

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into pricing of)
unbundled network elements)

Docket No. 990649-TP
Filed: July 31, 2000

RECEIVED-FPSC
00 JUL 31 AM 11:39
RECORDS AND REPORTING

REBUTTAL TESTIMONY

OF

JOSEPH P. GILLAN

ON BEHALF OF

FLORIDA COMPETITIVE CARRIERS ASSOCIATION

APP _____
CAF _____
CMP Debra
COM Stacy
CTR _____
ECR _____
LEG 2
OPC _____
PAI _____
RGO _____
SEC T
SER _____
OTH _____

RECEIVED & FILED

Me
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

09168 JUL 31 8

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Investigation into pricing of)
unbundled network elements)
_____)**

**Docket No. 990649-TP
Filed: July 31, 2000**

REBUTTAL TESTIMONY

OF

JOSEPH P. GILLAN

ON BEHALF OF

FLORIDA COMPETITIVE CARRIERS ASSOCIATION

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **REBUTTAL TESTIMONY**

3 **OF**

4 **JOSEPH P. GILLAN**

5 **ON BEHALF OF**

6 **FLORIDA COMPETITIVE CARRIERS ASSOCIATION**

7 **DOCKET NO. 990649-TP**

8 **Introduction and Witness Qualification**

9 **Q. Please state your name, business address and occupation.**

10 A. My name is Joseph Gillan. My business address is P.O. Box 541038, Orlando,
11 Florida 32854. I am an economist with a consulting practice specializing in
12 telecommunications.

13 **Q. Please briefly outline your educational background and related experience.**

14 A. I am a graduate of the University of Wyoming where I received B.A. and M.A.
15 degrees in economics. From 1980 to 1985, I was on the staff of the Illinois Commerce
16 Commission where I had responsibility for the policy analysis of issues created by the
17 emergence of competition in regulated markets, in particular the telecommunications
18 industry. While at the Commission, I served on the staff subcommittee for the
19 NARUC Communications Committee and was appointed to the Research Advisory
20 Council overseeing NARUC's research arm, the National Regulatory Research
21 Institute.

22 In 1985, I left the Commission to join U.S. Switch, a venture firm organized to

1 develop interexchange access networks in partnership with independent local
2 telephone companies. At the end of 1986, I resigned my position of Vice President-
3 Marketing/Strategic Planning to begin a consulting practice. Over the past decade, I
4 have provided testimony before more than 25 state commissions, four state
5 legislatures, the Commerce Committee of the United States Senate, and the
6 Federal/State Joint Board on Separations Reform. I currently serve on the Advisory
7 Council to New Mexico State University's Center for Regulation.

8 **Q. On whose behalf are you testifying?**

9 A. I am testifying on behalf of the Florida Competitive Carriers Association (FCCA), a
10 state association of carriers and national organizations committed to promoting a
11 competitive environment for local, long distance and related telecommunications
12 services in Florida.

13 **Q. What is the purpose of your rebuttal testimony?**

14 A. The purpose of my rebuttal testimony is to generally respond to the testimony of
15 Alphonso Varner dated May 1, 2000. In his testimony, Mr. Varner endorses the goal
16 of achieving efficient competition in the local market for the benefit of consumers.
17 In direct contrast to this philosophy, however, Mr. Varner then claims that the cost
18 methodology adopted by the FCC -- which, as the Commission is aware, is a forward-
19 looking economic methodology -- produces UNE prices that are "too low" and would
20 lead to undesirable distortions and inefficiencies in the marketplace (page 5, lines 8-
21 12; page 7, line 3-9). Further, Mr. Varner rejects cost-based pricing *entirely* as it

1 relates to UNE combinations, claiming that these charges should reflect “full market
2 value” (page 17, lines 15-16). As I explain in my rebuttal below, however, Mr.
3 Varner’s recommendations cannot be squared with either economic theory or this
4 Commission’s own orders and should be rejected.

5 **Q. How is your rebuttal testimony organized?**

6 A. My testimony is organized into two basic sections. First, I briefly review the
7 fundamental principles that underlie economic costing. In this section, I explain why
8 the most critical criterion of an economic cost model is that it be *forward-looking*.
9 This conclusion is not new, of course -- it lies at the heart of the Florida Commission’s
10 policies, the FCC’s pricing rules, and was clearly endorsed by Eighth Circuit in its
11 review of those rules. This discussion will demonstrate that Mr. Varner’s perspective
12 on UNE-pricing would turn economic theory on its head and reinforce the single
13 greatest distortion in the market -- the incumbent’s effective monopoly -- in
14 perpetuity.

15 Second, my testimony focuses on the most serious consequence of inefficient UNE-
16 prices, the effect on local competition of *inflated* UNE prices. The rates that the
17 Commission establishes in this proceeding will determine the level, breadth and focus
18 of competition for retail services. It is here, when the Commission establishes
19 *wholesale* UNE rates that entrants must pay to access the existing network, that the
20 Commission ultimately decides the *retail* prices that consumers pay. While Mr.
21 Varner dwells throughout his testimony on the impact that allegedly “understated”

1 UNE rates would have on the ILECs, even he acknowledges that excessive UNE rates
2 have the effect of foreclosing competition. Unlike Mr. Varner's theoretical
3 discussion, however, my testimony documents the fact that UNE-based competition
4 in Florida's local market is virtually non-existent. As the Commission considers the
5 various cost-study adjustments proposed by individual FCCA members, it should
6 never lose sight of the ultimate purpose of this proceeding -- to create the conditions
7 necessary for local competition.

8 **Q. You indicated that your testimony will address the recent decision by the Eighth**
9 **Circuit that addressed the FCC's pricing rules. Do you have a general comment**
10 **regarding this decision?**

11 A. Yes. To begin, I would like to emphasize that this decision is relatively recent (filed
12 July 18, 2000) and, as a result, there has not been time for a full evaluation of all of
13 its aspects. Indeed, my understanding is that the decision itself is not yet legally
14 effective (and may never become effective if stayed and reversed). Furthermore, I am
15 not a lawyer, and therefore I am not able to comment on the legal significance of the
16 decision. Nevertheless, the decision is a part of the landscape and, as a consequence,
17 I have tried to explain its reasoning from the perspective of an economist.
18 As I explain below, I believe that the Eighth Circuit's decision, as an economics
19 matter, should have little impact on establishing correct UNE rate levels.
20 Unfortunately, however, I also believe that the ILECs will adopt interpretations of this
21 decision that they claim condone a radical departure from economic pricing. While

1 this controversy swirls, however, it important that the Commission remain focused on
2 establishing economic, cost-based UNE prices that can support local competition.

3 *Fundamentals of Economic Costing*

4 **Q. Why are you offering a “primer” on economic costing in this proceeding?**

5 A. As the Commission reviews the various criticisms of the ILEC models, it is useful that
6 it have an overall understanding of the economic principles that should apply. Such
7 a review is particularly important now, given the confusion introduced by the Eighth
8 Circuit’s recent decision concerning the FCC’s cost rules. As I explain below,
9 however, I do not believe that this decision fundamentally changes the principal focus
10 of this proceeding.

11 **Q. What are the three basic dimensions of cost modeling?**

12 A. The three basic dimensions of any cost model are: (1) its perspective, (2) its time-
13 horizon, and (3) the increment of change being reviewed. I use the term “perspective”
14 to refer to the model’s central focus — that is, is the cost model estimating *forward-*
15 *looking* costs, or is it looking at costs that have been incurred in the *past* (embedded
16 costs)?

17 The second basic dimension of a cost model is the study’s time-horizon — is the study
18 looking only at short-run changes in cost (i.e., is it considering only costs that can be
19 easily varied by a company), or does the study adopt a time-horizon that is sufficiently
20 long so that all costs are treated as variable (and thus should be included in the study).

21 The final fundamental dimension of any cost model concerns the increment (or cost
22 object) of analysis. That is, is the study looking at costs associated with a small

1 change in output, the addition/deletion of an entire service, or the costs associated
2 with an entirely new line of business.

3 **Q. Of these three dimensions, which is the most critical?**

4 A. While each of these dimensions is important, the one that is *most* important is that the
5 cost-analysis be forward-looking. The reason that a cost-study must be forward-
6 looking can be traced to the central role that price plays in a market economy.

7 The most critical economic function of price is to signal the value of resources that
8 *will be* used to produce a product or service. The reason that this objective is
9 described in the future tense is that the only decisions that can affect resource choices
10 are those that occur in the future -- after all, it is impossible to affect decisions that
11 have *already* been made.

12 Because the central goal of economics is to promote the efficient use of resources, its
13 focus is on decisions that will be made in the *future*, and the consequences of those
14 decisions on costs that will be incurred in the *future*.

15 **Q. How does this focus on future decisions translate into cost modeling?**

16 A. Because a forward-looking economic cost model must look to the future, it is
17 unavoidably built from *assumptions* about future investment. Since the future cannot
18 be known with exactness, forward-looking cost studies are inherently presumptive --
19 knowledgeable people must make informed choices about what technologies and
20 investments *would be* used to meet demand.

21 Certainly, the most rational basis for making these choices is to select technologies
22 and investments that are the most efficient at the time the cost analysis is prepared.

1 The point here is that the threshold requirement that a cost-study be forward-looking
2 leads inevitably to the “assumption” that a forward-looking cost study reflect efficient
3 behavior.

4 **Q. Please explain the significance of a study’s “time-horizon” on a cost model.**

5 A. The next most important attribute of a cost model (once the forward-looking
6 requirement is imposed) concerns the number of “production components” or “inputs”
7 that will be treated as variable by the analysis. Examples of production inputs in the
8 telecommunications industry are things like physical infrastructure (for instance,
9 conduit, poles, land and buildings), transmission and switching facilities, and the
10 corporate/operations infrastructure that supports the investment.

11 The time-horizon chosen for a cost study determines which of these basic inputs are
12 permitted to change and which are held constant. Generally speaking, the longer the
13 time horizon, the more inputs are seen as variable, and thus appropriate for inclusion
14 in a forward-looking cost analysis. This general relationship between time and cost
15 is illustrated by Figure 1 of Exhibit ____ (JPG - 1).

16 The time-horizon assumption carries an important corollary as well. Not only does
17 the selected time-horizon determine which inputs will be considered *variable*, it also
18 effectively determines which inputs should be evaluated as forward-looking and
19 *modeled* to reflect efficient behavior. The forward-looking assumption and selected
20 time-horizon are inherently linked in that the only costs that are relevant to an
21 economic cost model are the forward-looking costs of those inputs that are allowed

1 to change. If a particular input will never be added to, replaced or modified in the
2 future, then there can be no future cost associated with it.

3 This point is sufficiently important that it bears repeating: Any network feature that
4 is held constant in forward-looking analysis is properly viewed as a *constraint* on that
5 analysis and should not be included as a *cost* by the analysis. If a cost model assumes
6 that a particular input is not variable — that is, it is frozen to reflect an inherited
7 condition and ignores how it would be supplied in the future — then the *cost* of that
8 particular input is no longer relevant to the analysis at all.

9 The bottom line is that there are two, mutually exclusive, categories in an economic
10 cost model — inputs that are *fixed* (and which may influence the cost of other inputs,
11 but are not themselves included), and those that are *variable* (and are thus modeled
12 in their forward-looking, efficient use).

13 **Q. Please explain the third basic dimension of a cost model, i.e., the “increment-of-
14 change” that will be analyzed.**

15 A. The final basic feature of any cost model is defining precisely *what* will be modeled --
16 i.e., does the model look only at a *change* in demand for a particular service/network
17 element, or the cost of providing the *entire* service/network element. Obviously, the
18 larger the increment of analysis, the larger the number of inputs that are relevant. For
19 instance, a cost study focusing on the additional cost of increased traffic may not even
20 consider costs associated with billing, while a study that looked at the additional cost
21 of an entire service might include not only billing, but marketing and customer

1 support as well.

2 **Q. Applying this framework, has the Florida Commission generally supported**
3 **developing cost estimates using forward looking economic standards?**

4 A. Yes, I believe is a fair characterization. Overall, the Florida Commission has made
5 clear that network element prices are to reflect forward-looking (not historical,
6 sometimes labeled “actual”) costs, and it has embraced the necessary implication of
7 that policy, that only efficient network designs are relevant to the exercise. While the
8 Commission correctly adopted a forward-looking approach to costing, I explain later
9 in my testimony that market experience gained since the initial implementation of that
10 concept demonstrates that caution and the lack of adequate data has led the
11 Commission to set UNE prices that are too high, with only negligible competition
12 being the result.

13 **Q. Is Mr. Varner’s discussion consistent with these fundamental economic**
14 **principles?**

15 A. No. Mr. Varner asserts that the FCC’s forward-looking cost methodology would
16 prevent an ILEC from achieving full cost recovery. In context, it is apparent that Mr.
17 Varner is equating “actual cost” with embedded cost, or the cost that the ILEC may
18 have incurred in the past. As I explained above, however, economic theory recognizes
19 that forward-looking costs are the most accurate measurement of the relevant “actual”
20 costs that should be used to calculate UNE prices.

21 Further, Mr. Varner’s objections go far beyond what cost methodology is appropriate.

22 In addition to “cost,” Mr. Varner claims that UNE prices should also account for

1 “...market, regulatory and competitive conditions” and “... be functional in the
2 marketplace and consistent with prices for similar service” (page 18, lines 2 to 8).
3 Each of these phrases, however, distill to the same goal — inflate UNE prices so as
4 to maintain BellSouth’s market dominance. Mr. Varner’s perspective as to what
5 constitutes a “functional UNE price” should be all the warning the Commission needs
6 to understand it must carefully scrutinize BellSouth’s cost studies to assure that they
7 comply with the core economic principles described earlier.

8 **Q. Does the Eighth Circuit’s decision materially alter the basic framework of**
9 **economic costing that you describe above?**

10 A. Although I am not a lawyer, it is interesting (and useful, I believe) to overlay the
11 Eighth Circuit’s opinion to the issues discussed above. To begin, the Eighth Circuit
12 validated the most important conclusion reached by both the FCC and Florida
13 Commission — the requirement that UNE prices should reflect forward-looking costs:

14 Forward-looking costs have been recognized as promoting a
15 competitive environment which is one of the stated purposes of the
16 Act. The Seventh Circuit, for example, explained, “[I]t is current and
17 anticipated cost, rather than historical cost that is relevant to business
18 decisions to enter markets ... historical costs associated with the plant
19 already in place are essentially irrelevant to this decision since those
20 costs are ‘sunk’ and unavoidable and are unaffected by the new
21 production decision.” Here, the FCC’s use of a forward-looking cost

1 methodology was reasonable. Iowa Utilities Board v. Federal
2 Communications Commission, Case No. 96-3321, opinion dated July
3 18, 2000, at page 10, omitting citation to Seventh Circuit Decision.

4 Where the Eighth Circuit disagreed with the FCC, however, was with the FCC's
5 requirement that a TELRIC model estimate (subject to the constraint that wire center
6 locations not change) the forward-looking cost of any entirely new (i.e.,
7 "hypothetical") network. As a result, the Eighth Circuit vacated the specific rule that
8 required a comprehensive redesign of the ILEC's network (i.e., Rule CFR §
9 51.505(b)(1)).

10 **Q. As you understand it, what is the effect of the Eighth Circuit's decision on the**
11 **cost methodology that should be used?**

12 A. As I indicated at the opening of my testimony, the Eighth Circuit decision is both new
13 and controversial. It is unclear whether the decision will be stayed, or even reversed.
14 Nevertheless, it is useful to understand *why* the Court remanded the "hypothetical
15 network" requirement to appreciate what effect it might have on how cost studies will
16 be conducted. As I understand the decision, the Court effectively rejected the view
17 that the cost of the *entire* network should be considered in a forward-looking analysis
18 because the only portion of the network relevant to the analysis is that increment being
19 used by the entrant. According to the Court:

20 The new entrant competitor, in effect, piggybacks on the ILEC's
21 existing facilities and equipment. It is the cost to the ILEC of

1 providing that ride on those facilities that the statute permits the ILEC
2 to recoup. This does not defeat the purpose of using a forward-looking
3 methodology as the intervenors assert. Costs can be forward-looking
4 in that they can be calculated to reflect what it will cost the ILEC in
5 the future to furnish to the competitor *those portions or capacities of*
6 *the ILEC's facilities and equipment that the competitor will use*
7 including any system or component upgrading that the ILEC chooses
8 to put in place for its own more efficient use. In our view it is *the cost*
9 *to the ILEC of carrying the extra burden* of the competitor's traffic
10 that Congress entitled the ILEC to recover, and to that extent, the
11 FCC's use of an incremental approach does no violence to the statute.
12 Iowa Utilities Board v. Federal Communications Commission, Case
13 No. 96-3321, opinion dated July 18, 2000, at page 8, emphasis added.

14 **Q. What issues are embedded (excuse the pun) in this passage?**

15 A. I believe that there are two issues. The Court appears to say that an appropriate cost
16 analysis should estimate only the forward-looking cost of the network increment used
17 by competitors, and that the remaining (i.e., fixed) components of the network should
18 not be reoptimized. Of course, this would mean (as I explained previously) that the
19 costs of those network facilities that are *not* part of the forward-looking analysis
20 would fall-out of the cost calculation in their entirety. Therefore, the question is
21 raised as to precisely which network components should become forward-looking

1 (and, therefore, must be *optimized* for efficiency) and which network components
2 should be held constant (and thus *eliminated* from the analysis).

3 **Q. What is the second issue raised by the decision?**

4 A. The second issue concerns the possibility that there is an efficient technology that
5 would otherwise be considered in the calculation of forward-looking costs, but that
6 the ILEC affirmatively refuses to implement. In such cases, there would conceivably
7 be a conflict between both the TELRIC and TSLRIC standards that require forward-
8 looking efficient technology, and the Court's superficial acceptance of deliberately
9 inefficient behavior.

10 **Q. With respect to the first issue — i.e., where to draw the line between network**
11 **components that are included in a cost analysis and those that are treated as a**
12 **fixed constraint — what is your recommendation?**

13 A. Prior to the Eighth Circuit's decision, the FCC's rules effectively required that *all*
14 aspects of the network be seen as variable and, therefore, included when calculating
15 the forward-looking cost of each network element. The Eighth Circuit's decision
16 would seem to indicate that the costs of certain network components should be treated
17 as fixed and *excluded* from the UNE price. For instance, if the basic network
18 infrastructure of conduit, poles and buildings is treated as a *constraint* in a UNE cost-
19 study, then the *cost* of this infrastructure may not be included in the UNE rate. These
20 facilities would be part of an existing infrastructure that would not change due to the
21 "extra burden" of the entrants and, therefore, would not be part of a forward-looking

1 study.

2 As a practical matter, I expect that this core issue -- i.e., which costs to include and
3 which to exclude as a constraint -- will be debated extensively at the FCC. The issue
4 here is simply how should the Florida Commission approach the question in *this*
5 proceeding, at *this* time. As I explain in the following section, the most important
6 outcome of this proceeding are UNE prices that support competition. So long as the
7 Commission applies a standard that estimates the forward-looking cost of an efficient
8 network for each portion of the network included in the analysis, then such an
9 approach would seem to comply with even a conservative reading of the Court's
10 decision. That is, by including in the analysis even those facilities that need not
11 (under the Eighth Circuit) be reoptimized, the Commission would be establishing an
12 upper bound of the appropriate UNE price. This would leave open, of course, the
13 opportunity for additional reductions in UNE prices should the FCC adopt (in the
14 future) an even more incremental standard in response the Court's remand.

15 **Q. With respect to the second issue raised by the Court's decision — the potential**
16 **that an ILEC would deliberately deploy obsolete or inefficient technology —**
17 **what do you recommend?**

18 A. I am not currently aware of a tangible example of this concern in this proceeding (at
19 this time). Clearly, the Commission cannot countenance any attempt by an ILEC to
20 deploy inefficient OSS provisioning systems that would have the effect of increasing
21 their rivals' costs, and it would not seem that the Eighth Circuit's decision would bless

1 such activity in any event. In this one area where an ILEC would have an incentive
2 to deploy inefficient technology (i.e., where new systems are being implemented to
3 satisfy its nondiscrimination obligations) there is nothing in the Court's decision that
4 would prevent the Commission from *requiring* (and, therefore, *modeling*) the more
5 efficient choice.

6 ***The Importance of UNE Pricing to Local Competition***

7 **Q. Even Mr. Varner agrees that efficient UNE prices should promote local**
8 **competition. That said, how has UNE-based local competition fared under the**
9 **existing UNE rates?**

10 **A.** It is clear that establishing a competitive local exchange market is one of the most
11 difficult policy objectives of modern times. It has been four years since the
12 Telecommunications Act of 1996 ("the Act"), with its sweeping reforms designed to
13 foster local competition, was enacted and yet little competition has emerged.
14 Although obtaining reliable data on the extent of local competition is difficult, the
15 incumbent LECs are required to file periodic reports with the FCC quantifying the
16 level of competitive activity dependent upon the entry tools (i.e., service-resale and
17 UNEs) made possible by the Act. These reports provide a useful yardstick to measure
18 the implementation of the Act's core provisions, particularly those requiring
19 incumbents to provide entrants nondiscriminatory access to network elements, alone
20 and in combination.

21 **Q. What do these reports indicate about the level of local competition in Florida?**

1 A. The reports show that local competition in Florida is virtually nonexistent, particularly
2 forms of competition that depend upon access to UNEs. The hallmark reform of the
3 federal Act was that it was *supposed to* offer entrants nondiscriminatory access to the
4 existing network on the same basis as the incumbent. UNE-based competition held
5 great promise because it was expected to position entrants as full-fledged local
6 exchange providers – i.e., positioned to innovate, compete in related markets
7 (including exchange access), and replace facilities where appropriate. Yet, as of June
8 1999, there were just over 10,500 unbundled loops in the entire state of Florida, with
9 effectively none in the areas served by GTE/Verizon and Sprint. See Table 1 of
10 Exhibit _____ (JPG-2).

11 Not only has UNE-based competition failed to materialize to any significant degree,
12 it is being far outstripped just by the *growth* in lines enjoyed by the incumbent ILECs.
13 Table 2 (below) exposes a Florida marketplace of rapidly expanding ILECs — with
14 substantial growth in both the business and residential markets — while UNE-based
15 competition grew marginally at best. In the first six months of 1999 (the most current
16 period available from the FCC's reports), the sum total of all UNE-based entrants in
17 Florida gained only 1,100 lines per month, while the ILECs added nearly 18,000
18 business lines and 38,000 total lines per month. This disparity is even more revealing
19 when one considers that the ILEC gains are pure *growth*, while the CLEC's gains
20 reflect *both* their share of growth and their penetration into the existing base
21 (approximately 11 million lines). See Table 2 of Exhibit _____ (JPG - 2).

1 **Q. Is there evidence from other states that demonstrates that UNE-based entry can**
2 **develop rapidly and support widespread competition?**

3 A. Yes. Although delayed by litigation, the UNE combination known as the platform
4 (UNE-P) is now finally becoming available in a few markets, most notably New York.
5 This combination enables the entrant to lease capacity in existing switches, thereby
6 avoiding any need to manually reconfigure facilities to provide the customer
7 competitive service. Preliminary results from New York appear to confirm that UNE-
8 P has the potential to support mass-market competition. Table 3 of Exhibit _____
9 (JPG - 2) contrasts the penetration rates achieved by UNE-P to the very limited
10 competitive inroads achieved by loops obtained individually.
11 The comparably rapid expansion of competitive activity made possible by UNE-P
12 is all the more remarkable when one considers that individual loops have been
13 available in New York since before the Act was enacted. As a result, Table 3 does
14 more than compare the relative performance of these strategies in 1999 - the table
15 actually compares the growth of UNE-loops in their *fifth* year to the growth of
16 UNE-P at *introduction*.
17 Preliminary evidence from Texas is similarly encouraging. While in Florida
18 entrants are adding just over 1,000 lines per month, UNE-P alone in Texas is
19 supporting competitive inroads at a rate of more than 22,000 lines per month
20 (Source: Supplemental Joint Affidavit of Candy R. Conway and William R.
21 Dysart, CC Docket No. 00-4, page 16. UNE-P volumes are averaged for

1 December 1999 and January 2000, the two months of current data provided in the
2 Affidavit).

3 **Q. Why is access to UNE combinations at cost-based rates particularly critical**
4 **for widespread competition?**

5 A. When the cost to acquire and serve an individual customer is high, then
6 competition must focus on only those customers where revenue potential is also
7 high. Because the costs (and processes) to serve local customers using unbundled
8 loops are complex and expensive, the value of this strategy is limited to those
9 markets/customers whose services are *also* complex and expensive. As a practical
10 matter, this means that UNE-loops (obtained individually) are most compatible
11 with providing "design services" – i.e., those services that are sufficiently
12 customer-specific to require special handling, even when the ILEC provides them.
13 In contrast, mass-market services require automated provisioning systems that can
14 minimize – indeed, in an electronic environment, trivialize – the cost to initiate
15 service to individual customers. For instance, the nonrecurring charge proposed by
16 BellSouth in this proceeding to migrate a loop/port combination is only 19¢ -- far
17 below the cost to "hand-craft" service using an unbundled loop that must be
18 reconfigured to an entrant-supplied local switch. As a result, where entrants have
19 access to UNE combinations — and where UNE prices are properly established —
20 more widespread local competition is beginning to emerge.
21 Of course, the unlocked potential of UNE-based competition in Florida is precisely

1 *why* BellSouth recommends that the Commission abandon its effort to establish
2 cost-based prices for UNEs -- particularly UNE combinations -- and instead resort
3 to strategies that yield "full market value" (page 17, line 16). Of course, from
4 BellSouth's perspective as the incumbent monopoly, "full market value" is the
5 price at which entrants are *foreclosed* from the market, thereby assuring its
6 continued dominance.

7 **Q. How do these observations impact the Commission's choices in this**
8 **proceeding?**

9 A. It is important that the Commission not be distracted from the central goal of this
10 proceeding -- to provide entrants the same (that is, nondiscriminatory) access to the
11 existing network that the incumbent enjoys. This means rejecting, clearly and
12 emphatically, calls for "actual costs" and "full market value." This conclusion
13 carries several implications.

14 The first is that the Commission should remain focused at estimating the forward-
15 looking economic costs of network elements. Where uncertainty may have been
16 met with caution in the past, the consequences of adopting inflated UNE-prices
17 have prevented competition from developing for Florida consumers. This situation
18 can, and should, be corrected.

19 Secondly, while all UNEs are important, the Commission should pay particular
20 attention to those UNE that are vital to particular entry strategies. For UNE-P, this
21 means getting the rates for loops, switching and shared transport right — as well as

1 making sure that the necessary nonrecurring charges to migrate customers reflect
2 electronic provisioning and that any ancillary charges (for items such as message
3 recording, daily usage files, feature activation, etc...) be cost-based.

4 For the advanced services market, the Commission should pay close attention to
5 the recommendations of Terry Murray. She will outline for the Commission those
6 aspects of the ILEC's UNE rates that are most critical to the offering of advanced
7 data services by competitors. Although Ms. Murray represents a group of
8 companies that specialize in offering such services, the concerns she expresses are
9 important to all FCCA members more generally.

10 Finally, the Commission should make sure that not just traditional "loops" are
11 available at cost based rates, but that higher speed loops — such as DS-1 loops —
12 are priced correctly and provisioned as efficiently as possible. Correctly done, the
13 broad competitive vision of the Act can become a reality in Florida, but only if
14 UNE prices place entrants on the same footing as the incumbent with respect to the
15 use of the existing network.

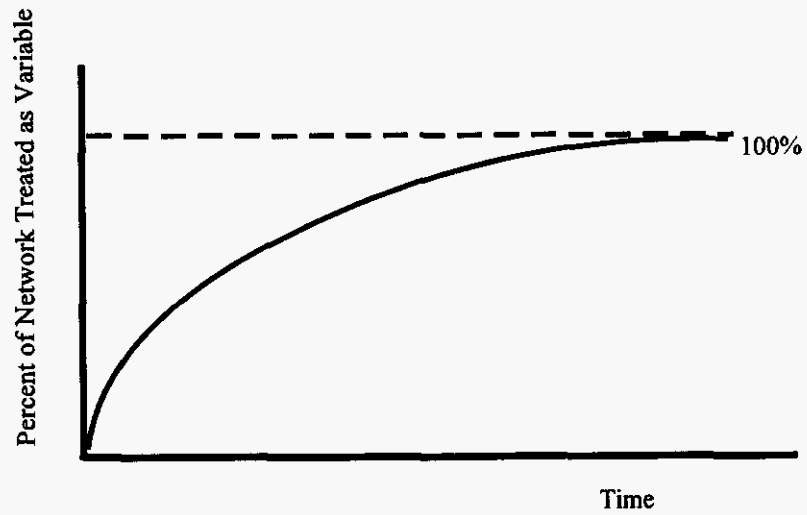
16 **Q. Does this conclude your rebuttal testimony?**

17 **A. Yes.**

1
2
3
4

Docket No. 990649--TP
Witness Joseph P. Gillan
Exhibit _____ (JPG - 1), p. 1 of 1

Figure 1: The Longer the Analytical Period, The More Inputs are Included in a Forward Looking Analysis



5

Table 1: Status of UNE-based Competition in Florida
 (Source: ILEC Responses to the 5th FCC Survey)

As of 6/99:	BellSouth	GTE/Verizon	Sprint	Statewide
UNE Loops	10,217	320	not reported	10,537
Lines	6,558,387	2,297,114	2,056,391	10,911,892
Business Lines	2,005,242	662,861	612,511	3,280,614
CLEC Share:				
of Total Lines	0.16%	0.01%	n/a	0.10%
of Business Lines	0.51%	0.05%	n/a	0.32%

Table 2: Growth in UNE Loops and ILEC Lines
 (1/1/99 to 6/30/99)

	BellSouth	GTE	Sprint	Statewide
UNE Loops	6,475	274	N/A	6,749
ILEC Lines	160,746	23,780	43,246	227,772
ILEC Business Lines	69,728	22,693	13,374	105,795

Table 3: The Status of UNE-Based Competition in New York

Entry Strategy	12/31/99	6/30/99	12/31/99
Individual UNE-Loops	49,442	62,817	80,000
UNE-Platform	0	75,000	400,000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Rebuttal Testimony of Joseph P. Gillan on behalf of Florida Competitive Carriers Association has been furnished by Hand Delivery to * and by overnight delivery and E-mail this 31st day of July 2000, to:

*Beth Keating
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

*Marsha Rule
AT&T
101 North Monroe Street, Suite 700
Tallahassee, Florida 32301-1549

*Nancy B. White
c/o Nancy H. Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1556

Jeremy Marcus
Blumenfeld & Cohen
1615 M. Street, N.W., Suite 700
Washington, DC 20036

Eric J. Branfman and Morton J. Posner
Swidler Berlin Shereff Friedman, LLP
3000 K. Street, NW, Suite 300
Washington, D.C. 20007-5116

Catherine Boone
Covad Communications Company
Ten Glenlake Parkway
Suite 650
Atlanta, Georgia 30328

James Falvey
e.spire Communications
133 National Business Parkway
Suite 200
Annapolis Junction, MD 20701

*Norman H. Horton, Jr.
Messer, Caparello & Self, P.A.
215 South Monroe Street, Suite 701
Tallahassee, Florida 32302-1876

*Michael A. Gross
Vice President, Regulatory Affairs
& Regulatory Counsel
Florida Cable
Telecommunications Assoc.
310 North Monroe Street
Tallahassee, FL 32301

Kimberly Caswell
GTE Florida Incorporated
Post Office Box 110, FLTC0007
Tampa, Florida 33601-0110

*Richard Melson
Hopping, Green, Sams & Smith, PA
P.O. Box 6526
Tallahassee, FL 32314

Scott A. Sapperstein
Senior Policy Counsel
Intermedia Communications, Inc.
3625 Queen Palm Drive
Tampa, Florida 33619-1309

*Donna Canzano McNulty
MCI WorldCom, Inc.
325 John Knox Road
The Atrium Building, Suite 105
Tallahassee, Florida 32303

*TCG South Florida
c/o Kenneth Hoffman
Rutledge Law Firm
Post Office Box 551
Tallahassee, Florida 32302

Andrew Isar
Telecommunications Resellers Assoc.
4312 92nd Avenue, N.W.
Gig Harbor, WA 98335

*Charles J. Rehwinkel
Sprint-Florida, Incorporated
P.O. Box 2214
Tallahassee, FL 32316-2214

John Kerkorian
5607 Glenridge Drive
Suite 310
Atlanta, Georgia 30342

*Mark E. Buechele
Koger Center
Ellis Building
Suite 200
1311 Executive Center Drive
Tallahassee, Florida 32301-5027

Rodney L. Joyce
Shook, Hardy & Bacon, LLP.
600 14th Street, N.W.
Suite 800
Washington, D.C. 20005-2005

Stephen P. Bowen
Blumfield & Cohen
4 Embarcadero Center, Suite 1170
San Francisco, CA 94111

Glenn Harris
North Point Communications, Inc.
222 Sutter Street, 7th Floor
San Francisco, CA 94108

*Peter Dunbar
Pennington, Moore, Wilkinson, Bell &
Dunbar, P.A.
Post Office Box 10095
Tallahassee, Florida 32302

*Laura L. Gallagher
Laura L. Gallagher, P.A.
101 East College Avenue, Suite 302
Tallahassee, Florida 32301

*Angela Green, General Counsel
Florida Public Telecommunications Assoc.
125 S. Gadsden Street, Suite 200
Tallahassee, Florida 32301-1525

*Bruce May
Holland Law Firm
Post Office Drawer 810
Tallahassee, Florida 32302

Jonathan E. Canis
Michael B. Hazzard
Kelly Drye & Warren, LLP
1200 19th Street, NW, Fifth Floor
Washington, D.C. 20036

Jim Lamoureux, Senior Attorney
1200 Peachtree Street, Suite 1200
Atlanta, GA 30309

*Jeffrey Wahlen
Ausley Law Firm
Post Office Box 391
Tallahassee, Florida 32301

*Norman Horton, Jr.
Post Office Box 1876
Tallahassee, Florida 32302


Joseph A. McGlothlin