

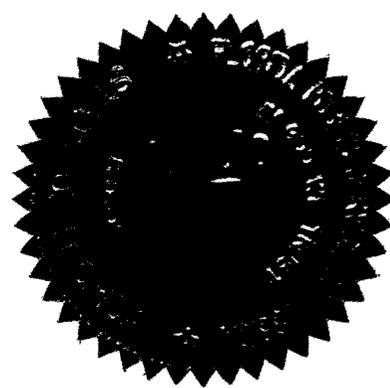
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of

Motions of AT&T Communications of
the Southern States, Inc. and MCI
Telecommunications Corporation and
MCI Metro Access Transmission
Services, Inc. to compel
BellSouth Telecommunications,
Inc. to comply with Order PSC-
96-1579-FOF-TP and to set non-
recurring charges for combinations
of network elements with BellSouth
Telecommunications, Inc.
pursuant to their agreement

DOCKET NO. 971140-TP



VOLUME 1

Pages 1 through 133

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN JULIA L. JOHNSON
COMMISSIONER J. TERRY DEASON
COMMISSIONER SUSAN F. CLARK
COMMISSIONER JOE GARCIA
COMMISSIONER E. LEON JACOBS, JR.

DATE: Monday, March 9, 1998

TIME: Commenced at 12:10 p.m.

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

REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting
H. RUTHE POTAMI, CSR, RPR
Official Commission Reporters

DOCUMENT NUMBER - DATE

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FPSC-RECORDS/REPORTING

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5 4300, Atlanta, Georgia 30375, appearing on behalf of
6 **BellSouth Telecommunications, Inc.**

7 **TRACY HATCH** and **MARSHA RULE**, 101 North
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9 32301-1549, and **THOMAS A. LEMMER**, McKenna & Cuneo, 370
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11 **AT&T Communications of the Southern States, Inc.**

12 **RICHARD D. MELSON**, Hopping Green Sams and
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15 **Inc. and MCI Metro Access Transmission Services, Inc.**

16 **THOMAS K. BOND**, 780 Johnson Ferry Road,
17 Suite 700, Atlanta, Georgia 30342, appearing on behalf
18 of **MCI Telecommunications Corporation.**

19 **CHARLIE PELLEGRINI**, Florida Public Service
20 Commission, Division of Legal Services, 2540 Shumard
21 Oak Boulevard, Tallahassee, Florida 32399-0870,
22 appearing on behalf of the **Commission Staff.**

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1 **CHAIRMAN JOHNSON:** Okay. That will be
2 approved.

3 **MR. PELLEGRINI:** Charles Pellegrini
4 appearing on behalf of Public Service Commission's
5 Staff, 2540 Shumard Oak Boulevard, Tallahassee, 32399.

6 **CHAIRMAN JOHNSON:** Counsel, any preliminary
7 matters?

8 **MS. WHITE:** Yes, ma'am, we have one.
9 Ms. Caldwell's father had a stroke yesterday, so she
10 is not going to be available today. We will try to
11 make her available for rescheduling, but from what I
12 understand, you all are talking about this week, and I
13 just don't know if she'll be available this week.
14 I've spoken with the other parties and with Staff, and
15 we were thinking that if we got close enough to think
16 we were going to get done today, we might be able to
17 stipulate her.

18 **CHAIRMAN JOHNSON:** Okay. Any other
19 preliminary matters?

20 **MR. PELLEGRINI:** The only comment I would
21 make, Chairman Johnson, is that there appear to be
22 even some technical problems with continuing later
23 this week, so we really need to talk about this
24 further, perhaps at a break.

25 **CHAIRMAN JOHNSON:** With who?

1 **MR. PELLEGRINI:** Pardon?

2 **CHAIRMAN JOHNSON:** Who has problems? We do
3 here?

4 **MR. PELLEGRINI:** Yes, yes. Apparently we
5 have people coming in to work, FSU people coming in to
6 work on some part of the system those several days.

7 **CHAIRMAN JOHNSON:** We can work that out.
8 We'll be okay.

9 **MR. PELLEGRINI:** Okay.

10 **CHAIRMAN JOHNSON:** But thank you for noting
11 that. Any other preliminary matters?

12 **MR. HATCH:** Just one, Commissioner Johnson.
13 AT&T had spoken with BellSouth, and since this is
14 pretty much a contract case, we had agreed for
15 purposes of the record -- well, the testimony deals
16 with various portions of the AT&T/BellSouth
17 interconnection agreement, but for purposes of the
18 record, we had agreed to stipulate a full copy of the
19 entire agreement into the record, and I've provided
20 the folks copies of that if they needed it.

21 **CHAIRMAN JOHNSON:** Mr. Hatch?

22 **MR. HATCH:** Yes, ma'am.

23 **CHAIRMAN JOHNSON:** You said the document
24 will be stipulated, and it will be -- do we need to
25 make it an exhibit, or how should we handle that?

1 **MR. HATCH:** I would expect that you would
2 mark it with an exhibit number just for record
3 purposes, but there would -- avoid passing out the
4 copies and going through the identification, and
5 BellSouth doesn't disagree with that. They think
6 that's fine.

7 **CHAIRMAN JOHNSON:** Okay. Then at the
8 appropriate time we'll handle that.

9 **MR. PELLEGRINI:** If it helps, Chairman
10 Johnson, I was prepared to introduce that agreement in
11 its entirety with Witness Eppsteiner, and I can
12 continue.

13 **CHAIRMAN JOHNSON:** Okay. That will work
14 quite well. Any other preliminary matters? (No
15 response.)

16 Did we have a provision for opening
17 statements? Not in this case? Okay.

18 Are the witnesses here that are going to
19 participate today? If you could stand and raise your
20 right hand, I'll swear you in at this time.

21 (Witnesses collectively sworn.)

22 **COMMISSIONER CLARK:** Madam Chairman, I'm not
23 sure if it's been brought to your attention, but I
24 think the order of witnesses will be that direct and
25 rebuttal will go on at the same time, but there are

1 rebuttal witnesses who are MCI and AT&T -- I'm not
2 sure -- that are rebuttal only, and they go at the
3 end.

4 **CHAIRMAN JOHNSON:** Okay. Thank you.

5 **MR. PELLEGRINI:** They are Mr. Martinez and
6 Mr. Falcone.

7 **CHAIRMAN JOHNSON:** Thank you. I think then
8 we're ready for Mr. Parker.

9 **MR. BOND:** MCI would call Chip Parker.

10 **MR. MELSON:** Chairman Johnson, before
11 Mr. Parker starts, was Staff going to ask for official
12 recognition?

13 **MR. PELLEGRINI:** Thank you, Mr. Melson. At
14 this time, Chairman Johnson, I would ask that Staff's
15 official recognition list be marked as Exhibit No. 1.

16 **CHAIRMAN JOHNSON:** It will be marked as
17 Exhibit 1, short titled "Staff Official Recognition
18 List."

19 (Exhibit 1 marked for identification.)

20 **MR. PELLEGRINI:** And I would also ask that
21 Staff's exhibit identified as CP-3 be marked for
22 identification purposes at this time. It consists of
23 the March 2nd, 1998 deposition transcript of
24 Mr. Parker.

25 **CHAIRMAN JOHNSON:** We'll mark that

1 Exhibit 2, Staff CP-3. Is that it?

2 (Exhibit 2 marked for identification.)

3 **MR. PELLEGRINI:** Yes.

4 **CHAIRMAN JOHNSON:** And I've marked the Staff
5 official recognition list as Exhibit 1, and I will
6 take official recognition of the orders that are
7 referred to in that exhibit.

8 - - - - -

9 **CHIP PARKER**

10 was called as a witness on behalf of MCI
11 Telecommunications, Inc. and MCI Metro Access
12 Transmission Services and, having been duly sworn,
13 testified as follows:

14 **DIRECT EXAMINATION**

15 **BY MR. BOND:**

16 **Q** Could you please state your name?

17 **A** Chip Parker.

18 **Q** And what is your business address?

19 **A** 2520 Northwinds Parkway, Alpharetta, Georgia
20 30004.

21 **Q** By whom are you employed and in what
22 capacity?

23 **A** I'm employed by MCI Communications
24 Corporation as associate commercial counsel.

25 **Q** And did you cause to be filed eight pages of

1 prefiled direct testimony in this matter?

2 A Yes.

3 Q Do you have any changes or corrections you'd
4 like to make to that testimony?

5 A No, I do not.

6 Q If I was to ask you the same questions today
7 that appear in your prefiled testimony, would your
8 answers be the same?

9 A Yes.

10 MR. BOND: Madam Chairman, I'd like to ask
11 that Mr. Parker's prefiled direct testimony be
12 inserted into the record as though read.

13 CHAIRMAN JOHNSON: It will be so inserted.

14 Q (By Mr. Bond) Mr. Parker, did you cause to
15 be filed six pages of prefiled rebuttal testimony in
16 this matter?

17 A Yes.

18 Q Do you have any changes or corrections you'd
19 like to make to that testimony?

20 A No, I do not.

21 Q If I was to ask you the same questions today
22 that appear in your prefiled testimony, would your
23 answers be the same?

24 A Yes.

25 MR. BOND: Madam Chairman, I'd like to ask

1 that Mr. Parker's prefiled rebuttal testimony be
2 inserted into the record as though read.

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

4 **Q** **(By Mr. Bond)** Mr. Parker, attached to your
5 prefiled rebuttal testimony, did you have two
6 exhibits?

7 **A** Yes.

8 **Q** And are those true and correct?

9 **A** Yes.

10 **MR. BOND:** I'd like to ask that those two
11 exhibits be marked for identification.

12 **CHAIRMAN JOHNSON:** Would you like for those
13 to be marked as a composite exhibit or separately?

14 **MR. BOND:** Composite exhibit would be fine.

15 **CHAIRMAN JOHNSON:** We'll mark those as
16 Composite Exhibit 3, short titled MCI CP-1 and 2.

17 (Exhibit 3 marked for identification.)

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**MCI TELECOMMUNICATIONS CORPORATION AND
MCI metro ACCESS TRANSMISSION SERVICES, INC.
REBUTTAL TESTIMONY OF CHIP PARKER
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 971140-TP
FEBRUARY 20, 1998**

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Chip Parker. My business address is 2520 Northwinds Parkway, 5th Floor, Alpharetta, Georgia 30004.

Q. ARE YOU THE SAME CHIP PARKER THAT FILED DIRECT TESTIMONY IN THIS MATTER?

A. Yes.

I. Purpose of Rebuttal Testimony

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is to respond to portions of the direct testimony of BellSouth witnesses Jerry Hendrix and Alphonso J. Varner. In my testimony, I explain how these witnesses skipped the critical step in contract interpretation – determining what is required by the plain language of the contract. It is not necessary for the Commission to look beyond the clear language in the Agreement and BellSouth has failed to identify any ambiguity in the MCI/BellSouth Interconnection Agreement. Ron Martinez is also filing rebuttal testimony on behalf of MCI. Mr. Martinez, who

1 negotiated the MCI/BellSouth Interconnection Agreement on behalf of MCI, addresses
2 claims made by Mr. Hendrix and Mr. Varner regarding the negotiation process.

3

4 **Q. HAVE YOU ATTACHED ANY EXHIBITS TO YOUR REBUTTAL**
5 **TESTIMONY?**

6 A. Yes. I have attached the MCI/BellSouth Interconnection Agreement to the original copy
7 of my testimony as Exhibit 3 (CP-1). Because of the voluminous nature of this
8 document, I have not attached this exhibit to the additional copies of my testimony. I
9 have attached as Exhibit 3 (CP-2) copies of relevant pages of the Interconnection
10 Agreement.

11

12 **II. MCI/BellSouth Interconnection Agreement**

13

14 **Q. HAVE YOU REVIEWED THE DIRECT TESTIMONY OF JERRY HENDRIX**
15 **AND ALPHONSO J. VARNER FILED BY BELL SOUTH IN THIS MATTER?**

16 A. Yes.

17

18 **Q. YOU STATED THAT THESE WITNESSES SKIPPED THE MOST**
19 **IMPORTANT STEP IN CONTRACT INTERPRETATION. COULD YOU**
20 **EXPLAIN WHAT THAT IS?**

21 A. Yes. The first step, and the most important one, which should be used in contract
22 interpretation is to look at the language in the contract itself. If that language is clear and
23 unambiguous, there is no reason to look outside the contract. In other words, unless the
24 terms of the contract are ambiguous, it is inappropriate to rely on extraneous material to
25 attempt to derive the “meaning” of the contract – particularly if that meaning is

1 inconsistent with the terms of the contract.

2

3 Indeed, the MCI/BellSouth Interconnection Agreement (the "Agreement") itself provides
4 as follows:

5 **Section 31. Entire Agreement.** This Agreement, including all Parts and
6 Attachments and subordinate documents attached hereto or referenced
7 herein, all of which are incorporated by reference herein, constitute the
8 entire matter thereof, and supersede all prior oral or written agreements,
9 representations, statements, negotiations, understandings, proposals, and
10 undertakings with respect to the subject matter thereof.

11 Section 31, Part A, General Terms.

12

13 **Q. WHY DO YOU STATE THAT MR. HENDRIX AND MR. VARNER SKIPPED**
14 **THIS CRITICAL STEP?**

15 **A.** In his Direct testimony at page 2, lines 21 to 24, Mr. Hendrix acknowledges that
16 BellSouth is currently bound by the combination provisions in the Agreement. Similarly,
17 Mr. Varner, at page 4, lines 11 to 19 of his direct testimony, recognizes that these
18 provisions are still in effect. Rather than then proceeding to review the pricing provisions
19 contained in the Agreement and attempting to demonstrate how they do not apply to
20 certain types of combinations, BellSouth's witnesses attempt to gloss over, or completely
21 ignore, the terms of the Agreement. Of course, since the language in the Agreement is
22 clear, I am not surprised that BellSouth has chosen such a strategy.

23

24 For example, while Mr. Hendrix states that the purpose of his testimony is to discuss the
25 issues relative to the contractual obligations contained in the Agreement, amazingly he

1 never even mentions Section 8 of Attachment 1. This section states that when UNEs are
2 combined, the stand alone rates may lead to duplicate charges. Therefore, BellSouth is
3 required to provide combinations at rates which do not include the duplicate charges or
4 charges for services not needed. Since this provision clearly makes no distinction
5 between different types of combinations, Mr. Hendrix apparently just decided to ignore
6 it.

7
8 **Q. ON PAGE 3, LINES 6 TO 8, MR. HENDRIX STATES THAT “REQUESTS FOR**
9 **A MIGRATION OR A ‘SWITCH-AS-IS’ SHOULD BE TREATED AS RESALE.”**
10 **HOW DO YOU RESPOND?**

11 A. This is exactly what I was referring to above when I said that BellSouth’s witnesses
12 simply ignored the terms of the Agreement in their testimony. Of course, Mr. Hendrix
13 can cite to nothing in the Agreement to support this position. Not only does he ignore
14 Section 8 of Attachment 1, he also ignores Section 2.2.2 of Attachment 8 which
15 recognizes migration to UNEs as being distinct from migration to resale. On page 19,
16 lines 13 to 18, Mr. Varner also uses a definition of migration which simply ignores the
17 use of the term in the Agreement.

18
19 Mr. Varner similarly ignores the terms of the Agreement when he states on page 9, lines
20 18 to 21, of his direct testimony: “BellSouth’s position is that, until the current contracts
21 are revised, when BellSouth provisions combinations of UNEs that recreate existing
22 BellSouth retail services, the price to the ALEC will be the retail price of that service
23 minus the applicable wholesale discount.” Mr. Varner is equally unable to cite to any
24 provision in the Agreement to support this position.

25

1 The Agreement provides that MCI may use combinations of network elements to provide¹⁶
2 “any feature, function, capability, or service option that such Network Element(s) is
3 capable of providing.” Section 2.3, Attachment III (Emphasis added). It provides that
4 MCI may use such combinations “to provide Telecommunications Services to its
5 subscribers” Section 2.4, Attachment III. As I stated in my direct testimony, the
6 Agreement provides pricing for combinations of UNEs. These pricing provisions make
7 no distinction between different types of combinations. The charges for UNE
8 combinations are to be derived by removing the duplicate charges contained in the stand
9 alone UNE rates. Section 8, Attachment 1. Obviously, this is a fundamentally different
10 methodology than the avoided cost standard for resale. There is no ambiguity in the
11 Agreement.

12

13 **Q. MR. HENDRIX STATES ON PAGE 7, LINE 6, THAT SECTION 2.6 OF**
14 **ATTACHMENT 3 DOES NOT SET PRICES FOR COMBINATIONS. HOW DO**
15 **YOU RESPOND?**

16 **A.** First, I think it is interesting that while Mr. Hendrix states that this provision does not set
17 prices for combinations, he never attempts to give any explanation of what he thinks it
18 does mean. Section 2.6 of Attachment III provides:

19

20 With respect to Network Elements. . .charges in Attachment I are inclusive and
21 no other charges apply, including but not limited to any other consideration for
22 connecting any Network Element(s) with other Network Element(s).

23

24 Clearly, this section prohibits BellSouth from attempting to charge any type of glue
25 charge when elements are combined. More importantly, it makes clear that the network

1 element charges in Attachment I are the only thing which BellSouth may charge MCI
2 even when those elements are combined with other Network Elements. When read in
3 conjunction with Section 8 of Attachment 1, it is clear the sum of the stand alone UNE
4 rates in Attachment 1 form the ceiling – the maximum rate which BellSouth can charge -
5 when such elements are ordered in combination.

6

7 **Q. ON PAGE 5, LINE 20 TO 25, MR. VARNER STATES THAT IT IS NOT**
8 **BELLSOUTH’S POLICY TO PROVIDE COMBINATIONS OF UNEs TO ALECs**
9 **AT UNE PRICES. HOW DO YOU RESPOND?**

10 A. BellSouth’s witnesses devote a considerable portion of their testimony discussing
11 BellSouth’s general positions on issues such as combinations of UNEs. It is my
12 understanding that this is not a generic docket. The purpose of this proceeding is to
13 determine what the MCI/BellSouth Agreement requires BellSouth to do. BellSouth’s
14 general policies are irrelevant. The parties and the Commission spent considerable time
15 and resources arbitrating and negotiating the Agreement. The Agreement is now in place
16 and should be enforced.

17

18 **Q. DOES THAT CONCLUDE YOUR REBUTTAL TESTIMONY?**

19 A. Yes.

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MCI TELECOMMUNICATIONS, INC.
DIRECT TESTIMONY OF CHIP PARKER
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 971140-TP
JANUARY 29, 1998

I. Qualifications

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

A. My name is Chip Parker. I am employed by MCI Telecommunications Corporation ("MCI"). My business address is: MCI Telecommunications Corporation, 2520 Northwinds Parkway, 5th Floor, Alpharetta, GA 30004.

Q. PLEASE STATE YOUR BACKGROUND AND QUALIFICATIONS.

A. I hold a bachelor's degree in economics and a juris doctorate from Mercer University. I am admitted to practice law in the state of Georgia. I have worked with MCI for three years. I began with MCI supporting the MCI State Government and University Market group. I currently work with MCI Southern Financial Operations supporting interconnection efforts with BellSouth.

II. Purpose of Testimony

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to explain how the MCI/BellSouth Interconnection Agreement ("the Agreement") directly, expressly, and unambiguously decides most of the

1 issues in this case. The Agreement specifically gives MCI the right to order UNE
2 combinations and specifically obligates BellSouth to provide such combinations. The
3 Agreement prohibits BellSouth from disconnecting elements ordered in combination and
4 prohibits BellSouth from charging a glue charge for combining elements. The Agreement
5 specifies how the prices for combinations of UNEs are determined – the price for UNE
6 combinations is the price of the individual UNEs minus duplicate charges and charges for
7 service not needed. The Agreement makes no distinction between different types of
8 combinations for purposes of this pricing. Finally, the Agreement specifically requires
9 BellSouth to provide usage data to MCI.

10
11 **III. MCI/BellSouth Interconnection Agreement**

12
13 **Q. DOES THE AGREEMENT REQUIRE BELLSOUTH TO PROVIDE UNE**
14 **COMBINATIONS TO MCI?**

15 **A. Yes. Section 2.4 of Attachment III of the MCI/BellSouth Interconnection Agreement**
16 **clearly states that:**

17 BellSouth shall offer each Network Element individually and in
18 combination with any other Network Element or Network Elements in
19 order to permit MCI to provide Telecommunications Services to its
20 subscribers.

21 Section 2.2.15.1 of Attachment VIII provides:

22 MCI may order and BellSouth shall provision unbundled Network
23 Elements either individually or in any combination on a single form.

24 Network Elements ordered as combined shall be provisioned as combined
25 by BellSouth unless MCI specifies that the Network Elements ordered in

1 combination be provisioned separately.

2 **Q. DOES THE AGREEMENT PERMIT BELLSOUTH TO DISCONNECT**
3 **CURRENTLY COMBINED ELEMENTS WHEN MCI ORDERS THOSE**
4 **ELEMENTS IN COMBINATION?**

5 A. No. Section 2.2.15.3 of Attachment VIII provides:

6 When MCI orders Network Elements or Combinations that are currently
7 interconnected and functional, Network Elements and Combinations shall
8 remain connected and functional without any disconnection or disruption
9 of functionality.

10 The Agreement clearly recognizes that MCI may migrate existing BellSouth customers
11 to MCI to be served through unbundled Network Elements reusing existing BellSouth
12 facilities. Section 2.2.2.3 of Attachment VIII.

13

14 **Q. BUT DOESN'T THE EIGHTH CIRCUIT'S DECISION SAY THAT**
15 **BELLSOUTH IS NOT REQUIRED TO PROVIDE UNES ON A COMBINED**
16 **BASIS, EVEN IF THEY WERE COMBINED IN BELLSOUTH'S NETWORK**
17 **BEFORE THEY WERE ORDERED BY MCI?**

18 A. The Eighth Circuit did vacate the FCC Rule which required BellSouth to do the
19 combining. However, that decision does not automatically invalidate contractual
20 provisions, such as those in the MCI/BellSouth Interconnection Agreement. I understand
21 that BellSouth does not dispute that, at least at the present time, it is contractually
22 obligated to provide UNEs in combination when they are ordered by MCI.

23

24 **Q. DOES THE AGREEMENT SPECIFY HOW THE PRICE FOR UNE**
25 **COMBINATIONS WILL BE DETERMINED?**

1 A. Yes it does. Attachment 1 of the Agreement sets forth the prices for UNEs. Section 8 of
2 Attachment 1 provides:

3 The recurring and non-recurring prices for Unbundled Network Elements
4 (UNEs) in Table 1 of this Attachment are appropriate for UNEs on an
5 individual, stand-alone basis. When two or more network elements are
6 combined, these prices may lead to duplicate charges. BellSouth shall
7 provide recurring and non-recurring charges that do not include duplicate
8 charges for functions or activities that MCI does not need when two or
9 more network elements are combined in a single order. MCI and
10 BellSouth shall work together to establish recurring and nonrecurring
11 charges in situations where MCI is ordering multiple network elements.
12 Where the parties cannot agree to these charges, either party may petition
13 the Florida Public Service Commission to settle the disputed charge or
14 charges.

15 Table 1 of Attachment 1 sets forth the recurring and non-recurring rates for network
16 elements. If MCI bought a UNE combination today, the rate would be the sum of the
17 rates of the elements which compose that combination. The contract recognizes,
18 however, that this could cause MCI to pay duplicate charges and charges for services not
19 needed. Therefore, the contract creates a mechanism of negotiation and, if necessary,
20 petition to the Commission for removal of these unnecessary charges. As I discuss later,
21 MCI has petitioned the Commission to set the non-recurring charges (NRCs) for four
22 specific loop-port combinations.

23
24 **Q. DOES THE AGREEMENT AUTHORIZE BELL SOUTH TO CHARGE A “GLUE**
25 **CHARGE” TO MCI WHEN MCI ORDERS ELEMENTS IN COMBINATION?**

1 A. No. First, Section 2.2.15.3 of Attachment VIII of the MCI/BellSouth Interconnection
2 Agreement specifically prohibits BellSouth from pulling elements apart when MCI orders
3 them:

4 When MCI orders Network Elements or Combinations that are
5 currently interconnected and functional, Network Elements and
6 Combinations shall remain connected and functional without any
7 disconnection or disruption of functionality.

8

9 Obviously, there is no need to glue elements that are already connected. In any event,
10 Section 2.6 of Attachment III of the Agreement specifically prohibits such charges:

11 With respect to Network Elements, . . . charges in Attachment I are
12 inclusive and no other charges apply, including but not limited to
13 any other consideration for connecting any Network Element(s)
14 with other Network Element(s).

15

16 **Q. HAS MCI ATTEMPTED TO NEGOTIATE WITH BELLSOUTH THE**
17 **NONRECURRING CHARGES FOR ANY UNE COMBINATIONS?**

18 A. Yes. MCI has requested NRCs for the following combinations of UNEs:

- 19 1) 2-Wire analog loop and port for migration of an existing customer;
20 2) 2-Wire IDSN loop and port for migration of an existing customer;
21 3) 4-Wire analog loop and port for migration of an existing customer; and,
22 4) 4-Wire DS1 and port for migration of an existing customer;

23 Such negotiations were unsuccessful, therefore MCI petitioned the Commission to set
24 NRCs for these combinations.

25

1 **Q. WHAT DOES THE PHRASE “FOR MIGRATION OF AN**
2 **EXISTING CUSTOMER” MEAN IN THIS CONTEXT?**

3 A. “Migration of an existing customer” simply means the situation in which a
4 customer who obtains service from BellSouth today chooses MCI to be
5 his local service provider. In that situation, MCI could elect to serve the
6 customer in a number of ways, including “migrating” the customer to
7 service through resale of BellSouth’s retail service or “migrating” the
8 customer to service through the use of a loop/port combination purchased
9 from BellSouth. See Section 2.2.2 of Attachment VIII.

10

11 **Q. UNDER THE AGREEMENT, HOW SHOULD THE NRCs FOR THESE**
12 **COMBINATIONS BE DETERMINED?**

13 A. As explained above, any charges in the stand-alone UNE rates that are duplicative or
14 unnecessary when the elements are ordered as combined must be removed. For example,
15 under the Agreement BellSouth is required to provide these combinations to MCI
16 without disconnecting the loops from the ports. Therefore, any charges relating to
17 connecting or disconnecting the loop or the port must be removed since such activities
18 are unnecessary.

19

20 **Q. HOW HAS BELL SOUTH BEEN TREATING MCI’S UNE COMBINATIONS IN**
21 **FLORIDA?**

22 A. MCI has ordered over 50 UNE loop/port combinations in Florida, and BellSouth has
23 been treating such orders as orders for resale. BellSouth has refused to provide such
24 elements at UNE rates, and instead has billed such combinations as resale.

25

1 **Q. IS THERE ANYTHING IN THE AGREEMENT WHICH AUTHORIZES BELLSOUTH**
2 **TO TREAT ANY ORDERS FOR COMBINATIONS OF UNES AS RESALE?**

3 **A.** No. In fact, such treatment is contrary to the express language of the Agreement. As
4 discussed above, the Agreement, in Section of 8 of Attachment 1, clearly specifies how
5 UNE combinations shall be priced. The contract makes no distinction between different
6 types of combinations. The Agreement gives only one pricing standard for UNE
7 combinations and creates no exceptions. All combinations are therefore subject to that
8 standard.

9
10 **Q. WHAT ABOUT BELLSOUTH'S POSITION THAT "MIGRATION" CAN ONLY**
11 **TAKE PLACE THROUGH RESALE, NOT THROUGH THE PURCHASE OF**
12 **COMBINATIONS OF UNES?**

13 **A.** That position is contrary to the specific language of the Agreement. Section 2.2.2.3 of
14 Attachment VIII authorizes MCI to migrate existing BellSouth customers to MCI to
15 be served through unbundled Network Elements reusing existing BellSouth facilities. In
16 contrast, Sections 2.2.2.1 and 2.2.2.2 of Attachment VIII refer to migration for resale.
17 In light of these complementary provisions, it is clear that under the Agreement migration
18 to UNEs is not the same as migration to resale, and that MCI can choose which type of
19 migration to use for a particular customer.

20

21 **Q. DOES THE AGREEMENT OBLIGATE BELLSOUTH TO PROVIDE**
22 **SWITCHED ACCESS USAGE DATA WHEN MCI PROVIDES SERVICE**
23 **USING UNBUNDLED LOCAL SWITCHING PURCHASED FROM**
24 **BELLSOUTH?**

1 A. Yes. Section 4.1.1.3 of Attachment VIII requires BellSouth to provide recorded usage
2 data on all completed calls. See Section 7.2.1.9 of Attachment III. The required usage
3 data is all inclusive, and would include the information on switched access usage that is
4 necessary for MCI to bill interexchange carriers for originating and terminating switched
5 access charges. It is my understanding that BellSouth has not been providing such data
6 to MCI for the UNE combination orders placed in Florida.

7

8 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

9 A. Yes.

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1 Q (By Mr. Bond) Mr. Parker if you could give
2 a summary of your testimony, and try to get a little
3 bit closer to the mike.

4 **WITNESS PARKER:** Good morning,
5 Commissioners. My name is Chip Parker, and I'm a
6 commercial attorney with MCI. Most of the issues in
7 the case before you today involve a contract dispute
8 about the pricing of combinations of unbundled network
9 elements or UNEs. To decide these issues, you need to
10 determine what the contract requires.

11 This case is not about BellSouth's general
12 policies; it is not about the 8th Circuit orders; and
13 it is not even about what this Commission did or did
14 not decide in its arbitration orders. After all, only
15 a fraction of the provisions in the agreement were
16 arbitrated. It's about what the contract requires.

17 The first rule of construction in a contract
18 dispute is to look at the language in the contract
19 itself, the four corners of the contract. If that
20 language is clear and unambiguous, there is no reason
21 to look outside the contract or to rely on extraneous
22 material in construing the contract.

23 Let me give you a brief overview of MCI's
24 case so you'll know what to expect. I am the four
25 corners of the contract witness. I did not

1 participate in any of the contract negotiations, and
2 I'm basing my testimony on the plain language of the
3 contract. I show how that plain language decides the
4 issues in this case.

5 First, as BellSouth concedes, the agreement
6 gives MCI the right to order UNE combinations and
7 specifically obligates BellSouth to provide such
8 combinations.

9 Second, the agreement specifically prohibits
10 BellSouth from disconnecting elements ordered in
11 combination and prohibits BellSouth from charging a
12 glue charge for combining elements.

13 Third, the agreement specifically recognizes
14 MCI's right to migrate existing BellSouth customers to
15 MCI to be served by UNES. When BellSouth argues that
16 migration always equals resale, it simply ignores this
17 contract provision.

18 Fourth, the agreement specifies how the
19 prices for combinations of UNES are determined. The
20 price for UNE combinations is the sum of the prices of
21 the individual UNES minus duplicate charges and
22 charges for service not needed. In other words,
23 BellSouth should not charge MCI for work that
24 BellSouth does not perform.

25 Fifth, for the purpose of this pricing, the

1 agreement makes no distinction between different types
2 of combinations. The price for combinations is the
3 same whether or not they allegedly recreate a
4 BellSouth service.

5 Tom Hyde is the next MCI witness, and he
6 takes the methodology set forth in the agreement and
7 computes the NRCs that eliminate charges for duplicate
8 services and services that are not needed when MCI
9 orders existing loop/port combinations to serve
10 existing BellSouth customers. That's our direct case.

11 In my rebuttal testimony, I point out that
12 BellSouth's direct case ignores the contract language.
13 Even though BellSouth concedes up front that they are
14 currently bound by the terms of the agreement, they
15 devote most of their testimony to discussing
16 BellSouth's policy positions on combination and
17 pricing issues.

18 It is my understanding that this is not a
19 generic docket. It's a contract interpretation
20 docket. BellSouth's general policies simply are not
21 relevant to deciding what the contract says.

22 In MCI's rebuttal case, MCI has cosponsored
23 the testimony of Joe Gillan who responds to a lot of
24 the policy questions which have been raised by
25 BellSouth, but it is MCI's position that these general

1 policy questions are not relevant to this case since
2 all the issues are decided by the agreement.

3 MCI has filed rebuttal testimony of Mr. Ron
4 Martinez, who is MCI's principal negotiator for this
5 agreement. Mr. Martinez explains why the Commission's
6 consideration of the agreement cannot end with the
7 question of did we arbitrate this issue. BellSouth is
8 bound not only by arbitrated provisions but also by
9 negotiated ones. To rule otherwise, would render the
10 negotiation process meaningless.

11 My prefiled testimony quotes extensively
12 from the agreement. There are a few provisions I
13 would like to specifically call to your attention.

14 The key provision is Section 2.6 of
15 Attachment 3, which is on the poster board behind me.
16 It reads: "With respect to network elements, charges
17 in Attachment 1 are inclusive and no other charges
18 apply, including but not limited to any other
19 consideration for connecting any network elements with
20 other network elements."

21 In other words, when MCI orders from
22 BellSouth a connected loop and port, BellSouth can
23 charge only for the individual UNE prices set forth in
24 Attachment 1.

25 As Mr. Martinez explains in his testimony,

1 this provision was not arbitrated, but was voluntarily
2 agreed to.

3 Another key position is Section 8 of
4 Attachment 1. That section recognizes that when two
5 or more network elements are combined, the stand-alone
6 prices may lead to duplicate charges. This section
7 requires BellSouth to provide recurring and
8 nonrecurring charges that do not include duplicate
9 charges for functions or activities that MCI does not
10 need when two or more network elements are combined in
11 a single order.

12 That's what Mr. Hyde does in his testimony.
13 He develops nonrecurring rates for several specific
14 UNE combinations that eliminate these duplicate
15 charges.

16 Finally, Section 2.2.15.3 of Attachment 8
17 provides that when MCI orders network elements or
18 combinations that are currently interconnected and
19 functional, network elements and combinations shall
20 remain connected and functional without any
21 disconnection or disruption of functionality.

22 In other words, when MCI orders combinations
23 of elements that are currently connected to each and
24 serving a customer, BellSouth cannot rip those
25 elements apart. Again, as Mr. Martinez will explain

1 in his testimony, BellSouth voluntarily agreed to this
2 provision.

3 In conclusion, BellSouth has failed to show
4 any ambiguity in the agreement. The agreement
5 specifically recognizes the right of MCI to migrate
6 existing BellSouth customers to MCI to be served by
7 UNES. The agreement prohibits BellSouth from ripping
8 apart elements that are currently connected when
9 ordered in combination, and the agreement specifies
10 how the prices for those combinations are determined.

11 MCI asks that you give this contract its
12 plain meaning and order BST to provide combinations of
13 UNES to MCI at UNE prices, not the resale prices
14 advocated by BellSouth, which have absolutely no
15 support in the language of the contract.

16 Thank you.

17 MR. BOND: Mr. Parker is available for
18 cross-examination.

19 **CROSS EXAMINATION**

20 **BY MR. ROSS:**

21 Q Bennett Ross on behalf of BellSouth,
22 Mr. Parker. I've got a few questions for you.

23 You mentioned in your summary that you were
24 not involved in the negotiations leading up to the
25 execution of the interconnection agreement; is that

1 correct?

2 A That is correct.

3 Q So can I infer that you cannot speak as to
4 what the parties specifically intended in agreeing to
5 any particular provision of the contract?

6 A No, I don't know the intent of the parties.
7 I just know what the four corners of the document
8 state.

9 Q And you can't tell the Commission about the
10 circumstances leading up to any particular agreement
11 on any provision in the contract?

12 A No. I can only speak to what the contract
13 specifically says.

14 Q Now, as an attorney, is it your legal
15 opinion that this Commission cannot consider the
16 circumstances surrounding the formation of a contract
17 under Florida law in interpreting the parties' intent?

18 A It's my legal opinion that it's unnecessary
19 because the contract is not ambiguous. If a contract
20 is explicit and clear and there's no ambiguity,
21 there's no reason to look beyond the four corners of
22 the document.

23 Q Are you licensed to practice law in Florida?

24 A No, I am not.

25 Q So you're not rendering a professional

1 opinion about what Florida contract law requires?

2 A No.

3 Q Now, would you agree, Mr. Parker, that this
4 interconnection agreement is not your typical
5 commercial contract between a buyer and a seller?

6 A That's a hard question for me to answer yes
7 or no, because I think if you look at the
8 telecommunications business and in my job where I deal
9 with different carriers, interconnection agreements
10 have become standard practice for me. But if it were
11 to be deemed a commercial contract, I would not say
12 it's comparable to a contract for delivery of fruit or
13 other type of fungible goods.

14 Q Well, let me ask it this way: You would
15 agree that this contract reflects provisions that were
16 voluntarily negotiated, provisions that were
17 arbitrated, and some provisions that were, in fact,
18 mandated by federal law; is that not correct?

19 A Yes.

20 Q Now, I'm assuming that you're familiar with
21 the FCC's August 8th interconnection order and
22 subsequent review of that order by the 8th Circuit
23 Court of Appeals.

24 A I have some familiarity, yes.

25 Q Have you read the FCC's interconnection

1 order and the 8th Circuit decisions on appeal of that
2 order?

3 A Yes.

4 Q Are you familiar with this Commission's
5 orders in the MCI arbitrations in Florida that have
6 been officially recognized by the Commission?

7 A I'm familiar with them, although for -- I've
8 referred to Mr. Bond for counsel on those matters.

9 Q And I think you said in your summary that
10 this case is not about what the Commission did in the
11 arbitration. Do you mean to say by that that it's
12 inappropriate for this Commission to consider the
13 arbitration proceedings in interpreting the
14 interconnection agreement between BellSouth and MCI?

15 A I mean to that say that it's unnecessary
16 because the contract is plain and clear as to the
17 issues raised.

18 Q Well, whether or not it's necessary, do you
19 believe it's inappropriate for the Commission to
20 consider its arbitration decisions in interpreting the
21 contract?

22 A I'm not familiar enough with the rules
23 impacting the Commission and how it decides an issue
24 to answer that question.

25 Q And just so the record is clear, BellSouth

1 has acknowledged, for purposes of the interconnection
2 agreement as it presently exists, that it is obligated
3 to provide combination of unbundled network elements
4 to MCI; is that correct?

5 A Yes.

6 Q And the dispute here and the reason we're
7 here is the price that should apply when those
8 combinations are purchased; is that correct?

9 A The price and the classification by
10 BellSouth of our UNE combination orders as resale
11 orders.

12 Q Well, by price, I mean either they're going
13 to be cost-based rates or if BellSouth's position is
14 accepted, a resale rate; correct?

15 A Yes.

16 Q Now, can we also agree that if the
17 8th Circuit's decision, which is presently under
18 review by the Supreme Court, is upheld, that BellSouth
19 would be entitled under the interconnection agreement
20 to renegotiate any material terms of the agreement
21 that are materially affected by the 8th Circuit's
22 decision?

23 A Yes.

24 Q And could you agree -- or can we agree that
25 the provisions in the contract that you've cited that

1 you say deal with combinations of UNEs would be
2 material terms of the interconnection agreement?

3 A I would say that these are material terms.

4 Q Now, I want to ask you -- do you have your
5 deposition transcript in front of you?

6 A I was given it this morning. I have it
7 here.

8 Q Can I ask you to look at Page 11 of your
9 deposition where Mr. Pellegrini was asking you about
10 this same issue? And I'm looking at Lines 18
11 through 22, and you can read the question preceding
12 your answer just to put it in context if you'd like.

13 A Okay.

14 Q Now, you were asked about the circumstances
15 under which BellSouth would have an opportunity to
16 renegotiate, and you state that, quote, "If the ruling
17 of the Supreme Court clearly contradicted an express
18 term of the contract, we would even have an obligation
19 to renegotiate that section of the contract that was
20 affected by the Supreme Court's ruling."

21 That was your answer?

22 A Yes.

23 Q Now, doesn't 2.4 of the interconnection
24 agreement -- and I'm at the very beginning of the
25 agreement -- this is on Page A-3 of the copy I've got,

1 General Terms and Conditions, Part A.

2 A Pardon me while they put this before me.

3 Q Certainly.

4 A (Pause) Okay.

5 Q 2.4, Section 2.4 of Part A, General Terms
6 and Conditions, doesn't require that any judicial
7 decision contradict an express term of the contract in
8 order to trigger renegotiation; isn't that correct?

9 A I mean, the language is clear and speaks for
10 itself.

11 Q And it doesn't mention the term "contradict"
12 at all, does it?

13 A To quote the language, it says, "Materially
14 affects a material term."

15 Q So in other words, if the decision of the
16 Supreme Court materially affects any material terms of
17 the agreement, that triggers the renegotiation
18 obligation; is that correct?

19 A Yes; and let me explain that. It's been my
20 understanding, in discussions with my counterpart at
21 BellSouth, that the 8th Circuit Court of Appeals'
22 decision was not final and was not -- nonappealable,
23 and upon the grant of certiorari -- which is my
24 recollection cert was granted in January of 1998 --
25 that to the extent that the Supreme Court issued a

1 ruling that affected this agreement, we would begin
2 negotiations to amend the agreement to reflect that
3 ruling.

4 Q Now, when the interconnection agreement was
5 negotiated, the FCC had rules in place that required
6 BellSouth to provide combinations of unbundled network
7 elements; isn't that correct?

8 A Yes, I believe so.

9 Q And those were the rules that were
10 subsequently vacated by the 8th Circuit Court of
11 Appeals; is that correct?

12 A To the best of my recollection, yes.

13 COMMISSIONER CLARK: I'm sorry, Mr. Ross.
14 Do we have copies of the whole agreement?

15 MR. ROSS: I think it is on the list,
16 Commissioner Clark, of the items for which official
17 notice is being asked.

18 COMMISSIONER CLARK: We're not passing it
19 out, the whole agreement?

20 CHAIRMAN JOHNSON: No.

21 MR. PELLEGRINI: No.

22 COMMISSIONER CLARK: The section you read
23 from, what was that number again?

24 MR. ROSS: Yes, ma'am. It is in -- it's
25 tab -- It's called Part A, Terms and Conditions, and

1 it's under Section 2, which is labeled Regulatory
2 Approvals, and I was reading from Section 2.4.

3 **COMMISSIONER CLARK:** That's not in your
4 testimony, is it, or is it anyone's testimony?

5 **MR. ROSS:** It's in Mr. Hendrix's testimony,
6 I believe, and Mr. Varner's possibly, too.

7 **CHAIRMAN JOHNSON:** It wasn't a part of the
8 excerpted portions in Exhibit 3?

9 **WITNESS PARKER:** Actually, if I may, I
10 believe the entire interconnection agreement was
11 tendered with my rebuttal testimony, and it would be
12 in the Part A of the interconnection agreement.

13 **COMMISSIONER JOHNSON:** We don't have a copy
14 because it was too voluminous to copy, but I was
15 wondering if you had taken one of those sections out
16 and made it a part of CP-2.

17 **MR. BOND:** It was not part of these specific
18 excerpts because that wasn't one of the provisions
19 Mr. Parker had quoted in his testimony.

20 **CHAIRMAN JOHNSON:** Okay.

21 **Q** (By Mr. Ross) Mr. Parker, were you
22 involved in any of the arbitration proceedings before
23 this Commission?

24 **A** No, I was not.

25 **Q** Based on your review of the arbitration

1 decisions, which I think you indicated you have looked
2 at, is it your understanding that this Commission
3 decided in the arbitrations the issue of what price
4 should apply to recombined elements that recreate a
5 service BellSouth offers for resale?

6 A Let me state my understanding of the
7 arbitration orders just so I'm clear.

8 There are a number of arbitration orders
9 that predate the effective date of this
10 interconnection agreement. As a commercial attorney,
11 I rely on counsel from our state regulatory and
12 federal regulatory divisions to advise me of orders
13 and the impact of those orders on the interconnection
14 agreement.

15 It's my understanding that to the extent
16 that arbitrated language was applicable or prices that
17 had been arbitrated were applicable, they were
18 included in the interconnection agreement.

19 Q Okay. I'm not sure that necessarily
20 answered my question. I'm talking about your review
21 of the arbitration decisions.

22 Based on that review, is it your position or
23 your understanding that this Commission decided in the
24 arbitrations what price should apply to recombined
25 elements that recreate a service BellSouth offers for

1 resale?

2 **A** No, I don't believe they issued a price for
3 specific combination of elements.

4 **Q** And, in fact, didn't this Commission on at
5 least two occasions indicate specifically that the
6 Commission was not deciding that issue?

7 **A** To the best of my recollection, yes.

8 **Q** And just so I'm clear, even though the issue
9 was not decided by this Commission in arbitrations,
10 you believe that BellSouth agreed that individual
11 unbundled network element prices should apply when MCI
12 purchases recombined elements that recreate a service
13 that BellSouth offers for resale; is that correct?

14 **A** Yes.

15 **Q** BellSouth proposed language to this
16 Commission, did it not, which specifically stated that
17 further negotiations would be required between the
18 parties to determine the price that ought to apply
19 when elements are recombined to recreate an existing
20 BellSouth service; isn't that correct?

21 **A** I don't have any -- familiar with what you
22 just -- your question there.

23 **MR. ROSS:** May I approach the witness, Madam
24 Chair?

25 **CHAIRMAN JOHNSON:** Sure.

1 Q (By Mr. Ross) I'm going to hand you a copy
2 of this Commission's May 27, 1997, order in the MCI
3 arbitrations.

4 A Okay.

5 Q And do you see that there's two sentences in
6 that agreement that are bolded?

7 A Yes.

8 Q And could you read those two sentences into
9 the record, please?

10 A "Further negotiations between the parties
11 should address the price of a retail service that is
12 recreated by combining UNEs. Recombining UNEs shall
13 not be used to undercut the resale price of the
14 service recreated."

15 Q Now, is it your understanding that BellSouth
16 proposed that language for approval by this Commission
17 in the MCI/BellSouth interconnection agreement?

18 A I'll answer no, because I don't really have
19 an understanding of what you're asking me about.

20 Q So you have never seen this language in this
21 proposal -- (inaudible; away from microphone) --

22 I'm sorry. Mr. Parker, the question I asked
23 you was, you're not familiar with the language that
24 BellSouth had proposed be added to the interconnection
25 agreement on the issue of what price should apply when

1 elements are recombined to replicate an existing
2 BellSouth service?

3 A No; and let me explain that. I'm not
4 familiar with that language because to the extent the
5 regulatory change or approval required an amendment to
6 the contract, I would be advised of that requirement
7 by our regulatory counsel. So I don't spend a great
8 deal of time reviewing orders that are not directed to
9 me as being applicable to the contract.

10 I view the contract as being a negotiation
11 between BellSouth and MCI Metro, and the contract is
12 plain and clear and speaks to the issues at hand.

13 Q All right. But just so I'm clear here, if
14 the record were to reflect that BellSouth had proposed
15 language to this Commission indicating that further
16 negotiations were required to address the price of a
17 retail service that is recreated by combining network
18 elements, you still believe that BellSouth voluntarily
19 agreed as to what that price would be?

20 A Yes.

21 Q Are you familiar with the interconnection
22 agreements that BellSouth has entered into with MCI in
23 states other than Florida?

24 A Yes.

25 Q Are you familiar with BellSouth's

1 interconnection agreement with MCI in North Carolina,
2 South Carolina, Mississippi, Alabama, Louisiana or
3 Georgia?

4 A I support those states in MCI's
5 interconnection efforts with BellSouth, so I have
6 familiarity with those agreements.

7 Q And in any of those interconnection
8 agreements, can you identify one where BellSouth
9 voluntarily agreed that MCI could purchase recombined
10 elements that recreate an existing BellSouth service
11 at cost-based rates?

12 A Specifically, no. I believe those
13 agreements are consistent with this agreement in that
14 the uncombined network elements are priced on an
15 individual basis, and I would compare it to like a
16 menu where you go down the menu and you select the
17 services that you deem necessary to serve your
18 customer and you order those from BellSouth.

19 Q I just want to make sure I'm clear here.
20 Let's just take Georgia as an example. What is your
21 understanding of what BellSouth's interconnection
22 agreement with MCI provides when MCI seeks to purchase
23 or to recombine elements to recreate an existing
24 BellSouth service?

25 A My understanding of BellSouth's position is

1 that that will be treated as resale.

2 Q I'm sorry, Mr. Parker; maybe my question was
3 unclear. My question was not what BellSouth's
4 position is. What does the agreement provide insofar
5 as the price that would apply in those circumstances?

6 A The agreement provides -- and I don't have
7 it immediately before me -- but from recollection, it
8 provides the UNES would be ordered on an individual
9 basis under the terms specified in, I believe, it's
10 Attachment 3 of the Georgia interconnection agreement
11 for uncombined network elements.

12 MR. ROSS: May I approach the witness, Madam
13 Chairman?

14 Q (By Mr. Ross) Let me show you a copy or
15 provision from the MCI/BellSouth Georgia
16 interconnection agreement and maybe refresh your
17 recollection.

18 A Okay.

19 COMMISSIONER CLARK: Do you know what the
20 Georgia Commission or Louisiana Commission required?

21 WITNESS PARKER: No, ma'am, I do not.

22 Q (By Mr. Ross) Mr. Parker, I've handed you
23 a copy of a portion of the BellSouth/MCI
24 interconnection agreement in Georgia, and I have
25 bracketed a phrase from that agreement. Could you

1 read that phrase into the record, please?

2 **A** Yes. You've handed me Attachment 3, Network
3 Elements. You have bracketed a phrase in Section 2,
4 specifically 2.3, and the bracketed portion reads that
5 "If MCI recombines network elements to create
6 services identical to BellSouth's retail offerings,
7 the price MCI would pay to BellSouth for those
8 rebundled services shall be identical to the price
9 MCI would pay using the resale discount."

10 **Q** And had you seen that language in that
11 agreement before?

12 **A** Yes.

13 **Q** And isn't it your understanding that when
14 MCI, in fact, purchases today in Georgia unbundled
15 network elements that are used to recreate an existing
16 BellSouth retail service, that under the
17 interconnection agreement in Georgia, MCI would pay
18 the applicable resale rate?

19 **A** Yes, but let me clarify. And that would be
20 if we actually were able to recreate the BellSouth
21 service, and I'm not sure that we've ever been able to
22 do that.

23 **Q** I understand. But with that understanding,
24 the resale rate would apply when MCI does, in fact,
25 recreate an existing BellSouth service, correct?

1 A Based on this language in the Georgia
2 interconnection agreement, yes, for Georgia.

3 Q And isn't that language also in MCI's
4 interconnection agreement with BellSouth in the State
5 of Mississippi?

6 A To the best of my recollection, yes, without
7 having the document before me.

8 Q And isn't that language in MCI's agreement
9 with BellSouth in the state of Louisiana?

10 A Again, to the best of my recollection
11 without having the documents before me, yes.

12 Q And how about Alabama?

13 A Yes, to the best of my recollection.

14 Q North Carolina?

15 A I'm -- yes, to the best of my recollection.
16 There again, I don't have that agreement in front of
17 me either.

18 Q South Carolina?

19 A Yes, to the best of my recollection without
20 the agreement in front of me.

21 Q But despite this provision that exists in
22 apparently almost all these other interconnection
23 agreements, it's MCI's position that BellSouth
24 voluntarily agreed that when MCI purchases recombined
25 elements that it gets it at the cost-based rates; is

1 that your testimony? Here in Florida.

2 A Yes.

3 Q Now, you have blown up on the chart
4 Section 2.6 of Attachment 3 from the BellSouth/MCI
5 interconnection agreement in Florida; is that correct?

6 A Yes.

7 Q Now, I believe you've stated that -- and I
8 believe this is in your testimony -- that this
9 provision, 2.6, quote, "makes clear that the network
10 elements in Attachment 1 are the only thing which
11 BellSouth may charge MCI, even when those elements are
12 combined with other network elements." Is that
13 correct?

14 A Yes, absent -- with a reduction for any
15 duplicate or unnecessary charges.

16 Q Now, was this language in 2.6 negotiated
17 specifically for BellSouth's agreement with MCI in
18 Florida?

19 A I don't know the procedural history for
20 those negotiations.

21 Q You have in front of you -- I think I gave
22 you the relevant excerpts from BellSouth's
23 interconnection agreement with MCI in Georgia. Do you
24 see that?

25 A I have Attachment 3 in front of me that you

1 presented to me.

2 Q Yes. If you could look at Attachment 3 and
3 look to paragraph 2.6 of that agreement.

4 A Yes, I'm there.

5 Q Does that language look the same as the
6 language in 2.6 in BellSouth's agreement with MCI in
7 Florida?

8 A Pardon me while I read it, please.

9 Q Certainly.

10 A (Pause)

11 MR. PELLEGRINI: Mr. Ross, do you have an
12 additional copy of that excerpt?

13 MR. ROSS: I don't, but I can get -- I can
14 make copies. I will make copies for all the parties.
15 I only got them this morning, and I will do that.

16 MR. PELLEGRINI: All right.

17 WITNESS PARKER: Yes, it appears consistent
18 with the language on the board behind me.

19 MR. ROSS: May I approach the witness, Madam
20 Chairman? (Handing documents to witness.)

21 Q (By Mr. Ross) Mr. Parker, I've handed you
22 excerpts from BellSouth's agreements with MCI, I
23 believe in Mississippi and in Louisiana; is that
24 correct? And I think you can tell from the top of the
25 page.

1 **A** Yes. I have Louisiana and Mississippi.

2 **Q** Could you look -- and I've turned to the
3 page where Section 2.6 appears in those respective
4 agreements.

5 Looking at Mississippi first, does the
6 language in 2.6 of that agreement differ in any
7 significant way from the language in 2.6 of
8 BellSouth's agreement with MCI in Florida?

9 **A** No.

10 **Q** And what about BellSouth's agreement with
11 MCI in Louisiana? Does the language in 2.6 of that
12 agreement differ in any material respect to the
13 language in 2.6 of BellSouth's agreement with MCI in
14 Florida?

15 **A** No.

16 **Q** So even though the language in 2.6 is
17 apparently uniform in all of these agreements, we can
18 agree, can we not, that in Georgia, Louisiana, and
19 Mississippi, MCI cannot purchase recombined elements
20 that recreate an existing BellSouth service at
21 cost-based rates?

22 **A** Based on the language you presented earlier,
23 no; but I'd like to clarify that to the extent that we
24 replicate a BellSouth service.

25 **COMMISSIONER CLARK:** Mr. Parker, you've

1 mentioned that before. Is there any agreement as to
2 what network elements in fact do recreate a given
3 service which is offered at wholesale?

4 **WITNESS PARKER:** Commissioner, no, I'm not
5 aware of one.

6 **COMMISSIONER CLARK:** Do you know of any
7 other witness who is offered, what in fact -- if you
8 order all these elements, you have in fact recreated a
9 service for which a wholesale discount should apply
10 rather than the sum of the combined elements?

11 **WITNESS PARKER:** No, Commissioner. I mean,
12 our counsel may can identify a witness more
13 appropriate to that issue.

14 **COMMISSIONER CLARK:** One thing that has
15 confused me in this proceeding is if we don't know
16 that, how do you know that it's -- that by combining
17 them you come up with this price, and if you do the
18 wholesale, it's this price? I mean, how do we know
19 that it's --

20 **WITNESS PARKER:** Well, based on my
21 familiarity with our ordering procedure, if we're
22 ordering a resale service from BellSouth, it's
23 specified as a resale or -- service from BellSouth.

24 If we're ordering a UNE service from
25 BellSouth, then we order it through the UNE ordering

1 process and the provisioning where we identify the
2 elements we choose to order and request that it be
3 provided.

4 Now, as to specifically when those
5 circumstances recreate a BellSouth service, I can't
6 specify. I can say, as in my filed testimony, that of
7 the 50 UNE orders we filed in Florida, all of them
8 were treated as resale orders.

9 **COMMISSIONER CLARK:** Can you tell me what
10 elements you ordered?

11 **WITNESS PARKER:** I believe I can find --

12 **COMMISSIONER CLARK:** Or can somebody tell
13 me?

14 **WITNESS PARKER:** I could find copies of the
15 UNE orders to provide to you that would identify what
16 elements we had ordered.

17 **COMMISSIONER JACOBS:** Generally the
18 controversy has been involving loop and port. Do you
19 know if that's what those orders contain?

20 **WITNESS PARKER:** Yes, loop and port orders;
21 and some of them may contain some other elements, but
22 primarily it was orders for loop and port.

23 **COMMISSIONER JACOBS:** And your testimony is
24 that they were all created as resale orders?

25 **WITNESS PARKER:** Yes. Of the 50 orders -- I

1 believe it's 50 UNE orders that I had that I reviewed,
2 they were all treated as resale orders in the state of
3 Florida.

4 **COMMISSIONER CLARK:** So all you have to do
5 is order a loop and a port and it's the same thing as
6 a resale?

7 **WITNESS PARKER:** Based on the orders I'm
8 familiar with that Southern Financial Operations
9 placed with BellSouth, yes.

10 **COMMISSIONER CLARK:** So the answer to the
11 question of what UNES are equivalent to resold service
12 is just the loop and port, then?

13 **WITNESS PARKER:** Based on the way BellSouth
14 has treated our orders, a loop and a port order has
15 been treated as a resale order.

16 **Q** **(By Mr. Ross)** Mr. Parker, just to follow
17 up the Commissioners' questions, those 50 orders were
18 for loops and ports already combined in BellSouth's
19 network; isn't that correct?

20 **A** I believe so, to the extent that I
21 understand the UNE order provisioning process.

22 **Q** Just so there's no misunderstanding, MCI in
23 these 50 orders was not requesting an unbundled loop
24 and an unbundled port that MCI was, in fact, going to
25 recombine; isn't that correct?

1 **A** I don't really know the answer to that
2 question. I don't have the technical skill to answer
3 it.

4 **Q** Now, in reading your testimony, I think the
5 other primary -- and I'm on Page 4 of your direct
6 testimony -- the other language in the agreement that
7 you cite in support of MCI's position is Attachment 1,
8 Section 8 of Attachment 1 to the interconnection
9 agreement. Do you see that?

10 **A** Yes, I do.

11 **Q** What does the first sentence of Section 8 of
12 that attachment say?

13 **A** "The recurring and nonrecurring prices for
14 unbundled network elements, UNEs, in Table 1 of this
15 attachment are appropriate for UNEs on an individual
16 stand-alone basis."

17 **Q** Okay. Does anything in that first sentence
18 indicate that these prices should be added together to
19 come up with the applicable price that would apply
20 when UNEs are combined?

21 **A** No, not in that sentence, but in the
22 sentence following, it reads that "When two or more
23 network elements are combined, these prices may lead
24 to duplicate charges."

25 **Q** All right. And as I read the rest of this

1 paragraph -- and you keep me straight here -- but this
2 seems to be saying that the prices that are in Table 1
3 of the attachment may not be appropriate when you have
4 two or more unbundled network elements that are
5 combined because of the possibility of duplicative
6 charges or unnecessary functions; is that correct?

7 **A** Yes. As I understand it, the prices for the
8 UNEs in Table 1 have some nonrecurring charges that
9 may be duplicated when they're combined that need to
10 be eliminated, either for work that's not done or for
11 a charge that's assessed twice for the same service.

12 **Q** But the language in this section, Section 8
13 of Attachment 1, Mr. Parker, is not limited to just
14 nonrecurring charges, is it?

15 **A** No.

16 **Q** It applies to both recurring and
17 nonrecurring charges; isn't that right?

18 **A** Yes.

19 **Q** And, in fact, if you'll look down just about
20 halfway through Section 8, the agreement states as
21 follows: "MCI and BellSouth shall work together to
22 establish the recurring and nonrecurring charges in
23 situations where MCI is ordering the multiple network
24 elements. Where the parties cannot agree to these
25 charges, either party may petition the Florida Public

1 Service Commission to settle the disputed charge or
2 charges."

3 Do you see that?

4 A Yes.

5 Q And that's what the agreement provides?

6 A Yes.

7 Q Now, MCI and BellSouth cannot agree or have
8 not agreed to the nonrecurring charges for certain
9 specified combinations; isn't that correct?

10 A Yes.

11 Q And MCI has petitioned the Commission to set
12 those nonrecurring charges; isn't that right?

13 A Yes.

14 Q Now, MCI and BellSouth also have not agreed
15 on the recurring price that should apply when MCI
16 purchases certain combinations; isn't that correct?

17 A Yes.

18 Q Has MCI petitioned the Commission to set
19 that price here in this proceeding?

20 A Yes, I believe so.

21 Q Let me switch gears on you just a little bit
22 and talk about usage data, which I believe is Issue 9
23 to be decided by the Commission. And as I understand
24 this issue, the question is, what does the
25 interconnection agreement require with respect to

1 BellSouth providing usage data that would be necessary
2 for MCI to bill interexchange carriers when MCI
3 provides service through unbundled network elements
4 either individually or in combination; is that
5 correct?

6 A Can you tell me what section of the
7 agreement you're referring to, please?

8 Q I'm actually not referring to the agreement.
9 I'm referring to the issue list that was entered by
10 the Commission on January 16, 1998. It was part of an
11 order severing the docket and establishing the issues.

12 A Would this be the prehearing order?

13 Q It may be in the prehearing order as well.

14 (Pause) Yes, it is. I'm sorry.

15 A Okay. And what section are you referring to
16 again?

17 Q Issue 9 on Page 17 of the prehearing order.

18 A Okay.

19 Q I just want to put this in context, and I'll
20 repeat my question. Is it your understanding that
21 this issue deals with what the interconnection
22 agreement requires BellSouth to provide in the way of
23 usage data so that MCI can bill interexchange carriers
24 when MCI is providing service through unbundled
25 network elements either on a stand-alone basis or in

1 combination?

2 **A** Could you repeat the question? You lost me
3 toward the end there, because I have an understanding
4 of the usage data and when we're entitled to have it
5 under the contract.

6 **Q** I'll ask it this way. Why don't you tell me
7 what you think Issue 9 means?

8 **A** Issue 9, to me, relates to the contract when
9 it specifies what information we receive from
10 BellSouth, and from my understanding in the
11 interconnection agreement -- if you'll bear with me
12 here. (Pause)

13 **Q** Well, before we get to the interconnection
14 agreement, I just want to make sure we understand what
15 the issue is in terms of what the Commission is being
16 asked to decide.

17 **A** Okay. Yes, I would agree that that's the
18 issue before the Commission.

19 **Q** Okay. So the question of usage data relates
20 to usage data that MCI needs to bill interexchange
21 carriers, correct?

22 **A** Yes. In addition to stands for -- there's
23 usage data that MCI needs in order to monitor services
24 and be sure that its customers are receiving the
25 services, and also for just general business practices

1 for MCI in monitoring traffic or what other uses that
2 the data is put to.

3 Q All right. But just so I'm clear here, if
4 whatever usage data MCI wants isn't necessary to bill
5 interexchange carriers, then that question is not
6 before -- or at least not encompassed within this
7 particular issue. Is that your understanding?

8 A Yes.

9 COMMISSIONER CLARK: I'm sorry, Mr. Ross.
10 Will ask you that again?

11 MR. ROSS: Yes.

12 Q (By Mr. Ross) To the extent we have a
13 dispute about usage data, the only issue before this
14 Commission is the obligation of BellSouth to provide
15 usage data so that MCI can bill interexchange
16 carriers; is that correct?

17 A Yes.

18 Q And the reason I ask this, there's an issue
19 in Georgia, MCI has filed a complaint in Georgia,
20 about BellSouth's obligation to provide usage data on
21 flat rated calls. Do you understand -- are you aware
22 of that?

23 A No, I don't have familiarity with that
24 action.

25 Q Now, you cite several provisions in your

1 testimony that you believe are relevant to this issue.
2 Can we agree that the scope of BellSouth's obligation
3 to provide usage data is contained in Attachment I
4 believe it's 8?

5 Actually, it may not be Attachment 8. I had
6 it marked. (Pause) You cite Section 4.2.1, and I'm
7 trying to remember the attachment where that appears.

8 **A** Are you referencing my direct testimony, my
9 rebuttal testimony, or my --

10 **Q** I think it's your rebuttal testimony where
11 you refer to 4.2.1.

12 Oh, I'm sorry. It's your direct, 4.1.1.3 of
13 Attachment 8. Here it is. Yeah. I was right.
14 Attachment 8.

15 **MR. MELSON:** It's Page 35 of Exhibit 3.

16 **WITNESS PARKER:** Okay. Are you referring to
17 my direct testimony on Page 8, line 1?

18 **Q** **(By Mr. Ross)** Yes, where you cite
19 Section 4.1.1.3 of Attachment 8.

20 **A** Yes.

21 **Q** And I guess what my question to you is,
22 Attachment 8, and specifically Section 4, outlines the
23 provision of subscriber usage data; isn't that
24 correct?

25 **A** Bear with me while I turn to that provision.

1 Q Certainly. It's on Page 40 of the
2 interconnection agreement.

3 A (Pause) I believe referencing the excerpts
4 from the interconnection agreement on Page 28 of my
5 Exhibit 2, there's the reference to Section 4.1.1.3,
6 which is referenced in my direct testimony.

7 Q Okay. I guess my question is, can we agree
8 that Section 4 of Attachment 8 which is entitled
9 "Provision of Subscriber Usage Data," sets forth in
10 detail the requirements for BellSouth's obligation to
11 provide usage data to MCI?

12 A Yes.

13 Q Now, I want to direct your attention to 4.2
14 of this section which deals with information exchanges
15 and interfaces.

16 A Okay.

17 Q And I'm particularly looking at 4.2.1.1, and
18 it says "BellSouth shall provide MCI with unrated EMR
19 records associated with all billable intraLATA toll
20 and local usage which they record on lines purchased
21 by MCI for resale."

22 Do you see that?

23 A What was your reference again?

24 Q 4.2.1.1, Page 47 of the interconnection
25 agreement, of this attachment of the interconnection

1 agreement.

2 **A** Okay.

3 **Q** Did I read that correctly? "BellSouth shall
4 provide MCIIm with unrated EMR records associated with
5 all billable intraLATA toll and local usage which they
6 record on lines purchased by MCIIm for resale."

7 Do you see that?

8 **A** Yes.

9 **Q** Can you tell the Commission what EMR records
10 are?

11 **A** No, I cannot.

12 **Q** Subject to check, would you agree that --
13 could you agree that EMR is a type of format that
14 complies with industry standards about how usage data
15 is to be reported?

16 **A** I mean, subject to what I'm told it means by
17 one of our technical advisers, yes, but I don't have
18 the technical understanding to know what EMR --

19 **Q** Mr. Martinez would probably be the person
20 to --

21 **A** Yes, Mr. Martinez.

22 **Q** -- answer the question? Now, the sentence
23 of this particular Section 4.2.1.1 also talks about
24 BellSouth's providing usage data in the future
25 concerning resale services. Do you see that?

1 A You're still in 4.2.1.1?

2 Q Yes, the second sentence of that, second --

3 A Yes, I see that.

4 Q And it refers to resale services?

5 A Yes.

6 Q I'll be honest. I've looked for a section
7 that outlines BellSouth's obligation to provide usage
8 data when BellSouth or when -- I'm sorry -- when MCI
9 is purchasing unbundled network elements; and the only
10 provision I could find was 4.2.2.2, which we'll talk
11 about in a minute. But are you aware of any other
12 provision in the -- in Section 4 that we're looking at
13 that outlines BellSouth's obligation to provide usage
14 data when MCI is purchasing unbundled network elements
15 as opposed to resale?

16 A Not in Section 4 of Attachment 8, but in
17 Attachment 3 of the interconnection agreement, which I
18 believe is on Page 14 of my Exhibit 2 at
19 Section 7.2.1.9.

20 Q Well, that just says "BellSouth shall record
21 all billable events involving usage of the element and
22 send the appropriate recording data to MCI as
23 outlined in Attachment 8."

24 A Yes.

25 Q And we're looking at Attachment 8, correct?

1 A Yes.

2 Q And I guess my question was, in Attachment 8
3 can you direct the Commission's attention to any
4 specific language which outlines the scope of
5 BellSouth's obligation to provide usage data when MCI
6 is purchasing unbundled network elements?

7 A Yes. In Attachment 8 -- and this is in my
8 exhibit on Page 29 of Section 4 of Attachment 8 -- the
9 general Section 4.1.1, Completed Calls.

10 Q Okay. So just so I'm clear here, you
11 believe that in this particular provision BellSouth's
12 obligated to provide usage data on all completed
13 calls; is that correct?

14 A Yes.

15 Q And it doesn't -- would you agree with me
16 there's nothing in 4.1.1.3 that refers to usage data
17 when MCI is purchasing unbundled network elements,
18 correct?

19 A I mean, I would agree that 4.1.1.3 isn't
20 specific to it. However, I would clarify that
21 statement with the section I referenced in
22 Attachment 3 which points us to Attachment 8.

23 Q And, in fact, doesn't the second sentence,
24 second full sentence in 4.1.1.3, allow for MCI to
25 request additional capabilities to provide daily usage

1 records for completed calls when MCI is engaged in
2 resale?

3 A Are you referring to the second line of
4 4.1.1.3?

5 Q It begins "However, following execution of
6 the agreement."

7 A Yes. MCI may submit and BellSouth will
8 accept a P-O-N, or PON, for a time and cost estimate
9 for development by BellSouth of the capability to
10 provide copies of other detail usage records for
11 completed calls originating from lines purchased by
12 MCI for resale.

13 Q And it doesn't have any reference to
14 unbundled network elements here either, does it?

15 A No, but it's unnecessary, as I stated
16 earlier.

17 Q Now, 4.2.2.2 does specifically deal with
18 BellSouth providing usage data in circumstances other
19 than when MCI is engaged in resale; isn't that
20 correct?

21 A You're in Attachment 8, 4.2.2?

22 Q Yes. I'm on Page 49 of the interconnection
23 agreement. It's entitled "Interim Number
24 Portability."

25 A Okay. Yes. It's on Page 37 of my

1 Exhibit 2, yes; interim number portability.

2 Q And this requires -- this sets out
3 BellSouth's obligation to provide call detail
4 sufficient to allow MCI to render bills to
5 interexchange carriers on ported numbers in the
6 BellSouth network; isn't that correct?

7 A Yes.

8 Q And a ported number -- keep me honest
9 here -- but MCI would have a ported number when MCI
10 were providing its own switching and purchasing other
11 elements from BellSouth?

12 A I don't really have the technical
13 understanding to answer that question.

14 Q That's fine. Other than the provisions that
15 we've discussed and that are mentioned in your
16 testimony, are you aware of any provision in this
17 particular agreement that you believe is relevant to
18 Issue 9 to be decided by this Commission?

19 A No.

20 MR. ROSS: Chairman Johnson, we have no
21 further questions of this witness.

22 Chairman, we would like to get copies of the
23 portions of the interconnection agreements that the
24 witness has referred to, get copies of those and make
25 them part of the -- introduce them into evidence as

1 part of this record, and we'll get copies for the
2 Commissioners and all the parties.

3 **CHAIRMAN JOHNSON:** Okay. And if you get
4 those copies, we will identify them as a separate
5 exhibit. I understand the entire document is in, but
6 for ease of use, that would be helpful. So once those
7 are copied and at the appropriate time, we'll identify
8 them as an exhibit.

9 **MR. ROSS:** That's right. These were the
10 excerpts from the Georgia, Louisiana and --

11 **CHAIRMAN JOHNSON:** Oh. I thought you were
12 making excerpts --

13 **MR. ROSS:** No.

14 **CHAIRMAN JOHNSON:** Got you. Okay. Thank
15 you.

16 **CROSS EXAMINATION**

17 **BY MR. PELLEGRINI:**

18 **Q** Mr. Parker, in your prefiled testimony and
19 again today you've referred to several specific
20 provisions in the MCI/BellSouth interconnection
21 agreement which you believe set forth an explicit
22 pricing standard for combinations of elements; isn't
23 that correct?

24 **A** Yes.

25 **Q** I'd like you to refer to each one of those

1 provisions individually or in conjunction one with the
2 other and demonstrate to this Commission why you
3 believe they provide an explicit pricing standard for
4 element combinations.

5 A In Attachment 3 of the interconnection
6 agreement -- which I don't have my copy that I'm most
7 familiar with in front of me -- but it addresses the
8 ordering and provisioning of network elements. And
9 Attachment 3 references for pricing of those elements
10 Attachment 1 of the interconnection agreement.

11 So the provisioning of the UNE orders is
12 specified in Attachment 3, and then the pricing of
13 those orders is provided in Attachment 1. And as I've
14 said, by analogy, to me it's like ordering from a
15 menu. When we go to render service to our customer,
16 we look to the elements that our customer needs in
17 order to provision service, and we order those
18 specific elements through the UNE ordering
19 provisioning provision process.

20 Q But can you identify the language,
21 specifically the language that sets forth the pricing
22 standard that you urge?

23 A Yes. It would be the language in
24 Section 2.6 of Attachment 3, which is on the board
25 behind me.

1 Q And which language particularly? The entire
2 provision?

3 A Yes. And I'll read from the board here. It
4 says "With respect to network elements and services in
5 existence as of the effective date of this agreement,
6 charges in Attachment 1 are inclusive and no other
7 charges apply, including but not limited to any other
8 consideration for connecting any network elements with
9 other network elements. BellSouth and MCI agree to
10 attempt in good faith to resolve any alleged errors or
11 omissions in Attachment 1."

12 Q But are there words or phrases more than
13 others that go to the definition of the pricing
14 standard?

15 A Yes; that the prices in Attachment 1 are
16 inclusive and no other charges apply.

17 Q And are you saying that that language and
18 that language alone sets forth the explicit standard
19 for pricing element combinations? Should the
20 Commission regard that particular provision as
21 providing that explicit standard?

22 A Well, I guess, if I may, I would reference
23 in answering your question, on my exhibit Page 9
24 references Attachment 3, Section 2.4 of the
25 interconnection agreement where it reads that BST, or

1 BellSouth Telecommunications, shall offer network
2 elements individually and in combination with any
3 other network elements in order to permit MCI Metro to
4 provide telecommunications services. The charges for
5 those elements are defined in Attachment 3,
6 Section 2.6.

7 And then also on Page 24 of my exhibit in
8 Attachment 8, Section 2.2.15, MCI may order and
9 BellSouth shall provision UNES either individually or
10 in combination.

11 Q Just one more question, Mr. Parker. Under
12 the provisions of MCI's interconnection agreements
13 with BellSouth in the other states in BellSouth's
14 region, is MCI free to use combined network elements
15 in any manner it chooses, or is it restricted to using
16 those elements to provide a service that would be
17 service resale? Excuse me. I refer to the provision
18 that requires MCI to pay the resale -- the wholesale
19 discount for resale if the service is replicative of a
20 BellSouth existing service.

21 A And I would agree with your statement in the
22 sense that for all of our UNE orders that I'm familiar
23 with and come to mind at this time, with the exception
24 of perhaps Kentucky, which that agreement was not put
25 before me in relation to these provisions, our UNE

1 orders have, to the best of my recollection and my
2 knowledge, have always been treated as resale.

3 Now, I know in the interconnection
4 agreements in Attachment 2 is the provision that
5 specifies local resale and what a resale should, in my
6 opinion, be. And then Attachment 3 deals with UNE
7 ordering and provisioning and the pricing.

8 From a transactional standpoint, since I am
9 in a sense BellSouth's customer, I order the service I
10 need, whether I order under the resale to resell a
11 service to my customer or whether I order under the
12 UNE, the uncombined network elements provision in
13 order to provision service to my customer under that
14 portion of the agreement.

15 **MR. PELLEGRINI:** Thank you, Mr. Parker.

16 **CHAIRMAN JOHNSON:** Commissioners? Redirect?

17 **COMMISSIONER CLARK:** I wanted to ask a
18 question. You were not part of the negotiations that
19 resulted in this agreement; is that correct?

20 **WITNESS PARKER:** Yes, Commissioner, that is
21 correct.

22 **COMMISSIONER CLARK:** And you were not part
23 of the proceedings where it was arbitrated; is that
24 correct?

25 **WITNESS PARKER:** That is correct.

1 **COMMISSIONER CLARK:** And have you read the
2 orders that we issued that were issued with respect to
3 approving this agreement?

4 **WITNESS PARKER:** Yes, I have read the
5 orders. However, as far as the impact on this
6 agreement, I relied on my state regulatory counsel to
7 advise me of the impact on that agreement.

8 **COMMISSIONER CLARK:** You're at least aware
9 of the fact that the notion of whether or not
10 unbundled network elements could be recombined and in
11 effect duplicate a service at the rate at which they
12 should be charged, you're at least aware that that was
13 an issue?

14 **WITNESS PARKER:** Yes.

15 **COMMISSIONER CLARK:** And we required
16 BellSouth to take out some language which indicated it
17 would be at resale because we hadn't reached that
18 issue yet. Are you aware of that?

19 **WITNESS PARKER:** Yes.

20 **COMMISSIONER CLARK:** If you were aware of
21 that, I find there's a little disconnect in the fact
22 that all that was going on and we said, well, it's not
23 before us, and it is your position that, in fact, they
24 agreed to it.

25 **WITNESS PARKER:** Based on the agreement as

1 it was tendered before me, as a commercial attorney I
2 was given this contract, and it was approved by the
3 Commission, and told that this is the effective
4 contract that controls our service initiatives in the
5 state of Florida; and that's what I followed is the
6 plain language of the contract.

7 To be honest, when people ask me what
8 recreates a BellSouth service, I don't know. What I
9 do know is that the business and/or technical people I
10 support come to me to provision service, and they tell
11 me they want to provision it as a UNE; and that we
12 have ordered the UNES, and consistently they've always
13 been treated as resale.

14 So there doesn't seem to be anything in
15 BellSouth's interpretation or treatment of our
16 ordering of UNES under this contract that ever allows
17 us to order a UNE that's not resale, even though the
18 contract language is specific and clear that we have
19 the capability to order UNES and price them as
20 specified in Attachment 1 of the contract.

21 **COMMISSIONER CLARK:** And what is that price
22 in Attachment 1?

23 **WITNESS PARKER:** It's a list of prices for,
24 I guess, each of the individual elements that would be
25 used to comprise the order. I mean, the elements for

1 the loop and port and the combinations of services
2 attached thereto.

3 **COMMISSIONER CLARK:** I gather the gist of
4 your testimony is we should only look at the agreement
5 as filed and ignore the fact that this exact point was
6 put before us and we felt that -- and it was our
7 understanding that the UNEs that were under
8 negotiation could not be combined and produce a
9 service for which there would be the equivalent of
10 resale.

11 **WITNESS PARKER:** Commissioner, the best way
12 for me to answer that question is that the agreement I
13 was given -- I was not a part of the negotiation
14 process -- but the agreement and the provisions
15 therein were negotiated by BellSouth, and they agreed
16 to the provisions that are in the agreement. And the
17 agreement is plain and clear on these issues, and I
18 believe the plain language of the agreement answers
19 the questions that MCI has put before the Commission
20 today.

21 I don't think it's a situation where the
22 orders that preceded the agreement were known by both
23 companies going into the negotiations, and to the
24 extent that BellSouth agreed to a provision that it
25 was capable of agreeing to that may have been not

1 addressed or fully addressed in a Commission order
2 reflects the fact that they negotiated that issue and
3 voluntarily agreed to that provision.

4 COMMISSIONER CLARK: Thank you.

5 REDIRECT EXAMINATION

6 BY MR. BOND:

7 Q Mr. Parker, is there an MCI witness in this
8 proceeding that did participate in the negotiation of
9 the agreement?

10 A Yes, there is.

11 Q And who is that?

12 A Ron Martinez.

13 Q BellSouth's attorney earlier handed you an
14 excerpt from the Georgia agreement, Attachment 3,
15 Section 2.3 regarding recombined elements priced at
16 resale. Is there any similar provision in the Florida
17 interconnection agreement? I believe it was
18 Section 2.3 of Attachment 3.

19 A Okay. Of the Georgia agreement?

20 Q Yes.

21 A Okay. What I'm looking for is Attachment 3,
22 Section 2.3 of the Florida agreement. (Pause)

23 The language in the Florida agreement is
24 much briefer than the language in the Georgia
25 agreement.

1 Q Does it have the language about UNE
2 combinations being priced at resale in the Florida
3 agreement?

4 A No. The Florida agreement states that MCI
5 may use one or more network elements to provide any
6 feature, function, capability, or service option that
7 such network element or elements is capable of
8 providing, or any feature, function, capability, or
9 service option that is described in the technical
10 references identified herein.

11 Q You had discussed earlier MCI orders being
12 treated as resale. Just for clarification, was it
13 BellSouth that was treating them as resale?

14 A Yes, BellSouth treated them as resale.

15 **COMMISSIONER CLARK:** Mr. Bond, I apologize
16 for interrupting you. Is it correct that your
17 testimony previously was there is no state that
18 BellSouth serves in that allows you to order a network
19 element, unbundled network elements, and then
20 recombine them into what is equivalent of a retail
21 service and allows you to charge the UNE price as
22 opposed to the resale price?

23 **WITNESS PARKER:** Yes, that's correct.

24 **COMMISSIONER CLARK:** Everywhere else they're
25 charging you the resale price?

1 **WITNESS PARKER:** Yes, with the clarification
2 that the Kentucky agreement is different. I don't
3 have a firsthand knowledge of the provisioning in
4 Kentucky, but I believe that that contract, it does
5 differ from the language that was presented in these
6 other agreements.

7 **COMMISSIONER CLARK:** Just so I'm clear, how
8 many commissions have spoken on the issue? I think
9 Georgia has and Louisiana, but --

10 **WITNESS PARKER:** To be honest, Mr. Bond
11 would have a better familiarity.

12 **COMMISSIONER CLARK:** All right.

13 **CHAIRMAN JOHNSON:** Any other redirect?

14 **MR. BOND:** Yes.

15 **Q** **(By Mr. Bond)** You had quoted earlier on
16 the switched access usage topic from Section 7.2.1.9
17 of Attachment 3. Do you know whether switched access
18 is a billable event?

19 **A** No, I don't.

20 **Q** Could you refer to Section 7.1.1 of
21 Attachment 3?

22 **A** Yes. I believe it's on Page 12 of my
23 Exhibit 2.

24 **Q** And look at the last sentence of that
25 section.

1 **A** Okay.

2 **Q** Does that section address routing of
3 interLATA calls?

4 **A** Yes. It reads, "Local switching shall also
5 be capable of routing local intraLATA/interLATA calls
6 to international subscribers' preferred carrier call
7 features, e.g., call forwarding and CENTREX
8 capabilities."

9 **Q** And Mr. Pellegrini had talked to you about
10 walking through provisions of the agreement that
11 relate to pricing of UNEs. Would Section 8 of
12 Attachment 1 also be relevant to that inquiry?

13 **A** Yes.

14 **MR. BOND:** No further questions. Thank you.

15 **CHAIRMAN JOHNSON:** Exhibits?

16 **MR. BOND:** MCI moves Exhibit 3.

17 **CHAIRMAN JOHNSON:** Show that admitted
18 without objection.

19 (Exhibit 3 received in evidence.)

20 **MR. PELLEGRINI:** Staff moves Exhibit 2.

21 **CHAIRMAN JOHNSON:** And 1?

22 **MR. PELLEGRINI:** And 1.

23 **CHAIRMAN JOHNSON:** Show 1 and 2 admitted
24 without objection.

25 (Exhibits 1 and 2 received in evidence.)

1 **MR. ROSS:** Chairman Johnson, can we go ahead
2 and have marked for identification purposes the
3 exhibits as a collective exhibit of the
4 interconnection agreements that we had discussed with
5 Mr. Parker, and we'll get copies made and actually
6 introduced into the record once everybody has a copy?

7 **CHAIRMAN JOHNSON:** Okay. We'll identify
8 that as Exhibit 4, and a short title?

9 **MR. ROSS:** That would be "Excerpts from
10 Interconnection Agreements in Louisiana, Mississippi,
11 and Georgia."

12 **CHAIRMAN JOHNSON:** Louisiana, Mississippi,
13 and Georgia, okay; so identified as Exhibit 4.

14 (Exhibit 4 marked for identification.)

15 **MR. ROSS:** Thank you.

16 **CHAIRMAN JOHNSON:** Thank you, sir. You're
17 excused.

18 (Witness Parker excused.)

19 - - - - -

20 **CHAIRMAN JOHNSON:** We'll take a 10-minute
21 recess.

22 (Brief recess.)

23 - - - - -

24 **CHAIRMAN JOHNSON:** We're going to go back on
25 the record.

1 MR. BOND: MCI would call Tom Hyde.

2 CHAIRMAN JOHNSON: Mr. Hyde.

3 - - - - -

4 **THOMAS HYDE**

5 was called as a witness on behalf of MCI
6 Telecommunications Corporation and, having been duly
7 sworn, testified as follows:

8 **DIRECT EXAMINATION**

9 **BY MR. BOND:**

10 Q Could you please state your name?

11 A My name is Thomas Hyde.

12 Q And what is your business address?

13 A My business address is 780 Johnson Ferry
14 Road, Suite 700, Atlanta, Georgia 30342.

15 Q By whom are you employed and in what
16 capacity?

17 A I'm a consultant providing services to MCI.

18 Q And did you cause to be filed 12 pages of
19 prefiled direct testimony in this matter?

20 A Yes, I did.

21 Q Do you have any changes or corrections you'd
22 like to make to that testimony?

23 A No, I do not.

24 Q If I was to ask you the same questions today
25 that appear in your prefiled testimony, would your

1 answers be the same?

2 A Yes, they would.

3 MR. BOND: Madam Chairman, I'd ask that
4 Mr. Hyde's prefiled direct testimony be inserted
5 inserted into the record as though read.

6 CHAIRMAN JOHNSON: It will be so inserted.

7 Q (By Mr. Bond) Mr. Hyde, did you prefile
8 four exhibits attached to your direct testimony?

9 A Yes, I did.

10 Q Are those true and correct copies?

11 A Yes, they are.

12 MR. BOND: I ask that they be marked as a
13 composite exhibit.

14 CHAIRMAN JOHNSON: They will be marked as
15 Composite Exhibit 5.

16 (Exhibit 5 marked for identification.)

17 Q (By Mr. Bond) Mr. Hyde, did you cause to
18 be filed five pages of rebuttal prefiled testimony in
19 this matter?

20 A Yes, I did.

21 Q Do you have any changes or corrections you'd
22 like to make to your rebuttal testimony?

23 A No, I do not.

24 Q If I was to ask you the same questions that
25 appear in your prefiled rebuttal testimony today would

1 your answers be the same?

2 **A** Yes, they would.

3 **MR. BOND:** Madam Chairman, I'd like to ask
4 Mr. Hyde's prefiled rebuttal testimony be inserted
5 into the record as though read.

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

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DIRECT TESTIMONY OF
THOMAS HYDE
ON BEHALF OF
MCI TELECOMMUNICATIONS CORPORATION
DOCKET NO. 971140-TP
JANUARY 29, 1998

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

A. My name is Thomas Hyde. I am presently providing consulting services to MCI Telecommunications Corporation ("MCI"). My business address is 780 Johnson Ferry Road, Suite 700, Atlanta, GA 30188.

Q. PLEASE STATE YOUR BACKGROUND AND QUALIFICATIONS.

A. I have over thirty years of experience in telecommunications including installation, maintenance and design of switched and special toll services with AT&T; pricing, rate and tariff development with South Central Bell and BellSouth Telecommunications (BST) for various services including intrastate and interstate switched and special access; and access and technology planning with the National Exchange Carrier Association (NECA). My job responsibilities required that I master diverse telecommunications disciplines including network design, equipment installation and maintenance, rate and tariff

1 development, project management, and technical aspects of the public switched
2 network. In the 1980's, while responsible for the switched and special access
3 rate and tariff development for BST following the divestiture of the Bell System,
4 I developed rates and support documentation for the implementation of access.
5 As part of that process, I also had the responsibility of assuring the validity of the
6 cost and demand inputs used in developing those rates. During this time the
7 Federal Communications Commission (FCC) held that this was the methodology
8 to be emulated by the other Regional Bell Operating Companies (RBOCs). For
9 the past five years I have been responsible for access and technology planning at
10 NECA, responsible for planning and implementation of Local Transport
11 Restructure, Access Reform, ISDN, SONET and various other services. I am
12 presently providing telecommunications consulting services to MCI. I have
13 recently filed unbundled network element non-recurring cost testimony with the
14 Alabama, Florida, Georgia, Louisiana and South Carolina Public Service
15 Commissions and the Tennessee Regulatory Authority. In addition, I have also
16 recently filed Universal Service Benchmark testimony with the Kentucky and the
17 South Carolina Public Service Commissions and the Tennessee Regulatory
18 Authority.

19

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

21

22 **A.** I was asked by MCI to adjust the BST non-recurring cost (NRC) study and
23 proposed NRC charges and to develop revisions to remove the functions that are
24 not needed when a combination of loop and port are provided to migrate an
25 existing BST customer to an MCI service using unbundled network elements. I

1 was given the assumption that the loop and port are connected today, that soft
2 dial tone is deployed and that BST will not disconnect the loop from the port
3 before providing them to MCI. The combinations I examined are:

- 4 1. 2-Wire Analog Loop and 2-Wire Analog Port,
- 5 2. 4-Wire Analog Loop and 4-Wire Analog Port,
- 6 3. 2-Wire Digital ISDN Loop and 2-Wire Digital ISDN Port,
- 7 4. 4-Wire DS-1 Loop and 4-Wire Analog Port(s).

8

9 **Q. WHAT BST COST MODEL DID YOU USE TO MAKE THE**
10 **REVISIONS?**

11

12 **A.** I used the public version of the cost study that BST has provided in Georgia and
13 in other cost cases across the Southeast. I validated that work times and labor
14 rates used in the public BST Georgia study to estimate the non-recurring costs
15 were the same as used in Florida for the only combination element recently filed
16 in Florida. I then assumed that BST would use this same cost study if they filed
17 up-to-date cost studies in Florida for the remaining elements. In this manner, I
18 did not have to utilize worktimes and labor rates that BST claims in Florida are
19 confidential.

20

21 **Q. WHAT ARE THE PROVISIONING ASSUMPTIONS THAT UNDERLIE**
22 **THE BST DIRECT COST STUDY?**

23

24 **A.** As an initial matter, it is important to understand the assumptions in the BST
25 NRC cost study. As reflected in Mr. Varner's deposition in the recent Florida

1 cost docket, when provisioning an existing unbundled loop and port to CLECs
2 for combination, BST assumes that the loop will be disconnected at the Main
3 Distribution Frame (MDF) and routed to the CLEC's collocation space via a
4 crossconnect and be connected to the CLEC's equipment at the collocation
5 space. Under BST's assumption, the CLEC would then "combine" the loop and
6 port by obtaining a cross connect that would connect the loop coming out of the
7 CLEC collocation space with the port of the BST switch. This is a very
8 inefficient process and requires work (time and labor) by several BST functional
9 work groups to perform service order processing, engineering, and connect and
10 test functions.

11

12 Very little of this work is necessary when the loop and port remains intact and
13 the loop is not disconnected by BST at the MDF for delivery to a CLEC
14 collocation space for subsequent re-connection to the switch port.

15

16 **Q. WHAT ADJUSTMENTS DID YOU MAKE TO THE BST NRC COST**
17 **STUDY TO REMOVE UNNECESSARY WORK FUNCTIONS FOR A**
18 **COMBINED LOOP AND PORT?**

19

20 **A.** As I indicated earlier, I was asked to adjust the BST NRC direct cost study using
21 the assumption that the non-recurring cost should represent the cost of migrating
22 an existing BST customer to MCI and, therefore, the loop and port are already
23 connected.

24

1 I was also asked to assume that soft dial tone using dedicated inside plant and
2 dedicated outside plant (DIP/DOP) was deployed in the BST network and that
3 BST would not disconnect the loop and port before furnishing the UNEs to MCI.
4 As a result of these assumptions, there are significant amounts of work functions
5 contained in the BST NRC direct cost study that are unnecessary.

6
7 I was also asked to assume two scenarios regarding the "fall-out" of orders from
8 the mechanized process. In one scenario, I assume that 80% of the orders are
9 handled electronically and 20% of the orders require manual intervention. This is
10 the assumption that BST utilized in its NRC cost studies in Louisiana, Alabama,
11 Georgia, Tennessee and North Carolina, as opposed to the 100% "fall-out" --or
12 manual processing of all orders -- that BST's NRC cost study assumes in Florida.
13 In other words, BST developed costs assuming manual order processing. To
14 derive proposed costs for electronic orders in Florida for the elements in the
15 recent Florida cost docket, BST made a subsequent unsupported adjustment to
16 that manual cost. No such adjustment has been made for the costs for the
17 elements that had permanent rates assigned in the initial arbitration hearing. I
18 also developed a second scenario where 97% of the orders are processed
19 electronically and only 3% of the orders require manual intervention. This level
20 of efficiency is what BST's witness Stacy indicated in his Georgia testimony that
21 BST is able to achieve for its own orders.

22

23 **Q. PLEASE EXPLAIN THE ADJUSTMENTS THAT YOU MADE TO THE**
24 **BST NRC COST STUDY TO ELIMINATE UNNECESSARY WORK**

1 **FUNCTIONS FOR THE COMBINATION OF A 2-WIRE ANALOG**
2 **LOOP AND PORT.**

3
4 **A.** Page 1 of Exhibit 5 (TAH-1) is the output sheet which reflects the adjustments
5 that I made to correct the BST NRC direct cost study for a 2-Wire analog loop
6 and a 2-Wire analog port to eliminate unnecessary work functions for the
7 combination 2-Wire loop and port and includes a 3% “fallout” of electronic
8 orders. Page 2 of Exhibit 5 (TAH-1) contains the same adjustments as on
9 page 1 with a 20% “fallout”. Page 3 of Exhibit 5 (TAH-1) is the output sheet
10 compiled from the BST NRC direct cost study for the 2-Wire analog loop and
11 the 2-wire analog port which reflects the work functions that BST assumes are
12 necessary under the scenario where the loop is disconnected at the MDF, cross-
13 connected to the CLEC collocation space, and reconnected back to the switch
14 port via another cross-connect.

15
16 I used the SL2 (Designed) 2-Wire analog loop instead of the more appropriate
17 SL1 (non-designed) loop since BST has not filed the SL1 in Florida as they have
18 in the other southeastern states.

19
20 The loop work functions for engineering, connect and test, and travel are not
21 needed under the assumption of an existing BST customer whose service is
22 migrated to MCI without disconnect because these functions are only involved
23 when a service is connected. Under the assumption that an existing loop and
24 port are already connected, and that the customer served by that loop and port
25 are to be “migrated” to MCI, these functions would no longer be necessary.

1 Therefore these worktimes were reduced to zero. Of the five service order
2 functions, only the ICSC function is involved with clearing a “fallout” of an
3 electronic order for “migrating” an existing BST customer to MCI. All other
4 service order functions were also reduced to zero worktimes because they would
5 not be necessary under the “migration” scenario. I have adjusted the ICSC
6 worktime to reflect an efficient provisioning process whereby 97% of the orders
7 are processed electronically. Therefore, only 3% of the orders will require the
8 work activities of the ICSC to correct the “fallout” condition. Since the
9 assumption is that soft dial tone is deployed in the BST network, there should be
10 no work activity to disconnect an existing loop. Therefore, I have eliminated the
11 work times associated with the loop disconnect function. I have also corrected
12 the error that BST made in implementing their assumption of 15 minutes per
13 “fallout” order to correct the “fallout” condition and applied the worktime only
14 to the first loop element and not to the additional loop element. The 3% ICSC
15 manual correction of “fallout” orders is represented by applying a work time of
16 .0075 hours to all orders at the direct labor rate for the ICSC function.

17
18 The only port work function necessary for a migration of an existing BST
19 customer to MCI would be the Connect & Test function for Recent Change Line
20 Translations (RCMAG). The service order functions are already included in the
21 loop “fallout” correction, since the loop and port would be ordered on the same
22 order. As with the loop, if an existing port is not disconnected from the loop
23 when “migrated” to MCI, connect and test functions, excluding RCMAG
24 functions, would not be necessary. Since the RCMAG functions may be
25 necessary every time a customer change occurs, the port NRC is represented by

1 applying the installation work time of .0250 for both the first and additional
2 elements to the direct labor rate and .0125 for both the first and additional
3 disconnect functions to the direct labor rate and the disconnect discount factor.

4
5 The total combined NRC would be the sum of the adjusted loop and port NRCs.

6
7 **Q. PLEASE EXPLAIN THE ADJUSTMENTS THAT YOU MADE TO THE**
8 **BST NRC COST STUDY TO ELIMINATE UNNECESSARY WORK**
9 **FUNCTIONS FOR THE COMBINATION OF A 4-WIRE ANALOG**
10 **LOOP AND PORT.**

11
12 **A.** Page 1 of Exhibit 5 (TAH-2) is the output sheet which reflects the adjustments
13 that I made to correct the BST NRC direct cost study for a 4-Wire analog loop
14 and a 4-Wire analog port to eliminate unnecessary work functions for the
15 combination 4-Wire loop and port and includes a 3% "fallout" of electronic
16 orders. Page 2 of Exhibit 5 (TAH-2) contains the same adjustments as on
17 page 1 with a 20% "fallout". Page 3 of Exhibit 5 (TAH-2) is the output sheet
18 compiled from the BST NRC direct cost study for the 4-Wire analog loop and
19 the 4-wire analog port which reflects the work functions that BST assumes are
20 necessary under the scenario where the loop is disconnected at the MDF, cross-
21 connected to the CLEC collocation space and reconnected back to the switch
22 port via another cross-connect.

23
24 The appropriate adjustment to the non-recurring cost for providing the 4-Wire
25 analog loop and port combination would be the same as for the 2-Wire analog

1 loop and port, except that a different disconnect discount factor was used by
2 BST.

3

4 **Q. PLEASE EXPLAIN THE ADJUSTMENTS THAT YOU MADE TO THE**
5 **BST NRC COST STUDY TO ELIMINATE UNNECESSARY WORK**
6 **FUNCTIONS FOR THE COMBINATION OF A 2-WIRE DIGITAL ISDN**
7 **LOOP AND PORT.**

8

9 **A.** Page 1 of Exhibit 5 (TAH-3) is the output sheet which reflects the adjustments
10 that I made to correct the BST NRC direct cost study for a 2-Wire digital ISDN
11 loop and a 2-Wire digital ISDN port to eliminate unnecessary work functions for
12 the combination 2-Wire ISDN loop and port and includes a 3% "fallout" of
13 electronic orders. Page 2 of Exhibit 5 (TAH-3) contains the same adjustments
14 as on page 1 with a 20% "fallout". Page 3 of Exhibit 5 (TAH-3) is the output
15 sheet compiled from the BST NRC direct cost study for the 2-Wire digital ISDN
16 loop and the 2-wire digital ISDN port which reflects the work functions that BST
17 assumes are necessary under the scenario where the loop is disconnected at the
18 MDF, cross-connected to the CLEC collocation space and reconnected back to
19 the switch port via another cross-connect.

20

21 The appropriate adjustments to the non-recurring costs for providing the 2-Wire
22 digital ISDN loop and port combination would be the same as for the 2-Wire
23 analog loop and port except that a different RCMAG worktime and a different
24 disconnect discount factor were used by BST. The ISDN port NRC is
25 represented by applying the installation work time of .0667 for both the first and

1 additional elements to the direct labor rate and .0333 for both the first and
2 additional disconnect functions to the direct labor rate and the disconnect
3 discount factor.

4

5 **Q. PLEASE EXPLAIN THE ADJUSTMENTS THAT YOU MADE TO THE**
6 **BST NRC COST STUDY TO ELIMINATE UNNECESSARY WORK**
7 **FUNCTIONS FOR THE COMBINATION OF A DS-1 LOOP AND 4-**
8 **WIRE ANALOG PORT.**

9

10 **A. Page 1 of Exhibit 5 (TAH-4) is the output sheet which reflects the adjustments**
11 **that I made to correct the BST NRC direct cost study for a DS-1 loop and a 4-**
12 **Wire analog port to eliminate unnecessary work functions for the combination**
13 **DS-1 loop and 4-Wire analog port and includes a 3% “fallout” of electronic**
14 **orders. Page 2 of Exhibit 5 (TAH-4) contains the same adjustments as on**
15 **page 1 with a 20% “fallout”. Page 3 of Exhibit 5 (TAH-4) is the output sheet**
16 **compiled from the BST NRC direct cost study for the DS-1 analog loop and the**
17 **4-wire analog port which reflects the work functions that BST assumes are**
18 **necessary under the scenario where the loop is disconnected at the MDF, cross-**
19 **connected to the CLEC collocation space where multiplexing takes place and**
20 **reconnected back to the switch port via another cross-connect.**

21

22 The appropriate adjustments to the non-recurring costs for providing the DS-1
23 loop would be the same as for the 2-Wire analog loop except that, since a DS-1
24 is treated as a special service, the service order functions for ACAC and Install
25 and Maintenance (SSIM) may be necessary on a “fallout” basis. The other

1 service order functions, network plug-in administration and the work
 2 management center would still not be necessary, because they are used only for
 3 new connect plug-ins and for coordinating dispatched technicians. In addition to
 4 the ICSC functions that are the same on all of the combined services, DS-1 loops
 5 would be represented by applying the installation worktimes of the ACAC of
 6 .0019 for both first and additional and the worktimes of the SSIM of .0075 for
 7 the first and .0050 for the additional to the direct labor rate.

8
 9 The port costs are the non-recurring costs for the 4-Wire analog port multiplied
 10 by 24 to allow for the maximum DS-1 capability of 24 voice grade facilities.

11
 12 **Q. CAN YOU SUMMARIZE THE NON-RECURRING CHARGES FOR THE**
 13 **VARIOUS LOOP/PORT COMBINATIONS THAT YOU CALCULATED**
 14 **BY ADJUSTING BST'S COST STUDY?**

15
 16 **A.** The following chart summarizes the adjusted costs for the loop/port combinations
 17 as well as listing BST's proposed costs for those same combinations:

	3 % Fallout	20 % Fallout	BST Proposed
20 2-Wire Analog -First	\$ 1.6755	\$ 3.4643	\$ 153.4205
21 -Additional	\$ 1.3598	\$ 1.3598	\$ 117.9089
22 4-Wire Analog -First	\$ 1.6389	\$ 3.4277	\$ 327.3543
23 -Additional	\$ 1.3232	\$ 1.3232	\$ 237.0027
24 2-Wire ISDN -First	\$ 3.8319	\$ 5.6207	\$ 356.3381
25 -Additional	\$ 3.5162	\$ 3.5162	\$ 269.9648

1			3 % Fallout	20 % Fallout	BST Proposed
2	DS-1	-First	\$32.6134	\$37.4612	\$1720.2483
3		-Additional	\$32.0454	\$33.6746	\$1003.7898

4

5 **0 DOES THAT CONCLUDE YOUR TESTIMONY?**

6

7 **A. Yes.**

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**REBUTTAL TESTIMONY OF
THOMAS HYDE
ON BEHALF OF
MCI TELECOMMUNICATIONS CORPORATION
AND
MCI METRO ACCESS TRANSMISSION SERVICES, INC.
DOCKET NO. 971140-TP
FEBRUARY 20, 1998**

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

A. My name is Thomas Hyde. I am presently providing consulting services to MCI Telecommunications Corporation ("MCI"). My business address is 780 Johnson Ferry Road, Suite 700, Atlanta, GA 30188.

**Q. ARE YOU THE SAME THOMAS HYDE WHO FILED DIRECT
TESTIMONY IN THIS DOCKET?**

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

1 **A.** The purpose of my testimony is to respond to certain testimony presented by
2 BellSouth witness Eno Landry. I also explain why the studies on which Daonne
3 Caldwell relied in her direct testimony would not change the NRCs I have
4 suggested for the loop/port combinations at issue in this docket.

5

6 **Q.** **MR. LANDRY STATES IN HIS TESTIMONY THAT TWO ORDERS**
7 **WILL BE REQUIRED TO PROCESS A CLEC ORDER. DO YOU**
8 **AGREE WITH MR LANDRY'S ASSUMPTION ?**

9

10 **A.** No. The rationale that Mr. Landry uses to justify two orders is that the loop
11 cannot be associated with the port on the same bill. When an existing BellSouth
12 customer's service is migrated to a CLEC, it will use the same loop connected to
13 the same port, with the same telephone number. In this environment, there is no
14 valid reason to disassociate the telephone number from the loop. If BellSouth
15 feels that reassurance is necessary, the CLEC can notify BellSouth that that
16 particular service will have the current port associated with the current loop,
17 thereby allowing BellSouth to retain the existing telephone number as the loop
18 identifier. Using the telephone number as loop identifier removes any need for a
19 second order and any additional costs associated with a second order.

20

21 **Q.** **DO YOU AGREE WITH MR LANDRY'S ASSUMPTIONS ON**
22 **FALLOUT?**

23

24 **A.** BellSouth's assumptions that CLEC fallout will be greater than current access
25 fallout are not appropriate. In a forward looking environment, with most

1 efficient, least cost technology, fallout will be minimal with the CLEC performing
2 corrections, not BellSouth. Fallout for CLECs should be consistent with
3 BellSouth's fallout for its own orders. Fallout of three percent or less is the
4 correct level to use in any UNE cost study since this is BellSouth's own fallout
5 level. This level of fallout is further supported by the statement made by the
6 President of the United States Telephone Association (USTA), Mr. Roy Neel, in
7 the En Banc on State of Local Competition before the Federal Communications
8 Commission (FCC) on January 29, 1998. In that proceeding Mr Neel stated:

9
10 "[b]ut you look in Bell South alone, there's one C-LEC in Bell South and
11 we can get you the details about this, that has achieved a flow through
12 rate of 97 percent over the last few months."

13
14 **Q. HAS BELL SOUTH ADDRESSED THE COST OF MIGRATING AN**
15 **EXISTING CUSTOMER TO CLEC SERVICE?**

16
17 **A.** No. BellSouth has only addressed the functions required for the new installation
18 of a designed service. No provision has been included in BellSouth's study for
19 migration of existing customers to UNE combinations, which is the only scenario
20 for which the Commission will be setting rates in this proceeding. A large
21 percentage of CLEC orders will be for migrating existing BellSouth customers to
22 CLEC service. When you have an existing service with a loop connected to a
23 port and that combination will be retained by the CLEC, there is no need for any
24 work to be performed by BellSouth on the loop or at the customer premises.

1 Design functions are also unnecessary, as the service is already working and
2 design efforts would be redundant and not cost justified.

3

4 In summary, Mr. Landry assumes that most of the work functions necessary to
5 provide the stand-alone elements will still need to be performed to provide
6 loop/port combinations. As I explained above, however, most of the work
7 functions cited by Mr. Landry, and included in BellSouth's cost studies, are not
8 necessary when existing BellSouth customers are migrated to loop/port
9 combinations. As I demonstrated in my Direct testimony, when these unnecessary
10 functions are removed, the nonrecurring charges are reduced by approximately
11 two orders of magnitude. This dramatic reduction in cost is achieved without
12 even questioning the overstated work times for those functions which remain
13 when the existing customer is migrated.

14

15 **Q. HAVE YOU REVIEWED THE DIRECT TESTIMONY FILED BY MS.**
16 **DAONNE CALDWELL?**

17

18 **A. Yes.**

19

20 **Q. IN YOUR DIRECT TESTIMONY, THE NRCs WHICH YOU**
21 **SUGGESTED WERE GENERATED BASED ON INPUT FROM THE**
22 **PUBLIC VERSION OF THE MOST RECENT BELL SOUTH COST**
23 **STUDY FILED IN GEORGIA. WOULD YOUR RESULTS BE**
24 **DIFFERENT IF YOU SUBSTITUTED THOSE INPUTS FOR THE ONES**
25 **MS. CALDWELL USED IN THIS CASE?**

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A. No. All of the inputs are virtually identical.

As I explained in my Direct Testimony, the only substantive difference between the Georgia and Florida studies are the assumptions about mechanical order processing.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

1 **Q** **(By Mr. Bond)** Mr. Hyde, could you please
2 summarize your testimony.

3 **A** Yes, I will.

4 **MR. PELLEGRINI:** Excuse me, Mr. Hyde.
5 Chairman Johnson, before Mr. Hyde begins his summary,
6 Staff would offer an exhibit identified as TAH-5 and
7 ask it be marked for identification purposes.

8 **CHAIRMAN JOHNSON:** We'll identify TAH-5 as
9 Exhibit 6.

10 (Exhibit 6 marked for identification.)

11 **MR. PELLEGRINI:** Thank you.

12 **Q** **(By Mr. Bond)** Mr. Hyde, could you please
13 summarize your testimony at this time?

14 **A** Good afternoon, Commissioners. The purpose
15 of my testimony is to present adjustments to the
16 BellSouth cost studies that more appropriately reflect
17 the BellSouth functions that MCI will need to compete
18 in the local area.

19 I was asked by MCI to adjust the BellSouth
20 nonrecurring cost study and the proposed nonrecurring
21 charges and to develop provisions to remove the
22 functions that are not needed when a combination of
23 loop and port are provided to migrate an existing
24 BellSouth customer to a MCI service using unbundled
25 network elements.

1 I was given the assumption that the loop and
2 port would be connected today, that soft dial tone
3 would be deployed, and that BellSouth would not
4 disconnect the loop from the port before providing
5 them to MCI. I was not asked to develop the most
6 efficient cost but to make adjustments to BellSouth's
7 current cost study.

8 If this Commission does not adopt the more
9 efficient AT&T/MCI nonrecurring cost study, then I
10 recommend that the adjustments identified in my
11 testimony be made to BellSouth's study before it is
12 used to set prices in this proceeding.

13 I use the public version of the cost study
14 that BellSouth has provided in Georgia and in other
15 cost cases across the southeast to develop my
16 adjustments. I then assumed that BellSouth would use
17 the same cost study if they filed up-to-date cost
18 studies in Florida.

19 In addition, I use the electronic ordering
20 data since in the current Florida UNE cost docket
21 BellSouth admits that the majority of orders will be
22 received electronically.

23 Subsequent to filing my testimony, I have
24 reviewed the BellSouth cost filed in this proceeding
25 and there are no significant differences between the

1 Georgia and Florida BellSouth studies.

2 BellSouth has assumed in its cost study that
3 the loop will be disconnected at the main distribution
4 frame, and routed to the CLEC's collocation space via
5 a cross-connect. Under BellSouth's assumption the
6 CLEC would combine the loop and port by obtaining a
7 cross-connect that would connect the loop coming out
8 of the CLEC collocation space with the port of the
9 BellSouth switch.

10 This is a very inefficient process and
11 requires work, that is, time and labor, by several
12 BellSouth functional work groups to perform service
13 order processing, engineering, connect and test. Very
14 little of this work is necessary when the loop and
15 port remain intact and the loop is not disconnected by
16 BellSouth.

17 As an example of the adjustments I made to
18 eliminate the unnecessary work, I will describe the
19 changes made in the 2-wire analog combination. I used
20 the SL2, which is the designed 2-wire analog loop
21 instead of the more appropriate SL1, or nondesigned
22 loop, since BellSouth has not filed the SL1
23 nondesigned in Florida as they have in the other
24 southeastern states.

25 The loop work functions for engineering,

1 connect and test and travel are not needed under the
2 assumption of an existing BellSouth customer whose
3 service is migrated to MCI without disconnect.

4 Under the assumption that an existing loop
5 and port are already connected, and that the customer
6 served by that loop and port are to be migrated to
7 MCI, these functions would no longer be necessary.
8 Therefore, these work times were reduced to zero. Of
9 the five service order functions, only the ICSC, or
10 the customer contact function, is involved with
11 clearing a fallout of an electronic order for
12 migrating an existing BellSouth customer to MCI. All
13 other service functions were also reduced to zero work
14 time since under the migration scenario they would not
15 be necessary.

16 I have adjusted the ICSC work time to
17 reflect an efficient provisioning process whereby 97%
18 of the orders are processed electronically.
19 Therefore, only 3% of the orders would require the
20 work activities of the ICSC to correct the fallout
21 condition. This level of efficiency is what
22 BellSouth's witness, Stacy, indicated in his Georgia
23 testimony, that BellSouth is able to achieve for its
24 own orders.

25 Since the assumption is that soft dial tone

1 is deployed in the BellSouth network, there should be
2 no work activities to disconnect an existing loop.
3 Therefore, I've eliminated the work times associated
4 with the loop disconnect disfunction.

5 The only exchange port work function
6 necessary for a migration of an existing BellSouth
7 customer to MCI would be the connect-and-test function
8 for recent changed lines translation. The service
9 order functions would be included in the loop fallout
10 correction since the loop in port would be ordered on
11 the same order. I made similar adjustments for the
12 other combinations of unbundled elements.

13 Even with these adjustments, the BellSouth
14 model does not result in the most efficient cost study
15 available. However, if this Commission chooses not to
16 adopt the AT&T/MCI nonrecurring cost study presented
17 by AT&T in this case, I recommend that this Commission
18 adopt the BellSouth study with the revisions
19 identified in my testimony.

20 That concludes my summary.

21 **MR. BOND:** Mr. Hyde, is available for cross
22 examination.

23 **MR. ROSS:** Thank you.

24

25

CROSS EXAMINATION

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BY MR. ROSS:

Q Mr. Hyde, good afternoon. Bennett Ross on behalf of BellSouth.

A Good afternoon.

Q I think you mentioned this in your summary but I want to make it clear for the record, you were asked to make adjustments to BellSouth's nonrecurring charges using the assumption that the nonrecurring cost should represent the cost of migrating an existing BellSouth customer to MCI, and, therefore, the loop and port are already connected?

A That is correct.

Q And essentially you were asked to assume two things. First, that soft dial tone was using dedicated inside plant and the outside plant was deployed in the network; is that correct?

A That is correct.

Q And you also were asked to assume that BellSouth would not disconnect the loop and the port furnishing the UNEs to MCI; is that correct?

A That is correct. On the disconnect portion, if I might elaborate just a little bit, though, in a disconnect environment there's no real need to physically remove the functions, especially in the

1 soft dial tone world of today, in that a disconnect
2 could be performed via the recent changed translations
3 which would leave much of the study the same that I
4 have presented if the disconnect was done with a
5 recent change translation, which is an efficient way
6 of handling it, even if you do the disconnect.

7 Q Using a recent change mechanism, would MCI
8 be actually doing any recombining of elements under
9 that scenario?

10 A I'm not sure I follow your question.

11 Q If I understand your point about the recent
12 change, it could be used to, I believe you said,
13 provision unbundled network elements?

14 A That's correct.

15 Q My question was using a recent change
16 mechanism, who does the recombining of the elements?

17 A BellSouth would do the recent change
18 translations in today's current environment.

19 Now, again -- and I want to reiterate that I
20 did not develop the most efficient cost. The most
21 efficient cost for the recent change translations
22 would be much the same as BellSouth allows with their
23 ESSX customers today which would be an electronic
24 interface to do those translations where the customer
25 could recombine themselves. That would be the most

1 efficient. However, in this, since I merely adjusted
2 the BellSouth's current, I left those recent change
3 translations in since BellSouth would be doing them
4 today.

5 Q And I don't want to digress too far but you
6 made the point about recent changes, I just want to
7 make it clear here, putting aside who is doing the
8 translation, using a recent change as you have just
9 suggested, would MCI be doing any work to recombine
10 unbundled network elements?

11 A Again, looking at the current methodology
12 today, MCI would have to put an unbundled network
13 element request into BellSouth who would then do the
14 recent change translations. However, in a more
15 efficient forward-looking process, then that actual
16 translation work would be done by the CLEC as part of
17 the electronic process, much as is done by the ESSX
18 customers today.

19 COMMISSIONER CLARK: Mr. Hyde, I don't think
20 you answered his question, and you're supposed to
21 answer with a yes or no first.

22 WITNESS HYDE: I'm sorry. I'm sorry.

23 In today's environment MCI would not be
24 doing the actual translations changes.

25 Q (By Mr. Ross) So MCI would not be doing

1 the recombining of elements under the --

2 **A** No, not in today's current effort.

3 **COMMISSIONER CLARK:** Mr. Hyde, I want to be
4 clear on what you're saying. When you use "soft dial
5 tone" I understood it to mean that really what happens
6 is there's just sort of an electronic switch-off.
7 There's no physical change done to the network.

8 **WITNESS HYDE:** That's correct.

9 **COMMISSIONER CLARK:** And then it would get
10 moved to MCI. In effect, you just change who's
11 responsible for that customer. Would that be correct?

12 **WITNESS HYDE:** In it's most simplistic form,
13 yes, that would be correct, in that with the change
14 from -- for instance, from BellSouth customer to soft
15 dial tone, a translation change occurs saying 911
16 access only and BellSouth business office access only.

17 **COMMISSIONER CLARK:** That's what a soft dial
18 tone is?

19 **WITNESS HYDE:** Yes. Then a conversion from
20 that to a MCI customer would be a similar translations
21 change but activating the circuit back electronically.

22 **COMMISSIONER CLARK:** Okay.

23 **Q** **(By Mr. Ross)** Mr. Hyde, just going back to
24 the point I think you made in your testimony, you were
25 asked to assume the existence of soft dial tone and

1 dedicated plant, and the fact that there would be no
2 disconnect in preparing your nonrecurring cost
3 analysis; is that correct?

4 A That is correct.

5 Q And you were given those assumptions by
6 counsel for MCI, Mickey Henry; isn't that right?

7 A That is correct.

8 Q And I think you indicated at your deposition
9 that you used the assumptions that Mr. Henry gave you
10 without performing any independent investigation to
11 determine if those assumptions were valid for
12 BellSouth in Florida; is that right?

13 A That is correct.

14 Q Now, you indicated this, I believe, in your
15 summary as well, and in your testimony, that your
16 recommendations to BellSouth's nonrecurring cost
17 studies are based upon nonrecurring cost studies that
18 BellSouth filed in Georgia; is that right?

19 A That is correct.

20 Q And I think you indicated in your summary
21 that you have now looked at the Florida cost studies
22 of BellSouth as filed and you did not detect any
23 significant difference; is that right?

24 A That is correct.

25 Q But you will admit there are differences

1 between the Georgia and Florida cost studies?

2 A Yes, there are.

3 Q And I think at your deposition you testified
4 that given the choice you would have used the
5 Florida-specific cost studies in lieu of the Georgia
6 studies that you actually relied upon; is that
7 correct?

8 A That is correct.

9 Q Now, while we're on the subject of Georgia,
10 do you have your deposition in front of you?

11 A Yes, I do.

12 Q Could I ask you to look at Page 72 of that
13 deposition? (Pause)

14 A Okay.

15 Q And I'm looking at Lines 14 through the end
16 of the page, and Mr. Pellegrini is asking you about
17 some of the assumptions there were in place in the
18 Georgia cost proceeding. Do you see that?

19 A Yes, I do.

20 Q And you mentioned migration in your response
21 to his question? (Pause)

22 A Let's make sure we're on the --

23 Q I'm looking at Line 21 on Page 72.

24 A Okay. Referencing new connections as well
25 as migration.

1 Q Do you see that?

2 A Yes.

3 Q You did participate in the cost docket in
4 Georgia and testified on behalf of MCI; is that
5 correct?

6 A That is correct.

7 Q And you also have attached as Late-filed
8 Exhibit No. 6 a copy of the Georgia Order in the cost
9 docket in that state?

10 A That is correct.

11 Q Do you have that handy, please?

12 A Yes, I do.

13 Q I'd like to direct your attention, Mr. Hyde,
14 to Page 46 of the Order of the Georgia Public Service
15 Commission in Docket 7061U, entered on October 21,
16 1997?

17 A You said Page 46.

18 Q 46. Yes.

19 A Okay. I'm there.

20 Q And I'm looking under heading 4, Section 4,
21 which is entitled "Rates for Recombined Loop and Port
22 UNES." Do you see that?

23 A I see that.

24 Q And the first sentence of this section
25 states, quote, "Some of the parties, including AT&T

1 and MCI, renewed their request that the Commission
2 allowed UNE pricing when a CLEC request the loop and
3 port UNEs in order to provide a service that
4 replicates BellSouth's retail service without adding
5 any functions or capabilities of the CLECs own other
6 than operator services." Do you see that?

7 A I see that, yes.

8 Q And did you understand that an issue in the
9 Georgia cost docket was the same issue that is before
10 this Commission, the extent to which AT&T and MCI can
11 purchase combined UNEs at cost based rates?

12 A That was one of the issues, yes.

13 Q And are you aware that the Commission
14 decided this -- I think the decision is on Page 48 of
15 this order -- if you'll look at the top of Page 48,
16 the second sentence of that first paragraph, where it
17 says "when."

18 A Okay.

19 Q Would you read that into the record,
20 Mr. Hyde, please?

21 A "When the new entrant provides its customers
22 with service identical to BellSouth's services by
23 using only BellSouth network elements, it is
24 essentially reselling BellSouth services."

25 Q Read the next sentence, please.

1 A "For such a situation Congress directed that
2 the reseller pay BellSouth's retail rate minus a
3 wholesale discount based on the cost BellSouth can
4 avoid as a result of selling to the reseller."

5 Q And later on Page 48 the Georgia Commission
6 looked at its decision in light of the 8th Circuit's
7 orders in the Iowa Utilities Board case, do you see
8 that; that's about the middle of the page?

9 A Yes.

10 Q And I'm at the end of that paragraph where
11 the Georgia Commission states, quote, "The court also
12 stated that the incumbent LEC should not be required
13 to perform the function of rebundling UNES. This
14 implies that if the incumbent LEC does perform the
15 unbundled function for the CLEC, the price to the CLEC
16 may be different from the mere total of the underlying
17 UNE prices. The Commission concludes that the 8th
18 Circuit's decision does not preclude, and is
19 consistent with the previous arbitration decisions
20 affirmed in this order." Do you see that?

21 A I see that.

22 Q And to the extent your deposition -- let me
23 ask you this way: No one should read your deposition
24 testimony to suggest that the Georgia Commission
25 allowed the migration of existing BellSouth customers

1 at cost based rates?

2 A Repeat the question one more time, please.

3 Q When you refer to the word "migration" in
4 the context of the Georgia proceeding, the Georgia
5 Commission did not permit MCI or AT&T to migrate an
6 existing BellSouth customer and pay UNE rates, or
7 cost-based rates to accomplish that.

8 A No, they did not.

9 Q Would you agree, Mr. Hyde, that with a loop
10 and a port combination MCI has everything it needs to
11 provide basic dial tone service?

12 A With the loop and port and some other
13 network elements as well, such as operator services
14 and directory assistance -- with a basic loop and port
15 itself you get the access to it, so, yes, with access
16 but not necessarily with only those elements.

17 Q Well, you stated on Page 7 of your
18 deposition -- and I'm looking at Lines 16 through 19,
19 you state "with a loop and a port combination, the
20 service dial tone, the loop, the connection to the
21 customer premise, everything is there that is needed
22 to provide basic dial tone service." Do you see that?

23 A Yes.

24 Q Do you see that?

25 A Yeah.

1 Q That is your testimony today?

2 A Yes, it is.

3 Q In fact, I think you also testified at the
4 deposition that if MCI had a combined loop and port,
5 MCI would not need to provide any other network
6 elements to offer basic local service; isn't that
7 correct?

8 A It would not necessarily -- that is correct,
9 it would not necessarily have to provide any
10 additional services.

11 Q You testified at your deposition -- I think
12 you alluded to it just a bit earlier as well -- that
13 with a loop and port combination, MCI could offer its
14 own operator services or directory assistance; is that
15 correct?

16 A That is correct. As well as different
17 billing plans as well. So, yes, with that they could
18 offer their own operator services and their own
19 directory assistance.

20 Q But other than operator services and
21 directory assistance, you believe it would be
22 inefficient for MCI to provide any other type of
23 services when purchasing a loop and port combination
24 from BellSouth?

25 A I don't believe I made that statement.

1 **COMMISSIONER GARCIA:** Would you repeat the
2 question?

3 **MR. ROSS:** Yes, I'll be happy to.

4 **Q** And I'm looking at Page 9 of your
5 deposition, Lines 5 through 9, where you state, again
6 looking at it from the first instance that I mention,
7 if you consider directory assistance and operator
8 services are a type of network element or network
9 services that are provided, typically it would be
10 inefficient to provide any other types of services.
11 Is that what you said?

12 **A** Yes. Yes, it is. And to go on and to
13 clarify, though, types of services in the middle of
14 the loop; placed between the loop and the port. In
15 other words, to go from basically putting in a
16 cross-connect in the collocation space merely to
17 interconnect the loop and port. That would be an
18 inefficient way of handling it.

19 **Q** Now, MCI could offer its own operator
20 services and directory assistance to customers through
21 selective routing, correct?

22 **A** That is correct.

23 **Q** And MCI can purchase selective routing from
24 BellSouth regardless of whether customers are being
25 served through unbundled network elements or through

1 resale?

2 **A** That should be available, yes.

3 **Q** So MCI could offer its own operator services
4 or directory assistance to resale customers as well as
5 customers being served by unbundled network elements,
6 correct?

7 **A** That is correct.

8 **Q** I want to ask you a hypothetical situation,
9 and maybe get you to kind of expound on some of the
10 issues touched on in your testimony. And if I could,
11 I'd like to use a situation with Commissioner Garcia,
12 assuming that he's a BellSouth customer in Miami and
13 MCI wants to migrate Commissioner Garcia using
14 combined loop and port, okay?

15 **A** Certainly.

16 **Q** Could you tell the Commission what the order
17 would look like that MCI would send to BellSouth to
18 request for the migration of Commissioner Garcia's
19 service using a combined loop and port?

20 **A** It would be a request for unbundled network
21 elements, with a loop and a port on the same request.

22 **Q** And your testimony, I believe, outlines what
23 you believe would be the provisioning process involved
24 in providing a loop and a port combination to migrate
25 Commissioner Garcia's service, correct?

1 **A** Correct.

2 **Q** And I believe, based on your testimony, the
3 nonrecurring cost -- assuming Commissioner Garcia has
4 a two-wire loop and port -- would be between \$1.68 and
5 \$3.46, correct?

6 **A** That's correct. Again, depending on the
7 fallout assumptions.

8 **Q** But in any event, it would be no more than
9 approximately \$3.50 under your proposal, correct?

10 **A** That's correct.

11 **Q** Now, in the situation that MCI is going to
12 migrate Commissioner Garcia's existing BellSouth
13 service through a combined loop and port, MCI would
14 receive access charges, would it not, for long
15 distance calls that Commissioner Garcia would make
16 after MCI assumed the service?

17 **A** Would MCI -- MCI would be able to bill for
18 those access charges, yes.

19 **Q** Is it MCI's position they are entitled to
20 collect those access charges once they have migrated
21 Commissioner Garcia's service using combined loop and
22 port?

23 **A** That is correct.

24 **Q** Let's change the hypothetical just a little
25 bit and talk about MCI deciding to migrate

1 Commissioner Garcia's service through resale.

2 Now, the order for migration through resale
3 would look a lot like an order for migration using
4 combined loop and port, wouldn't it?

5 A There would be similarities, yes. But it
6 would be basically a resale service request that would
7 say convert this service over to resold MCI.

8 Q So the difference would simply be in the way
9 that MCI asks for the migration, either using UNE
10 combinations or resale?

11 A It may well be limited to that change, to
12 that difference.

13 Q In fact, at your deposition you testified
14 you did not think there would be any specific
15 attributes that would distinguish a resale order from
16 an order to migrate a customer using UNE combinations;
17 isn't that correct?

18 A From BellSouth's perspective, no, they could
19 look identical.

20 Q Is that what you testified in deposition?

21 A Yes.

22 Q Okay. And when MCI orders the same service
23 as exists for Commissioner Garcia, it could be an
24 order to provide service through resale, or it could
25 be an order to provide service through UNE

1 combinations, correct?

2 **A** That's correct, based on how the order would
3 be placed.

4 **Q** Let's talk a little bit about the
5 provisioning process that you outline in your
6 testimony would be applicable to -- what would be
7 applicable to resale. The 3% fallout assumption that
8 you use, do you believe that assumption would apply in
9 the resale environment?

10 **A** At least that good, yes.

11 **Q** And, in fact, you cite in support of your 3%
12 fallout assumption Mr. Stacy's testimony, William
13 Stacy's testimony in the Georgia cost docket; is that
14 correct?

15 **A** That's correct.

16 **Q** I'd like you to take a look at that. This
17 is Late-filed Exhibit 7 to your deposition, I'm going
18 to direct you to Page 5 of that exhibit. Are you
19 there?

20 **A** I am there.

21 **Q** And I'm looking at Lines 7 through 19. Do
22 you see that?

23 **A** I see that.

24 **Q** And where Mr. Stacy states Lines 11, "the
25 97% flow-through rate that BellSouth has achieved is

1 for, quote, "retail residential services," close
2 quote; isn't that correct?

3 A That is correct.

4 Q And he states that BellSouth has achieved
5 that flow-through only in certain exchanges; isn't
6 that right?

7 A That's correct.

8 Q And that in other exchanges the flow-through
9 rates have been significantly lower than 97%, correct?

10 A That is correct.

11 Q And he also notes that the flow-through
12 rates that BellSouth has achieved with respect to its
13 retail residential services has been achieved after
14 some 15 years in designing the network and operational
15 support systems; isn't that correct?

16 A That's what he said, yes.

17 Q What does Mr. Stacy indicate is the best
18 flow-through rates that BellSouth has been able to
19 achieve for its retail business orders?

20 A About 80%.

21 Q Now, you also state that -- and I believe
22 this is in your deposition at Page 83, that
23 Southwestern Bell has achieved something of a 99%
24 flow-through rate?

25 A That's my understand, yes.

1 Q And that's a flow-through rate on orders for
2 resale; isn't that correct?

3 A That is my understanding.

4 Q And you also make a statement -- I think
5 this is in your rebuttal -- referencing something that
6 Roy Neel commented to the before the FCC concerning
7 flow-through rates that a CLEC customer of BellSouth
8 has been able to achieve?

9 A That's correct.

10 Q Do you know whether that was a resale
11 customer?

12 A I have no idea. Mr. Neel did not identify
13 the customer. He offered to, if the Commission
14 requested it, but as far as I can tell, they never
15 asked the identity of that particular CLEC.

16 Q So at least with respect to the fallout
17 assumptions you used in the UNE combination world,
18 those same fallout assumptions would be equally
19 applicable to the resale world, correct?

20 A The assumptions that I used for fallout
21 would be equally applicable, yes, to both resale and
22 to UNE.

23 Q And, in fact, the entire provisioning
24 process that you describe in your testimony would be
25 exactly the provisioning process that would be

1 involved in -- if MCI were to request to migrate
2 Commissioner Garcia's service using resale; isn't that
3 right?

4 **A** The provisioning would be the same, yes.

5 **Q** Now, assuming MCI requested to migrate
6 Commissioner Garcia's service using resale, do you
7 know what the nonrecurring charge that BellSouth would
8 charge MCI for that request here in Florida?

9 **A** On resale?

10 **Q** Yes.

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

12 **Q** Well, let me represent to you, subject to
13 check, for a residential customer of that would be \$10
14 to effectuate a migration using resale, all right?

15 **A** All right.

16 **Q** Now, if MCI were to migrate Commissioner
17 Garcia's using resale, MCI would not be entitled to --
18 entitled to receive access charges for long distance
19 calls that Commissioner Garcia makes or receives; is
20 that correct?

21 **A** That's my understanding, yes.

22 **COMMISSIONER GARCIA:** Go back -- what was
23 the question again?

24 **MR. ROSS:** The question was, Commissioner
25 Garcia, in the circumstance where your service has

1 been migrated using resale, that MCI would not be
2 entitled to access charges after they effectuated that
3 transfer.

4 **Q** **(By Mr. Ross)** Now, whether MCI decides to
5 use resale or decides to use unbundled network
6 elements, when they migrate the service, Commissioner
7 Garcia is getting the same service either way; isn't
8 that right?

9 **A** Not necessarily. There are several things
10 that BellSouth provides in their retail services that
11 could be changed in the provision of unbundled network
12 elements.

13 For instance, MCI may decide that they are
14 going to provide a different optional calling plan
15 scope to the service that would not necessarily be
16 available within a retail service. So that it doesn't
17 necessarily have to be identical or the same service
18 on both.

19 **Q** Other than an optional -- did you say
20 vertical features, or are you talking about optional
21 service like calling waiting and --

22 **A** I'm talking about optional calling plans,
23 such as, for instance, among other things, LATA-wide
24 calling. With an unbundled network element with the
25 presence of -- or retention of, however you wish to

1 say it -- in that the usage would be passed off to the
2 CLEC by BellSouth, for that CLEC to render the
3 appropriate billings for calling that it gives the
4 optionality to the CLEC to provide many different
5 types of billing plans that may not be available in a
6 resold environment.

7 Q Couldn't MCI offer LATA-wide calling with
8 resale?

9 A I don't believe they could efficiently,
10 because in this case BellSouth will retain the access
11 billing and bill the interexchange carrier -- or
12 intraLATA carriers for the access directly to those
13 carriers. I'm not too sure just how it would work out
14 doing it on resale.

15 Q Just so I'm clear here, if the Commission
16 adopts your proposal for nonrecurring charges, the
17 most nonrecurring charge that BellSouth could impose
18 upon MCI to migrate a customer using a UNE combination
19 would be 3.50; is that correct? Approximately \$3.50?

20 A For these combinations, approximately 3.50,
21 yes.

22 Q And assuming that my \$10 figure is correct,
23 can you envision any set of circumstances under which
24 MCI would prefer to pay \$10 to migrate a customer
25 using resale when they could pay \$3.50 under your

1 proposal to migrate a customer using UNE combinations?

2 A I would suspect that the decision would be
3 made based on whether MCI wishes to merely provide a
4 resold service, or whether the unbundled network
5 element scenario is most appropriate. I'm not sure
6 that the difference between 3.50 and 10 would change
7 that decision. I don't know. That would be a
8 marketing decision that I really couldn't address.

9 I have not looked at the underlying cost or
10 functionalities behind that \$10 charge within the
11 resold services, so I really couldn't address that.

12 Q So the answer to my question is can you
13 envision a circumstance under which MCI would pay \$10
14 to migrate a customer using resale versus 3.50 to
15 migrate a customer using UNE combinations; you can't
16 answer that question?

17 A I said yes, I can imagine it. I cannot
18 address why the resold figure is as high as \$10. But
19 I can imagine a scenario, yes, where MCI would pay the
20 \$10 in order to get the resold service, if that is,
21 indeed, what the marketing department was trying to
22 sell.

23 Q Is MCI engaged in resale in the state of
24 Florida today?

25 A I'm not sure I can answer. I don't know.

1 **Q** Do you know whether or not MCI has made any
2 announcements concerning its view of resale?

3 **A** I don't know.

4 **MR. ROSS:** No further questions, Chairman
5 Johnson.

6 **CHAIRMAN JOHNSON:** Staff.

7 **MR. PELLEGRINI:** Staff has no questions for
8 Mr. Hyde.

9 **CHAIRMAN JOHNSON:** Commissioners.

10 **COMMISSIONER CLARK:** Mr. Hyde, I want to be
11 clear on something. The only two elements you need to
12 provide local service -- local retail service are the
13 loop and port?

14 **WITNESS HYDE:** The loop connected to the
15 port will give you the basic -- will give you dial
16 tone. Now, in order -- if that's your definition of
17 basic service, just to get the dial tone, then, yes,
18 that's all you need. If you include, as the FCC did,
19 that access to directory assistance, to 911 and to
20 operator services, then you would have to have those
21 network elements as well to go along with the loop and
22 port.

23 **COMMISSIONER CLARK:** I'm trying to
24 understand, for purposes of determining if -- if it's
25 appropriate that there be a single price for -- let me

1 put it this way: If it's determined that where you
2 combine unbundled network elements such that it's the
3 equivalent of retail service, that you would only pay
4 the wholesale -- what you would pay is the wholesale
5 price, meaning the retail less those avoided costs.

6 What unbundled network elements do you have to
7 purchase for it to be equivalent of the retail sale?

8 **WITNESS HYDE:** The equivalent of a resold
9 retail would be dilute the port, access to the
10 directory assistance and to operator services of any
11 kind, as well as the 911 access that is inherent
12 within the port itself.

13 **COMMISSIONER CLARK:** Is access to 911 and
14 access to -- what was it you said, directory
15 assistance?

16 **WITNESS HYDE:** Directory assistance and
17 operator services. The directory assistance and
18 operator services appear to be separate unbundled
19 network elements in and of themselves.

20 **COMMISSIONER CLARK:** So access to directory
21 service and operator services are presently separate
22 unbundled network elements.

23 **WITNESS HYDE:** They can be ordered
24 separately.

25 **COMMISSIONER CLARK:** How about access to

1 911?

2 **WITNESS HYDE:** That is inherent within the
3 port itself.

4 **COMMISSIONER CLARK:** It's not --

5 **WITNESS HYDE:** I'm not aware of it being a
6 separately billed element, no, ma'am.

7 **COMMISSIONER CLARK:** Do you know what the
8 cost for access to directory assistance and access to
9 operator services is?

10 **WITNESS HYDE:** No, I do not. I would have
11 to look it up.

12 **COMMISSIONER CLARK:** Thanks.

13 **COMMISSIONER JACOBS:** I have a question. In
14 your deposition, I believe -- yes, your deposition on
15 Page 9 you speak about when operator services are
16 ordered separately -- well, actually you're
17 contrasting how BellSouth would use its own
18 provisioning of this product as opposed to an
19 alternative LEC that might order operator services as
20 an independent network element. Could you explain
21 that to me? Actually just recount what your
22 discussion was here.

23 **WITNESS HYDE:** Let me make sure I understand
24 your question correctly, and we'll see if the answer
25 fits.

1 In an unbundled network environment, one
2 CLEC could, for instance, have their own directory
3 assistance but not international operator and long
4 distance operator; they could have directory
5 assistance only, where they could go and buy
6 specifically the directory assistance but not the
7 operator services itself. So that it could be in a
8 number of situations as I would see it where you would
9 order something from the menu, as it were, for those
10 items that you would need the incumbent LEC to provide
11 the unbundled network elements.

12 I would see it as, again, providing your own
13 elements wherever possible so that you would need the
14 capability of having those elements split out into a
15 fairly fine-grained availability.

16 **COMMISSIONER JACOBS:** So you could -- there
17 would be instances where you'd have some elements that
18 you basically tailor into the underlying elements you
19 purchased from BellSouth to configure your unique
20 product offering.

21 **WITNESS HYDE:** Yes. Definitely.

22 **COMMISSIONER JACOBS:** Okay.

23 **WITNESS HYDE:** And it could go beyond just
24 the operator services too. Looking at it from what I
25 would envision the future to be, there would be

1 databased controlled functionalities that would be
2 available from MCI, or any other CLEC, in the future
3 where it would offer potentially many types of
4 services.

5 **COMMISSIONER JACOBS:** Now, going back to the
6 issue of the efficiency of provisioning these
7 elements, particularly the port and the loop, it's
8 your position that if you're only ordering the port
9 and the loop, it's inefficient for those to be -- that
10 ordering process to be broken down and duplicate
11 charges provided; is that correct?

12 **WITNESS HYDE:** That's correct. More
13 specifically I'm addressing the -- any requirement to
14 break the loop and port and port apart and stick a
15 collocation space in the middle just to connect the
16 wires back together again; that's a very inefficient
17 usage of service. Where if you are buying the loop or
18 port and recombining them -- as I say mandating that
19 you have to wire them off to a different collocation
20 space for a cross-connect, yes, that's very
21 inefficient.

22 **COMMISSIONER JACOBS:** And it's not necessary
23 in order for you to bring in your independent elements
24 and configure your unique product, that's not required
25 in order to do that?

1 **WITNESS HYDE:** It's not required to do that,
2 no. Now, if I were buying just a loop, for instance,
3 or just a port, and taking the appearance of that loop
4 or port off to -- let's say the loop itself. If I'm
5 taking the loop, yes, I'm going to need a collocation
6 space then or some method of transporting that loop
7 connecting it to my switch. Or if I'm buying only the
8 port, I've got to, again, connect it to my loop. But
9 where you are buying the loop and the port and
10 connecting them together, in essence you're taking and
11 saying I've got these two pieces that are connected
12 today, and I'm going to take them apart, run the
13 wiring off somewhere else, put them in a space where
14 you're going to tie them back together again. So yes,
15 I view that as extremely inefficient.

16 **Q** **(By Mr. Bond)** Mr. Hyde, you were asked
17 about your flow-through assumptions of 97% and 80%.
18 What flow-through assumption did BellSouth make in
19 it's Florida cost study?

20 **A** They made a -- actually they made 0%
21 flow-through, 100% manual assumption.

22 **Q** And what flow-through assumption did
23 BellSouth make in their Georgia study?

24 **A** They made a 80% flow-through, 20% fallout in
25 the Georgia study.

1 **MR. BOND:** No further questions. Thank you.

2 **CHAIRMAN JOHNSON:** Exhibits?

3 **MR. BOND:** MCI moves Exhibit 5.

4 **MR. PELLEGRINI:** Staff moves Exhibit 6.

5 **CHAIRMAN JOHNSON:** Thank you, sir. You're
6 excused.

7 (Exhibit 5 and 6 received in evidence.)

8 (Witness Hyde excused.)

9 **WITNESS HYDE:** Thank you.

10 **CHAIRMAN JOHNSON:** BellSouth when do you
11 expect to have those excerpts? Sometime today?

12 **MS. WHITE:** Oh, yes. Hopefully within the
13 next hour or two.

14 **CHAIRMAN JOHNSON:** Okay. That would be
15 fine.

16 **MR. MELSON:** Commissioner Johnson, I'm not
17 sure I heard. Did you admit 5 and 6?

18 **CHAIRMAN JOHNSON:** I did admit 5 and 6.

19 (Exhibits 5 and 6 received in evidence.)

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22 (Transcript continues in sequence in Volume 2.)

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