

ORIGINAL

Legal Department

E. Earl Edenfield Jr.
General Attorney

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(404) 335-0763

March 12, 2002

Mrs. Blanca S. Bayó
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RECEIVED-FPSC
02 MAR 12 PM 4:46
COMMISSION
CLERK

Re: Docket No. 011119-TP (XO Florida)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Direct Testimony of John A. Ruscilli, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

E. Earl Edenfield Jr.
E. Earl Edenfield Jr. (LA)

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White

AUS _____
CAF _____
CMP _____
COM 5708
CTR _____
ECR _____
GCL _____
OPC _____
MMS _____
SEC I
OTH _____

RECEIVED & FILED

RJM
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

02885 MAR 12 02

FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE
Docket No. 011119-TP

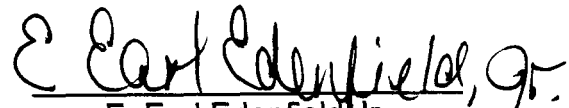
I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail and Federal Express this 12th day of March, 2002 to the following:

Jason Fudge
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
jfudge@psc.state.fl.us

Vicki Gordon Kaufman (+)
McWhirter Reeves McGlothlin,
Davidson, Decker, Kaufman,
Arnold & Steen, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301
Tel. No. (850) 222-2525
Fax. No. (850) 222-5606
vkaufman@mac-law.com

John A. Doyle, Jr. (+)
Parker, Poe, Adams & Bernstein
First Union Capitol Center
Suite 1400
150 Fayetteville Street Mall
Raleigh, NC 27802
Tel. No. (919) 890-4145
Fax. No. (919) 834-4564

Dana Shaffer
XO Florida, Inc.
105 Molloy Street, Suite 200
Nashville, TN 37201
Tel. No. (615) 777-7700
Fax. No. (615) 345-1564
dana.shaffer@xo.com


E. Earl Edenfield Jr. (EA)

(+) Signed Protective Agreement

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BELLSOUTH TELECOMMUNICATIONS, INC.
DIRECT TESTIMONY OF JOHN A. RUSCILLI
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 011119-TP
MARCH 12, 2002

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS ADDRESS.

A. My name is John A. Ruscilli. I am employed by BellSouth as Senior Director for State Regulatory for the nine-state BellSouth region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE.

A. I attended the University of Alabama in Birmingham where I earned a Bachelor of Science Degree in 1979, and a Master of Business Administration in 1982. After graduation I began employment with South Central Bell as an Account Executive in Marketing, transferring to AT&T in 1983. I joined BellSouth in late 1984 as an analyst in Market Research, and in late 1985 moved into the Pricing and Economics organization with various responsibilities for business case analysis, tariffing, demand analysis and price regulation. I served as a subject matter expert on ISDN tariffing in various Commission and Public Service

1 Commission (“PSC”) staff meetings in Tennessee, Florida, North Carolina and
2 Georgia. I later moved into the State Regulatory and External Affairs
3 organization with responsibility for implementing both state price regulation
4 requirements and the provisions of the Telecommunications Act of 1996 (the
5 “Act”), through arbitration and 271 hearing support. In July 1997, I became
6 Director of Regulatory and Legislative Affairs for BellSouth Long Distance, Inc.,
7 with responsibilities that included obtaining the necessary certificates of public
8 convenience and necessity, testifying, Federal Communications Commission
9 (“FCC”) and state regulatory support, federal and state compliance reporting and
10 tariffing for all 50 states and the FCC. I assumed my current position in July
11 2000.

12

13 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

14

15 A. The purpose of my testimony is to present BellSouth’s position on the four
16 unresolved issues in the negotiations between BellSouth and XO Florida, Inc.
17 (“XO”). BellSouth and XO have negotiated in good faith and have resolved many
18 of the issues raised during the negotiations. Specifically, BellSouth understands
19 that Issues 1, 2, 3, 5, 6, 7(b), 9, 10, and 12 – 14 have been resolved. If this
20 understanding is incorrect, BellSouth reserves the right to respond to these issues
21 in the rebuttal phase of this proceeding. My testimony addresses Issues 4, 7(a), 8
22 and 11 that were raised by XO in its Petition for Arbitration (“Petition”) filed with
23 the Florida Public Service Commission (“the Commission”) on August 17, 2001.

24

1 **ISSUE 4: After XO has ordered a loop, should BellSouth be allowed to modify that**
2 **loop without XO's consent?**

3
4 Q. WHAT DOES BELLSOUTH UNDERSTAND THIS ISSUE TO BE?

5
6 A. BellSouth believes that XO is concerned that BellSouth could unilaterally modify
7 a loop on which XO is providing service and that those modifications would
8 interrupt or degrade the quality of service provided to XO's customer.

9
10 Q. WHAT IS BELLSOUTH'S POSITION ON ISSUE 4?

11
12 A. While BellSouth understands XO's concerns, it is BellSouth's intention to do all
13 that it can to avoid the situation described by XO. From time to time, however,
14 BellSouth must perform loop modifications in the course of properly maintaining
15 and upgrading its network facilities. BellSouth is willing to work with ALECs in
16 a good-faith effort to coordinate the timing of such modifications. ALECs,
17 however, should not have the option to veto loop modifications. When BellSouth
18 performs loop modifications, the loop will retain the same service characteristics
19 and will retain the same technical characteristics as are outlined in BellSouth's
20 Technical Reference 73600 ("TR 73600").

21
22 Q. IF XO WANTS A LOOP CAPABLE OF PROVIDING DATA SERVICES
23 SUCH AS DIGITAL SUBSCRIBER LINE ("DSL") SERVICE, BUT DOES
24 NOT NEED OR DOES NOT WANT A DESIGNED LOOP, WHAT OPTION IS
25 AVAILABLE TO XO?

1

2 A. XO can utilize BellSouth's Unbundled Copper Loop-Non Designed ("UCL-ND")
3 offering to acquire a suitable unbundled loop and provide the data service to its
4 end user. The UCL-ND is a non-loaded copper loop that does not go through the
5 "design" process. The UCL-ND does not have a remote access test point for
6 trouble-shooting and does not come with a Design Layout Record ("DLR"). If an
7 ALEC desires additional design information for the UCL-ND it acquires, an
8 Engineering Information (EI) document can be ordered as a chargeable option.
9 The EI document provides loop make up information that is similar to the
10 information normally provided in a Design Layout Record. Since the UCL-ND
11 does not go through the design process, the cost for the UCL-ND is lower than the
12 cost for designed copper loops.

13

14 Q. IS THIS ISSUE CURRENTLY BEING CONSIDERED BY THIS
15 COMMISSION?

16

17 A. Yes. This issue has been raised before the Commission in Docket No. 990649A-
18 TP, a review of the 120-day items included in the Commission's Order No. PSC-
19 01-2051-FOF-TP (*In re: Investigation into pricing of unbundled network*
20 *elements*, Docket No. 990649-TP ("Generic UNE Docket-Phase I")), issued May
21 25, 2001. Specifically, the Commission required, in its decision on xDSL-capable
22 loops, "BellSouth to provision an SL-1 loop and guarantee not to roll it to another
23 facility, or in other words, guarantee not to convert it to an alternative
24 technology." (*Id.* p.66.) In the October 18, 2001 Order on Motions for
25 Reconsideration, the Commission noted on page 10, with regard to xDSL-capable

1 loops, "that in addressing the issue of loop makeup information and converting
2 loops to alternative technologies, we [the Commission] did not intend to preclude
3 BellSouth from identifying any non-recurring costs associated with tagging an
4 SL-1 loop."

5
6 To that end, in the testimony of BellSouth witness Daonne Caldwell, filed with
7 this Commission on November 8, 2001, in Docket No. 990649A-TP, BellSouth
8 proposed the use of a UCL-ND. As explanation, the following question and
9 answer were included in the discussion of Issue 3(a), in that testimony:

10
11 *Q. WHY DID BELLSOUTH FILE A COST STUDY FOR UCL-ND IN THIS*
12 *PHASE OF THIS DOCKET?*

13
14 *A. One of the "120-day" requirements identified by this Commission was to*
15 *determine xDSL nonrecurring costs that exclude the Design Layout*
16 *Record ("DLR"), test point, and order coordination. The Unbundled*
17 *Copper Loop – Non-Designed ("UCL-ND") fulfills that obligation. In*
18 *addition, this all copper loop offering satisfies the Commission's*
19 *requirement that BellSouth provision SL1 loops and guarantee not to roll*
20 *them onto another facility or convert them to another technology. The*
21 *UCL-ND gives the ALECs what they need to provide xDSL service, but*
22 *does not unduly restrict BellSouth in providing voice grade service over*
23 *the most efficient technology.*

24
25 **Q. IF XO ELECTS TO UTILIZE UCL-ND TO SERVE ITS END USERS THAT**
26 **DESIRE DATA SERVICES, WILL XO ENCOUNTER SERVICE**
27 **INTERRUPTIONS WHEN BELLSOUTH MODIFIES ITS FACILITIES?**

28
29 **A. No. If BellSouth plans a modification that will impact facilities that XO is using**
30 **on an unbundled basis, BellSouth will notify XO such that XO can make**
31 **arrangements to avoid service interruption. BellSouth will not, however, alter the**

1 transport facility medium during any modification for any ALEC that is utilizing
2 UCL-ND. It is possible for BellSouth to perform a modification without altering
3 the facility medium. As I stated above, it is necessary for BellSouth to be allowed
4 to perform these enhancements to maintain its network for the benefit of itself and
5 for the benefit of all ALECs providing service in Florida who acquire unbundled
6 network elements from BellSouth.

7

8 Q. WHAT IS THE APPROPRIATE RATE FOR THE UCL-ND?

9

10 A. Although, as indicated above, BellSouth filed a UCL-ND cost study in Docket
11 No. 990649A-TP, BellSouth has also requested that the Commission not use that
12 cost study for establishing rates for this UNE. As explanation, the following
13 question and answer were included in the testimony of BellSouth witness Daonne
14 Caldwell, filed with this Commission on November 8, 2001, in Docket No.
15 990649A-TP, as response to Issue 3(b):

16

17 Q. *SHOULD THIS COMMISSION USE THE COSTS FILED HERE TO SET*
18 *RATES FOR UCL-ND ELEMENTS?*

19

20 A. *No. As discussed in response to Issue 1(b), BellSouth does not believe that*
21 *the "bottoms-up" approach develops a more representative result than the*
22 *use of factors. Let me note that BellSouth has also filed the UCL-ND*
23 *elements in Docket No. 960786-TP (271 docket) based on the use of in-*
24 *plants and loading factors. Those cost studies reflect the Commission-*
25 *ordered adjustments except for the re-instatement of inflation. BellSouth*
26 *requests that the Commission establish rates for the UCL-ND related*
27 *elements in Docket No. 960786-TP once inflation is considered.*

28

29 Q. WHAT IS BELL SOUTH REQUESTING THAT THE COMMISSION FIND ON
30 THIS ISSUE?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A. BellSouth requests the Commission to find that BellSouth’s UCL-ND meets the requirements set forth by the Commission in the Generic UNE Docket-Phase I Order, as BellSouth testified in Docket No. 990649A-TP. Further, if XO wants to ensure that it will be notified if BellSouth plans to modify facilities that XO is using on an unbundled basis, and that BellSouth will not alter the transport facility medium during such modification, XO should order BellSouth’s UCL-ND.

ISSUE 7: (a) Is XO entitled to the tandem switching rate for the exchange of local traffic?

Q. WHAT IS BELLSOUTH’S POSITION ON THIS ISSUE?

A. FCC Rule 51.711(a)(3) provides that “where the switch of a carrier other than an incumbent LEC serves a geographic area comparable to the area served by the incumbent LEC’s tandem switch, the appropriate rate for the carrier other than an incumbent LEC is the incumbent LEC’s tandem interconnection rate.” XO has not demonstrated that it is entitled to the tandem switching rate in Florida.

Q. IS IT ENOUGH FOR XO TO SHOW THAT ITS SWITCH “CAN” SERVE A GEOGRAPHIC AREA COMPARABLE TO THAT SERVED BY BELLSOUTH’S TANDEM SWITCH?

A. No. In order for XO to be entitled to the tandem switching rate, XO must show that the particular geographic area that the XO switch actually serves is

1 comparable to the geographic area served by BellSouth's tandem switch. The
2 Staff Recommendation in Docket No. 000075-TP addresses the definition of
3 "comparable geographic area." In its Recommendation on Issue 12(c), the Staff
4 states,

5 . . . a "comparable geographic area," pursuant to FCC Rule 51.711, is a
6 geographic area that is roughly the same size as that served by an ILEC
7 tandem switch. Staff recommends that an ALEC "serves" a comparable
8 geographic area when it has deployed a switch and has opened
9 NPA/NXXs to serve the exchanges within this area. In addition, staff
10 recommends that the ALEC must show that it is serving this area either
11 through its own facilities, or a combination of its own facilities and leased
12 facilities connected to its collocation arrangements in ILEC central
13 offices.

14 XO has made no such showing.

15

16 Q. WHAT IS BELLSOUTH ASKING OF THE COMMISSION ON ISSUE 7?

17

18 A. BellSouth is asking the Commission to find that until XO can make a showing
19 that the XO switch actually serves a geographic area comparable to the
20 geographic area served by the BellSouth tandem switch, that XO is not entitled to
21 the tandem switching rate.¹

22

23 **ISSUE 8: Should BellSouth be able to change the rates, terms and conditions of this**
24 **agreement by referring to the jurisdictional report requirements, rules and**
25 **regulations for Interexchange Carriers specified in BellSouth's Intrastate**
26 **Access Services Tariff?**

¹ BellSouth understands that, in Docket No. 000075-TP, the Commission established a test for establishing when a carrier is entitled to the tandem switching rate. While Staff has issued a recommendation on the issue and the Commission has voted on the issue, the Commission has yet to issue a final order. Thus, at this time, BellSouth is unclear as to what the actual elements of the test are. Once this order becomes final, BellSouth will amend its testimony to address the test set forth therein.

1

2 Q. WHAT DOES BELLSOUTH UNDERSTAND THIS ISSUE TO BE?

3

4 A. BellSouth understands that this issue refers only to section 5.8 of Attachment 3 to
5 the Parties' Interconnection Agreement. This section provides, in pertinent part,
6 that "all jurisdictional reporting requirements, rules and regulations for
7 Interexchange Carriers specified in BellSouth's Intrastate Access Services Tariff
8 will apply to XO." XO wants to add language providing that should a conflict
9 arise between tariff requirements and any provision in the Parties' Interconnection
10 Agreement, the provisions of the Agreement will govern.

11

12 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

13

14 A. BellSouth's position is that any modifications to the Intrastate Access Services
15 Tariff should automatically apply to XO. To do otherwise would lead to
16 discriminatory application of BellSouth's Intrastate Access Services Tariff among
17 the ALECs using that tariff. ALECs could accuse BellSouth of offering
18 discriminatory behavior if some rates, terms and/or conditions provided via an
19 Interconnection Agreement were better than the tariff prices, or vice versa.

20

21 Q. IN GENERAL, WHY DOES BELLSOUTH FILE TARIFFS?

22

23 A. Generally, BellSouth files tariffs to enable it to offer the same services, at the
24 same terms and conditions, to large groups of similarly situated users. This is true
25 for each of BellSouth's tariffs. Inherent in the tariff process is the fact that

1 BellSouth is offering services in a non-discriminatory manner.

2

3 Q. PLEASE COMMENT ON THE FOLLOWING STATEMENT FOUND IN
4 PARAGRAPH 43 OF XO'S PETITION: "BELLSOUTH SHOULD NOT BE
5 ABLE TO UNILATERALLY IMPOSE RATES, TERMS OR CONDITIONS ON
6 XO THAT IT DEVELOPS INDEPENDENTLY IN ITS GUIDEBOOKS OR
7 TARIFFS."

8

9 A. BellSouth cannot unilaterally impose rates, terms or conditions as XO suggests.
10 The conditions under which a tariff or guidebook would be referenced in an
11 agreement would be stated in the Parties' Interconnection Agreement, and both
12 parties must agree to terms included in the Agreement. In addition, parties have
13 ample opportunity to challenge a BellSouth tariff filing or change in a guidebook
14 that may affect that company's relationship with BellSouth.

15

16 Q. WHY IS BELLSOUTH PROPOSING TO TREAT SECTION 5.8 OF
17 ATTACHMENT 3 DIFFERENTLY THAN SECTIONS 5.6 AND 5.7?

18

19 A. BellSouth is proposing that services provided to XO, in its capacity as an ALEC,
20 be provided out of the Interconnection Agreement. Sections 5.6 and 5.7 refer to
21 Percent Local Use and Percent Local Facility, factors that apply to XO in its
22 capacity as an ALEC. The Interconnection Agreement is the appropriate vehicle
23 to govern BellSouth's relationship with the ALEC.

24

25 The difference in Section 5.8 is that it refers to Percent Interstate Use ("PIU"), a

1 factor that applies to XO in its capacity as an Interexchange Carrier (“IXC”).
2 Should a conflict arise between BellSouth’s Intrastate Access Services Tariff and
3 the provision in the Parties’ Interconnection Agreement relating to PIU reporting,
4 the provision of the Tariff, the appropriate vehicle to govern BellSouth’s
5 relationship with an IXC, should govern.

6
7 BellSouth files tariffs and changes to those tariffs frequently, as the needs of its
8 business change. To incorporate XO’s proposed language into the
9 Interconnection Agreement does not prevent BellSouth from making changes to
10 tariffs that XO and all BellSouth customers may use. What the language does is
11 place XO in a dictatorial position of using Most Favored Nation conditions to
12 pick and choose between the Interconnection Agreement and BellSouth’s
13 tariff/guidelines, and thus possibly subjecting BellSouth to charges of
14 discrimination as discussed above.

15
16 Q. WHAT IS BELLSOUTH ASKING OF THIS COMMISSION ON ISSUE 8?

17
18 A. BellSouth asks the Commission to find that it is not necessary for BellSouth to
19 incorporate XO’s proposed language into Section 5.8 of Attachment 3 of the
20 Parties’ Interconnection Agreement.

21
22 **ISSUE 11: Should BellSouth be subject to the same credit and deposit requirements**
23 **as XO when purchasing services from XO?**

24
25 Q. WHAT IS BELLSOUTH’S POSITION ON THIS ISSUE?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A. BellSouth's position is that BellSouth should not be subject to the same credit and deposit requirements as XO when BellSouth purchases services from XO.

Q. WHAT IS THE BASIS FOR BELLSOUTH'S POSITION?

A. BellSouth is legally obligated to make available resold services and UNEs to any ALEC, at nondiscriminatory rates, terms and conditions. Because ALECs have varying degrees of assets and credit worthiness, it is entirely appropriate for BellSouth to seek some protection against uncollectable debts by requiring ALECs to pay deposits on a nondiscriminatory basis. On the other hand, a deposit should not be required from BellSouth, on an indiscriminate basis, just because BellSouth purchases services from the ALEC (in this case XO) and requires a deposit from the ALEC for services the ALEC purchases from BellSouth.

Q. PLEASE COMMENT ON THE CONCLUSION XO DRAWS IN PARAGRAPH 52 OF ITS PETITION WITH REGARD TO "CREDIT WORTHINESS AND DEPOSIT REQUIREMENTS."

A. XO states, in paragraph 52, "Equity demands that the Interconnection Agreement treat credit worthiness and deposit requirements similarly when they involve the purchase of similar services." Therefore, according to XO, the language in the Interconnection Agreement "should be reciprocal so as to apply to both parties equally." BellSouth certainly does not agree with XO's conclusion.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BellSouth must determine the credit worthiness and deposit requirements for each ALEC equitably. If, after analysis, it is determined that an ALEC's credit worthiness does not require a deposit, BellSouth does not indiscriminately require a deposit. Likewise, a deposit should not indiscriminately apply to BellSouth just because BellSouth purchases services from XO and requires a deposit from XO for services XO purchases from BellSouth.

Q. WHAT INFORMATION DOES BELLSOUTH USE TO DETERMINE THE AMOUNT OF SECURITY DEPOSIT TO REQUIRE FROM AN ALEC?

A. BellSouth uses several tools when reviewing a customer to determine credit risk, and requisite security deposit, including D&B's (formerly Dun & Bradstreet) Risk Assessment Manager (RAM) in conjunction with internal and external ALEC specific information, and Moody's Accelerate program.

Q. PLEASE DISCUSS BRIEFLY HOW BELLSOUTH USES THE ABOVE-MENTIONED INFORMATION TO DETERMINE SECURITY DEPOSIT REQUIREMENTS.

A. First, BellSouth gathers information, (e.g., D&B rating, number of years in business, information on how the ALEC pays others, management background, and liens, lawsuits, judgments or other filings) from D&B. BellSouth also uses any prior payment history the ALEC has with BellSouth. In addition, BellSouth follows the stock movement (if any) of the ALEC, and also monitors any news or

1 other articles regarding the ALEC.

2

3 The ALEC's financial information is gathered and entered by BellSouth
4 personnel, into Moody's Accelerate, a software package used to assess the
5 ALEC's financial stability. Based on the information (easily found on an
6 ALEC's financial statements), Moody's Accelerate calculates a score that
7 provides BellSouth with a good analysis of where the ALEC stands financially
8 compared to other competitors, and also provides a tool for analyzing the ALEC's
9 financial stability over time.

10

11 Finally, all of the information gathered and/or developed above is input into RAM
12 for final scoring. The final RAM Score generally determines whether or not a
13 security deposit, or additional security deposit, is necessary.

14

15 Q. HOW OFTEN DOES THIS ANALYSIS PROCESS TAKE PLACE?

16

17 A. BellSouth performs a credit analysis on all ALECs prior to initiating service with
18 the ALEC. Subsequent to the initial analysis, BellSouth will monitor customer
19 accounts for significant changes in monthly billing volumes, changes in legal
20 structure, addition of new Q accounts, credit risk (i.e., payment history and/or
21 financial condition), as well as periodically to update older profiles.

22

23 Q. ONCE BELLSOUTH DETERMINES THAT A SECURITY DEPOSIT IS
24 NECESSARY, HOW IS THE AMOUNT DETERMINED?

25

1 A. All deposits or other forms of security will be negotiated between the ALEC and
2 BellSouth. The amount of the deposit is to be equal to not more than two (2)
3 months of the ALEC's estimated monthly usage.

4

5 Q. WHAT IS BELLSOUTH REQUESTING OF THE COMMISSION ON ISSUE
6 11?

7

8 A. BellSouth is requesting that the Commission find that it is inappropriate for XO to
9 require a security deposit from BellSouth for services provided just because
10 BellSouth requires a security deposit from XO for those same services.

11

12 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

13

14 A. Yes.

15

16 PC DOCS #428099v2