

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 990649A-TP

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In the Matter of

INVESTIGATION INTO PRICING  
OF UNBUNDLED NETWORK  
ELEMENTS (BELLSOUTH TRACK).

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VOLUME 1

Pages 1 through 182



PROCEEDINGS: HEARING  
BEFORE: CHAIRMAN LILA A. JABER  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER MICHAEL A. PALECKI  
DATE: Monday, March 11, 2002  
TIME: Commenced at 9:35 a.m.  
PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida  
REPORTED BY: LINDA BOLES, RPR  
Official FPSC Reporter  
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24

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CHAIRMAN JABER: Let's go on the record. Counsel, read the notice.

MR. KNIGHT: Good morning. Notice was given on February 8th, 2001, in Docket Number 990649A-TP, Investigation into the Pricing of Unbundled Network Elements, the BellSouth Track, that a hearing would be heard at this time and place for the purpose set forth in the notice.

CHAIRMAN JABER: Let's take appearances. You know, and if you all don't mind making our life a little bit easier and going by the order that's reflected on the prehearing order, that would be great. That would be -- well, Ms. White is not even here.

MR. MEZA: This is Jim Meza on behalf of BellSouth. With me is Andrew Shore and Patrick Turner.

MR. HATCH: Tracy Hatch with the law firm of Messer, Caparello & Self, PA, appearing on behalf of AT&T Communications of the Southern States, LLC.

MS. McNULTY: Donna McNulty appearing on behalf of MCI WorldCom, Inc.

MR. FONS: John Fons with the Ausley Law Firm representing Sprint Communications Company Limited Partnership. Also appearing with me is Susan Masterton, Post Office Box 2214, Tallahassee, Florida.

MR. GROSS: Michael Gross on behalf of Florida Cable

1 Telecommunications Association.

2 MR. FEIL: Matthew Feil on behalf of Florida Digital  
3 Network.

4 MR. MCGLOTHLIN: Joe McGlothlin of the McWhirter,  
5 Reeves Law Firm for Z-Tel Communications.

6 CHAIRMAN JABER: Anyone from AllTel?

7 MR. FONS: I believe that they were excused earlier,  
8 Chairman.

9 CHAIRMAN JABER: Oh, thank you.

10 MR. KNIGHT: And Wayne Knight and Beth Keating on  
11 behalf of the Florida Public Service Commission.

12 CHAIRMAN JABER: Thank you. Are there any other  
13 appearances that need to be made?

14 Okay. Staff, I understand there are a list of  
15 preliminary matters.

16 MR. KNIGHT: Yes, Chairman. The first matter regards  
17 Staff's stipulated Exhibit Number 17, which is FDN's discovery.  
18 Staff believes that there's an issue there that FDN would like  
19 to address.

20 CHAIRMAN JABER: Mr. Feil?

21 MR. FEIL: Yes, Madam Chairman. Last night it was  
22 discovered that some of the math and tabulations on stipulated  
23 Exhibit Number 17 were incorrect. It's a confidential exhibit.  
24 We're in the process now of correcting those errors. Since  
25 it's a confidential exhibit, my suggestion would be, if it's

1 acceptable to the parties and to you, is that if I could file  
2 as a late-filed hearing exhibit by the end of next week a  
3 substitute page for that document. It's a one-page document.  
4 I've mentioned this to Mr. Turner and he did not indicate that  
5 he had any objection, but I'll let him speak for himself.

6 CHAIRMAN JABER: Any objection?

7 MR. TURNER: No objection. The one thing I would --  
8 I may not have been listening as well as I should have. I was  
9 expecting to see a corrected copy sometime during the hearing  
10 at least.

11 MR. FEIL: Yeah. I can do that for Mr. Turner, yes,  
12 ma'am.

13 MR. TURNER: As long as I see a corrected copy before  
14 Mr. Gallagher goes on the stand, I don't think there will be a  
15 problem at all.

16 CHAIRMAN JABER: Mr. Feil, do we have to wait until  
17 next week? Why don't we just not identify this exhibit, Staff,  
18 until -- well, you're assuming we're going to be here tomorrow.  
19 Why don't we not identify it until Mr. Feil has prepared the  
20 one-page supplement.

21 MR. KNIGHT: Okay.

22 CHAIRMAN JABER: And if the hearing concludes prior  
23 to your being able to finalize the exhibit, we'll revisit the  
24 issue.

25 MR. FEIL: Well, I can, I can present a substituted

1 exhibit for Mr. Turner to review probably by tomorrow morning.  
2 But the problem I have is I will not be able to submit it to  
3 the Commission because it's confidential and I'll have to file  
4 the appropriate papers. That's why I was suggesting as a,  
5 possibly as a late-filed hearing exhibit next week.

6 CHAIRMAN JABER: I understand. But we won't identify  
7 it until the end of the day and we'll go from there.

8 MR. FEIL: Thank you.

9 CHAIRMAN JABER: Is that all right, Staff?

10 MR. KNIGHT: Yes. The second item is BellSouth's two  
11 requests for qualified representatives of Mr. Andrew Shore and  
12 Mr. Jim Meza.

13 CHAIRMAN JABER: Okay. Any objection to the request  
14 for a qualified representative for Mr. Andrew Shore and  
15 Mr. James Meza? Seeing none, those requests are granted.

16 MR. KNIGHT: The third item is from Mr. John Fons,  
17 counsel for Sprint. I believe they have a request.

18 MR. FONS: Chairman Jaber, Sprint Communications has  
19 just one issue in this proceeding we've addressed. We think  
20 that that particular issue can be adequately handled by the  
21 other Intervenors, and we would ask the Commission's permission  
22 to withdraw from the hearings that will extend only through  
23 today, and I'm sure that our absence will make that happen.

24 CHAIRMAN JABER: Yeah. Your absence will expedite  
25 this proceeding, I'm sure.

1 Any objection to Sprint's request to be excused from  
2 the hearing? Seeing none, your request is granted.

3 MR. FONS: Thank you very much. Happy birthday.

4 COMMISSIONER DEASON: Thank you.

5 MR. KNIGHT: The last preliminary matter is a request  
6 from Mr. McGlothlin of Z-Tel regarding the order of witnesses.

7 MR. McGLOTHLIN: Chairman Jaber, if necessary, we'd  
8 like a small accommodation. We would like to take Dr. George  
9 Ford by the end of today's business, if possible. That would  
10 allow his attorney to deal with some conflicts tomorrow.

11 CHAIRMAN JABER: Is there any objection to taking  
12 Mr. Ford out of order?

13 MR. SHORE: BellSouth has no objection.

14 CHAIRMAN JABER: Great. Now, Mr. McGlothlin, just at  
15 the end of the day or --

16 MR. McGLOTHLIN: He will be here this afternoon, so  
17 at whatever point is appropriate during the day is fine.

18 CHAIRMAN JABER: Would you just let me know when he's  
19 here and when it would be a good breaking point to take him?

20 MR. McGLOTHLIN: Yes, I will.

21 CHAIRMAN JABER: Thank you. Anything else, Mr.  
22 Knight?

23 MR. KNIGHT: That concludes preliminary matters.

24 CHAIRMAN JABER: All right. BellSouth, any  
25 preliminary matters?

1 MR. MEZA: Yes, ma'am. One matter is that Mr. Keith  
2 Milner is going to adopt the testimony of Witness  
3 Jerry Kephart. BellSouth has filed a letter indicating such,  
4 as well as an attachment with Mr. Milner's experience and CV.  
5 And we just ask that Mr. Milner be allowed to adopt the  
6 testimony of Mr. Kephart in this proceeding.

7 CHAIRMAN JABER: Any objection?

8 MR. FEIL: Madam Chairman, FDN doesn't have any  
9 objection. I just wanted to ask clarification though. Is  
10 it -- am I safe in assuming that Mr. Milner also adopts Mr.  
11 Kephart's deposition testimony and any discovery responses he  
12 may have provided?

13 MR. MEZA: Yes.

14 MR. FEIL: Thank you. That's all. No objection.

15 CHAIRMAN JABER: All right. Mr. Meza, at the right  
16 time, when we insert the testimony into the record, we will  
17 allow Mr. Milner to adopt Mr. Kephart's testimony.

18 MR. MEZA: Thank you.

19 CHAIRMAN JABER: Any other preliminary matters,  
20 BellSouth?

21 MR. SHORE: Madam Chair, I'm Andrew Shore from  
22 BellSouth. Just one other -- it came to my attention just this  
23 morning that in the prehearing order in this case does not  
24 identify an exhibit to Mr. Ruscilli's surrebuttal testimony.  
25 Mr. Ruscilli had originally stated in his testimony in response

1 to Mr. Gallagher of FDN doing the same that he was  
2 incorporating by reference his testimony from the FDN  
3 arbitration with BellSouth.

4 Staff was -- counsel for Staff was kind enough to  
5 point out that we needed to actually file that along with his  
6 testimony. We've done that, but I don't believe it's reflected  
7 as Exhibit 1 in Mr. Ruscilli's testimony and we'd request that  
8 that be so reflected.

9 CHAIRMAN JABER: So it is now part of Mr. Ruscilli's  
10 testimony?

11 MR. SHORE: That's correct, Madam Chair.

12 CHAIRMAN JABER: Staff, that's correct?

13 MR. KNIGHT: Yes, Commissioner.

14 CHAIRMAN JABER: And all the parties have copies and  
15 are aware of this?

16 All right. When we take up Mr. Ruscilli's testimony,  
17 remind me to identify that separately for purposes of the  
18 hearing.

19 MR. SHORE: Certainly. Thank you very much.

20 CHAIRMAN JABER: Okay. Mr. Hatch, any preliminary  
21 matters?

22 MR. HATCH: Only one potential. Mr. Gillan is not  
23 here. He's due in this afternoon. He's scheduled or we  
24 anticipated he would be on tomorrow. I don't know how fast  
25 we'll get done today, if that could create a problem or not,

1 but I just wanted to put you on notice that that could be  
2 something we need to address.

3 CHAIRMAN JABER: Ms. McNulty?

4 MS. McNULTY: That covers everything.

5 CHAIRMAN JABER: Mr. Feil, I think we've taken up  
6 your preliminary matters.

7 MR. FEIL: Yes. And similar to what Mr. Hatch said,  
8 Mr. Gallagher will be here later this afternoon, but I'm not  
9 sure exactly what time. I'll alert him to the need for him to  
10 be here. But we didn't anticipate, since he's the last  
11 witness, him getting up until tomorrow morning at the earliest.

12 CHAIRMAN JABER: Okay. Let me tell the parties  
13 though going forward that the speed in which these hearings  
14 will now move is something you all need to reconsider. We are  
15 moving quickly, so your witnesses need to be available when we  
16 are ready.

17 Mr. McGlothlin?

18 MR. McGLOTHLIN: Nothing further.

19 CHAIRMAN JABER: Mr. Gross?

20 MR. GROSS: Chairman Jaber, I would appreciate it if  
21 I may be excused from today's hearing at 4:00 today. The FCTA  
22 is not offering any testimony or exhibits, we're monitoring  
23 this docket, and I have another obligation at five, at 5:00.

24 CHAIRMAN JABER: Mr. Gross, seeing no objection to  
25 your request, it's granted.



1 MR. GROSS: Thank you.

2 CHAIRMAN JABER: Thank you.

3 Staff, anything else?

4 MR. KNIGHT: Stipulated exhibits, Your Honor.

5 CHAIRMAN JABER: Let's do that after opening  
6 statements and when we start identifying exhibits.

7 MR. KNIGHT: Okay. Thank you, Chairman.

8 CHAIRMAN JABER: The parties have waived opening  
9 statements?

10 MR. FEIL: In the interest of speed.

11 CHAIRMAN JABER: Very good. You set up your birthday  
12 present that time. Excellent.

13 All right. Mr. Knight, let's start on the exhibits.

14 MR. KNIGHT: The first stipulated exhibit is  
15 BellSouth's Response To The First Interrogatories, Items 1  
16 through 67, and the First Request For Production Of Documents,  
17 Non-Proprietary, Items 1 through 18, and Second Set Of  
18 Interrogatories, Items 68 through 70.

19 CHAIRMAN JABER: Staff's Stipulated Exhibit 1 will be  
20 identified as Exhibit 1 for the hearing.

21 (Exhibit 1 marked for identification.)

22 MR. KNIGHT: Stipulated Exhibit Number 2 is AT&T's  
23 Response To Staff's First Interrogatories, Items 1 through 10,  
24 and First Request For Production Of Documents, Items 1 through  
25 3.

1 CHAIRMAN JABER: Will be identified as Exhibit 2 for  
2 the hearing.

3 (Exhibit 2 marked for identification.)

4 MR. KNIGHT: Number 3 is, Stipulation 3 is  
5 BellSouth's Response to Staff's Third Interrogatories, Items 71  
6 through 86; second Request For Production Of Documents, Item 19  
7 through 21, including the CD response to Item 19; the Revised  
8 Responses To The First Interrogatories, Items 9 and 10; Revised  
9 Responses To The First Interrogatories, Item 62; the Revised  
10 Responses To The First Request For Production Of Documents,  
11 Items 12, 14 and 16.

12 CHAIRMAN JABER: Will be Exhibit 3 for the hearing.

13 (Exhibit 3 marked for identification.)

14 CHAIRMAN JABER: And let me just note for the record  
15 that all of the -- it looks like, Staff, all of your stipulated  
16 exhibits are composite exhibits.

17 MR. KNIGHT: Yes, they are.

18 CHAIRMAN JABER: Okay. Next?

19 MR. KNIGHT: Stipulation Number 4 is AT&T/MCI's  
20 Response To Staff's Second Interrogatories, Items 11 through  
21 21; and Second Request For Production Of Documents, Items 4  
22 through 22.

23 CHAIRMAN JABER: Composite Exhibit 4 for the hearing.

24 (Exhibit 4 marked for identification.)

25 MR. KNIGHT: Stipulation Number 5 is FDN's Response

1 To Staff's First Interrogatories, Items 1 through 26; and First  
2 Request For Production Of Documents, Items 1 through 3.

3 CHAIRMAN JABER: Identified for the hearing as  
4 Composite Exhibit 5.

5 (Exhibit 5 marked for identification.)

6 MR. KNIGHT: Stipulation Number 6 is Z-Tel's Response  
7 To Staff's First Interrogatories, Item 1; the Amended Response  
8 To The First Interrogatories; the Responses To The First  
9 Request For Production Of Documents, Items 1 through 3.

10 CHAIRMAN JABER: Identified as Exhibit 6 for the  
11 hearing.

12 (Exhibit 6 marked for identification.)

13 MR. KNIGHT: Stipulation Number 7 is BellSouth's  
14 Response To AT&T/MCI's First Set Of Interrogatories, Items 1  
15 through 17; and First Request For Production Of Documents,  
16 Items 1 through 10. Those are dated 1/15/02.

17 CHAIRMAN JABER: Identified as Composite Exhibit 7  
18 for the hearing.

19 (Exhibit 7 marked for identification.)

20 MR. KNIGHT: Stipulation Number 8 is BellSouth's  
21 Response To FDN's First Interrogatories, Item 1; and their  
22 First Request For Production Of Documents.

23 CHAIRMAN JABER: Composite Exhibit 8 for the hearing.

24 (Exhibit 8 marked for identification.)

25 MR. KNIGHT: Stipulation Number 9 is a confidential

1 exhibit. It's Confidential Document Number 00389-02 -  
2 AT&T/MCI's Responses To Staff's First Interrogatories, Numbers  
3 1(c), 3(a) and 3(b); and Staff's First Request For Production  
4 Of Documents, Number 3.

5 CHAIRMAN JABER: That will be Composite Exhibit  
6 Number 9.

7 (Exhibit 9 marked for identification.)

8 CHAIRMAN JABER: Mr. Knight, do the parties have this  
9 list?

10 MR. KNIGHT: I don't know if they have the latest  
11 version, but they, they did have, I believe, a copy that we  
12 originally sent to you.

13 CHAIRMAN JABER: Okay. Are there any objections to  
14 any Staff stipulated exhibits other than 17 that we've already  
15 discussed?

16 MR. FEIL: Commissioner, FDN doesn't have an  
17 objection. The list I have is dated February 28th. I don't  
18 know whether or not anything has changed since that time.

19 CHAIRMAN JABER: Okay. Go ahead, Mr. Knight.

20 In the future you may want to think about actually  
21 giving the stipulated list out so we could just run through  
22 them and identify the exhibits.

23 MS. KEATING: We apologize, Madam Chairman. We had  
24 actually sent out this list, and it's my understanding that  
25 there was a last-minute revision. I don't believe it actually

1 affected the order. But you're right, we could, we could  
2 probably just go ahead and identify these individually without  
3 actually reading through the --

4 CHAIRMAN JABER: That's all right. We're getting  
5 ideas as we go along.

6 Okay. We're on Exhibit 10; right?

7 MR. KNIGHT: Right. Would you like me to continue  
8 reading through this?

9 CHAIRMAN JABER: Go ahead, because I don't know what  
10 it is you revised.

11 MR. KNIGHT: Okay. Exhibit 10 is a confidential  
12 exhibit, Document Number 00216-02 - BellSouth's Response To  
13 Staff's First Request For Production Of Documents, Item 1.

14 CHAIRMAN JABER: That would be Exhibit 10.

15 (Exhibit 10 marked for identification.)

16 MR. KNIGHT: Confidential Exhibit Number 11 is  
17 Document Number 00849-02 - BellSouth's Response To FDN's First  
18 Request For Production Of Documents, Item 1, Attachment 1.

19 CHAIRMAN JABER: That will be Exhibit 11.

20 (Exhibit 11 marked for identification.)

21 MR. KNIGHT: Exhibit 12 is Confidential Document  
22 Number 00545-02 - BellSouth's Responses To -- there may be a --  
23 excuse me just one moment.

24 BellSouth's Responses To Staff's First Request For  
25 Production of Documents, Items 1, 2, 3(a) through 3(f), and 7,

1 as well as BellSouth's First Request, First Interrogatories,  
2 Items 9 through 18.

3 CHAIRMAN JABER: That would be Exhibit 12 for the  
4 hearing.

5 (Exhibit 12 marked for identification.)

6 MR. KNIGHT: Exhibit 13 is Confidential Document  
7 Number 01555-02, BellSouth's Responses To AT&T/MCI's Second Set  
8 Of Interrogatories, Item 20, Attachments 1 and 2.

9 CHAIRMAN JABER: Exhibit Number 13 for the hearing.

10 (Exhibit 13 marked for identification.)

11 MR. KNIGHT: Exhibit 14 is Confidential Document  
12 Number 00852-02 - BellSouth's Response To Staff's Second  
13 Request For Production Of Documents, Item 21, which is a  
14 CD-ROM.

15 CHAIRMAN JABER: It's identified as Exhibit 14.

16 (Exhibit 14 marked for identification.)

17 MR. KNIGHT: Exhibit 15 is Confidential Document  
18 Number 00978-02 - AT&T/MCI's Revised Responses To Staff's First  
19 Interrogatories, Item 62; and First Request For Production Of  
20 Documents, Item 13, 14 and 16.

21 CHAIRMAN JABER: Identified as Exhibit 15.

22 (Exhibit 15 marked for identification.)

23 MR. KNIGHT: Exhibit 16 is Confidential Document  
24 00986-02, AT&T/MCI's Responses To Staff's Second  
25 Interrogatories, Items 4, 5, 6, 13 and 15.

1 CHAIRMAN JABER: Be identified as Exhibit 16 for the  
2 hearing.

3 (Exhibit 16 marked for identification.)

4 CHAIRMAN JABER: Staff, I think for the sake of  
5 consistency we should identify Exhibit 17, the next one, but  
6 not admit it into the record until we hear back from Mr. Feil  
7 and from BellSouth.

8 MR. KNIGHT: Okay. Exhibit 17 is Confidential  
9 Document 01087-02 - FDN's Response To Staff's First Request For  
10 Production Of Documents, Item 1.

11 CHAIRMAN JABER: That would be Exhibit 17.

12 (Exhibit 17 marked for identification.)

13 MR. KNIGHT: Exhibit 18 is Confidential Document  
14 01891-02 - BellSouth's Responses To Staff's Third Request For  
15 Production Of Documents, Item 23, Attachment 1, 2 and 3.

16 CHAIRMAN JABER: Identified as Exhibit 18.

17 (Exhibit 18 marked for identification.)

18 MR. KNIGHT: Exhibit 19 is Confidential Document  
19 02323-02 - BellSouth's Responses To Staff's Fifth  
20 Interrogatories, Item 92, the attachment included; and Item 96,  
21 Attachment 1, 2 and 3; as well as Item 98, Attachment 1, 2 and  
22 3.

23 CHAIRMAN JABER: Be identified as Exhibit 19.

24 (Exhibit 19 marked for identification.)

25 MR. KNIGHT: Exhibit 20 is Confidential Document

1 01558-02 - BellSouth's Responses To AT&T/WorldCom's Third  
2 Interrogatories, Item 27, Attachment 1; and Item 36,  
3 Attachments 1 through 4.

4 CHAIRMAN JABER: That will be Exhibit 20.

5 (Exhibit 20 marked for identification.)

6 MR. KNIGHT: Exhibit 21 is Confidential Document  
7 02487-02, which is AT&T/MCI's Responses To Staff's Third  
8 Interrogatories, Item 28(c) and (e); and Third Request For  
9 Production Of Documents, Item 29.

10 CHAIRMAN JABER: Identified as Exhibit 21.

11 (Exhibit 21 marked for identification.)

12 MR. KNIGHT: Exhibit 22 is BellSouth's Revised  
13 Responses To Staff's First Interrogatories, Items 18 and 24;  
14 Staff's Fourth Interrogatories; Staff's Third Request For  
15 Production Of Documents; Staff's Fifth Interrogatories, Items  
16 19, sorry, 92 through 98.

17 CHAIRMAN JABER: That will be Exhibit 22.

18 (Exhibit 22 marked for identification.)

19 MR. KNIGHT: Exhibit 23 is BellSouth's Response To  
20 Staff's Third Interrogatories, Items 22 through 29; and Staff's  
21 Third Request For Production Of Documents, Items 23 through 30.

22 CHAIRMAN JABER: That will be identified as Exhibit  
23 23.

24 (Exhibit 23 marked for identification.)

25 MR. KNIGHT: Exhibit 24 is all versions, are all



1 versions of cost models filed in Docket 990649-TP and  
2 990649A-TP.

3 CHAIRMAN JABER: That will be identified as Exhibit  
4 24.

5 (Exhibit 24 marked for identification.)

6 MR. KNIGHT: Exhibit 25 is the deposition transcript  
7 and the late-filed deposition exhibits Numbers 1 and 2 of  
8 Mr. Kephart.

9 CHAIRMAN JABER: Identified as Exhibit 25.

10 (Exhibit 25 marked for identification.)

11 MR. KNIGHT: Exhibit 26 are the deposition transcript  
12 and late-filed deposition exhibits Number 1 of BellSouth  
13 witness Mr. Stegeman.

14 CHAIRMAN JABER: Identified as Exhibit 26.

15 (Exhibit 26 marked for identification.)

16 MR. KNIGHT: Number 27 is Ms. Caldwell's deposition  
17 transcript and exhibits.

18 CHAIRMAN JABER: Identified as Exhibit 27.

19 (Exhibit 27 marked for identification.)

20 MR. KNIGHT: Exhibit 28 is Document Number 00981-02,  
21 a confidential late-filed deposition exhibit to the deposition  
22 of Ms. Daonne Caldwell, Attachment A.

23 CHAIRMAN JABER: Identified as Exhibit 28.

24 (Exhibit 28 marked for identification.)

25 MR. KNIGHT: Exhibit 29 is BellSouth witness

1 Williams' deposition transcript.

2 CHAIRMAN JABER: It's Exhibit 29 for the hearing.

3 (Exhibit 29 marked for identification.)

4 MR. KNIGHT: And Exhibit 30 is AT&T/MCI's witness

5 Darnell's deposition transcript.

6 CHAIRMAN JABER: Exhibit 30.

7 (Exhibit 30 marked for identification.)

8 MR. KNIGHT: Exhibit 31 are the late-filed deposition

9 exhibits of AT&T and MCI's witness Darnell.

10 CHAIRMAN JABER: Identified as Exhibit 31.

11 (Exhibit 31 marked for identification.)

12 MR. KNIGHT: Exhibit 32 is Document 01001-02, the

13 confidential late-filed deposition Exhibit Number 3 of witness

14 Darnell.

15 CHAIRMAN JABER: It's identified as Exhibit 32.

16 (Exhibit 32 marked for identification.)

17 MR. KNIGHT: Exhibit 33 is the deposition transcript

18 of AT&T and MCI's witness Mr. Pitkin.

19 CHAIRMAN JABER: Identified as Exhibit 33.

20 (Exhibit 33 marked for identification.)

21 MR. KNIGHT: Number 34 is the late-filed deposition

22 exhibits of witness Pitkin.

23 CHAIRMAN JABER: Identified as Exhibit 34.

24 (Exhibit 34 marked for identification.)

25 MR. KNIGHT: Number 35 would be document 01001-02,

1 the confidential late-filed deposition Exhibit Number 2 of  
2 AT&T/MCI's witness Pitkin.

3 CHAIRMAN JABER: It's identified as Exhibit 35.  
4 (Exhibit 35 marked for identification.)

5 MR. KNIGHT: Exhibit 36 would be the deposition  
6 transcript of AT&T/MCI's witness Mr. Donovan.

7 CHAIRMAN JABER: It's identified as Exhibit 36.  
8 (Exhibit 36 marked for identification.)

9 MR. KNIGHT: Next would be the late-filed deposition  
10 exhibits of Witness Donovan.

11 CHAIRMAN JABER: That's Exhibit 37.  
12 (Exhibit 37 marked for identification.)

13 MR. KNIGHT: 38 would be the deposition transcript of  
14 FDN's witness Mr. Gallagher.

15 CHAIRMAN JABER: That's Exhibit 38.  
16 (Exhibit 38 marked for identification.)

17 MR. KNIGHT: And last would be the late-filed  
18 deposition exhibits of witness Gallagher.

19 CHAIRMAN JABER: That will be identified as Exhibit  
20 39.

21 (Exhibit 39 marked for identification.)

22 CHAIRMAN JABER: Now, Staff, check me on this. I  
23 have that the confidential exhibits are Hearing Exhibits 9, 10,  
24 11, 12 through 21, 28, 32, 35, and that's it.

25 MR. KNIGHT: That would be correct, Chairman. We

1 have one correction to make.

2 On Number 28, the confidential late-filed deposition  
3 exhibit on Ms. Caldwell's submission, we meant to say Number 7,  
4 Attachment 1 is the correct identifier.

5 CHAIRMAN JABER: I'm sorry. You've confused me  
6 there. Say that again. Exhibit 28 --

7 MR. KNIGHT: Exhibit 28, the confidential late-filed  
8 deposition exhibit for the deposition of Daonne Caldwell, it  
9 should be Item Number 7, Attachment 1. I believe we identified  
10 it as Attachment A.

11 CHAIRMAN JABER: Oh, okay. All right. We'll clarify  
12 that Exhibit 28 is confidential late-filed depo exhibit to Ms.  
13 Caldwell's deposition.

14 MR. KNIGHT: Right.

15 CHAIRMAN JABER: And Item 7, Attachment 1. Right?

16 MR. KNIGHT: Correct.

17 CHAIRMAN JABER: Okay. Any objection to any of those  
18 exhibits? Seeing none, we're going to admit all of the  
19 exhibits, but for Exhibit 17, into the record at this time.

20 (Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,  
21 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30,  
22 31, 32, 33, 34, 35, 36, 37, 38 and 39 admitted into the  
23 record.)

24 CHAIRMAN JABER: Staff, what else?

25 MR. KNIGHT: I think we can proceed with witnesses.

1 CHAIRMAN JABER: All right. Let me ask the witnesses  
2 in the room to please stand and raise their right hand.

3 (Witnesses collectively sworn.)

4 COMMISSIONER JACOBS: Thank you. Before we get  
5 started, let me give some direction to the witnesses. We want  
6 to hear your testimony. We want you to start your responses  
7 with a yes or no answer, where that's possible, and elaborate  
8 after your affirmative response with a yes or a no.

9 I'm going to ask counsel not to interrupt each other.  
10 Obviously there will be objections that need to be made. Let's  
11 try not to talk over each other. Let's try not to interrupt  
12 each other because the court reporter needs to take the  
13 testimony down accurately.

14 With that, call your first witness.

15 MR. SHORE: BellSouth calls John Ruscilli.

16 CHAIRMAN JABER: Now, Staff, because of the revised  
17 testimony, you've prepared an order of witnesses sheet. Do the  
18 parties and Commissioners have that? I know I have a new copy.

19 MS. KEATING: Actually it wasn't intended as really a  
20 change to the order of witnesses, just an indication that there  
21 may -- I didn't know if the parties might bring that up. The  
22 list there is actually a list of additional testimony and  
23 exhibits that was not referenced in the prehearing order  
24 because it came in after the prehearing conference.

25 CHAIRMAN JABER: And do the Commissioners have this

1    though? Commissioners, do you have something that looks like  
2    this?

3               MR. KNIGHT: All of the Commissioners should have had  
4    a copy.

5               CHAIRMAN JABER: It would be easier to follow.

6               MS. KEATING: They were mainly provided to the  
7    assistants to aid and prepare in the Commissioner's packets.

8               CHAIRMAN JABER: We'll go along and get started,  
9    Commissioners. And during the break I'll make sure Staff gets  
10   you a copy. It may be easier to follow than the prehearing  
11   order. I'm not sure.

12              All right. Mr. Ruscilli. Go ahead.

13              MR. SHORE: Thank you, Madam Chair.

14                                JOHN A. RUSCILLI

15   was called as a witness on behalf of BellSouth  
16   Telecommunications, Inc. and, having been duly sworn, testified  
17   as follows:

18                                DIRECT EXAMINATION

19   BY MR. SHORE:

20              Q    Mr. Ruscilli, could you state your full name for the  
21   record, please.

22              A    My name is John Anthony Ruscilli.

23              Q    And by whom are you employed and in what capacity?

24              A    I'm employed by BellSouth Telecommunications. I'm  
25   Senior Director of State Regulatory.

1 Q Mr. Ruscilli, have you caused to be prepared and  
2 prefiled in this docket 14 pages of surrebuttal testimony?

3 A I have.

4 Q And if I were to ask you the same questions today  
5 that appear in your surrebuttal testimony, would your answers  
6 be the same?

7 A Yes, they would.

8 MR. SHORE: Madam Chair, I'd request that  
9 Mr. Ruscilli's surrebuttal be inserted into the record as if  
10 read.

11 COMMISSIONER JABER: Yes. The surrebuttal testimony  
12 of John A. Ruscilli shall be inserted into the record as though  
13 read.

14 BY MR. SHORE:

15 Q Mr. Ruscilli, do you have any exhibits to your  
16 testimony that you prepared or were prepared under your  
17 direction?

18 A Yes. I have an exhibit, JAR-1.

19 MR. SHORE: And I would ask, Madam Chair, that that  
20 exhibit be marked for identification at this time.

21 CHAIRMAN JABER: JAR-1 shall be identified as Exhibit  
22 40.

23 (Exhibit 40 marked for identification.)  
24  
25

1 BELL SOUTH TELECOMMUNICATIONS, INC.  
2 SURREBUTTAL TESTIMONY OF JOHN A. RUSCILLI  
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION  
4 DOCKET NO. 990649A-TP  
5 DECEMBER 26, 2001  
6

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

10

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

14

15 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

16

17 A. No.

18

19 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS  
20 PROCEEDING?

21

22 A. The purpose of my testimony is to respond to portions of the Rebuttal  
23 Testimony filed with this Commission on December 10, 2001, by Joseph  
24 Gillan and Greg Darnell on behalf of the AT&T Communications of the  
25 Southern States, Inc. ("AT&T") and MCI WorldCom, Inc. ("WorldCom"), and



1 on December 7, 2001, by George S. Ford on behalf of Z-Tel Communications,  
2 Inc. ("Z-Tel") and by Michael P. Gallagher on behalf of Florida Digital  
3 Network, Inc. ("FDN").

4

5 Q. DO YOU HAVE ANY GENERAL COMMENTS REGARDING MR.  
6 GILLAN'S TESTIMONY?

7

8 A. Yes. Mr. Gillan does not address any of the issues established for resolution  
9 in this phase of the proceeding in the Commission's Order Approving Issues  
10 and Creating Sub-Dockets, issued October 29, 2001 (Order No. PSC-01-2132-  
11 PCO-TP). Mr. Gillan's testimony also does not make any reference to or even  
12 purport to rebut any of the direct testimony filed by BellSouth's witnesses on  
13 November 8, 2001.

14

15 Mr. Gillan characterizes his testimony's purpose as that of stepping back and  
16 describing the "forest" in an effort to place the opposing recommendations of  
17 the alternative local exchange carriers ("ALECs") and BellSouth into a context  
18 that makes comparisons simpler (and more relevant). However, in reality, Mr.  
19 Gillan's testimony is nothing more than a rehashing of the issues he addressed  
20 in BellSouth's Section 271 proceeding (Docket No. 960786-TP). The status of  
21 local competition in Florida and whether BellSouth provides efficient ALECs a  
22 meaningful opportunity to compete are not issues in this proceeding. To the  
23 extent the Commission determines that it is appropriate to consider Mr.  
24 Gillan's testimony in deciding the issues in this docket, which I do not believe

25

1 it should for the reasons set forth above, I will respond to his "rebuttal"  
2 testimony so that the record in this proceeding is complete.

3

4 Q. ON PAGE 3, MR. GILLAN CONTENDS THAT THE FUTURE OF LOCAL  
5 COMPETITION IS DIRECTLY RELATED TO UNE RATES. DO YOU  
6 AGREE?

7

8 A. No. As Mr. Gillan is well aware, the Telecommunications Act of 1996 ("Act")  
9 sets forth three competitive entry methods: Resale, unbundled network  
10 elements ("UNEs"), and facilities-based. ALECs are currently providing  
11 competitive local services in Florida through each of these entry methods. In  
12 fact, as competition matures, there is an expected migration from resale and  
13 UNE-based competition to facilities-based competition. All indicators point to  
14 a broad-based growing level of competition in Florida. As described in  
15 BellSouth's Section 271 case before this Commission, where the status of local  
16 competition was discussed extensively, ALECs were serving over 800,000  
17 access lines in Florida as of February 2001. Through the end of October 2001,  
18 the number of ALEC-provided access lines in Florida had risen to almost 1.1  
19 million.

20

21 The Act requires UNE rates to be cost-based. That is the only relevant  
22 standard and other considerations, such as those put forth by Mr. Gillan, are  
23 not appropriate for consideration in setting UNE rates.

24

25

1 Q. ON PAGES 4-7 AND EXHIBIT JPG-1, MR. GILLAN CONTENDS THAT  
2 BELLSOUTH'S SGAT RATES FOR UNES ARE SO UNFAVORABLE TO  
3 ALECS THAT, IF BELLSOUTH WERE TO ATTEMPT SERVING THE  
4 MARKET TODAY AS AN ALEC, IT WOULD FIND ITS PROFITS  
5 SHRINKING DRAMATICALLY. DO YOU AGREE?

6

7 A. No. This contention by Mr. Gillan is based on the same analysis he raised in  
8 the 271 proceeding and BellSouth's response is the same as it was in that  
9 proceeding. The bulk of Mr. Gillan's case in this regard is made in his Exhibit  
10 JPG-1, which purports to be a hypothetical income statement for a BellSouth  
11 that operates in Florida solely by leasing UNEs from some other source. To  
12 this end, Mr. Gillan replaces BellSouth's own embedded costs of operating its  
13 network with the payments Mr. Gillan estimates BellSouth would make for  
14 leased UNEs sufficient to serve the current level of demand.

15

16 Mr. Gillan does not provide any basis to calculate or verify the claimed level of  
17 UNE lease payments of over \$2 billion [Exhibit JPG-1]. These omissions  
18 make it impossible to determine whether Mr. Gillan's calculations are even  
19 remotely correct. Further, I find it inconceivable that any local exchange  
20 carrier would attempt to serve BellSouth's current level of demand in Florida  
21 by using UNEs alone, i.e., with no facilities of its own. Mr. Gillan makes no  
22 recognition of the fact that ALECs:

23 1) have no obligation to serve the entire service territory of BellSouth  
24 in Florida and can therefore choose to serve only the lower cost,  
25 more profitable areas and customers.

1                   2) have the option to make use of resale or their own facilities if those  
2                   options are more economically viable.

3

4                   Finally, this Commission is charged under federal law with establishing UNE  
5                   rates that are cost-based. Mr. Gillan's unsupported analysis is irrelevant in that  
6                   regard.

7

8 Q.           HAVE DR. FORD AND MR. DARNELL CORRECTLY DESCRIBED THE  
9           "TELRIC TEST" AS THE MECHANISM FOR ASSESSING THE  
10           APPROPRIATENESS OF THE UNE RATES IN FLORIDA?

11

12 A.           No. Mr. Darnell contends that the relationship of TELRIC costs to embedded  
13           costs and the population density of a state should form the basis for  
14           determining whether UNE rates are reasonable. Dr. Ford focuses almost his  
15           entire testimony on the use of the "TELRIC Test," which also considers the  
16           relationships of UNE rates and HCPM-generated costs across states. Both of  
17           these witnesses seem to ignore the fact that the Commission has conducted  
18           extensive cost proceedings that resulted in the establishment of UNE rates  
19           based on the FCC's TELRIC principles. As such, there is no need to conduct  
20           this "TELRIC Test" for Florida UNE rates. In the SWBT Arkansas/Missouri  
21           Order<sup>1</sup>, the FCC reaffirmed that the comparison of one state's rates to another  
22           state's rates is only needed "when a state commission does not apply TELRIC

23

24

25 <sup>1</sup> *Joint Application by SBC Communications Inc. Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Arkansas and Missouri*, CC Docket 01-194, Memorandum Opinion and Order, FCC 01-338, para. 56 (2001) (SWBT Arkansas/Missouri Order)

1 or does so improperly.” The TELRIC test is a secondary way to show  
2 compliance with the TELRIC principles. It is not the only way, and definitely  
3 not the primary way.

4

5 Q. ON PAGE 4, MR. GALLAGER CLAIMS THAT BELLSOUTH’S DLCS  
6 PRECLUDE ALECS FROM OFFERING DSL SERVICES. DOES  
7 BELLSOUTH OFFER UNES THAT ALLOW AN ALEC TO PROVIDE ITS  
8 OWN XDSL SERVICE IN FLORIDA?

9

10 A. Yes. As Mr. Williams explains in his rebuttal testimony, BellSouth offers  
11 UNES that allows an ALEC to transport data from its packet switch to a  
12 DSLAM it collocates at a remote terminal, and BellSouth provides UNES that  
13 allow an ALEC to transport data from a DSLAM it collocates at a remote  
14 terminal to its end user’s premises. BellSouth, therefore, offers ALECs all the  
15 UNES it needs to provide its own xDSL service in Florida. Additionally, as Mr.  
16 Williams further explains in his rebuttal testimony, BellSouth will permit a  
17 requesting carrier to deploy a Digital Subscriber Line Access Multiplexer  
18 (DSLAM) at the remote terminal, pedestal or environmentally controlled vault  
19 or other interconnection point. In the unlikely event that BellSouth cannot  
20 accommodate such collocation of a DSLAM at a given location (and that  
21 BellSouth is unable to provide a virtual collocation arrangement at these  
22 subloop interconnection points), BellSouth will provide unbundled packet  
23 switching to that particular location, as required by the FCC’s UNE Remand  
24 Order.

25

1 Q. ON PAGES 11-16 OF HIS TESTIMONY MR. GALLAGHER COMPARES  
2 THE RETAIL CHARGES FOR BELLSOUTH'S XDSL-BASED SERVICES  
3 WITH THE PROPOSED MONTHLY RATE FOR BELLSOUTH'S HYBRID  
4 LOOP OFFERING. IS AN ALEC'S ABILITY TO PROFITABLY PROVIDE  
5 XDSL SERVICE RELEVANT IN THE ESTABLISHMENT OF COST-  
6 BASED RATES?

7  
8 A. No. The pricing standard is not whether UNE-based entry is profitable at these  
9 cost-based rates, but are the UNE rates cost-based. The FCC stated, in its  
10 *Massachusetts Order*, "[i]n the *SWBT Kansas/Oklahoma Order*, the  
11 Commission held that this profitability argument is not part of the section 271  
12 evaluation of whether an applicant's rates are TELRIC-based. The Act  
13 requires that we review whether the rates are cost-based, not whether a  
14 competitor can make a profit by entering the market. Conducting a  
15 profitability analysis would require us to consider the level of a state's retail  
16 rates, because such an analysis requires a comparison between the UNE rates  
17 and the state's rates. Retail rate levels, however, are within the state's  
18 jurisdictional authority, not the Commission's." *Massachusetts Order* ¶ 41  
19 (footnote omitted).

20  
21 Q. ON PAGE 24, MR. GALLAGER ENCOURAGES THE COMMISSION TO  
22 REQUIRE BELLSOUTH TO PROVIDE PACKET SWITCHING ON AN  
23 UNBUNDLED BASIS. HAS THE FLORIDA PUBLIC SERVICE  
24 COMMISSION PREVIOUSLY ADDRESSED WHETHER BELLSOUTH  
25 MUST UNBUNDLE PACKET SWITCHING FUNCTIONALITY?

1  
2 A. Yes. The Commission declined to require BellSouth to provide unbundled  
3 packet switching in two arbitration proceedings. In Order No. PSC-00-1519-  
4 FOF-TP in Docket No. 991854-TP (BellSouth –Intermedia Arbitration) at page  
5 34, for instance, the Commission found “that BellSouth shall only be required  
6 to unbundled its packet switching capabilities under the limited circumstances  
7 identified in FCC Rule 51.319(c)(5).” Similarly in Order No. PSC-00-0128-  
8 FOF-TP in Docket No. 990691-TP (BellSouth –ICG Telecom Arbitration) at  
9 page 7, the Commission found that “packet-switching capabilities are not  
10 UNEs”.

11  
12 Additionally, in Docket No. 990649-TP (the generic cost docket), the  
13 Commission found that “there are no other elements or combinations of  
14 elements that we shall require BellSouth to unbundle at this time.” See Order  
15 No. PSC-01-1181-FOF-TP at page 370.

16  
17 Q. ON PAGE 21 OF HIS TESTIMONY MR. GALLAGER CONTENDS THAT  
18 ALECS ARE IMPAIRED IN THEIR ABILITY TO OFFER THEIR OWN  
19 XDSL SERVICE IF BELLSOUTH DOES NOT UNBUNDLE ITS PACKET  
20 SWITCHING FUNCTIONALITY AND ITS DSLAMS IN ADDITION TO  
21 UNBUNDLING ITS LOOPS. DO YOU AGREE?

22  
23 A. No. The FCC squarely addressed this question in its *UNE Remand Order*,  
24 explaining:

25

1           *We recognize that equipment needed to provide advanced services,*  
2           *such as DSLAMs and packet switches are available on the open market*  
3           *at comparable prices to incumbents and requesting carriers alike.*

4           *Incumbent LECs and their competitors are both in the early stages of*  
5           *packet switch deployment, and thus face relatively similar utilization*  
6           *rates of their packet switching capacity.* *Packet switching utilization*  
7           *rates will differ from circuit switching utilization rates because of the*  
8           *incumbent LEC's monopoly position as a carrier of last resort.*

9           *Incumbent LEC switches, because they serve upwards of 90 percent of*  
10          *the circuit switched market, may achieve higher utilization rates than*  
11          *the circuit switched market, may achieve higher utilization rates than*  
12          *the circuit switches of requesting carriers. Because the incumbent LEC*  
13          *does not retain a monopoly position in the advanced services market,*  
14          *packet switch utilization rates are likely to be more equal as between*  
15          *requesting carriers and incumbent LECs. It therefore does not appear*  
16          *that incumbent LECs possess significant economies of scale in their*  
17          *packet switches compared to the requesting carriers.*

18          *Id.* at ¶308. (Emphasis added.).

19  
20          The FCC went on to state: “We further decline to unbundle specific packet  
21          switching technologies incumbent LECs may have deployed in their  
22          networks.” *Id.* at ¶311.

23  
24          Additionally, the FCC has acknowledged that there is “burgeoning  
25          competition” to provide advanced services, *Id.* at ¶316, and this “burgeoning



1 competition” exists without unbundled access to ILEC advanced services  
2 equipment. The existence of this competition alone precludes a finding of  
3 impairment. As the FCC said in the *UNE Remand Order*, “we find the  
4 marketplace to be the most persuasive evidence of the actual ability of  
5 alternatives as a practical, economic, and operational matter.” *Id.* at ¶66. This  
6 competition, however, is not all that supports the decision not to unbundle  
7 packet switching functionality. This decision also is supported by a number of  
8 other FCC findings, including that the advanced services business is “nascent,”  
9 that the pre-conditions of natural monopoly are absent, that several  
10 technologies are well positioned to provide advanced services to the end-user  
11 customer, and that ILECs, if anything, trail in the deployment race.<sup>1</sup>

12  
13 Clearly, ALECs are not impaired by the fact that neither packet switching  
14 functionality nor the DSLAM is available as a UNE because ALECs can  
15 purchase, install, and utilize these elements just as easily and just as cost-  
16 effectively as BellSouth. It can then use this equipment in combination with  
17 either its own facilities, facilities it obtains from a third party, or UNEs it  
18 obtains from BellSouth to provide its own xDSL service to its customers. I  
19 discuss the impairment standard further in the testimony I filed in BellSouth’s  
20 arbitration with FDN, Docket No. 010098-TP. Because Mr. Gallagher  
21 incorporates his testimony from that docket into this one, I hereby incorporate  
22 my testimony herein by reference so that the record is complete.

23  
24 <sup>1</sup> *In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications*  
25 *Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate*  
*Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, CC Docket No. 98-  
146, *Second Report*, FCC 00-290, released August 21, 2000, at ¶¶ 70, 94-111.

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4 Q. ON PAGE 13, MR. DARNELL CLAIMS THAT BELLSOUTH HAS BILL  
5 AND KEEP ARRANGEMENTS WITH SOME INDEPENDENT  
6 TELEPHONE COMPANIES ("ICOS") FOR DAILY USAGE FILE ("DUF")  
7 INFORMATION. IS THIS TRUE?

8

9 A. No. As described further below, BellSouth does not provide DUF information  
10 to ICOs.

11

12 Q. DOES BELLSOUTH PROVIDE DIFFERENT TYPES OF USAGE  
13 INFORMATION TO CARRIERS?

14

15 A. Yes. BellSouth provides different usage information to carriers that have their  
16 own switches, which include ICOs and ALECs, than to carriers that make use  
17 of BellSouth's local switching UNE, which only includes ALECs. BellSouth  
18 also provides multiple types of usage information to specific carriers. One type  
19 of usage information allows carriers to bill its end users; the second type allows  
20 carriers to bill other carriers. This latter distinction is relevant for the usage  
21 information that BellSouth provides both to ICOs and to ALECs.

22

23 Q. WHAT USAGE INFORMATION DOES BELLSOUTH PROVIDE TO  
24 CARRIERS WHO OWN THEIR OWN SWITCHES?

25

1 A. BellSouth provides two types of usage records to these carriers, which could be  
2 ICOs or ALECs. Both types of records are provided via an industry standard  
3 usage exchange mechanism called the Centralized Message Distribution  
4 System ("CMDS"). The first type of usage records that BellSouth provides to  
5 the carrier is usage records for third-number billed or collect calls that are  
6 placed by the carrier's end users while in BellSouth territory and that are to be  
7 billed by the carrier to its end user. The carrier, whether it is an ICO or an  
8 ALEC, pays BellSouth for these records.

9  
10 The second type of usage records that BellSouth provides to carriers that have  
11 their own switch are usage records used in a Meet-Point Billing ("MPB")  
12 scenario. These records enable inter-carrier billing. On occasion, BellSouth  
13 will jointly provide a telecommunications service to an Interexchange Carrier  
14 ("IXC") or to an ALEC with another carrier. For example, suppose an IXC  
15 and an ICO are both interconnected with BellSouth at BellSouth's access  
16 tandem in Jacksonville. If the ICO's end user places a call that transits  
17 BellSouth's access tandem and is to be billed by the IXC, then BellSouth and  
18 the ICO have jointly provided originating access to the IXC. In this example,  
19 BellSouth is providing the tandem and perhaps some portion of interoffice  
20 transport, and the ICO is providing the end office switching and perhaps some  
21 portion of the transport. BellSouth, as the tandem provider, will make the  
22 recording for the call and send the ICO a usage record. The ICO will take all  
23 of these usage records for a given period of time, summarize them, bill the IXC  
24 for its portion of the traffic, and then send to BellSouth summary usage records  
25 for BellSouth to bill its portion of the originating access to the IXC. This

1 process ensures that both the ICO and BellSouth bill the IXC for exactly the  
2 same amount of traffic. Because both the ICO and BellSouth are providing  
3 each other with usage records, the exchange is done at no charge to either  
4 party. The scenario I have just described could also occur between BellSouth  
5 and an ALEC that has its own switch. In that case, BellSouth and the ALEC  
6 would also exchange these usage records at no charge to either party.

7

8 Q. WHAT USAGE INFORMATION DOES BELLSOUTH PROVIDE TO  
9 CARRIERS WHO USE BELLSOUTH'S LOCAL SWITCHING UNE?

10

11 A. As I mentioned earlier, this category of carriers will only include ALECs,  
12 because ICOs always have their own switches. BellSouth provides ALECs  
13 with usage records via the access daily usage file ("ADUF") that provides the  
14 necessary information for ALECs to bill other carriers. ADUF includes the  
15 detail for calls originating from or terminating to unbundled switch ports  
16 (whether a standalone switch port or one provided in combination with a loop)  
17 so that the ALEC can bill access to an IXC or bill reciprocal compensation to  
18 another local provider. BellSouth also provides ALECs with the Optional  
19 Daily Usage File ("ODUF"). In contrast to ADUF, ODUF provides records for  
20 non-access calls such as third-number billed, collect calls and local calls  
21 originated by the ALEC's end user. Thus, ODUF provides the necessary  
22 information for ALECs to bill their end users. ADUF and ODUF are UNEs,  
23 and ALECs pay BellSouth a cost-based rate for these records. In the case of  
24 an ALEC using BellSouth's local switching UNE, all of the usage records are  
25 provided in one direction. That is, BellSouth provides the ALECs with usage

1 records but the ALECs provide no usage records to BellSouth (indeed, the  
2 ALEC has no information that BellSouth needs).

3

4 Q. IS IT DISCRIMINATORY FOR BELLSOUTH TO CHARGE ALECS FOR  
5 ADUF RECORDS WHEN IT PROVIDES ACCESS RECORDS TO ICOS AT  
6 NO CHARGE?

7

8 A. No. First, as I described above, in the case of the usage records that BellSouth  
9 provides to ICOs or to ALECs who have their own switches, BellSouth treats  
10 both sets of carriers the same. That is, for usage records that facilitate the  
11 carrier's end user billing, BellSouth charges ICOs and ALECs for this  
12 information. In the case of usage records to facilitate intercarrier billing,  
13 BellSouth also needs certain usage records from the other carrier; therefore,  
14 BellSouth exchanges these usage records with both ICOs and ALECs at no  
15 charge. On the other hand, when BellSouth provides daily usage file records  
16 to ALECs who are using BellSouth's local switching UNE, the ALECs do not  
17 provide BellSouth with any usage information (again, the ALEC has no  
18 information that BellSouth needs). Therefore, it is appropriate and  
19 nondiscriminatory that BellSouth recover the costs of providing the daily usage  
20 file records to ALECs.

21

22 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

23

24 A. Yes.

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1 BY MR. SHORE:

2 Q Have you prepared a summary of your testimony,  
3 Mr. Ruscilli?

4 A Yes, I have.

5 Q Okay. With the Commissioners' indulgence, would you  
6 please give that?

7 A Yes, I will.

8 Good morning. The purpose of my surrebuttal  
9 testimony is to respond to portions of the rebuttal testimony  
10 filed on behalf of AT&T and WorldCom by Mr. Gillan and  
11 Mr. Darnell, as well as Z-Tel's witness Dr. Ford and Florida  
12 Digital Network's witness Mr. Gallagher.

13 First of all, Mr. Gillan's testimony does not address  
14 any of the issues established for resolution in this phase of  
15 the proceeding. The status of local competition and whether  
16 BellSouth provides efficient ALECs a meaningful opportunity to  
17 compete are not issues in this proceeding. Nonetheless,  
18 because Mr. Gillan addressed them in his testimony, I think  
19 it's appropriate that I respond.

20 The Telecommunications Act of 1996 labeled three  
21 competitive entry methods: Resale, unbundled network elements  
22 or UNEs and facilities-based. ALECs are currently providing  
23 competitive local services in Florida through each of these  
24 three entry methods.

25 As described in BellSouth's Section 271 case

1 currently before this Commission where the status of local  
2 competition was discussed extensively, ALECs were serving over  
3 800,000 lines, access lines, excuse me, as of February 2001.  
4 Through the end of October 2001 the number of ALEC-provided  
5 access lines in Florida has risen to almost 1.1 million.  
6 Mr. Gillan also contends that BellSouth's profits would shrink  
7 dramatically if it were to attempt serving the market today as  
8 an ALEC.

9           It is inconceivable that any local exchange carrier  
10 would attempt to serve BellSouth's current level of demand in  
11 Florida solely using UNEs with no facilities of its own.

12           Mr. Gillan also fails to recognize that ALECs have no  
13 obligation to serve the entire service territory of BellSouth  
14 in Florida and can, therefore, choose to only serve the  
15 customers with lower cost, more profitable areas -- excuse me.  
16 May I -- let me reread that. I said something wrong. And can,  
17 therefore, choose to serve only the lower cost, more profitable  
18 areas and customers, or the fact that ALECs have the option to  
19 make use of resale of their own facilities, if those options  
20 are more economically viable.

21           This Commission is charged under federal law with  
22 establishing UNE rates that are cost-based. Mr. Gillan's  
23 unsupported testimony is irrelevant in that regard.

24           Second, Dr. Ford and Mr. Darnell contend that a  
25 secondary test mechanism the FCC uses to compare UNE rates in



1 Section 271 proceedings should be used to assess the  
2 appropriateness of the UNE rates in Florida.

3 Both of these witnesses seem to ignore the fact that  
4 this Commission has conducted extensive cost proceedings that  
5 resulted in the establishment of UNE rates based on the FCC's  
6 TELRIC principles. As such, there's no need and it would not,  
7 and it would be inappropriate to establish UNE rates in Florida  
8 based on a secondary comparison test.

9 Finally, Mr. Gallagher of FDN is asking this  
10 Commission to require BellSouth to unbundle its packet  
11 switching network throughout the State of Florida. Both this  
12 Commission and the FCC have addressed the issue of whether an  
13 ILEC is required to generally unbundle the packet switching  
14 functionality, and both have ruled that except in limited  
15 circumstances the ILEC is not required to do so.

16 FDN's request for the Commission to establish a new  
17 UNE should be denied. FDN's request does not meet the  
18 impairment standard established by the FCC in its UNE remand  
19 order.

20 BellSouth offers UNEs to ALECs that allow for the  
21 transport of data signals from packet switches to the remote  
22 terminal and from the remote terminal to the customers'  
23 premises. The FCC recognized that ALECs are able to get the  
24 equipment they need to provide DSL services from the open  
25 market at prices comparable to what is available to the ILEC.

1           ALECs are not impaired by the fact that BellSouth  
2 provides neither packet switching nor the DSLAM as a UNE  
3 because ALECs can purchase, install and utilize these elements  
4 just as easily and just as cost-effectively as BellSouth. Once  
5 the ALEC has the requisite equipment, the ALEC can use this  
6 equipment in combination with its own facilities, facilities of  
7 a third party or with UNEs it obtains from BellSouth to provide  
8 its own xDSL service to its customers. Besides not meeting the  
9 impairment setting, wholesale unbundling of the packet  
10 switching functionality and provision of the DSLAM as an  
11 unbundled network element is not good public policy.

12           BellSouth has invested a substantial amount of money  
13 as well as other resources to develop its packet switching  
14 functionality. It is a fact, indeed one recognized publicly by  
15 AT&T's CEO, that companies will not continue to invest their  
16 resources if competitors, who have not made any investment, can  
17 obtain the benefits of that investment without taking any risk.  
18 That is exactly what FDN is requesting the Commission to allow  
19 here.

20           BellSouth should not be required to unbundle its  
21 packet switching functionality except in the limited  
22 circumstances put forth by the FCC and upheld by this  
23 Commission in its arbitration decisions addressing this issue,  
24 including the decision last week in the BellSouth/Supra  
25 arbitration.

1           In addressing BellSouth's provision of daily usage  
2 file information, Mr. Darnell incorrectly asserts that  
3 BellSouth does not charge independent telephone companies for  
4 the same DUF information, that's Daily Usage File Information,  
5 that it charges ALECs for. BellSouth does not provide DUF  
6 information to independent companies. BellSouth provides  
7 different usage information to carriers that have their own  
8 switch, whether they're independent companies or ALECS, than to  
9 carriers that make use of a BellSouth local switching UNE,  
10 which would only include an ALEC. ICOs always have their own  
11 switches.

12           For usage records that facilitate the carrier's end  
13 user billing, BellSouth charges ICOs and ALECs for this  
14 information. In the case of usage records used to facilitate  
15 intercarrier billing, BellSouth also needs certain records from  
16 the other carrier. Therefore, BellSouth will exchange these  
17 records with both ICOs and ALECs at no charge. In contrast,  
18 when BellSouth provides daily usage file records to ALECs who  
19 are using BellSouth's local switching UNE, the ALECs do not  
20 provide BellSouth with any usage information. The ALEC, for  
21 that matter, doesn't have any information that BellSouth needs.  
22 Therefore, it's appropriate and nondiscriminatory that  
23 BellSouth recover the costs of providing those daily usage file  
24 records to ALECs.

25           Thank you. That concludes my summary.

1 MR. SHORE: Thank you, Mr. Ruscilli.

2 Madam Chair, Mr. Ruscilli is available for  
3 cross-examination.

4 CHAIRMAN JABER: Thank you. Mr. Hatch, I'm starting  
5 with you and going in this order for the rest of the hearing.  
6 Is that all right with you all? Okay.

7 MR. HATCH: No questions for Mr. -- we have generally  
8 split them up, so it's usually either I or Donna.

9 CHAIRMAN JABER: Okay.

10 CROSS EXAMINATION

11 BY MS. McNULTY:

12 Q Good morning, Mr. Ruscilli. I'm Donna McNulty on  
13 behalf of WorldCom.

14 A Good morning, Ms. McNulty. Is it McNulty?

15 Q Yes, it is.

16 A Good morning. Thank you.

17 Q The Telecommunications Act of 1996 allows CLECs three  
18 ways of entering the local market, as you mentioned in your  
19 summary. It's through resale, UNEs or by using their own  
20 facilities; correct?

21 A That's correct.

22 Q On Page 4 of your rebuttal testimony, you state that  
23 you find it inconceivable that any local exchange carrier would  
24 attempt to serve BellSouth's current level of demand in Florida  
25 by using UNEs alone; i.e., with no facilities of its own. Do

1 you recall that?

2 A Yes.

3 Q Technically an ALEC providing service using UNE-P  
4 could offer residential service throughout an ILEC's territory;  
5 isn't that right?

6 A It certainly could.

7 Q And if the pricing is right, an ALEC using UNE-P  
8 would more likely offer services throughout an ILEC's  
9 territory, would you agree?

10 A Could I have that one more time, please?

11 Q If the pricing is right, an ALEC using UNE-P would  
12 more likely offer services throughout an ILEC's territory?

13 A And I guess I'm confused on what do you mean "the  
14 pricing"? The pricing of what?

15 Q The pricing to provide UNE-P.

16 A Okay. I wouldn't necessarily agree in the context of  
17 how I responded in my testimony.

18 If an ALEC were to serve the entire State of Florida  
19 and be the carrier in the State of Florida, that's presuming  
20 that it would have the obligation to serve any and all  
21 customers, including those customers that are more costly to  
22 provide.

23 ALECs that use UNE-Ps or resale or their own  
24 facilities just have the option to serve the customers where  
25 they can make the most money.

1           The Act only requires that the prices that we charge  
2 be TELRIC-compliant, not necessarily so the pricing is right,  
3 as you said in your question, so the ALECs make money  
4 everywhere.

5           Q     Assuming the Commission sets rates that are  
6 TELRIC-compliant and are economical, an ALEC using UNE-P could  
7 offer, would most likely offer it throughout BellSouth's  
8 territory.

9           A     Assuming that the Commission sets rates that are  
10 TELRIC-compliant, an ALEC could offer service throughout  
11 BellSouth's entire region. But given that, it may not be  
12 priced, as you said in your earlier question, where they make  
13 money in every circumstance.

14          Q     Are, are you aware that in some states like New York  
15 MCI/WorldCom provides residential local service throughout an  
16 ILEC's territory?

17          A     I'm aware that in New York, a state that already has  
18 long distance competition, MCI is providing service there.  
19 Yes.

20          Q     And are you aware that MCI/WorldCom was providing  
21 service in New York prior to Verizon's entry into the long  
22 distance market?

23          A     Yes, at a very limited level, but they were providing  
24 it.

25          Q     And it did so by using UNE-P?

1           A     I, I don't know specific if it was UNE-P or resale,  
2 but I know that MCI was involved in that market.

3           Q     And currently the Telecommunications Act of 1996 does  
4 not prohibit BellSouth from entering the local residential  
5 market in states outside of its region, does it?

6           A     No, it does not.

7           Q     And to date BellSouth has not entered the local  
8 residential market on a widespread basis in another state  
9 outside of its region, has it?

10          A     We have entered the local residential market in the  
11 State of Florida in a CLEC option that's inside our region.  
12 Outside of our region I don't think we have any local  
13 residential service. I know we have some business  
14 opportunities.

15          Q     And why haven't you entered the local residential  
16 market on a widespread basis in other states?

17          A     It's just not our current business model.

18          Q     When BellSouth does enter the local residential  
19 market on a widespread basis, for example, if it decides to  
20 offer service in Verizon-Florida's territory, surely BellSouth  
21 doesn't plan to duplicate the existing Verizon-Florida's  
22 network, does it?

23          A     I don't know that we have any specific plans on how  
24 we would enter, enter another ILEC's territory and what methods  
25 we would use. I think we would examine the market and

1 determine what would be the best method for BellSouth.

2 Q Would you agree that it would be uneconomic to  
3 replicate an existing network in its entirety when you could  
4 enter the market using other services?

5 A I don't know that I could agree or disagree with  
6 that. That's really a very broad question that you're asking.  
7 I think that BellSouth's approach, if it were to enter another  
8 market, would be very similar to what ALECs are doing. They  
9 would look at the market that was there and the available  
10 customers.

11 I haven't seen any ALEC that's come forward and said  
12 I want to be an ILEC and be the sole carrier in the State of  
13 Florida or any state in the union. I don't think you would  
14 enter a market that way.

15 MS. McNULTY: Thank you. I have no further  
16 questions.

#### 17 CROSS EXAMINATION

18 BY MR. FEIL:

19 Q Good morning, Mr. Ruscilli. I have just a few  
20 questions for you.

21 A Good morning, Mr. Feil.

22 Q Isn't it correct that you have no personal knowledge  
23 as to whether or not BellSouth has available space in its RTs  
24 for CLECs to collocate DSLAMs?

25 A I have no personal knowledge of the space that's



1 available in an RT or a DSLAM. But I do have knowledge that if  
2 we have space, we will make it available. If we don't have  
3 space and you want to collocate a DSLAM, we will do so. We  
4 will make the space for you.

5 Q Thank you. You're not a lawyer and you're not  
6 rendering a legal opinion here today in your testimony, are  
7 you?

8 A No. I'm not a lawyer.

9 Q Okay. Can I refer you to Page 7, Lines 8 through 19,  
10 of your testimony?

11 A Yes.

12 Q Basically if I could summarize what you're saying  
13 here is that the cost is the cost and the rates are the rates,  
14 and as long as the rates are, reflect the costs, then that's  
15 all that matters. Is that a fair summary?

16 A That, that's pretty accurate.

17 Q Okay. Are you aware that the U.S. Court of Appeals  
18 for the DC Circuit has held that as part of a public interest  
19 determination, the FCC, in evaluating cost-based rates, has to  
20 consider whether those rates would pose a price squeeze?

21 A Yes. They did remand that back to the FCC and the  
22 FCC spoke to that in the most recent Rhode Island order.

23 Q I wanted to hand you one exhibit, if I could, please.

24 MR. FEIL: Madam Chair, if I may have the next  
25 exhibit number. I believe it's 41.

1 CHAIRMAN JABER: Let me get the exhibit. Okay. It  
2 looks like Exhibit 41 is a response to an interrogatory, Mr.  
3 Feil?

4 MR. FEIL: Yes. It would be two pages. The first  
5 page is Response To Staff Interrogatory Number 54 in the  
6 current docket. And the second page is a response to Florida  
7 Digital Interrogatory Number 2 from the arbitration case.

8 CHAIRMAN JABER: Okay. Exhibit 41.

9 (Exhibit 41 marked for identification.)

10 BY MR. FEIL:

11 Q I just have a few quick questions for you on this  
12 exhibit, Mr. Ruscilli.

13 A Yes, sir. Could you speak up just a little bit?

14 Q I'm sorry.

15 A In my age I'm not able to hear as well.

16 Q Basically I wanted, if I could, to have you compare  
17 here the numbers on the first page with the numbers on the  
18 second page. Would it be -- and I'm sorry if I'm asking you to  
19 do a little quick math here, but is it correct to say that over  
20 the last three-quarters of December 2001 BellSouth added  
21 roughly 95,000 DSL lines?

22 MR. SHORE: If I could just object. I may have  
23 misheard Mr. Feil and, if I did, I apologize. But was the  
24 question over the last three-quarters of December of 2001?

25 MR. FEIL: Over the last three-quarters of 2001.

1 MR. SHORE: I don't have any objection, if that's the  
2 question.

3 CHAIRMAN JABER: Let me remind all of the attorneys  
4 to bring the microphone closer to you all. And, Mr. Rumsey,  
5 maybe you could check the microphones for us today.

6 BY MR. FEIL:

7 Q Roughly 94,000 to 95,000 DSL lines were added in a  
8 wholesale or retail, well, I think it says wholesale and retail  
9 capacity.

10 A Right.

11 Q So that for the Year 2001, if I'm adding up the  
12 numbers for the two pages, BellSouth added roughly 138,000  
13 lines for the Year 2001, if I take the 43,291 figure on the  
14 second page.

15 A I don't think that's the correct -- maybe I'm not  
16 understanding what you're doing.

17 I think the addition is 94,000 lines. I think what  
18 we were pointing out is at the end of April 2001 we had 133,000  
19 lines, and of that amount 43,000 were added the first quarter  
20 alone, which would have been March. And so we're speaking of  
21 April data.

22 All we're pointing out is that in April, which is  
23 after the end of the first quarter, we had a total of 133,000,  
24 and that was reflected by a growth of 43; whereas, on the first  
25 page we're showing that at the beginning of the last month of

1 the fourth quarter we had 227,000 lines, which to me is a net  
2 increase of about 94,000. And that's both wholesale and  
3 retail. That's provisioned through our dot-net.

4 Q Do you recall your testimony in the FDN arbitration  
5 case?

6 A Yes, I believe so. It's been a while.

7 Q Okay. Do you recall that when you were testifying  
8 regarding how BellSouth provides its ADSL service, you at first  
9 indicated that BellSouth.net was the ISP service provider as a  
10 part of BellSouth's Fast Access Internet service, but then you  
11 changed your testimony after I presented to you a letter from  
12 Ms. White that indicated that BellSouth.net was not the ISP.  
13 Do you recall that?

14 A I do.

15 Q Okay. Looking at this first page, could you tell me  
16 why there is reference here to BellSouth.net as the retail  
17 provider?

18 A I don't know why there is. I didn't prepare this  
19 response. I think the point that is being made in this  
20 response is that about 38,000 of the lines that we're providing  
21 are being provided by other ISPs buying our wholesale DSL  
22 service, and that roughly 100 or, excuse me, 189,000 of them  
23 are being provided by BellSouth, the ISP.

24 The significance of that is that that's a good  
25 number, it's almost 20 percent, I think, are being provided by

1 other carriers today using the products that are out there.

2 Excuse me. Other ISPs. I said carriers. I meant ISPs.

3 Q And there are no carriers, there are no ALEC lines  
4 included in any of these totals; is that correct?

5 A These are lines that we are providing, either that  
6 BellSouth.net picks up and then we turn around and sell our  
7 Fast Access product through BellSouth Telecommunications, or  
8 the 38,000 lines could be that of another ISP. Who those ISPs  
9 are, I don't know. But an ISP would be like AOL or Earthlink  
10 or somebody like that, perhaps even FDN.net could be doing  
11 this. I don't know the proprietary information.

12 Q Okay. Would all of these lines carry BellSouth  
13 voice, if they carried any voice?

14 A They would be carrying BellSouth voice. That's  
15 correct.

16 Q Getting back to my question with regard to this  
17 reference to BellSouth.net, is BellSouth.net the ISP or is it  
18 not?

19 A As I said, and the FDN arbitration was corrected,  
20 BellSouth Telecommunications is ISP. BellSouth.net is a  
21 professional services company.

22 Q So this reference to BellSouth.net is an error here.  
23 It should have said BellSouth Telecommunications?

24 A I can't really speak to whether it's an error or not.  
25 I think the person that was responding was just trying to point

1 out that there's a retail version of ADSL and then the rest of  
2 it's wholesale. But I didn't prepare this so -- you know, we  
3 can debate this, but I don't know.

4 COMMISSIONER DEASON: Well, I'm still a little  
5 confused. What is BellSouth.net?

6 THE WITNESS: BellSouth.net is a corporation inside  
7 of BellSouth that provides professional services associated  
8 with Internet access, and that would be things like designing  
9 our web pages, setting up our E-mail accounts, administration  
10 of the web page, even to things associated with doing some  
11 customer care, information and then writing and developing  
12 software that our customers can use.

13 They provide that as a service professionally to  
14 BellSouth internally. They take the DSL product that we offer  
15 out of our FCC tariff and put those two together, and then  
16 BellSouth Telecommunications in turn is an ISP that markets a  
17 service called Fast Access, which is Internet access. But it's  
18 an enhanced service because it has all those enhanced features  
19 that I was just talking to you about.

20 BY MR. FEIL:

21 Q One summary question from these two pages. Would it  
22 be safe to say that BellSouth basically doubled the number of  
23 wholesale and retail data subscribers in the Year 2001?

24 A It's about a 76, 77 percent increase. It wouldn't be  
25 quite doubled. But it had a significant increase in other ISPs

1 providing lines.

2 MR. FEIL: Thank you. I have nothing further.

3 COMMISSIONER DEASON: Let me ask a question. You  
4 mentioned other ISPs and you, I think you indicated Earthlink  
5 as an example.

6 THE WITNESS: That would be an example. I don't know  
7 from a proprietary basis who's doing it or not. But Earthlink  
8 is an ISP that offers a DSL-based Internet product.

9 COMMISSIONER DEASON: So if there was a BellSouth end  
10 use customer who is getting voice services from BellSouth and  
11 they wish to acquire DSL speeds through their Internet  
12 provider, and, for example, just assume that their Internet  
13 provider currently is Earthlink and it's on a dial-up modem but  
14 they want DSL speeds, how do they go about getting that?

15 THE WITNESS: Well, if there is a consumer out there,  
16 he's a BellSouth consumer, he has BellSouth voice, a  
17 residential customer, they could by any number of ways contact  
18 an ISP. They could be surfing the web on a dial-up basis. If  
19 they were to go to BellSouth's web site, they would find that  
20 we offer our Fast Access service, which is the high speed  
21 version, for about 49 bucks. And then if they have some  
22 features, we would give it to them for about \$45. But we're  
23 not deployed everywhere.

24 They may say, well, that's a good price. They may go  
25 to another web site, say Earthlink has a web site, and they do,

1 AOL certainly has a web site, and, say, you know, click on the  
2 little icon there and say I'm interested in a fast speed, you  
3 know, a faster speed, do you have DSL, and they would offer  
4 prices out of their service.

5 Then the consumer would go through the process of  
6 choosing who I want to be my provider. If they're already  
7 dialed up with Earthlink, they may want to go to the fast  
8 version, contact Earthlink. Earthlink would determine whether  
9 or not, by contacting us, that line was available, could  
10 support DSL. If it could, Earthlink would take care of the  
11 provisioning and provide that service to the customer.

12 COMMISSIONER DEASON: So let's say the customer, as I  
13 indicated in the scenario, they're a BellSouth voice customer,  
14 they're using a dial-up modem to connect to the Internet and  
15 that that is provided by Earthlink, if they, if they call  
16 BellSouth and inquire about the availability of DSL service in  
17 their area, and let's assume that it is available in their  
18 area, what are they told?

19 THE WITNESS: Well, if they call BellSouth directly,  
20 we'll talk to them about our Fast Access product. But it's an  
21 important point that you've made. It can be available in a  
22 general area, but it's not ubiquitously deployed in an area.  
23 And I think when we were in the FDN case, I spoke of the  
24 example in Atlanta where we had DSL availability, but it wasn't  
25 in my neighborhood and it took about a year and a half before



1 it got there.

2 But they are told about our BellSouth Fast Access  
3 product and what it provides, and they're free to call us and  
4 they can call Earthlink or they can call anybody that they want  
5 to that offers Fast Access in their particular, not Fast Access  
6 but high speed access in their area.

7 COMMISSIONER DEASON: When that customer makes that  
8 inquiry, are you able to tell them at that time whether they as  
9 an individual customer could obtain DSL service?

10 THE WITNESS: It's a little more complicated than  
11 that.

12 What we'll do is we'll look in that general area to  
13 see if we even have facilities out there that support that and  
14 we'll tell them -- in my case I did it on-line. It came back  
15 with an E-mail and said, Woodstock, Georgia, is an area that  
16 we're in. And then it said, but we don't know if your  
17 particular facilities are available. And they got back to me,  
18 it was several days, almost three or four days, maybe a week,  
19 they sent me an E-mail and said that my facilities qualified.

20 So basically it's do we have the equipment out there  
21 first, because that's one requirement. And if we do, then we  
22 can provide service generally, but not ubiquitously in that  
23 area.

24 And then the second thing is a follow-up where we  
25 actually have to determine does that particular pair of wires

1 exist in a place where we can provide the services.

2 COMMISSIONER DEASON: Is there any charge for  
3 determining whether that customer has the availability of DSL  
4 to him or her?

5 THE WITNESS: To the customer?

6 COMMISSIONER DEASON: Yes.

7 THE WITNESS: No, there's not.

8 COMMISSIONER DEASON: Is there charge to a, a  
9 separate ISP to make that determination? If they inquire --  
10 say Earthlink, say this customer inquires of Earthlink and then  
11 Earthlink inquires from you as to whether that particular  
12 customer can acquire DSL services; they're charged for making  
13 that determination?

14 THE WITNESS: I don't know if there is or there is  
15 not, sir.

16 COMMISSIONER DEASON: Okay.

17 THE WITNESS: I just know I didn't have to pay a  
18 charge when I, as a customer, signed up for it.

19 COMMISSIONER PALECKI: Let me ask you, is  
20 BellSouth.net available to non-Fast Access customers as simply  
21 dial-in Internet service?

22 THE WITNESS: Can I repeat this just to make sure I  
23 understand? Are you asking me do we offer a dial-up Internet  
24 service as BellSouth Corporation?

25 COMMISSIONER PALECKI: Yes. I'm trying to understand

1 the difference or the relationship between BellSouth.net and  
2 Fast Access.

3 THE WITNESS: Well, BellSouth.net, as I said earlier,  
4 is not providing the Fast Access service. It provides the --  
5 we call it professional services, but it's basically the  
6 brains. It provides the content of the Internet as far as what  
7 you see when you log on, it provides a web page, it helps you  
8 manage your mail accounts, it helps you set up your own web  
9 page, and it develops software that end users can use to, as an  
10 example, test their DSL connection.

11 BellSouth also, and this is BellSouth  
12 Telecommunications, also offers a dial-up version where you  
13 would use a modem, just an ordinary phone line, and dial in and  
14 have an Internet account. That same Internet account would  
15 provide E-mail, would provide a web page, would help you design  
16 your own web page as far as maybe give you some software or  
17 some pointers.

18 So basically the dot-net entity -- did my mike just  
19 go out? The dot-net entity inside of BellSouth provides the,  
20 the professional services so that end users, you know, have the  
21 Internet experience.

22 COMMISSIONER PALECKI: Thank you.

23 CHAIRMAN JABER: Mr. McGlothlin.

24 MR. MCGLOTHLIN: Thank you.

25 CROSS EXAMINATION

1 BY MR. MCGLOTHLIN:

2 Q Mr. Ruscilli, I'm Joe McGlothlin for Z-Tel. My  
3 questions to you relate to that portion of your testimony that  
4 addresses Dr. Ford's application of the TELRIC test.

5 A Yes, sir.

6 Q Now it's true, is it not, that while you assert that  
7 the TELRIC test is not the primary means, you do acknowledge  
8 that it is one way with which to gauge whether UNE rates are,  
9 comply with TELRIC standards?

10 A Yes. I would acknowledge that it is a way, but it's  
11 a way that has some restrictions that were placed on it or  
12 limitations by the FCC such that the FCC said if there was a  
13 question on whether or not a state had performed a TELRIC study  
14 at all or had errors in their TELRIC study, that this test then  
15 could be used to determine if there was a reasonableness in the  
16 TELRIC rates. And to set forth that the secondary test, in my  
17 opinion, is necessary by your side would be suggesting that  
18 this Commission did not do a proper TELRIC case study or that  
19 there were fundamental flaws that this Commission overlooked.

20 Q Okay. So your assertion is not that the TELRIC test  
21 has no utility for gauging compliance. Your assertion is that  
22 it has no application in this case because of prior  
23 proceedings.

24 A That's correct.

25 Q I'm going to hand you, Mr. Ruscilli, a copy of the

1 prehearing order.

2 And, counsel, I'm going to direct him to Page 11 and  
3 ask him to read Issue 1(b).

4 Would you read that out loud, please?

5 A Oh, okay. Yes, sir. This is Section 8, Issue 1(b).  
6 "Should BellSouth's loop rate or rate structure previously  
7 approved in Order Number PSC-01-2051-FOF-TP be modified? If  
8 so, to what extent, if any, should the rates or the rate  
9 structure be modified?"

10 Q In light of that, Mr. Ruscilli, doesn't your  
11 assertion that there's no need to apply the test because of  
12 past proceedings beg the question that's been presented as an  
13 issue in this case?

14 A No. I still hold to my assertion.

15 Q Okay. Now in support of your assertion you cited  
16 Paragraph 56 of the FCC's order in the Southwestern  
17 Bell-Missouri case, did you not?

18 A Yes.

19 Q And here I'm referring to Page 5, beginning at Line  
20 20. But isn't it true that in the case involving the order  
21 that you cite, notwithstanding the assertions that the Missouri  
22 Commission had applied TELRIC standards, the FCC nonetheless  
23 did apply the TELRIC test, did it not?

24 A Yes. They did an examination of the TELRIC test, but  
25 they were very specific in when it should be applied.

1 Q All right. And they applied it there because other  
2 parties had challenged aspects of the rates that had been set  
3 by the state commission, did they not?

4 A There had been challenges -- yes, there had been  
5 challenges that were introduced.

6 Q To your knowledge have intervenors in this case  
7 challenged aspects of BellSouth's current UNE rates?

8 A Yes. They are challenging the rates here.

9 Q In fact, in the order that you cited, the FCC's order  
10 in the Missouri case, isn't it true that notwithstanding the  
11 assertions of prior TELRIC-based ratemaking, the ILEC in that  
12 case voluntarily discounted the rates that had been set by the  
13 state commission during the 271 application?

14 A I don't remember precisely if it was voluntary or  
15 not, but I'll take that subject to check.

16 Q Well, I can have you read the, the very paragraph  
17 that you cited.

18 A I'll accept it for judicial efficiency. I just  
19 couldn't recall things off the top of my head.

20 Q So you acknowledge that -- you accept my  
21 representation that there was a voluntary discount?

22 A Yes, I'll accept that. But, again, the FCC was very  
23 clear. And I think what the FCC was doing was giving guidance  
24 and direction that when you do a TELRIC study, if there is  
25 questions that a TELRIC study was not completed, was not

1 completed correctly or that there were major errors in it,  
2 then, then you would use a secondary test. And I think what  
3 the FCC was doing was just providing guidance to the industry.  
4 This Commission has performed an extensive TELRIC hearing and  
5 TELRIC study.

6 Q To which challenges have been made in this case?

7 A Right.

8 MR. McGLOTHLIN: Nothing further.

9 CHAIRMAN JABER: Mr. Gross?

10 MR. GROSS: No questions. Thank you.

11 CHAIRMAN JABER: Staff?

12 MR. KNIGHT: Staff has no questions.

13 CHAIRMAN JABER: Commissioners? Redirect.

14 MR. SHORE: Thank you, Madam Chair.

15 REDIRECT EXAMINATION

16 BY MR. SHORE:

17 Q Mr. Ruscilli, Mr. Feil asked you a question or two  
18 about your knowledge concerning space availability in BellSouth  
19 RTs in the State of Florida for ALECs to collocate DSLAMs. Do  
20 you recall those questions?

21 A Yes.

22 Q Mr. Ruscilli, do you know whether or not FDN has ever  
23 requested to collocate a DSLAM in a BellSouth remote terminal?

24 A My understanding is that they have not.

25 Q Now Mr. Feil also asked you some questions about

1 price squeeze issues. Do you recall those?

2 A Yes.

3 Q And I think you -- in response to a question from  
4 Commissioner Deason you referenced BellSouth's retail rates to  
5 residential customers for BellSouth's Fast Access service.

6 A That's correct.

7 Q Do you know what those rates are for BellSouth  
8 business customers?

9 A They're higher. They're about \$79, I think off the  
10 top of my head, for a business customer. And then if they have  
11 complete choice, it's about \$75.

12 MR. SHORE: Thank you, Mr. Ruscilli.

13 I have nothing further, Madam Chair.

14 CHAIRMAN JABER: Thank you, Mr. Shore. Thank you for  
15 your testimony.

16 I have as the next witness Mr. Milner. BellSouth, is  
17 that correct?

18 MR. MEZA: That's correct.

19 CHAIRMAN JABER: Okay. Let's call Mr. Milner to the  
20 stand.

21 MR. FEIL: Madam Chair, if I could, Exhibit 41 I'd  
22 like to move into the record. I presume that Mr. Shore would  
23 want to move Exhibit 40.

24 CHAIRMAN JABER: Thank you, Mr. Feil.

25 MR. SHORE: Thank you, Mr. Feil.



1 CHAIRMAN JABER: Exhibits 40 and 41 are admitted into  
2 the record without objection.

3 (Exhibits 40 and 41 admitted into the record.)

4 CHAIRMAN JABER: While the witness is getting ready,  
5 let me also acknowledge that BellSouth has withdrawn its Motion  
6 For Leave To File Amended Cost Study And Testimony that was  
7 filed January 28th, 2002. That's been withdrawn.

8 W. KEITH MILNER

9 was called as a witness on behalf of BellSouth  
10 Telecommunications, Inc., and, having been duly sworn,  
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MR. MEZA:

14 Q Good morning, Mr. Milner.

15 A Good morning.

16 Q Can you please state your name and address for the  
17 record.

18 A My name is W. Keith Milner, and my business address  
19 is 675 West Peachtree Street, Atlanta, Georgia.

20 Q By whom are you employed?

21 A I'm an employee of BellSouth Telecommunications,  
22 Incorporated, as Assistant Vice-President, Interconnection  
23 Services.

24 Q Are you adopting the testimony of and surrebuttal  
25 testimony of Jerry Kephart in this proceeding?

1 A Yes. That's correct.

2 Q Did Mr. Kephart prepare and prefile three pages of  
3 direct and 19 pages of surrebuttal?

4 A Yes. That's correct.

5 Q Do you have any corrections, additions or changes  
6 that you'd like to make to that testimony?

7 A Yes. I'd make one change to the surrebuttal  
8 testimony on Page 12. And the change is to strike the question  
9 and answer that begin on Line 6 and the answer concludes on  
10 Line 19.

11 Q If I were to ask you the questions posed to  
12 Mr. Kephart in his direct and surrebuttal testimony today,  
13 would your answers be the same?

14 A They would, yes.

15 MR. MEZA: Okay. Madam Chair, I'd like to have the  
16 testimony inserted into the record as if read.

17 CHAIRMAN JABER: Yes. The prefiled surrebuttal  
18 testimony of Jerry Kephart and the prefiled direct testimony of  
19 Jerry Kephart as adopted by Keith Milner shall be inserted into  
20 the record as though read.

21 BY MR. MEZA:

22 Q Mr. Milner, has, have you prepared any exhibits  
23 associated with your testimony?

24 A I'm adopting the one exhibit that was attached to  
25 Mr. Kephart's direct testimony.

1 Q Do you have any substantive corrections or changes to  
2 that exhibit?

3 A No.

4 MR. MEZA: All right. Madam Chair, I would like to  
5 have that exhibit marked for identification.

6 CHAIRMAN JABER: Is that JK-1, Mr. Meza?

7 MR. MEZA: Yes.

8 CHAIRMAN JABER: Okay. JK-1 shall be identified as  
9 Exhibit 42.

10 MR. MEZA: Thank you.

11 (Exhibit 42 marked for identification.)  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1                   **BELLSOUTH TELECOMMUNICATIONS, INC**  
2                   **TESTIMONY OF JERRY KEPHART**  
3                   **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**  
4                   **DOCKET NO. 990649A-TP**  
5                   **NOVEMBER 8, 2001**

6  
7

8   **Q.   PLEASE STATE YOUR NAME, YOUR BUSINESS ADDRESS, AND**  
9       **YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC.**

10

11   **A.**   My name is Jerry Kephart. My business address is 675 West Peachtree Street, Atlanta,  
12       Georgia 30375. I am a Senior Director – Regulatory for BellSouth. I have held this  
13       position since October of 1997.

14

15   **Q.   PLEASE SUMMARIZE YOUR EXPERIENCE IN THE**  
16       **TELECOMMUNICATIONS INDUSTRY AND YOUR EDUCATIONAL**  
17       **BACKGROUND.**

18

19   **A.**   My career in the telecommunications industry spans over 30 years and includes  
20       responsibilities in the areas of network operations, commercial operations,  
21       administration, and regulatory. I have held positions of responsibility in BellSouth that  
22       include managing installation and maintenance personnel engaged in providing customer  
23       telephone service and also managing staff operations in support of these activities. I also  
24       have extensive experience in managing regulatory activities for BellSouth including  
25       Federal Communications Commission (“FCC”) docket management work and public

1 policy planning. I graduated from Daytona Beach Junior College in 1964, with an  
2 Associate of Science in Electronics Technology. I obtained a Bachelor of Business  
3 Administration degree from the University of Florida in 1968.

4  
5 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

6  
7 **A.** The purpose of my testimony is to describe BellSouth's hybrid copper/fiber xDSL-  
8 capable loop offering as ordered by this Commission and the technical feasibility of  
9 BellSouth's providing such.

10  
11 **Q. WHAT IS A HYBRID COPPER/FIBER XDSL CAPABLE LOOP?**

12  
13 **A.** The Hybrid Copper/Fiber xDSL-Capable loop is an unbundled network element ("UNE")  
14 that enables an Alternative Local Exchange Carrier ("ALEC") to provide Digital  
15 Subscriber Line ("DSL") capability to its customers over a facility that is comprised of  
16 fiber optic cable in the portion of the loop referred to as loop feeder and copper cable in  
17 the portion of the loop referred to as loop distribution. Exhibit JK-1, which is attached to  
18 my testimony, depicts the layout of this service. Beginning at the ALEC's network  
19 interface device ("NID") at the end user's premises, the loop distribution portion consists  
20 of a dedicated, non-designed two-wire copper physical transmission facility, which is  
21 connected to a Digital Subscriber Line Access Multiplexer ("DSLAM") located within  
22 the Remote Terminal ("RT"). An individual end user's DSL traffic is intermingled with  
23 the DSL traffic of other end users and is conveyed to the Central Office over a dedicated  
24 DS1 facility. The DS1 facility runs from the DSLAM located in the RT through  
25 Multiplexers located in the RT and thence forward to the Central Office. Within the

1 Central Office, the DS1 facility is extended to the ALEC's collocation arrangement. The  
2 segment of the DS1 between the Remote Terminal and the Central Office is served by  
3 fiber optic cable facilities. This portion of the loop is provisioned through BellSouth's  
4 design process in order to specify DS1 channels through the appropriate multiplexers in  
5 the fiber transmission system and to inventory the DS1 in BellSouth's Trunk Inventory  
6 Record Keeping System ("TIRKS"). The DSLAM can accommodate up to 16 end user  
7 lines and as many as four (4) DS1s. Associated with the DSLAM is an administrative  
8 DS1 which terminates into a DSL hub bay in order to allow BellSouth's technicians to  
9 handle the provisioning, maintenance and repair of the loop.

10

11 **Q. IS IT TECHNICALLY FEASIBLE FOR BELL SOUTH TO PROVIDE THIS**  
12 **OFFERING?**

13 **A.** Yes. It is technically feasible for BellSouth to provide this Hybrid Copper/Fiber xDSL-  
14 Capable loop as I have described above. However, one of the elements of this offering is  
15 the DSLAM which the FCC has exempted as a UNE [see Rule 51.319 (c) (3) (B)] except  
16 in circumstances where BellSouth has deployed digital loop carrier systems, has no spare  
17 copper loops available to ALECs to support xDSL services, has deployed packet  
18 switching capability for its own use, and does not permit ALECs to deploy their own  
19 DSLAMs at the remote terminal sites. There are currently no situations in the State of  
20 Florida where these circumstances exist.

21

22 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

23 **A.** Yes

1                                   BELLSOUTH TELECOMMUNICATIONS, INC.  
2                                   SURREBUTTAL TESTIMONY OF JERRY KEPHART  
3                                   BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION  
4                                   DOCKET NO. 990649A-TP  
5                                   DECEMBER 26, 2001  
6  
7

8    Q.    PLEASE STATE YOUR NAME, YOUR BUSINESS ADDRESS, AND YOUR  
9           POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC.

10  
11   A.    My name is Jerry Kephart. My business address is 675 West Peachtree Street, Atlanta,  
12           Georgia 30375. I am Senior Director – Regulatory for BellSouth. I have served in my  
13           present position since October 1997.

14  
15   Q.    ARE YOU THE SAME JERRY KEPHART WHO EARLIER FILED DIRECT  
16           TESTIMONY IN THIS DOCKET?

17  
18   A.    Yes.  
19

20   Q.    WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY BEING FILED  
21           TODAY?

22  
23   A.    I will respond to the technical issues associated with BellSouth's proposed "hybrid  
24           copper/fiber xDSL-capable loop" as raised in the rebuttal testimony of Mr. Michael

1 Gallagher of Florida Digital Network, Inc. and Mr. Greg Darnell on behalf of WorldCom  
2 and AT&T. I also rebut the allegations made by Mr. John C. Donovan on behalf of  
3 WorldCom and AT&T about BellSouth's Network-related input values used in the cost  
4 study.

5  
6 Q. ON PAGE 6, BEGINNING ON LINE 17 OF MR. GALLAGHER'S REBUTTAL  
7 TESTIMONY, HE ADDRESSES WHY HE BELIEVES UNBUNDLED PACKET  
8 SWITCHING IS A NECESSARY COMPONENT OF AN xDSL-CAPABLE DLC  
9 LOOP. DID BELLSOUTH INCLUDE PACKET SWITCHING IN ITS HYBRID  
10 COPPER/FIBER LOOP PROPOSAL AND IF NOT, WHY NOT?

11  
12 A. Other than the packet switching or handling functionality incorporated into the Digital  
13 Subscriber Line Access Multiplexer ("DSLAM"), BellSouth did not include packet  
14 switching functionality at the central office end of the hybrid copper/fiber loop circuit.  
15 There are several reasons for this. First, the Florida Commission only asked BellSouth to  
16 submit a cost study for a hybrid copper/fiber xDSL-capable loop, which is exactly what is  
17 included in BellSouth's submission. A packet switch is a completely separate and  
18 distinct component from the loop. Mr. Gallagher is apparently seeking a combination of  
19 all the network elements needed to furnish xDSL service (that is, the loop to the  
20 customer's premises, a DSLAM and a packet switch). Further, Mr. Gallagher apparently  
21 wants BellSouth to furnish this finished service to Alternative Local Exchange Carriers  
22 ("ALECs") at rates based on Total Element Long Run Incremental Cost ("TELRIC")  
23 methodology. BellSouth has no obligation to do so as should be apparent from what  
24 follows in this explanation. Second, the FCC has addressed packet switching in its UNE  
25 Remand Order and concluded that incumbents such as BellSouth are not required to



1 provide unbundled packet switching functionality except in limited circumstances. Those  
2 circumstances are set forth in my direct testimony in this proceeding. As I stated in my  
3 direct testimony, those circumstances do not exist at present in the state of Florida.  
4 Finally, BellSouth's hybrid copper/fiber loop architecture is designed to terminate the  
5 loop into the ALEC's own packet switch (rather than BellSouth's packet switch) for  
6 further processing and switching to distant locations. The FCC determined in its UNE  
7 Remand Order that ALECs are not impaired in their ability to acquire and deploy packet  
8 switches in order to offer advanced services such as xDSL.

9  
10 Q. MR. GALLAGHER STATES IN HIS REBUTTAL TESTIMONY ON PAGE 7, LINES  
11 3-7 THAT A NEW HYBRID UNE LOOP WITHOUT UNBUNDLED PACKET  
12 SWITCHING WOULD SERVE NO PURPOSE SINCE BELLSOUTH MUST  
13 ALREADY UNBUNDLE THE FEEDER AND DISTRIBUTION SUBLOOPS. DO  
14 YOU AGREE WITH THIS STATEMENT?

15  
16 A. No. Unlike BellSouth's other unbundled loop offerings, its proposed hybrid xDSL UNE  
17 loop incorporates the DSLAM functionality, which negates any requirement for ALECs  
18 to collocate their own DSLAMs in BellSouth's remote terminals. Indeed, it was the  
19 expressed desire of certain ALECs not to have to deploy DSLAMs in BellSouth's remote  
20 terminals that led to the Florida Commission's request of BellSouth to develop a hybrid  
21 xDSL UNE loop proposal if technically feasible. I find it strange that Mr. Gallagher now  
22 suggests that BellSouth's proposal serves no useful purpose. Apparently Mr. Gallagher  
23 believes that all investment risk related to deploying the assets required to provide xDSL  
24 services should fall entirely on BellSouth. Under his proposal, ALECs would own little,  
25 if any, serving equipment and would use BellSouth's network (including BellSouth's

1 packet switching network) to sell xDSL services to the ALECs' end users. This notion is  
2 directly contrary to the FCC's stated goals of encouraging facilities based competition for  
3 advanced services. The surrebuttal BellSouth witness Tommy Williams discusses this  
4 issue further in his surrebuttal testimony.

5  
6 Q. ON PAGES 7-8 OF MR. GALLAGHER'S REBUTTAL TESTIMONY HE ATTEMPTS  
7 TO CHARACTERIZE BELLSOUTH'S PROPOSAL AS "THE OPPOSITE OF  
8 UNBUNDLING" AND INSTEAD A REQUIREMENT TO "PURCHASE A  
9 NETWORK." DO YOU AGREE?

10  
11 A. No. BellSouth's offer to provide unbundled loop distribution and unbundled loop feeder  
12 sub-loop elements as part of this proposal is completely consistent with BellSouth's  
13 current offerings for UNE sub-loop elements. Indeed, some ALECs may already own the  
14 equivalent of these two sub-loop elements and might prefer to use such rather than  
15 acquire them from BellSouth. If BellSouth had bundled those elements (that is the sub-  
16 loop elements loop distribution and loop feeder) into its proposal, this Commission would  
17 likely have heard from those ALECs alleging that BellSouth's proposal would prevent  
18 the ALEC from using its own assets in creating xDSL service offerings. The unbundled  
19 DS-1 loop is a most reasonable capacity unit for launching typical xDSL offerings in  
20 today's marketplace. The next lower capacity unit, a DS-0 (the equivalent of a single  
21 voice grade channel operating at 64 kilobits per second), is an unlikely serving  
22 arrangement for high speed broadband offerings. If an ALEC requires a DS0, BellSouth  
23 is not opposed to providing it (assuming that a technically feasible arrangement can be  
24 determined) if the interested ALEC submits to BellSouth its bona fide request ("BFR").

1 The ALEC can choose up to four DS1 channels for each DSLAM deployed, depending  
2 on its expectation of simultaneous xDSL traffic transport requirements at a given locale.

3  
4 Q. WHAT FORMS THE BASIS FOR BELLSOUTH'S ASSUMPTION OF A SIXTEEN-  
5 PORT DSLAM?

6  
7 A. The DSLAM is a distinct piece of equipment. DSLAM manufacturers offer units with  
8 various capacities of customer lines, although most DSLAM manufacturers do not offer  
9 DSLAMs with less than eight (8) customer line capability. BellSouth chose one  
10 particular size DSLAM for this proposal (that is, a DSLAM with a capacity for sixteen  
11 (16) customer lines) believing that this capacity would economically serve an ALEC's  
12 demand at a given remote terminal site.

13  
14 Q. DOES BELLSOUTH'S PROPOSAL REQUIRE THAT THE ALEC PURCHASE THE  
15 ENTIRE DSLAM REGARDLESS OF THE QUANTITY OF CUSTOMER LINES THE  
16 ALEC SERVES FROM A GIVEN REMOTE TERMINAL SITE?

17  
18 A. Yes. The fact that the DSLAM has a 16-customer line capacity and the ALEC may only  
19 want to use it for one customer is not relevant. Indeed, the loop element itself (that is, the  
20 loop without the added DSLAM functionality) is priced the same whether the ALEC  
21 chooses to use it as only a voice circuit or to use it for its higher capacity capability of  
22 voice plus broadband. The fact remains that the DSLAM, like the loop, is a distinct  
23 network facility that the ALEC must purchase with all of its features, functions and  
24 capacity capabilities. It is the ALEC's choice on how to use the network facilities it  
25 purchases. BellSouth has no obligation to bifurcate its loop offerings between multiple  
26 ALECs, although nothing prevents an ALEC from sharing the loops it leases from  
27 BellSouth with other ALECs. Of course, if the ALEC desires not to purchase the

1 BellSouth provided DSLAM at the remote, the ALEC always has the option to deploy its  
2 own DSLAM.

3  
4 Q. ON PAGE 9 OF HIS REBUTTAL TESTIMONY, MR. GALLAGHER ASSERTS  
5 THAT ALECS ARE AT A DISADVANTAGE UNDER BELLSOUTH'S PROPOSAL  
6 BECAUSE ALECS DO NOT HAVE THE SAME ECONOMIES OF SCALE  
7 BENEFITS AS BELLSOUTH. IS THIS A VALID ARGUMENT?

8  
9 A. No. For broadband services provided via a remote terminal, BellSouth faces the same  
10 hurdles and opportunities as would any ALEC. The potential customer segment to be  
11 served is the same for both parties so that any equipment deployed by either party  
12 involves an investment risk. Should BellSouth not fill up the ports on its own DSLAMs,  
13 it too runs the risk of not benefiting from economies of scale. Mr. Gallagher's proposal  
14 would have BellSouth assume an investment risk for unfilled ports on DSLAMs deployed  
15 for ALECs and for which BellSouth has no intention to use for its own broadband  
16 services. Mr. Williams discusses this issue further in his surrebuttal testimony.

17  
18 Q. ON PAGE 17 OF MR. GALLAGHER'S REBUTTAL TESTIMONY HE ARGUES  
19 THAT SHARED DSL FACILITIES WOULD BE MORE EFFICIENT THAN THE USE  
20 OF SEPARATE, DEDICATED FACILITIES. MR. DARNELL ALSO ALLUDES TO  
21 THE NEED FOR SHARED FACILITIES ON PAGE 16 OF HIS REBUTTAL  
22 TESTIMONY. ARE THERE ANY TECHNICAL ISSUES ASSOCIATED WITH THE  
23 USE OF SHARED DSL FACILITIES IN THIS EXAMPLE?

24  
25

1 A. Yes. The aggregation of ALEC and ILEC traffic through shared DSLAMs at the remote  
2 site would require the use of a packet switch at the central office end of the circuit to  
3 disaggregate the packets by service provider and route them to their appropriate  
4 destination (such as an ALEC's collocation arrangement). This in effect would equate to  
5 a requirement upon BellSouth to provide unbundled packet switching. As I pointed out  
6 earlier, the FCC has determined that BellSouth is not required to provide unbundled  
7 packet switching. Again, nothing prevents a group of ALECs from incorporating their  
8 own sharing arrangements with DSLAMs, transport and packet switching should they  
9 feel a more efficient result might be obtained.

10

11 Q. ON PAGE 18 OF MR. GALLAGHER'S REBUTTAL TESTIMONY HE CLAIMS  
12 THAT HIS SUGGESTION FOR AN UNBUNDLED XDSL LOOP ARCHITECTURE  
13 WOULD HAVE NO IMPACT ON BELL SOUTH'S ABILITY TO OFFER  
14 BROADBAND SERVICES IN FLORIDA. DO YOU AGREE?

15

16 A. Not necessarily. Mr. Gallagher's proposal involves additional broadband investment risk  
17 for BellSouth in order to install facilities to accommodate ALECs' broadband marketing  
18 projections. Should the ALECs' forecasts not materialize, BellSouth would be left with  
19 stranded investment thereby raising its costs and hampering its ability to offer broadband  
20 services at a price competitive with service prices offered by the dominant cable  
21 providers. This might actually stifle broadband deployment and competition in the state  
22 of Florida.

23

24 Q. MR. GALLAGHER GOES ON TO SAY ON PAGES 18 AND 19 THAT SEPARATE  
25 DSL FACILITIES AT REMOTE TERMINALS WOULD PRECLUDE THE BENEFITS

1 OF LINE SHARING AND CREATE INACCESSIBLE AND CRAMPED  
2 CONDITIONS IN MOST REMOTE TERMINALS. DO YOU AGREE?

3  
4 A. No. For ALECs that line share with BellSouth, the loop distribution pair serving a given  
5 end user would be attached to a splitter and a connection carrying the data traffic would  
6 then be connected to the ALEC's DSLAM at the remote. Thus, the voice traffic and data  
7 traffic would leave the remote site over separate transmission paths to the voice and data  
8 networks. This is no different than in circumstances where the ALEC provided its own  
9 DSLAM at the remote. If ALECs want to share a loop for voice and data capabilities  
10 among themselves (that is, line splitting), the ALEC voice provider could lease an  
11 unbundled feeder sub-loop extending from the remote terminal forward to its collocation  
12 arrangement in the central office. In so doing, the voice service ALEC provider can offer  
13 its service without a requirement that it have facilities of its own at the remote terminal.  
14 In any event, Mr. Gallagher's continuing protestations about limited remote terminal  
15 spaces hampering efficient facility deployment amounts to nothing more than theory, as  
16 no ALEC in Florida has ever been denied space in BellSouth's remote terminals.

17  
18 Q. MR. GALLAGHER ON PAGE 21 OF HIS REBUTTAL TESTIMONY AND MR.  
19 DARNELL ON PAGE 14 OF HIS REBUTTAL TESTIMONY BOTH DISAGREE  
20 WITH THE STATEMENT IN YOUR DIRECT TESTIMONY THAT UNDER FCC  
21 RULES BELLSOUTH IS EXEMPT FROM PROVIDING A DSLAM AS A UNE  
22 PROVIDED CERTAIN CONDITIONS ARE MET. ARE THEY ACCURATE IN  
23 THEIR ASSESSMENT?

24  
25

1 A. No. First, Mr. Gallagher never disputes the FCC rule [(51.319(c)(3)(B)] I quoted. Rather,  
2 he seems to base his disagreement on his belief that the Florida Commission should go  
3 beyond the requirements set forth by the FCC. This Commission should also consider  
4 that the FCC is again looking at its rules in the broadband area via its recently released  
5 Notice of Proposed Rulemaking, (FCC 01-360), and may be soon modifying its existing  
6 regulations. Mr. Darnell seems to agree that the FCC rule I quoted [(Rule  
7 51.319(c)(3)(B)] does exist (even quoting an FCC ERRATA [(Rule 51.319(c)(5)] I  
8 overlooked), but has trouble with my use of the word “exempt.” In the interest of  
9 cooperation, I’ll defer to his use of the term “not required” because the result is the same.  
10 As long as BellSouth complies with the conditions set forth by the FCC, it is not required  
11 to unbundle the DSLAM.

12  
13 Q. ON PAGES 22-24 OF MR. GALLAGHER’S REBUTTAL TESTIMONY HE ASSERTS  
14 THAT THE HYBRID COPPER/FIBER LOOP PROPOSED BY BELL SOUTH  
15 WOULD OFTEN BE UNAVAILABLE OR THE ALEC WOULD FACE  
16 ADDITIONAL DELAYS IN PROCURING xDSL-CAPABLE LOOPS. IS THIS A  
17 REASONABLE ASSERTION?

18  
19 A. No. In order to reach his conclusions Mr. Gallagher once again engages in speculative  
20 theory about BellSouth’s remote terminals and facility availability, combined with his  
21 personal belief about how the market for broadband will eventually develop. Given that  
22 Florida Digital Network has not yet attempted to place even one DSLAM in a BellSouth  
23 remote terminal, Mr. Gallagher has no basis of fact on which to conclude that facilities  
24 would often be unavailable. Of course, there might be delays associated with certain  
25 remote terminal locations, but they are no different than the delays BellSouth faces when

1 it first decides to market broadband services to customers served by those remote  
2 terminals. These delays could result from the need to augment remote terminal sites to  
3 accommodate additional equipment like the DSLAM. However, BellSouth faces these  
4 same potential delays when it first decides to deploy DSLAMs in remote terminals for its  
5 own use.

6  
7 Q. ON PAGE 27 OF MR. GALLAGHER'S REBUTTAL TESTIMONY HE CLAIMS  
8 THAT BELLSOUTH IN ITS PROPOSAL DOES NOT PERMIT THE ALEC TO  
9 TERMINATE ITS DS1 CIRCUITS AT THE ALEC'S COLLOCATION CAGE, BUT  
10 RATHER, REQUIRES TERMINATION AT A DSL HUB BAY WHICH RESULTS IN  
11 AN ADDITIONAL ADMINISTRATIVE DS1 CHARGE. IS THIS CORRECT?

12  
13 A. No. The data DS1 circuits (up to four) will terminate directly to the ALEC's collocation  
14 cage from the central office multiplexer. The administrative DS1 is used by BellSouth to  
15 manage the proper functioning of the DSLAM, which is consistent with BellSouth's  
16 obligations to maintain the UNE elements it leases to ALECs. It is this DS1 that is  
17 terminated in the DS1 Hub Bay. However, there is no termination of ALEC DS1 circuits  
18 carrying the ALEC traffic at the DSL Hub Bay, as Mr. Gallagher asserts.

19  
20  
21 Q. ON PAGE 15 OF MR. DARNELL'S REBUTTAL TESTIMONY HE STATES THAT A  
22 DSLAM IS NOTHING MORE THAN A TYPE OF MULTIPLEXER. IS THIS A TRUE  
23 STATEMENT?

24  
25



1 A. Not exactly. A number of different types of equipment are often referred to generically  
2 as multiplexers. Some of those devices include the digitization of signals from analog to  
3 digital, whereas others aggregate and disaggregate digital signals. Some deal only with  
4 metallic transmission facilities while others deal with fiber optic transmission facilities.  
5 It appears that Mr. Darnell's goal here is to place the DSLAM in the same category as  
6 other pieces of equipment that the FCC has required be provided on an unbundled basis.  
7 Unfortunately for Mr. Darnell's argument, those other devices handle voice traffic rather  
8 than advanced services. Thus there is no reason to adopt the "end run" around FCC rules  
9 that Mr. Darnell attempts here. Further, the FCC has specifically examined whether the  
10 DSLAM should be provided on an unbundled basis and has declined to do so. The FCC  
11 concluded that the DSLAM is part of a packet switching network and must be provided  
12 on an unbundled basis only in the limited circumstances set forth in my direct testimony.

13

14 Q. MR. DARNELL ON PAGE 16 OF HIS REBUTTAL TESTIMONY INSISTS THAT  
15 BELLSOUTH MUST ALLOW ALECS TO PURCHASE PACKET TRANSPORT AT A  
16 RATE THAT REFLECTS THE ECONOMIES OF SCALE ENJOYED BY  
17 BELLSOUTH. DO YOU AGREE?

18

19 A. No. Nothing in the Act or in the FCC's rules requires BellSouth to set rates as Mr.  
20 Darnell suggests. The FCC and this Commission have set standards for how costs will be  
21 developed for unbundled network elements. What Mr. Darnell is requesting, however, is  
22 not an unbundled network. What he requests should be seen for what it really is. Mr.  
23 Darnell wants to impose a requirement that BellSouth provide finished services to  
24 ALECs at TELRIC based rates even though the FCC has specifically declined to impose  
25 such an obligation on incumbents. Mr. Darnell apparently believes that BellSouth should

1 shoulder all the economic risk related to deployment of advanced services and that  
2 BellSouth should have no market advantage for having done so. The Commission should  
3 reject Mr. Darnell's contention and not distort the Act and the FCC's rules to give his  
4 company an artificial economic advantage in a nascent market.

5  
6 Q. ~~ON PAGES 11 THROUGH 16 OF MR. DONOVAN'S TESTIMONY, HE DISCUSSES~~  
7 ~~THE ENGINEERING FACTORS USED IN BELLSOUTH'S MOST RECENT COST~~  
8 ~~STUDY. PLEASE DESCRIBE THE SOURCE OF THOSE FACTORS.~~

9  
10 A. ~~The source for these factors is BellSouth's Outside Plant Construction Management~~  
11 ~~("OSPCM") system. This system is used for internally estimating job costs. The~~  
12 ~~OSPCM system is important for internal decision-making within BellSouth to accurately~~  
13 ~~estimate the cost of a project or job. BellSouth regularly monitors OSPCM results to~~  
14 ~~ensure that estimates from this system closely match actual job results. Mr. Donovan's~~  
15 ~~recommended 10% factor would clearly result in engineering costs lower than those~~  
16 ~~experienced by BellSouth as evidenced by a comparison of BellSouth's factors used in its~~  
17 ~~own internal planning and job estimating processes to the 10% value proposed by Mr.~~  
18 ~~Donovan. The OSPCM system is the best tool available to BellSouth for estimating~~  
19 ~~engineering costs.~~

20  
21 Q. MR. DONOVAN CLAIMS THAT BELLSOUTH IS ATTEMPTING TO RECOUP  
22 NON-TELRIC EXPENDITURES THROUGH A "CLOSING FACTOR" SPREAD  
23 OVER ALL STRUCTURE COSTS (PAGE 18). IS HE CORRECT?  
24

1 A. Absolutely not. Ms. Caldwell discusses how this factor was used in the cost study.  
2 These are legitimate costs that certainly belong in a cost study designed to reflect the  
3 forward-looking costs associated with cable placement. Included in these  
4 “miscellaneous” costs are costs associated with flagmen and police officers to direct  
5 traffic around construction, renting chainsaws, blowers, generators, bulldozers and other  
6 heavy equipment, and other miscellaneous items. These are legitimate costs that  
7 BellSouth, or any other provider of service, will incur in any environment – especially an  
8 environment in which the entire network must be built from scratch, as required by the  
9 FCC’s TELRIC rules.

10

11 Q. ON PAGE 19, MR. DONOVAN CLAIMS THAT BELLSOUTH HAS MADE AN  
12 ERROR IN DETERMINING CONTRACTOR COSTS ASSOCIATED WITH  
13 PLACING POLES. DID BELLSOUTH ERR AS MR. DONOVAN CLAIMS?

14

15 A. No. Mr. Donovan apparently misinterprets the contract cost data associated with pole  
16 placements. He cites two examples where BellSouth has included cost for placing poles  
17 without talking credit for the number of poles placed – “Place Poles in Power” and “PL  
18 Carry-In/Pole.” These costs, however, refer to additional contractor labor costs over and  
19 above the standard labor costs associated with placing poles. Place Pole/Power refers to  
20 additional costs charged by the contractor for placing a pole in existing power lines. It is  
21 not the cost associated with placing a power company pole. The PL Carry-In/Pole refers  
22 to additional costs associated with having to carry a pole into a location (e.g., set a pole  
23 on a rear property line where an additional work effort was required to ‘Carry-In’ the  
24 pole). In both instances, the number of poles associated with these additional labor costs  
25 is included in the count of poles placed in the data used to develop the pole placing costs,

1 and there is no error in BellSouth's calculations. These are additional costs that are  
2 experienced in the real world, and will be experienced in a forward-looking environment,  
3 and are correctly included as part of the average cost of placing poles.  
4

5 Q. ON PAGES 21 THROUGH 22, MR. DONOVAN EXPRESSES DISBELIEF THAT  
6 BELLSOUTH PAYS ONE PRICE PER FOOT TO CONTRACTORS FOR BURIED  
7 EXCAVATION REGARDLESS OF THE ACTIVITY REQUIRED (UNLESS IT IS  
8 BORING OR PUSH PIPE AND PULL CABLE). PLEASE COMMENT.  
9

10 Q. There is no differentiation in price for the method employed for buried excavation in any  
11 current BellSouth Outside Plant ("OSP") Master Contract. BellSouth has negotiated for a  
12 single price for buried excavation, with a few exceptions such as boring. That single  
13 price per foot is charged to BellSouth regardless of whether the contractor plows, uses a  
14 backhoe or hand trenches. Contrary to Mr. Donovan's testimony, BellSouth is not using  
15 a trenching cost for plowing in its cost study and BellSouth has not "omitted any data for  
16 plowing cable" (Donovan Testimony, Page 21, Line 11). That single price represents an  
17 average for all types of buried excavation negotiated between BellSouth and its  
18 contractors.  
19

20 Q. ON PAGE 25, MR. DONOVAN CLAIMS THAT BURIED SPLICE PIT COSTS  
21 SHOULD BE EXCLUDED FROM THE STUDY. IS HE CORRECT?  
22

23 A. No. Mr. Donovan states that buried splice pits are not needed for normal buried splicing  
24 operations because such splices are routinely placed in above ground pedestals. As Ms.  
25 Caldwell discussed, the 2000 contractor activity in Florida (Attachment 3 of BellSouth's

1 filing) clearly shows that BellSouth does use buried splice pits and, therefore, are  
2 appropriate for use in BellSouth's cost study.

3  
4 Q. MR. DONOVAN, ON PAGE 27 OF HIS TESTIMONY, CLAIMS THAT BELLSOUTH  
5 HAS INCLUDED INAPPROPRIATE COSTS IN ITS BURIED CABLE  
6 (EXCAVATION) COSTS. HE CLAIMS THAT ONLY COSTS LABELED AS  
7 "PLACING BURIED CABLE" SHOULD BE INCLUDED AND ALL OTHER COSTS  
8 INCLUDED IN BELLSOUTH'S STUDY SHOULD BE EXCLUDED. IS HE  
9 CORRECT?

10  
11 A. No. The other costs he refers to are legitimate costs associated with burying cable and  
12 thus, are correctly included in BellSouth's study. Those real costs of burying cable  
13 include such things as disposal costs of trench aggregate, placing additional cables in the  
14 same trench, etc. Attachment 3 of BellSouth's cost study filing includes a complete  
15 listing of all items included in buried cable placement costs.

16  
17 Q. ON PAGE 30, MR. DONOVAN STATES THAT CONDUIT MATERIAL INPUTS  
18 SHOULD NOT CONTAIN ANY PLACING LABOR AND BELLSOUTH HAS  
19 INCLUDED ONE LINE OF CONTRACTOR COST THAT INAPPROPRIATELY  
20 INCLUDES LABOR. IS HE CORRECT?

21  
22 A. No. The footnote in Attachment 3 that led Mr. Donovan to believe the cost item included  
23 labor is incorrect. That cost item is conduit material only as defined by the master  
24 contracts themselves:

25

1 “U072M – Material Only – Furnish C-4 inch conduit. Price per Linear Conduit Foot.”—  
2 (Source: “Exhibit A- Unit Prices, Underground Plant – Conduit – All Soil Conditions,  
3 Material” – Bidding Agreement).

4  
5 Q. MR. DONOVAN CLAIMS ON PAGES 30-32 THAT THE MANHOLE COST  
6 DEVELOPMENT IS FLAWED. CAN YOU RESPOND FROM A NETWORK INPUT  
7 PERSPECTIVE?

8  
9 A. Yes. Mr. Donovan states on page 31 that Type-5, really a Size 5, which is the largest  
10 manhole installed, only needs to be slightly larger than the Type 3 manhole (224 cubic  
11 feet) to accommodate 5 cables. However, he does not provide any support for this  
12 number. In fact, in the last paragraph on page 31 he states that BellSouth’s actual  
13 contractor data shows that only the larger size (504 cubic feet) manholes were installed).  
14 This is exactly the size that BellSouth used for the Size-5 manhole in its inputs. Given  
15 the fact BellSouth’s actual data supports BellSouth’s assumed size, I do not understand  
16 Mr. Donovan’s unsupported argument for a 224 cubic foot size. BellSouth’s assumed  
17 size for the largest manholes is supported and should be used.

18  
19 Q. ON PAGES 33 AND 34, MR. DONOVAN RECOMMENDS THAT BELLSOUTH’S  
20 PROPOSED STRUCTURE SHARING PERCENTAGES BE REJECTED AND  
21 REPLACED WITH HIS PROPOSED SHARING FACTORS. ARE HIS PROPOSALS  
22 REALISTIC AND APPROPRIATE FOR THE COMMISSION TO ADOPT?

23  
24 A. No, Mr. Donovan’s input recommendations are not realistic and should not be adopted by  
25 this Commission. Mr. Donovan offers no basis for his recommended structure sharing

1 percentages other than that they are drawn from his own experience outside the State of  
2 Florida. First, due to work coordination, safety, and available space considerations,  
3 significant sharing of underground construction costs is very unlikely and thus BellSouth  
4 seldom, if ever, shares in underground excavation. Underground structure sharing would  
5 occur only when BellSouth is excavating for underground conduit and other parties are  
6 willing to share that excavation and conduit cost with BellSouth. However, BellSouth  
7 rarely, if ever, jointly places conduit with another party. BellSouth does lease conduit  
8 space to other parties. This leasing of duct space is not the same as sharing the  
9 construction cost and ownership of conduit. BellSouth used the percentage of duct space  
10 leased to other parties as a surrogate of potential opportunities for underground structure  
11 sharing. Mr. Donovan's recommendation of a 50%/50% sharing in rural density zones is  
12 completely unrealistic and the 33%/33%/33% sharing in suburban and urban density  
13 zones is even less credible. Such sharing assumptions would clearly result in a  
14 significant under-recovery of a major portion of BellSouth's investments.

15  
16 For buried sharing, BellSouth assumed that 6% of the time, conditions would allow  
17 BellSouth to share buried excavation with another party. Today, such sharing with other  
18 utilities is rare due to timing problems. Even in a scorched node scenario, CATV and  
19 power lines are already in place, so the opportunities for sharing are no better than  
20 BellSouth has seen in the past. Mr. Donovan recommends the same sharing percentages  
21 for buried that he has proposed for underground. Those percentages are just as  
22 unrealistic in the buried environment as they are in the underground environment. In  
23 fact, this Commission previously approved BellSouth's sharing percentages in the  
24 Universal Service proceedings (Docket No. 980696-TP). It concluded:

25

1 Upon review, we find that BellSouth's, GTEFL's, and Sprint's sharing  
2 percentages represent the forward-looking sharing percentages available to  
3 any efficient provider in each LEC's respective territory. Accordingly, we  
4 hereby adopt each LEC's proposed sharing percentages because they are a  
5 reasonable surrogate for sharing percentages likely to be achieved by an  
6 efficient provider of basic service (Order No. PSC-99-0068-FOF-TP, Page  
7 126).

8  
9 Q. ON PAGES 35 AND 36, MR. DONOVAN PROPOSES THAT THE COMMISSION  
10 SHOULD ASSUME THAT WHEN FEEDER AND DISTRIBUTION CABLES ARE  
11 LAID ALONG THE SAME ROUTE, THE CABLES WOULD SHARE STRUCTURE  
12 75% OF THE TIME. PLEASE COMMENT.

13  
14 A. As BellSouth stated in its filing previously, there is no data available on this percentage.  
15 However, there are many reasons that sharing of structures between feeder and  
16 distribution do not happen frequently, including timing of placements, need for more  
17 frequent access to distribution cables than to feeder cables, etc. Mr. Donovan gives no  
18 support as to why he feels his proposed value should be selected instead of BellSouth's  
19 value. He simply states, "I would expect..." BellSouth's estimate is based on BellSouth  
20 Network's experience and forward looking projections regarding the infrequency of such  
21 occurrences.

22  
23 Q. MR. DONOVAN, ON PAGES 36 AND 37, STATES THAT BELLSOUTH'S POLE  
24 SPACING "DOES NOT APPEAR TO PASS THE 'RED-FACE' TEST."  
25 ADDITIONALLY, HE PROPOSES THAT SPACING FOR ANCHORS AND GUYS  
26



1 ARE 1,200 FEET RATHER THAN THE VALUE OF 500 FEET USED BY  
2 BELLSOUTH. PLEASE COMMENT.

3  
4 A. BellSouth witness Ms. Caldwell discusses how BellSouth inputs were determined. I  
5 wish, however, to discuss factors that influence pole spacing. For example, mid-span  
6 clearances, joint use clearances, and right of way limitations drive most of the design  
7 requirements for poles. Installations have unique characteristics for these elements. A  
8 few examples which affect Aerial Structure Spacing are as follows:

9  
10 (1) Strand tension shall not exceed 60 percent of breaking strength under storm  
11 loading conditions.

12 (2) Strand tension shall not exceed 70 percent of breaking strength with the cable in  
13 place and a 300-pound load concentrated at mid-span.

14 (3) Sag shall not exceed 10 feet (3.05 m) at 60 F (15.5 C) with no wind.

15 (4) The 6.6M strand tension shall not exceed 1400 pounds with the cable in place at  
16 60 F (15.5 C).

17 (5) For self-supporting cable, the span length is limited by the simultaneous  
18 application of items (3) and (4) above.

19 (6) All National Electric Safety rules and BellSouth safety rules must be followed.  
20

21 The OSPCM considers conditions like these and includes them in the values developed  
22 for BellSouth's own internal use as well as for TELRIC cost development. In this case,  
23 the data speaks for itself – BellSouth's pole spacing of 120 feet is an accurate depiction  
24 of the reality of the number of poles required to provide the number of sheath feet of  
25 aerial cable placed in the network. There is no reason to believe this would be any

1 different in a forward-looking environment so BellSouth's input values should be  
2 accepted by the Commission. Ms. Caldwell's Surrebuttal Testimony filed in this Docket  
3 addresses the basis of the guy and anchor spacing used by BellSouth in its cost  
4 development.

5

6 Q. DOES THAT CONCLUDE YOUR TESTIMONY?

7

8 A. Yes.

9

10

11

1 BY MR. MEZA:

2 Q Mr. Milner, have you prepared a summary of your  
3 testimony?

4 A Yes, I have.

5 Q Would you please give it?

6 A Yes. Thank you. Good morning.

7 My adopted testimony describes the technical  
8 attributes of the hybrid copper/fiber xDSL-capable loop that  
9 this Commission ordered BellSouth to model. It is technically  
10 feasible for BellSouth to provide this loop as it's described  
11 in my direct testimony.

12 However, one of the elements of this offering is the  
13 digital subscriber access multiplexer or DSLAM, which the FCC  
14 has not required be provided on an unbundled basis in its Rule  
15 51.319(c)(3)(b) except in certain circumstances where BellSouth  
16 has deployed digital loop carrier systems, has no spare copper  
17 loops available to ALECs to support their xDSL services, has  
18 deployed packet switching capability for its own use and does  
19 not permit ALECs to deploy their own DSLAMs at that same remote  
20 terminal site. There are currently no situations in the State  
21 of Florida where these circumstances all exist.

22 My adopted rebuttal or surrebuttal testimony  
23 responded to the technical issues associated with BellSouth's  
24 offer for its hybrid copper/fiber xDSL-capable loop as raised  
25 in the rebuttal testimony of Mr. Michael Gallagher of Florida

1 Digital Network and Mr. Greg Darnell on behalf of WorldCom and  
2 AT&T.

3 I also rebut the allegations made by Mr. John Donovan  
4 on behalf of WorldCom and AT&T about some of BellSouth's  
5 network-related input values that were used in BellSouth's cost  
6 study.

7 First, in Mr. Gallagher's rebuttal testimony, he  
8 addresses why he believes unbundled packet switching is a  
9 necessary component of an xDSL-capable loop. I disagree.

10 Other than the packet switching or handling  
11 functionality that's incorporated into the DSLAM, BellSouth did  
12 not include separate packet switching functionality at its  
13 central offices for several reasons.

14 First, the Florida Commission only asked BellSouth to  
15 submit a cost study for a hybrid copper/fiber xDSL-capable  
16 loop, which is what BellSouth did in its submission. The  
17 packet switch is a completely separate and distinct component  
18 from the loop.

19 Mr. Gallagher is apparently seeking a combination of  
20 all of the network elements required to furnish xDSL service,  
21 that is the loop to the customer's premises, the DSLAM and a  
22 packet switch.

23 Further, Mr. Gallagher apparently wants BellSouth to  
24 furnish this finished service at rates based on TELRIC.  
25 BellSouth has no obligation to do so.

1 Further, the FCC has addressed packet switching in  
2 its UNE remand order, and concluded that incumbents such as  
3 BellSouth are not required to provide unbundled packet  
4 switching except in limited circumstances. And as I stated in  
5 my direct testimony, these circumstances do not exist at  
6 present in the State of Florida.

7 Finally, BellSouth's hybrid copper/fiber loop  
8 architecture is designed to terminate the loop into the ALEC's  
9 own packet switch rather than BellSouth's packet switch for  
10 further processing and switching to distant locations.

11 The FCC determined in its UNE remand order that ALECs  
12 are not impaired in their ability to acquire and deploy packet  
13 switches in order to offer advanced services such as DSL.

14 Mr. Gallagher argues that shared DSL facilities would  
15 be more efficient than the use of separate dedicated  
16 facilities. Mr. Darnell apparently agrees in his rebuttal  
17 testimony. However, I disagree.

18 The aggregation of ALEC and ILEC traffic through  
19 shared DSLAMs at the remote site would require the use of a  
20 packet switch at the central office end to disaggregate those  
21 packets by a service provider, that is to separate BellSouth's  
22 packets from ALEC A's packets from ALEC B's. This would in  
23 effect equate to a requirement upon BellSouth to provide  
24 unbundled packet switching. However, nothing prevents a group  
25 of ALECs from incorporating their own sharing arrangements with

1 their own DSLAMs, their own transport and packet switching  
2 should they feel that this yields a different result and a  
3 better result for them.

4 Mr. Darnell asserts that a DSLAM is nothing more than  
5 a new type of multiplexer. I disagree. There are a number of  
6 different pieces of equipment that generically are often  
7 referred to as multiplexers. Some of these devices include the  
8 digitization of signals from one, from analog to digital or  
9 from one form of digital to another. Some multiplexers deal  
10 only with metallic transmission facilities, others deal with  
11 fiber optic facilities.

12 It appears to me that Mr. Darnell's goal here is to  
13 place the DSLAM in the same category as other pieces of  
14 equipment that the FCC has required be provided on an unbundled  
15 basis. Unfortunately for that argument, those other devices  
16 handle voice traffic rather than advanced services, thus  
17 there's no reason to adopt the end around, the end run, rather,  
18 around FCC rules that Mr. Darnell apparently wants.

19 Regarding BellSouth's cost study inputs. Mr. Donovan  
20 claims that BellSouth is attempting to recoup non-TELRIC  
21 expenditures through closing factors which are spread over  
22 structure costs. He is incorrect. These are legitimate costs  
23 that certainly belong in cost studies designed to reflect the  
24 forward-looking costs associated with cable placement.  
25 Included in these miscellaneous costs are costs associated with

1 flagmen and police officers to direct traffic around  
2 construction, renting chainsaws, blowers and generators, things  
3 of that nature, and heavy equipment. These are legitimate  
4 costs that BellSouth or any other provider of service would  
5 incur in any environment, especially in an environment where  
6 the entire network must be built from scratch, as is visioned,  
7 envisioned by the FCC's TELRIC rules.

8           Next, Mr. Donovan claims that the manhole size cost  
9 development data that BellSouth used is flawed. He states that  
10 he believes that the largest manhole should be the Type 3  
11 manhole, which is about 224 cubic feet in size, to accommodate  
12 up to five cables.

13           I note that he does not provide support for that. To  
14 the contrary, BellSouth's actual contractor data shows that the  
15 manholes we did place in the Year 2000 were of the larger size,  
16 504 cubic feet. For that reason, BellSouth's assumed size for  
17 the largest manholes is supported and should be used.

18           Next, Mr. Donovan recommends that BellSouth's  
19 proposed structured sharing percentages be rejected and  
20 replaced with his. I disagree. I don't believe that his input  
21 recommendations are realistic, given the nature of how the work  
22 is actually accomplished, and should not be adopted by this  
23 Commission.

24           First, due to work coordination, safety, available  
25 space considerations and the like, significant sharing of

1 underground construction costs is unlikely, and BellSouth  
2 seldom, if ever, shares in the cost of underground excavation.  
3 In fact, underground sharing costs would occur only in cases  
4 where BellSouth is excavating for underground conduit and other  
5 parties are willing to share that excavation and conduit cost.  
6 That has rarely happened.

7           Mr. Donovan also states his disagreement with  
8 BellSouth's inputs regarding pole placement distances; that is,  
9 how far apart are these poles?

10           There are a number of factors that influence pole  
11 spacing. For example, mid-span clearances, that is the lowest  
12 portion of the cables that are hung, joint use clearances,  
13 rights-of-way limitations and the like. Installations have  
14 their own unique characteristics, and in my surrebuttal  
15 testimony I give a few examples of factors that influence that  
16 spacing.

17           A program that BellSouth uses to monitor and manage  
18 its construction of outside plant OSPCM considers these  
19 conditions such as I listed and includes them in the values  
20 developed for BellSouth's own internal use, as well as for  
21 TELRIC cost development.

22           In this case the data speaks for itself. BellSouth's  
23 pole spacing of 120 feet is an accurate depiction of the  
24 reality of the number of poles required to provide the amount  
25 of cable that'll be placed and there is no reason to believe



1 that this would be different in a forward-looking environment  
2 than we've seen in the past. Therefore, the Commission should  
3 accept BellSouth's input values.

4 Thank you. That concludes my summary.

5 MR. MEZA: Madam Chair, Mr. Milner is available for  
6 cross-examination.

7 CHAIRMAN JABER: Mr. Hatch, Ms. McNulty?

8 MR. HATCH: I have a few questions, yes, ma'am.

9 CROSS EXAMINATION

10 BY MR. HATCH:

11 Q Good morning, Mr. Milner. My name is Tracy Hatch.  
12 I'm going to be asking you a few questions on behalf of AT&T  
13 and WorldCom.

14 A Good morning, sir.

15 Q I'm fumbling around. I'm actually eliminating things  
16 as we go through, so some of this will be shorter.

17 A Take your time in that case.

18 Q Do you happen to have a copy of BellSouth's Appendix  
19 A, Page 1, from their compliance filing?

20 A Not up here with me, no.

21 CHAIRMAN JABER: And, Mr. Hatch, bear with us. We  
22 are having some microphone problems, we can tell, so talk right  
23 into the microphone and we'll see if we can work it out for the  
24 rest of the hearing.

25 MR. HATCH: Okay.

1 THE WITNESS: Yes, I've seen this before. Yes.

2 BY MR. HATCH:

3 Q In that diagram, the, the DSLAM designation, I think,  
4 that box is in sort of the lower left-hand side of that  
5 diagram. Do you see that?

6 A Yes, sir.

7 Q That stands for digital subscriber line access  
8 multiplexer; is that correct?

9 A That's correct.

10 Q And what exactly does that DSLAM do? What is its  
11 technical function?

12 A Well, the last two words are the most important. An  
13 access multiplexer denotes the fact that it takes signals from  
14 a number of different telephone or different customers. In the  
15 diagram here, only one customer is shown, but actually a number  
16 of these different customers at different locations would be  
17 connected to a single DSLAM.

18 The packets of information from those various  
19 customers is interleaved onto facilities that pass forward from  
20 the DSLAM over to the central office. In other words, the  
21 facility in the center of the page that says, DS1, 1 to 4 for  
22 traffic, all those customers served by that DSLAM would have  
23 their, their packet information transported across that  
24 facility. It's the DSLAM in the upstream direction that  
25 interleaves -- let's say you and I are both served by that same

1 DSLAM. The DSLAM interleaves your packets with mine as they  
2 arrive onto that, onto that facility, and it goes forward to  
3 the Internet from there.

4 In the other direction, that is traffic coming  
5 downstream to you and I over that same facility, the DSLAM  
6 figures out from the header information who the packets are  
7 intended for and sends that to, to my line or to your line as  
8 is appropriate.

9 Q Are you familiar with digital loop carrier equipment?

10 A Yes, sir.

11 Q Does digital loop carrier equipment also perform a  
12 multiplexing fashion, function in the same way that a DSLAM  
13 does?

14 A No, not really. Digital loop carrier equipment --  
15 this is going to get a little bit deep. But traditional  
16 digital loop carrier equipment assigns a certain time slot, we  
17 call it, for my traffic and a separate time slot for yours.  
18 Sometimes we call these channels.

19 In a DS1 there are 24 of those channels, and I have  
20 one of those and you have one of those and it's reserved  
21 exclusively for us. And whether we have traffic to be carried  
22 over that or not, that's still our, that's still our part of  
23 that facility.

24 That's unlike a DSLAM that, that doesn't reserve a  
25 certain, in most cases does not reserve a channel for you or

1 for me, but instead puts your traffic on there when your  
2 traffic is present, puts mine on there when mine is present.  
3 So in the loosest sense of the term they could both be called  
4 multiplexers, but they differ in the types of protocol they use  
5 in terms of how they handle the traffic. Also, digital loop  
6 carrier does this digitization process, converts from analog to  
7 digital, those other line management processes, that a DSLAM  
8 does not.

9           So, yes, in the loosest sense they're both  
10 multiplexers, but they're very different in terms of what they  
11 actually do.

12           Q     And a DSLAM can handle both voice and data, can it  
13 not?

14           A     Well, not really. The DSLAM handles voice and data  
15 only to the extent that with today's use it splits out the  
16 voice traffic and sends it to some other place, usually a  
17 digital loop carrier system, for handling further. I say  
18 usually because it's technically possible to packetize the  
19 voice; that is, chop your voice up into parts. The silent  
20 parts would not be packetized, the voice parts would be. So  
21 while it's technically possible to packetize the voice and send  
22 it over the same, the same facility that the DSLAM is attached  
23 to, to date we have not done that.

24           So when you say the DSLAM handles both, it really  
25 doesn't. The DSLAM splits off the voice and sends it to some

1 other device like the digital loop carrier for handling.

2 Q When you make the reference "you haven't done it,"  
3 are you referring only to BellSouth or are you referring that  
4 it's not been done at all by anybody?

5 A It's been, it's been done. We don't have a -- I've  
6 not seen any company with very large commercial volumes of  
7 packetized voice. That's, that's still a relatively new  
8 technology.

9 The difficulty is in making sure that the packets  
10 that handle the voice arrive in a, in a regular fashion so it's  
11 not choppy or distorted. Data traffic, you know, generally  
12 sending and receiving information from the, from the Internet,  
13 it, it goes in fits and starts. You know, you get, you get  
14 some data, you don't get it, but that's not so important. The  
15 order, the timing that it all arrives is important in the, in  
16 the, in one sense. But in terms of handling voice, it's very  
17 important that the packets arrive in a very predictable time  
18 frame. And that's, that's the problem that, that technologists  
19 are still trying to, trying to develop an elegant way for  
20 doing. We know how to do it and there are some, there are some  
21 services that do that, but it's still fairly early on in its  
22 technology life.

23 Q And to sort of close the loop on that a little bit,  
24 with respect to digital loop carrier equipment, you can do  
25 voice and data over DLC equipment, too, can't you?

1           A     Well, again, generally. You can, you can take some  
2 types of digital loop carrier equipment and add DSLAM  
3 capability to it. What, what has been referred to as so-called  
4 dual purpose line cards can be added to some types of DLC.  
5 But, there again, standard DLC does not include that  
6 capability. You'd have to, you'd have to add equipment and  
7 reconfigure parts of the old DLC to make it handle DSL traffic.  
8 In other words, you'd have to add a DSLAM or a DSLAM capability  
9 to the DLC such that it could accommodate DSL traffic.

10          Q     Now with respect to DLC handling data, if I don't  
11 require that it handle DSL-type data but it can handle data at  
12 lower transmission speeds --

13          A     Yes, you're correct.

14          Q     -- then it handles data just the same way it would  
15 handle voice with no additional line cards or other equipment?

16          A     Well, yeah, that's right. And the reason for that is  
17 because the voice is in or the data is encoded into the voice  
18 spectrum and the DLC treats it as if it were a voice signal.  
19 It's not. Your modem is sending out little chirps that are  
20 representations of numeric information, but it's handling it  
21 inside the voice stream or the voice bandwidth, rather.

22          Q     When you have multiplexing and you have voice, the  
23 voice is multiplexed, it's divided up into, say, digital  
24 carrier equipment just to be more clear, then the voice is  
25 divided up into, from multiple customers is divided up and, as

1 I recall, you say interlaced and then transmitted to the CO and  
2 at some point it's de-MUXed and it's sent out on its respective  
3 paths. Would that be a fair characterization?

4 A Yes, with the addition of one other step. There's  
5 this digitization that is the conversion of analog to digital.  
6 There's also a sampling that goes on that is roughly 8,000  
7 times a second. It looks at the transmission on your, on your  
8 line, the voice pattern, let's say, and 8,000 times a second  
9 samples that and expresses that sample as a number and sends  
10 that forward, that number forward as a representation of that  
11 one eight-thousandth of a second. So it puts that sample --  
12 what it does, it goes through, it samples yours, mine,  
13 everybody else's, comes back, samples yours again. So it  
14 does -- it's hitting your, your line in that DLC once every  
15 8,000 seconds and sending forward numeric representations of  
16 what that sample was.

17 Q It's my understanding, correct me if I'm wrong, that  
18 with respect to its placement of network facilities, say laying  
19 cable, that BellSouth, as I understand it, uses outside vendors  
20 to do all of that work essentially for a contract price, under  
21 a master contract. Would that be a fair statement?

22 A Yes. Yes, that's correct.

23 Q And tell me exactly how those master contracts work  
24 in terms of determining the price that you pay per foot of  
25 installed cable?

1 A Well, I mean, let's see how deep we need to go.

2 The rate per foot is negotiated between BellSouth  
3 and, and contractors. We describe the work that we want done,  
4 we put a bid sheet out. Various contractors come back and give  
5 us their prices for what they would do that unit of work for.  
6 We agree to a contract, sign it. And then when we have work,  
7 we place the work with those contractors and the prices are  
8 those found in the contract.

9 Q Now with respect to the placement of cable, does the  
10 contract have specific separate pricing, for example, for  
11 plowing cable versus boring for cable versus trenching?

12 A No. Well, generally not. There, there are some  
13 additives or some different pricing if, if the technique of  
14 placing the cable underground is boring. But whether it's any  
15 other form of, of placement, no, there are not separate rates.  
16 In fact, we specifically asked contractors to give us one fixed  
17 price that, that, that they would, that they would bid the work  
18 for.

19 Now when we actually place a job with a contractor,  
20 we tell them which method, you know, is going to be used in a  
21 given circumstance. But, but the price is fixed at the outset  
22 when they sign the contract with us.

23 Q So, for example -- you mentioned boring. Can you  
24 describe what boring is for me, please?

25 A Yes. Boring is a process using special devices that



1 directionally go underground and create an opening through  
2 which cable will later be pulled.

3 Q And you use boring to avoid the problems of, say,  
4 tearing up a street or tearing up a driveway or something like  
5 that?

6 A That's one, that's one benefit of boring is that it  
7 leaves the, the surface structure alone.

8 Q Okay. Now if you're -- for example, in my  
9 neighborhood, I live in a relatively suburban neighborhood,  
10 lots of houses, trees on the streets and that kind of thing.  
11 If you wanted to place, say, 40 feet of cable across the front  
12 of my yard, how long would it take in terms of relative  
13 man-hours? Would it take more to plow it or to trench it or to  
14 bore it?

15 A Well, it would depend on a number of factors. First  
16 of all, let's compare just excavation, either plowing or  
17 trenching, with boring. It depends on what would have to be  
18 restored after the trenching or plowing were done. If  
19 there's -- you know, if you've got flower beds out there that  
20 have got to be restored after we do that, then obviously that's  
21 going to take longer. So I can't give you one answer. It's a  
22 little bit situational.

23 Q For example, a 25 pair cable and you're going to run  
24 it across my front yard. If you could plow it, would that be  
25 quicker than trenching it?

1 A Generally so, yes.

2 Q Going back to your master contract, does BellSouth do  
3 all of its network placement using the master contracts?

4 A To my knowledge all of the varied -- yes.

5 Q Does it ever specifically bid out a particular job as  
6 compared to using the master contract vendor?

7 A That would -- I won't say never, but, but that would  
8 be, that would be uncommon.

9 Q For example, if you wanted to run, say, you know, a  
10 100,000-foot major cable, would you bid that job out as  
11 compared to going to your, your contract services carrier?

12 A Again, that would be uncommon. Generally our first  
13 choice would be to use the provisions of the contracts that had  
14 already been signed.

15 Q When you use or when you hire your vendor to actually  
16 place outside plant, does BellSouth do the engineering for  
17 that --

18 A Yes.

19 Q -- project?

20 A Yes. I'm sorry to interrupt you, but, yes.

21 Q In terms of your engineering of those jobs, do you  
22 determine whether you use plowing, boring or trenching for  
23 facilities?

24 A Sometimes, yes. If we know the situation to be more  
25 sensitive than another, then we will specify the, the actual

1 technique. To the, to the greatest extent that we can, we  
2 leave that discretion to the contractor.

3 Q Okay. I'm going to switch gears a little bit.

4 Do you have a copy of BellSouth's Response To  
5 AT&T/WorldCom's Interrogatory Number 5?

6 A I probably do. Number -- I'm sorry. I don't have a  
7 complete -- yes, I do.

8 Is it the question that says, "Please provide all  
9 documents discussing and describing, analyzing," is that how it  
10 starts out?

11 Q Basically it asks for a list of exempt material.

12 A Oh, no. It's not the one I was looking at. Okay.  
13 Sorry.

14 Q Just so that we're all clear, it would be BellSouth  
15 Telecommunications, Inc.'s, Response To AT&T And MCI's First  
16 Set Of Interrogatories. It's dated December 31st, 2001. It's  
17 Item 5.

18 A Okay. I'm with you.

19 Q And do you have the handout or do you have the whole  
20 original?

21 A It looks like I've got here --

22 Q You've got the handout?

23 A I've got what looks to be the handout, yes.

24 Q Do you have the actual original?

25 A Not with me, no.

1 Q Okay. You can accept, subject to check, that that  
2 attachment with that listing is actually 70 plus pages long.

3 A Sure.

4 Q This is just an excerpt from that, just so that it's  
5 clear where I'm going.

6 Could you explain to me your understanding of what  
7 exempt material is?

8 A Generally what exempt material means?

9 Q Yes.

10 A They are -- well, generally the term "exempt" means  
11 that there are things that are relatively low cost items that  
12 are used sort of incidentally. They are not inventoried items.  
13 They are, you know, things that, that would have probably cost  
14 more to keep track of individually than, than the items  
15 themselves are, are worth.

16 Q And that's to be contrasted with non-exempt material,  
17 which is essentially your major asset items that go into your  
18 inventory tracking system?

19 A Exactly. Yes.

20 Q If you'll go to -- I've hand-numbered the pages, and  
21 that's for reference purposes. The original was not numbered.  
22 Just if you'll go to Page 4. It's in the lower right-hand  
23 corner where I've written the Number 4.

24 A Okay.

25 Q You'll see what I've highlighted there, one of the

1 lines down, it says, "Bracket Tap Video."

2 A Yes.

3 Q Do you know what that is?

4 A I can only guess, to tell you the truth.

5 Q Do you, do you want to hazard a guess?

6 A Well, a video tap is usually just a type of coaxial  
7 connector. Since this is talking about a bracket, I presume  
8 it's just a small strap of metal to which one of those taps  
9 would be placed.

10 Q And what would a video tap be used for?

11 A In this context it could be used to, to attach some  
12 facility that's capable of conveying video signals, such as  
13 coaxial cable.

14 Q Would you turn to Page 5, please.

15 A Okay.

16 Q Do you see that first grouping that looks like  
17 various sorts of, I presume, line cards? Would that be  
18 correct?

19 A Yes. That's what they appear to be. Yes, they look  
20 to be various types of line cards that would go in a digital  
21 loop carrier system.

22 Q All right. And is it your understanding investment  
23 in these line cards is included in the DLC portion of BSTLM?

24 A I'm sorry. Ask me your question again.

25 Q With respect to these line cards, would it be your

1 understanding that these costs for these sorts of things,  
2 because they're related to digital loop carrier equipment, are  
3 included in the BSTLM in the calculation of the DLC investment?

4 A Well, I can't tell you exactly how they might be  
5 recognized in BSTLM because I don't, I don't do the inputs to  
6 that. But I would, I would expect that some representation of  
7 line card costs would be reflected in BSTLM. Yes.

8 Q And if the line card costs are reflected in the BSTLM  
9 and they're also reflected here in your exempt materials list,  
10 then aren't you recovering the cost of that twice?

11 A That, that's possible. I mean, if that's, in fact,  
12 what's happening. Again, I'm not, I'm not the BSTLM expert, so  
13 I can't tell you exactly how these costs were recognized in  
14 BSTLM or not.

15 CHAIRMAN JABER: Who could answer that question,  
16 Mr. Milner?

17 THE WITNESS: Perhaps Ms. Caldwell could answer that  
18 or perhaps Mr. Stegeman.

19 BY MR. HATCH:

20 Q All righty. Going down to the next little grouping  
21 there. There's three lines; case coil one, I assume, modular  
22 one pair.

23 A Yes.

24 Q Would those be related to load coils?

25 A I would presume so, yes.

1 Q Load coils are not forward-looking technology, are  
2 they?

3 A I'm sorry. Say again.

4 Q Load coils are not forward-looking technology. Would  
5 you agree with that?

6 A Well, it, it, it all depends. Generally I would  
7 agree with that statement. However, there might be cases going  
8 forward even where load coils are placed on the loop  
9 facilities. I don't think that will be common, but it could  
10 happen.

11 Q But in modeling your TELRIC network, typically at  
12 least within 18,000 feet you don't model any load coils at all.  
13 Would that be a fair statement?

14 A That's correct. Yes.

15 Q Now would you turn to the bottom of Page 8. Or  
16 that's actually -- turn to Page 8. It's actually in the middle  
17 of Page 8. I'm sorry.

18 A Okay. I'm there.

19 Q That grouping that I've identified there, that  
20 appears to be a composite drop with two fibers, two twisted  
21 pair. Would that be correct?

22 A That's what it appears to be, yes.

23 Q Would you be using a drop with two fibers in, in  
24 conjunction with twisted pair? Would that be essentially a  
25 fiber to the home sort of issue or fiber to a premises?

1           A     It might be, yes. Now over time we probably will see  
2 other variations of, of drop wires that have both copper pairs  
3 and fiber pairs within that same -- against the possibility  
4 that at some point you'd put fiber optic multiplexers at the  
5 premises end of that drop.

6           Q     Would you go to Page 9, the next page over.

7           A     Okay.

8           Q     You see down -- the grouping that I've got below  
9 there, it says, "Frame and cover manhole."

10          A     Yes, sir.

11          Q     Would that be essentially manhole lids and collars?

12          A     Well, the covers would be, yes. And I presume that  
13 the frame is, is part of that same apparatus. But, yes, that's  
14 what it appears to be.

15          Q     Now is it your understanding that manholes and  
16 collars are recovered elsewhere in the BSTLM?

17          A     I wouldn't know.

18          Q     I feel safe you can put this one down for the moment.

19          A     Okay.

20                CHAIRMAN JABER: Mr. Hatch, I'm -- you haven't asked  
21 for this to be identified. Is that something you did want  
22 identified?

23                MR. HATCH: It's already been identified, Madam  
24 Chairman. I believe it is Exhibit 7, I believe. 7, yeah.

25                CHAIRMAN JABER: Thank you.



1 MR. HATCH: I beg your indulgence for a moment to  
2 make sure I picked everything up here. I think I have one more  
3 thing to do, but let me check.

4 Yeah. Yes, I've got one more thing to do.

5 BY MR. HATCH:

6 Q Ms. Cassano (PHONETIC) is going to -- McNulty,  
7 Cassano, McNulty, we'll get this right one of these days -- is  
8 going to hand you out, it's a confidential exhibit.

9 A Thank you.

10 (Pause.)

11 Q Have you had a chance to look at that and more or  
12 less digest what it is?

13 A Yes, sir.

14 Q I believe this is correct, and perhaps counsel for  
15 BellSouth can help me here. The proprietary portion of this is  
16 the rate, and under the rate column on Line 2, I think that's  
17 what's the proprietary piece.

18 A That's my understanding, also, yes.

19 Q That's correct? And that essentially is an extract  
20 from the BSTLM. I'm not asking you to verify that. Just  
21 accept that, subject to check, for purposes of this exhibit.

22 A Okay.

23 MR. HATCH: Madam Chairman, in fact, while I've got  
24 this, could I have this marked for identification, please?

25 CHAIRMAN JABER: It would be Exhibit 43, Confidential

1 Exhibit 43. And, Mr. Hatch, I need a title.

2 MR. HATCH: Title, BSTLM Copper Splicing Rates.

3 CHAIRMAN JABER: Thank you.

4 (Exhibit 43 marked for identification.)

5 BY MR. HATCH:

6 Q Are you familiar with copper cable splicing?

7 A Generally, yes.

8 Q Can you briefly describe what that process entails?

9 A Yes. The splicing process is the, is the joining  
10 together of the individual pairs of two different cables that  
11 have been brought together usually in a manhole or some other  
12 structure. The technician identifies particular pairs in each  
13 cable and mechanically joins those two together.

14 Q With respect to this rate that gives pairs per  
15 hundred hours for underground -- forgive me if I seem to fumble  
16 through this. It's hard to talk around these numbers sometimes  
17 and get where you need to go.

18 A Yes. I understand.

19 Q Do you know if that rate includes both setup and  
20 closure?

21 A I may not be the right one to ask that. I'm not  
22 sure. It appears from looking at this that it does not in that  
23 Lines 6 and 7 are different line items that are labeled setup  
24 and closure. So I'm presuming that it does not include setup  
25 and closure time for those splicing rates.

1 Q Is it your understanding that BellSouth, as part of  
2 its inputs into the BSTLM, can splice cable at 100 pairs per  
3 hour?

4 A That's, that's apparently the presumption here. Yes.

5 Q I'm going to hand you out another piece of paper.  
6 And this one, for folks' reference, is AT&T, it's BellSouth's  
7 Response To AT&T And MCI's First Set Of Interrogatories,  
8 Interrogatory Number 3.

9 CHAIRMAN JABER: Mr. Hatch, let me -- Mr. Milner, can  
10 you take us back to your previous answer and, again, without  
11 disclosing the rate?

12 THE WITNESS: Yes.

13 CHAIRMAN JABER: If I'm reading Lines 6 and 7  
14 correctly, it's, and I'm looking at the formula to the left, it  
15 looks like it separates the amount of setup and closure from  
16 the rate shown on Line 3.

17 THE WITNESS: Yeah. That's what confused me a  
18 little, too, is that it does show that the formula is Line 3  
19 minus Line 1.

20 I think that what they're trying to do is to derive  
21 the part that's related only to the setup and closure portion  
22 there by that formula.

23 CHAIRMAN JABER: Right. So in response to Mr.  
24 Hatch's question, does the splicing rate for 100 pairs include  
25 setup and closure? Unless I'm reading this incorrectly, it

1 looks like it does.

2 THE WITNESS: Well, except that, working through the  
3 math here, I'd need to understand a little bit better how the,  
4 how the factors in the, in the body of the, of the table over  
5 under copper pairs is applied. That, that was, that was what I  
6 was not clear about.

7 BY MR. HATCH:

8 Q So to start off again --

9 A Okay.

10 Q I'm not sure where we ended up.

11 A Okay. All right.

12 Q But the number under the rate column that's  
13 proprietary, at least from our side appeared to include both  
14 setup, closure, as well as the actual wire work, the physical  
15 splicing itself.

16 A Right.

17 Q And hence my question, do you know whether it  
18 includes setup and closure or not?

19 A And, again, what I said earlier was I thought it did  
20 not because of those separate line items here and the fact  
21 that, that the math derives a portion of a workday in the body  
22 of the table under copper pairs. These are not, these are not  
23 values that I deal with routinely, and so I'm giving you my lay  
24 interpretation of what I think is a BSTLM, but I'm certainly  
25 not the expert on that.

1 Q Okay. Let's try another question.

2 You have just been handed, I believe, BellSouth's  
3 Response To Interrogatory Number 3 from AT&T/MCI. Do you see  
4 that?

5 A Yes.

6 Q And in the interrogatory response, what does it say  
7 is BellSouth's splicing rate per 100 pairs?

8 A Do you want me to give the response? Are you asking  
9 me that?

10 Q Just go ahead and read the response.

11 A Okay. Sure. The response was, "BellSouth objective  
12 copper conductor splicing rates per hour are: For new splice  
13 openings, .333 hours per 100 pairs; for existing splice  
14 openings, .25, one-quarter hour per 100 pairs."

15 Q Okay. So BellSouth can actually splice copper cable  
16 on a new splice opening at 300 pairs an hour; is that right?

17 A Exactly. Yes.

18 Q And for an existing splice it's 400 pairs an hour?

19 A That's correct.

20 Q Okay. Going back to this Exhibit 43, if that rate  
21 does not include setup and closure, then BellSouth is using an  
22 input rate of only 100 pairs per hour.

23 A On, on the face of that, this one table, yes, that's  
24 what it appears.

25 Q Which begs the question, why would you -- if you're

1 not including setup and closure in that rate, why would you not  
2 use 300 or 400?

3 A Again, I'm probably not the right one to ask that  
4 question. I'd divert it either to Ms. Caldwell or to  
5 Mr. Stegeman, who are more familiar with these forms than I.

6 Q Okay.

7 CHAIRMAN JABER: Mr. Hatch, I'm very interested in  
8 the responses to these questions and the previous ones that  
9 have been referred to the other witnesses. I'm assuming you'll  
10 ask them again?

11 MR. HATCH: Yes, ma'am. Actually it's the perennial  
12 debate about where you start because you know you're going to  
13 overlap back and forth.

14 BY MR. HATCH:

15 Q That's all I've got for this one. Hang on. Let me  
16 check my notes one more time.

17 (Pause.)

18 As you began your summary, you made a correction to  
19 your testimony where you struck the Q and A beginning on Line 6  
20 through 19 on Page 12 of your testimony. Do you recall that?

21 A Yes, sir.

22 Q Why are you essentially striking that piece of your  
23 testimony?

24 A I had a discussion with Ms. Caldwell, who informed me  
25 that in the process of her preparing a late-filed exhibit, I

1 believe it was a late-filed exhibit that was requested during  
2 her deposition, it was discovered that the answer that was in,  
3 that had been filed was not correct. That instead of certain  
4 factors that were used in BellSouth's OSPCM, that, in fact,  
5 other factors had been, had been substituted, which made this  
6 answer incorrect.

7 Q Okay. Speaking of OSPCM, are you familiar with  
8 OSPCM?

9 A Yes.

10 Q And could you describe what that does?

11 A Sure. Well, first of all, let me explain that OSPCM  
12 is Outside Plant Construction Management. It's a system that  
13 our engineers use to plan, engineer and monitor the progress of  
14 various outside plant jobs. So it's computer-based, has a lot  
15 of pull down menus that they select the work tasks that are  
16 involved, and then OSPCM applies various factors and costs to  
17 create the job itself in terms of the cost of the job and the  
18 details of the work that will be done.

19 Q Turning over to Page 13 of your testimony.

20 A Okay. In surrebuttal, I take it?

21 Q Yes. I'm sorry.

22 A It would have to be, wouldn't it?

23 Q There wasn't 13 pages.

24 A Yeah.

25 Q Sorry about that. I apologize.

1           And down along Lines 3 and 4 and 5 you talk about the  
2 miscellaneous costs.

3           A     Yes.

4           Q     Do you see on Line 5 where you make reference to  
5 bulldozers?

6           A     Correct.

7           Q     How many bulldozers do you use when you're plowing  
8 cable?

9           A     It would happen fairly infrequently. A bulldozer  
10 might be used if you needed to remove other obstructions from  
11 the property such that you could begin the plowing.

12          Q     If you're boring, would you typically have a  
13 bulldozer around?

14          A     Again, not typically, but there may be cases. It  
15 would be fairly rare, but there would be cases.

16          Q     And yet the costs of all of these items are classed  
17 as miscellaneous are spread evenly amongst all the types of  
18 cable placement; is that correct?

19          A     That's -- yes. That's correct.

20                CHAIRMAN JABER: If this, if the Commission were to  
21 take out some of the miscellaneous costs that, for items that  
22 are not frequently used but allow for a system or allow for a  
23 pricing mechanism that, that would allow the costs to be put in  
24 on those rare, in those rare circumstances where you would need  
25 a bulldozer, for example --



1 THE WITNESS: Yes.

2 CHAIRMAN JABER: -- how would you recommend we go  
3 about doing that?

4 THE WITNESS: Well, first of all, let me say that I  
5 think that adds, you know, that adds some process to the, you  
6 know, it's some work to the process. We'd have to develop some  
7 sort of surcharge that would be applied in those cases and, and  
8 be passed on accordingly.

9 What we've attempted to do here is to come up with  
10 these other costs, identify what they are, and, as was  
11 suggested, express those over an array of different styles of  
12 plant placement.

13 The alternative is more detailed but achieves the  
14 same result; that is, take out, you know, parse this list out  
15 and then only apply it in certain cases. The result would be  
16 the same on an aggregate basis, you know, whether you pulled it  
17 out and, you know, applied these costs to all types of cable  
18 placement or ran the math differently and only applied it in  
19 certain cases.

20 So what you'd wind up with are individual placement  
21 types that are more expensive because you took all of those  
22 costs and applied them solely to that type of placement. But  
23 at the gross level the math, you know, works out the same.

24 CHAIRMAN JABER: Now bulldozers are used  
25 infrequently.

1 THE WITNESS: Relatively so, yes.

2 CHAIRMAN JABER: And from just the list here, the  
3 examples of miscellaneous costs, what are some of the other  
4 items that are not used very often?

5 THE WITNESS: Well, all of these things, because  
6 they're in the miscellaneous category, are things that are,  
7 that are encountered incidentally.

8 If you need, if you need a police officer because  
9 you're working in the middle of a street to direct traffic, if  
10 the situation is that you've got to rent equipment like  
11 chainsaws to remove brush or trees from the property before you  
12 can begin the work. So it's all sort of incidental.

13 The question becomes to what degree of granularity do  
14 you want to start accounting these things such that you make  
15 sure they're absolutely, absolutely in the right bucket, if the  
16 net result is that the average cost per foot reflects these  
17 costs anyway?

18 CHAIRMAN JABER: I have a logistical question with  
19 respect to the sharing of costs and sharing of  
20 responsibilities.

21 If, if the BellSouth price did not include a cost for  
22 a bulldozer, for example, or, you know, we can pick any of  
23 these, the blower, the police officer, might an ALEC pay for  
24 the cost of those individual items on their own? In other  
25 words, hire their own police officer, hire, you know, a crew to

1 handle the bulldozer on their own so that BellSouth doesn't  
2 incur the cost but the ALEC does?

3 THE WITNESS: That's possible. That may get to be  
4 really complicated really fast because now you're talking about  
5 coordinating the ALEC's agents or property, if they, if they  
6 choose to provide those, to be used either by BellSouth's  
7 employees or by BellSouth's contractors. So it, it could get  
8 pretty convoluted pretty quickly.

9 CHAIRMAN JABER: But it's not impossible.

10 THE WITNESS: No. Nothing is impossible. But I'm  
11 just saying it would introduce a new level of coordination.  
12 Now the ALEC has got to make sure that its part of the  
13 equipment is on the site at the time that BellSouth's  
14 contractors are ready to do work in such a way that the work is  
15 not delayed and thereby made more expensive.

16 So the coordination itself would add a certain, a  
17 certain new cost that's not recognized here for the amount of  
18 time that's spent on the telephone to make sure that everybody  
19 is at the right spot at the right time.

20 CHAIRMAN JABER: Thank you.

21 BY MR. HATCH:

22 Q Just to sort of follow up on some of this discussion  
23 with, with the Chairman, when you -- correct me where I go  
24 wrong here because I might because I'm trying to recall it.

25 When you make the statement that at the end of the

1 day it all comes down to the average cost of placement and so  
2 it's okay, is that a fair characterization or am I grossly  
3 mischaracterizing it?

4 A Well, no. I'm saying that all of these costs are  
5 recognized in, in the way that the costs are development right  
6 now, are developed right now. If we want to put these into  
7 different piles, they still need to be recognized. I guess  
8 that's a better way of saying what I was trying to say earlier.

9 CHAIRMAN JABER: But, see, I understood your answer  
10 to be with respect to BellSouth it wouldn't matter to you  
11 because at the end of the day all of the costs are recovered.

12 THE WITNESS: Yes. But presuming that the rates are  
13 set, you know, properly, yes, the answer is we'd recover all  
14 our costs.

15 BY MR. HATCH:

16 Q Do you know what percentage of BellSouth's  
17 underground or buried plant is plowed versus bored versus  
18 trenched?

19 A No, I don't know that.

20 Q Would it be predominantly plowed or bored versus  
21 trenched?

22 A Intuitively that sounds right. But, I mean, I don't,  
23 I don't have the values here to know for sure exactly, you  
24 know, how much goes in each pot. But that sounds intuitively  
25 correct, yes.

1 Q For example, outside the city center where you've got  
2 lots of streets and sidewalks, where you get a little more open  
3 countryside going down the side of a road, it's much easier  
4 just to plow cable because that's the most efficient, quickest  
5 way to get it in the ground.

6 A Yes.

7 Q You wouldn't necessarily trench that all the way.

8 A That's right. And there's less reason to or less to  
9 do to restore the property to the state it was in before we  
10 started.

11 Q Now that cost of that bulldozer that's spread evenly  
12 amongst all the categories of, of buried plant, if you have --  
13 which I believe you agreed with me earlier you don't usually  
14 use a bulldozer with respect to plowing cable, for example.

15 A Typically not. No.

16 Q If you have a larger percentage of your investment in  
17 plowed cable and you spread the cost of that bulldozer as a  
18 factor across that, then doesn't it increase relatively the  
19 cost of plowing more so than it would the cost where it  
20 actually would be appropriate to allocate that bulldozer? Say,  
21 for example, in a city center where you've got to trench it and  
22 then, of course, you know, push the dirt back into the trench  
23 and so forth.

24 A Yes. That's the way the math would work would be to  
25 move the larger part of that incidental cost to that method

1 that's used most often.

2 MR. HATCH: I think that's all I have. Thank you,  
3 Mr. Milner.

4 THE WITNESS: Thank you.

5 CHAIRMAN JABER: Mr. Feil, I'm assuming you have  
6 questions?

7 MR. FIEL: Yes, ma'am.

8 CHAIRMAN JABER: We're going to take a ten-minute  
9 break and come back and let you ask those questions.

10 MR. FEIL: All right. Thank you.

11 (Recess taken.)

12 CHAIRMAN JABER: Mr. Feil, go ahead.

13 MR. FEIL: Thank you, Madam Chairman.

14 CROSS EXAMINATION

15 BY MR. FEIL:

16 Q Mr. Milner, I'm Matt Feil with Florida Digital  
17 Network. I just passed out a moment ago two documents, one  
18 being a two-page document with two discovery responses from  
19 Mr. Kephart.

20 MR. FEIL: Commissioner, I'd like to have that marked  
21 as Exhibit Number 44.

22 CHAIRMAN JABER: Both of them together, Mr. Feil, or  
23 --

24 MR. FEIL: Well, the two-page document as 44. And  
25 then the other document, which is 57 pages, I'd like labeled

1 45.

2 CHAIRMAN JABER: Okay. Exhibit 44 will be  
3 BellSouth's Response To Staff's Interrogatory Number 43. And  
4 Exhibit 45 is --

5 MR. FEIL: I would call that Exhibit 14 from the 271  
6 hearing.

7 CHAIRMAN JABER: Thank you.

8 MR. KNIGHT: Excuse me. On Number 44, it's also  
9 Staff's, the next page is Staff's Third Set Of Interrogatories,  
10 Item Number 76.

11 CHAIRMAN JABER: Thank you, Mr. Knight. Exhibit 44  
12 is also comprised of the response to Number 76 of Staff's  
13 interrogatory.

14 (Exhibits 44 and 45 marked for identification.)

15 BY MR. FEIL:

16 Q Mr. Milner, on exhibit, what's been marked Exhibit  
17 44, I'd like for you to help me with my math here.

18 Basically -- well, what you as Mr. Kephart is now  
19 saying is that roughly 58 percent of all BellSouth remote  
20 terminals are served by or have fiber feeders; is that correct?

21 A Yes. That's correct.

22 Q So by inverse proportion then, 42 percent would be  
23 copper feeder; is that correct?

24 A That's also correct. Yes.

25 Q And the two are mutually exclusive; is that correct?

1 A Yes.

2 Q Okay. Then on the next page --

3 A Well, let me, let me amend my last answer. Maybe I  
4 spoke too quickly.

5 Yes, that's very often the case or generally that's  
6 the case that if an existing remote terminal was served by  
7 copper facilities and then is later served by fiber optic  
8 facilities, then generally all the systems are moved over to  
9 the fiber optic system just so you minimize the amount of  
10 plant.

11 It is certainly possible that you would maintain part  
12 of the copper facilities to an RT site because the RT site has,  
13 let's say, several different digital loop carrier systems.  
14 Some might be working on copper at the same time that others  
15 are working on fiber. So that's a possibility.

16 Q Okay.

17 A So it was the mutually exclusive part that threw me.

18 Q But the general rule is that they are mutually  
19 exclusive?

20 A Generally, yes.

21 Q Okay. On the next page it refers to the total number  
22 of remotes for fiber-fed remotes; is that correct?

23 A Yes.

24 Q So by derivation of math I should be able to  
25 determine the total number of remotes and the number of remotes



1 served by copper; is that correct?

2 A Yes.

3 Q Do you have a calculator there?

4 A Not in front of me, but maybe we can come up with an  
5 approximate number.

6 (Witness was presented a calculator.)

7 Q And what's the number of, total number of remotes?

8 A The total number would be -- if you divide six  
9 thousand, what was the number, 6,269 by .579, you get 10,827.  
10 So roughly 11,000.

11 Q Okay. Okay. Can I ask you to turn to the other  
12 exhibit I handed you, the thicker one, Exhibit 45.

13 A Okay.

14 Q In the bottom right-hand corner of each page there is  
15 a handwritten number, and I'd ask you to turn to Page 13.

16 A Okay. All right.

17 Q You see that the answer there is that BellSouth has a  
18 total number of 12,037 remotes in Florida?

19 A Yes.

20 Q Are you aware that in response to Staff Interrogatory  
21 Number 42 BellSouth said that there are 8,881 remotes in the  
22 State of Florida?

23 A I'm sorry. What was the other -- what's the other  
24 data request you cited?

25 Q It's included in stipulated Exhibit Number 1, Staff

1 Interrogatory Number 42. Do you have that in front of you? I  
2 can show you a copy.

3 A Why don't you just show it to me. I don't have it  
4 right here.

5 (Witness shown document.)

6 Okay.

7 Q Has BellSouth removed remote terminals from the State  
8 of Florida to your knowledge?

9 A Well, we sometimes do. I mean, yes, there are.

10 Q Have you -- has BellSouth removed thousands of  
11 remotes in the State of Florida?

12 A No. No. I think the difference between these  
13 answers is someone's interpretation of, of what the phrase  
14 "remote terminal" means and whether to, you know, what types of  
15 structures to include or exclude.

16 Q Are you aware that in this case Mr. Williams states  
17 in his testimony on Page 16 that there are roughly 12,000  
18 remotes in Florida?

19 A I recall that discussion with him, yes.

20 Q Do you think that the Commission is safe in accepting  
21 the 12,000 remote figure?

22 A I would use Mr. Williams' number, unless he's, unless  
23 he's amended that somehow. Yes.

24 Q I'd ask you to refer again on Exhibit 45, Page 14.

25 A Hand-numbered Page 14?

1 Q Yes, sir.

2 A Okay. I'm there. Yes.

3 Q Yes, sir. That states there that approximately  
4 61 percent of all BellSouth's access lines in Florida are  
5 served by fiber; correct?

6 A To be a little more precise, yes. Fiber in the  
7 feeder and copper in the loop distribution part. Yes.

8 Q Correct. Could you turn to hand-numbered Page 18.

9 A Okay.

10 Q Now it says that approximately 1.2 million copper-fed  
11 DLC working lines; is that correct?

12 A Yes.

13 Q Total number of access lines for BellSouth in Florida  
14 is 6.5 million?

15 A That sounds about right. Yes.

16 Q Would you know why then, Mr. Milner, in response to  
17 Staff Interrogatory Number 35 you say that 44.3 percent of all  
18 BellSouth access lines passed through DLCs?

19 A Well, we're mixing apples and oranges here. There  
20 are two different ways that digital loop carrier can be  
21 connected back to the central office, either on fiber or on  
22 copper. So it's a, you know, when -- I mean, that's just the  
23 two methods.

24 Q How are we mixing apples and oranges? I don't  
25 understand.

1           A     Well, I mean, because these interrogatories are  
2 asking for, for different things. Some are saying how many,  
3 you know, how many of the loops are served by fiber in the  
4 feeder, and others, I think this last one we looked at, Item  
5 54, my interpretation of this one says how many are served by  
6 copper-fed, that is with copper in the feeder part, and that's  
7 where the number 1.2 million came from.

8           Q     Okay. If it's 1.2 million out of a total of 6.5  
9 million, what is that roughly?

10          A     Roughly a fourth or a little bit less.

11          Q     Okay. So shouldn't I able to add that percentage to  
12 the 60 percent on Page 14 and determine the total number of  
13 access lines or the total percentage of access lines served  
14 through fiber and copper-fed?

15          A     Yes. I recalled in Florida somewhere around  
16 three-fourths of the -- I think I recall that about 70 percent  
17 of, of all the access lines are served by some form of digital  
18 loop carrier. So that's roughly the same, yes.

19               MR. FEIL: That's all I have. Thank you.

20               MR. McGLOTHLIN: No questions.

21               MR. GROSS: No questions.

22               CHAIRMAN JABER: Staff?

23                                   CROSS EXAMINATION

24 BY MS. KEATING:

25           Q     Good afternoon, Mr. Milner.

1 Under BellSouth's proposed rate design for the hybrid  
2 fiber/copper xDSL-capable loop --

3 A Yes.

4 Q -- that one of those rate components is subloop  
5 feeder; correct?

6 A That's correct. Yes.

7 Q And I believe you've indicated that a subloop feeder  
8 is assumed to be fiber; correct?

9 A I'm sorry. Say again. I didn't hear the last part  
10 of your question.

11 Q That the feeder is assumed to be on fiber.

12 A That's right. Yes. A DS3 facility on fiber optic  
13 cable serving some number of DS1s, yes.

14 Q And just to make sure I understand this correctly,  
15 the feeder provides the transport from the remote terminal back  
16 to the central office; correct?

17 A You're correct. Yes.

18 Q Okay. And under BellSouth's model this feeder is  
19 assumed to be a dedicated DS1?

20 A Or some number of DS1s, yes. The facility is assumed  
21 to be dedicated to the ALEC whose DSLAM it's connected to. And  
22 the reason for that is such that there's not a requirement to  
23 put a packet switch in place to disaggregate that packet stream  
24 into various service providers.

25 Q I think you've already noted earlier that there is

1 testimony filed in this proceeding that indicates that other  
2 parties would be interested in seeing that transport be shared  
3 transport; is that correct?

4 A Yes. I think what they meant was they'd like to see  
5 that transport shared between that ALEC or those ALECs and  
6 BellSouth. BellSouth is not opposed to the ALECs sharing that  
7 transport among themselves. What the testimony I read implies  
8 to me is that they want to share that transport, but doing so  
9 requires that you attach it to a packet switch so you can  
10 unshare it.

11 Q Okay. Well, discounting the issue of the packet  
12 switch in the central office --

13 A Okay.

14 Q -- would a dedicated circuit be priced similarly to  
15 shared transport?

16 A Well, the underlying costs would be built up in the  
17 same way. The difference would be, you know, what the  
18 denominator is once you, once you allocate those costs, once  
19 you share those costs. I mean, it's the same devices and the  
20 same technology and the same equipment that would be used  
21 whether it was dedicated or shared. The question is how would  
22 you allocate those costs if you're, if you're sharing that  
23 facility.

24 Q But as far as developing the cost for a hybrid  
25 fiber/copper xDSL-capable loop, would it be, would there be

1 less cost associated with a dedicated circuit for that  
2 transport between the RT and the central office or if that  
3 transport were shared transport? Which would be the least  
4 costly?

5 A Well, there's not, there's not a simple answer to  
6 that. It all depends. If the facility, let's say, is  
7 dedicated but is fully utilized by the ALEC, then the, then the  
8 cost per unit is the same. So what you really start talking  
9 about are utilization factors, how much of that facility is  
10 used at a given time and who is the unused part allocated to?

11 If, if two facilities are both utilized all the time,  
12 then, then the, then the costs are, and the rates that would  
13 result are virtually the same.

14 Q Okay. Getting back to the issue of the packet switch  
15 in the central office. What kind of packet switching device  
16 would that be exactly?

17 A Do you mean by make and model?

18 Q Just the type. Is it an ATM switch or --

19 A Yes. It would be an asynchronous transfer mode  
20 switch. BellSouth happens to use Lucent Technology's switches,  
21 but there are others in the market.

22 Q Okay. Well, I'm just trying to understand how the  
23 packets go to where they're supposed to go.

24 A Oh, okay.

25 Q So if such a shared transport facility that contained

1 both BellSouth's and an ALEC's packets came into the central  
2 office and hit that ATM switch, once BellSouth's packets were  
3 split out from the ALEC's packets, where would they go?

4 A Where would the ALEC's packets go?

5 Q The BellSouth packets.

6 A BellSouth's packets would go to, to the remainder of  
7 BellSouth's packet network and eventually to the Internet.

8 Q Exactly how do they get there though? Like what  
9 equipment do they go through?

10 A Well -- yes. Well, the -- well, let me back up a  
11 pace.

12 The DSLAM is connected to that facility, which is in  
13 turn connected to an ATM switch. The ATM switch looks at two  
14 pieces of information that are in the, in the header of the  
15 packet.

16 Imagine this facility being sort of like a conveyor  
17 belt and on that conveyor belt are different parcels. In the  
18 header are two pieces of information: Sort of like the address  
19 of the place that parcel is going, and the return address up in  
20 the top left-hand corner that says this is where this  
21 information came from.

22 So BellSouth, the BellSouth ATM switch would look at  
23 those two pieces of information and say this return address is  
24 presubscribed to this Internet service provider, put it on this  
25 facility forward from the ATM switch.



1           For example, if a customer was using Earthlink, you  
2 know, Earthlink was acquiring BellSouth's service, then the ATM  
3 switch would look at the destination and the return address and  
4 figure out that that, those packets had to go on a facility  
5 that went forward to Earthlink's Internet access. It would  
6 look at that same, those same two pieces of information and  
7 discover, perhaps, that I'm a BellSouth Internet access user  
8 and would put my packets on a separate facility going over to  
9 BellSouth's ingress to the, into the Internet.

10           So the, the ATM switch is looking at, at where the  
11 packet is going and where it came from in terms of the, the  
12 return address, the IP address actually of the end user out  
13 there and, and making distinctions about, you know, how to  
14 route that traffic forward.

15           Q     How do an ALEC's packets travel once they're split  
16 out from BellSouth's?

17           A     Well, in the -- we're talking in the context of where  
18 the ALEC's packets are transferred from the DSLAM forward to  
19 BellSouth's packet network over that same facility. By the  
20 same process they'd be, the ATM switch would look at the  
21 destination and would look at the Internet address, the IP  
22 address of the end user, which I've been calling the return  
23 address, and would determine based on that information to put  
24 it on a separate facility, forward it to a different ingress  
25 point to the Internet, that is the ALEC's ingress point rather

1 than BellSouth's.

2 Q So from the ATM switch would they travel then to an  
3 ALEC switch in the central office and then out to the Internet,  
4 or would they travel on BellSouth facilities directly from the  
5 ATM switch to the Internet?

6 A Well, how I would imagine it taking place would be  
7 that, that there would be a separate facility from the ATM  
8 switch to the ALEC's, let's call it a point of presence, but  
9 some sort of point of interconnection there in the central  
10 office, and they would transfer, you know, they would get that  
11 information or those packets wherever, either on their own  
12 facilities or I guess they could buy facilities from BellSouth  
13 out of BellSouth's special access tariff to, to transport that  
14 to where they wanted it to go.

15 Q Would the --

16 A I'm sorry.

17 Q I'm sorry. No, I didn't mean to interrupt.

18 A But anyway, but all of this is in the context of  
19 something that's different from what's in the proposal that  
20 BellSouth made. Because we've been supposing all along that  
21 BellSouth's packets and everybody else's packets were on the  
22 same transport facility to the central office, and we were  
23 using an ATM switch to, to sort those out and send them forward  
24 on different transport pipes to the Internet or to the, to the  
25 CLECs, wherever the CLEC wanted it to go.

1 Q I realize that this isn't what BellSouth modeled, but  
2 going back to the issue of how the packets get from the ATM  
3 switch to -- the ALEC's packets, I'm sorry, get from  
4 BellSouth's ATM switch to the ALEC's point of presence in the  
5 central office. Has BellSouth considered whether that facility  
6 that transmitted the packets would be a BellSouth facility or  
7 an ALEC facility?

8 A Well, we have considered it. I have considered it  
9 as, as, as the technical possibility exists for either of  
10 those. The ALEC in that central office could, you know, we  
11 could, we could agree to a meet point and those packets could  
12 be handed across and then the ALEC would transport them forward  
13 however the ALEC chose, or the ALEC and BellSouth could reach a  
14 commercial agreement for BellSouth doing that transport  
15 instead.

16 Q So let me just make sure I understand your testimony  
17 correctly. What you're saying is that if shared transport is  
18 used in the feeder portion of the hybrid fiber/copper loop,  
19 that's the shared transport instead of a dedicated circuit,  
20 BellSouth would have to unbundle not only the DSLAM but a  
21 packet switch?

22 A Absolutely.

23 Q Is there any other network component that BellSouth  
24 would have to unbundle in order to, for DSL services to be  
25 provided in that situation?

1           A     Well, possibly. Because a moment ago you asked me  
2 about, about that transport from the ATM switch forward to  
3 wherever the ALEC wanted it to go. I presume that if you said,  
4 I want you to recreate this finished service but do it on an  
5 unbundled basis, you'd have to include that other piece of  
6 transport, not the one between the DSLAM and the central  
7 office, but the other piece of transport between the ATM switch  
8 and wherever the, and wherever the ALEC was to receive that  
9 information.

10                   But generally the pieces you've described are what  
11 we've said would have to be unbundled, the DSLAM, that  
12 transport, and the packet switch to, to, to accomplish what the  
13 ALECs have proposed instead of what BellSouth has proposed.

14                   MS. KEATING: Thank you, Mr. Milner.

15                   THE WITNESS: Thank you.

16                   CHAIRMAN JABER: Mr. Milner, may I ask you some  
17 questions off of the Exhibit JK-1?

18                   THE WITNESS: Yes.

19                   CHAIRMAN JABER: In your, in both pieces of the  
20 testimony you make the point that the DSLAM should not become a  
21 separately identified UNE because, in fact, BellSouth has  
22 provided the hybrid loop xDSL-capable loop and ALECs can use  
23 that to deploy DSL.

24                   THE WITNESS: Yes.

25                   CHAIRMAN JABER: And you go further and you say

1 BellSouth has provided that offering because some ALECs  
2 represented that they didn't want to use, that they didn't want  
3 to deploy DSLAMs in all of the remote terminals.

4 THE WITNESS: That's correct.

5 CHAIRMAN JABER: For those companies that are willing  
6 to put DSLAMs into each remote terminal or a group of remote  
7 terminals, you would agree with me that both companies,  
8 BellSouth and the ALEC, would benefit from that DSLAM.

9 THE WITNESS: Well, obviously the ALEC benefits from  
10 it because it's their device and they would, they would provide  
11 service. Yes, I suppose you could say that BellSouth benefits  
12 from the ALECs having done so to the extent that it means that  
13 we don't have discussions about whether we have to unbundle our  
14 packet switching and that sort of thing.

15 But, yes, it gives them their own device to serve  
16 their customer however they'd like. We're happy to provide  
17 them the other things they need to go along with that like the  
18 piece of, the wire that runs from that place to each customer's  
19 premises. We provide that on an unbundled basis.

20 CHAIRMAN JABER: Is that the only benefit BellSouth  
21 has? You are not able to use that DSLAM for your own services  
22 at all?

23 THE WITNESS: Well, no. In that case, if the ALEC  
24 has collocated its own DSLAM, to date we have not struck an  
25 agreement that, whereby we could use their device on an

1 unbundled basis.

2 CHAIRMAN JABER: Is it technically feasible?

3 THE WITNESS: Well, yes, it's technically feasible.  
4 Where we've -- and we've had some discussions with ALECs, not  
5 about sharing DSLAMs but on other, on other network devices,  
6 and the, to be frank, the discussion always comes down to  
7 money. Obviously if we provide things on an unbundled basis,  
8 it's done, you know, at TELRIC levels. When we've engaged in  
9 conversations with ALECs and suggested that they likewise use  
10 TELRIC pricing, you know, they've got no interest in that and  
11 the discussions ended, you know, pretty quickly.

12 CHAIRMAN JABER: Okay. Let's just focus on answering  
13 my questions, and I won't keep you very long.

14 It is technically feasible for BellSouth and the ALEC  
15 to use that DSLAM, one DSLAM in providing services by each  
16 company.

17 THE WITNESS: That -- sure. Yes. That's technically  
18 possible.

19 CHAIRMAN JABER: Okay. Assuming you can enter into  
20 an agreement with an ALEC to share that DSLAM to provide  
21 services by both companies, tell me how to share the costs. I  
22 want to find a way to allocate and split the costs between the  
23 ALEC and BellSouth, assuming that there could be an arrangement  
24 between the companies to share the DSLAM.

25 THE WITNESS: Okay. Well, the simplest way to

1 allocate the cost would be to allocate it on the basis of the  
2 number of ports, that is customer lines that were attached to  
3 the DSLAM. If the ALEC and BellSouth each use 50 percent of  
4 those ports, then you could allocate 50 percent of the cost of  
5 the DSLAM to BellSouth and the other 50 percent to the ALEC.  
6 That's the simplest part, way to do it. And, in fact, there  
7 are some fixed costs in the DSLAM that would argue that that's  
8 the right way to do it.

9           But the, the other parts that would make that device  
10 functional are more sensitive to the amount of packet traffic  
11 that's conveyed by each individual customer than not. So it  
12 may mean that the, the ALEC has half the, the customers served  
13 by that but that those customers generate 95 percent of the  
14 traffic which is carried over that shared facility forward to  
15 the central office.

16           So you might -- you know, in that case, you'd look at  
17 devising a scheme where you'd measure the number of packets  
18 sent and allocate the transport costs or the, you know, the  
19 traffic-sensitive costs on that basis. Probably at the end of  
20 that exercise you'd conclude that you needed some, some  
21 blending of both traffic sensitive and nontraffic sensitive  
22 costing to really accurately assess the right amounts to each  
23 party.

24           CHAIRMAN JABER: Okay. So some hybrid could be  
25 assessing a basic sharing depending on the services used over

1 the DSLAM and then adding onto it a factor related to the  
2 amount of traffic.

3 THE WITNESS: That's one way, yes.

4 CHAIRMAN JABER: All right. Other ALECs can use that  
5 DSLAM, too, if they enter into a collocation or a sharing  
6 agreement with the ALEC that deployed the DSLAM.

7 THE WITNESS: That's correct. Yes.

8 CHAIRMAN JABER: And the same sort of rate structure  
9 could be used in that arrangement.

10 THE WITNESS: It could be, yes.

11 CHAIRMAN JABER: All right. I'm a visual person,  
12 Mr. Milner, and I want you to look at the JK-1 exhibit.

13 THE WITNESS: Yes. I'm there.

14 CHAIRMAN JABER: Tell me what you believe, because  
15 you rebut Mr. Gallagher's testimony, tell me what you believe  
16 he wants, according to this exhibit, as an unbundled network  
17 element. For example, in my own words, and you need to correct  
18 me, but just to get you started, it's my understanding that as  
19 part of the unbundled network element he would want the DSLAM,  
20 all the transmission facilities, including the NID.

21 THE WITNESS: Correct.

22 CHAIRMAN JABER: Okay. Would you elaborate on what  
23 you believe, according to this exhibit, using this exhibit,  
24 he's asked for as an unbundled network element. And then I  
25 need you to contrast that with what you believe you provide



1 with the hybrid xDSL loop.

2 THE WITNESS: Okay. Okay. Well, the, I think we can  
3 just make some substitutes of labels in this drawing and, and  
4 get a sense of what Mr. Gallagher is proposing.

5 What, what we would wind up with under  
6 Mr. Gallagher's proposal is that this DSLAM would be shared  
7 between BellSouth and whoever and, likewise, the multiplexer  
8 and, likewise, that solid line that says fiber optic cable pair  
9 instead of MUX inside the central office in that large square  
10 at the bottom right, instead of a multiplexer, substitute and  
11 use the label "ATM switch." And then leaving the ATM switch  
12 would be not one solid line that's labeled DS1 here but  
13 several; one for BellSouth, one for ALEC Number 1, a different  
14 one for ALEC Number 2.

15 BellSouth would then extend its packets over to its  
16 own Internet access point, Internet ingress point, and likewise  
17 it would hand off, you know, each individual ALEC's packet  
18 traffic on its own unique facility there in the central office.

19 So that's -- the principle difference is that  
20 BellSouth's proposal provides a loop that is hands-off a  
21 DSL-capable loop to the ALEC's collocation arrangement.

22 By contrast, Mr. Gallagher's proposal is of an entire  
23 DSL service including packet switching. So the big difference  
24 between the two drawings would be the presence of an ATM switch  
25 in his proposal and the absence of that ATM switch under

1 BellSouth's proposal.

2 CHAIRMAN JABER: All right. Now help me understand  
3 then why the absence of that ATM switch is that much of a  
4 significant difference to you.

5 THE WITNESS: Well, the difference is in two or three  
6 veins.

7 The first vein, I guess, is one of, of what the  
8 current state of the law is at least as the FCC sees it. And  
9 the FCC, for now at least, has drawn a fairly bright line  
10 between traditional services and advanced services and it has  
11 named things like DSL as part of the advanced services.

12 It's my opinion that BellSouth does not have an  
13 inherent advantage in that advanced services market over ALECs.  
14 And because it has no inherent advantage, it ought not to be  
15 shouldered with all the economic risk of deploying a  
16 DSL-capable network.

17 Now when I say we have no inherent advantage, we have  
18 DSLAMs, for example, because we've been at the business now for  
19 about a year and a half of installing those. We've taken our  
20 best look at where we thought we'd have customer demand and  
21 placed those things accordingly. Where customers are served  
22 over DLC, BellSouth has stepped up to the task and has  
23 installed DSLAMs in remote terminals. ALECs can do likewise.

24 So there's the distinction of what the law says right  
25 now and about what's an advanced service and what's not.

1 There's the distinction of who bears the economic risk and who,  
2 you know, what happens to provide proper incentives for ALECs  
3 to build their own competing networks.

4 Dismantling finished goods, finished services and  
5 providing those to ALECs at UNE-based costs, I believe, removes  
6 any incentive for them to deploy their own network. So in that  
7 scenario, we'd only have two network providers; we'd have cable  
8 companies, who are the dominant players, and we'd have  
9 BellSouth, who was providing its network on an unbundled basis  
10 to ALECs. So you'd wind up with fewer networks under the  
11 ALECs' proposal than under BellSouth's.

12 CHAIRMAN JABER: Okay. So if I understand your  
13 answer correctly, there are two concerns. One related to the  
14 FCC hasn't required you to do it. You don't want to do it  
15 because no governmental body has required you to do it. The  
16 second reason is a policy reason on your company's part, which  
17 is how can you encourage these companies to become  
18 facilities-based if you're constantly bearing the economic  
19 risk?

20 THE WITNESS: Correct. Yes.

21 CHAIRMAN JABER: All right. So then there is no  
22 technical reason for not supporting Mr. Gallagher's proposition  
23 that that entire scenario you described earlier, which I would  
24 note is the upper portion of this exhibit basically.

25 THE WITNESS: Correct.

1 CHAIRMAN JABER: There is no technical reason for not  
2 making that available as a UNE.

3 THE WITNESS: You're correct. This is not, this is  
4 not a disagreement over what's technically possible. I can see  
5 that that's technically possible. I think from a regulatory  
6 perspective that's not the proper thing to do.

7 CHAIRMAN JABER: Okay. Thank you, sir.

8 THE WITNESS: But there's no, there's no technical  
9 reason.

10 COMMISSIONER DEASON: Mr. Milner, I want to follow up  
11 with some of the Chairman's questions and pursue something for  
12 just a moment, and it kind of relates back to what I understood  
13 you said during your summary. And I was making some notes, and  
14 if they're incorrect, correct me. But basically I understood  
15 you to say that a shared DSLAM is, is not a more efficient way  
16 to utilize the network. And you made some reference to that  
17 there would need to be a packet, a packet switch requirement at  
18 the central office to disaggregate the traffic. Did I  
19 characterize your summary correctly?

20 THE WITNESS: Yes. I believe what I said was that  
21 having dedicated facilities is not by itself necessarily more  
22 or less efficient. You'd need to drop down a layer and see  
23 what the utilization of those shared facilities, of those  
24 shared facilities actually was at the time.

25 COMMISSIONER DEASON: Well, I guess that's really

1 what I want to, I want to get to for a moment.

2 The efficiency of a network can be measured to some  
3 extent by the utilization factor of that network?

4 THE WITNESS: Yes. That's one way to do it. Yes.

5 COMMISSIONER DEASON: So it would be possible that if  
6 you were sharing DSLAMs with others, that you could reach a  
7 higher utilization rate than you would achieve on your own; is  
8 that correct?

9 THE WITNESS: That's possible. But utilization rate  
10 is only one factor in designing and operating networks. Grade  
11 of service to the customers is another. So you take all of  
12 those things into, into view and determine how to build your  
13 network, how large it's going to be, how robust and eventually  
14 how expensive it's going to be. Not only what's the absolute  
15 percent of plant am I utilizing at a given moment, but couple  
16 that with a factor of what is the customer's perception of the  
17 quality of service that I'm delivering at that time.

18 COMMISSIONER DEASON: Well, let me make one thing  
19 clear. My questions are based upon the assumption, and it may  
20 be a broad assumption, but the broad assumption being that the  
21 quality of the service is not going to be degraded by sharing  
22 facilities, that they will be designed and utilized such that  
23 quality of service is maintained. Is that an incorrect  
24 assumption to make?

25 THE WITNESS: No, it's correct as far as it goes.

1 But that presumes that all the service providers are, are  
2 generally offering the same sort of packet services. There are  
3 various types. There are so-called guaranteed bit rate  
4 services. That is where you guarantee the order arrival of the  
5 packets and the general time frame that they're going to  
6 arrive. If different service providers come at the market in  
7 different ways, you might see that some of them make more  
8 stringent uses of that shared capacity because of the services  
9 that they're actually providing to their customers.

10 At the high level your statement is correct, but  
11 they're actually differentiations of service among the  
12 different types of, the different ways that you can deliver  
13 packet traffic.

14 COMMISSIONER DEASON: Well, isn't it possible to give  
15 different quality of service, different levels of service and  
16 still utilize a shared network to do that?

17 THE WITNESS: Yes. The answer is yes. It becomes  
18 much more difficult to do that where different users have  
19 different expectations of what utilization means and what the  
20 grade of service on their traffic is what they want.

21 COMMISSIONER DEASON: Well, wouldn't you agree that  
22 if there were a provider that was guaranteeing or, or at least  
23 asserting to their customer they're getting a higher quality of  
24 service and that results in higher costs on a shared facility,  
25 they should bear those higher costs?

1 THE WITNESS: I'd agree with that statement, yes.

2 COMMISSIONER DEASON: Would BellSouth be willing to  
3 share a DSLAM, if they could do so at a rate higher than TELRIC  
4 rates?

5 THE WITNESS: Yes. We're not, we're not -- we've  
6 offered to negotiate market rates for the use of our DSLAMs.  
7 We've got finished services that we offer through, through our  
8 tariffs that, that in effect use shared DSLAMs and shared  
9 transport. So, yes. But in those cases we've arrived at  
10 mutually agreeable rates for doing so.

11 COMMISSIONER DEASON: Have you engaged in  
12 negotiations and reached an agreement as to what those rates  
13 should be and have those resulted in the sharing of facilities?

14 THE WITNESS: No, we have not been successful. And  
15 as I responded to Chairman Jaber's question, those negotiations  
16 always tend to break down when we start talking about at what  
17 cost basis those rates will be developed. I think we're here  
18 today because the, the ALECs believe that those costs ought to  
19 be based on TELRIC. BellSouth, on the other hand, believes  
20 that if we're going to do, that is if we're going to provide  
21 packet switching on an unbundled basis, that those need to be  
22 market rates, not cost base rates. So that's where the  
23 negotiations have broken down.

24 COMMISSIONER DEASON: Do you think there's a rate out  
25 there that can be achieved such that it is lower than the cost

1 of an ALEC deploying their own DSLAM and above TELRIC rates  
2 that would be such that there would, it would incent companies  
3 to come into the, provide DSL services?

4 THE WITNESS: Well, I'm going to, I'm going to step  
5 way outside of network planner shoes and start, you know,  
6 opining about what an economist might say to that. But, yes --  
7 not as an economist I'd say that, yes, there probably is a rate  
8 that, that we could, that we could agree to that might be less  
9 than what they, less than their worst case scenario certainly  
10 but higher than their best case scenario, which would be  
11 TELRIC. But, yes, I think that there is such a rate, but we've  
12 not, we've not reached that kind of agreement with anybody to  
13 date.

14 COMMISSIONER DEASON: I'm going to ask you another  
15 question. You have to wear that broader hat further a moment  
16 and give me your opinion. Do you think that something should  
17 be done under the regulatory umbrella or is that something that  
18 should be done on a business-to-business negotiating level?

19 THE WITNESS: Well, the latter. I think this is  
20 clearly an area where the market itself is changing very, very  
21 quickly in terms of what customers' expectations are, what  
22 kinds of services they want. And I think those are the type  
23 negotiations that are left to, that are better left to  
24 business-to-business negotiations.

25 COMMISSIONER DEASON: And what if -- if we as a



1 Commission were to allow those negotiations to take place and  
2 no agreements were reached, do you think it would be  
3 appropriate then for regulation to step in?

4 THE WITNESS: Well, I think that's a possible, that's  
5 a possible outcome that, that I hope would not occur. I would  
6 hope that BellSouth and ALECs could come to reasonable  
7 conclusions. The real competitor for, for ALECs and for  
8 BellSouth is not each other. Right now the big competitor is,  
9 is cable operators, who have the predominant share of the  
10 market.

11 COMMISSIONER DEASON: You just, you just reached an  
12 area that I wanted to explore with you, and I'm glad you made  
13 that point. And I guess the question I have is that if you  
14 were to share facilities, designed them efficiently and agreed  
15 to some type of a cost-sharing arrangement that was fair for  
16 everyone depending on how they utilize the network and the  
17 costs that they put on the system, would it be possible that it  
18 would be a win-win situation for BellSouth and ALECs in the  
19 sense that you would be able to more efficiently compete  
20 against cable?

21 THE WITNESS: That's a, that's a possible outcome.  
22 But I'll, but I'll say this, that the ALEC's proposal of taking  
23 DSL-capable services one line at a time is not the solution  
24 because that, that moves all the investment risk to BellSouth.  
25 In other words, BellSouth takes all the investment risk to find

1 the right places to put DSLAMs, to buy them, install them,  
2 operate them. ALECs then have a luxury of saying if I win a  
3 customer in one of those locales, I'll take it from you at  
4 cost-based rates, and if I don't, I won't. So BellSouth gets  
5 all of the risk but only part of the reward.

6 ALECs, on the other hand, would have very little  
7 economic risk because they wouldn't have that much exposure  
8 because BellSouth instead made those investments. So the, the  
9 ALECs would, would have very little of the, of the economic  
10 risk. BellSouth would have to weigh its options at that point  
11 to say, is this a business that I can continue to do business  
12 in where I got all the risk but I've only got limited reward  
13 capabilities? Can I -- for the customers that I do win, am I  
14 sufficiently successful to overcome the cost of the entire  
15 investment risk that I'm putting out there for both myself,  
16 BellSouth and for the ALECs?

17 So if, if the, if the SBC response is an indicator, I  
18 think they concluded that they could not cover their costs in  
19 that scenario in Illinois at least and said we're, you know,  
20 we're not going to deploy anymore equipment. I think that  
21 would be a very bad outcome for, for everyone, consumers  
22 included, that that one potential competitor just decided that  
23 it could not cover its costs under the regulations that were  
24 handed down to them and withdrew from the market. I think that  
25 would be a very unfortunate outcome.

1           COMMISSIONER DEASON: There are areas, I'm sure, in  
2 your network where it may be questionable as to whether it  
3 would be economically effective or it would be a good business  
4 plan for deploying facilities, some of those, those areas, and  
5 you have to look at that as a business person and make a  
6 decision as to whether, you know, a good business plan could be  
7 put together and a case made that it would result in a  
8 money-making proposition.

9           If there were an effective sharing mechanism such  
10 that risks are shared and costs are shared appropriately, do  
11 you think that it would more likely result in deployment of  
12 facilities in otherwise questionable areas?

13           THE WITNESS: That's a real good question. Perhaps  
14 and perhaps not. Perhaps so because you're bringing ALECs'  
15 marketing skills to the table in those locations and, you know,  
16 the measure would be how successful or how much more successful  
17 they are at marketing those customers in those locations than  
18 would be BellSouth.

19           On the other hand, the, the same amount of, I mean,  
20 the same devices and the same, you know, equipment is going to  
21 be placed in that locale, and the decision still comes down to  
22 can you make it work, can you, can you sell enough service in  
23 that locale to overcome the first cost and the recurring costs  
24 of that equipment? So maybe yes and maybe no.

25           Maybe yes to the extent that ALECs find a way to

1 market to those customers in relatively unattractive locales  
2 than, than does BellSouth. That's possible.

3 CHAIRMAN JABER: Commissioner Palecki?

4 COMMISSIONER PALECKI: Yes. Mr. Milner, what is the  
5 number of DSLAMs that BellSouth currently has deployed in its  
6 remote terminals?

7 THE WITNESS: I think -- I don't know off the top of  
8 my head. I think there's a data request item that answered  
9 that. If you'd like me to look it up, I will. Or if somebody  
10 could point --

11 COMMISSIONER PALECKI: If you could, I'd appreciate  
12 it.

13 THE WITNESS: Let me see if I can find it.

14 COMMISSIONER PALECKI: What I'm really looking for is  
15 what is the percentage of utilization currently of those  
16 DSLAMs?

17 THE WITNESS: I believe -- well, I don't have his  
18 testimony here, but I recall that Mr. Williams, one of  
19 BellSouth's witnesses, talked about that very topic. Let me  
20 see if I can find the data request item though.

21 CHAIRMAN JABER: Staff, did you find it? What  
22 Commissioner Palecki is looking for is perhaps a discovery  
23 response that answers the number of DSLAMs deployed in remote  
24 terminals.

25 COMMISSIONER PALECKI: Yes. And the percentage of

1 utilization currently.

2 THE WITNESS: Commissioner, I don't think the latter  
3 part of your question is answered by the data request in terms  
4 of utilization. I recall that the data request item just asked  
5 for how many DSLAMs were, had been deployed there.

6 COMMISSIONER PALECKI: Well, do you know yourself  
7 just as far as a rough number is concerned? I don't need the  
8 exact number, but do you have that knowledge personally?

9 THE WITNESS: No. But I'll tell you that the numbers  
10 that I have looked at are, are fairly spotty. In other words,  
11 in some places where the equipment has been only recently  
12 deployed, then the, then the utilization is fairly low. In  
13 other cases, my neighborhood, for example, the equipment is, is  
14 already 100 percent utilized because we're out there already  
15 installing more DSLAM equipment.

16 COMMISSIONER PALECKI: Are you finding that most of  
17 the DSLAMs that you'd install are 100 percent utilized within a  
18 certain period of time?

19 THE WITNESS: Over -- well, no, not all of them, but  
20 a good number of them are. But, on the other hand, we've been  
21 very selective about where we put those DSLAMs in the first  
22 place. So it's sort of a self-fulfilling expectation that  
23 we're targeting pretty closely those neighborhoods where we  
24 think we will be very successful, we're installing, and  
25 fortunately in a lot of cases our estimates were right that

1 there's pretty high utilization fairly early on.

2 COMMISSIONER PALECKI: Have you deployed DSLAMs in  
3 most of your remote terminals that are fed by fiber?

4 THE WITNESS: I don't believe so, no. Well, because  
5 you said that are deployed by, that are fiber-fed, the answer  
6 is no.

7 Right now relatively few of the DSLAMs that BellSouth  
8 operates are in its remote terminals compared to the DSLAMs  
9 that BellSouth operates in its central office. The reason for  
10 that is that at some point we were beginning to retrofit the  
11 digital loop carrier equipment to add that DSLAM capability  
12 that we talked about earlier. So rather than stand-alone  
13 DSLAMs, over time more and more of our demand will be served by  
14 these modified digital loop carrier systems.

15 So, again, that's the reason we've been targeting  
16 fairly tightly the locations where we installed DSLAMs  
17 initially, considering that later on -- well, for example,  
18 having one of those digital loop carrier systems that can be  
19 retrofitted later on would make that site a fairly low  
20 probability target for deploying a stand-alone DSLAM.

21 In other words, we would, we would put that place  
22 lower on the list unless there was extraordinary customer  
23 demand. So we're right in a transition point right now between  
24 having the stand-alone systems and later on modifying some  
25 other equipment that we already own to have that same

1 functionality.

2 COMMISSIONER PALECKI: With regard to utilization, do  
3 you have any ball park figure with regard to your current  
4 utilization of your DSLAM capability in your remote terminals?

5 THE WITNESS: I could only hazard a guess. I  
6 don't -- I mean, I don't know. I couldn't give you any sort of  
7 scientific answer.

8 COMMISSIONER PALECKI: But you would agree that it  
9 would be in BellSouth's business interest to have 100 percent  
10 utilization.

11 THE WITNESS: Yes. I mean, that's the goal of all  
12 network planners is to have most or all of the plant utilized  
13 and producing revenue as much of the time as you can. I mean,  
14 that's, that's the fundamental goal of all network planners,  
15 whether they're BellSouth's or ALECs' or anybody else's.

16 COMMISSIONER PALECKI: And if the CLECs could devote  
17 their marketing organizations to achieve, to help you achieve  
18 100 percent utilization, it might be in BellSouth's business  
19 interest as long as the pricing was correctly --

20 THE WITNESS: That's a lot of ifs, but, yes. The  
21 answer is yes to your question. If all of those things, you  
22 know, could be decided such that, that there was a recognition  
23 of investment risk and the rates that ALECs paid for using  
24 those DSLAMs, then, yes, there might be incentives by using  
25 their marketing forces to, to grow the overall DSL market.

1           COMMISSIONER PALECKI: Has BellSouth conducted any  
2 studies to determine a correct pricing point that it could  
3 charge a CLEC to use its DSLAM and packets which, that would  
4 allow BellSouth to be adequately compensated for its risk and  
5 its investment?

6           THE WITNESS: If there is one, I've not seen it. So  
7 I don't, I just don't know. But I've not seen such a study.

8           COMMISSIONER PALECKI: But you said you've conducted  
9 negotiations. Have you put any price on the table?

10          THE WITNESS: We -- the negotiations, as I recall,  
11 yes, started with, with other rates for other, other types of,  
12 of packet services that we provide in the retail market.

13          COMMISSIONER PALECKI: There is a, quite a tremendous  
14 amount of risk involved in the installation of DSLAM equipment,  
15 is there not? Isn't there a risk that other technologies could  
16 come into play that could make that obsolete relatively  
17 quickly?

18          THE WITNESS: Well, the answer to your question is  
19 yes. There's always, there's always risk that, that any  
20 equipment you buy today might be, you know, made obsolete by  
21 something faster, you know, more efficient later on. There  
22 again, that's the, that's sort of bedrock of network planning  
23 is trying to figure out, you know, life cycles that will  
24 recover the costs to mitigate that, that risk of technological  
25 leapfrog; that what you bought and paid for today is not



1 obsolete tomorrow but less efficient and puts you in a worse  
2 cost position than your competitors, who waited on that newer  
3 device. But that's not a new phenomena. I mean, that's always  
4 been the case in planning and installing networks.

5 COMMISSIONER PALECKI: So the more quickly you could  
6 recover your costs, the less risky the investment becomes.

7 THE WITNESS: Right. The less exposure you have to  
8 the technology that you've invested in being obsolete. In  
9 other words, if you've recovered your costs and you've made a  
10 profit, then even if technology leapfrogs what you've bought,  
11 now you've got some cash to go begin to replace parts of your  
12 network with that newer technology.

13 COMMISSIONER PALECKI: I think a lot of the questions  
14 that Commissioner Deason was asking you is what is the pricing  
15 point that it would take for BellSouth to, to offer this to  
16 make it worth your while? Would you be willing to put a price  
17 on the table? We haven't seen a price from BellSouth. I think  
18 I would like to see something offered by your company.

19 THE WITNESS: Well, back to your earlier question.  
20 I've not seen -- you know, the negotiations have never gotten  
21 to that point where we really got to price levels. Those,  
22 those negotiations instead have broken down fairly early on  
23 because the chasm of where we thought we ought to be and where  
24 the, where the ALECs thought the price ought to be were pretty  
25 wide.

1           As to whether we'd be willing to, to put a price on  
2 the table, you know, we're willing to negotiate, you know,  
3 rates with, with ALECs for that. I don't think we have a  
4 proposal right this moment. I'm not sure what it would take to  
5 get one. But I can assure you it would not, it would not be in  
6 the order of TELRIC-based rates because there's, you know,  
7 there's this whole issue of risk, investment risk that we've  
8 been talking about that is not recognized in TELRIC formula.

9           COMMISSIONER PALECKI: I think we're all looking for  
10 a solution that's somewhere in-between TELRIC-based rates and  
11 requiring the CLECs to go out and purchase their own DSLAM  
12 equipment. Now what, what solution could you offer?

13           THE WITNESS: Well, first of all, the, it's not  
14 clear, again, that BellSouth has necessarily an advantage to  
15 being the owner of that DSLAM. It's, it's not proven that  
16 BellSouth is -- you know, we're not the only game in town in  
17 terms of DSL services.

18           COMMISSIONER PALECKI: Let me interrupt you for one  
19 second.

20           THE WITNESS: Certainly.

21           COMMISSIONER PALECKI: Would you agree that the  
22 existing architecture of BellSouth's system where it operates  
23 off of thousands of remote terminals rather than primarily off  
24 of central offices would make it very, very difficult for a  
25 CLEC to be able to offer a broadband solution throughout

1 BellSouth's entire territory?

2 THE WITNESS: No, I don't agree with that because the  
3 proposition is --

4 COMMISSIONER PALECKI: Could you explain how it could  
5 be done then?

6 THE WITNESS: Okay. Well, the proposition for  
7 BellSouth is exactly the same. We've got thousands of remote  
8 terminal sites that at this moment do not have DSLAM capability  
9 in them.

10 What, what BellSouth will, will do is to look at, at  
11 its two alternatives, install the stand-alone DSLAMs to serve  
12 that market or to, to retrofit some other equipment that's DLC  
13 equipment to serve that same function. But in either event,  
14 the question for BellSouth is where and how are you going to  
15 put DSLAM capability out in all these places?

16 Likewise, ALECs can look at that same proposition and  
17 decide where they think they'll be successful marketing their  
18 services and install their own DSLAMs in those locations or,  
19 or, or take the approach here of this so-called hybrid  
20 fiber/copper DSL-capable loop and let BellSouth install the  
21 DSLAM on their behalf in essence in whatever locations they,  
22 they choose to serve.

23 So the fundamental question is, you know, who has an  
24 advantage in DSLAM capability? My opinion is that right now  
25 BellSouth does not have an inherent advantage in deploying

1 those because we can put those in our remote terminals just as  
2 ALECs can. We can put them in central offices on the same  
3 footing that, that CLECs can collocate their DSLAMs in central  
4 offices. So I think the bases are pretty much the same for  
5 building those large networks that you talked about.

6 COMMISSIONER PALECKI: I guess you hit the nail on  
7 the head when you used the words "large networks."

8 For a smaller CLEC to try to serve BellSouth's  
9 territory and market in that territory with, with a broadband  
10 product, it would require a very large network, would it not?

11 THE WITNESS: It certainly would.

12 COMMISSIONER PALECKI: And it wouldn't be something  
13 that could be done by installing a DSLAM and just a few central  
14 offices; it would require a tremendous investment.

15 THE WITNESS: It would require a very large  
16 investment if an ALEC decided it wanted to serve customers  
17 anywhere in BellSouth's nine-state region. Likewise, it's a  
18 very large investment for BellSouth to make that same offer  
19 that it's going to serve customers anywhere within it's  
20 nine-state region. Likewise, that's a very large investment in  
21 DSLAMs and other equipment.

22 COMMISSIONER PALECKI: Thank you.

23 THE WITNESS: You're quite welcome.

24 CHAIRMAN JABER: Commissioner Palecki, Staff handed  
25 you a copy of the Staff data request response. Do you want to

1 take a look at it and see if you have questions?

2 COMMISSIONER DEASON: I just wanted to follow up.

3 In one of your responses to Commissioner Palecki you  
4 indicated that when your are looking at the deployment of  
5 stand-alone DSLAMs in remote terminals, that you weigh that  
6 against the possibility of retrofitting DSL facilities.

7 Can you explain what you mean by "retrofit"?

8 THE WITNESS: Oh, okay. Certainly. By  
9 retrofitting -- and I apologize for introducing one more term  
10 to describe the same thing. This is the same capability that  
11 we've talked about earlier as the so-called dual purpose line  
12 card in the DLC.

13 COMMISSIONER DEASON: You're talking about line card  
14 technology?

15 THE WITNESS: Yeah. That's exactly right.

16 COMMISSIONER DEASON: Okay. That's what I thought.

17 THE WITNESS: Yes. I apologize for saying something  
18 different there.

19 CHAIRMAN JABER: I have a follow-up as well.

20 In one of your responses again to Commissioner  
21 Palecki you said BellSouth is very selective on where they put  
22 DSLAMs.

23 THE WITNESS: Yes.

24 CHAIRMAN JABER: Tell me a little bit more about the  
25 criteria that you use in figuring out where you want to deploy

1 DSLAMs.

2 THE WITNESS: Well, I'm not privy to all the  
3 marketing knowledge, but from a network deployment standpoint  
4 what you would, what we would be looking at, a number of  
5 factors. What is, what's the market that's served by a given  
6 location in terms of the propensity to buy a DSL service in the  
7 first place; how many are, how many customers are there in that  
8 location? Another factor would be is that location served by a  
9 form of digital loop carrier that could be retrofitted, to use  
10 that word again, with dual purpose line cards or is it some  
11 other, some other form of DLC that would require the placement  
12 of a stand-alone?

13 The latter two questions would push you into  
14 decisions about how much capacity do you deploy now versus  
15 later on, that is looking at the, at the slope of the tech rate  
16 line from that location. So it's a lot of different factors.  
17 You know, what's, what's the expected growth rate for that area  
18 just in terms of access lines, what's the propensity of those  
19 customers to buy these services, and what's the state of our  
20 network in terms of the capability to deploy either stand-alone  
21 DSLAMs or upgrade the DLC to, to provide DSLAM capability?

22 CHAIRMAN JABER: Okay. Mr. Milner, I don't mean this  
23 as a negative about BellSouth's deployment efforts, but is it  
24 safe to say from just the economic standpoint you are not  
25 deploying first in rural or underserved areas? I mean, just

1 from an economic standpoint I would imagine that doesn't make  
2 sense for BellSouth.

3 THE WITNESS: That's correct. We've pretty well got  
4 our plate full deploying DSLAMs in places where there's known  
5 demand, and so, you know, that's where we're going to go first.

6 CHAIRMAN JABER: Okay. So from that -- do you  
7 remember when you and I had the discussion about the policy  
8 concern that you have related to if the economic burden is  
9 always on BellSouth, how could we ever encourage  
10 facilities-based competition?

11 THE WITNESS: Yes.

12 CHAIRMAN JABER: Well, I have this other policy  
13 concern about deployment in rural and underserved areas. And I  
14 wonder, might I be able to achieve the goal of incenting  
15 companies to serve in rural and underserved areas if we allowed  
16 ALECs to have TELRIC pricing for the DSLAMs they deploy in  
17 rural and underserved areas? Because you're not there, you're  
18 not deploying in rural and underserved areas.

19 So if an ALEC was willing to, from a policy  
20 perspective it might be a good idea to allow TELRIC pricing for  
21 those situations; right?

22 THE WITNESS: Let me make sure I'm clear on, on the  
23 situation. It's in BellSouth's territory, our franchise area,  
24 but in a given location to date BellSouth has chosen not to  
25 deploy DSLAMs.

1 CHAIRMAN JABER: Right.

2 THE WITNESS: When you say providing incentives to  
3 ALECs at TELRIC rates, do you mean that BellSouth would install  
4 the DSLAM and, and would offer it to the ALEC at TELRIC rates,  
5 was that --

6 CHAIRMAN JABER: Yes.

7 THE WITNESS: Okay. Well, that -- I'm not sure that  
8 that would fulfill the objective because at some point there's  
9 a rationalization of capital that BellSouth undergoes all the  
10 time.

11 So we, you know, again, we'd be looking at the  
12 relative profitability of, of those, you know, those sites,  
13 those, those remote sites, and how much we would recover via  
14 TELRIC, which would certainly not be nearly as much as we would  
15 in high growth areas where there's significant demand where we  
16 were recovering the cost at market rates.

17 CHAIRMAN JABER: See, Mr. Milner --

18 THE WITNESS: So I don't know that that would be an  
19 incentive to BellSouth. It may be to the ALEC.

20 CHAIRMAN JABER: Well, you've really confused me  
21 because in response to Mr., to Commissioner Deason's question,  
22 you said you really would not think it fair of us to require  
23 the DSLAM be provided as a UNE setting TELRIC pricing because  
24 you said BellSouth should be able to share in the reward, they  
25 have the economic risk.



1 THE WITNESS: Right.

2 CHAIRMAN JABER: The hypothetical I'm giving you is  
3 BellSouth, assume for a moment that BellSouth is not deploying  
4 in rural and underserved areas, so you're not seeking the  
5 reward in that area. If an ALEC was willing to deploy a DSLAM  
6 in a rural or underserved area, then what's wrong with allowing  
7 the DSLAM to be provided at TELRIC pricing?

8 THE WITNESS: Well, nothing so far as that goes. I  
9 thought you meant that, that BellSouth would provide -- maybe I  
10 confused myself on this. But I thought you meant that  
11 BellSouth would provide the entire service, including packet  
12 switching, if that was needed.

13 BellSouth is not in any way opposed to providing the  
14 so-called hybrid loop to ALECs. If they choose to do that in  
15 rural locations, so be it. You would, you'd say do that at  
16 TELRIC rates or whatever rates you adopt, and that's what we  
17 would do.

18 Where we sort of draw the bright line is where you go  
19 beyond that and say, but also do this packet switching on their  
20 behalf, which really is to just take a finished good and break  
21 it down into piece parts.

22 No, we're not opposed to, to providing, you know,  
23 this hybrid loop to them, you know, when and where they want  
24 it.

25 CHAIRMAN JABER: Well, you're doing that anyway. I

1 guess I'm still struggling with providing -- well, let's focus  
2 on Mr. Gallagher's testimony.

3 THE WITNESS: Okay.

4 CHAIRMAN JABER: Mr. Gallagher assumed that he wants  
5 to deploy DSLAMs in every remote terminal that happens to be in  
6 a rural or underserved area. What would BellSouth's issue be  
7 there? You're not deploying in that area.

8 THE WITNESS: We would not have an issue there.

9 CHAIRMAN JABER: All right. Thank you.

10 Commissioners, any other questions? Redirect?

11 MR. MEZA: Thank you.

12 REDIRECT EXAMINATION

13 BY MR. MEZA:

14 Q Mr. Milner, you've been asked a lot of questions  
15 today about the installation of or the collocation of DSLAMs in  
16 remote terminals, and I'd like for you to assume that an ALEC  
17 decided to place a DSLAM in a remote terminal where Chairman  
18 Jaber just suggested BellSouth has not installed a DSLAM.

19 A Okay. All right.

20 Q Are you aware of any requirement that would force  
21 that ALEC to enter into an agreement with BellSouth so that  
22 BellSouth could use that DSLAM?

23 A No. There are none to date.

24 Q Okay. Are you aware of any requirement that would,  
25 assuming that there was a requirement that BellSouth be allowed

1 to use a DSLAM, of what that cost should be, whether it be at  
2 TELRIC or market-based or --

3 A Well, first of all, I'm not aware of any requirement  
4 that the ALEC unbundle its DSLAM to BellSouth, and so further  
5 there's no requirement that they do that at a particular rate  
6 such as TELRIC.

7 Q Okay. Are you aware of any requirement that would  
8 force that ALEC to share its DSLAM with another ALEC?

9 A No. I'm not aware of any such requirement.

10 Q Okay. Mr. Feil asked you some questions about the  
11 difference in the number of remote terminals BellSouth has  
12 indicated are present in Florida. Do you remember that?

13 A Yes.

14 Q All right. And you said that the difference was  
15 likely attributable to interpretation of the definition of  
16 remote terminal by the person responding.

17 A Yes.

18 Q Can you expound upon that, please?

19 A Well, yes. There are, there are a number of  
20 different structures that might be called remote terminals.  
21 There, there are so-called controlled environmental vaults or  
22 CEVs, there are places at customers' premises where BellSouth  
23 installs its equipment that, that is also, you know, that are  
24 also sometimes referred to as remote terminals. They're the  
25 green or, or silver-colored boxes alongside the road that are

1 RT. So there are a number of different types of structure  
2 that, that loosely are referred to as remote terminals.  
3 Depending on the respondent's understanding of what the  
4 question was really getting at, he or she might include or  
5 exclude some of those types of structures.

6 Q Finally, Mr. Hatch asked you a series of questions  
7 regarding exempt material in recovering costs for excavation  
8 activities. Do you remember that?

9 A Yes. I recall that, yes.

10 Q Can you explain a little bit further BellSouth's  
11 policy as to why or a decision as to why BellSouth is placing  
12 all of the costs for those exempt materials over all excavation  
13 activities?

14 A Well, at the top line the reason is that those costs  
15 are very, very small compared to, you know, other, other types  
16 of, of investment and costs. So rather than spend a lot of  
17 time accounting for all of those very small costs and  
18 allocating them more precisely, I understand that because of  
19 the nature of the costs and the size of the costs they were  
20 allocated generally across all, all types of deployment.

21 Q And take, for example, Mr. Hatch's hypothetical that  
22 you're going to lay a 40-foot cable in his front yard and  
23 Mr. Hatch has a very big tree in his front yard that's going to  
24 require a bulldozer. If those costs, if those exempt materials  
25 are not covered on a universal basis, would the effect of, of

1 that cost be that Mr. Hatch's neighborhood or the costs in  
2 servicing Mr. Hatch would rise?

3 A Well, certainly.

4 MR. MEZA: Thank you.

5 CHAIRMAN JABER: Thank you, Mr. Milner.

6 THE WITNESS: Thank you.

7 CHAIRMAN JABER: Let's address exhibits and then  
8 we'll take a 45-minute break.

9 BellSouth Exhibit 42?

10 MR. MEZA: Yes, ma'am.

11 CHAIRMAN JABER: Without objection, Exhibit 42 is  
12 admitted into the record.

13 (Exhibit 42 admitted into the record.)

14 CHAIRMAN JABER: Mr. Hatch, Exhibit 43?

15 MR. HATCH: I'm going to wait on Ms. Caldwell for 43.

16 CHAIRMAN JABER: Exhibits 44 and 45, Mr. Feil?

17 MR. FEIL: FDN moves them into the record.

18 CHAIRMAN JABER: Without objection, Exhibits 44 and  
19 45 are admitted into the record.

20 (Exhibits 44 and 45 admitted into the record.)

21 CHAIRMAN JABER: We'll come back at 1:45.

22 (Recess taken.)

23 (Transcript continues in sequence with Volume 2.)

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25

1 STATE OF FLORIDA     )  
2                             :             CERTIFICATE OF REPORTER  
3 COUNTY OF LEON        )

4  
5             I, LINDA BOLES, RPR, Official Commission  
6 Reporter, do hereby certify that the foregoing proceeding was  
7 heard at the time and place herein stated.

8             IT IS FURTHER CERTIFIED that I stenographically  
9 reported the said proceedings; that the same has been  
10 transcribed under my direct supervision; and that this  
11 transcript, constitutes a true transcription of my notes of  
12 said proceedings.

13             I FURTHER CERTIFY that I am not a relative, employee,  
14 attorney or counsel of any of the parties, nor am I a relative  
15 or employee of any of the parties' attorneys or counsel  
16 connected with the action, nor am I financially interested in  
17 the action.

18             DATED THIS 18th DAY OF MARCH, 2002.

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