BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

In re:	)	
	)	
Consideration of BellSouth Telecommunications, Inc.'s	)	**Docket No. 960786-TL**
Entry into InterLATA Services Pursuant to Section 271	)	
of the Federal Telecommunications Act of 1996	)	
	)	

REBUTTAL TESTIMONY AND EXHIBITS OF JOSEPH GILLAN

ON BEHALF OF THE

FLORIDA COMPETITIVE CARRIERS ASSOCIATION

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I. Introduction And Witness Qualification

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

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 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 twenty years, I have provided testimony before more than 35 state commissions (including Florida), 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 the Florida Competitive Carriers Association (FCCA). FCCA is a broad coalition of carriers and their representative associations committed to bringing the full range of competitive services to consumers and businesses in the Southeast, including Florida.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my testimony is to provide rebuttal to the testimony of BellSouth witness Cynthia K. Cox and to affidavit of Victor K. Wakeling, attached as Exhibit CKC-4 to Ms. Cox's testimony. By giving the Commission an overview of competitive conditions in the Florida local exchange market. I will also address the competitive harm that would occur if BellSouth prematurely receives authorization to provide interLATA services in Florida. BellSouth's assertion in its testimony that local competition in the Florida market is meaningful – much less "irreversible" – is contradicted by the facts. Local competition in Florida remains nascent, in large measure due to the success of BellSouth's obstructionist tactics over the past five years.

Before BellSouth is granted permission to offer interLATA services in Florida, the Commission must confirm that BellSouth provides entrants access to its network on terms that are nondiscriminatory and cost-based. The most telling evidence in this regard should be the emergence of measurable and meaningful local competition. However, as I explain in more detail below, the observed level of competition in Florida does not support such a finding for a number of reasons, including the rates charged by BellSouth for network elements, as well as BellSouth's provisioning policies and practices.

Not only does the level of competition *today* not justify BellSouth's claim that it has opened its markets to entry, the most likely effect of BellSouth gaining interLATA authority would be for it to gain even greater dominance in the *future*. Unless entrants are assured nondiscriminatory access to the inherited network, only BellSouth will be positioned to offer packages that combine local service with other products (such as Internet access and long distance) broadly across the market. BellSouth evidentially agrees, for its CEO has been quoted as predicting that BellSouth would quickly win "in the 25 to 30 percent market share range," with a "quick couple of billion" flowing to the bottom line as profit (*See* "BellSouth Remains Confident, But Cautious About Growth," Atlanta Journal and Constitution, June 3, 2001).

Granting BellSouth interLATA authority will increase its market position at the very *same* time that the Act's sole financial incentive to comply with its market opening provisions is removed. It is critical, therefore, that the Commission establish the means to prevent backsliding, where compliance has been achieved. Of course, the most effective means to such an end would be to place BellSouth's retail operations on the identical footing as any other ALEC through a structural solution. In the absence of a permanent solution that would correct BellSouth's underlying incentives, however, the Commission should establish administrative remedies to curb anticompetitive conduct to the extent possible.

Q. Please summarize the principal conclusions of your testimony.

A. The principal conclusions of my testimony are that:

* BellSouth exaggerates the level of local competition in Florida, ignoring critical trends and limitations that affect each of the three entry strategies: resale, UNEs and ALEC facilities.

* Resale activity offers little probative value because evidence suggests it is neither viable nor irreversible. The evidence suggests that resold lines in Florida have declined approximately 30% *just in the first quarter of 2001*.

* UNE-based competition is beginning to emerge, but is still roughly only 2.0% of the market (at most). UNE-share is the most critical measure of Section 271 compliance because UNEs *are* the nondiscriminatory access to the existing network that is the focal point of the federal Act.

* BellSouth's UNE rates preclude UNE-based competition in Florida. In fact, not even BellSouth could profitably offer local service if required to lease UNEs at the rates that it charges competitors.

* BellSouth's estimate of facilities-based activity ignores the unique traffic pattern for many ALECs that indicates only limited competition for a select customer segment.

* BellSouth has offered no evidence concerning its ability to support the resale of advanced services, as required by the *Ascent Decision* (Association of Communications Enterprises v. FCC, 235 F.3d 662 (D.C. Cir. 2001).

II. Competitive Conditions in the Florida Local Market

Q. What should be the starting point of the Commission's review in this docket?

A. The starting point of the Commission's analysis should be a review of the actual level of competition in Florida. It is BellSouth's obligation is to provide "actual evidence demonstrating ... *present compliance* with the statutory conditions for entry, instead of prospective evidence that is contingent on future behavior." Present compliance is the clear and established standard for review of regional Bell operating company compliance with the Act (*See In the Matter of the Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services In Michigan*, Memorandum Opinion and Order, Docket 97-137, ¶55, August 19, 1997). Actual commercial activity offers the most important measure of compliance because such competition is the goal of the Competitive Checklist itself. Where the observed level of competition *contradicts* BellSouth's claims as here, however, the Commission must begin its investigation with a healthy dose of skepticism.

Q. Have you reviewed BellSouth's claims regarding the level of local competition in Florida?

A. Yes. Importantly, BellSouth's empirical estimates of competition are inconsistent with other evidence, while its anecdotal information relies heavily on the early (and presumptive) announcements by ALECs that have either experienced financial difficulty or deployed technologies that fell well short of expectations. Far from illustrating a competitive local marketplace in Florida, the underlying data demonstrates that the promise of a competitive local market in Florida remains an elusive goal.

Q. Please summarize BellSouth's claims concerning the level of local competition in Florida.

A. According to BellSouth, significant competitive activity is occurring using each of the three basic entry strategies: resale, unbundled network elements (either alone or in combination), and ALEC facilities. Exhibit No. ___ JPG-1 summarizes BellSouth's claims regarding local entry under each of these strategies. (The term "facilities-based" is frequently used in the BellSouth testimony to include lines served by the lease of facilities as network elements, it is more useful to consider each strategy separately. Accordingly, Exhibit No. ___ JPG-1 separately lists UNEs from lines served exclusively over ALEC facilities.)

Based on these statistics -- and a number of anecdotal observations -- BellSouth claims that competition in Florida is not only "economically viable," but "irreversible" as well. As I explain below, however, it is important to understand the trends affecting each of these entry strategies, as well as whether BellSouth's claims are reasonable in light of other information. When scrutinized more carefully, it is clear that BellSouth's claims are exaggerated and that the existing level of competition does more to challenge BellSouth's assertions than confirm its compliance.

Q. Does BellSouth's analysis provide an accurate portrayal concerning the "economic viability" and "irreversibility" of entry?

A. No. First, it is important to appreciate that the majority of the competition that BellSouth points to – accepting, for the moment, BellSouth's data – consists of the ALEC-deployed facilities. In the area where BellSouth's Section 271 compliance is most critical – that is, offering nondiscriminatory access to its inherited network (i.e., UNEs) – competitive market share remains quite small. Moreover, BellSouth's analysis offers no information concerning <u>trends</u> impacting competition.

Exhibit JPG-2 documents the <u>trend</u> in competition in Florida (under resale and UNEs) that BellSouth has reported periodically. As Exhibit No.___ JPG-2 illustrates, resale competition is declining rapidly, and at a rate far faster than gains in either UNE-P or loops individually. The number of resold lines declined by roughly 30% *in just the first quarter alone*. Nearly 25% of the competitive activity that BellSouth claims exists – and an even greater percentage of the *actual* competition once proper adjustments are made to BellSouth's estimate of facilities-based entry – are based on an entry strategy that is not only not irreversible, it is in full reverse already.

Q, Why is resale in decline?

A. There are clearly a number of explanations for the vanishing resale-based competitor. First, there are the unattractive economics. With only a small margin between the wholesale and retail rate, most carriers that experimented with resale either moved to a different strategy or fell into bankruptcy. Further, what negligible margins exist now may be subject to further reduction in light of the Eight Circuit Court of Appeals vacation of the FCC's avoidable cost methodology.

Moreover, resale neither permits a carrier to innovate, or effectively offer integrated local/long-distance packages. This latter limitation on service-resale arises because BellSouth continues to assess access charges on the reseller's lines.

As a result, the reseller is limited in the toll rates it may offer because it must pay access on each of its customer's long distance calls to BellSouth.

Q. Does the level of UNE-based competition indicate that Florida's local market is irreversibly open to competition as BellSouth claims?

A. No. First, it is clear that UNE-based entry is the most likely path to bring competitive benefits to the average Florida consumer or small business. UNE combinations, in particular, hold the most promise in this regard. UNE volumes are also critical because UNEs are the means by which carriers obtain nondiscriminatory access to the existing network to offer services in competition with BellSouth. To date, however, UNE-based competition in Florida is only just beginning to make any headway.

Q. What share have UNE-based forms of entry accomplished in Florida?

A. The two most prevalent forms of UNE-based entry are UNE-Loops (combined with an ALEC-provided local switch) and UNE-Platform (loop combined with unbundled local switching). As shown in Exhibit No.__ JPG-3, UNE-based entry has achieved roughly a 1.5% market penetration in Florida after more than five years of competition, once *all* of the appropriate BellSouth lines are included in the analysis.

Q. Why did you compute the market share in Exhibit No. __ JPG-3 by comparing ALEC lines to BellSouth's switched lines alone, as well as to BellSouth's total lines?

A. BellSouth appears to have computed each of the market share statistics in its testimony by comparing the ALECs' *total* lines to BellSouth's *switched access* lines alone. This calculation inflates the ALECs' share by sharply reducing the number of lines served by BellSouth, excluding from the analysis so-called "special access" lines. The "special access line" label is largely a consequence of the interLATA line-of-business restriction that BellSouth seeks to have removed in this proceeding.

In simple terms, customers make two types of calls: local calls and long distance calls. Many larger customers separate these calls between two types of connections – so called "switched access lines" (for calls that BellSouth can handle), and "special access lines" (for calls that BellSouth cannot). This distinction, however, does not fundamentally change the service the customer is receiving, it only changes which carrier (BellSouth or a long distance company) terminates the call. Significantly, ALECs typically offer integrated services that render any distinction between "switched" and "special" lines irrelevant – ALEC lines are *both* "switched" and "special" because they handle both local and long distance calls. Consequently, to accurately compare ALEC lines to BellSouth lines requires that *all* of BellSouth's lines be included, with the result being a ALEC market share (using UNEs) of approximately 1.5%.

Q. Are there other measures that quantify the degree of UNE-based competition?

A. Yes. Exhibit No.___ JPG-3 provides an additional measure to place the level of UNE-based competition in perspective. During 2000, BellSouth derived approximately $57 million in annual revenue from the lease of UNEs to competitive entrants in Florida. In comparison, BellSouth's total operating revenues in Florida during 2000 were roughly $1.4 billion. Thus, the lease of UNEs provided only 1.4% of BellSouth's revenues in Florida as recently as just last year.

Q. Why do you believe that UNE-based competition has failed to develop in Florida?

A. There are a number of reasons why UNE-based competition has failed to develop. The first is quite simply that the rates charged to lease network elements in Florida are high. As I explain in more detail later in my testimony, not even *BellSouth* could afford to offer service in Florida if it had to lease UNEs from itself to do so.

Second, BellSouth has been very slow to provide access to network combinations, delaying the availability of this important strategy until February of last year. (*See* BellSouth Ex Parte, Federal Communications Commission, CC Docket 96-98, October 13, 2000). Consequently, even the most fundamental forms of UNE-based competition – that is, entry using the UNE-Platform – was delayed for approximately four years by BellSouth's refusal to honor its legal obligation.

Moreover, as I discuss in more detail below, BellSouth continues to oppose granting entrants access to new combinations of network elements, for no reason other than the disruption such a policy can impose on ALEC operations, increasing the competitor's cost and decreasing its quality. The compounding effect of BellSouth's high prices, intransigence, and threatening behavior have together frustrated the development of UNE-based competition in Florida (as elsewhere).

Q. **Have you also reviewed BellSouth's estimate of the level of competition using the third and final entry strategy, i.e., the exclusive use of ALEC facilities?**

A. Yes, and my analysis demonstrates that BellSouth has significantly overstated this form of competition as well. BellSouth claims that ALECs serve between 363,567 and 480,790 lines over their own facilities. If even *one* of these estimates were accurate, then BellSouth should be able to confirm such a sizeable ALEC share by the number of interconnection trunks between itself and ALECs, as well as the traffic volumes exchanged between them.

Q. Have you attempted to estimate the number of facilities-based lines using these interconnection statistics?

A. Yes. Exhibit No.___ JPG-4 estimates the level of facilities-based competition based on the number of interconnection trunks and their usage, adjusted to remove the unique traffic characteristics of ISP customers. It is well understood that ALECs have been successful marketing to this particular customer group, but it is important that this limited success with a single customer segment not distort an understanding of their market share overall. The ISP customer segment was unique, entering the market with substantial initial needs at precisely the same time as ALECs. As such, success in this customer segment does not answer the more fundamental question as to how ALECs are faring attempting to win a share of BellSouth's established customer base. Moreover, the barriers that ALECs must overcome to serve the more geographically distributed base of established customers gives greater insight to the true extent of local competition than their success serving ISPs.

Q. What interconnection statistics did you evaluate to estimate the facilities-based share of this more conventional market?

A. First, I computed ALEC market share by comparing ALEC originated minutes (as measured over the interconnection trunks to BellSouth) to BellSouth's originated minutes. This calculation (shown on Exhibit No. __ JPG-4) indicates that ALEC facilities-based market share stands at roughly 1.7%. This share calculation would overstate the ALECs' actual facilities-based share, however, because it would also include traffic from UNE-Loops. UNE-Loops connect directly to an ALEC switch and would send traffic through interconnection trunks in the same manner as a facilities-based line. Even ignoring this overstatement, however, it is clear that the level of facilities-based competition in Florida remains quite small.

Second, I attempted to estimate the number of facilities-based lines using a methodology quite similar to that of BellSouth – that is, by looking at the number of interconnection trunks. To eliminate the effect of ISP customers, however, the analysis: (1) reduced the number of interconnection trunks by the number of trunks used to serve terminating traffic, (2) converted the trunks to lines, and (3) subtracted the number of UNE-Loop arrangements to avoid double counting. There is certainly some uncertainty as to what factor to use to convert trunks to lines. BellSouth's analysis uses a 1-to-1 ratio. Exhibit No.__ JPG-4 presents the results from two conversion ratios, both substantially more aggressive than that used by BellSouth: a 4-to-1 ratio and a 10-to-1 ratio. Even with the much higher ratio of 10-to-1, however, ALEC facilities-based market share would only be approximately 2.2% of the market.

Finally, I computed the number of lines implied by the ALECs' originating minutes, assuming that ALEC lines had the same average usage characteristics as BellSouth lines. This calculation estimates roughly 116,000 ALEC lines served by ALEC switches, which means it would include lines served using UNE Loops (and therefore overstates ALEC facilities-based share).

While it is admittedly difficult to determine precisely the number of lines served by ALECs over their own facilities using publicly available information, <u>none</u> of the interconnection measures supports the level claimed by BellSouth. Rather, the <u>maximum</u> level of facilities-based competition (adjusted for activity that is likely to be ISP related) is approximately 2%.

Q. **Based on these trends and data ignored by BellSouth, have you prepared a corrected estimate of ALEC market share in Florida?**

A. Yes. Exhibit No.___ JPG-5 summarizes the estimated ALEC share after (1) adjusting for the unique traffic pattern of certain ALEC customers, (2) updating the resale and UNE data based on Mr. Milner's testimony, and (3) including <u>all</u> of

BellSouth's lines in the analysis. This corrected analysis indicates an ALEC share in the range of 3.7% to 5.5%.

Q. **Do you have any other evidence that confirms your estimate that ALEC market share in Florida is in the range you estimate (i.e., roughly half of what BellSouth claims)?**

A. Yes. The above analysis simply measures local activity in "lines." The FCC recently released its statistics on local competition (Local Competition Report, May 2001) that quantifies – or, as I explain below, *partially* quantifies – competitive activity on the basis of "voice grade equivalents." Voice Grade Equivalents (VGEs) are a larger measure than lines because they are adjusted to reflect the different capacity capabilities of different types of "line." Because of the growing popularity of higher capacity digital services, voice grade equivalent measures capacity in 64kbps (i.e., the capacity needed for a single voice connection) increments.

Because of the way that the FCC tabulated/collected ILEC data, however, the Local Competition Report essentially compares <u>all</u> of the ALEC voice grade equivalent lines to <u>only</u> the ILECs' switched access lines, thereby ignoring the ILECs' special access lines as well as their voice-grade equivalent. Because many of the ILECs' higher capacity services are sold as "special access," the

FCC's analysis eliminated most of the ILECs' higher capacity services. Exhibit No.___ JPG-6 demonstrates that this results in a substantial under-counting of ILEC "lines," even before these lines are converted to "voice grade equivalents."

Because ALECs do not generally draw the same distinctions in their offerings as the ILEC – for instance, ALECs typically offer integrated products that blur any distinction between switched and special access – there is no evidence to indicate that not all ALEC lines have been counted (and counted as voice grade equivalents) in the FCC's report. It is possible, however, to estimate BellSouth's voice-grade equivalents in Florida using regionwide data that BellSouth has previously made available with its quarterly earnings announcements. Exhibit No.__ JPG-6 converts BellSouth's Florida lines to a Florida-specific VGE estimate, a calculation that indicates that ALEC market share once both ALEC and BellSouth statistics are placed on an equivalent footing – that is, the comparison measures voice grade equivalents (VGEs) – is approximately 6.5%.

Q. **Are there any other claims regarding local competition made by BellSouth that you would like to address?**

A. Yes. In addition to inflating its "quantified" estimate of local competition, BellSouth also exaggerates the potential for future technologies to bring additional competition. For instance, consider the prominence that BellSouth places on Lucent's "PathStar" technology (Wakeling Affidavit, page 18, emphasis in BellSouth):

> Network Telephone ...will deploy Lucent's PathStar Access Server ... The PathStar solution will enable service providers to **deliver eight or more telephony subscriber lines and high-speed data services over a single unbundled local loop.**

Remarkably, BellSouth points to this technology, even though it is well known that Lucent has abandoned the project. The Commission should place little weight on *predictions* of competitive activity – predictions that have disappointed investors as well as policymakers.

III. More Needs to Be Done

Q. Are there additional actions needed to bring the benefits of local competition more broadly to Florida consumers?

A. Yes. As I explain below, the Florida Commission should place particular emphasis on establishing cost-based rates for UNEs, requiring BellSouth to provision UNEs in most efficient manner possible, and adopting measures to prevent backsliding.

Q. Is there evidence to demonstrate that BellSouth's UNE prices are not cost-based?

A. Yes. To provide a benchmark for comparison, I estimated what BellSouth's financial results would look like (for 2000), assuming that it was required to lease UNEs to offer its conventional switched services (i.e., local service and access). The analysis assumes that BellSouth offered service leasing the UNE-Platform, with the average UNE-P cost developed assuming 1,000 local minutes, 50 intraLATA toll minutes and 200 interLATA toll minutes (with 290 local calls and 45 toll/access calls) per month. Based on BellSouth's ARMIS data detailing BellSouth' local calling and Dial Equipment Minutes, these would appear to be conservative assumptions for an average user.

As detailed in Exhibit No. ___ JPG-7, and again based on BellSouth's actual ARMIS data for 2000, I constructed an estimate of BellSouth's Florida operating income assuming that BellSouth's actual levels of customer and corporate operations expense were unchanged, with its network cost replaced by the cost to lease the UNE-Platform. Because BellSouth would be leasing UNEs rather than owning the network, the analysis does not include any expense for depreciation, or any plant-related operating costs.

As shown in Exhibit No.__ JPG-7, BellSouth's "UNE-self" would have run squarely in the red, even though it actually enjoyed a net income of more than $1.8 billion. Clearly, if *BellSouth* could not even operate in Florida if required to lease the existing network, it should not be surprising that ALECs have failed to achieve any significant competitive gains.

Furthermore, because the above analysis does not include any of the costs that it would incur to order UNEs, the Exhibit provides a <u>conservative</u> estimate of the expenses that BellSouth would actually incur if it attempted to compete leasing network elements from itself. For instance, the analysis does not include the substantial non-recurring costs that would be incurred each year to serve new lines and migrated customers. It is also useful to understand that the analysis in Exhibit 7assumes that BellSouth does not cannibalize its retail revenues by offering selective discounts or special promotions. As the Commission is aware, BellSouth is offering lower prices to some customers, such as those it "wins back" from ALECs. Between the additional charges that were not included, and the potentially lower revenues that BellSouth would evidentially accept from its *favored* customers, the projected net income in Exhibit 7 likely overstates what BellSouth would actually obtain.

Q. Can you provide an example of a UNE-rate that is not plausibly cost-based?

A. Yes. As an illustration, consider the rates that BellSouth proposes to impose simply to *provide* the call detail records needed for billing. These rates are ODUF (for the provision of daily usage files) and ADUF (for the provision of access usage files) and would appear to apply on a per-message basis. Applying these charges to BellSouth's reported calling volumes in Florida for 2000 produces a "cost" simply for the usage information of $438 million annually. See Exhibit No. __ (JPG-8).

Q. Are BellSouth's proposed charges for daily usage files out-of-line with the rates charged by other RBOCs?

A. Yes. Also shown in Exhibit No. ___ JPG-8 is a table comparing BellSouth's Florida rates to the rates charged by Ameritech (Michigan) and Qwest (Arizona), as well as the average monthly cost per switched access line resulting from these charges (based on Florida usage data). The practical effect of this inflated charge is that any ALEC requiring daily usage information to bill its customers, or audit its UNE bills (or perhaps even comply with CALEA obligations) would see its costs increase – and, therefore, would need to increase its rates to end-users – by more than $5.50 per month just to obtain billing information. Given that the UNE-Platform is the network arrangement used by carriers offering competitive services to the typical analog customer, it is no wonder that so little competition has developed in Florida.

Q. In addition to pricing, what other actions should the Commission take to foster local competition?

A. I recommend that the Commission remain focused on three areas. First, the Commission should make clear BellSouth's obligation to fully support UNEs, including its obligation to provide access to any UNE combination – including so-called "new combinations" – that it ordinarily provides to itself. Second, the Commission must make sure that xDSL services are available for resale under wholesale-arrangements. Finally, the Commission should evaluate additional measures to assure that the market remains competitive in a post-271 environment by investigating structural remedies to BellSouth's conflicted incentives, in addition to its review of performance measures.

Q. What action should the Commission take concerning BellSouth's obligation to support "new" combinations of network elements?

A. Local competition depends upon *efficient* provisioning systems structured to minimize cost and accommodate volume. As the Commission is aware, BellSouth refuses to combine network elements that it ordinarily combines for itself, thereby increasing costs and decreasing carrier reliability. Consumers will never benefit from policies that make local competition more complex, more cumbersome and more expensive. If the Commission wants local competition – particularly local competition for smaller customers -- then it must be committed to policies that make entry more simple and cost-effective.

Q. Why is the issue of "new" combinations so important?

A. The simple answer is that consumers and businesses frequently add lines and change locations. If this process is made complex and expensive, then BellSouth will successfully disadvantage its rivals by increasing the cost of competitive alternatives. Consider the following statistics. According to the US Census, nearly 16% of the population moved in 1998 (Source: Geographic Mobility Update, US Census Bureau, June 2000). In addition, businesses are constantly adding and deleting locations. Census data for Florida indicates that nearly 27% of all business locations open or close in a year. Any strategy that artificially inflates the cost to serve such a mobile population – and this is the clear intent of BellSouth's proposal to refuse offering "new combinations" – will harm both competition and consumers.

Q. If BellSouth will not combine elements for entrants, how does it propose new entrants would serve such customers?

A. As I understand BellSouth's proposal, BellSouth would construct new "combination areas" in its central offices for the sole purpose of relegating ALEC "combinations" to these areas. Rather than 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. 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 additional points of potential failure.

Importantly, even BellSouth itself would do "more combining" by cross-connecting the requested elements to the facilities necessary to extend the elements to the ALEC, not to mention the cost -- in time, money and space – to create the associated "assembly areas." Expending resources for the 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.

I would also note that there is no evidence that such alternatives are useable by entrants. To my knowledge, these options lie dormant in other states where they have been offered. For instance, while Verizon provided assembly rooms and assembly points in New York, it has acknowledged that "[o]nly one [competing carrier] made any use of this offering in New York, and that use . . . has been discontinued." (See Memorandum Opinion and Order, Federal Communications Commission CC Docket 01-9, April 16, 2001, footnote 390). Moreover, no RBOC has successfully obtained interLATA authority without at least a voluntary commitment to combine for entrants those elements that it ordinarily combines for itself.

Q. What action should the Commission take with respect to BellSouth's obligation to support the resale of advanced data services?

A. As indicated earlier, the *Ascent Decision* makes clear that BellSouth must permit the resale of its advanced data services at a wholesale discount. BellSouth has not shown through commercial usage or other information, however, that it is prepared to honor this obligation. The Commission should require that BellSouth fully document its ability to support the resale of advanced services such as xDSL.

Q. Should the Commission prepare to take additional measures, even if it (ultimately) endorses BellSouth's application for interLATA authority?

A. Yes. It is important to appreciate that the Commission's oversight does not end with a 271 application – indeed, quite the opposite, the Commission should expect enforcement issues to become even *more* pronounced. The fundamental assumption of the Telecommunications Act is that incumbent LECs (such as BellSouth) would ultimately establish "normal" supplier-customer relationships with ALECs. The reality has demonstrated, however, that BellSouth's conflicting incentives as supplier and competitor preclude such a relationship from forming. As a result, the Commission must be prepared to increase its vigilance and regulatory oversight – or, more simply, adopt a structural approach that would align BellSouth's incentives with the Commission's objective of a competitive local market.

Q. Does this conclude your testimony?

A. Yes.

Exhibit JPG-1
Docket No.: 960786-TL
Competitive Market Share as Claimed by BellSouth

Level of Competition Claimed by BellSouth
(February 2001)

Mode of Entry	BellSouth Estimates		Relative ALEC Share[1]
	Method 1	Method 2	
Resale	191,963	191,960	2.6%
UNEs[2]	162,651	162,651	2.2%
Facilities[3]	480,790	363,567	5.7%
Total	835,404	718,178	10.6%

1 "Relative Percentage" is based on the average of the two estimation methodologies used by BellSouth.

2 "UNEs" includes lines served by individual loops and UNE-Platforms. Source: VW-7.

3 "Facilities" is calculated as the difference between the number of lines explained by Resale and UNEs and the total claimed by BellSouth.

Exhibit JPG-2
Docket No.: 960786-TL
Declining Competitive Activity

Time-Line of Competitive Activity in Florida
(UNEs and Resale)

	June 1999[1]	December 2000[2]	February 2001[3]	March 2001[4]
Resale	126,933	252,874	191,962	176,639
Loops	10,217	92,328	106,619	116,845
UNE-P	n/a	50,089	56,032	71,588
Total	137,150	395,291	354,613	365,072

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1 Source: BellSouth Response to the Common Carrier Bureau's Fifth Survey of Local Competition.

2 Source: BellSouth's Form 477 (Broadband and Local Competition) Report to the FCC for the Fourth Quarter, 2000.

3 Source: BellSouth Wakeling Affidavit.

4 Source: BellSouth Milner Testimony.

Exhibit JPG-3
Docket No.: 960786-TL
UNE-Based Market Share

UNE-Based Entry in Florida
(Relative Lines)

	BellSouth Switched Lines Only	BellSouth Total Lines
UNEs	162,651	162,651
BellSouth[1]	6,555,424	10,199,492
UNE Share	2.2%	1.5%

UNE Revenue as Percentage of BellSouth Revenues
(2000)

	$000s
BellSouth Total Operating Revenues[2]	$4,189,764
UNE Revenues[3]	$57,436
UNE Revenues as % of Total Revenues	1.4%

1 Source: BellSouth 2000 ARMIS 43-08, Table III.

2 Source: Table 1, ARMIS 43-01, 2000.

3 Source: BellSouth Response to FCCA 2nd Set of Interrogatories, Item No. 11.

Exhibit JPG-4
Docket No.: 960786-TL
Estimating the Level of Facilities-Based Competition

Facilities-Based ALEC Estimate
Share of Originating Minutes - 2000

	MOUs (000s)
ALEC Originated Local Minutes[1]	2,036,984
BellSouth Originated Local Minutes[2]	115,671,000
ALEC Share	1.7%

Facilities-Based ALEC Estimate
Based on Interconnection Trunks

a	Number of Interconnection Trunks	358,392		
b	Percentage of ALEC Traffic That Is Terminating[3]	.9052		
c	Terminating Trunks	324,409		a*b
d	Originating Trunks	33,983		a-c
e	Line-to-Trunk Ratio	4	10	
f	Originating Lines using Interconnection Trunks	135,932	339,830	d*e
g	Less UNE-Loops	106,619	106,619	
	Estimated Facilities-Based Lines	29,313	233,211	f-g

Facilities-Based ALEC Lines
Assuming Same Average/Usage Per Line as BellSouth

ALEC Originating Local Minutes	2,036,984
BellSouth Average Per Line[4]	1,458
Estimated ALEC Lines	116,429

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1 Source: BellSouth response to FCCA's 2nd Set of Interrogatories, Item No. 8, MOUs originated on ALEC networks and terminated with BellSouth, 2000.

2 Source: BellSouth Dial Equipment Minutes (DEM), ARMIS 43-04, 2000. Because each local conversation minute is associated with two DEMs, the reported DEM value was divided by two to estimate originating minutes.

3 Source: BellSouth response to FCCA's 2nd Set of Interrogatories, Item No. 8.

4 Source: BellSouth Local DEM divided by switched access lines (ARMIS 43-08).

Exhibit JPG-5
Docket No.: 960786-TL
Corrected ALEC Market Share

Corrected ALEC Market Share – Low Estimate[1]

	BellSouth	Corrected Analysis	Corrected Share
Resale	191,962	176,639	1.7%
UNEs	162,651	188,433	1.8%
Facilities[2]	422,179	29,313	0.3%
Total ALEC	776,791	394,385	3.7%
BellSouth	6,580,806[3]	10,199,492[4]	

Corrected ALEC Market Share – High Estimate[5]

	BellSouth	Corrected Analysis	Corrected Share
Resale	191,962	176,639	1.6%
UNEs	162,651	188,433	1.7%
Facilities	422,179	233,211	2.2%
Total ALEC	776,791	598,283	5.5%
BellSouth	6,580,806	10,199,492	

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1 Low estimate calculates facilities-based lines using a 4-to-1 line to trunk ratio.

2 Facilities-based estimate for BellSouth is the average of Method 1 and Method 2.

3 Source: BellSouth Switched Access Lines implied by Wakeling Affidavit.

4 Source: BellSouth Total Access Lines (ARMIS 43-08).

5 High estimate calculates facilities-based lines using a 10-to-1 line to trunk ratio.

Exhibit JPG-6
Docket No.: 960786-TL
Comparison to FCC Local Competition Report

FCC Local Competition Report Misstates ILEC Lines

	Switched Access Lines[1]	Total Access Lines[1]
BellSouth	6,611,456	10,255,524
Verizon	2,435,204	3,661,216
Sprint	2,211,708	3,661,286
	11,258,368	17,578,026
ILEC Lines in Local Competition Report[2]	11,079,693	

Estimating ALEC Market Share Based on Voice Grade Equivalents

BellSouth Regionwide Data (000s)[3]	
BellSouth Regionwide Lines	25,898
BellSouth Regionwide VGEs	57,150
Regionwide Line-to-VGE Ratio	2.2
Estimating BellSouth's Florida VGEs	
BellSouth's Florida Lines	6,611,456
Estimated VGE Equivalent[4]	14,589,725
ALEC VGE Market Share	
ALEC VGEs[5]	1,007,756
ALEC Market Share	6.5%

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1 Source: ARMIS 43-08, 2000.

2 Source: *Local Competition Report: Status as of December 31, 2001*, Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, May 2001, Table 6.

3 Source: BellSouth 1st Quarter 2001 Earnings Release.

4 Estimate is developed by applying BellSouth's regionwide line-to-VGE factor to BellSouth's Florida lines.

5 Source: *Local Competition Report*, Table 6.

BellSouth's Financial Performance if UNE-Based Carrier (Florida -- 2000)

	Cost/Revenue (000s)
Switched Services Revenues[1]	$2,654,169
Expenses	
UNE Lease Payments	$2,138,145
Marketing Expense (Acct 6610)	$145,716
Customer Service Expense (Acct 6623)	$275,164
Executive and Planning (Acct 6710)	$36,993
General and Administrative (Acct 6720)	$247,243
Total Operating Expense	$2,843,261
Operating Income	($189,092)

1 Switched services revenue is the total of Basic Local, End User, Switched Access, State Access and LD Message Revenues for 2000 (ARMIS 43-03).

Exhibit JPG-8
Docket No.: 960786-TL
DUF Charges

Estimated Cost of "Billing Information"

Traffic Type	Calls (1000s)		Total Calls	UNE Rate[1]	Annual Cost
	Originating[2]	Terminating			
Local	23,027,888	23,027,888[3]	46,055,776	$0.006729	$309,887,210
Access	3,560,942	5,582,449[4]	9,143,391	$0.014057	$128,531,117
			Average UNE Rate	$0.007942	$438,418,327

UNE Rate Comparison (Daily Usage Files)

	UNE Rate	Average Cost Per Line
BellSouth - Florida	$0.007942	$5.53
Ameritech - Michigan	$0.000700	$0.49
Qwest - Arizona	$0.000762	$0.53

1 There is some confusion concerning the application of these charges. During the Alabama cost proceeding, BellSouth was asked to identify the unbundled network element charges that a ALEC would incur to offer basic local service (*see* Item No. 6 of DeltaCom's 1st Data Request, Docket No. 27821, February 20, 2001). In its response, BellSouth *did not* include charges for daily usage files. For purposes of the analysis described above, however, DUF charges are assessed on all local and access messages.

2 Source: ARMIS 43-08, Table IV.

3 Assumes local calling is balanced – that is, for every originating minute there is a single terminating minute.

4 Source: Estimated from originating calling information by applying the average originating-to-terminating ratio for carrier common line minutes (1997 and 1998). ARMIS 43-01, Table IIa. Terminating switched access usage typically exceeds originating usage because of the prevalence of dedicated connections to some large customers.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Rebuttal Testimony and Exhibits of Joseph Gillan on behalf of the Florida Competitive Carriers Association has been furnished by (*) hand delivery or by U. S. Mail on this 20th day of July, 2001, to the following:

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