

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of) Docket No. 960786-TL
 BellSouth Telecommunications,)
 Inc.'s entry into interLATA)
 services pursuant to Section 271)
 of the Federal)
 Telecommunications Act of 1996.)
)

FOURTH DAY - AFTERNOON SESSION

VOLUME 16

Pages 1699 through 1754

PROCEEDINGS: HEARING

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

DATE: Friday, September 5, 1997

TIME: Commenced at 9:00 a.m.

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

REPORTED BY: Lisa Girod Jones, RPR, RMR

APPEARANCES:

(As heretofore noted.)

BUREAU OF REPORTING

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I N D E X**WITNESSES****NAME****PAGE NO.**

ROBERT C. SCHEYE

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

2 (Transcript continues in sequence from
3 Volume 15.)

4 CHAIRMAN JOHNSON: If everyone could settle
5 in, we're going to go back on the record.

6 ROBERT C. SCHEYE
7 was recalled as a witness on behalf of BellSouth
8 Telecommunications, Inc., and having previously been
9 duly sworn, testified as follows:

10 MS. WHITE: Mr. Scheye is very excited to be
11 back with us today and he is being put back on for cross
12 examination, I believe on the August 15th, 1997 LCSC
13 Report, which is part of Exhibit No. 22, as well as
14 Late-filed Hearing Exhibits Numbers 29, 30 and 31.

15 MS. BARONE: I would like to go ahead and move
16 29, 30 and 31 into the record.

17 MS. KAUFMAN: Chairman Johnson, we're going to
18 have an objection to 31. We do not have an objection to
19 29 and 30 though.

20 CHAIRMAN JOHNSON: Let's go ahead and admit 29
21 and 30.

22 (Exhibit Nos. 29 and 30 received into
23 evidence.)

24 CHAIRMAN JOHNSON: You said you had an
25 objection to 31?

1 MS. KAUFMAN: Yes, ma'am.

2 CHAIRMAN JOHNSON: Now should we entertain
3 your objection?

4 MS. KAUFMAN: Well, what I had planned to do
5 was to ask Mr. Scheye some questions and then when Staff
6 moves the exhibit again I'll state my objection, if
7 that's all right.

8 CHAIRMAN JOHNSON: Okay.

9 MS. KAUFMAN: Or I'll state my objection now
10 if Ms. Barone wants me to.

11 CHAIRMAN JOHNSON: She does look a little
12 perplexed.

13 MS. BARONE: Yes, because if you state your
14 objection and it's not based on your questioning, then
15 if it's not going to impact your objection, why not get
16 it out of the way now.

17 MS. KAUFMAN: That's fine. My objection is
18 that Mr. Scheye's Exhibit 31 contradicts both his
19 testimony when he was on the stand Tuesday, as well as
20 Mr. Milner's testimony. And we believe that the exhibit
21 is inaccurate and incomplete and that is the basis for
22 our objection.

23 MR. TYE: Chairman Johnson, I would -- I
24 support that objection. And in the alternative to
25 admitting this document out, ask at least if we had the

1 opportunity to ask Mr. Scheye a few questions on it
2 while he's on the stand here to get some clarification
3 on what this exhibit in fact means. I believe it is
4 contradicted by his testimony on Tuesday.

5 MS. WHITE: Yes, and I guess the only thing I
6 have to say about this is that part of this exhibit was
7 asked for by Staff, but I believe other parts were asked
8 for by other parties. So we have provided what we have
9 been asked to provide. And as we assured the parties a
10 couple days ago, Mr. Scheye stands ready to be cross
11 examined on any of these late-filed hearing exhibits.

12 MR. TYE: If that's the case, then I submit
13 that the exhibit should not be moved until after he's
14 been cross examined on it.

15 MS. KAUFMAN: I would agree with that,
16 Chairman Johnson.

17 CHAIRMAN JOHNSON: Ms. Barone?

18 MS. BARONE: I think you could do it either
19 way. If you put it in the record and then you show the
20 inconsistencies on the record or not, I mean, that would
21 be -- you put it in the record the parties have the
22 opportunity to point out the inconsistencies and they'll
23 all be in the record. So either way would be fine.

24 CHAIRMAN JOHNSON: Well, let's go ahead and
25 we'll hold off on admitting it and go ahead and go

1 through the questions.

2 COMMISSIONER KIESLING: Before we start that,
3 I'm still trying to figure out where I have 29, 30 and
4 31. Did they get handed out to us after the late-fileds
5 were filed?

6 MS. WHITE: Yes. They were handed out, I
7 believe, late yesterday afternoon. It's got a cover
8 letter on it dated September 4th.

9 COMMISSIONER KIESLING: Okay, that cover
10 letter. Thank you.

11 COMMISSIONER DEASON: Is 29 still
12 proprietary?

13 MS. WHITE: Yes. Twenty-nine is proprietary
14 because it has specific ALEC names in the middle column
15 that I believe the copy you have is blank, and the
16 parties subject to the protective order signed by
17 Commissioner Johnson have a copy of the unredacted
18 version.

19 CHAIRMAN DEASON: Well, I have a version here
20 that's marked proprietary, and my concern is is that I
21 want it put away when we finish this cross examination.
22 I don't want it laying around.

23 MS. WHITE: Yes, we will take that from you.

24 CHAIRMAN JOHNSON: The witness has been
25 tendered. Ms. Kaufman.

1 CROSS EXAMINATION

2 BY MS. KAUFMAN:

3 Q Thank you. Mr. Scheye, do you have Exhibit 31
4 there?

5 A Yes, I believe I do. Yes, I do. Thank you.

6 Q I want to first start with your response, the
7 second sentence there, where it says, "BellSouth has the
8 capability of generating a mechanized bill for all UNES
9 except operator services and DA." Do you see that?

10 A Yes.

11 Q Mr. Scheye, you were on the stand Tuesday,
12 weren't you?

13 A Yes, twice.

14 Q Do you recall Mr. Tye of AT&T discussing with
15 you the bills that AT&T has received for unbundled
16 network elements?

17 A Yes.

18 Q And I'm just going to go through a few Q
19 and A's so we can establish that this was your testimony
20 on Tuesday.

21 A Sure.

22 Q First question by Mr. Tye was: "Now
23 Mr. Scheye, also as a part of unbundled network
24 elements, there would be switching costs associated with
25 this service; is that correct?"

1 Your answer was, "Yes, could be."

2 Mr. Tye asked you, "Okay. There is no
3 switching cost contained on these bills; is that
4 correct?"

5 Your answer: "Correct."

6 Mr. Tye next asks: "Is that because BellSouth
7 is unable currently to render an electronic bill for
8 switching of unbundled network elements; is that
9 correct?"

10 And your answer: "For the usage component we
11 were unable to. The offer, or for any carrier
12 purchasing it, we will either render a manual bill or
13 hold the usage until we can bill it electronically, and
14 apparently AT&T did not want the manual bill."

15 Was that your testimony on Tuesday?

16 A Yes, it was.

17 Q Now do you recall that I also discussed this
18 topic of billing for usage-sensitive UNEs with
19 Mr. Milner?

20 A I believe I was here when you did cross
21 examine him on that.

22 Q And I referred Mr. Milner to that same topic
23 in his direct testimony. And again, I'm just going to
24 read you a couple Q and A's. My first question on that
25 topic was: "And in that passage" -- referring to his

1 direct testimony -- "there you testify, do you not, that
2 BellSouth currently does not have the ability to
3 electronically bill for usage sensitive UNES; is that
4 right?"

5 His answer: "The term 'electronically' was
6 used yesterday. I prefer the term 'mechanically' to
7 imply something other than a manual process. But, yes,
8 that's correct."

9 My question: "So just to be clear, they don't
10 have the ability to bill electronically or in a
11 mechanized way for usage sensitive UNES at this point in
12 time?"

13 Mr. Milner's answer: "That's correct. For I
14 believe there are two unbundled network elements that
15 have a usage sensitive element as part of that charge,
16 that's correct."

17 And my final question: "You heard Mr. Scheye
18 testify yesterday, did you not, in the same vein, that
19 today you do not have the ability to provide a
20 mechanized bill for switching or transport, the usage
21 element?"

22 Mr. Milner's answer: "Yes, I heard that."

23 And is that your recollection of Mr. Milner's
24 testimony on that topic?

25 A Yes.

1 Q So as we look at that second sentence of
2 Exhibit No. 31, would you confirm for us today that it
3 still remains correct that BellSouth cannot render a
4 mechanized bill for the usage-sensitive portion of
5 either -- of switching or local transport?

6 A No. I think if you -- and let me go back a
7 little bit in time just for the couple days. This issue
8 came up to both Mr. Milner and myself in Kentucky a few
9 weeks ago. We both checked. We both had the same
10 information. That's why you got consistent answers from
11 both of us. We were told that the mechanized means for
12 billing the usage would be available probably about
13 middle of September; they were in the test process.

14 Apparently they had -- they moved that up and
15 it is now currently available. So it was a matter of
16 weeks, going one way or the other. And if you see in
17 the next sentence in this response it says, "As of
18 August 14th, BellSouth has the capability to bill the
19 usage elements." I think we may have a semantic
20 difference, which is probably the difference of roughly
21 a month.

22 The capacity is there. I don't believe a bill
23 has yet been rendered using that system. That's why
24 AT&T has not seen it, or any other carrier. So there is
25 a mechanized means by which usage can be billed. It was

1 my understanding up through a few weeks ago that that
2 would be available in the middle of September. The
3 system is obviously up and operating right now, but no
4 bill has been rendered.

5 Q So let me understand your testimony. Between
6 the time you took the stand on Tuesday and Mr. Milner
7 took the stand on Wednesday, and you gave the responses
8 that I recited earlier --

9 A Yes.

10 Q -- there has been a change. And now you have
11 information that you want to correct your and
12 Mr. Milner's testimony?

13 A I think clarified is probably -- correct or
14 clarify. As I said, Mr. Milner and I both checked
15 several weeks ago with these people. The information we
16 were both provided was the middle of September when a
17 bill would be able to be rendered. They were still in
18 the process of testing the system. Obviously they have
19 the system tested now, and as of the middle of August
20 they felt now that it is capable of rendering that
21 bill.

22 We were missing it probably by a day or two in
23 terms of the information we were getting, and we did not
24 check, neither Mr. Milner or I checked, after we had the
25 discussion -- I'm sorry, it was in Alabama. In the 271

1 hearing in Alabama, which was prior to the Kentucky
2 hearing, and this information was updated. So yes, it's
3 either to clarify or correct both our testimonies.

4 Q Did I hear you say, though, that you have not
5 rendered a bill using this system that you've discovered
6 is in existence since you testified on Tuesday?

7 A I knew it was in existence. I didn't think it
8 was going to be capable of rendering a bill until the
9 middle of September. I still believe, though, no bill
10 has actually been rendered using it.

11 Q I want to ask you about another billing
12 component, and I want you to look at the -- it's the
13 third sentence there that I think you referred to, "As
14 of August 14th," the sentence that begins that way?

15 A Yes.

16 Q Would I be correct that, as we sit here today,
17 that you do not -- BellSouth does not have the ability
18 to render a mechanized bill to a competitive entrant
19 that would display for that entrant the number, for
20 example, of terminating access minutes for each
21 interexchange carrier for which the entrant terminated
22 the call? For example, the terminating minutes say, for
23 MCI, for WorldCom, for AT&T?

24 A No, you would not be correct.

25 Q Your system has the capability to generate

1 that kind of call detail to the competitive entrant?

2 A If the competitive entrant -- the only time we
3 would have to render that kind of information would be
4 on a meet-point billing arrangement because we're
5 talking about access charges there. And we have done
6 meet-point billing with carriers for years.

7 So I'm not sure I'm answering -- I don't know
8 if we're talking past each other or not, but the only
9 time I would need to render a bill for switched access
10 usage to a carrier would be in a meet-point billing
11 arrangement whereby they would be billing the carrier
12 for some piece and I would be billing the carrier for
13 some other piece.

14 Q Mr. Scheye, when a new entrant buys local
15 switching from BellSouth as an unbundled network
16 element, it's true, isn't it, that the new entrant
17 becomes the access provider?

18 A No, the new entrant is our subscriber to
19 unbundled local switching. They can do -- and I believe
20 this question came up the other day. What their
21 relationship with their interexchange carrier is is up
22 to them. They may want to charge them access charges.
23 They may not want to charge them access charges. They
24 may want to charge them \$100 a month. That's between
25 those two parties.

1 COMMISSIONER CLARK: Mr. Scheye, she just
2 asked you if they were the access provider. And they
3 are the access provider, aren't they?

4 WITNESS SCHEYE: If they -- typically they
5 will be the --

6 COMMISSIONER CLARK: Not the charge. Who
7 provides the access?

8 WITNESS SCHEYE: No, no. Typically, the
9 reason -- they won't be because typically they will be
10 themselves, and unless they want to assess access
11 charges upon themselves -- I guess they could do that --
12 then they are the access provider to themselves.

13 COMMISSIONER CLARK: Who charges the
14 provider? Are they the provider of access -- an ALEC
15 who terminates a call from MCI will be an access
16 provider.

17 WITNESS SCHEYE: Can be, that's correct.

18 Q (By Ms. Kaufman) Now assuming, as
19 Commissioner Clark said, that that ALEC that terminates
20 the call is the access provider for IXCs whose calls
21 that ALEC terminates.

22 A Yes.

23 Q Okay? Does your system have the capability to
24 provide to that ALEC the call detail that will show him
25 or her the number of terminating minutes for each IXC

1 that he needs to bill those terminating access minutes
2 to?

3 A I'm trying to figure out the -- I'm just --
4 I'm not avoiding your question. I'm trying to figure
5 out the configuration. We have a carrier --

6 Q Let me start again, Mr. Scheye, if I might. I
7 think it's not a trick question. I think it's pretty
8 easy.

9 A Well, if they terminate the call to the local
10 switch, which it sounds like what we're talking about --
11 and Mr. Gillan is nodding in the affirmative, so we're
12 on the same track. They will have the recording of --
13 they will know that the call was destined from a
14 particular carrier, MCI, because it came from the MCI
15 point of presence, to my local switch. If I give them a
16 recording of X number of minutes, presumably they
17 already know that. So I'm not sure what information I'm
18 providing them. But I can record today access usage.
19 When I record local usage, local switching usage, I'm
20 not necessarily going to provide individual carrier
21 detail, if that's what you're asking. I'm not sure what
22 you're asking. That's why I'm having a difficult time
23 answering your question.

24 Q Let me try again. I think that the question
25 is pretty simple. Let me start again.

1 A Okay.

2 Q You have an ALEC who is buying switching from
3 you.

4 A Unbundled local switching?

5 Q Right.

6 A Correct.

7 Q That ALEC is now the local provider. He is
8 terminating calls for other interexchange carriers. Are
9 you with me so far?

10 A He's terminating calls?

11 Q He's the access provider for other
12 interexchange carriers.

13 A So he's terminating calls or he's originating
14 calls?

15 Q We'll start with terminating.

16 A Okay, the call is coming to that local switch
17 from some carrier's point of presence; is that what
18 we're talking about?

19 Q Yes.

20 A Okay. Okay.

21 Q After he terminates that call through the
22 switch that he has purchased from you as an unbundled
23 network element --

24 A Okay.

25 Q -- he's going to need to bill the terminating

1 access minutes to the various interexchange carriers
2 whose calls he terminated.

3 A Yes, presumably.

4 Q Now, is BellSouth capable of providing to that
5 ALEC the call detail that's going to show him the number
6 of terminating minutes for each of these interexchange
7 carriers to whom he needs to bill terminating access?

8 A Yes.

9 Q How are they going to provide that
10 information? How is BellSouth going to provide that
11 information?

12 A Well, it's -- the recording itself would
13 appear to be the same type of recording we make for an
14 access charge call today. So the recording capability
15 is built into the switch. And therefore if the carrier
16 wishes that level of call detail, presumably they could
17 come to BellSouth and request that level of call detail.

18 Q Okay, I just want the record to be clear,
19 Mr. Scheye, what you're telling us today is that
20 BellSouth is prepared to provide to the ALEC that level
21 of call detail that will allow the ALEC to bill each of
22 the interexchange carriers for terminating access?

23 A Yes, we do it today. We have that data
24 available. If a carrier wishes to come to BellSouth and
25 purchase that data, they can do so.

1 Q You said that the ALEC can come to BellSouth
2 and purchase that data. What do you mean by that?

3 A What does the word "purchase" mean or the
4 "data"?

5 Q No, I'm saying -- you're saying that that
6 information is not going to be included when they buy
7 the local switching capability?

8 A They wouldn't be typically, because the local
9 switching rate structure that's currently in effect in
10 the State of Florida, under the statement and under the
11 agreements we have with AT&T or MCI, charge only for an
12 originating minute of use. So there would not be any
13 terminating charge, per se, to the ALEC for terminating
14 minutes. So I would have nothing to record.

15 Q Mr. Scheye, we're again talking about how this
16 ALEC that has purchased the unbundled switch from you is
17 going to bill the other interexchange carriers. And
18 he's going to need to know the number of terminating
19 minutes for each of the different interexchange carriers
20 in order to render that bill; isn't that correct?

21 A I would assume so, yes.

22 Q And is it your testimony today that BellSouth
23 is capable and willing to provide that level of detail
24 to the new entrant so that he can produce access bills
25 and send them out to his access customers?

1 A I believe that's what I said, yes.

2 COMMISSIONER DEASON: While they're
3 conferring. But you also indicated that that is not
4 part of the price of the unbundled element local
5 switching.

6 WITNESS SCHEYE: That's correct, Commissioner.

7 COMMISSIONER DEASON: And if they want that
8 level of detail they have to make an arrangement with
9 you to acquire that level of detail, and I assume there
10 will be -- or it's your testimony that there will be a
11 price to recover the cost of providing that detail.

12 WITNESS SCHEYE: That's exactly right,
13 Commissioner. Similar to the situation where a carrier
14 may buy billing data like that from us, in order to bill
15 long distance calls, for example. It's an analogous
16 situation. In this instance they want to buy some sort
17 of recorded information to bill access as opposed to
18 long distance, but it's very analogous to the situation
19 of them billing long distance on their own behalf.

20 COMMISSIONER DEASON: Now, when the price of
21 local switching was arbitrated, that was not part of the
22 arbitration?

23 WITNESS SCHEYE: It was not. Those kind of
24 costs for recording and providing that level of
25 information would not have been in those cost studies.

1 MS. KAUFMAN: That's all I have. Thank you.

2 CHAIRMAN JOHNSON: Ms. Wilson?

3 CROSS EXAMINATION

4 BY MS. WILSON:

5 Q Good afternoon, Mr. Scheye.

6 A Good afternoon.

7 Q I would like to refer you to late-filed
8 hearing Exhiit No. 29.

9 A Yes.

10 Q It's confidential, regarding collocation
11 arrangements.

12 And Madam Chairman, I'm going to ask
13 Mr. Scheye a question, and I would like, so the record
14 is clear that -- to say that Media One waives
15 confidentiality on his response to this question.

16 Mr. Scheye, with respect to alternate, does
17 this late-filed hearing exhibit mean that there are no
18 collocations currently "in progress"?

19 A That is correct.

20 Q So the information you supplied in Late-filed
21 Deposition No. 9 is incorrect with regards to alternate?

22 A That is correct. The number was duplicated of
23 the ones that were completed, and the number in progress
24 should have been zero.

25 MS. WILSON: Okay, thank you.

1 CHAIRMAN JOHNSON: Mr. Melson?

2 CROSS EXAMINATION

3 BY MR. MELSON:

4 Q Mr. Scheye, Rick Melson representing MCI. I
5 want to go back to the conversation you were having with
6 Ms. Kaufman and Commissioner Deason about unbundled
7 local switching. Are you familiar with the definition
8 of network element in the Telecommunications Act of
9 1996?

10 A Yes.

11 Q And does that -- is network element defined to
12 mean a facility or equipment used in the provision of
13 the telecommunications service?

14 A Yes, sounds like it.

15 Q Such term also includes features, functions
16 and capabilities that are provided by means of such
17 facility or equipment, including subscriber numbers,
18 databases, signaling systems and information sufficient
19 for billing and collection, or used in the transmission,
20 routing or other provision of the telecommunications
21 service?

22 A Yes.

23 Q Is recording -- is the recording of access
24 information a feature, function or capability of local
25 switching?

1 A I'm sorry, could you say it again?

2 Q Yes, is the recording of access usage data a
3 feature, function or capability of local switching?

4 A It can occur in the local switch. It doesn't
5 always occur in the local switch.

6 Q It always can occur in the local switch; is
7 that correct?

8 A I believe in all the BellSouth switches it
9 can, yes.

10 COMMISSIONER CLARK: Mr. Scheye, let me ask
11 for clarification of that. I thought he asked is it a
12 feature of local switching. And I took that to mean is
13 it a feature included in the term "local switching," as
14 opposed to where that function is performed.

15 WITNESS SCHEYE: And maybe I misunderstood his
16 question. I thought he said was it a function that
17 could occur in the local switch. And I said it does
18 occur there sometimes, and other times we do the
19 recording in the tandem. I did not recall his question
20 dealing specifically with the term "local switching,"
21 but I may have misunderstood his question.

22 MR. MELSON: I think Mr. Scheye and I may have
23 been on the same wavelength.

24 COMMISSIONER CLARK: But I wasn't. Oh, that's
25 good.

1 MR. MELSON: But let me try again, just so I'm
2 clear.

3 Q (By Mr. Melson) Unbundled local switching is
4 a network element under the definition in the Telecom
5 Act; is that correct?

6 A Yes, it is.

7 Q And it is a facility -- and that's because it
8 is a facility or equipment used in the provision of the
9 telecommunications service?

10 A Yes, it can.

11 Q And unbundled -- and that facility or
12 equipment also includes the feature, function or
13 capability of recording access usage; is that correct?

14 A The switch -- again, this is where we seem to
15 have the -- does the switch have that capability? Is
16 that what your question is?

17 Q Yes, sir.

18 A Yes, it does. The switch can record.

19 Q Okay, now let me ask you, does the unbundled
20 switching element have that capability?

21 A Yes.

22 Q And you would also agree with me the term
23 "features, function and capabilities" includes
24 information sufficient for billing and collection?

25 A Yes.

1 MR. MELSON: I think that's all I have.

2 COMMISSIONER CLARK: Mr. Melson, just so I'm
3 clear, when you use the term "facility," do you mean a
4 physical object, or do you mean the ability?

5 MR. MELSON: Unbundled local switching is a
6 network element, and it is the switch port and the
7 software in the switch that does the routing and the
8 software that does the recording. All of that, as I
9 understand it, is included in the definition of the
10 network element. And I believe Mr. Scheye has answered
11 my questions in a way that indicates --

12 COMMISSIONER CLARK: He agrees.

13 MR. MELSON: -- that he acknowledges that.

14 WITNESS SCHEYE: I think, just to clarify for
15 everyone's sake, since we seem to be going around on
16 this, the recorded information associated with local
17 switching of the unbundled network element would be the
18 adequate recording in order to bill and identify the
19 local switching element.

20 Now the State of Florida, the local switching
21 element has two elements to its rate structure. The
22 first minute has a price and each additional minute has
23 a price. So in order for BellSouth to accurately bill
24 local switching under the statement, for example, in the
25 State of Florida, we would bill a carrier X number of

1 first minutes or initial minutes, and Y number of
2 additional minutes. That is the level of detail that
3 would be required for billing that particular element to
4 an ALEC or a CLEC, to the extent they purchased it.

5 Q (By Mr. Melson) And is it fair to say then
6 that you and I may have a difference of legal opinion
7 about what "information sufficient for billing" means as
8 it's used in the Telecom Act?

9 A I can't presuppose what your opinion is or
10 your definition is.

11 Q Let me ask you this: In your opinion -- I'm
12 not going to ask him for a legal opinion. No further
13 questions.

14 WITNESS SCHEYE: Please do.

15 CHAIRMAN JOHNSON: Mr. Tye?

16 MR. TYE: Thank you, Madam Chairman.

17 CROSS EXAMINATION

18 BY MR. TYE:

19 Q Afternoon, Mr. Scheye.

20 A Afternoon, sir.

21 Q Mr. Scheye, I'm going to have some questions
22 about your Exhibit 29 also, but first I would like to go
23 to Exhibit 40. That was the reason you came back in
24 here today, to talk about that; wasn't it?

25 A Yes, it was, sir. I thought so too.

1 Exhibit -- is that the LCSC report?

2 MS. WHITE: It's Exhibit 22, I believe, part
3 of Exhibit 22.

4 MR. TYE: I don't know where I got 40 from.

5 MS. WHITE: It's another late-filed hearing
6 exhibit, but it hasn't been filed yet.

7 MR. TYE: I'm sorry.

8 Q (By Mr. Tye) Mr. Scheye, could you turn over
9 to Page 4 of 9 of that exhibit?

10 A Yes, sir, I have it.

11 Q Under Phase III there, the third bullet point
12 down indicates, "A CLEC evaluation was developed that
13 tracks the percentage of clarifications, cancellations
14 and duplications received from each CLEC. This data is
15 pulled weekly from the LON order tracking system and
16 presented to the Customer Support Managers." And then
17 goes on to say, "They will be responsible for working
18 with the CLECs to correct those issues." Do you see
19 that bullet point I'm talking about?

20 A Yes.

21 Q What specific data will be provided to the
22 CLEC, Mr. Scheye?

23 A I don't know, sir. I've never seen it. I
24 would assume, again, that it would be -- again, the
25 error rate or number of clarifications and the number of

1 orders that had to be reprocessed by that CLEC, but I
2 have not seen the specific data.

3 Q And when will you start providing that
4 information?

5 A Again, don't know, sir. Haven't seen a
6 specific date.

7 Q You see the next bullet point under there, the
8 one that has to do with compliance audits?

9 A Yes.

10 Q Says, compliance audits will be created to
11 follow up on compliance and utilization of LCSC
12 management disciplines.

13 A Yes.

14 Q Will those audits be conducted by independent
15 auditors?

16 A I would have to assume they would be conducted
17 by internal BellSouth auditors, but it does not say, so
18 I can't tell you with certainty.

19 Q But it's your assumption they're internal
20 audits?

21 A That's my assumption, that's correct, sir.

22 Q Will CLECs be able to participate in those
23 audits in any way?

24 A These type of audits I would doubt -- these
25 are internal audits for internal control measures for

1 internal operations that we would do in our wholesale or
2 our LCSC as well as our retail units, and typically
3 outside entities would not be party to those audits.

4 Q Will the results of those audits be available
5 to the CLECs in any way?

6 A Again, typically they would not be. I think
7 this is analogous to an answer Mr. Stacy gave a little
8 while ago about measurements. Many of the things
9 discussed in this are internal measures, internal
10 activities for BellSouth in the management of
11 BellSouth. They don't deal with the type of information
12 that would typically be done and provided externally.
13 Internal management reports is generally what people
14 think of these as.

15 Q Mr. Scheye, would you turn over to Page 8 of 9
16 of this exhibit, please, sir?

17 A Yes.

18 Q And there, under Phase III, the second bullet
19 point is the one I want to talk about, the one that
20 starts LSR volume is 1195 per day.

21 A Yes.

22 Q Do you see that?

23 A Yes.

24 Q Is this LSR volume, 1195 a day, is that for
25 all of BellSouth, all of the BellSouth states?

1 A Yes, all nine states.

2 Q It's not specific to Florida then?

3 A No. This report is not a Florida-specific
4 report.

5 Q And this bullet point indicates that the LS --
6 excuse me, LCSC should be capable of absorbing 42
7 percent more volume with no impact on service quality.
8 You see that?

9 A Yes.

10 Q So that would bring the number of orders up
11 to, what, 1700 per day?

12 A I believe -- and I didn't do the math, but if
13 you look to the bullet above it, 1625 is probably in
14 that neighborhood.

15 Q Then there's some questions about the
16 addition -- excuse me, some statement about additional
17 staffing of 50 service reps, and that would increase the
18 number by 100 percent. So it would double the number;
19 is that correct?

20 A Yes.

21 Q Do you know how long it would take to staff
22 those 50 positions?

23 A No, I don't.

24 Q Do you know how long it would take to train
25 those 50 additional service reps?

1 A The training I recall was changed, and it
2 looked like, if I recall in a different part of this, it
3 indicated there was at least several weeks' worth of
4 training that would occur. So if I had to estimate,
5 probably a month.

6 Q How many access lines does BellSouth have in
7 Florida?

8 A Several million.

9 Q So is it in the neighborhood of 6 million?

10 A Could be, yes.

11 Q How many access lines does BellSouth have in
12 all states?

13 A Again, in the millions.

14 Q Do you have any figure --

15 A Twenty million.

16 Q -- that's more specific than in the millions?

17 A Twenty million.

18 Q Is it 20 million? Okay, I'm sorry. I didn't
19 hear the answer.

20 Mr. Scheye, can you turn over to the last page
21 on this exhibit, the one that starts capacity/capability.
22 It's a chart.

23 A Yes.

24 Q Looking down at the third line from the bottom
25 there, daily volume -- excuse me, is that daily volume

1 capacity?

2 A Yes.

3 Q What does that indicate? What is the daily
4 volume capacity? I'm sorry. Is that the capacity of
5 the system?

6 A No. I think, again we're talking about a
7 manual operation here as opposed to what the system
8 capacities are. Systems capacities are much much larger
9 than these.

10 Q Is this the capacity that you can handle --
11 should be able to handle through the manual operation?

12 A Yes, manually. That would be correct.

13 Q Then how does that differ from the daily
14 volume capability?

15 A That's a good question. I think you're trying
16 to compare the 1625 with these numbers, sir? I can't
17 answer. I don't know why these -- these numbers are
18 obviously -- look to represent very similar things, and
19 there's obviously a difference in the definitions of
20 those, and I'm not that familiar with numbers to be able
21 to give you that.

22 Q I'm sorry. I didn't mean to cut you off.

23 A That's all right.

24 Q It would appear from this chart, though, that
25 you're only operating -- well, you're operating at less

1 than 50 percent of capacity; is that correct?

2 A Oh yes, that's correct. And I think that's
3 what the other numbers, even though the numbers are
4 different, would indicate, that -- it said 42 percent
5 here -- that basically we have enough service
6 representatives in place to handle, not quite, but
7 roughly double the quantity that we're currently
8 processing.

9 Q But it also would appear from this chart that
10 you're only capable of operating at 49 percent of the
11 capacity; would it not?

12 A I believe that's intended to indicate what's
13 currently the activity level, that the capacity --
14 again, the number here's shows 49 percent, and again I'm
15 sure it's definitionally something slightly different,
16 but it appears to be similar to the 42 percent on Page 8
17 of 9, which talks about that they could handle another
18 42 percent of the orders.

19 Q Mr. Scheye, would you turn over to Page 6
20 of 9?

21 A Page 6 of 9. Sure.

22 Q I'm looking here under Phase III, the third
23 bullet point down, "The percentage of LSRs processed
24 within 48 hours improved 58%?"

25 A Yes.

1 Q And that indicates that in May the percentage
2 was 50 percent, and the first two weeks of August the
3 percentage was 79 percent, and it appears to me that the
4 measure used here was the number of FOCs worked in less
5 than 48 hours. Is that -- was that the standard used?

6 A Yes, within 48, correct, sir.

7 Q Now, the term "FOC" there refers to firm order
8 commitment; is that correct?

9 A Yes, or firm order completion.

10 Q Firm order completion. I'm sorry.

11 A That's all right.

12 Q And so the standard measure here -- the
13 standard used to make the measurement here was the
14 number of firm order completions delivered within 24 --
15 within 48 hours; is that correct?

16 A Correct.

17 Q And you did that -- according to this report,
18 BellSouth did that 79 percent of the time; is that
19 correct?

20 A In August it was 79 percent, correct.

21 Q First two weeks, I'm sorry.

22 A Yes, correct.

23 Q Now, is -- do you have a copy of the AT&T/
24 BellSouth interconnection agreement handy?

25 A No, sir, I don't.

1 Q Do you know what the standard for firm order
2 completions is in that agreement?

3 A It's either -- for LSRs, I would guess it's
4 either 24 hours or 48 hours.

5 Q Would you accept, subject to check, that it's
6 24 hours?

7 A Yes, I would accept it.

8 Q And that would be 100 percent within 24 hours;
9 is that correct?

10 A I don't know if there's a parameter around
11 that, but yes, it could be.

12 Q Well, would you accept subject to check that
13 it's -- your commitment is that you will do this within
14 24 hours?

15 A Yes.

16 Q Now, why would you measure -- why do you
17 measure the standard in this consultant's report against
18 a 48-hour standard when the commitment you've made is 24
19 hours?

20 A Well, again, if you recall Mr. Stacy's
21 testimony, he indicated that we have some agreements
22 that are 24 hours. We have some that are 48 hours, and
23 there may be some that are even longer than that. So
24 again, for the test purposes, when this study was
25 initiated, that was the test element that they used.

1 Again, recall that this study goes back well before the
2 AT&T agreement and some of those commitments may have
3 been finalized, so they simply used the standard, which
4 was a reasonable standard to start with.

5 Q Well, the effective date of the AT&T agreement
6 was June 10th; is that correct?

7 A Yes, but if you recall, the study goes back to
8 March when they began the study and the processes and
9 what they were measuring and what they began to measure
10 in March.

11 Q But the date contained in the AT&T agreement
12 is March; is it not?

13 A The date?

14 Q The date --

15 A Could be, sure.

16 Q Now, Mr. Scheye, does this -- if we look at
17 the bullet point above the one we've just been talking
18 about?

19 A Yes.

20 Q It says, "Processing duration time has been
21 reduced from 56.9 hours in May to 31.5 hours the first
22 two weeks of August."

23 A Yes.

24 Q So that means that the average time to deliver
25 a firm order completion is 31 and a half hours?

1 A No, I don't think you can associate those
2 two -- I'm not sure those two are both referring to the
3 firm order completion process.

4 Q What does that one refer to then?

5 A Processing duration. I don't have the
6 definition of what they used for processing duration.
7 Clearly it does not take 31 hours to literally process
8 it and do it.

9 Q Okay.

10 A That could be the number of hours that goes
11 from beginning to -- from the time it comes in to the
12 time it goes out, but it doesn't -- it is not being
13 worked on all that time.

14 Q Mr. Scheye, the -- I think we can agree,
15 though, based on the third bullet point here, that at
16 least 21 percent of the time during the first two weeks
17 of March BellSouth did not meet the 48-hour standard
18 that you used for self-measurement; is that correct?

19 A Yes, that's correct, 21 percent of time they
20 took longer than 48 hours. What we don't see here is
21 why that may have been. It could have been
22 clarifications were where orders had to be processed
23 more than once.

24 Q I thought that I understood from your cross
25 examination by Mr. Canis the other day that those types

1 of orders went into the hopper and they didn't end up in
2 these measurements; is that correct?

3 A No, sir, the hopper, as Mr. Canis and I were
4 discussing it, were orders that are simulated orders.
5 In other words, there's no CLEC involved in it.
6 Therefore, his concern was whether they were included
7 since there couldn't be a clarification going back to
8 the CLEC, since there's no CLEC involved in it.

9 MR. TYE: Madam Chairman, if I might have just
10 one minute. I've got some further cross, but it's going
11 to be on a different subject. (Pause)

12 Q (By Mr. Tye) Mr. Scheye, if you will now
13 refer over to your Exhibit 29, which I believe is the
14 one that Ms. Kaufman asked you about earlier. I'm
15 sorry, it's your Exhibit 31.

16 A Thirty-one, yes.

17 Q Now, I believe that you recall me asking you
18 questions about the ability to electronically bill for
19 usage in the switch last Tuesday; is that correct?

20 A Yes.

21 Q And I think your testimony was at that time
22 that -- well, when you talked to Ms. Kaufman a few
23 minutes ago, you thought at that time that it was --
24 that the capability was not there. You subsequently
25 determined that it was; is that correct?

1 A I thought when you cross examined me the other
2 day that the system that was going to be capable of
3 doing that was going to come up on line later this
4 month.

5 Q Now, when did you find out the information
6 that you've got contained now on Exhibit 31?

7 A It was -- should have been day before
8 yesterday or yesterday when we got back to the same
9 people and they gave us more current data. Like I said,
10 the last time I had checked was during the hearings in
11 Alabama, and we talked to these same folks then, and
12 that was the information they gave us then. They told
13 us they were proceeding. It was not at that time ready
14 to go operational. Obviously they thought it was going
15 to take about another month, and then they've obviously
16 accelerated the process significantly to have it
17 available now.

18 Q And when did you make that determination? It
19 was yesterday?

20 A Let's see, I believe these were Tuesday
21 evening, Wednesday evening. I'm trying to remember
22 which day. We got the late-filed question from Tuesday,
23 so it was probably last night, Wednesday.

24 Q Probably Wednesday night?

25 A I'm trying to keep my days straight. It was

1 either Wednesday night or Thursday night. Let's assume
2 Wednesday night.

3 Q And who were the folks you talked to to get
4 this information?

5 A I didn't talk to them personally, sir. They
6 were people in Birmingham, Alabama who are responsible
7 for our billing systems.

8 Q So who gave you the information?

9 A The people who talked to them directly while I
10 was --

11 Q Who were those people, Mr. Scheye?

12 A Mr. Lee from our regulatory department talked
13 to those people. Again, I believe it was Tuesday
14 evening or Wednesday evening.

15 Q So you haven't discussed this situation
16 personally with anyone; is that correct?

17 A I did not personally discuss it with these
18 people this time. As I said, I did talk to them when I
19 was in Alabama.

20 Q Mr. Scheye, do you recall the day that you
21 were on the stand, the day that I asked you the
22 questions about the electronic billing? Staff also
23 cross examined you that day; is that correct?

24 A Yes.

25 Q Do you -- and that was shortly after I cross

1 examined you that afternoon; is that correct?

2 A Yes.

3 Q Do you recall Ms. Barone or the Staff asking
4 you: "Particularly since there has been a bill
5 entered. Do you know whether BellSouth is capable of
6 providing mechanized billing for UNEs today?"

7 A I don't recall it, but I'll accept it.

8 Q Do you recall giving the answer: "I believe
9 we are, but, again, I can check, or you might be able to
10 ask the question of Ms. Calhoun"?

11 A Yes.

12 Q Mr. Scheye, doesn't that contradict the answer
13 you gave me that same afternoon, two days before you
14 checked with these folks?

15 A I don't believe so, not intentionally. Maybe
16 I misunderstood one of the questions, but I don't recall
17 any contradictions, sir.

18 Q Now, Mr. Scheye, according to the information
19 that you've submitted on the Late-filed Exhibit 31,
20 BellSouth has had this capability since August 14th; is
21 that correct?

22 A Yes.

23 Q Now, how many states have you testified in
24 since August 14th?

25 A This will be the second.

1 Q You testified in Alabama, did you not, or is
2 it Kentucky?

3 A Both. Seems like I got the information when I
4 was in Alabama, and then we went to Kentucky and then we
5 came here.

6 Q You got the information while you were in
7 Alabama?

8 A I called from Alabama, yes.

9 Q And you were told then that you can't do it?

10 A What they told me was they were in the
11 process, they were testing it, they estimated at that
12 point in time roughly a 1st of September capability.
13 And I being a slightly conservative said middle of
14 September, just in case.

15 Q So the middle of September was your number and
16 not the number that the folks in Atlanta gave you, or
17 Birmingham?

18 A Birmingham. They told me, couldn't give me a
19 precise date. They said first part of September, so
20 first part being the first half is the way I interpreted
21 that for discussion purposes.

22 Q Now you have not personally seen this system
23 in operation; is that correct?

24 A That's correct, sir.

25 Q And a bill has not yet been rendered; is that

1 correct?

2 A Not a live bill to my knowledge, that's
3 correct.

4 Q Now, you said that it had been tested -- it
5 had been tested by BellSouth; is that correct?

6 A The billing people told me they were in a test
7 mode with the operation. They were testing the
8 software.

9 Q Did they tell you this or Mr. Lee this?

10 A No, they told me that.

11 Q So does BellSouth test all of its billing
12 systems before it renders a bill?

13 A Does BellSouth -- I would believe so. I'm not
14 in the billing department, but that would seem logical
15 to me.

16 Q Does the -- so the bill that we looked -- you
17 and I talked about the other day, Exhibit 27, was also
18 tested at some point prior to being rendered; is that
19 correct?

20 A That billing arrangement, being on a trial
21 basis with AT&T and being somewhat of a unique bill, I
22 don't know what prior tests they did of any of it before
23 they rendered the bill to AT&T, since that was really a
24 unique bill not to go on line that way, since it had
25 been indicated, at least by BellSouth, that that would

1 not be the billing arrangement for that service once it
2 went live, if it did go live.

3 Q Is it correct, though, that since the bill has
4 not been rendered, no CLEC has had an opportunity to
5 test your ability to render this type of a bill?

6 A Are you talking about the usage bill again,
7 sir?

8 Q Yes, sir.

9 A That would be correct. They would not have
10 received a bill of that sort yet.

11 Q And there's no actual experience with respect
12 to this type of billing testing; is that correct?

13 A That's correct, sir.

14 Q Mr. Scheye, does BellSouth have a CLEC
15 organization?

16 A Does BellSouth?

17 Q Yes.

18 A BellSouth Corporation does.

19 Q Yes. BellSouth Corporation does; is that
20 correct?

21 A Yes, it does.

22 Q What's the name of that company?

23 A BellSouth BSE Incorporated.

24 Q Now is that company going to provide CLEC
25 service in competition, say, with GTE or Sprint or any

1 number of other local exchange companies?

2 A It may.

3 Q And will that -- will that company provide
4 competition for BellSouth?

5 A It will -- it will have the capability, if
6 certified, to provide service statewide. So since
7 BellSouth -- or BST has service within the state, it
8 can.

9 Q Now will that company need to enter into
10 interconnection agreements?

11 MS. WHITE: Excuse me. And I guess I'm -- I
12 don't know where we're going. It seems to me it's a
13 little far afield from the exhibits and -- that
14 Mr. Scheye was put up to talk about.

15 MR. TYE: I'm really trying to make a point
16 with respect to the need to test things, Madam
17 Chairman. So if I could ask a couple more questions, I
18 think we'll get there.

19 Q (By Mr. Tye) Will that company need to enter
20 into interconnection agreements like any other CLEC?

21 A Yes, it will. Sure.

22 Q Mr. Scheye, you're about to become a vice
23 president of that company; is that correct?

24 A November.

25 Q And when you become a vice president of that

1 company, wouldn't you want to have some actual
2 experience testing these agreements that you have with
3 other ILECs prior to implementing them?

4 A I may. Depends on what the services I plan to
5 purchase and the relationships. I'm fairly confident
6 that the incumbents that I plan to interconnect with can
7 render me accurate bills.

8 Q Particularly if they're BellSouth?

9 A They'll render the same bill to BellSouth BSE
10 as they will to AT&T. Let's hope they're all accurate.

11 Q You were also asked some questions about your
12 ability to render access usage in the switch. You
13 remember those questions Ms. Kaufman asked you?

14 A Yes.

15 Q And what you said -- what I understood you to
16 say was that a CLEC can get that usage but they have to
17 pay for it; is that correct?

18 A Yes.

19 Q Have you established a price for that?

20 A No, sir, no one has requested it yet.

21 Q What does BellSouth pay itself for that
22 information?

23 A BellSouth actually wouldn't need that level of
24 detail to render an access bill on its own behalf. So I
25 mean, it's internal to its own operations. It's

1 recording information that it has. I don't know what
2 the -- you could go look at our accounts and there's an
3 expense for recording, but I don't know that that would
4 tell us much.

5 Q Well, I thought I understood you to say that
6 this would be the same information that BellSouth uses
7 to render an access bill.

8 A No, sir, I never said that. Nobody asked me
9 that question.

10 Q When you had your discussion, Mr. Lee had his
11 discussion with the billing people, did he, or you, or
12 whoever talked to him, discuss with those people the
13 ability to provide access information?

14 A No, sir. We were strictly discussing the
15 question, which was could we render a mechanized bill
16 for unbundled local switching usage and transport usage.

17 Q Mr. Scheye, then how do you know that the
18 recording costs are not in your cost study?

19 A Well, again, that's -- that question has
20 nothing to do with the question of asking our billing
21 people. But when we submitted the cost studies, the
22 TSLRIC studies which were used by this commission to
23 determine the prices, there would have been no reason to
24 include costs for recording of access detail since there
25 was no access detail billing assumed in local

1 switching.

2 Q Did you personally review those studies?

3 A No, sir, I didn't. Until the other day I
4 wasn't a cost expert.

5 Q So then this is your opinion of what those
6 studies did or did not include?

7 A Absolutely, sir.

8 MR. TYE: Thank you, Mr. Scheye. I have no
9 further questions.

10 WITNESS SCHEYE: Thank you.

11 CHAIRMAN JOHNSON: Mr. Boyd, we're going to
12 break for lunch. We're going to take a 30-minute
13 lunch.

14 (Recess from 12:45 p.m. until 1:30 p.m.)

15 MS. WHITE: I have a couple of preliminary
16 matters.

17 CHAIRMAN JOHNSON: I'll address the
18 preliminary matters.

19 MS. WHITE: One is BellSouth has handed to the
20 Staff and to the commissioners and the parties the
21 responses to Late-filed Hearing Exhibits 35, 38 and 39
22 from yesterday, or maybe it was the day before, as well
23 as BellSouth has now given to AT&T revised responses to
24 the interrogatories and the production of document
25 request that's the subject of their motion to compel.

1 We've given to Staff a copy of the answers to the
2 interrogatories, as well as the cover sheets for the
3 documents, as well as the chairman, and it's my
4 understanding that AT&T will require some time to look
5 through it to see if it satisfies their needs with
6 regard to the motion to compel, as well as to determine
7 whether Mr. Stacy may need to be recalled.

8 CHAIRMAN JOHNSON: Okay. Thank you. Any
9 other preliminary matters?

10 Mr. Tye?

11 MR. TYE: I'm done, Madam Chairman.

12 CHAIRMAN JOHNSON: Okay. Mr. Horton.

13 MR. HORTON: No questions.

14 CHAIRMAN JOHNSON: Oh yeah, we were at
15 Mr. Boyd.

16 CROSS EXAMINATION

17 BY MR. BOYD:

18 Q Thank you. Just real briefly. Mr. Scheye,
19 I'm Everett Boyd for Sprint. I believe when you were
20 talking to Mr. Tye, when you referred to the graph at
21 the -- attached to the August 15th audit update?

22 A Yes.

23 Q The title is Percentage of LSRs FOC in Less
24 Than 48 hours, and I think you referred to completion.
25 Isn't an FOC a firm order confirmation?

1 A Confirmation, yes, sir, you're correct.

2 Q Thank you. And when you were in Alabama and
3 placed the call to Birmingham to get the pricing
4 information, who did you speak to?

5 A You mean the billing information?

6 Q I'm sorry, the billing information.

7 A A gentleman by the name of Mr. Holleit.

8 Q Holleit?

9 A Yes, sir, he's in our billing --

10 Q What's his first name?

11 A Don, I believe.

12 Q Thank you.

13 CHAIRMAN JOHNSON: Is that it?

14 MR. BOYD: That's it.

15 CHAIRMAN JOHNSON: Staff?

16 MS. BARONE: Staff doesn't have any questions,
17 but we would like to move in Exhibit No. 31 at this
18 time.

19 MS. KAUFMAN: Madam Chairman, we do have an
20 objection to Exhibit 31. That exhibit directly
21 contradicts the sworn testimony of Mr. Milner and
22 Mr. Scheye given just two days ago.

23 Based on Mr. Tye's cross examination of
24 Scheye, we find out the information he's given us today
25 is not only hearsay but hearsay removed two times from

1 people that are not available for cross examination.

2 We don't believe this information is reliable,
3 and given the fact that it's not and this record is
4 going to be transmitted to the FCC, we would enter a
5 strenuous objection to this exhibit coming into the
6 record.

7 MR. TYE: Madam Chairman, I support that
8 objection.

9 CHAIRMAN JOHNSON: Okay, Mr. Tye.

10 MS. WHITE: Well, I don't know if I'm supposed
11 to say anything, but I'll give it a try. I guess I've
12 got two comments on that. One is that the parties have
13 been able to cross examine Mr. Scheye on the exhibit,
14 and half the stuff that AT&T has handed out for exhibits
15 to cross-examine BellSouth's witnesses have been hearsay
16 and haven't been substantiated by any witness.

17 So I think the Commission does have a rule
18 that hearsay is allowed in and it is given whatever
19 weight the Commission feels like it should give. We
20 were asked to provide a late-filed hearing exhibit by
21 the Staff and some the parties, and we did that.

22 CHAIRMAN JOHNSON: Staff, did you want to
23 provide any comment since it's your exhibit.

24 MS. BARONE: My only comment is I was going to
25 say that the Commission is free to give it whatever

1 weight it deems appropriate.

2 CHAIRMAN JOHNSON: Mr. Tye?

3 MR. TYE: Madam Chairman, I recall that under
4 the APA, hearsay is admissible to corroborate other
5 testimony, but I don't believe it's admissible to
6 contradict other testimony, which is essentially what
7 this late-filed exhibit is being introduced to do.

8 The fact that Mr. Scheye was here and we were
9 able to ask him questions on his late-filed exhibit only
10 goes to underscore the magnitude of the hearsay problem
11 here. You know, Mr. Scheye did not speak with any of
12 the folks that are in a position to know about this
13 billing system. In fact, he did it through at least one
14 intermediary, maybe two. We don't know.

15 For that reason, this testimony simply is not
16 reliable and shouldn't be admitted here. Thank you.

17 CHAIRMAN JOHNSON: And Ms. Kaufman, you wanted
18 to add?

19 MS. KAUFMAN: Chairman Johnson, I was just
20 going to make the point Mr. Tye did in regard to the
21 sort of evidence that's acceptable under the APA. And
22 it says that hearsay evidence may be used for the
23 purpose of supplementing or explaining other evidence,
24 but it shall not be sufficient in itself to support a
25 finding unless it would be admissible over objection in

1 civil actions.

2 And this kind of testimony, I don't believe,
3 would be admissible in a civil action. You cannot use
4 it to support any sort of finding that you would make,
5 and we think that it's unreliable and it should not be
6 admitted for any purpose.

7 MS. WHITE: Well, all I can say to that is
8 that apparently the intervenors want to keep out the
9 latest information. If the exhibit doesn't come in, and
10 if Mr. Scheye's cross that he's just undergone is not
11 in, then the Commission has incorrect information on
12 which to base the decision.

13 CHAIRMAN JOHNSON: Ms. Barone.

14 MS. BARONE: And I'll just read the rule to
15 you for your benefit, 25-22.048. "Any relevant evidence
16 shall be admitted if it is the sort of evidence which is
17 normally admissible in civil trials in Florida, or which
18 reasonably prudent persons are accustomed to relying
19 upon in the conduct of their affairs. Hearsay evidence
20 may be used to supplement or explain other evidence but
21 shall not be sufficient in itself to support a finding
22 unless it would be admissible over objection in civil
23 actions. Irrelevant and unduly repetitious evidence may
24 be excluded."

25 CHAIRMAN JOHNSON: I'm going to allow the

1 exhibit to come in. Some of the concerns are valid, but
2 those will go to the weight and not to the admissibility
3 of a particular item. The parties did have an
4 opportunity to cross examine the witness, and that can
5 be taken into consideration by the commissioners who
6 heard the examination and understand the facts under
7 which this exhibit was compiled and to which the witness
8 testified. So I'll admit 31.

9 (Exhibit No. 31 received into evidence.)

10 MS. WHITE: And may Mr. Scheye be excused?
11 Just today.

12 CHAIRMAN JOHNSON: I guess so. You're
13 excused, Mr. Scheye.

14 WITNESS SCHEYE: Thank you.

15 (Witness Scheye excused.)

16 * * *

17 MS. WHITE: BellSouth has no further witnesses
18 with the exception of the possible recalling of
19 Mr. Stacy, which will be determined when AT&T is able to
20 review their information.

21 CHAIRMAN JOHNSON: Okay.

22 COMMISSIONER DEASON: I'm putting my copy of
23 proprietary Exhibit 29 right up here. Somebody can get
24 it.

25 COMMISSIONER CLARK: Commissioner Deason, now

1 I'm a little nervous. And I think I may -- did
2 everybody get that?

3 COMMISSIONER DEASON: I know that I had it. I
4 assumed that everyone --

5 COMMISSIONER CLARK: Can I look at it, because
6 I'm afraid it's lying around here somewhere. Should it
7 have that on it, or did you put that --

8 COMMISSIONER DEASON: I highlighted it as
9 proprietary.

10 CHAIRMAN JOHNSON: It was September 4th?

11 MS. WHITE: Yes, when I handed out the 29, 30
12 and 31, I handed out the redacted copy, but I believe I
13 may have mistaken and gave Commissioner Deason an
14 unredacted version. I believe that was the only one.

15 COMMISSIONER CLARK: So you don't think we
16 need to worry?

17 MS. WHITE: I don't believe I gave one to you,
18 Commissioner Clark.

19 CHAIRMAN JOHNSON: How did you know yours
20 was --

21 COMMISSIONER DEASON: I was given a packet
22 with a cover letter in which 29 was redacted, and then
23 in addition a separate Exhibit 29 which had stamped on
24 it "proprietary."

25 MS. WHITE: That's correct.

1 CHAIRMAN JOHNSON: Okay, thanks. Any other
2 matters before we proceed now that BellSouth has
3 completed its direct case?

4 MR. MELSON: Chairman Johnson?

5 CHAIRMAN JOHNSON: Did you have another
6 comment?

7 MS. WHITE: No, we have -- I guess the only
8 thing I had left was a housekeeping matter for this
9 afternoon. I've heard rumors that the Commission may
10 want to end early today, and I believe we can at least
11 get through Mr. Gillan and Mr. Wood today. And we can
12 either start Mr. Hamman and stop at 4, or as you
13 please.

14 CHAIRMAN JOHNSON: Okay. And Mr. Melson, were
15 your comments addressing the same thing?

16 MR. MELSON: Yes. And I had consulted with
17 Staff and Ms. White, and it appears we can take
18 Mr. Gillan first and Mr. Wood second and not run into a
19 danger of not finishing by 4.

20 (Transcript continues in sequence in
21 Volume 17.)

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