

ORIGINAL

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February 20, 1998

Mrs. Blanca S. Bayó  
Director, Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket No. 971140-TP (Recombination Docket)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Rebuttal Testimony of D. Daonne Caldwell, Jerry Hendrix, Eno Landry and Alphonso J. Varner, which we ask that you file in the captioned matter.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

- ACK
- AFA 1
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- CAF \_\_\_\_\_
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- LEG 1
- LIN 5 tags
- OPC \_\_\_\_\_
- RCH \_\_\_\_\_
- SEC 1
- WAS \_\_\_\_\_
- OTH \_\_\_\_\_

Enclosures

cc: All parties of record  
A. M. Lombardo  
R. G. Beatty  
William J. Ellenberg II

Sincerely,

*Nancy B. White*  
Nancy B. White (BW)

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*Landry*  
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**CERTIFICATE OF SERVICE**  
**DOCKET NO. 971140-TP (Recombination Issues)**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Federal Express 20th day of February, 1998 to the following:

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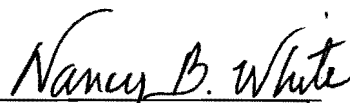
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**BELLSOUTH TELECOMMUNICATIONS, INC.**  
**REBUTTAL TESTIMONY OF ALPHONSO J. VARNER**  
**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**  
**DOCKET NO. 971140-TP**  
**FEBRUARY 20, 1998**

Q. PLEASE STATE YOUR NAME, AND BUSINESS NAME AND ADDRESS.

A. My name is Alphonso J. Varner. I am employed by BellSouth as Senior Director for State Regulatory for the nine-state BellSouth region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

A. Yes. I filed direct testimony and two exhibits on January 29, 1998.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. My rebuttal testimony responds to the direct testimony filed by AT&T and MCI witnesses on January 29, 1998. In responding to these witnesses, my testimony refutes erroneous positions and assertions found in their testimony.

1 Q. DO YOU HAVE ANY GENERAL COMMENTS ON THE TESTIMONY  
2 FILED BY AT&T AND MCI?

3

4 A. Yes. It appears that witnesses for AT&T and MCI are attempting to  
5 confuse the issues in this case. The goals of this proceeding are to  
6 determine the appropriate prices to be applied to combinations of  
7 unbundled network elements ("UNEs"), and to eliminate duplicate cost  
8 recovery in nonrecurring charges ("NRCs") for stand alone elements  
9 when requested at the same time on the same order. This case is not  
10 about provisioning issues or terms and conditions issues; it is about  
11 pricing issues.

12

13 AT&T and MCI are asking this Commission to take two diametrically  
14 opposite positions simultaneously. They are requesting that the  
15 Commission confirm that prices for combinations of UNEs are  
16 mandated by their agreements while simultaneously asking this  
17 Commission to ignore prices that they claim are mandated by their  
18 agreements.

19

20 When MCI or AT&T request that the customer be switched "as is" using  
21 UNEs, the service is the same as resale with the capabilities and  
22 functions also being the same. Essentially, AT&T and MCI want to  
23 order the functional equivalent of a BellSouth retail service simply by  
24 changing the words they use when the service is ordered. This would  
25 allow them to receive huge effective discounts from retail simply by

1 placing the order as UNEs instead of resale and would make the  
2 concept of resale obsolete. In my testimony, I refute statements that  
3 stir such confusion as well as correct errors that the intervenors'  
4 attempt to provide as factual evidence. Mr. Hendrix addresses contract  
5 issues, Mr. Landry discusses the provisioning of UNEs, and Ms.  
6 Caldwell addresses cost issues.

7  
8 Q. MCI WITNESS PARKER, ON PAGE 7 OF HIS TESTIMONY, STATES  
9 THAT THE BELLSOUTH/MCI AGREEMENT "GIVES ONLY ONE  
10 PRICING STANDARD FOR UNE COMBINATIONS AND CREATES  
11 NO EXCEPTIONS." DO YOU AGREE?

12  
13 A. No. BellSouth has not agreed to the pricing for UNE combinations in  
14 either the AT&T or MCI agreements. BellSouth's agreement with MCI  
15 sets forth prices for UNEs, but not for combinations of UNEs. MCI and  
16 AT&T have attempted to torture wording of other parts of the  
17 agreements to imply that BellSouth has agreed to a pricing scheme  
18 that BellSouth has repeatedly and consistently opposed.

19  
20 AT&T and MCI have incorrectly stated that BellSouth has agreed to  
21 price combinations of UNEs at the sum of UNE prices. As I stated in  
22 my direct testimony, BellSouth has repeatedly and vociferously  
23 opposed pricing of UNE combinations as the sum of the individual UNE  
24 prices as AT&T and MCI have proposed. BellSouth has consistently  
25 maintained that position in all of its arbitration proceedings, interLATA

1 compliance proceedings and in the courts. It is ludicrous to believe that  
2 BellSouth would have agreed to pricing UNEs as suggested by AT&T  
3 and MCI while concurrently opposing this view in every possible arena.  
4

5 Q. YOU STATED THAT AT&T AND MCI PROPOSE THAT THE  
6 COMMISSION SIMULTANEOUSLY TAKE TWO DIAMETRICALLY  
7 OPPOSITE ACTIONS. PLEASE ELABORATE.  
8

9 A. As I stated, AT&T and MCI claim that their agreements mandate that  
10 UNE combinations be priced at the sum of UNE prices. They have  
11 made no attempt to show whether such pricing would be appropriate.  
12 Their sole basis for the validity of their pricing proposal is that such  
13 pricing is dictated by their agreements. However, their own arguments  
14 contradict this contention.

15  
16 If prices for UNE combinations were dictated by their agreements as  
17 they claim, the agreements would dictate both the recurring and non-  
18 recurring prices for UNEs. None of the agreements' provisions that  
19 AT&T and MCI use to support their contention distinguish between  
20 recurring and non-recurring prices. If this language governs recurring  
21 prices, it would also govern the non-recurring prices. However, AT&T  
22 and MCI are requesting this Commission to decide that the contract  
23 language mandates the recurring prices only. Simultaneously, they  
24 want the Commission to ignore this same language - the basis for their  
25 recurring pricing request - and determine that their agreement does not

1 establish non-recurring prices. The motivation for this blatantly  
2 contradictory position is obvious. They like the recurring prices but  
3 don't like the non-recurring prices. However, the same language in the  
4 agreement can't be used to both dictate prices and not dictate prices.  
5 The fact is that the agreements do not contain any prices for UNE  
6 combinations. AT&T and MCI have confirmed this fact by their own  
7 arguments.

8

9 Q. YOU MENTIONED THAT AT&T AND MCI WANT TO ORDER THE  
10 "FUNCTIONAL EQUIVALENT OF A BELLSOUTH RETAIL SERVICE"  
11 SIMPLY BY CHANGING THE WORDS THEY USE WHEN THE  
12 SERVICE IS ORDERED. PLEASE ELABORATE.

13

14 A. Certainly. As background, the alternative local exchange company  
15 ("ALEC") makes the determination of how to serve a customer. If the  
16 competitor chooses resale, prices are available, and these prices  
17 reflect provisioning of a retail service. If the competitor decides to  
18 serve a customer by ordering a preassembled combination of UNEs (a  
19 combination of UNEs that provides the same functionality as a retail  
20 service), the provisioning process is the same as resale. Witnesses for  
21 AT&T and MCI have attempted in their testimony to create a difference  
22 between UNE combinations and resale, where none exists. This is  
23 clear from the Nonrecurring Cost Model sponsored by AT&T which  
24 purports to establish the nonrecurring costs of: (1) "Total Services  
25 Resale," which the model defines as the wholesale provision of local

1 telephone service by an incumbent to an ALEC, which then resells the  
2 service to end user customers; and (2) "Unbundled Network Elements  
3 Platform," which the model defines as the purchase by an ALEC of  
4 "unbundled network elements in combination from the ILEC at cost-  
5 based rates." The nonrecurring costs developed by the AT&T model  
6 for resale and the "platform" are identical. As a result, the model must  
7 assume that the purchase of services for resale and the purchase of  
8 the "platform" are the same thing.

9  
10 Despite this acknowledgment, AT&T and MCI attempt to persuade the  
11 Commission to give them the best of all conceivable worlds; they want  
12 to purchase what is the equivalent of a resold service at UNE recurring  
13 rates and at nonrecurring rates which are lower than those that would  
14 apply to UNEs or resale.

15  
16 Q. WHAT WOULD BE THE IMPACT ON FLORIDA CONSUMERS IF  
17 AT&T AND MCI COULD PURCHASE RECREATED BELL SOUTH  
18 LOCAL EXCHANGE SERVICE AT THE PRICES THEY PROPOSE?

19  
20 A. Exhibit AJV-1 of my direct testimony illustrates the consequences of  
21 pricing certain UNE combinations at UNE recurring prices versus the  
22 wholesale pricing standard, which is the appropriate standard to apply.  
23 The charts in Exhibit AJV-1 show how MCI and AT&T receive  
24 substantial discounts over retail prices through the artifice of renaming  
25 resale as UNE combinations. Additionally, they avoid paying interstate



1 access charges and also avoid the joint marketing restrictions  
2 associated with resold services outlined in the Telecommunications Act  
3 of 1996 (the "Act").  
4

5 There are substantial margins in business vertical services and access  
6 charges. That is not a surprise to anybody. As a matter of public  
7 policy, this Commission put them there to support local residence rates.  
8 If new entrants are permitted to capture or eliminate those margins  
9 immediately, Florida's residential customers, principally rural  
10 customers, will be harmed. It is the customers that AT&T and MCI do  
11 not want to serve who will fund the multi-million dollar price breaks that  
12 AT&T and MCI seek to receive. Further, if AT&T and MCI receive this  
13 windfall, it will simply be by virtue of changing the way they ask for the  
14 service. They will simply request UNE combinations instead of resold  
15 services. Nothing else is different. What they can add to the service,  
16 what they can do with the service, their ability to innovate and serve the  
17 customer are all the same under either circumstance.

18  
19 One attempt to distinguish between UNE combinations and resale has  
20 been to contend that UNE combinations present a different business  
21 opportunity than resale. The only different business opportunity is that  
22 AT&T and MCI pay less for the resold service, they do not pay access  
23 charges, and they avoid the joint marketing restriction.

24  
25 Another baseless reason AT&T and MCI offer to support their

1           contention of a difference between resale and UNE combinations is the  
2           need to bill for access services. Under either scenario, BellSouth  
3           provides the access service to AT&T and MCI. End users do not pay  
4           carrier access charges; carriers do. If AT&T is the end user's long-  
5           distance provider, AT&T will not bill access to anyone, it will simply stop  
6           paying access to BellSouth, even though it will continue to use the  
7           same BellSouth equipment that it was using before.

8  
9           If an AT&T end user that was served by UNE combinations decides to  
10          use MCI, AT&T would propose to bill MCI for access, but that is  
11          unnecessary. BellSouth does not need AT&T to bill MCI for the access  
12          service that it provides; BellSouth is perfectly capable of doing its own  
13          billing. And, by the way, AT&T also wants to keep the revenue in this  
14          case. Somehow AT&T and MCI believe that it is appropriate for  
15          BellSouth to provide all of the investment and for AT&T and MCI to get  
16          all of the revenue. Instead of using their ample resources to benefit  
17          Floridians, AT&T and MCI would have their entry funded largely by the  
18          Floridians that they do not want to serve.

19  
20    **Q.    HAS THE COURT OF APPEALS FOR THE EIGHTH CIRCUIT**  
21          **(“EIGHTH CIRCUIT”) ADDRESSED THE PRICING PROPOSAL THAT**  
22          **AT&T AND MCI HAVE SUBMITTED?**

23  
24    **A.    Yes. In its Order issued on October 14, 1997, the Eighth Circuit stated**  
25          **as follows:**

1  
2 Section 251(c)(3) requires an incumbent LEC to provide access  
3 to the elements of its network only on an unbundled (as opposed  
4 to a combined) basis. Stated another way, §251(c)(3) does not  
5 permit a new entrant to purchase the incumbent LEC's  
6 assembled platform(s) of combined network elements (or any  
7 lesser existing combination of two or more elements) in order to  
8 offer competitive telecommunications services. To permit such  
9 an acquisition of already combined elements at cost based rates  
10 for unbundled access would obliterate the careful distinctions  
11 Congress has drawn in subsections 251(c)(3) and (4) between  
12 access to unbundled network elements on the one hand and the  
13 purchase at wholesale rates of an incumbent's  
14 telecommunications retail services for resale on the other.  
15 (Emphasis added)

16  
17 The emphasized portion of the quote shows that the Eighth Circuit's  
18 view was that pricing UNE combinations as proposed by AT&T and  
19 MCI would violate the Act. Congress intended for two different pricing  
20 standards to exist. AT&T and MCI would have this Commission ignore  
21 that intent so they can receive the benefits of resold services at more  
22 advantageous prices than Congress intended. During the appeal of the  
23 FCC's interconnection rules, BellSouth was a strong advocate for the

1 action eventually taken by the Eighth Circuit which was to maintain the  
2 integrity of these two different pricing standards. Given this position, it  
3 would be preposterous to conclude that BellSouth also agreed to price  
4 UNE combinations at UNE rates in its agreement with AT&T and MCI.  
5 This Commission should reject any such claims.

6  
7 Q. AT&T WITNESS LYNOTT, ON PAGE 2 OF HIS TESTIMONY,  
8 ASSERTS THAT "MIGRATION OCCURS WHEN A CUSTOMER WITH  
9 EXISTING SERVICE REQUESTS A CHANGE IN ITS LOCAL  
10 SERVICE PROVIDER (I.E., MOVING AN EXISTING BELLSOUTH  
11 CUSTOMER TO AT&T)." ON PAGE 3, MR. LYNOTT FOLLOWS BY  
12 EXPLAINING THAT "THE PROCESS OF MIGRATING A BELLSOUTH  
13 CUSTOMER TO A CLEC UTILIZING UNBUNDLED NETWORK  
14 ELEMENTS IS AN UPDATE OF OSS DATABASE RECORDS TO  
15 IDENTIFY THE NEW SERVICE PROVIDER AS THE CUSTOMER OF  
16 RECORD." DO YOU AGREE?

17  
18 A. No. As I explained in my direct testimony, the use of the word  
19 "migration" leads to confusion in the interpretation of issues in this  
20 docket. The term "migration" applies here to a switch "as is." For  
21 example, a BellSouth customer requests to change service providers,  
22 to AT&T, but retain the same functionality of service. If this customer is  
23 switched "as is," the customer's account is transferred to the new  
24 provider with no changes in the technical specifications of the service  
25 that is being provided. A switch "as is" pertains only to a resale

1 environment.

2

3 As a result, the recurring and nonrecurring rates that should apply  
4 when a customer is migrated "as is" are the nonrecurring rates  
5 applicable to resale. Even though MCI and AT&T acknowledge that no  
6 distinction exists between UNE combinations and resale, they do not  
7 want to pay the nonrecurring rates associated with either. Rather, they  
8 have concocted new nonrecurring charges (discussed by Mr. Lynott  
9 and Mr. Hyde), completely disregarding the nonrecurring charges  
10 established by this Commission for resale and for UNEs.

11

12 Q. YOU CONTEND THAT UNE COMBINATIONS MIGRATED THROUGH  
13 A SWITCH "AS IS" IS RESALE. WHAT ARE MCI'S AND AT&T'S  
14 CONTENTIONS ON THIS ISSUE?

15

16 A. They seem to agree on this point. This is evident in the AT&T/MCI  
17 NRC Model, sponsored by Mr. Lynott in this proceeding, which  
18 assumes that provisioning UNE combinations and provisioning resale is  
19 the same thing. The AT&T/MCI NRC Model assumes conversion of an  
20 existing service to UNEs, which BellSouth has combined for the ALEC,  
21 with little or no human intervention. This is entirely incorrect, because  
22 for example, connecting UNE loops to an ALEC requires, at a  
23 minimum, activity to physically move connection of the loop from the  
24 existing connections at BellSouth's switch to the ALEC's connecting  
25 facility. Thus, the model's assumption of 98% flow through is invalid on

1 its face. Such an assumption includes migration of an existing  
2 customer which is a resale function, and not an appropriate assumption  
3 for the provision of UNEs.

4

5 If an ALEC orders unbundled elements, BellSouth will provide them in  
6 a manner that allows the ALEC to combine them. If, however, AT&T,  
7 MCI or any other ALEC wishes to migrate a customer's service on a  
8 switch "as is" basis, which does not involve disruption of a customer's  
9 service, this can be done only through resale. BellSouth is willing and  
10 able to transition existing services to an ALEC on a switch "as is" basis,  
11 and in doing so, BellSouth will bill the ALEC for the retail service minus  
12 the applicable wholesale discount

13

14 Q. MCI WITNESS HYDE MAKES ADJUSTMENTS TO THE BELLSOUTH  
15 NRC MODEL IN ORDER TO "REMOVE FUNCTIONS THAT ARE NOT  
16 NEEDED WHEN A COMBINATION OF LOOP AND PORT ARE  
17 PROVIDED TO MIGRATE AN EXISTING BST CUSTOMER TO AN  
18 MCI SERVICE USING UNBUNDLED NETWORK ELEMENTS." DO  
19 YOU HAVE ANY COMMENTS REGARDING HIS METHODOLOGY  
20 OR CONCLUSIONS?

21

22 A. Yes. Mr. Hyde makes adjustments to the BellSouth NRC model as if  
23 he is provisioning a retail service. BellSouth's NRC model was  
24 designed to include functions that are necessary in the provisioning of  
25 UNEs, not retail services.

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This Commission required BellSouth to provide NRCs for individual UNEs when ordered at the same time on the same order. That requirement was described in the Commission's March 19, 1997 Order, No. PSC-97-0298-FOF-TP (Final Order on Motions for Reconsideration and Amending Order No. PSC-96-1579-FOF-TP). In that Order, the Commission denied BellSouth's petition for reconsideration on the pricing of UNE combinations stating, "[W]e were not presented with the specific issue of the pricing of recombined elements when recreating the same service offered for resale." The Commission further stated, "Thus, it is inappropriate for us to make a determination on this issue at this time." In the Nonrecurring Cost Studies section of that same Order, the Commission stated, "[W]e hereby order BellSouth to provide NRCs that do not include duplicate charges or charges for functions or activities that AT&T does not need when two or more network elements are combined in a single order." Given that the Commission said that it had not, and would not, address the issue of prices for UNE combinations, the language in the Nonrecurring Cost Studies section of the Order could not possibly be ordering BellSouth to file prices for such combinations. This section is obviously intended to address duplicate cost recovery when multiple stand alone UNEs are ordered at the same time on a single order.

Q. PLEASE DESCRIBE MR. EPPSTEINER'S CHARACTERIZATION OF THE PREVIOUSLY MENTIONED ORDER ON PAGE 8 OF HIS

1 TESTIMONY.

2

3 A. Mr. Eppsteiner misconstrued this Commission's Order. He states that  
4 the Commission's Order applies to UNEs that are "already combined".  
5 This is incorrect. The Commission's Order applied to stand alone  
6 UNEs purchased on the same order, not UNE combinations.

7

8 Q. MR. LYNOTT, ON PAGE 8, CLAIMS THAT BELL SOUTH IS  
9 PROPOSING TO CHARGE ALECs UNE NON-RECURRING  
10 CHARGES WHEN THEY ORDER COMBINATIONS OF UNEs.  
11 PLEASE RESPOND.

12

13 A. Mr. Lynott is incorrect. BellSouth proposes to charge the recurring and  
14 non-recurring charges applicable for resale when an ALEC orders UNE  
15 combinations. In fact, the order for such UNE combinations has to be  
16 submitted as a resale order. The service is provisioned and priced the  
17 same as resold service. Mr. Lynott makes an impassioned plea for  
18 BellSouth to do what it is already doing, while contradicting something  
19 BellSouth is not doing.

20

21 Q. AT&T WITNESS GILLAN DECLARES THAT "IT IS SIMPLY NOT  
22 *POSSIBLE* FOR AN ENTRANT TO RECREATE A BELL SOUTH  
23 SERVICE, NO MATTER WHAT COMBINATION OF NETWORK  
24 ELEMENTS ARE USED TO ACCOMPLISH THE TECHNICAL  
25 SWITCHING AND TRANSMISSION INVOLVED." HOW DO YOU



1 RESPOND?

2

3 A. Mr. Gillan's conclusion is far-fetched at best. Using resale permits  
4 carriers to offer services they can also offer with combined UNEs.

5 Since the services are equivalent, whatever a carrier can do with one  
6 arrangement, they can also do with the other. In fact, combined  
7 elements have been provisioned the same as the resold service where  
8 applicable. Nothing about this approach prevents carriers from  
9 developing billing or other administrative systems to serve their end  
10 user customers.

11

12 BellSouth maintains its position that when BellSouth's unbundled  
13 network elements are combined to recreate a retail service offering, it is  
14 considered resale. As BellSouth witness Hendrix explained in his direct  
15 testimony, there are factors that should be considered by this  
16 Commission in determining whether or not a requested combination of  
17 UNEs is recreating a retail telecommunications service offering. The  
18 real test is to look at the core functions of the requested combinations  
19 to see if the functions mirror the functions of the retail service offering.  
20 If the combined elements create a service identical to an existing retail  
21 service with respect to the functions, features, and attributes of that  
22 retail offering, the combination should be considered resale and priced  
23 accordingly.

24

25 Mr. Gillan's attempts to distinguish a resold service, through "soft"

1 dimensions such as billing and packaging, are merely attempts to  
2 justify another pricing standard. Such "soft" dimensions are irrelevant  
3 in determining the prices for UNE combinations. Whether AT&T calls it  
4 "UNE combinations" or resale, AT&T is asking for the exact same  
5 functionality in each case.

6

7 Q. WHY ARE MR. GILLAN'S "SOFT" DIMENSIONS IRRELEVANT TO  
8 THE PRICING OF UNE COMBINATIONS?

9

10 A. Mr. Gillan asserts that these "soft" dimensions differentiate the product.  
11 In reality, his "soft" dimensions amount to distinctions without a  
12 difference when one considers that the technical functionality of the  
13 service is identical to that provided through a BellSouth retail service. If  
14 a UNE combination has the same functionality as a BellSouth tariffed  
15 service, it is the same as resale, no matter what "soft" dimensions that  
16 AT&T mixes in later.

17

18 If AT&T were to use unbundled elements combined with facilities of its  
19 own, unique local services could be developed. However, by simply  
20 using combined UNEs that recreate retail services, no additional  
21 capabilities beyond resale can be gained. AT&T gets the same  
22 capabilities of the BellSouth network that are provided through resold  
23 services. What AT&T can add to the service, what AT&T can do with  
24 the service, AT&T's ability to innovate and serve the customer are all  
25 the same under either circumstance.

1

2 Q. ON PAGE 2, AT&T WITNESS EPPSTEINER ASSERTS THAT UNE  
3 COMBINATIONS "WHETHER OR NOT THEY RECREATE AN  
4 EXISTING BELL SOUTH SERVICE, MUST BE PRICED AT THE  
5 COST-BASED RATES SET FORTH IN PART IV OF THE GENERAL  
6 TERMS AND CONDITIONS OF THE AGREEMENT." HOW DO YOU  
7 RESPOND?

8

9 A. As previously stated, BellSouth has not agreed to prices for UNE  
10 combinations. Mr. Eppsteiner's assertion is yet another attempt to  
11 confuse the issues in this case. Again, when a UNE combination  
12 recreates a BellSouth service, it is exactly the same as a retail service  
13 and should be priced as resale. Resold services are priced by applying  
14 the Commission's approved wholesale discount to the retail rate for the  
15 specified service.

16

17 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

18

19 A. Yes.

20