

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 990649A-TP

In the Matter of

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

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VOLUME 3

Pages 320 through 417

PROCEEDINGS:

HEARING

BEFORE:

CHAIRMAN LILA A. JABER
COMMISSIONER J. TERRY DEASON
COMMISSIONER MICHAEL A. PALECKI

DATE:

Monday, March 11, 2002

TIME:

Commenced at 9:30 a.m.
Concluded at 5:32 p.m.

PLACE:

Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

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APPEARANCES:

(As heretofore noted.)

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FLORIDA PUBLIC SERVICE COMMISSION

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DAONNE CALDWELL

continues her testimony under oath from Volume 2:

CHAIRMAN JABER: Ms. McNulty, you're on.

MS. McNULTY: Thank you, Chairman Jaber. We will just try to ask these in plain simple English questions.

CONTINUED CROSS EXAMINATION

BY MS. McNULTY:

Q Ms. Caldwell, doesn't the BSTLM independently develop the NID and drop material investments using bottoms-up inputs?

A Yes.

Q And the exempt material allocation is based on labor investment in your accounting records?

A Labor dollars.

Q Is that a yes?

A Yes, labor dollars. I kind of draw a distinction between investment.

Q Because labor dollars exist in these accounts, then exempt material is then allocated to all these accounts, correct?

A That is correct.

Q In the first illustration, the NID and drop labor accounts for 10 percent of the total labor investment, do you recall that?

1 A In your example?

2 Q Yes.

3 A Yes.

4 Q Now, if the NID and drop material account for more
5 than 10 percent of the total exempt material investment, then
6 some NID and drop exempt material investment will be allocated
7 to other accounts?

8 A Yes.

9 Q So to the extent that exempt material investment
10 associated with the NID and drop is greater than 10 percent,
11 that amount over 10 percent double counts the NID and drop
12 investment in the model, doesn't it?

13 A I would agree in terms of just the NID and drop, but
14 you have to look at it from the other direction, as well. When
15 you look at your total amount of money here, your \$15 million,
16 that is composed of NID, drop, nuts, bolts, everything that was
17 on that list we talked about this morning, that is all your
18 exempt material, terminals 100 pair and less. So a large
19 portion of that \$15 million is going to be those type items, as
20 well. So some of that amount of money gets allocated to the
21 NID and drop.

22 Q But earlier I asked you that you haven't quantified
23 the percentage of the NID and drop investment as a portion of
24 the total exempt material, isn't that correct?

25 A That is correct.

1 Q So sitting here today, you can't tell me that there
2 is not a double count of the NID and drop investments in exempt
3 material, can you?

4 A No, I said I agreed with that. But, I mean, I have
5 enough knowledge of the accounts to know that the exempt
6 material account has lots of different things in it. That's my
7 point.

8 Q Just for clarification, you can't tell us that there
9 is not a double count, and you also cannot tell us that there
10 is a potential -- you can't tell us what the potential extent
11 of the overstatement is for NID and drop?

12 A That is correct. The same way I can't tell you the
13 understatement of aerial terminals, et cetera, that gets
14 excluded because they get assigned to Accounts 248 and 548.

15 Q And that is because you have not performed that
16 analysis, is that correct?

17 A As associated with this cost, I have not.

18 Q Thank you.

19 Ms. Caldwell, Mr. Hatch will be handing to you what
20 has been identified as Confidential Exhibit 43, and that is the
21 BSTLM copper cable splicing rates. That is the title of it,
22 and I will have you just review it for a minute. And I believe
23 the Commissioners and BellSouth's attorneys have copies of
24 that, as well. And staff, too.

25 Mr. Stegeman deferred a couple of questions to you

1 regarding this table, so I will let you review it for a minute
2 and then ask you some questions.

3 A Okay. I think I'm with you.

4 Q Okay. This exhibit talks about copper cable
5 splicing. Is it your understanding that splicing includes
6 set-up, wire joining and closure, generally?

7 A Yes.

8 Q So the input into the BSTLM for set-up and closure
9 for copper cable splicing rates is zero, is that correct?

10 A I'm sorry, repeat that again. I'm looking at the
11 inputs, and I want to be sure. Repeat, please.

12 Q Sure. The input into the BSTLM for set-up and
13 closure for copper cable splicing is zero?

14 A Yes.

15 Q On this confidential page that I distributed, please
16 look at line number -- the confidential number that is on Line
17 2 under rate. Do you see that?

18 A Yes.

19 Q And that rate represents the rate of splicing labor
20 hours per 100 pairs for underground, is that correct?

21 A That includes the time to splice 100 pairs as well as
22 the closure and set-up. We're talking about Line 2 rate?

23 Q That's right.

24 Are you familiar with BellSouth's response to AT&T
25 and MCI WorldCom's Interrogatory Number 3 where BellSouth

1 responded that the splicing and joining pair rate is 300 per
2 hour?

3 A One moment. Yes, I'm with you.

4 Q You do have a copy of it?

5 A No, I don't. I was just going from memory what the
6 numbers were.

7 Q Mr. Hatch will provide you a copy.

8 A Okay.

9 Q For 100 copper pairs the amount of time BellSouth
10 says it would take it to splice is shown on Line 3, is that
11 correct, on Line 3 under 100?

12 A Okay. Line 3 is what is included in the BSTLM model
13 that -- I'm looking under the 100 pair, is that the input?

14 Q Yes.

15 A That is the number that is in the BSTLM model.

16 Q Right. And you have just said that that includes
17 set-up and closure, correct?

18 A Yes.

19 Q So Line 5 -- do you see Line 5?

20 A Yes.

21 Q That represents the portion of the BSTLM splicing
22 hours, is that correct?

23 A Just the joining of pairs, just the splicing only.

24 Q Yes.

25 A Yes.

1 Q So Line 6 is the difference between Line 3 and Line
2 2 -- I'm sorry, Line 6 is the difference between Line 3 and
3 Line 5?

4 A Correct.

5 Q And that really represents the set-up and closure
6 times, does it not?

7 A Yes.

8 Q Thank you. In other words, set-up and closure is
9 substantially -- that takes up a lot of the time based on this
10 number right here, right?

11 A Yes, it does. And in reality it takes up a lot of
12 the time because you have travel, you have technicians, you
13 have set-up getting ready to do the splicing.

14 Q And so in this table under 4,200 copper pairs, do you
15 see the number that is listed on Line 7?

16 A Yes.

17 Q So using the exact same methodology, that is the
18 number of days just for set-up and closure?

19 A Yes, associated with the 4,200.

20 Q Okay. Thank you.

21 A One of the things, though, that I pointed out in
22 Phase 1 of the cost docket is that predominately in the BSTLM
23 the cable placements are approximately, I believe, close to 50
24 percent 25 pair. You have very little over 100. There was an
25 exhibit to my testimony. So predominately the numbers in the

1 first two columns, 25 and 100, come into play in the modeling.

2 Q Ms. Caldwell, do you have a copy of your Late-filed
3 Deposition Exhibit Number 13?

4 A I'm afraid not.

5 Q I actually have some copies of it, and I would like
6 to ask you whether -- I believe this is a public document, but
7 I would just like you to check it first. And Mr. Hatch will be
8 handing that out.

9 Ms. McNULTY: Chairman Jaber, this is a part of what
10 has been identified as Composite Exhibit 27.

11 CHAIRMAN JABER: Thank you.

12 A I'm sorry, go ahead.

13 Q I was waiting to see whether or not this was public?

14 A This is public.

15 Q Great. I just wanted to check before asking you
16 questions.

17 A Yes.

18 Q Now, this exhibit depicts the differences in
19 investment and cost between BellSouth's bottoms-up filing in
20 this proceeding compared to BellSouth's filing in the August
21 2000 filing in this docket, is that correct?

22 A Yes. I believe if I remember correctly there were
23 also two attachments that listed the numbers before they are
24 subtracted.

25 Q There may have been.

1 A Okay. I mean, just so I can be clear in my mind that
2 this is the one that took the -- because there were several
3 things associated here, but in this one we looked at the
4 service level one in which we looked at the new bottoms-up
5 filing compared to what we filed in the last filing in Phase 1.

6 Q Yes.

7 A Okay. I'm with you.

8 Q And this is for voice grade loop, like two-wire voice
9 grade loop?

10 A Yes, it is.

11 Q Just so we're clear. Now, the bottom line for the
12 difference in investment per line the total difference between
13 the bottoms-up filing and your earlier filing is \$239, isn't
14 that correct? It's an increase?

15 A In investment, correct.

16 Q And most of this increase happens in conduit systems,
17 is that correct?

18 A It is your major driver, correct.

19 Q And what is that number?

20 A For your 4C the difference is \$220.77.

21 Q And that is an increase, correct?

22 A Yes.

23 Q Would you agree subject to check that this difference
24 of essentially \$221 is the difference between the \$273
25 investment line in your January 28th, 2002 filing minus the \$52

1 line in your August 2000 compliance filing?

2 A Subject to check. That's why I was asking. Those
3 numbers aren't here, but they would have been in backup for
4 this. So subject to check, I will accept that.

5 Q Okay. So are you saying now that you believe that
6 this conduit investment is essentially five times greater than
7 it was in your August 2000 filing?

8 A Yes. Whenever you do a bottoms-up study associated
9 with your structure costs you are going to see a significant
10 increase in the modeling of the structure costs for conduit and
11 for poles. Whereas in our August filings, we used the support
12 structure loadings which I have always maintained, I think I
13 even said in Phase 1 gives a more conservative approach.

14 Q But this chart shows that for --

15 COMMISSIONER DEASON: Excuse me. Why is that such a
16 difference between the two approaches, the results are so
17 different?

18 THE WITNESS: Basically, the way the Phase 1 does is
19 it calculates the total investment outside of all your
20 structure, so all you have is just your cable and your digital
21 loop carrier. That would give you your total loop cost. And
22 then you have a certain amount associated for aerial cable.
23 And then we do a loading factor that is calculated off the
24 books that builds a relationship between the amount of dollars
25 that we have invested in poles as it compares to aerial cable.

1 The same for conduit and underground cable.

2 First of all, those dollars have been booked on the
3 accounts for a period of years. Even though we bring them up
4 to current dollars, there is still a significant amount of
5 conduit that has been placed over time. When you are going
6 into a new proxy model and building everything from scratch,
7 you have got to place every conduit run all the way from the
8 central office to where all of your conduit stops. And that is
9 just a high cost perspective when you place conduit that way,
10 and that is really what drives the difference.

11 COMMISSIONER DEASON: I don't understand. You said
12 that is a high cost way when you do it that way. I don't
13 understand why.

14 THE WITNESS: The most expensive part of placing your
15 outside plant is going to be your conduit, because it requires
16 the excavation of the ground, the placing of the ducts and, you
17 know, supporting those and placing them. The manholes, all the
18 things that go along with it. Tearing up the streets,
19 et cetera, to place that. And what we have done in this study
20 is we have built all of the conduit --

21 COMMISSIONER DEASON: Which study?

22 THE WITNESS: In the BSTLM, the new study. The
23 bottoms-up study. What it does is it builds all the conduits
24 from scratch. So what that means is you are building a
25 complete new conduit system for the State of Florida, and that

1 would cost a lot of money.

2 COMMISSIONER DEASON: It costs more than what you
3 have in place now?

4 THE WITNESS: Yes, it would if you were going to
5 place it all today. Contractors costs have gone up since the
6 time it was actually placed.

7 COMMISSIONER DEASON: Now, when you do your loadings
8 approach, you take a historical book amount and you load it or
9 do you take what is on your books and invest it and you update
10 it for current replacement cost?

11 THE WITNESS: We update it for current replacement
12 just using the CC to BC factor.

13 COMMISSIONER DEASON: What is CC/BC?

14 THE WITNESS: That is the current cost to book cost
15 factor and all it really does is take into consideration for
16 instance your -- we have talked about inflation associated with
17 TPI, so what it does is all it does is really take into
18 consideration a TPI from the time it was placed to current
19 dollars. And that doesn't account for the fact that you would
20 have to rebuild all of the plant from the time in which it was
21 originally placed. So it gives you an idea of what the
22 replacement costs would be, but it would understate it to some
23 degree.

24 COMMISSIONER DEASON: Let me see if I understand. So
25 if years ago you went out and you put in conduit to serve some

1 development of some sort that was on the drawing boards and you
2 went in and you put all the conduit in before there was a lot
3 of construction, that generates one cost. And you are saying
4 now that under your new approach you are assuming that all of
5 the new construction is there and you have got to go in and you
6 have got to excavate around buildings, streets, fire hydrants,
7 whatever is out there and that is the reason it costs so much
8 more?

9 THE WITNESS: That is one of the driving factors and
10 it would cost more. And to me that is the biggest driving
11 factor because you are building everything from scratch, a
12 scorched node approach. The other consideration is that when
13 you develop any type of a loading factor, it is going to be
14 applied to a forward-looking investment. So in the past when
15 you place this conduit, you are replacing a lot more copper
16 cable, a lot more fiber cable, et cetera, whereas now in the
17 new world you are placing more digital loop carrier. So, in
18 essence, the factor that you developed off your books gets
19 applied to a forward-looking aerial cable investment that is
20 less than what is on your embedded books.

21 So that is another -- the two things together, the
22 fact that, first of all, it costs -- in today's world you would
23 have to excavate and place all of the conduit, it would be a
24 very costly undertaking and would amount to more than the time
25 in which it was done. And the second thing is when you develop

1 that factor it gets applied to a forward-looking cable
2 investment which is less than when it was originally placed in
3 the books.

4 COMMISSIONER DEASON: Why is that?

5 THE WITNESS: Because if you're looking at the -- a
6 lot of the conduit could have been placed like 40 years ago,
7 you were replacing predominately aerial, buried, and
8 underground copper ground only. Now when I build my loop, if I
9 remember correctly, let's say you have a loop somewhere of
10 around \$700 investment, just use that as an example. If you
11 had a \$700 investment, approximately a quarter of that
12 investment is going to be associated with digital loop carrier,
13 whereas originally it would have been associated with your
14 cable. So you are having a lot smaller number to apply your
15 factor to. So it gives a more conservative approach to the
16 conduit and structure loadings.

17 BY MS. McNULTY:

18 Q Ms. Caldwell, aren't both these approaches
19 forward-looking?

20 A Yes, they are.

21 Q And so shouldn't these costs be the same?

22 A No, because you are doing -- as I said, you are doing
23 a different approach. One of them is building from scratch a
24 proxy model where I explained you are placing all of the
25 conduit, et cetera. Whereas when I used my structure loading

1 factors for the reasons I have just explained, it gives a more
2 conservative view.

3 Q In your new filing the reason that the conduit
4 increases so much, isn't it because it is driven because
5 BellSouth has assumed much more underground facilities?

6 A Not much more underground facilities. We use the
7 distribution to code of aerial, buried, and underground that
8 was from the original Phase 1 filing.

9 Q I believe in response to one of my questions you had
10 indicated not only does conduit increase, but that poles
11 increase, as well, is that correct?

12 A I'm not sure if poles do. It follows the same
13 concept, but it is a much smaller amount. In fact, these
14 actually went down a little bit. The problem is if you look at
15 poles, BellSouth only owns like 40 percent of all of the poles
16 that is placed in Florida, so that is one of the things that
17 has a big factor on that.

18 Q Well, I just wanted to clarify because I believe
19 this -- correct me if I'm wrong, but this chart indicates that
20 poles actually decrease?

21 A Yes, by a small amount. I indicated that \$4.

22 Q Ms. Caldwell, I believe that you said that BellSouth
23 does not pay for all excavation associated with old
24 development, is that correct?

25 A It did in the original -- when it originally placed

1 it, it paid for it. I can't remember how I exactly said that,
2 I'm sorry.

3 Q Would today BellSouth have to excavate that
4 development?

5 A In the BSTLM, the proxy model, yes, if you were going
6 to place conduit you would have to include the excavation
7 costs. That is how the model works in a bottoms-up approach.

8 Q So basically are you suggesting that under the old
9 conduit investment that it was shared with the developer or
10 other utilities and that it will not be shared on a
11 going-forward basis?

12 A Absolutely not. I didn't mean to imply that at all.
13 What I meant to imply was if you looked at the time in which it
14 was actually placed, that is the driver. There was no sharing
15 in the past, any different really than the numbers that we have
16 for today.

17 Q Ms. Caldwell, do you have a copy of BellSouth's
18 response to AT&T/WorldCom's Interrogatory Number 5? And just
19 for reference I will distribute excerpts from that.

20 A Ms. McNulty, I do have the original. I didn't
21 realize this is what it was.

22 Q Okay, great. I know that some of these questions
23 have been deferred to you from other witnesses. And this is
24 regarding the exempt material list, so I'm just going to ask
25 some follow-up questions.

1 A Okay.

2 Q Do you see an item called bracket tap video?

3 A Yes, I believe that was the first one Mr. Milner
4 discussed.

5 Q Yes. Should this Commission determine that it is
6 inappropriate for bracket tap video to be included in this list
7 of exempt material? Have you provided the amount of investment
8 associated with this item so that the Commission could adjust,
9 you know, adjust the exempt material list?

10 A Did you say have I provided or can I provide?

11 Q No, no, I asked have you provided it in this docket?

12 A No, because the exempt material is a large bucket of
13 dollars. And once an item of plant enters that exempt material
14 category you can no longer determine the dollars associated
15 with it.

16 Q So would that also be your response related to the
17 DLC cards should this Commission determine that it is
18 inappropriate to include those?

19 A That is true. But if I could, let me clarify that
20 those are not -- there was a question as to what those cards
21 really are. These are not the same working cards that is
22 included in the model. These are special cards and you know
23 that by looking at the number beside them. They are called
24 fiber isolators. They are placed in a DLC system for high
25 voltage isolation protection. So this is a -- in fact, I think

1 about six or seven of these are not even on our list anymore,
2 we don't provide them. So they are not the same card as in the
3 DLC.

4 Q Let's examine each one of those cards. Why don't you
5 explain what they are? There is one called card 56K BPS C0, do
6 you see that?

7 A Yes.

8 Q What is that used for?

9 A That card -- I mean, I can't give you anymore than
10 this category of these. This would be associated when you have
11 a 56 kilobit circuit associated with it, but this category I
12 checked into and this category is fiber isolaters. These are
13 not your working cards that are included in your digital loop
14 carrier system because the working card that provides the
15 service is a capitalized item. It would not be exempt
16 material. It is identified.

17 Q But you have included these, could you explain in
18 greater detail what each of these cards do? For example, the
19 one that says card HDSL 2 PR.

20 A Other than the fact it is associated with fiber
21 protection for high voltage isolation, I mean, that is the
22 extent of my knowledge, I'm sorry.

23 Q And why aren't these cards capitalized?

24 A They are in terms of exempt material, but they don't
25 carry unique identification, they are not nonexempt material.

1 Q Ms. Caldwell, correct me if I'm wrong, but I believe
2 that you said that you don't provide these cards anymore, is
3 that correct?

4 A I said at least about six of these aren't even on the
5 list anymore associated with the last time I checked these
6 PIDs, this was an older list provided by accounting.

7 Q Why are they listed here?

8 A Because they pulled this from their master list. I
9 mean, I can't answer. I think Mr. Lohman in accounting
10 provided the list. But it would be an item that could possibly
11 at one time have been in our exempt material.

12 Q So they are inappropriately included in the response,
13 is that what you are saying?

14 A No, I wouldn't necessarily say that, because I can't
15 answer exactly when we no longer ordered them. We can't even
16 find them on the PID list, which is our product identification
17 list. That's how I was trying to determine what this code was.

18 MS. McNULTY: At this time I would like to request an
19 updated or current exempt material list. If we could have that
20 marked for identification as a late-filed hearing exhibit.

21 MR. SHORE: We can provide that to the extent that
22 there is an updated list that exists, certainly.

23 COMMISSIONER DEASON: Well, let's ask the witness if
24 such a list exists.

25 BY MS. McNULTY:

1 Q Does such a list exist or can one be produced?

2 A I cannot answer if a list exists because this is
3 provided directly from the accounting department. I don't know
4 if one exists, but we can definitely check into that.

5 Q What was provided into the model then?

6 A The model as far as exempt material does not use this
7 list. The model just used the exempt material dollars amount.
8 It is not necessary to know every individual item. All I was
9 doing was trying to clarify that the model does include a DLC
10 working card that has a material price that is identified as a
11 nonexempt item of plant.

12 Q Well, could these items be included in the exempt
13 material investments used to develop exempt material, the
14 exempt material factor?

15 A If any had been purchased during the time period,
16 yes, they could.

17 Q But you no longer use them?

18 A I said in some cases I do know that a few of these
19 out of this full list are no longer on our product
20 identification.

21 Q Right.

22 A But that is current data as of today, which is in
23 2002, and you asked me about my exempt material dollar amount,
24 we used the 1998 factors.

25 Q Could some of these items have been used in 1998 but

1 not now?

2 A That would be possible because we change items of
3 plant that we purchase over time.

4 Q What about for load coils?

5 MR. SHORE: Objection. If you could ask the
6 counselor to restate the question.

7 MS. McNULTY: Certain.

8 BY MS. McNULTY:

9 Q If this Commission determines that it is
10 inappropriate to include load coils from the exempt material
11 list, have you provided the total amount of investment
12 associated with load coils so that this Commission could
13 appropriately exclude them from the exempt material list?

14 A No, because as I mentioned earlier, that the exempt
15 material once it enters that account loses its identification.

16 Q Would your answer be the same for manhole collars?

17 A Yes. Let me clarify one thing on the manhole
18 collars. This manhole collar, since I do have one in the BSTLM
19 that is placed by the contractor, this is the manhole collar
20 that is placed by BellSouth personnel, for instance, when you
21 might have a road move or something. So it is not the same
22 manhole collar that is included in the model. But the answer
23 about the dollar amount would be the same.

24 COMMISSIONER PALECKI: Well, let me ask you -- I
25 guess it's the same question, but from our perspective as

1 Commissioners. If it is demonstrated to us at this hearing
2 that one or more of these items is not appropriately in the
3 exempt material list, what do we do then? Do we just say,
4 well, it's probably not that big a dollar amount, so we
5 shouldn't pay attention to it?

6 THE WITNESS: Give me a second. In terms of the
7 overall dollar amount that is in the account that would be
8 associated with one of these items, if it was purchased more
9 than one, that would be a question. One of the things that
10 might could be looked at would be, you know, like the material
11 prices of the individual items. That would give an indication
12 of whether or not this is a large or small item, and then
13 whether or not we purchased it within that time frame. That
14 might be one way we could get at that data. It wouldn't give
15 you the exact dollar amount, but it might indicate whether or
16 not it would be something to be concerned about.

17 COMMISSIONER PALECKI: Thank you.

18 BY MS. McNULTY:

19 Q Ms. Caldwell, the manhole covers you just described,
20 those aren't used in new construction, are they?

21 A Normally they would not.

22 MS. McNULTY: Thank you. I have no further
23 questions.

24 CHAIRMAN JABER: Ms. McNulty, I was out for a few
25 minutes, so I don't know if you asked questions from Exhibit

1 Number 7. You know that exhibit I keep asking about. Did you
2 ask those questions while I was gone?

3 MS. McNULTY: Yes, I did.

4 CHAIRMAN JABER: Good. I will read the transcript.
5 Mr. Feil.

6 MS. McNULTY: Thank you.

7 CROSS EXAMINATION

8 BY MR. FEIL:

9 Q Ms. Caldwell, I just have a few brief questions.
10 When you gave your summary you made some revisions to DDC-3.
11 Could I ask that you provide those revisions as a late-filed
12 exhibit?

13 A Yes, we will be glad to.

14 MR. FEIL: Commissioner, if I could have an exhibit
15 number for the late-filed exhibit.

16 CHAIRMAN JABER: Tell me what it is again.

17 MR. FEIL: Revisions to prefiled DDC-3.

18 THE WITNESS: And may I clarify that I only changed
19 Page 4 so that would be the one page you would request?

20 MR. FEIL: Yes, ma'am.

21 CHAIRMAN JABER: Mr. Feil, you are asking for the
22 same changes that she gave us?

23 MR. FEIL: The ones that she read off. I wanted to
24 see how they charted on the sheet.

25 CHAIRMAN JABER: Won't that reflect in the

1 transcript?

2 MR. FEIL: Well, again, I just want to make sure that
3 it's clear to the extent that it is not reflected in the
4 transcript.

5 CHAIRMAN JABER: Okay. So basically you are asking
6 for a revised Page 4 of 17 from this exhibit as a Late-filed
7 Exhibit 51?

8 MR. FEIL: Yes ma'am. Thank you.

9 (Late-filed Exhibit 51 marked for identification.)

10 CHAIRMAN JABER: Ms. Caldwell, are you clear on what
11 you are providing as a late-filed exhibit?

12 THE WITNESS: Yes, ma'am.

13 BY MR. FEIL:

14 Q Ms. Caldwell, the hybrid loop, or the hybrid
15 fiber/copper loop that BellSouth has proposed in this case,
16 basically, the way it is structured, it puts an ALEC ordering
17 such a loop in the same position it would be as if it
18 collocated it s own DSLAM, is that a fair summary?

19 A I'm not exactly sure of that, because whereas the
20 DS-1s that are in my cost study that connect to the DSLAM, the
21 ALEC may have a different method of getting to their location
22 or something of that type.

23 Q All right. I understand.

24 A That would be a possible difference.

25 Q But there is no sharing of space on a BellSouth

1 DSLAM, for example, in the proposed hybrid?

2 A That is correct. It is a dedicated DSLAM to the
3 ALEC.

4 Q And the same with regard to the subloop feeder, there
5 is no sharing of the subloop feeder under the BellSouth
6 proposal?

7 A That is correct, the DS-1s.

8 Q The model assumes that a certain percentage of the
9 time there will be insufficient space in an RT to accommodate a
10 new DSLAM, is that correct?

11 A That is correct.

12 Q Were you present when Mr. Milner was testifying?

13 A Yes.

14 Q Mr. Milner testified that there were a number of
15 different versions or viewpoints, I guess, with regard to the
16 number of remote terminals in the State of Florida. Were you
17 present when he was testifying to that?

18 A Yes.

19 Q Okay. We had numbers of 8,000, 10,000, 12,000, those
20 numbers?

21 A Correct.

22 Q Given that there is inconsistent data on the number
23 of remote terminals, how is it that the Commission can rely on
24 the assumptions input into the model regarding the percentage
25 of time there is insufficient space in an RT?

1 MR. SHORE: I just want to object to counsel's
2 characterization of the data. The data is the data, and it has
3 been introduced into evidence, so I object to that
4 characterization.

5 CHAIRMAN JABER: What part of the question do you
6 believe was a characterization?

7 MR. SHORE: He called it inconsistent data. Mr.
8 Milner explained the reasons for the differences, so I don't
9 believe that the data is inconsistent. What Mr. Milner
10 testified to is there is different definitions of remote
11 terminals, and FDN and wherever else served in interrogatories
12 in question can define it. As the responses reflect different
13 folks responded each time, so --

14 CHAIRMAN JABER: Mr. Feil.

15 MR. FEIL: He just said they were different; that is
16 the definition of inconsistent, is it not?

17 CHAIRMAN JABER: Mr. Feil, rephrase the question with
18 the preface that with Mr. Milner's explanation.

19 MR. SHORE: I have got no objection to the word
20 different.

21 BY MR. FEIL:

22 Q Given that there has been different data given
23 regarding the number of RTs, how it is that the Commission can
24 rely on the percentage of time input into the model regarding
25 space available in the RTs?

1 A Okay. The percent that is provided in the model was
2 provided from our network subject matter expert. And it was
3 discussed in my deposition, and to the best of my recollection
4 we filed the gentleman's name as well as his qualifications on
5 estimating that amount of time. And so that's what I relied
6 upon in my cost study and that would be the documentation in
7 the record based on that subject matter expert.

8 And the one thing we do know that when we asked him
9 the question he knew what we were talking about, remote RTs or
10 DSLAMs would be a possibility of being placed.

11 Q But you don't know how he defined RTs, do you?

12 A In terms of specific definition, no, I couldn't
13 answer that. The only information would be in the late-filed
14 and in the cost study itself that has the information.

15 Q And if it is not defined there then it is just
16 unanswered, is that a fair statement?

17 A In terms of his exact definition of an RT, that would
18 be correct.

19 CHAIRMAN JABER: Remote terminal is not a term of art
20 in this industry?

21 THE WITNESS: Well, I guess in terms of my world it
22 has a tendency to be. Because one of the things when I think
23 of an RT, it is a remote terminal where I am going to place a
24 digital loop carrier. And in this particular case we were
25 working from a drawing that shows it is a physical location in

1 the outside plant with distribution cable going to the prem.
2 It appears from some of the testimony and discussion that when
3 a digital loop carrier is located in a building some
4 individuals are referring to that as also an RT. And so I
5 think that may be the term of art, but there seems to be not an
6 exact one. But in terms of the cost study that I performed and
7 when I worked with the engineers, they were aware of the
8 drawing that is attached to my testimony as DDC-2, so that's
9 how I would have used it.

10 MR. FEIL: I don't have anything further.

11 CHAIRMAN JABER: Thank you, Mr. Feil. Mr.
12 McGlothlin.

13 CROSS EXAMINATION

14 BY MR. McGLOTHLIN:

15 Q Ms. Caldwell, Joe McGlothlin for Z-Tel.

16 A Yes, sir.

17 Q I have a few questions for you that relate to your
18 discussion of the daily usage file rate that begins on Page 21
19 of your direct testimony?

20 A Okay.

21 Q And can we call that the DUF rate or DUF?

22 A Yes.

23 Q At Page 21 you describe that BellSouth saw an
24 increase in messages for ALECs and accordingly increased the
25 projected demand for the DUF information, which resulted in a

1 decrease in the proposed rates for the DUF rate, correct?

2 A For the ADUF and the ODUF, yes.

3 Q And as a quick preface, I am aware that there is some
4 issue in this case as to whether BellSouth is entitled to apply
5 a separate rate for the recovery of those costs, and I don't
6 intend to imply by my questions that I agree with BellSouth
7 that a rate is appropriate, but I have some questions about
8 your methodology.

9 In your Exhibit DDC-1, 120, Page 4 of 16, there is
10 information there for the access daily usage file. And I see
11 that it is expressed in terms of the cost per message, is that
12 correct?

13 A I'm sorry, excuse me, I seem to have misplaced
14 Exhibit DDC-1. I believe that is the cost summary. Let me
15 just use this one. Okay. I'm with you. I'm sorry about that.

16 Q Do I understand correctly that the DUF rate is
17 expressed in terms of a cost per message processed?

18 A Correct.

19 Q So to derive that it was necessary for you to project
20 the total messages that the ALECs would generate, is that
21 correct?

22 A Correct.

23 Q And if I also understand correctly, it would be
24 possible to relate the total messages for which you projected
25 for ALECs to the overall total messages to calculate your

1 assumption regarding the overall percent of messages that would
2 be generated by ALECs, is that correct?

3 A All right. Let me see if I can answer that from the
4 cost, because there may be a little misinterpretation here. In
5 the cost methodology, what we do is we look at what is required
6 to do any type of programming change, or to run the jobs, or
7 anything associated with that that would generate the message
8 to be delivered to the ALEC. All right. And we have the total
9 cost of that separated, and then we divide that by the total
10 number of messages.

11 Q Yes, I understand.

12 A I don't use the total messages completely processed
13 by BellSouth in that calculation, if that answers your
14 question.

15 Q That is certainly possible to do, is it not?

16 A I would assume so. The cost department has provided
17 the demand data from our billing department, but I would
18 believe they could get a total number of messages.

19 Q Well, it appears to me that for purposes of
20 developing this DUF rate you made some projections and
21 assumptions that, in essence, predict the degree of market
22 penetration by the ALECs because you project the total activity
23 of ALECs within the universe of total activity period, and
24 wouldn't that be an indication of your prediction of the extent
25 of penetration of ALECs?

1 A I follow your analysis, your explanation. What I
2 cannot comment on is exactly how the billing department
3 developed this number, but I follow what you have said in terms
4 of that. There was a projection made. Maybe if I can say that
5 and clarify that. There was a projection into the future years
6 of the number of messages the ALECs would use.

7 Q And it would be available to you or someone, the way
8 to relate that number to the overall messages, correct?

9 A In the cost study I filed the overall -- excuse me.
10 I filed the ALEC message numbers. Since I didn't use the
11 overall message numbers, I don't have that and I do not know if
12 the billing department has that is all I'm saying.

13 Q Okay. Would another witness be able to answer that
14 question?

15 A I don't believe so.

16 Q But I believe, if I understood your earlier answer,
17 you agree with my proposition that there is inherent in your
18 projection an assumption regarding the total penetration,
19 market penetration of ALECs that is associated with the
20 projected demand that you use?

21 A There would have had -- I'm a little bit hesitant to
22 say they had exact penetration percentages because I would not
23 have seen those. I cannot say that, but I can say and agree
24 that we did project ALEC usage so there was some consideration
25 for ALEC growth in our market and where we would be providing

1 these items.

2 MR. McGLOTHLIN: Chairman Jaber, as I understand the
3 answer, there is a way to associate the total messages that
4 this witness used with the total universe of messages to
5 reflect the overall percentage of activity attributed to ALECs,
6 and I would ask for that as a late-filed exhibit.

7 CHAIRMAN JABER: Before we identify it, Ms. Caldwell,
8 do you understand the premise Mr. McGlothlin just used for
9 identifying -- just used? He is saying that there is a way to
10 identify the messages BellSouth used with the total universe of
11 messages and come up with an analysis. Do you agree with that?

12 THE WITNESS: The reason I'm a little hesitant is I
13 do not know exactly what the billing department has. I can
14 testify to what they provided to me, which was a total demand
15 projected for the time period into the future for total
16 messages, for total ALEC messages. So I know that data is in
17 the cost study and is available.

18 CHAIRMAN JABER: Mr. McGlothlin, I want to identify a
19 late-filed exhibit, but I want to make sure that in the exhibit
20 you will receive what it is you think you want. So let's have
21 some dialogue between you and the witness, and let's through
22 that dialogue identify what the exhibit should be.

23 MR. McGLOTHLIN: All right.

24 MR. SHORE: Commissioner Jaber, if I may, and I don't
25 mean to interrupt if it is not an appropriate time to address

1 it, but I think what I hear the witness saying is she doesn't
2 know if the information that Mr. McGlothlin is asking for
3 exists. That all she knows is what she used in her study is
4 the information that was provided to her. I mean, it is at
5 your discretion to allow additional testimony on that, but I
6 don't know that BellSouth is going to be in a position to
7 commit to providing something that the witness doesn't know
8 exists.

9 CHAIRMAN JABER: Well, Ms. Caldwell also stated,
10 though, that she knows the billing department has the total
11 demand for the projected time period for the total ALEC
12 messages. Is that what you used in your testimony, Ms.
13 Caldwell?

14 THE WITNESS: Yes. Let me just clarify so that we
15 understand. What I have is for each one of the ADUFs, the
16 ODUFs, the enhanced ODUF, I have demand broken down by years
17 based on a projection that was provided to me by the billing
18 department. And those numbers are already in the cost study
19 and they are available, and I know those numbers can be
20 provided.

21 CHAIRMAN JABER: Mr. McGlothlin, if that information
22 is already in the cost study, tell me what more you want her to
23 provide and we will get this exhibit identified?

24 MR. MCGLOTHLIN: I want to make sure that I
25 understand correctly your last answer.

1 BY MR. MCGLOTHLIN:

2 Q Is the total universe of messages, whether that is in
3 minutes or some other units, you can enlighten me, but is that
4 total universe of units an input to your cost study?

5 A Not the total universe, just the ALEC usage.

6 Q Okay. But is it not true that BellSouth would have
7 to report that total activity in ARMIS data?

8 A I don't know.

9 Q Well, let me approach it just slightly differently.
10 In terms of planning the overall capacity of BellSouth's
11 network, would BellSouth be required to make some projections
12 of total activity so that it can plan appropriately?

13 A Basically, when you are sizing the network, you are
14 looking at individual components of the network so you would be
15 sizing individual switches based on the demand for minutes of
16 use or messages within that switch location. And we have
17 deployment plans based on our switching locations that would
18 discuss that type of information. Now, whether or not it is,
19 you know, every switch location in Florida or just the ones
20 where we have planned for replacement, or additions, or
21 whatever I'm not sure about. But that information would be
22 available.

23 Q And it would be available on a total network basis in
24 addition to those components, would it not?

25 A I do not know if it is on the total network basis.

1 I'm talking about a network planning of a switch, and so I know
2 we plan each individual switch because I use that data from a
3 cost perspective.

4 Q A moment ago you said that you project the demand for
5 ALECs over the time frame used for the purpose. What is that
6 time frame?

7 A In most of these studies it is 2000 through 2002. I
8 believe in the ADUF we actually projected several years out
9 farther than that. The reason we did that is the cost is
10 extremely high, so, therefore, you want to get a reasonable
11 view out into the future. And I believe on that particular one
12 we actually went out to about ten years.

13 Q In your testimony, again, you describe that BellSouth
14 detected an increase in messages and, therefore, adjusted the
15 projected demand higher resulting in a lower rate, is that
16 correct?

17 A That's correct.

18 Q Said differently then, the rate is a function of the
19 projected demand?

20 A Correct.

21 Q But isn't it true that demand is also a function of
22 the rate?

23 A Yes, from a marketing standpoint.

24 Q Such that if one were to project a low level of
25 market entry or market penetration by the ALECs, that would

1 result in a high rate relative to what the rate would be with a
2 different projection, would it not?

3 A Yes.

4 Q And that high rate would have the effect of
5 suppressing the extent to which ALECs could enter the market on
6 a competitively viable basis, would it not?

7 A In a pure market analysis, yes.

8 Q So that the projection of a low level of activity
9 could become a self-fulfilling prophesy by virtue of the impact
10 the high rate would have on activity, correct?

11 A That could be possible. But I think what you have to
12 realize here is the DUFs by themselves have no, you know, true
13 meaning. They are to be sold with the other elements that go
14 along, so there is a lot more than just the DUFs associated
15 with that. And if you looked at the demand increases, when we
16 realized that we -- as I mentioned, I believe, in my summary
17 for the UNE-P entering the market, we saw a significant
18 increase and so we have increased that demand to recognize
19 that.

20 Q Okay. Granted your point that there are other things
21 going on, but with respect to the DUF rate, the lower the
22 projection of activity; the higher the rate, the higher the
23 rate the lower the activity, is that correct?

24 A I don't agree with that associated with DUFs. I
25 agreed with the first part of your statement, but not the last.

1 Q Which part do you not agree with?

2 A That if you have a high rate you are going to make
3 the overall demand go down because you are working with very
4 small numbers here and it is part of an overall offering, it is
5 used with other things. So just this one simple rate by itself
6 is not going to be the major driver, in my opinion the major
7 driver in the overall offering.

8 Q Okay. I believe you just qualified it by saying it
9 is not going to be a major driver, but the relationship between
10 price and demand nonetheless is valid, is it not?

11 A Yes.

12 MR. McGLOTHLIN: That being the case, Chairman Jaber,
13 I do want that exhibit, because I believe it is pertinent and
14 relevant to her testimony.

15 CHAIRMAN JABER: Give me a short title for the
16 late-filed exhibit.

17 MR. SHORE: Chairman Jaber, if I may interpose an
18 additional objection to that.

19 CHAIRMAN JABER: Let me hear what the request is and
20 then I will let you respond, because I'm still not clear on
21 what the late-filed exhibit would be.

22 Go ahead, Mr. McGlothlin.

23 MR. McGLOTHLIN: Assumed ALEC market penetration
24 associated with projected demand.

25 CHAIRMAN JABER: You want a late-filed exhibit that

1 gives you the assumed ALEC market penetration associated with
2 projected demand?

3 MR. McGLOTHLIN: Yes.

4 CHAIRMAN JABER: Okay. Mr. Shore.

5 MR. SHORE: Let me just ask for a clarification first
6 and then add an additional objection. I'm still not sure from
7 this witness' testimony, I don't think it is clear that this
8 data being requested by the late-filed exhibit exists anywhere
9 in BellSouth. BellSouth has provided projected demand figures.
10 I guess Z-Tel or any other party could try to take that data
11 together with other data, such as the total number of access
12 lines and try to come up with some computation about projected
13 market penetration. But I would certainly object to the extent
14 that BellSouth hasn't done that, that it has no obligation to
15 come up with some analysis to satisfy that request.

16 I would also object on the basis that this appears to
17 me to be discovery. And as the chair is aware, there has been
18 quite a bit of discovery to say the least in this proceeding,
19 including several hundred data requests and a deposition of Ms.
20 Caldwell where this information could have been requested. And
21 I think that we are getting far astray from cross-examination
22 and getting into discovery here, and I would object on that
23 basis, as well.

24 CHAIRMAN JABER: Mr. McGlothlin.

25 MR. McGLOTHLIN: I will only say that I was surprised

1 by the witness' answer that she did not have available to her
2 readily the overall information, because it was my expectation
3 and understanding it was an input to the model and that is the
4 reason for the late-filed exhibit.

5 In addition, I disagree with the implication that
6 this is would be anything that does not exist or would be
7 difficult to provide. As one example of the indication that
8 this is the type of information that BellSouth has and
9 BellSouth works with, there is a response to the AT&T and MCI's
10 first set of interrogatories, Item Number 2, the request was
11 for a typical Florida residential customer please provide the
12 following. And the first request was the average number of
13 local calls per month, and they said that the average is 93
14 calls.

15 And it appears to me that if they already had this
16 average information they can multiply by the numbers of lines
17 and be pretty close to the type of information I have asked
18 for. So I don't think it is burdensome, and I don't think it
19 is discovery because our attempt was to make the point on
20 cross-examination that we expect that BellSouth has assumed a
21 low market entry and that has a self-fulfilling effect in terms
22 of the outcomes.

23 CHAIRMAN JABER: Mr. Shore, I am going to allow the
24 identification of the late-filed exhibit, but here is a request
25 I have for you and for Mr. McGlothlin. I want the two of you

1 to have a conversation about the late-filed exhibit. I am
2 going to have it identified because it strikes me that some of
3 what will come in a late-filed exhibit is really backup
4 information for the opinion that this witness has already
5 testified to and some of the numbers that she has testified to.
6 But I want you all to converse, because it may be that you are
7 just talking past each other.

8 MR. SHORE: That's quite likely when I'm involved.

9 CHAIRMAN JABER: So that will be Late-filed Exhibit
10 52. Mr. McGlothlin, my caution to you is to the degree the
11 information is not available it is not available.

12 MR. McGLOTHLIN: Yes, ma'am.

13 CHAIRMAN JABER: And that will be Late-filed Exhibit
14 52, assumed ALEC market penetration associated with projected
15 demand.

16 (Late-filed Exhibit 52 marked for identification.)

17 CHAIRMAN JABER: And, Ms. Caldwell, I have a question
18 for you just out of curiosity. What was the projected demand
19 for ALEC penetration that you used in the model and for what
20 period of time?

21 THE WITNESS: In terms of an actual number for ALEC
22 penetration, I'm not going to have that number. What I have is
23 total number of messages, and I would have to pull the cost
24 study to get that, I'm sorry. But I will be glad to provide
25 that to you.

1 CHAIRMAN JABER: Could you just make a footnote to
2 the late-filed exhibit that Mr. McGlothlin has already
3 requested and just answer that question for me.

4 THE WITNESS: Okay.

5 CHAIRMAN JABER: And my question is focused on the
6 messages.

7 THE WITNESS: Yes. And just to clarify, I can
8 provide from the cost study by year the number of messages for
9 the elements that is included here, and I think that will
10 answer your question. And if I do it by year it will give you
11 the time frame.

12 CHAIRMAN JABER: Thank you.

13 THE WITNESS: Sure.

14 CHAIRMAN JABER: Go ahead, Mr. McGlothlin.

15 BY MR. MCGLOTHLIN:

16 Q Ms. Caldwell, when you compute the costs for the data
17 usage files various categories, do you use only CLEC demand for
18 that purpose?

19 A Yes.

20 Q When you compute the costs for a UNE loop, do you
21 look only to CLEC demand for that purpose?

22 A No, in terms of the loops we build the network to all
23 existing loops. The difference is in the DUF study, it is
24 unique programming that was done for CLECs only, so BellSouth
25 does not use those programs. So I only used the demand

1 associated with them.

2 Q Does BellSouth purchase unbundled loops?

3 A No.

4 MR. McGLOTHLIN: No further questions. Thank you.

5 CHAIRMAN JABER: Staff.

6 MR. KNIGHT: Good afternoon, Ms. Caldwell.

7 THE WITNESS: Good afternoon.

8 CROSS EXAMINATION

9 BY MR. KNIGHT:

10 Q I just have a couple of questions. Earlier we had
11 some discussion about engineering factors, and I would like to
12 make sure the record is clear on a couple of issues. First of
13 all, do you have a copy of BellSouth's Response to Staff's
14 First Set of Interrogatories?

15 A I'm afraid not here with me.

16 Q Okay. Just a moment and we will hand out a copy.

17 A Okay.

18 Q We are looking at BellSouth's Response to Question 18
19 of Staff's First Set of Interrogatories. Do you have that?

20 A Yes.

21 Q I would like to direct your attention to the second
22 paragraph or Part B of that answer. Do you see that?

23 A Yes.

24 Q If I am reading correctly, what BellSouth is saying
25 here is that the engineering loading factors used in the BSTLM

1 were derived from BellSouth's outside plant construction
2 management, or OSPCM system, is that correct?

3 A That was correct in the November 8th, 2001 study.

4 Q Okay. For clarification, what is the OSPCM?

5 A That is the outside plant construction management.
6 Let me double-check that, I'm sorry. Given me a second. Yes,
7 outside plant construction management system. It was the
8 system that BellSouth engineers used to develop jobs,
9 et cetera, for placing of cable.

10 Q Okay. And you said that was correct as of November
11 8th, 2001?

12 A Yes. In the original cost studies that we filed with
13 the Commission, we used the engineering factors from the OSPCM.
14 However, in my deposition I was questioned about the factors
15 and asked to provide the backup for those factors. And in
16 going back and investigating them we found that the factor that
17 is used in the OSPCM model is applied differently than the
18 BSTLM model applies it. And in addition we were looking for
19 backup data for the factor. So with the January 28th, I
20 believe was the filing, of our revised cost study we changed
21 those engineering factor and based them on accounting data.

22 Q I would like to show you a later staff interrogatory
23 dated February 11th, 2002. I'm looking at Number 87A of
24 staff's fourth interrogatories which we provided you a copy of.
25 You also there disclosed something else about these engineering

1 factors, correct?

2 A Yes.

3 Q And what was it that you notified staff of in your
4 response to that interrogatory?

5 A What we were defining is that we had changed the
6 method of calculating the factor, and we had changed the
7 factors. And so in the new cost study that was filed on
8 January 28th we included the new factor.

9 Q All right. Just for clarity, you're saying that the
10 engineering factor you submitted in the BSTLM in this
11 proceeding was based up on the OSPCM, but the OSPCM numbers
12 could not be documented?

13 A Correct.

14 Q Okay. And once the BSTLM engineering factors were
15 submitted in the original 120-day factors they were found to be
16 incorrect for the reasons you have testified here today, is
17 that right?

18 A Yes.

19 Q Could you explain --

20 A Can I just clarify one thing there?

21 Q Certainly.

22 A In terms of when we talk about whether or not the
23 factors themselves are correct, I need to clarify that I said
24 the application of the factor in the BSTLM did not match the
25 application of the factor in the OSPCM. So when you have a

1 mismatch in application, you cannot use that factor.

2 Q Okay. Can you explain to the Commission how
3 BellSouth calculates engineering factors in its most current
4 revision of the 120-day filing?

5 A Yes. Basically, we used the 1998 RTAP data in which
6 we looked at each one of the individual accounts and looked at
7 the engineering dollars associated in that account. And if you
8 will give me just one second, I will find the -- there should
9 be an exhibit in the cost study, and I can direct you to that
10 page that does that calculation.

11 All right. In the cost study, in Appendix B,
12 Attachment 6, there is an Excel file that includes for each one
13 of these accounts the dollars associated with such things as
14 telco labor, vendor labor, telco engineering, vendor
15 engineering, and it actually does the calculation in this file
16 to calculate the factors shown in this data response listed new
17 here.

18 Q Okay. Well, looking at that attachment --

19 A Okay.

20 Q -- the total engineering cost as a ratio to total
21 nonengineering costs range from a low of 7.9 percent to as high
22 as 52.7 percent, correct?

23 A Correct.

24 Q And in the original filings there were only two
25 engineering factors, I believe, 27 percent for cable accounts

1 and 35.7 percent for fiber accounts, is that correct?

2 A Correct.

3 Q Can you explain the difference in how those amounts
4 were derived?

5 A I can explain the difference in terms of an
6 application of them. Since I don't have the development of
7 these factors, I can't go beyond that. But in terms of the way
8 to my understanding the model, the OSPCM applies this, it is
9 not -- it doesn't apply it to total investment the way
10 BellSouth does. So based upon my account data, when you look
11 at the total investment in that account less the engineering,
12 those are the factors that are generated here under the new
13 column. So it is not so much an increase or decrease in each
14 individual number, I believe it is a refinement based on the
15 accounting records that breaks it down into the various
16 accounts.

17 Q Are those revisions as a result of errors by
18 BellSouth?

19 A The changing to the new factors, can I clarify that.

20 Q Okay.

21 A I believe I would have to say it would be an error by
22 BellSouth. It was a misunderstanding between my department
23 that develops the cost and how the outside OSPCM applies the
24 factors.

25 Q Are you aware of any other errors that have not been

1 addressed in this proceeding that could effect engineering
2 factors?

3 A No. I believe with providing the complete
4 documentation based upon the accounting records you can see how
5 the numbers were derived, so with that we have eliminated any
6 problem. It's not a communication issue anymore, it is
7 straight out of the accounts and you can see the data.

8 Q Okay. I would like to address a couple of items
9 regarding to manhole cost issues.

10 A Okay.

11 Q You participated in the Commission's universal
12 service docket, is that correct?

13 A Yes, I did.

14 Q Do you recall the method that was used in that docket
15 to establish the cost of manholes? And we are handing out an
16 exhibit of testimony in that docket.

17 A It has been awhile since the USF docket. I do
18 remember that we did use the outside plant contracts in Florida
19 to develop manhole costs that would fit into the BCPM input
20 file. I remember that much. Do you have a specific question?

21 Q Well, do you recall that the inputs there were based
22 upon an average of ten existing BellSouth contracts with
23 outside plant contractors in Florida?

24 A Yes.

25 Q I realize that is an entirely separate proceeding and

1 used an entirely different method to arrive at the costs there,
2 but do you by any chance recall the cost of a 504 cubic foot
3 manhole in normal soil conditions from the universal service
4 docket?

5 A No, I wouldn't unless it is listed on here.

6 Q It should be on the second page.

7 A In terms of this information provided in this table
8 from BST, the normal large manhole that is listed here, which
9 is the 12 by 6 by 7 --

10 Q Correct.

11 A -- that is \$9,509.95.

12 Q Okay. And if I could ask you then to turn to Page 26
13 of your amended rebuttal testimony?

14 A Okay.

15 Q If I could ask you to tell us what is the cost in
16 this proceeding of a comparable-sized manhole, which I believe
17 is a Type 5 or Size 5 in normal soil?

18 A Again, it is not broken down by normal, so it is just
19 the one number. It is \$15,330.54.

20 Q So in the proceeding which BellSouth uses average
21 actual cost the installed cost of a 504 cubic foot manhole was
22 roughly \$9,500, but a forward-looking model increased the
23 actual cost by two-thirds, is that correct?

24 A In terms of the numbers, that is correct.

25 Q It seems that BellSouth's cost figures for all size

1 manholes has evolved during the course of this proceeding, is
2 that a fair statement?

3 A Could you repeat. I missed a word there.

4 Q I was asking if the size of manholes has evolved in
5 the course of these proceedings, would that be characterized as
6 a fair statement?

7 A The size of manholes?

8 Q Right, the cost figures.

9 A Yes, the cost figures have been revised as we go
10 through the -- as we have gone through this proceeding,
11 correct.

12 Q Did this have anything to do in part with the
13 application of the miscellaneous loading factor?

14 A Yes. The miscellaneous loading factor in the
15 original study was not applied to all manhole costs, it was
16 only applied to certain items. And we have corrected that so
17 it is applied to all manhole costs now at this point in time.

18 Q All right. I would like to address the issue of
19 manhole covers and manhole collars. Does the size of a manhole
20 collar and the manhole cover depend upon the size of the
21 manhole itself?

22 A I don't believe the actual cover does. You can have
23 different heights of collars. But the way the input that we
24 input into the model we just used the one collar cost that is
25 associated here.

1 Q So, for instance, a 72 cubic foot manhole and a 224
2 cubic foot manhole could use the same size collar and cover?

3 A I'm not absolutely positive about that.

4 Q All right. Changing gears a bit. On the issue of
5 anchor and guy spacing, you have used the distance of 500 feet,
6 is that correct?

7 A That sounds right. Let me quickly look at the
8 inputs, it has been awhile. Okay. The anchor and guy, that is
9 correct, is 500.

10 Q Okay. And you indicate that this distance was
11 provided to you by BellSouth subject matter experts?

12 A Yes, it was.

13 Q So if those experts had suggested anchors and guys be
14 placed every 400 feet or even every 700 feet, would that be the
15 value used in the model?

16 A Yes.

17 Q Why should this Commission accept the recommendations
18 of BellSouth's subject matters experts instead of the estimates
19 of AT&T and WorldCom's expert, Mr. Donovan?

20 A I think in terms of we are looking at costs
21 associated with BellSouth and costs within the BellSouth
22 territory, and we have our engineers that are familiar with
23 BellSouth's territory where they are placing their anchor and
24 guys as an example, and based upon their experience in working
25 with the network and particularly in the Florida and BellSouth

1 region.

2 Q Just a moment. Now, the reason that BellSouth was
3 ordered to file a bottoms-up cost study was a concern that
4 linear in-plant factors distorts costs especially where rates
5 are being deaveraged, is that correct?

6 A Yes, that was my understanding from the order.

7 Q Okay. As I understand the top-down approach
8 BellSouth filed in the previous phase of this proceeding,
9 material investments were directly inflated and then multiplied
10 by BellSouth's in-plant factors, is that correct?

11 A Yes.

12 Q And this produced total in-plant costs representing
13 material and placement, is that correct?

14 A Yes.

15 Q Now, in the bottoms-up approach material costs and
16 installation or placement costs are developed separately, is
17 that how it is done?

18 A Yes, you have your material and then you have the
19 installation and placement, correct.

20 Q Regarding inflation, are the same inflation rates
21 that were used in the top-down approach being used in the
22 bottoms-up approach?

23 A Yes, they are the same ones that were used in Phase
24 1.

25 Q Do those inflation rates BellSouth has used in its

1 study reflect the composite or blending of the material
2 component and a labor component?

3 A Yes, they do. The reason that we did this is we were
4 looking at, first of all, the consistency with the factors, but
5 also in terms of the engineering dollars that are separate,
6 that factor is a noninflated factor. And so in cases you have
7 engineering dollars added, we applied just the single factor
8 for each one of the accounts.

9 Q Would you also agree then that in a bottoms-up
10 approach where material investments and the labor investments
11 are developed separately, theoretically material-only inflation
12 should be applied only to the material investments?

13 A Theoretically, you should be using a material factor
14 against the material and you should be using a labor inflation
15 factor against the labor. But as I said on some of the
16 accounts we had some combinations. However, that is a
17 refinement that could be done. If that is done, then the
18 engineering needs to be looked at in terms of inflating it, as
19 well.

20 Q By using a composite or a blended inflation factor in
21 a bottoms-up approach, doesn't this tend to overstate material
22 investments?

23 A You have to look at each individual account. But in
24 the accounts where you have the engineering, since we did not
25 inflate that engineering, I would not agree that that would be

1 a true statement.

2 Q Has BellSouth run its cost model using component
3 specific inflation factors to see if the distortions are
4 insignificant?

5 A We have not looked at the entire -- haven't run the
6 entire model. We have looked at some individual accounts, that
7 is why I know about the inflation on the engineering factor to
8 see what the impact would be, and in some of those accounts we
9 actually saw an increase in the overall cost. And that
10 analysis we had just started after we filed the study, so we
11 are still continuing to look at that.

12 Q So BellSouth doesn't know if the entire results would
13 be insignificant because you haven't conducted a full study?

14 A No, sir, I haven't completed that study yet.

15 Q Now, as part of staff's discovery, BellSouth provided
16 component specific inflation rates, did they not?

17 A Yes, we did.

18 Q And the inflation rates represent a 1998 forecast for
19 the three-year study period 2000 through 2002, is that correct?

20 A Yes.

21 Q Since we are now in the year 2002, wouldn't it make
22 sense to use a more recent view of inflation?

23 A That is one of the things that could be considered.
24 In terms of the study that we have done, we had everything
25 except for the 1998 time frame. That's where the material

1 prices started, that's where all of our factors were developed
2 off of the 1998 data. So that's why we stayed with the
3 inflation factors associated with that. However, I would not
4 say that it would be totally inappropriate to use a different
5 inflation factor as you move out. I would caution, however, to
6 be careful that everything gets inflated appropriately. For
7 instance, if you are going to use an engineering factor then
8 you would need to be sure that it would be inflated, as well,
9 not just inflating the material.

10 Q All right. AT&T and WorldCom's witness Mr. Pitkin
11 has recommended separate material inflation inputs and labor
12 inflation inputs in his supplemental rebuttal testimony. Has
13 BellSouth been able to replicate Mr. Pitkin's recommended
14 inflation rate inputs?

15 A I don't believe so at this point in time.

16 Q Do you know if BellSouth has attempted to do that to
17 date?

18 A We have looked at the numbers in terms of how they
19 relate to ours, but in terms of the overall -- I'm trying to
20 think if I'm getting that confused with the engineering factor.
21 Excuse me for just a minute.

22 To the best of my recollection Mr. Pitkin used a
23 different source for his inflation factors.

24 Q Have you discovered any errors in the material that
25 you have looked at as yet?

1 A We had some questions about some of the calculations.
2 But sitting here today, I would have to look back at the
3 testimony and the exhibits to answer that in more detail.

4 MR. KNIGHT: Those are all the questions I have.

5 CHAIRMAN JABER: Thank you, Mr. Knight.

6 Ms. Caldwell, when you were answering staff's questions about
7 your response to staff's fourth set of interrogatories, Item
8 Number 87A, you made the statement that these communication
9 errors were caught in response to a request for accounting
10 data. And staff asked if there were any other errors and you
11 said no. Did BellSouth actually review all of the accounting
12 information to determine that there were no errors, or is it
13 that in looking at the application of the factors it would have
14 been apparent if there were errors?

15 THE WITNESS: All right. Let me clarify one thing.
16 In terms of the error we talked about, it was not in the
17 accounting data, it was in a communication between network and
18 my department, which is cost matters. In terms of all of the
19 accounting, we have gone through those numbers, we have
20 scrubbed them on numerous occasions, we have also gone forward
21 into other states using some of these same numbers. And as you
22 roll them out more and more often you are constantly answering
23 data requests and things of that type. So any of the
24 accounting data that is used in the study of which this
25 engineering factor is we are confident that the calculations

1 are correct for those.

2 CHAIRMAN JABER: Okay. But have you affirmatively
3 gone in and looked at any of these factors to ensure that the
4 application of the factors is consistent between BSTLM and
5 OSPCM?

6 THE WITNESS: The answer to that is yes, we have
7 looked at the application of every one of the BSTLM factors,
8 correct.

9 CHAIRMAN JABER: Thank you.

10 Commissioners, do you have any questions? Redirect.

11 MR. SHORE: Thank you.

12 REDIRECT EXAMINATION

13 BY MR. SHORE:

14 Q Ms. Caldwell, in follow-up to some questions you were
15 asked about the DUF file costs, I think you referred generally
16 to what those costs are, and I just want to ask you a few
17 question about those and direct your attention to your Exhibit
18 DDC-1, Page 4, where those costs are reflected.

19 A Okay.

20 Q First, before I do that, do you know if the ADUF is
21 the most common type of daily usage file requested by ALECs?

22 A I believe ADUF would be with the ODUF being close
23 behind. The ADUF is your access usage record, your ODUF is
24 going to be just your local usage. So in terms of -- they are
25 both high usage components. I would hate to say which one is

1 greater than the other.

2 Q What is the cost that you calculated for the ADUF?

3 A In terms of the ADUF, on a --

4 Q That's on a per message basis, again?

5 A Per message is approximately 24 cents.

6 MR. SHORE: That's all I have. Thank you.

7 COMMISSIONER DEASON: Exhibits.

8 MR. SHORE: We would move Ms. Caldwell's exhibits as
9 identified in her direct testimony into the record.

10 COMMISSIONER DEASON: I believe that is Exhibits 47
11 and 48. Without objection, show those exhibits are admitted.

12 (Exhibits 47 and 48 admitted into the record.)

13 MS. McNULTY: Commissioner Deason, I would move
14 Confidential Exhibit Number 43 as well as 49 and 50.

15 COMMISSIONER DEASON: Okay. Without objection?
16 Hearing no objection, show then Exhibits 43, which is
17 confidential, and Exhibits 49 and 50 are admitted.

18 MS. McNULTY: Thank you.

19 (Confidential Exhibit 43 and Exhibits 49 and 50
20 admitted into the record.)

21 MR. McGLOTHLIN: Commissioner Deason, there is the
22 matter of the outstanding late-filed exhibit, and I think there
23 is some question as to whether the information will be
24 available with which to prepare that. To the extent it is
25 appropriate, I will move the admission of that.

1 COMMISSIONER DEASON: We normally reserve the
2 admission of those pending any objections. I think those are
3 Late-filed Exhibits 51 and 52, is that correct?

4 MR. McGLOTHLIN: I think that's right.

5 MR. FEIL: Commissioner, just 52 that Mr. McGlothlin
6 is referring to. Late-filed 51 is one that I requested.

7 MR. SHORE: And if there was no objection to --

8 COMMISSIONER DEASON: There is no objection to 51, is
9 that correct?

10 MR. SHORE: That's correct.

11 COMMISSIONER DEASON: Okay.

12 MR. McGLOTHLIN: Then I understand that 52 is pending
13 possible objections. I understand.

14 COMMISSIONER DEASON: Okay. Mr. McGlothlin, I
15 believe that you have a witness that needs to take the stand
16 this afternoon, is that correct?

17 MR. McGLOTHLIN: Yes, sir. The parties agreed to
18 accommodate me to that extent.

19 COMMISSIONER DEASON: Very well, you may call your
20 witness.

21 MR. McGLOTHLIN: We would call Doctor George Ford. I
22 believe Doctor Ford was not present when witnesses were sworn
23 earlier today.

24 (Witness sworn.)

25 - - - - -

1 DOCTOR GEORGE FORD
2 was called as a witness on behalf of Z-Tel Communications,
3 Inc., and, having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. MCGLOTHLIN:

6 Q Please state your name and business address for the
7 record?

8 A My name is George Ford. I am the chief economist of
9 Z-Tel Communications. My address is 601 South Harbor Island
10 Boulevard, Tampa, Florida 33602.

11 Q Doctor Ford, did you prepare and submit in this
12 proceeding a document entitled revised rebuttal testimony and
13 exhibit of Doctor George Ford?

14 A Yes, I did.

15 Q Do you have any changes or corrections to make to the
16 prefiled testimony?

17 A No, I do not.

18 Q Do you adopt the questions and answers in that
19 document as your testimony here today?

20 A Yes, I do.

21 MR. MCGLOTHLIN: I request that the revised rebuttal
22 testimony of Doctor Ford dated December 14th be inserted into
23 the record at this point.

24 COMMISSIONER DEASON: Without objection, show it
25 inserted.

1 BY MR. McGLOTHLIN:

2 Q Doctor Ford, did you also prepare an exhibit to the
3 rebuttal testimony captioned GSF-1?

4 A Yes, I did.

5 MR. McGLOTHLIN: May I have an exhibit number
6 assigned to GSF-1?

7 COMMISSIONER DEASON: Exhibit 53.

8 (Exhibit 53 marked for identification.)

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1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A. My name is George S. Ford. I am the Chief Economist for Z-Tel
3 Communications, Incorporated (Z-Tel). My business address is 601 South
4 Harbour Island Boulevard, Suite 220, Tampa, Florida 33602.

5 Q. BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND AND
6 RELATED PROFESSIONAL EXPERIENCE.

7 A. I received a Ph.D. in Economics from Auburn University in 1994. My
8 graduate work focused on the economics of industrial organization and
9 regulation, with course work emphasizing applied price theory and
10 statistics. In 1994, I became an Industry Economist for the Federal
11 Communications Commission's Competition Division. The Competition
12 Division of the FCC was tasked with ensuring that FCC policies were
13 consistent with the goals of promoting competition and deregulation
14 across the communications industries. In 1996, I left the FCC to become a
15 Senior Economist at MCI WorldCom where I was employed for about
16 four years. While at MCI WorldCom, I performed economic studies on a
17 variety of topics related to federal and state regulatory proceedings. In
18 May 2000, I became Z-Tel's Chief Economist.

19 In addition to my responsibilities at Z-Tel, I maintain an active
20 research agenda on communications issues and have published research
21 papers in a number of academic journals including the *Journal of Law and*

1 *Economics, the Journal of Regulatory Economics, and the Review of Industrial*
2 *Organization*, among others. I am also a co-author of the chapter on local
3 and long distance competition in the *International Handbook of*
4 *Telecommunications Economics*. I often speak at conferences, both at home
5 and abroad, on the economics of telecommunications markets and
6 regulation.

7 **Q. COULD YOU DESCRIBE Z-TEL'S SERVICE OFFERINGS?**

8 A. Z-Tel is a Tampa-based, integrated service provider that presently
9 provides competitive local, long distance, and enhanced services to
10 residential consumers in thirty-five states, including New York,
11 Pennsylvania, Massachusetts, Texas, Michigan, Georgia, Illinois, among
12 others. Z-Tel plans to expand nationally as the unbundled network
13 element platform ("UNE-P") becomes available at TELRIC rates. The
14 company's goal is to offer a competitive service to the residential
15 consumers of every state.

16 Z-Tel's service is not just a simple bundle of traditional
17 telecommunications services. Z-Tel's service is unique in that it combines
18 its local and long distance telecommunications services with Web-based
19 software. This consideration enables each Z-Tel subscriber to organize his
20 or her communications, including email, voicemail, fax, and even a
21 Personal Digital Assistant ("PDA"), by accessing a personalized web-page

1 via the Internet. In addition, the personal Z-Line number can be
2 programmed to follow the customer anywhere he or she goes, via the
3 "Find Me" feature. Other service features include low long distance rates
4 from home or on-the-road and message notification by phone, email, or
5 pager. Customers can also initiate telephone calls (including conference
6 calls in the near future) over the traditional phone network, using speed-
7 dial numbers from their address book on their personalized web page.

8 **Q. WHAT INTEREST DOES Z-TEL COMMUNICATIONS HAVE IN**
9 **THIS PROCEEDING?**

10 A. Z-Tel's service is a bundle of many different communications services
11 including voicemail, email, fax, Internet, PDAs, and local and long
12 distance telecommunications into an easy-to-use communications control
13 center. An important element of that bundle is local exchange
14 telecommunications service. To provide the local exchange portion of its
15 service offering, Z-Tel must purchase unbundled network elements from
16 incumbent local exchange carriers like BellSouth. At present, Z-Tel's
17 primary means of providing local exchange service provision is UNE-P.
18 Because Z-Tel is dependent upon the local exchange carrier's UNEs to
19 provide service at this time, Z-Tel has a strong interest in ensuring the
20 rates established for UNEs are TELRIC compliant and conducive to
21 competitive entry.

1 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

2 A. I will address Issue 1(b), which states:

3 Should BellSouth's loop rates or rate structure previously
4 approved in Order No. PSC-01-1181-FOF-TP be modified? If
5 so, to what extent, if any, should the rates or rate structure
6 be modified?"

7 BellSouth witness Daonne Caldwell asserts that from a "cost perspective,"
8 BellSouth's approach has produced reasonable, accurate results, and there
9 is no reason to disturb the currently approved loop rate (at page 18). In
10 my testimony I will demonstrate that, to the contrary, the existing rates
11 are questionable and warrant reexamination.

12 I will describe and perform a "sanity test" of BellSouth's loop rate that can
13 assist the Commission in determining whether the rate meets the required
14 TELRIC standard. The loop rate that BellSouth applies to UNEP
15 customers fails the test. In my opinion, the results of this independent
16 sanity test render the loop rates initially suspect, and indicate the need to
17 scrutinize BellSouth's model and individual inputs. Witnesses Brian
18 Pitkin and John Donovan, who will testify for WorldCom and AT&T,
19 have performed such an analysis and have concluded that BellSouth has
20 overstated its loop costs.

21 Q. PLEASE DESCRIBE THE "SANITY TEST" TO WHICH YOU REFER.

1 A. The test derives from the method that the FCC uses, for purposes of
2 Section 271 applications, to assess the reasonableness of the UNE cost
3 rates across the states in which in ILEC does business.

4 The FCC's methodology, which I refer to as the TELRIC Test, is laid out
5 clearly in its Oklahoma-Kansas 271 Order at ¶84-5. It has since been
6 applied in the subsequent 271 Orders including Massachusetts,
7 Pennsylvania, and Arkansas and Missouri. In applying the method, the
8 FCC uses its Hybrid Cost Proxy Model ("HCPM" or "USF cost model") to
9 determine the relative cost of loops across the states of an ILEC. For
10 example, according to the HCPM, the average cost of a loop is roughly 9%
11 less in Florida than in Georgia. Loop costs are roughly 24% less in Florida
12 than in Louisiana. The FCC then compares the relative UNE rates across
13 states to determine if such differences are consistent with the estimated
14 cost differentials as measured by the HCPM. To illustrate, if the loop rate
15 in Georgia was, say, \$10, then the loop rate in Florida should be about
16 \$9.10, or 9% less than in Georgia. The state that establishes the standard
17 for a TELRIC compliant UNE rate, i.e., the reference state, is the state that
18 has already received 271 authority from the FCC. In every case in which
19 the FCC has applied its methodology, the state for each ILEC to first
20 receive 271 authority serves as the standard (that is, Texas for all
21 Southwestern Bell states and New York for all Verizon states).

1 Q. WHY DOES THE FCC USE THE HCPM TO COMPARE COSTS
2 ACROSS STATES?

3 A. The operating principle underlying the FCC's analysis is that relative UNE
4 rates between states should be consistent with relative cost differences,
5 and that these relative cost differences are reasonably measured by the
6 HCPM. As the FCC indicated:

7 Our USF cost model provides a reasonable basis for
8 comparing cost differences between states. We have
9 previously noted that while the USF cost model should not
10 be relied upon to set rates for UNEs, it accurately reflects the
11 relative cost differences among states (emphasis added).¹

12
13 When evaluating UNE rates within the context of a 271 application, the
14 Commission employs its USF cost model to compare UNE rates in the
15 applicant state with rates in other states which the Commission has found
16 to comply with the TELRIC standard. If the difference in rates is roughly
17 equal to the differences in costs, then the FCC declares the rates to be
18 TELRIC compliant (or consistent with what a TELRIC analysis would
19 produce).

20 Q. PLEASE PROVIDE EXAMPLES OF HOW THE TELRIC TEST IS
21 APPLIED.

¹ FCC KS-OK 271 Order, ¶ 84.

1 A. The FCC applied its "TELRIC Test" in the orders approving 271
2 applications in Oklahoma/Kansas and Massachusetts. In Oklahoma, the
3 FCC evaluated the UNE loop rate, whereas in Massachusetts the loop and
4 switching UNE rates were scrutinized with the TELRIC Test. For
5 Oklahoma, the FCC expressed concern that the loop rate difference
6 between Oklahoma and Texas was not cost justified:

7 In taking a weighted average of loop rates in Oklahoma and
8 Texas, we find that Oklahoma's rates are roughly one-third
9 higher than those in Texas (ft. omitted). ... Using a weighted
10 average of wire-center loop costs, the USF cost model
11 indicates that loop costs in SWBT's Oklahoma study area are
12 roughly 23 percent higher than loop costs in its Texas study
13 area (ft. omitted). We therefore attribute this portion of the
14 differential, roughly two-thirds of it, to differences in costs.
15 The remainder of the differential, however, is not de
16 minimus, and we cannot ignore its presence.²

17
18 In this statement, the FCC expressed concern that the difference in loop
19 rates was not cost justified, where costs are measured with the HCPM.
20 During the 271-review process, SBC "voluntarily" reduced its loop rates in
21 Oklahoma. With respect to the reduced loop rates in Oklahoma, the FCC
22 concluded:

23 The weighted average of the Oklahoma discounted loop
24 rates is roughly 11 percent higher than the weighted average
25 of the loop rates in Texas. This differential between
26 Oklahoma promotional and Texas rates is well within the 23
27 percent differential suggested by the USF cost model, and so

² FCC KS-OK 271 Order, ¶ 83-5.

1 we conclude that the discounted rates meet the requirements
2 of the Act.³

3

4 After the voluntary rate reduction in the Oklahoma loop rate, the 11% rate
5 difference was below the 23% cost difference estimated by the HCPM. As
6 a consequence, the FCC deemed the loop rate to be TELRIC compliant.

7 **Q. HOW WAS THE TELRIC TEST APPLIED IN THE MASSACHUSETTS**
8 **271 ORDER?**

9 A. During the review of the Massachusetts 271 application, Verizon
10 “voluntarily” reduced its switching rates during the Massachusetts 271
11 proceeding to a level consistent with that of New York. The FCC
12 concluded that the New York switching rates were appropriate for
13 Massachusetts because:

14 [a] weighted average of Verizon’s voluntarily-discounted
15 Massachusetts rates ... and corresponding rates in New York
16 shows that rates in Massachusetts are roughly five percent
17 lower than those in New York. A comparison based on the
18 USF model of costs in Verizon’s study area in Massachusetts
19 and New York for these same elements indicates that the
20 costs in Massachusetts are roughly the same as the costs in
21 New York.⁴

22

³ FCC KS-OK 271 Order, ¶ 86.

⁴ FCC Massachusetts 271 Order, ¶ 25.

1 Again, the relative cost difference as measured by the HCPM was used to
 2 evaluate the relative rate differences across states. The FCC also used the
 3 TELRIC test to evaluate the loop rates in Massachusetts.

4 **Q. DID THE FCC USE THE TELRIC TEST TO EVALUATE THE RATES**
 5 **IN THE ARKANSAS AND MISSOURI 271 ORDER?**

6 A. Yes. The FCC determined, for example, that the Missouri loop rate
 7 complied with TELRIC by performing the TELRIC Test with Texas as the
 8 reference state:

9 We conclude that Missouri's recurring UNE rates fall within
 10 the range that TELRIC-based ratemaking would produce.
 11 With respect to loops, in taking a weighted average in
 12 Missouri and Texas, we find that Missouri's rates are slightly
 13 higher than those in Texas. The weighted average rates for a
 14 2-wire analog loop in Missouri and Texas are \$15.18 and
 15 \$14.10, respectively. The Missouri loop rate is just under 8
 16 percent higher than the Texas loop rate. The USF cost model,
 17 however, suggests that Missouri loop costs are nearly 20
 18 percent higher than the Texas loop costs. Because the
 19 percentage difference between Missouri's rates and Texas'
 20 rates does not exceed the percentage difference between
 21 Missouri's costs and Texas' costs, SWBT has met its burden
 22 regarding the benchmark test using our USF cost model for
 23 recurring loop rates.⁵

24 Clearly, the TELRIC Test continues to be an important tool for the
 25 FCC's 271 evaluation.

26 **Q. HOW IS THE TELRIC TEST PERFORMED?**

⁵ ARMO Order, ¶59.

1 A. Put simply, the TELRIC Test simply compares the ratio of UNE rates to
 2 UNE costs between two states, where costs are measured by the HCPM. If
 3 there are two states, state X and Y, then the TELRIC Test is simply

$$4 \quad \frac{\text{RATE}_X}{\text{RATE}_Y} \leq \frac{\text{COST}_X}{\text{COST}_Y}$$

5 where the ratio of UNE rates ("RATE") is less than or equal to the ratio of
 6 UNE costs ("COST"). For example, consider the Oklahoma and Texas loop
 7 comparison. The FCC determined that the UNE rates in Oklahoma were
 8 "roughly one-third higher than those in Texas," implying that the ratio of
 9 UNE rates was 1.33 (= RATE_OK/RATE_TX). The HCPM indicated,
 10 however, that loop costs are only "23 percent higher than loop costs" in
 11 Texas, implying that the ratio of costs was only 1.23 (=
 12 COST_OK/COST_TX). Obviously, 1.33 is not less than or equal to 1.23,
 13 leading the FCC to express concern over the initial Oklahoma loop rate.
 14 Once the Oklahoma loop rate was reduced "voluntarily", the ratio of UNE
 15 rates was only 1.11, which is below the cost ratio of 1.23. Thus, the
 16 reduced Oklahoma loop rate passed the TELRIC Test.

17 **Q. HOW DOES THE FCC CHOOSE A REFERENCE STATE FOR ITS**
 18 **COMPARISON?**

19 A. In the recent Arkansas-Missouri 271 Order, the FCC set forth the relevant
 20 criteria for choosing a reference state:

1 A comparison is permitted when the two states have a
2 common BOC; the two states have geographic similarities;
3 the two states have similar, although not necessarily
4 identical, rate structures for comparison purposes; and the
5 Commission has already found the rates in the comparison
6 state to be reasonable.⁶

7
8 **Q. WHAT IS THE SIGNIFICANCE OF THESE EVALUATIONS BY THE**
9 **FCC TO THIS CASE?**

10 A. The significant point is that, where underlying costs have been measured
11 by the HCPM and can be correlated, material disparities between or
12 among the rates developed for different states are relevant to the
13 consideration of whether a particular rate complies with the TELRIC
14 standard.

15 **Q. THE FCC HAS NOT APPROVED A BELLSOUTH 271 YET. HOW CAN**
16 **YOU PERFORM THE TELRIC TEST FOR FLORIDA?**

17 A. Even in the absence of a FCC-approved "reference state," and without
18 indicating a view as to whether the rates in Georgia or Louisiana comply
19 with the TELRIC standard, the same comparison employing HCPM data
20 provides a useful tool with which to help gauge arguments concerning
21 whether the Florida rate would comply with the FCC's TELRIC standard.

⁶ ARMO Order, ¶56.

1 Q. WHAT DOES THE TELRIC TEST SAY ABOUT THE LOOP RATE IN
2 FLORIDA?

3 A. The current statewide average loop rate in Georgia for a UNE-P customer
4 is \$12.55. In Louisiana, the rate is \$14.94. The current statewide average
5 loop rate for Florida is \$13.97. As previously mentioned, the HCPM
6 indicates the cost of a loop in Florida is a maximum rate of about 9% less
7 than in Georgia and 24% less than in Louisiana. Applying the test, the
8 TELRIC Test ceiling standard for the loop rate in Florida is about \$11.40
9 (\$11.37 with Georgia as a reference and \$11.30 with Louisiana as a
10 reference). In other words, the loop rate would have to be at or below
11 \$11.40 to pass the sanity test. Thus, the current loop rate for BellSouth
12 Florida is at least 23% too high ($= 13.97/11.40$). I have displayed these
13 relationships in Exhibit __ (GSF-1).

14 Observe in Exhibit __ (GSF-1) that the loop cost in Georgia is about 83% of
15 the loop cost in Louisiana, according to the HCPM. The ratio of loop rates
16 in those states matches, almost identically, this cost difference (a ratio of
17 0.83). Only Florida is an outlier in the group.

18 Q. WHAT DO YOU CONCLUDE FROM THIS EXERCISE?

19 A. I believe the fact that BellSouth's loop rate fails this sanity test
20 demonstrates the need to critically review BellSouth's rate. It is my

1 understanding that witness Brian Pitkin will address a number of specific
2 flaws and questionable inputs in BellSouth's model.

3 **Q. IF THE COMMISSION FAILS TO LOWER BELLSOUTH'S UNE LOOP**
4 **RATE, WHAT EFFECT WILL THE INFLATED LOOP CHARGES**
5 **HAVE ON Z-TEL'S ENTRY INTO FLORIDA?**

6 A. I think most everyone thought that the Telecommunications Act was only
7 about competition among telecommunications companies. Now, with the
8 extremely limited human and financial resources of the CLEC industry, a
9 form of competition between states for competitive entry is emerging.
10 CLECs possess limited resources for marketing and selling their services.
11 In the current capital market environment, CLECs have access to very
12 limited resources that may be directed to typical market-entry tasks, such
13 as marketing, sales, etc. For CLECs like Z-Tel, which has the ability to
14 provide residential local service in over thirty states, the decision of which
15 state to direct human and financial resources is a function of the potential
16 margins in any particular state. States with relatively high UNE rates run
17 the risk that entry will not happen, as CLECs devote resources to states
18 with more attractive economics. In this proceeding, there is a danger that
19 the Commission approve a relatively high loop rate that not only
20 frustrates BellSouth's 271 prospects, but moves Florida down in the
21 ranking of attractive markets. While I am not prepared to prognosticate

1 the future of competition in Florida, it does not take any leaps in logic to
2 determine that Z-Tel would be more active in entering Florida at a loop
3 rate of \$11.40 or less than it will be at a loop rate of \$13.97.

4 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

5 **A. Yes.**

1 BY MR. McGLOTHLIN:

2 Q Doctor Ford, have you prepared a summary of your
3 testimony?

4 A Yes, I have.

5 Q Would you present your summary, please.

6 A Yes, I will. The purpose of my testimony is straight
7 forward. I offer a sanity test with which to gauge whether
8 BellSouth's UNE rates appear to comply with the FCC's TELRIC
9 standard. I conclude that the current BellSouth UNE loop rate
10 fails this sanity test indicating a need to critically review
11 the manner in which they were derived. Other ALEC witnesses
12 have offered such a detailed analysis.

13 My sanity test is based on the same type of check
14 that the FCC has performed in numerous Section 271 proceedings.
15 The Federal Communications Commission has developed a
16 forward-looking cost model frequently referred to as the hybrid
17 cost proxy model, or HCPM. According to the FCC, this model
18 accurately reflects relative cost differences among states and
19 by definition among ILECs within and across state boundaries.

20 Beside being used to allocate hundreds of millions of
21 dollars within and across state boundaries and local exchange
22 carriers, the FCC has used their model as a tool with which to
23 benchmark UNE rates of a 271 applicant against UNE rates set
24 for the same applicant in another state. This procedure, what
25 I call the TELRIC test, compares the ratio of the applicant's

1 cost in two states as measured by the FCC's HCPM cost model
2 with the corresponding ratio of rates in the same states. To
3 illustrate, if costs are roughly equal in a state for which the
4 ILEC has won 271 approval and a state that is subject to the
5 pending application, but the rates are lower in the previously
6 approved state than the applicant proposes, this indicates to
7 the FCC that the proposed rates do not comply with the TELRIC
8 standard.

9 I have used publicly available outputs of the FCC's
10 HCPM to apply a procedure that is very similar to the FCC's
11 TELRIC test. This benchmark analysis is based on that
12 contained in numerous 271 orders coming out of the FCC since
13 the Texas 271 order. The benchmark procedure contained in my
14 testimony evaluates whether the relative BellSouth current
15 statewide UNE loop rate in Florida is consistent with
16 BellSouth's relative UNE loop prices and costs across other
17 BellSouth states.

18 In particular, I have used the rates established for
19 BellSouth in Georgia and Louisiana for the purposes of my test.
20 Even though these states have not been approved by the FCC in
21 271 proceedings, and while I do not by my testimony mean to
22 imply that I endorse those rates necessarily as TELRIC
23 compliant, I do think the relationships established by the
24 comparison to Florida are revealing and are a useful tool in
25 this case.

1 The most recent output files of the FCC's cost model
2 reveal an unbundled loop costs BellSouth 9 percent less to
3 provide in Florida than in Georgia and 24 percent less to
4 provide in Florida than in Louisiana, yet the current BellSouth
5 loop rate in Florida as approved by this Commission in
6 September 2001 is higher than the statewide average loop rate
7 in Georgia and only 6 percent lower than the Louisiana loop
8 rate. In fact, the Florida loop rate is about 23 percent above
9 the level that would be supported by the ratio of costs between
10 Florida and these other BellSouth states. The current loop
11 rate of about \$14 is about \$3 more than the TELRIC test
12 compliant loop rate of about \$11.40.

13 The conclusion to which my testimony leads is very
14 significant. Arriving at the proper level of TELRIC-based
15 rates is critically important from many perspectives. For
16 Z-Tel, a UNE-P provider, the level of rates will determine
17 whether Z-Tel can offer service on a basis that is competitive
18 and economically viable. From the Commission's perspective,
19 the setting of rates consistent with the TELRIC standard is
20 essential to the objective of a competitive local exchange
21 market.

22 Currently, given conditions in the capital markets,
23 Z-Tel and other CLECs have limited resources to devote to
24 market entry. ALECs have no choice but to be highly selective
25 as to where they spend those resources. As a result, there is

1 emerging a kind of competition among states for the attention
2 and efforts of competitive local exchange companies. For Z-Tel
3 the existence of UNE rates at levels that will enable itself to
4 achieve margins sufficient to compete and flourish will be a
5 determining factor in ranking jurisdictions according to which
6 markets to enter and offer service and which markets to pass
7 by. That concludes my summary.

8 MR. McGLOTHLIN: Doctor Ford is available for cross
9 examination.

10 COMMISSIONER DEASON: Any questions from any of the
11 folks on this side of the table?

12 MR. FEIL: None from Florida Digital.

13 MS. McNULTY: Nor us.

14 MR. HATCH: (Indicating no.)

15 COMMISSIONER DEASON: BellSouth.

16 MR. SHORE: Thank you, Commissioner Deason.

17 CROSS EXAMINATION

18 BY MR. SHORE:

19 Q Doctor Shore, my name is Andrew Shore, and I
20 represent BellSouth. I'm going to ask you some questions about
21 your sworn testimony in this proceeding. First, to start off,
22 you are an employee of Z-Tel?

23 A Yes, I am.

24 Q And you are an economist by training?

25 A Yes, I am.

1 Q You are not an expert on cost models, are you?

2 A No, I'm not.

3 Q And you don't hold yourself out either as an expert
4 on telecommunications plant or telecommunications networks, do
5 you?

6 A No, I do not.

7 Q Can we agree that the Telecommunications Act of 1996
8 requires state commissions to set rates for UNEs based on the
9 cost of providing UNEs?

10 A Yes, it does.

11 Q And can we also agree that the cost-based pricing
12 methodology the FCC adopted and directed the states to use and
13 to follow in setting prices for UNEs is dubbed TELRIC?

14 A Yes, it is.

15 Q And you say in your testimony on Page 3 that Z-Tel
16 has a strong interest in ensuring the rates for UNEs are TELRIC
17 compliant. Do you see that on Line 19 and 20?

18 A Where are you, again, please?

19 Q I was reading from Page 3, Line 19 and 20.

20 A Yes.

21 Q Are you familiar with the Commission's May 25th, 2001
22 final order on UNE rates from BellSouth and its October 18th,
23 2001 recon order issued in this docket?

24 A Yes, I am familiar with some parts more than others,
25 but I do know the order.

1 Q In fact, Z-Tel participated in the proceedings that
2 gave rise to those orders, correct?

3 A Yes.

4 Q And you testified here before the Commission back in
5 September of 2001 at the evidentiary hearing that formed the
6 basis for those two orders, correct?

7 A I filed testimony; I did not appear.

8 Q You are aware, are you not, that the Florida
9 Commission established final UNE rates via the May 25th order
10 and it's October 18th recon order?

11 A Yes.

12 Q And the Commission established its final UNE rates
13 for BellSouth in accordance with the FCC's forward-looking cost
14 methodology, correct?

15 A I believe that is subject to debate.

16 Q This Commission certainly believed that it was
17 setting those rates as reflected in its order in accordance
18 with TELRIC, correct?

19 A I imagine that is true.

20 Q Will you agree with that with me or do you want to
21 look at the Commission's order?

22 A I'm sure the Commission felt that it did so, yes.

23 Q And in setting those rates, those final approved
24 rates for BellSouth in Florida, are you aware that the
25 Commission used in-plant loading factors to determine the costs

1 of engineering and installing plant for loops and related UNEs?

2 A I would imagine so. I'm not an expert on cost
3 models.

4 Q Well, you have been here in the room today, haven't
5 you?

6 A Yes, I have.

7 Q And did you hear the testimony to that effect?

8 A Yes.

9 Q In its final order of May 25th, are you aware that
10 the Commission ordered BellSouth to do a bottoms-up study
11 explicitly modeling engineering and installation placement
12 costs for outside plant?

13 A I believe that is true, yes.

14 Q And the Commission said that it wanted BellSouth to
15 do so so the Commission could compare the results and determine
16 the magnitude of any discrepancies between using a loading
17 factor approach versus a bottoms-up approach, correct?

18 A I'll take your word for it.

19 Q And your testimony does not compare the results of
20 BellSouth's cost study using in-plant loadings versus the
21 results of the bottoms-up study filed in this phase, does it?

22 A No.

23 Q And you haven't analyzed BellSouth's cost model and
24 the inputs it used in the bottoms-up study to determine if it
25 produces TELRIC compliant results, have you?

1 A From the output files that I have seen for this part
2 of the proceeding, the rates were higher than those previously
3 adopted by the Commission. So as I have questioned the
4 previous rates, I would question those, as well.

5 Q Let me just go back to my original question, though.
6 You haven't analyzed the cost model and the inputs that
7 BellSouth used in it to determine whether or not those inputs
8 are forward-looking and TELRIC compliant?

9 A I have not studied the model in detail, no.

10 Q And you wouldn't be qualified to do that, would you?

11 A I believe I could do it, yes.

12 Q We already covered, though, you are not a cost model
13 expert, correct?

14 A Not today.

15 Q And have you been a cost model expert in a prior life
16 or before today?

17 A I have filed testimony in cost proceedings. I have
18 learned specific parts of cost proceedings. And if I set my
19 mind to it, I could learn a cost model.

20 Q You could learn?

21 A I couldn't tell you what the engineers are going to
22 tell you, but I could tell you the operation of the cost model
23 and whether certain inputs are consistent with what has been
24 chosen in other states, and what the FCC has said, and things
25 of that nature. I couldn't tell you how big a manhole was or

1 something like that, no.

2 Q So you could testify as to what other regulatory
3 bodies -- what conclusions they have reached, but you can't
4 provide expert testimony as to why this regulatory body ought
5 to reach such conclusions with respect to inputs from which
6 outside plant costs are derived, isn't that a fair statement?

7 A I could certainly study input prices and provide
8 information on that, yes. I have not.

9 Q You state in your testimony that AT&T and WorldCom
10 Witnesses Donovan and Pitkin have analyzed the cost models
11 BellSouth filed and have concluded that BellSouth has
12 overstated its loop costs, correct? That's on Page 4, Line 17.

13 A I think that is true. I think they have provided
14 testimony that addresses some potential problems with the
15 BellSouth model, yes.

16 Q And Mr. Donovan and Mr. Pitkin made the same claim in
17 the first phase of this proceeding, didn't they?

18 A I'm sure they did.

19 Q I'm sorry, I didn't hear you.

20 A I'm sure they did.

21 Q And, in fact, this Commission rejected most, if not
22 all of the modifications Mr. Donovan and Mr. Pitkin advocated
23 in Phase 1, did it not?

24 A I can't remember for sure what was rejected and what
25 was not. It has been a long time since I have read that part

1 of the cost order.

2 Q Can we agree that in Phase 1 the inputs that Mr.
3 Donovan and Mr. Pitkin testified were appropriate for use in
4 the BellSouth cost model resulted in a cost for a two-wire
5 voice grade loop, that is Element A.1.1, of \$6.76?

6 A Subject to check, I would agree.

7 Q And can we also agree subject to check, and I am
8 happy to provide you the backup if you would like it, that the
9 state average for a two-wire voice grade loop using the inputs
10 into the BellSouth model approved by the Commission for Element
11 A.1.1 is about \$16.50?

12 A I believe that is correct, yes.

13 Q So based on those numbers then, the rate Mr. Donovan
14 and Mr. Pitkin whose focus and analysis you cite in your
15 testimony advocated in Phase 1 for a basic two-wire loop was
16 about 40 percent of the rate this Commission established and
17 determined was TELRIC compliant?

18 MR. MCGLOTHLIN: I object to this line of
19 questioning. If counsel wishes to cross-examine the sponsors
20 of the detailed cost testimony in this case, they are coming up
21 later. Doctor Ford has sponsored a rough sanity check, and he
22 is prepared to support that testimony, but he is not here to
23 support the testimony of Mr. Pitkin.

24 CHAIRMAN JABER: So your objection is this is
25 outside the scope of Mr. Ford's testimony?

1 MR. MCGLOTHLIN: It is.

2 CHAIRMAN JABER: Mr. Shore.

3 MR. SHORE: Certainly. I don't believe that cross
4 examination is limited to that scope. I will state, however --

5 CHAIRMAN JABER: Yes, it is.

6 MR. SHORE: -- that this is my last question on that
7 subject, and he cites Mr. Donovan and Mr. Pitkin as making this
8 claim in his testimony, and I think it is within the scope of
9 his testimony and is fair game for cross.

10 CHAIRMAN JABER: Your cross examination is limited to
11 the scope of this testimony. And if you want to cite him to
12 the testimony or something he just stated and ask your question
13 again, I will allow it.

14 MR. SHORE: Sure. We have gone through -- for the
15 chair's benefit we have gone through the place in his testimony
16 where he says he relies on or at least states that Mr. Donovan
17 and Mr. Pitkin claim that loop costs are overstated, and we
18 have gone through the fact that they made the same claim in
19 Phase 1, and what the cost was that they advocated there, and
20 what the Commission found. And I was just trying to ask a
21 final question going to the percentage difference, and that was
22 my last question on that.

23 CHAIRMAN JABER: What was it? Wait a second, Mr.
24 McGlothlin. So your final question was?

25 BY MR. SHORE:

1 Q So the rate that Mr. Donovan and Mr. Pitkin
2 advocated, and those are the folks' whose analysis you cite in
3 your testimony in Phase 1 that we just agreed was \$6.76 for the
4 two-wire loop was about 40 percent of the rate this Commission
5 determined was TELRIC compliant?

6 MR. McGLOTHLIN: To be precise, Doctor Ford said I am
7 here to sponsor a rough sanity check using the TELRIC test,
8 which indicates to me that these rates are sufficiently suspect
9 and the Commission should entertain a critical review of them
10 and such a review is provided by Mr. Pitkin and Mr. Donovan.
11 He did not purport to sponsor the results or to verify the
12 results of those other witnesses. Counsel is attempting to
13 discredit Mr. Pitkin through my witness, Doctor Ford, and that
14 is inappropriate and that is beyond the scope of his testimony.

15 CHAIRMAN JABER: Okay. Mr. McGlothlin, I am going to
16 allow the one final question, and to the degree your witness is
17 not comfortable answering it, doesn't know the answer, he needs
18 to just state it. But I am going to allow the question.

19 MR. SHORE: Thank you.

20 BY MR. SHORE:

21 Q Let me just back up so the record is clear, Doctor
22 Ford. We have agreed that the inputs that Mr. Donovan and Mr.
23 Pitkin testified were appropriate in Phase 1 resulted of a cost
24 for a two-wire voice grade loop of \$6.76. We have also agreed
25 that the state average using the input of this Commission in

1 determining TELRIC compliance resulted in a state average of
2 about \$16.50. So my question is isn't it true that Mr. Donovan
3 and Mr. Pitkin, the folks whose analysis that you cite in your
4 testimony came up with a proposed cost of about 40 percent less
5 than the cost this Commission determined was TELRIC compliant?

6 A Yes.

7 Q You talk in your testimony about what you call your
8 sanity test of BellSouth's loop rate, right?

9 A Yes.

10 Q And that refers to a methodology, or I think what you
11 called in your summary today a procedure that the FCC has used
12 to examine UNE rates in several of its 271 orders, correct?

13 A It is a procedure that has been used in 271
14 proceedings, yes, sir.

15 Q It hasn't been used elsewhere, has it?

16 A It is used in the universal service proceedings to
17 some extent.

18 Q The FCC doesn't call this method a sanity test; that
19 is your term, correct?

20 A No, they call it a benchmark methodology, I believe.

21 Q And you also used the term TELRIC test to describe
22 this methodology, and that is your term, as well, correct?

23 A That is my term.

24 Q Since the FCC came up with the methodology, I want to
25 look at what the FCC had to say about when it was appropriate

1 to apply it. You cite in your testimony Paragraph 56 of the
2 FCC's Arkansas and Missouri 271 order on Page 11. Do you have
3 a copy of that order up there with you?

4 A I do not.

5 Q I'm going to ask Mr. Meza to distribute a copy or,
6 excuse me, excerpts from that order, including the excerpt you
7 cite.

8 A Is there a paragraph you want to focus on there?

9 Q Let me wait until everybody has it, if you don't
10 mind, Doctor Ford.

11 MR. McGLOTHLIN: Do you have a particular reference
12 to the witness' testimony?

13 MR. SHORE: Yes. On Page 11 he cites a portion of
14 Paragraph 56 of the order.

15 BY MR. SHORE:

16 Q And it is just a portion of Paragraph 56. I want to
17 ask him to read another part of Paragraph 56 into the record
18 that he does not cite in his testimony. Are you at Paragraph
19 56, Doctor Ford?

20 A Yes.

21 Q Can you read into the record the second sentence of
22 Paragraph 56 that starts, "The Commission has stated"?

23 A "The Commission has stated that when a state
24 commission does not apply TELRIC or does so improperly, e.g.,
25 it made a major methodological mistake, or incorrect input, or

1 several smaller mistakes or incorrect inputs, that collectively
2 could render rates outside the reasonable range that TELRIC
3 would permit, then we will look to rates in other Section
4 271-approved states to see if rates nonetheless fall within the
5 range that a reasonable TELRIC-based ratemaking would produce."

6 Q Can we agree that what the FCC is saying here is that
7 this benchmark test, I think what you said they call it, what
8 you call a sanity test would be applied only after the
9 Commission or someone determines that TELRIC has not been
10 applied properly?

11 A No.

12 Q So is it your testimony that what the FCC is saying
13 in the paragraph -- excuse me, in the sentence in Paragraph 56
14 you just quoted is that the benchmark analysis ought to apply
15 independently or even if TELRIC was applied properly?

16 A I think your question begs the question.

17 MR. SHORE: Madam Chair, if I could ask --

18 CHAIRMAN JABER: Doctor Ford, answer the question and
19 then elaborate if you need clarification on the question.

20 THE WITNESS: Repeat the question.

21 BY MR. SHORE:

22 Q Isn't the FCC saying in the sentence that you just
23 read that it will apply this benchmark analysis only when
24 TELRIC has not been applied properly?

25 A If TELRIC is applied 100 percent correctly they would

1 probably not apply it.

2 Q You provide examples in your testimony of how the FCC
3 has applied this comparison analysis, don't you?

4 A I indicate how they have applied this analysis
5 specifically to 271 cases.

6 Q And the FCC has never concluded that any UNE rate
7 failed to comply with TELRIC based on the comparison test which
8 is the subject of your testimony, isn't that true?

9 MR. MCGLOTHLIN: Could I hear the question again,
10 please.

11 BY MR. SHORE:

12 Q The question is the FCC has never concluded that any
13 UNE rate has failed to comply with TELRIC based on the
14 comparison test, which you call the sanity test?

15 A The FCC has never rejected the 271 based on the fact
16 that a rate that actually made it through the entire 90-day
17 review was too high. Many rates have mysteriously declined
18 during the 90-day 271 review.

19 Q Going back to my original question, then, it is true,
20 is it not, that the FCC has never concluded that any UNE rate
21 failed to comply with TELRIC based on the comparison test which
22 is the subject of your testimony?

23 A I have no idea.

24 Q You can't cite me any example, can you, where the FCC
25 has so concluded on that basis?

1 A I know that the FCC applies the test to every 271
2 since Texas. I know that rates of ILECs have declined during
3 271 reviews. I suspect that the TELRIC test may have played
4 some role in that process, although I'm not certain.

5 Q To your knowledge, Doctor Ford, has the FCC ever
6 rejected a rate and found that it didn't comply with TELRIC
7 based on this comparison test? And if you can just answer that
8 yes or no and provide an explanation, I would appreciate it.

9 A I don't know.

10 Q You don't cite any in your testimony, do you?

11 A That conclusion would not be citeable.

12 Q The FCC has said that if rates fail what you call the
13 TELRIC test that does not necessarily mean that rates are not
14 TELRIC compliant, has it not?

15 A Repeat the question.

16 Q The FCC has said just because a rate might fail what
17 you call the TELRIC test does not in and of itself mean that
18 the rate is not TELRIC compliant?

19 A That is correct.

20 Q Can we agree, Doctor Ford, that the FCC has said in
21 various orders that the application of TELRIC does not
22 necessarily produce a precise cost figure, but rather that
23 there is a reasonable TELRIC range?

24 A Absolutely.

25 Q Would a plus or minus 10 percent for a given element

1 be a reasonable range in your expert opinion?

2 A Actually in the Oklahoma/Kansas order the Commission
3 was bothered or described an 8 percent difference as not
4 de minimis and warrants further investigation, although that
5 further investigation never occurred because the -- I guess it
6 was the Oklahoma loop rate was voluntarily reduced. Which
7 actually going back to your previous question that a rate was
8 actually not rejected from the TELRIC test is probably -- you
9 could probably make a case that the Oklahoma order actually did
10 that.

11 Q In your expert opinion, what is a reasonable range of
12 TELRIC? Let's use a loop as an example. For a loop rate, what
13 is a reasonable range a TELRIC might present, plus or minus
14 what percentage?

15 A The only evidence I have is what the Commission
16 described as not de minimis, which would be a rate that needed
17 to be reduced by 8 percent to satisfy the TELRIC test. So 8
18 percent would be the only number I would have.

19 Q Do you have an opinion you, yourself, as an expert
20 economist, as to what a reasonable range or a reasonable
21 variation would be?

22 A I would say probably 5 percent.

23 Q On Page 13 of your testimony you say that ALECs, like
24 Z-Tel, will decide which states to offer service in depending
25 upon the margins they can make based on the UNE rates in that

1 state?

2 A That is correct.

3 Q And the FCC has said that profits an ALEC can make is
4 not something that is appropriate to consider in setting UNE
5 rates, isn't that right?

6 A That's what the FCC said, yes.

7 MR. SHORE: That's all I have. Thank you, Doctor
8 Ford.

9 CHAIRMAN JABER: Staff.

10 MS. KEATING: Staff has no questions.

11 CHAIRMAN JABER: Commissioners? Redirect.

12 REDIRECT EXAMINATION

13 BY MR. McGLOTHLIN:

14 Q Doctor Ford, counsel asked you a series of questions
15 in which he asked you to agree that the Commission established
16 TELRIC compliant rates in earlier proceedings, and then he also
17 asked in that same line some questions describing the direction
18 for BellSouth to provide a bottoms-up cost study. Do you
19 recall those?

20 A Uh-huh.

21 Q I'm going to hand you a copy of the prehearing order
22 and I will ask you to read Issue 1B, which is the same question
23 I posed to BellSouth's witness earlier this morning. Would you
24 read 1B aloud?

25 A Issue 1B, "Should BellSouth's loop rate or rate

1 structure previously approved in Order Number
2 PSC-01-2051-FOF-TP, be modified? If so, to what extent, if
3 any, should the rates or rate structure be modified?"

4 Q And my question to you simply is this, in your view
5 is your testimony responsive to Issue 1B?

6 A That was the intent of my testimony, yes.

7 Q Counsel for BellSouth asked you several questions in
8 the area of your view of an acceptable range of reasonableness
9 for TELRIC rates?

10 A Yes.

11 Q In your view is 23 percent within that range of
12 reasonableness?

13 A It would not be.

14 MR. McGLOTHLIN: No further questions.

15 CHAIRMAN JABER: Thank you. Exhibits. Mr.
16 McGlothlin, Exhibit 53?

17 MR. McGLOTHLIN: I move 53.

18 CHAIRMAN JABER: It is admitted into the record
19 without objection.

20 (Exhibit 53 admitted into the record.)

21 CHAIRMAN JABER: Thank you, Doctor Ford.

22 THE WITNESS: You're very welcome. Thank you for
23 letting me go out of turn.

24 CHAIRMAN JABER: No problem. Parties, we are going
25 to adjourn for the evening and pick up tomorrow morning with

1 Witness Williams. I'm trying to get an understanding of how
2 many witnesses we have left. We have Tommy Williams for
3 BellSouth. On the ALEC side it looks like we have Darnell,
4 Pitkin, Donovan, Gillan, and Gallagher. Is that correct? Have
5 I left anyone out? All right. In terms of the order of
6 witnesses, can we use the order of witnesses that I just read
7 out?

8 MR. FEIL: As far as I know, yes, ma'am.

9 CHAIRMAN JABER: I would encourage you all to sit
10 down and talk about any testimony that may be inserted into the
11 record without cross-examination. I don't know that it is
12 possible, but it seems like it should be. All right.

13 Staff, anything we have to do tonight?

14 MR. KNIGHT: No, I don't believe there is anything
15 else.

16 CHAIRMAN JABER: We will pick up tomorrow morning at
17 9:00 a.m. Thank you.

18 (The hearing adjourned at 5:32 p.m.)

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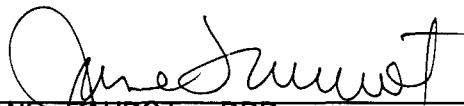
1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

4
5 I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter
6 Services, FPSC Division of Commission Clerk and Administrative
7 Services, do hereby certify that the foregoing proceeding was
8 heard at the time and place herein stated.

9 IT IS FURTHER CERTIFIED that I stenographically
10 reported the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript constitutes a true transcription of my notes of said
13 proceedings.

14 I FURTHER CERTIFY that I am not a relative, employee,
15 attorney or counsel of any of the parties, nor am I a relative
16 or employee of any of the parties' attorney or counsel
17 connected with the action, nor am I financially interested in
18 the action.

19 DATED THIS 20th day of March, 2002.

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JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732