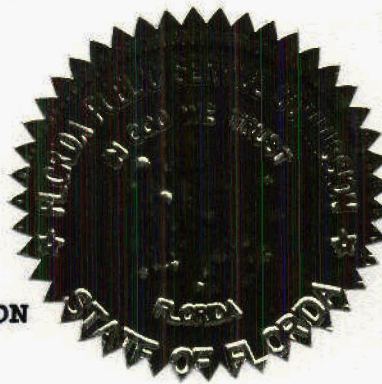


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of	:	DOCKET NO. 960786-TL
	:	
Consideration of BellSouth	:	
Telecommunications, Inc.'s	:	
Entry into interLATA services	:	
pursuant to Section 271 of the	:	
Federal Telecommunications	:	
Act of 1996.	:	



SEVENTH DAY - LATE EVENING SESSION

VOLUME 31

Pages 3415 through 3546

PROCEEDINGS: **HEARING**

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

DATE: **Wednesday, September 10, 1997**

TIME: Commenced at 9:05 a.m.

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

REPORTED BY: JOY KELLY, CSR, RPR
 Chief, Bureau of Reporting
 (904) 413-6732

APPEARANCES:

(As heretofore noted.)

DOCUMENT NO.
09230-97
09/11/97

I N D E X

WITNESSES - VOLUME 31

3	NAME	PAGE NO.
4	GARY J. BALL	
5	Continued Cross Examination	3417
6	FRANK R. HOFFMANN, JR.	
7	Direct Examination By Mr. Willingham	3419
	Prefiled Rebuttal Testimony Inserted	3422
8	Cross Examination By Mr. Carver	3444
	Cross Examination By Mr. Pellegrini	3464
9	Redirect Examination By Mr. Willingham	3470
10	PAUL KOUROUPAS	
	Direct Examination By Mr. Hoffman	3476
11	Prefiled Direct Testimony Inserted	3478
	Cross Examination By Mr. Carver	3496
12	Cross Examination By Mr. Pellegrini	3511
	Redirect Examination By Mr. Hoffman	3523

EXHIBITS - VOLUME 31

15	NUMBER	ID.	ADMTD.
16	115		3418
	116		3418
17	117		3418
	118	FH-1	3443 3474
18	119	FH-2	3444 3474
19	120	Notification of Traffic	3469
20		Changes and Increases	
21	121	Excerpts, BellSouth Responses	3475
		to AT&T Interrogatories	
22	122	PK-1	3477 3528
	123	PK-2	3496 3528
23	124	Time Warner's response to	3533
24		Staff's interrogatories	3533
25	125	(Late-Filed) BellSouth's SGAT	3540

P R O C E E D I N G S

1
2 (Transcript follows in sequence from
3 Volume 30.)

4 **GARY J. BALL**

5 continues his testimony under oath from Volume 30:

CONTINUED CROSS EXAMINATION

6
7 **BY MS. CULPEPPER:**

8 Q In your opinion, if a new entrant is
9 providing 911 as a facility-based provider does not
10 have a trunk established to each PSAP, how will the
11 call be routed to the appropriate PSAP?

12 A Generally what we do with most carriers is
13 they allow us to interconnect to their single tandem
14 and then the call gets routed just the way their own
15 calls would be routed. So we would connect to their
16 E911 tandem switch and then the call would get routed
17 to each PSAP just like their own calls.

18 Q So could you explain a little bit more what
19 the problem is with the five separate trunks?

20 A My understanding, and I don't know all of
21 the details of everything that is going on, is that
22 there's a diversity requirement, and there's issues
23 that if something happens you have to have diverse
24 trunking going directly to each of the PSAP. And I
25 think that's where, I guess, our disconnect with

1 BellSouth has been.

2 But I think the whole point of testimony is
3 really just to highlight some of the expense and
4 difficulties that carriers were coming into. I don't
5 believe it was asking for any relief, or you know --

6 MS. CULPEPPER: Thank you, Mr. Ball. That's
7 all the questions Staff has.

8 CHAIRMAN JOHNSON: Commissioners? Redirect?

9 MR. SELF: No redirect.

10 CHAIRMAN JOHNSON: Exhibits.

11 MR. SELF: WorldCom would move Exhibit 115.

12 CHAIRMAN JOHNSON: Show 115 admitted without
13 objection.

14 MS. CULPEPPER: Staff moves 116 and 117.

15 CHAIRMAN JOHNSON: Show 116 and 117 admitted
16 without objection. Any other matters for this
17 witness?

18 (Exhibits 115, 116 and 117 received in
19 evidence.)

20 MR. SELF: May he be excused?

21 CHAIRMAN JOHNSON: You may be excused.

22 Thank you, sir.

23 We'll take the next witness, TCG.

24 (Witness Ball excused.)

25 MR. WILLINGHAM: Mr. Frank R. Hoffmann, Jr.

1 **MR. CARVER:** Chairman Johnson. Could we
2 take a brief break? Because I'm going to have to
3 cross examine this witness regarding some confidential
4 documents, and if I could have just a moment to speak
5 with his attorney about how they want that to be
6 handled.

7 **CHAIRMAN JOHNSON:** That will be fine. We'll
8 take five.

9 (Brief is access.)

10 **CHAIRMAN JOHNSON:** If everyone could be
11 seated we're going to reconvene the hearing.

12 **MR. WILLINGHAM:** I assume we're back on the
13 record.

14 - - - - -

15 **FRANK R. HOFFMANN, JR.**
16 was called as a witness on behalf of Teleport
17 Communications Group, Inc. and, having been duly
18 sworn, testified as follows:

19 **DIRECT EXAMINATION**

20 **BY MR. WILLINGHAM:**

21 **Q** Mr. Hoffmann, you were sworn in earlier this
22 morning, weren't you?

23 **A** Yes, I was.

24 **Q** Would you please state your name and
25 business address?

1 **A** My name is Frank Hoffmann. My business
2 address is 25 South Charles Street, Suite 2001,
3 Baltimore, Maryland.

4 **Q** By whom are you employed?

5 **A** My employer is TCG.

6 **Q** What is your position there?

7 **A** I'm the Regional Director of Carrier
8 Relations responsible for the southern region.

9 **Q** Did you prepare and cause to be filed
10 prefiled rebuttal testimony on behalf of Teleport in
11 this proceeding that consists of approximately 18
12 pages?

13 **A** Yes, I did.

14 **Q** Do you have any changes or revisions to your
15 prefiled rebuttal testimony?

16 **A** Yes, I do.

17 **Q** Could you please go through each of those
18 for us?

19 **A** Yes.

20 **Q** On Page 2, Line 17, the word "size" should
21 be replaced with the word "sized", S-I-Z-E-D. Page 4,
22 Line 17, please insert the word "would", W-O-U-L-D,
23 between "BellSouth" and "actually". Page 7, Line 15
24 the word "quality" should be replaced with "quantity",
25 Q-U-A-N-T-I-T-Y. Page 9, Line 2, correct the spelling

1 of the word "cause". Page 11, Line 1, the word "as"
2 should be replaced with "at", A-T. And lastly
3 Page 15, Line 9, insert the word "other" between the
4 words "any "and "information." That's all.

5 MR. WILLINGHAM: Madam Chairman, I request
6 Mr. Hoffmann's prefiled rebuttal testimony be inserted
7 into the record as though read.

8 CHAIRMAN JOHNSON: It will be on inserted.

9 Q (By Mr. Willingham) Mr. Hoffmann, you do
10 not have any exhibits attached to your rebuttal
11 testimony, do you?

12 A Yes, I do. I have a Late-filed Deposition
13 Exhibit No. 1.

14 Q That's not an exhibit to your prefiled
15 rebuttal testimony, though, is it?

16 A No, it is not.

17 Q If I asked you the questions that are in
18 your prefiled rebuttal testimony, would your answers
19 today be the same as those that you have stated as
20 corrected?

21 A Yes, they would.

22 MR. WILLINGHAM: Thank you.
23
24
25

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**REBUTTAL TESTIMONY****OF****FRANK R. HOFFMANN, JR.****ON BEHALF OF****TELEPORT COMMUNICATIONS GROUP INC.****DOCKET NO. 960786-TL****JULY 31, 1997**

1 **Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION**
2 **WITH TELEPORT COMMUNICATIONS GROUP, INC.**

3 A. My name is Frank R. Hoffmann, Jr. My business address is 25 South
4 Charles St., Suite 2001, Baltimore, MD 21201. I am the Regional
5 Director of Carrier Relations, for Teleport Communications Group, Inc.,
6 I am responsible, among other things, for ensuring compliance with the
7 Interconnection Agreement between TCG and BellSouth
8 Communications ("BellSouth"), dated July 15, 1996, and with the 1996
9 Telecommunications Act in TCG's Southern Region.

10 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

11 A. I am testifying on behalf of Teleport Communications Group, Inc.'s
12 affiliate TCG South Florida (collectively referred to as "TCG").

13 **Q. PLEASE SUMMARIZE YOUR BACKGROUND AND**
14 **EXPERIENCE.**

15 A. I received a Masters of Business Administration in Finance in 1988

1 from the University of Maryland, in College Park, Maryland. I have ten
2 years of experience in the telecommunications industry, including nine
3 years with Bell Atlantic. I held positions of increasing responsibility in
4 the areas of Service Costs, External Affairs, Finance and Marketing with
5 Bell Atlantic. I joined TCG in February, 1997.

6 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

7 A. I will rebut the Direct Testimony of BellSouth witness W. Keith Milner
8 who concludes that BellSouth meets the first Checklist Item contained in
9 Section 271(c)(2)(B). The first Checklist item requires BellSouth to
10 provide interconnection to TCG that is "at least equal in quality" to that
11 which BellSouth provides to itself or other parties with whom it
12 interconnects. While Mr. Milner concludes that BellSouth meets this
13 checklist item, my operational experience with BellSouth leads me to
14 conclude that they do not. My testimony will address four specific
15 circumstances in which BellSouth is not providing equal quality
16 interconnection to TCG in Florida:

- 17 • BellSouth fails to provide properly size^g/interconnection trunks to
18 TCG, which results in blockage of calls to TCG's customers
19 from BellSouth's customers;
- 20 • BellSouth's network design exacerbates the call blocking
21 problem, and increases TCG's risk of significant network failure;
22
- 23 • BellSouth fails to provide timely meet-point billing data so as to
24 allow TCG to bill interexchange carriers (IXCs); and
25
- 26 • BellSouth fails to confirm TCG's Signaling System 7 ("SS7")
27 point codes.
28

1 In sum, I conclude that BellSouth has not and cannot
2 demonstrate that it is providing TCG with interconnection that is at least
3 equal in quality to that provided by BellSouth to itself, its subsidiaries
4 and affiliates and to any other carrier to which it provides service.

5 **INTERCONNECTION TRUNK GROUPS**

6 **Q. WHAT IS INTERCONNECTION?**

7 A. Interconnection is the physical linking of two networks for the mutual
8 exchange of telecommunications traffic. GTE and BellSouth have
9 utilized interconnection to exchange local traffic between their
10 customers for decades.

11 **Q. WHY IS INTERCONNECTION IMPORTANT TO ALECS LIKE**
12 **TCG?**

13 A. Interconnection is vitally important because like GTE, TCG is a
14 facilities-based LEC whose customers make local calls to and receive
15 calls from BellSouth's customers. The difference between GTE and
16 TCG is that GTE's service area is contiguous to BellSouth's, while
17 TCG directly competes within the same service territory as BellSouth.

18 **Q. WHAT HARM DOES BELLSOUTH CAUSE BY PROVIDING**
19 **INADEQUATE INTERCONNECTION TO TCG?**

20 A. When customers move their service from BellSouth' network to TCG's
21 network, suddenly callers' attempts to reach A party experience a high
22 level of blocked calls. Obviously this is completely unacceptable to

1 TCG, and to its customers. This call blockage is a source of enormous
2 operational frustration to TCG's otherwise successful effort to provide
3 quality service. The call blockage degrades the quality of service that
4 TCG's customers experience and undermines their first impression of
5 TCG as a competitive alternative to BellSouth. Significantly, TCG's
6 customers are not able to discern that the call blockage problem is
7 caused by BellSouth.

8 **Q. IF BELLSOUTH'S INADEQUATE INTERCONNECTION IS A**
9 **COMPETITIVE IMPAIRMENT TO TCG, CAN'T TCG JUST FIX**
10 **IT?**

11 A. There is nothing TCG can do to our side of the network to overcome
12 BellSouth's refusal to properly operate its half of these jointly
13 provisioned local calls between competing carriers. Given the reality
14 that no single ALEC, including TCG will ever have 100% of the
15 customers, ALECs will forever be reliant on competing carriers to
16 originate and terminate calls from or to their customers respectively.

17 If BellSouth ^{would} actually provide equal quality interconnection as
18 they are required to do, TCG would have an opportunity to be more
19 competitive, and accordingly we would take more business away from
20 BellSouth. Obviously BellSouth has no commercial incentive to help
21 TCG take business away from it. Under ordinary commercial
22 circumstances, the Regional Bell Operating Companies ("RBOCs")

1 would not sell competitors equal quality interconnection. This is
2 precisely why equal quality interconnection is a requirement under law.

3 **Q. WHAT MOTIVATION DOES BELL SOUTH HAVE TO PROVIDE**
4 **TCG WITH EQUAL QUALITY INTERCONNECTION?**

5 A. The revenue opportunities associated with BellSouth's entry into the
6 interLATA toll market were the "carrot" to motivate BellSouth to
7 provide TCG the equal quality interconnection required by the Act.
8 BellSouth's incentive is to provide the required Checklist item, so that it
9 can provide interLATA toll.

10 **Q. DO TCG AND BELL SOUTH HAVE AN APPROVED**
11 **INTERCONNECTION AGREEMENT?**

12 A. Yes. TCG and BellSouth filed their interconnection agreement with the
13 Florida Public Service Commission ("PSC") over one year ago, on July
14 26, 1996. The Commission approved that agreement on October 29,
15 1996, by Order No. PSC-96-1313-FOF-TP.

16 **Q. DOES A SIGNED AND APPROVED INTERCONNECTION**
17 **AGREEMENT DEMONSTRATE THE PRESENCE OF**
18 **FACILITIES-BASED COMPETITION IN FLORIDA?**

19 A. No. Full implementation of an interconnection is not instantaneous.
20 TCG's experience with BellSouth in Florida (and with other Regional
21 Bell Operating Companies in other states) suggests that it will take some
22 time before full implementation is achieved. Until the interconnection

1 agreement is fully implemented, the concept of vigorous local exchange
2 competition remains illusory.

3 **Q. BELLSOUTH WITNESS MILNER TESTIFIED THAT**
4 **BELLSOUTH IS MEETING THE REQUIREMENTS OF**
5 **SECTION 251(C)(2). DO YOU AGREE?**

6 A. No, I strongly disagree. Section 251(c)(2) provides that BellSouth has
7 the duty to provide interconnection with a local exchange carrier's
8 network "that is at least equal in quality to that provided by the local
9 exchange carrier to itself or to any subsidiary, affiliate, or any other
10 party to which the carrier provides interconnection." BellSouth has not
11 demonstrated that it provides interconnection parity in a number of
12 areas.

13 **Q. PLEASE DESCRIBE THE AREAS WHERE BELLSOUTH IS NOT**
14 **PROVIDING INTERCONNECTION TO TCG "THAT IS AT**
15 **LEAST EQUAL IN QUALITY" TO THE SERVICE IT PROVIDES**
16 **TO ITSELF.**

17 A. BellSouth fails to provide equal quality interconnection to TCG by
18 improperly undersizing interconnection trunks to TCG, thereby causing
19 network congestion and call blocking problems. This adversely and
20 disproportionately affects TCG and its customers.

21 **Q. BASED UPON YOUR EXPERIENCE, HAS BELLSOUTH**
22 **PROPERLY SIZED INTERCONNECTION TRUNKS BETWEEN**

1 **ITSELF AND TCG?**

2 A. No. I believe that BellSouth continually fails to adequately size its end
3 of the interconnection trunk groups. Likewise, even when the
4 interconnection trunks might be properly sized, BellSouth is too slow to
5 grow the trunks to handle the increased traffic flowing between
6 BellSouth and TCG. As a result, a significant amount of traffic
7 destined for TCG is blocked by BellSouth. Because BellSouth blocks
8 the traffic at their office, TCG is unable to measure the traffic that it
9 consequently does not receive.

10 **Q. HOW HAVE YOU DETERMINED THAT THIS BLOCKAGE IS**
11 **OCCURRING?**

12 A. Often when a new trunk group or trunk group augmentation is added,
13 the trunk group immediately fills up to capacity with traffic. Basically,
14 there are two possible explanations. This could indicate that a large
15 ~~quantity~~^{quantity} of additional traffic is instantaneously materializing from
16 somewhere within BellSouth's network at the precise time of
17 installation. Alternatively, this could indicate that the original set of
18 trunk groups was insufficiently sized to handle the traffic.

19 The only reasonable explanation for this avalanche of traffic
20 suddenly transmitted by BellSouth to TCG is that the new trunk groups
21 are filling up with traffic which was previously being blocked by
22 BellSouth because of their lack of trunk capacity in the direction from

1 BellSouth to TCG. BellSouth offers no other reasonable explanation.

2 **Q. DOES TCG EXPERIENCE BLOCKING ON THE**
3 **INTERCONNECTION TRUNKS IN THE OPPOSITE**
4 **DIRECTION, I.E., FROM TCG TO BELLSOUTH?**

5 A. No. TCG monitors those trunks and trunk ports and installs additional
6 capacity in a timely fashion. TCG only seeks BellSouth to do the same
7 on their end.

8 **Q. HAS TCG RECEIVED COMPLAINTS FROM ITS CUSTOMERS**
9 **CONCERNING CALL BLOCKAGE?**

10 A. Yes. TCG has received and continues to receive complaints from its
11 customers about blocked incoming traffic. Customers who subscribe to
12 TCG local dial tone suddenly experience complaints from their
13 customers that they are having difficulty being reached and that calls are
14 not getting through. Our end user customers then complain to TCG
15 about blocked calls. In several instances customers have threatened to
16 discontinue service directly as a result of blocking. This blocking is
17 occurring even though there is available capacity within TCG's switched
18 network. These occurrences demonstrate the existence of call blocking.

19 **Q. HAS TCG ALERTED BELLSOUTH TO ITS CONCERNS ABOUT**
20 **BLOCKING?**

21 A. Yes. TCG has contacted BellSouth regarding numerous customer
22 complaints concerning blocked calls. TCG representatives also have

1 met with BellSouth representatives in an attempt to persuade BellSouth
2 to address the underlying ^{cause} of the blocked calls. BellSouth,
3 however, has been largely unresponsive to this problem and
4 uncommunicative to TCG's concerns.

5 **Q. SHOULD BELLSOUTH KNOW WHERE THE PROBLEM IS**
6 **AND HOW TO FIX IT?**

7 A. Yes, from my years of experience in the telecommunications industry, I
8 have no doubt that the BellSouth engineers could easily provision the
9 necessary trunks, in a timely fashion during the course of routine
10 business, and to industry standards.

11 **Q. CAN YOU DETERMINE WHETHER BELLSOUTH IS**
12 **PROVIDING TCG INTERCONNECTION WITH BELLSOUTH'S**
13 **NETWORK THAT IS AT LEAST EQUAL IN QUALITY TO**
14 **THAT PROVIDED BY BELLSOUTH TO ITSELF?**

15 A. Unfortunately, BellSouth has not presented data regarding the
16 percentage of call blockage it experiences for its own internal traffic as
17 compared to the percentage of TCG's traffic which is being blocked.
18 The industry standard blocking criteria for tandem routed traffic is P-
19 .01. This criteria is applicable to the busiest time the trunk is in use
20 during any given day and is measured in Busy Hours. This equates to
21 one in every 10,000 call attempts not being completed. Conversely, the
22 industry standard blocking criteria for direct and office routed traffic is

1 P-.005. This criteria is also applicable to the busiest time the trunk is in
2 use during any given day and is measured in Busy Hours. This type of
3 trunking experiences half the blocking and is also the type of trunking
4 BellSouth has refused to install for interconnection to TCG's network.
5 Unless BellSouth can establish that the parameters of call blocking are
6 the same for itself as well as for TCG and other carriers, it cannot meet
7 the first checklist item. The Rebuttal Testimony of TCG witness Paul
8 Kouroupas addresses the reporting requirements that are crucial to
9 determine whether the parity standard is met.

10 **NETWORK DESIGN**

11 **Q. ARE THERE ANY SOLUTIONS TO THE CALL BLOCKING**
12 **PROBLEM YOU DESCRIBE?**

13 A. Yes. One solution would be for BellSouth to establish direct end-office
14 interconnection trunks between certain BellSouth switches and TCG's
15 switches. This architecture is an industry standard, both for local and
16 toll traffic routing. Its implementation would alleviate to large degree
17 the congestion BellSouth is experiencing at its tandems.

18 **Q. HOW DOES BELLSOUTH CURRENTLY ROUTE TRAFFIC TO**
19 **TCG?**

20 A. Today, BellSouth aggregates traffic destined to ALECs at its tandem
21 switches and then routes the traffic to TCG and other ALECs. This
22 local traffic was previously routed via BellSouth's local network and

1 never traversed the tandem. By aggregating the traffic *at* its tandem,
2 not only is BellSouth causing severe tandem congestion, it is
3 prematurely and unnecessarily exhausting its tandem capacity.
4 BellSouth is thereby providing service to its competitors that is
5 indisputably inferior to the quality of service its own customers receive.
6 On high volume routes, it is also typically less expensive to route (at
7 least the majority of) the traffic via a direct trunk rather than through
8 the tandem. This exclusive usage of tandem routing imposed by
9 BellSouth causes ALECs' costs to be higher than they would otherwise
10 be.

11 **Q. CAN YOU DESCRIBE HOW BELL SOUTH ROUTES TRAFFIC**
12 **TO ITS OWN END-USERS?**

13 A. In its own network, BellSouth establishes direct trunks between many
14 end offices as the "primary route" for call completion. When those
15 trunks are at capacity, an end office will overflow traffic to a local
16 tandem switch to be completed to the send end office. Therefore, a
17 BellSouth customer call has two different options for completion --
18 directly to the end office, or alternatively through the tandem, as
19 opposed to one tandem route to which BellSouth relegates TCG. This
20 direct trunking between end-offices is common industry practice and has
21 been for years.

22 **Q. COULD SUCH ROUTING BE USED FOR CALLS TO AND**

1 **FROM TCG CUSTOMERS?**

2 A. Yes. Despite the uncontested and undeniable fact that such direct end-
3 office trunking is used in its own network, BellSouth has chosen to
4 provide no direct end-office routed facilities to TCG. BellSouth refuses
5 to employ this customary and efficient architecture, even though TCG
6 has collocation arrangements at end offices where BellSouth could
7 easily arrange for such interconnection. Sound and nondiscriminatory
8 engineering practices would dictate that BellSouth establish
9 interconnection trunks directly from its end offices to ALEC switches
10 where substantial traffic is expected or realized.

11 **Q. HOW ARE TCG AND ITS CUSTOMERS HARMED BY**
12 **BELLSOUTH'S ENGINEERING DECISIONS?**

13 A. TCG customers calling BellSouth customers and BellSouth customers
14 calling TCG customers have only one path -- through the tandem -- and
15 hence no alternative route if the tandem trunks are blocked out of
16 service. BellSouth is discriminatorily placing ALECs at unnecessary
17 risk of catastrophic network failure by creating a single point of failure
18 within the BellSouth network. This creates a disproportionate impact on
19 ALECs who are unable to receive traffic from BellSouth's end offices.

20 **Q. DO YOU BELIEVE THAT BELLSOUTH'S FAILURE TO**
21 **PROVIDE ROBUST ROUTING OPTIONS TO ALECS**
22 **CONSTITUTE DISCRIMINATORY TREATMENT?**

1 A. Yes. If BellSouth's tandem switch fails at any time, BellSouth will still
2 be able to route its own traffic through its end office network or to
3 other tandems. Because BellSouth has elected to provide no end office
4 routed facilities to TCG, a tandem failure would severely impact TCG's
5 customers, as well as the other ALECs.

6 **Q. HAVE OTHER REGULATORY COMMISSIONS ADDRESSED**
7 **THESE CALL BLOCKAGE ISSUES?**

8 A. Yes. The New York Public Service Commission, when weighing
9 similar facts regarding New York Telephone, found that because of the
10 blockage, the RBOC had not "established a prima facie case for
11 availability" for interconnection at the trunk-side of a local switch.

12 **IMPLEMENTATION PROCESS**

13 **Q. HAS BELLSOUTH BEEN RESPONSIVE TO TCG'S NEEDS**
14 **REGARDING IMPLEMENTATION OF THE**
15 **INTERCONNECTION AGREEMENT?**

16 A. No. BellSouth has been very slow in implementing the details of the
17 interconnection agreement. Despite TCG's attempts to implement its
18 interconnection agreement, BellSouth has not developed the coherent
19 processes and procedures to facilitate implementation of the
20 interconnection agreement.

21 **Q. CAN YOU PROVIDE AN EXAMPLE OF THE DIFFICULTIES**
22 **TCG HAS HAD WITH BELLSOUTH IN IMPLEMENTING THE**

1 **INTERCONNECTION AGREEMENT?**

2 A. Yes. BellSouth does not provide TCG with the records necessary to
3 issue meet-point billing invoices to the interexchange carriers (“IXCs”)
4 in a timely fashion.

5 **Q. PLEASE DESCRIBE MEET-POINT BILLING.**

6 A. Meet-point billing is an arrangement whereby two or more local
7 exchange carriers (e.g., TCG and BellSouth) jointly provide to a third
8 party the transport element of switched exchange access service to one
9 of the LEC’s end office switches, with both LECs receiving a share of
10 the transport element revenues.

11 **Q. HOW DOES THE BILLING PROCESS WORK IN SUCH A**
12 **MEET-POINT BILLING ARRANGEMENT?**

13 A. BellSouth must provide TCG with switched access detail usage data on
14 magnetic tape, or other agreed upon media, within a reasonable time
15 after the usage occurred. To the extent that BellSouth does not provide
16 the usage data, TCG is unable to bill the IXC, thereby depriving it of
17 timely receipt of revenues to which it is entitled.

18 **Q. HAS BELLSOUTH PROVIDED THE APPROPRIATE DATA TO**
19 **TCG?**

20 A. No. BellSouth has not provided, on a timely basis, the billing data that
21 would allow TCG to bill the appropriate IXC. TCG, therefore, is being
22 directly financially harmed by BellSouth’s dilatory tactics.

1 **Q. HAS BELLSOUTH TIMELY PROVIDED THAT BILLING**
2 **INFORMATION TO ITSELF OR OTHERS?**

3 A. Presumably yes. BellSouth, however, has not demonstrated in testimony
4 or otherwise that it is providing this meet-point billing data to TCG in
5 the same manner and time frame as it provides this information to itself
6 or others. In the absence of data supporting his conclusion, I do not see
7 any foundation to support BellSouth witness Milner's claim that
8 BellSouth meets the first checklist item.

9 **Q. IS THERE ANY ^{OTHER} INFORMATION BELLSOUTH IS REQUIRED**
10 **TO PROVIDE UNDER THE INTERCONNECTION AGREEMENT**
11 **WHICH BELLSOUTH IS NOT PROVIDING?**

12 A. Yes. BellSouth has refused to provide the Carrier Identification Codes
13 ("CIC") that are active within BellSouth's access tandem switches.

14 **Q. WHAT IS A CIC AND WHAT IS ITS PURPOSE?**

15 A. A CIC is a code assigned to an Interexchange Carrier and is used to
16 identify and route traffic to that Interexchange Carrier. TCG needs to
17 be made aware of the CIC codes active in BellSouth's access tandem
18 switches in order to properly route traffic to them. To date BellSouth
19 has refused to provide the CIC to TCG but rather has chosen to provide
20 the Carrier's Access Customer Name Abbreviation ("ACNA"). TCG
21 must then cross reference the ACNA in the Local Exchange Routing
22 Guide ("LERG") to ascertain the appropriate CIC. In several instances

1 the ACNA has not matched the associated Carrier Name provided by
2 BellSouth causing further confusion and misrouting of calls.

3 **Q. DO YOU HAVE OTHER EXAMPLES OF BELLSOUTH'S**
4 **UNRESPONSIVENESS TO TCG IN IMPLEMENTING THE TCG-**
5 **BELLSOUTH INTERCONNECTION AGREEMENT?**

6 A. Yes. Another example of a problem with the implementation of the
7 interconnection agreement is BellSouth's failure to confirm the opening
8 of Signaling System 7 ("SS7") point codes for TCG.

9 **Q. WHAT IS AN SS7 POINT CODE?**

10 A. SS7 provides routing and call set-up information for carriers. The SS7
11 point code is a node that either originates or receives signaling
12 messages. The signaling point code identifies a specific signaling point.

13 **Q. WHAT ARE THE IMPLICATIONS OF BELLSOUTH'S FAILURE**
14 **TO CONFIRM THE OPENING OF AN SS7 POINT CODE?**

15 A. TCG is significantly harmed because without testing point codes prior to
16 their deployment for carrying traffic, TCG cannot be sufficiently certain
17 the traffic will route correctly. It is necessary for each carrier to open
18 the other carrier's point codes in their respective switches to facilitate
19 the exchange of SS7 messages (i.e., TCAP, ISUP). TCG has been
20 attempting since October of 1996 to have BellSouth confirm whether or
21 not BellSouth has performed the necessary translations.

22

1 **Q. HAS BELLSOUTH TIMELY CONFIRMED SS7 POINT CODES**
2 **FOR ITSELF OR OTHERS?**

3 A. As with meet-point billing data, I am unable to provide an unqualified
4 yes to the question posed. BellSouth, however, has not demonstrated in
5 testimony or otherwise that it is providing SS7 point codes to TCG in
6 the same manner and time frame as it provides them to itself or others.
7 It is my experience that a Bell company would routinely test new
8 circuits, including point-codes, before carrying commercial traffic over
9 them. Again, I do not understand how BellSouth witness Milner can
10 claim that BellSouth meets the first checklist item.

11 **Q. DO YOU HAVE ANY CONCLUSIONS REGARDING**
12 **BELLSOUTH'S COMPLIANCE WITH THE CHECKLIST**
13 **REQUIREMENTS?**

14 A. Based upon TCG's experience in implementing the TCG-BellSouth
15 interconnection agreement, I believe that BellSouth is far from meeting
16 the first check list requirement.

17 **Q. DO YOU HAVE A POSITION ON BELLSOUTH'S**
18 **COMPLIANCE WITH THE OTHER THIRTEEN COMPLIANCE**
19 **CHECKLIST ITEMS?**

20 A. TCG has insufficient information, at this time, to comment on
21 BellSouth's compliance with the other checklist requirements.

22

1 Q (By Mr. Willingham) Would you please
2 summarize your rebuttal testimony.

3 A Good evening, Madam Chairman, and
4 Commissioners. My name is Frank Hoffmann. I'm
5 employed by TCG as the Regional Director of Carrier
6 Relations responsible for the southern region.

7 The purpose of my testimony is to rebut
8 direct testimony of BellSouth witness, Keith Milner,
9 who concluded that BellSouth has met the first
10 checklist item contained in Section 271(c)(2)(B). The
11 first checklist item requires BellSouth to provide
12 interconnection to TCG that is at least equal in
13 quality to that which BellSouth provides to itself or
14 other parties with whom it interconnects.

15 I address several specific points, which
16 show that BellSouth is not providing equal quality
17 interconnection to TCG in Florida: BellSouth's
18 failure to properly size their network which results
19 in blockage of calls; BellSouth's refusal to deploy
20 direct end office trunking to TCG; BellSouth's failure
21 to provide meet-point billing records; BellSouth's
22 failure to confirm SS7 point code translations, and
23 BellSouth's failure to provide interexchange carrier
24 identification codes.

25 I detail how BellSouth does not provide

1 adequate interoffice trunking between their end
2 offices and their access tandem through which
3 BellSouth forces all traffic to TCG, as well as all
4 interexchange carriers and other CLECs. BellSouth's
5 traffic, on the other hand, travels a separate network
6 of direct end office trunking with local tandem
7 overflow.

8 The network design to which BellSouth
9 continues to adhere exacerbates the call blocking
10 problem, and puts TCG at risk for a single point of
11 failure.

12 While a local call within BellSouth's
13 network may travel through a number of alternative
14 routes, a local call between TCG's network and
15 BellSouth's network is restricted to a single route
16 through the access tandem.

17 Despite TCG's repeated requests, including a
18 request at a May 5th meeting this year between TCG and
19 BellSouth, BellSouth continues to refuse to implement
20 direct end office trunking to TCG, and forces all
21 traffic destined to TCG through BellSouth's access
22 tandem.

23 The agreement between TCG and BellSouth
24 requires BellSouth to provide meet-point billing
25 records to TCG. The meet-point billing records are

1 required for TCG to provide -- to properly bill
2 interexchange carriers for services TCG provides.
3 BellSouth is yet to provide these records to TCG and,
4 therefore, TCG is unable to bill interexchange
5 carriers at this time.

6 I'm at a loss as to why BellSouth has not
7 fulfilled their obligations as TCG has similar
8 meet-point billing arrangements with other regional
9 Bell operating companies and is receiving records.

10 Despite numerous requests, BellSouth has yet
11 to confirm that TCG's point codes have been loaded
12 into BellSouth's switches and SS7 signaling transfer
13 points. Without confirmation that SS7 point codes
14 have been properly loaded, TCG has no assurance that
15 the services marketed and provided by TCG will
16 function properly when the customer is connected.

17 Lastly, I raise the issue of BellSouth
18 refusal to provide TCG with interexchange carrier
19 identification codes. Interexchange carrier
20 identification codes must be loaded into TCG's
21 switches to properly recognize those interexchange
22 carriers providing service via the BellSouth access
23 tandem. BellSouth has instead offered the access
24 customer name abbreviation and the carrier name and
25 address suggesting that TCG research to identify the

1 corresponding carrier identification code. This is a
2 violation of our interconnection agreement which
3 requires BellSouth to provide TCG with carrier
4 identification codes.

5 That concludes my summary.

6 Q Thank you.

7 MR. WILLINGHAM: We would tender the witness
8 for cross examination.

9 CHAIRMAN JOHNSON: Did we insert his
10 rebuttal testimony into the record?

11 MR. WILLINGHAM: I asked if it would be
12 inserted as though read. I believe you said yes. But
13 if not, I would like to insert it into the record now.

14 CHAIRMAN JOHNSON: Okay. It will be
15 inserted as though read.

16 MR. PELLEGRINI: Chairman Johnson, I have
17 two exhibits to be marked at this time. The first is
18 FH-1 consisting of Mr. Hoffmann's August 8th, 1997,
19 deposition transcript and Late-filed Deposition
20 Exhibit No. 1,

21 CHAIRMAN JOHNSON: It will be identified as
22 118.

23 CHAIRMAN JOHNSON: Composite Exhibit 118.
24 (Exhibit 118 marked for identification.)

25 MR. PELLEGRINI: And the second is FH-2

1 consisting of Responses to Staff's First and Second
2 Set of Interrogatories be marked 119.

3 **CHAIRMAN JOHNSON:** It will be marked 119,
4 composite 119.

5 (Exhibit 119 marked for identification.)

6 Any questions from any of the other parties?
7 Bell South.

8 **MR. CARVER:** Thank you.

9 **CROSS EXAMINATION**

10 **BY MR. CARVER:**

11 **Q** Good evening, Mr. Hoffman. My name is Phil
12 Carver and I represent BellSouth.

13 Let me ask you first of all, your testimony
14 relates only to the interconnection checklist item, or
15 in other words, checklist Item No. 1; is that correct?

16 **A** Yes.

17 **Q** Now, most of the questions that I have for
18 you relate to the blockage issue. And before we start
19 I just want to be assured that I understand your
20 position. And I want to try to see if I can express
21 this in as nontechnical terms as possible.

22 Basically if I understand your position,
23 let's assume where my left hand here is, (indicating)
24 that that's the BellSouth office, and the TCG office
25 is here and there's a tandem in the middle. Is it

1 your position that there's blockage somewhere between
2 either the BellSouth office and the tandem, or the
3 tandem and the TCG point of presence?

4 A It is my position that blocking is occurring
5 in both places.

6 Q Okay.

7 A Although the blocking that is occurring
8 within your network is what I was specifically
9 addressing in my testimony.

10 Q So your testimony is not intended to address
11 the blocking between the tandem that serves TCG and
12 TCG's point of presence? I mean, if I could help
13 here, my understanding was -- well, I don't want to
14 put words in your mouth. Go ahead.

15 A Yes.

16 Q So your answer is that you do not contend
17 that there's any blockage between the tandem that
18 serves TCG and TCG.

19 A No, there is blocking occurring there. I'm
20 aware of why that blocking is occurring. However, the
21 blocking within your network is an issue that I have
22 not been able to understand because BellSouth has not
23 dprovided any information to me.

24 Q Okay.

25 A -- on that blocking prior to today.

1 Q Okay. Let's just take it one step at a
2 time. Talk about blocking between the end office and
3 the tandem and between the tandem and TCG. So first
4 of all, let's talk about the blockage you believe is
5 occurring between the BellSouth end office and the
6 tandem.

7 Along these routes, between the BellSouth
8 end office and the tandem, there would be -- and when
9 I say tandem I'm talking about tandems that serve TCG,
10 there would be traffic for TCG as well as for other
11 carriers; isn't that correct?

12 A Yes.

13 Q Okay. So we would have TCG traffic, maybe
14 BellSouth traffic, other interexchange carriers, other
15 ALECs; all of them would be mixed on those trunks
16 between the end office and the tandem, correct?

17 A Yes. Those are shared facilities. I do not
18 believe BellSouth puts their local traffic on them,
19 though.

20 Q But you believe that all the others would be
21 mixed or shared; those facilities would be shared by
22 all of the other carriers for that piece of the route?

23 A That is how the facilities are used and how
24 they have been explained to my by the BellSouth
25 account team, yes.

1 Q So if there were blockage on that piece of
2 the route, it would effect not only TCG but the other
3 carriers as well, correct?

4 A Yes, it would. But something you need to
5 understand is that there's several differences between
6 TCG, ala ALECs, and interexchange carrier. An
7 interexchange carrier is an allowed to order a two-way
8 facility. He's also allowed to place that facility
9 between the end office or the access tandem. He can
10 choose whether that facility is shared or dedicated.
11 These facilities carry both his originating and
12 terminating traffic, therefore, the interexchange
13 carrier has a greater control of the level of blocking
14 they receive than I do. I am simply allowed to order
15 the services one way that terminate to BellSouth. The
16 facilities that come back to me from BellSouth, I do
17 not have a choice whether they are dedicated or
18 shared. My understanding is shared is used. And to
19 this point BellSouth has refused to reciprocate with
20 end office trunking.

21 Q Are you through with your answer?

22 A Yes, I am.

23 Q Okay. What I'm going to ask you to do is
24 answer my question specifically, but I don't want to
25 cut you off and I don't want to keep you from

1 expressing your opinion. So we understand your
2 position generally, now I'd like you to answer my
3 question specifically. Okay?

4 A Yes.

5 Q Just so that I'm clear, between the end
6 office of BellSouth and the tandem, there would be
7 traffic from a a variety of carriers carried along
8 there, and if one had experienced blocking problems,
9 then they all would experience blocking problems, at
10 least to some degree, correct?

11 A I would agree.

12 Q Thank you. Now, let me ask you first of
13 all, have you reviewed the late-filed exhibit that was
14 submitted as Exhibit No. 59; it was late-filed from
15 Mr. Stacy that was filed earlier today?

16 A Yes. I haven't had a chance to look through
17 it.

18 Q Okay. Do you understand it or are you able
19 to interpret it?

20 A I understand parts of it.

21 Q Okay. Let me just ask you some very general
22 questions about that, because since it does have some
23 information that relates to TCG that's proprietary,
24 I'm going to try to avoid going through it
25 line-by-line, so let me just ask you generally, are

1 you familiar with ARMIS reports?

2 A No, sir, I'm not.

3 Q So then you would not know if ARMIS reports
4 have any information regarding blocking?

5 A Other than looking at it today, correct.

6 Q And -- well, from looking at it today can
7 you tell that's the case?

8 A I've noticed there is as column that says
9 B-L-K-G and there's some information regarding
10 blocking, yes.

11 Q And based on your review of this these
12 documents, can you tell if this is a tandem-by-tandem
13 backup that's used to do the state aggregated blockage
14 number for the ARMIS Report?

15 A That is what the report appears to be, yes.

16 Q Okay. Let me ask you this generally: If
17 the report shows that between a particular end office
18 and a particular tandem that there is no blockage at a
19 particular time, would you accept that?

20 A For that particular time and the given
21 algorithm used to produce the report, yes.

22 Q So you would have no basis to dispute the
23 findings that are in that exhibit?

24 A No, I would not.

25 Q Okay. Thank you.

1 And the reason I'm asking these questions is
2 because I don't think it's really fair to give you
3 something Mr. Stacy put together that we just produced
4 today and ask you to interpret it, so I want to be
5 clear as to what it is, and with that I'm going to
6 move on.

7 A I agree, thank you.

8 Q The other stuff you had a little bit more
9 chance to look at.

10 Now, is it correct that you can't quantify
11 the amount of blockage that you've experienced?

12 A From BellSouth to TCG, correct.

13 Q Now, is it your position -- and now I'm
14 specifically talking about the blockage between the
15 tandem and TCG -- is it your position that if
16 BellSouth properly sized the trunks that terminate
17 traffic at TCG's point of presence then there would be
18 no blocking?.

19 A The blocking attributed to the facilities
20 between the tandem and TCG's switch, yes.

21 Q And the blocking problems are not constant,
22 are they, and let me define by constant I mean for a
23 period of time there will be blockage and for a period
24 of time there won't be; is that correct?

25 A No. My understanding of the problem as it's

1 been presented to me by the Florida operations people
2 is that this has been a pervasive, although not acute
3 problem, since March.

4 Q Let me ask you some general questions.

5 Well, before I get to that, when you say -- who has
6 told you this?

7 A Director of operations.

8 Q Of TCG?

9 A Yes.

10 Q So they've told you that there have been
11 constant blocking problems since March?

12 A Yes.

13 A It has been a pervasive issue since then.

14 COMMISSIONER CLARK: To me that's answering
15 a different question. I take it that these lines
16 aren't blocked all the time; that calls do go through.

17 WITNESS HOFFMANN: 24 by 7, no, ma'am, they
18 are not blocked. I'm not experiencing blocking 24
19 hours a day 7 days a week, if that's the intent of the
20 question.

21 COMMISSIONER CLARK: That's what I took it
22 to be but I don't know if that's it.

23 MR. CARVER: Yes, Commissioner, this is what
24 I was asking.

25 MR. HOFFMAN: I had thought that the

1 question was, you know, week-to-week; that a week
2 would go by with no blocking and then I'd have a week
3 of blocking and I'm trying to point out I don't have a
4 entire week or so at times when no calls are blocked.

5 Q (By Mr. Carver) So it's your testimony
6 that every week there is some level of blocking that's
7 beyond the acceptable parameters.

8 A We have been receiving customer complaints
9 since March that there have been problems with
10 blocking, them being reached by others. I am not the
11 individual that they call. I could not tell you if
12 they are calling every three days or every five days,
13 but this has been a pervasive issue that I have been
14 trying to correct with our Florida operations since
15 March, and is an agenda item for our September 19th
16 meeting with BellSouth.

17 Q Are you through?

18 A Yes, sir, I am.

19 Q Between the tandem and TCG do you know what
20 is the acceptable parameter there or the acceptable
21 limit for blockage?

22 A I believe I is half of one percent.

23 Q Let me ask you generally about your
24 knowledge of trunk sizing and what would need to be
25 done. Do you know what is involved in adding trunk

1 groups?

2 A Other than issuing an order and technicians
3 installing facilities, no, sir, I don't.

4 Q Okay. Do you know what if any changes are
5 needed to a switch?

6 A Other than translations, no.

7 Q Do you know what it costs to add, say, just
8 to pull a number out of the air, a hundred trunks; do
9 you know how much investment that involves?

10 A No, I don't.

11 Q Do you know how long it takes to add a
12 hundred trunks?

13 A No, I do not.

14 Q Now, if the necessary equipment, either the
15 trunks or switch related equipment, were not in
16 inventory, then this would certainly extend the time
17 period necessary to make the trunk additions, would it
18 not?

19 A That would sound logical.

20 Q Well, I'm not sure if I asked you this
21 question. Let me just be sure. If there are switch
22 changes necessary did you say you didn't know how much
23 time those took?

24 A That's correct.

25 Q So, basically then from the time it is

1 discovered that trunks need to be added until the time
2 it's completed, you wouldn't be able to give us the
3 amount of time that you consider to be reasonable?

4 A No. All I'm aware of is quoted intervals
5 from BellSouth, not the actual time required to
6 perform the work.

7 Q Were you present at the hearing last week
8 when Mr. Stacy answered on behalf of BellSouth some of
9 these same questions?

10 A No, sir. I was not.

11 Q And since he testified you haven't
12 indirectly become aware of any of his answers?

13 A Yes, I have.

14 Q Okay. Do you know what Mr. Stacy said was
15 the time it took to add trunks?

16 A No. There were several intervals that he
17 had in his testimony. One was 60 to 90 days; I
18 believe the other was 30 to 60. The intervals that
19 have been quoted to me by the account team as
20 BellSouth is 45 days business days for initial turn
21 up; five to ten days to augment.

22 Q Did Mr. Stacy -- I'm sorry. But your
23 understanding is Mr. Stacy quoted intervals of 30 to
24 60 or 60 to 90 days?

25 A Those are the two intervals I recall.

1 Q Are you involved at all in doing forecasting
2 for facilities to serve TCG's customers?

3 A No.

4 Q Do you know anything about forecasting or
5 how that process works?

6 A No.

7 Q Then the next few questions I have you not
8 be able to answer but I'm going to move through them
9 quickly anyway.

10 Let's assume that you're serving a certain
11 number of customers. Would it make sense to you
12 logically you wouldn't, for example, want to have,
13 say, three times the number of trunks that would be
14 the maximum required for those particular routes.
15 Would that make sense to you?

16 A Yes.

17 Q Would you think that logically that one's
18 goal would be to make sure that you have enough trunks
19 to serve the traffic in question at any given time but
20 not to have a lot of excess trunks that won't be used?

21 A Given provisioning intervals, yes.

22 Q And this would involve, would it not,
23 forecasting the needs of the network at any given
24 time, correct?

25 A Yes.

1 Q And in order to know the needs of a network
2 you'd have to be know much traffic is going to be
3 carrier; is that correct?

4 A Yes.

5 Q Now, does TCG have any procedures in place
6 to ensure that BellSouth has adequate advance notice
7 that you're going to increase the traffic volume you
8 carry?

9 A Yes.

10 Q And what are those procedures?

11 A I believe the agreement calls for a
12 quarterly forecast. There are conversations that
13 occur, as I am told, on a regular basis between the
14 directors of operations for TCG, Charlie Greenhagen,
15 and Roger McElroy of BellSouth. And that information
16 of an immediate nature is shared when those
17 individuals discuss and that forecasting information
18 is provided.

19 Q So then your understanding is that if TCG is
20 going to, for example, triple the traffic a particular
21 trunk, route or group of -- well, I should say on
22 trunk groups on a particular route, that BellSouth has
23 always given notice of that?

24 A Yes, that is my understanding.

25 Q And how much notice is given?

1 A I do not know.

2 Q Okay. At this point I'm going to ask you
3 some questions about a document, which is a portion of
4 Mr. Stacy's Late-filed Deposition Exhibit No. 6. I
5 believe it's been admitted into the record. Has your
6 attorney furnished you with a copy of this or do you
7 need me to bring you one?

8 A Exhibit 6, a diagram.

9 Q I think he's bringing it to you now. (Hands
10 document to witness.)

11 Just to make sure we have the right
12 document, is there a page that has "1" in a circle
13 that's handwritten at the top and under the typed
14 title "Teleport Communications Group, TCG" and then a
15 location and then the word "report"?

16 A Yes.

17 Q Okay. Have you seen this document before?

18 A No. I saw this -- this is the first time
19 today is the first time I've reviewed this.

20 Q Are you able to read this document?

21 A Yes, I am.

22 Q Okay. So when it says study period, do you
23 know what that represents?

24 A Are you referring to the heading or one of
25 the columns?

1 Q The heading of the first column it's got
2 "Study P-E-R." Do you see that?

3 A Yes. I'm assuming that's the date the study
4 was performed.

5 Q Okay. Well, will you accept that it's a
6 28-day study and that's the day it ended?

7 A Yes.

8 Q Okay. And again, this is a confidential
9 document and I understand TCG doesn't want this
10 information revealed. So as we go through this,
11 please don't reveal the location, in other words, the
12 part of the state we're talking about or the
13 particular tandem designation or any of the trunk
14 numbers specifically.

15 Let me ask you -- well, I'll tell you,
16 rather than asking you what it means, this is a
17 BellSouth document, would it be okay if I just told
18 you, subject to check, what this means and I then I
19 can ask you some questions about it?

20 A That would be fine.

21 Q The next column over that says "in-service"
22 that's the number of trunks in-service at any given
23 time. Pardon me.

24 If we can just take a moment, I have copies
25 I'm going to provide to the Commission.

1 **COMMISSIONER CLARK:** Is this confidential
2 stuff?

3 **MR. CARVER:** This is confidential. I
4 apologize. I thought it had been handed out already.

5 Is it okay for the other attorneys here to
6 have copies of this, or is this something that is for
7 the Commission and Staff only? Okay. I guess if
8 anybody else wants it they can have it; it's okay with
9 TCG.

10 **Q** **(By Mr. Carver)** Okay. So the first column
11 is a study period; the second column are the number of
12 trunks in service; the next column where it says
13 "R-E-Q" are the number of trunks required to handle
14 the traffic at any given time.

15 As you go over you see where it says "HR"?

16 **A** Yes.

17 **Q** That's the buzziest hour during -- well,
18 that's the buzziest hour during the entire study
19 period. "OFTD", or offered, are the number of calls
20 that were presented to those particular trunks at that
21 hour. And then where it says "BLKG" that's the amount
22 of blockage.

23 Now, I'm going to try to do this without
24 referring to any numbers. But if you look starting at
25 the bottom with the date February 3rd, '97, for the

1 February 3rd and February 10th study period there's
2 some blockage; is that correct?

3 **MR. WILLINGHAM:** Madam Chairman, I'm going
4 to have to object here. What he's just explained is
5 different than what Mr. Stacy explained these
6 different columns are.

7 **COMMISSIONER CLARK:** They sound the same to
8 me.

9 **MR. WILLINGHAM:** Well, I know for a fact
10 that offered is a combination of numbers of calls and
11 the minutes of that call. I'm not sure what else he
12 missed because I don't remember the rest of it but I
13 do remember that from Mr. Stacy's testimony.

14 **MR. CARVER:** I believe Mr. Stacy was
15 referring to some other documents. This is the
16 summary page. I don't think he was asked questions
17 about this specifically. I disagree on what
18 Mr. Stacy's said. But, frankly, it probably doesn't
19 matter for purposes of my question. So I think I can
20 continue with the examination and the record will
21 reflect what Mr. Stacy's said.

22 **CHAIRMAN JOHNSON:** I'll allow the question.

23 **Q** **(By Mr. Carver)** I guess what we could
24 probably agree on is "offered" some indication of
25 volume. So we'll let it go at that, and as I said,

1 the record will reflect what Mr. Stacy testified.

2 Now, my question was on February 3rd and
3 February 10th there is some degree of blockage,
4 correct?

5 A Yes.

6 Q And then on the February 17th report a lot
7 of trunks are added, right? If you look at the
8 in-service column?

9 A Yes, the number of trunks did increase.

10 Q It's increased fairly substantially,
11 correct?

12 A Yes.

13 Q And then according to the report we have
14 five weeks of no blockage, is that correct?

15 A At the time the test was conducted, yes.
16 I'd agree.

17 Q And then on March the 24th there's some
18 blockage that is right at the ceiling for the
19 acceptable level, correct? In other words, the
20 blockage -- I'm sorry, I may have missed a zero. I
21 think it's 005 would be acceptable and this is 0005 so
22 it would be okay?

23 A Correct.

24 Q Sorry, my error. Okay. Then beginning in
25 the end of March and going through May the volume in

1 the "offered" column increases and the blockage
2 increases also, right?

3 A Correct.

4 Q And then on May the 12th, again a
5 substantial number of trunks are added; is that
6 correct?

7 A Yes.

8 Q And then the report reflects that there's no
9 more blockage through the study period ending August
10 4th; is that correct?

11 A Yes. For the period for which the study was
12 done I would agree.

13 Q So for this particular trunk group, for this
14 particular tandem, the pattern is that there's
15 blockage; then for a month or so there's no
16 blockage -- then there's more, then trunks are added
17 in about a month, and it's a back and forth, it's a
18 sort of a seesaw process?

19 A That's what this report appears to indicate,
20 yes.

21 Q Now, if we go back to the entry for February
22 17th, from February 10th to February 17th the volume
23 that's in the "offered" column doubles; isn't that
24 correct?

25 A Almost, yes.

1 Q Did TCG contact BellSouth and tell them that
2 that's going to occur?

3 A I would have to go back and check. I
4 started March the 3rd.

5 Q Okay. Then beginning on March the 24th
6 through May the 12th the volume in the "offered"
7 column increases fairly substantially; isn't that
8 correct?

9 A Yes, it does.

10 Q Did TCG meet with BellSouth to inform them
11 that there would be a substantial addition of traffic
12 during these time periods?

13 A I am unaware whether they met then, but
14 given BellSouth's lead time required for the
15 installation of trunks, I would assume that they met
16 sometime in February.

17 Q Okay. But specifically you don't know
18 whether or not they meet, do you?

19 A Correct, I do not. I know that I met with
20 BellSouth on May the 7th.

21 Q Well, if we look at this particular trunk
22 group it looks like on May the 12th a substantial
23 number of trunks were added; is that correct?

24 A Yes.

25 Q And on this particular trunk group there's

1 been no blockage since May the 12th, has there?

2 A That is what the report reflects, yes.

3 Q Now, can you give me throughout this entire
4 period, for this particular group of trunks, can you
5 tell me about any meeting in which a person that you
6 can identify with TCG met with somebody at BellSouth
7 and told them specifically that traffic was going to
8 increase?

9 A What was the period again?

10 Q Well, throughout this entire time period,
11 can you give me of any instance -- and basically
12 looking at the "offered" column and seeing where the
13 increase has occurred, can you point to any of these
14 dates and say on this date or prior to this date
15 someone from TCG meet with BellSouth and told them to
16 expect the increase. Can you give me any specific --

17 A No, I cannot point to a specific date.

18 MR. CARVER: That's all I have. Thank you
19 Mr. Hoffmann.

20 WITNESS HOFFMANN: You're welcome. Thank
21 you.

22 CHAIRMAN JOHNSON: Staff.

23 CROSS EXAMINATION

24 BY MR. PELLEGRINI:

25 Q Good evening, Mr. Hoffmann. I'm Charlie

1 Pellegrini on behalf of Commission Staff.

2 A Good evening.

3 Q At your deposition you testified that
4 Teleport was experiencing blocking problems with
5 respect to BellSouth's subscribers calling Teleport
6 customers; isn't that correct?

7 A Yes.

8 Q And I believe you stated that if BellSouth
9 did not place its trunking facilities reciprocally to
10 yours, that that would violate the agreement between
11 Teleport and BellSouth; is that correct?

12 A Correct.

13 Q For example, as I recall you stated that if
14 you were to place ten trunks to a BellSouth end office
15 that they should place the same number back to you
16 from that end office? Is that correct?

17 A I'm sorry. Could you repeat that?

18 Q I recall that what you stated was that if
19 Teleport was to place ten trunks to a BellSouth end
20 office, that they ought to place the same number back
21 to you from that end office?

22 A Correct. They ought to but they place those
23 facilities from the tandem instead.

24 Q Right. And that is a situation which you
25 characterize as a violation of your company's

1 agreement with BellSouth; is that correct?

2 A Yes.

3 Q Can you identify the specific provision in
4 that agreement which would support --

5 A Yes, I can. (Pause) Under the agreement
6 between BellSouth and TCG, Section 4, Local
7 Interconnection, Paragraph H.

8 Q Is it possible, Mr. Hoffmann, that if
9 Teleport has some subscribers who are Internet
10 providers, that this might cause blocking at typical
11 Internet peak usage times?

12 A Yes. Any type of business customer who has
13 a high incidence of incoming calls can cause a
14 situation of that nature. TCG does not actively
15 market services to ISPs; therefore, ISP type traffic
16 is not included in our forecasts, as we do not
17 envision providing service to them.

18 However, Teleport does have generic service
19 offerings of which some ISPs have taken advantage of.
20 But, yes, an ISP's sudden, you know, entry into a
21 customer switch that is not currently at a very large
22 capacity, it will cause a spike, yes.

23 Q Is that, in fact, contributing to blockage
24 to some certain extent?

25 A That is what I believe may be reflected in

1 Mr. Stacy's Exhibit No. 6. But, again, I haven't had
2 the information prior to today at any of the meetings
3 I have been at, and I'm going to have to review that
4 information with BellSouth.

5 Q Do you have direct knowledge of whether
6 there are ISPs on the Teleport system?

7 A Yes, I do. And my understanding is, yes, we
8 do have some business arrangements with ISPs in
9 Southern Florida.

10 Q Much of the next line of questioning
11 Mr. Carver covered rather completely, but -- well, in
12 his deposition Mr. Stacy -- we asked Mr. Stacy about
13 your concern with respect to ongoing blockage
14 problems, and his response was that the problem was
15 not ongoing, but was more a potential problem with the
16 quality of communications between Teleport and
17 BellSouth. Are you familiar with that testimony?

18 A Yes, I am.

19 Q Is there something in the communications
20 between Teleport and BellSouth that in your opinion
21 is, in fact, contributing to this blockage problem and
22 it could be improved from the Teleport side?

23 A I cannot comment on the level of
24 communication that occurs between the operations
25 personnel in South Florida and BellSouth.

1 However, if, you know, my correspondence,
2 which has been included as a late-filed exhibit, can
3 be any indication of their responsiveness, I would
4 understand how my operations personnel in South
5 Florida are having difficulties.

6 Q I'm not sure I understand the last part.
7 Can you --

8 A Well, I filed as a late-filed exhibit to my
9 deposition numerous unanswered requests for
10 information from BellSouth.

11 Q I think you described, in response to
12 Mr. Carver's question, that Teleport was furnishing
13 quarterly forecasts of load and, in addition to that,
14 was on a -- was in conversation on a regular basis,
15 meaning, I think, a daily basis?

16 A No. I do not believe they speak daily.

17 Q What is the frequency?

18 A Possibly, I'd say, every week and a half.

19 Q In your opinion --

20 A I'm sorry. Go ahead.

21 Q Go ahead.

22 A I would have to consult with our operations
23 director to see how often. I've never asked him that
24 question.

25 Q Mr. Hoffmann, could I ask you for two

1 late-filed exhibits, the first showing when Teleport
2 notifies BellSouth of traffic changes -- notified
3 BellSouth of traffic changes, and the second showing
4 reasons for traffic jumps?

5 CHAIRMAN JOHNSON: I'll identify that as
6 Late-filed 120.

7 MR. PELLEGRINI: 120 And 121?

8 CHAIRMAN JOHNSON: Can they be in one
9 document?

10 MR. PELLEGRINI: Yes. 120.

11 WITNESS HOFFMANN: Mr. Pellegrini, just to
12 ensure that I have this down correctly, there were two
13 items you requested, the first of which was when
14 BellSouth has been notified by TCG of traffic changes?

15 MR. PELLEGRINI: When TCG notified BellSouth
16 of traffic changes.

17 WITNESS HOFFMANN: And the second was
18 explanation for traffic increases?

19 MR. PELLEGRINI: That's right. Traffic
20 jumps; traffic increases.

21 WITNESS HOFFMANN: Yes, we can provide that.
22 Thank you.

23 (Exhibit 120 marked for identification.)

24 Q (By Mr. Pellegrini) Just a final question.

25 TCG has a switch in the southeast LATA, correct?

1 A Yes, we do.

2 Q With respect to that, has TCG requested any
3 ducts, conduits, pole attachments or rights-of-way, to
4 your knowledge?

5 A From BellSouth?

6 Q Yes.

7 A To my knowledge, I can't comment. I
8 wouldn't say, to my knowledge no; I would say I do not
9 know.

10 MR. PELLEGRINI: Thank you, Mr. Hoffmann. I
11 have no further questions.

12 CHAIRMAN JOHNSON: Commissioners? Redirect?

13 MR. WILLINGHAM: Yes, thank you, Madam
14 Chairman. I have a couple of questions.

15 REDIRECT EXAMINATION

16 BY MR. WILLINGHAM:

17 Q Mr. Hoffmann, prior to today, have you seen
18 the confidential blocking reports that Mr. Carver
19 questioned you about?

20 A No, I have not.

21 Q Have you ever requested that type of data
22 from BellSouth?

23 A Yes, we did.

24 Q Do you remember when you first requested
25 that?

1 A At the meeting to discuss blocking in Fort
2 Lauderdale on May the 7th.

3 Q Thank you. He asked you whether or not you
4 could refute the information, and I believe it was
5 Exhibit No. 59. Do you remember that? That should be
6 the big, thick exhibit?

7 A Yes, I recall that question.

8 Q Can you verify that information?

9 A No, I cannot. Therefore, that was kind of
10 my basis for not being able to refute it.

11 Q Do you have any reason to believe that
12 Exhibit 59 addresses the blocking which occurs due to
13 incorrect translations in BellSouth's switches?

14 A No, I do not believe this report would
15 reflect that.

16 Q On Pages 9 and 10 of your testimony, do you
17 discuss blocking that occurs between the BellSouth
18 tandem and TCG's network? (Pause)

19 A It was on top earlier today. Page 9 and 10?

20 Q Yes, Pages 9 and 10.

21 A Yes.

22 Q Thank you. Just to make a correction for
23 the record, while you've got our testimony out, if you
24 could turn to Page 8, Line 14.

25 A Yes.

1 Q Should the word "complaint" be "complain,"
2 without a "T"?

3 A Yes. The "T" should be removed. Thank you.

4 Q When TCG carries traffic for an Internet
5 service provider in South Florida, is it likely or
6 typical that the retail customers of the ISP are
7 BellSouth customers?

8 A Yes.

9 Q So is it fair to say that when there's a
10 large increase of traffic over a trunk group that that
11 could be caused by an increase in BellSouth ISP
12 customers?

13 A Yes.

14 Q There was some discussion about the blockage
15 and TCG's lack of alternative routing. I believe that
16 was in your summary. Could you describe the benefits
17 of alternative routing?

18 MR. CARVER: Objection. This is beyond the
19 scope of my cross examination. He did cover that in
20 his summary. I didn't ask him any questions about
21 alternative routing, so I object to his doing this on
22 redirect.

23 MR. WILLINGHAM: Commissioners, this is
24 directly related to the blocking issue, as to why TCG
25 has a much higher blockage rate than BellSouth does.

1 **CHAIRMAN JOHNSON:** I'll allow the question.

2 **WITNESS HOFFMANN:** The advantages of having
3 more than one route allows for overflow. Overflow is
4 specifically engineered and designed for those
5 instances where the normal route is blocked for that
6 call.

7 **Q** Would the availability of end office
8 trunking alleviate the blocking problem?

9 **A** Yes, it would.

10 **Q** Is that because of alternative routing?

11 **A** Somewhat alternative routing, if the traffic
12 is allowed to overflow through the tandem. But one of
13 the major benefits for TCG in this instance is that
14 facility would then be dedicated to TCG traffic and
15 would not be commingled with the interexchange carrier
16 and traffic of other ALECs.

17 **Q** The blocking that you've discussed occurs
18 from BellSouth to TCG; is that correct?

19 **A** Correct.

20 **Q** Would you agree that BellSouth has the best
21 information available regarding their own traffic
22 flow?

23 **A** Yes, I do.

24 **MR. WILLINGHAM:** Thank you. I have no
25 further questions.

1 **CHAIRMAN JOHNSON:** Exhibits?

2 **MR. PELLEGRINI:** Staff moves 118 and 119.

3 **CHAIRMAN JOHNSON:** Show them admitted
4 without objection.

5 (Exhibits 118 and received in evidence.)

6 **CHAIRMAN JOHNSON:** You're excused.

7 **MR. HOFFMAN:** Thank you.

8 (Witness Hoffmann excused.)

9 **CHAIRMAN JOHNSON:** Did you have something to
10 say, Ms. Rule?

11 **MS. RULE:** While the witness is getting
12 ready, I wanted to let you know that I've given
13 Ms. White a copy of the interrogatories that she has
14 waived filing of notice and service, and I have copies
15 available for anybody else if they'd like them.

16 **CHAIRMAN JOHNSON:** Do you want to go ahead
17 and identify it, then, as an exhibit?

18 **MS. RULE:** Well, no, because what we're
19 going to be doing is filing a number of responses, not
20 just these, but to Mr. Stacy's first round of
21 exhibits, to which these are a follow-up. I guess we
22 could get an identification of a number.

23 **CHAIRMAN JOHNSON:** For a late-filed?

24 **MS. RULE:** For a late-filed.

25 **CHAIRMAN JOHNSON:** Okay. We'll identify --

1 we're on -- what are we on?

2 MS. RULE: AT&T's first and second set of
3 interrogatories and first set of requests for
4 production of documents. It won't be all of them, but
5 I don't have the numbers with me right now. "Excerpts
6 from".

7 MS. WHITE: It would be best as "Responses".

8 MS. RULE: "BellSouth best of responses"?

9 CHAIRMAN JOHNSON: "BellSouth's responses"?
10 "BellSouth's responses to AT&T's first and second set
11 of interrogatories and --

12 MS. RULE: Yes. But unless Ms. White gets
13 scared, I don't intend to put all the documents in
14 that she has delivered to me.

15 CHAIRMAN JOHNSON: Excerpts from?

16 MS. RULE: Yes.

17 CHAIRMAN JOHNSON: We'll identify that as
18 Late-filed 121.

19 MS. RULE: Thank you.

20 (Exhibit 121 marked for identification.)

21 MS. WHITE: I'm sorry. Now, was 120 --

22 CHAIRMAN JOHNSON: 120 was the Staff
23 late-filed on TCG's notification of traffic changes
24 and reasons for the traffic changes, whether or not
25 they notified Bell.

1 **MS. WHITE:** And the explanation for the
2 traffic increases, they combined those two?

3 **CHAIRMAN JOHNSON:** Yes. Any other
4 preliminary matters? Seeing none, I think we're
5 ready.

6 - - - - -

7 **PAUL KOUROUPAS**
8 was called as a witness on behalf of Teleport
9 Communications Group, Inc. and, having been duly
10 sworn, testified as follows:

11 **DIRECT EXAMINATION**

12 **BY MR. HOFFMAN:**

13 **Q** Good evening, Mr. Kouroupas. Could you
14 please state your full name and business address?

15 **A** Yes. My name is Paul Kouroupas, spelled
16 K-O-U-R-O-U-P-A-S. My business address is 1133
17 21st Street Northwest, Suite 400, Washington D.C.
18 20036.

19 **Q** Mr. Kouroupas, by whom are you employed and
20 in what capacity?

21 **A** I'm employed by Teleport Communication Group
22 as vice president of regulatory affairs for the
23 eastern region.

24 **Q** And have you prepared and caused to be filed
25 15 pages of prefiled rebuttal testimony in this

1 docket?

2 **A** That's correct.

3 **Q** Do you have any changes or revisions to your
4 prefiled rebuttal testimony?

5 **A** No, I do not.

6 **Q** So that if I ask you the questions that are
7 contained in your rebuttal testimony this evening,
8 would your answers be the same?

9 **A** Yes, they would.

10 **MR. HOFFMAN:** Madam Chairman, I would ask
11 that Mr. Kouroupas' prefiled rebuttal testimony be
12 inserted into the record as though read.

13 **CHAIRMAN JOHNSON:** It will be so inserted.

14 **Q** (By Mr. Hoffman) And, Mr. Kouroupas, have
15 you attached to your prefiled rebuttal testimony an
16 exhibit identified as PK-1 which provides a list of
17 the proceedings in which you have testified?

18 **A** Yes, I have.

19 **MR. HOFFMAN:** Madam Chairman, I'd like that
20 exhibit marked for identification, please.

21 **CHAIRMAN JOHNSON:** It will be identified as
22 Exhibit 122.

23 **MR. HOFFMAN:** Thank you.

24 (Exhibit 122 marked for identification.)

25

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**REBUTTAL TESTIMONY****OF****PAUL KOUROUPAS****ON BEHALF OF****TELEPORT COMMUNICATIONS GROUP INC.****DOCKET NO. 960786-TL****JULY 31, 1997**

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND**
2 **YOUR POSITION WITH TELEPORT COMMUNICATIONS**
3 **GROUP, INC.**

4 A. My name is Paul Kouroupas. I am Vice President, Regulatory and
5 External Affairs for Teleport Communications Group, Inc. My business
6 address is 2 Lafayette Center, 1133 21st Street, N.W., Suite 400,
7 Washington, D.C. 20036.

8 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

9 A. I am testifying on behalf of Teleport Communications Group's Florida
10 affiliate TCG South Florida (collectively "TCG").

11 **Q. PLEASE SUMMARIZE YOUR BACKGROUND AND**
12 **EXPERIENCE.**

13 A. I have worked for TCG for over five years, representing TCG before
14 state public utility commissions throughout the country. For the past
15 three years, I have been responsible for negotiating and overseeing the

1 implementation of interconnection agreements with incumbent local
2 exchange carriers (“ILECs”), including BellSouth, both prior to and
3 subsequent to the passage of the federal Telecommunications Act of
4 1996 (“Act”).

5 I graduated from Temple University in Philadelphia,
6 Pennsylvania with a Bachelor’s degree in Communications. I also
7 graduated from the Catholic University of America’s Columbus School
8 of Law with a Juris Doctorate degree and a specialty in
9 Communications Law.

10 **Q. HAVE YOU TESTIFIED PREVIOUSLY BEFORE THE FLORIDA**
11 **PUBLIC SERVICE COMMISSION?**

12 A. Yes. I have testified before the Florida Public Service Commission in
13 Docket No. 921074-TP (Petition for expanded interconnection for
14 alternate access vendors within local exchange company central offices
15 by Intermedia Communications of Florida, Inc.). I have also testified
16 before many other regulatory commissions throughout the United States.
17 Exhibit ___ (PK-1) contains a list of the proceedings in which I have
18 testified.

19 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THE**
20 **INSTANT PROCEEDING?**

21 A. The purpose of my testimony is to respond to assertions made by
22 BellSouth witness Stacy regarding the appropriate performance reports

1 and standards that should be used to evaluate BellSouth's application for
2 interLATA relief. In addition, I rebut BellSouth witness Milner's claim
3 that BellSouth is providing interconnection in compliance with the first
4 checklist item.

5 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

6 A. My testimony specifically rebuts BellSouth witness Stacy's contention
7 that BellSouth's proposed and negotiated performance measures will
8 assist the Commission in determining whether BellSouth meets the
9 competitive checklist contained in Section 271(c)(2)(B) of the Act. I
10 explain why the performance measures proposed by BellSouth are
11 wholly inadequate. Furthermore, I testify that the PSC is simply not
12 able to determine whether BellSouth complies with the Checklist
13 requirements unless and until meaningful performance measures,
14 applicable to all alternative local exchange carriers ("ALECs"), are
15 approved by the Commission, implemented and sufficiently utilized by
16 BellSouth.

17 **Q. WHAT ARE YOUR RECOMMENDATIONS?**

18 A. The absence of adequate performance measures make it impossible for
19 BellSouth to demonstrate, at a minimum, that it has met the first
20 Checklist item, i.e., that BellSouth implements interconnection that is at
21 least equal in quality to that which it provides to itself and other parties.
22 Because BellSouth must meet each of the 14 Checklist items, and it fails

1 to meet at least the very first Checklist item, I recommend that the
2 Commission reject BellSouth's Petition at this time.

3 **Q. WHAT IS THE COMMISSION'S ROLE IN THIS PROCEEDING?**

4 **A.** The Commission's role is to collect evidence, build a record, weigh the
5 evidence so that it may fulfill its responsibility to consult with the
6 Federal Communications Commission ("FCC") and verify the
7 compliance or lack of compliance of BellSouth with checklist
8 requirements when BellSouth applies to the FCC for interLATA
9 authority.

10 **CHECKLIST ITEM 1:**

11 **Q. HAS BELLSOUTH MET ALL OF THE FOURTEEN POINTS OF**
12 **THE COMPETITIVE CHECKLIST?**

13 **A.** No. BellSouth has failed to meet at least one checklist item. The first
14 checklist item requires BellSouth to provide interconnection "that is at
15 least equal in quality to that provided by the local exchange carrier to
16 itself or to any subsidiary, affiliate, or any other party to which the
17 carrier provides interconnection."

18 **Q. WHY HAS BELLSOUTH NOT MET THIS CHECKLIST ITEM?**

19 **A.** To date, BellSouth has not provided equal quality interconnection to
20 TCG. As TCG witness Frank Hoffmann testifies, TCG has experienced
21 an inordinate amount of call blockage which has degraded the quality of
22 service to below that which TCG's network has been engineered to

1 provide. The call blockage is a function of BellSouth's failure to
2 properly size its network. The result of this blockage is that TCG's
3 customers cannot receive calls from BellSouth end users. Because
4 BellSouth does not provide equal quality interconnection, it is harder for
5 TCG to sell service. The frustrating consequence of BellSouth's poor
6 interconnection practices is that the necessary corrective action is
7 exclusively in BellSouth's control; TCG is powerless to cure this
8 problem.

9 Additionally, because of BellSouth call blocking practices, TCG
10 is unable to terminate calls in the manner agreed to by the parties and
11 approved by the Commission in the BellSouth/TCG interconnection
12 agreement.

13 **Q. HAS BELLSOUTH DEMONSTRATED IN ITS APPLICATION**
14 **THAT IT IN FACT COMPLIES WITH THE REQUIREMENTS**
15 **OF SECTION 271(c)(2)(B)?**

16 A. No. Although several BellSouth witnesses, W. Keith Milner, Robert
17 Scheye, and William N. Stacy, claim that BellSouth is in compliance
18 with the requirements of Section 271(c)(2)(B)(i), these witnesses fail to
19 provide evidence demonstrating compliance. Since Mr. Stacy provides
20 the most detailed testimony addressing performance reporting, I will
21 focus on his testimony.

22 **Q. WHAT INFORMATION HAS MR. STACY PROVIDED?**

1 A. On pages 5-6 of his direct testimony, Mr. Stacy describes portions of an
2 interconnection agreement between BellSouth and AT&T which include
3 “service quality and parity measurements.” Mr. Stacy also discusses the
4 method by which BellSouth will report on these measurements and
5 allow for a comparative analysis of the data. Finally, Mr. Stacy
6 includes in his testimony data which purports to demonstrate that
7 BellSouth in fact is providing interconnection services to its competitors
8 in compliance with the requirements of Section 271(c)(2)(B).

9 **Q. DO THE SERVICE QUALITY AND PARITY MEASUREMENTS**
10 **INCLUDED IN THE INTERCONNECTION AGREEMENT**
11 **BETWEEN BELL SOUTH AND AT&T PROVIDE SUFFICIENT**
12 **INFORMATION FOR PURPOSES OF DETERMINING**
13 **BELL SOUTH’S COMPLIANCE WITH SECTION 271((c)(2)B)(i)?**

14 A. No. The service quality and parity measurements included in the
15 BellSouth/AT&T agreement are deficient for two reasons. First, the
16 measurements are tailored to AT&T’s specific business plans which
17 means that they are not directly suitable for facilities-based carriers such
18 as TCG. As a result, these measures do not cover (or inadequately
19 cover) certain categories important to a facilities based carrier. Second,
20 BellSouth has not indicated that it will perform the same or similar
21 measurements for other ALECs operating in Florida. In fact, Mr. Stacy
22 indicates that “no other agreements have been finalized with respect to

1 performance measures.” (Stacy Direct at 6). Mr. Stacy also admits that
2 BellSouth and AT&T have not agreed to and finalized all reporting
3 requirements. (Stacy Direct at 6).

4 **Q. SHOULD THE PERFORMANCE REPORTING CONTAINED IN**
5 **THE AT&T-BELLSOUTH INTERCONNECTION AGREEMENT**
6 **BE APPLIED, WITHOUT MODIFICATION, TO ALL**
7 **CARRIERS?**

8 A. No. The BellSouth and AT&T performance measures were negotiated
9 exclusively between the two carriers. Such an agreement was not the
10 subject of a Commission rulemaking and should not bind other carriers
11 that are not similarly situated to AT&T.

12 **Q. DID TCG ENTER INTO AN INTERCONNECTION AGREEMENT**
13 **WITH BELLSOUTH?**

14 A. Yes. TCG and BellSouth filed their interconnection agreement with the
15 Commission on July 21, 1996. It was approved by the Commission by
16 Order No. PSC-96-1313-FOF-TP issued October 29, 1996.

17 **Q. DOES TCG’S INTERCONNECTION AGREEMENT INCLUDE**
18 **SERVICE QUALITY AND PARITY MEASUREMENTS?**

19 A. No. TCG and BellSouth could not agree on service quality
20 measurements within the 270 day time frame allotted for negotiations
21 under the Act. TCG nonetheless entered into the agreement in order to
22 facilitate on-going operations in Florida and to avoid the significant

1 expense associated with arbitration under the Act. It is imperative,
2 therefore, that this Commission enforce Section 251(c) of the Act by
3 requiring BellSouth to provide appropriate service quality and parity
4 measurements for each and every ALEC operating in Florida. The
5 applicability to all ALECs is especially important given the temporary
6 uncertainty over the ability to "pick and choose" in light of the recent
7 8th Circuit decision. Any limitation on the ability of carriers to adopt
8 subsequent agreements that include quality and parity measurement
9 provisions makes the universal applicability of such measurements
10 developed in this case a necessity.

11 **Q. WHY ARE COMPREHENSIVE PERFORMANCE**
12 **MEASUREMENTS NECESSARY?**

13 A. Comprehensive and detailed performance measurements are necessary
14 because they provide the only basis by which this Commission and
15 other carriers can determine that BellSouth is providing the equal
16 quality interconnection required under the Act. Unless BellSouth can
17 demonstrate that it is providing equal quality service to ALECs, it
18 cannot obtain entry into the interLATA toll marketplace.
19 Comprehensive measurements are the only basis upon which equal
20 quality can be determined.

21 **Q. YOU STATED EARLIER THAT THE MEASUREMENTS**
22 **INCLUDED IN AT&T'S INTERCONNECTION AGREEMENT**

1 **ARE TAILORED TO AT&T'S SPECIFIC BUSINESS PLANS**
2 **WHICH MEANS THAT THEY ARE NOT LIKELY SUITABLE**
3 **FOR FACILITIES-BASED CARRIERS SUCH AS TCG. WHAT**
4 **DO YOU MEAN BY THIS STATEMENT?**

5 A. TCG is a facilities-based ALEC which means that the interconnection
6 requirements of TCG differ substantially from ALECs, such as AT&T,
7 whose near-term business plans call for substantial resale of BellSouth's
8 retail services. Therefore, the measurements that AT&T seek are
9 designed to ensure that the resold services purchased from BellSouth are
10 provided at parity. TCG believes that while the measurements
11 negotiated by AT&T may reasonably address the needs of resellers,
12 those measurements do not sufficiently capture the data pertinent to and
13 necessary for facilities-based ALECs. For instance, the measurements in
14 AT&T's agreement fail to address Call Blocking Percentages on
15 interconnection trunks. Call Blocking is a critical issue to facilities-
16 based ALECs as explained in TCG witness Hoffmann's testimony and
17 as evidenced by the recent anti-trust suit filed by Electric LightWave
18 against US West precisely on this point.

19 **Q. IF BELL SOUTH AGREES TO PROVIDE SERVICE QUALITY**
20 **AND PARITY REPORTS FOR EACH AND EVERY ALEC**
21 **OPERATING IN FLORIDA, WILL THAT ESTABLISH**

1 **COMPLIANCE WITH THE REQUIREMENTS UNDER SECTION**
2 **271(c)(2)(B)(i)?**

3 A. No. Sections 271(c)(2)(B)(i) and 251(c)(2)(C) require that BellSouth
4 demonstrate that it actually provides service to its competitors at parity.
5 As Mr. Stacy himself admits, it is necessary to collect data for a period
6 of at least six months before valid conclusions may be drawn. (Stacy
7 Direct at 17-18). Therefore, BellSouth must provide all relevant data
8 covering at least six months as a prerequisite to demonstrating that it is
9 providing service to its competitors at parity.

10 **Q. MR. STACY HAS INCLUDED AS EXHIBITS TO HIS**
11 **TESTIMONY [EXHIBITS ___ (WNS-C) AND ___ (WNS-E)] DATA**
12 **PURPORTING TO SHOW THAT BELLSOUTH IN FACT**
13 **PROVIDES INTERCONNECTION IN COMPLIANCE WITH THE**
14 **REQUIREMENTS OF SECTION 271(c)(2)(B). DO YOU BELIEVE**
15 **THIS INFORMATION IS DISPOSITIVE OF THE ISSUE?**

16 A. No. The data provided by Mr. Stacy is flawed for several reasons.
17 First, the data BellSouth used to measure the service it provides to itself
18 is not Florida specific. BellSouth provides aggregated data for the entire
19 BellSouth Region. Data reported over such a large geographic area
20 precludes this Commission from finding equal quality within the state.
21 For example, service in Florida could be very bad, but service in
22 Georgia could be very good. Regionwide reporting would mask the

1 differences. Second, BellSouth does not provide performance
2 measurements that are sufficiently comprehensive so as to assist the
3 Commission in verifying BellSouth's Section 271 compliance. Mr.
4 Stacy admits that Exhibit __ (WNS-E) covers a very limited set of
5 measurements. (Stacy Direct at 21). Third, BellSouth does not
6 disaggregate its measurements in a manner that can be useful for
7 comparative purposes.

8 **Q. IN WHAT MANNER SHOULD BELLSOUTH REPORT THE**
9 **DATA?**

10 A. BellSouth must present comprehensive reports so that each carrier can
11 determine whether BellSouth is providing service quality that is equal to
12 that which BellSouth provides to itself. In order to make such a finding
13 those reports must provide carriers with the detail necessary to produce
14 the appropriate reports.

15 **Q. HOW CAN OVERLY BROAD REPORTING MASK**
16 **BELLSOUTH'S FAILURE TO PROVIDE EQUAL QUALITY?**

17 A. Merely providing TCG with a mountain of cumulative data covering a
18 wide range of services over a wide geographic areas does not permit the
19 Commission or TCG to determine if BellSouth is actually providing
20 equal quality. It is possible that BellSouth could provide higher quality
21 service to customers in areas where competition is developing while
22 simultaneously providing lower quality service in areas where

1 competition has yet to develop. This not only places ALECs at a
2 competitive disadvantage, it also results in poorer service for its captive
3 ratepayers. Furthermore, if BellSouth was only required to provide
4 service that is equal to that which it provides to itself on an averaged
5 regionwide or statewide basis, TCG may receive only the below average
6 quality. In other words, TCG would receive unequal and inferior
7 service where TCG competes with BellSouth.

8 **Q. ARE THERE REQUIREMENTS THAT THIS COMMISSION**
9 **COULD IMPOSE ON BELLSOUTH THAT WOULD ELIMINATE**
10 **THE CONCERNS EXPRESSED ABOVE?**

11 A. Yes. BellSouth should be directed to provide service quality reports
12 that disaggregate the results, for example, by geographic area, customer
13 class, product, service and ALEC. Because many carriers serve niche
14 markets, the only reports relevant to each carrier are those that measure
15 the performance in the markets and services in which they compete.
16 Thus, BellSouth's intention to tout its service quality agreement with
17 AT&T as evidence that it has satisfied Section 251(c)(2) necessarily
18 cannot satisfy TCG's service quality needs. Because AT&T's business
19 strategy -- resale versus facilities-based -- may be vastly different than
20 TCG's, AT&T's reporting requirement needs may be vastly different.

21 **Q. ARE YOU SUGGESTING THAT IT IS UNNECESSARY FOR**
22 **BELLSOUTH TO PROVIDE TCG WITH SERVICE QUALITY**

1 **REPORTS FOR CUSTOMERS AND SERVICES OUTSIDE THE**
2 **AREAS WHERE TCG COMPETES?**

3 A. No. TCG must have that information to determine if BellSouth is
4 providing nondiscriminatory service and access to unbundled network
5 elements. The reports must provide sufficient information for the
6 Commission and parties to determine whether BellSouth is providing the
7 same level of service to all ALECs. Absent those reports, TCG will
8 have no other reasonable benchmarks against which to measure
9 BellSouth's performance. At a minimum TCG needs aggregated and
10 disaggregated service quality reports for each of the following:

- 11 - ALEC service quality (specific to the ALEC)
- 12 - BellSouth retail service quality (state-wide)
- 13 - BellSouth retail service quality (for the specific rate
14 centers where the ALEC operates)
- 15 - All ALECs
- 16 - The top three interexchange carriers
- 17 - BellSouth's top 100 customers
- 18 - BellSouth's affiliates

19 **Q. HOW WILL DATA PROVIDED IN THIS MANNER ASSIST THE**
20 **COMMISSION AND OTHER CARRIERS?**

21 A. Providing the data in this manner will permit a meaningful comparative
22 analysis of whether BellSouth is providing service to ALECs in

1 conformance with the requirements of Section 271(c)(2)(B). As stated
2 above, if BellSouth simply reports the data on a region-wide basis (as
3 proposed in Exhibit ___ (WNS-E)), BellSouth will be permitted to hide
4 too much information in the averages. By this I mean that one needs to
5 consider that on a region-wide basis, BellSouth has millions of
6 customers. On average, BellSouth may be providing service at a quality
7 level of X, but the average can mask enormous differences in particular
8 customer classes or geographic areas. Therefore, BellSouth must
9 present the data in a meaningful manner which separates the data into
10 particular customer classes and geographic areas. Only then can you
11 have the “apples-to-apples” comparison required by the Act.

12 **Q. DOES BELLSOUTH CURRENTLY PROVIDE ANY**
13 **PERFORMANCE REPORTS TO TCG?**

14 A. Yes. The BellSouth account team assigned to TCG does provide very
15 limited reporting on the service BellSouth provides to TCG. While this
16 is a useful tool for facilitating communication between TCG and
17 BellSouth, it is not sufficient for purposes of Section 271(c)(2)(B)(i) of
18 the Act. It can, however, serve as a foundation for expanding the
19 reporting requirements as outlined above.

20 **Q. ARE APPROPRIATE REPORTING MEASURES ALL THAT IS**
21 **NECESSARY FOR BELLSOUTH TO BE IN COMPLIANCE**
22 **WITH SECTION 271?**

1 A. No. BellSouth must demonstrate through its reporting that it is
2 providing the necessary parity. At a minimum, six months of reporting
3 data would be necessary for the Commission to determine that parity is
4 being provided.

5 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

6 A. Yes.

1 BY MR. HOFFMAN:

2 Q Mr. Kouroupas, could you provide a brief
3 summary of your prefiled rebuttal testimony.

4 A With the key word being "brief".

5 The testimony submitted rebuts the claims by
6 Bell Witnesses Milner and Stacy with regards to two
7 primary points.

8 The first concern is the issue of compliance
9 with the first checklist item in the so-called
10 competitive checklist. It is TCG's view that in order
11 for BellSouth to prove compliance with that first
12 checklist item, it must, in fact, produce facts which
13 support its assertion. And, to date, TCG has not seen
14 the facts which would demonstrate that BellSouth, in
15 fact, is providing interconnection services to TCG at
16 a level of parity or equal to that which BellSouth
17 provides itself or its affiliates.

18 The testimony of Mr. Hoffmann points out
19 several deficiencies that TCG perceives in the
20 interconnection arrangement and how that impacts our
21 services, which leads us to the conclusion that, in
22 fact, BellSouth is not providing service to TCG in
23 parity.

24 But, largely, we're operating sort of at a
25 deficit here in the sense that BellSouth just hasn't

1 produced any facts, figures, or anything whatsoever
2 which would support its assertion; and we view that as
3 a serious deficiency in their application.

4 I believe it's BellSouth Witness Stacy
5 refers to the performance measurements and standards
6 that have been included in the agreement with AT&T.
7 And while that may be interesting, TCG does not
8 believe that it really is of any value to it, largely
9 because it's unclear as to whether or not TCG will be
10 able to take advantage of that agreement, because
11 BellSouth has not clarified the most favored nations
12 clause which exists in our agreement, and whether or
13 not we would be able to exercise that to take
14 advantage of the agreement between AT&T and BellSouth.

15 Even once that issue is clarified, however,
16 as stated in my testimony, we don't believe that the
17 agreement between AT&T and BellSouth covers all of the
18 performance measures which TCG believes are important
19 to it as a facilities-based local exchange carrier.

20 Therefore, we are requesting that this
21 Commission impose upon BellSouth a service reporting
22 requirements which will allow not only TCG, but the
23 Commission itself, to verify BellSouth's compliance on
24 a going-forward basis with the first item of the
25 checklist.

1 These reports would provide information
2 sufficient to determine that, in fact, TCG and other
3 ALECs are receiving service at a quality level to
4 which they are entitled. And I explained in my
5 testimony sort of the form and format of those reports
6 and won't repeat that.

7 Finally, it has recently come to light that
8 BellSouth has informed TCG and other ALECs that it
9 would not compensate for the termination of traffic
10 destined to Internet service providers.

11 While the applicability of that declaration
12 to TCG is unclear, given sort of the mechanics of our
13 reciprocal compensation arrangement, to the extent
14 that it is -- that it does affect TCG, we would view
15 that as a material breach of our contract.

16 And to the extent that BellSouth seeks to
17 rely upon the existing interconnection agreements with
18 other ALECs for support of its application, their
19 recent action would indicate to me that the
20 interconnection agreements really aren't worth the
21 paper they are written on, because BellSouth feels
22 free to unilaterally reinterpret them at will; and to
23 us that doesn't really form a foundation of a
24 contract.

25 So with that, I'll conclude.

1 **MR. HOFFMAN:** Madam Chairman, he's available
2 for cross examination.

3 **MR. PELLEGRINI:** Chairman Johnson, I would
4 like to offer an exhibit, PK-2, to be marked for
5 identification at this point.

6 **CHAIRMAN JOHNSON:** Be marked as 123.
7 (Exhibit 123 marked for identification.)

8 **CHAIRMAN JOHNSON:** BellSouth?

9 **MR. CARVER:** Thank you, Madam Chairman.

10 **CROSS EXAMINATION**

11 **BY MR. CARVER:**

12 **Q** Good evening, Mr. Kouroupas.

13 **A** Good evening.

14 **Q** Just a couple of preliminary questions. You
15 just stated that you believe that BellSouth is in
16 breach of its interconnection agreement with TCG; is
17 that correct?

18 **A** That's correct.

19 **Q** Do you cover that anywhere in your prefiled
20 testimony?

21 **A** Excuse me?

22 **Q** Is that stated anywhere in your prefiled
23 testimony?

24 **A** No. We did not become aware of BellSouth's
25 position until after the testimony was filed.

1 **MR. CARVER:** Madam Chairman, I'm going to
2 move to strike that, because what Mr. Kouroupas has
3 done is he has supplemented his testimony by raising a
4 new issue. There's nothing in his testimony
5 whatsoever in which he alleges the breach of the
6 agreement.

7 During the summary he's interjected in this
8 proceeding an entirely new issue that he's never
9 raised before. We've obviously had no opportunity to
10 conduct discovery, and there's no way that we can
11 respond here at the closing minutes of the hearing;
12 and this is not only completely unfair, it's
13 prejudicial.

14 **CHAIRMAN JOHNSON:** Mr. Hoffman?

15 **MR. HOFFMAN:** Madam Chairman, this is a
16 matter that was raised by Intermedia in the early
17 stages of this hearing after the prefiled rebuttal
18 testimony of Mr. Kouroupas was filed.

19 It deals specifically with Exhibit 17, which
20 is a letter from BellSouth to all ALECs, including
21 TCG, concerning what I would characterize as a
22 reversal in practice in terms of providing
23 compensation to the ALECs for the termination of calls
24 to ISPs.

25 Now, this is something that has occurred

1 after the testimony was filed. It applies to
2 Teleport, and we think in terms of providing a full
3 and fair record before this Commission that
4 Mr. Kouroupas should give Teleport's slant on this
5 issue, as have the other ALECs who have testified on
6 this issue in this case.

7 **MR. CARVER:** Well, I don't think that
8 Mr. Hoffmann has claimed that this is actually in his
9 testimony. Basically what he's trying to do is
10 justify a supplementary addition to his testimony and,
11 as I said, at this point there's no way we can
12 adequately cross examine or to rebut this.

13 So if this is going to be allowed, then at a
14 minimum I would request that BellSouth be allowed to
15 file a late-filed -- to supply a late-filed exhibit in
16 which we would provide our response to these new
17 allegations.

18 **CHAIRMAN JOHNSON:** I need to be clear,
19 because when you made the original objection, I wasn't
20 listening. I need to be clear. (Laughter)

21 Now, what items -- you're referring to the
22 statements that he made in his summary that related to
23 the --

24 **MR. CARVER:** Well, basically about the last
25 three minutes of his summary, he raised for the first

1 time the issue that he believes BellSouth to be in
2 material breach of the interconnection agreement
3 between BellSouth and TCG, and he's said for that
4 reason he doesn't believe that we can rely on the
5 agreement. This is brand-new. We haven't heard about
6 it.

7 And, again, Mr. Hoffman hasn't argued that
8 it was an appropriate summary. In effect, he's
9 arguing that he should be allowed to supplement his
10 testimony. So if he's going to be able to add to his
11 testimony at the eleventh hour in this manner, then I
12 think at an absolute minimum, we should be allowed to
13 file a late-filed exhibit to state our position
14 regarding any dispute there may be with TCG.

15 **MR. HOFFMAN:** Madam Chairman, if I could
16 just briefly add, there's no way Mr. Kouroupas could
17 have addressed this testimony -- could have addressed
18 this issue in his testimony when TCG did not become
19 aware of the issue until after his testimony was
20 filed.

21 Secondly, the focus of Mr. Kouroupas'
22 testimony is that adequate performance measures need
23 to be in place in order to ensure compliance and
24 implementation of these interconnection agreements,
25 including the one between BellSouth and TCG.

1 This statement that Mr. Kouroupas has made
2 concerning this ISP issue goes to the very heart of
3 that testimony; that is if adequate performance
4 measures are not in place, and BellSouth is allowed to
5 enter into an interconnection agreement with TCG or
6 any other ALEC and then essentially do whatever it
7 wants, thereby, rendering the agreement meaningless,
8 then we think that there is a problem.

9 So we think the testimony is relevant to his
10 prefiled rebuttal testimony and certainly could not
11 have been raised before the hearing.

12 **CHAIRMAN JOHNSON:** Okay. I understand your
13 argument that it's relevant, and it may be relevant,
14 but it is supplemental. And to the extent that the
15 witness raised issues regarding -- in his testimony
16 regarding the performance measures, those can stand
17 alone.

18 I'm going to strike those statements, but we
19 need to know how far to go back to strike, unless you
20 can say generically the statements that related -- the
21 court reporter needs to know what she needs to strike.

22 **MR. CARVER:** Basically I think when he began
23 to talk about an alleged breach of the contract
24 between TCG and BellSouth, and I believe there's a
25 fairly clear break in his summary where he stopped

1 talking about performance measurements and began to
2 make the argument that there had been a breach; so
3 wherever that transition is. I think it's probably
4 going to be about the last -- it was, I think, about
5 the last three minutes, but in terms of subject
6 matter, it's the last part that needs to be stricken.

7 **CHAIRMAN JOHNSON:** Okay. I'm going to grant
8 the Motion to Strike. It may be a little awkward for
9 the court reporter to make that determination, but
10 I'll grant the Motion to Strike. Do you want her to
11 read it back?

12 **MR. CARVER:** Well, would it be appropriate
13 for me to review the transcript and, subject to
14 objection by TCG, submit --

15 **CHAIRMAN JOHNSON:** That will be fine.

16 **MR. CARVER:** Thank you. And we can do that
17 as soon as we receive the transcript. We'll provide a
18 quick turnaround.

19 **Q** **(By Mr. Carver)** Mr. Kouroupas, TCG has
20 switches in Florida; is that correct?

21 **A** We have a switch in Florida, yes.

22 **Q** And where is that switch located?

23 **A** North Miami, I believe.

24 **Q** And you serve business customers in the
25 local market by the use of this switch, do you not?

1 A Yes, we do.

2 Q Do you serve any of these customers entirely
3 with your own facilities?

4 A Yes, we do.

5 Q And you have interconnection with BellSouth
6 currently; is that correct?

7 A Yes, we do.

8 Q And how long have you been interconnected
9 with BellSouth's facilities?

10 A TCG and BellSouth completed an
11 interconnection agreement, I believe, in December of
12 1995 and spent, I guess, the beginning of 1996
13 implementing that agreement; and then reached a
14 subsequent agreement under the 1996 Telecommunications
15 Act and have continued to operate interconnected with
16 BellSouth during that time and since that time.

17 Q So it's been continuous during that entire
18 time period?

19 A Yes.

20 Q Now, TCG also has direct connection to STS
21 providers; is that correct?

22 A We sell services to STS providers, yes.

23 Q I'm sorry. Could you say that again?

24 A We sell services to STS providers, yes.

25 Q Okay. And are some of these STS providers

1 certificated as ALECs?

2 A I'm unaware of whether or not they are.

3 Q Do some of these STS providers serve
4 residential customers by way of TCG's facilities?

5 A I believe that at least one STS provider is
6 purchasing service from TCG and then turning around
7 and selling services to residential customers, yes.

8 Q Thank you. Now, moving to the performance
9 measurements issues -- excuse me just a moment.

10 (Pause)

11 Moving to the performance measurement
12 issues, in your testimony you state on Page 6,
13 beginning on Lines 15 through Line 18 --

14 A Uh-huh.

15 Q -- first, the measurements are tailored to
16 AT&T's specific business plans, which means that they
17 are not directly suitable for facilities-based
18 carriers such as TCG; is that correct?

19 A That's correct.

20 Q Could you explain that statement, please?

21 A I believe each ALEC operating in Florida has
22 unique business plans, business strategies; and from
23 everything that we can gather, the business plans and
24 strategies of TCG differ from those of AT&T.

25 I believe AT&T has made no secret of the

1 fact that they intend initially, at least, to offer
2 service to customers on a resale basis by rebranding
3 BellSouth's end-to-end local exchange service. That
4 is not a manner in which TCG prefers to operate.

5 As a facilities-based carrier, we seek to
6 provide service to customers as much as possible over
7 our own facilities; therefore, the needs and
8 requirements of AT&T vis-a-vis TCG are different.

9 Q Is it your position that BellSouth should be
10 required to negotiate performance measurements with
11 each new entrant?

12 A Well, I guess our position ultimately is
13 simply that BellSouth needs to demonstrate its
14 compliance with checklist Item No. 1 and provide the
15 data and facts necessary to demonstrate that
16 BellSouth, in fact, provides service to its
17 competitors at a quality level equivalent to that
18 which BellSouth provides itself. And the service
19 quality reports would be an useful tool to the
20 carriers and the Commission to, in fact, verify that
21 compliance with the checklist item.

22 Q Okay. Thank you. I don't believe you
23 answered my question, so I'm going to try again.

24 My question -- and if you would please give
25 me a yes or no -- is do you believe that BellSouth

1 should be required to negotiate performance standards
2 with each new entrant?

3 **A** Yes.

4 **Q** Okay. Now, you take the position, do you
5 not, that after performance standards are agreed upon
6 and implemented, then they need to be observed for a
7 period of six months in order to determine if they are
8 working appropriately; is that correct?

9 **A** Well, I believe it was either Mr. Stacy or
10 Mr. Milner suggested that a period of six months would
11 provide adequate time for a valid study. So we
12 really, I guess, were borrowing from BellSouth's own
13 witness.

14 **COMMISSIONER CLARK:** Mr. Kouroupas, is that
15 a yes or a no?

16 **WITNESS KOUROUPAS:** Yes, six months is
17 adequate. Sorry.

18 **Q** **(By Mr. Carver)** So your position is that
19 BellSouth has to negotiate performance standards with
20 each new entrant, and after they are negotiated, they
21 have to be implemented and observed for six months.

22 Now, given that, doesn't that guarantee that
23 as long as there are new entrants, BellSouth will
24 continue not to be checklist compliant?

25 **A** I think you're mischaracterizing what I'm

1 saying.

2 Q Well, what part of that I missed -- didn't
3 you start out by saying, agreeing that BellSouth, in
4 your view, should have to negotiate with every new
5 entrant? Didn't you agree with that?

6 A I agree that that would be useful, yes.

7 Q Didn't you also say that six months was the
8 appropriate observation period?

9 A Yes.

10 Q Okay. So if every time a new entrant comes
11 along, the goal line gets moved back six months, then
12 a steady stream of new entrants in the market will
13 ensure that BellSouth never becomes checklist
14 compliant; isn't that true?

15 A That's your leap of logic, not mine.

16 Q I'm sorry. That's my what?

17 A Leap of logic.

18 Q So you believe that's an illogical
19 conclusion?

20 A Yes.

21 Q Okay.

22 COMMISSIONER CLARK: It is not a logical
23 conclusion?

24 WITNESS KOUROUPAS: No, it is not.

25 COMMISSIONER CLARK: You better explain

1 that, because that's where I got.

2 WITNESS KOUROUPAS: Be happy to.

3 What we have said simply is that BellSouth
4 needs to demonstrate that it provides service at
5 parity. The BellSouth witness himself stated that a
6 six-month period would be an adequate study time.

7 We're not suggesting that BellSouth needs to
8 demonstrate six months of service to each and every
9 individual ALEC on a perpetual basis. What we've said
10 is if BellSouth can come forward today with six months
11 of data which shows that for the existing competitors
12 they have provided service at parity, then we have
13 some facts on which we can base our judgment as to
14 whether or not they meet the first checklist item.

15 On a going-forward basis, regular reports
16 would be useful to just continually monitor their
17 compliance with the first checklist item. But it's
18 not -- we're not trying to set up a perpetual motion
19 machine here to deny them entry into the long distance
20 market.

21 Q (By Mr. Carver) Well, when is the cutoff
22 period? Today or --

23 A As I said, if BellSouth presented in this
24 hearing today six months of data showing that service
25 to its competitors has been at parity, well, at least

1 then we'd have the basis for believing your assertion
2 that you have met the first checklist item.

3 Q Okay. But would BellSouth still have the
4 obligation to negotiate new agreements with new
5 entrants?

6 A I believe that service reporting
7 requirements are a useful thing to have.

8 Q I'm sorry. Could I have a yes or no,
9 please?

10 A Repeat the question, please.

11 Q Is today the cutoff, basically? In other
12 words, the six-month period begins to run today, but
13 that agreements entered into with new entrants in the
14 future aren't considered. Is that your testimony?

15 A No.

16 Q Now, as new entrants come along, would
17 BellSouth have a continuing duty to negotiate -- well,
18 I think you answered this one already. You did say,
19 didn't you, that they have a continuing duty to
20 negotiate performance standards with new entrants,
21 correct?

22 A Yes.

23 Q But those that occur from here on out would
24 not be considered for checklist compliance purposes?

25 A They would be relevant to an ongoing

1 analysis as to whether or not you satisfy the first
2 checklist item.

3 Q So when is the cutoff point? At what point
4 do you say "This is enough; we're not going to
5 consider the additional performance standards created
6 by any new entrants?"

7 A I don't believe the Commission ever should,
8 I guess, cease reviewing BellSouth's treatment of its
9 competitors. You may already be in the long distance
10 market, but it's still relevant to the carriers and
11 this Commission as to whether or not you're satisfying
12 your requirements under the Act; and, therefore, the
13 reports will prove useful to that end on a
14 going-forward basis.

15 Q So these reports have to be continued on a
16 going-forward basis to determine whether or not we're
17 checklist complaint?

18 A And to whether or not BellSouth is providing
19 service to its competitors at a quality level
20 equivalent to that which it provides itself. That's
21 an ongoing duty under the Act.

22 Q Okay. I'm going to try one last time. At
23 what point do you have a cutoff and you say "Now there
24 is enough information. We'll consider the new
25 entrants and the performance standards they have

1 negotiated to date. We won't consider any more," for
2 purposes of determining whether the checklist has been
3 initially met? When is that cutoff date?

4 A As I said, if you had presented six months
5 of data today, that would have been the cutoff.

6 Q So whenever we have six months of data,
7 that's accurate -- that's appropriate, in your view?

8 A We would view that as a reasonable quantity
9 of facts on which to base a judgment.

10 Q Now, TCG and BellSouth have an
11 interconnection agreement, don't they?

12 A Yes, we do.

13 Q And that agreement -- well, let me ask you
14 first of all, when was that agreement executed?

15 A Under the Telecommunications Act, the
16 agreement was executed in July of '96.

17 Q So that was executed about 14 months ago?

18 A Yeah. Yes.

19 Q Okay. Now, that agreement doesn't contain
20 the performance measurements that you advocate, does
21 it?

22 A No, it does not.

23 Q And I believe you say in your testimony that
24 you had discussed it with BellSouth, but you couldn't
25 come to an agreement with them as to the standards

1 that TCG wanted; is that correct?

2 A That's correct.

3 Q Now, let me ask you, last July if you had
4 requested arbitration in order to have the Commission
5 review your request for these additional performance
6 standards, then one way or another this issue would be
7 resolved by now, wouldn't it?

8 A Yes.

9 MR. CARVER: Thank you. That's all that I
10 have.

11 CHAIRMAN JOHNSON: Staff?

12 CROSS EXAMINATION

13 BY MR. PELLEGRINI:

14 Q Good evening, Mr. Kouroupas.

15 A Good evening.

16 Q Let me begin by referring you to your
17 rebuttal testimony, at Page 9 specifically, where you
18 state that Call Blocking percentages on
19 interconnection trunks are important performance
20 measurements for facilities-based carriers; is that
21 correct?

22 A Yes.

23 Q Have you had an opportunity to review the
24 traffic blockage data that was provided by Mr. Stacy
25 in his late-filed deposition exhibit which has been

1 marked Exhibit 52?

2 A Is that the exhibit that Mr. Hoffmann
3 reviewed?

4 Q Yes.

5 A On cross examination?

6 Q Yes.

7 A I reviewed it briefly.

8 Q Would you consider yourself familiar with
9 the information that's presented in that study?

10 A I guess. I'm generally familiar. I mean,
11 I generally understand what the charts conveyed, or
12 the data conveyed.

13 Q Well, then let me ask you this: Do you
14 think that that study provides adequate data with
15 which to determine service quality and parity with
16 respect to trunk blockage?

17 A Honestly, I couldn't render an opinion on
18 that. I mean, I know nothing about where that report
19 came from or any of the details about the studies that
20 they performed. So I couldn't say one way or the
21 other if it is.

22 Q What about studies of that type?

23 A Oh, yes, absolutely. That sort of reporting
24 of trunk blockages and so forth is absolutely useful
25 to the process.

1 Q Are you familiar with the ARMIS Report
2 contained in Exhibit 59?

3 A I'm not, no.

4 **COMMISSIONER CLARK:** Mr. Pellegrini, while
5 you're asking questions on that, it indicates on my
6 Exhibit -- I mean, Item 59, that it has attached
7 proprietary information. Is it still -- is it okay?

8 **MS. WHITE:** Yes. That was an error.

9 **COMMISSIONER CLARK:** Oh.

10 **MS. WHITE:** But we're erring on the side, I
11 think, of too much.

12 Q **(By Mr. Pellegrini)** Now, Mr. Kouroupas,
13 turning to a different line of questioning, I believe
14 you have a version of Exhibit 2 with all but the data
15 relative to Teleport redacted; is that correct?

16 A I'm sorry. Whose Exhibit 2?

17 Q I'm sorry?

18 A You said exhibit --

19 Q Exhibit 2.

20 A I don't know that I do have that.

21 Q It's the subpoenaed information. (Hands
22 document to witness.)

23

24 A Okay. Now I have it.

25 Q All right. You testified in your deposition

1 that TCG is providing local exchange service to
2 business customers over its own facilities in Florida;
3 isn't that correct?

4 A Yes, that's correct.

5 Q Service to these business customers is in
6 part through use of TCG's own facilities and unbundled
7 elements that TCG has purchased from BellSouth; is
8 that correct?

9 A Yes, that's correct.

10 Q Let me refer you to Page 6 of that exhibit.

11 A It's not really numbered. If you could just
12 give me some language or something.

13 Q You don't have page numbers?

14 A No, I'm sorry, I do not.

15 Q Well, let me refer you then to Item No. 31.

16 A Oh, okay. Yes, I have Item No. 31.

17 Q Are the unbundled elements that are shown
18 there for TCG, all of those unbundled elements which
19 TCG has ordered from BellSouth. Is that an accurate
20 listing?

21 A I'm sorry. Item No. 31 asks "Has BellSouth
22 received any requests for access to unbundled
23 elements?" Is that the page you're referring to?

24 Q Yes.

25 A The response I see continues for several

1 pages, you mean.

2 Q Yes?

3 A It's difficult without page numbering but it
4 would be the third page, I believe.

5 A Okay. TCG certainly has ordered -- whether
6 it's these exact facilities, I don't know -- but
7 facilities of this type from BellSouth, yes.

8 Q Would you characterize that as an accurate
9 list of TCG's purchases?

10 A To the best --

11 Q Is it lacking?

12 A No. The best we have been able to verify it
13 is accurate. The information is in a format that is a
14 little hard to manage, but as we did some checking and
15 verifying it seemed accurate.

16 Q Which interface or interfaces were used to
17 order which of these UNEs?

18 A I'm sorry, you just hit on something that
19 may need clarification. I believe some of these are
20 interconnection trunks and not simply UNEs, or at
21 least --

22 Q Can you identify which of those --

23 A I believe.

24 Q -- without --

25 A I understand. The feature groups, to the

1 extent they are referring to feature groups,

2 Q Do you wish to refer them by a code to
3 preserve the confidentiality, or by number, for
4 example?

5 A Honestly, I couldn't distinguish for you
6 which are interconnection trunks and which are
7 unbundled network elements. Maybe I'm a little
8 confused by the meaning of this data. But let me just
9 review a second. (Pause)

10 I guess what through me off is the heading
11 of the one page that consist of five lines and a
12 table, each beginning with TPM. The heading of that
13 document is Interconnection by Customer by Trunk. And
14 so I understood that to mean those were
15 interconnection trunks.

16 Q Well, let's try to move on. Can you give me
17 an estimate, at least, of the number of business
18 subscribers that TCG is serving in Florida through the
19 use of TCG facilities and UNES purchased from
20 BellSouth?

21 A I'm just checking. I believe we provided
22 some of that information in late-filed deposition
23 exhibits.

24 Q I'm not looking necessarily for a precise
25 number; an approximation would be fine.

1 A I understand. TCG in a sort of rough way, I
2 don't know. Can we say under 500?

3 Q Under 500?

4 A Sure.

5 Q How about the number of business subscriber
6 lines?

7 A I don't have a accurate count of the number
8 of access lines that comprises -- I just don't have
9 that information with me.

10 Q All right. TCG has ordered interconnection
11 with BellSouth in Florida. Is that correct?

12 A Yes.

13 Q And TCG currently has a virtual collocation
14 arrangement with BellSouth; is that correct?

15 A Yes, we do.

16 Q And where is that?

17 A Actually I believe we have six collocation
18 arrangements with BellSouth.

19 Q Are you familiar with the sites?

20 A I'm not offhand, no.

21 Q In that same exhibit let me turn your
22 attention to 31-A (iii).

23 A Yes.

24 Q Do you see there the listings for TCG?

25 A Yes.

1 Q Is that an accurate -- is that an accurate
2 listing of interconnections with BellSouth?

3 A Yes, it is. And I'm sorry, that's the piece
4 that I was referring to as regarding interconnection
5 trunks.

6 Q And are you providing local exchange service
7 via your interconnection arrangements to business
8 customers in Florida?

9 A I'm sorry. Repeat the question?

10 Q Are you providing local exchange service via
11 interconnection arrangements to business customers in
12 Florida?

13 A Yes, we sell services to business customers.

14 Q Do you know approximately how many business
15 customers TCG is serving in this manner in Florida?

16 A As I stated I believe under 500.

17 Q Through interconnection arrangements?

18 A I'm sorry, I guess I didn't understand what
19 interconnection arrangements, with business customers?

20 Q Yes.

21 A We don't have interconnection arrangements
22 with business customers.

23 Q I thought you answered yes to --

24 A I said we sell business customers services.
25 We have interconnection arrangements with BellSouth

1 but we provision services to -- I misunderstood.

2 Q All right. That's fine.

3 Is TCG serving residential customers through
4 interconnection arrangements with BellSouth?

5 A Okay. We are not directly serving
6 residential customers, no.

7 Q Finally, let me refer you to Item 43 in that
8 exhibit.

9 A Yes.

10 Q Can you verify for me that the resold
11 services listed there are an accurate representation
12 of what TCG has, in fact, ordered from BellSouth?

13 A Yes, I believe it's an accurate
14 representation.

15 Q Is TCG providing local exchange service via
16 resold services to business customers and/or
17 residential customers in Florida?

18 A TCG does not resell the end-to-end service
19 of BellSouth, no. We're not serving customers in that
20 manner.

21 MR. PELLEGRINI: Okay. Thank you,
22 Mr. Kouroupas.

23 WITNESS KOUROUPAS: Thank you.

24 CHAIRMAN JOHNSON: Commissioners? Redirect?

25 COMMISSIONER CLARK: I just want to say,

1 Mr. Kouroupas, thank you for coming down this evening.

2 **WITNESS KOUROUPAS:** My pleasure. Thank you.

3 There are some commissions in the country
4 that still hold hearings on our certification
5 applications. They are not as progressive as Florida.

6 **MR. HOFFMAN:** Thank you, Madam Chairman. I
7 think I may need to get an advance ruling here.

8 Mr. Carver asked Mr. Kouroupas a question
9 about how long Teleport has had an interconnection
10 agreement with BellSouth under which BellSouth has
11 been providing services under the agreement.

12 I intend to ask Mr. Kouroupas a question or
13 two about this ISP issue and BellSouth's performance
14 under the interconnection agreement and I
15 anticipate -- because I believe Mr. Carver has opened
16 the door by raising the existence of the
17 interconnection agreement, how long it has been in
18 effect, and BellSouth's performance under the
19 agreement. I anticipate he's going to object and I
20 would just as soon resolve this up front.

21 **MR. CARVER:** I appreciate that. Thank you
22 for the warning.

23 I do object. And I don't think I asked any
24 question that he hasn't asked yet.

25 **COMMISSIONER CLARK:** You know, Madam

1 Chairman, I'm confused about the whole thing because I
2 thought the objection was to his characterization that
3 it was a breach of contract.

4 MR. CARVER: Yes, ma'am, that's correct.

5 COMMISSIONER CLARK: If that's the
6 objection, I'm not going to pay attention to what he
7 says as far as breach of contract. Are you an
8 attorney, Mr. Kouroupas?

9 WITNESS KOUROUPAS: By education.

10 (Laughter)

11 COMMISSIONER CLARK: All right. You know, I
12 guess I don't know what the big deal was because it
13 seemed to me that whether that's not the issue before
14 us. I think the -- and I thought that's what you were
15 objecting to.

16 MR. CARVER: That was my objection. And my
17 concern was that Mr. Kouroupas sort of bridged it in
18 the portion of his summary that was stricken and he
19 sort of said because we have breached the agreement,
20 the agreement can't be used to demonstrate compliance.
21 And then I think he implied that we may have breached
22 other agreements. So he took something that is
23 isolate, and I agree irrelevant, and then he attempted
24 to tie it back in, and that's the reason I objected.
25 He's trying, in effect -- I don't know, perhaps he's

1 using his legal training, but he's trying to make it
2 seem relevant even though it's really not.

3 And by the way, I also disagree with
4 Mr. Hoffman's characterization of my questions. I
5 simply asked how long there had been an
6 interconnection arrangement in effect because I was
7 trying to demonstrate the arrangement exists. I didn't
8 ask him anything about BellSouth's performance under
9 it. I didn't ask him any specifics of any contract.
10 I didn't ask him anything whatsoever that would open
11 the door for him to basically avoid the prior ruling
12 and talk about a breach of contract.

13 **MR. HOFFMAN:** Madam Chairman, I think that
14 Mr. Carver did get into the specifics of the
15 interconnection agreement. Certainly he did when he
16 asked about whether or not there are provisions in the
17 agreement concerning performance measurements.

18 But I will say that based on the comments of
19 Commissioner Clark that we would certainly be willing
20 to stipulate to the striking of that portion of
21 Mr. Kouroupas's testimony, and the summary of his
22 testimony, where he characterized the actions taken by
23 BellSouth as a breach of contract, with the
24 stipulation that the remainder of his testimony
25 concerning that issue would remain in the record.

1 **MR. CARVER:** I think now he's trying to
2 bargain to ask you to undo the ruling you have already
3 made. It's been stricken. I don't think it should be
4 unstricken now because of anything I've asked. I
5 don't believe I've opened door. Again, performance
6 wasn't anything encompassed by my cross examination.
7 It was strictly as to the existence of it. The
8 performance standard issue was an entirely different
9 one; it had nothing to do with the breach whatsoever.

10 **CHAIRMAN JOHNSON:** I'm not going to allow
11 the questions.

12 **MR. HOFFMAN:** Thank you, Madam Chairman.

13 **REDIRECT EXAMINATION**

14 **BY MR. HOFFMAN:**

15 **Q** Just a few questions Mr. Kouroupas.

16 I believe you testified that it was your
17 testimony that BellSouth ought to negotiate
18 performance measurements with new entrants; is that
19 correct.

20 **A** Yes, that's correct.

21 **Q** And I think you also testified that in your
22 opinion six months of actual results are needed to
23 verify the sufficiency of performance measurements; is
24 that correct?

25 **A** Yes, that's correct.

1 Q Okay. Can you clarify and explain for the
2 Commission sort of the relationship between those two
3 concepts?

4 A Yes. The Act places upon BellSouth a
5 requirement to provide service at parity. Meaning
6 they have to provide competitors the same level of
7 service they provide themselves. And all we're
8 seeking really is just a way of verifying that, in
9 fact, BellSouth is meeting that obligation.

10 Monthly service quality reports would
11 greatly facilitate that effort because then we could
12 all look at data produced by BellSouth itself which
13 would provide a comparative analysis of the service it
14 provides itself, it's affiliates, TCG, other ALECs, et
15 cetera. And a very quick reading of that would answer
16 the question as to whether or not BellSouth is, in
17 fact, providing service at parity.

18 Now, BellSouth had produced -- we use six
19 months, if BellSouth would have produced six months of
20 data today in this hearing process, that would have
21 provided a foundation upon which a decision could be
22 made as to whether or not they are providing service
23 at parity. And if you recall the FCC's rulings on
24 recent RBOC applications for 271 relief and the
25 Department of Justice's pronouncements on that, they

1 refer to actual data and actual performance as opposed
2 to promises. And I guess the point is simply
3 BellSouth has entered into this process with promises
4 and did not supply the data. Now, if they supplied
5 the data today showing six months back, we're not
6 suggesting that they need to continually -- that the
7 bar would continually move away from them because a
8 new entrant would come in and we'd need six more
9 months of data. The existing universe would be
10 sufficient upon which to base a decision. But as new
11 entrants came in, they should be entitled to the same
12 sort of reports so they can verify they are, in fact,
13 receiving service at parity.

14 And once BellSouth is in the long distance
15 business, these reports would still be useful to
16 monitor their ongoing compliance with the Act.

17 Q Mr. Kouroupas, Mr. Carver also asked you a
18 question or two about the lack of terms and conditions
19 in Teleport's interconnection agreement with BellSouth
20 containing performance measurements. Do you recall
21 that?

22 A Yes.

23 Q And he said to you that if Teleport had
24 requested arbitration last July, that that issue would
25 have been resolved by now one way or the other?

1 A Yes, that's correct.

2 Q Why didn't Teleport ask for arbitration on
3 that issue?

4 A TCG had ongoing operations with BellSouth
5 and wanted to simply conclude the interconnection
6 agreement. At the time that we concluded our
7 agreement, we did have a most favored nation's clause
8 in the agreement and the FCC had yet to issue its
9 specific rules regarding that, but it was our belief
10 or hope, I guess, we would be able to utilize our most
11 favored nation clause to take advantage of subsequent
12 agreements that BellSouth may enter into, which
13 included service quality measurements and reports.
14 But it's largely in the interest of just facilitating
15 our ongoing operations.

16 Q Well, if you knew back in last July that
17 BellSouth was going to take the position in August and
18 September of 1997 that it would not pay compensation
19 for termination of local ISP traffic, would you have
20 requested arbitration?

21 **MR. CARVER:** Objection. Now he's back into
22 the issue between that was the subject matter that has
23 to do with the brief. So once again, he's trying to
24 supplement his direct testimony by asking him
25 something that is not in what he's prefiled.

1 **MR. HOFFMAN:** Madam Chairman, Mr. Carver
2 opened up the issue of why Teleport did not ask for
3 arbitration. And I think this is fairly within the
4 scope of redirect. Other witnesses have already
5 testified about this ISP issue. I'm not relying on
6 Mr. Kouroupas's previous testimony on the issue.
7 There's already plenty of testimony from Mr. Varner
8 and Mr. Milner on this issue in the record, and I'm
9 simply using that testimony as a predicate to ask a
10 question which almost mirrors a question that was
11 asked by Mr. Carver: Would you have asked for
12 arbitration back in July?

13 **CHAIRMAN JOHNSON:** I'm going to allow that
14 question.

15 **WITNESS KOUROUPAS:** Yes, we would have asked
16 for arbitration.

17 **MR. HOFFMAN:** No further questions.

18 **CHAIRMAN JOHNSON:** Exhibits.

19 **MR. HOFFMAN:** Madam Chairman, Teleport would
20 move Exhibit 122.

21 **MR. PELLEGRINI:** Staff moves 123.

22 **CHAIRMAN JOHNSON:** Show those two exhibits
23 admitted without objection. Thank you, sir. He can
24 be excused. Do you have a question for him on the
25 breach?

1 (Exhibits 122 and 123 received in evidence.)

2 **MS. RULE:** No. (Laughter.)

3 **CHAIRMAN JOHNSON:** Thank you.

4 (Witness Kouroupos excused.)

5 **MS. RULE:** I was going to actually ask about
6 late-filed exhibit that Ms. White and I talked about.

7 The practice of the Commission in the past
8 has been not to move those exhibits during the hearing
9 but during this hearing some of the late-filed
10 exhibits have been moved into evidence, so if that's
11 what we're going to do, I'd like to do it and if it's
12 not, then I don't want to.

13 **MS. BARONE:** Actually I have several matters
14 to bring up, and one of the first items on my list is
15 that I have spoken with all of the parties on Staff's
16 late-fileds and no one objects to moving those into
17 the record. And Madam Chairman, we would ask that
18 those be moved in the record, and I have a list.

19 **CHAIRMAN JOHNSON:** Let's go through that
20 list.

21 **MS. BARONE:** 58, 74, 75, 80, 81, 91, 92, 97,
22 98. And I would just ask the parties, when I asked
23 you this before we had in the asked for Exhibit 120
24 and if you do not object I would move 120 into the
25 record at this time as well.

1 **MS. RULE:** I'd like just a moment to go over
2 there list. (Pause)

3 **CHAIRMAN JOHNSON:** While she's going over
4 the list, you said we have 120?

5 **MS. BARONE:** And we just requested 120 and
6 if there are no objections to 120, I would like to
7 move that into the record as well.

8 **MS. WHITE:** What about 107, did you say 107?
9 That was from Mr. Chase?

10 **CHAIRMAN JOHNSON:** Do you have that one?

11 **MS. BARONE:** That's correct, 107.

12 **CHAIRMAN JOHNSON:** Monica, these are
13 documents that they've already given to you?

14 **MS. BARONE:** No, ma'am.

15 **CHAIRMAN JOHNSON:** I know they have been
16 giving you late-fileds.

17 **MS. BARONE:** And we have been able to move
18 those into the record as they have been coming in and
19 the parties have not objected to those. But I've also
20 polled the parties on those that are going to come in
21 and I'd like those -- I polled the parties on those,
22 and if we could get those late-fileds in by next
23 Tuesday. So far I have not heard any objections to
24 moving any of those into the record.

25 **MR. HATCH:** We can not object until we have

1 seen them. That's why you don't have any idea whether
2 there's going to be one.

3 MS. BARONE: I've gone to each of the
4 parties, and perhaps I didn't speak with AT&T but I
5 showed them the list and told them before, and they
6 told me that based on their view of this that they
7 would not be objecting. Now, if I'm mistaken please
8 let me know.

9 MR. HATCH: As far as I know you didn't talk
10 to me or Marsha but I'm not sure exactly what it is
11 you're asking me to do at this point.

12 MS. BARONE: I'm asking you if you can agree
13 to move those in without objection at this time. If
14 you cannot, that's fine. We'll set a date for filing
15 objections.

16 MR. HATCH: Is that the list 58, 74 --

17 MS. BARONE: Yes, it is. I believe I gave
18 that to someone at AT&T. If I didn't, I apologize.

19 CHAIRMAN JOHNSON: If there's an objection
20 we'll just follow the normal procedure.

21 MR. HATCH: The normal process is when they
22 file them you look at them. If you have an objection
23 you file your objection.

24 MS. BARONE: That's true. But like I said,
25 I polled everybody -- and if you want to take a look

1 and you want to reserve the right to object we can do
2 that and we can wait until next week.

3 MR. HATCH: Yes, ma'am.

4 CHAIRMAN JOHNSON: That "yes, ma'am" went to
5 there is an objection.

6 MR. HATCH: I'd like to reserve my right to
7 object.

8 MS. BARONE: Okay. We don't admit those.

9 MR. HATCH: What is your date certain by
10 which you want the late-fileds?

11 MS. BARONE: 16th.

12 MR. HATCH: The 16th. And the date by which
13 you want objections?

14 MS. BARONE: 18th. Actually if we can move
15 it up to the 15th and have objections by the 17th, I'd
16 like to have that in as soon as possible. So you all
17 will have that available to you for your briefs. So
18 late-fileds I would prefer that they be in at the end
19 of business, 15th; objections, end of business, 17th.

20 MR. BOYD: I don't think we can make -- --
21 that's Monday the 15th.

22 MS. BARONE: Yes.

23 MR. BOYD: I don't think we can make that.

24 MR. WILLINGHAM: It's not sure that
25 Mr. Hoffmann can make that either.

1 **MS. BARONE:** All right, then 16th. But it
2 goes to you. I mean you have to -- I'm concerned that
3 people won't have that information in time to get
4 their briefs which are due on the 23rd. Madam
5 Chairman, we can -- I would like to stick with the
6 15th.

7 **CHAIRMAN JOHNSON:** Late-fileds will be due
8 on the 15th.

9 **MS. BARONE:** And objections due on the 17th.

10 **COMMISSIONER JOHNSON:** 17th.

11 **MS. WHITE:** With regard to No. 121, we'll
12 be -- that's BellSouth's Responses to AT&T's First and
13 Second interrogatories. Second interrogatories we
14 were given this afternoon and we're committed to get
15 back to AT&T if not by Friday then hopefully by Monday
16 with answers to those. Then I assume after AT&T looks
17 at them they will make a decision as to what they want
18 entered into the record.

19 **CHAIRMAN JOHNSON:** Any other --

20 **MS. BARONE:** While we're on exhibits, Madam
21 Chairman, Staff would like to have Time Warner's
22 responses to Staff's First Set of Interrogatories
23 which is under the label BG-2, and I believe Staff
24 will hand out a copy of that to everyone at this time.

25 As you know Time Warner withdrew Mr. Gaskins

1 testimony but Staff would still like to put in Time
2 Warner's responses to Staff's interrogatories, if
3 there are no objections.

4 **CHAIRMAN JOHNSON:** Are there any objections
5 to us -- let me identify it.

6 **MR. WILLINGHAM:** I just have kind of a
7 procedural question. If they don't have a witness who
8 verified the accuracy of the interrogatories --

9 **MS. BARONE:** The parties had agreed to
10 stipulate these in in the beginning in the prehearing
11 order, and they have not withdrawn as a party.

12 **MR. WILLINGHAM:** Okay.

13 **CHAIRMAN JOHNSON:** Going to identify this as
14 Exhibit 124.

15 **MS. BARONE:** And again if no one objects,
16 I'd like to move those into the record at this time.

17 **CHAIRMAN JOHNSON:** Show it admitted.

18 (Exhibit 124 marked for identification and
19 received in evidence.)

20 **MS. BARONE:** Next, we have another issue.
21 Since we've been able to get through this hearing
22 today, I believe BellSouth was going to file the SGAT,
23 the final version tomorrow; is that correct?

24 **MS. WHITE:** Yes. The SGAT will be filed
25 tomorrow and it will be no different from the draft

1 that was filed, I believe, on August 25th.

2 MS. BARONE: Right.

3 CHAIRMAN JOHNSON: It will be filed as a
4 late-filed. To the extent that it is different then
5 there's opportunity to object.

6 MS. BARONE: Only to the extent that it's
7 different.

8 CHAIRMAN JOHNSON: Right. Any other
9 matters?

10 MR. BOYD: Is it being filed as a late-filed
11 exhibit or is it being filed independently, or can we
12 have a determination or an indication?

13 MS. BARONE: I'm sorry, I don't understand
14 your question. They don't have it today. They were
15 going to file it tomorrow and since we're closing
16 the -- since we're finished now, I guess I don't
17 understand your question.

18 MR. BOYD: I'm just asking is it being filed
19 as a late-filed exhibit?

20 MS. BARONE: I think that would work. They
21 file it as a late-filed exhibit subject to any
22 objections -- regarding whether it's different or not;
23 not any objection whatsoever.

24 MS. RULE: Well, I'd have to object to the
25 filing of an SGAT now at all. That's an open issue in

1 this docket on to whether it is relevant. We still
2 maintain our relevancy objection and I'm not clear,
3 are they filing an SGAT and asking for approval
4 tomorrow, or are they filing it as a late-filed
5 exhibit?

6 MS. BARONE: They're filing it as late-filed
7 exhibit because the Commission has determined that --
8 the Commissioners will determine whether the SGAT
9 meets 252 or not.

10 MS. RULE: Wait. qRun that by me again.

11 MS. BARONE: The Commission ruled on your
12 Motion to Strike. They denied the Motion to Strike
13 and determined that they would make a determination on
14 the SGAT under 252.

15 MS. RULE: I don't believe that was the
16 Commission's ruling. I believe it was a denial of the
17 motion. I think the issues were left as they are and
18 I believe we still retain the right to object to the
19 SGAT.

20 MS. BARONE: It's my understanding that the
21 Commission ruled that they would not sever the SGAT,
22 and that I believe they accept the arguments that the
23 SGAT -- you could argue whether it should be approved
24 or not approved under (1)(B). And they can correct me
25 if I'm wrong.

1 **MS. RULE:** Yes. And I believe that's a
2 little bit different than what you said before. But
3 in any event, the Commission's ruling is on the
4 record. I'm just talking about right now the filing
5 of the SGAT.

6 **MS. BARONE:** It's my understanding that
7 BellSouth was going to file its final version to -- so
8 that the Commission would have the 60 days and it
9 would be -- the ruling would be by the end of this
10 proceeding. If I'm incorrect please let me know.

11 **MS. WHITE:** You are correct.

12 **MS. RULE:** And we will object.

13 **MS. WHITE:** Excuse me?

14 **MS. RULE:** We'll object to that. Maintain
15 our objection.

16 **CHAIRMAN JOHNSON:** What is your objection?

17 **MS. RULE:** First off, they are filing it as
18 a late-filed exhibit. What is it evidence of? An
19 exhibit is supposed to be evidence. What is the
20 evidence?

21 **COMMISSIONER CLARK:** Madam Chairman, I
22 understood that the SGAT that they are filing is going
23 to be the one that they send to the FCC. It is, in
24 fact, the same SGAT that has been marked as draft.
25 Now, whether or not we approve it, that's an open

1 issue and you can argue it at that time. I think it's
2 entirely appropriate to have it put in as a late-filed
3 exhibit, you can object to it to the extent it's
4 different, or just say you have a continuing objection
5 to us approving it as part of this proceeding.

6 **MS. RULE:** That's all I'm trying to
7 announce. That by virtue of it going in as a
8 late-filed exhibit we're not agreeing that its
9 relevant.

10 **MS. BARONE:** I understand. I think what
11 you're saying is that an exhibit is evidence and an
12 SGAT is not evidence of anything. Is that what you're
13 saying?

14 **MS. RULE:** That's part of it.

15 **CHAIRMAN JOHNSON:** That's fine.

16 **MR. BOYD:** Are we going to give it a
17 late-filed number?

18 **MS. BARONE:** That would be 125.

19 **CHAIRMAN JOHNSON:** We'll identify the SGAT
20 as Exhibit 125, Late-filed 125.

21 **MS. BARONE:** Madam Chairman, to bring up
22 another issue --

23 **MR. SELF:** Excuse me. Monica, I don't want
24 to beat this to death, but when they file the SGAT as
25 Late-filed Exhibit 125 that would be a proposed

1 exhibit subject to objections. It seems to me that
2 that's a different issue than submitting the SGAT to
3 the Commission for approval -- I guess as a tariff
4 amendment. Is that not right?

5 MS. BARONE: I guess what we're trying to do
6 is because we're ending early we want to get the final
7 version into this proceeding.

8 MR. SELF: I understand that part.

9 MS. BARONE: Okay.

10 MR. SELF: The other part I'm asking is by
11 submitting it as Late-filed Exhibit 125 will they also
12 be submitting it as -- for approval by the Commission
13 to put in the tariff?

14 MS. WHITE: How about this: We will file a
15 copy tomorrow as Late-filed Exhibit 125 and we will
16 also file a copy with the Commission for approval to
17 start the 60-day clock and replace it as the -- place
18 the original draft with it.

19 MS. BARONE: And it will be filed in this
20 docket.

21 MS. WHITE: Yes.

22 CHAIRMAN JOHNSON: Any comments?

23 MS. BARONE: Are you concerned about --
24 okay, we're trying to lay this out. Are you concerned
25 about having the opportunity to object if there are

1 differences? Is that one concern?

2 MR. SELF: No. I'll accept the
3 representation it will be the same.

4 MS. BARONE: Okay. I'm trying to understand
5 now your concern. Or has Nancy's, or Ms. White's
6 proposal taken care of your concerns?

7 MS. RULE: She hasn't taken care of mine but
8 it's clarified what I intend to argue about in the
9 future.

10 MR. SELF: Okay. That's fine.

11 CHAIRMAN JOHNSON: Ms. Barone.

12 MS. BARONE: Do you want it as a late-filed
13 and as an original? You don't want it at all. I know
14 that, but -- (Laughter)

15 The Commission has ruled and we want to get
16 it in in the best way possible.

17 MS. RULE: One of our concerns is that
18 Mr. Varner testified before the hearing started they
19 were going to do it the first couple days of the
20 hearing. Mr. Scheye testified they were going to do
21 it the first week of the hearing. Now the hearing is
22 over and we've never had any opportunity to cross on a
23 real SGAT. We have had the opportunity to cross on a
24 draft. I am not expecting the Commission to settle my
25 objections right now. But what I'm only trying to do

1 is put on the record that we do intend to object to
2 the procedure.

3 MS. WHITE: And I can live with your
4 objections to the procedure. But I will not accept --
5 if we are -- if what we file tomorrow is the exact
6 same thing that was filed on August 25th, which the
7 will be, you all had opportunity and you did cross
8 Mr. Scheye, Mr. Varner and everybody else that
9 BellSouth put up about that SGAT. So I don't accept
10 that you haven't had an opportunity to cross examine.

11 MS. RULE: I believe we disagree.

12 MS. BARONE: Okay. We'll just move on.
13 Keep it as a Late-filed 125. You can log your
14 objections to the procedure.

15 (Late-Filed Exhibit 125 identified.)

16 Now, speaking of procedure -- and so Staff
17 would like to make a recommendation so this is clear.
18 And this is based on the Commission's ruling that the
19 SGAT will be considered under 252 in this proceeding.
20 And I believe it was BellSouth's argument that that
21 could be argued under (1)(B)(b).

22 Staff believes it would be expedient, and
23 for logistic purposes, be wise to separate that out
24 from (1)(B) and make that Issue A, which would read
25 "Should the Commission approve BellSouth's Statement

1 of Generally Available Terms and Conditions pursuant
2 to the requirements of Section 252F of the
3 Telecommunications Act of 1996."

4 **MS. RULE:** I'd like to know the statutory
5 authority and the authority within the Commission's
6 rules for substantively changing an issue after the
7 close of the hearing.

8 **MS. BARONE:** I don't believe that we
9 substantively changed an issue. The Commissioners
10 have determined that that issue can be decided within
11 the issues framed in this proceeding, and this is --

12 **COMMISSIONER GARCIA:** What's the change?

13 **MS. RULE:** First of all there was never a
14 request in the issue. As Commissioner Kiesling
15 pointed out, there was no request for approval. I
16 believe the Commission's ruling speaks for itself and
17 it's on the record but I do not believe the Commission
18 ruled that you would decide whether or not it would be
19 approved under Section 252.

20 But we can all go back and read the
21 transcript and find what your ruling was. So the only
22 thing we need to deal with right now is whether we
23 should change an issue, which I'll read to you, after
24 the close of the hearing. "Issue (1)(B). Has
25 BellSouth met the requirements of Section 271(c)(1)(B)

1 of the Telecommunications Act of 1996? A" -- it says
2 what I says. "B. Has a Statement of Terms and
3 Conditions that BellSouth generally offers to provide
4 access and interconnection been approved or permitted
5 to take effect under Section 252(f)." The issue is
6 what it is. BellSouth has had well over a year to
7 contest this --

8 **COMMISSIONER CLARK:** Mr. Rule, would you
9 answer his question? How is that different than what
10 he proposed?

11 **MS. RULE:** This asks has a Statement of
12 Terms and Conditions been approved or permitted to
13 take effect. It does not say should the Commission do
14 so. And as I argued, the issues under 252(f) are
15 lacking.

16 Now, if you wish to go ahead and approve it
17 under this issue we can't stop you. But I can object
18 to changing an issue after the close of a hearing to
19 match what the parties later decided they wanted. I
20 don't believe the Commissions rules allow that and I
21 don't believe the statute allows it.

22 **CHAIRMAN JOHNSON:** Staff.

23 **MS. BARONE:** I'm trying to get ahold of the
24 transcript right now, it's on my desk, just to clarify
25 the ruling to make sure there are no questions.

1 **COMMISSIONER DEASON:** As I recall I asked
2 the question to BellSouth concerning the wording of
3 that issue and they said they could live with the
4 issue as it was. I don't think there's any need to
5 change the issue and that way we can avoid an
6 objection. And if we want to approve it under that
7 issue, we'll do it. And if we don't, we won't.

8 **COMMISSIONER GARCIA:** Do you want to just
9 break out the issue without changing it? Is that what
10 you were trying to do?

11 **MS. BARONE:** You can argue 1(B)(b), has a
12 Statement of Terms and Conditions been approved. And
13 if one side wants to say, yes -- or no, but it should
14 be, they can do that. And if another side wants to
15 say no it hasn't, and it shouldn't be, they can do
16 that.

17 **CHAIRMAN JOHNSON:** I think this will be
18 sufficient for us to answer the question.

19 **COMMISSIONER GARCIA:** Yeah.

20 **CHAIRMAN JOHNSON:** Any other matters?

21 **MR. BOYD:** Can I ask a question? BellSouth
22 handed out a short while ago -- now it's been not so
23 short -- late-filed deposition exhibits of Keith
24 Milner 2, 9, 12, 13, 17 and 20. Is that -- this a
25 revised or is this the late-filed exhibits from the

1 August 13th deposition?

2 MS. WHITE: Well, I don't recall handing it
3 out, so --

4 MS. RULE: I took that to be the redacted
5 version. I looked through and didn't see any of the
6 confidential material and it wasn't labeled
7 "proprietary" on the front of it.

8 MS. WHITE: Oh, no, I'm sorry. All that is
9 is the full request for confidential classification.
10 It is not new answers to these deposition exhibits.
11 We've filed a notice of intent when we filed the
12 answers. This is now our follow up request.

13 MR. BOYD: This is just my service copy.

14 MS. WHITE: That is your service copy, yes.

15 MR. BOYD: Great. Thank you.

16 CHAIRMAN JOHNSON: Any other matters?

17 Seeing none, this hearing is adjourned.

18 But I did want to thank particularly Staff
19 and Ms. Barone, and all of Staff for working to pull
20 this together, keeping it organized. It's been a
21 very -- it's been massive amounts of information and a
22 very, very fluid process, but we've managed to have a
23 very orderly process. I wanted to thank the parties
24 for all of their work. But again kudos to the Staff.
25 We appreciate all that you've done. Thanks again.

1 This is adjourned. Over 915-P.

2 (Thereupon, the hearing concluded at

3 9:15 p.m.)

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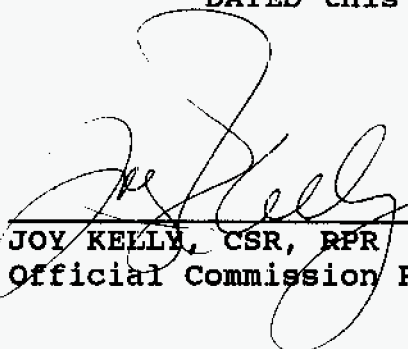
1 STATE OF FLORIDA)
: CERTIFICATE OF REPORTERS
2 COUNTY OF LEON)

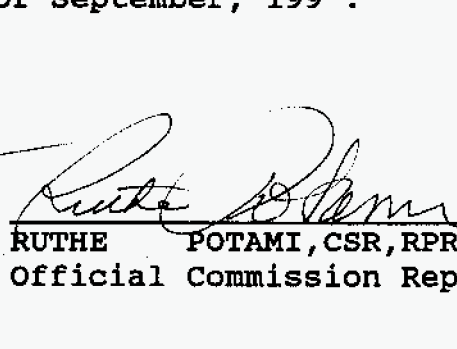
3 WE, JOY KELLY, CSR, RPR, Chief, Bureau.
4 of Reporting and RUTHE H. POTAMI, Official Commission
5 Reporters; and LISA GIROD JONES, RPR, NANCY METZKE, RPR
6 and JANE FAUROT, RPR,

7 DO HEREBY CERTIFY that the Hearing in
8 Docket No. 960786-TL was heard by the Florida Public
9 Service Commission at the time and place herein
10 stated; it is further

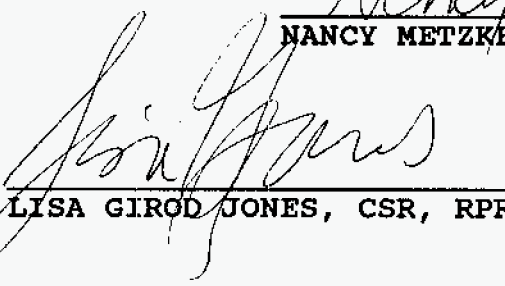
11 CERTIFIED that we stenographically
12 reported the said proceedings; that the same has
13 been transcribed under our direct supervision,
14 and that this transcript, consisting of 3532
15 pages, Volumes 1 through 31 constitutes a true
16 transcription of our notes of said proceedings and the
17 insertion of the testimony of the witnesses.

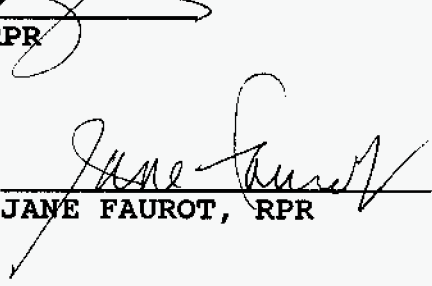
18 DATED this 11th day of September, 199 .

19 
20 JOY KELLY, CSR, RPR
21 Official Commission Reporter

22 
23 RUTHE POTAMI, CSR, RPR
24 Official Commission Reporter

25 
NANCY METZKE, RPR


LISA GIROD JONES, CSR, RPR


JANE FAUROT, RPR