BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 000731-TP

In the Matter of

PETITION BY AT&T COMMUNICATIONS OF THE SOUTHERN STATES, D/B/A AT&T FOR ARBITRATION OF CERTAIN TERMS AND CONDITIONS OF A PROPOSED AGREEMENT WITH BELLSOUTH COMMUNICATIONS, INC. PURSUANT TO 47 U.S.C. SECTION 252.

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VOLUME 2

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PROCEEDINGS:	HEARING
BEFORE:	CHAIRMAN E. LEON JACOBS, JR. COMMISSIONER BRAULIO L. BAEZ COMMISSIONER MICHAEL A. PALECKI
DATE:	Wednesday, February 14, 2001
TIME:	Commenced at 9:30 a.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	JANE FAUROT, RPR FPSC Division of Records & Reporting Chief, Bureau of Reporting
APPEARANCES:	(As heretofore noted.)

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PROCEEDINGS

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MS. OCKLEBERRY: Good morning, Mr. Chairman and Commissioners. My name is Suzie Ockleberry, and the next witness for AT&T is going to be Joe Gillan.

CHAIRMAN JACOBS: Very well. It has been some time, Mr. Gillan.

THE WITNESS: Yes, it has. It's good to see you again, Mr. Chairman.

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JOSEPH P. GILLAN

was called as a witness on behalf of AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC. AND TCG SOUTH FLORIDA, INC., and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. OCKLEBERRY:

Q Would you please state your name for the record?

A Joseph Gillan.

Q And what is your business address?

A P.O. Box 541038, Orlando, Florida.

Q And how are you employed?

A I'm self-employed.

Q And on whose behalf are you testifying here today?

A I am testifying on behalf of AT&T.

Q Okay. And did you file or cause to be filed 10 pages of direct testimony, I believe it was on November 16th of 2000?

A Yes.

Q And did you also cause to be filed 16 pages of rebuttal testimony on January 3rd of this year?

A Yes.

Q Do you have any additions, deletions or changes to either your direct or rebuttal testimony?

A No, I do not.

Q And if I were to ask you the same questions that were in your prefiled direct and rebuttal testimony, would your answers be the same?

A Yes, they would.

MS. OCKLEBERRY: Mr. Chairman, we would ask that the direct and rebuttal testimony be entered into the record as if it were read from the stand.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DIRECT TESTIMONY OF JOESEPH P. GILLAN

ON BEHALF OF

AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.

AND TCG SOUTH FLORIDA, INC.

DOCKET NO. 000731-TP

NOVEMBER 16, 2000

Q. Please state your name and business address.

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

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

A. I am a graduate of the University of Wyoming where I received B.A. and M.A. degrees in economics. From 1980 to 1985, I was on the staff of the Illinois Commerce Commission where I had responsibility for the policy analysis of issues created by the emergence of competition in regulated markets, in particular the telecommunications industry. While at the Commission, I served on the staff subcommittee for the NARUC Communications Committee and was appointed to the Research Advisory

Council overseeing NARUC's research arm, the National Regulatory Research Institute.

In 1985, I left the Commission to join U.S. Switch, a venture firm organized to develop interexchange access networks in partnership with independent local telephone companies. At the end of 1986, I resigned my position of Vice President-Marketing/Strategic Planning to begin a consulting practice. Over the past decade, I have provided testimony before more than 25 state commissions, four state legislatures, the Commerce Committee of the United States Senate, and the Federal/State Joint Board on Separations Reform. I currently serve on the Advisory Council to New Mexico State University's Center for Regulation.

Q. On whose behalf are you testifying?

A. I am testifying on behalf of AT&T Communications of the Southern States, Inc. and TCG South Florida, collectively referred to as AT&T in my testimony. Although sponsored by AT&T in this arbitration, I have approached my testimony from the perspective of competition more broadly. Interconnection agreements arbitrated between AT&T and incumbent local exchange carriers frequently provide basis for other entrants to the local market and the Commission should properly view such arbitrations as laying the foundation for local competition more generally.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to address two interrelated issues:

Issue 4: What does "currently combines" mean as that phrase is used in 57 C.F.R. §51.315(b)?

Issue 5: Should BellSouth be permitted to charge AT&T a "glue charge" when BellSouth combines network elements?

Together, these issues will decide whether BellSouth will be obligated to provide network elements in a non-discriminatory manner, under terms, conditions and prices that will promote local competition. While access to individual network elements is important to several business strategies – most notably those that involve the provision of higher-speed digital services to larger business locations – access to logical combinations of network elements is what is needed for broad local competition to develop for residential consumers and small businesses. BellSouth routinely combines network elements for itself and has configured its network and central offices to efficiently cross-connect facilities into standard arrangements. Performing routine cross-connections for competitors is an important dimension of its obligation to provide network elements in a nondiscriminatory manner.

Q. What exactly is the federal rule relating to network element combinations and how does this rule apply to the issue at hand?

A. The specific federal rule is 57 C.F.R. §51.315(b) that states:

> Except upon request, an incumbent LEC shall not separate requested network elements that the ILEC currently combines.

The above rule was part of a "suite" of combination rules -- §51.315 (a) through (f) -- that the FCC had initially adopted to implement the Telecommunications Act of 1996. Two of these rules – subpart (b) and (c) -- are important here because collectively they defined the ILECs complete obligation relating to network element combinations. Viewed together these rules stated:

> §51.315(b) -- Except upon request, an incumbent LEC shall not separate requested network elements that the ILEC currently combines.
>
> § 51.315(c) --Upon request, an incumbent LEC shall perform the functions necessary to combine unbundled network elements in any manner, even if those elements are not ordinarily combined in the incumbent LEC's network, provided such combination is:
>
> (1) technically feasible; and
>
> (2) would not impair the ability of other carriers to obtain access to unbundled network elements or to interconnect with the incumbent LEC's network.

Unfortunately, through an appellate process that I will not try to summarize here, the first rule -- § 51.315(b) -- has been reinstated by the Supreme Court, while the later -- § 51.315(c) -- remains vacated by the Eighth

Circuit. Consequently, Issue 4 of this arbitration is needed to clarify BellSouth's obligation with respect to network elements that it "currently combines," but which may not yet be physically connected for a specific customer location.

Q. Why is this issue so important?

A. Widespread competition for average consumers requires that competitors be able to access and use network elements in a simple and cost-effective manner. This means, as a practical matter, that entrants must have access to logical combinations of network elements to provide service. Although it is possible to "piece together" serving arrangements using individual UNEs, the past 5 years of experience demonstrates that these "hand crafted" arrangements are primarily useful to serve larger business customers desiring more specialized services.

Q. Do you have any data that demonstrates the importance of network element combinations to local competition?

A. Yes. Actual market experience validates the fundamental lesson that network element combinations are necessary for widespread competition. Where network element combinations have been made available – most particularly, the network element combination known as UNE-Platform (a loop and port combination) ("UNE-P") – competition has developed far more rapidly than it in its absence. Exhibit JPG-1 summarizes the impact of

UNE-P on competition in New York and Texas, clearly demonstrating the importance of UNE-P to widespread competition. The rapid growth of UNE-P documented by the Exhibit is even more dramatic when one considers that its introduction was hampered by a number of operational problems in both states. Further, unbundled loops had been available in New York prior to the passage of the federal Act. Consequently, Table 1 in Exhibit JPG-1 (comparing competitive activity using UNE-P to that using unbundled loops by themselves) actually compares the progress made by UNE-P in the *first* year to the cumulative penetration of unbundled loops after approximately *five* years.

Q. Do the ILECs themselves understand the importance of UNE-P to local competition?

A. Yes, the importance of network element combinations to local competition is well understood as well by the incumbent local telephone industry. No less ILEC-oriented publication than the United States Telephone Association's own magazine observed that individual network elements are difficult to use at volume:

> Because of their fragmentary nature, UNEs will be operationally difficult to order and to provision on both sides. Product packages that comprise appropriate and

pre-set UNE combinations could reduce some of the difficulties.[1]

Furthermore, whenever an ILEC confronts the same economic problem as an ALEC – i.e., how to offer competitive local exchange service on a broad scale – the answer is no different than what I have discussed here: UNE-P. For instance, SBC revealed during the review of its merger with Ameritech that its out-of-region entry strategy was premised on the use of network element combinations to serve the residential and small business market. (*See* Deposition and Testimony of James Kahan on behalf of SBC, Public Utilities Commission of Ohio, Case No. 98-1082-TP-AMT). Further, in Pennsylvania, Bell Atlantic was ordered to file a plan to separate its operation into wholesale and retail affiliates. As part of that filing, Bell Atlantic (now Verizon) proposed to use UNE-P as its principal entry strategy. (*See* Re Structural Separation of Verizon Pennsylvania Inc. Retail and Wholesale Operations, Pennsylvania Public Utility Commission, Docket No. M-00001353). When incumbents confront the same conditions as entrants, they reach the same conclusion: Network element combinations are the only practical means of offering mass-market services.

Q. What must be done to effect broad local competition in Florida?

A. For UNE-P (and other combinations) to be practically useful, they must be combined to offer service. For instance, to serve a residential customer or

[1] *Wholesale Marketing Strategy*, Salvador Arias, Teletimes, United States Telephone Association, Volume 12, No. 3, 1998.

small business customer desiring a second line, or to serve a new premise, elements that BellSouth combines every day in its network must be combined. The most efficient solution is for BellSouth to combine these elements -- using the systems and processes that it has already established to efficiently and routinely combine these same facilities -- and then provide the entrant with the requested combination. Elements combined in this fashion would be then also be available for migration to other competitors, thereby enabling the customer to easily change carriers in the future as well.

Q. How can the Commission order BellSouth to combine elements for entrants that it ordinarily combines for itself?

A. There are two ways for the Commission to make sure that BellSouth combines elements for entrants that it ordinarily combines for itself. The first is to simply determine that rule §51.315(b) – which requires that BellSouth offer network elements that it currently combines – includes combining elements that it ordinarily combines, even if the particular elements have not yet been connected for a specific customer. This is the path chosen by the Georgia Public Service Commission that ruled:

> that 'currently combines' means ordinarily combined within the BellSouth network, in the manner in which they are typically combined. Thus, CLECs can order combinations of typically combined elements, even if the particular

> elements being ordered are not actually physically connected at the time the order is placed.[2]

Alternatively, the Commission can order that BellSouth combine these elements under its own authority, as the Michigan Commission has done:

> The Commission also rejects the argument that Iowa Utilities preempts state law, even if Ameritech Michigan's interpretation of the court decision were valid. The decision reflected the court's conclusion of law that the FCC overstepped its statutory authority in requiring incumbents to combine multiple network elements. As argued by AT&T and MCI, this holding does not inhibit a state commission from mandating various elements or combinations of elements under state law. The federal Tele-communications Act of 1996 explicitly preserves states' authority to impose requirements that accelerate competition in the local exchange market beyond what federal law would otherwise mandate.[3]

Q. Should BellSouth be permitted to charge AT&T a "glue charge" when BellSouth combines network elements (Issue 5)?

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[2] *Order*, Georgia Public Service Commission, Docket No. 10692-U, February 1, 2000, at 11.

[3] January 28, 1998 Order, Case No. U-12280, pp. 21-22. (Footnote deleted.) cited again by the Commission in its Order in Cases Nos. U-11104 and U-12143, February 9, 2000.

A. No. BellSouth should only charge a cost-based rate for combining network elements. To do otherwise would be discriminatory and would simply inflate the retail prices paid by consumers. Moreover, once elements are combined, even under BellSouth's narrow reading of § 315(b), it would be unlawful to separate the elements and they would have to be made available to other competitors without disruption. If BellSouth were permitted to inflate its charges for combining elements, then it would distort competition because it would be less costly for a second ALEC to serve the customer than the ALEC that won the customer's business in the first instance. Of course, the greater distortion – and the likely motivation behind BellSouth's position – would be that it would always be less costly for the customer to use BellSouth than a competitive entrant.

Q. Does this conclude your direct testimony?

A. Yes.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

REBUTTAL TESTIMONY OF JOESEPH P. GILLAN

ON BEHALF OF

AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.

AND TCG SOUTH FLORIDA, INC.

DOCKET NO. 000731-TP

JANUARY 3, 2001

Q. What is your name?

A. My name is Joseph Gillan. I previously filed direct testimony in this arbitration on behalf of AT&T Communications of the Southern States, Inc. and TCG South Florida, Inc. ("AT&T").

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to respond to BellSouth's testimony on two issues:

Issue 4: What does "currently combines" mean as that phrase is used in 57 C.F.R. §51.315(b)?

Issue 5: Should BellSouth be permitted to charge AT&T a "glue charge" when BellSouth combines network elements?

Although sponsored by AT&T, my testimony emphasizes the importance of correctly resolving these issues on competition more generally. It is not

unusual for entrants to rely on AT&T's arbitration to resolve critical issues; therefore, the Commission's decision here will affect not only AT&T, but will have a significant impact on other entrants as well.

Q. Have you reviewed BellSouth's testimony (Ruscilli, pages 4-12) on this issue?

A. Yes. BellSouth's testimony is a blend of legal argument and economic rationalization. The goal of its legal argument is to assert that the Commission has the legal authority to make local entry even more difficult and expensive, while its remaining testimony tries to justify why it makes sense to do so. In the rebuttal that follows, I explain that even if BellSouth's legal reasoning were correct – an issue with which I disagree, but that I fundamentally leave to the brief – there is no rational justification for making local competition harder, and therefore more costly, than it already is.

In support of its basic position that the Commission should make entry more difficult by sanctioning BellSouth's refusal to offer any combination of network elements that it currently combines for itself, BellSouth advances three basic theories:

* Forcing entrants to combine elements in inefficient ways will somehow produce efficient results;
* Combining elements for entrants will discourage BellSouth from introducing innovative new technologies; and

* Requiring BellSouth to combine elements is "...inconsistent with the Act's basic purpose, which is to introduce competition into the local market."

As I explain below, however, none of these "justifications" can be squared with standard economic theory. At issue here is a simple choice. Should BellSouth provision network element combinations in the most efficient manner (i.e., combining those elements for entrants that it routinely combines today), or should it be allowed to require additional and unnecessary work – for both itself and the entrant – to get to the same result? Economics always favors the "less is more" alternative, because costs and effort that are unnecessary ultimately result in higher prices and wasted resources. The same conclusion holds true here. There is one clearly favorable outcome – i.e., that elements be combined in the most efficient manner – that can be achieved only if the Commission rejects BellSouth's proposal.

Q, Before addressing each of BellSouth's arguments in more detail, do you have a preliminary comment?

A. Yes. These hearings (as currently scheduled) will roughly commemorate the fifth anniversary of the Telecommunications Act of 1996. This anniversary provides a useful point from which to consider exactly where local competition is today, and where it may be heading absent strong action by this Commission (both in this arbitration and other proceedings). The

Telecommunications Act (as well as Florida's own Chapter 364) was intended to foster a competitive local market. Unfortunately, the initial optimism that greeted passage of the Act has dissipated in the reality of the past five years.

Q. Do you have any statistics that document the "dissipating enthusiasm" for local competition?

A. Yes. One useful measure of the waning enthusiasm for local entry is the stock price of competitive entrants. Exhibit JPG-2 (attached) shows that the stock values of CLECs and IXCs – i.e., CLECs with a preexisting base of long distance customers -- have fallen dramatically over the past year. While ILEC stocks are also down during the period (roughly 19%), their collapse is nowhere near as dramatic as that experienced by the competitive sector. CLEC stocks have declined nearly 80% from their 52-week highs, while IXC stocks are down nearly 70%. Overall, capital markets have effectively shut their doors to CLEC fund-raising efforts.

Q. Why do you believe that local competition has progressed so slowly?

A. A variety of factors have contributed to the poor health of local competition. To begin, competitive local exchange service is more complicated than many first believed. The incumbent's inherited network is vast, representing the cumulative product of more than 100 years of investment. It is an understatement to observe that this network will not be duplicated any time

soon. As a result, widespread competition is dependent upon access to this network, and is likely to remain dependent upon access to existing network facilities for some time. While litigation has delayed the process, the fact remains that establishing cost-based prices, implementing nondiscriminatory OSS, and embracing policies that encourage efficiency will be necessary if local competition is to succeed.

Q. How does this observation relate to the issues in this proceeding?

A. The past five years has generally demonstrated that hand-crafting competitive local exchange services – which is fundamentally what entrants must do to serve customers using their own facilities and network elements obtained individually – is most viable only for larger, sophisticated business customers. Expanding local competition to the typical consumer – i.e., residential customers and small businesses – requires access to network element combinations that greatly simplify the competitive process.

The core "combinations" issue before the Commission in this arbitration is simple, yet far-reaching. Mass-market competition depends upon *efficient* provisioning systems structured to minimize cost and accommodate volume. This same basic conclusion applies with equal force to *new* combinations as it does to *existing* arrangements. Consumers are unlikely to accept entrants that can serve an existing line, but cannot provision additional lines or serve the customer at a new location. Consumers will not benefit from policies that

make local competition more complex, more cumbersome and more expensive. If the Commission wants competition for average consumers, then it must be committed to policies that make entry more simple and cost-effective.

Q. Do you intend to respond to BellSouth's legal argument?

A. No, not in any detail. Addressing the legal basis to BellSouth's position is more appropriate to post-hearing briefs than testimony. Without attempting to render a legal opinion, however, I do believe a number of points should be considered.

To begin, it would seem that the central legal issue concerns the limits of the Commission's discretion – that is, may the Commission evaluate BellSouth's obligation on its merits, or must the Commission sanction BellSouth's proposal, without regard for the consequences to Florida consumers. As I explained in my direct testimony, I believe that the Commission has the authority to judge the issue on the merits.

For its part, BellSouth places great emphasis on a decision from the Eighth Circuit (which the FCC and a number of other parties have requested the Supreme Court review) that had the effect of leaving vacated an FCC rule that would have removed any uncertainty that BellSouth was obligated to combine elements that it routinely combined. The Eighth Circuit's decision,

however, does not preclude this Commission from deciding the issue on its merits. For instance, the United States Courts of Appeals for the Fifth and Ninth Circuits have determined that it is consistent with the Telecommunications Act of 1996 and the decision of the U.S. Supreme Court for state commissions to require ILECs to combine network elements. *US West Communications v. MFS Intelenet,* 193 F.3d 1112 (9th Cir. 1999); *Southwestern Bell Telephone Co. v. Waller Creek Communications, Inc., et. al.,* 221 F.3d 812 (5th Cir. 2000). These decisions are attached as Exhibit JPG-3 and JPG-4, respectively. These decisions have the practical effect that the ILEC must provide combinations to CLECs where the ILEC ordinarily combines such network elements to provide service.

Moreover, BellSouth never tries to reconcile its position with other FCC rules that prohibit restricting network elements. For instance, FCC Rule 309(a) specifically provides:

> An incumbent LEC shall not impose limitations, restrictions or requirements on requests for, or the use of unbundled network elements that would impair the ability of a requesting telecommunications carrier to offer a telecommunications service in the manner the requesting telecommunication carrier intends.

There is no apparent dispute that BellSouth cannot restrict the use of stand-alone loops (or switching or transport) to serve only customers who currently receive service from BellSouth. For instance, when an entrant orders a DS-1 loop to a customer premise, there is no requirement that the customer already be served over such a facility. BellSouth should not be allowed to restrict the use of combinations of elements. A combination of elements is just that – a combination of elements. There is no basis for BellSouth to impose restrictions on the use of such elements merely because they are provisioned in combined form.

In any event, I will generally rely on AT&T's brief to explain why the Commission has the legal discretion (if not legal obligation) to require BellSouth to combine for entrants those elements that is "currently combines" today. The larger purpose of my testimony is to explain why the Commission should reach this conclusion for the benefit of Florida consumers.

Q. Moving to the merits of BellSouth's position, what policy rationale does BellSouth use to justify its refusal to combine elements for entrants that it currently combines for itself (or, in the alternative, charge a glue charge)?

A. BellSouth offers three "policy reasons" for its position. The first of these justifications is that requiring BellSouth to combine elements would (Ruscilli, page 7), according to BellSouth:

> ... not benefit consumers as a general matter, and would unnecessarily reduce the overall degree of competition in the market.

Q. Does this conclusion make economic sense?

A. No. Even BellSouth agrees that consumers benefit when entrants "use the most efficient method" for providing service (Ruscilli, page 7). This conclusion – that consumer benefit is tied to efficiency – lies at the heart of economics. The *reason* that entrants want BellSouth to combine elements is precisely because that is the *most efficient* way to obtain ordinary combinations. BellSouth routinely combines elements in the network today. It is reasonable to expect that its central offices are designed so that facilities used for routine cross-connection are easily (if not electronically) accessible, with procedures employed to avoid unnecessary reconfiguration and investment.

Remarkably, rather that simply combining elements for entrants at those points in the network (such as existing cross-connect frames) that BellSouth has established for precisely this purpose, BellSouth is proposing to create new environments where entrants would do the same work. Under

BellSouth's proposal, entrants would combine elements in collocation space, or use assembly "rooms" or "points" specially constructed for this purpose (Ruscilli, page 9). These additional steps – creating the assembly room/point, and then extending requested elements via new facilities and additional cross-connections – does nothing but create increased cost and points of potential failure.

The central criterion of "efficiency" is the elimination of unnecessary costs, yet in the *name* of efficiency BellSouth proposes the opposite result. Importantly, BellSouth's proposal would result in *more* work and *increased* costs for both itself and new entrants. Even BellSouth would do "more combining" by cross-connecting the requested elements to the facilities necessary to extend the elements to the CLEC, not to mention the cost -- in time, money and space – to create the associated "assembly areas." Expending resources for sole purpose of achieving a less reliable and more costly environment is a wasteful exercise that can find no support in economics, common sense or sound policy.

Q. Should the Commission expect *less* competition (as BellSouth claims) if BellSouth is required to combine elements it routinely combines today?

A. No. Before addressing this point on the merits, however, consider the following paradox: Would it really make sense for BellSouth – the incumbent monopolist – to advocate positions that *increase* competition,

while AT&T – the entrant – promotes policies that would produce *less*? Of course not.

The more simple and cost effective it is to obtain network elements, the more customers entrants can reasonably serve. This proposition cannot be denied. BellSouth's complaint is not that entrants won't compete more extensively, its real complaint is that BellSouth does not want to "share" its network with competitors.

Q. BellSouth quotes Supreme Court Justice Breyer's observation that "...is in the unshared, not in the shared, portions of the enterprise that meaningful competition would likely emerge" (Ruscilli, page 7) to support its position. Is BellSouth's use of Justice Breyer's opinion here relevant?

A. No. Justice Breyer was addressing the threshold question as to *what* elements should be made available, while the issue here concerns *how* they should be offered. The FCC has already addressed the issue raised by Justice Breyer by concluding that entrants would be impaired -- and that competition would therefore be less -- without access to the network elements in question.

What BellSouth seeks here is to subvert the FCC's impairment decision by imposing provisioning practices that would increase the entrants' cost to use the network elements to which it is legally entitled. There is nothing in

Justice Breyer's analysis that offers support for the proposition that inefficient provisioning systems will promote competition. If an entrant is impaired without access to an element, then the law requires that it be available in a manner that is nondiscriminatory.

Q. BellSouth also claims that combining elements for entrants would discourage facilities-investment by BellSouth (Ruscilli, page 8). Is this view reasonable?

A. No. First, BellSouth's objection appears directed more at the TELRIC pricing standard than the requirement to combine elements (Ruscilli, page 8):

> ...requiring BellSouth to combine UNEs at cost-based prices, particularly at Total Element Long Run Incremental Cost (TELRIC)-based prices, reduces BellSouth's incentive to invest in new capabilities. TELRIC-based prices do not cover the actual cost of elements ...

As to the economic properties of the TELRIC pricing standard, BellSouth is simply wrong when it claims that TELRIC rates do not cover actual cost. The TELRIC standard explicitly requires that prices accurately reflect the *forward-looking* cost of network elements for the precise reason that it is an element's forward-looking cost that will guide investment decisions. Just as BellSouth's earlier argument was structured to undermine the FCC's

impairment analysis, BellSouth's testimony here is nothing more than an attempt to negate the TELRIC pricing standard.

Moreover, BellSouth's again misapplies Justice Breyer's opinion for the proposition that BellSouth would not:

> ... undertake the investment necessary to produce complex technological innovations knowing that any competitive advantage deriving from those innovations will be dissipated by the sharing requirement.

It is important to appreciate, however, that there is no "complex technological innovation" at issue here. BellSouth is refusing to combine basic building blocks – i.e., loops to ports, or digital facilities (with multiplexing) to standard interoffice transport – that are generic, not proprietary. It because these building blocks are *routinely* combined that makes possible the efficiencies of the present system. There is nothing unique about these standardized combinations that would give rise to some "complex technological innovation." This is network engineering, not improvisation.

Q. Finally, BellSouth argues that requiring it to combine network elements is inconsistent with the Act's basic purpose (Ruscilli, page 9). Do you agree?

A. No, not at all. BellSouth's final objection is based on its view that the Act is intended to "introduce competition" not "subsidize competitors" (Ruscilli, page 9). On this much, we agree. However, there is nothing to suggest that requiring BellSouth to combine elements for rivals that they routinely combine for themselves would result in less competition or subsidized competitors.

Consider the practical reality here. A customer moves into a new home and AT&T requests the combination (loop and port) needed to serve them. Under the approach recommended by AT&T, BellSouth would be required to combine these elements as they routinely do today. Once combined, then even BellSouth would agree that the combination would be available to other competitors – including BellSouth – so that the customer could easily change local carriers in the future. Simple system, low cost, greater competition.

In contrast, under BellSouth's proposal, these same elements (loop and port) would be extended to a *different* location in the central office (such as AT&T's collocation space or an "assembly room/point") where they would then be cross-connected. The result: higher costs and additional points of failure. Moreover, under BellSouth's approach, if the customer sought to change carriers, then the entire exercise of manually reconfiguring the requested combination to a different "assembly frame" would need to be repeated – at least until the customer moved to BellSouth.

Finally, it is useful to remember that BellSouth cannot ultimately prevent entrants from gaining access to the combinations they seek, BellSouth can only (if allowed) impose costs that are unnecessary. For instance, an entrant seeking to add a second line can order the line as a retail service (or resold service), and then migrate that combination to UNEs the next day. Similarly, an entrant needing an EEL to serve a distant customer can order the facility as a special access circuit and migrate then it to UNEs as well. It makes no sense to create a system that doubles the work for every party involved – ILEC, CLEC and, undoubtedly, the customer itself. Every unnecessary step injects additional opportunity for failure, and a cost that is a dead-weight loss to the economy.

Q. Should BellSouth be permitted to impose a "glue charge"?

A. No. Even BellSouth acknowledges that the term "glue charge" is synonymous with "market rate"(Ruscilli, page 10). Of course, if a functioning "market" existed, there would be no need for UNEs. The requested facilities are deemed to be "unbundled network elements" precisely because entrants would be impaired – and, therefore, competition would be harmed – if they were not available at cost-based rates.

Furthermore, the entrant is already compensating BellSouth for the elements it purchases – BellSouth's "glue charge" is no different than a demand for above-cost rates. Glue charges must ultimately be recovered in the prices

charged to end-users. BellSouth's proposal is nothing more than a request to inflate its rivals' *costs* so that it may inflate its rivals' *prices*, thereby assuring that its own monopoly prices are protected from competition. The Commission should reject its proposal.

Q. Does this conclude your rebuttal testimony?

A. Yes.

CHAIRMAN JACOBS: Without objection, show the direct and rebuttal entered into the record as though read.

BY MS. OCKLEBERRY:

Q Mr. Gillan, did you prepare a summary of your testimony?

A Yes, I did.

Q Could you please give that summary now?

A Thank you. Good afternoon, and I will try to make my summary as brief as possible. Which shouldn't really be that difficult because my issue -- I have a single issue that I think is both simple, straightforward, but it is also very important for competition.

It is pretty clear by now, five years after the Act has passed that if there is going to be competition at any meaningful level for average consumers, small businesses, residential customers, that it is going to require that companies be able to purchase network element combinations. BellSouth will provide a network element combination for an existing customer, but if you have a customer that is moving into a new home, or they are going to move into a new building, or they are going to add a line, BellSouth is refusing to combine those elements for entrants, even though they do so for themselves each and every day on a routine basis.

Now, because of a legal process that I am not going to bore you with this morning, we have left -- we are in a position now where this question, whether new combinations that BellSouth ordinarily combines should be treated differently than existing combinations is now an issue that needs to be decided on a state-by-state basis. There doesn't seem to me to be any dispute that this Commission has the authority to decide this issue. That it has the authority to tell BellSouth to combine elements, new elements for entrants. A number of states have done that including Georgia and Michigan.

Where we seem to have a dispute that BellSouth focuses its testimony on whether they are already required to do this. And, quite frankly, my testimony looks past the debate as to whether they are already required, because I don't think that is as important at this point as recognizing why you should tell them to do so. And that is why we are here so that this Commission will answer this question for the State of Florida.

Now, there is a couple of reasons why I believe it is important for the Commission to require that BellSouth combine these elements for entrants. The first one is the one I opened with. Facts are today, it is clear, that where entrants have access to network element combinations they move down market, they get into the

residential marketplace. They get into the small business marketplace and you see a much more rapid proliferation of competition.

We have data from Texas, we have data from New York and other states where network element combinations have become available at reasonable prices that demonstrate that if you are interested in seeing local competition in Florida, this is the path that you have to encourage. In addition, over the past five years we have learned that the ILECs don't really disagree with us on this point.

In those rare instances where an ILEC confronts the same problem as a CLEC, where they have to look at how they would go about out of region serving this same customer group, they reach the same decision that the CLECs reach.

When SBC was looking at developing an outer region strategy to serve residential and small business customers, not surprisingly what its business plan showed is they were going to use UNE-P. When Verizon was told by the Pennsylvania Commission to come back and tell us how you would serve Pennsylvania if you were forced to do so as a CLEC, they showed back up at the door with a plan based on using UNE-P. So we know that where it is available people serve these customers and that when the

ILECs face the same problem they reach the same conclusion.

In this proceeding, BellSouth wants you to say, to sanction this it is all right for BellSouth to give network element combinations for existing customers but not new customers. This would be foolish. And it would be foolish for a very simple reason. Common sense, not to mention economics, tells you that if you want to have something accomplished, you do it in the simplest and the easiest way. There is no dispute in this proceeding that the simplest and easiest way to get network elements combined is for BellSouth to do it at that point in the network with the procedures that they already have in place where they do it each and every day.

Instead of doing it where they have designed the network to combine elements, where they have already put in place the investment to combine elements, they are proposing an alternative that requires that they spend more money, they expend more resources, and the CLEC expend more resources. More work for everybody. In fact, if you look at it, in order to avoid combining elements for AT&T, BellSouth would propose to do more combining to move the elements off to some other location where AT&T could do it than if they just combined it to begin with.

Now, you know, Rube Goldberg (phonetic) was a

humorist, his designs were never intended to be taken seriously. But this is essentially what BellSouth is proposing. A system where they would expend more resources evading the obligation to combine than doing it on a straightforward basis. Now, obviously when you spend more time, and more expense, and more capital to do something that means higher prices, and added complexity, and additional points of failure for consumers.

It is clear that this process of bringing local competition to customers is hard enough already. It makes no sense to adopt systems that make it even more expensive and more difficult. Overall, I think the Commission has a very simple choice in this proceeding. It can either resolve this ambiguity in the law by sanctioning BellSouth's proposal to make local competition even harder than it already is, or the Commission can simply do what other states have done. What Tennessee has done, what Michigan has done, what Georgia has done, and require that when BellSouth combines elements for itself in its ordinary course of business it do so for entrants so that they, too, can compete for new customers and new lines.

Now, on a final note, I recognize that the Commission is going to be looking at a similar issue to this in its MCI arbitration in a couple of weeks, and I recognize that the staff recommendation, as drafted at

least, would not go down the path that I recommend. But I think it is important for you to understand that the question here isn't so much what is the current legal requirement, the question is what should the requirement be in this state. And it is clear that establishing a competitive local market is perhaps the most difficult public policy objective ever undertaken. And it makes no sense to make it harder than it already is for people to bring these services to your average residential and small business user. Thank you.

The thank you was my rhetorical way of completing it, sorry.

MS. OCKLEBERRY: Mr. Chairman, I realize that Mr. Gillan had one exhibit in his testimony in his direct and I needed to have that identified as Exhibit 9. It was prefiled as -- I believe it was JPG-1 through 4.

CHAIRMAN JACOBS: Very well. We will identify that as Composite Exhibit 9.

(Exhibit 9 marked for identification.)

MS. OCKLEBERRY: Okay. Mr. Gillan is available for cross-examination.

CHAIRMAN JACOBS: Very well. Do you want to get started now or wait until after lunch?

MR. EDENFIELD: We can break for lunch and come back and start fresh, that is up to you. I will have more

than 15 minutes. I will take us beyond 12:30. So if you want to break now, I will be happy to do that. Whatever your pleasure is.

CHAIRMAN JACOBS: Why don't we do that. Let's break for lunch and we will come back at 1:15.

(Lunch recess.)

CHAIRMAN JACOBS: We will go back on the record. And I think we were done with the summary.

MS. OCKLEBERRY: Yes, Mr. Chairman. But I need to clarify something for the record. I think I got the exhibits confused. Mr. Gillan had one exhibit in his direct, which was JPG-1, and then he had 2 through 4 in his rebuttal. And so if those could be marked as Composite Exhibit 9.

CHAIRMAN JACOBS: Still one exhibit?

MS. OCKLEBERRY: Yes.

CHAIRMAN JACOBS: Very well. With that clarification then we would mark that as Exhibit 9. And Mr. Edenfield.

MR. EDENFIELD: Thank you, Chairman Jacobs.

CROSS-EXAMINATION

BY MR. EDENFIELD:

Q Good afternoon, Mr. Gillan. I'm trying to get my notes together here real quick. I have been fighting off apparently what has put Commissioner Jaber and

Commissioner Deason out of the playing field today. So if you have any problem understanding me, please tell me to repeat the question because my head is about as stopped up as it can get.

A If you get a cough in response, forgive me, as well.

Q We will muddle through it, then. The war of the wounded.

Just by way of background, you are being paid for your time here today?

A Yes, I hope so.

Q You are not an AT&T employee, you are a consultant hired by AT&T?

A That is correct.

Q Okay. Now, as I understand the issue that is before us, it is whether BellSouth is going to have to provide to AT&T unbundled network elements or combinations of unbundled network elements that BellSouth ordinarily combines in its network or either combinations that BellSouth, in fact, already combines in its network, is that your understanding of the issue?

A I think so. You drew a distinction between ordinarily combines and already combined, which I don't know if you did for a purpose. I would interpret those two phrases to mean the time thing. And then the only

other caveat I would attach to that is while the issue -- the way the Telecom Act works, this is teed up in terms of will AT&T have this opportunity. I think as a practical matter you are making a decision for a much broader base of carriers and it is useful to keep in mind.

Q Let me give you a more specific example so we can try to frame the issue here. It is BellSouth's position, I assume you would agree, that AT&T is entitled to a combination of elements that already exist in the network and are actually providing service to an end user. That in that instance AT&T is entitled to that combination. Do you agree with that?

A Yes.

Q And what BellSouth is objecting to is having to provide combinations of network elements where those, the particular combination you are requesting for a particular end user does not already exist?

A Well, you are objecting, as I understand it, to combining those elements where the combining doesn't already exist. As I understand it, as a practical matter you will provide the element even if the element doesn't already exist. The only thing you are objecting to is that you refuse to combine them so that they actually work and are useful to somebody.

Q And, in fact, we will combine them for you, but

we expect to be compensated at a market-based rate for that combination, right?

A Well, yes. But that is a very polite way of saying that you will combine it for AT&T or an entrant as long as you can charge them a rate that makes it uneconomically attractive for them to serve the customer. I mean, when you use the word market rate, we should keep in mind that as a monopoly that would otherwise win the customer, your incentives to make that market rate do anything other than foreclose entry is pretty limited.

Q What is the rate that BellSouth is asking AT&T to pay for combining network elements?

A If I recall from -- I have not seen that market rate.

Q You don't know what it is, but you just know it's too high?

A I have seen the market rate you charge where you don't have to provide unbundled local switching. And since that to me provides an indication of how you view market rates, and that is an additional $14 a month that you would impose on customers, or thereabouts, I have no reason to believe you would adopt a different strategy. But you're right, I don't know what the specific rate would be.

Q Okay. Now, the particular FCC rule that we are

talking about here is 51.315(a), or I'm sorry, (b)?

A That is one of the rules, yes.

Q Okay. And, in fact, I'm looking at Page 4 of your direct testimony. You cite a couple of rules there. 51.315(b) and 51.315(c), and that is on Lines 11 through 21 of your direct. Do you see that?

A Yes.

Q And the way I interpret 315(c) and tell me if you agree with this, is this is the rule that required BellSouth to actually combine -- do the work necessary to combine network elements for requesting ALECs?

A No, I think that is an oversimplification. I mean, there is clearly some ambiguity here. I think, you know, the issue is how should the Commission resolve it. But 315(c) can be read to refer to situations where you are doing things that are not ordinary, that you are creating new types of combinations. And 315(b) in that framework can be interpreted to include separation of network elements that are already connected as well as anything that the ILEC currently combines.

There is a poor choice of wording in this two rules, I think we have to all admit that. But that clearly this obligation that we are talking about could either be in the interpretation of 315(b), or as you are trying to portray, in 315(c).

Q All right. You will agree with me that the term ordinarily combined exists in 315(c), but does not exist in 315(b)?

A The term ordinarily combined past tense exists in 315(c). The term currently combines is in 315(b).

Q So the answer to my question is yes, the term ordinarily combined exists in 315(c) and that same term does not exist in 315(b)?

A Correct. But the issue is when you use the term ILEC currently combines, are we referring to things that you ordinarily, i.e., currently combine. It's this mix up in the tenses between these two words that creates this ambiguity.

And, again, my testimony doesn't really go to trying to argue whether or not this ambiguity should be resolved one way or the other, because that is a legal issue that would seem to me to be more appropriate to brief. My testimony goes to a very simple point. You can do this so that it makes it possible for local competition more simply or you can create another barrier. And it makes no sense to create the barrier given the fact that it is up to the Commission to tell us what do these things mean.

Q I think you are reading a lot more into my question. My question is not nearly that deep. My

question simply on its face is does this phrase exist in (c) and does that phrase not exist in (b)?

A In the past tense it exists in (c), and in the present tense I believe it exists in (b) in terms of currently combines means ordinarily combines because that is why it is currently combines.

Q We can do it easy or we can do it hard. Show me in 315(b), when you read that show me where the words ordinarily combined exist in that definition.

MS. OCKLEBERRY: Mr. Chairman, I'm going to object to the question. I believe it has been asked and answered of the witness. I think he said initially on the second time the question was asked that is correct, and he proceeded to give his explanation about that. So I would object on that basis.

MR. EDENFIELD: I will certainly admit that I have asked it a number of times, but I have not gotten an answer. All I'm trying to find out is a simple yes or no, and frankly I haven't gotten anything near that yet.

MS. OCKLEBERRY: Mr. Chairman, I believe he did say that is correct to his question and went on to explain, and that's when Mr. Edenfield responded my question is not nearly as deep, but Mr. Gillan did provide an answer to his question.

CHAIRMAN JACOBS: I believe he did answer, you

are correct. However, if you didn't get to the subject matter that you were trying to get at, I will allow you to rephrase the question, but very briefly.

MR. EDENFIELD: I will just move along.

CHAIRMAN JACOBS: Okay.

BY MR. EDENFIELD:

Q Will you agree with me, Mr. Gillan, that Rule 315(c) has been vacated by the Eighth Circuit Court of Appeals?

A Yes, it has.

Q Let's turn to your -- actually, before we do that. You had mentioned in your summary a couple of decisions, one from Georgia and one from Michigan, I believe?

A Yes.

Q And you cite those for the proposition that BellSouth should combine for AT&T elements that ordinarily exist or are ordinarily combined in BellSouth's network, is that the reason you cite those two cases?

A I cite those as two of the ways that the Commission can reach its decision. My testimony goes as to why it should require BellSouth to combine the elements and then point out that states that have addressed this issue have more or less used two different legal techniques to implement it. One by adopting an

interpretation of 315(b), or, two, by doing it under their own authority. And I really didn't make any recommendation as to which of those legal techniques would be preferable, it seems to me that is an issue for briefs.

Q But it is your position that the Michigan Commission has made a ruling concerning UNE combinations that is consistent with AT&T's position in this proceeding?

A Yes.

Q Let me hand you a copy of a case out of the United States District Court for the Western District of Michigan, Verizon North Incorporated versus John Stand. And once it makes it around to Chairman Jacobs, I would ask that it be marked for identification.

CHAIRMAN JACOBS: Let me mark it as --

MR. EDENFIELD: I believe we are up to Number 10.

CHAIRMAN JACOBS: Exhibit 10 it is.

(Exhibit 10 marked for identification.)

BY MR. EDENFIELD:

Q And if I could get you -- if you look up in the upper right-hand corner of what has been identified as Exhibit 10, you will see page numbers. If you will turn to Page Number 10 of this exhibit. And will you accept, subject to check, that what is on appeal here, that what

Verizon has appealed is a decision of the Michigan Commission ordering Verizon North to provide combinations of network elements that ordinarily are combined in Verizon's network as opposed to elements that actually exist and are already combined in Verizon's network?

A Subject to check, yes.

Q Now, take a look, if you look in the column on the right-hand side of the page, the first full paragraph that starts, "Where the network elements are not already combined," take a second and read that paragraph for me if you would.

Have you read that, Mr. Gillan?

A Yes.

Q Will you agree with me that what the District Court out of the Western District of Michigan has done to the Michigan Public Service Commission's decision is say that under the Federal Telecommunications Act it is the duty of the requesting carriers, not the incumbent LECs, to combine the elements. The court goes on to say, "Accordingly, the court finds that the MPSC, which is the Michigan Public Service Commission's order that Verizon provide bundling at the behest of competitive LECs conflicts with and is preempted by the Federal Telecommunications Act.

Sir, will you agree me that the United States

District Court has reversed the Michigan Public Service Commission's decision that you cite in your testimony?

A Well --

Q I'm sorry, I should not say the decision itself. Certainly the proposition that you cite that case for in your testimony has been reversed by the district court in Michigan?

A Well, I will agree that this says what it says, but also it is important to put this into context. Subsequent to this decision, the Michigan Commission also came back and interpreted 315(b)'s use of the term currently combines to include ordinarily combines in the network so that the practical effect continues to be the Michigan Commission working to open up local markets.

Secondly, I think it is important to recognize that as I understand the legal system of appeal, this is a lower court than the Fifth Circuit and the Ninth Circuit Court of Appeals that have basically supported the proposition that states can order this type of activity to occur. And my understanding is that the Michigan Commission intends to take this on appeal to its -- through its process.

You know, I want to make clear in my testimony I am not a lawyer, and a lot of this is issues for brief. But I will concede that it is ambiguous. My testimony

goes to given the ambiguity, because you can't argue that this Commission is precluded, that this Commission should do the right thing, because the right thing is very important for local competition.

I recognize that when you file your brief you are going to say the courts say no, and AT&T is going to file a brief that say that the court says yes. And even as a layperson reading all these court decisions, it is clear to me that it is going to come down to and the threshold question, will this Commission order it before we will ever get another answer.

Q Mr. Gillan, I understand you're not a lawyer, but you cite a lot of legal cases, a lot of legal decisions in your testimony. Will you agree with that?

A Yes, for the proposition that at the end of the day this is a decision for this Commission to make here and now. Because you are not going to find the answer in those court -- I don't find the answer in those court cases. AT&T will have a legal position and you will have a legal position. But certainly this one court decision, it's only context is we have this one decision from a lower court, we have the Ninth Circuit Court of Appeals, we have the Fifth Circuit Court of Appeals. We have some of these issues before the Supreme Court. At the end of the day, the real issue here is if you are going to have

local competition in Florida, this Commission has to find a way to make it possible for entrants to serve new buildings and additional lines.

Q In part of your discussion a moment ago, Mr. Gillan, you mentioned that the Michigan Commission has done something interpreting 315(b) subsequent to the date of this decision?

A Yes, that is -- yes. That they interpreted the phrase currently combines to include elements ordinarily combined in the network.

Q Do you have a date for that decision?

A Yes, I could. If we take a three-minute break, I would have to boot up my computer and look at it.

Q We can do that later. All right. Let's move along to an exhibit that you have in your testimony. JPG-1, which is your direct testimony.

Well, let me ask you this before we move to your exhibit. When you cited this Michigan case, did you have any idea that the proposition for which you were citing it had been reversed by a district court?

A The answer to that is no, and I don't believe it would have been possible. My testimony was filed November 16th and the district court decision was December 5th. So I'm willing to make predictions, but not that one.

Q Now, your rebuttal testimony as I understand it

was filed January 3rd?

A That is correct.

Q Did you mention in your rebuttal testimony the fact that the case you had asked this Commission to rely upon, the proposition for it at least had been reserved?

THE WITNESS: No. But, again, I think you are mischaracterizing my testimony. My testimony is that I believe the Commission should do this, and that there is at least two ways. One is through its interpretation of 315(b), which a number of states have done. Another way is through the Commission finding it on its own authority. It seems to me that which of those two ways is the better legal path is the subject of brief, not my testimony. And that's why I don't get into this area.

Q You don't get into it, but you put it in your testimony.

A Well, I put it in my testimony to identify there are two paths. And I think I made clear in my testimony that I wasn't really telling the Commission which of the two to take, that that would be developed in the briefing process.

Q Okay. Let's take a look at your Exhibit JPG-1 in your direct. And if I understand what you are trying to demonstrate to the Commission with this exhibit is that once the UNE-P became available in Texas and New York,

that suddenly competition was invigorated, or expanded, or increased, or whatever. Am I reading what you are trying to say there correctly?

A Yes. That UNE-P fundamentally produces competitive activity orders of magnitude larger than the other entry strategies. And furthermore that it is generally used by carriers to move down market into customer segments that otherwise did not really see any meaningful competition.

Q So I take it then by the fact that you only cited New York and Texas that the only places that -- the only states that AT&T actually has the UNE-P are in New York and Texas?

A No, I actually cited it because when you looked out over the nation pretty much in, say, the middle of last year, these were really the two markets that had done the most to get it implemented. And these were the data points that I had. I mean, where AT&T is purchasing UNE-P, I don't really know. But in my role as an industry consultant where I work with a lot of UNE-P carriers and a lot of companies that are trying to use this entry strategy to go after residential consumers and small business users, I became aware of these statistics that demonstrated how much more robust the entry strategy is. There are other statistics, as well.

Q I'm sorry, I didn't mean to interrupt you there. In the course of doing this research that you are talking about, did you look at other states where the UNE-P is available to AT&T?

A I didn't look at other states at the time I filed this testimony. For a completely different activity, I recently look at Georgia and was able to get some UNE-P numbers and they fall right in line with the overall pattern of activity. Basically, between the end of 1999 and June of 2000, UNE-P -- BellSouth made UNE-P available according to BellSouth in the February 2000 time frame. So this would capture when it was first introduced. And roughly 70 percent of the UNE activity in Georgia is UNE-P in that first six months even though it had just been introduced.

And, in fact, UNE-P had achieved in that very small window the same level of competitive penetration that UNE loops by themselves achieved in June of 1999 after being available for your years. So it paints that same picture of when UNE loops are out there by themselves you get very modest, indeed insignificant or trivial levels of competition. UNE-P comes into a market, you have a very explosive ramp up. That data confirms it. That is really the only macro data I have.

I speak with carriers all the time and I'm aware

of the types of growth that they are experiencing in other states such as Michigan and other places that are -- finally we are getting this UNE-P log jam broken open, and their reports backs to me are consistent with this. But I don't have publicly available data that I can cite to you and give you documented evidence.

Q Okay. Will you agree with me that AT&T has UNE-P available to it in more places than just New York, Texas and Georgia?

A Only in a sense. One of my client bases is a group of carriers called the PACE Coalition, which stands for promoting active competition everywhere, and they are basically the group of carriers that use UNE-P. AT&T, by the way, is not a member of that because these are smaller carriers that come in adopting these interconnection agreements and then come in serving residential and business customers.

Q Well, if you can focus on --

A As a practical matter, talking to them, UNE-P is only practically available in, I would say, New York. They are coming into Georgia, they are experimenting in other BellSouth states. They would like to enter Florida. There is a pricing problem, we don't need to talk about that. Texas. The Oklahoma/Kansas situation is not something that there is a lot of activity, a lot of

interest in the Ameritech region, but there are provisioning problems. So it is still available in a very limited basis. But everywhere it has been made available that I'm aware of I get data that confirms this picture.

Q Somewhere in there -- I have no idea whether you answered the question or not. Let me ask it again, and if you could just try to stick to answering the question I'm asking, it might help us get out of here in two days.

What I'm asking you is does AT&T have available to it to provide service in states other than New York and Texas and Georgia the UNE-P?

A Okay. My answer was I don't know what AT&T has available to it, because I don't actually give them business consultant advice. The people that I do give business consultant advice that pursue this entry strategy, these are really the main states that are -- we are getting more information as other states make it available. But we haven't quite hit flashpoint yet.

Q How many UNE-Ps is BellSouth -- is AT&T using to provide local residential service?

A I don't know what AT&T's numbers are. The data that I'm able to collect is always data that is in the public record. And that is aggregated up and not company-specific.

Q So you can't tell by looking at these numbers

that you have cited whether AT&T has actually had an increase in the number of customers it is serving in New York and Texas via the UNE-P, you can't break it out to that level of granularity?

A Well, first of all, I cannot break out these numbers into that level of granularity. Nor, quite frankly, do I think anyone should. Because the real question is when you arbitrate one of these interconnection agreements from AT&T, you are setting the standards for an entire industry. And the question is how many carriers are going to be able to use this and what are they going to do.

I do have other public data that AT&T has announced about its penetrations in Texas and New York. I can't recall Texas off the top of my head, but I'm pretty certain that AT&T was around a million access lines in New York by the middle of last year. So I know this ramp up continued on, but I don't have public data. I just have press releases from other carriers and things to continue to confirm that we have this ramp up of activity, residential markets.

Q And as I understand what you are telling me, it is the Commissions in New York and Texas making the respective ILECs there provide AT&T with the UNE-P that has stimulated competition in New York and Texas, is that

the gist of what you are saying?

A Well, I think, yes, that the UNE-P becoming available is what stimulated the competition in those states, and it had to do with the fact that not just that they made it available to AT&T. Because, again, my testimony tried to focus on this from a broader industry perspective. It then lowered the barriers so that you had a bunch of other carriers come into the market with different innovations using UNE-P serving residential and small business customers. So it wasn't just AT&T's entry, it was the sort of panoply of carriers that have come into those markets.

Q Let's talk about another potential stimulant to local competition for New York and Texas. Will you agree with me that both New York and Texas have been granted permission by the FCC to offer long distance services in those states?

A Yes. After they complied with the law and made UNE-P available, they got their 271 relief.

Q So other than offering the UNE-P, the other thing these guys have in common is they can offer long distance service?

A Well, that's what these have in common. But, like, Georgia doesn't have that in common and we are seeing the same pattern there. And I know in Michigan,

while I don't have numbers to document it, Michigan is just getting UNE-P up and running and people report back to me that they are making successful penetrations there.

And a lot of -- you know, I just think -- there is fallacy here, this notion that somehow people finally entered the local market because these two states were going to get 271. They finally had these numbers because they had the tool. And wherever this tool has become available, regardless of where they are in the process of 271, you see similar ramp ups.

Q Well, let's talk about this, as you call, coincidence of AT&T entering the local market about the same time that New York got long distance relief. Take a look at what Ms. White is handing out to you. And I will represent this as a news release taken off the AT&T website. And this is dated December 1st, 1999, which is just a few weeks before New York was given interLATA relief by the FCC. Will you agree with that? Does that appear --

A Subject to check, I will agree. I think it is a month or more, but that's okay.

Q Well, you agree that -- I mean, you do know that Verizon or Bell Atlantic New York received interLATA relief in December of 1999, don't you?

A I believe they got the authority. My

understanding was that they were able to effect that authority after the new year. But that's okay.

Q Certainly you will agree that this news release is within a month or so of 271 relief being granted to Verizon in New York?

A Okay.

Q Well, I'm asking do you agree with that?

A Well, I have no reason to disagree. But I don't want to argue about it, either. Fine, I said I accept it.

Q All right. Take a look and read the first couple of paragraphs there.

CHAIRMAN JACOBS: We'll go off the record for a moment.

(Off the record briefly.)

THE WITNESS: I have read the first couple of paragraphs. I don't know how far you want me to read it.

BY MR. EDENFIELD:

Q I'm sorry, I didn't know. I'm sorry, I'm over here daydreaming. Will you agree with me that the function of this news release, at least from reading it, appears to be AT&T's introduction of what they are terming a new service called AT&T local one rate for New York?

A Okay. Yes.

Q And if you turn over to the second page, take a second and read that. Basically the first, I don't know,

four or five paragraphs there, take a look at those. Take a look at that first full paragraph up there that starts, "AT&T is initially providing," do you see where I am?

A Yes.

Q If you look at the second sentence there, it says the company ultimately intends to use its own facilities.

Will you agree with me that at least according to this press release that AT&T intends to provide local service, local service over its own facilities eventually?

MS. OCKLEBERRY: Mr. Commissioner, I'm going to object to the question. That is an inadequate characterization of what the document says. It says the Company ultimately intends to use its own facilities where feasible. So I think he is taking the line out of context.

MR. EDENFIELD: Certainly if Mr. Gillan doesn't agree with my characterization of it he has it sitting there right in front of him, he can tell me if he doesn't agree. I don't think we need Ms. Ockleberry to tell him what it says.

CHAIRMAN JACOBS: Well, I think we can agree that this says what it says. So you can respond to the document as you read it.

THE WITNESS: To be honest, you took the words

right out of my mouth, Mr. Chairman. It says what it says. It says that AT&T would like to do that. I think every press announcement that AT&T has ever issued from the dawn of local competition has had that sentence.

BY MR. EDENFIELD:

Q Will you agree with me that where AT&T ultimately puts out its own facilities that the UNE-P is really a temporary solution?

A No, I don't. I don't believe that there is evidence yet to suggest at what point people can efficiently roll individual analog voice grade customers onto their own facilities. And that question implies probably a ten-hour discussion as to why there are problems trying to roll average everyday customers onto your own facilities even when those facilities are in place. And those problems confront every entrant in this industry and are certainly not unique to AT&T.

Q We are not going to go through the ten hours, are we?

A I don't intend to. But I did want to make sure you understood that your question was not only false, but extremely false.

Q Well, let's see. It's your position then if AT&T were to roll out a network basically identical to BellSouth's that it would still need the UNE-P to be able

to compete?

A Well, in the non-ten hour version of it, let me try to explain it this way. Even carriers that have put in place switches and have a collocation find that as a practical matter for customers that are served off of copper loop facilities, the costs of migrating those, handcrafting those customers onto their switch frequently prevent you from serving those customers in that fashion.

And as a result, where you even have facilities in place, carriers frequently focus exclusively on customers that have high-speed digital services and above because in that market segment this problem of handcrafting service for the customer is manageable.

And all that says is that even today we know that the mere presence of facilities doesn't mean you can penetrate these smaller customers easily or effectively or economically. Now, when that problem will be solved, I don't know. When it will be solved for AT&T versus other carriers, I don't know. But it is a pervase problem that exists today -- pervasive.

Q Will you agree with me that BellSouth in Florida alone probably has somewhere around three to four million customers that are currently being served by BellSouth through, I guess, a combination of elements in BellSouth's own network?

A Yes. And as soon as you start provisioning those elements to us in the same types of ways you provision them to yourself, we will be able to move more down market. But when you have to go out there and handcraft every single time you win a customer, you are not able to address that same customer group.

Q You will agree that under the law to the extent the combination already exists in BellSouth's network, BellSouth can't tear it apart, we have to provide it to you as is?

A That's true. And that gives people the opportunity to serve some customers. And the issue here is whether or not they should also have the ability to serve customers when they add a line, or they move into a new house, or move into a new building. Because if they don't have that ability, not only are they harmed in serving those customers, they are harmed in serving the broader base of customers because their target market is smaller and they can't continue to meet their customers' needs as they grow. And that hurts your ability.

Now, this is a very mobile society. Something like 20 percent of residential customers move each year. Something like 25 percent of business locations open and close in a year. The notion that you can serve things that are already existing but you can't accommodate change

is a serious, serious impediment.

Q And of these three to four million combinations that exist in BellSouth's network where BellSouth is currently serving BellSouth customers, in the last five years how many of those combinations has AT&T come in an taken over from BellSouth?

A Well, first of all, you haven't offered to provide UNE combinations in any form until by your own admission, February of last year. In Florida, there are issues with respect to pricing, okay. Having the ability to get a UNE combination is necessary, but it is not sufficient.

In other states like Georgia, we see that once they became available we see a ramp up in competition. What AT&T is doing, I'm not really in a good position to talk about the interests of this particular carrier. But, again, I don't think that is important because this interconnection agreement you are arbitrating is going to be adopted by every Tom, Jane, and Harry carrier that shows up or quite a few of them.

And so when you decide this issue, you are deciding it not just for this company, but you are going to decide it for a bunch of other companies that are also waiting in the wings with the same need.

Q All right. If I understand what you are telling

me you are here being paid by AT&T to represent their position in an arbitration which will result in an interconnection agreement being put in place by this Commission between BellSouth and AT&T, and you sit here and say you don't know enough about AT&T to comment and it's really not important, is that your position?

A No. My comment was is I don't know the specific actions that this carrier has taken in this state with respect to network elements. But, again, even though I'm being paid for AT&T and it is actually beneficial for the remaining carriers in this industry to have AT&T here, the reality is this agreement is going to decide an issue that is important not just for AT&T, but for other people.

Now, while I believe that if you put in place this AT&T will take advantage of it, even if AT&T isn't the first mover on this, this is an issue that goes right to the heart of the competition. We know what entry strategy gets you competition for residential and small business customers, we know when it is available you get more than just a handful of carriers, you get a bunch of carriers. You get that competition. And a big part of it is this new combinations issue. And it is on that basis that I'm recommending the Commission give AT&T what it wants. Not because it's AT&T that wants it, but it's because competition needs it.

Q Okay. Just let me put a point on this, Mr. Gillan. Do you know as we sit here today, and I will give you the benefit of the doubt, since February of 19 -- was it 2000, February 1999, when did BellSouth say it would start offering combinations?

A February of 2000 is when you say you started offering it.

Q And since February of 2000, do you know how many combinations that currently existed in BellSouth's network where BellSouth was actually providing service to customers, do you know how many of those that AT&T has taken for itself to provide local service to that same customer?

A No. The only numbers that I have visibility to are the numbers I have cited you for Georgia.

Q Okay. All right. Let's take a look then and go back to this press release. I've got a couple more questions and then we will move off of it and close this thing down. If you are look in that same paragraph, one of the options that AT&T offered as a possible facilities-based medium, I guess, was broad band cable television, do you see that?

A Yes.

Q Do you know whether AT&T actually owns cable TV companies here in the State of Florida?

A Yes, I'm aware they do.

Q How many do they own?

A That I'm not aware of.

Q Do you know what level of market penetration that the cable companies owned by AT&T have as far as providing cable service to people or residents of the State of Florida?

A No. But even if I did I would then point out it would be completely irrelevant to my testimony and my recommendations.

Q Do you know whether AT&T is actually providing in the State of Florida any local telephony service to residents over broad band cable television technology?

A I believe they are, but I'm not certain. I believe there is actually a witness here who is from that operating division of AT&T and you could direct your questions to him. But I would point out that even if AT&T was very successful doing that, and I think we are all aware that the jury is still out on that issue, it still only referred to two carriers. And my recommendations go to what is appropriate for trading competition more broadly.

Q Take a look down, the fourth full paragraph that starts, "The local residential offer," do you see that? Do you see where I'm talking?

A Yes.

Q "The local residential offer will be available to all New Yorkers who are currently served by Bell Atlantic by months end." Do you still think it is a coincidence that AT&T came into the New York market offering service, making service available to New Yorkers who are currently served by Bell Atlantic in a time frame consistent with when Bell Atlantic was to get 271 relief, do you still think this is a coincidence?

A Well, you know, if the FCC denied that application three weeks later, AT&T still would have been in the market. The fact of the matter is when you comply with the law, which I believe includes most emphatically UNE-P, 271 relief comes. UNE-P and 271, there is not generally that big a lag between the two if it is operating. The other carriers were entering the market, many of whom never even had long distance operations. So, I think it is absolutely true that UNE-P is the condition that gets entry in.

When it's working, it's likely to have 271. But if they went up there and yanked that application, yanked Bell Atlantic's authority tomorrow, you would still have carriers in that marketplace day in and day out competing for customers ordering UNE-P. And you see that. I mean, nobody believes that you are close to 271 in Georgia, and

yet we see a ramp up of -- or at least nobody I know believes that you are close to 271 in Georgia, and yet the entry is occurring in Georgia.

Q You have got to believe. You have got to believe.

Will you agree with me that the Commission could look at the same set of facts you're talking about here with competition flourishing, with the introduction of the UNE-P in New York and Texas, and look at that same timing of the FCC allowing the incumbents there into the long distance market and reach a conclusion that says maybe the way to jump-start competition in the State of Florida is not by offering the UNE-P, but letting BellSouth into long distance, supporting BellSouth's bid to get into long distance? Wouldn't that jump-start it, at least according to what we are looking at here?

A No, it wouldn't. And I will try to remain polite about this, but that would be an absurd conclusion. If the Commission wants to know what local competition looks like when the ILEC is in the long distance and the tools for local competition are not in place, it need only look at Tampa.

If your theory were true, people would be banging down the door to provide local exchange service in Tampa because Verizon, which I can't get used to calling

them that yet, but GTE has been in the long distance business for four years. And yet I would say that Tampa lags the state in the development of local competition. Plus you wouldn't be able to explain the penetration in Georgia, you wouldn't be able to explain the entry in Michigan, you wouldn't be able to explain carriers petitioning to try and get this across the U.S. West region, you wouldn't be able to explain 99 percent of the competitive activity in this country.

The only thing that you have going for your alternative hypothesis is the fact that once UNE-P is available at some point 271 relief is granted. But I've got all of these other places where 271 relief isn't imminent and people are still trying to get this. And they have got places where the ILEC is already in the long distance business and local competition is in terrible shape.

Q Are you familiar with recent pronouncements by AT&T's CEO and Chairman, Mr. Armstrong, that they are thinking about pulling out of the local markets in New York and Texas?

A Yes, I saw that.

Q Let's take just a real quick look at your JPG Exhibit 2 that is in your rebuttal testimony, I believe?

A Yes.

Q And in this exhibit you have kind of made a grocery list of ALECs and their respective stock prices as of December 12th as compared to their 52 week high.

A Yes.

Q Will you agree that most of these stocks that you have listed here are traded on the NASDAQ?

A Yes. I mean, that is where most CLECs stocks are listed.

Q Will you agree with me that today the NASDAQ value is almost -- of course, I am painfully aware of it, and maybe everybody else in here is, too, that the NASDAQ is about half of what it was a year ago, year and a half ago.

A Yes.

Q You're not blaming BellSouth for the crash of NASDAQ, are you?

A No. I'm not necessarily blaming BellSouth for crashing the CLECs. I'm just pointed out that there isn't tools out there, and this is not a success experiment yet. And that this is not the time to sit here and tell entrants that you can go in the market with one hand tied behind your back, serve existing customers, but not new customers. That doesn't make any sense to me. It isn't like they are doing too well.

Q Mr. Gillan, are you aware that this Commission

has already addressed the issue of UNE combinations on two prior occasions and is set to rule on it yet a third in the next week or so?

A I wasn't aware of all of those, but I'm aware of at least, I guess, two of those.

Q Well, let me educate you. Ms. White is going to hand out orders from this Commission, a pair of them.

MR. EDENFIELD: I'm sorry, Chairman Jacobs, did I mark the AT&T press release for identification?

CHAIRMAN JACOBS: No.

MR. EDENFIELD: Could I do that as BellSouth 12, I believe.

CHAIRMAN JACOBS: 11, I believe. I think it is 11.

(Exhibit 11 marked for identification.)

MR. EDENFIELD: Oh, I'm sorry, 11. I'm sorry. And I will not mark these, as both of these are on the official recognition list, I believe.

BY MR. EDENFIELD:

Q What I have handed you, Mr. Gillan, are the August 2nd, 2000 order of this Commission in the Intermedia/BellSouth arbitration, and the January 14th, 2000 decision in the ICG/Telecom arbitration.

Let's take a look at the Intermedia decision first. If you will turn to Page 23 of that decision, and

if you look down to basically the second full paragraph there that starts "As discussed above," take a second and read that paragraph, if you would.

A I'm sorry, could you identify the paragraph again.

Q Yes, sir, I'm sorry. It's on Page 23, it's the second full paragraph that says, "As discussed above, the appropriate definition."

A Yes.

Q Will you agree with me that when this Commission has considered this issue on August 22nd, of 2000, I guess, what, about five or six months ago, it has ruled that until the Eighth Circuit renders its decision where combinations are, in fact, already combined and existing within BellSouth's network, we find at a minimum that BellSouth shall be required to make those combinations available to requesting telecommunications carriers in that combined form at UNE rates?

A Okay. I mean, it says what it says.

Q Okay. Well, take a look at the ICG order.

A Well, excuse me. Are you going to ask me a question about this, or am I just going to get them into evidence?

Q Unfortunately, you don't get to ask the questions. That's my job.

A Okay.

Q Take a look at the January 14th, 2000 order in the ICG/Telecom decision. And if you will take a look on Page 9, it is the paragraph above Roman numeral V, volume and terms discounts. It says, "ICG has not demonstrated," do you see that paragraph?

A All right.

Q Page 9.

A Page 9, before the volume and term discounts?

Q Yes.

A Okay.

Q The paragraph starts, "ICG has not demonstrated." Read that second sentence there.

Will you agree with me that on January 14th when the Commission considered this issue in the ICG arbitration, it ruled that the state of the law currently does not require an incumbent LEC to combine network elements for requesting telecommunications carriers. Will you agree that that is what this order says?

A That's what this order says.

Q Okay. Now, the Eighth Circuit has issued a decision on remand, and I think that was, what, sometime in July of 2000, called the Iowa Utilities II case. Do you know what I'm talking about? I don't know that you necessarily need to get it out, but --

A Yes, but I might. If you will wait just one second.

Q I guess we killed the tree, we might as well look at the paper.

A Yes. What date were you looking at?

Q I think it's the July 18th, 2000 order. And my question about it is just very general. But, again, if you feel like you need it, go ahead.

A You would think it would have the ability of floating to the surface. Go ahead.

Q If you need it, I have a copy. I will give it to you.

A I might, but go ahead.

Q The question I have is will you agree with me that when the Eighth Circuit considered this issue again about its vacation -- or vacating maybe I should say, Freudian slip -- of 315(c) through (f), that when it had a chance to talk about its having previously vacated those particular subsections of the rule, that it again confirmed that those should remain vacated?

A Yes. But what I don't think it did is told us the question before us, which is what does 315(b) mean. Because as I read that decision, it consistently seemed to tee up (c) through (f) as combining elements that are new in terms of different and not ordinary. So I think the

fundamental question is what does 315(b) mean is still before this Commission. And I don't actually think either of the orders you showed me gets to the heart of that.

But even if it was true that the Commission has reached these decisions, the purpose of my testimony is to tell you, you are making a mistake. A dreadful mistake that is going have impact on small business and residential consumers in this state. And that you would be much better served taking the path of all of these other states of making it easier for carriers to serve these customers.

MR. EDENFIELD: I have nothing further for you, Mr. Gillan. Thank you.

CHAIRMAN JACOBS: Staff.

MR. FORDHAM: Staff has no cross.

CHAIRMAN JACOBS: Commissioners. I have a brief question. In the case of -- first of all, going back to our decision in the Intermedia decision. We chose to look at this issue, and if I'm not mistaken said that where combinations had been set out then they should be provided at UNE rates. We did not give direction as to the instances that we have been talking about here, correct?

THE WITNESS: That is how I read it, as well. That on the issue we are talking about here the Commission basically said we are going to wait to see what the Eighth

Circuit did. And, again, on that issue I don't think that the Eighth Circuit really gave you any true guidance.

In fact, there is a -- on that question there is a proposal from the public staff in North Carolina that does, I think, a nice job of explaining that the Eighth Circuit focused again on (c) through (f), but did not look at the question of interpreting 315(b), and is recommending to that Commission that the Commission rule in favor of allowing entrants to get new combinations.

CHAIRMAN JACOBS: Let me go back for a moment to the line of questioning as to what is the impact of UNE-Ps with regard to effective competition. UNE-Ps essentially, and this was explained earlier, but could you refresh my memory. What is the essence of the strategic benefit of UNE-Ps?

THE WITNESS: What a UNE-P is, is that you lease from the local telephone company the loop and the local switch. And then because you are leasing capacity in that switch, you are able to complete your local calls out on the network. It gives you, in effect, the same geographic footprint that the local telephone company has. You can come into a market and say I will serve you, and I don't care where you live.

Now, of course, this new combinations issue puts a pretty significant caveat on that. But it has the

advantage of giving you a broad footprint. Now, that is important. Because if you are going to introduce services for average residential and business customers, you are going to attract them by running advertisements and try to offer a product that, you know, a customer that lives in a city knows, oh, this product is available in this city or in this area, I can sign up for it. So you need that kind of geographic footprint. UNE-P gives you that.

The second thing that UNE-P gives you is that it can be provisioned very quickly and relatively inexpensively in almost every instance. So your cost to have a customer decide, well, I'm going to leave Bell and I'm going to go to this other provider, you can do it without a high cost barrier.

CHAIRMAN JACOBS: And if you --

THE WITNESS: Those are two conditions you kind of need to serve average customers.

CHAIRMAN JACOBS: The alternative which would present the cost barrier would mean you would get the individual UNEs, and you would combine them and then you would have to --

THE WITNESS: Well, the alternative would be, in effect, if I have to go out and handcraft a service, like if I have my own switch in there, I have to have the loop disconnected off of BellSouth's facility, manually

reconnected, they have to port the number over to my switch.

And what the industry has found over this past five years is that if you have to go through that much manual activity to win a customer, you just can't do it at the level of a customer with a couple of regular copper lines.

Now, if the customer gets big enough in terms of he has digital service, then it is worth all of this activity to win them. And so that's why you see when you look at the way CLECs operate today, while many of them have tried to come down market and serve smaller customers, they generally end up at this environment where they sell digital services, voice with data, or something because they have got -- they are really limited to this part of the market that they can handcraft. And UNE-P doesn't have that disadvantage to it.

It is kind of -- it's actually really logical. Anything that gets done in a mass market way has to be made relatively simple to do. I mean, that is the nature of mass markets. Things that are very hard to do, to work out, to provision, to figure out, to bill become unsuitable for that type of an arrangement.

CHAIRMAN JACOBS: Now, this idea of currently combines is intriguing to me. And what I understand the

controversy to be is if the elements are known but they are not specific, even for that matter if they are known and they are existing in the ILEC's network at the moment, that is one fact. But in order for it to qualify under the interpretation in dispute here, in order for it to qualify to be combined it would have to not only be in the network but it would have to have been combined for the specific customer that is being transitioned.

THE WITNESS: Well, that is the nub of the issue. BellSouth would like it say not only does it have to be there, but it has to already be connected. And what we are seeking is the fact, wait a minute, if the customer chose you, I mean, these facilities come to a point at your network where you have already set up the procedures to cross-connect them as efficiently as possible. You ordinarily do that. Just because they aren't connected yet doesn't mean we should be denied them. And we would like you to combine them for us, yes.

CHAIRMAN JACOBS: That goes to my next question. Are you aware of what marginal efforts are necessary -- let's say one -- I assume it will be the loop that would not be connected here. It would be the main thing that you would want to connect in. What are the marginal steps necessary or can you describe those?

THE WITNESS: Yes. The marginal -- actually,

since the issue isn't whether or not they would provision -- they would put the network, make the network elements available, we'll do a loop/port scenario. You have a loop coming to a distribution, a frame where it is connected, you have a port coming to a frame, but there is no jumper wire that could be a couple of inches or a couple of feet in length that connects that port to that line. Like at your house, all right? They will have ports already on this frame that are waiting for service, they will have loops that already go to your house. You wand to add a second line, what needs to have happen is the guy in the central office has to take a little copper wire and connect this to that. That's all we are asking them to do.

What they are offering to do, and this is what makes this whole thing in my mind so absurd, is that rather than just connect those two wires, they will connect the loop wire to another wire and run it over there to the other side of the central office, and then they will connect the loop wire to something and then run it over there, and then have those connected to a frame, and then AT&T can come in and connect those two things way over there.

Well, I mean, just think about -- they are going to do all of this work to avoid just connecting them where

they would ordinarily do it. Anytime somebody does more work to avoid doing a little work you know they are either not very bright or they are acting anticompetitively. And this is a very smart company.

CHAIRMAN JACOBS: Let's go back to the idea that you can do the cross-connect in a fairly short distance. Is it your position, or is it the position of AT&T that you would not want to compensate for that effort, that connection effort?

THE WITNESS: No, I don't think that is true at all. There are nonrecurring charges to get this. If BellSouth believes that the nonrecurring charge that it has in place now that reflects those two items already being connected is insufficient, then it seems to me they are totally free to come back in here and say, all right, here is another rate element for this activity of putting this little jumper in here. It can't be that big, it should not be that big a deal, it should not be that big a cost.

But what I'm worried about is they will use the excuse that they don't have a price yet for that to then say, okay, I will give you this, but you can't buy it until I have a price, in which case we walk out of the room and we still can't do anything.

So, I mean, I think it is important for the

Commission to order them to do this, order them to do it at the existing rate, and then if they have a problem they can come back in and adjust that rate. Nobody is looking for a free lunch here. Everyone wants -- you know, we want this done as efficiently as possible.

CHAIRMAN JACOBS: Thank you. Commissioners, any other questions? Redirect.

MS. OCKLEBERRY: No, Commissioner.

CHAIRMAN JACOBS: Exhibits.

MR. EDENFIELD: Let's see, BellSouth would move --

CHAIRMAN JACOBS: 10 and 11?

MR. EDENFIELD: Yes, 10 and 11. I'm sorry, I was looking at the list and I had my eyes crossed.

CHAIRMAN JACOBS: All right. Without objection, show Exhibits 10 and 11 admitted.

MS. OCKLEBERRY: AT&T would also move, Mr. Chairman, Exhibit 9 into the record.

CHAIRMAN JACOBS: Without objection, show Exhibit 9 admitted. You are excused. Next witness. Before we go to the next witness, we will take five minutes. Let's take ten minutes.

(Exhibits 9, 10 and 11 admitted into the record.)

MS. RULE: Mr. Chairman, I was going to ask that

we do that because we will need the AV equipment set up for Mr. Bradbury.

CHAIRMAN JACOBS: Okay. We will take a ten minute break.

MS. RULE: Thank you.

(Recess.)

CHAIRMAN JACOBS: We will go back on the record. Are you prepared to proceed?

MS. RULE: AT&T calls Jay Bradbury.

JAY M. BRADBURY

was called as a witness on behalf of AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC. AND TCG SOUTH FLORIDA, INC. and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. RULE:

Q Would you please state your name and address for the record?

A Jay Bradbury, 1200 Peachtree Street, Atlanta, Georgia.

Q By whom are you employed?

A AT&T Corporate.

Q Did you file direct testimony in this case?

A Yes, I did.

Q And did that testimony include 27 exhibits?

A It did.

MS. RULE: Mr. Chairman, in view of the number of exhibits, I would like to identify Mr. Bradbury's direct exhibits separately from his rebuttal exhibits, and I believe this would be Number 12.

CHAIRMAN JACOBS: Very well.

(Exhibit 12 marked for identification.)

BY MS. RULE:

Q Did you also file rebuttal testimony?

A Yes, ma'am.

Q And did that testimony include 33 rebuttal exhibits?

A Yes, it did.

MS. RULE: And, Mr. Chairman, I would like this one identify as Composite 13.

CHAIRMAN JACOBS: Show that exhibit identified as 13.

(Exhibit 13 marked for identification.)

BY MS. RULE:

Q Do you have any changes or corrections to that testimony?

A No, I do not.

Q And if I asked you the questions in your direct and rebuttal today, would your answers be the same?

A They would be.

MS. RULE: Mr. Chairman, I would ask that Mr.

Bradbury's direct and rebuttal testimony be admitted into the record as though read.

CHAIRMAN JACOBS: Without objection, show the direct and rebuttal entered into the record as though read.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

TESTIMONY OF JAY M. BRADBURY

ON BEHALF OF

AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.

AND TCG SOUTH FLORIDA, INC.

DOCKET NO. 000731-TP

NOVEMBER 16, 2000

Q. PLEASE STATE YOUR NAME AND ADDRESS.

A. My name is Jay M. Bradbury. My business address is 1200 Peachtree Street, Suite 8100, Atlanta, Georgia 30309.

Q. PLEASE DESCRIBE YOUR CURRENT POSITION AND RESPONSIBILITIES.

A. I am a District Manager in the AT&T Law and Government Affairs organization, and I provide consulting support to AT&T's business units and other internal organizations. In particular, I am involved in the negotiation and implementation of interfaces for operational support systems ("OSS") necessary to support AT&T's entry into the local telecommunications market.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I graduated with a Bachelor of Arts degree in History from The Citadel in 1966. I have taken additional undergraduate and graduate courses at the University of South Carolina and Georgia State University in Business and Economics. In 1987 and 1988, I participated in Advanced Management Programs at Rutgers University and the University of Houston. I earned a Masters Certificate in Project Management from Stevens Institute of Technology in 2000.

I began my AT&T career in 1970 as a Chief Operator with Southern Bell's Operator Services Department in Raleigh, North Carolina. From 1972 through 1987, I held various positions within Southern Bell's (1972 - 1984) and AT&T's (1984 - 1987) Operator Services Departments where I was responsible for the planning, engineering, implementation and administration of personnel, processes and network equipment used to provide local and toll operator services and directory assistance services in North Carolina, South Carolina, Kentucky, Tennessee and Mississippi.

In 1987, I transferred to AT&T's External Affairs Department in Atlanta, Georgia where I was responsible for managing AT&T's needs for access network interfaces with South Central Bell, including the resolution of operational performance, financial and policy issues.

From 1989 through November 1992, I was responsible for AT&T's relationships (including the negotiation and administration of billing and marketing contracts, card honoring contracts, facility contracts,

and the support of sales of Network Systems products) with Independent Telephone Companies within the South Central Bell States and Florida. From November 1992 through April 1993, I was a Regulatory Affairs Manager in the Law and Government Affairs Division and was responsible for the analysis of industry proposals before regulatory bodies in the South Central States to determine their impact on AT&T's ability to meet its customers' needs with services that are competitively priced and profitable.

In April of 1993, I transferred to the Access Management Organization within AT&T's Network Services Division as a Manager - Access Provisioning and Maintenance with responsibilities for on-going management of processes and structures in place with Southwestern Bell to assure that their access provisioning and maintenance performance met the needs of AT&T's Strategic Business Units. In August 1995, I became responsible for the negotiation and implementation of interfaces for operational support systems (OSS) necessary to support AT&T's entry into the local telecommunications market in the BellSouth states. I assumed my current position in June 1998.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My testimony explains and supports AT&T's requests for the following services from BellSouth:

a) A two-part procedure for ordering Operator Services/Directory Assistance ("OS/DA") in conjunction with loop-port combinations as a UNE (Issue 25);

b) That the BellSouth OS/DA service ordered by AT&T be provided as a UNE at UNE rather than market based prices. (Issue 23);

c) A robust Change Control Process (Issue 30);

d) Specific improvements to BellSouth's pre-ordering and ordering interfaces (Issue 31); and

e) Specific improvements to BellSouth's maintenance and repair interfaces (Issue 32).

My testimony demonstrates that the OSS interfaces, processes and functions currently offered by BellSouth do not comply with the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (hereinafter the "1996 Act") and its implementing regulations, and explains AT&T's need for and entitlement to the services requested from BellSouth.

Q. PLEASE DESCRIBE FURTHER THE ISSUES THAT YOUR TESTIMONY WILL COVER.

A. In Issue 25, AT&T requests a specific two-part procedure for ordering Operator Services/Directory Assistance ("OS/DA") in conjunction with loop-port combinations (the Unbundled Network Element Platform or UNE-P). AT&T has requested a process by which it would place a combination of two orders. First, AT&T would place an Infrastructure Provisioning Order (or "footprint order") that would identify a specific geographic area (such as end office, rate center, LATA or state) and also would specify the network elements that AT&T would require in order to offer service throughout that area. Among other things, the Infrastructure Order would include AT&T's selection of OS/DA routing for loop-port and resale service customers calls to either (1) BellSouth's OS/DA systems on a branded or unbranded basis, or to (2) another system of AT&T's choosing. Thereafter, AT&T would place Customer-Specific Provisioning Orders, which would identify the particular features required by a specific new customer. These customer-specific orders should receive electronic processing without subsequent manual handling by BellSouth personnel. I shall refer to this issue as the Footprint-OS/DA Issue.

In Issue 23, AT&T requests that BellSouth OS/DA (either AT&T branded or unbranded) ordered by AT&T using the process described

in Issue 25 be provided as a UNE at UNE rates. In its UNE Remand Order, the FCC clearly requires customized routing as a pre-condition to allowing BellSouth not to offer OS/DA as a UNE. BellSouth does not provide customized routing through a commercially viable, timely, repeatable process and thus is required to offer and charge for OS/DA as a UNE, rather than at market based rates. I shall refer to this issue as the OS/DA Price Issue.

In Issue 30, AT&T requests a comprehensive Change Control Process, which BellSouth has failed to provide to date. Without a comprehensive process that is both well documented and followed by BellSouth once established, to handle changes that BellSouth makes to its interfaces and processes, and to their supporting documentation (such as specifications, business rules, methods and procedures), AT&T cannot make corresponding changes in its own interfaces and processes, and its customers repeatedly encounter delay and frustration. I shall refer to this issue as the Change Control Process Issue.

In Issue 31, AT&T requests a number of OSS improvements that have been at issue between the companies for some time. Although repeatedly requested by AT&T, BellSouth has yet to provide AT&T with the OSS functionality it provides to itself that supports the quality

of service enjoyed by BellSouth's retail customers. I shall refer to this issue as the Equivalent Functionality Issue.

In Issue 32, AT&T requests a full function, machine-to-machine, integrateable Maintenance and Repair interface. Such an interface is technically feasible and has been an issue between the companies and before this Commission and the FCC for a number of years. I shall refer to this issue as the Maintenance and Repair Access Issue.

BACKGROUND

OPERATIONS SUPPORT SYSTEMS OBLIGATIONS UNDER THE ACT

Q. WHAT ARE OPERATIONS SUPPORT SYSTEMS ("OSS")?

A. Operations support systems are the computer-based systems, information, databases and personnel that telecommunications carriers use to perform essential customer and business support functions, including pre-ordering, ordering, provisioning, maintenance and repair, and billing. Computer-based OSS enable telecommunications carriers to transmit data electronically between different systems, thereby maximizing efficiency and effectiveness in the performance of these essential support functions. In addition to computer-based systems, information and databases, OSS also includes any necessary manual processes performed by personnel

located in various types of "centers" when computer-based processes have not been provided or are not available. In short, good computer-based processes are not enough – BellSouth also is obligated to provide, on a nondiscriminatory basis, the manual processes involved in operating essential support functions.

Q. WHY DOES YOUR TESTIMONY DISCUSS BELLSOUTH'S MANUAL PROCESSES AND MANUAL WORK CENTERS? ARE NOT ALL OF BELLSOUTH'S OSS COMPUTER-BASED PROCESSES?

A. No, not all of BellSouth's OSS are computer-based systems. The word "system" is synonymous with neither computers nor electronic interfaces. BellSouth's work centers and the manual procedures used by service representatives also are "systems." Although BellSouth has an obligation to develop, implement and deploy electronic interfaces for all OSS functionalities equal to those it uses itself, it has not yet happened and may not happen for some considerable time. Moreover, BellSouth must provide nondiscriminatory operations support processes for pre-ordering, ordering, provisioning, maintenance and repair, and billing, regardless of whether or not electronic interfaces have been implemented. As long as BellSouth uses manual processes as well as computer-based

processes for these functions, this Commission should ensure all such processes are provided to competitors on a nondiscriminatory basis.

Q. HAS THE FEDERAL COMMUNICATIONS COMMISSION ("FCC") ADDRESSED ACCESS TO OSS UNDER THE ACT?

A. Yes. The FCC "conclude[d] that OSS and the information they contain fall squarely within the definition of 'network element' and must be unbundled upon request under section 251(c)(3) . . . ." First Report and Order, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11 FCC Rcd. 15499 at ¶ 516 (1996), aff'd in part and vacated in part by Iowa Utils. Bd. v. FCC, 120 F.3d 753 (8th Cir. 1997), aff'd in part and rev'd in part by AT&T Corp. v. Iowa Utils. Bd., 119 S. Ct. 721 (1999), hereinafter "FCC Local Competition Order". The FCC reiterated this important requirement in various proceedings conducted pursuant to Section 271 of the Act: Memorandum Opinion and Order, Application of BellSouth Corp., et al. Pursuant to Section 271 to Provide In-Region, InterLATA Services in South Carolina, 13 FCC Rcd. 539 (1997), hereinafter "FCC South Carolina Order" and Memorandum Opinion and Order, Application of BellSouth Corporation, et al. for Provision of In-Region, InterLATA Services in Louisiana, 13 FCC Rcd. 20599 (1998), hereinafter "FCC Louisiana II Order".

In addition, the FCC concluded that OSS functions are subject to the duty imposed by Section 251(c)(3) on incumbent local exchange carriers ("LEC") to provide nondiscriminatory access to network elements, and the duty imposed by Section 251(c)(4) to provide resale services under just, reasonable, and nondiscriminatory conditions. FCC Local Competition Order ¶ 517; FCC South Carolina Order ¶ 83; and FCC Louisiana II Order ¶ 84. The FCC recognized that a "competing carrier that lacks access to operations support systems equivalent to those the incumbent LEC provides to itself, its affiliates, or its customers, 'will be severely disadvantaged, if not precluded altogether, from fairly competing.'" FCC South Carolina Order ¶ 82; see also FCC Local Competition Order ¶ 518; FCC Louisiana II Order ¶ 80. The FCC reiterated these principles in its recent reviews of the Bell Atlantic and Southwestern Bell applications to enter the interLATA long distance market. Memorandum Opinion and Order, Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, CC Dkt. No. 99-295, FCC 99-404 at ¶ 83, 1999 WL 1243135 (rel. Dec. 22, 1999), hereinafter "FCC BA-NY Order"; Memorandum Opinion and Order, Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., d/b/a

Southwestern Bell Long Distance, CC Dkt. 00-65, FCC 00-238 at ¶ 92, ,hereinafter "FCC Texas SWBT Order".

Q. HAS THE FCC EXPLAINED WHAT CONSTITUTES NONDISCRIMINATORY ACCESS?

A. Yes. In its Interconnection Order, the FCC found that nondiscriminatory access "necessarily includes access to the functionality of any internal gateway systems the incumbent employs in performing [pre-ordering, ordering, provisioning, maintenance and repair, and billing] functions for its own customers." FCC Local Competition Order ¶ 523 (emphasis added). The FCC defined "internal gateway system" as "any electronic interface the incumbent LEC has created for its own use in accessing support systems for providing pre-ordering, ordering, provisioning, repair and maintenance, and billing." FCC Local Competition Order ¶ 523, n. 1274. Examples of internal gateway systems that BellSouth uses in Florida are the Regional Negotiation System ("RNS"), the Regional Ordering System ("ROS"), and the Trouble Analysis Facilitation Interface ("TAFI"). Accordingly, BellSouth must provide AT&T with nondiscriminatory access to the functionalities of RNS, ROS, TAFI, and other internal gateway systems.

The FCC discussed in greater detail the incumbent LEC's obligation to provide nondiscriminatory access to OSS functions in its various orders on Section 271 applications from BellSouth and other Regional Bell Operating Companies ("RBOCs"). The FCC explained that incumbent LECs must provide access to OSS functions that sufficiently support each of the three modes of competitive entry strategies established by the Act (interconnection, unbundled network elements, and services offered for resale) and must not favor one strategy over another. Memorandum Opinion and Order, Application of Ameritech Michigan Pursuant to Section 271 to Provide In-Region, InterLATA Services in Michigan, 12 FCC Rcd. 20543 at ¶ 133 (1997), (hereinafter "FCC Ameritech Order").

The FCC found that "[f]or those OSS functions that are analogous to OSS functions that an incumbent LEC provides to itself -- including pre-ordering, ordering and provisioning for resale services -- a BOC must offer access to competing carriers equivalent to the access the BOC provides itself." FCC South Carolina Order ¶ 98; see also FCC Ameritech Order ¶ 139. The FCC also found that "access to OSS functions must be offered such that competing carriers are able to perform OSS functions in 'substantially the same time and manner' as the BOC." FCC South Carolina Order ¶ 98; see also FCC Louisiana II Order ¶ 87.

In addition, the FCC found that "for those OSS functions that have no retail analogue, such as ordering and provisioning of unbundled network elements, a BOC must offer access sufficient to allow an efficient competitor a meaningful opportunity to compete." FCC South Carolina Order ¶ 98; see also FCC Ameritech Order ¶ 141; FCC Louisiana II Order ¶ 87; FCC BA-NY Order ¶ 83, and FCC Texas SWBT Order ¶ 95.

The FCC also found "that excessive reliance on manual processing, especially for routine transactions, impedes the BOC's ability to provide equivalent access." FCC Louisiana II Order ¶ 110. Manual processing by BellSouth results in delay and increased error in the fulfillment of customer's orders which negatively impacts AT&T's ability to compete with BellSouth in providing service to its customers in substantially the same time and manner as BellSouth.

AT&T is particularly concerned about the high number of orders placed electronically that "fall out" of the electronic processing system as a result of BellSouth's design decisions not to provide complete electronic processing for all elements and services purchased by alternative local exchange companies ("ALECs") and the failure of BellSouth's systems to properly process transactions for which they have been designed. Orders for which electronic processing has not

been provided or that "fall out" of BellSouth's systems due to system failure are processed manually by individual employees in one of BellSouth's two Local Carrier Service Centers ("LCSCs"). Individual employees tend to interpret BellSouth's business rules subjectively, which results in varying treatment of similar orders. For example, some orders will be rejected, while similar orders will not, based simply on the subjective decision of a BellSouth employee. Orders that electronically flow through BellSouth's ordering system, on the other hand, are treated the same way and are rejected or processed on a consistent basis. Thus, a high "fall out" rate (and conversely, a low flow-through rate) results in a greater number of problem orders. Additionally, the FCC has recognized that low order flow-through can "indicate a wide range of possible deficiencies in a BOC's OSS that may deny an efficient competitor a meaningful opportunity to compete in the local market." FCC BA-NY Order ¶ 162.

Q. WHAT ARE THE CHARACTERISTICS OF AN INTERFACE THAT PROVIDES NONDISCRIMINATORY ACCESS TO AN INCUMBENT LEC'S OSS?

A. For an interface to satisfy the Act's nondiscrimination requirements, the FCC consistently has indicated that the interface must demonstrate, at a minimum, the characteristics described below. Additionally, appropriate operational data and performance

measurements are necessary to determine whether the proposed OSS interfaces meet these five characteristics. See FCC Ameritech Order ¶ ¶ 138, 141-42, 204-213; FCC BA-NY Order ¶ 89. An interface with the following characteristics of nondiscrimination will minimize differences in OSS functional capabilities between the incumbent LEC and the ALEC:

Electronic -- The interface must be a machine-to-machine interface (computer application program to computer application program) that provides fully electronic interaction between the incumbent LEC's OSS and the ALEC's OSS. FCC South Carolina Order ¶ ¶ 152-66. A machine-to-machine interface decreases the time, reduces the cost, and improves the accuracy of an ALEC's performance of OSS functions (FCC Louisiana II Order ¶ 96, n. 291), while failure to deploy an application-to-application interface denies competing carriers equivalent access to pre-ordering OSS functions. FCC South Carolina Order ¶ 166; FCC BA-NY Order ¶ 137.

Functionality -- The interface must provide all ALECs with the capability to perform the same OSS functions with at least the same level of quality, efficiency, and effectiveness that the incumbent provides to itself. FCC Local Competition Order ¶

523; FCC South Carolina Order ¶ 98; FCC Ameritech Order ¶ 139; and FCC Louisiana II Order ¶ 87. For those functions that do not have a retail analogue, the incumbent LEC must offer access to such OSS functions sufficient to allow an efficient competitor a meaningful opportunity to compete. FCC South Carolina Order ¶ 98; FCC Louisiana II Order ¶ 87; FCC BA-NY Order ¶ 129 and FCC Texas SWBT Order ¶ 148

Documented -- The interface must be documented accurately, adequately and sufficiently in advance to allow ALECs a reasonable opportunity to develop and deploy their own necessary systems, work processes, and employee training to use the interface. FCC South Carolina Order ¶ 111; FCC Ameritech Order ¶¶ 137, 215; FCC Louisiana II Order ¶ 85; FCC BA-NY Order ¶ 88; and FCC Texas SWBT Order ¶ 97. Properly documented interfaces will facilitate completion of those necessary tasks in a manner that provides ALECs a meaningful opportunity to compete.

Capacity -- The interface must have the capacity to meet combined market volumes of all ALECs with response times that are equivalent to those the incumbent LEC provides itself. FCC Ameritech Order ¶¶ 137, 194; FCC Louisiana II Order

¶¶ 139-40; FCC BA-NY Order ¶ 88; and FCC Texas SWBT Order ¶ 97. Sufficient capacity will ensure that OSS interfaces do not become a bottleneck that impedes an ALEC's ability to compete.

Standards -- The interface must comply with existing telecommunications industry standards or ease the transition to evolving standards regarding:

- What is to be communicated (message protocol component);
- Specific information to be communicated (data elements); and
- language and rules for communication (communication protocols).

Although the use of industry standards can meet the needs of a competitive local exchange market, FCC Ameritech Order ¶ 217; FCC BA-NY Order ¶ 88, lack of industry standards does not excuse an incumbent LEC from meeting its obligation to provide nondiscriminatory access to OSS functions. FCC South Carolina Order ¶ 121, n. 362. Similarly, deploying an interface that merely adheres to industry standards is not sufficient to demonstrate nondiscriminatory access. A BOC must provide nondiscriminatory access to its OSS functions

irrespective of the existence of, or whether it complies with, industry standards. FCC Louisiana II Order ¶ 137.

ISSUE 25 THE FOOTPRINT-OS/DA ISSUE

Q. SHOULD THERE BE A SET PROCESS BY WHICH AT&T CAN OBTAIN FROM BELLSOUTH BOTH THE COMMON (INFRASTRUCTURE) AND CUSTOMER-SPECIFIC UNES THAT COMPRISE OS/DA ROUTING IN ASSOCIATION WITH THE UNE PLATFORM?

A. Yes. In Issue 25, AT&T requests a specific two-part procedure for ordering loop-port combinations (the Unbundled Network Element Platform or UNE-P)[1], including the associated Operator Services/Directory Assistance routing. AT&T has requested a process by which it would place a combination of two orders. First, AT&T may establish routing of calls to a specific Operator Services / Directory Assistance ("OS/DA") service or provider on a "footprint" basis which may be as small as a single central office, or as large as an entire state. Thereafter, AT&T would place Customer-Specific Provisioning

[1] The Unbundled Network Element Platform consists of the combination of a UNE loop that provides connectivity between a customer's location and a BellSouth central office and a UNE port that provides access to the switching functionality available in that central office, including local, long distance and ancillary calling. The UNE-P purchaser takes on additional business relationships with other ALECs, Independent Companies, Inter-exchange Carriers, BellSouth, and other vendors including the associated financial risks. These relationships and risks are not associated with resale of BellSouth's local services.

Orders, which would identify the particular features required by a specific new customer.

The Local Service Request ("LSR") would act as the Customer-Specific Provisioning Order. AT&T should be able to electronically submit LSRs for UNE-P, and the orders should electronically flow through BellSouth's systems and be provisioned at parity with BellSouth retail. As discussed below, electronic LSRs with flow-through ordering should be available for orders that request either an unbranded or an AT&T-branded platform.

Q. PLEASE DESCRIBE THE OPTIONS FOR ROUTING OS/DA CALLS.

A. When an AT&T customer picks up the telephone and dials "0" for operator service or "411" for directory assistance, the call will be directed to the OS/DA platform chosen by AT&T. The call could be routed in one of four possible ways: [2]

- BellSouth's OS/DA platform, to be branded as BellSouth's service ("Welcome to BellSouth"). AT&T will not use this option as a long term solution.
- BellSouth's platform to be branded as the ALEC's service ("Welcome to AT&T");

[2] Exhibit JMB-1 visually depicts how these alternatives are provided using the three offered technologies – Line Class Codes, Originating Line Number Screening and Advanced Intelligent Newtork.

- BellSouth's platform but not branded at all ("May I help you?");
- or it could be sent to AT&T's or another provider's OS/DA platform.

AT&T is entitled to select the routing for its customers' OS/DA calls, and may decide to have more than one routing option within Florida.

Q. HOW DOES AT&T PROPOSE TO ACCOMPLISH ITS DESIRED ROUTING?

A. There are two steps necessary to accomplish AT&T's desired routing. These steps are illustrated in Exhibit JMB-2. First, BellSouth and AT&T must agree upon a process for ordering the trunking and translations that support customized routing. Next, AT&T must inform BellSouth which routing option it has chosen to use for a specific new customer. Unfortunately, both of these steps are the subject of dispute between the parties. I will discuss each step separately.

Q. PLEASE DESCRIBE THE FIRST STEP FOR OBTAINING AT&T'S DESIRED CUSTOMIZED ROUTING.

A. As stated above, the first step in obtaining AT&T's desired customized OS/DA routing is for BellSouth and AT&T to agree upon a process for ordering customized routing. AT&T has requested a two-part ordering process. First, AT&T would submit to BellSouth a "footprint" order

(also known as a network design request, or "NDR") that would identify the trunking and routing required to direct customers' OS/DA calls to the platform or platforms chosen by AT&T for the footprint area. In Florida, for example, AT&T might place a footprint order for two OS/DA routing options in the major metropolitan end offices (one routing to BellSouth's platform, branded as AT&T, and another to AT&T's own platform), and a separate footprint order for the other end offices in the state, specifying only one routing option (to BellSouth's platform, branded as AT&T).

Later, when AT&T ordered service for a specific new customer, it would do so by electronically submitting a Local Service Request ("LSR"), which should, in turn, be electronically processed by BellSouth. If AT&T's footprint order had specified more than one OS/DA routing option for the area in which service was to be provided, AT&T's LSR would indicate which of the two routing options to use for that customer. No such indicator would be necessary if AT&T had requested only one routing option for the area. In the above example, then, an AT&T LSR for a new customer outside a major metropolitan area would include no indicator, because the single routing information already would have been provided to BellSouth. AT&T LSR for a new customer in a major metropolitan area, on the other hand, would indicate which of the two previously-identified routing

options to use for that specific customer. This would allow AT&T the ability, for example, to route OS/DA calls from metropolitan residential customers to BellSouth's platform branded as AT&T, and calls from metropolitan business customers to AT&T's platform.

Q. YOU MENTIONED THAT THIS STEP WAS THE SUBJECT OF DISPUTE. PLEASE DESCRIBE THE DISPUTE AND AT&T'S POSITION.

A. There are two areas of disagreement related to this step of the process. First, despite repeated requests by AT&T, BellSouth has failed to provide detailed technical information on the process BellSouth would require in order to implement each of the three OS/DA routing strategies that AT&T may use. In the past, BellSouth has stated its willingness to provide the information to AT&T, but has not produced detailed technical methods and procedures sufficient to inform AT&T of requirements for ordering customized routing.[3] Without this information, AT&T cannot develop the internal systems and processes it will need to submit orders to BellSouth. AT&T asks this Commission to order BellSouth to provide such documentation by a date certain.

[3] As indicated by the FCC in paragraph 223 of its Second Louisiana Order, AT&T has been attempting to get this information for over two years.

Recently a BellSouth witness stated that BellSouth had provided AT&T with all the necessary information in an E-mail transmittal sent on October 26, 2000. Unfortunately, that witness had been misinformed. The only information provided was proposed contract language that still provides none of the requested technical or methods and procedures documentation. Exhibit JMB-3.

Next, BellSouth wishes to limit AT&T to only one customized OS/DA route, apparently for the entire nine-state region. There simply is no justification for doing so in the Telecommunications Act or in FCC orders. The FCC has determined that incumbent LECs, including BellSouth, are required to provide customized routing as part of the switching function, unless they can prove that customized routing in a particular switch is not technically feasible. FCC Local Competition First Report and Order, 11 FCC Rcd at 15709. At no time during negotiations has BellSouth indicated that customized routing was not technically feasible in any of its switches.

Further, the FCC has not limited BellSouth's obligation to provide OS/DA routing on a "one per ALEC" basis. Although BellSouth claims that certain language in paragraph 224 of the FCC's Second Louisiana Order implies that ALECs would have one routing plan on a region-wide basis, an examination of that paragraph reveals exactly

the opposite: The FCC anticipated that ALECs may have more than one OS/DA routing option, and instructed BellSouth to simplify its ordering processes accordingly:

> We agree with BellSouth that a competitive LEC must tell BellSouth how to route its customers' calls. If a competitive LEC wants all of its customers' calls routed in the same way, it should be able to inform BellSouth, and BellSouth should be able to build the corresponding routing instructions into its systems just as BellSouth has done for its own customers. (Footnote 705) If, however, a competitive LEC has more than one set of routing instructions for its customers, it seems reasonable and necessary for BellSouth to require the competitive LEC to include in its order an indicator that will inform BellSouth which selective routing pattern to use. (Footnote 706) BellSouth should not require the competitive LEC to provide the actual line class codes, which may differ from switch to switch, if BellSouth is capable of accepting a single code region-wide. (FCC Second Louisiana Order at ¶ 224, emphasis added.)

The footnotes are equally instructive: Footnote 705 discusses the possibility that AT&T might want all its customers' calls routed in a single fashion:

> For example, if AT&T wants all of its customers' calls routed to AT&T's operator services and directory assistance, AT&T should be able to tell this to BellSouth once, by letter for instance, and BellSouth should be able to route the calls without requiring AT&T to indicate this information on every order.

Footnote 706, on the other hand, discusses the possibility that AT&T may desire more than one OS/DA routing option:

> For example, if AT&T wants some of its operator services and directory assistance calls routed to its operator services and directory assistance platform, but it wants other operator service and directory assistance calls directed to BellSouth's platform, BellSouth does not know whether to route AT&T's customers' calls to AT&T's platform or its own unless AT&T tells BellSouth which option it is choosing.

BellSouth theorizes that this paragraph (224) implies that AT&T is limited to one "default" OS/DA routing option. The FCC's plain language reveals that BellSouth is wrong.

BellSouth has the ability to direct its own customers' OS/DA calls to different platforms, if it so desired. AT&T is entitled to access this ability and to direct its customers' calls in any way that is technically feasible.

Q. YOU STATED THAT THE NEXT STEP IN THE PROCESS WAS FOR AT&T TO INFORM BELLSOUTH WHICH ROUTING OPTION IT HAS CHOSEN TO USE FOR A SPECIFIC NEW CUSTOMER ONCE BELLSOUTH HAS IMPLEMENTED ALL THE AT&T REQUESTED ROUTING OPTIONS. PLEASE DESCRIBE THE DISPUTE RELATED TO THIS ISSUE.

A. AT&T and BellSouth disagree about the method by which AT&T will identify the OS/DA routing option it has selected for individual customers. I will therefore describe the method by which AT&T plans to identify its desired OS/DA routing option for each customer, and demonstrate that this method is consistent with (and contemplated by) the FCC in its Second Louisiana Order. I also will explain that the process urged by BellSouth violates FCC guidelines and effectively would limit AT&T to only one OS/DA routing option.

Q. PLEASE DESCRIBE AT&T'S DESIRED ORDERING METHOD.

A. As I explained above, AT&T will first place a footprint order specifying its desired OS/DA routing options within a geographic area. Later, it will submit customer-specific LSRs. If the footprint order specified only one OS/DA routing within the geographic footprint (for example, sending all OS/DA calls to BellSouth's unbranded OS/DA platform), AT&T will have provided BellSouth with routing instructions for all LSRs submitted within that footprint, so there is no need for AT&T to place additional information on the customer-specific LSR to reiterate the OS/DA routing. This is in keeping with the FCC's reasoning in its Second Louisiana Order at footnote 705:

> If AT&T wants all of its customers' calls routed to AT&T's operator services and directory assistance, AT&T should be able to tell this to BellSouth once, by letter for instance, and BellSouth should be able to route the calls without requiring AT&T to indicate this information on every order.

AT&T's footprint order/ customer-specific order process is designed to comply with this guidance.

If, on the other hand, If AT&T places a footprint order that specifies two possible OS/DA routing options, then AT&T's LSR must inform BellSouth which of the two options to use for each specific customer. AT&T wishes to do so by placing an indicator on the LSR, which could be accomplished by simply completing the existing feature field in the LSR with (for example) "UB/BLS" for BellSouth unbranded, "CB/BLS" for BellSouth branded as AT&T or "C/AOSR" for another provider's platform. The indicator for each option should be the same region-wide. Again, this is consistent with the FCC's Second Louisiana Order at ¶224, footnote omitted:

> If, however, a competitive LEC has more than one set of routing instructions for its customers, it seems reasonable and necessary for BellSouth to require the competitive LEC to include in its order an indicator that will inform BellSouth which selective routing pattern to use. BellSouth should not require the competitive LEC to provide the actual line class codes, which may differ from switch to switch, if BellSouth is capable of accepting a single code region-wide.

Q. IS BELLSOUTH CAPABLE OF ACCEPTING A SINGLE REGION-WIDE CODE FOR EACH OF THE OS/DA ROUTING OPTIONS REQUESTED BY AT&T?

A. Yes, BellSouth is quite capable of accepting a single region-wide code, or indicator, for each of the three OS/DA routings that may be requested by AT&T, and has never attempted to demonstrate that it is not. In order to do so, BellSouth simply would have to build translations tables for line class codes, as it has done already for its own use.

Q. PLEASE EXPLAIN.

A. Line class codes ("LCCs") and routing instructions are applied at the central office level and are contained within each office's software data tables. Exhibit JMB-1, page 1, depicts the use of LCCs to implement customized OS/DA routing for ALECs. The actual codes and data tables, however, are not uniform between central offices.[4] Thus, the line class codes for ordering (for example) customized OS/DA routing to BellSouth's unbranded platform may vary among central offices, even though they provide the same instructions to the switch. Only in recent years have the RBOCs, including BellSouth, established methods and procedures to improve the administration

[4] Part of the problem associated with LCCs and their administration is the fact that prior to the Act there was no need to administer LCCs in a manner that would allow them to be used in a competitive market. Thus, there was no need to create a system of uniform LCCs, and it was not done.

and commonality of LCCs. BellSouth solves this problem for itself with a database known as the Line Class Code Assignment Module ("LCCAM"). LCCAM determines, from the information on the retail service request, and the identification of the central office that will be used to serve the customer's line, the proper LCC to put on the service order.

The FCC was fully aware that LCC identifiers may be unique to central offices, and decided that requiring ALECs to enter each individual code on their orders would be an unreasonable burden. FCC Second Louisiana Order ¶ 224. The FCC set forth two alternatives by which competitors may order customized OS/DA routing. If a competitive provider wants all of its OS/DA calls routed in the same fashion, it may inform BellSouth once, perhaps by letter, without the need to indicate this information on each customer's order. If, on the other hand, the provider wants more than one set of routing instructions for its customers, the ALEC should provide "an indicator" on each customer's order that tells BellSouth which routing pattern to use for that customer. FCC Second Louisiana Order ¶ 224. As stated above, the FCC directed BellSouth to accept a single code across its region for each set of routing instructions desired by an ALEC.

The processes and procedures requested by AT&T are logical, technically possible, and in accord with FCC orders. BellSouth misreads the FCC's guidance in an attempt to force a single "dictated" OS/DA routing method on AT&T rather than provide the required customized routing. The Commission should not be misled by BellSouth's abuse of the FCC's guidance, but should instead order BellSouth to provide the information, methods and procedures AT&T needs to determine and eventually order the customized OS/DA routing it desires, using the two-part process I have described. [5]

Q. HAS THE FCC REQUIRED BELLSOUTH TO PROCESS OS/DA ROUTING ORDERS ELECTRONICALLY?

A. No. Although the FCC has not required BellSouth to abandon manual processing of customized routing orders, it noted that BellSouth would have the burden of showing that it processed such orders in an efficient and nondiscriminatory manner:

> [W]e expect BellSouth to demonstrate that, if it requires specific information for selective routing that results in manual intervention in the processing of such orders, BellSouth will be able to process such orders in a timely manner and in

[5] The Commission should note that BellSouth's position on this issue predates the FCC's LAII Order. Thus, despite the FCC's guidance, which was offered in response to these very policies, BellSouth continues to insist that ALECs follow an outmoded and duplicative set of practices designed to limit their OS/DA ordering options.

> volumes reflecting reasonably foreseeable demand. Of course, the easiest way for BellSouth to make this demonstration is to ensure that orders that include selective routing information do not require manual intervention.

FCC Louisiana II Order ¶ 225. BellSouth did not attempt to make such a showing in either the Georgia or North Carolina arbitration proceedings.

Q. IS ELECTRONIC ORDERING FOR CUSTOMER SPECIFIC LSRS REQUESTING OS/DA ROUTING AVAILABLE FROM BELLSOUTH'S OSS?

A. No. By its own admission, BellSouth provides no processes for electronic ordering of customer specific OS/DA today, and has made no commitment as to when such processes might be available, if ever.

BellSouth's recent decision to stop development of this functionality is particularly troubling. After over two years of having its requests for electronic flow through OS/DA ordering ignored, AT&T placed a formal change request with BellSouth for the capability in February 2000. BellSouth accepted the request, committed resources to the project and announced to the ALEC community that the capability for

electronic ordering of one custom routing option (to BellSouth's platform unbranded) would be provided in Software Release 8 on November 18, 2000. BellSouth repeatedly reaffirmed this schedule in industry meetings up to and including a meeting on September 29, 2000.

On October 11, 2000, BellSouth made the unilateral decision to remove this change from the Release. BellSouth informed the ALEC community the next day during a Requirements Review Meeting. The minutes from that meeting (Exhibit JMB-4) include the following:

> BST CCP advised that the OS/DA change request would be handled outside of Release 8.0. A new database called Originating Line Number Screening (OLNS) is being finalized that will provide this service in a more efficient manner. A meeting to discuss OLNS with interested CLECs is being coordinated for Monday, October 16, 2000. CCP also advised that the Methods and Procedures for OLNS are still under development.

There were two OLNS meetings held on October 16th, I have included the minutes from both as Exhibit JMB-5. Neither meeting provided significantly more detailed information. OLNS is useful only if an

ALEC elects to have one option for BellSouth provided OS/DA for all of its customers in all nine BellSouth states. OLNS cannot be used to route OS/DA calls to any platform except BellSouth's. (Exhibit JMB-1, page 2, depicts an OLNS arrangement.) An ALEC subscribing to OLNS may send all of its customers to either BellSouth ALEC branded service, or BellSouth unbranded service but not some to ALEC branded and others to unbranded. There are no available technical specifications or methods and procedures and not committed implementation data. And as Mr. Keith Milner (BellSouth) testified here in the MCI Arbitration there is no electronic ordering capability available. (Transcript Docket 00649-TP, Volume 9, October 6, 2000, page 1330).

OLNS does not meet BellSouth's obligation to provide customized OS/DA routing.

Q. HAS THERE BEEN ANY CHANGE IN BELLSOUTH'S DECISION?

A. No. During the recent Georgia Arbitration hearing, BellSouth's witness Mr. Keith Milner claimed that this communication removing electronic ordering of OS/DA from Release 8 was incorrect, and that he personally had issued a memo directing that the decision be reversed and that ALECs be so informed immediately. Exhibit JMB-6.

Despite Mr. Milner's claims, BellSouth has issued no retraction or rescheduling regarding the inclusion of OS/DA ordering in Release 8.[6]

BellSouth filed a Late Filed Exhibit with the Georgia PSC on Monday, November 13, 2000, which included the memo to which Mr. Milner referred, as well as the earlier "mistaken" memo. The memo issued as a "mistake" was sent to ALECs on October 11, announcing that the ability to electronically order routing to OS/DA had been removed from Release 8.0. The October 12 memorandum confirmed, rather than contradicted, the first memo, saying, "We are only removing the Change Request for mechanizing the ordering process from Release 8." Later, BellSouth reiterated its decision to remove OS/DA ordering from Release 8 during the October 25, 2000, CCP Monthly Status Meeting. I have provided BellSouth's Georgia Late Filed Exhibit and the Minutes of the October 25th Monthly Status Meeting as Exhibit JMB-7. BellSouth's announcement at the meeting and my objection to it are noted on page 9 of the minutes, and the action item resulting from my request to seek reinstatement of this feature is found on page 18.

[6] In the Georgia arbitration hearing, Mr. Milner also claimed that BellSouth had provided AT&T with the information it had requested regarding detailed technical methods and procedures for ordering customized routing. This is also incorrect. As stated in my testimony above, AT&T has yet to receive footprint ordering instructions from AT&T.

Although BellSouth's Georgia Late-Filed Exhibit states that electronic ordering now will be included in Release 8, that is not the case. BellSouth approached AT&T on Friday November 10, 2000, with a specification that, if implemented, might provide a highly restricted capability for AT&T to submit some types of orders for OS/DA electronically during the course of a "friendly test" of UNE-P. In a teleconference held on Monday November 13, BellSouth confirmed that the capability would be limited specifically to the friendly test orders. No real AT&T customer orders can be placed, no other ALEC will have any capability, only certain order types would be allowed, and only routing to BellSouth's platform as unbranded would be allowed. Thus, BellSouth plans to provide only a very limited trial version of the production functionality that was cancelled.

Q. WHAT DOES AT&T REQUEST THE COMMISSION TO ORDER REGARDING THIS ISSUE?

A. AT&T asks the Commission to order BellSouth to provide AT&T with specific documented methods and procedures for each of the customized routing methods it purports to offer: unbranded at BellSouth's platform, AT&T branded at BellSouth's platform, and routed to a non-BellSouth platform. The Commission also should require BellSouth to provide AT&T with an ordering capability that will allow AT&T to place individual customer orders electronically, with

flow through of such orders, and without the need to place line class codes or other indicators on the orders when only one arrangement exists in a given footprint area. AT&T is entitled to customized routing, and the methods it has requested are reasonable, technically feasible, and anticipated by the FCC.

CUSTOMIZED ROUTING & OPERATOR SERVICES/DIRECTORY ASSISTANCE – ISSUE 23

Q. DID THE FCC ADDRESS THE ISSUE OF CUSTOMIZED ROUTING IN ITS ORIGINAL LOCAL COMPETITION ORDER?

A. Yes. In its Local Competition Order, the FCC required that "[a]n incumbent LEC must provide customized routing as part of the local switching element, unless it can prove to the state commission that customized routing in a particular switch is not technically feasible." (Local Competition Order at 15709.)

Q. DID THE FCC ADDRESS THIS ISSUE IN ITS UNE REMAND ORDER?

A. Yes, in connection with its decision concerning Operator Services and Directory Assistance ("OS/DA"), the FCC determined that incumbent LECs remain obligated under the non-discrimination provisions of 47 U.S.C. § 251(c)(3) to comply with reasonable requests from ALECs who purchase OS/DA to rebrand or unbrand those services, and to

provide directory assistance listing updates in daily electronic batch files. However, the FCC determined that incumbent LECs are not required to unbundle their OS/DA pursuant to 47 U.S.C. § 251(c)(3), ***provided that*** the incumbent LEC provides customized routing to ALECs to allow them to route traffic to ***alternate*** OS/DA providers. Thus, the FCC now requires BellSouth to provide customized routing as a pre-condition to allowing BellSouth not to offer OS/DA as a UNE. From a practical standpoint, the customized routing architecture proposed by BellSouth must be fully implementable and available in every end office where technically feasible. It must be capable of supporting the request of any ALEC and be implementable on a central office basis in a very short period of time. It must be fully tested and clearly demonstrate that the implementation results in service equal to what BellSouth provides itself. It must be capable of supporting both branded and unbranded messaging.

Q. WHY ARE OS/DA AND CUSTOMIZED ROUTING CRITICAL TO AT&T?

A. Local operator and directory assistance services are integral components of any significant local service offering. Any ALEC must ensure that its customers can obtain the local OS/DA services that they have come to expect from the incumbent. Similarly, ALECs must have access at cost-based rates to the incumbent LECs' emergency

and directory assistance listings, including timely and efficient updates of those listings, in order to provide the quality of service local customers expect.

Q. HAS BELLSOUTH PROVIDED A TIMELY CUSTOMIZED ROUTING SOLUTION AS REQUIRED BY THE FCC, AND THE OTHER STATES WHERE BELLSOUTH OPERATES SO AS TO AVOID ITS OBLIGATION TO PROVIDE OS/DA AS UNES?

A. No. BellSouth has proposed line class code solution and an intelligent network ("AIN") solution for customized routing. The proposed AIN solution has been promised by BellSouth for several years. To date, BellSouth has not delivered on its promise. While AT&T did engage in a limited AIN test in 1997 with BellSouth, BellSouth has provided no information to indicate whether the proposed AIN solution it plans to implement later this year is the same or is different than that which was tested several years ago. (Exhibit JMB-1, page 3, depicts the AIN arrangement.)

In January 1998, BellSouth and AT&T jointly performed a technical test of an AIN solution during which both parties were present at a BellSouth facility. That trial identified call setup problems that increased post-dial delay to approximately one second for operator service calls and two seconds for directory assistance calls. This means that an ALEC customer whose calls are routed to that ALEC's

OS/DA platform will experience a post-dial delay that will not be experienced by BellSouth customers. Some of this delay is attributable to BellSouth's decision to direct all of the calls to BellSouth's AIN tandem. The selective routing capability could be provided by the end office AIN. In addition, because AT&T will pay usage-based rates for originating calls through unbundling switching, modest increases in seconds of originating usage could, over time and thousands of calls, add up to significant costs that AT&T, but not BellSouth, will incur. To date, no ALEC operating in BellSouth's states has purchased AIN.

Q. WHAT ARE SOME INEFFICIENCIES OF THE AIN SOLUTION?

A. AIN was developed to enable enhanced line-based features such as selective call forwarding and multi-distinct rings, etc. It was not intended to support normal call routing and does not work well for high volume-based calling. AIN bypasses the intelligence of the switch and requires every single call to query the database for routing instructions. In addition, if the database is down or is slow in responding, the call will fail or be delayed. BellSouth has not clearly demonstrated that its proposed AIN solution is equal to what it provides itself.

Q. WHAT OTHER SOLUTION HAS BELLSOUTH PROPOSED FOR CUSTOMIZED ROUTING?

A. BellSouth has also proposed the use of line class codes to route OS/DA traffic to a third party platform.

Q. HAS BELLSOUTH DEMONSTRATED THAT THIS PROPOSAL MEETS THE NECESSARY REQUIREMENTS IN ORDER FOR BELLSOUTH TO NO LONGER OFFER OS/DA AS AN UNBUNDLED NETWORK ELEMENT?

A. No. While line class codes have been used to perform customized routing, BellSouth has not yet provided sufficient information such as ordering instructions and supporting documentation to AT&T for each of the customized routing options that BellSouth must provide. AT&T and BellSouth performed limited testing of this solution in 1997. However, several key issues still remain outstanding and were discussed above in issue 25. Use of LCC technology to route OS/DA calls to third party platforms is not currently available through a commercially viable, timely and repeatable process.

Q. DOES THE ORIGINATING LINE NUMBER SCREENING OPTION PROVIDE A CAPABILITY TO ROUTE AN ALEC'S OS/DA CALLS TO THE THIRD PARTY PLATFORM?

A. No. As discussed above, OLNS can only be used to route calls to BellSouth's OS/DA platform. The OLNS option does not provide a basis for BellSouth to claim that it has met its customized routing

obligations and therefore charge market based rates for its OS/DA service.

Q. HAS BELLSOUTH PROVIDED REASONABLE SUPPORT TO AT&T TO PROVIDE CUSTOMIZED ROUTING?

A. No. BellSouth's policy and proposed contract language precludes AT&T from obtaining customized routing that is efficient and economical. BellSouth limits AT&T and other ALECs to selecting a single "customized" routing for all of its customers across all nine states. Even if an ALEC agrees to a single option, BellSouth has not provided the information necessary to order that option across multiple central offices, or to order that option for an individual customer. Such a one size fits all approach precludes an ALEC from tailoring its selection of customized routing to take advantage of different (more efficient, less costly) trunking options that might be available to it in different local exchange areas, LATAs and states.

While BellSouth indicates that it will allow an ALEC to have more than one option, it apparently considers that to be something beyond its obligations under the Act – which is clearly is not – and once again has provided no instructions, methods, procedures or ordering capabilities. AT&T must be able to route OS/DA calls to any specified, existing trunking arrangements. BellSouth must be able to route

OS/DA calls using existing tandem architecture. BellSouth has not demonstrated that they can provide these capabilities. AT&T, as well as other ALECs, are entitled under the Act to flexible routing arrangements that will meet their current and future needs.

Q. WHAT ACTION DOES AT&T REQUEST THE COMMISSION TAKE ON THIS ISSUE?

A. BellSouth has not yet demonstrated that it has in place a customized routing solution that complies with all the requirements of the FCC and which allows AT&T to access OS/DA at parity with the access BellSouth has to its own OS/DA. Until BellSouth does so, the Commission should require BellSouth to continue to provide BellSouth provided OS/DA as unbundled network elements at unbundled network element prices.

ISSUE 30

THE CHANGE CONTROL PROCESS ISSUE

Q. WHAT IS A CHANGE CONTROL PROCESS?

A. A change control process (also known as a "change management process") is a process used to manage changes to a system, process, or documentation so that they are made in an orderly and predictable fashion. In the recent FCC BA-NY Order at ¶ 103 and in a September

27, 1999, letter to US West (Exhibit JMB-8) and hereinafter referred to as the "US West Letter"), the FCC describes the phrase "change management process" as referring to the methods and procedures that the BOC employs to communicate with competing carriers regarding the performance of and changes in the BOC's OSS system that affect ALECs' production or test environments.

Q. WHY IS THIS ISSUE IMPORTANT TO AT&T?

A. Just as BellSouth requires time to make necessary modifications to its systems and processes, AT&T and other ALECs need sufficient advance notice of such modifications to allow them to make responsive changes in their own systems and thereby continue to provide service to their customers. All too often, ALECs receive little or no notice of upcoming changes. In fact, AT&T has learned of some system or process changes only when previously-acceptable orders were rejected or improperly provisioned. Similarly, ALECs request changes to BellSouth's systems and processes and need an orderly and predictable method by which such change requests will be handled. Thus, the quality of BellSouth's Change Control Process directly affects AT&T's ability to offer competitive service to its customers.

An extremely graphic illustration of problems resulting from inadequate change control processes occurred early this year in New York when Bell Atlantic – New York ("BA-NY") implemented changes to its ECXpert software, which lies at the heart of its OSS system for provisioning UNE orders. These software changes were not properly managed through a robust change control process. Shortly thereafter, ALECs began reporting that BA-NY systems were losing ALEC service orders in increasingly large numbers. Despite extensive (and expensive) work-arounds, ALECs simply could not compensate for this massive problem, and tens of thousands of customers' orders were lost or delayed, including 40,000 AT&T orders.

On February 24, 2000, BA-NY finally announced that it could not correct the software problems in ECXpert, that the software was "inherently unstable and unscalable", and that the software would be abandoned. BA-NY proposed to replace ECXpert with a new and also untested system that was developed internally by Bell Atlantic to be introduced only four days later, on February 28th. Bell Atlantic explained that haste was required because continued use of ECXpert made it impossible for Bell Atlantic to satisfy industry standards in provisioning UNE orders. BA-NY further explained that it would be replacing ECXpert first in connection with LSOG 2 and then with

LSOG 4, and that ECXpert would be abandoned throughout the entire Bell Atlantic operating territory

These problems could have been prevented by a change control process such as that being requested by AT&T. At the very least, existence of an appropriate testing environment, go/no go decision point involving ALECs, and a versioning process would have mitigated this disaster.

Q. PLEASE DESCRIBE TYPES OF CHANGES THAT SHOULD BE MANAGED VIA A CHANGE CONTROL PROCESS.

A. Every change to a BOC's OSS, supporting process, or documentation that requires responsive changes in ALEC systems or processes should be managed via an orderly and predictable change control process. Such changes include:

1) operations changes to existing functionality that impact the ALEC interface(s) when a BOC releases new interface software;
2) technology changes that require ALECs to meet new technical requirements when a BOC issues a software release;
3) additional functionality changes that may be used at the ALEC's option, when a BOC releases a new interface software;
4) changes that may be mandated by regulatory bodies; and
5) changes to correct defects and emergency situations.

In all such cases, supporting processes and documentation must be included and ALECs must have sufficient advance notice of BOC system changes to allow them to make responsive changes to their own systems.

Q. HAS THE FCC GIVEN BOCS AND ALECS ANY GUIDANCE ON THE MINIMUM ATTRIBUTES OF A SATISFACTORY CHANGE CONTROL PROCESS?

A. Yes. In both the FCC BA-NY Order and the US West Letter, the FCC describes additional characteristics of a satisfactory change management process, including:

- ALEC participation;
- Procedures documentation;
- Prioritization and stratification of changes;
- Schedules for notifications;
- A testing environment and minimum 30 day test window for new releases;
- A go/no go decision process to preclude premature implementation by the BOC;
- Versioning of releases (maintaining the old version of an interface along with the new);
- Memorialization of the process, including a means by which the process can be modified;

- Dispute resolution process for ALECs, specific to change management disputes;
- Followed consistently over time; and
- Subject to regulatory oversight (which includes enforcement).

From the FCC's descriptions, it is clear that the entire range of transactions required between AT&T and BellSouth in order for AT&T to utilize BellSouth's network services and elements should be managed via an orderly and predictable change control process. Both electronic and manual interfaces and processes are required to establish and maintain a business relationship with BellSouth and conduct day-to-day business transactions and all such processes should be managed by an orderly and predictable change control process. Exhibit JMB-9 visually depicts a comprehensive change control process.

A comprehensive change control process should provide "cradle to grave" coverage of the life cycle of an interface or process, as well as its supporting documentation (such as specifications, business rules, methods, and procedures). Thus, the change control process should control implementation of new interfaces, management of interfaces in production (including defect correction), and the retirement of interfaces. A robust change control process should provide a process

for making normal changes, an exception process, an escalation process, and a dispute resolution process, with ultimate recourse to the state commission, mediation, or court adjudication. Additionally, a process should be specified which could change the Change Control Process itself.

Q. DOES BELLSOUTH HAVE A CHANGE CONTROL PROCESS?

A. Yes, but the process is inadequate and BellSouth frequently fails to follow it. The charter for the development of a change control process grew out of ALEC complaints to the Georgia Public Service Commission ("PSC") regarding inaccuracies and omissions in the information available to them concerning interfaces that existed in late 1997. Thereafter, BellSouth and several ALECs, including AT&T, signed the Electronic Interface Change Control Process ("EICCP") document ("the change control document") in April 1998. The change control document, which was produced only as a result of regulatory "prodding" of BellSouth by the Georgia PSC, and useful at the time, was extremely limited in scope and was insufficient to meet the current and future needs of ALECs or the requirements of the FCC. For example, it encompassed only BellSouth's existing interfaces and did not apply to new interfaces until they were deployed. Thus, BellSouth was free to introduce new interfaces without appropriate notice to and input from the ALECs that would use those interfaces.

In February 2000, BellSouth began developing an Interim Change Control Process ("I-CCP") in response to certain findings by KPMG in the Georgia Third Party OSS Test. The I-CCP was an evolving work in progress, and BellSouth replaced the EICCP procedures with I-CCP procedures in near real-time and often without the full concurrence of the ALECs participating in the process. While the I-CCP attempted to address the shortcomings of the EICCP, its final form and BellSouth's future adherence to its requirements are speculative.

The designation of the I-CCP document and process as "interim" was removed following a controversial vote taken in August 2000, despite the fact that a key section regarding defects and expedites was still only in draft form and that these was no consensus agreement regarding the contents of the remainder of the document.[7] BellSouth published Version 2.0 of the Change Control Process Document on August 23, 2000, and it remains the current version today.

Through their participation in the process, AT&T and BellSouth have reached agreement on many elements of change control. However, the CCP in its current form is still deficient in many areas, as will be

[7] BellSouth issued an agenda for a Change Control conference call that included a "discussion" of the Interim Change Control Process, among other things. After the discussion, however, and at the end of the lengthy conference call, BellSouth called for a vote on whether to accept the interim process as permanent. Because there had been no notice that a vote would be taken, several participants had dropped off the call by this point, and still others were without authority to vote on behalf of their company. Despite these irregularities, however, BellSouth has refused to allow a re-vote.

discussed below. Version 2.0 of the CCP, dated August 23, 2000, and marked up on October 27, 2000, is attached as Exhibit JMB-10 to show changes proposed by AT&T (and in which other ALECs have concurred.) AT&T has submitted a formal Change Request to BellSouth, requesting adoption of the changes shown in Exhibit JMB-10.[8]

Q. DOES BELLSOUTH'S VERSION 2.0 CHANGE CONTROL PROCESS ("CCP") COMPLY WITH THE FCC'S GUIDANCE?

A. No. The CCP fails to cover all areas that should be included in a robust Change Control Process. Specifically, the I-CCP is deficient when compared to the FCC's guidance in the following ways:

- It does not adequately cover the introduction of new interfaces; (see discussion below in section a)
- It does not adequately cover retirement of existing interfaces; (see discussion below in section b)
- It does not provide a process for exceptions to the Change Control Process; (see discussion below in section c)

[8] BellSouth elected not to schedule discussion of this request during regular monthly Change Review Status meetings, as called for in the existing process. Instead, BellSouth insisted that the ALECs conduct their own meeting to discuss AT&T's Change Request. All ALECs that participate in the Change Control Process were invited to the meeting, as were several BellSouth representatives. The meeting, which was held on October 27, 2000, was attended by representatives of the core group of participating ALECs, all of whom concurred in the changes shown in Exhibit JMB-10.

- It does not provide an adequate process for defect correction; (see discussion below in section e and f)
- It does not provide an adequate process for managing changes to documentation and training; (see discussion below in section d)
- Its cycle times for all types of changes are too long; (see discussion below in section g)
- It does not include a firm notification schedule for all changes initiated by BellSouth; (see discussion below in section h)
- It does not include an adequate escalation process; (see discussion below in section j)
- It does not include an adequate dispute resolution process; (see discussion below in section i)
- It does not provide a means to implement changes in testing procedures; (see discussion below in section k)
- It does not provide for a pre-release testing environment; (see discussion below in section k)
- It permits BellSouth to unilaterally cancel, reject or reclassify ALEC submitted change requests; (see discussion below in section m)
- It permits BellSouth to unilaterally implement changes on a schedule that is inconsistent with the prioritization of requests by the ALECs; (see discussion below in section n)

- It does not include a defined process by which the process itself can be changed through an orderly, informed vote by all interested parties; (see discussion below in section o) and
- It is neither binding upon BellSouth nor subject to regulatory oversight.

Additionally, BellSouth historically failed to follow even the limited process prescribed in EICCP and this behavior has continued under the I-CCP and CCP. BellSouth failed to adhere to the EICCP when implementing the following types of changes to its systems, even though EICPP provided a process for managing them:

- New and revised edits;
- Documentation and training changes;
- Regulatory required changes; and
- Changes BellSouth wished to initiate.

Each such change has the potential to disrupt ALEC processes and systems and adversely affect provision of service to ALEC customers.

Q. HOW ARE CHANGE REQUESTS PROCESSED UNDER THE CHANGE CONTROL PROCESS?

A. Under Version 2.0 of the CCP, a Change Review Committee composed of BellSouth and ALECs meets three or four times annually, based on a schedule prepared by BellSouth, to review and

prioritize change control requests. Monthly status meetings are held between prioritization meetings. In order for Type 2-5 (non-emergency) changes to be considered at any given prioritization meeting, they must be submitted some 33 business days in advance of the meeting. Changes that are accepted for implementation at the Change Review meeting may appear in a "release package" (which lists the requests that have been targeted for a scheduled release) approximately 35 business days after the Change Review meeting, and the implementation process can begin.

BellSouth's change control calendar establishes specific dates for all aspects of the process, including cut-off dates for submission of change requests before a particular Change Review meeting. Requests made after the cut-off date generally will be reviewed only at the next meeting. Under the current change control calendar, the minimum time between the submission of a change control request and the issuance of a "release package" is over three calendar months, and could be more than six months. That period does not include the date of actual implementation of the change. Not only is this totally inadequate to meet ALEC needs, but it also offers BellSouth a competitive advantage in that BellSouth can (and often does) change its systems and processes at any time, without regard to Change Review meetings, and to the detriment of ALECs.

Q. COULDN'T THIS COMMISSION SIMPLY DEFER THIS ISSUE TO THE ALECS AND BELLSOUTH TO RESOLVE?

A. No. While BellSouth will argue that this is an industry issue, and that it should be managed through the Change Control Process, the fact of the matter BellSouth has total control over the process and may simply ignore the business needs and wishes of the ALECs. BellSouth has no legally binding commitment to follow the process or to abide by any ALEC vote, and neither the Change Control Document nor the process itself are subject to regulatory oversight.

The CCP process is often described as a "collaborative" process. While it is true that AT&T and the ALECs continue to work with BellSouth to improve the CCP, the process is not collaborative. ALECs advise what they need, BellSouth either agrees, agrees but later changes its mind, or says no. In essence, BellSouth retains veto power. Following is an example that illustrates BellSouth's control over the process.

During the June 28, 2000, Prioritization Meeting, ALECs prioritized 23 change requests for inclusion in future releases. Five were associated with pre-ordering and 18 with ordering. The existing process calls for a Release Package Meeting to be held 30 business days after the Prioritization Meeting. The purpose of a Release Package Meeting is

to inform the ALECs how the prioritized changes have been scheduled for implementation over the future releases and initiate the release management project team. This meeting, which should have been held on August 14, was not held until September 18 – delaying ALEC change requests by an additional month.

Further, BellSouth did not comply with the CCP requirement that "Sizing and sequencing of prioritized change requests will begin with the top priority items and continue down through the list until the capacity constraints have been reached." Instead, BellSouth unilaterally included only 6 items in its Proposed Release 8.0 Package, none of which dealt with pre-ordering, and four of which were not highly prioritized items, including three of the lowest priority items from the ordering list. Exhibit JMB-11. Many of the items BellSouth elected not to address have been highly prioritized for implementation by the ALECs in past cycles, going back as far as two years.

In addition to its ability to control the process, BellSouth also routinely elects not to comply with its requirements. BellSouth recently released Issue 9G of BellSouth's Business Rules for Local Ordering ("BBR-LO") which it admits includes significant changes that BellSouth did not submit to the CCP. (Exhibit JMB-12) Because BellSouth

circumvented the CCP, ALECs had little advance notice of the changes, and could not make the required coding and process changes by the proposed October 2, 2000, implementation date, which would result in BellSouth's systems rejecting their previously-valid orders. BellSouth nevertheless refused to withdraw these unapproved changes. Further, when BellSouth implemented the associated software release on October 2, 2000, it was found to contain programming defects (Exhibit JMB-13) that could have been avoided had BellSouth made the release available to ALECs for testing in advance of its implementation.

AT&T asks this Commission to specifically order BellSouth to adopt the changes requested herein, and to specifically place the Change Control Document under its supervision. It should be no more difficult to avoid state-to-state conflicts regarding this process than any other process incorporated into an Interconnection Agreement or into BellSouth's Statement of Generally Available Terms and Conditions ("SGAT").

Q. YOU MENTIONED THAT YOU WOULD INTRODUCE A MARK-UP OF VERSION 2.0 OF THE CHANGE CONTROL PROCESS DOCUMENT. PLEASE TELL US WHY.

A. Following the August 23, 2000, Monthly Status Meeting, BellSouth produced Version 2.0 of the CCP document, incorporating all of its desired changes, whether or not ALECs concurred. For example, BellSouth incorporated into Version 2.0 a draft process to which no ALEC has concurred, identified as an "expedited feature process". Version 2.0 is now the process document in use and is therefore the appropriate document to discuss in this arbitration. If BellSouth publishes an update to the CCP document before this Commission's decision, that new version should then supplant Version 2.0 as the baseline for a decision.

The red line of Version 2.0 included with this testimony (Exhibit JMB-10) is the same as that concurred in by the ALECs on October 27th and November 1 and provided to BellSouth on November 5, 2000.

Substantive changes appear on 41 of 72 pages of the document, but often the same change appears on multiple pages.[9] It is this document that the Commission should use as its baseline in reaching its decision on this matter, as it shows the most current positions of the parties. As noted above, if BellSouth publishes an update to the CCP document, that new version should then supplant Version 2.0 as the baseline for this Commission's decision.

Exhibit JMB-14 provides a cross reference of revisions to sub-issues and concerns.

In the following discussions, I will indicate the location and general content of the revised language associated with each sub-issue under discussion.

a) introduction of new interfaces;

Q. WHAT CHANGES DOES AT&T REQUEST RELATING TO INTRODUCTION OF NEW INTERFACES?

A. Certain language proposed by BellSouth effectively would allow BellSouth, rather than the ALEC community, to determine whether changes to new interfaces should be managed under the CCP document. All such changes should be managed under the process, and failure to proceed under the CCP should be the exception. On page 48 of Exhibit JMB-10, AT&T has proposed deleting this language and adding language specifying that BellSouth will seek to follow the processes designed for changes originated by BellSouth, but will notify ALECs as promptly as possible if it is forced to deviate from that process.

[9] This page count, and the page numbering reference below are valid when the red-line document is printed on an HP Laser 4 printer. Use of another printer may result in a

b) retirement of existing interfaces;

Q. WHAT CHANGES DOES AT&T REQUEST REGARDING RETIREMENT OF EXISTING INTERFACES?

A. It appears that the parties have reached agreement on a portion this issue. BellSouth's language regarding the retirement of interfaces may be found on page 48 of Exhibit JMB 10. This language has been enhanced by BellSouth and is now acceptable to AT&T.

During the October 27 and November 1, 2000 meetings, the ALECs reached consensus on additional language related to the retirement of versions of software as opposed to retirements of interfaces. This proposed language also appears beginning on page 48.

c) exceptions to the process;

Q. WHAT CHANGES DOES AT&T REQUEST REGARDING EXCEPTIONS TO THE CHANGE CONTROL PROCESS?

A. AT&T requests a documented "exception" process for the handling of Type 2 – 5 Changes under unusual situations. AT&T's request may be found on pages 30-34 of Exhibit JMB-10 as Part 3 to Section 4 and titled "Part 3 – Types 2-5 Exception/Expedited Feature Process."[10]

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different numbering.

[10] Additional related changes occur on pages 11 and 12.

In the interval between the publication of the Interim CCP Versions 1.4 through 1.6, BellSouth separately proposed a draft "Expedited Feature" process. BellSouth's proposal was included in Version 2.0 in Section 5 and elsewhere despite objections from various ALECs. (Exhibit JMB-15) Although BellSouth's proposal is unacceptable as written, it appears to be a foundation upon which the "exceptions" process the ALECs have been requesting can be built. AT&T has proposed modifications that would make the process acceptable.

Adoption of AT&T's proposed changes will provide the ALECs and BellSouth with an acceptable documented "exception" and "expedited" process for the handling of Type 2 – 5 Changes.

d) documentation, including training;

Q. WHERE MAY AT&T'S DESIRED CHANGES RELATED TO THIS ISSUE BE FOUND AND WHAT DO THEY REQUEST?

A. The phrase "training materials and job aids" has been added on page 7 of Exhibit JMB-10 to clearly indicate that changes which will result in revisions to the training materials and job aids BellSouth produces for ALECs are included within the scope of the process.

e) defect correction;

f) emergency changes;

Q. WHAT CHANGES DOES AT&T REQUEST REGARDING DEFECT CORRECTION AND EMERGENCY CHANGES?

A. In this testimony I have grouped these two sub-items together because emergency changes are a sub-set of defect correction. AT&T proposes language changes at various locations to reflect AT&T's and other ALECs' needs for a process that corrects defects in a timely manner. BellSouth's existing and proposed process (found largely in Section 5 of Version 2) remains focused on notification and contains excessively long intervals for correction. The "Draft Expedited Feature Process" proposed by BellSouth is applicable neither to defect correction nor emergency changes. AT&T's proposed language may be found on pages 34-43 of Exhibit JMB-10.

A significant change in the definition of a defect appears on page 34. This change resulted from ALEC input during the October 27th and November 1st meetings. A third bullet point was added to address the situation where the interface was working in accord with both of the

conditions in the first two bullets but still produced ineffective transactions.[11]

Adoption of AT&T's proposed changes will provide ALECs and BellSouth with a documented defect correction and emergency change process that meets their stated needs and is near parity with the processes BellSouth uses in its own retail and wholesale operations. Collectively the changes AT&T proposes here and in sub-issue (c) above combine to provided ALECs with capabilities they have been formally requesting from BellSouth since July of 1999.

g) an eight step cycle, repeated monthly;

Q. WHAT CHANGES DOES AT&T REQUEST REGARDING THE CHANGE CONTROL CYCLE?

A. AT&T will concur with the number and sequence of steps contained in BellSouth's proposed Version 2 for Type 2 – 5 Change Requests, but continues its request for reduced cycle times in order to met its business needs. BellSouth's associated proposed language and AT&T's proposed modifications may be found on the following pages in Exhibit JMB-10:

[11] The new language treats as a defect the situation "where technical implementation is faulty or inaccurate such as to cause incorrect or improperly formatted data." The definitions

Page	Nature of AT&T Proposed Change
21 and 23	reduction in Step 3 interval from 20 to 10 business days
21 and 26	reduction in Step 7 interval from 30 to 25 business days

h) a firm schedule for notifications associated with changes initiated by BellSouth;

Q. WHAT CHANGES DOES AT&T REQUEST RELATING TO NOTIFICATIONS?

A. When BellSouth initiates Type 4 changes[12], it should prepare and distribute requirements and specifications according to the schedules shown on page 22 of Exhibit JMB-10 and in the associated Table 4-3. The requested interval of 90 days advance notice for distribution of draft requirements and specifications is particularly critical as, ALECs otherwise may not have sufficient time in which to complete required system and process modifications on their side of the affected interface.

In its recent approval of the SBC 271 application for Texas, the FCC found the inclusion of a schedule for the distribution of draft

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of defect on pages 12 and 63 also change to include this language.
[12] A type 4 change is a request initiated by BellSouth.

specifications or business rules to be significant.[13] In its Order approving Southwestern Bell's 271 application, the FCC discussed with approval particular provisions of Southwestern Bell's change control process. The FCC specifically noted that "the change agreement includes a schedule for the distribution of draft specifications, or business rules, receipt of competing carrier comments on the documentation, and distribution of final documentation that is based on the consensus of the parties." FCC Southwestern Bell Order at paragraph 111. In contrast, BellSouth has refused to provide ALECs with draft specifications. (Exhibit JMB-16)

In addition, on page 28 of Exhibit JMB-10, AT&T is requesting firm implementation intervals for both software-related and documentation-related issues under the normal Type 2-5 change process. The Type 2-5 Exception/Expedite process, which is described in Section 4, Part 3 (pages 30-35), is available for those instances in which the requested normal interval might not be appropriate.

i) a process for dispute resolution including referral to state utility commissions or courts;

[13] FCC 00-238, Order Approving SBC Communications Inc. Section 271 Application ("FCC SBC Order"), para. 111.

Q. WHAT CHANGES DOES AT&T REQUEST RELATING TO DISPUTE RESOLUTION?

A. The dispute resolution provisions found on page 55 of Exhibit JMB-10 become effective if an issue is not resolved through the Escalation Process specified in the document, so the two processes must be considered together. The use of the escalation process ensures that neither party will bring forward an issue for mediation or as a formal complaint unless it has been appropriately and jointly investigated.

j) a process for escalation of changes in progress.

Q. WHAT CHANGES DOES AT&T REQUEST RELATING TO ESCALATION OF CHANGES IN PROGRESS?

A. AT&T has added specific intervals on pages 50 and 53 of Exhibit JMB-10 for various steps in the escalation process, so issues with more severe ALEC impact receive faster attention, while issues with less severe impact have a longer resolution interval.

k) Testing Support and Testing

Q. WHAT CHANGES DOES AT&T REQUEST RELATING TO TESTING SUPPORT AND A TESTING ENVIRONMENT?

A. During the recent arbitration hearing between AT&T and BellSouth in North Carolina, the parties reached an agreement regarding certain changes to these sections. Unfortunately, the language in BellSouth's proposed Version 2.0 does not comport with that discussion. The mark-ups proposed by AT&T correctly memorialize that discussion and are shown on pages 8 and 57 of Exhibit JMB-10.

l) Provision of a Trouble Number for Type 1 Events

Q. WHAT CHANGES DOES AT&T REQUEST RELATING TO TYPE 1 EVENTS?

A. BellSouth has agreed to provide the process requested by AT&T, but that agreement is not reflected in Version 2.0. I have added supporting language for this agreement at page 18 of Exhibit JMB-10.

n) The Ability of BellSouth to Unilaterally Cancel or Reject an ALEC Request

Q. WHAT CHANGES DOES AT&T REQUEST RELATING TO THE CANCELLATION, REJECTION OR RECLASSIFICATION OF A CHANGE REQUEST?

A. As presently written, the change control document effectively gives BellSouth up-front veto power over any change request submitted by

ALECs. This is unreasonable; changes submitted by ALECs should not be subject to arbitrary cancellation or rejection by BellSouth. Instead, all Type 5 ALEC-submitted changes should progress to the Monthly Status Meeting Stage. BellSouth should provide the appropriate Subject Matter Expert and present its case for cancellation/rejection to the industry at that time. Following input from the industry, BellSouth and the originating ALEC will determine the disposition of the change request in question. Without this process, BellSouth retains up-front veto power over all ALEC change requests, thus limiting the scope and effectiveness of the process. I have added supporting language for this requirement at pages 23 and 24 of Exhibit JMB-10.

n) Change Review – Prioritization – Release Package Development and Approval

Q. WHAT CHANGES DOES AT&T REQUEST RELATING TO CHANGE REVIEW MEETINGS, PRIORITIZATION AND RELEASE PACKAGE DEVELOPMENT AND APPROVAL?

A. AT&T's proposed language is shown on pages 25-27 and pages 44-47 of Exhibit JMB-10. Type 2-5 changes must drive the need for and content of future software releases in order to provide certainty to the process. The present process, however, is driven by an arbitrary

release schedule developed without input from the affected ALECs or the CCP. AT&T's suggested language establishes fixed points for prioritization meetings, and requires all prioritized change requests to be assigned to specific future releases. The process requested by AT&T remains flexible, however, since change requests may be reassigned to a different software release by group consensus during any Release Package Meeting.

o) The Process of Changing the Process.

Q. WHAT CHANGES DOES AT&T REQUEST RELATING TO THE PROCESS OF CHANGING THE PROCESS?

A. The current document actually provides no procedure at all for amending or changing the change control process, and therefore repeated situations such as occurred on August 23, 2000 discussed above are likely to occur. At page 56 of Exhibit JMB-10, I have provided language that provides for an orderly, informed vote on requested changes. The proposed process requires a supermajority (2/3) vote in favor of any change protecting BellSouth from whimsical ALEC behavior.

Q. PLEASE SUMMARIZE AT&T'S REQUEST FOR SPECIFIC CHANGES TO BELLSOUTH'S CHANGE CONTROL PROCESS.

A. AT&T asks this Commission to order BellSouth to incorporate the following attributes in its Change Control Process.

1. It should cover the following processes:
   - changes to manual as well as electronic processes, whether sought by BellSouth or by ALECs;
   - introduction of new interfaces;
   - billing; and
   - retirement of existing interfaces.
2. It should provide processes for the following issues:
   - defect correction;
   - exceptions to the Change Control Process;
   - escalation of change requests;
   - interpretation and clarification of operational documentation; and
   - dispute resolution.
3. It should provide for a permanent test environment and the ability to change the testing process.
4. It should require cycle times that produce monthly prioritization meetings between BellSouth and ALECs and a maximum time of 60 calendar days from submission of a Type 2-5 change through its inclusion in a release package, with a process for more frequent meetings as necessary.

5. It should include a firm notification schedule for changes initiated by BellSouth.

6. It should be legally binding upon BellSouth and subject to regulatory oversight to ensure that BellSouth can not ignore change control processes with impunity.

Q. WHAT DOES AT&T REQUEST THAT THE COMMISSION DO REGARDING THIS ISSUE?

A. AT&T requests that the Commission correct these deficiencies by adopting the revisions to the CCP attached as Exhibit JMB-10 to my testimony.

ISSUE 31

THE EQUIVALENT FUNCTIONALITY ISSUE

Q. PLEASE EXPLAIN AT&T'S REQUEST FOR EQUIVALENT OSS FUNCTIONALITY.

A. In Issue 31, AT&T requests a number of OSS improvements that have been at issue between the companies for some time. Although repeatedly requested by AT&T, BellSouth has yet to provide AT&T with OSS functionality it provides to itself to support the quality of service enjoyed by BellSouth's retail customers. BellSouth enjoys the benefits of a suite of interconnected databases and computer

processing systems of its own choosing and designed as best possible to enhance the efficiency and effectiveness of its operations. Even when manual processes are required, BellSouth is able to design such processes to take maximum advantage of the available computing, database, and communications power it possesses.

AT&T, on the other hand, when attempting to access BellSouth's databases, computer processing, communications resources, and manual processes, is restricted by BellSouth's unwillingness to provide parity to its competitors. Throughout the life of the existing AT&T–BellSouth Interconnection Agreement, AT&T has repeatedly sought to obtain access that would allow it to have functionality equal to that enjoyed by BellSouth. Section 251 of the 1996 Act clearly envisioned that ILECs like BellSouth might be inclined to be less than fully cooperative in many cases, and therefore authorizes state commissions to address this situation through arbitration. In this Arbitration, AT&T asks the Commission to mandate implementation of equivalent functionality for the following three conditions:

- Parsed customer service records;
- The ability to submit orders electronically for all services and elements; and
- Electronic processing after electronic ordering, without subsequent manual processing by BellSouth personnel.

Exhibit JMB-17 depicts the interrelationship of these conditions and AT&T's desired resolutions.

Q. PLEASE EXPLAIN WHY AT&T REQUIRES BELLSOUTH TO PROVIDE PARSED CUSTOMER SERVICE RECORDS.

A. AT&T needs this functionality in order to fully integrate its ordering systems with BellSouth's, thereby obtaining the functionality now available to BellSouth. BellSouth's internal systems parse the sections and fields of the CSR as needed to meet software program requirements, thus precluding the need for service representatives to re-enter CSR information when processing orders. Additionally, BellSouth should provide parsed customer service records for preordering pursuant to industry standards. Parsing rules for CSRs have been included in industry standards since the publication of the LSOG3/TCIF9 guidelines July, 1998.

Q. PLEASE EXPLAIN WHAT YOU MEAN WHEN YOU SAY THAT AT&T WANTS BELLSOUTH TO PROVIDE PARSED CUSTOMER SERVICE RECORDS.

A. We are asking BellSouth to provide us with electronic customer service record data that is divided up into fields that BellSouth's systems can recognize when we return it to BellSouth. For example, BellSouth provides us with the customer's listed name as one field, or

block, of data. But when we order listing service for that customer, BellSouth requires us to enter the customer's name in at least two fields instead of one. So we have to separate the information manually, which takes time and costs extra money. BellSouth's service representatives don't have to do this, so AT&T is requesting (and entitled to) the same functionality.

Q. PLEASE EXPLAIN WHY AT&T REQUIRES THE ABILITY TO SUBMIT ORDERS ELECTRONICALLY.

A. BellSouth can place an electronic order for every service and product that it provides to its own customers. AT&T requires this same ability in order to compete against BellSouth. Lack of electronic ordering increases the possibility of errors, extends intervals, increases costs, and reduces ALECs' ability to compete due to the required (but unnecessary) manual intervention by both ALEC and BellSouth personnel.

Although I have listed electronic ordering as a desired functionality, the ability to submit orders electronically for all services and elements and the ability to have all electronically submitted orders processed without subsequent manual intervention, which is discussed below, are sequentially and dependently related - it is impossible to have the second ability until the first has been provided. Ideally, both should be

provided simultaneously because BellSouth possesses both capabilities for every service and product that it provides to its own customers.

BellSouth has argued that it already offers equivalent functionality to AT&T because BellSouth uses some manual steps in its own internal processes. But the manual processes BellSouth describes involve pre-ordering, not ordering. Further, BellSouth has admitted that its service representatives can order every retail service electronically. AT&T seeks that same ability. Despite BellSouth's own capabilities, however, it has continually refused to provide fully electronic ordering capability to ALECs, let alone fully automated processing of electronically submitted orders, despite the fact that it provides these capabilities to itself.

Q. PLEASE EXPLAIN WHY AT&T REQUIRES ELECTRONIC PROCESSING AFTER ELECTRONIC ORDERING, WITHOUT SUBSEQUENT MANUAL HANDLING BY BELLSOUTH PERSONNEL.

A. The short answer is because this is how BellSouth's own orders are processed and that without parity AT&T and the other ALECs cannot be competitive in the market place. Because electronic ordering and processing is less expensive, faster, and less prone to errors than

manual ordering and processing, BellSouth's electronic ordering and processing capability puts ALECs at a competitive disadvantage.

Q. HOW DOES BELLSOUTH PROCESS ITS OWN SERVICE REQUESTS?

A. Exhibit JMB-18 depicts the methods by which BellSouth submits its customers' requests to its legacy computer systems. In Florida, BellSouth uses the Regional Negotiation System ("RNS") as the primary front-end system to input residential service requests and uses the Regional Ordering System ("ROS") as the front-end system for all business service requests[14]. The legacy system to which both RNS and ROS send their requests is the Service Order Control System ("SOCS"). SOCS assigns service order numbers to each request and processes all requests received through an edit program known as the Service Order Edit Routine ("SOER"). If, and only if, the service request passes the SOER edits does it actually become a service order, which SOCS then can provide to BellSouth's downstream provisioning legacy systems. A service request that has become a service order is said to be an "Assignable Order" and is referred to as having reached "AO" status. A service request that

[14] The system that ROS replaced during 1999, the Direct Order Entry ("DOE") system, has been retained by BellSouth for two purposes since it can be used to input any type of service request (business, residential, or UNE). These two uses are as a secondary input system in BellSouth retail residence operations, and as the interface used in the Local Carrier Service Center ("LCSC") to input ALEC manual and electronically submitted "designed fallout" local service requests.

does not pass the SOER edits is rejected and returned to the originating BellSouth input center for correction.

In order to minimize the number of RNS and ROS service requests that are rejected by the SOER edits in SOCS, BellSouth has provided editing and formatting software in RNS and ROS. This software prevents BellSouth employees from sending service requests that have certain errors. In the RNS system, these software programs are known as the FID and USOC Edit Library[15] ("FUEL") and the Service Order Layout and Assembly Routine ("SOLAR"). In the newer ROS UNIX application this edit software is not separately identified.

Once a BellSouth representative has gathered and arranged all of the information necessary to place a service request on behalf of a BellSouth retail customer, a process known as pre-ordering, the employee types the order into RNS or ROS. If the pre-ordering information is accurate and the employee has made no input errors, the service request will pass the RNS or ROS edits, be forwarded to SOCS, pass the SOER edits, obtain AO status and be distributed as necessary to BellSouth's downstream legacy systems.

Thus, barring error, all BellSouth services and products can be requested and ordered as the result of the typed input of a single

[15] FID stands for Feature Identification, USOC for Uniform Service Order Code.

employee. AT&T seeks this same capability, which I shall refer to as "Flow-through Ordering".

Q. DOES BELLSOUTH PROVIDE FLOW-THROUGH ORDERING FOR ALL SERVICES AND ELEMENTS TO AT&T AND THE OTHER ALECS, AS IT DOES FOR ITSELF?

A. No. BellSouth has provided Flow-Through Ordering for some services and elements, but many other services and elements must be manually ordered, manually processed, or both.

Q. PLEASE EXPLAIN HOW BELLSOUTH RECEIVES AND PROCESSES ALEC SERVICE REQUESTS.

A. Exhibit JMB-19 depicts the methods by which BellSouth processes service requests submitted by ALECs into service orders. ALECs each have their own front end systems to prepare their service requests, which then are sent to BellSouth using one of three electronic interfaces: the Electronic Data Interchange ("EDI"), the Telecommunications Application Gateway ("TAG") or the Local Exchange Navigation System ("LENS"). Both EDI and TAG are based on industry standards, while LENS is proprietary to BellSouth. Because the requests are sent to BellSouth in a Local Service Request ("LSR") format, which is different from the formats generated by RNS and ROS, BellSouth uses a suite of hardware and software

systems and programs to convert the ALEC LSRs into formats that SOCS can recognize. The SOCS system that processes the ALEC service requests is exactly the same SOCS that processes a BellSouth service request, and it applies the very same SOER edit to ALEC service requests before either rejecting the request or allowing it to reach Assignable Order status.

The suite of hardware and software systems and programs that BellSouth has built between the ALECs and SOCS was designed by BellSouth from end-to-end and is not controlled by any industry standards, which relate only to communications between the EDI and TAG portions of the interface. Once an ALEC service request has been received and accepted by the EDI or TAG gateway, BellSouth first sends it to a Router that simply determines whether or not the service request includes Local Number Portability ("LNP"). Service requests including LNP are then routed to the LNP Gateway, while all others are routed sequentially to the Local Exchange Ordering ("LEO") and Local Exchange Service Order Generator ("LESOG") systems for editing and formatting. The LNP Gateway performs the same edits and formatting as LEO/LESOG for service requests that include LNP, and it also communicates the unique LNP elements of the request to the national LNP Service Management System ("SMS") which is external to BellSouth.

Once service requests are formatted by LEO/LESOG or the LNP Gateway they are forwarded to SOCS, but BellSouth has not programmed LEO/LESOG and the LNP Gateway to format all electronically submitted ALEC service requests into SOCS-readable requests. Instead, BellSouth designed these components to cause many orders to "fall out" of the electronic system, requiring manual processing. Additionally, LEO/LESOG, the LNP Gateway, and SOCS do not always perform as they should: they route a number of perfectly valid ALEC service requests to manual processing when they should not.

Thus, electronically submitted electronic service requests may receive manual processing 1) because BellSouth has not designed its system to process the request, which is known as designed Manual Fall Out or 2) because BellSouth's systems fail to perform as designed, which is known as BellSouth-Caused System Failure. Manual processing is undesirable because, as the FCC has repeatedly recognized, manual processing limits reliability by increasing errors, increasing installation intervals, and increasing costs.

Q. IS IT POSSIBLE TO QUANTIFY THE IMPACT OF DESIGNED MANUAL FALL OUT AND BELLSOUTH-CAUSED SYSTEM FAILURES ON ALEC LOCAL SERVICE REQUESTS?

A. Yes, in January 2000, BellSouth began providing additional data concerning the level of Manual Fall Out and BellSouth-Caused System Failure experienced by ALEC service requests. This data is now available for each of the three interfaces (LENS, TAG and EDI) and by four groupings of products and services (Local Number Portability ('LNP"), UNEs, Business Resale, and Residence Resale). In Exhibit JMB-20, I have extracted from BellSouth's May 2000 through September 2000 Flow-Through Reports five key data points for each interface and product combination and calculated five measures of Manual Fall Out, System Failure, and Flow-Through Ordering.

As I explain below, BellSouth's data clearly shows that electronically submitted ALEC LSRs, particularly those for LNP, UNE or business products have low maximum flow-through rates, that the maximum flow-through rates for the products AT&T is ordering are even lower, and that both of these results are due to BellSouth's design decisions, and the failure of BellSouth's interfaces to perform as designed.

The data points and their definitions shown in Exhibit JMB-20 are as follows:

- Total Mechanized LSRs – the number of ALEC Local Service Requests submitted electronically.

- Manual Fall Out – the number of ALEC Local Service Requests submitted electronically that by BellSouth's design are routed for manual processing.

- Validated LSRs – the number of ALEC Local Service Requests submitted electronically which do not contain an ALEC auto clarification error[16] and for which BellSouth has designed automated processing.

- BellSouth-Caused System Failures – the number of ALEC Local Service Requests that were submitted electronically and became validated LSRs, but which BellSouth's systems failed to process, and were instead routed to manual handling.

- Flow-Through Issued Service Orders – the number of ALEC Local Service Requests submitted electronically that are forwarded to SOCS without BellSouth human intervention.

The measurements and their definitions are as follows:

- % Manual Fall Out – LSRs –The percentage of ALEC LSRs subjected to manual processing by BellSouth's design decisions, calculated by dividing Manual Fall Out by Total Mechanized LSRs.

[16] An auto clarification error is an input error made by an ALEC that BellSouth's systems have been programmed to find and return automatically without human intervention.

- % BellSouth System Failure – LSRs –The percentage of ALEC LSRs subjected to manual processing because BellSouth's systems fail to perform as designed, calculated by dividing BellSouth-Caused System Failures by LSRs.

- % Total BellSouth Fall Out + Failure – LSRs – The total percentage of ALEC LSRs subjected to manual processing by BellSouth causes, calculated as the sum of the two previous measures.

- % Maximum Flow Through ALEC Orders – 100% - the % Total BellSouth Fall Out + Failure – LSRs. The maximum possible percentage of electronically submitted ALEC LSRs that would be Flow Through processed if ALECs make absolutely no input errors.

- % BellSouth System Failure – VLSR – The percentage of validated LSRs, which BellSouth's systems have been designed to process, that encounter unexpected failures, calculated by dividing BellSouth-Caused System Failures by Validated LSRs.

As discussed above, barring input error by its employees, BellSouth has Flow Through Ordering capability for 100% of the products and services it provides to its retail customers. The interfaces BellSouth

provides to ALECs simply do not provide ALECs with the same capability. With the exception of residential resale service, only one-third to two-thirds of ALECs' error-free LSRs can be processed on a Flow Through basis.

I reviewed BellSouth's data For September 2000, and determined that ALECs' maximum possible Flow Through opportunity – even if they had submitted every service request with absolutely no input errors – was as low as 6%. For example, if ALECs had submitted 100 valid, error free orders for Local Number Portability ("LNP") over the TAG gateway in September of this year, only 6 of them would have flowed through to SOCs.

% Maximum Flow Through ALEC Orders September 2000				
Interface/ Product	**LNP**	**UNE**	**Business Resale**	**Residence Resale**
TAG	**6%**	**65%**	**45%**	**94%**
EDI	**35%**	**18%**	**30%**	**65%**
LENS	**NA**	**55%**	**52%**	**85%**

Only in the Residence Resale product grouping does any interface provide any acceptable level of Flow Through Ordering capability to ALECs. This is because the total percentage of ALEC LSRs subjected to manual processing by BellSouth causes (% Total BellSouth Fall Out + Failure – LSRs, shown in the table below), is unacceptably high for all interface/product combinations except TAG/Residence Resale:

% Total BellSouth Fall Out + Failure – LSRs September 2000

Interface/ Product	LNP	UNE	Business Resale	Residence Resale
TAG	**94%**	**35%**	**55%**	**6%**
EDI	**65%**	**82%**	**70%**	**35%**
LENS	**NA**	**45%**	**48%**	**15%**

Each electronically submitted LSR represented by the percentages in these tables was touched by both the ALEC that originated the request and by BellSouth. BellSouth, and BellSouth alone, controls the two components (manual fallout and system failure) that generate the low maximum flow-through percentages shown in the table above.

The table below shows the incidence of manual fallout and system failure for various product lines across interfaces for September of this year. Curiously, the rate of system failure varies across interfaces:

Variance Manual Fall Out / System Failure – September 2000

Interface/ Product	LNP	UNE	Business Resale	Residence Resale
TAG	58% manual fallout/36% system failure	21% / 14%	42% / 13%	3% / 3%
EDI	26% / 39%	77% / 5%	60% / 10%	5% / 30%
LENS	NA	23% / 22%	24% / 24%	8% / 7%

The variance in system failure rates between the interfaces when processing service requests for the same product grouping is difficult to understand. As shown in Exhibit JMB-19, the LEO/LESOG, LNP Gateway and SOCS systems in which these failures actually occur are common to all three TAG, EDI, and LENS interfaces, so one would expect the system failure rates to be the same or at least similar. These system failure rates become even more significant when one

considers that the failures occur on service requests that the systems were specifically designed to process. The table below (% BellSouth System Failure – VLSR) captures this situation. It shows the percentage of validated LSRs, which BellSouth's systems were designed to process, but which nevertheless encounter unexpected failures. In September the various interfaces performed as follows:

The % BellSouth System Failure – VLSR – September 2000				
Interface/ Product	**LNP**	**UNE**	**Business Resale**	**Residence Resale**
TAG	**92%**	**22%**	**30%**	**4%**
EDI	**56%**	**59%**	**30%**	**38%**
LENS	**NA**	**33%**	**38%**	**9%**

The table reveals that the EDI interface failed to process 30% to 59% of the validated local service requests it was designed to process. The TAG interface failed to process 4% to 92% of the validated local service requests it was designed to process. The LENS interface failed to perform as designed 9% to 38% of the time.

Q. YOU HAVE DISCUSSED DATA FOR SEPTEMBER 2000. IS THERE ANY EVIDENCE OF IMPROVEMENT IN THESE RESULTS OVER TIME?

A. No. In Exhibit JMB-21, I show the maximum possible flow through results from May through September for each of the four product groups (LNP, UNE, Business, Residence) and ordering interface (EDI, TAG, LENS). There is no significant or consistent improvement trend. In fact, September's results for two combinations (TAG used for LNP and EDI used for UNE) are at all time lows.

Q. HOW DOES AT&T'S FLOW THROUGH EXPERIENCE COMPARE WITH THE ALEC AGGREGATE YOU HAVE PRESENTED?

A. I have performed additional analysis comparing flow through data for AT&T and the aggregated ALEC data shown above. The full results of my additional analysis is shown in Exhibit JMB-22. Based on this additional analysis, it is obvious that the flow through capabilities available to AT&T from BellSouth are inferior to those available to the ALECs as a whole.

On page one of Exhibit JMB-22 I have compared ALEC Aggregate and AT&T specific data concerning 1) Designed Manual Fallout, 2) BellSouth System Error, 3) Total Fallout Caused by BellSouth, and 4) the resulting Maximum Possible % Flow-Through for May, June and

July. Maximum Possible % Flow-Through is determined by subtracting Total % Fallout Caused by BellSouth from 100%.

This table presents the Maximum Possible % Flow-Through results for AT&T's LNP, UNE and Business LSRs.[17]

Maximum Possible % Flow-Through Comparison

Product	LPN	UNE	Business (Resale)
Measure / Month	ALEC/ **AT&T**	ALEC/ **AT&T**	ALEC/ **AT&T**
Maximum Possible % Flow-Through			
• May	32% / **33%**	65% / **18%**	49& / **67%**
• June	37% / **19%**	68% / **20%**	53% / **70%**
• July	37% / **19%**	65% / **18%**	53% / **41%**

It is obvious from this data that the flow through capabilities available to AT&T from BellSouth are inferior to those available to the ALECs as a whole.

Because AT&T uses only the EDI interface to place LSR's, I carried my analysis one step further and compared only data associated with EDI transactions. Here I used official flow-through data as reported by BellSouth. BellSouth calls this result its "CLEC Error Excluded Flow-through", in my analysis I label this result "System Potential Flow-

[17] AT&T does not actually order any Resale Business services. The LSRs BellSouth reports in this category are directory listing orders associated with UNE services.

Through" or "Potential EDI" on pages 2-6[18]. This table compares Aggregate ALEC EDI results to AT&T EDI results.

Product	LPN		UNE		Business (Resale)	
Measure/ Interface	ALEC	AT&T	ALEC	AT&T	ALEC	AT&T
Potential EDI						
• May	45%	**0%**	38%	**8%**	54%	**57%**
• June	51%	**0%**	58%	**13%**	64%	**100%**
• July	53%	**0%**	58%	**3.4%**	51%	**100%**

Again, it is obvious that the capabilities available to AT&T from BellSouth are inferior to those available to the ALECs as a whole.[19] What is not so readily obvious is why.

The reason is because AT&T's orders are being subjected to higher rates of Designed Manual Fallout and BellSouth System Errors. AT&T's LNP orders encountered Designed Manual Fallout of 67%, 74% and 81%, respectively, during May, June and July. AT&T's UNE orders encountered Designed Manual Fallout of 62%, 60% and 49% as well as BellSouth System Error rates of 20%, 20% and 33%. AT&T's "Business" orders encountered Designed Manual Fallout of 0%, 30% and 59% and BellSouth System Errors of 33%, 0% and

[18] In the Exhibit (JMB-22) I produce data for three calculations, Basic, Achieved, and Potential as described on page 3. Here I use only the Potential data.
[19] It would appear that AT&T's results for Business are better than the ALEC results, but this is a false depiction for two reasons, 1) AT&T's "business" orders are directory listings only and 2) the flawed understanding of the meaning of the "Potential" measurement.

0%.[20] BellSouth's system design and operational performance discriminates against ALECs using LNP and UNE products as the basis of their market entry.

Q. WHAT HAPPENS TO AN AT&T OR OTHER ALEC'S LSR WHEN IT ENCOUNTERS EITHER DESIGNED MANUAL FALLOUT OR BELLSOUTH SYSTEM ERROR?

A. BellSouth routes the LSR to the Local Carrier Service Center ("LCSC") for manual processing. This causes delay and increases the probability of input and provisioning error.

Q. HAVE YOU QUANTIFIED THE DELAY THAT RESULTS FROM MANUAL PROCESSING?

A. Yes, and it is unreasonable, as explained below. While it is not possible with available data to quantify the additional error rate, any increase in errors is both undesirable and unreasonable.

BellSouth has long claimed that electronic orders that encounter either Designed Manual Fallout and or BellSouth System Errors are immediately routed to the LCSC for handling and that errors receive some sort of priority handling. In March of this year BellSouth began producing a report that clearly indicates this does not happen. This

[20] Regardless of any other conditions, whenever there are any number of issued service orders, and a zero (0) percent of BellSouth System Errors, BellSouth's flawed calculation will

new report is known as the CLEC LSR Report. Exhibit JMB-23 provides an illustrative copy of this report for one of AT&T's Operating Company Numbers ("OCN").

This new report makes it possible to determine the duration between the time an LSR falls out for manual processing (as a result of either a Designed Manual Fallout or a BellSouth System Error) and the time an LCSC representative "claims" that LSR to begin working on it. The following table provides the average "Claim Interval" for AT&T's LSRs in May and June.

OCN	Average Claim Interval	
	May	June
7125	40 hours	40 hours
7421	29 hours	36 hours
7680	30 hours	30 hours

Clearly, it is unreasonable to place an electronically submitted LSR into a holding pattern for 29 to 40 hours. While such orders are waiting to be processed, other orders actually are being processed and may use resources that should have been assigned to the delayed order. Delays of this length will often result in the issuance of an order with a change in installation due date, which may not be acceptable to the customer. Other time-dependent factors associated with the order also are likely to change. Ultimately, many orders delayed in this manner will have to be cancelled or supplemented.

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produce a 100% result.

Q. PLEASE SUMMARIZE YOUR TESTIMONY CONCERNING THE NEED FOR FULL ELECTRONIC ORDERING WITH FLOW THROUGH CAPABILITY.

A. BellSouth's current ordering interfaces do not provide AT&T and other ALEC's with Flow-Through Ordering capabilities equal to that enjoyed by BellSouth in its retail operations. Although BellSouth has Flow-Through Ordering for all of its services, it does not provide the ability to submit local service requests electronically for all of the services and elements that AT&T wishes to purchase. Additionally, even when BellSouth makes available the ability to electronically submit a request, often it does not provide the automated capability to process the order on its side of the interface. Further, even when both the ability to submit requests electronically and an automated capability has been designed, the process often fails to perform as designed. These failures on BellSouth's part are particularly evident in the Business, UNE and LNP product groupings. Thus, BellSouth not only provides discriminatory treatment of ALEC resale transactions, but it also sets up additional levels of discrimination between resale, UNE and facilities-based ALECs.

In order to eliminate this discrimination, AT&T asks this Commission to order BellSouth to provide both electronic LSR submission capability and a fully automated process for handling electronically

submitted requests for all of the services and elements available to ALECs.

ISSUE 32

THE MAINTENANCE AND REPAIR ACCESS ISSUE

Q. WHAT INTERFACES DOES BELLSOUTH OFFER TO AT&T FOR ACCESS TO MAINTENANCE AND REPAIR FUNCTIONS?

A. BellSouth provides two options for electronic trouble reporting. For many (but not all) services associated with a telephone number, BellSouth offers access to its proprietary Trouble Analysis Facilitation Interface ("TAFI"). For both telephone number-associated exchange services and individually designed services, BellSouth provides electronic trouble reporting through an electronic communications gateway which BellSouth calls the Electronic Communication Trouble Administration ("ECTA") gateway. This interface also is referred to as the Electronic Bonding Interface ("EBI"), particularly in AT&T internal communications.

Q. DO EITHER ECTA OR TAFI PROVIDE AT&T WITH NONDISCRIMINATORY ACCESS TO BELLSOUTH'S OSS FOR MAINTENANCE AND REPAIR FUNCTIONS?

A. No. For services associated with a telephone number, TAFI has more extensive functionality than ECTA, but TAFI is a human-to-machine interface. Consequently, when an ALEC submits a trouble report via TAFI, that order must be manually entered into the ALEC's own internal OSS. ECTA, on the other hand, is a machine-to-machine interface and can be integrated with an ALEC's own OSS, but it does not have the functionality of TAFI. Thus, there is no combination of choices that provides ALECs with nondiscriminatory access to BellSouth's OSS for maintenance and repair functions. TAFI provides extensive functionality for many services associated with a telephone number, but provides no functionality for other services, and also requires costly and error-prone double entry. While ECTA can be integrated into ALEC systems, it provides only a limited set of functionality for any type of service. Obtaining and operating both interfaces simply brings the ALEC the disadvantages of both with no gain in effectiveness or efficiency and at a higher cost of operations. These choices are inconsistent with the requirements of the Act and the needs of competitors.

Q. BELLSOUTH USES TAFI IN ITS RETAIL OPERATIONS. DOESN'T ALLOWING ALECS ACCESS TO TAFI PROVIDE THEM WITH THE SAME FUNCTIONALITY THAT BELLSOUTH ENJOYS?

A. No. ALECs cannot integrate TAFI with their own "back office" systems as BellSouth does. When a BellSouth customer service representative creates a trouble ticket using TAFI, the system creates a record of the transaction that can be accessed and viewed from BellSouth's internal systems. An ALEC customer service representative, on the other hand, must perform this process twice in order to create an internal record of any trouble transaction: once in TAFI and again within the ALEC's own system.

BellSouth itself noted its superior ability to utilize TAFI functions in its second Louisiana 271 application before the FCC. The FCC took significant notice of BellSouth's concession:

> "We also note that BellSouth concedes that it derives superior integration capabilities from TAFI than the capabilities offered to competitors. BellSouth states that TAFI is a 'human to machine interface' meaning that new entrants using TAFI cannot integrate it with the new entrant's own back office systems....BellSouth, on the other hand, is able to take advantage of its own TAFI system's capability of 'automatically interacting with other systems as appropriate' and its customer service representatives need not

duplicate their efforts in the same way. In other words, TAFI is integrated with BellSouth's other back office systems."

FCC Second Louisiana Order, ¶ 151, emphasis added.

Q. WHY IS A FULL FUNCTION MACHINE-TO-MACHINE MAINTENANCE AND REPAIR INTERFACE NECESSARY?

A. If ALECs hope to compete with BellSouth, they must provide equal or better customer service and lower prices. ALECs must be able to efficiently access all of an individual customer's data on every call in order to address that customer's needs. Therefore ALECs must be able to access their own data as well as ILEC data. For example, if an ALEC wants to issue credits to a customer who had experienced recurring repairs, it would need access to billing data and maintenance histories. If the ALEC needed to determine whether a customer was being billed for specific services, it would need access to information about which services were billed and which services were provided, and also would need the ability to change the services being provided if they did not match the services billed to that customer. ALECs must be able to add or change services and adjust calling plans for customers, and require access to customer service record information to keep contact information up-to-date.

A full-function, machine-to-machine interface is essential in a competitive market. With a successful market entry, maintenance and repair volumes will increase quickly. Approximately 4% of lines will need repair treatment monthly. Customer contacts to service existing lines can be expected to occur on 6% of lines each month. Within 30 months of a successful consumer market entry, an ALEC can expect one third of its total customer contacts to be for repair and maintenance. AT&T's repair call volume 30 months after a successful market entry across the BellSouth states easily could approach 60,000 calls per month. Without a full function machine-to-machine interface, an ALEC must engage in dual entry of its repair contacts, entering the contact into BellSouth's system as well as its own. Dual entry must occur while the customer is on-line for the ALEC to provide efficient customer service. Dual entry is more time consuming and results in more mistakes, requiring more service representatives. Additionally the lack of a full function machine-to-machine interface deprives the ALEC of performance information essential to the management of its service representatives. Use of an interface like TAFI that requires dual entry and is not integrated with the ALEC's own OSS means that the ALEC will not have real time access to call volume and connect time data required for efficient staffing.

Q. HAS AT&T EVER REQUESTED THAT BELLSOUTH PROVIDE FULL TAFI FUNCTIONALITY OVER THE ECTA INFERFACE?

A. Yes. Since April 1996, AT&T consistently has requested BellSouth to provide access to TAFI functionality through a machine-to-machine interface like ECTA. Exhibit JMB-24 is a copy of AT&T's Ex Parte letter to the FCC following a meeting on December 23, 1998, with members of the Common Carrier Bureau Staff, and representatives from MCI, BellSouth, and AT&T (hereinafter "AT&T 12/23/98 Ex Parte"). AT&T's initial request to BellSouth is at Tab C-4. Exhibit JMB-25 visually depicts AT&T requested arrangement.

Initially, BellSouth agreed to AT&T's request. In its preliminary report to the Georgia PSC on OSS interfaces dated June 21, 1996, (page 15), BellSouth stated that it "has investigated the possibility of adding to the existing [EBI] gateway a system called . . . TAFI." Exhibit JMB-24, Tab C-6. In response to BellSouth's preliminary report, the Georgia PSC ordered BellSouth to complete "the TAFI enhancements to allow full operation of the required access by March 31, 1997." Georgia PSC Order, Docket No. 6352-U (July 2, 1996). Exhibit JMB-24, Tab C-7. Despite the Georgia PSC's order, BellSouth has never provided those enhancements.

AT&T has pursued its request at every opportunity available to it since April of 1996. The chronology at Exhibit JMB-24, Tab C-1 reflects those efforts through April 3, 1998. Even though BellSouth's representatives have agreed on numerous occasions that providing TAFI functionality over the ECTA interface is possible and a goal worth pursing (see Exhibit JMB-23, Tab C-14 for the testimony and transcript of William N. Stacy before the Georgia PSC in March 1998) no development activity ever occurred.

The December 23, 1998, meeting which gave rise to the materials in Exhibit JMB-24, was requested by the FCC Staff after the publication of the Second Louisiana Order to increase its understanding of the need for integrateable machine-to-machine interfaces for repair and maintenance. The FCC Staff's written request for a meeting posed specific questions; AT&T's answers and supporting diagrams may be found in Exhibit JMB-24, Tab A and Tab B. During the course of this meeting, BellSouth's representative, Mr. William N. Stacy, stated that BellSouth could provide initial functionality in 13 months and complete functionality in 18 months. Nearly two years after this meeting, however, BellSouth still offers no TAFI functionality via the ECTA interface.

Most recently, AT&T submitted a formal change request through the Interim Change Control Process on April 18, 2000, asking for TAFI functionality via the ECTA interface. AT&T does not believe that its recent formal request was required, however, because of BellSouth's long standing and pre-existing knowledge of the issue.

Q. HAS BELLSOUTH TAKEN ANY ACTION TOWARD ADDRESSING AT&T'S CHANGE REQUEST?

A. No. However, BellSouth announced a number of what it called "Updates to Maintenance Interfaces" to the ALEC community during the October 25, 2000 Change Control Process Monthly Status Meeting. During this meeting Mr. Gene Piatkowski discussed "DLEC TAFI", "CPSS-TS", and "E Repair". No written materials were provided to support Mr. Piatkowski's presentation.

Q. CAN YOU BRIEFLY SUMMARIZE THE PRESENTATION?

A. Yes. The functionality in DLEC TAFI was originally developed to support BellSouth's use of its retail ADSL product line. BellSouth now plans to make it available to ALECs and DLECs to support repair and maintenance of XDSL and line sharing for high speed data. The retail version has apparently been internally available to BellSouth for some time but is only now being demonstrated to A/DLECs. The CLEC

TAFI User Guide issued in September 2000 contains a description of DLEC TAFI in Chapter 14.

CPSS-TA (Circuit Provisioned Special Services – Trouble Analysis) is a graphical user interface (GUI) that can be used to enter designed service troubles into Work Force Administration (WFA). BellSouth apparently developed the interface based on interest from small IXCs and will now offer it to ALECs as well. It was stated that CPSS-TA would be piloted with IXCs. No firm date for production availability was provided.

E-Repair apparently is being designed initially to allow BellSouth's large retail business customers to view the status of trouble reports filed on their services. Development apparently is well along, and a pilot with large retail business customers is expected to begin in January 2001. ALECs also will be able to use this initial capability to view the status of their previously entered trouble reports (currently they must call BellSouth for status information). Mr. Piatkowski reports that E-Repair is being designed for a much broader future scope, to be implemented in stages. Phase I will provide the status-only use described above. Phase II will eventually add entry and viewing of all non-designed and designed service troubles. BellSouth

stated there would likely be a migration from TAFI and CPSS to E-Repair.

Q. WHY ARE THESE ANNOUNCEMENTS SIGNIFICANT?

A. Although AT&T hopes that the future capabilities discussed in these announcements will become useful and meaningful improvements in the maintenance and repair functionalities available to ALECs, it is both surprising and disappointing that BellSouth elected to pursue these projects without discussing them with the ALEC community that will use them. As I explained above, AT&T has a long-standing request for a full-function maintenance and repair interface, and has been negotiating in good faith with BellSouth regarding this issue for over a year, yet BellSouth failed to raise these projects as a possible solution.

Incidentally, BellSouth has failed to comply with the requirements of its Change Control Process in announcing these interfaces. No written description of the interfaces discussed was provided to the Bellsouth Change Control Manager for distribution to the ALECs in advance of the monthly status meeting and the agenda indicated under the Open Discussion section "Updates to Maintenance Interfaces" rather than a presentation on new interfaces. Thus it was impossible for the ALECs to participate in the discussion intelligently. Further subsequent to the

meeting, BellSouth has not provided any specifications associated with the new interfaces for ALEC review. An informal announcement to the Change Control Participants is not sufficient to accomplish even the limited objectives BellSouth recognizes in its language "to identify interest in the new interface and obtain input from the CLEC community" (CCP page 48), let alone meet the ALECs business needs for the timely distribution of information and specifications.

Q. IF BELLSOUTH COMPLETES THE "DLEC TAFI", "CPSS-TS", and "E Repair" PROJECTS, WILL IT HAVE FULFILLED AT&T'S REQUEST FOR A FULL-FUNCTION INTEGRATEABLE MAINTENANCE AND REPAIR INTERFACE?

A. Without the information identified above that BellSouth has not provided, it is hard to make any firm determination. However based upon the oral presentation it seems clear that DLEC TAFI and CPSS-TA will be human to machine interfaces and that if E-Repair is to evolve to a full function integratable interface, it will not do so in the near future (before 2002). Thus, the FCC's 1998 evaluation of BellSouth's maintenance and repair interfaces is still relevant today.

Q. WHAT DID THE FCC CONCLUDE REGARDING BELLSOUTH'S MAINTENANCE AND REPAIR INTERFACES?

A. The FCC examined TAFI and ECTA in BellSouth's last 271 application, and concluded that neither provides competitors with OSS functionalities equivalent to BellSouth's own capabilities. FCC Louisiana II Order ¶ 148.

Regarding TAFI, the FCC concluded that TAFI does not provide nondiscriminatory access because it cannot be used for all types of orders and because TAFI is a "human to machine interface," meaning that new entrants cannot integrate it with the new entrant's own back office systems. FCC Louisiana II Order ¶¶ 149-52. The lack of integration the FCC describes requires a TAFI user to take information from the TAFI system and manually re-enter it into their own computer systems and vice versa. FCC Louisiana II Order ¶152.

Regarding ECTA, the FCC concluded that ECTA as provided by BellSouth does not provide parity to competitors because, as BellSouth itself pointed out, the legacy system TAFI is superior in functionality. FCC Louisiana II Order ¶ 157.

Q. HAS BELLSOUTH IMPROVED THE FUNCTIONALITY OF TAFI AND ECTA IN RESPONSE TO THE FCC'S FINDINGS?

A. No. The FCC's findings are still relevant and valid today.

Q. SINCE THE SECOND LOUISIANA ORDER HAS THE FCC ADOPTED A NEW POSITION REGARDING THE NEED FOR MACHINE-TO-MACHINE INTERFACES FOR MAINTENANCE AND REPAIR?

A. No. In February 1999, the FCC Staff addressed the issue in a letter to BellSouth (Exhibit JMB-26, Page 2), restating the findings of the FCC in the Louisiana II Order that, "We do not here conclude that TAFI's lack of integration *per se* fails to constitute nondiscriminatory access, although we do believe BellSouth would provide a more complete opportunity to compete if it offered competitive LECs an integrated system with the same functionalities available to BellSouth's own service representatives." FCC Louisiana II Order ¶ 152. Additionally, the Staff provided a list of information that BellSouth would be required to submit with its next application if it were to attempt to demonstrate that it was providing nondiscriminatory maintenance and repair without a machine-to-machine interface. BellSouth has not attempted to make such a demonstration in this arbitration. The Staff further indicated that it would seek additional information to assess the competitive impact resulting from the lack of a machine-to-machine interface. AT&T participated in such an information-gathering meeting with the Staff on February 17, 1999. Exhibit JMB-27 is AT&T's Ex Parte letter associated with that meeting and includes the handouts from AT&T's presentation.

Until such time as BellSouth presents its next 271 Application to the FCC, the findings of the Louisiana II Order accurately describe the discriminatory nature of the maintenance and repair interfaces BellSouth is offering to AT&T. This Commission should order to BellSouth to provide full TAFI functionality via the ECTA interface on an expedited schedule.

Q. WHAT DOES AT&T REQUEST THAT THE COMMISSION ORDER REGARDING THIS ISSUE?

A. AT&T asks the Commission to order BellSouth to provide full TAFI functionality via the ECTA interface, or a another integratable machine-to-machine interface on an expedited schedule within 12 months of its Order.

SUMMARY

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. BellSouth must provide nondiscriminatory access to its OSS in order to comply with Section 251 of the Act and the implementing rules of the FCC. In addition to computer-based systems and databases, nondiscriminatory access to OSS includes any manual processes required in conjunction with or in the absence of such systems and capabilities.

BellSouth has not offered a resolution to the Footprint-OS/DA Issue, the Equivalent Functionalities Issue or the Maintenance and Repair Access Issue that would provide AT&T with the same functionalities that BellSouth provides itself through its various OSS. BellSouth thus has been unwilling to provide AT&T with nondiscriminatory access. Likewise, BellSouth's offered Electronic Interface Change Control Process and proposed Interim Change Control Process are insufficient under the Act and current FCC guidance. BellSouth does not provide customized routing through a commercially viable, timely, repeatable process and thus is not entitled to charge for OS/DA using market based rates.

BellSouth's ordering/provisioning interfaces do not provide AT&T with sufficient functionality. AT&T cannot submit flow-through electronic orders for the arrangements necessary to route a specific customer's operator services or directory assistance calls to either BellSouth's service platform on an unbranded basis or to another service platform of AT&T's choosing.

BellSouth fails to provide a key pre-ordering element, the Customer's Service Record electronically in a parsed manner suitable for automated integration into AT&T's OSS, which would allow for

automated error-free population of many required fields of a Local Service Request.

AT&T cannot electronically order the same range of retail services as BellSouth and can electronically order only a handful of network elements. Further, for a significant portion of electronically submitted orders, BellSouth subsequently performs manual processing of AT&T's orders that is not required to process BellSouth's orders for the same services and elements. BellSouth's excessive reliance upon manual ordering and provisioning processes significantly disadvantages AT&T in its attempt to enter the local market using either network elements or its own facilities.

BellSouth's maintenance and repair interfaces (EBI/ECTA and TAFI) do not provide AT&T with nondiscriminatory access. EBI/ECTA is a machine-to-machine interface that lacks the requisite functionality. TAFI, on the other hand, has adequate functionality but is a human-to-machine interface. AT&T has requested that BellSouth provide access to TAFI functionality through EBI/ECTA, which should provide better access to BellSouth's OSS for maintenance and repair functions. BellSouth has agreed that such access is technically feasible but has not committed to an implementation date.

Finally, the Commission should order BellSouth to provide a comprehensive Change Control Process, with "cradle to grave" coverage of the life cycle of an interface or process (electronic or manual) and its supporting documentation (such as specifications, business rules, methods, and procedures). The evolving CCP is lacking in coverage of many critical areas.

For these reasons and the reasons explained above, I recommend this Commission find that BellSouth's OSS interfaces offered through negotiation do not comply with the provisions of Section 251 of the Act and recommend that this Commission adopt AT&T's proposed Interconnection Agreement language for issues 23, 25, 30, 31, and 32.

Q. DOES THAT COMPLETE YOUR TESTIMONY AT THIS TIME?

A. Yes.

STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, FPSC Bureau of Reporting FPSC Commission Reporter, do hereby certify that the Hearing in Docket No. 000731-TP was heard by the Florida Public Service Commission at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript, consisting of 197 pages, Volume 2 constitutes a true transcription of my notes of said proceedings and the insertion of the prescribed prefiled testimony of the witnesses.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 26TH DAY OF FEBRUARY, 2001.

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