparison. In contrast, ACSI's
9 proposed prices do not even cover LRIC, much less the increased level of a
10 TELRIC study. BellSouth's proposed prices cover LRIC plus a contribution to
11 joint and common costs. These prices reflect a more reasonable level than
12 ACSI's proposed interim prices. Therefore, BellSouth recommends the
13 Commission set interim rates based on the previously submitted
14 LRIC/TSLRIC studies and subsequently amend those rates for any changes
15 that result from TELRIC studies when completed.

16
17 Q. HOW DO BELLSOUTH'S PROPOSED PRICES COMPARE TO THE
18 FCC'S PROXY LEVEL PRICES?

19

20 A. BellSouth's proposed prices are reasonable because they are based on the
21 actual costs of providing service in Florida. The FCC's proxy level of an
22 average rate of \$13.68 for an unbundled loop in Florida is unreasonable
23 because there is no relationship between the proxy rate and the actual cost of
24 providing the unbundled loop in Florida. This proxy rate is lower than the
25 LRIC results that the Commission used to determine its \$17.00 price for the

1 two-wire local loop. Again, assuming logically that the addition of joint and
2 common costs recommended by the FCC for a TELRIC study would increase
3 rather than decrease the level of costs, BellSouth's proposed rates and LRIC
4 studies provide a much more reasonable approximation of costs than do the
5 FCC's proposed proxy rates or ACSI's proposed rates. Therefore, BellSouth
6 recommends that the Commission adopt its proposed prices. BellSouth,
7 however, is investigating a method by which rates could be deaveraged should
8 the FCC's Order stand as written. In this case, the situation involving the
9 current social pricing concept for basic local exchange service discussed earlier
10 must be addressed.

11

12 Q. PLEASE RESPOND TO ACSI'S SUGGESTION THAT AN APPROPRIATE
13 MARK-UP TO RECOVER JOINT AND COMMON COSTS SHOULD BE
14 THE SAME AS LEC COMPETITIVE SERVICES SUCH AS CENTREX.

15

16 A. ACSI seems to be confusing two distinct concepts. The FCC has developed a
17 cost formula consisting of incremental costs plus a share of joint and common
18 costs to be used to price services that the FCC perceives are not competitive. If
19 a service is competitive, then market pricing is appropriate. Therefore, ACSI is
20 attempting to apply a market-based pricing formula for competitive services to
21 services that the FCC has indicated are not competitive. BellSouth does not
22 believe it is appropriate to mix these concepts, and therefore, does not agree
23 that the pricing methodology used for services such as Centrex should apply to
24 elements such as the unbundled loop.

25

1 Q. MR. ROBERTSON, ON PAGE 18 OF HIS TESTIMONY, INDICATES
2 THAT BELLSOUTH'S PROPOSED NONRECURRING RATES FOR
3 UNBUNDLED LOOPS ARE EXCESSIVE. IN YOUR OPINION, ARE
4 BELLSOUTH'S NONRECURRING CHARGES FOR UNBUNDLED
5 LOOPS APPROPRIATE?

6

7 A. Yes. The nonrecurring rates for each unbundled loop are based on the cost to
8 provision and install that particular loop. The nonrecurring rates BellSouth
9 charges are only slightly above the cost to initiate the service. The cost studies
10 attached to Ms. Caldwell's testimony demonstrate that nonrecurring prices are
11 reasonable based on the Company's actually incurred costs.

12

13 **Price For Loop Cross-Connect**

14

15 Q. IN ITS PETITION (PAGE 4) AND ITS EXHIBIT "H", ACSI MENTIONS
16 THE LOOP CROSS-CONNECT AND SUGGESTS IT SHOULD BE
17 PRICED AT TELRIC. WHAT IS BELLSOUTH'S POSITION ON THE
18 PROVISION AND PRICE OF THE LOOP CROSS-CONNECT?

19

20 A. Typically, an end user's line is connected to a BellSouth central office switch.
21 In a competitive environment, however, the loop cross-connect will be used to
22 link the unbundled loop once it enters the central office with the new entrant's
23 collocated space. BellSouth agrees that a loop cross-connect is a necessary
24 element in order to properly hand-off an unbundled loop to a new entrant.
25 Because this is a new unbundled element, cost studies and associated prices are

1 not yet available. BellSouth intends to produce an incremental cost study that
2 reflects an appropriate share of joint and common costs. A reasonable profit
3 may be added to the resulting cost in order to set an appropriate price.

4

5 **Loop Channelization**

6

7 Q. WHAT IS BELLSOUTH'S POSITION REGARDING LOOP
8 CHANNELIZATION?

9

10 A. BellSouth is uncertain as to ACSI's request for channelization. If ACSI is
11 proposing that the loop channelization that occurs in the Remote Terminal be
12 included in the loop rate, BellSouth agrees. If, however, ACSI is proposing
13 that any channelization (also referred to as multiplexing or concentration) that
14 occurs in the central office, in the hand-off of unbundled loops to ACSI be
15 included in the loop rate, BellSouth absolutely disagrees with such a proposal.

16

17 Loop channelization in the central office is not a function that BellSouth
18 provides today within its central offices. It represents a new capability that
19 BellSouth would be required to purchase solely for the use of ACSI. It is this
20 function of channelization that ACSI appears to expect BellSouth to provide at
21 no additional cost to ACSI. There are, however, substantial costs for providing
22 such a service and those costs are reflected in the rates ACSI has correctly
23 included in its Exhibit "I". Those rates are \$555.00 per month and \$490.00 for
24 system installation, and \$1.70 per month per circuit with installation on each
25 circuit of \$7.00. Should ACSI find BellSouth's rates for loop channelization

1 unacceptable, ACSI could purchase and install its own channelization
2 equipment within its collocated space to provide the desired function.

3

4 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

5

6 A. ACSI has requested that the Commission arbitrate the prices for unbundled
7 loops, the price of an unbundled loop cross-connect and the price of loop
8 channelization. BellSouth believes that special access lines are the appropriate
9 facilities to provide the unbundled analog loops requested by ACSI. BellSouth
10 also believes its proposed rates for the 2-wire analog, 4-wire analog and 2-wire
11 ISDN loops are reasonable, are cost-based and meet the pricing requirements
12 of the Act. Once TELRIC studies are complete, they should reflect a higher
13 cost than BellSouth's LRIC study results. Further, BellSouth disagrees with
14 the pricing methodology and proxy rates put forth by the FCC in its recent
15 Order and disagrees with ACSI's proposed interim rates. BellSouth requests
16 the Commission approve, instead, its proposed rates on an interim basis until
17 TELRIC studies are available.

18

19 BellSouth is developing a cost study for the loop cross-connect element and
20 will propose a rate upon completion of the study. Finally, BellSouth requests
21 the Commission approve its rates for loop channelization as proposed.

22

23 Q. DOES THIS COMPLETE YOUR TESTIMONY?

24

25 A. Yes.

1 **BELLSOUTH TELECOMMUNICATIONS, INC.**
2 **REBUTTAL TESTIMONY OF ROBERT C. SCHEYE**
3 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**
4 **DOCKET NO. 960916-TP**
5 **SEPTEMBER 16, 1996**

6
7 Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION WITH
8 BELLSOUTH TELECOMMUNICATIONS, INC. (HEREINAFTER
9 REFERRED TO AS "BELLSOUTH" OR "THE COMPANY").

10
11 A. My name is Robert C. Scheye and I am employed by BellSouth as a Senior
12 Director in Strategic Management. My business address is 675 West
13 Peachtree Street, Atlanta, Georgia 30375.

14
15 Q. HAVE YOU FILED DIRECT TESTIMONY IN THIS DOCKET.

16
17 A. Yes. I filed direct testimony on behalf of BellSouth on September 9, 1996.

18
19 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

20
21 A. ACSI filed its petition on August 13, 1996. On that same date, ACSI filed
22 testimony of Richard Robertson, William Stipe and Dr. Marvin Kahn. On
23 September 9, ACSI provided reformatted testimony of these same witnesses
24 and supplemental testimony from Dr. Kahn. The purpose of my testimony is
25 to rebut and provide comments on specific positions taken by these witnesses

1 regarding the pricing and provisioning of unbundled loops. Since ACSI's
2 positions were articulated in its petition, I have already provided BellSouth's
3 positions on these issues in my direct testimony filed September 9, 1996.
4 Any references used in my testimony today will refer to page numbers in
5 ACSI's September 9 reformatted testimony.

6

7 Q. ON PAGE 5, MR. STIPE STATES THAT THE USE OF DIGITAL LOOP
8 CARRIER (DLC) IS NOT DRIVEN BY THE NEED TO PROVIDE
9 DIGITAL CAPABILITY BUT BY THE ECONOMIC TRADE OFF OF
10 EXPANDING COPPER LOOP FACILITIES AND SUPPORTING
11 STRUCTURE VERSUS THE COST OF THE DLC. IS THAT CORRECT?

12

13 A. Yes. BellSouth uses either copper facilities or DLC based on which is most
14 cost effective. Once copper loops extend beyond 12 kilofeet, it is generally
15 more cost effective for voice grade loops to use DLC. Using the most cost
16 effective technology benefits customers, including ACSI, because the cost of
17 the service will be lower than if BellSouth were required to use only one
18 facility or the other.

19

20 Q. MR. STIPE CLAIMS THAT BELLSOUTH HAS PRICED ITS
21 UNBUNDLED LOOP AS A DIGITAL SERVICE WHILE IT USES
22 ANALOG COPPER VOICE GRADE PAIRS TO PROVIDE ITS OWN
23 LOOP SERVICES. WHAT IS YOUR RESPONSE?

24

25

1 A. BellSouth uses both DLC and copper facilities to serve its own residential
2 and business customers. Once again, it depends on which facility is the most
3 cost effective depending on the distance from the switching office. Contrary
4 to Mr. Stipe's assertion, about 40% of BST loops are served by DLC and
5 arrive at a switch at the DSO or DS1 level. As Ms. Caldwell has provided in
6 her testimony, the cost studies reflect the forward looking costs and
7 assumptions using a combination of these facilities. BellSouth's proposed
8 recurring monthly price reflects the costs for providing the loops over a
9 combination of these facilities. Once again, if BellSouth were to utilize only
10 copper facilities in all circumstances, then the costs of an unbundled loop
11 would be higher, not lower, and subsequently the price would be higher.

12

13 Q. ON PAGE 15, MR. ROBERTSON STATES THAT BELLSOUTH HAS
14 TREATED UNBUNDLED LOOPS AS SPECIAL ACCESS AND PRICED
15 IT IN THE SAME FASHION. DO YOU AGREE?

16

17 A. Yes, in some respects. BellSouth has proposed prices for the recurring and
18 non-recurring charges of the loops to cover the LRIC costs, some
19 contribution to shared and common costs, plus a reasonable profit.
20 BellSouth filed both recurring and non-recurring cost studies for the various
21 types of loops requested by MFS in Docket No. 950984 on May 29, 1996.
22 BellSouth filed updated cost studies on August 12, 1996 in its arbitration
23 case with AT&T and has filed these updated costs in this case. These
24 recurring costs reflect the costs of providing an unbundled loop based on the
25 requested characteristics -- 2-wire analog, 4-wire analog, 2-wire ISDN

1 digital, etc. Ms. Caldwell describes the functions and costs associated with
2 each of these unbundled loops in her direct testimony.

3

4 In BellSouth's opinion, the price for an unbundled network element that is
5 already provided on an unbundled basis should be similar to the existing
6 tariffed price if the costs are similar. Otherwise, tariff shopping would occur.

7 The recurring costs for an unbundled loop are similar to the costs of the
8 equivalent special access service. Therefore, we have proposed a similar rate
9 for the equivalent unbundled loops. However, as stated in my direct
10 testimony, we are proposing the Commission approved \$17.00 rate for the
11 two wire voice grade analog. This rate is below the similar special access
12 rate of \$21.15 and has been negotiated and agreed to by such local
13 competitors as Intermedia Communications, Inc.

14

15 BellSouth currently offers the equivalent 4-wire voice grade analog loops as
16 a special access service. Based on the recurring costs of the unbundled loops
17 for the similar functionalities that ACSI has requested, the existing recurring
18 rate of the equivalent special access rate is appropriate for the 4-wire
19 unbundled loop. There is no equivalent unbundled loop service for the 2-
20 wire ISDN loop requested. Therefore, the proposed price cannot be
21 compared to a special access service.

22

23 BellSouth is proposing different non-recurring rates for the requested
24 unbundled loop than the existing non-recurring rates for the similar special
25 access services to more closely align with costs as reflected in the August

1 1996 cost studies. The proposed non-recurring rate of \$140 for the first loop
2 and \$45 for each additional is significantly lower than the non-recurring rate
3 for the similar 2-wire and 4-wire analog loops.

4

5 Q. MR. ROBERTSON STATES THAT THE NON-RECURRING CHARGE
6 FOR THE UNBUNDLED LOOP SHOULD BE NO HIGHER THAN THE
7 NON-RECURRING RATE FOR A BUSINESS EXCHANGE SERVICE.
8 WHAT IS YOUR RESPONSE?

9

10 A. The non-recurring charge for the unbundled loop should be higher than the
11 non-recurring business rate because the costs are higher to provide an
12 unbundled loop. For example, it is BellSouth's understanding that local
13 service providers, such as ACSI, have requested that a Design Layout
14 Record (DLR) be furnished with each unbundled loop which describes the
15 transmission characteristics of that loop. A DLR for an individual loop is not
16 created when BellSouth provides bundled local exchange service. Rather,
17 BellSouth designs and engineers major sections of the outside plant facilities
18 serving a given end office rather than designing and engineering each
19 individual loop. These major designs may include 10,000 individual loops of
20 various lengths, distribution facilities and other factors which affect the
21 transmission qualities. Thus, if ACSI were to call and request that a
22 customer of our bundled local exchange service be converted to an
23 unbundled loop there would be no associated DLR with that line number or
24 loop. A DLR would need to be researched, created and assigned to that loop.
25 The costs to create a DLR for an existing loop used with a bundled local

1 exchange service are similar to the costs to provide a DLR for a new circuit,
2 such as in special access. Therefore, the costs reflect the additional functions
3 required in providing an unbundled loop. Consequently, the proposed non-
4 recurring price is higher than the rate charged for bundled local exchange but
5 is lower, as already stated, than the non-recurring rate for special access.

6

7 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

8

9 A. Yes.

10

11

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25

1 Q (By Ms. White) Now, in connection with your
2 testimony in the AT&T docket, 960833, did you file two
3 exhibits with your direct testimony and three exhibits
4 with your rebuttal testimony --

5 A Yes, I did.

6 Q -- labeled --

7 A Excuse me.

8 Q Sorry. Labeled RCS-1 through 5?

9 A Yes.

10 Q And were those -- do you have any substantive
11 changes to those exhibits?

12 A I do not.

13 MS. WHITE: I would like to have those exhibits
14 marked as identification -- for identification.

15 CHAIRMAN CLARK: Ms. White, I would prefer to
16 mark as an exhibit, a separate exhibit that -- the one
17 attached to the direct and have the rebuttal as separate,
18 too.

19 MS. WHITE: Okay. That's fine. RCS-1 through
20 2 are the Exhibits to Mr. Scheye's direct testimony in
21 the AT&T docket.

22 CHAIRMAN CLARK: 1 and 2?

23 MS. WHITE: That's correct.

24 CHAIRMAN CLARK: All right. That's Exhibit 46.
25 (Exhibit No. 46 marked for identification.)

1 MS. WHITE: Okay. RCS-3, RCS-4 and RCS-5 are
2 Mr. Scheye's exhibits to his rebuttal testimony in the
3 AT&T docket.

4 CHAIRMAN CLARK: That will be Exhibit 47.

5 (Exhibit No. 47 marked for identification.)

6 Q (By Ms. White) Mr. Scheye, did you prepare
7 Exhibit RCS-1 attached to your direct testimony in the
8 MCI docket, 960846?

9 A Yes, I did.

10 Q Do you have any changes to that exhibit?

11 A I do not.

12 MS. WHITE: I'd like to have that exhibit
13 marked for identification.

14 CHAIRMAN CLARK: Okay. RCS-1 attached to the
15 direct testimony in the MCI docket, which is 960846, will
16 be Exhibit 48.

17 (Exhibit No. 48 marked for identification.)

18 Q (By Ms. White) Okay. And Mr. Scheye, you did
19 not have any exhibits attached to your rebuttal testimony
20 in the MCI docket, did you?

21 A I did not.

22 Q Okay. Now, with regard to your ACSI testimony,
23 did you have two exhibits attached to that testimony
24 labeled RCS-1 and RCS-2?

25 A Yes.

1 Q Do you have any changes to those exhibits?

2 A I do not.

3 MS. WHITE: I'd like to have those exhibits
4 attached -- marked for identification, rather.

5 CHAIRMAN CLARK: I'm sorry, Ms. White. Are
6 those attached to his direct testimony?

7 MS. WHITE: His direct testimony in the ACSI
8 docket, that's 960916.

9 CHAIRMAN CLARK: That will be marked as Exhibit
10 49.

11 (Exhibit No. 49 marked for identification.)

12 Q (By Ms. White) And, Mr. Scheye, did you have
13 any exhibits attached to your rebuttal testimony in the
14 ACSI docket?

15 A I did not.

16 Q Would you please give a summary of your
17 testimony?

18 A Yes, thank you.

19 Good evening. We're here this evening with
20 BellSouth having partial agreements with two participants
21 in this case, ACSI and MCI, and no negotiated agreement
22 with AT&T. Therefore, there are several issues still
23 open that must be arbitrated. Certainly this evening I
24 will not try to cover in my summary each one of those
25 items, but rather attempt to highlight a few of those

1 items to provide BellSouth's perspective to the overall
2 belief on how competition should evolve in the state of
3 Florida.

4 The first issue I'd like to cover is unbundling,
5 and fundamentally BellSouth has proposed a series of
6 rates for unbundled elements that we believe are, one,
7 consistent with the Telecom Act of 1996, and, two, if
8 this Commission chooses to use TELRIC-based pricing from
9 the FCC order, are consistent with the FCC requirements.
10 We believe we have the only studies on record that
11 adequately cover both the Telecom Act and the FCC order,
12 and we would propose that our rates be accepted as the
13 appropriate rates for the various unbundled elements.

14 Indeed, these rates also should be substituted
15 for any proxy rates that the FCC order may have
16 contained since we have filed either TELRIC rates or
17 TELRIC approximations, which we feel are adequate.

18 In another area of unbundling, Mr. Varner
19 touched on a very significant item which we call
20 recombination or rebundling. Basically what BellSouth is
21 proposing is that if a carrier takes unbundled elements,
22 creates a functional equivalent of a local exchange line
23 or service, that basically the resold rates should apply
24 to that and, significantly, the same terms and conditions
25 should apply that would apply to resale.

1 For two of the parties in this case, AT&T and
2 MCI, that would mean that the joint marketing restriction
3 from the Telecom Act would apply to their rebundling of
4 those services just like the joint marketing restriction
5 applies to resale. This is an exceedingly significant
6 item. Mr. Varner indicated to you what the impacts can
7 be, and certainly I will be able to discuss that later,
8 but those are two of the very significant items related
9 to unbundling that we believe this Commission should
10 adopt our proposals on.

11 Third in the area of both unbundling and resale
12 is the issue of selective routing. There's a lot of
13 discussion about what is technically feasible and what is
14 not technically feasible. Let me suggest that what
15 BellSouth is recommending is a very limited, technically
16 infeasible item in which case we cannot route a call
17 dialed with the identical digits, in other words, a zero
18 or a 411, to any other position other than our own
19 operator or directory assistance operator. We can and do
20 route zero-zero calls or other dialed digit calls to
21 carriers, operators or directory assistance as they
22 require, and we believe that what we're proposing is --
23 will certainly accommodate competition in the state of
24 Florida.

25 Secondly, what we cannot do, which is not

1 technically feasible, is a very limited restriction. It
2 will in no way in our mind curtail competition since the
3 parties here -- certainly AT&T and MCI both already have
4 operators. Their customers are already accustomed to
5 dialing zero-zero, and when intraLATA presubscription
6 fully implements in the state of Florida, zero-plus calls
7 that are dialed with a zero will also go to the end
8 user's carrier of choice, which could be AT&T or MCI.

9 In the area of resale, I won't delve into
10 avoided cost discounts. Mr. Reid will do that in his
11 testimony. However, there are two other items that are
12 significant in the area of resale. First, BellSouth is
13 proposing that a select few services not be available for
14 resale, such services as grandfathered services which we
15 no longer offer to customers, services that are basically
16 subsidized, like Life-Line link-up services. Basically
17 BellSouth must get money from interstate pools for that,
18 and essentially for certain portions of that must
19 effectively absorb the losses.

20 Similarly, a service line 911 should not be
21 available for resale because it is basically not a full
22 retail service.

23 Another very significant item related to resale
24 is the term -- are the terms and conditions that should
25 apply when a service is resold. BellSouth's proposal is

1 fairly straightforward. The same terms and conditions
2 should apply for a resold line as it does on a retail
3 basis.

4 What does that mean? Basically today a
5 residence customer buys residence service, a business
6 customer buys business service. We believe those types
7 of terms and conditions should also apply in a resale
8 environment. The one way to view that very simply is if
9 we took BellSouth's current retail service tariffs,
10 simply said they're available for resale and applied the
11 avoided cost standard, we would then apply the same terms
12 and conditions on a resale basis as we do on a retail
13 basis, and that's basically BellSouth's proposal.

14 The third area, which is limited in this
15 proceeding only to AT&T, are the rates for
16 interconnection. Basically interconnection is the means
17 by which a facility-based carrier, having its own switch,
18 will interconnect with BellSouth and vice versa.

19 BellSouth's proposal is fairly straightforward
20 in that area as well. Simply put, we would like to use
21 the traffic-sensitive or switched access traffic-
22 sensitive rates for interconnection just in the same
23 manner as we do for switched access. The reason for that
24 is, again, fairly straightforward. It is the same basic
25 elements for our network that are used. It is the same

1 technical configurations that are used, and, in essence,
2 it's the exact same agreement that BellSouth and MCI have
3 reached in their partial agreement that the rates for
4 interconnection are based on the traffic-sensitive
5 switched access rates.

6 In summary, let me suggest that BellSouth
7 believes it has put forth a balanced approach to resale
8 and facility-based competition. It is in full
9 conformance with the Telecom Act. Unfortunately, the FCC
10 order which is currently under stay has made it more
11 difficult for us to fully implement all our proposals and
12 it certainly has complicated the issues. A simple way to
13 view that complication is the recent announcement by
14 Time-Warner to revisit or rethink its plans to adopt
15 facility-based services in the state of Florida and in
16 the state of North Carolina, amongst others. One of the
17 items cited by Time-Warner is the FCC order and some of
18 the confusion that that has caused in trying to determine
19 how one might enter this market.

20 Hopefully, the FCC order will be reconsidered or
21 appealed and some of the rules changed. Further, we hope
22 that our balanced approach will be adopted, and we're
23 confident because it is basically very similar to the
24 approach that we've taken with at least 20 other carriers
25 to implement full and fair competition in the state of

1 Florida.

2 Thank you very much, and that concludes my
3 summary.

4 MS. WHITE: Madam Chairman, before I offer Mr.
5 Scheye for cross-examination, I'm very sorry to say that
6 there was an exhibit that did not get in. It was RCS-6.
7 It was attached to Mr. Scheye's rebuttal testimony in the
8 AT&T docket, 960833. It was a proprietary exhibit, and I
9 guess that's why I overlooked it, but no excuse.

10 I would like to add that to Exhibit 47, which
11 are the exhibits to Mr. Scheye's AT&T rebuttal testimony.

12 CHAIRMAN CLARK: Let the record reflect that
13 Exhibit 47 will include RCS-6.

14 MS. WHITE: Thank you very much.

15 Mr. Scheye is available for cross-examination.

16 CHAIRMAN CLARK: Mr. Melson?

17 MR. MELSON: Chairman Clark, we'd like to defer
18 to AT&T and let them go first. We think that might save
19 some time, ultimately.

20 CHAIRMAN CLARK: That's fine. Is that you, Mr.
21 Hoe?

22 MR. HOE: It is, Madam Chairman.

23 CHAIRMAN CLARK: Go ahead.

24 CROSS-EXAMINATION

25 BY MR. HOE:

1 Q Thank you, and good evening. My name is Sandy
2 Hoe, as I mentioned before, on behalf of AT&T, and good
3 evening, Mr. Scheye.

4 A Good evening.

5 Q Let me just start with a general question and a
6 proposition. I think I know the answer, but does
7 BellSouth favor competition in the local Florida market?

8 A BellSouth favors full and fair competition in
9 the state of Florida and our other eight states as well,
10 sir.

11 Q Do you believe that BellSouth, as the incumbent,
12 comes into this competitive market with certain
13 advantages?

14 A I believe BellSouth comes -- enters this arena
15 with certain advantages and some disadvantages. By
16 comparison to history in the interexchange market where
17 competition began, I would say that to the extent that
18 BellSouth has advantages, they are more than offset by
19 the disadvantages.

20 By comparison, when MCI, for example, entered
21 the market against AT&T, they were much more
22 significantly disadvantaged than, for example, the
23 situation is today.

24 Q Well, let's focus on the advantages, and we can
25 argue later about whether the disadvantages outweigh the

1 advantages.

2 Are you familiar with a study done by an
3 organization which is part of BellSouth, called BellSouth
4 Europe --

5 A Yes, sir.

6 Q -- involving the liberalization of the
7 telecommunications industry in Europe?

8 A Yes, sir. I'm familiar with the paper.

9 Q Okay. I'd like to just pass that out and mark
10 that as an exhibit for identification.

11 A I still may have my North Carolina copy.

12 CHAIRMAN CLARK: Mr. Hoe, we'll identify the
13 document you've just passed out, entitled "BellSouth
14 Europe," as Exhibit 50.

15 MR. HOE: Thank you, Madam Chair.

16 (Exhibit No. 50 marked for identification.)

17 Q (By Mr. Hoe) Mr. Scheye, I'd like to direct
18 your attention to page 5 of Exhibit 50.

19 A Yes, sir.

20 Q And the very last paragraph, which refers to the
21 incumbent and -- well, let me just state it. The
22 incumbent brings enormous structural advantages to the
23 competition, and then it talks about paid-for
24 infrastructure, name recognition, brand loyalty and
25 several other structural advantages.

1 Do you agree with that statement, that in this
2 -- that in connection with this competition, that
3 BellSouth brings those advantages?

4 A No, sir, I don't, but let me, if I can, go
5 through some of these. I'm just looking at the
6 paragraph. I believe it starts, "The incumbent brings"
7 is the one you referred me to?

8 Q Yes.

9 A Two of the items that stand out here, name
10 recognition, brand loyalty, I think most studies that are
11 done nationwide would indicate that, under name
12 recognition, certainly BellSouth does have a
13 significantly recognized name in the United States.
14 However, typically under name-recognition studies, AT&T
15 has a greater name recognition than BellSouth does
16 typically, and that shouldn't be surprising. The name
17 AT&T's been around now for 100 years or thereabouts.

18 Secondly, customer loyalty, experience in the
19 long distance field has indicated that AT&T, for example,
20 has traditionally kept more customers than they get
21 usage. In other words, a number of customers who are
22 low-use customers stay with AT&T, the inertia factor,
23 which is also cited here. A good example of what has
24 occurred in that arena is several -- I believe a year or
25 so ago, and I may be off with my time -- AT&T determined

1 that it had an inordinate number of business customers
2 who made very little usage. What AT&T then did was to
3 implement a surcharge, a flat rate fee every month to
4 those customers basically to discourage them if you will,
5 or at least to pay the freight, because AT&T incurred
6 some expenses. So both of those are indicative of a
7 situation where BellSouth doesn't have those advantages.
8 In this case, I would say AT&T has those advantages.

9 I will agree with you in that statement,
10 BellSouth certainly does have an infrastructure in the
11 state of Florida. We have built switches. We've built
12 networks, et cetera, in the state of Florida. We will
13 continue to do so, and we hope that the rules that come
14 out of this type of proceeding continue to provide those
15 incentives to us to continue to build those networks.

16 Unfortunately, some of the rules under the FCC
17 order, at least, might discourage some of those
18 incentives, so I do believe we have quite a different
19 circumstance than is cited in this particular paragraph,
20 sir.

21 Q Why don't you tell us what you think are the
22 advantages that BellSouth has in this local competition?

23 A I think basically, as I mentioned, we do have an
24 infrastructure. We are here. We have switches. We have
25 network.

1 We have a lot of obligations that go with that,
2 and there's no doubt we have provided local telephone
3 service for a long time in the state of Florida. We are
4 experienced in providing local telephone service. That
5 certainly will work to our advantage. We have a good
6 reputation, we hope, and we hope to retain that
7 reputation. We provide high quality service and we plan
8 to continue to provide high quality service. All of
9 those items are certainly in our favor. We would hope
10 that they would stay in our favor.

11 Q And that -- the items you've just mentioned
12 certainly would generate customer loyalty, would it not?

13 A It doesn't appear to in all cases. Studies
14 sometimes indicate that customers -- customer loyalty is
15 not always based on what one might expect. As I said,
16 traditionally what we found is that the inertia factor,
17 one of the items you mentioned, does play an effect, and
18 it has certainly played an effect to the advantage of
19 AT&T, and what one might see are customers, for example,
20 maybe less sophisticated than others, who might still
21 believe that BellSouth is part of AT&T, and then when
22 AT&T enters the local market, they may think that
23 they're staying with AT&T by going with AT&T. So I think
24 customer loyalty in this particular case may work to the
25 advantage of AT&T potentially more so than it may work

1 for BellSouth.

2 Q Well, certainly you would agree that customer
3 inertia would favor BellSouth in this coming competition,
4 wouldn't you?

5 A I wish I was as confident of that as you were,
6 sir.

7 Another factor --

8 Q I didn't say I was confident of it. I just
9 asked you the question.

10 A Another factor that one must deal with is that
11 not every customer is a typical customer or an average
12 customer. There are probably no real average customers
13 out there. A small percentage of our customers generate
14 an inordinate percentage of the revenues to this
15 corporation. That's not surprising. That's a fact of
16 life. It has been for years.

17 So the focus of competitors to the extent they
18 want to use -- and I will use an old term in this
19 industry -- cream skim is available to those carriers.
20 The carriers such as AT&T and MCI more so than an ACSI
21 have a great deal of information about those customers
22 and their calling habits. So I think in this case, to
23 the extent that inertia is a factor, I don't think it
24 will be nearly a factor that one might consider let's say
25 in comparison to when MCI tried to gain customers away

1 from AT&T ten or 12 years ago, or longer.

2 Q Now, is BellSouth currently taking steps to
3 position itself for this coming competition?

4 A We're trying, certainly. We're not oblivious to
5 the fact of the Telecom Act passed in February of this
6 year. We have competitors in the state of Florida,
7 facility-based competitors, resellers, both operating.
8 We're interacting with them. So certainly we are.

9 Q And is one of the activities that BellSouth is
10 currently undertaking an aggressive branding or brand-
11 building strategy, do you know?

12 A I'm not familiar with that, sir, if we are.

13 Q Are you aware of any communications by BellSouth
14 to its customers wherein BellSouth is comparing
15 BellSouth's services to the services that potential new
16 entrants might be able to provide?

17 A I'm sorry, any communication?

18 Q Yes.

19 A Could you just repeat the first part of your
20 question?

21 Q Certainly. I asked whether you were aware
22 whether BellSouth is currently communicating with its
23 customers and advising them of comparisons between the
24 BellSouth services and what potential new entrants might
25 by able to offer.

1 A The only awareness I have is from a hearing that
2 you participated in in North Carolina where you mentioned
3 some documents. I have not seen those documents, sir, so
4 my familiarity is from having listened to you discuss
5 them.

6 Q Well, let me ask you, independent of that, and
7 then I'll ask you a few specifics just from your own
8 knowledge. Do you know if in any communications to its
9 current customers that BellSouth is advising those
10 customers that only BellSouth can guarantee that the
11 consumer will have the ease of reaching directory
12 assistance by dialing the familiar 411 number?

13 A Again, sir, I think you mentioned that in North
14 Carolina, and I haven't seen that, so, other than
15 listening to you --

16 Q You don't know that independently of --

17 A No, sir, I do not. I haven't seen the document
18 that you were referring to, so I can't -- I'll accept
19 your word for it, though, since you said it up there.

20 Q I'm just going to ask you a few others --

21 A Certainly.

22 Q -- and if you don't know of your independent
23 knowledge, that's fine.

24 A Okay.

25 Q Are you aware if in any communications BellSouth

1 is telling its consumers that only BellSouth can
2 guarantee that the consumer can reach a repair center
3 using a single call, while with others, several calls
4 might be needed?

5 A If I recall this discussion, I believe the
6 documents you're referring to are indicative of what can
7 happen in the local market. Certainly BellSouth does not
8 control in any way what a competitive carrier will or
9 won't do. In some instances -- I believe repair service,
10 for example, directory assistance service, for example,
11 another entrant may have an entirely different
12 arrangement whereby its customer may or may not be able
13 to get directory assistance, may or may not be able to
14 contact repair. That would be an item between that end
15 user and that carrier, and there's no way we have any say
16 over that. So in theory a carrier could tell its
17 customers that if you have a repair problem, you have to
18 write us or send us a telegram.

19 COMMISSIONER GARCIA: So you're saying that it
20 is the case that BellSouth has a document that says this
21 or is using that as part of the process to sell its
22 services?

23 WITNESS SCHEYE: Sir, I -- Commissioner, in
24 Raleigh, North Carolina, Mr. Hoe referenced a document
25 that I have not seen. So my only experience with the

1 document was having sat in the hearing room and heard
2 about it. I haven't seen it, so I don't know for sure.

3 COMMISSIONER GARCIA: So you were just
4 explaining a document which you've never seen?

5 WITNESS SCHEYE: Yes, sir, I was explaining it,
6 having heard of it from him in North Carolina.

7 MR. HOE: That brings me to a request of the
8 panel. I'm reminded by my esteemed colleagues to the
9 left of the prehearing order suggesting or requesting
10 witnesses to respond to questions yes or no followed by
11 an explanation. I think we've deviated somewhat from
12 that.

13 CHAIRMAN CLARK: Mr. Scheye, would you try to do
14 that? And also, if you don't know, that's okay.

15 WITNESS SCHEYE: Certainly.

16 COMMISSIONER GARCIA: Yes. That's why you
17 confused me, Mr. Scheye. If you don't know of the
18 documents, since he hasn't entered into that discussion
19 that occurred, maybe we'll get through this a little
20 quicker as opposed to speculating.

21 WITNESS SCHEYE: That's fine. Thank you. I'll
22 do that.

23 Q (By Mr. Hoe) Again, from your own personal
24 knowledge, Mr. Scheye, do you know if BellSouth has been
25 communicating with its current customers the message that

1 only BellSouth can guarantee that the consumer will not
2 have to change its existing phone number when it makes a
3 selection of a carrier?

4 A As we've said, I've not seen the documents and I
5 don't know, sir.

6 Q I didn't hear the last part.

7 A I'm sorry, I don't -- since I think you're
8 referring to the same document, I do not know.

9 Q You don't know of your own independent
10 knowledge?

11 A I do not know of my own independent knowledge.

12 Q Then I'll just ask a couple more. Again, just
13 from your own independent knowledge, do you know if
14 BellSouth has been communicating with its customers
15 indicating that if those customers do switch to a new
16 entrant, that BellSouth can switch them back seamlessly
17 or extremely easily?

18 A Again, not from my independent knowledge, sir.

19 Q And do you know from your own independent
20 knowledge whether BellSouth is currently communicating
21 with its consumers and requesting that those consumers
22 report to BellSouth if they have been contacted by a
23 potential new entrant into this competitive market?

24 A Again, the same answer, not to my knowledge.

25 Q And so I take it you don't know of your own

1 independent knowledge whether BellSouth, in connection
2 with a report back of contacts, that -- the request being
3 that the consumer name the party that has contacted them?

4 A I don't know, sir.

5 MR. HOE: Okay. Now, we did look at a document
6 in North Carolina, and I'd like to just introduce that at
7 this time.

8 MS. WHITE: Excuse me. Before you ask any
9 questions, I'd like to have the document in hand. Before
10 you hand it out, sorry.

11 MR. HOE: Was I too quick the last time?

12 CHAIRMAN CLARK: I think, before you give it to
13 the Commissioners, if you would take it over to Ms. White
14 and make sure that we can agree to have it handed out.

15 Ms. White or Mr. Lackey, is there a problem?

16 MR. LACKEY: Well, since I recognize this
17 document and since Mr. Scheye has already said he hasn't
18 seen it, I don't know exactly how Mr. Hoe intends to go
19 anywhere with it. I mean, we just instructed the witness
20 that if he hadn't seen the document, he couldn't talk
21 about it. I don't exactly understand how he intends to
22 authenticate it or get it into the record with this
23 witness.

24 CHAIRMAN CLARK: Well, at this point we'll only
25 identify it. If it can't be authenticated, you can

1 object to it at that point.

2 The document entitled "BellSouth Residential
3 Services" will be marked as Exhibit 51.

4 (Exhibit No. 51 marked for identification.)

5 Q (By Mr. Hoe) Mr. Scheye, do you have the
6 document?

7 A Yes, sir, I do.

8 Q Have you seen this document before?

9 A No, sir, I haven't.

10 Q Did you testify this week, I believe it was
11 earlier this week in North Carolina?

12 A Yes, I did.

13 Q And did you see the document at that time?

14 A No, sir, I didn't.

15 Q Did you discuss with anyone in connection with
16 that proceeding the existence of this document?

17 A Other than what I said, you handed it out to a
18 different witness. You referred to it. I assume this is
19 the document you referred to. That's the extent of my
20 knowledge.

21 Q Do you have any reason to believe that this
22 document is not an authentic document from BellSouth from
23 its Web page?

24 MR. LACKEY: I object to that. He can't ask the
25 witness to speculate about that.

1 MR. HOE: Madam Chair, this document was
2 presented in North Carolina, and I would ask the witness
3 whether he took any steps or discussed with anyone the
4 steps to determine its authenticity. It -- I can
5 represent it comes from BellSouth's Web page, and to that
6 extent I think it's even a business record that's
7 probably appropriate.

8 CHAIRMAN CLARK: Mr. Lackey, would you please
9 state your objection to this -- the questioning on this?

10 MR. LACKEY: Yes, I will.

11 First of all, this is an exhibit that they used
12 with Mr. Varner. I have no desire to keep it from the
13 Commission. I think, though, it's pretty -- I don't know
14 what word I would use. To pass on Mr. Varner, who
15 addressed this document extensively last week, and to sit
16 here and sandbag the next witness with it, who hasn't
17 seen the thing, hasn't discussed it with anybody,
18 apparently, and try to get it into the record and ask him
19 questions about it -- he just passed on a witness that
20 talked about it last week, identified it, went through it
21 with him ad nauseam for four hours -- he didn't go
22 through that for four hours. He went through the -- it
23 seemed like --

24 CHAIRMAN CLARK: Mr. Lackey, what is your
25 objection?

1 MR. LACKEY: He can't authenticate the
2 document. He hasn't seen it.

3 COMMISSIONER GARCIA: Well, to what purpose are
4 we authenticating it? I mean, obviously he can say that
5 he saw it last week.

6 MR. LACKEY: No, he didn't see it last week.
7 That's what he said. That's what the problem was, he
8 didn't see it. He just heard Mr. Hoe talking with Mr.
9 Varner about it.

10 CHAIRMAN CLARK: Well, I guess it's one thing
11 for a document to be authenticated. It's another thing
12 for it to be authenticated and the witness still doesn't
13 know anything about it. I think that's your point. You
14 don't -- apparently you don't believe it can't be
15 authenticated.

16 MR. LACKEY: They said they pulled it off the
17 BellSouth Web page. I'm sure they did.

18 CHAIRMAN CLARK: Well, I'm going to allow the
19 questioning, but again, Mr. Scheye, if you haven't seen
20 it and don't know anything about it, that's a valid
21 answer.

22 MR. HOE: Madam Chair, I might shorten this. I
23 don't intend to ask Mr. Scheye any additional questions
24 in this area. I simply wanted to introduce the document
25 and have it authenticated. I don't think there's any

1 question that it's not a BellSouth document, and if we
2 could just agree to that, then --

3 CHAIRMAN CLARK: I would point out to you, Mr.
4 Hoe, that there are ways to get it authenticated, and
5 through the cross-examination of a witness that can't
6 authenticate it is not one way to do it. You can request
7 a stipulation by the parties.

8 MR. HOE: And I was about to do that. If
9 counsel would stipulate that this is in fact a BellSouth
10 document, we could authenticate it and move on.

11 CHAIRMAN CLARK: We'll leave that pending. You
12 can move on.

13 MR. HOE: Thank you.

14 CHAIRMAN CLARK: And it will remain identified,
15 and then if you can get a stipulation, then we can deal
16 with it.

17 MR. HOE: Thank you, Madam Chair.

18 Q (By Mr. Hoe) Mr. Scheye, in connection with
19 BellSouth moving -- or to prepare itself for the upcoming
20 competition, is BellSouth, to your knowledge, doing any
21 advertising?

22 A We certainly advertise.

23 Q Are you doing any advertising to compare what
24 BellSouth can bring to consumers as opposed to what the
25 new entrants might be able to bring?

1 A Not to my knowledge.

2 Q Now, do you recall in North Carolina we -- I
3 think it was during Mr. Varner's testimony, we showed a
4 videotape of a BellSouth commercial. Do you recall
5 seeing that?

6 A Yes.

7 Q And am I correct in -- and I believe I recall
8 during your testimony you indicated that that was -- I
9 think you referred to it as your commercial. Do you
10 recall that?

11 A No, sir, I don't.

12 Q Did you have any role in preparing that
13 commercial that you saw in North Carolina?

14 A Absolutely not.

15 Q Are you familiar with that commercial?

16 A As you mentioned, I saw it in North Carolina.

17 Q Okay. Do you know if that commercial has been
18 running in the region in connection with this upcoming
19 competition?

20 A I have never seen it before and haven't seen it
21 since.

22 Q And, Mr. Scheye, I want to just establish in a
23 couple of areas the relative positions that BellSouth
24 finds itself in as we enter into this competitive market
25 and where AT&T starts, and we talked about it a few

1 moments ago, about the subject of branding, branding
2 resold services.

3 Is it my understanding that BellSouth indicates
4 it is unable to brand operator services and directory
5 assistance for AT&T in the resale area?

6 A It is not technically feasible for BellSouth
7 today to brand from a resold line, yes, sir, that is
8 correct.

9 Q And also, in connection with branding, is it
10 BellSouth's position that it will not, when it makes a
11 repair visit, leave behind material prepared by AT&T for
12 AT&T customers?

13 A BellSouth will not leave behind specific
14 material provided to us by carriers. We will leave
15 behind generic -- what we call generic leave-behinds.
16 The technician will write in the name of the particular
17 carrier. It could be AT&T.

18 CHAIRMAN CLARK: You're saying that's your
19 current plan?

20 WITNESS SCHEYE: Yes, Madam Chairman, that's our
21 current plan.

22 CHAIRMAN CLARK: Okay.

23 Q (By Mr. Hoe) Now, when BellSouth visits for
24 repair purposes a BellSouth customer, will it leave
25 behind BellSouth-prepared materials or generic

1 materials?

2 A It will leave behind a standard BellSouth --
3 it's not material. It's one little document that says we
4 were here, or something to that effect.

5 Q And a few moments ago we mentioned the -- or I
6 think you may have mentioned in your summary the ability
7 of the consumer to dial the familiar zero to get to their
8 carrier's operator.

9 Am I correct in understanding that AT&T
10 customers in the resale environment will not have that
11 feature available to them?

12 A No, sir, that's incorrect.

13 Q In the resale area?

14 A Yes, sir. That's incorrect. Your statement is
15 incorrect.

16 Q So BellSouth will route operator calls in the
17 resale area to AT&T operators, is that your testimony?

18 A In a resale environment, with intraLATA
19 presubscription, which is currently in the process of
20 being implemented in the state of Florida, a zero-plus
21 call will be directed or routed, to use that term, to the
22 operator of that presubscribed customer -- the carrier
23 that that end user has presubscribed to, so if that end
24 user has presubscribed to AT&T for an intraLATA long
25 distance call, and let's say they have presubscribed to

1 MCI, to pick a different carrier for their interLATA
2 carrier, when they dial zero-plus and it's an intraLATA
3 call, that call will go to AT&T. If they dial zero plus
4 the area code in California, that call in that case would
5 go to MCI. A zero-minus call, which is just punch zero,
6 to use that term, would continue to route to the
7 BellSouth operator.

8 Q The last part is what I was most interested in.
9 Is one of -- and in connection with that last
10 subject, the ability of a consumer just to dial zero and
11 get their own carrier's operators, which would not be
12 available in the resale environment to AT&T, am I correct
13 in -- and I believe this is in your testimony -- that
14 BellSouth is suggesting a solution, and that is that AT&T
15 customers be provided with memory telephones to where
16 they could put in the code and then punch 1 or punch 2 or
17 punch 3 --

18 A One of the things --

19 Q -- to get to their operator? Is that one of the
20 solutions that BellSouth has suggested?

21 A I'm sorry, I didn't mean to interrupt your
22 question, but what we mentioned was -- the potential cost
23 to redo the entire network for BellSouth so that we could
24 route a zero call and brand it or route it to an
25 alternative operator would be mammoth, obviously. We'd

1 have to replace or redo switches. What we were
2 suggesting was since carriers or customers today are very
3 familiar with various dialing patterns and there are an
4 enormous number of dialing patterns out there that
5 customers have become totally accustomed to without
6 problem, apparently, that if this was such a great
7 problem, that literally there are speed dialers, rapid
8 dialers out there today that typically people have and
9 program where they punch a 1 or a 2 or a 3 and it dials
10 for them the service that they want. We were not
11 suggesting that's a, quote, "technical solution," but if
12 this thing became such a severe problem, it is easily
13 fixed with a rapid dialer or an automated dialer. To us,
14 we don't believe it's a significant problem. Experience
15 in the market says it's not a significant problem,
16 because carriers such as AT&T already have instructed
17 their customers to dial zero-zero or 1-800 numbers and
18 people do it all the time.

19 Q Do you seriously think that AT&T customers would
20 be impressed by having to get new telephones in order to
21 be able to dial with a single digit to their operator?

22 A Sir, I'm an AT&T customer, and I'm not a very
23 technically sophisticated one, but all the telephones in
24 my house can be programmed, and all I have to do is hit 1
25 and I can get any operator I want, so I would be

1 impressed.

2 Q Do you know how many people in the state of
3 Florida have such telephones?

4 A No, sir, but they're available on the market for
5 ten dollars.

6 Q Well, let's just quickly move down. We also
7 talked about dialing the familiar 411 to get to directory
8 assistance, and again I understand that as this
9 competition starts in the resale environment, only
10 BellSouth will have the 411 number and other customers
11 will have to -- or customers of new entrants will have to
12 use something different, some different code or number,
13 is that correct?

14 A The only reason they would have to use a
15 different code, to use your example, is if they want to
16 go to a directory assistance operator of their own choice
17 who might brand it. BellSouth currently does not brand
18 their directory assistance call, so a customer, a resold
19 customer of AT&T dialing 411 or a retail customer of
20 BellSouth dialing 411 will get the same unbranded
21 directory assistance operator, so only if AT&T wanted, or
22 MCI or whoever the carrier was, was to offer a branded
23 version of directory assistance, they might want to
24 instruct their customers to use a different dialing
25 pattern.

1 CHAIRMAN CLARK: Mr. Scheye, then does it make
2 sense for a zero-minus call that there be no branding?

3 WITNESS SCHEYE: It really doesn't in the sense
4 that zero-minus, which some people think may be a
5 solution, if one considers that both AT&T and MCI for two
6 parties already instruct their customers to dial their
7 own operators, and to brand those services to the extent
8 they want to, it would be inappropriate to say that
9 BellSouth cannot brand those few calls that it gets on a
10 zero-minus basis, because simply AT&T and MCI have to
11 say, if we were forced to do that -- well, use zero-zero
12 or whatever dialing convention that AT&T or MCI would
13 instruct their customers to do, and they can have it
14 branded, we would be at a significant disadvantage.

15 And typically where there is a, quote, brand
16 issue, if one considers it, it's typically on a call,
17 it's a one-plus call. Typically, if you make a one-plus
18 call today with your credit card, you'll get "Thank you
19 for using --" fill in the blank. That's the standard
20 arrangement where people are accustomed to a brand or
21 expect a brand.

22 Hitting a zero to find out -- some people call
23 up and want to know what time it is, or they need dialing
24 instruction or what's the area code for California is
25 really not much of a brand issue, so I do not think

1 that's an appropriate solution.

2 CHAIRMAN CLARK: I'm sorry. It's not an
3 appropriate solution, why? I guess I just didn't
4 understand it, because if AT&T customers can dial
5 zero-zero and get a branded call, then you should be able
6 to use zero and brand that?

7 WITNESS SCHEYE: That we should certainly be
8 able to use zero and brand as we do today in the state of
9 Florida.

10 To the extent that there is a competitive issue,
11 there are several options out there to the carrier, such
12 as AT&T. One --

13 CHAIRMAN CLARK: And you think they are non-
14 discriminatory, not anti-competitive, but you think they
15 are parity, in effect?

16 WITNESS SCHEYE: Yes, because --

17 CHAIRMAN CLARK: Okay.

18 WITNESS SCHEYE: Because parity requires the
19 capability -- there is nothing in the Telecom Act,
20 there's nothing in the FCC order that says the same digit
21 has to be dialed. So yes, I would conclude it is
22 parity.

23 CHAIRMAN CLARK: Well, I'm suggesting one way
24 to get parity, because I can tell you most people I know
25 just like to dial zero, is that it's not branded at all.

1 If you can't brand -- if I'm an AT&T local customer and I
2 can't dial zero and get an AT&T operator, why should it
3 be -- why should BellSouth be able to use that and brand?

4 WITNESS SCHEYE: I guess, first, it is a
5 BellSouth operator. Two -- I mean, there's no way to
6 deny it is a BellSouth operator.

7 CHAIRMAN CLARK: Well, why can't they tell --
8 can't they tell when that number comes in who the
9 customer is and can't they say, "AT&T," and AT&T would
10 pay you for that?

11 WITNESS SCHEYE: Currently it is not technically
12 feasible for us to be able to, from your home or your
13 business, dial using our switch. Now, what is always
14 omitted in these discussions --

15 COMMISSIONER GARCIA: Answer the other part of
16 the question. Why do they have to say "BellSouth" at all?

17 WITNESS SCHEYE: Why do they?

18 COMMISSIONER GARCIA: Yes.

19 CHAIRMAN CLARK: Why is it important?

20 WITNESS SCHEYE: Operator services is a
21 competitive service today. It is not a monopoly service
22 by any stretch of the imagination. It's our operator.
23 We believe we're entitled to say it is our operator.

24 Now, on a one-plus call or a zero-plus call,
25 which is a long distance call, it will in fact be branded

1 by the carrier of choice, AT&T or MCI. So we're talking
2 about the very limited situation of a zero minus call
3 which, truthfully, don't make up the vast majority of the
4 calls.

5 The other issue that deals with the zero-minus
6 or the unbranded solution, it's not clear that that's in
7 compliance with either the FCC order or the Act, so it's
8 sort of another issue or another solution on top of what
9 already is a fairly complex set of issues that are being
10 dealt with to try to meet the requirements of both the
11 FCC order, if it is not stayed, and certainly the Telecom
12 Act.

13 COMMISSIONER KIESLING: Wait a minute. I'm
14 sorry. I got a little confused there. You said it's not
15 prohibited by the order or the Act. No, you said it's
16 not required by the order or Act.

17 WITNESS SCHEYE: It's not required, nor is it in
18 compliance with the FCC order as the solution. The FCC
19 order talks about if it is technically feasible that
20 BellSouth or any other telephone company should offer a
21 form of operator services that is both branded at the
22 option of the carrier or unbranded at the option of the
23 carrier. So if AT&T said we would like you to brand it
24 AT&T, but MCI said we would prefer an operator service
25 that is unbranded, that's what the FCC order discusses.

1 A form of don't brand anybody including yourself
2 doesn't appear to be in compliance with either the
3 Telecom Act, because it doesn't talk about it, or the FCC
4 order. It's sort of an alternative to a technically
5 feasible problem.

6 COMMISSIONER KIESLING: I guess what I'm trying
7 to understand is, there's a difference between saying
8 that it's not required by something and saying that it's
9 not prohibited.

10 WITNESS SCHEYE: It's certainly not prohibited,
11 Commissioner, that's correct.

12 COMMISSIONER KIESLING: So, when you're saying
13 it's not in compliance --

14 CHAIRMAN CLARK: It's not even addressed --

15 COMMISSIONER KIESLING: -- it's not even
16 addressed.

17 CHAIRMAN CLARK: -- is really what you're
18 saying.

19 WITNESS SCHEYE: It's not addressed by either
20 the order or the Act.

21 COMMISSIONER KIESLING: So how could it be out
22 of compliance when it's not even addressed?

23 WITNESS SCHEYE: There is a requirement in the
24 FCC order dealing with non-branding, and that requirement
25 has to do with where it is technically feasible for us to

1 route a call.

2 COMMISSIONER KIESLING: I understood all that.
3 I don't have to have you repeat it again for me, and I
4 just think that we have a problem with semantics, in that
5 to me, if it's not prohibited, if it's silent, then
6 nothing could be not in the compliance. Anything is
7 possible.

8 WITNESS SCHEYE: Anything is possible, I'd agree
9 with that.

10 COMMISSIONER KIESLING: Thank you.

11 Q (By Mr. Hoe) Mr. Scheye, let me move on to one
12 other item we talked about earlier, and that was the
13 ability of either BellSouth or a new entrant to switch
14 customers, to acquire one another's customers.

15 Are you familiar at all with the subject of the
16 electronic interfaces that is being arbitrated in this
17 proceeding between AT&T and BellSouth?

18 A Only at a very broad level, nothing specific.

19 Q Okay. Well, I'll move on then.

20 One final item in this discussion. Again,
21 BellSouth preparing itself for this upcoming competition,
22 am I correct that at this starting line that it's
23 BellSouth's position that, obviously, it will be able to
24 sell to its customers any and all services that it
25 currently has, but that the new entrants will have fewer

1 services, namely -- I think you list them in your
2 testimony -- grandfathered services, and there are some
3 other topics, subjects that you may dispute whether it's
4 a service, but CSAs, promotions, 911 service, is that
5 correct?

6 A In terms of grandfathered services, let me --

7 MR. HOE: Well, Madam Chairman, I just ask once
8 again that if we could get a yes or a no, that might
9 speed things up.

10 WITNESS SCHEYE: I think the answer is yes and
11 no, then.

12 CHAIRMAN CLARK: Good. Now you can explain your
13 answer.

14 WITNESS SCHEYE: Okay. Grandfathered services
15 are not available to any new customers, so -- whether
16 they be a retail customer of BellSouth or a resold
17 customer. So they're not available. In the case of
18 something like a subsidized service, like Life-Line, AT&T
19 can provide the identical service to their end user on a
20 resold basis. They would then have to go through the
21 interstate pool for collection of the money, so they're
22 not incapable of providing that service to their end
23 user, just like BellSouth does.

24 What we're suggesting is the Life-Line service
25 that BellSouth provides, where we go to the interstate

1 pool to get the money, we shouldn't be required to do
2 that in a resold mode. So all the capabilities that we
3 provide are available to a reseller in one form or
4 another. Those specific service offerings we are
5 proposing are not available, sir.

6 Q (By Mr. Hoe) Well, I just wanted to spend a
7 moment or two on grandfathered services. Isn't it true
8 that grandfathered services are services that BellSouth
9 continues to provide to existing customers?

10 A To existing customers?

11 Q Yes. And let me be more precise, those
12 customers who had the service at the time the service was
13 grandfathered.

14 A Yes. A customer that has a service can retain
15 it for a specified period of time.

16 Q And isn't it correct that at present that could
17 last, that situation could last as long as perhaps six
18 years?

19 A I think the only case like that that we would
20 have is Essex service which is grandfathered in the state
21 of Florida. If people -- some customers had it on a
22 three-year contract, they could extend it for that basis,
23 but those customers are available on resale, because that
24 service can be converted to Multi-Serve, which is our
25 existing offering, and then the reseller, AT&T, can

1 continue to offer the same capabilities to that end user.

2 CHAIRMAN CLARK: Mr. Scheye, does that mean that
3 Essex service can be offered for six years, it's still
4 got six years to go?

5 WITNESS SCHEYE: Only if you're an existing
6 customer and you still have it, you can keep it at that
7 premises.

8 CHAIRMAN CLARK: Okay.

9 Q (By Mr. Hoe) And I think you just said a moment
10 ago that a new entrant could offer -- and I didn't catch
11 the name, whatever the new form of Essex is, is that your
12 testimony?

13 A Yes, sir. It's Multi-Serve.

14 Q But they can't serve the customer who doesn't
15 want that but simply wants to retain the Essex service
16 for however many years up to six, isn't that correct?

17 A They cannot -- you're correct in the sense they
18 cannot continue to provide it as Essex. It's the same
19 functional service as can be provided as Multi-Serve.

20 Q But if the customer is very happy with Essex,
21 the new entrant can't provide it, isn't that correct?

22 A You're trying to indicate that they're two
23 different services and they're not. Multi-Serve is the
24 new name for Essex, so they're the same service.

25 Q Is the price for Essex or the new service

1 greater than the Essex service?

2 A I think in some cases it's more and in some
3 cases it can be less.

4 Q So a customer might wish to retain Essex service
5 despite the equivalent functionality, correct?

6 A That's certainly possible.

7 Q I take it BellSouth disagrees with FCC's
8 treatment of this issue?

9 A In part. The grandfathered services provision
10 of the FCC order appears to deal with new grandfathered
11 services and it would appear to indicate that if we were
12 to grandfather a service tomorrow or six months from now,
13 that we'd have to make it available on the same terms to
14 the reseller as we do to our retail customers. On that
15 basis, we have no disagreement with the FCC order.

16 The only aspect -- so we don't disagree with it
17 to that extent. To the extent that one applies it to a
18 previously grandfathered service, in the example you were
19 just giving where that service, having been
20 grandfathered, now somebody wants to, quote, "take it
21 over," that is inconsistent with our current
22 grandfathering policies. So we're not in disagreement
23 with the aspect of the FCC order as it applies to newly
24 grandfathered services, which we believe that's what it
25 deals with.

1 Q Not to quibble with words, but is it fair to say
2 that with respect to services that are currently
3 grandfathered, that new entrants are prohibited from
4 reselling those under BellSouth's position?

5 A I'm sorry, services that are currently
6 grandfathered?

7 Q Yes.

8 A That's correct, sir, that is our position.

9 Q So would you agree, Mr. Scheye, that as the
10 parties enter the starting line here for this new
11 competition, that there are certainly differences in
12 where they're -- from where they're starting to engage in
13 this competition, along the lines that we've just
14 discussed?

15 A I don't think that I can -- I don't know that I
16 can agree with that, sir.

17 Q Okay. Mr. Scheye, we're passing out something
18 right now, but -- and I won't ask any questions on it
19 until it gets distributed. This was a document you saw
20 and we discussed a little bit in North Carolina.

21 CHAIRMAN CLARK: The document entitled "First
22 Story of Level One --" wait a minute. What should I
23 title this?

24 MR. HOE: It's a U.S.A. Today article quoting or
25 purporting to quote a BellSouth individual on this

1 subject, and I believe, Madam Chair, you have the Nexus
2 printout, which is why it looks a little different.

3 CHAIRMAN CLARK: Okay. It's a story that
4 appears to be titled, "New phone battles are about to
5 reach out and touch everyone." That will be marked as
6 Exhibit 52.

7 (Exhibit No. 52 marked for identification.)

8 Q (By Mr. Hoe) Do you remember seeing this in
9 North Carolina, Mr. Scheye?

10 A No, sir, I didn't.

11 Q Did I use this with Mr. Varner as well?

12 A I can't answer that, sir. I don't know.

13 Q You didn't see this?

14 A I didn't see it.

15 Q Do you read U.S.A. Today, have you?

16 A On occasion, yes.

17 Q Have you seen this article before?

18 A No, sir.

19 Q Let me just ask you, this purports to quote a
20 William Pate, Director of Advertising for BellSouth. Do
21 you know Mr. Pate?

22 A No, sir.

23 Q The quote attributed to him, which you have in
24 front of you, and it's up on the board just behind you,
25 is, quote, "We've got competition coming, and we've got

1 to slam the door on their fingers," end quote.

2 Have you ever heard anyone in words or substance
3 within BellSouth express that sentiment in connection
4 with the competition, this new environment we're entering
5 into?

6 A No, sir.

7 COMMISSIONER GARCIA: Does it seem to be
8 something that someone in your company would say?

9 WITNESS SCHEYE: I wouldn't think so, sir.

10 COMMISSIONER GARCIA: Why?

11 WITNESS SCHEYE: Why?

12 COMMISSIONER GARCIA: No, I just think it's a
13 natural statement within the broad concept of
14 competition. I would assume that counsel is trying to
15 use it for a different argument, but I wouldn't see it --
16 it wouldn't seem that it would be that far afield for
17 someone in your company to believe that we've got to --
18 what is it, "slam the door on their fingers."

19 WITNESS SCHEYE: Maybe it's a little too
20 picturesque or something. I mean, certainly we will
21 compete, we know, and we will compete hard. I don't know
22 that that's the right terminology to use. Obviously the
23 gentleman that wrote it I assume thought it was
24 appropriate, but --

25 CHAIRMAN CLARK: Sounds like something Mr.

1 Walter Alford would have said.

2 WITNESS SCHEYE: I won't -- can I say no comment
3 to that?

4 CHAIRMAN CLARK: Tell him I said hello.

5 WITNESS SCHEYE: On the phone I will do that.
6 I'm sure Mr. Alford would only use --

7 CHAIRMAN CLARK: You have not seen that article,
8 I take it?

9 WITNESS SCHEYE: I have not seen this article
10 and I don't know the gentleman who purportedly wrote it
11 or stated it or was quoted in it.

12 Q (By Mr. Hoe) Mr. Scheye, is -- and recognizing
13 you haven't seen this before, but is the statement that's
14 attributed to Mr. Pate equivalent to the acronym RUINIT?

15 A Mr. Pate and what he may have said and what the
16 RUINIT team, which this Commission has discussed before,
17 probably bear no similarity, sir, whatsoever.

18 Q Do you know what the acronym RUINIT,
19 R-U-I-N-I-T, stands for?

20 A The acronym, as we now pronounced it since the
21 last time we discussed it in this Commission room, it was
22 felt that it may be better to repronounce it as, "Are You
23 In It." It stands for Resale Unbundling Interconnection
24 of Networks Implementation Team.

25 CHAIRMAN CLARK: How do you pronounce it now?

1 WITNESS SCHEYE: "Are You In It."

2 CHAIRMAN CLARK: Oh.

3 WITNESS SCHEYE: "Are You In It." See how --
4 Madam Chairman, I think last time you asked if our
5 acronym committee was still at work, and we just wanted
6 to prove that it's still functioning just as well as it
7 had in the past.

8 COMMISSIONER GARCIA: Competition hasn't
9 affected it at all, I take it.

10 WITNESS SCHEYE: We're proud of our team. We
11 were going to change the letters around, but it got kind
12 of strange.

13 Q (By Mr. Hoe) Mr. Scheye, I'm now going to hand
14 you another exhibit, this one being rather large, and
15 again, I'll represent to you this is one you saw in North
16 Carolina. Let me ask my colleagues to get those passed
17 out, first.

18 Madam Chairman, this is -- I apologize for its
19 size, but the subject of the other interconnection
20 agreements between BellSouth and other new entrants that
21 came up in this proceeding as well as others, these are
22 20 of the 21 other agreements, and I want to ask Mr.
23 Scheye a few questions about them, and again I apologize
24 for the size, but that's what they are.

25 CHAIRMAN CLARK: Mr. Hoe, we will mark as

1 Exhibit 53 BellSouth's interconnection agreements
2 contained in Book 1 and 2 that you've passed out.

3 MR. HOE: Thank you, Madam Chair.

4 COMMISSIONER KIESLING: I believe that extra one
5 in your hand was for the chairman, who only has one
6 volume right now.

7 CHAIRMAN CLARK: I only have one. Thank you so
8 much.

9 MR. HOE: We're still working on him.

10 CHAIRMAN CLARK: You know, I'm sure I can live
11 without it for a little while.

12 MR. HOE: You have our sincere apologies.

13 CHAIRMAN CLARK: Okay. Book 1 and 2, that's
14 marked as Exhibit 53.

15 (Exhibit No. 53 marked for identification.)

16 Q (By Mr. Hoe) Mr. Scheye, you have Exhibit 53,
17 Books 1 and 2, in front of you, and again, without going
18 through them in detail, I will represent to you these
19 consist of 20 of the 21 agreements that BellSouth has
20 entered into, and again, there may be one or two more
21 since. I'm not sure, but they are the agreements that
22 were referenced in testimony in various states. So I
23 think they're fairly complete, and if you would accept
24 that subject to check, then we could proceed.

25 A I accept it, sir.

1 Q And I think we established, again, I think it
2 was earlier this week, you had a rather significant role
3 in producing these agreements, isn't that correct?

4 A Certainly some of them, sir.

5 Q And in fact you signed a number of them?

6 A That's correct.

7 Q Okay. And these agreements have been referenced
8 in your testimony and others' testimonies in comparison
9 to the negotiations with AT&T. Let me just ask you, were
10 you in the hearing room earlier when I understand
11 BellSouth counsel asked AT&T's Mr. Carroll about these
12 agreements and AT&T's ability to reach an agreement with
13 BellSouth?

14 A I was not.

15 Q Okay. But you do refer to these in your
16 testimony, and my question here, as it was in North
17 Carolina, is what is the message that BellSouth is
18 attempting to convey by referring to these agreements in
19 comparison to the lack of an agreement with AT&T?

20 A I think the only message that we're trying to
21 convey, if that's the right term, is, since February when
22 the Act was passed, BellSouth has negotiated with many
23 parties. We have successfully negotiated with 20 or 21,
24 to use the term, carriers that are small, carriers that
25 are large, some carriers that only want to do resale,

1 carriers that only want to do facility-based services,
2 some of which are partial agreements, some of which are
3 complete agreements. There's a variety of terms in here,
4 a variety of conditions.

5 We're not trying to send a message. What we're
6 saying is, the intent of the Act was to negotiate and
7 have competition. We have done so, we have competition
8 in the state of Florida. Some of these parties are
9 operating under the terms of these agreements as we speak
10 right now.

11 Q Well, let's just take a look at a few of the
12 agreements.

13 A Certainly.

14 Q If you'd look at Tab 3 in Volume 1 of Exhibit
15 53, this is an agreement between BellSouth and BTI.

16 A Yes.

17 Q Do you see that?

18 A Yes, sir, I do.

19 Q Do you know now the size of BTI and its
20 financial status?

21 A If I recall what you told me in North Carolina,
22 they had a few hundred employees and I think you told me
23 they had a negative net worth.

24 Q Did you verify that since North Carolina?

25 A I have not, sir.

1 Q Okay. If you'd take a look at Tab 12, please,
2 which is in Volume 2?

3 A You gave it to me in one volume the last time.
4 Tab 12?

5 Q Yes.

6 A Yes, sir.

7 Q This is an agreement -- again, I think these --
8 I failed to point out on the BTI agreement, but I think
9 you signed the BTI agreement, and I think you've also
10 signed the agreement at Tab 12, if I'm not mistaken?

11 A I think that's correct, sir.

12 Q And that's an agreement at Tab 12 between
13 National Tel and BellSouth. What can you tell the
14 Commission about the size of National Tel, its offices,
15 its market, if anything?

16 A National Tel is currently a long distance
17 reseller. It is headquartered in the southern part of
18 the state of Florida and operates primarily in the state
19 of Florida. I don't recall the employee size. You may
20 have mentioned it and I don't remember it.

21 Q If I told you it was 26 employees, would that
22 refresh your recollection?

23 A Yes.

24 Q Let's take a look at Tab 15. This is an
25 agreement between BellSouth Telecommunications and

1 Southeast Telephone, Ltd. Do you see that?

2 A Yes. Yes, sir. Is this the resale --

3 Q And this one, I'm not sure whether you signed
4 this one or not, but --

5 A I think so. I believe so, sir.

6 Q -- it appears that you did.

7 What can you tell us about the size of Southeast
8 Telephone, if anything?

9 A South -- again, I can't recall the size. I'm
10 sure you'll refresh my memory. Southeast is a company
11 working primarily in the states of Kentucky and
12 Tennessee. They are preparing to provide wire line and
13 wireless type services in those areas. I think -- again,
14 if -- recollection, you've told me they were a fairly
15 small company.

16 Q If I told you they had three employees, would
17 that refresh your recollection?

18 A I don't recall three. I've talked to at least
19 three, so I think they have more than that, so --

20 Q Maybe they added one.

21 A They could have, you're right, sir.

22 Q Let's turn to Tab 16, if you would, please.

23 This is an agreement between BellSouth and Telco of
24 Central Florida --

25 A Telephone Company of Central Florida.

1 Q Okay, Telephone Company of Central Florida, and
2 again, I think you may have signed this one as well.

3 A Yes, sir.

4 Q What can you tell us about this company, its
5 size, its market?

6 A This company, again, I think it's a fairly small
7 company. It operates out of the southern part of
8 Florida. It is operating today as a reseller in the
9 state of Florida, and it was referenced recently in a
10 Wall Street Journal article about competition in the
11 state of Florida. I believe the president of the company
12 was quoted as referencing how many customers he had or
13 something to that effect.

14 Q If I told you they had 12 employees, would that
15 be consistent with your understanding?

16 A Yes. I think that's what you mentioned in North
17 Carolina.

18 Q And let's take a look at one more, at Tab 5, if
19 you would, please, in Volume 1. This is an agreement
20 between BellSouth and Georgia Com South, Inc.

21 A Yes.

22 Q Is that right?

23 A Yes.

24 Q It looks like on this one you may not have been
25 the signator. No, I take that back. It looks like you

1 are.

2 A I think I am -- was.

3 Q What can you tell us about Georgia Com South,
4 Inc., as far as its size and its market?

5 A Georgia Com South is the one that everyone
6 chuckles at.

7 Q That's why I saved it for last.

8 A Georgia Com South sells only to customers that
9 we have disconnected for nonpayment or who cannot meet
10 our credit standards. They operate in, right now, I
11 think either Columbus or Macon, Georgia, selling
12 predominantly to the people in those areas, obviously.
13 They have been, apparently, fairly successful, and their
14 business office, to my understanding, that you told me
15 they operate out of a pawnshop.

16 CHAIRMAN CLARK: Is that similar to the service
17 being offered in New York City? I understand they're
18 doing the same sort of thing where people who have had
19 their service cut off, they somehow are offering them
20 phones where they prepay and then they cut off the
21 service when they meet that limit?

22 WITNESS SCHEYE: Yes. This is a, to a lot of
23 people, a very large, growing business. It started in
24 the cellular arena, apparently, and has now moved -- with
25 resale of local services, has moved into the wire line

1 resale business. It is operating now in several states,
2 and we have had several inquiries since the Georgia Com
3 South agreement for other carriers, and that's basically
4 what they do.

5 Q (By Mr. Hoe) Mr. Scheye, can you tell us how
6 many customers either these companies or the others that
7 you have entered into agreements with, how many customers
8 are being served in Florida today by these companies?

9 A I don't know a precise number, sir. I'd say, if
10 I had to guesstimate a number, several hundred, maybe up
11 to 1,000 or so at this point. Most of these companies
12 have just begun to provide service in the last several
13 months, basically.

14 Q Mr. Scheye, I'm going to pass out one other
15 document that relates to these agreements. I'm -- for
16 everybody's benefit, I'm finished with these volumes for
17 the moment.

18 And do you recognize this document, Mr. Scheye?
19 We discussed it in North Carolina.

20 A We did, sir.

21 Q Yes. And I represented to you at the time that
22 this was a document prepared by AT&T and it was AT&T's
23 best effort to take off from these various agreements
24 we've just looked at, and some that we didn't look at,
25 the price figures from those numbers. And, as I said in

1 North Carolina, I don't expect you to -- or your counsel
2 to accept them at face value without the opportunity to
3 check them, but I do represent that these were our best
4 efforts to pull the numbers off the agreements, and if
5 you would accept that, I just have a couple of questions
6 for you.

7 A Yes, sir, I accept that.

8 MR. HOE: And I'd like to have this marked as an
9 exhibit, Madam Chair.

10 CHAIRMAN CLARK: The document entitled
11 "Comparison of BellSouth Interconnection Prices and FCC
12 Proxy Prices" will be marked as Exhibit 54.

13 (Exhibit No. 54 marked for identification.)

14 Q (By Mr. Hoe) Now, this Exhibit 54, Mr. Scheye,
15 contains several sections. The first two pages cover the
16 subject of unbundled network elements. The second two
17 pages cover the subject of wholesale discounts. They are
18 by state and by company with whom BellSouth has reached
19 agreement.

20 A Yes.

21 Q And similar to North Carolina, I'm going to ask
22 you to look at the wholesale discount sheets, the last
23 two sheets, and ask you, in looking at the percentage
24 discount figures, what is the relationship, if any,
25 between the percentage figures shown in these various

1 agreements and BellSouth's avoided cost study?

2 A They are all -- with one exception, those
3 numbers represent BellSouth's estimate of avoided costs
4 at the time. The exception on here is Georgia for both
5 residence and business in the column I think marked
6 Tricom and Intermedia. The percentages reflected there
7 are a result of a Georgia Commission order which
8 instructed BellSouth to file a tariff at those
9 percentages. That tariff was filed. The tariff is
10 currently suspended.

11 Q And let's just look at that one for a moment.
12 This would be on the last page of the document,
13 "Wholesale Discounts" under the subject "Residential" for
14 the state of Georgia, and looking from left to right, as
15 you just mentioned, Tricom shows a discount of 20.3
16 percent, which you indicated was the Georgia figure,
17 correct?

18 A Yes. That's a result of --

19 Q That has been suspended for the moment?

20 A Suspended, and BellSouth has appealed that order.

21 Q Okay. And that rate, do you know, resulted from
22 a proceeding brought by AT&T in Georgia?

23 A Yes.

24 Q And if you look, the next column to the right,
25 it's cut off just a little bit, but it says, "BellSouth

1 proposal to AT&T," do you see that?

2 A Yes.

3 Q And you see in the state of Georgia the figure
4 is 11.6 percent, correct?

5 A Yes.

6 Q Okay. Is there some reason that BellSouth
7 agreed to a 20.3 percent discount with Tricom and --
8 which I think you said was similar or pursuant to the
9 Georgia order, subsequently stayed, and did not offer
10 that to AT&T?

11 A Sir, we offered to AT&T and any other carrier
12 all the agreements that we have. AT&T could have
13 accepted this agreement, just like Tricom and or
14 Intermedia did. AT&T chose not to do so.

15 The 11.6 percent you're referring to in the AT&T
16 proposal, as you'll note, is essentially the same
17 percentage that is reflected in every other agreement
18 with the exception of the Tricom and Intermedia, but in
19 no way did AT&T say to -- in no way did BellSouth say to
20 AT&T, you can't have the Tricom agreement or you can't
21 have the Intermedia agreement. So they were both made
22 available to them.

23 Q Was Tricom seeking both resale and unbundling
24 and interconnection?

25 A Yes. It's a fully compliant agreement.

1 Q Now, let me just make -- just go back one step.
2 You did indicate that these other percentages, other than
3 the ones we just talked about, were taken directly from
4 the BellSouth avoided cost study, correct?

5 A That work had been conducted at the time. Since
6 that time in a few other states -- we've updated those
7 studies -- the percentages have changed fractionally.
8 What I mean by fractionally is maybe a couple of tenths
9 of a percent.

10 Q Did any of these companies seek higher discounts
11 in the course of their negotiations?

12 A There is no doubt that they would have liked
13 higher discounts, yes, sir.

14 Q Was this sort of a take it or leave it?

15 A No, sir, it was a full negotiation with each of
16 these parties.

17 Q Do you recall my asking you in North Carolina
18 about a statement by Mr. Varner in his direct testimony
19 which he also makes here that BellSouth had compromised
20 on many rates? Do you recall that question?

21 A Yes, sir.

22 Q Okay. And do you know what Mr. Varner might
23 have meant by that in connection with any of these
24 numbers that -- there doesn't appear to be much
25 compromise here.

1 A Sir, you're looking at one number out of an
2 agreement that -- let's take the Tricom and/or Intermedia
3 agreement probably has 100 or 200 rates in it. It has
4 interconnection. It has unbundling. As you said,
5 they're broader agreements. I think Mr. Varner was
6 basically dealing with it at the level of saying,
7 BellSouth has compromised its position on several rates.
8 I don't think he was being specific to resale, which is
9 unbundling, versus interconnection.

10 Q Let me move to another topic and try to move
11 quickly through there so we can finish up here.

12 If you would turn in your direct testimony -- do
13 you have a copy of that?

14 A Yes, sir.

15 Q To page 59. You said, and I'm looking at the
16 bottom of the page, starting with the question and
17 actually in the middle of the page on line 15, "What is
18 BellSouth's position on the price of unbundled elements?"
19 and I'm particularly focusing on the sentence starting on
20 line 23 and finishing over on the next page. Are you
21 with me?

22 A Yes.

23 Q Okay. And the sentence I'm looking at, starting
24 on 23, says, "For new or additional unbundled elements,
25 BellSouth proposes a price which covers cost, provides

1 contribution to recovery of shared and common costs,
2 includes reasonable profit and is not discriminatory."

3 I want to focus just for a moment on the words,
4 "covers cost," and my question is whether you include in
5 that term, "cost," embedded cost?

6 A Sir, I don't make any statement. I'm talking --
7 referencing basically a Telecom Act that says cost plus
8 reasonable profit. I'm not suggesting embedded cost as
9 such. Typically most of our cost studies would tend to
10 be more forward-looking.

11 Q But there is historic cost in the figures you're
12 referring to here, in the costs you're referring to here?

13 A Sir, I think what we're trying to express here
14 is that while rates may be set on a forward-looking
15 basis, one cannot ignore embedded costs. They will have
16 to be dealt with. Whether they're dealt with within the
17 context of each individual rate element or whether
18 they're dealt with on a broader basis, they need to be
19 dealt with. We're not suggesting a specific remedy to
20 the embedded cost issue in this particular statement.

21 Q Do you -- is it your view that in a -- or in
22 creating a competitive market, it's appropriate to look
23 at cost history and include historical cost?

24 A I guess I would have to say you can't ignore
25 historical cost.

1 Q That wasn't a very good question, I realize
2 that.

3 Well, what I'm getting at -- and let's just
4 short-circuit this. Are you aware of a proceeding in
5 North Carolina in 1995 just prior to price regulation in
6 North Carolina in which AT&T sought a rate review or a
7 rate case of BellSouth's rates in that case?

8 A I didn't participate in that, sir.

9 Q Are you aware that that occurred?

10 A I heard it. Somebody mentioned it last week or
11 this week.

12 Q All right. So you're not aware of the positions
13 that the parties took in that case, BellSouth and AT&T?

14 A No, sir, I'm not familiar with those.

15 Q Are you aware of whether BellSouth's position in
16 that -- connection with that case is different than the
17 position it's taking in this case?

18 A Sir, since I'm not familiar with the position we
19 took, I'd be -- I can't really answer your question.

20 MR. HOE: Madam Chair, this might cause some
21 colloquy here, but I would like to put in the record a
22 portion of -- actually a brief of BellSouth in that
23 proceeding, which we believe is directly contrary to the
24 position they're taking in this case. I understand
25 BellSouth may feel that's not an accurate representation

1 and certainly accept that and we can argue that, but we
2 feel fairly strongly that it is and think would be useful
3 for the Commission to have. So I would like to either
4 have the Commission take judicial notice of that
5 proceeding and the pleadings in that case or introduce it
6 as an exhibit.

7 CHAIRMAN CLARK: Mr. Lackey, Ms. White?

8 MS. WHITE: Well, I guess I'm not sure if it's
9 the appropriate -- if it's an appropriate thing to take
10 judicial notice of. I don't think you can just introduce
11 it into this proceeding without somebody to authenticate
12 it, and this witness has obviously said he doesn't know
13 anything about that proceeding.

14 CHAIRMAN CLARK: Let me just interject here.

15 Mr. Hoe, how much more cross-examination do you
16 have of this witness?

17 MR. HOE: I anticipated your question. I think
18 I can end in about ten minutes.

19 CHAIRMAN CLARK: We're going to leave pending
20 dealing with the brief. You can get with Southern Bell
21 and if you can figure out a way to deal with it, but I
22 don't think you can get it in by this witness.

23 MR. HOE: Yes, I understand that, Madam Chair.
24 It is a pleading filed by counsel for BellSouth, so I
25 don't think, again, there's any question of authenticity,

1 but we'll work on that.

2 CHAIRMAN CLARK: I'm sure that you can work out
3 a way to get it into the record if it is something that's
4 appropriate to be in the record.

5 MR. HOE: Can we have it marked, Madam Chair,
6 just for --

7 CHAIRMAN CLARK: No.

8 MR. HOE: Okay. That's clear.

9 CHAIRMAN CLARK: I mean, I don't even have a
10 copy of it. There's also -- I can tell you we are going
11 to break as soon as your cross-examination is finished.
12 You can look at the statutes and see how you can -- if it
13 is something we can officially recognize or some other
14 way to get into the record, but I don't even have a copy
15 and I'm not even sure what you're talking about.

16 Go ahead.

17 MR. HOE: Well, we'll deal with that on the
18 break.

19 CHAIRMAN CLARK: Okay.

20 MR. HOE: Thank you.

21 Madam Chair, I hope we don't have the same issue
22 with this document, but if we do, we'll deal with that
23 certainly at the break as well.

24 Q (By Mr. Hoe) Mr. Scheye, do you have a document
25 in front of you entitled, "Notice of 1996 Annual

1 Meeting"?

2 A Yes.

3 Q With a BellSouth logo at the bottom?

4 A Yes.

5 Q Okay. Have you seen this document before?

6 A Probably.

7 Q All right. Well, that's a little closer.

8 Are you familiar with the accounting practices
9 of BellSouth in any way, either generally or
10 specifically?

11 A Not particularly.

12 Q Okay. Let me ask you to look at page A-11 of
13 this document, which I guess we don't have a number for
14 yet.

15 CHAIRMAN CLARK: The Notice of 1996 Annual
16 Meeting for BellSouth will be marked as Exhibit 55.

17 MR. HOE: Thank you, Madam Chair.

18 (Exhibit No. 55 marked for identification.)

19 MR. GARCIA: What page are you on?

20 MR. HOE: A-11, which is about two-thirds of the
21 way into the document.

22 Q (By Mr. Hoe) And, Mr. Scheye, I'm looking at
23 the bottom of page A-11 -- and I'll let everybody get
24 there -- and the top of A-12. This refers to a write-off
25 on the value of BellSouth's assets, and if -- looking at

1 the top of page A-12, it occurred in the second quarter
2 of 1995. Do you see that?

3 A Yes.

4 Q Okay. Are you familiar at all with a write-off
5 on the value of BellSouth's assets in the second quarter
6 of 1995?

7 A I was aware that this activity occurred, yes,
8 sir.

9 Q And I take it you're not expert in this, so I'm
10 not going to ask you any detailed questions, but do you
11 recall that the amount of the write-off was approximately
12 \$2.7 billion?

13 A 2.718 it says.

14 Q Do you recall that?

15 A No, I'm reading it right here.

16 Q Okay. All right. And do you think -- you have
17 no reason to believe that's not accurate?

18 A I have no idea.

19 Q Do you -- did you have an understanding at the
20 time that occurred of the reasons for the write-off?

21 A No more, sir, no more so than what it says right
22 here, and I guess on page A-11 it says, "BellSouth
23 Telecommunications believes that based on recent changes
24 in the regulatory framework and the increasing level of
25 competition, it was required to discontinue SFAS No. 71

1 for financial reporting purposes." That's our FR books,
2 financial reporting books.

3 Q Would you read the next sentence, as long as
4 we're going to read sentences here?

5 A Certainly. "Discontinuance was required because
6 most of BellSouth Telecommunication's revenues will not
7 be generated under cost-based regulation and because it
8 is doubtful that regulated rates sufficient to recover
9 the net book value of telephone plant would be charged to
10 and collected from customers due to the expected levels
11 of future competition."

12 Q And then, if you'd -- if you wouldn't mind, just
13 skip one sentence and read the next sentence and then
14 we'll be done reading into the record here, starting with
15 "The extraordinary charge."

16 A "The extraordinary charge reflects three --" I
17 guess that's 3,002.

18 Q Three billion?

19 A It doesn't say that.

20 Q It's actually -- well, okay. Go ahead and read
21 it.

22 A I'm just reading. "Reflects 3,002 (after tax)
23 to reduce the recorded value of long line telephone plant
24 and equipment, all of which was within the regulatory
25 framework, to the level appropriate for nonregulated

1 enterprises."

2 Q Now, my question, Mr. Scheye, is whether any of
3 the write-off amounts that are referred to in here are
4 included in the costs that we referred to in your
5 testimony at page 59 of your direct testimony, whether
6 that is included in the cost that derives or from which
7 you derive the prices for unbundled network elements?

8 A Let me give you my limited understanding. This
9 write-off had to do with the financial reporting
10 requirements of BellSouth. I believe it said that on the
11 prior sentence. So I think we have sort of an apple and
12 tomato here. The rates we use for determining -- or the
13 costs we use for determining rates are costs that are on
14 our books for regulatory purposes. I don't know that
15 these costs have anything to do with it, so I can't come
16 even close to answering your question, sir.

17 Q Okay. So you don't know?

18 A I do not know.

19 MR. TYE: Madam Chairman, that concludes our
20 cross of this witness. There is one matter with respect
21 to the North Carolina brief, and I think I better jump in
22 here since Mr. Hoe is not familiar with the practice
23 here. It appears to us that, to the extent that the
24 brief in North Carolina is what it purports to be, it's a
25 brief filed by BellSouth, and to the extent that it

1 contradicts things that are in Mr. Scheye's prefiled
2 testimony, we should be entitled to have that marked to
3 ask him some questions on it, if necessary, and to have
4 it admitted in the record as an admission, and --

5 CHAIRMAN CLARK: As an admission against
6 interest?

7 MR. TYE: Yes, ma'am. And if we could get it
8 marked, we'll be prepared to argue that when the time
9 comes. That's the sole reason for asking to have it
10 marked.

11 CHAIRMAN CLARK: I don't have anything to mark.

12 MR. TYE: We've got that, I'm sorry. We'll pass
13 it out.

14 CHAIRMAN CLARK: Okay. Maybe I misunderstood
15 you.

16 MR. TYE: If BellSouth wants to contest that
17 it's not a brief filed by BellSouth in North Carolina,
18 then perhaps we need to go to North Carolina to the
19 clerk's office to get a certified copy, and we'll be
20 willing to make that available as soon as we get our
21 hands on it, but I think we are entitled to at least have
22 it marked and to the extent it's admissible, I think it
23 -- you know, that it is admissible under our evidence
24 code in Florida.

25 COMMISSIONER KIESLING: Could I ask a question,

1 just because I'm a little confused about what you want to
2 do with this brief, and my question is, is -- it's kind
3 of a so-what question, okay. Let's assume that they --
4 there's no dispute. This is the brief they filed.

5 MR. TYE: I think it shows a prior --

6 COMMISSIONER KIESLING: How are you going to
7 cross-examine this witness on what's in it or any
8 explanation for why there might be a difference since he
9 didn't author it? He's not an attorney.

10 MR. TYE: I think it is a -- in the nature of a
11 prior inconsistent statement of the company, BellSouth,
12 Commissioner Kiesling, and to that extent, I think we're
13 at least entitled to point out that BellSouth may speak
14 with two voices, one in Florida through this witness,
15 another in North Carolina through counsel, on issues of
16 common -- on common issues, and to that extent, you know,
17 I think what we would like to do, have it marked, if we
18 can get it admitted, we will --

19 COMMISSIONER KIESLING: You don't have to argue
20 that to me. It's up to the Chairman.

21 MR. TYE: -- and we'll make our points in a
22 brief. We won't take any more time of the Commission
23 with it, frankly. We'd like to be able to brief --

24 CHAIRMAN CLARK: I have to admit, Mr. Tye, I'm a
25 bit confused as to the purpose of it, but we'll go ahead

1 and mark it, and evidently it's your view that it is --
2 there are statements in here that contradict what Mr.
3 Scheye has been saying.

4 MR. TYE: I believe so, and if we --

5 CHAIRMAN CLARK: I don't know that that's been
6 made clear.

7 MR. TYE: Okay. If Mr. Hoe could ask a few more
8 questions -- I think that the confusion arose over the
9 procedure of just getting it marked and it wasn't passed
10 out, and I think there was a misunderstanding that --

11 CHAIRMAN CLARK: Yes, I thought we didn't have
12 anything.

13 MR. TYE: -- we just had to pass it out and get
14 it marked.

15 So if we could ask a few more questions after
16 having this marked, then we'll argue about whether or not
17 it's admissible to mark whenever the time comes, okay,
18 and we'll try not to take any more of the parties' or the
19 Commission's time.

20 CHAIRMAN CLARK: Well, I'll tell you what.
21 We're not going to continue this tonight. Tomorrow you
22 can ask the questions on this document that we've marked.

23 MR. TYE: Okay. Thank you, Madam Chairman.

24 CHAIRMAN CLARK: In the meantime you can talk to
25 BellSouth about stipulating it into the record or how you

1 want to treat it, but I will mark --

2 MR. TYE: I'm sorry. All we need from BellSouth
3 is a stipulation that it is what it purports to be and
4 that it speaks for itself, so --

5 CHAIRMAN CLARK: We will mark what is the
6 response brief of BellSouth Telecommunications, Inc., in
7 opposition to the emergency petition of AT&T, answer and
8 motion to dismiss, and it's the -- the docket number in
9 North Carolina is P-55, sub 1010.

10 (Exhibit No. 56 marked for identification.)

11 CHAIRMAN CLARK: With that, we will adjourn for
12 the evening. We will begin again at 9:00 a.m. and we
13 will allow Mr. Hoe to cross-examine -- have questions
14 regarding the brief.

15 MR. TYE: We will be very brief in those
16 questions, Chairman Clark.

17 CHAIRMAN CLARK: Thank you. See you tomorrow.

18 MR. HOE: Thank you, Madam Chair.

19 (Thereupon, the proceedings were recessed at
20 8:15 p.m.)

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22 (Transcript continues in sequence in Volume **13**.)

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