

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Docket No.: 010740-TP

Filed: September 7, 2001

In re: Complaint of IDS Long Distance, Inc.  
n/k/a IDS Telcom, L.L.C., Against BellSouth  
Telecommunications, Inc., and Request for  
Emergency Relief

DEPOSITION

of

COPY

ROBERT HACKER

SunTrust International Center  
One Southeast Third Avenue  
28th Floor  
Miami, Florida

Tuesday, September 17, 2001  
3:22 p.m. - 5:35 p.m.

FILED  
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APPEARANCES

For IDS:

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For BellSouth:

JAMES MEZA, III, ESQ.  
BellSouth Telecommunications, Inc.  
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Miami, Florida 33130

For the FPSC:  
(via telephone)

Mary Anne Helton, Esq.  
Bob Casey, Staff  
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I N D E X

Witness	Direct	Cross
ROBERT HACKER		
(By Mr. Meza)	3	
(By Mr. O'Sullivan)		87

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1 THEREUPON:

2 ROBERT HACKER,  
3 a witness named in the notice heretofore filed,  
4 having been first duly sworn, deposes and says as  
5 follows:

6 DIRECT EXAMINATION

7 BY MR. MEZA:

8 Q. Mr. Hacker, my name is Jim Meza. How  
9 are you today?

10 A. Fine. Thank you.

11 Q. You may have to speak up a little.

12 MR. MEZA: Mary Anne, we are using a  
13 new phone today, so if you have trouble in  
14 any way hearing myself or the witness --

15 MS. HELTON: We usually don't have  
16 problems hearing you. Sometimes it's the  
17 witness that we have problems hearing.

18 MR. MEZA: Just for the record, my time  
19 is 3:23. According to the agreement that we  
20 had, BellSouth had four hours this evening to  
21 take and conclude the depositions of  
22 Mr. Hacker and Mr. Leiro.

23 Q. Mr. Hacker, have you ever been deposed  
24 before?

25 A. No.

1 Q. Why don't you give us your full name  
2 for the record.

3 A. Robert Hilton hacker.

4 Q. And your home address?

5 A. [REDACTED]  
6 [REDACTED]

7 Q. And your social security number?

8 A. [REDACTED]

9 Q. Okay. I ask that whenever I ask you a  
10 question, you provide me with a verbal response so  
11 that the court reporter can accurately reflect  
12 your response. If at any time that you don't  
13 understand my question or you need further  
14 clarification, please advise me of that, and I'll  
15 be sure to accommodate your request.

16 Furthermore, if at any time during this  
17 deposition you need to take a break, please let me  
18 know and I'll be sure to accommodate you. Okay?

19 A. Yes.

20 Q. What's your educational background,  
21 sir, starting with college?

22 A. I have a BA in philosophy from Hamilton  
23 College, and I have an MBA from Columbia  
24 University Graduate School of Business.

25 Q. When did you get your BA?

1 A. 1973.

2 Q. And when did you get your MBA?

3 A. 1981.

4 Q. You state in your direct testimony that  
5 you have 28 years of experience in financial  
6 positions. Can you briefly summarize those,  
7 please.

8 A. Yes. I began my career with the Chase  
9 Manhattan Bank where I worked for five years. I  
10 worked for Cresap McCormick & Paget, which is a  
11 consulting firm now owned by Towers Perrin.

12 I worked for a company called Imtec  
13 which is a consulting firm, and I was a vice  
14 chairman of the company based in Indonesia called  
15 Matahari Putra Prima. I was the CFO of a company  
16 in Boca Raton, Florida called Bye Bye Now, and I'm  
17 currently the CFO of IDS Telcom.

18 Q. How long were you at Cresap?

19 A. Two years.

20 Q. And what position did you hold?

21 A. I was a senior consultant.

22 Q. And what exactly does that job -- what  
23 are your job duties as senior consultant?

24 A. You first-hand prepare the analysis,  
25 draw the conclusions and present the

1 recommendations on client studies.

2 Q. What type of client studies are you  
3 referring to?

4 A. Client studies included financial  
5 modeling, merger and acquisition type analysis,  
6 cash flow analysis, organization strategy studies,  
7 things of that type.

8 Q. Why did you leave that position to go  
9 to Imtec?

10 A. I left that position to go to Columbia  
11 Business School, and from Columbia I went to  
12 Imtec.

13 Q. Okay.

14 A. I'm sorry. From Cresap I left to go to  
15 Imtec. From Chase I left to go to business  
16 school.

17 Q. So why did you leave Cresap to go to  
18 Imtec?

19 A. We started that firm.

20 Q. What was Imtec's business?

21 A. We were a consulting firm which  
22 principally provided strategic and financial  
23 advice to large, multi-billion dollar retailers in  
24 Japan, and we also did licensing of high tech  
25 software and related products.

1 Q. And what was your position in Imtec?

2 A. I was the vice president and founder.

3 Q. For what years did you hold these  
4 positions?

5 A. 1982 to 1990.

6 Q. Did you hold any other position while  
7 at Imtec?

8 A. No.

9 Q. Why did your employment cease at Imtec?

10 A. I took a full-time position with  
11 Matahari.

12 Q. Prior to taking a full-time position,  
13 did you work part time at Matahari?

14 A. I consulted to Matahari.

15 Q. What was your position at Matahari?

16 A. I was the vice chairman and the CFO.

17 Q. How long did you hold that position?

18 A. I was the CFO for two years, and I was  
19 the vice chairman for one year.

20 Q. Did you reside in the states or in  
21 Indonesia?

22 A. Both.

23 Q. How long were you in Indonesia?

24 A. '96, '97.

25 Q. And did that correspond with your years

1 as a CFO or as vice chairman?

2 A. Neither.

3 Q. What years were you CFO?

4 A. I was CFO '97, '98.

5 Q. Okay.

6 A. And I was vice chairman '98.

7.. Q. Why did you leave Matahari to go to Bye  
8 Bye Now?

9 A. Why did I leave?

10 Q. Yes.

11 A. Because of the situation in Indonesia.

12 Q. And what exactly was that?

13 A. There was a pronounced economic decline  
14 in the country.

15 Q. What was Bye Bye Now's business?

16 A. It was an internet-based travel  
17 services provider.

18 Q. Is it still in existence today?

19 A. Yes.

20 Q. How long were you in the position of  
21 CFO of Bye Bye Now?

22 A. Approximately one year.

23 Q. Why did you leave Bye Bye Now to go to  
24 IDS?

25 A. I left Bye Bye Now because I was



1 invited to join the company that provided the  
2 capital to Bye Bye Now. We didn't reach terms, so  
3 I joined IDS.

4 Q. Which company was that that you were  
5 unable to reach terms with?

6 A. It's a company called IMA.

7 Q. And what was its business?

8 A. It was a firm that arranged capital for  
9 start-up companies.

10 Q. Was there a period of time in which you  
11 were not employed before taking the position at  
12 IDS?

13 A. Approximately a month.

14 Q. Prior to leaving Bye Bye Now, did you  
15 and IDS have any communications regarding  
16 employment?

17 A. Restate the question, please.

18 Q. Prior to leaving Bye Bye Now, did you  
19 have any communications with IDS regarding  
20 potential employment?

21 A. No.

22 Q. When was the first time that you had  
23 communications with IDS regarding employment?

24 A. Late September.

25 Q. Of what year?

1 A. Of 2000.

2 Q. Can you describe those communications,  
3 please.

4 A. The communications between myself and  
5 IDS?

6 Q. Yes. Who did you contact or who  
7 contacted you?

8 A. I'm a partner in a company called Tatum  
9 CFO. The communications were initiated through  
10 the area partner for Tatum.

11 Q. What is Tatum CFO? What is its  
12 business?

13 A. We are provider of chief financial  
14 officers for part-time interim projects and  
15 full-time engagements.

16 Q. So would it be fair to say that the  
17 area partner for Tatum CFO notified IDS that you  
18 were a potential employment candidate?

19 A. Yes.

20 Q. Okay. Who did you first meet with at  
21 IDS?

22 A. Joe Millstone.

23 Q. When was that?

24 A. Late September.

25 Q. Prior to potential employment with IDS,

1 did you have any telecommunications experience?

2 A. I had represented Compuserve in a  
3 licensing agreement in Japan.

4 Q. Is it your understanding that  
5 Compuserve is a telecommunications company?

6 A. Yes.

7 Q. How was that?

8 A. By the fact that they have a  
9 significant domestic network which they provide to  
10 third parties.

11 Q. What do you mean by network?

12 A. Series of interconnected switches.

13 Q. When did you represent Compuserve?

14 A. Say it again, please.

15 Q. When did you represent Compuserve?

16 A. Early 1980s.

17 Q. Did Compuserve have these switches that  
18 you were referring to in the early 1980s?

19 A. Yes.

20 Q. Other than your representation of  
21 Compuserve, prior to your employment with IDS, did  
22 you have any experience with the  
23 telecommunications industry?

24 A. No.

25 Q. When were you retained by IDS?

1 A. October of 2000.

2 Q. When did you leave Bye Bye Now?

3 A. August 2000.

4 Q. Is that approximately two months?

5 A. Month and a half.

6 Q. As part of your employment with IDS,  
7 were you given an ownership interest in Unified  
8 Solutions?

9 A. No.

10 Q. Were you given an ownership interest in  
11 IDS?

12 A. No.

13 Q. Prior to your employment with IDS, did  
14 you have a personal relationship with any of the  
15 owners of IDS?

16 A. No.

17 Q. Do you know who the owners are?

18 A. Of IDS?

19 Q. Yes.

20 A. Yes.

21 Q. Who are they?

22 A. IDS long distance which is controlled  
23 by Joe Millstone and Michael Noshay, Tony Patrone  
24 and Keith Kramer.

25 Q. Who do you directly report to?

1 A. Joe Millstone.

2 Q. And who reports to you? I'm sorry. If  
3 you want to finish your cup of coffee, go ahead.  
4 I'm on a tight budget here for time.

5 A. The controller reports to me.

6 Q. And who is that?

7 A. Sean Davis.

8 Q. How long has he been with IDS?

9 A. Approximately two months

10 Q. Okay.

11 A. Issam Sayegh, I-S-S-A-M, Sayegh,  
12 S-A-Y-E-G-H. He's the CIO.

13 Q. All right. How long has he been  
14 employed with IDS?

15 A. Longer than I have, but I don't know  
16 how long.

17 Q. Okay.

18 A. Eileen Turpin is the director of  
19 billing. Again, she's been there longer than I  
20 have, but I don't know how long.

21 Q. Okay.

22 A. Kerri Caudill. She's the director of  
23 special projects.

24 Q. Okay. That's it? Do you know in which  
25 states does IDS provide long distance service or

1 have customers that have their long distance  
2 service through IDS?

3 A. Yes.

4 Q. In which states do they have long  
5 distance customers?

6 A. Approximately 40 states.

7 Q. Can you give me the ten that IDS does  
8 not have any customers in?

9 A. It would be a guess.

10 Q. Is there a region where IDS does not  
11 have any customers, east, west coast, south?

12 A. I can't categorize it that way.

13 Q. Do you not know the ten?

14 A. I don't know the ten.

15 Q. In which states does IDS have local  
16 service customers?

17 A. Local service customers, Florida,  
18 Georgia, Mississippi, North Carolina, South  
19 Carolina, Georgia.

20 Q. You said it.

21 A. Did I already say Kentucky?

22 Q. No, sir.

23 A. Kentucky.

24 Q. About six states.

25 (Discussion off the record)

1           A.     There are seven states in which we  
2 operate.

3           Q.     I'll tell you the six I have, and  
4 you'll tell me which I'm missing. Florida,  
5 Georgia, Mississippi, North Carolina, South  
6 Carolina, Kentucky.

7           A.     Alabama.

8           Q.     And these are just local -- where IDS  
9 has local customers?

10          A.     Yes.

11          Q.     Of the local customers, what percentage  
12 are residential versus business?

13          A.     Less than [REDACTED] lines are residential.

14          Q.     And what's the grand total of lines as  
15 of today that IDS has?

16          A.     Approximately [REDACTED]

17          Q.     So is it your testimony less than [REDACTED]  
18 or [REDACTED]

19          A.     Less than [REDACTED]

20          Q.     So the remaining approximately [REDACTED]  
21 are business lines?

22          A.     Yes.

23          Q.     And how current is that information?  
24 Is that as of today?

25          A.     No.

1 Q. As of when?

2 A. 8-31.

3 Q. 8:31 this morning?

4 A. No. August 31st.

5 Q. When is the next time IDS is going to  
6 do its calculation?

7 A. Approximately October 2nd or 3rd.

8 Q. Of the [REDACTED] lines that IDS currently  
9 has, do you know how many customers that  
10 translates into?

11 A. No.

12 Q. In Florida, do you know how many of the  
13 residential -- the [REDACTED] residential lines are  
14 actually located in Florida?

15 A. No.

16 Q. Is there a breakdown per state that you  
17 know of?

18 A. Yes.

19 Q. And what is that breakdown comprised  
20 of?

21 A. It's comprised of UNE and resale,  
22 business and residential.

23 Q. So for each state, IDS can determine  
24 how many UNE customers it has, how many resale  
25 customers it has, how many business customers it



1 has, and how many residential customers it has?

2 A. Yes.

3 Q. All right. For Florida, how many UNE  
4 customers does IDS currently have?

5 A. I don't recall.

6 Q. Is there an estimation that you can  
7 provide to me?

8 MR. O'SULLIVAN: If you know it. It's  
9 not a memory test. You just say you don't  
10 remember or you don't know.

11 A. Approximately 60 percent of the  
12 customers of the [REDACTED] are in the State of  
13 Florida.

14 Q. All right. Now, in this answer you are  
15 giving me customers, not lines?

16 A. I'm sorry. Lines. Of the [REDACTED]  
17 lines, approximately 60 percent are in Florida.

18 Q. Is that 60 percent UNEs or is that 60  
19 percent combining UNEs and resale?

20 A. UNEs and resale.

21 Q. Do you know of that 60 percent -- well,  
22 how many of those customers are on UNEs?

23 A. No.

24 Q. Do you know in general the breakdown of  
25 the total amount of lines that IDS has for the

1 percentage that are UNEs versus resale?

2 A. Approximately [REDACTED] are resale. [REDACTED]  
3 are UNE.

4 Q. Is there any coincidence to the fact  
5 that that sort of mirrors the numbers for resale  
6 versus business?

7 A. No.

8 Q. So you do have resale customers that  
9 are UNEs?

10 MR. O'SULLIVAN: You mean residential  
11 customers?

12 MR. MEZA: Thank you for the  
13 correction.

14 A. Can I hear the question again?

15 Q. Do you have residential customers that  
16 are on UNEs?

17 A. I don't know.

18 Q. And you don't know the breakdown  
19 between business and residential in Florida, do  
20 you?

21 A. No.

22 Q. Let's take Georgia. Do you know the  
23 number of UNE resale customers in Georgia?

24 A. No.

25 Q. Is there -- of the remaining six

1 states, in which state does IDS have the second  
2 largest group of customers?

3 A. North Carolina.

4 Q. If Florida has 60 percent of IDS  
5 customers, lines, what percentage does North  
6 Carolina have?

7 MR. O'SULLIVAN: Give your best --  
8 approximation, and make it clear that that's  
9 what it is.

10 A. Approximately [REDACTED] divided by [REDACTED]

11 Q. And what state is next?

12 A. North Carolina.

13 Q. So that's Florida, North Carolina --

14 A. I'm sorry. Georgia.

15 Q. Georgia. Again, is there a rough  
16 estimation as to the number of lines you have in  
17 Georgia?

18 A. [REDACTED]

19 Q. And then in descending order which  
20 state is next?

21 A. I don't know after that.

22 Q. You don't know. Okay. Has IDS ever  
23 measured its service, as far as you know, through  
24 number of customers instead of lines?

25 A. Yes.

1 Q. According to the last calculation that  
2 you remember, do you remember how many customers  
3 that IDS had, and give me the time frame that you  
4 are referring to.

5 A. [REDACTED] approximately.

6 Q. When was this?

7 A. July or August.

8 Q. Of?

9 A. This year.

10 Q. And for that corresponding time frame,  
11 do you know how many lines IDS had?

12 A. Approximately [REDACTED]

13 Q. Do you have any personal knowledge of  
14 the amount of customers IDS had or lines prior to  
15 your employment with IDS?

16 A. No. I have no recollection of the  
17 numbers.

18 Q. At year end 2000, how many lines did  
19 IDS have?

20 A. I don't have a recollection.

21 Q. How many customers did IDS have at year  
22 end 2000?

23 A. I don't have a recollection.

24 Q. End of the first quarter 2001, how many  
25 customer did IDS have?

1 A. I don't have a recollection.

2 Q. How many lines did IDS have?

3 A. I don't have a recollection.

4 Q. End of the second quarter, would that  
5 be the figures you just gave me, [REDACTED] customers,  
6 [REDACTED] lines?

7 A. That would be an approximation for July  
8 and August, each of the two months.

9 Q. IDS has a breakdown for every single  
10 month of the year?

11 A. Could you reask the question, please.

12 Q. Sure. Does IDS create a document that  
13 sets forth the amount of customers and lines it  
14 has on a per-month basis?

15 A. Yes.

16 Q. From year end 2000 until end of the  
17 second quarter 2001, do you know what was IDS's  
18 growth rate?

19 A. How are you measuring growth?

20 Q. For that time period referenced, do you  
21 know if there was an increase or decrease in the  
22 number of customers and/or lines?

23 A. There was an increase in the number of  
24 lines. I believe there was an increase in the  
25 number of customers.

1 Q. And that is from year end 2000 to the  
2 end of the second quarter 2001; is that correct?

3 A. Yes.

4 Q. Do you know what percentage increase it  
5 was for either lines or customers?

6 A. I don't recall.

7 MR. O'SULLIVAN: - I'm not going to  
8 object to this line of questioning, but this  
9 is data that's in more precise form that's  
10 probably in BellSouth's records and IDS  
11 records. And he's trying to do growth rates  
12 from memory. You are welcome to do as much  
13 as you want, but probably better data is  
14 available.

15 MR. MEZA: Mr. Kramer identified that  
16 Mr. Hacker is the person that would know this  
17 information. If it's true that data more  
18 accurately reflects that information, that's  
19 fine, and I have asked for that information.

20 THE WITNESS: You should note that I  
21 wasn't anticipating this kind of questioning,  
22 so I have no document with me, and I have no  
23 preparation.

24 MR. MEZA: I understand that, and I'm  
25 not challenging the veracity of any of your

1 statements here today.

2 THE WITNESS: I just want to be clear.

3 Q. Sure. What was IDS's total gross  
4 revenue last year?

5 A. I don't recall.

6 Q. What were IDS's total amount of  
7 expenses last year?...

8 A. I don't recall.

9 Q. What is IDS's to date gross revenue?

10 A. I don't recall.

11 Q. What about expenses to date?

12 A. I don't recall.

13 Q. Is IDS currently running in the red?

14 A. No.

15 Q. All right. So you are running in the  
16 black?

17 A. So we don't have any confusion, restate  
18 your question, please.

19 Q. Is IDS currently running a profit right  
20 now?

21 A. Yes.

22 Q. What is that profit?

23 MR. O'SULLIVAN: Can I just ask the  
24 witness a question?

25 I'm just asking the witness if --

1           again, I have a general objection to quizzing  
2           him on the financial statistics.  If the  
3           financial statements of the company are  
4           relevant, then I think they can be produced  
5           if there's not a separate objection to that,  
6           but then also I think we would want that part  
7           of the record designated as confidential  
8           which after the fact we can designate.

9           MR. MEZA:  I think the agreement was we  
10          would have an agreement between the parties  
11          that you would have a right to look at the  
12          transcript and designate which portions of  
13          the deposition you can say are to be  
14          confidential.  But be advised that we intend  
15          to use the deposition transcripts at the  
16          hearing on Friday.

17          MR. MILLER:  Right, but the agreement  
18          also entailed that until those designations  
19          are made, the entire transcript would be  
20          treated as confidential.

21          MR. MEZA:  That is correct.

22          MR. O'SULLIVAN:  The witness was just  
23          pointing out to me to the extent that we got  
24          into it, the line data would be considered  
25          confidential at least to the outside world.



1 And when you say that we are going to be  
2 using the transcripts on Friday, that's  
3 right, but that's assuming some resolution of  
4 the confidentiality issues, right?

5 MR. MEZA: That is correct. I am  
6 giving you the heads up that you need to make  
7 your determination as quickly as you can as  
8 to what portions are confidential so that  
9 both we and the commission can take whatever  
10 appropriate steps are necessary at the  
11 hearing on Friday.

12 MR. O'SULLIVAN: Right and vice versa.

13 MR. MEZA: Right.

14 MR. O'SULLIVAN: So I think at the end  
15 we can talk about the deadline to designate.


16 MR. MEZA: We have everybody except  
17 Kramer on our end.

18 MR. MILLER: We just received them this  
19 afternoon.

20 MR. O'SULLIVAN: Maybe at the end we  
21 can talk about it, at the end of this.

22 A. Would you restate the question.

23 Q. Sure. I think my last question was  
24 what is IDS's profit right now.

25 A. Year to date, less than 

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[REDACTED]

Q. For 2000 did IDS or tell me how you -- does IDS run on a calendar year or a fiscal year?

A. Fiscal.

Q. For the last fiscal year, did IDS earn a profit?

A. No.

Q. And what do you consider a fiscal year, from what time period?

A. January 1 to 12-31.

Q. What was IDS's deficit for 2000?

MR. O'SULLIVAN: Object to the form. You can answer. You can answer. I'm just making an objection.

THE WITNESS: All right.

MR. O'SULLIVAN: If you understand the question. You have an accounting background.

Do you mean loss?

Q. Sure. If it wasn't earning a profit, I presume you ran a deficit. And, if so, what was it?

A. It was -- for the year, the deficit was in excess of [REDACTED] less than [REDACTED]. For the first half of the year we ran a year to date profit. When we commenced UNE service, we

1 then incurred losses which resulted in the full  
2 year being a loss.

3 Q. So you are saying that starting with  
4 June -- July 1st of 2000 to December 31st of 2000,  
5 you ran a deficit of over [REDACTED]

6 A. That would be logically true.

7 - Q. Is that your testimony I guess is what  
8 I'm asking you.

9 A. Yes.

10 Q. And prior to that time IDS was running  
11 a profit?

12 A. For the year to date through June, the  
13 company was profitable.

14 Q. What was the total amount of losses  
15 incurred in the last two quarters of 2000?

16 MR. O'SULLIVAN: Again, if you just  
17 know approximately, indicate it's  
18 approximate.

19 A. Yes. More than [REDACTED] less than [REDACTED]

20 [REDACTED]

21 Q. Is it your testimony today that IDS  
22 began to experience a deficit when it began to  
23 attempt to convert its resale base to UNE-P?

24 A. It's my testimony that when we began  
25 offering local service through UNEs we had monthly

1 operating deficits.

2 Q. Did you make money when you were  
3 offering to the resale?

4 A. Yes.

5 Q. And lost money when offering it through  
6 UNE-P?

7 A. Yes.

8 Q. Is that still the case today?

9 A. Rephrase the question.

10 Q. Are you still losing money through your  
11 UNE accounts?

12 A. No.

13 Q. There's no other reason in your mind  
14 for IDS to sustain between [REDACTED] and [REDACTED]  
15 [REDACTED] in deficit from July 1st, 2000 to December  
16 31st, 2000 other than the conversion of its base  
17 from resale to UNE-P?

18 MR. O'SULLIVAN: Object to the form.

19 You can answer.

20 A. We have an international carrier  
21 business which is not involved in local service,  
22 and that may have contributed to the losses.

23 Q. How much in your opinion did it  
24 contribute to the loss?

25 A. I don't have an opinion.

1 Q. Did IDS purchase any equipment during  
2 that time period?

3 A. Which time period again are we talking  
4 about?

5 Q. The last two quarters of 2000.

6 A. Did we purchase any equipment?

7 Q. Were there any substantial capital  
8 expenditures?

9 A. I don't recall any significant capital  
10 expenditures during that period.

11 Q. So IDS didn't purchase any switches or  
12 anything like that?

13 MR. O'SULLIVAN: Object to the form.

14 A. I don't believe so.

15 Q. And you only began working at IDS in  
16 October of 2000?

17 A. Correct.

18 Q. Were there any loans that became due?

19 A. No.

20 Q. What, in your opinion, caused the  
21 deficit?

22 A. The deficit was caused, in part, by the  
23 difficulty to provision the lines, therefore, they  
24 couldn't be put into billing; the OSS charges that  
25 were incurred against relatively small amounts of

1 revenue; the cost of acquisition of lines; the  
2 build-up in head count in anticipation of certain  
3 levels of revenue which weren't achieved because  
4 of difficulties in provisioning.

5 Q. Do you have any first-hand knowledge on  
6 IDS's attempt or ability to convert its base to  
7 UNE-P in the first half of 2000?

8 A. What do you mean by base, please?

9 Q. Its customer base, its resale -- the  
10 amount of lines from resale to UNE-P.

11 MR. O'SULLIVAN: Do you understand the  
12 question? Obviously he didn't work there at  
13 the time that happened.

14 MR. MEZA: Sure. I'm just trying to  
15 understand --

16 MR. O'SULLIVAN: He spends his time  
17 working with the people that work there and  
18 the fallout.

19 A. Can you restate the question, please.

20 Q. Yes. The question is, do you have any  
21 personal knowledge about IDS's attempt or ability  
22 to convert its customer base from resale to UNE-P  
23 for the first six months of 2000?

24 A. To convert it from resale to UNE-P?

25 Q. Right.

1 A. No.

2 Q. Do you have any personal knowledge  
3 about IDS's attempt to convert a BellSouth  
4 customer to UNE-P in the first six months of 2000?

5 A. No.

6 Q. Do you know if they could do it or not?

7 A. I believe they had some success.

8 Q. In your opinion, after the first six  
9 months of 2000, was IDS's or did IDS's ability to  
10 either convert its resale base to UNE-P or to  
11 convert a retail customer to UNE-P improve?

12 A. How are we measuring improvement,  
13 please?

14 Q. You said that they had some success in  
15 the first half of the year, and I'm asking you if  
16 that success improved over the second half of the  
17 year.

18 A. The number of lines that went into  
19 billing increased.

20 Q. What OSS charges are you referring to?

21 A. The charges from BellSouth.

22 Q. And what are they?

23 A. There's one charge that's approximately  
24 [redacted] and change. There's another charge that's  
25 approximately [redacted] if you do paper provision.

1 Q. Do you know if those charges were  
2 incurred pursuant to an agreement with BellSouth?

3 A. I don't actually know.

4 Q. So you don't know the origin of the  
5 charges. You just know that they are there; is  
6 that correct?

7 A. You asked me whether they were incurred  
8 as a result of an agreement.

9 Q. Right.

10 A. I haven't read that particular  
11 agreement.

12 Q. Do you know the origin of the charges  
13 as to why --

14 MR. O'SULLIVAN: You mean as to who is  
15 issuing them?

16 MR. MEZA: As to why BellSouth imposes  
17 the charges.

18 A. No.

19 Q. What is the acquisition cost for a  
20 line?

21 MR. O'SULLIVAN: Object to the form.

22 MR. MEZA: What's wrong with the  
23 question?

24 MR. O'SULLIVAN: In 1999? Right now?  
25 Retail business?



1 MR. MEZA: That's a good point.

2 Q. Second half of 2000.

3 A. [REDACTED].

4 Q. What is it for the first half of 2001?

5 A. [REDACTED]

6 Q. What was it for the first half of 2000?

7 A. I don't know.

8 Q. Second half of 2000, was there an  
9 increase in the amount of employees that IDS  
10 employed?

11 A. I believe there was.

12 Q. What was that increase?

13 A. I don't know.

14 Q. Do you remember what portion of the [REDACTED]

15 [REDACTED] loss that IDS was  
16 incurring for the second half was attributable to  
17 increased employment expenses relating to  
18 increased employees?

19 MR. O'SULLIVAN: Object to the form.

20 A. No.

21 Q. Is IDS currently solvent with all its  
22 creditors?

23 MR. O'SULLIVAN: Object to the form.

24 You can answer.

25 A. How do you define solvency?

1 Q. Are you current with your payments to  
2 creditors?

3 A. As you know, we have past dues with  
4 BellSouth.

5 Q. Other than with BellSouth.

6 MR. O'SULLIVAN: Object to the form.

7 You can answer.

8 A. We have other past dues with carriers.

9 Q. Why don't you tell me those carriers,  
10 please.

11 A. [REDACTED]

12 Q. How much?

13 A. I don't recall the exact amount.

14 Q. Do you have a rough estimate?

15 A. [REDACTED]

16 Q. Okay. Who else?

17 A. [REDACTED]

18 Q. Okay.

19 A. [REDACTED]

20 Q. Do you know how much for [REDACTED]

21 A. [REDACTED]

22 Q. How much for [REDACTED]

23 A. I don't recall the amount.

24 Q. Any other carriers that your accounts  
25 are not current with?

1 A. [REDACTED]

2 Q. How much?

3 A. And its subsidiaries. Approximately  
4 [REDACTED]

5 Q. Are you also the CFO for Unified  
6 Solutions?

7 A. No.

8 Q. Do you handle any of their financial  
9 matters?

10 A. Yes.

11 Q. What are your responsibilities as to  
12 Unified Solutions?

13 A. I supervise payments.

14 Q. Payments to who?

15 A. To service providers.

16 Q. What type of service providers --  
17 strike that.

18 Are these bills that Unified Solutions  
19 incurs?

20 A. No.

21 Q. These are charges to other CLECs; is  
22 that correct?

23 A. No.

24 Q. What are you referring to?

25 A. The service providers are individuals.

1 Q. How are service providers individuals?

2 A. They are not corporations.

3 Q. I guess I'm confused as to your  
4 characterization of your responsibilities at  
5 Unified Solutions. Maybe if I give you my  
6 understanding of the company, you can correct me.  
7 From what I understand, Unified Solutions -- we  
8 are having a disconnect here because service  
9 provider to me means like BellSouth. Is that  
10 not --

11 MR. O'SULLIVAN: If you take it in  
12 plain English, service provider could be the  
13 person who cleans windows. It could be any  
14 party that provides a service.

15 A. If you think of third-party service  
16 provider, that might make it clear to you.

17 Q. Are you responsible for billing Unified  
18 Solutions' clients?

19 A. No.

20 Q. What is IDS's financial outlook for the  
21 next six months, if you know?

22 A. [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 [REDACTED]  
2 Q. Has IDS received any infusions of cash  
3 from any other telecommunications companies in the  
4 last six months?

5 MR. O'SULLIVAN: Let me just object for  
6 a second. This really goes to this whole  
7 line. Can you tell me what the relevance is?  
8 There's a lot of questions about the  
9 financial condition of this company. Is that  
10 really an issue in this case?

11 MR. MEZA: Sure, it is. They claimed  
12 numerous times in this proceeding that IDS  
13 needed an emergency hearing because they  
14 didn't know if they were going to be in  
15 business beyond October if they had to wait  
16 that long for a hearing.

17 MR. O'SULLIVAN: We have a hearing.  
18 The hearing is going to be when it's going to  
19 be.

20 MR. MEZA: I'm trying to understand  
21 whatever financial arrangements have been  
22 disclosed in the mutual agreement between  
23 AT&T and IDS.

24 MR. O'SULLIVAN: You've done about a  
25 half hour on customers and creditors.

1 MR. MEZA: I have two hours, and I've  
2 chosen to spend part of my time on that.

3 A. Restate your question, please.

4 Q. Has IDS received an infusion of cash or  
5 other type of equity from another  
6 telecommunications company in the last six months?

7 A. No.

8 Q. What percentage of IDS's revenue comes  
9 from long distance, if you know?

10 A. Approximately [REDACTED].

11 Q. I may have asked this already, but if I  
12 have, I apologize. Do you know the breakdown of  
13 the number of lines that are solely long distance  
14 lines as opposed to local lines?

15 A. You haven't asked it, and I don't know.

16 Q. Okay. Thank you. Do you know of the  
17 [REDACTED] lines that IDS currently has what  
18 percentage has both local and long distance?

19 A. Yes, I know.

20 Q. What is that?

21 A. 42 percent.

22 Q. Is there any other person at IDS that  
23 has more knowledge about the financial condition  
24 of the company than you?

25 MR. O'SULLIVAN: Object to the form.

1           You can answer if you know.

2           A.     No.

3           Q.     Are you still a partner in Tatum CFO?

4           A.     Yes.

5           Q.     Do you have your direct testimony with  
6 you?

7           A.     Yes.

8           Q.     Page 4, lines 7 through 22 going on to  
9 page 5. Have you read Claude Morton's testimony?

10          A.     Yes.

11          Q.     Let me ask you this.

12          A.     I read a portion of it.

13          Q.     Did you draft this testimony?

14          A.     I participated in drafting it.

15          Q.     Did you review it before it was filed?

16          A.     Yes.

17          Q.     If you look on -- well, let me ask you  
18 this. Do you disagree with Mr. Morton's  
19 calculation that IDS owes BellSouth \$5.9 million?

20          A.     I can't confirm his calculation as  
21 correct.

22          Q.     So you disagree with it?

23          A.     Yes.

24          Q.     Look at subparagraph one in line 9.  
25 You state, "This calculation apparently includes

1 charges for services outside the State of Florida  
2 including Alabama, Georgia, Kentucky, Mississippi,  
3 North Carolina and South Carolina." Do you see  
4 that?

5 A. Yes.

6 Q. Do you know what were the total amount  
7 of charges that you believe were included for  
8 services outside of Florida?

9 A. No, I don't.

10 Q. Do you have a general idea of the \$5.9  
11 million that Mr. Morton claims is outstanding, how  
12 much generally were for services outside the State  
13 of Florida?

14 A. Approximately 40 percent.

15 Q. All right. How do you know that they  
16 were for charges outside the State of Florida?

17 A. When I attempted to reconcile our  
18 accounts to reach the 5.9 --

19 Q. Uh-huh.

20 A. -- the only way I could come up with a  
21 number that was in the same order of magnitude was  
22 to include the Q accounts for all the states.

23 Q. Why is it that you are taking the  
24 position that these services are not currently  
25 owed in this proceeding? Why is it that you are



1       contesting those charges?

2               MR. O'SULLIVAN: I don't know that  
3               that's an accurate characterization of the  
4               testimony. It just -- the testimony doesn't  
5               say that he's contesting whether it's due and  
6               owing.

7               MR. MEZA: His testimony says that  
8               BellSouth's calculation apparently includes  
9               several inappropriate amounts.

10              Q.     Why do you feel that calculations  
11              including charges for services outside the State  
12              of Florida are inappropriate?

13              A.     Because we are before the Florida PSC.

14              Q.     You are not refuting those charges,  
15              that IDS does not owe BellSouth charges that were  
16              incurred in other states?

17              A.     I'm not refuting that we owe charges  
18              for services outside of Florida.

19              Q.     You are saying for this proceeding,  
20              only the charges incurred in the State of Florida  
21              should be at issue?

22              A.     I'm saying that the --

23              MR. O'SULLIVAN: Let me object to the  
24              form of that. I think it speaks for itself.  
25              Words are plain.

1                   MR. MEZA: He says that these charges  
2                   are inappropriate.

3                   Q.       So what I need to understand is your  
4                   position is that only charges for Florida are  
5                   appropriate?

6                   MR. O'SULLIVAN: Object to the form.  
7                   You can answer if you understand the  
8                   question.

9                   A.       The point that I'm making is that this  
10                  amount of \$5.9 million must include charges for  
11                  states other than Florida.

12                  Q.       And what is the significance of that?

13                  A.       Only to make clear to the PSC that this  
14                  amount of 5.9 includes charges outside Florida.

15                  Q.       Look at number 2 on line 12. You say,  
16                  "This calculation apparently includes the current  
17                  bill of approximately \$1.7 million which is not  
18                  payable until September 16th." Did IDS make  
19                  payment on September 16th?

20                  A.       What is today's date?

21                  Q.       The 17th, I believe.

22                  A.       No.

23                  Q.       Does IDS intend to make payment?

24                  A.       Yes.

25                  Q.       Of this 1.7 amount, do you know how

1 much was for resale?

2 A. No, I don't.

3 Q. Do you have any breakdown or knowledge  
4 of the breakdown of the bill?

5 A. I have knowledge of the breakdown of  
6 the bill, but I don't recall specific numbers.

7 Q. Do you have a general idea?

8 A. Approximately \$200,000 is for resale.

9 Q. And what was the remaining amount for,  
10 if you remember?

11 A. That would be for UNE.

12 Q. Look at number 3 on line 16. You state  
13 that this calculation apparently includes accrued  
14 finance charges. Do you know how much?

15 A. No.

16 Q. How do you know that it includes  
17 finance charges?

18 A. Because when I reconciled what my book  
19 balance shows due to BellSouth, okay, we don't use  
20 finance charges in doing that reconciliation, and  
21 that amount may be the difference between our  
22 books and what Mr. Morton claimed.

23 Q. So you haven't determined the actual  
24 amount that you believe accounts for finance  
25 charges, have you?

1 A. No.

2 Q. And then you state on line 17 through  
3 19, "However, the January 22nd, 2001 agreement  
4 between IDS and BellSouth does not provide for  
5 finance charges to continue to accrue on past due  
6 balances." Do you see that?

7 A. Yes.

8 Q. Do you have a copy of that agreement?

9 MR. O'SULLIVAN: No. I mentioned at  
10 the beginning, Jim, I think this is in one of  
11 the packages that relates to the billing  
12 disputes -- and did Sherry bring those  
13 documents? It is in here. I'll find it for  
14 you if you want it.

15 MR. MEZA: Sure. I just have a quick  
16 question. It may not be necessary for you to  
17 go through it.

18 MR. O'SULLIVAN: You can ask it.

19 Q. Do you know if the agreement is silent  
20 as to finance charges or states that finance  
21 charges are not owed?

22 A. It's silent.

23 Q. That's all. Then on page 5, line 3,  
24 all the way down you describe some pending  
25 disputes IDS has with BellSouth. Do you see that?

1 A. Yes.

2 Q. And subgroup or subprovision A on line  
3 6 states, \$929,000 which represents the delta  
4 difference between the resale rates, and it goes  
5 on and on, from November '99 to May 2000. Do you  
6 see that?

7 A. Yes.

8 Q. Do you know if IDS has submitted  
9 through BellSouth's billing dispute process its  
10 claim for this \$929,000?

11 A. Yes.

12 Q. And has that billing dispute been  
13 resolved?

14 A. Bell made a counter offer in response  
15 to this dispute --

16 Q. Of how much?

17 A. -- and as I understand it --

18 Q. I'm sorry. I don't mean to interrupt  
19 you. I thought you were finished.

20 A. As I understand it, the difference is  
21 not in how to calculate the delta difference, but  
22 rather the time period which applies.

23 Q. Has BellSouth denied or refused IDS's  
24 claim for \$929,000 for the delta difference?

25 A. No.

1 MR. O'SULLIVAN: Object to the form of  
2 the question.

3 Q. So as far as IDS is concerned, that is  
4 still a valid, viable billing dispute?

5 A. It's an unresolved billing dispute.

6 Q. Are you familiar with BellSouth's  
7 billing dispute process?

8 A. Not in detail.

9 Q. Do you -- that's not something that you  
10 personally supervise?

11 A. The people that prepare the disputes  
12 report indirectly to me.

13 Q. Have certain employees reported to you  
14 the process as to how it works?

15 A. Yes.

16 Q. And that sooner -- well, I don't want  
17 to testify for you. What is your understanding of  
18 how it works?

19 A. We are required to document the  
20 proposed dispute in a fairly strictly-enforced  
21 format that BellSouth has. It's then submitted to  
22 BellSouth, and after, as far as I know, an  
23 undefined period of time, BellSouth may elect to  
24 respond.

25 Q. As far as you know, has BellSouth

1 responded to the \$929,000 delta difference claim?

2 MR. O'SULLIVAN: Object to the form.

3 You can answer.

4 A. BellSouth made a counter offer on this  
5 929.

6 Q. Did it reject or refuse to accept the  
7 \$929,000 claim? That's all I'm asking you. It's  
8 your testimony they issued a counter offer. In  
9 the counter offer, did BellSouth say we are not  
10 going to pay or we don't think your claim is valid  
11 for \$929,000?

12 MR. O'SULLIVAN: Object to the form.

13 If they said it implicit in the counter  
14 offer, is not an acceptance of the original  
15 offer. Did they say those extra words?

16 A. Is that the precise question?

17 Q. Yes.

18 A. Say the question again.

19 Q. The question is, did BellSouth tell IDS  
20 that it was refusing to pay the \$929,000?

21 A. I don't recall them saying that.

22 Q. Look at subparagraph B on line 11. You  
23 talk about, again, a delta difference for 453,000  
24 from August to December of 2000. Has IDS  
25 submitted this claim through BellSouth's billing

1 dispute process?

2 A. I believe we have.

3 Q. What is the status of that claim?

4 A. I don't believe we've heard anything  
5 back from BellSouth on that.

6 Q. When did IDS submit the claim?

7 A. I don't recall.

8 Q. Is it IDS's position that from August  
9 through December 2000 it was unable to convert or  
10 utilize the UNE-P at all?

11 A. No.

12 Q. Then why is IDS claiming the delta  
13 difference for that time period?

14 A. There were periods during that larger  
15 time frame in which we were unable to provision  
16 lines as UNE and were forced to put them on as  
17 resale.

18 Q. How many lines?

19 A. I don't recall the exact numbers.

20 Q. What constitutes the \$453,000?

21 A. There's \$154,000 and change related to  
22 305 Q97. There's 167,000 and change related to  
23 561 Q. And there's \$107,000 related to 904 Q.

24 Q. Do you know what those Qs represent?

25 A. Geographic areas in which you provide



1 service.

2 Q. I guess what I'm asking, are all of  
3 these calculations the delta difference for  
4 various Qs?

5 A. Yes.

6 Q. Is IDS claiming that it's entitled to  
7 the delta difference for every single line that it  
8 either attempted to convert or actually converted  
9 from August through December of 2000?

10 A. No.

11 Q. Is IDS only claiming the delta  
12 difference for those lines for which it was unable  
13 to convert to UNE-P?

14 A. We are claiming the delta difference  
15 when the Bell systems would not permit UNE  
16 provisioning and we were forced to provision as  
17 resale.

18 Q. Do you know how many customers?

19 A. No, I don't.

20 Q. Do you know what specific dates  
21 BellSouth systems was unable to allow you to  
22 convert to UNE-P?

23 A. I don't know the specific dates.

24 Q. It's not for every single day from  
25 August to December, right?

1 A. I don't believe so.

2 Q. Do you know how many conversion orders  
3 IDS submitted for this time period?

4 A. No.

5 Q. Do you know how many conversion orders  
6 or how many customers for IDS during this time  
7 period experienced some type of feature loss or  
8 disconnect during this time period?

9 A. No.

10 MR. O'SULLIVAN: Just so the record is  
11 clear, I think the documentation relating to  
12 each of these disputes is in the record and  
13 the documents that have been produced. And  
14 those kind of details about the lines and  
15 what the factors are are in here somewhere.

16 MR. MEZA: If you are referring to the  
17 documents produced in the Attorney General's  
18 that may be correct, but as far as what IDS  
19 has produced to BellSouth outside of that, I  
20 don't think I've seen any calculation.

21 MR. O'SULLIVAN: Even this is what  
22 BellSouth must have.

23 A. It's clear the dispute has been filed,  
24 so the documentation is on file somewhere at  
25 BellSouth.

1 Q. Well, that may be the case, but you may  
2 have that information as well.

3 A. Agreed.

4 Q. Okay.

5 A. In fact, I'm quite confident we do.

6 Q. All right. Look at letter C on line  
7 15.

8 A. Right.

9 Q. 214,000 in BellSouth's over billing IDS  
10 in the first half of 2001. And then you have  
11 parenthesis, for instances in which BellSouth  
12 inappropriately charged IDS for disconnection  
13 charges, amounts appearing on BellSouth's billing  
14 without appropriate documentation, et cetera.

15 Have you submitted this claim to the  
16 billing dispute process?

17 A. Yes.

18 Q. Do you know what the status is of that  
19 claim?

20 A. It is still pending.

21 Q. Are there any other examples of over  
22 billing other than the information that you  
23 provided in the parentheticals on line 16 through  
24 19?

25 MR. O'SULLIVAN: Object to the form.

1           You can answer it to the best of your  
2           knowledge.

3           A.     There may be, but I don't recall  
4           specifics.

5           Q.     How did you determine that BellSouth  
6           has inappropriately charged IDS for disconnection  
7           charges?

8           A.     I believe the basis was that the  
9           interconnect agreement didn't provide for  
10          disconnect charges in certain states.

11          Q.     Is this \$214,000 reflective of over  
12          billings for Florida?

13          A.     I believe Florida would be included.

14          Q.     Do you know what portion of the 214,000  
15          is for over billings outside of the State of  
16          Florida?

17          A.     No, I don't.

18          Q.     Do you have an idea of what percentage  
19          were for billings outside the State of Florida?

20          A.     No.

21          Q.     How did you come to the conclusion that  
22          amounts appearing on BellSouth's billing without  
23          appropriate documentation constitutes an over  
24          billing?

25          A.     There are charges on the bills with no

1 USOC code attributed to them. Therefore, we have  
2 no way of knowing what the charge is for.

3 Q. Let me ask you this. Under BellSouth  
4 and IDS's current interconnection agreement, do  
5 you pay an amount that is being disputed during  
6 the dispute resolution process?

7 A. I don't recall.

8 MR. O'SULLIVAN: Object to the form.  
9 You can answer.

10 A. I don't recall that particular detail  
11 with respect to the interconnect agreement.

12 Q. Okay.

13 MR. O'SULLIVAN: Joe, when you get to a  
14 convenient spot, we'll take a quick break.

15 Q. Let me run through these. D, "542,000  
16 in BellSouth's inappropriate back billing in July  
17 2001 for the increased in the deaveraged loop."  
18 What is the basis for that statement?

19 A. The interconnect agreement doesn't  
20 provide for back billing when Bell is able to bill  
21 by zone.

22 Q. Do you remember the provision that you  
23 are referring to?

24 A. No, I don't.

25 Q. All right. Does this \$542,000 include

1 charges or back billings for states other than  
2 Florida?

3 A. No, I don't believe it does.

4 Q. It's just for Florida?

5 A. It's just for Florida.

6 Q. Florida specific, okay. So is it your  
7 position that the interconnection agreement  
8 determines -- governs the rights of the parties  
9 regarding any billing issues?

10 MR. O'SULLIVAN: Object to the form.

11 He's not a lawyer.

12 A. I'm not a lawyer.

13 Q. So is it your testimony that when you  
14 have a billing issue, do you not refer to the  
15 interconnection agreement?

16 MR. O'SULLIVAN: Object to the form.

17 That's not what he said.

18 A. We refer to the interconnection  
19 agreement in terms of billing issues.

20 Q. Is this amount just for July of 2001?

21 A. No. This is a charge that goes from  
22 January through June. It's a catch-up charge for  
23 each of those months for repricing the zones.

24 Q. Did it just appear on the July bill?

25 A. Yes.

1 (Recess in Proceedings)

2 Q. Page 6, line 7. You state, IDS has a  
3 past due balance of BellSouth of approximately  
4 \$1,109,326. Do you see that?

5 A. Yes

6 Q. How old is that past due amount, do you  
7 know?

8 MR. O'SULLIVAN: Object to the form:  
9 You can answer.

10 A. Over 90 days.

11 Q. Is this amount part of the amount that  
12 was resolved in the agreement between BellSouth  
13 and IDS regarding back due payments or has this  
14 amount been accrued since the execution of that  
15 agreement?

16 A. There's a question, fungible

17 Q. Why don't you explain that.

18 A. There is an amount that is past due.  
19 The agreement in January covered past due amounts.

20 Q. I'm asking, this amount, \$1,109,326,  
21 has been accrued since the execution of that  
22 agreement, do you know that?

23 MR. O'SULLIVAN: Object to the form.

24 A. On the date that we signed the  
25 agreement, I believe that BellSouth could have

1 anticipated and calculated that approximately this  
2 amount would be past due.

3 Q. As of today or as of the date you filed  
4 your testimony?

5 A. As of the date of the testimony.

6 Q. Is IDS still making those \$200,000  
7 monthly payments?

8 A. Yes.

9 Q. Has BellSouth responded to the letters  
10 attached as exhibits to your rebuttal testimony  
11 regarding your belief that May was the final month  
12 that the payment was due?

13 A. The only response that I've received  
14 was one phone message from Mr. Morton expressing  
15 some desire to discuss the issue. My response was  
16 to offer him any day that week at 10:00 in the  
17 morning the opportunity to talk about it. I've  
18 never heard anything else from Mr. Morton. They  
19 never responded to the letters in writing.

20 Q. If it's your belief, as expressed in  
21 these letters, that May was the last month that  
22 the \$200,000 is due, why is IDS still making  
23 payments?

24 MR. O'SULLIVAN: Object to the form.

25 You can answer.



1           A.     Given the absence of response from  
2 BellSouth, we carefully reviewed the January  
3 agreement again and came to the conclusion that  
4 there may be additional amounts past due that  
5 should be paid, and so we have paid.

6           Q.     Let me ask you, as of today, you  
7 believe that this amount, \$1,109,326, is still  
8 money owed to BellSouth?

9           MR. O'SULLIVAN: Object to the form.  
10           You can answer.

11          A.     After taking into account all of the  
12 pending disputes, if they were resolved in our  
13 favor, the amount owed to BellSouth excluding the  
14 current month's bill would be the amount in the  
15 testimony.

16          Q.     And I guess my question to you today  
17 is, does IDS intend to continue to pay the  
18 \$200,000 until this figure is zero?

19          MR. O'SULLIVAN: Object to the form.  
20            You can answer.

21          A.     As stated in the letters which have  
22 been submitted as part of the testimony, it has  
23 always been our intention and our good will to  
24 make the \$200,000 per month payments toward the  
25 past due balance, and we anticipate continuing to

1 do that at least as long as we show a past due  
2 amount.

3 Q. And I guess my -- the question, I guess  
4 I'm inartfully asking you, when you take into  
5 consideration all the amounts that you feel have  
6 been inappropriately billed and that you are  
7 disputing, the figure set forth on page 6, line 7  
8 is the amount that IDS still feels is owed to  
9 BellSouth?

10 MR. O'SULLIVAN: Object to the form.

11 There's more testimony that talks about more  
12 amounts in dispute. I think he was referring  
13 to the four disputes on the prior page. It's  
14 just math. He takes the figure in the  
15 beginning, subtracts these and gets --

16 MR. MEZA: I understand how he  
17 calculated the figure.

18 Q. But my question is, you wrote a letter  
19 in May saying that you didn't feel like you owed  
20 anymore, and now you are still making the payments  
21 of \$200,000. So that leads me to believe that you  
22 feel there's still some amounts that IDS owes; is  
23 that correct?

24 A. There is an amount that we believe is  
25 owed to BellSouth which is the amount in the

1 testimony.

2 Q. On page 6, line 7?

3 A. Right. And that amount assumes that  
4 the Bell disputes are resolved in our favor. If  
5 the disputes with Bell were not resolved in our  
6 favor, this amount would increase.

7 Q. Look on page 7, line 23. You state  
8 that IDS has lost approximately 37,000 customer  
9 lines since May of 2000. What is the basis for  
10 your calculation of 37,000 customer lines?

11 MR. O'SULLIVAN: By the way, just for  
12 the record, I asked the witness to bring with  
13 him, in accordance with the subpoena, these  
14 work papers that he had -- most of them are  
15 just the rough calculations that get here.

16 MR. MEZA: Sure.

17 A. This is not the precise document that I  
18 used to calculate the 37,000 because the dates are  
19 different and the date the report was run are  
20 different. This report shows that through  
21 September 6, there have been [REDACTED] discos. If  
22 you subtract out September and August, you come  
23 out with about [REDACTED].

24 MR. O'SULLIVAN: Discos is disconnect?

25 THE WITNESS: Discos is disconnect.

1 Q. Where did you get that information  
2 from?

3 A. Internal systems.

4 Q. Specifically what type of system?

5 A. We have a system that tracks the  
6 information related to a customer in terms of FOC  
7 complete dates and other dates related to Bell,  
8 and that system also keeps track of customers that  
9 are disco'd.

10 Q. What is this monthly billing active?  
11 What is that category?

12 A. That means the number of lines that are  
13 in billing.

14 Q. Okay. I see. And lines added just  
15 means?

16 A. Gross lines.

17 Q. The growth or gross?

18 A. Gross.

19 Q. What is that a gross of? I mean,  
20 resale, UNE-P?

21 A. It would be UNE and resale.

22 Q. And you are saying there's something  
23 wrong with these dates here?

24 A. No, I'm not saying there's something  
25 wrong with the dates. I'm saying that when I

1 derived the 37,000, I used a similar report but  
2 with a different run date.

3 MR. O'SULLIVAN: So a little more time  
4 has passed, and it's gone from 37 to  
5 whatever.

6 Q. And you've determined this figure from  
7 internal IDS documents?

8 A. It's based on internal IDS systems, but  
9 the most significant input to that system is  
10 reporting we get from Bell on disconnects.

11 Q. Is there a term in this system that you  
12 are using to calculate these figures or to come to  
13 this? Is it called something?

14 A. We refer to it as a tracker. I don't  
15 believe there's a more specific name for it.

16 Q. Now, are these the total amount of  
17 disconnects in August of the states in which IDS  
18 has a customer?

19 A. Yes.

20 Q. So it's not Florida specific?

21 A. No.

22 Q. So your 37,000 number is not Florida  
23 specific?

24 A. That is correct.

25 Q. What is the number of disconnects in

1 Florida for the time period referenced in your  
2 testimony?

3 A. I don't have that information with me.

4 Q. Can you break it down by state?

5 A. We can break it down by state.

6 Q. Do you have a rough idea -- well, I  
7-- think you gave me that [REDACTED] percent of the lines  
8 that you have today reside in Florida?

9 A. Correct.

10 Q. All right. Would that [REDACTED] percent  
11 figure still be accurate today to determine the  
12 amount of disconnects?

13 A. I don't know if it's accurate or not.

14 Q. So you have no idea what percentage of  
15 disconnects of this [REDACTED] number actually are  
16 Florida lines?

17 MR. O'SULLIVAN: Object to the form.

18 That's not what he said.

19 A. Restate your question, please.

20 Q. Do you have any idea of how much or how  
21 many lines of this total amount as set forth in  
22 your -- I would like to attach it as an exhibit.

23 MR. O'SULLIVAN: Hacker 1.

24 MR. MEZA: Hacker 1.

25 MR. O'SULLIVAN: He said he doesn't

1           have the data with him. Would you like him  
2           to give you his best estimate?

3           MR. MEZA: Yes.

4           A. We have a reporting system which would  
5           give us the precise number of discos by state, but  
6           I don't have that information with me.

7           Q. And you can't make a guess?

8           A. I don't have an informed guess.

9           Q. Are these local and long distance or  
10          just local?

11          A. Just local.

12          Q. This figure, the [REDACTED] is that local  
13          and long distance?

14          A. No. That's local only.

15          Q. I thought you told me that IDS had  
16          approximately [REDACTED] active lines today that  
17          included both local and long distance. Is that  
18          incorrect or was I mis --

19          A. I believe you misunderstood. It was  
20          [REDACTED] local.

21          Q. And how many long distance lines does  
22          IDS have today?

23          A. Approximately [REDACTED]

24          Q. Okay.

25          A. That doesn't include local customers

1 that have long distance.

2 Q. What is that figure?

3 A. If you multiply [REDACTED] by [REDACTED] percent --

4 Q. Okay.

5 A. -- and add that to the [REDACTED], that would  
6 give you total LD.

7 Q. And if you add it to the [REDACTED] that  
8 will give you -- I see what you are saying. The  
9 [REDACTED] is a total universe of local customers you  
10 have.

11 MR. O'SULLIVAN: Some of which have  
12 long distance.

13 A. But it doesn't include the [REDACTED] LD  
14 lines that I just mentioned.

15 MR. MEZA: I got you. I got you. I  
16 would ask for the -- as a late filed exhibit,  
17 for the underlying data that Mr. Hacker  
18 looked at to come to the figures set forth  
19 identified in Hacker Number 1.

20 MR. O'SULLIVAN: All right. Now --

21 THE WITNESS: Can we be clear on what  
22 the gentleman is asking?

23 MR. MEZA: I want to be able to confirm  
24 the figures that are set forth. If these are  
25 BellSouth documents, then I will accept,



1           since we are running out of time, what  
2           documents he's referring to.

3           MR. O'SULLIVAN: My understanding is  
4           like your office and my office, they have the  
5           computer, and inside the computer is all the  
6           data that that's their customers and all  
7           their stuff. And you say give me all the  
8           lines by month or by -- and I think the  
9           statistic on disconnects is input separately  
10          some other time from the BellSouth loss  
11          reports that they get every month.

12          So that's how it got in there, but  
13          right now it's just sitting in a computer  
14          that can run reports just like your  
15          computers.

16          MR. MEZA: I would like to obtain that  
17          information.

18          MR. O'SULLIVAN: What does that mean?

19          MR. MEZA: Whatever information he  
20          looked at to come to this disconnect figure I  
21          want to see.

22          MR. O'SULLIVAN: You tell him. I  
23          assume you sat at your computer and said give  
24          me the term report.

25          THE WITNESS: I had somebody else

1 produce the report.

2 MR. O'SULLIVAN: The disconnect figure  
3 that you are interested in is in their  
4 computer, and it got there because somebody  
5 got a loss report from BellSouth each month  
6 and typed in all the disconnects.

7 MR. MEZA: That may very well be true.

8 MR. O'SULLIVAN: Given that, what do  
9 you want us to give you?

10 MR. MEZA: Whatever information -- if  
11 you generated a document to produce or  
12 calculate these numbers, I want it. If you  
13 are telling me that all you did was look at  
14 BellSouth's loss report, I want to see that  
15 as well.

16 THE WITNESS: Okay. What you are  
17 saying then is if there are three sources of  
18 data which provide the information which is  
19 reflected here --

20 MR. MEZA: Right.

21 THE WITNESS: -- you want to see each  
22 of those three sources of documents for each  
23 of the months that are reflected here.

24 MR. MEZA: Yes, sir.

25 THE WITNESS: Just for the sake of

1 clarity, I believe there's only two sources  
2 of information. Three was just for the  
3 purpose of example.

4 MR. MEZA: That's fine.

5 MR. O'SULLIVAN: Okay. So that request  
6 is for any source documents which  
7 substantiate the disconnect figures that are  
8 in this Hacker Exhibit 1, right?

9 MR. MEZA: Yes, and the lines added. I  
10 presume that would be contained in a similar  
11 document.

12 MR. O'SULLIVAN: I think we will have  
13 to go back and see what exists. We will see  
14 what we have.

15 THE WITNESS: Yes. I'm not sure what  
16 documents we would have that would provide  
17 the basis for lines added, but --

18 MR. MEZA: How do you know?

19 MR. O'SULLIVAN: These are the records  
20 of the company. This is what they operate  
21 based on. Say this is what we are talking  
22 about happening, they get their loss report,  
23 maybe they keep it for a little while, maybe  
24 they don't. The computer is what they work  
25 off of.

1 THE WITNESS: The big issue is record  
2 retention, whether going all the way back to  
3 January of last year we have source  
4 documents.

5 MR. MEZA: Whatever you have, I would  
6 like to see.

7 Q. Okay. I'm going to try to get you out  
8 of here. On page 8, line 1, you have 41.2 percent  
9 of new lines added for May of 2000 to July 2001.  
10 Am I correct in believing that that percentage is  
11 based upon a division of lines added versus the  
12 amount of disconnects?

13 A. Yes.

14 Q. That's based -- set forth in Hacker 1?

15 A. You will come up with a number that's  
16 quite close to that percentage, yes.

17 Q. On page 2 to 5 of -- excuse me. Line 2  
18 to 5 of page 8, you are referring to a CLEC  
19 industry attrition rate of approximately 7 percent  
20 per month. Where did you obtain that figure?

21 A. That number is based on conversations  
22 with several investment bankers and several senior  
23 executives that operate CLECs.

24 Q. Okay. If you look on page 8, line 6,  
25 you say --

1           A.     Page 8, line 6.

2           Q.     Yes. "Consequently, BellSouth's  
3 anticompetitive practices have caused  
4 approximately 10,000 additional loss of customer  
5 lines for IDS." What is the basis for your belief  
6 that BellSouth's anticompetitive practices solely  
7 caused or caused these 10,000 additional lines to  
8 leave IDS?

9           MR. O'SULLIVAN: Object to the form.  
10           You can answer.

11           MR. MEZA: That's fine.

12           A.     The 10,000 additional lines is based on  
13 the difference between the 7 percent industry  
14 average and the 10 percent actual attrition that  
15 we've had.

16           Q.     Right. And my question to you is, how  
17 can you attribute that 10,000 additional customer  
18 lines to BellSouth's anticompetitive actions as  
19 set forth in your testimony? Do you have any  
20 specific evidence to support that allegation?

21           A.     Specific evidence that BellSouth has  
22 caused us to lose lines? Yes.

23           Q.     My question to you is, you say that --  
24 I'm quoting you, "BellSouth's anticompetitive  
25 practices have caused approximately 10,000

1 additional lost customer lines for IDS." What is  
2 the basis for your belief that anticompetitive  
3 practices caused the additional 10,000 lines to  
4 leave IDS?

5 A. Well, for example, I believe Bell is  
6 the only ILEC that runs a win back program  
7 compared with the other ILECs in the United  
8 States.

9 Q. Have you confirmed with any other ILECs  
10 whether that's true or not?

11 A. I've confirmed with other people in the  
12 industry.

13 Q. Which ones?

14 A. I'm sorry.

15 Q. Which people are you referring to?

16 A. Same senior executives that I discussed  
17 attrition with.

18 Q. Have you talked to any ILECs about  
19 their win back activities?

20 A. No.

21 Q. And you are attributing this additional  
22 10,000 -- these additional 10,000 lines leaving  
23 IDS solely because of BellSouth's anticompetitive  
24 practices; is that correct?

25 MR. O'SULLIVAN: Well, I mean, but in

1 repeating his statement from the testimony,  
2 you keep putting in solely.

3 Q. I'm asking him. Is there any other  
4 plausible explanation other than what you set  
5 forth as to why 37,000 customers left IDS? I just  
6 want to understand.

7 A. The implicit premise here is that there  
8 are anticompetitive practices from all the ILECs  
9 with respect to all the CLECs. And that is  
10 incorporated in the 7 percent industry attrition  
11 rate. We are substantially higher than the  
12 industry average. Implicitly, it's attributable  
13 to BellSouth.

14 Q. How do you know that? It may be  
15 attributable to BellSouth through proper win back  
16 activities. Would you agree with that?

17 MR. O'SULLIVAN: Object to the form.

18 He can answer. I think the premise of his  
19 testimony is earlier in the paragraph. He  
20 says what the factors are.

21 Q. Wouldn't you agree with me there, that  
22 there's a possibility that some of these customers  
23 came back to BellSouth or left IDS through proper  
24 win back activities of BellSouth or any other  
25 CLEC?

1 MR. O'SULLIVAN: Object to the form.

2 You can answer.

3 A. It's logically possible.

4 Q. And I'm just confirming with you today  
5 that you believe that the 10,000 additional lines  
6 that you believe IDS has lost were lost because of  
7 BellSouth's anticompetitive behavior; is that  
8 correct?

9 A. Yes.

10 Q. In your belief in your testimony today,  
11 do you take into account the possibility that some  
12 of these customers could have left IDS for reasons  
13 other than win back activities?

14 A. It's logically possible.

15 Q. And you are also taking into account in  
16 this -- in your testimony today, that there is a  
17 possibility that some of these customers went back  
18 to BellSouth or another CLEC as a result of proper  
19 win back activities?

20 A. I don't know.

21 Q. You don't know, but you do know today  
22 that they left because of anticompetitive  
23 practices of BellSouth?

24 A. Yes.

25 Q. And how do you know that?



1 MR. O'SULLIVAN: Again, I think this  
2 testimony is transparent.

3 MR. MEZA: Well, John, you may believe  
4 that, but I want to ask the witness the basis  
5 for his belief.

6 MR. O'SULLIVAN: You asked him three  
7 times. It says what it says. For purposes  
8 of this estimate, the difference between the  
9 industry average and what happened to them is  
10 what he's claiming.

11 A. Restate your question, please.

12 Q. I guess my question is, how do you know  
13 that these additional 10,000 lines left because of  
14 BellSouth's anticompetitive behavior?

15 A. As I said before, I believe that our  
16 attrition percentage is higher than the industry  
17 average primarily due to BellSouth's practices.

18 Q. Page 8, line 8, these 10,000 customers  
19 represent \$470,000 per month in July 2001. I  
20 guess I'm confused by that statement there. Is  
21 that a typo?

22 A. What do you think is a typo?

23 Q. Represent approximately 470,000 per  
24 month in lost revenue to IDS in July 2001?

25 A. No, I don't think it's a typo.

1 Q. Are you saying it's 470,000 just in  
2 July 2001?

3 A. For the single month, yes.

4 Q. And you expect that revenue to be the  
5 same on an ongoing basis?

6 A. The --

7 MR. O'SULLIVAN: Object to the form.  
8 You can answer.

9 A. The estimate of \$470,000 per month was  
10 based on a determination using July data for  
11 average revenue per line.

12 Q. And what is that average revenue per  
13 line?

14 A. Well, I've used \$47 here.

15 Q. And that's basic local service for a  
16 business customer?

17 A. Yes. And it doesn't include CABS  
18 revenue.

19 Q. Again, this 10,000 additional lost  
20 lines, that's not Florida specific, is it?

21 A. No.

22 Q. And it's your testimony that 42 percent  
23 of local customers also use IDS for long distance?

24 A. As I stated earlier, yes.

25 Q. What is the average revenue per line

1 for long distance?

2 A. Approximately \$20 per line.

3 Q. And what is the average amount of lines  
4 that a small business customer has, do you know?

5 A. Approximately 3.5.

6 Q. Look on page 9, line 16 and 17. Given  
7 that BellSouth caused 27 percent attrition during  
8 the period. How do you know that BellSouth caused  
9 27 percent of the total attrition during the  
10 period?

11 A. I think we are back to the point that  
12 you pursued multiple times in the questions that  
13 you had with respect to the --

14 Q. I guess I'm specifically trying to  
15 figure out why you believe that BellSouth caused  
16 this figure, and it's not the result of some other  
17 type of possibility?

18 A. As I said before, the difference  
19 between the industry average and the attrition  
20 that we've experienced I believe was caused by  
21 anticompetitive practices from BellSouth.

22 Q. But what specific facts or evidence  
23 other than the increased attrition rate do you  
24 rely on to come to that conclusion?

25 MR. O'SULLIVAN: If I could just object

1 and make a point of clarification. I think  
2 the problem here is, to use shorthand, I  
3 think Mr. Hacker is sort of more in the  
4 nature of a damages witness and --

5 MR. MEZA: Sure.

6 MR. O'SULLIVAN: This is really a  
7 question for the fact witnesses. You may not  
8 be happy or satisfied with what you got from  
9 the fact witnesses, so you want somebody to  
10 ask it to, but I think he will say, you speak  
11 for yourself, that he is really providing  
12 calculations or analysis of assumptions about  
13 what's happened.

14 He's not the one who listened to lines  
15 getting disrupted or talked to customers. He  
16 has some of that anecdotally, but he works  
17 with the people who experience that, and is  
18 trying to put that in a frame work that  
19 people can understand.

20 MR. MEZA: If he's willing to stipulate  
21 that his testimony only refers to damage  
22 calculations, assuming that IDS proves its  
23 case, that's fine. But to the extent that  
24 he's making allegations that BellSouth caused  
25 IDS to suffer damages, then I would like to

1 know the basis for that belief.

2 MR. O'SULLIVAN: And you are entitled  
3 to, and I think you've done that already  
4 which is -- I think he's saying we had this  
5 disparity between our experience and the  
6 industry experience at a time when we say  
7 BellSouth was doing things that were bad for  
8 us.

9 And I think you are right that probably  
10 the record today does not show 10,000 case  
11 files with details of everything that  
12 happened, and some of this is inferring from  
13 examples that it was more widespread because  
14 the outcomes were the same. You can probe.

15 Q. Let me try it this way, and I want to  
16 get you out of here. In coming to the belief that  
17 you set forth on page 9, line 16 and 17, did you  
18 do any specific analysis or study to come to the  
19 conclusion that BellSouth is responsible for  
20 causing 27 percent of the total attrition other  
21 than looking at the numbers that we talked about  
22 ad nauseam?

23 A. I have on a couple of occasions  
24 analyzed the disco date compared with the FOC  
25 complete date, and in the cases where the customer

1 disco'd before the FOC complete date, I believe  
2 that is evidence to support Bell's anticompetitive  
3 practices.

4 Q. Okay.

5 MR. O'SULLIVAN: One point for  
6 clarification. Does everybody on this call  
7 know what the disco'd date and the FOC date  
8 means, Mary Anne?

9 MS. HELTON: Yes.

10 MR. O'SULLIVAN: You guys are pros.  
11 You follow that?

12 MS. HELTON: Yes.

13 Q. How many customers have you seen that  
14 happen to?

15 A. Several hundred is my recollection.

16 Q. For what time period?

17 A. I believe the analysis was done in  
18 January of this year.

19 Q. January 2001?

20 A. Yes.

21 Q. So it had to be prior to January 2001?

22 A. That's correct.

23 Q. All right. Do you know which customers  
24 were effected?

25 A. I didn't memorize them.

1 Q. Do you believe there is some type of  
2 document out there that sets forth this analysis  
3 that you are referring to?

4 A. Yes.

5 Q. Any other analysis or information that  
6 you feel supports your conclusion that BellSouth  
7 caused 27 percent of the total attrition?

8 A. The IT department at IDS reports to me.

9 Q. Uh-huh.

10 A. When we have had problems provisioning  
11 lines whereby Bell's server, which I believe is in  
12 Florida, it's an internet attached server, was not  
13 functioning properly, we had simultaneously  
14 provisioned outside of Miami through a server,  
15 which I believe is in Birmingham, and had no  
16 problems. The speed with which that server  
17 problem was corrected seemed to me in this day and  
18 age quite slow. That's another --

19 Q. I'm sorry to interrupt you. Let's go  
20 back quickly to -- you said that you believe that  
21 anticompetitive behavior resulted -- was the cause  
22 of the loss of the line when the disconnect  
23 occurred prior to the FOC. Is that what you said?

24 A. Yes.

25 Q. How can there be a disconnect prior to

1 an FOC? Do you understand that whole analysis?

2 A. I do understand that whole analysis.

3 Q. All right.

4 A. And the reason is that Bell must have  
5 relied on information to win back the customer  
6 that they are, as I understand it, not legally  
7 entitled to use until the FOC complete date.

8 Q. Correct me if I'm wrong, but an FOC is  
9 just telling you that the order is complete, that  
10 we got the order, it's being processed, correct?

11 A. That it is completely processed is the  
12 FOC complete date. We can put that customer into  
13 billing at that point.

14 Q. Right.

15 A. So it's provisioned completely.

16 Q. So when you say the FOC date, you mean  
17 the actual completion date?

18 MR. O'SULLIVAN: He was saying the FOC  
19 completion date.

20 Q. Because there's a difference between  
21 the FOC and the FOC completion date?

22 A. I'm referring to the FOC completion  
23 date.

24 Q. So you are saying from the time IDS  
25 submits an order until the time of the FOC



1 completion date, you get a disconnect?

2 A. Correct.

3 Q. Does a disconnect also include a  
4 cancellation of an order?

5 A. I don't know.

6 Q. The FOC was never completed, you were  
7 never connected; wouldn't you agree with that?

8 A. Yes.

9 Q. I mean, so the conversion had to take  
10 place if you are calling it a disconnect?

11 A. Well, okay. What I'm saying more  
12 precisely is that before the FOC complete date,  
13 Bell won back the customer. The winning back of  
14 the customer, I was calling it disco.

15 Q. So what I understand disco, discos in  
16 Hacker 1 is any loss of customer including  
17 disconnection?

18 A. Any loss of customer including  
19 disconnection?

20 MR. O'SULLIVAN: He's basically asking  
21 you whether the thing I just described, which  
22 is the customer gets won back before they  
23 actually get connected, is that really in  
24 here?

25 From what we talked about in the

1 beginning, maybe it's not because they never  
2 got connected, as Jim said, so how do they  
3 get disconnected. That doesn't mean it's not  
4 something that IDS objects to or contributed  
5 to its plight.

6 Q. When you say discos in your exhibit,  
7 what do you mean?

8 A. It would include a case where --

9 Q. A cancellation?

10 A. No. It doesn't --

11 Q. Okay.

12 A. Let me back-up. What do you mean by  
13 cancellation?

14 Q. I would consider what you are  
15 describing to be a cancelled order where a  
16 customer during the conversion process calls up  
17 IDS and says look, I don't really want to be your  
18 customer.

19 MR. O'SULLIVAN: Does that happen?

20 Before they are even connected?

21 MR. MEZA: Yes.

22 A. The point of my example of  
23 anticompetitive practice is that, as I understand  
24 it, Bell is not entitled to do a win back or to  
25 attempt a win back until the customer has been

1 completed, that they don't have access to the  
2 information until the FOC complete date.  
3 Therefore, if they are winning back customers  
4 prior to FOC complete date, that would be evidence  
5 of anticompetitive behavior. That's the point  
6 that I'm trying to communicate.

7 Q. Okay.

8 A. Now, in the disco column, we would  
9 include lost lines such as I just described with  
10 respect to FOC complete date.

11 Q. So that's the entire universe of  
12 disconnects, lost customers, lost lines, discos?

13 A. I'm hesitant to say the entire  
14 universe, but --

15 Q. As far as I know, this is the best,  
16 most accurate information we've got so far.

17 A. This is the most --

18 MR. O'SULLIVAN: He's saying it  
19 definitely includes what you just said.

20 THE WITNESS: Yes.

21 Q. Now, how do you know these customers  
22 went back to BellSouth and not to another CLEC?

23 A. We have a CRM program where we call  
24 customers who have disco'd.

25 Q. Are you personally familiar with that

1 program?

2 A. It would depend on the question you  
3 have in mind.

4 Q. I have talked to a lot of people who  
5 have provided me with information regarding the  
6 CRM, and are you the person that I should be  
7 talking to about that or somebody like Keith  
8 Kramer or Brad Hamilton or somebody that's  
9 actually testified about it?

10 MR. O'SULLIVAN: Object to the form.

11 Q. Who is the person to actually talk  
12 about CRM?

13 MR. O'SULLIVAN: Object to the form.  
14 To the extent you know. You are asking him  
15 to identify the most knowledgeable person  
16 about that program in the company?

17 MR. MEZA: Yes.

18 MR. O'SULLIVAN: If you know.

19 A. The most knowledgeable person in the  
20 program about the program is probably Fabio  
21 Galoppi.

22 Q. Do you have any personal knowledge  
23 about the CRM, about contacting customers and  
24 asking them why they left?

25 MR. O'SULLIVAN: Object to the form.

1           You mean beyond --

2                   MR. MEZA: He said it would depend on  
3           the question asked.

4           Q.     I just asked you a question, have you  
5           personally contacted any persons?

6           A.     I'm sorry. I misunderstood. No, I  
7           have not personally.

8           Q.     In coming to your understanding of the  
9           CRM, have you relied solely on information  
10          provided to you by other people?

11                   MR. O'SULLIVAN: Object to the form.  
12          You can answer.

13          A.     Ask the question again, please.

14          Q.     Coming to your understanding of the CRM  
15          and what it does and the results it gets back from  
16          customers, are you relying solely on the  
17          information provided to you by other people?

18          A.     Yes.

19          Q.     Is the amount on page 10, line 2, of  
20          6.3 million, that is what you believe the  
21          commission should refund to IDS?

22          A.     I believe that there are multiple  
23          methods that could be used to determine the  
24          refund. The method that I used in this testimony  
25          was prepared with approximately two hours of

1 notice. If I had more time, I believe that I  
2 could develop a more complete and comprehensive  
3 analysis.

4 Q. Are you intending to change your  
5 testimony?

6 MR. O'SULLIVAN: Object to the form.

7 Q. Are you going to change this figure  
8 prior to trial?

9 MR. O'SULLIVAN: Object to the form. I  
10 don't think that's -- he speaks for the  
11 entirety of IDS of what harm has been caused.  
12 Other witnesses have testified on that too.  
13 I don't think he's retracting that.

14 MR. MEZA: That's what I want to know.

15 A. I'm not retracting my statement here.

16 Q. And just so I understand, that 6.3  
17 million is based upon the amount of lines that IDS  
18 has lost in its entire customer base, not Florida  
19 specific?

20 A. That's correct.

21 Q. And the 15.43 million, that you are  
22 referring to, the payment that IDS has paid  
23 BellSouth, is that for Florida services only?

24 A. No.

25 MR. MEZA: All right. I have no

1 further questions.

2 MR. O'SULLIVAN: Does staff have any  
3 questions?

4 MS. HELTON: No.

5 MR. O'SULLIVAN: Just so the staff  
6 knows, there are four additional pages that  
7 the witness brought with him in response to  
8 the subpoena which asks for work papers that  
9 he had, and they look to be just back-up  
10 details, is the best way I can say it, to  
11 some of these billing disputes and other  
12 figures. And maybe we can make this one  
13 composite exhibit, and these are what he's  
14 produced.

15 And I'll have a copy made and then they  
16 can be attached, and I think that's fine.  
17 We'll make it an exhibit. I'll just ask the  
18 witness one question,

19 CROSS EXAMINATION

20 BY MR. O'SULLIVAN:

21 Q. Am I correct, Mr. Hacker, that these  
22 pages that we are marking as Composite Hacker 1  
23 are work papers that you prepared or relied on in  
24 reaching the calculations that are in your  
25 prefiled written testimony?

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A. Yes.

MR. O'SULLIVAN: We have no questions  
either.

(Thereupon, Work Papers was marked as  
Hacker Exhibit 1 for Identification.)

(Thereupon, the deposition was concluded)

-----  
ROBERT HACKER

Sworn to and subscribed before  
me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Notary Public in and for  
the State of Florida at Large.



CERTIFICATE OF NOTARY

STATE OF FLORIDA:

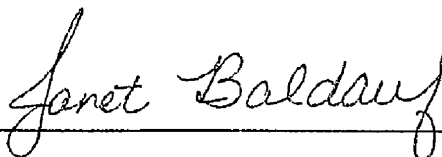
SS.

COUNTY OF DADE:

I, JANET BALDAUF, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I reported in shorthand the deposition of ROBERT HACKER, a witness called in the above styled cause; that the witness was first duly sworn by me; that the reading and signing of the deposition were not waived by the witness; that the foregoing pages, numbered from 1 to 89, inclusive, constitute a true record.

I further certify that I am not an attorney or counsel of any of the parties, nor related to any of the parties, nor financially interested in the action.

WITNESS my Hand and Official Seal this 19th day of September, 2001.



JANET BALDAUF, RPR

Notary Public - State of Florida

Commission No. CC822036

Expires 3-31-2003

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