5
CONFIDENTIAL
See DN
09891-03
ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO.: 0303049-TP
FILED AUGUST 19, 2003

IN RE: COMPLAINT BY
SUPRA TELECOMMUNICATIONS
AND INFORMATION SYSTEMS,
INC., REGARDING BELLSOUTH'S
ALLEGED USE OF CARRIER
TO CARRIER INFORMATION

DEPOSITION TESTIMONY OF:
DAVID A. NILSON
August 22, 2003
1:35 p.m.

STIPULATION

IT IS STIPULATED AND AGREED by and between the parties through their respective counsel that the deposition of DAVID A. NILSON may be taken before SHERI G. CONNELLY, Commissioner, at The Tutwiler, A Wyndham Grand Heritage Hotel, 2021 Park Place North, Birmingham, Alabama 35203, on the 22nd day of August, 2003.

IT IS FURTHER STIPULATED AND AGREED that the signature to and the reading of the deposition by the witness is waived, the deposition to have the same force and effect as if full compliance had been had with all laws and rules of proceedings relating to the taking of depositions.

IT IS FURTHER STIPULATED AND AGREED that it shall not be necessary for any objections to be made by counsel to any questions, except as to form or leading questions, and that counsel for the parties may make objections and assign grounds at the time of the hearing, or at the time said deposition is offered in evidence, or prior thereto.

IT IS FURTHER STIPULATED AND AGREED that the notice of filing of the deposition by the Commissioner is waived.

RECEIVED-FPSC
03 OCT -1 PM 2:56
COMMISSION
CLERK

AUS
CAF
CMP
COM
CTR
ECR
GCL
OPC
MMS
SEC 1
OTH org to exhibit pouch

INDEX

EXAMINATION BY: PAGE NUMBER:
MR. MEZA 6

EXHIBITS: PAGE NUMBER:
No Exhibits submitted.

****

APPEARANCES

FOR THE PETITIONER, SUPRA TELECOMMUNICATIONS

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030349-TP EXHIBIT NO. 5
COMPANY/ WITNESS: SUPRA
DATE: 08-29-03

DOCUMENT NUMBER-DATE
09481 OCT-1 03
FPSC-COMMISSION CLERK

AND INFORMATION SYSTEMS, INC.:
Jorge L. Cruz-Bustillo
Assistant General Counsel
Supra Telecom
2620 Southwest 28th Avenue
Miami, Florida 33133-3005
305.476.4252

0004
FOR THE RESPONDENT, BELLSOUTH TELECOMMUNICATIONS, INC.:
James Meza, III
BellSouth Telecommunications, Inc.
Museum Tower Building
Suite 1910
150 West Flagler Street
Miami, Florida 33130
305.347.5561

Matthew T. Brown
Jones, Walker, Waechter,
Poitevent, Carrere & Denegre, LLP
201 Saint Charles Avenue
New Orleans, Louisiana 70170
504.582.8000

FLORIDA PUBLIC SERVICE COMMISSION
(Via telephone):
Linda H. Dodson
Levent Ileri
Jerry Hallenstein
Robert Casey

0005
Jacqueline Gilchrist
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
850.413.6100

ALSO PRESENT:
Edward Wolfe

****

I, SHERI G. CONNELLY, a Court Reporter of Birmingham, Alabama, acting as Commissioner, certify that on this date, as provided by the applicable rules of procedure and the foregoing stipulation of counsel, there came before me at The Tutwiler, A Wyndham Grand Heritage Hotel, 2021 Park Place North, Birmingham, Alabama 35203, beginning at 1:35 p.m., DAVID A. NILSON, witness in the above cause, for oral examination, whereupon the following proceedings were had:

0006
DAVID A. NILSON,
being first duly sworn, was
examined and testified as follows:

MR. MEZA: Usual stipulations, Counselor?
MR. CRUZ-BUSTILLO: Yes, sir.

EXAMINATION BY MR. BROWN:
Q. Good afternoon, Mr. Nilson. What did you do to prepare for this depo today?
A. I traveled to Birmingham and I reread my testimony.
Q. Okay. Did you meet with counsel?
A. Not really.
Q. Did you go over any documents other than your testimony?
A. No.
Q. What is your current position with Supra?
A. My title is vice president of technology.
MR. CRUZ-BUSTILLO: Jim, let me just
0007
check. Staff, can you guys hear Dave, Mr. Nilson?
MS. DODSON: Yes.
Q. (By Mr. Meza) I'm not going to spend time on what I consider to be insignificant issues but sometimes your title changes a lot periodically. In your testimony, you refer to yourself as the chief technology officer. Is that a component of vice president?
A. Yes.
Q. Can you explain that?
A. No.
Q. It's the same -- I mean, the job duties are the same --
A. Yes.
Q. -- between chief technology officer and vice president of technology?
A. Yes, they are.
Q. Now, does Supra engage in customer winback efforts?
A. Yes.
Q. How?
A. Periodically we contact customer --
0008
former customers who we are no longer billing and send offers to them.
Q. Okay. What means -- what means do you use to contact these customers?
A. Until very recently it was direct mail. In the last few months we've done some outbound telemarketing.
Q. And is it limited to former Supra customers?
A. It's actually very limited, but yes, it's limited to former customers.
Q. Does Supra engage in any retention marketing programs?
A. No, we don't normally know that a customer is intending to leave until after they're gone.
Q. Does Supra send switch acknowledgment letters when a Supra customer

leaves it to go to another carrier?
A. No.
Q. Am I correct in saying that the two mediums that Supra uses to conduct its customer reacquisition efforts are direct

0009
mailings and very recently outbound telemarketing; is that correct?
A. Both of those are extremely limited. I would say it would be more accurate that our customer reacquisition campaigns are more from television and newspaper advertising, at least that's the way we view it.
Q. Okay. Well, I appreciate your answer but are there any other mediums that you use in those limited instances --
A. No.
Q. -- when you engage in customer winback efforts?
A. Not that I'm aware of.
Q. Do you use in-house individuals or third parties to issue the direct mailings or to make the outbound telemarketing calls?
A. It's done in-house.
Q. And in-house meaning part of Supra --
A. Yes.
Q. -- or an affiliate of Supra?
A. Oh, okay. It's call center

0010
personnel and to the extent that those call centers are one of Supra's offshore affiliates.
Q. Does Supra have any call center personnel in the United States today?
A. I believe there's still a few, yes.
Q. What underlying data does Supra use to identify potential customer winback targets?
A. From our billing system, a customer that's recently left.
Q. Okay. Does Supra use -- well, let me ask you this foundation question. Are you familiar with the PMAP line loss report?
A. I am.
Q. And does Supra get that report daily from BellSouth?
A. PMAP is not something you get. You have to actually go out on the Internet and retrieve it.
Q. That's a fair response. Does BellSouth provide updated information daily as to the information contained in the PMAP line

0011
loss report?
A. PMAP changes daily. Whether -- whether the updates come the following day or not has been a subject of concern in the past.
Q. But you would agree with me that it's either daily or two days later that you receive notification of the information in PMAP, line loss report; is that correct?
A. Probably, yes.

Q. Okay. What information is contained in the PMAP line loss report?
A. I can't answer that question.
Q. Have you ever seen it?
A. I have. I haven't looked at it in probably a year and a half.
Q. Would you agree with me in concept that it provides Supra with the list of customers that have disconnected service from Supra?
A. Yes.
Q. Does Supra use the PMAP line loss report to identify potential winback targets?
A. No.

0012

Q. Why not?
A. We don't do that much winback to start with to be honest with you.
Q. Does Supra use marketing efforts to obtain new customers, new Supra customers?
A. I'm not sure I understand your question.
Q. Okay. Does Supra -- do you understand the concept of cold call?
A. Yes.
Q. What's a cold call?
A. Someone's phone rings and you get a sales pitch from someone who you have no relationship with.
Q. It's a unsolicited --
A. Yes.
Q. -- pitch?
A. Yes.
Q. Okay. Does Supra engage in cold calls via its telemarketing site?
A. No, we stopped that practice in the fall of 1997.
Q. Supra has not engaged in initiating

0013

telemarketing --
A. No, sir.
Q. -- calls to customers?
A. No, sir.
MR. CRUZ-BUSTILLO: Jim, I don't want to interrupt this line of questioning. Since he's technology, I will tell you I probably have as much knowledge of marketing as him.
MR. MEZA: Yeah.
MR. CRUZ-BUSTILLO: And I know that virtually 99 percent, leave an exception subject to check, is all newspaper and mainly television.
MR. MEZA: Okay.
MR. CRUZ-BUSTILLO: And that's how we've been getting customers.
MR. MEZA: All right.
MR. CRUZ-BUSTILLO: It's no -- you know, all our call center people are handling just people calling in saying, what's wrong, going on here, just handling customer service.
MR. MEZA: I appreciate the

0014

clarification, and I don't think you were trying to influence the witness' testimony.
MR. CRUZ-BUSTILLO: No, I wasn't, and that's why I let you go --
MR. MEZA: But let me tell you why I'm confused because I recently received a cold call from Supra to switch to Supra and that seems to be inconsistent with your testimony.
MR. CRUZ-BUSTILLO: Well, let me say that subject to check, remember, he's not the marketing guy.
MR. MEZA: I understand.
MR. CRUZ-BUSTILLO: We have a director of marketing. That may be going on. That may have started now. That may have been done, but I know that it's virtually all but -- go ahead -- go ask your question.
A. You've asked me that question before and I reiterate what I've said before, that it's been against our policy to do that. We had an issue that related in some slamming complaints in '97. We stopped the practice,

0015

and I'm unaware that we've started anything.
Q. Okay. So if I asked you a series of questions of how Supra identifies potential new customers that they wish to engage in telemarketing activities in, you would not have an answer to that?
A. I would tell you we weren't in the process of doing telemarketing -- outbound telemarketing to regain -- or to gain new customers.
Q. Okay. Who would know at Supra whether your policy regarding not engaging in outbound telemarketing is still current?
A. Probably Russ Lambert.
Q. Now, what is your understanding of CPNI?
A. That stands for customer proprietary network information, and it has to do with the types of service a customer orders, the phone -- the specific phone calls they make, and the nature of what features and options they have on the line and who they have the service with.

0016

Q. Do the CPNI rules -- well, first of all, are you familiar with the CPNI rules?
A. Generally.
Q. Okay. Do they apply to Supra as well?
A. Yes.
Q. Which CPNI rules do apply to Supra if you remember or if you know?
A. I'm not aware that the CPNI rules make broad exclusions for CLECs or make any differentiation between CLECs and ILECs.
Q. Does Supra comply with the CPNI rules?
A. Yes.
Q. What are Supra's policies regarding

the use of CPNI or does Supra have policies? It's a predicate question.

A. I'm not sure I understand the question.

Q. Does Supra have policies --

A. Do we have a specific document?

Q. Or not specific document or just a general policy regarding the use of CPNI.

0017

A. I mean, our policy is just to comply with the law. I'm not sure we have a document that details the steps that are necessary to achieve that.

Q. Okay. Based upon your understanding of CPNI, would it be permissible for Supra to view the records of a telephone customer who is not a Supra customer?

A. Yes, with a customer's permission.

Q. What if you don't have a customer's permission?

A. No.

Q. Does Supra view the records of a customer that is not a Supra end user and who has not given Supra permission to view his records?

A. No.

Q. And how do you know that?

A. Because -- first of all, initially we did that through training and the people that were given access to the letter system were prohibited from doing that. More recently, we have pretty much taken direct

0018

LENS access away from our people and they get access to your OSS by going through our OSS, and those requirements obviously are coded into the software so that before a customer record is pulled up through our system, they have to be authorized -- they have to get the information from -- from the customer themselves.

Q. Regarding the employees who Supra has offshore who are making limited winback acquisition efforts that you've testified about, how do you train them regarding --

MR. CRUZ-BUSTILLO: Objection to characterization of his testimony. He's not sure whether or not they're engaged in that telemarketing at this time, subject to check.

MR. MEZA: Okay. That's -- fair objection noted.

Q. (By Mr. Meza) How does Supra train these employees regarding United States law and the use of customer information?

A. We train all our employees off the same set of rules, whether they're domestic or

0019

international.

Q. And what are those rules?

A. You would have to ask someone involved with training.

Q. Have you ever participated in that training?

A. Yes but not recently.
Q. Do you know if Supra has a package of documents that it uses in its training relating to CPNI -- training docs?
A. There's two questions there.
Q. Okay.
A. Does Supra have a package of training documents, yes. Is there something specific to CPNI, I'm not certain.
Q. Okay. Now, you're not a lawyer; is that correct?
A. That's correct.
Q. Have you ever received any specialized training on the use of CPNI?
A. You mean other than reading Section 222 of the Act?
Q. Yes. Have you gone to a seminar?

0020

A. I don't believe so.
Q. And have you ever worked at the FCC?
A. No, I have not.
Q. Have you ever participated in the drafting of an FCC order?
A. Yes, I believe so.
Q. From the FCC, not from a submission that you've submitted to the FCC.
A. Oh, no, I've made submissions and comments and things of that nature.
Q. But as far as --
A. And testified before the FCC and before Staff.
Q. -- selecting the text that goes into a FCC order?
A. No, I have not.
Q. What did you do to familiarize yourself if anything with the FCC rules relating to CPNI before filing your testimony?
A. I reviewed Section 222 of the Act. I reviewed the PSC order 03-726 and the key customer tariff and the FCC orders that were referenced in there. I believe it's FCC order

0021

03-42.
Q. Did you read FCC order 99-223?
A. Yes, that's also referenced in there.
Q. Would you like -- is it fair to say that if it was referenced in the key customer order, you looked at it?
A. Yes.
Q. Did you look at any other documents other than documents referenced in the key customer order?
A. I don't believe so.
Q. Okay. Is there a difference between CPNI and wholesale information in your mind?
A. Yes.
Q. What difference? What is the difference?
A. Well, for example, the fact that a customer has chosen to switch from one -- from one carrier to another I don't believe is identified as CPNI, but it's most definitely

wholesale information when there's a wholesale provider involved.

0022

Q. Are there times when a carrier can use CPNI?
A. Subscriber list information is specifically excluded.
Q. What else?
A. When the acquiring carrier receives a letter of authorization from the future customer.
Q. Anything else?
A. Not that I can think of.
Q. Is there any difference between wholesale information and carrier-to-carrier information?
A. I never gave that much thought. Because of geography and the way incumbent LEC territories are arranged, I would think that in any carrier-to-carrier transaction, there would have to be at least one wholesale carrier involved. I never really gave that much thought. I'm not sure that there is.
Q. Let's take the LPIC situation that Mr. Cruz-Bustillo described to Mr. Wolfe for which you were present.

0023

A. LPIC, okay.
Q. You have a Supra local exchange customer switching long distance service from AT&T to MCI. Would that transaction involve carrier-to-carrier information?
A. Yes.
Q. Why?
A. Well, both Supra, AT&T, and MCI are all carriers.
Q. What rules or prohibitions apply to the use of that carrier-to-carrier information?
A. In what regard?
Q. Do the rules prohibiting the use of carrier-to-carrier or wholesale information apply in that situation?
A. Could you be more specific what rules are you talking about?
Q. The rules that you reference in your testimony that you say are applicable to BellSouth.
A. Okay. Well, in that -- in that case, no, because those -- those are rules

0024

specifically intended to govern the behavior of the incumbent LEC.
Q. So if I switched to BellSouth -- if I switched to BellSouth as the local exchange carrier instead of Supra, would the rules that you reference in your testimony be applicable to that LPIC transaction?
A. Yes.
Q. So is it your opinion that BellSouth should not be entitled to CARE information relating to that transaction when it is the underlying local exchange carrier because it

involves carrier-to-carrier wholesale information?
MR. CRUZ-BUSTILLO: Objection to form. Do you mean -- well, I don't --
MR. MEZA: Okay.
A. Can you repeat it?
Q. Yeah. Is it your position that BellSouth should not be entitled to receive CARE information -- CARE records when it is the local exchange carrier?
MR. CRUZ-BUSTILLO: That was it,

0025
objection to form. Do you mean -- when you say BellSouth, that's my question, please define it. Do you mean BellSouth being notified that they are the winner or the loser or are you talking about MKIS within BellSouth regarding that LPIC. That's what I meant.
MR. MEZA: Fair clarification.
Q. (By Mr. Meza) I am referring to BellSouth as a local exchange carrier and BellSouth knowing on the MKIS side -- retail side.
A. Well, I don't know if you meant it as a trick question --
Q. No.
A. -- but it's a little -- here's the issue. In that scenario, BellSouth is the author of that change CARE record; therefore, the customer wanted to change from one carrier to another. AT&T and MCI can't effect that change. BellSouth has to effect the change; therefore, BellSouth publishes the result. They acquire that information in the course of normal business. You already had it.

0026
Q. Well, how is that different than in the local exchange scenario when it's a migration from BellSouth retail to Supra UNE-P?
A. Taking a long distance example --
Q. Yeah.
A. -- and try to compare it to a local --
Q. If it doesn't work, tell me it doesn't work.
A. -- exchange example, I'm not sure the two connect.
Q. Okay. Is it your position that BellSouth cannot use the fact that it lost a customer pursuant to a CLEC submitted LSR to update CRIS?
A. No.
Q. So you would agree with me that when you issue a CLEC LSR to convert my customer to your customer, that I can take the fact of that disconnect and tell the retail side to update the CRIS billings?
A. Well, I would certainly like you to

0027
stop billing my customer.
Q. Okay. So you recognize that there has to be some exchange of information between

the wholesale side and the retail side when you win a customer?
A. Well, you do have to stop billing the customer, yes.
Q. Yes, okay. Do you know what information BellSouth uses -- when I mean BellSouth, the wholesale side uses -- to tell the retail side to stop billing this end user, he's no longer our customer?
A. That depends on what level of detail you want me to go to. I'm aware that the customer record and CRIS changes the operating company number from BellSouth to Supra Telecom --
Q. Okay.
A. -- as a result of that change. If you want me to get more into the mechanics, I'm not sure I --
Q. Do you know if it's the same disconnect order information that's used in

0028

Sunrise is also used to inform the retail side to stop billing a customer?
A. Based on what I've read from Mr. Pate's testimony, I'm not sure that it is although that order may trigger it. I was more under the impression that you use something called a navigator contract to effect that change.
Q. Okay. But Mr. Pate would know more than you on that?
A. You'll have to ask Mr. Pate.
Q. Would you defer to Mr. Pate on his explanation unless you disagree with it?
A. I'm sorry, is there a question?
Q. Yeah. Would you defer to Mr. Pate as to how BellSouth notifies its retail side to stop billing a customer through the OSS process?
A. Well, I just told you that the customer record changes ownership through the change of the operating company number. If your question is related to --
Q. Specifically how it --

0029

A. -- the data flow mechanism.
Q. Yes.
A. I'll defer to someone who actually wrote the code, which I don't believe would be Mr. Pate.
Q. But you don't know for a fact that BellSouth doesn't use the same information?
A. No, I don't.
Q. Now, from 2001 to the present, do you know how many customers Supra actually lost to BellSouth as a result of receiving some type of marketing activity or paper from BellSouth as a result of Operation Sunrise?
A. I would if you told me. I'm sure you have the records that would back that up.
Q. Do you have any records?
A. I think we're missing a key piece of information. I think we're missing a piece of

information that would identify who got what from you. We're not privy to that information.
Q. Okay. Let me try again. Do you have any specific evidence of any particular
0030
Supra end user that left Supra because he or she received some type of marketing reacquisition offer from BellSouth as a result of Operation Sunrise?
A. I believe we do.
Q. And what evidence is that?
A. Oh wait a minute, as a result of Operation Sunrise. Well, that would imply that the customer knew that the marketing material they received came from Operation Sunrise and not from some other avenue. I mean, we -- we have communications from customers and ex-customers. We have in the past shown you evidence of marketing materials that were sent to our customers. You're asking me to tie the loop and prove that those came from Operation Sunrise, I'm not sure.
Q. Okay. Did you present any evidence in this proceeding to establish that Supra has in fact lost any customers as a result of Operation Sunrise?
A. I'm not certain we felt that it was necessary seeing as how we're not involved in
0031
the damages proceeding to quantify that. It's more of a regulatory issue looking for rule changes.
Q. Has Supra ever done a study on why customers leave Supra?
A. Yes.
Q. And what were the results of that study?
A. Which one?
Q. How many are there? I asked you a study and you said yes, so I presumed it was singular. Are there more than one study?
A. Uh-huh.
Q. Okay. How many studies are there?
A. I don't have the answer to that.
Q. What is the most recent study?
A. The last one I saw was probably about 35 days ago.
Q. Okay. And what time period did that study cover?
A. The prior week.
Q. Does Supra generate weekly studies?
A. We definitely were through much of
0032
the early part of this year. I haven't seen any for awhile.
Q. But the most recent study that you remember seeing, what were the reasons why Supra -- well, Supra customers left Supra, do you remember?
A. Better offer from another carrier and billing problems.
Q. What percentage left for a better

offer from another carrier?
A. I don't have that memorized.
Q. Do you have any understanding?
A. Huh?
Q. Do you have any understanding of what percentage?
A. Most of those that had left had left for that reason. I mean, we do this as a matter of course to see if -- see if our products and services have problems, and if we do, we take corrective action. Obviously, if it's an offer from another -- another carrier, there's not a lot we can do.
Q. Did the study identify which offers

0033

and from which carriers they were leaving for?
A. Not at the level of detail I saw it.
Q. Okay. So you don't know if they all left for BellSouth, do you?
A. Me personally, no.
Q. Do you know if Supra customers go to carriers other than BellSouth when they leave Supra?
A. Sometimes.
Q. And does Supra customers, do they move and discontinue receiving service from Supra?
A. Certainly, we do transfers and disconnects as well.
Q. And does Supra disconnect customers for nonpayment?
A. We certainly -- we certainly suspend service for nonpayment. Do we permanently disconnect for nonpayment, I would say -- I would say we have. We would rather obtain the money that's owed us and continue the relationship.
Q. Do you know what percentage of Supra

0034

customers leave Supra every month?
A. For what month? I mean --
Q. The most recent month that you remember.
A. The most recent months that I remember would probably be January through June of last year when we were running somewhere between 1.5 and 1.7 percent.
Q. Is there an industry term that you use to describe that?
A. Churn.
Q. And that's 1.5 to 1.7 for the entire time period or per month?
A. Per month.
Q. Do you believe that churn rate is consistent today?
A. Well, because of the issues that we went through mutually last fall, that's gone up and down, and that's why I don't want to be specific right now.
Q. Fair enough.
A. We're engaged in a fresh study of it.

0035

Q. Does Supra use the PMAP line loss report for anything, for any purpose?
A. I believe we're now using it to get a better indication of when we should stop billing customers that have left.
Q. So you use it to --
A. In the first --
Q. I'm sorry, I will let you explain to me how you use it in greater detail.
A. It's something we fairly recently added to our OSS interface to make sure we don't bill customers after they've left us because the notifications we got through older methods from BellSouth or by bill analysis had too much lag time built into them so they have crafted an interface in PMAP to stop billing customers.
Q. So you use PMAP -- the notification from PMAP to notify your billing system to stop billing the individual customer identified in PMAP?
A. Yes.
Q. And when did that start?

0036

A. I don't know.
Q. Is it fairly recent?
A. Yes.
Q. Do you know why Supra chose to tie PMAP to its billing?
A. Because the other methods we were using, the line loss reports we were receiving from BellSouth often were erroneous and we were consuming a lot of time in the call centers resolving billing problems and so we're constantly looking for ways to eliminate that.
Q. What other line loss reports has BellSouth provided to Supra?
A. Well, you used to send us a report every day in the mail, and then there was -- we've got a reconciliation process with the monthly BellSouth bills but because of a particular customer's billing cycle, which may not coincide with the monthly billing cycle from BellSouth, we could erroneously bill a customer if we didn't have a better way to stop it. It's my understanding that those

0037

daily reports that used to be -- used to be mailed to us were stopped at some point, so we had no choice but to go to PMAP.
Q. Have you found that PMAP -- the data in PMAP is reliable?
A. That's not something I've looked into at this point.
Q. Do you have any reason to believe that it's not reliable?
A. Well, our -- our mutual experience over the last six or eight years would lead me to probably question it, yes.
Q. Fair enough.
MR. MEZA: We've actually been going about an hour so let's take a break.

(Whereupon, there was a brief recess taken from 2:10 p.m. to 2:16 p.m.)

MR. MEZA: Linda, just for planning purposes, I probably have another 20 to 30 minutes, and then I am going to end the depo and start up on Monday with Mr. Nilson's
0038
testimony, and we'll conclude the testimony on Monday just to let you guys know what my plans are.
MS. DODSON: Okay. I have some questions and I will ask them now.
MR. CRUZ-BUSTILLO: Oh you mean, Linda, questions of Mr. Nilson or just general questions?
MS. DODSON: Just general questions.
MR. CRUZ-BUSTILLO: Oh, okay.
MR. MEZA: Do you want to do those now. I don't think we need to have it on the record.
MS. DODSON: No, it doesn't need to be on the record.

(Whereupon, a discussion was held off the record.)

MR. CRUZ-BUSTILLO: On the record right now.
The document that we're going to be e-mailing to Linda Dodson is -- those portions
0039
of that transcript that are deemed confidential shall be deemed confidential by all the parties, and I don't know that we can do this, but cannot be subject to a public records request simply because it was communicated to Ms. Dodson over the e-mail.
MR. MEZA: Correct, and the parties, either BellSouth or Supra, will follow up with the appropriate procedures necessary to insure the continued treatment until resolution by --
MS. DODSON: When you send that, state that in your e-mail too about confidentiality.
MR. MEZA: Well, I tell you what, for benefit of the court reporter, Jorge and I will draft a short statement reflecting the agreement of the parties so she can attach it in her e-mail to you.
MR. CRUZ-BUSTILLO: Actually, do you know what, she can get what she just transcribed. She's going to know what she just transcribed, put it on the e-mail.
MR. MEZA: That's right.
0040
MS. DODSON: That will be fine. Just as long as there is some statement on there.
MR. CRUZ-BUSTILLO: The final thing is that the only reason it was sent to her by e-mail instead of by FedEx, which there

wouldn't be an issue of public records, is because that's the most efficient and quick way to get it to her.

MS. DODSON: Fine, we agree.

MR. MEZA: Great. Are we ready to proceed with the depo?

MR. CRUZ-BUSTILLO: Yes, proceed.

Q. (By Mr. Meza) Mr. Nilson, you referenced several studies that Supra has had over the past relating to why it loses Supra -- Supra customers. Do you remember that?

A. Yes.

Q. Do you know when they started these studies?

A. I would say they've been done periodically throughout our entire history.

0041

The ones I was referring to have been since -- probably since early November.

Q. 2002?

A. Yes, sir.

Q. Was there some type of study prior to November of 2002?

A. There were but I wouldn't say it was quite as formalized or as regular as what we embarked on through December, January, February of the most recent year.

Q. Since November of 2002, do you know how often those studies were generated?

A. The ones I saw came out every week.

Q. Prior to November 2002, do you know how often they were generated?

A. How often isn't an appropriate word. They were occasional.

Q. Occasional.

A. With one and a half percent churn, we were more interested in servicing the incoming customers than going back and looking.

Q. Are those reports in writing today

0042

and in Supra's possession?

A. I don't know.

Q. Okay. Mr. Nilson, do you have your direct testimony in front of you?

A. I do.

Q. Can you please refer to page eight?

A. Yes.

Q. Excuse me, strike that. Pages 11 through 15, do you see those pages?

A. I do.

Q. And page 11, line 14 you start with the question, "Do ELEC and retail interfaces operate in essentially the same time and manner"?

A. That's correct.

Q. And I believe the following pages up to 15 address in one way or another that question?

A. Yes.

Q. Okay. Is it Supra's position in this case that BellSouth is not providing

nondiscriminatory access to its OSS?
A. That's -- that's not the purpose of
0043
this testimony. The purpose of this testimony was to provide background information so that people could understand the way orders flow. I'm not making a claim of discriminatory or nondiscriminatory access or parity or anything of that nature.
Q. Okay. So Supra is not requesting as any of its request for relief that the Commission address whatever perceived or real issues that you may have with the retail versus CLEC interfaces; is that correct?
A. I'm not addressing any of my concerns with the differences between the interfaces.
Q. Thank you. Do you have the second set of responses to -- excuse me, the second set of interrogatories to Supra, your responses to those, do you have those?
A. Have you received them?
Q. Yes, I have.
A. Then I don't.
Q. And I'm looking for Staff's benefit on number ten and specifically the last
0044
paragraph, number ten.
MR. CRUZ-BUSTILLO: Whose answers are these?
MR. MEZA: Yours.
MR. CRUZ-BUSTILLO: To Staff?
MR. MEZA: Yeah.
MR. CRUZ-BUSTILLO: I'm looking at the last paragraph, ten?
MR. MEZA: Yes.
Q. (By Mr. Meza) Did you author that response, Mr. Nilson?
A. Yes.
Q. Let me see if I can ask you the question without taking it in front of you. You reference 670,000 CLEC orders that Mr. Pate referenced in his rebuttal testimony; is that correct?
A. Yes, sir.
Q. Do you know if those are 670,000 orders migrating a BellSouth customer to a CLEC?
A. Oh, I would almost assuredly say that only a fraction of them are.
0045
Q. Okay. Can you explain to me the basis for your statement that BellSouth has a burden to demonstrate that it learned of all of these approximately 670,000 CLEC switches from some independent source that is not its own wholesale operations?
A. Provided -- provided that there was a marketing attempt to either retain or win back the customer, that's a true statement. If BellSouth merely processed 670,000 LSRs who never made an attempt to retain or win back one of those customers, I would retract that

statement.
Q. Let's see if we can clear it up this way. You're not suggesting that all 670,000 orders were CLEC switches as you used the phrase in your response, are you?
A. When you say CLEC switches, you're talking about BellSouth to Supra --
Q. Correct.
A. -- MCI to Supra or something of that nature?
Q. Correct.

0046
A. No, generally -- generally there's some ratio, eight or nine to one.
Q. And you would agree with me that some portion of those 670,000 LSRs probably include CLEC submitted change orders?
A. I would say the majority of them are CLEC submitted change orders.
Q. And for those orders you wouldn't believe -- you don't believe that BellSouth has an obligation to do what you say we have to do in your response relating to independent retail source and the like?
A. Well, with a caveat. Were you to trigger some marketing winback efforts based on that order, I would have -- I would have an issue with that, but based on the deposition testimony of Mr. Wolfe over the last couple of days, it sounds like a lot of that is not subject to Project Sunrise.
Q. Is it Supra's position that through Project Sunrise BellSouth is using CLEC to CLEC migration orders as winback attempts or marketing attempts?

0047
A. Based on the testimony I've heard for the last two days, you don't have any way not to do that. It's -- it's kind of inherent in the process. For example, I provide an exhibit with my direct testimony. I'm sure you're going to ask me about it later --
Q. Sure.
A. -- where my home phone number was converted from resale to UNE. I don't know if you're aware of it but BellSouth requires Supra as a resale provider to operate under one operating company number and Supra as a UNE provider to operate under a completely different operating company number. However, the BellSouth OSS was coded and we've known this from prior proceedings that it looks at an operating company number change as a change from one carrier to another so -- sorry, I forgot the question now.
Q. The question is, are you suggesting or advancing in this claim that BellSouth is using CLEC to CLEC migration orders in Sunrise for marketing purposes?

0048
A. I don't see how you could avoid doing that.
Q. How I could avoid from doing that?

A. Yeah, based on -- based on Mr. Wolfe's deposition that disconnect order from one CLEC or the single C from one CLEC would be captured by Sunrise, and I don't see anything in his testimony that says it would be pulled back out of the final table, so it would be there.
Q. Do you have any evidence that BellSouth is marketing customers who are part of a CLEC to CLEC migration other than your reliance on Mr. Wolfe's testimony?
A. Other than Mr. Wolfe's testimony and the Sunrise documents, I think that's quite a lot of evidence but I mean, do I have direct knowledge that you sent a letter on a change from Supra to MCI, the answer would be no. I do have evidence that you send a letter unchanged from Supra resale to Supra UNE, but beyond that, no. I don't see how you could avoid doing it.

0049

Q. Is it -- I take it then it's also your position that BellSouth is using Operation Sunrise to market CLEC back to BellSouth transactions because it's a D order?
A. Explain that again.
Q. Is it also your position based upon your understanding of Mr. Wolfe's testimony that BellSouth is using Operation Sunrise to market CLEC to BellSouth transactions?
MR. CRUZ-BUSTILLO: Objection, form.
MR. MEZA: Why? What's wrong with the question?
MR. CRUZ-BUSTILLO: Mischaracter-ization of testimony.
MR. MEZA: Okay.
MR. CRUZ-BUSTILLO: He already said that those orders don't make it to the permanent Sunrise table because you wouldn't market to the customer who just came back.
MR. MEZA: You can answer.
MR. CRUZ-BUSTILLO: But you have to answer, Dave. I can't direct you not to answer. My objection was mischaracterization

0050

of testimony. I don't want to say any more.
A. Let me answer the question, okay. I think given what we know about Operation Sunrise that there would be a record put in the final table that would indicate that something should be done in Sunrise. I would think that you would probably want to avoid the postage and cost of doing that, and so in the processing of Operation Sunrise, maybe you don't actually send that letter out.
Q. But let's --
A. But I've not heard any testimony to that effect but I would make a reasonable assumption that you would save the money of marketing to a customer you had already won.
Q. But the same logic that you use to base your belief on -- to base your belief that BellSouth is marketing in the CLEC to

CLEC transaction would also apply from a CLEC to BellSouth transaction, meaning that based upon Mr. Wolfe's testimony, there's no indication that those types of disconnect orders are removed?

0051

A. No, but you've got a -- you've got a CPNI problem on a CLEC to CLEC order about going back into CRIS and taking a look at the records in that case that you don't have on a CLEC to BellSouth issue.

Q. I understand that, but there may be some ancillary issues that arise but logically, I'm following your logic, there shouldn't be any difference -- if we're doing it for CLEC to CLEC migration, then we should be doing it for CLEC to BellSouth migration based on your understanding of how it works?

A. No, I think you're putting words in my mouth.

Q. Okay.

A. The records end up in the final Sunrise table in both cases. What you do with them when they're in the final Sunrise table may well be different depending on the logic that's used to process the records. In other words, the scoring and all of that comes afterward.

Q. But it's your testimony that

0052

disconnect orders generated from a CLEC to CLEC migration and from a CLEC to BellSouth migration end up in the permanent table in Sunrise?

A. That's what we've been told for the last two days.

Q. Briefly explain to me why Supra believes that Operation Sunrise violates whatever federal, state law you believe is being violated.

A. Supra believes that the fact that we submitted an order to you to take one of your customers away cannot be used in any way, shape, or form to generate marketing to win that customer back, and I think that's very clear in FCC order 03-42, paragraph 28.

Q. Are you relying on any other authority for that position other than FCC 03-42?

A. The Public Service Commission order 03-726, the key customer tariff document.

Q. Anything else?

A. I think that's enough. I'm not

0053

saying that that's the entire universe of applicable rulings but I think that's enough for us to win our position.

Q. Okay. What is the entire universe of applicable rulings?

A. I'll tell you, I haven't looked to see what the entire universe says.

Q. Are you relying on anything other than FCC 03-42, the key customer order, and

FCC 99-223 to support your position that Operation Sunrise violates federal CPNI laws or Section 222(b)?

MR. CRUZ-BUSTILLO: Jim, let me jump in here and say that because it's -- at the witness --

MR. MEZA: What's your objection?

MR. CRUZ-BUSTILLO: My objection is that -- object to form.

MR. MEZA: Okay.

MR. CRUZ-BUSTILLO: Because Supra as a company is relying on all those provisions we outline in our original complaint which includes more than that.

0054

MR. MEZA: Fair enough.

MR. CRUZ-BUSTILLO: If he doesn't include it --

MR. MEZA: Fair enough.

MR. CRUZ-BUSTILLO: -- that doesn't mean that we're not going to rely on it.

MR. MEZA: Fair enough.

Q. (By Mr. Meza) Mr. Nilson, other than those three orders that I just referenced, are you relying on any other authority to support your position as to why BellSouth is in violation of CPNI or Florida law with Operation Sunrise?

A. Well, certainly I refer back to the Act, second report and order, first report and order, but no, I think quite honestly had my attorney not spoken up, my answer to you would have been that's a question of legal argument that the attorneys are going to make and not me.

Q. Okay.

A. You know, I wrote my testimony and my testimony cites to what I used.

0055

Q. Sure.

MR. MEZA: Let me confer for two minutes and I think we'll call it.

(Whereupon, there was a brief recess taken from 2:41 p.m. to 2:45 p.m.)

MR. MEZA: Staff, are you ready?

MS. DODSON: Yeah, we're ready.

MR. MEZA: I have no further questions at this time and I look forward to continuing the depo Monday morning at 10:00 Eastern time. Thanks. Do you have anything else on the record?

MR. CRUZ-BUSTILLO: No, I have no redirect right now.

MS. DODSON: We don't have anything further.

(Whereupon, the deposition was recessed at 2:45 p.m.)

FURTHER DEPONENT SAITH NOT

A. To my knowledge, all disconnect orders have a disconnect reason code.
Q. Mr. Wolfe, why not have the orders that populate the permanent Sunrise table, why not allow them to have a disconnect reason code assigned to them and keep the code there when it finally hits the permanent Sunrise table?
A. Are you asking me why it doesn't?
Q. Yeah; yes.
A. The reason it doesn't is because the instructions that I've been given in this process have me filter it out.
Q. Wouldn't you want to know where -- wouldn't the personnel -- wouldn't you, Mr. Wolfe, want to know where the CLEC LSR or

0104

I'm sorry, where the order had its origins from, whether retail or wholesale?
A. No.
Q. Why not?
A. BellSouth cares whether we lost a customer.
Q. That's the important part, that they lost the customer?
A. Yeah.
MR. MEZA: Are you finished with these, Jorge?
MR. CRUZ-BUSTILLO: Oh, yes. Did we mark it as an exhibit?
MR. MEZA: Yeah, we marked it, and it was confidential.
MR. CRUZ-BUSTILLO: Give me five minutes and then I think I have like ten minutes left.

(Whereupon, a discussion was held off the record.)
(End confidential.)
Q. (By Mr. Cruz-Bustillo) Let's turn to

0105

page nine of your testimony, lines five through ten, where it ends with the word competitors. Can you read that into the record, and I'll ask you a question or let your counsel look at it first, please, and this will be the last question before the break.
MR. MEZA: Okay.
A. Lines five through ten, is that what it was?
Q. Ten, right, ending with the word competitors.
A. "Using the Harmonize feed, Sunrise eliminates those orders for which certain BellSouth retail reason codes exist that indicate that the disconnection occurred for some reason other than the switch to a competing CARE."
Q. Read the next sentence.
A. "It assumes that the remaining orders represent customers switching to other carriers. BellSouth chooses to regard all

such losses as losses to competitors."

0106

Q. Okay. My question is that -- is it your position in this testimony that you don't -- that the personnel in the MKIS office don't know that these are competitive switches, that they just assume that they're competitive switches? Is that the point of that testimony?

A. Yes.

Q. You know that they're competitive switches, don't you?

A. Operation Sunrise in the process does not know that information, does not know.

Q. Okay. Well, that's back to the distinction we were making earlier between Operation Sunrise and personnel at MKIS. I'm asking about Mr. Wolfe. Mr. Wolfe works at MKIS. Mr. Wolfe drafted his testimony and Mr. Wolfe is the author of the Sunrise manual. I want to know -- and Mr. Wolfe said that you filter out disconnect orders from the retail side with the CO disconnect reason code. I want to know if Mr. Wolfe knows that all the records that ultimately populate the permanent

0107

Sunrise table are in fact switchers that have left BellSouth in the last seven days to a competitor.

A. What Mr. Wolfe knows is that the disconnect -- the disconnect records are -- we assume that they're competitive disconnects and it's -- assumed competitive disconnects and unknowns in that final -- when we move it to the permanent table.

Q. Hand me that testimony right there.

A. Okay.

Q. Mr. Wolfe, let me ask you again, okay.

A. Okay.

Q. I didn't hear an answer to my question.

A. Okay.

Q. You work at MKIS?

A. I do.

Q. You authored the document of the Operation Sunrise manual?

A. You're referring to the one in 2001?

Q. That's correct.

0108

A. Yes, I did.

Q. You know, Mr. Wolfe, is it not correct -- you know what information flows from SOCS to the Harmonize database; correct?

A. I know much of that. I don't know all of it but I know most of it, yes.

Q. Okay. You know how the filtering process works when information moves from the Harmonize database to the temporary Sunrise table. You have personal knowledge of that; correct?

A. I do.

Q. You have personal knowledge of

information that moves from the temporary Sunrise table to the permanent Sunrise table?
A. I do.
Q. You told me that disconnect orders with a DCR of CO are filtered out and it doesn't make it to the permanent Sunrise table; isn't that correct?
A. That's correct.
Q. So isn't it correct to conclude that Mr. Wolfe does know that the records that

0109
ultimately populate the permanent Sunrise table are competitive switches, not Operation Sunrise, Mr. Wolfe?
A. I know that those records populating the permanent Sunrise table will include competitive disconnects, yes.
Q. It won't include anything else; isn't that correct?
A. No.
Q. We're not talking about product changes or local toll. We're only talking about local service switches.
A. We're talking about local service switches, yes.
Q. Because you already told me that the Sunrise database will contain for each of those files that deal with local service, toll, or product certain codes so you can distinguish between those three groups. I'm only talking about local service.
A. Right.
Q. If have you service orders regarding switches with a disconnect reason code that

0110
makes it to the final table that had a BR and RT that was assigned by LESOG or the LCSC and the CO is filtered out and that comes from the retail side, isn't it true that Mr. Wolfe has actual knowledge that the ultimate records for local service switches on the permanent Sunrise table all have their origins from CLEC service orders; isn't that correct?
A. I know that the records in that final permanent Sunrise table will contain competitive disconnects, yes.
Q. Originating from the wholesale side of the fence?
A. The orders would have originated from the wholesale side of the fence, yes.
MR. CRUZ-BUSTILLO: Thank you. Let's take a break.

(Whereupon, there was a brief recess taken from 11:05 a.m. to 11:14 a.m.)
Q. (By Mr. Cruz-Bustillo) Mr. Wolfe, how are you again?
A. I'm fine, thanks.

0111
Q. Let's go to your testimony on page nine, lines ten through 12, and I don't know what we did with your testimony.

(Whereupon, a discussion was held off the record.)

Q. Page nine, lines ten through 12, which begins before and ends with the word suppressed. I just have one question about that. Could you read that sentence, please?

A. "Before any reacquisition list is generated using these assumed competitive disconnects, the actual reason codes, regardless of origin, are suppressed."

Q. This is asked and answered actually.

MR. MEZA: Go ahead.

Q. They're suppressed before they hit the Sunrise table; is that correct?

MR. MEZA: Now, currently, as of today?

A. As of today.

Q. Yeah, correct, as of now. Actually

0112

my question was, just to let you know, the way I read the sentence before we had gotten into the line of questioning before was I wanted to know if they were suppressed prior to the creation of the marketing list or prior to the permanent table but we've already done that, so let me move on. Can you read me lines 12 and 13 beginning with through this?

A. The entire sentence?

Q. Yes, please.

A. "Through this productive process, BellSouth's retail marketing organization receives exactly the same information any carrier receives, information that a retail customer has been lost."

Q. Does Supra or any CLEC have access to the information that MKIS has?

A. Are you talking about to the actual tables themselves?

Q. Or to the -- that will be one question, and the second question so you can answer them both is or to the actual list that you send out to the third-party marketing

0113

vendors. Does Supra have access to either of those lists?

A. No.

(Begin confidential.)

(Whereupon, Plaintiff's Exhibit 9 was marked for identification and a copy of same is attached hereto.)

Q. Thank you. I'm going to show you -- I'm going to show you what's been Bates stamped, now we're going confidential, as Supra's DAN-8, 001030, and I'm going to show it to counsel first and then ask you to comment on it. That is a document that comes from the June 2000 version of Operation Sunrise document. Is that the table that is created -- is that the table and the fields that appear in the permanent Sunrise database?

MR. MEZA: As of June 2001?
MR. CRUZ-BUSTILLO: Well, we'll do both, as of June 2001 and today. Answer both questions.

0114

A. This is -- this is the layout for this targeted table in 2001.
Q. And what does that mean, targeted table?
A. This table contains those customers that were targeted for local toll, product feature, and local service.
Q. Okay. So those would be fields that would appear in the permanent Sunrise table?
MR. MEZA: In 2001?
MR. CRUZ-BUSTILLO: In 2001.
A. In 2001 in this targeted table, yes.
Q. Yes. Could you read me line 20, what does the field say?
A. Switched to.
Q. Would it be reasonable to conclude that that field would include the name of the CLEC that the individual switched to?
A. No.
Q. What would it mean?
A. It means the local toll carrier that the customer said they switched to.
Q. I thought you just told me that this

0115

was the table that is used for local toll, product changes, and local service. Why would that field only include the name of the competitor if it was local toll?
A. At the time of this document, there was only product feature winback and local toll winback.
Q. Because you didn't begin local service until August 2001?
A. We did local service briefly in March and April of 2001 and then we started again in August of 2001.
Q. Okay. So this would be a field that would have been populated in April 2001. Would that be correct?
A. It would have been populated in April 2001 for local toll.
Q. And for local service?
A. No.
Q. Didn't you say you did local service in April 2001?
A. Yes.
Q. And this is a table that you would

0116

use for local service; correct?
A. Local service targeted customers would have been in this table.
Q. Okay. And so therefore, at least for that month, that field would have been populated for local service winback; correct?
A. No.
Q. Why not?
A. Because this information was gathered from customers on a local toll

outbound telemarketing call.
Q. And how would you have learned of that -- of the local toll switch, from CARE?
A. Yes.

(Whereupon, Plaintiff's Exhibit 8 was marked for identification and a copy of same is attached hereto.)

Q. Thank you. Let's mark that as the next exhibit. On page 11, lines ten through 12, you have -- you identified as fields that populate the permanent Sunrise table as the

0117
NPA, NXX, the line, the customer code, and the date the data was extracted from SOCS. Are there any other fields that are populated for a particular record in the Sunrise table or is that the only fields?
A. Are you talking about at this part of the process or later?
Q. Well, at this part of the process as I understand page 11, middle of the page, we're talking about the permanent Sunrise table, aren't we?
A. Yes.
Q. Okay. So my question is, we just looked at a table that existed in 2001 that had 26 fields. I want to know whether or not in 2003, in August 2003, whether or not this testimony is accurate, whether or not there's only five fields, or whether or not there's still 26 fields.
A. In the permanent table itself, there are a lot of fields.
Q. Okay. Well, let's just focus on one record.

0118
A. Okay.
Q. Me, Jorge Cruz-Bustillo, I used to be a BellSouth customer. I switched to Supra Telecom. My service record -- I'm sorry, the service order -- the single C service order converting me makes its way all the way down to the permanent Sunrise table. When you, or whether it's a computer, that looks at that record, how many fields are there for that particular record? Are there five or are there 26?
A. Currently there's more than five. I don't know exactly how many.
Q. Okay. Let's look at this exhibit here. I'm holding here -- hold on. I'm going to show you a document that has to remain confidential. I ask you to -- if you recognize it, and if you recognize it, what is it. Let me show it to your counsel first. The pending questions are do you recognize it. I want you to take your time. The pending questions are do you recognize it and what is it if you do.

0119
A. I recognize it. It was a work

request generated in July of 2001.
Q. And the first set of fields down at the bottom of the first page going into the second set, do those represent the fields for a record that would exist in -- now I'm not sure, the Harmonize table -- database or the temporary Sunrise database? Can you clear that up for me?
A. This would have been at the time of this document the fields in the Harmonize database.
Q. Okay. And how many fields are there for that one record? Take your time and count them.
A. There's 24 here.
Q. Okay. The second set of data fields further down on the bottom of page two going onto the third page, does that represent the fields that will -- that would populate a record in the permanent Sunrise table?
A. At the time of this document?
Q. Yes.

0120

A. Yes.
Q. Okay. Can you tell me how many fields there are, please?
A. Seventeen.
Q. Okay. Has that document been modified or changed since 2001?
A. This document, yes, has been changed.
Q. Are the databases -- are the data fields that you identified that existed in those two tables for 2001 the same fields that are in effect today in August 2003?
A. No.
Q. Okay. With respect to the fields that populate the permanent Sunrise table, which fields have been eliminated?
A. I don't have the current table structure in front of me so I cannot speak entirely. I don't believe the SOCS first time indicator is there. I don't believe the SOCS business unit code is there. I don't believe the SOCS effective bill date is there. I don't believe the SOCS old telephone number is

0121

there. I don't believe the SOCS extract status code is there.
MR. CRUZ-BUSTILLO: Okay. Can we attach that as the next exhibit.

(Whereupon, Plaintiff's Exhibits 10 and 11 were marked for identification and a copy of same are attached hereto.)

Q. I'm going to show you a second document. I ask you if you recognize it and can you tell me what it is.
MR. CRUZ-BUSTILLO: Mr. Meza.
MR. MEZA: Yeah, we're still confidential; correct, Jorge?

MR. CRUZ-BUSTILLO: Yes, sir.
Q. (By Mr. Cruz-Bustillo) Do you recognize it and what do you recognize it to be?
A. I recognize it and it is a description of the process that we use to identify probable leads for winback campaigns.

0122

Q. What's the date of that document? Is there a date on the first page?
A. August 1st, 2001.
Q. Is it appropriate or is it the best way for context that both Exhibit 10 and Exhibit 11 should be read together?
A. If by that you mean that they refer to basically the same process, then yes.
Q. Okay. The first one -- the first document, Exhibit 10, the purpose of that was for a work request. Would that be appropriate?
A. It was a work request, yes.
Q. And then the second document is a document produced to implement the work request. Would that be correct?
A. Yes.
Q. On the second page in the second set of fields, are those the fields that presently populate a record in the current Sunrise table?
A. Today?
Q. Yes.

0123

A. No.
Q. Is there a document that you're aware of that's been produced by you that eliminated some of those fields?
MR. MEZA: Object to the form, produced -- you mean produced in discovery or created or what?
MR. CRUZ-BUSTILLO: No, created, produced by Mr. Wolfe. Let me ask the question again.
Q. (By Mr. Cruz-Bustillo) Mr. Wolfe, are you the author of both of these documents?
A. Yes.
Q. Okay. Have you authored another document which have deleted fields from Exhibit 11 that you're holding?
A. Yes.
Q. Do we have that document -- have you produced that document in Arb. Five?
A. I don't recall producing it.
Q. Could you tell me for the record what fields do you believe are not there and actually you can mark them with this pen, to

0124

your best recollection, and it will be subject to check.
A. Yes; yes, the ones --
Q. No, on the side. Just do on the side, put a little circle -- the fields you think that are no longer populated in the permanent Sunrise table.

A. Okay. The ones that I think are no longer there.
Q. Uh-huh.
A. Okay.
Q. One of the things that you identified was a field that says identifies the order as residential or business account. Would the reason for that be that the permanent Sunrise table, with respect to residential switches, wouldn't include business accounts?
A. Correct.
Q. Where do the business accounts flow through -- flow to for switches for business?
A. They're in SOCS and that's as far as I know.

0125

Q. Okay. Here you have the old telephone number listed on a service order. If somebody does a single C over UNE-P and they keep the same number, that just wouldn't be applicable; is that correct?
A. I don't know.
Q. And then you circled the extract status for this record. Your rebuttal testimony indicates that the information -- this is just to make clarify -- this isn't like a hey, I got you or anything. You say on your rebuttal testimony that the date the data was extracted from SOCS does appear in the final table. Is it you're unsure about this one or are you saying that the extract date no longer appears on the permanent Sunrise table, this last one?
A. That last one, extract status code.
Q. Right. Well, let me ask this question first to be clear. Is that field the same as the entry or as the language written in your rebuttal testimony on page 11, line 12, the date the data was extracted from SOCS?

0126

A. No.
Q. What does that mean then on Exhibit 11, field -- the extract status for this record? What does that mean to you?
A. That means to me that the order status, whether it's pending, complete, held, the order status.
Q. Was there a time when this document was produced that a pending order would make it all the way to the permanent Sunrise table?
A. No.
Q. Okay. So that would always be a completed order?
A. Always a completed order.
Q. So that's why you would have eliminated it?
A. Yes.
Q. Can you turn to page -- yeah, can you turn to page 14, lines 13 and 14. While this is addressed to Ms. Summers, I believe she indicated that you would have knowledge about my question. Can you read lines 13 and

14, that sentence?

A. "MKIS matches the telephone number associated with the disconnect order to BellSouth's former customer service record for that number in CRIS."

Q. Is it the telephone number or is it the customer code that is primarily relied upon to extract or to identify the record in CRIS?

A. It would be -- it would be both. It would be the account number.

Q. That had -- you explained it to me earlier, the account number would contain both; correct?

A. Correct.

Q. Okay. So neither would be primarily relied upon, they both equally would make up the account number?

A. Correct.

Q. Okay. This is just for the record. Can you read beginning on line 17 beginning with MKIS uses this information and just read me all the way through line 19?

A. "MKIS uses this information to generate a list of leads. These leads are then supplied to a direct mail vendor which sends a switch acknowledgment letter and in some instances a follow-up marketing piece."

Q. Okay. The letters that -- the lists that are generated, earlier you told me there's about on average subject to check a hundred thousand leads generated on a Friday afternoon; is that correct?

A. I believe I said twice weekly.

Q. Right.

A. And so one of those is Friday, one of those is Monday.

Q. Let's stick with the Friday list. Would the Friday list account for completed switches for the previous seven days?

A. The process would be completed orders from the previous seven days, yes.

Q. Thank you. When you said -- when we just looked at lines -- page 14, lines 13 and 14, you said that we match up basically the account number with filing CRIS. Is that done computer to computer, mechanically?

MR. MEZA: Object to the form. I think --

MR. CRUZ-BUSTILLO: Let me rephrase that. I knew what I meant. It wasn't coming out correctly.

Q. (By Mr. Cruz-Bustillo) Is it done in a mechanical way or is it done by a human person?

A. I believe it's done mechanically in the program.

Q. When the matching is completed, is it correct to say that a lead for that working telephone number has been generated?

A. What this states is information is gathered and that becomes a part of the list so that information that -- you know, it's a step-by-step process.
Q. Okay.
A. So you get the information and then later in the process you generate the list of leads.
Q. Okay. Here, hand me your testimony. Let me ask you a question.

00130

A. Okay.
Q. Okay.
MR. MEZA: And if you need to refer to your testimony, feel free to refer to your testimony.
Q. Absolutely, I -- just because I sometimes -- the answer moves from the question I was asking so.
A. Okay.
Q. But absolutely, if you need to refer to your testimony, absolutely. My question is that to your knowledge, once a lead is generated -- oh, yeah. After the information is matched with a CRIS file and we've just concluded that matching is done -- I don't want to use the wrong word. What word would you rather me use, mechanical or computerized?
MR. MEZA: How about electronic?
Q. Electronically, is that okay?
A. That's fine.
Q. Is done electronically, is the lead that ultimately goes out, is it done electronically also?

00131

A. Yes.
Q. Okay. Now, I believe you testified there's going to be two lists and on average it could be significantly more or less but we're just using a number for purposes of an example, 50,000 for that Monday list and 50,000 for that Friday list. Is there an individual that reviews that list? That's my first question.
A. And when you say review the list, review the actual records on that list, is that your question?
Q. Well, actually, no, let me be more specific, review the leads generated, the ultimate product prior to it going out to the third-party vendor.
A. No.
Q. Is there any reviewing of the records between the time that the permanent Sunrise table has matched its information with CRIS and the leads generated?
A. No.
Q. Okay. How is the -- how does the

00132

outside vendor receive its information? Is it machine to machine? Is it a CD?
A. Electronically.
Q. That would be machine to machine?

A. Yes.
Q. Computer to computer?
A. Yes.
Q. Let's go to page 11, lines one through eight, and we almost addressed this. I just want to clear it up. Lines one through eight, page 11, lines one through eight beginning with next and going only down to -- actually one through four, competitor. Can you read that sentence, please?
A. "Next, Sunrise eliminates from the temporary table both those orders that do not have disconnect reason codes and those orders that have certain retail inserted disconnect reason codes indicating that the disconnect was for a reason other than a switch to a competitor."
Q. Okay. On lines one and two, you refer to that do not have a disconnect reason

0133

code. Would it be reasonable for me to conclude that if a record had reached the temporary Sunrise table for some reason that did not have a disconnect reason code, that that record would not make it down to the permanent Sunrise table? Is that a fair interpretation of your statement?
A. If it did not have a disconnect reason code?
Q. For whatever reason.
A. It would not make it to the Sunrise table, correct.
Q. Thank you. Okay. I think we're almost done. Let's go to page 15, lines 24 through 25, and then page 16, lines one through five. Let me just ask you here, is it correct that this is testimony regarding what information is sent from BellSouth to the third-party vendor?
A. Where are we again? I'm sorry.
Q. You're on page 14, line 24 and 25 beginning there.
A. Uh-huh.

0134

Q. And I'm trying to speed up the process actually. Just look at the testimony beginning on lines 24 and 25 and then page 15, lines one through five. My question is, is that the information that is provided from BellSouth to the third-party vendor?
A. Yes.
Q. Okay. On page 15, line one, it says account number. Does that account number include the customer code?
A. Yes.
Q. Okay. Let's turn to page 17, lines nine through 16. I guess the best way here is to just read lines nine through 16 beginning at any time.
A. "At any time a transaction occurs it affects an end user's InterLATA or IntraLATA toll service, CARE sends certain data to number one, the acquiring InterLATA or

IntraLATA carrier; two, the losing InterLATA or IntraLATA carrier; and three, the end user's local exchange carrier. The first two pieces of data serve to notify the acquiring

0135

and losing InterLATA or IntraLATA carriers that a customer has been gained or lost. The third piece of data serves to notify the end user's local exchange carrier that one of its customers has undergone a change in InterLATA or IntraLATA toll carriers."

Q. So let me give you an example. At the time of an LPIC where BellSouth is the local service provider and MCI and AT&T are the long distance providers?

MR. MEZA: Object to the form. How is that possible?

MR. CRUZ-BUSTILLO: Thank you.

Q. (By Mr. Cruz-Bustillo) AT&T is the long distance provider; okay?

A. Okay.

Q. MCI -- the person switches to MCI. MCI is the winner. AT&T is the loser. BellSouth is the underlying carrier. Each of them will receive a notice through CARE; is that correct?

A. Yes.

Q. Okay. Can any CLEC subscribe to

0136

that CARE so they can learn of that switch at that time?

A. My knowledge from CARE is that any -- any CLEC can subscribe to CARE and they would receive notice in one of these three instances if they were the acquiring InterLATA or IntraLATA, losing InterLATA or IntraLATA or their customer was -- so in your example, this third one doesn't apply.

Q. So in this case given the three parties, BellSouth, AT&T, and MCI, they would all be given notice. My question is could Supra subscribe to CARE to learn of that LPIC change --

A. My understanding --

Q. -- from that customer in that scenario?

A. My understanding of CARE, no.

Q. Okay. Let's look at the scenario in which Supra is the LEC. AT&T is the provider. MCI is the new provider, and by the way, there's no partiality to AT&T, MCI. Those are generic names I can think of. That's probably

0137

a compliment though. Let's turn to page 17 lines 23 to 25 and page 18, one through four. I wanted to know if you could read starting on page 23, and I believe this is my last set of three questions, yeah, I have three questions after that. If you could read me starting on line 23 page 17 down through line four on page 18 and then I'll ask my questions.

A. "If a Supra local service customer changes his or her PIC or LPIC, CARE notifies

the acquiring carrier, the losing carrier, and Supra just as it would in the case of a PIC or LPIC change involving any other LEC's local service customer. In other words, CARE sends records relating to PIC and LPIC changes on every local exchange carrier access lines, including Supra's. As a result, there is no need for BellSouth to buy or to request to buy CARE records relating to Supra's access lines in particular."

Q. Okay. So let me give you a scenario. You have -- Supra is the LEC. AT&T is the provider. MCI is the new long distance

0138

provider. The customer moves from AT&T to MCI. AT&T is the loser, they're notified. MCI is the winner, they're notified. Supra is the LEC, they're notified. BellSouth manages CARE, they're notified; isn't that true?

A. No.

Q. ICS is not notified?

A. I don't know about ICS. I don't know if ICS is notified.

Q. Let's go to page 16, line 17 through 20.

MR. MEZA: Is this two of three?

MR. CRUZ-BUSTILLO: Huh?

MR. MEZA: Is this question two of three?

MR. CRUZ-BUSTILLO: This must be subparts.

Q. (By Mr. Cruz-Bustillo) Lines 17 through 20, could you read me that sentence?

A. Line.

Q. This is your testimony now, Mr. Wolfe.

A. On what page? I'm sorry.

0139

Q. Page 16.

A. Sixteen.

Q. Lines 17 through 20.

A. "The customer count record exchange or CARE is an industry-wide interface created and managed by BellSouth's Interconnection Services, the inner exchange carriers and local exchange carriers use to communicate."

Q. Okay. Is it correct to conclude that BellSouth's Interconnection Services, ICS, known by the acronym of ICS, manages the CARE system?

A. That's my understanding, yes.

Q. Okay. So now let's go back to your statement on page 18 where you say, "As a result, there is no need for BellSouth to buy or to request to buy CARE records relating to Supra's access lines." Is that because if an LPIC change occurs where BellSouth is not the LEC, ICS learns of such an LPIC change?

A. I don't know what LCS gets or doesn't get.

Q. What was the basis of your knowledge

0140

when you wrote this testimony?

A. That they manage CARE. That does not mean that they get or don't get.
Q. Okay. Well, if there's no need -- let me ask you this one question. If there's no need to buy it, is it because you already have it?
MR. MEZA: Objection, form of the question, asked and answered. He's already told you he didn't know.
MR. CRUZ-BUSTILLO: I want to make sure that he said he didn't know to this question that I've asked as opposed to another one.
Q. (By Mr. Cruz-Bustill) If you do not have to buy -- you state in your testimony that you do not have to buy or request to buy CARE records relating to Supra's access lines, and you wrote that at the end of a scenario in which Supra is the LEC. Is that because ICS has access to CARE information?
A. I don't know.
Q. And where did you obtain this

0141

information that -- why did you write this -- why did you make this point in your testimony?
A. The point is that CARE is subscribed to by carriers.
Q. Okay. Does MKIS -- is CARE information -- all information stored in CARE that's managed by ICS flow into Operation Sunrise?
A. Repeat that, please.
Q. Is all LPIC information stored in CARE flow or is fed into Operation Sunrise?
A. Operation Sunrise gets a CARE feed for the 5124 LPIC.
Q. And what's 5124?
A. That's BellSouth -- BellSouth is LPIC carrier 5124.
Q. Those are the only ones that feeds out?
MR. MEZA: Object.
A. Operation Sunrise, as the losing carrier, gaining carrier, or end user's local carrier will get notice from CARE.

0142

(Whereupon, Plaintiff's Exhibit 12 was marked for identification and a copy of same is attached hereto.)

Q. Okay. Let me restate my question. I agree that BellSouth is a losing carrier or as the LEC would get notice in either one of those two categories assuming they were the local toll service provider or the LEC. I'm going to show you here a document 000755 from your manual -- Operation Sunrise manual. I don't know if the right word is produced by you, authored by you. Can you look at that document and tell me if you -- do you recognize that and what do you recognize it to be?

MR. MEZA: I'm going to object to this document. It's one of many apparently and it's dated January 10th of 1995 or '6, I can't tell. Off the record for a second.

(Whereupon, a discussion was held off the record.)

0143

Q. (By Mr. Cruz-Bustillo) The pending question is, but take your time is, do you recognize it and what do you recognize it to be?

A. I recognize this document as some manual. Business area operations model is what this page is entitled.

Q. Okay. And on the top right-hand corner, the top right -- well, it's actually the box in the middle of the page but on the right side, could you read me what's in that box?

A. IntraLATA switcher.

Q. And it has an arrow going to another box. Can you tell me what that box says?

A. CARE.

Q. And then CARE has a line feeding to a big box. Can you tell me what the big box says?

A. MKIS Sunrise.

Q. Okay. Is it reasonable to conclude that CARE information flows to MKIS Sunrise?

0144

A. For LPIC 5124, yes.

Q. And that would be information that you -- somebody switched away from BellSouth?

MR. MEZA: Object to the form.

Q. Somebody switched their local toll service from BellSouth?

A. Or BellSouth acquired a local toll customer or a customer's -- it's a notice that something has happened to a BellSouth customer.

Q. Okay. But isn't the whole purpose of Operation Sunrise to develop leads to target individuals who have switched away from BellSouth?

A. For local toll?

Q. Yeah, for local toll.

A. Yes.

Q. Okay. So information flowing down to MKIS Sunrise would likely be if you lost the customer?

MR. MEZA: Object to the form. It's not what he said, mischaracterize the witness' testimony.

0145

MR. CRUZ-BUSTILLO: Well, I'm asking. I don't know what he said. I'm asking you, Mr. Wolfe.

A. It includes information that we lost. It would also include information that we acquired.

Q. Okay. Remember earlier you told me

that the permanent Sunrise table will have three groups, local service, product change, and local toll?
A. Yes.
Q. It would be correct to conclude that the permanent Sunrise table for local toll switches would only contain records of people who switched to another local toll provider?
A. Yes.
Q. Okay. So that way you don't get mixed up with files that were the other groups?
A. Right.
Q. Okay. There's an arrow there that goes out to an acronym called GIMI. Can you tell me what GIMI stands for?

0146

A. GIMI is a system -- BellSouth system, was at the time of this document anyway.
Q. Does it stand for geographic integrated marketing intelligence system?
A. Yes.
Q. Why would information regarding a loss of a local toll be moved to GIMI?
A. I don't know.
Q. Okay. There's an arrow that leaves GIMI that goes to RNS. Why would information regarding a loss of local toll be fed directly to RNS?
MR. MEZA: Object to the form of the question, and you're talking in relation to 1996?
MR. CRUZ-BUSTILLO: I am talking in relation to a document that --
MR. MEZA: You're referencing your question to the document I guess is what you're saying.
MR. CRUZ-BUSTILLO: To the document and today, both.

0147

MR. MEZA: Okay.
A. To this -- to the time of this document, there was a feed from GIMI to RNS. I don't know what was in that feed.
Q. Would it be reasonable to conclude that it would be information regarding the loss of local toll?
A. No.
Q. Well, isn't Operation Sunrise designed to identify local toll switchers, one of the objectives?
A. That's one of objectives.
Q. Okay. So if that big box is MKIS Sunrise, and one of the objectives is to identify local toll, and the first arrow goes to geographic integrated market intelligence system, and the second one goes to RNS, would it be reasonable to conclude that you -- MKIS Sunrise there is notifying RNS of a loss of a local toll?
MR. MEZA: Object to the form.
A. I don't know what that arrow

represents, GIMI to RNS.

0148

Q. Okay. Has the -- this system was -- if it's part of Operation Sunrise, this system was authored by you; is that correct?
A. GIMI?
Q. No, this -- the flow of information.
A. Okay. Ask your question again. I'm sorry.
Q. Did you author the -- did you author the document?
A. No.
Q. Do you have personal knowledge whether or not LPIC information regarding loss -- toll loss is still provided to GIMI?
A. I don't know.
Q. Do you know if it's still provided to RNS?
A. Okay. I'm sorry. I'm sorry. Step back. Your previous question was?
Q. GIMI.
A. Does data flow from MKIS Operation Sunrise to GIMI?
Q. GIMI, I'm sorry.
A. No, it does not.

0149

Q. How do you know this?
A. Because today in 2003, Operation Sunrise does not send anything to GIMI.
Q. At what point did it stop sending information to GIMI?
MR. MEZA: I object to the form of the question, assumes facts not in evidence.
A. I don't know.
MR. CRUZ-BUSTILLO: Well, he just said we don't do it anymore.
MR. MEZA: He said he didn't know if it ever connected to GIMI.
MR. CRUZ-BUSTILLO: No; no; no.
MR. MEZA: That's what he said.
Q. (By Mr. Cruz-Bustillo) Mr. Wolfe, did you just say that today it doesn't flow to GIMI?
A. Yes.
Q. Okay. That's why I asked you if you know for certain that today it doesn't flow to GIMI. At what point did it stop flowing to GIMI?
MR. MEZA: And I raise my same

0150

objection, mischaracterizing his testimony.
MR. CRUZ-BUSTILLO: No, that doesn't mischaracterize it. Go, Mr. Wolfe.
A. I don't know.
Q. But you're certain today it doesn't flow to GIMI?
A. Yes.
Q. And why are you certain today that it doesn't flow to GIMI?
A. Because we don't send it to GIMI.
MR. CRUZ-BUSTILLO: Okay. I have nothing further.
MR. MEZA: We're going to break for

lunch before I do redirect because I'm sure that you're going to have additional questions after my redirect.

MR. CRUZ-BUSTILLO: No, not really.

(Whereupon, there was a lunch recess taken from 12:07 p.m. to 1:01 p.m.)

MR. MEZA: Staff.

MS. DODSON: Yes.

0151

MR. MEZA: Jim Meza, I'm about to start my redirect, and for planning purposes, we were wondering if you guys had any questions at this time.

MS. DODSON: Yes, we do.

(Begin confidential.)

EXAMINATION BY MR. MEZA:

Q. Mr. Wolfe, I'm going to show you documents that Mr. Cruz-Bustillo marked as Exhibits 1, 2, and 3. As we noted during your examination they all bear dates of January 10th, 1996. Do you remember these documents?

A. Yes.

Q. Do you know when BellSouth began local service winback activities through Sunrise?

A. Yes, that was April -- March and April 2001.

Q. So at the time these documents were written, Exhibits 1, 2, and 3, BellSouth was not engaging in local service winback; is that correct?

0152

A. That's correct.

Q. Now, do you know if the processes described or outlined in Exhibits 1, 2, and 3 in 1996, do you know if they were changed from 1996 until 2001?

A. Yes.

Q. Okay. And do you know for a fact whether any of the processes described in Exhibits 1, 2, and 3 were implemented by BellSouth in Operation Sunrise?

A. No.

Q. Now, you said that BellSouth began local service winback in Sunrise in April -- in March or April 2001 or April or May of 2001?

A. It was March/April 2001.

Q. And has BellSouth ever suspended winback activities in 2001 or did BellSouth suspend winback activities in 2001?

A. Yes.

Q. And what time period was that for?

A. The time period of the suspension was April 20th -- after April 20th, 2001,

0153

through August 2001.

Q. And during that time period, BellSouth did not engage in any marketing winback activities, is that correct, relating

to Operation Sunrise?
A. For local service, that's correct.
Q. Okay. Now, do you remember Mr. Cruz-Bustillo talking to you about disconnect reason codes and when they are stripped or if they are stripped in the Sunrise processes. Do you remember that?
A. Yes.
Q. After August of 2001, does the byproduct of Sunrise, and when I use the phrase byproduct, that's the resulting product through the process, are there disconnect reason codes attached to the leads that are generated in Sunrise in the byproduct?
MR. CRUZ-BUSTILLO: Objection to form.
A. No.
Q. And is it -- do the disconnect reason codes get stripped at some point in the

0154

process prior to the byproduct being created?
A. Yes.
Q. Okay. And in what stage do the disconnect reason codes get stripped?
A. They get stripped between the temporary table and the end byproduct I think you said of the permanent table.
Q. Do you remember Mr. Cruz-Bustillo talking to you about the customer code?
A. Yes.
Q. Do you know why BellSouth uses a customer code?
A. To identify their customers.
Q. Do you know why BellSouth uses it as part of Sunrise?
A. With that code we can identify our former local service customers and for the purpose of getting their information before they left.
Q. Mr. Cruz-Bustillo was asking you a series of questions relating to whether or not you knew when the customer service or the customer order -- excuse me, the customer code

0155

is placed on the service order. Do you remember that?
A. Yes.
Q. Do you know when in the OSS process that occurs?
A. No.
Q. Who would know to the best of your knowledge?
A. The best of my knowledge. that would be Mr. Pate.
Q. Is there anything in the customer code that indicates to BellSouth where the former BellSouth customer went as far as carrier, a new carrier?
A. No.
Q. Is there anything in the customer code that establishes or indicates what services that customer is receiving from its new carrier?

A. No.
(Begin confidential.)
Q. Let's talk about Exhibit 7 that Mr. Cruz-Bustillo had you look at, and
0156
specifically the paragraph entitled weekly lead generating procedures for Sunrise. This is confidential by the way. Do you remember that?
A. Yes.
MR. CRUZ-BUSTILLO: What exhibit is that, what number?
MR. MEZA: Seven.
MR. CRUZ-BUSTILLO: Okay.
Q. (By Mr. Meza) Now, I believe this -- do you know when this document was dated? It's DAN-8. It's from DAN-8.
A. I'm not sure that exact date.
MR. MEZA: Can I have DAN-8, Mr. Nilson? Do you have DAN-8?
MR. CRUZ-BUSTILLO: I don't think he does but I'll stipulate DAN-8 is the 2000 version, subject to check for you to verify, but I'm sure it's 2000.
MR. MEZA: Okay. That's fair.
Q. (By Mr. Meza) Is there any portion of this paragraph that relates to local service reacquisition efforts?
0157
A. Not directly, no.
Q. And in 2000, the year 2000, BellSouth was not engaged in local service reacquisition efforts through Sunrise; is that correct?
A. That's correct.
Q. Now, do you see a reference to CAR and CARE in that paragraph?
A. Yes.
Q. Does BellSouth use CAR information in Florida?
A. No, it's never been available in Florida.
Q. All right. And does BellSouth use CARE information in relation to local service reacquisition efforts?
A. No.
Q. What does BellSouth use CARE for?
A. CARE is for local toll winback.
Q. Thank you. Do you remember Mr. Cruz-Bustillo talking to you about what is the criteria for filtering disconnect reason codes. and I believe you stated it was --
0158
excuse me, let me strike that and recharacterize the question. Mr. Cruz-Bustillo asked you what criteria or what information is excluded, is filtered, and you said disconnect reason codes.
MR. CRUZ-BUSTILLO: Objection to form.
Q. And then he asked you was there anything else that you know that is stripped. Do you remember that?

A. Yes.
Q. Okay. Is the OCN ever part of Sunrise, and do you know what I mean by OCN?
A. No, I don't.
Q. Okay. What about the order type, does the order type ever get in from SOCS into the Harmonize database?
A. The order type?
Q. Yes.
A. From SOCS to the Harmonize database, yes, it does.
Q. Is that information stripped before it gets to the permanent table?

0159

A. Yes.
Q. The services that the customer is receiving from the CLEC, does that ever enter into the Harmonize database from SOCS whether it's UNE-P or RESA?
A. The services that the CLEC has?
Q. Yes.
A. Make it into SOCS?
Q. Yes.
A. I don't know.
Q. Is that information ever part of the Sunrise tables --
A. No.
Q. -- permanent or temporary?
A. No.
Q. Mr. Cruz-Bustillo was asking you a series of questions relating to the JL code. Do you remember that?
A. Yes.
Q. And I think your testimony was that prior to August of 2001 the JL code was on the permanent table; is that correct?
A. Yes.

0160

Q. Okay. Since August of 2001, are any codes on the permanent table disconnect reason codes in a permanent table in Sunrise?
MR. CRUZ-BUSTILLO: Objection to form.
A. Are any now on it?
Q. Yeah, since August of 2001.
A. No -- no competitive disconnect codes.
Q. Okay.
A. Disconnect reason codes.
Q. Mr. Cruz-Bustillo asked you a series of questions relating to whether or not you knew Mr. Wolfe, that all information in the Sunrise byproduct essentially came from CLEC submitted LSR. Do you remember that?
A. Yes.
Q. Do you know for a fact whether every single lead in the Sunrise byproduct or end product resulted from a CLEC initiated disconnect or a CLEC initiated LSR?
MR. CRUZ-BUSTILLO: Objection to form. Are you talking about the information

0161

that ends up in the permanent Sunrise table?

MR. MEZA: Yes.
MR. CRUZ-BUSTILLO: Okay.
A. Okay. Say that again. I'm sorry.
Q. Do you know for a fact that every single lead --
MR. CRUZ-BUSTILLO: Objection to form. What do you mean by fact?
Q. Do you know for a fact -- do you know for a fact that every single lead that comes out of Sunrise is the result of a CLEC initiated LSR?
A. That is not true.
Q. Okay. Well, I guess that's the answer to my question but let me try it again. Do you know for a fact that every single lead that results from Sunrise came from a CLEC LSR?
A. I know that not every lead came from a CLEC LSR.
Q. And how do you know that?
A. Because the list of codes that I've been given to exclude or eliminate order

0162

information is just a partial list of all the disconnect reason codes.
Q. Now, do you remember Mr. Cruz-Bustillo talking to you about how many fields are in the permanent table?
A. Yes.
Q. And you agreed with him that there were more than five fields on the permanent table. Do you remember that?
A. Yes.
Q. How many of those fields that are in the permanent table are populated with information from a disconnect order?
A. In this process, five.
Q. Okay. And which five fields are populated in the permanent table from a disconnect order?
A. In this process it's NPA, NXX, line, customer code, and the date -- the order date.
Q. And that's the exact same information that you listed in your testimony; is that correct?
A. Yes.

0163

Q. Now, what information populates the remaining fields in the permanent table?
A. It's the information in the SIW, the former customer information -- the former customer's information when he was last a BellSouth customer.
Q. So that's the CRIS records?
A. They're from CRIS, yes.
Q. And it's BellSouth's records of that customer when he was a BellSouth customer?
A. Yes.
Q. Let's talk about CARE and LPIC and Mr. Cruz-Bustillo's questions to you relating to what information BellSouth gets. It would probably be better to use his own hypotheticals. If BellSouth is not the local

exchange carrier, the acquiring toll provider, or the losing toll provider, does BellSouth marketing, and in particular MKIS, get any carrier information relating to that transaction?

A. No.

Q. In that same situation, when

0164

BellSouth is not part of the equation and it's a Supra customer switching from AT&T to MCI long distance, does Interconnection Services provide any information to BellSouth from CARE relating to that transaction? I mean -- let me rephrase.

MR. CRUZ-BUSTILLO: Objection to form.

Q. Any information from Interconnection Services to marketing relating to that transaction.

MR. CRUZ-BUSTILLO: Objection to form.

A. No.

Q. Do we care -- does BellSouth care if a Supra customer changes their toll provider?

A. No.

Q. Now, Mr. Cruz-Bustillo asked you a series of questions relating to whether or not you wrote certain testimony or meant what you said relating to -- mine is a specific reference -- page 18, lines two to four relating to why BellSouth does not need to buy

0165

or request CARE records relating to Supra's access lines. Can you explain why BellSouth does not need that information?

A. BellSouth doesn't need it because one case -- we're not involved in the transaction with Supra so we don't need to do it there. We don't need it because BellSouth subscribes to this information just like any other carrier so there's no reason to buy it. We subscribe and it's --

Q. And again, let's -- let's make it clear that if BellSouth is not part of one of those three entities involved in the transaction, does marketing get any CARE records?

A. No.

(Begin confidential.)

Q. Let's talk about Exhibit 12 and it's the 1996 chart I guess, flow-through chart, relating to CARE that Mr. Cruz-Bustillo went through. This is confidential again. Do you know if MKIS has ever provided directly or indirectly any information relating LPIC to

0166

RNS?

A. I don't know that BellSouth has ever done that, a part of Sunrise or anything else.

Q. As far as your being associated with Sunrise, has there ever been a direct or indirect provision of information from MKIS to RNS?

A. Not that I'm aware of, no.
Q. Okay. Now, Mr. Cruz-Bustillo was referring to the GIMI or GIMI, I don't know what you call it, program I guess.
A. System.
Q. System. Do you know if GIMI was ever implemented by BellSouth?
A. There was a system named GIMI.
Q. Okay. Do you know if GIMI was ever associated or hooked up to Sunrise?
A. I'm not aware that it ever was.
Q. Okay. Do you know if GIMI is still in existence today?
A. I don't know.
MR. MEZA: No further questions.
MR. CRUZ-BUSTILLO: I have no

0167
redirect for the record.
MS. DODSON: Staff has a few questions.

EXAMINATION BY MS. DODSON:
Q. In response to interrogatory number one of Supra's first set of interrogatories, you stated that there is no specific disconnect reason code that identifies when a retail customer is changing local service providers. Can you tell me how many disconnect reason codes BellSouth has?
MR. MEZA: She's asking you a question.
A. I don't know for sure. It's 40 or so but I don't have the whole list in front of me.
Q. Is that list publicly available?
A. I think so.
Q. Do you know where it would be available?
A. Yes.
Q. Can you tell us where that would be?

0168
A. The list that I have seen is in BellSouth intranet application, I guess you'd call, called Orbit.
Q. Okay. Can you make that list available to us?
MR. MEZA: Sure.
A. Sure.
MR. CRUZ-BUSTILLO: Will you provide it to me too?
MR. MEZA: Sure.
Q. (By Ms. Dodson) And that list contains a description of all the disconnect reason codes?
MR. MEZA: I will tell you that the list does not describe all the disconnect reason codes. I don't know if there is a document that describes all of the disconnect reason codes but we will give you what we currently have.
MS. DODSON: Okay.
Q. (By Ms. Dodson) Can you identify all of the reason codes which direct the account

into the final permanent Sunrise database?

0169

A. Can I identify all the disconnect reason codes that -- I'm sorry, ask it again. I should let you -- please ask again.

Q. Okay. Can you identify the reason codes that direct the accounts to go into the final permanent Sunrise database?

MR. MEZA: Linda, when you mean account, can you be a little more specific?

MS. DODSON: Records.

A. You're asking me if I can identify. Are you talking about while the process is happening or now as I sit here talking to you?

Q. Which codes are used that direct certain records to go into the final permanent Sunrise database?

A. The process is that I've been given a list of records -- of disconnect reason codes to eliminate and so I use those codes -- I eliminate those codes, and then whatever is left would be records that once I strip off the disconnect reason code so I don't know what they are are loaded to the permanent table.

0170

Q. Yes, okay.

A. Did I answer your question?

Q. Yes.

MS. DODSON: Can we get a list of the ones that are stripped off?

MR. MEZA: Yes.

THE WITNESS: Yes.

Q. (By Ms. Dodson) On page 12 of your rebuttal testimony --

MR. CRUZ-BUSTILLO: Linda, what page?

Q. Oh, on page 12 that's the flow chart of your rebuttal testimony.

A. Yes.

Q. The flow chart depicting information flow from SOCS through the third-party vendors. Can you please state whether the Sunrise database which is located in the strategic information warehouse and being transmitted to the third-party vendors has any direct or indirect link into CRIS or LIN?

A. It does not have a link to either of those places.

0171

Q. You stated earlier that when BellSouth wins a customer back, BellSouth uses a D on disconnect orders and an A on -- I'm sorry, and an N on new orders. Why doesn't BellSouth just use a C for a change order?

A. To my understanding, the single C order is available only for the inter-connection, the BellSouth OSS or LCSC. It's not available to anyone else.

Q. So it's only available for CLECs then; is that correct?

A. That single C order is to my knowledge used only by the BellSouth OSS

and/or LCSC in processing CLEC disconnect orders.

MR. MEZA: Linda, this is Jim. I don't mean to supplement the testimony but I believe Mr. Wolfe's knowledge doesn't allow him to answer your question. I will -- I will -- you can address it to Mr. Pate if you like or I have can have him file a late filed statement or something or you could ask him at the hearing.

0172

MR. CRUZ-BUSTILLO: I actually think that -- just to jump in, I think he already addresses it in his rebuttal testimony on pages 33 and 34, so you don't have to really supplement, because I'd object because I'd want to be able to respond.

MR. MEZA: Right, I understand.

MR. CRUZ-BUSTILLO: But I think it's on pages 33 and 34 of his rebuttal testimony.

MS. DODSON: Okay. If we have any additional questions, we'll ask them at hearing.

MR. MEZA: Okay.

MS. DODSON: And that concludes the questions that we have.

MR. MEZA: And I will get you the information you requested by Tuesday, is that okay, at the latest?

MR. CRUZ-BUSTILLO: Okay.

MS. DODSON: Thank you. I have a question now.

(Whereupon, a discussion was held off the record.)

0173

(Whereupon, the deposition was concluded at 1:25 p.m.)

FURTHER DEPONENT SAITH NOT

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO.: 0303049-TP
FILED AUGUST 19, 2003

IN RE: COMPLAINT BY
SUPRA TELECOMMUNICATIONS
AND INFORMATION SYSTEMS,
INC., REGARDING BELLSOUTH'S
ALLEGED USE OF CARRIER
TO CARRIER INFORMATION

DEPOSITION TESTIMONY OF:
EDWARD WOLFE
August 22, 2003
8:15 a.m.

STIPULATION

IT IS STIPULATED AND AGREED by and between the parties through their respective counsel that the deposition of EDWARD WOLFE may be taken before SHERI G. CONNELLY, Commissioner, at The Tutwiler, A Wyndham Grand Heritage Hotel, 2021 Park Place North, Birmingham, Alabama 35203, on the 22nd day of August, 2003.

IT IS FURTHER STIPULATED AND AGREED that the signature to and the reading of the deposition by the witness is waived, the deposition to have the same force and effect as if full compliance had been had with all laws and rules of proceedings relating to the taking of depositions.

IT IS FURTHER STIPULATED AND AGREED that it shall not be necessary for any objections to be made by counsel to any questions, except as to form or leading questions, and that counsel for the parties may make objections and assign grounds at the time of the hearing, or at the time said deposition is offered in evidence, or prior thereto.

IT IS FURTHER STIPULATED AND AGREED that the notice of filing of the deposition by the Commissioner is waived.

INDEX

EXAMINATION BY:	PAGE NUMBER:
MR. CRUZ-BUSTILLO	7
MR. MEZA	151
MS. DODSON	167

EXHIBITS:	PAGE NUMBER:
Petitioner's Exhibits:	
Exhibit 1	20
Exhibit 2	21
Exhibit 3	24
Exhibit 4	28

Exhibit 5		31
Exhibit 6		45
Exhibit 7		69
Exhibit 8		116
Exhibit 9		113
Exhibit 10	121	
Exhibit 11	121	
Exhibit 12	142	

APPEARANCES

FOR THE PETITIONER, SUPRA TELECOMMUNICATIONS AND INFORMATION SYSTEMS, INC.:
Jorge L. Cruz-Bustillo
Assistant General Counsel
Supra Telecom
2620 Southwest 28th Avenue
Miami, Florida 33133-3005
305.476.4252

FOR THE RESPONDENT, BELLSOUTH TELECOMMUNICATIONS, INC.:
James Meza, III
BellSouth Telecommunications, Inc.
Museum Tower Building
Suite 1910
150 West Flagler Street
Miami, Florida 33130
305.347.5561

Matthew T. Brown
Jones, Walker, Waechter,
Poitevent, Carrere & Denegre, LLP
201 Saint Charles Avenue
New Orleans, Louisiana 70170
504.582.8000

FLORIDA PUBLIC SERVICE COMMISSION
(Via telephone):
Linda H. Dodson
Levent Ileri
Jerry Hallenstein
Robert Casey
Jacqueline Gilchrist
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
850.413.6100

ALSO PRESENT:
David A. Nilson

****

I, SHERI G. CONNELLY, a Court Reporter of Birmingham, Alabama, acting as Commissioner, certify that on this date, as provided by the applicable rules of procedure and the foregoing stipulation of counsel,

there came before me at The Tutwiler, A Wyndham Grand Heritage Hotel, 2021 Park Place North, Birmingham, Alabama 35203, beginning at 8:15 a.m., EDWARD WOLFE, witness in the above cause, for oral examination, whereupon the following proceedings were had:

MR. CRUZ-BUSTILLO: Good morning, everybody.
MS. DODSON: Good morning.
MR. CRUZ-BUSTILLO: Here we have myself on behalf of Supra and Dave Nilson and on behalf of BellSouth.
MR. MEZA: Jim Meza, Ed Wolfe, the deponent, and sitting in with me is my outside counsel, Matt Brown.
MS. DODSON: And here we have Linda Dodson.
MR. CASEY: Bob Casey.

0007

MR. HALLENSTEIN: Jerry Hallenstein.
MS. GILCHRIST: Jackie Gilchrist.
MR. ILERI: Levent Ileri.
MR. MEZA: Levent, can you say your name again?
MR. ILERI: Levent, L-E-V-E-N-T, and the last is Ileri, I-L-E-R-I.
MR. MEZA: Thank you. Usual stipulations?
MR. CRUZ-BUSTILLO: Yeah, do you want to go ahead and tell everybody what that is.
MR. MEZA: I think we've done it now for four times so if they don't know what it is, we're in trouble.

EDWARD WOLFE,
being first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. CRUZ-BUSTILLO:

Q. Could you please state your name for the record and spell your last name?

0008

A. Edward Wolfe, W-O-L-F-E.
Q. And Mr. Wolfe, where are you currently employed?
A. I'm employed at BellSouth Technologies Group, Birmingham, Alabama.
Q. In what capacity are you employed?
A. I'm the MKIS marketing operations manager for -- let me read it from my -- marketing operations manager in MKIS delivery organization.
Q. And how long have you been in this position?
A. Been in this position for approximately seven years.
Q. When Michelle Summers was director of MKIS, were you above her or below her in the chain of command?
A. Below.
Q. Okay. Would you consider yourself

in the same capacity as she was now in MKIS?
A. Help me understand what you mean by that.
Q. Are you the senior individual within

0009
your MKIS group?
A. No.
Q. Okay. And who is that?
A. Are you asking for my supervisor?
Q. Yes.
A. David Fitts.
Q. And who is the senior individual before the MKIS group?
A. The senior director is Joe Borosh, B-O-R-O-S-H.
Q. Could you tell me what your duties are in your present position?
A. I manage the group that oversees generation of most of the marketing lead lists for the consumer or residential business unit.
Q. Did you say consumer or residential what?
A. Business unit.
Q. Does that mean that you generate leads for both residential and business?
A. No, residential only.
Q. Any particular reason why the title is consumer residential and business unit?

0010
A. That's terminology that we've used at BellSouth for some time.
Q. Could you refer to page two of your testimony lines -- I'm sorry, it's actually page three -- no, it's page four, excuse me, page four, lines 19 and 20. Could you read me the first sentence on lines 19 and 20?
A. "When an end user's local service is disconnected from BellSouth for any reason, a disconnect or change order is generated."
Q. Can you tell me which order is generated when the order originates from a CLEC LSR?
A. What do you mean by which order?
Q. Well, are you aware that CLEC LSRs for conversions create a change order and not a disconnect order?
MR. MEZA: Object to the form.
A. What I know is that if a customer disconnects from BellSouth for any reason, then a disconnect order is generated or a change order is generated.
Q. Okay. I'm going to ask you to read

0011
two sentences from Mr. Pate's rebuttal testimony, page 33, lines 14 through 18, starting with the word before.
MR. MEZA: You're asking him to read testimony provided by another witness?
MR. CRUZ-BUSTILLO: That's correct.
MR. MEZA: And you're going to ask him questions about what another witness said?
MR. CRUZ-BUSTILLO: I'm going to ask him to read it first.

A. Lines 14 to 18?
Q. Uh-huh, beginning with the word before.
A. "Before BellSouth implemented single C for UNE-P, two orders, new and disconnect orders, also known as N and D orders, were required to execute the local service request. The benefit of single C is that it eliminates the need for two internal BellSouth orders and associated coordination."
Q. Given that statement by Mr. Pate, wouldn't you agree that with respect to your testimony on page four, lines 19 and 20, that

00012

when you refer to a change order, that is an order that has its originations from a CLEC LSR?
MR. BROWN: Object to the form to the extent you're asking him to opine about Mr. Pate -- what Mr. Pate said.
MR. CRUZ-BUSTILLO: Go ahead and answer the question.
A. Repeat the question, please.
Q. Given the statement that you just read, wouldn't you agree that when you look at your testimony on page four, lines 19 and 20, that when you refer to a change order, you are referring to an order that originates from a CLEC LSR?
MR. MEZA: Same objection.
A. I know that a C order is a change order, and so this disconnect or change order, that's what it is, a disconnect or a change order.
Q. Okay.
A. Did I answer your question?
Q. No; no.

00013

A. Okay.
Q. Let me try again, okay. On page four, lines 19 through 20, your testimony that you prepared says that "When an end user's local service is disconnected from BellSouth for any reason, a disconnect" order, I'm adding the word order, or "change order is generated." My question is that when you refer to a change order, are you referring to an order that has its origins from a CLEC LSR?
A. I'm referring to a single C order as a change order.
Q. And single C orders are used to process CLEC LSRs; is that correct?
A. I don't know about that.
Q. Okay. Did you prepare your testimony?
A. Yes.
Q. Did you write the sentence on page four, lines 19 through 20?
A. Yes.
Q. Were you aware at the time that you wrote your testimony that a change order is an

00014

order that originates from a CLEC LSR?

MR. BROWN: Object to the form.
A. I was aware that there was such a thing as an LSR. I don't know exactly what it is.
Q. Okay. Let me ask a different question. Are you aware that a change order has its origins from a CLEC service order?
A. Are you referring to the single C order change order?
Q. That's correct.
A. What I know is it has its origins in the LCSC or the BellSouth operational support systems, the OSS, and I know that CLECs, one way -- one way that they initiate this process is by local service request, LSRs. That's what I know.
Q. Are you aware that retail -- BellSouth retail customer service representatives when they process a winback create an N order and a D order?
A. Bringing a customer -- a D order to disconnect a customer from someone else and a

0015

N order to bring them back to BellSouth, is that your question?
Q. No. My question is when a retail customer service rep creates a service order through RNS, that that order automatically creates a D and an N to bring that customer back. Were you aware of that?
A. I know -- to bring that customer back to BellSouth?
Q. To process the order, yes, were you aware of that?
A. The customer service rep will do a D order to disconnect and an N order to bring that customer back, yes.
Q. Are you aware that the retail service rep service order will not generate a single C?
A. Yes.
Q. Thank you. Let's turn to page five of your testimony, lines four through six. Can you read lines four through six into the record ending with the word manually?
A. "For an LSR sent by a CLEC, a

0016

disconnect or change order and the appropriate disconnect reason code are generated electronically by BellSouth's OSS or generated by the LCSC if the CLEC has sent the LSR manually."
Q. My question is that when you refer to it's electronically generated by OSS, is that LESOG?
A. I don't know.
Q. Would Mr. Pate be the person that would have the most knowledge on that issue?
A. Yes.
Q. How about the code that's electronically generated at the LCSC, is that the JL code?
A. No.

Q. Well, what code does the LCSC -- what disconnect reason code does the LCSC generate if the LSR is submitted manually?
A. I know of two that could possibly come from the LCSC.
Q. Can you tell me what they are?
A. One is BR, BellSouth to resale; one

0017

is BC, BellSouth to facility base.
Q. You're saying those are generated by who, the LCSC?
A. I know those are generated by the LCSC or someone in operation support systems.
Q. Would BC include UNE-P?
MR. BROWN: Object to the form. There's no such thing as BC.
MR. CRUZ-BUSTILLO: Oh, I'm sorry. I thought he said BR and BC. Let's read back what he said, please.
THE WITNESS: I said BC. I said BC. It is BC.
MR. CRUZ-BUSTILLO: He did say BC. Thank you.
Q. (By Mr. Cruz-Bustillo) And does BC include UNE-P?
A. I don't know.
Q. What is the purpose of generating disconnect reason codes?
A. My understanding is that it tells why the disconnection occurred.
Q. Okay. Could -- is disconnect reason

0018

code and transaction code used interchangeably?
A. No.
(Begin confidential.)
Q. Let me show you an exhibit and how we're going to do this now is when I show the exhibit, this part of the record and the questions will be considered confidential.
MR. MEZA: And the exhibit will be sealed.
MR. CRUZ-BUSTILLO: And the exhibit will be sealed.
Q. (By Mr. Cruz-Bustillo) I'm going to show you what's been marked as exhibit DAN-7, and it's Bates stamped 000760, and I'm going to ask you to read this middle paragraph here, okay, but let me show it to your counsel first.
MR. MEZA: I want to object to this document on the grounds that it's one page out of apparently many in the exhibit, and note for the record it's dated January 10, 1996. He wants you to read this paragraph reading

0019

operational method?
MR. CRUZ-BUSTILLO: No, it's the one right after that. And before you read it, let me just say that it's that big one, I hope you didn't want me to bring the big one.
MR. MEZA: I just want to lodge my --

MR. CRUZ-BUSTILLO: And you can bring it into context at the hearing and say, look at all these 8,000 pages, you need to look at that page, okay.

Q. (By Mr. Cruz-Bustillo) Please read the middle paragraph.

A. "A separate nightly extract from the SOCS table is loaded into the SIW by Project Harmonize. This SIW table is screened for local service switchers via transaction codes and local switchers are loaded into the Sunrise Database."

Q. Okay. Will you hand that back here?

MR. MEZA: Are you marking that as Exhibit 1?

MR. CRUZ-BUSTILLO: Okay. We're

0020

marking it as Exhibit 1, please.

(Whereupon, Plaintiff's Exhibit 1 was marked for identification and a copy of same is attached hereto.)

Q. (By Mr. Cruz-Bustillo) I want you to now -- I want you to read this middle paragraph here, and this document is Bates stamped 000761, which actually follows the page that Mr. Wolfe just read but let me show it to your counsel first.

MR. MEZA: What paragraph do you want him to read?

MR. CRUZ-BUSTILLO: The middle one, the one with the BF.

MR. MEZA: I'm asserting the same objections as I raised for Exhibit 1.

A. The one with the SOCS?

Q. Yeah.

A. "The SOCS information stored in the SIW by Project Harmonize is screened for transactions 'BR' (Switched to Reseller) and

0021

'BF' (Switched to Facility Provider). Transaction 'SE' (Switched in Error) are not captured, since it would be BST's error."

Q. That document uses the word transaction. Would it be fair to say that, BF and I can't see it from here, BR, are transaction codes?

A. I have never heard of it referred to in that manner.

Q. But the manual refers it to that manner; is that correct?

MR. MEZA: Object to the form.

A. This document refers to it in that manner, yes.

(Whereupon, Plaintiff's Exhibit 2 was marked for identification and a copy of same is attached hereto.)

Q. Thank you very much. Now I'm going to show you a third document Bates stamped from that same large exhibit, 000775, and ask

you to read paragraph two at the bottom up through the word SE. You don't really have to read the last sentence.

MR. MEZA: Counselor, you're marking this as Exhibit 3?

MR. CRUZ-BUSTILLO: Yes, sir.

MR. MEZA: Same objections as to Exhibits 1 and 2 and also note for the record it's dated January 10, 1996.

THE WITNESS: Okay. I'm sorry, which?

MR. MEZA: He wants you to read all of paragraph two except for the last sentence.

A. "This is a detail report, similar to the Weekly IntraLATA Switchers Report (above), produced every Tuesday to identify the local switchers of the given week. Local switchers are customers who have chosen a local carrier other than BellSouth. They would be identified in the SOCS system's vcust.svcord file with a Disconnect_Reason of 'BR,' 'BC,' or 'SE.'"

Q. BR stands for what?

A. To my knowledge --

MR. MEZA: As of 1996 when this document was created?

MR. CRUZ-BUSTILLO: No, just what does BR stand for.

MR. MEZA: Well, then you're not referring to the document?

MR. CRUZ-BUSTILLO: I may in my next question. Right now I'm asking him what does BR stand for.

MR. MEZA: As of today -- is your question as of today?

Q. (By Mr. Cruz-Bustillo) No, my question is, what does BR stand for?

MR. MEZA: Object to the form of the question and the scope of the question.

MR. CRUZ-BUSTILLO: Okay.

A. To me BR means BellSouth to reseller.

Q. Okay. In that document what does BR stand for?

A. I don't know for sure.

Q. Okay. The BR is referred to -- let me take a look at that document for a second.

Okay. The phrase right before BR -- how is BR characterized in that paragraph, as a what?

A. Disconnect reason code.

(Whereupon, Plaintiff's Exhibit 3 was marked for identification and a copy of same is attached hereto.)

Q. Okay. Could I have that document back? Let me show you what's been marked as Plaintiff's Exhibit 2. Can you show me how the BR is characterized in that paragraph?

A. In this middle paragraph?

Q. Yes.
A. BR is switch to reseller.
Q. How is it identified? How is it characterized in that paragraph?
A. Transaction.
Q. Okay. Thank you. I'm going to show you another exhibit. This is --
MR. CRUZ-BUSTILLO: By the way, I guess we're still under confidentiality.
MR. MEZA: Yes, I would agree with

0025
that.
Q. (By Mr. Cruz-Bustillo) This is page nine of -- and I'll give you the whole handbook. Do you want the whole handbook?
MR. MEZA: Just tell me what it's from.
MR. CRUZ-BUSTILLO: It's the single C processing for noncomplex conversion orders, and I was just going to pull out page nine.
MR. MEZA: Why don't we give -- I don't know, because of his -- I don't want to have a speaking objection but because of his area of expertise, why don't we give him the whole document --
MR. CRUZ-BUSTILLO: Sure.
MR. MEZA: -- because I don't think it's something that he's normally familiar with.
Q. (By Mr. Cruz-Bustillo) I'm going to want you to look at page nine and please ignore my yellow stickies and my handwritten notes on it.
MR. MEZA: This will be Exhibit 4,

0026
Counselor?
MR. CRUZ-BUSTILLO: Right, but I'm only going to tag --
MR. MEZA: Page nine.
MR. CRUZ-BUSTILLO: Yeah, right. This is off the record.

(Whereupon, a discussion was held off the record.)

MR. MEZA: I'm going to object because it does not look like it is a complete document. There's pages missing. I know that you're not going to ask him about any other pages other than on page nine.
MR. CRUZ-BUSTILLO: Only on page nine.
MR. MEZA: But I just want the record to reflect that it's still not a complete document. And Mr. Wolfe, I want you to -- if you need to, just read everything and then read page nine.
THE WITNESS: Okay.

0027
MR. MEZA: Is there any particular part of page nine you want him to review or just the whole thing?
MR. CRUZ-BUSTILLO: No, it's the

bottom part. I'm going to want him to look at some DCRs.

MR. MEZA: Okay.

Q. (By Mr. Cruz-Bustillo) Are you looking at page nine right now?

A. I am.

Q. On the left-hand corner at the bottom, can you tell me the acronym in that first box or second to the bottom?

A. DCR.

Q. And what does DCR stand for in your understanding?

A. In my understanding, it's disconnect reason code.

Q. Could you tell me the three disconnect reason codes that appear to the right of that acronym?

A. BR, BellSouth to reseller; RT, reseller to reseller; SE, switched in error.

0028

MR. CRUZ-BUSTILLO: Thank you. I'd like to have that marked as Exhibit 4, page nine.

(Whereupon, Plaintiff's Exhibit 4 was marked for identification and a copy of same is attached hereto.)

Q. (By Mr. Cruz-Bustillo) Aside from a disconnect reason code being electronically generated or the LCSC manually inputting a disconnect reason code, is there any other forum that Operation Sunrise tags a customer account with a disconnect reason code?

MR. MEZA: Object to the form.

A. I don't understand your question. Ask it again, please.

Q. Is there any other way to your knowledge that Operation Sunrise, not just a single database, Harmonize database or the feed, Operation Sunrise tags -- and I'm using that word specifically for a reason -- tags an order with a disconnect reason code?

0029

MR. MEZA: Object to the form.

A. Okay. And do you mean by tags as identifies?

Q. Yes.

A. Is there any other way that Operation Sunrise identifies -- tags an order -- identifies. I know that -- again that OSS, the LCSC, they put those disconnect reason codes on an order and then the retail -- BellSouth retail puts disconnect reason codes on orders. I think that's the answer to your question.

Q. Okay. Do you know what the code is that the retail sign places on a disconnect order?

A. And by that do you mean a competitive disconnect order?

Q. Well, let's answer both questions. Let's do a disconnect order and a competitive

disconnect order.
A. There's a large list of disconnect reason codes, and so the BellSouth retail office could use a number of different codes.

Q. All for competitive disconnects?
A. No.
Q. Let me show you exhibit Bates stamped 001056. Let me show it to counsel and I'm focusing on where the paper clip is pointed.
MR. MEZA: Are you going to mark this as an exhibit?
MR. CRUZ-BUSTILLO: Oh yeah, we're going to mark it as an exhibit.
A. Do I read it or am I just referring to it?
Q. You're just referring to it. Well, actually read the sentence that begins Sunrise tags.
A. "Sunrise tags a customer as a local service switcher when these conditions apply."
Q. What are those conditions?
A. "A completed residential disconnect (D or Single C) order and SOCS having a disconnect reason code (DCR) of JL (identifies a competitive disconnect) or CO (Competitor-this code generated in the Consumer business offices)."
Q. So is a CO code generated on the retail side?
A. To my knowledge, yes.
Q. Okay. Is JL generated on the retail side?
A. No.
Q. To your knowledge, is JL still used?
A. No.
Q. Then I don't have to ask you my next question. Thank you.

(Whereupon, a discussion was held off the record.)

(Whereupon, Plaintiff's Exhibit 5 was marked for identification and a copy of same is attached hereto.)

Q. Mr. Wolfe, when to your knowledge was -- what was the time frame which JL was used?
A. JL was used in the time frame 1998 through -- I don't know when it began in '98 -- but through August 2001 -- up to August 2001.
Q. Okay. Is CO still used?
A. To my knowledge, yes. Can I -- can you -- used by Sunrise, is that -- is that what you said? Is that what you meant by that question?
Q. Are you referring to?
A. Is it still used.

Q. Is CO?
A. Still used, that was your question?
Q. Is CO still a code that is generated?
A. Yes.
Q. Okay. Do you know how JL or where JL was generated?
A. Yes.
Q. Could you tell me where or when the process it would be generated?
A. Okay. Where or when?
Q. Yes.
A. I just told you when. The process

0033

was generated outside of Operation Sunrise in Harmonize.
Q. When you say Harmonize, do you mean the Harmonize database?
A. Yes.
Q. And so that I am clear, there's a Harmonize feed that goes to a first table called the Harmonize database?
A. There is a feed from SOCS that goes to the Harmonize database.
Q. And then we'll get back to the step-by-step process so that everybody can follow. The next step from the Harmonize database is the temporary Sunrise table and then the permanent Sunrise table; is that correct?
A. After August 2001, that's correct.
Q. What was it before -- there's a three-step process that I just outlined, and you're saying that's post August 2001?
A. Correct.
Q. Pre-August 2001, was there a straight feed from SOCS to the permanent

0034

Sunrise table?
MR. MEZA: Object to the form.
A. There was -- it was not a feed. Operation Sunrise extracted the data from Harmonize through a view.
Q. When you say Harmonize, are you talking about the Harmonize database?
A. Yes, the Harmonize database.
Q. Through a view. What's a view?
A. A view is a -- it is -- it's not looking at the actual tables. It's looking at a selected set of data from a table.
Q. Okay. Thank you very much. Let me confer with my assistant here. (Pause.) Let me ask you another question about the view. Is that like a query?
A. Yes.
Q. A permanent query?
A. Yes.
Q. That's run all the time?
A. It's -- it's there, and anytime that that table is accessed or anytime that view is used through -- anytime a table is accessed

0035

through that view, it happens the same way

every time.
Q. Does Harmonize feed extract service orders from SOCS based upon their DCR?
A. No.
Q. Does the -- okay. What is the -- what is the means by which orders are identified in SOCS to be fed into the Harmonize database?
A. There is a set of criteria by which -- that defines what the Harmonize feed will extract from SOCS into the Harmonize database.
Q. Give me an example of some of those criteria.
A. Order type.
Q. Can you give me an example of those order types?
A. N orders for new, some, not all; C orders; D orders; T orders.
Q. What's a T order?
A. A T order is a transfer order.
Q. Transfer, what does that mean?

0036

A. I can give you an example. It's where a customer might move his service -- he might move his residence from one side of town to another so it would be a from order to transfer service from one address to another for example.
Q. So that would most likely be an existing BellSouth retail customer?
A. Yes.
Q. The C order, when we talked about the C, did you mean to imply a single C?
A. C orders would include a single C.
Q. Okay. What else would it include?
A. Regular change orders for BellSouth residential retail customers.
Q. Those would eventually be filtered out before reaching the permanent Sunrise table; is that correct?
A. In the process after August, yes.
Q. Does the Harmonize feed take all T orders?
A. No.
Q. Which T orders does it exclude?

0037

A. There's some specific requirements. I don't know off the top of my head.
Q. Tell me, what was the basis of your knowledge for you to say no to me right now that not all T orders are pulled to the Harmonize database?
A. Okay. Ask that again, please.
Q. You just told me no, not all T orders are taken to the Harmonize database.
A. That's correct.
Q. You had to be thinking of something that prompted you to give that answer. I want to know what that something was.
A. There are requirements to that Harmonize feed that specify clearly which orders go from SOCS to the Harmonize database.

Q. And one of those are single C?
A. C orders.
Q. Included in that category is single C?
A. Yes.
Q. When orders are -- I don't know if this is a correct term -- filtered down from
0038
the Harmonize database to the temporary Sunrise table, are the orders chosen based upon their DCR?
A. No.
Q. What's the point of generating a DCR then?
MR. MEZA: You're asking him in relation to Sunrise or for other purposes?
MR. CRUZ-BUSTILLO: Just general, I'm just asking you generally.
MR. MEZA: I object to the form of the question.
Q. (By Mr. Cruz-Bustillo) What's the point of generating a disconnect reason code?
A. Operation Sunrise doesn't generate disconnect reason codes.
Q. Okay. What's the point of OSS generating disconnect reason codes?
MR. MEZA: Object to the form.
A. The OSS or any disconnect reason code is, to my understanding, it tells why a disconnection occurred.
Q. Okay. Maybe I can answer the
0039
question this way or get the answer this way. I'm going to show you what's been marked as Plaintiff's Exhibit Number 1, Bates stamp 000760, and ask you to read the second sentence in the second paragraph. Let me show it to counsel first. Please read the second sentence of the second paragraph.
MR. MEZA: Under operational method?
MR. CRUZ-BUSTILLO: I think so. If I don't hear what it is, I'll tell you.
MR. MEZA: Okay.
A. "The current CARE files are downloaded from Site D" --
Q. No, that's not it. That's not it.
MR. MEZA: I think he wants this.
A. "A separate nightly extract from the SOCS table is loaded into the SIW by Project Harmonize."
Q. Could you speak up please?
A. "A separate nightly extract from the SOCS table is loaded into the SIW by Project Harmonize. This SIW table is screened for local service switchers via transaction codes
0040
and local switchers are loaded into the Sunrise Database."
Q. Okay. So earlier we discussed transaction codes, and DCR codes seemed to be one and the same according to the documents?
A. To this document, yes.
Q. Okay. So the data is chosen based

upon a disconnect reason code according to that document?

MR. MEZA: I object to the form of the question. You can answer.

A. At this time of this document, apparently yes.

MR. CRUZ-BUSTILLO: Staff, we're going to take a five-minute break.

MS. DODSON: That's fine.

(Whereupon, there was a brief recess taken from 9:00 a.m. to 9:15 a.m.)

Q. (By Mr. Cruz-Bustillo) I'm going to show you an exhibit that comes from DAN-7, Bates stamp -- actually it could be DAN-6,

0041

Bates stamp 000144, and I'm going to ask you the -- to read the definition of wholesale information, but I want to show it to your counsel first.

A. This bullet beginning wholesale or the whole thing?

Q. No; no; no, just where it says wholesale.

A. Okay. There's three.

MR. MEZA: He wants the second bullet.

MR. CRUZ-BUSTILLO: Oh, that one, yes, sir.

A. "'Wholesale Information' cannot be used to target end user customers for winback or retention efforts."

Q. Okay. Keep going.

A. "Examples of 'Wholesale Information' include: competitive disconnect codes are considered wholesale information; 'Wholesale' carrier information that resides in BOCRIS."

Q. Okay. My question is, why is a disconnect reason code considered proprietary

0042

to a CLEC?

MR. MEZA: Object to the form of the question, and if you're asking him based upon the previous question in the predicate of this document, there is no mention of competitive disconnect reason codes as being proprietary. They're wholesale information.

MR. CRUZ-BUSTILLO: Thank you, Mr. Meza, for instructing the witness. Let me -- let me strike that and ask it again, and Mr. Meza, I was at a loss when you said predicate.

Q. (By Mr. Cruz-Bustillo) Mr. Wolfe, let me hold the document so I can ask the question precisely. Mr. Wolfe, does this document not say that competitive disconnect codes are considered wholesale information right there?

A. It does.

Q. Okay. To your knowledge, why is a competitive disconnect code considered wholesale information?

MR. MEZA: Object to the form of the question, calls for a legal conclusion. You can answer.

A. Okay. Ask that again. I'm sorry.

Q. Here you have a document not created by the legal department but created by BellSouth, the company?

MR. MEZA: Object to the form. You don't know that's not created by legal. Go ahead.

MR. CRUZ-BUSTILLO: Well, otherwise it would be attorney-client privilege.

MR. MEZA: Well, it could be created by legal but not be privileged.

MR. CRUZ-BUSTILLO: Okay. Let's get back to my question.

Q. (By Mr. Cruz-Bustillo) It says here, "Competitive disconnect codes are considered wholesale information." To your knowledge, why are competitive disconnect codes considered wholesale information?

A. It says it in this document. Wholesale information is defined as information that you have as a result of a customer carrier to customer situation, so I guess that's why, it's because it falls under that definition of wholesale information.

MR. MEZA: Hence my objection.

Q. This document says competitive disconnect codes. Do you consider that phrase, competitive disconnect codes, to be synonymous with disconnect reason codes? What does that mean to you?

A. I consider them to be synonymous.

Q. Okay. Aren't disconnect reason codes generated by OSS? Isn't that what you told me earlier?

A. Competitive disconnect reason codes -- competitive disconnect reason codes would be generated -- that's one method by which they're generated, yes.

Q. Electronically by LESOG and manually by the LCSC?

MR. MEZA: Object to the form.

A. Electronically by OSS I know and manually by LCSC, yes.

Q. Do the purpose -- a reason why they would be considered wholesale information is because they identify that the switch that the order originates from a CLEC service order?

MR. MEZA: Object to the form.

A. It could be wholesale information in my view because it is generated through the OSS or the LCSC.

MR. CRUZ-BUSTILLO: I'd like to mark this as the next exhibit.

MR. MEZA: Six.

MR. CRUZ-BUSTILLO: Oh, and let's -- I have to say, we're going to go back. This is confidential to the point that we

identified the document and everything he said subsequent until now is confidential, and this is 6.

(Whereupon, Plaintiff's Exhibit 6 was marked for identification and a copy of same is attached hereto.)

Q. Let's turn to page 11, lines 10 through 12. Could you read me the sentence

0046

between 10 and 12? You might show it to your counsel first.

MR. MEZA: Okay.

A. The sentence between 10 and 12?

Q. Well, the one beginning with next and ending with SOCS.

A. "Next, Operation Sunrise copies into a permanent table in the Sunrise database certain data from each remaining disconnect order, the NPA, the NXX, the line, the customer code, and the date the data was extracted from SOCS."

Q. What is meant by customer code?

A. The customer code is a three-digit code that is placed on an account at the time the account is established.

Q. When you say that, do you mean established when the customer was an existing BellSouth retail customer?

A. I mean when a customer establishes an account with BellSouth, then a customer code is applied to that account.

Q. Now, if a CLEC service order makes

0047

it all the way down to the permanent Sunrise table, and assume for the purpose of this question that that's the origins of the order because we -- okay, just assume that. If a CLEC service order makes it all the way down to the permanent Sunrise table and contains the customer code, is that the code that exists for that account when that customer was an existing retail BellSouth customer?

MR. MEZA: Object to the form.

A. This data is from a disconnect order, the order disconnecting the BellSouth account. It doesn't -- Operation Sunrise doesn't know where it came from. It's just a disconnect order, and on that order is the NPA -- the customer code, and that customer code is of the former BellSouth customer.

Q. All right. I don't think you answered my question. Let me go back because you provided a lot of different answers in there regarding different subjects.

A. Sorry.

Q. Let me -- let's establish this is

0048

that Operation Sunrise, through the Harmonize table and the temporary table, while the order is flowing through there, there is a disconnect reason code identifying the origins

of that order; isn't that true?
A. Each -- yes, the SOCS has orders with disconnect reason codes. Harmonize has orders with disconnect reason codes.
Q. Okay. And some of those disconnect reason codes are those using the retail side like CO or those using the wholesale like side like BR or RT or BC or BF or different ones that we discussed?
A. Correct.
Q. Is that correct?
A. Correct.
Q. So now, for the purposes of this discussion, and we'll get to that specifically so we can finish walking through it. When it hits the permanent Sunrise table, I believe your rebuttal testimony indicates that all of these disconnect reason codes are filtered out and that only a subset of limited information

0049

hits the permanent Sunrise table and that information is -- and here's my question, the information you identified on page 11, lines 10 through 12; is that correct?
A. That's correct.
Q. Okay. So now, for the purpose of this question we have a hypothetical. We have an order that started on the wholesale side. When it reached the permanent Sunrise table, it had the customer code; is that correct?
A. It has the customer code of the disconnect order that disconnected the Sunrise -- excuse me, the former BellSouth customer.
Q. Okay. That's where I'm confused. You just told me a few minutes ago when I asked you what the customer code is, you said that code that is established at the time the customer establishes a new account with BellSouth; is that correct?
A. That's correct.
Q. Okay. And in fact, I think there's an interrogatory on that answer -- the

0050

interrogatory says the same thing you just said.
A. Correct.
Q. Now, my question is, if that number -- let me put it this way because I didn't understand this yesterday, you going through it. January 2003, I start an account with BellSouth. I call BellSouth. I just moved to Miami. I start an account. I'm going to have a customer code assigned to me; is that correct?
A. That's correct.
Q. Now I'm in September -- August 2003 and I want to switch to Supra, so I call up Supra, they submit an order to have me converted on a single C, won over to UNE-P. Supra doesn't know that customer code; is that correct?
A. I don't know.

Q. Okay. At what point is that customer code stuck on that CLEC service order to make it down to the permanent Sunrise table?

0051

A. I don't know what happens to the CLEC service order.

Q. Okay. That's not my question. My question is, do you have knowledge at what point in the process between SOCS and the permanent Sunrise table that the customer code is assigned to that CLEC service order? Do you know that?

A. No.

Q. Okay. But you would agree with me or I'm asking you, do you agree with me that at some point between the time the CLEC service order is in SOCS and the time that CLEC service order hits the permanent Sunrise table, that the customer code is attached to that order?

MR. MEZA: Object to the form.

A. The customer code is on the disconnect order.

Q. Okay. So the answer to my question would be yes?

A. The customer code is on the disconnect order.

0052

Q. And if the CLEC didn't include it on its LSR, it would have to have been generated between some point between SOCS and a permanent Sunrise table; is that correct?

A. I don't know. What I know is that a disconnect order that flows into SOCS has a customer code on it.

Q. Okay. Let me ask this way for the purposes of my question because you didn't answer, so it's not asked and answered.

A. Sorry.

MR. MEZA: Well, I object to your statement. I think he has asked and answered it.

MR. CRUZ-BUSTILLO: I withdraw that comment to the extent it was in any way taken offensively.

Q. (By Mr. Cruz-Bustillo) Let me just ask the question this way, assume my hypothetical to be true, that a CLEC does not include on its LSR the customer code assigned to me, remember my hypothetical that I signed up in January 2003 with BellSouth and I got a

0053

code. The CLEC, assume for the purposes of this question, doesn't attach it to its LSR. The LSR is accepted by SOCS and becomes a CLEC service order. Assuming that the CLEC did not include the customer code, do you agree logically that at some point between SOCS and a permanent Sunrise table that code would have to have made it on to the CLEC service order?

MR. MEZA: I'm going to object but go ahead.

A. When you say the CLEC service order, what do you mean?
Q. I mean a single C conversion over UNE-P as is.
A. Okay. The C order, that single C order will have the customer code on it.
Q. And if it wasn't placed on that service order by the CLEC, would you agree with me that it came from somewhere inside BellSouth's OSS?
A. It could.
Q. Thank you. When you say it could, I'm asking for a yes or a no. If it didn't

0054

come from the CLEC service order, is there any other place it could have come from other than BellSouth's OSS?
A. I don't know what the OSS does so if -- I don't know of any other place it could have come.
Q. Except BellSouth?
A. Either the OSS or the LCSC, yes.
Q. Thank you. Is a customer code attached to the end of the telephone number?
A. That customer code with the NPA, NXX, and line together typically makes up the account number, and in that case it would be the last three digits of those 13.

(Whereupon, a discussion was held off the record.)

MR. CRUZ-BUSTILLO: Jim, I'm going to show him what's been Bates stamp DAN-9 -- I'm sorry, it's DAN-9, Bates stamped 001054. I'm going to ask him some of the questions I asked Ms. Summers but she referred to you that

0055

you would have the answer.
MR. MEZA: It's confidential; correct?
MR. CRUZ-BUSTILLO: This is confidential, this is correct. Hold on, I may skip that.
Q. (By Mr. Cruz-Bustillo) Let's go to page six of your testimony, lines one and two.
MR. MEZA: Jorge, just so I'm clear, we're not using that document you just referenced?
MR. CRUZ-BUSTILLO: Well, we're going to get back to it.
MR. MEZA: Okay. So we're no longer confidential I guess.
MR. CRUZ-BUSTILLO: Yeah, we're no longer confidential. I'm actually going to get to it in a couple of more questions. I didn't want to be repetitive, so I skipped that.
MR. MEZA: Okay.
(End confidential.)
Q. (By Mr. Cruz-Bustillo) Let's go to

0056

page six, lines one and two. Actually that's

out of context. We're going to have to start on the page before. You'll want to start with reading line 25 on page five and then going on to the sentence that ends operations page six, lines one and two.

MR. MEZA: And just for the record, you're asking him to read a question and answer that was provided by Ms. Summers?

MR. CRUZ-BUSTILLO: Correct, because I believe that he might know the answer to it.

MR. MEZA: Okay.

MR. CRUZ-BUSTILLO: You're right, it is Ms. Summers.

A. "For instance, a disconnect order that results from a BellSouth retail customer calling BellSouth disconnect his service because he's moving would come from BellSouth's retail operations."

Q. Would that be a T order?

A. Possibly.

(Begin confidential.)

Q. Okay. Thank you. I'm going to find

0057

DAN-8, 001018. This document in DAN-8 will notify -- saying what it is is not confidential, just disclosing the contents. It's DAN-8, and it's document 001018. From here on out it will be confidential. I was going to show you -- ask him to read weekly -- ask him to read this paragraph.

MR. MEZA: Okay. Counsel, do you know the date of this document, what the origin of DAN-8 is?

MR. CRUZ-BUSTILLO: DAN-8 is that one that comes from the minutes regarding the creation of Operation Sunrise. It's that -- it's the very -- no, I'm sorry. DAN-8 is Operation Sunrise.

MR. MEZA: What year version?

MR. CRUZ-BUSTILLO: DAN-8 is the 2000 version.

MR. MEZA: 2000 version.

MR. CRUZ-BUSTILLO: That's right, that comes from the 2000 version.

MR. MEZA: He wants you to read this paragraph. Out loud or to himself?

0058

MR. CRUZ-BUSTILLO: No, out loud.

A. "CARE and CAR deliver files to MKIS up to thrice daily pending new files to the previous files for that day. SOCS delivers files once. Sunrise information is extracted from CARE and CAR in a batch job that runs at approximately 7:00 p.m. CST five nights per week each night but Friday and Sunday. The SOCS data is extracted each Friday morning as the first step in the weekly process. Once the data is gathered on TEAR data, Sunrise steps through the manipulation process. Data is scored, campaign criteria is applied. Export files are built and sent. Targeted records are loaded. History data is archived and summary tables are updated. This weekly

lead generation process is completed by approximately 5:00 p.m. each Friday."
Q. First let me ask you, are you responsible for the creation of this document?
A. I don't know.
Q. Okay. That comes from -- that single page comes from what has been marked as
0059
DAN-9 in our proceedings which is -- is that DAN-9 or DAN-8 -- actually it's --
MR. NILSON: Different versions of the same document.
MR. CRUZ-BUSTILLO: Do you have DAN-8?
NILSON: I have both.
MR. MEZA: Are we changing Bates numbers since you were referencing?
MR. CRUZ-BUSTILLO: No, I was just going to show him -- ask him to look at the first page of the manual and see if he can identify his name as the individual who -- on the revision history of this document.
THE WITNESS: Yes, it is my name on the first page of the revision history of this document, of this document that you just handed me here.
MR. MEZA: Which is DAN-8?
THE WITNESS: DAN-8.
MR. CRUZ-BUSTILLO: And then let me just show you DAN-9. See, here's DAN-9, Jim, and then I was going to ask him to look at the
0060
first page.
MR. MEZA: DAN-9 is dated June 14th, 2001.
MR. CRUZ-BUSTILLO: 2001.
MR. MEZA: It's Bates stamped 001049.
A. My name is there as well.
Q. Okay. And what does that mean that your name is there? What's the significance of that?
A. I'm the author of the document.
Q. Okay. So would it be fair to say that you were the author of that paragraph?
A. If this paragraph is in one of those documents, yes.
Q. Okay. Let's go to -- you can keep it in front of you. I have some notes here. One of the things that -- the document says that Sunrise steps through the manipulation process. It says data is scored. What does that mean, data is scored?
A. I believe that means that we look at the spend levels for BellSouth retail
0061
customers for the purpose of before we actually apply the targeting criteria.
Q. Okay. And what's the targeting criteria?
A. The campaign criteria as it's listed here.
Q. Okay. When you say it's scored, is

that revenue generated from the account when they were an existing BellSouth customer?
A. That would be -- that could be part of it, yes.
Q. Okay. In there it says that export files are built and sent. Where are those export files built?
A. Within Operation Sunrise.
Q. Is that within the MKIS area?
A. Within the Operation Sunrise database.
Q. So when the -- would it be correct to say that once the permanent Sunrise table is populated, that that is considered -- that the record has been built?
MR. MEZA: Object to the form.

0062
A. What this document is referring to is the actual creation of the lead record to be sent to a third party.
Q. And is a lead record done by MKIS?
A. Yes.
Q. And it's done using the record or using the information that populates the permanent Sunrise table?
A. It uses the records that we've gotten from -- through the process for local toll product or local service that's in the Sunrise database.
Q. I'm sorry. I thought that the permanent Sunrise table only had local switches?
A. No; no.
Q. Ms. Summers says that it did.
MR. MEZA: Object to the form.
A. I don't know what Ms. Summers said about that but it's got more than just local service.
Q. Well, let me ask you this. Ms. Summers told me that there was a separate

0063
feed other than the Harmonize feed for product changes and that it populated another database and maybe it's my understanding. When I'm thinking of a permanent Sunrise table, I'm thinking of one table. Are there different tables that MKIS has access to that has different information?
A. There's many tables in Operation Sunrise.
Q. That MKIS has access to?
A. That Operation Sunrise as a part of the MKIS organization, yes, has access to.
Q. One of those tables is for local service -- switches?
A. At this point in the process according to this document, we would export data from the Sunrise database and it would include local service, local toll, and product feature winback at this point according to this document.
Q. Okay. Let's not look at the document now.

A. Okay.

0064

Q. I want to know your personal knowledge --

A. Okay.

Q. -- in working in MKIS.

A. Uh-huh.

Q. Do you actually generate leads for the outside marketing vendors?

MR. MEZA: What time period?

MR. CRUZ-BUSTILLO: I'm asking him now in his position in MKIS does he actually -- does he actually create leads.

A. Operation Sunrise creates the leads, yes.

Q. My question is, from the permanent Sunrise table, is there some sort of computer program or is it done manually that extracts -- that generates the leads for the outside vendors?

A. It's a computer program.

Q. How many files are created a week in your group?

MR. MEZA: Object to the form.

Q. Let me restate that. How many

0065

individual leads are created on a weekly basis to be shipped, to be sent out to third-party vendors?

A. And you're referring only to Operation Sunrise?

Q. No, I'm referring to your personal knowledge in dealing with Operation Sunrise and generating leads in the MKIS group.

A. MKIS generates lots of leads, not just for Operation Sunrise, so you want to know on a typical week how many lead lists we generate. Is that what you're asking me? Can you ask me again now? MKIS generates lots of lead lists. Are you asking me specifically the number of lists that we generate through Operation Sunrise or throughout MKIS?

Q. No, I'm asking specifically regarding switches, local service switches.

A. Today?

MR. MEZA: In Florida.

Q. I don't know, answer -- Florida and region wide, answer both.

MR. MEZA: I object to the form of

0066

the question, the scope of the question. Go ahead.

A. Operation Sunrise generates local service leads one file -- one file -- one lead list -- that's two lead lists a week.

Q. There's two lead lists a week?

A. Yes.

Q. And does that account for switches for the previous seven days?

A. It includes those and more.

Q. Okay. And how many are included in each one of those two lists?

A. How many records?

Q. Yeah.
A. How many leads?
Q. How many leads, records? If you're using leads and records interchangeably, yes.
A. And I'm just referring now to local service because those lists also include local toll and product feature, so generally the number of leads going out would be probably I would just guess 100,000.
Q. Is that 100,000 per list because

0067

you've said there's two lists that go out a week?
A. I'm including both of those together.
Q. Okay. Now, let me go back to my question regarding -- oh, is that Florida or region wide?
A. Region wide.
Q. Where's your office located?
A. My office?
Q. Yeah.
A. Is in Birmingham, Alabama.
Q. Okay. Let me go back to the question about the permanent Sunrise table. Is there a different, and maybe I'm mischaracterizing it so please correct me, is there a permanent Sunrise table for local switches, another permanent Sunrise table for product changes, and another permanent Sunrise local table for toll switches; is that correct?
A. No.
Q. Are all three different groups on

0068

one table?
A. They're in one -- they're in one table, yes.
Q. How is it that you distinguish between each group?
A. We assign codes internally in MKIS to those particular groups of records.
Q. And what are those codes?
A. You want to know what the actual code is?
Q. Yes.
A. Each one -- each group has a couple of different codes but there would be a code for local service that would begin LS something, something, something.
Q. Is that numerical or a letter?
A. Those are letters. Local toll has LT something, something, something, and product I'm not sure exactly what the code is, it may be PR, but I'm not sure about that.
Q. Followed by a letter, letter, letter?
A. I think they're letters. I think

0069

they're letters.
Q. Okay. Let's go back to the document in front of you, and in the long paragraph, I don't know where it is, but it referred to

history data is archived. Could you tell me to your knowledge where the lists are archived or what is that referring to? What data?
A. I don't remember specifically what that is.
Q. Okay. Summary tables are updated. What does that mean, what tables?
A. I'm not sure exactly what those are.
Q. Okay. Thank you very much. Can you give that back to me.
MR. CRUZ-BUSTILLO: We're going to mark this as what number was it?
MR. MEZA: Seven.
MR. CRUZ-BUSTILLO: Seven.

(Whereupon, Plaintiff's Exhibit 7 was marked for identification and a copy of same is attached hereto.)

0070

(End confidential.)
Q. Okay. I'd like to refer to page -- actually this is a question I should have asked Ms. Summers. I did not because I had written down that Wolfe had said it but let me ask you. Page seven, lines 10 through 13 beginning with the words information relating to. Could you read that sentence so I can ask you a question?
A. "Information relating to Supra customers resides in the part of the SIW that is accessible to BellSouth's Interconnection Services, ICO organization, and is used by ICS in connection with BellSouth's provision of wholesale service to Supra."
Q. What Supra customer information resides in SIW that's used that's being referred to in that sentence?
MR. MEZA: Object to the form.
A. I don't know.
MR. CRUZ-BUSTILLO: Okay. Why don't we do this, why don't we take a five-minute break because I know where I'm going to start

0071

right now and we should be done very shortly.

(Whereupon, there was a brief recess taken from 9:59 a.m. to 10:08 a.m.)

Q. (By Mr. Cruz-Bustillo) Okay. We're on the record. Mr. Wolfe, how are you this morning?
A. So far so good.
Q. Okay. Let's turn to page ten of your testimony, lines 18 through 15 -- no, I'm sorry, eight through 15.
MS. DODSON: Could I check, are we off confidential?
MR. MEZA: Yes.
MR. CRUZ-BUSTILLO: Yes, we're back off confidential. When it's confidential, do certain people have to leave the room, is that what's going on?

MS. DODSON: No, we just want to clarify for the record.
MR. CRUZ-BUSTILLO: Okay, good.
Q. (By Mr. Cruz-Bustillo) Let me look
0072
at your testimony first before I -- okay. I'm going to ask you to read lines eight through 15 and so that the purpose of you reading the testimony here is I want to provide a context of the first of the three boxes that I envisioned in my mind, which is the Harmonize database, then you have the temporary database, and then the permanent and what goes on between each one, so if you could please read lines eight through 15 into the record, we'll start from there.
A. "Each night SOCS creates an extract file of all orders from the preceding 24 hour period. The extract file is posted to a main frame repository which resides in a computer environment separate from the SIW, and each night using the Harmonize feed, various types of orders, including retail and wholesale disconnect orders and orders of other types, are harvested from this extract file and downloaded into a database on the SIW called the Harmonize database. The Harmonize database is separate from the Sunrise database
0073
on the SIW."
Q. Okay. Now, before I get to my question, can we turn to page five, lines ten through 13, and can you read me the sentence that begins with the word all?
A. "All disconnect orders insert a new, change, and transfer orders flow nightly into the Harmonize database on the strategic information warehouse, a data warehouse via a data feed called the Harmonize feed which is sourced from SOCS."
Q. So these two sections of your testimony is consistent with what you told me earlier that all different types of orders are pulled out to this first Harmonize database; is that correct?
A. SOCS contains all orders and certain orders -- order types are pulled out into Harmonize, yes.
Q. And like on page five lines ten through 13, that's new orders, change orders, transfer orders?
A. Where does it say -- it says --
0074
Q. Lines ten through 13.
A. Right, all disconnect orders and certain new, change, and transfer orders.
Q. And earlier when you talked to me about D orders, N orders, C orders, T orders, did that reflect your testimony on page five, lines ten through 13?
A. Disconnect orders, right, new orders, change orders, and transfers, yes.
Q. And while you wrote change order,

just so that we are clear, included in that category would be single C orders; is that correct?
A. C orders are included, yes.
Q. Thank you. Okay. Now let's turn to page ten beginning on line 17 through 19 and then -- actually all the way through 24. This section has to do with or is it not that this section has to do with what information is moved from the Harmonize database to the temporary Sunrise table; is that correct?
A. Yes.
Q. Could you read that section into the

0075
record, lines 17 through 24?
A. "Once each week Operation Sunrise downloads from the Harmonize database all of the completed residential orders from the preceding seven days into a temporary table. If an order has not completed or is not associated with a residential account, Sunrise does not download it into the temporary table."
Q. Okay. Let's stop there right there. So business accounts won't make it to the temporary Sunrise table. Would that be correct?
A. That is correct.
Q. Okay. Please, go on.
A. "Next, Sunrise eliminates all orders except D and C orders."
Q. Okay. Let's stop right there. So the only thing moving down -- the only orders moving down to the temporary Sunrise table are disconnect orders and C orders; is that correct?
A. Actually at that point it's all in

0076
the temporary table and we are eliminating all orders but D and C orders.
Q. Okay. Let me ask you, when you said C -- the sentence reads, "Next, Sunrise eliminates all orders except D and C." Is it correct to say that the -- at the completion of this filtering process that the temporary Sunrise table will only contain, according to your testimony, D orders and C orders?
A. Correct.
Q. Okay. C orders there, are you referring to single C?
A. Those would be included.
Q. Would product changes be included in there?
MR. MEZA: Object to the form.
A. Yes.
Q. And what is the basis of that answer?
MR. MEZA: Object to the form.
A. I don't understand your question.
Q. Okay. It's my understanding from your testimony that all residential accounts

0077
with a disconnect reason code of a competitive

switch -- strike that.
When you say C orders, do you mean change orders too?
A. Yes.
Q. How do you define change orders?
A. A change order is an order that the retail unit could use to make a product feature change, a PIC change -- an LPIC change on a BellSouth residential retail account.
Q. I thought all LPIC changes flow from CARE into Operation Sunrise; is that correct?
A. Operation Sunrise, for the purpose of its local toll reacquisition activities, uses only CARE.
Q. Okay. And then from CARE it flows into -- from CARE does it flow to the Harmonize database?
A. No.
Q. Okay. So then the LPIC change you just talked to me about wouldn't move from the Harmonize database to the temporary Sunrise table; isn't that correct?

0078

A. Not from CARE it wouldn't.
Q. Well, you just told me that a LPIC wouldn't move from the Harmonize database to the temporary Sunrise table, and now you just told me that it moves from CARE and it doesn't go to the Harmonize table, so my question is, how can an LPIC move from a Harmonize database to the temporary Sunrise table?
A. LPIC --
MR. MEZA: Wait a minute. I'm going to object to this line of questioning, but go ahead.
A. CARE is one source of identifying an LPIC change. Service orders, specifically change orders, would be another way to identify LPIC changes.
Q. Okay. Let's go to lines 21 through 24. Could you read me that last sentence?
A. "Next, Sunrise eliminates all orders except D and C orders. At this point, the temporary table contains all orders and SOCS from the previous seven days that involve completed disconnections of residential retail

0079

service, both CLEC initiated disconnections and those initiated by BellSouth's retail operations."
Q. Okay. So if completed disconnects are only moved to the temporary Sunrise table, would it be correct to say that a single C while pending would remain in the Harmonize database?
MR. MEZA: Object to the form.
A. This temporary database contains only completed orders.
Q. So would a noncompleted order be moved from the Harmonize database to the temporary Sunrise table?
A. No.
Q. On page five, lines 13 through 16, I

believe that's your testimony, yes, lines 13 through 16, could you read me that last sentence beginning with the local service?

A. "The local service reacquisition function of Sunrise processes data from the Harmonize database on a weekly basis in a manner that filters out any information that

0080

could even arguably be considered CPNI or wholesale information."

Q. What information is filtered out that you consider to be CPNI or wholesale information?

A. Disconnect reason codes.

Q. What else?

A. That's all.

Q. That's the only thing that's filtered out?

MR. MEZA: Object to the form.

Q. Is that the only thing that's filtered out?

MR. MEZA: Object to the form.

A. That is the only criteria used for filtering is disconnect reason codes.

Q. Do you consider the name of the competitor to be wholesale information or CPNI information?

A. I don't know.

Q. For the purposes of generating leads to market to a former customer, does it matter to you what competitor the customer went to?

0081

A. Operation Sunrise has no idea about that.

Q. Well, I'll get back to that question. You're saying that the MKIS employee dealing with the records that populate -- the permanent Sunrise table have no idea. Is that what you meant by that answer?

A. Operation Sunrise and the employees therein have no idea who the carriers are.

Q. Okay. Well, that wasn't my question. Let me ask you this, is -- when you say Operation Sunrise, do you mean the feed beginning from SOCS and including the three tables we discussed? Is that all included in Operation Sunrise?

A. When I refer to Operation Sunrise, I mean the part of the process that begins with the weekly extraction of data from Harmonize.

Q. You mean the information that's moved from the Harmonize table to the temporary Sunrise table?

A. That is the beginning of Operation

0082

Sunrise in my view.

Q. Okay. What about the Harmonize feed that brings the information from the SOCS to the Harmonize database? Is that part of Operation Sunrise?

A. I don't consider that a part of Operation Sunrise.

Q. But the Harmonize feed itself was developed to support Operation Sunrise; isn't that correct?
A. Not to my knowledge.
Q. Okay. So the Harmonize database contains disconnect reason codes that can identify where the order has its origins from; that's true?
A. Yes.
Q. Okay. The temporary Sunrise table has identifying codes still attached to those account records identifying the origins of that order; that's correct?
A. Yes.
Q. So when it finally reaches the Sunrise permanent table and those disconnect

0083

reason codes have been filtered out before that file hits that permanent table, your testimony is, is it correct, that the person now viewing those files in that table have no idea of the origins of the order; is that correct?
A. My testimony is personnel never see any of that because it's a program.
Q. Okay. But then Operation Sunrise above the personnel where all the filtering takes place, those systems, computer systems, do have criteria that would allow it to know where the orders had its origins from?
MR. MEZA: Object to the form.
MR. CRUZ-BUSTILLO: Okay. You can answer the question.
A. Okay. Ask that again, I'm sorry, to be clear.
Q. Okay. You told me at the beginning of this line of questioning that Operation Sunrise in higher corporate program of activities didn't know where the orders originated from, whether it be retail or

0084

wholesale. But now through this line of questioning, you've acknowledged that the Harmonize database can tell where the orders have their origins from -- the temporary Sunrise table can tell where the origins of the orders -- where the origins are from, but that the only time the origins of that order -- where you cannot identify the origins of that order is when it hits the permanent Sunrise table, so my question is, it's not accurate to say that Operation Sunrise, the entire group of corporate activities, doesn't know the origins of those orders. Portions of -- is it not correct that portions of Operation Sunrise do have codes that would allow you to identify the origins of those orders; isn't that correct?
A. No, Operation Sunrise is a set of programs that runs and it does the filter. No one knows -- Operation Sunrise does not track the origin of orders.
Q. Okay. I just want to be clear and

be accurate. You said Operation Sunrise again
0085
versus personnel in the MKIS office or group, and that's where I'm confused because I have already asked you the question that the Harmonize database contains orders that have identifying codes allowing you to determine the origins of the orders; is that a yes?
A. Yes.
Q. And we have also now determined that the temporary Sunrise table contained codes allowing you to identify the origins of the order; correct?
A. Correct.
Q. Both the temporary Sunrise table and the Harmonize database are within Operation Sunrise?
A. No, I meant --
Q. Wait; wait; wait. My question is, not what you meant, my question is, is the temporary Sunrise table and the Harmonize database within Operation Sunrise?
A. Temporary database is within Operation Sunrise. The Harmonize database is not.
0086
Q. Okay. Earlier in your testimony you made a distinction between a Harmonize database being within Operation Sunrise but the Harmonize feed not being within Operation Sunrise. Are you now changing your testimony?
A. I don't remember what I said. The fact is is that Operation Sunrise in my view and in this testimony starts with the temporary database, and Operation Sunrise, the feed that comes -- weekly feed out of Harmonize. That Harmonize database -- that Harmonize database is outside Operation Sunrise.
Q. You just said that your testimony starts with the temporary Sunrise table. I thought I had you begin on page ten, lines eight through 15 where we began discussing the Harmonize feed and that the Harmonize database, quote, on line 14 and 15 is separate from the Sunrise database on SIW?
A. Right, Harmonize database is separate from the Sunrise database.
Q. Okay. Well then, let me ask you
0087
this question, would you admit that the temporary Sunrise table is within Operation Sunrise?
A. Yes.
Q. Okay. So it would not be correct to say that Operation Sunrise does not know at some point in time the origins of an order?
MR. MEZA: Objection, argumentative.
MR. CRUZ-BUSTILLO: Answer the question.
A. Operation Sunrise at that point in the temporary table has disconnect reason code information in it.

anymore.
Q. And CO
A. CO is
reason code, yes
Q. And ca
again before I a
stands for?
A. "Compe
the consumer bus
Q. I am n
been Bates stamp
it's Bates stamp
I -- before I ge
generated, I thi
side at BellSout
A. To my
Q. Okay.
first. I'm goin
first sentence a

0091

MR.
Q. Could
begins with the
MR.
you point it to
A. "Note,
completed discon
disconnect reaso
receive a mail p
Q. So if
CO would not rec
and if a DCR is
it moves from th
the permanent Su
correct to say t
DCR of CO would
Sunrise table?
MR.
question because
document that's
MR.
the question, Mr
A. At the

0092

written, CO was
Q. Excuse
A. At the
this document, C
select from the
the permanent ta
Q. Okay.
because I'm not
That first sente
that you do not
order that has a
isn't that corre
A. The ti
correct.
Q. Okay.
updates to the s
document since J
A. No.
Q. Okay.

Q. Thank you. Now, let me go back to my original question before we even went down this line which was, when you're generating a lead for an outside vendor, the knowledge that the person has switched in the last seven days is -- strike that.
When you're generating a lead, is it relevant to you who the customer switched to?
A. No.
Q. You just want to know that they

0088

switched?
A. Yes.
Q. Thank you. You told me earlier that for a competitive disconnect generated from the retail side of BellSouth operations that the disconnect reason code is a CO; is that correct?
A. That is one code that could be used, yes.
Q. What other code could be used for a customer on the retail side moving from one -- from BellSouth to a competitor?
A. I don't know -- I don't know what possible codes could be used in their entirety. I know of one other one that could potentially be used.
Q. What's that?
A. That code is NF.
Q. And what does NF stand for?
A. No further use.
Q. Okay. So that would be a -- that would be a complete disconnect?
A. They're all complete disconnects.

0089

Q. Okay. But that wouldn't be a switch to a competitor; isn't that correct?
A. I don't know -- I don't know. All I know is that it could be used for that purpose.
(Begin confidential.)
Q. I think I showed you earlier -- I think I showed you earlier one of the exhibits. I think I -- I showed you earlier on Plaintiff's Exhibit Number 5 here in the Operation Sunrise manual. It's Bates stamp 001056. This is confidential. Right here I'm going to show him this here where it says Sunrise tags again.
A. Uh-huh.
Q. This comes from the Sunrise manual that you earlier testified that you produced.
A. Yes.
Q. The two codes there for residential switchers are JL and CO; is that correct?
A. That is correct.
Q. Okay. Are there any other codes there?

0090

A. No.
Q. Is it correct that you testified that JL is not used anymore?
A. To my knowledge it's not used

still be affected. Would that be a reasonable conclusion?
A. I don't know.
Q. Would you do something not in

0093

accordance with the procedures set out by you?
MR. MEZA: Object to the form.
MR. CRUZ-BUSTILLO: Okay. Again, the question still stands.
A. No.
Q. No?
A. I would not do something outside of the procedures set by me.
Q. So then if that's the case, you would not send a direct mail piece to an order that contains a disconnect reason code with CO. Would that be correct?
MR. MEZA: I'm going to object to the form of the question.
MR. CRUZ-BUSTILLO: Answer the question, Mr. Wolfe.
A. At the time of this document, we did not send mail pieces.
Q. Okay. And now you've just said that you don't act inconsistent with the document; correct?
A. I said that.
Q. And the document hasn't been

0094

modified since June 14, 2001; correct?
A. Correct.
Q. Thank you. So my question is, if the DCRs are removed from the orders when they move from the temporary Sunrise table to the permanent Sunrise table, and you do not send a mail piece to an order that contains a CO, wouldn't it be reasonable to conclude that orders containing a DCR of CO are filtered out before the records are moved from the temporary Sunrise table to the permanent Sunrise table?
A. And you're talking about today?
Q. I'm talking about consistent with the procedures that you have now testified remain in effect today.
MR. MEZA: Object to the form. He didn't testify to that.
A. I did not testify to the fact that this document -- that these procedures are in today. I did testify that this document -- there has not been a further document since this time. So your question is, is it today

0095

or in the time frame of this document that you're showing me?
Q. Mr. Wolfe, just for the record, you said that you act consistent with the procedures; correct?
A. Correct.
Q. That these procedures have not been modified since June 14, 2001; correct?
A. I said the document has not been modified.

Q. Okay. So now, you can answer it in both parts. Answer it as of June 14, 2001. Would that file, and then I'll get to the second question which is today, let's do June 14, 2001, would a file with the disconnect reason code of CO be moved -- be filtered out from the temporary Sunrise table and not be moved to the permanent Sunrise table?

A. June 14th, 2001, the CO -- any record with a CO disconnect reason code would not have received a mail piece.

Q. And we know that all files that end up in the permanent Sunrise table are built --

0096

I think the -- built and sent to outside third-party vendors, so if a CO does not receive a mail piece, would it be reasonable to conclude that that file would be filtered out before the file is moved from the temporary Sunrise table to the permanent Sunrise table?

MR. MEZA: Object to the form.

A. At the time, June 14th, 2001 --

Q. Yes.

A. -- a CO disconnect code would have been in the permanent table and would not -- mail pieces would not have been sent out for that record.

Q. Okay. Well, let me ask you, you have testified and others have testified in rebuttal testimony that disconnect reason codes are eliminated from files that populate the permanent Sunrise table. So if a file with a disconnect reason code of CO made it to the permanent Sunrise table, are you now telling me that the disconnect reason codes are not filtered out, that they remain on that

0097

file populating the permanent Sunrise table?

A. The process today --

Q. No, let's go back to June 14, 2001, first and then we'll go to today.

A. June 14, 2001, the CO disconnect reason code was on the permanent Sunrise table and we did not send a mail piece.

Q. Okay. So June 14, 2001, disconnect reason codes did appear on records that populated the permanent Sunrise table. Is that what you're saying?

A. According to this document, JL, CO, and others were in the permanent Sunrise table.

Q. Okay. Let's jump to today now because your personal knowledge, you weren't there in June 2001 even though you drafted this document. Well, let me ask you something, were you there in June 2001?

A. Yes.

Q. Did you work with Michelle Summers?

A. She was my -- yes, I did.

Q. Okay. But it was your

0098

responsibility to deal with the day-to-day

mechanics of exporting the files, building them and sending them to third-party marketing vendors; is that correct?

A. My group did that, yes.

Q. So you were there in June 2001?

A. I was.

Q. Let me go back to June 2001 for a second. Were the orders that originated from a CLEC service order, did they also contain their disconnect reason codes when they populated the permanent Sunrise table?

MR. MEZA: In June of 2001?

MR. CRUZ-BUSTILLO: Uh-huh; yes.

A. Okay. Say that one more time. Let me make sure I get it right.

Q. My pleasure. In June 2001, you have now said that a service order with its origins and BellSouth's retail division kept its CO when it populated the permanent Sunrise table. When that file hit the permanent Sunrise table, it still had a little CO. My question is, for all those orders that originated from

0099

a CLEC service order, did they also contain their BR, RT, BC, whatever those codes were?

A. The disconnect reason codes -- competitive disconnect reason codes June 14, 2001, were JL or CO.

Q. So if they were JL, you knew that they had their origins from competitive service orders, CLEC service orders?

A. Yes.

Q. Okay. And when they populated the permanent Sunrise table, you could see CO or JL; correct?

A. Correct.

Q. At what point did you stop using the JL?

A. August 2001.

Q. Okay. And you replaced it with BR, RT -- I don't want to mischaracterize it -- BC, those codes?

A. No.

Q. Well, let me ask it in two parts. Was JL replaced upstream Harmonize database, temporary Sunrise database? Was the JL

0100

replaced with the BR, BC, RT?

A. JL was not replaced.

Q. Well, the disconnect reason codes I thought earlier in your deposition here we established were those BR, BC, BF. Those are electronically generated by either the OSS or the LCS; is that correct?

A. That's correct.

Q. And if we're not using JL anymore, is it incorrect for me to conclude that JL was replaced with these other new codes?

A. What do you mean by replaced?

Q. What do you think I mean by replaced?

MR. MEZA: Object to the form. You're asking him to guess what you think

replace means.
MR. CRUZ-BUSTILLO: Well, Mr. Meza, I just want to use his definition because later on I don't want --
MR. MEZA: Right.
MR. CRUZ-BUSTILLO: Give me your interpretation of my question, then ask for a

0101

clarification, and what do you think I mean and we'll move from there.
MR. MEZA: I object to the form of the question. Go ahead.
A. When you say replaced, it sounds to me like we took a JL code and replaced it with a BR or a BC.
Q. Okay. Then let me ask it a different way. Not did you replace it. JL is no longer being used; correct?
A. Correct.
Q. We've established that. BR, RT, BC are currently being used, is that correct, upstream?
A. Outside of Operation Sunrise, yes.
Q. And when you say outside Operation Sunrise, you're talking about the Harmonize database and the Harmonize feed?
A. The Harmonize database, the Harmonize feed, and SOCS, yes.
Q. And LCSC?
A. Yes.
Q. Okay. Now, we're back to today and

0102

we're back to the permanent Sunrise table. What we've established is that back on June 14, 2001, you would look at the permanent Sunrise table and you would see a record with the CO or JL. Now today, you look at the permanent Sunrise table and you still see a CO in a code or you do not see any disconnect reason codes?
A. We do not see any disconnect reason codes.
Q. Are you still -- is the -- if there have not been any updates to this procedural manual that you created --
A. I don't know if that's the right word.
Q. -- that you produced.
A. Authored.
Q. If there have not been any updated to the document that you've authored, is it your policy today not to send a direct mail piece to a order that has a disconnect reason code of CO?
A. Today, that CO code is filtered out.

0103

Q. With respect to a switch for local service that originates from a CLEC service order, or let me go back and further originates from CLEC LSR, going through either LENS or the LCSC, to your knowledge, would there ever be a reason not to assign a disconnect reason code to those orders?

CONFIDENTIAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 030349-TP

In re: Complaint by Supra Telecommunications and Information Systems, Inc. Regarding BellSouth's Alleged Use of Carrier to Carrier Information.

_____X

4th Floor
2620 S.W. 27th Avenue
Miami, Florida
Tuesday
August 26, 2003
8:12 a.m. - 11:25 a.m.

CONTINUED DEPOSITION

of

DAVID A. NILSON

taken pursuant to Notice,
on behalf of the Debtor

- - -

APPEARANCES:

JAMES MEZA, III, ESQ.,
In-house Counsel,

On behalf of BellSouth Communications.

JORGE L. CRUZ- BUSTILLO, ESQ.,
Assistant General Counsel,
On behalf of Supra Telecom.

ALSO PRESENT VIA TELEPHONE:
LINDA DODSON
LEVENT ILERI
EVERETT BROUSSARD
JERRY HALLENSTEIN
CARL VINCENT

- - - - - - - - - - -

I N D E X

WITNESS

DAVID A. NILSON — Page

Continued Direct Examination by Mr. Meza — 3

- - - - - - - - - - -

Thereupon:

DAVID A. NILSON

was called as a witness and, after having been first duly sworn, was examined and testified as follows:

CONTINUED DIRECT EXAMINATION

BY MR. MEZA:

Q. Good morning, Mr. Nilson.

A. Good morning.

Q. Thank you for accommodating my schedule and meeting with me at this deposition, continued deposition today.

What did you do in the interim between the conclusion of your deposition on Friday and starting up the depo again today, which is August 26th, in relation to the testimony you're going to give today?

A. In regards to this docket in its entirety, I did very little except to inquire a little bit about our outbound telemarketing.

Q. Okay. And what did you find?

A. That cold call that you received is part of a program that's been running for less than 60 days, and we probably got your telephone number -- not probably, we got your telephone number from a list of residential home owners we purchased.

Q. And from whom did you purchase the list?

A. I don't have that information.

Q. Is the cold call -- outbound cold call program still in place? Are you still doing it?

A. To the best of my knowledge, yes.

Q. Do you have a more updated list than what you originally used when I was contacted?

A. No.

Q. Same list?

A. Yes.

Q. Is the list for just South Florida, or is it for the entire State of Florida BellSouth region?

A. I didn't ask that question.
Q. Who did you talk to to find out about telemarketing outbound?
A. Mr. Lambert.
Q. Does your testimony change in light of these new facts relating to Supra's policies relating to CPNI and the education of those policies on those individuals who are responsible for making these outbound telemarketing calls?
A. No, only the realization that we do have an outbound telemarketing program at this time, for the first time, probably, since 1997.
Q. And are these domestic employees making these calls or international -- or your international folks

making the calls?
A. I believe they're international.
Q. Okay. Did you ask Mr. Lambert whether or not the international employees were -- or how they were trained relating to the United States CPNI laws?
A. Well, I told you in our last conversation that we have one set of common training rules for all employees in the call center operations. They were trained like every other employee --
Q. All right.
A. -- call center employee.
Q. Okay. Can Supra use -- strike that.
I believe you testified that Supra does not use the PMAP line loss report to generate a list of potential win-back customers; is that correct?

A. That's correct.
Q. Could Supra use the PMAP line loss report to identify potential win-back customers?
A. Could? I'm not sure I understand what you mean by could, so let me give you a full answer.
Q. Sure.
A. When we talked the other day, I was under the understanding that we were using PMAP to conclude our billing, to render a final bill to the customers.
Q. Yes.

A. That was the other piece of research I did since we last spoke.
Q. Okay.
A. While we're aware that we could do that, we are actually still closing our bills out based on the BellSouth J bills, so we don't actually have a functioning interface to PMAP for closing out the bills. So when you say "could," I would say there's a technical impediment to being able to do that as part of the answer.
If that's not the question, you were asking --
Q. Yeah.
A. -- then, logically, I think PMAP has the ability to inform us of customers who leave for marketing purposes.
Q. I think we were talking on different levels. I was asking you whether or not Supra could use the fact that PMAP notifies Supra that it lost a customer to target that lost customer to come back to Supra.

A. Were we to do additional work, we could get that information from PMAP.

Q. What additional work do you need? It tells you specifically that you lost a customer, gives you the name, phone number.

A. Right, but we don't have people sitting reading

PMAP and making phone calls. We would incorporate that into a system that would then drive an outbound dialer, et cetera, et cetera.

Q. I see what you're saying. So what you're saying is that there's not a process currently in place that mechanically allows Supra, or electronically, to generate a win-back marketing activity in relation to the PMAP line loss report?

A. That's correct. We wouldn't do it manually.

Q. Okay. Would you agree with me that all the information that you would need to identify potential win-back customers is contained in the PMAP line loss report?

A. I don't know if I could or could not.

Q. Well, you would agree with me that the name of the customer is identified, correct?

A. Again, like I said, I haven't looked at PMAP in about a year and a half.

Q. Let's see if we can refresh your recollection. Are you familiar with Mr. Ruscilli's rebuttal testimony?

A. Yes.

Q. Did you review it in relation to this

proceeding?

A. I reviewed it last week.

Q. Okay. Did you see his exhibit identified as JAR-1?

A. Yes.

MR. MEZA: Okay. I'll show it to counsel to make sure he doesn't have any objection.

BY MR. MEZA:

Q. And can you identify what this is?

A. This is Exhibit JAR-1 to Mr. Ruscilli's testimony, and it has a heading at the top of the page that says, "BellSouth Performance Measurement and Analysis Platform," which is the full name for the acronym PMAP. Further --

Q. What's the date -- I'm sorry. I don't mean to interrupt you.

A. The date of this, the run day is July 23, 2003, and this happens to be one of many reports in PMAP, the one entitled, "Line loss notification."

Q. All right. And do you see the category named OCN or field OCN?

A. Right. That's Supra's operating company number.

Q. So you're not disputing that this is Supra's line loss notification report as of July 23, 2003, to the best of your knowledge?

A. No.

9

Q. Okay. And there is -- on the first page of Exhibit JAR-1, there are two categories separated by a line. There's the first category dealing with abandoned station, and the second category dealing with request to transfer.

I want to focus on the request to transfer category.

A. Yes.

Q. You would agree with me that -- well, what is your understanding of a request to transfer to mean?

A. Well, according to the heading in the Request to Transfer section, it says that the customer has requested service from another carrier.

Q. So they're leaving Supra to go to another carrier; is that correct?

A. That's what it says, yes.

Q. And you would agree with me that -- and although it's redacted and I understand if you cannot agree with me -- but there are certain category identifiers in the section entitled Request to Transfer dealing with telephone number, correct?

A. Uh-huh.

Q. The name of the customer and the completion date, which -- what is your understanding of completion date?

10

A. I have none.

Q. Okay. Do you have any reason to believe that that is not the date in which the transfer was completed

from Supra to another carrier?

A. No, not really.

Q. So would you agree with me that, at least for the category of lines attributed to the section Request to Transfer, that you get the telephone number and name of a customer that you lost that went to another carrier; is that correct?

A. Yes.

Q. Okay. Supra paid for the list of numbers, residential numbers, that you referenced earlier in your testimony today; do you know?

A. Yes.

Q. Why would Supra pay for that information when it can easily just use the PMAP line loss report to identify potential win-back customers?

A. Oh, two completely different objectives. The outbound telemarketing program is not a win-back campaign. It's a campaign to acquire new customers that aren't currently Supra customers, and in so doing, the residential homeowner list that we purchased was the ideal list of customers to contact as a first contact.

Q. Is your testimony the same today as it was on

Friday relating to Supra's win-back activities, that it's minuscule?

A. Yes.

Q. Okay. So nothing that you learned from Mr. Lambert changes your testimony relating to Supra's activities relating to the acquisition of customers that it has lost?

A. That's correct. He didn't identify any programs in that regard.

Q. Okay. Do you know why Supra doesn't have win-back activities ongoing on a greater scale than what you testified?

A. Well, it might actually be an issue of manpower.

Q. Do you know for a fact, or are you just speculating?

A. Speculating.

Q. Do you think it's important in the marketplace that both our companies face today that we acquire -- attempt to re-acquire customers who leave Supra to go to another carrier?

MR. CRUZ-BUSTILLO: Objection, calls for speculation.

THE WITNESS: I don't know.

BY MR. MEZA:

Q. You don't know? You don't think that that's important?

A. Again, if you want me to give you my opinion?

Q. Yeah.

A. I would -- I would think that customers that had a bad experience, had a known bad experience should definitely be contacted.

Q. Supra doesn't do that?

A. To the extent that we have had correspondence with customers or Public Service Commission complaints, yes, we do try to work with the customers in those

areas.

As far as having an organized program to go back and identify customers that we lost to contact them, that's not -- that's not been a very large part of what we do.

Q. Okay. Would you agree with me that the FCC has characterized retention marketing efforts as being something different than win-back efforts?

A. Well --

Q. And that's a pretty bad question, so I'm going to object upon myself and try it again.

Would you agree that the FCC has described retention marketing differently than win-back marketing?

D

A. I would agree that, in some cases, they described it identical to win-back, and in other cases they've made separate rules.

Q. Okay. Well, let's talk about your understanding of retention marketing, when that occurs.

A. Before the customer -- let's say the customer is a BellSouth customer. Retention marketing is what you would do to prevent that customer from becoming a Supra customer or becoming a customer of another ALEC.

Q. And do you disagree with that definition of retention marketing or retention efforts?

A. No.

Q. So would you agree with the statement that the concept of win-back can be divided into two distinct types of marketing, marketing intended to either, one,

regain a customer or, two, retain a customer? Do you agree with that?

A. Again, like I said, in reading the FCC orders, there's pieces of retention marketing that are identical to win-back rules, and there's pieces that are separate. If you look hard enough, you can make both cases.

Q. Right, but you would agree with, fundamentally, they are two separate concepts?

A. Predominantly because, in one case, the

customer hasn't left, and the other case, the customer has left.

Q. And your position is that if you read the rules, that some of the rules or all of the rules are the same for retention and win-back; is that your position?

A. Can you repeat that, please?

Q. And your position is that some of the rules, or maybe even all of the rules, are the same for both retention and regaining?

A. I said there's places where the rules are the same. There's places where the rules are different.

Q. So you do agree that there are some different rules for retention marketing activities versus win-back marketing activities?

A. Certainly, in win-back you have a prohibition on not contacting the customer within a certain time frame.

Q. Okay. Do you have any reason to believe that

when the FCC used the phrase "retention," that it's talking about something other than what it has defined, and I'm going to show you the specific paragraph --

A. That would help.

Q. -- of FCC Order 99-223, issued on September 3rd, 1999, Paragraph 65, and I've highlighted for you

what I think to be the relevant provision, but feel free to read as much as you want.

MR. CRUZ-BUSTILLO: Okay. Look at the highlighted portion and all of 65.

THE WITNESS: I've read it.

BY MR. MEZA:

Q. Do you have any reason to believe that when the FCC uses the word "retention," that it's referring to something other than the situation that's defined in Paragraph 65, which is marketing activities to a customer prior to the complete conversion of that customer to a competitor?

A. No.

Q. Okay.

A. What this does, this shows the example where win-back is used to talk about both situations, but then they prohibit themselves from using win-back further to talk about retention, which is the confusing aspect.

Q. Yeah, but you would agree with me that when the FCC uses the word "retention," it's talking specifically about the situation where a customer is in transition, a pending order situation --

A. Uh-huh.

Q. -- where they've submitted an order to switch to Supra, BellSouth has yet to complete that conversion

16

order, and BellSouth initiates some marketing activities while that conversion order is pending?

A. Well, I agree that's a piece of retention, but I think that's a subset of the entire retention issue.

Q. Well, what else is retention?

A. Well, I'm not clear that, in that definition, that they include a prerequisite of having already received a CLEC order to convert. I know that was discussed in the FPSC case, but I don't see it mentioned in that particular paragraph.

Q. So what you're saying is that retention isn't necessarily triggered by a CLEC LSR? It's just any attempt to persuade the customer not to switch?

A. As I understand that paragraph, in that paragraph, they're talking about the broad scale of retention, which would include any activities you undertake while the customer is yours --

Q. Okay.

A. -- and not that limited subset that happens after a CLEC LSR.

Q. I don't think we have a disagreement on that.

Is it Supra's position in this case that BellSouth is using pending orders to trigger marketing activities through Operation Sunrise?

A. I'm not certain if we made that claim or not.

17

Q. Okay. Today, do you know if Supra is contending -- are you contending that BellSouth uses pending orders in Sunrise?

A. I don't think we made that claim. I don't think that's our position at this point.

Q. So you would agree with me that Sunrise relates to completed disconnect or service orders --

MR. CRUZ-BUSTILLO: Objection to form.

MR. MEZA: -- in the acquisition?

MR. CRUZ-BUSTILLO: Objection to form, because they are pending at some point in the whole operation when they reach the bottom. Since we are in agreement on what happens, it's pending somewhere upstream, and downstream they become -- they are not used until --

MR. MEZA: I'll rephrase it.

BY MR. MEZA:

Q. The leads that are generated from the Permanent 2, would you agree with me that those leads were the result of completed disconnect orders, as far as you understand the Sunrise operation process?

A. Well, that's been the testimony I heard, and my only problem with saying it unequivocally as to that is that it's not always been clear what specific mechanism considers an order completed in order to move it in the Sunrise table.

I know we questioned Mr. Wolfe on that. I wasn't particularly clear at what stage in the process of an order it's considered completed. For example, as you may know, an order can be physically completed and

then still run into clarifications after the physical work is done, due to billing errors, post-completion hold errors.

This is what comes to mind, and so I'm not real clear if the Sunrise system escapes that kind of problem or whether it would include it.

Q. But you're not contending that we are using pending orders?

A. I don't see that it's your intent to use pending orders.

Q. Okay. Now, Friday you testified that it's your belief, based upon hearing Mr. Wolfe's testimony, that Sunrise is capturing CLEC-to-CLEC orders, CLEC-to-BST orders, and conversion orders from resale to UNE-P? Remember that?

A. I remember we had that discussion.

Q. Okay. And I just want to make sure that I understand that your understanding of why -- the basis for your understanding is based on Mr. Wolfe's testimony; is that correct?

A. Mr. Wolfe's testimony and the documents

produced in discovery.

Q. Which specific documents? Are you relating to the R-5 discovery or the discovery that BellSouth produced in this proceeding?

A. Well, certainly the R-5 discovery as it related to Sunrise work orders.

Q. And do you know what --

A. And that those being the most recent.

Q. Do you know -- that wasn't attached to your testimony as an exhibit, was it?

A. No, these were specifically the more recent exhibits that were used in Mr. Wolfe's deposition.

Q. Okay. Anything else from your exhibits or from your testimony or from something that we've produced to Supra in discovery in this proceeding?

A. Let me check my exhibit list --

Q. Sure.

A. -- because there's several exhibits to my testimony that -- do you have a copy of my testimony that's not missing the exhibit list pages?

Q. I do. I have marked some Xs on ones that --

MR. CRUZ-BUSTILLO: Yeah, don't worry about it.

MR. MEZA: -- the ones I didn't like.

MR. CRUZ-BUSTILLO: The ones you didn't like. What was this one?

THE WITNESS: Which one?

MR. CRUZ-BUSTILLO: What was this one about?

THE WITNESS: This one?

MR. CRUZ-BUSTILLO: Yeah.

THE WITNESS: That's --

MR. MEZA: Okay. Hold on. I don't think it's proper for you to ask him questions in the pending --

MR. CRUZ-BUSTILLO: All right.

THE WITNESS: I would say Exhibits DAN-6, 7, 8 and 9 form the basis to -- although some of those are older than the exhibits I referred to.

One point, though. When we started this line

of questioning, you referred to statements that I made regarding what Sunrise acts on. As I recall, when we talked Friday, we were talking about records getting into a table as opposed to Sunrise actually operating on those records, because I made different testimony regarding, for example, the case where customers switch back to BellSouth. I said it was obvious that Sunrise wouldn't send mailings on that.

BY MR. MEZA:

Q. But you didn't make that distinction for the CLEC-to-CLEC migration, or did you?

A. I'm not sure if you asked me.

Q. I'm asking you now, then. Did Sunrise use

CLEC-to-CLEC migration order information, to the best of your knowledge?

A. Well, again, the answer to that would be based on exactly what DCR code was assigned to that. If that -- if that CLEC-to-CLEC migration is assigned a competitive disconnect code by the LCSC, then it would make its way all the way through the Sunrise table, unlike the move back to BellSouth, which would only make it as far as a temporary table and be purged at that stage.

Q. Okay. So if the CLEC-to-CLEC order contained a disconnect reason code of RR, do you know what that is -- or TR?

MR. CRUZ-BUSTILLO: I think it's RT.

BY MR. MEZA:

Q. RT, what is that?

A. RT, it's a reseller transfer, I believe.
Q. And --
A. And if I recall, that's one of the DCRs that's purged out of the temporary table.
Q. All right. Who wrote your direct testimony?
A. I did.
Q. I notice that in describing your work experience, you didn't reference any experience relating to federal or state CPNI laws or rules; is that

accurate?
A. I'm not real clear on what credentials I could claim, or anyone could claim in that regard. I mean, there's a law, and I'm not aware of any degree or educational program to become accredited in that regard.
Q. So the answer to my question is, no, you didn't reference any specialized training regarding CPNI in your background or experience?
A. That's correct.
Q. Do you consider yourself an expert on federal CPNI law?
A. I don't know what one has to do to be considered an expert in that regard.
Q. Okay. Do you believe that the Commission should believe your interpretation over Mr. Ruscilli's interpretation or my interpretation of how the CPNI laws should be applied to the facts in this case?
A. Why, certainly.
Q. And what is the basis for that belief?

A. The testimony I make is consistent with the rules and the regulations.

Q. Based upon your understanding of those rules and regulations?

A. That's correct.

Q. Starting on Page 6, you have a caption or a heading entitled "OSS Overview," and I know that on Friday we cleared up some issues relating to what I perceived to be indirect claims Supra was making in relation to the different interfaces Supra uses compared to the retail side, but, in general, where did you obtain your understanding of BellSouth's OSS?

A. In terms of the OSS, obviously, I received input from many places, largely from BellSouth public documents, BellSouth documents that were provided in discovery, training programs that I took with other ILECs, the experience of actually placing orders or processing orders with the BellSouth system and seeing the results of the system, and the testimony of various BellSouth witnesses and experts, both in the OSS dockets before the FPSC and in various Supra dockets, as well.

Q. So would you agree with me, or would it be a fair characterization to say that the majority of your understanding of BellSouth's OSS came from BellSouth documents or BellSouth testimony?

A. Yes, I think it makes perfect sense that when we are discussing proprietary software, that the people who wrote the software are the people that would tend to have the documentation to explain it.

Q. From Pages 6 to 14, can you identify any

portion of your testimony that did not come from BellSouth or a document provided by BellSouth, and I want you to stop at 11. not 14. I'm sorry.

A. On the top of Page 7 where I point out the distinction without a difference -- that it's my opinion that it's a distinction without a difference having computers view information that human beings are prohibited from viewing.

Q. What line are you at on Page 7?

A. Line 1.

Q. Where do you see this distinction without a difference reference on Page 7? We're looking at the same testimony?

A. Let me look at your version. Maybe I have an old --

MR. CRUZ-BUSTILLO: I'm just looking at Page 7.

THE WITNESS: I'm sorry. I'm in my rebuttal testimony. You're in the direct testimony?

BY MR. MEZA:

Q. Yeah, from Page 6 to 11.

A. Sorry.

Q. That's okay.

A. I'm in the wrong document.

Okay. Page 6, Lines 13 through 21 is my description or my attempt to put into play the language

the way the pieces of BellSouth's OSS fit together.

Q. But before you move on, you would agree with me that your interpretation is based upon documents or testimony that BellSouth originally provided to you? You don't have this independent knowledge of BellSouth's OSS?

A. Not as it refers to these lines. We'll get to that more. I would tend to agree pretty much in regards to Page 7, except I'll make mention of the fact that BellSouth is not the only ILEC that uses CRIS and SOCS, and I am personally familiar with some of the people that wrote the code for CRIS, as you are, the consultants at Engle, so what I've learned about CRIS is also from what they told me went into CRIS when it was first constructed.

Q. Okay.

A. Certainly LFACS and COSMOS are fairly industry standard things, and I've learned not only from BellSouth but from Telcordia, the author, and from Southwestern Bell Telephone through training programs there.

I would say the rest of Page 8, I would agree with you on.

What I know about EDI comes from quite a large number of other companies, both ILECs, software

companies that have implemented EDI, and standards organizations.

EDI is a fairly industry-neutral standard that has had telecommunications customizations placed upon

it, so understanding EDI is not strictly a BellSouth issue.

Q. What about TAG?

A. What I know about TAG itself is from BellSouth. What I know about CORBA comes from other sources. CORBA is largely the -- I like to think of it as the UNIX version of Active-X controls under Windows. It's a standard by which objects are transportable between software systems.

Obviously, my familiarity with the Telcordia LSOG and ASOG come from those documents themselves and not from BellSouth, as does RSAG.

Over on Page 10 where I get into paper orders, starting on Line 9, paper LSRs are more nearly industry standard, although, obviously, the specific local customizations to the LSOG that BellSouth makes I learned from BellSouth, because you do it differently than Southwestern Bell and differently than Verizon does the same thing.

Q. I'd like you to stop on Line 14.

A. I'm sorry?

Q. Stop on Line 14 on Page 11.

A. Okay.

Q. Okay. So I think -- make sure I understand what you're -- what you just testified to is that the information that you set forth on Pages 6 to 11 describing BellSouth's OSS either came from BellSouth itself or industry standards or descriptions that you've come across in your employment at Supra?

A. Or from using the systems themselves.
Q. Or from using the systems?
A. Yes.
Q. Okay. Now, on Page 10, Lines 9 to 10, you state, "Paper orders are required for virtually all services except POTS."
A. Yes, sir.
Q. What's the basis for that statement?
A. BellSouth business rules.
Q. Okay. And what services specifically are paper orders required?
A. All complex services, anything from a simple two-wire ISD and BRI, PRI, T-1 service. Like I said, virtually any service that's not POTS service results in a complex order which is involved with the servicing inquiry, paper service inquiry, followed by an order.
Q. What percentage of Supra's orders are required

to be submitted manually? Another way to say it, are not regular POTS lines?
A. Well, those two statements don't accurately track.
Q. Okay. Answer the first one.
A. I don't have a precise number on the number of orders that are required to be submitted manually. We predominantly issue POTS orders, greater than 99 percent. That doesn't necessarily mean that every POTS order we issue can be submitted electronically. We get into situations oftentimes with customer billing where the LCSC tells us to submit a paper order.

Q. Okay. Well, let me see if I can clarify the question. For those business rules that you're referencing on Page 10, Lines 9 through 10, which require manual submission of an order, is it your testimony that that applies to less than one percent of Supra's orders?

A. For which category now?

Q. I'm trying to understand the magnitude of your statement that paper orders are required for virtually all services except POTS, and you testified that Supra submits, over 99 percent of the time, POTS orders.

A. That's correct.

Q. Okay. No further questions on that.

Go to Page 14, Lines 25 through 29, following on Page 15, Lines 1 through 4, and let me know when you've had a chance to read it.

A. All right.

Q. Okay. What is the basis of your knowledge regarding the --

A. Exhibit DAN-17 to my direct testimony.

Q. And what did you mean in saying, and I quote, "Thus, a common TCP/IP over Ethernet connection serves to provide access to" -- I have a typo here. Is it LL or all?

A. All.

Q. -- "all BellSouth's OSS is directly via BOSIP. All that is needed is a simple, common Ethernet jumper wire between existing TCP/IP LAN and the router in BellSouth's data center connecting to the BOSIP network

to a connection."

What does that mean?

A. That really comes from the quote or the cite immediately above it, and what that means is that, within your data processing infrastructure, you have essentially two data communication regimes. Your newer systems are all connected together via TCP/IP over Ethernet, things like LENS, TAG, et cetera.

Your older systems, which execute on

mainframes, use a mainframe communication protocol that's known as bisynchronous, also known as 3270, is the actual specification for that protocol, something I've done a lot of work with in the past.

In order to facilitate communications between the older data communication regime and the newer data communication regime, you guys have installed Hewlett Packard 7050 computers essentially as protocol translators between the two networks in such a fashion that a work station sitting on the TCP/IP over Ethernet system can easily and simply access the older bisynchronous protocol systems operating on the mainframe by running through one of these gateway translators and accessing the data, you know, if the security allows for it.

Q. Okay. And is this statement in reference to your testimony relating to the different interfaces that CLECs use and BellSouth's retail side uses to submit orders?

I mean, I'm trying to understand why this is

even in here.

A. You built a platform that allows things like Sunrise to be added to it in a relatively simple fashion, provided it's authorized to do so.

Q. So it's not related to your testimony preceding

that, in relation to -- or following that testimony in relation to the different ordering mechanisms that you believe provide discriminatory or don't provide nondiscriminatory access?

A. Like I told you Friday, we differ on that matter, but I'm not raising it here. This paragraph is here simply to show how relatively easy it is, using modern architecture, which I would consider to be TCP/IP over Ethernet, to not only talk to the BellSouth new systems that were built on that protocol, but actually get access to the mainframe systems so that a system like Sunrise can be put together simply using modern-day programming tools and not have to delve into the intricacies of interfacing the mainframes, because you've done that on a global -- on a network basis.

Q. Why is that important for you to point out, the fact that it's easy to establish something like Sunrise?

A. Well, it chose the ability of a system like Sunrise to get access to all the various data that it needs to do its operation.

Q. Okay.

A. There's no real technical impediments to accessing records from any system.

Q. In your opinion?

A. Well, yeah, that is something I've done for the last 30 years.

Q. I'm not challenging your opinion. I'm just saying it's based upon your opinion?

A. Yes.

MR. MEZA: Jorge, can we take a five-minute health break?

MR. CRUZ-BUSTILLO: Sure, absolutely.

(Thereupon, a recess was taken.)

BY MR. MEZA:

Q. Mr. Nilson, are you familiar with CARE data?

A. I am.

Q. Does Supra receive CARE data?

A. Well, we certainly -- we certainly generate input into the CARE system, and we receive, as I understand it, a report on paper of PIC and LPIC changes, which, while it represents CARE information, I'm not 100 percent sure if it's fully CARE data, but for all intents and purposes, we get the information.

Q. So when you lose an LPIC customer, you're notified of that? Do you agree with that statement?

A. No, I don't.

Q. You don't? You don't get notified?

A. To the best of my knowledge, we have no LPIC customers. All of our customers that subscribe, for

example, to Total Solution, we subcontract that from

BellSouth, CIC Code 94-17.

Q. What about -- I'm sorry. I didn't mean to interrupt you.

What about your basic retail line customers who make an inter-LATA toll call? Are you saying that Supra is never the inter-LATA toll provider?

A. Up until today, as we speak, I think that's a true statement, yes. Supra has never been the inter-LATA provider.

Q. Do you know if CARE data -- that if a customer in switching their LPIC also switches their local service provider at the same transaction, if CARE data provides notification of both the loss of the LPIC and the loss of the customer on the local side?

A. Say that again.

Q. Okay. Let's take -- for instance, let's use a third party that's not involved in this case, an AT&T local customer.

A. Okay.

Q. AT&T is also the LPIC for the customer. AT&T -- the customer switches both local service and LPIC to another carrier. Would the CARE data relating to that transaction reflect the loss relating to the LPIC and the local service or just the LPIC?

A. Both. As a matter of fact, at one time, I would say going back to the June, July, August 2000 time frame, we had serious problems and a rash of Public Service Commission complaints because when we would convert a customer from BellSouth retail to Supra,

BellSouth's CARE system would send a message to, in your example, AT&T saying that the customer was no longer a BellSouth customer.

What would happen then is that customer would lose any preferential pricing plans they had and essentially be reduced to being billed at a casual calling rate, even though they may have built up a preferential discount over 40 years of service.

So yes, the notices -- the notices that a customer leaves one carrier for local service are included in CARE. At one time, those notices were a lot noisier than they are now and you had to back off on that because it was causing complains and problems.

Q. Okay. Do you have a problem with the fact that CARE tells BellSouth that it lost an LPIC customer and a local service customer?

A. Well, BellSouth already knew. I mean, first, they knew because we issued the LSR.

Q. I'm saying --

A. And then the LSR flowed into CARE.

Q. Okay.

MR. CRUZ-BUSTILLO: Objection to the fact that --

THE WITNESS: And then CARE got published.

BY MR. MEZA:

Q. Let me characterize -- rephrase my question to state it another way.

Does Supra believe that the retail side is notified through CARE that it lost an LPIC customer and

a local service customer?

MR. CRUZ-BUSTILLO: Objection to form. Who on the retail side?

MR. MEZA: The retail side, the marketing department on the retail side --

MR. CRUZ-BUSTILLO: Marketing.

BY MR. MEZA:

Q. -- is notified from CARE that BellSouth lost an LPIC customer and a local service customer.

Is that notification violative of any CPNI laws?

A. You're saying when the customer was a BellSouth retail customer?

Q. And LPIC.

A. And using BellSouth for LPIC?

Q. Yeah.

A. Then they -- and they get notified that both those situations changed --

MR. CRUZ-BUSTILLO: Talking about -- finish, Dave.

THE WITNESS: -- as a result of that --

BY MR. MEZA:

Q. Transaction.

A. -- transaction?

Okay. I understand the situation now. What was the question?

Q. The question is, in that situation, is the notification through the CARE data to BellSouth's retail side in the marketing department violative of CPNI law?

A. Yes.
Q. Why?
A. Because that information is the result of a wholesale order, and by FCC Order 03-42, Paragraph 28, you're not allowed to use any information derived from a wholesale order in any carrier marketing activity at all. So yes, I have a problem with that.
Q. Is it also your opinion that if we were just notified of the loss of an LPIC customer, that that is also violative of CPNI law?
A. Who's "we"?
Q. BellSouth.

MR. CRUZ-BUSTILLO: Who at BellSouth?
MR. MEZA: BellSouth retail.
MR. CRUZ-BUSTILLO: But who at BellSouth retail?
THE WITNESS: I mean, are we talking about the cessation of billing through CRIS, or are we talking about marketing efforts?
BY MR. MEZA:
Q. CARE data. CARE data telling BellSouth retail that they lost an LPIC customer.
MR. CRUZ-BUSTILLO: Objection to form.
THE WITNESS: You know, I mean, that's a very broad question. It includes areas of BellSouth where I think they're entitled to get that information, and it includes areas from BellSouth where I think they're not entitled to get that information.
BY MR. MEZA:

Q. All right. BellSouth's marketing?
A. Not entitled.
Q. Under an LPIC notification?
A. Not when it comes from competitive disconnect, no.

Now, the fact of the matter is, in Supra's case, chances are when we take that customer from BellSouth, you're going to get -- you're actually going

to get an LPIC win, not an LPIC loss. In better than 63 percent of the time, you're going to get a win, not a loss, but that's a side issue, because all of our Total Solutions customers are LPIC to BellSouth.
Q. Why is that?
A. That's the way we implement the product.
Q. Do you ask them if they want to be BellSouth customers?
A. No, a Total Solution customer is a BellSouth local toll customer, period. That's the way the product is implemented.
Q. How can you make that decision for the customer?
A. That's what the product is.
Q. Okay.
A. The customer can choose to have a different carrier, but they can't get the same rate plan.

MR. CRUZ-BUSTILLO: They're a local --

MR. MEZA: I don't want your explanation, Jorge. Thank you.

MR. CRUZ-BUSTILLO: All right.

BY MR. MEZA:

Q. Okay. Go to Page 17, Lines 1 and 2. Where in the key customer order, and when I refer to the key customer order, I'm referring to Order Number

PSC-03-0726-FOF-TP, does the Florida Public Service Commission state that BellSouth must use, quote, commercially available information in a form available throughout the retail industry?

I'm handing you the order now.

A. It would be between Pages 44 and 48, if memory serves me right.

MR. CRUZ-BUSTILLO: I'm pointing out the page number, that's all.

(Discussion off the record.)

THE WITNESS: I would say it begins --

BY MR. MEZA:

Q. Now, specifically let me ask my question. I'm quoting your direct testimony where they say, quote, BellSouth must use commercially available information in a form available throughout the retail industry.

A. I don't see any quotes in my answer.

Q. I'm quoting you.

A. Okay.

Q. They must use commercially available information in a form available throughout the retail industry.

Where is that specific sentence found in the key customer order?

A. Okay. Once again, bottom of Page 46, top of

Page 47, where the PSC quotes the FCC order 03-42, Paragraphs 27 and 28. It's in Paragraph 27.

Q. Paragraph 27, okay.

MR. MEZA: Okay. Jorge, I'm going to have to ask you to stop pointing out --

MR. CRUZ-BUSTILLO: You're right. For the record, I was pointing to something. Okay, correct.

BY MR. MEZA:

Q. Here's Paragraph 27. If you can find for me where it says commercially available information in a form available throughout the retail industry.

A. Mr. Meza, I've already told you once before, my answer does not use quotation marks to where I'm quoting literally from the document. My answer paraphrases it. So if you're looking for -- I mean, if you're trying to trip me up on one or two words --

Q. No, no, I'm not trying to trip you up.

A. -- it's not going to happen.

Q. I don't see anywhere in Paragraph 27 -- just give me one look at it.

A. All right. "We clarified to the extent that the retail arm of an executing carrier obtains carrier change information through its normal channels in a form available throughout the retail industry and after the carrier change has been implemented, such as in

disconnect reports, we do not prohibit the use of that

information in executing carriers' win-back efforts."

Q. Okay.

A. "This is consistent with our finding in the second report and order that an executing carrier may rely on its own information regarding carrier changes in win-back marketing efforts so long as the information is not derived exclusively from its status as an executing carrier. Under these circumstances, the potential for anticompetitive behavior by an executing carrier is curtailed because competitors have access to equivalent information for use in their own marketing and win-back operations. We emphasis that when engaging in such marketing, an executing carrier may only use information that its retail operations obtain in the normal course of business. Executing carriers may not at any time in the carrier marketing process rely on specific information they obtained from submitting carriers due solely to their position as executing carriers."

Q. Okay. Thank you.

A. You want me to stop?

Q. Yes.

A. There's more, but --

Q. And I'm focusing on the phrase that you used in paraphrasing Paragraph 27, "commercially available

information."

Are you saying that that's the same as, in your opinion, the same as --

A. Let me answer the question.

Q. -- available throughout the retail industry?

A. I say that commercially available information in a form available throughout the retail industry is the same thing as carrier change information through its normal channels in a form available throughout the retail industry.

Q. Okay. Thank you.

Now, move on to Lines 9 and 10 of your direct testimony.

A. What page?

Q. Page 17.

A. Okay.

Q. What is the basis for your statement that, "In reality, the so-called retail customer disconnects are the result of an ALEC LSR. When Supra wins a customer from BellSouth, BellSouth doesn't know to put in a disconnect order, they receive a conversion order from Supra."

What's the basis for that statement?

A. When customers -- when customers change carriers, by and large, they notify the acquiring

carrier with no further notification to the losing carrier. It's not 100 percent of the time. You will find exceptions to that rule, but in my estimation, it's greater than 98 percent of the time.

That's based on what I've heard your witnesses testify to previously, and it's consistent with our experience here at Supra.

Q. Okay.

A. Most of the time, we don't get prior notice of

a loss. The customer is just gone.

Q. What do you mean by the statement, "When Supra wins a customer from BellSouth, BellSouth doesn't know to put in a disconnect order, they receive a conversion order from Supra"?

A. We're specifically talking about a retail CSR putting in a disconnect order with a disconnect reason of CO in this regard. I'm not talking about what the LCSC does through a competitive disconnect. I'm strictly talking about a retail CSR and coding a disconnect with a CO.

And the reason for that is very simple -- or the proof of that is very simple. The vast majority of the orders that Supra submits to BellSouth are change or change as is or change -- switch as is and switch with changes, okay?

Q. Okay.

A. Were a retail CSR to put in a disconnect order because of a customer notification, it's not possible to do a change. The line is disconnected. You would have to do new service. So the proof is there.

Q. The proof is there supporting your position that the majority of orders come in through your ALEC LSR and not through the retail side? Is that what the proof is?

MR. CRUZ-BUSTILLO: Objection to form.

THE WITNESS: No, the proof is there based on the vast number of orders we submit to you as switch as is or switch with changes, that there wasn't a prior

disconnect in the line done through BellSouth retail.

BY MR. MEZA:

Q. Okay. Is this statement in relation or related to -- I believe your contention is that in a single C order, no disconnect order is generated? There is no D order?

A. This is -- this is my characterization of what volume of orders have a disconnect that's coded by the LCSC as opposed to what volume of orders have a disconnect coded by BellSouth retail CSRs.

Q. Is it Supra's position that Sunrise is doing something improperly because it harvests single C change

orders, rather than disconnect orders?

MR. CRUZ-BUSTILLO: Objection to form.

THE WITNESS: You know, my answer to that would be look at FCC Order 03-42, Paragraph 28, where it says, "Executing carriers may not at any time in the carrier marketing process rely on specific information they obtained from submitting carriers due solely to their position as an executing carrier."

It would be my contention that that applies equally to D & N orders and to single C orders.

Now, my testimony in regards to C orders versus D & N orders is essentially in rebuttal to what I've heard BellSouth's position to be prior to this, and particularly the Dick Anderson training videos and Power Point presentations, which make an explicit statement that the D order belongs to BellSouth retail and they have the perfect right to key off of that and making the

contention, obviously, in a single C world, that issue is not -- while I don't agree with what Mr. Anderson put in his training, it's far more money in a single C world.

BY MR. MEZA:

Q. You're not suggesting that BellSouth's OSS treats a D order differently than a single C order relating to the disconnection of service associated with

that order, are you?

A. I don't even understand your question.

Q. Okay. You're not taking the position that in a single C conversion order, there isn't -- BellSouth's OSS does not -- strike that.

In a single C --

A. Would you like me to help you out?

Q. Yes.

A. I believe that whether a D & N order is issued or whether a single C order is issued, the same technician's role and do the same activities to disconnect the telephone service.

Q. What about in relation to BellSouth's OSS?

A. I would think BellSouth's OSS would have to give them the same triggers and notifications in either case.

Q. Okay. So you would agree that in a single C change and in a disconnect order, there has to be some notification to actually disconnect the service on the BellSouth side?

MR. CRUZ-BUSTILLO: Objection.

THE WITNESS: At least -- you know, at least in regard to the billing. Obviously, you know, when it's a switch as is, all you're doing is making a billing change. You're not touching anything else, but

I generally do agree with what you're saying.

BY MR. MEZA:

Q. When I read your testimony relating to single C, I was under the impression that you are saying that because no D orders are generated, that means BellSouth must be communicating with the wholesale side to identify the single C orders, because Sunrise is triggered by disconnect orders. Is that accurate or is that not accurate?

MR. CRUZ-BUSTILLO: Objection.

THE WITNESS: It's a little fuzzy. I mean, my real concern gets back to the exhibits I presented on the training on competitive landscape that was authored by Mr. Anderson, and the video associated with that, where I have a huge problem with what's in that document as saying that the disconnect order is solely BellSouth's possession and you're allowed to key marketing activities off of it.

I don't think the FCC order allows you that flexibility, and I wanted to make the point that the Public Service Commission should consider whether or not in a D & N world there's something valid to what he says that it positively couldn't be true in a single C world.

BY MR. MEZA:

Q. Okay. Well, let me cut to the chase.
A. I don't think it's -- I don't think it's a valid use of the D order in either case.
Q. Okay. Is it your position that, regardless of how an order is submitted, whether it's a D order or a single C, the fact that BellSouth uses or does not use that order, that ALEC LSR to initiate certain activities in Sunrise, that's violative of CPNI? Whether it's a D order or a C order, or a single C, doesn't concern you?
MR. CRUZ-BUSTILLO: Objection to form, only because you mentioned about CPNI, because we are doing carrier to carrier.
MR. MEZA: Okay. That's fair enough.
THE WITNESS: No, I think -- you know, I think your technical groups and your billing groups have to have that notification. You know, to a certain extent, you may make a case that virtually all of BellSouth Telecommunications is entitled to that information, except the marketing department, except Operation Sunrise, you know, they shouldn't get it under any circumstance.
BY MR. MEZA:
Q. All right. And just to make sure I understand, it doesn't matter in your opinion whether it's a single C or a D? They both should not be used in marketing?

A. That's correct.
Q. All right. Look on Page 21, Lines 32 to 34.

MR. CRUZ-BUSTILLO: What numbers?

MR. MEZA: Page 21, Lines 32 to 34.

BY MR. MEZA:

Q. What do you mean by the statement, "BellSouth doesn't market to the list of customers they post on PMAP, they market to the list of customers that Supra does not post or sell to anyone"?

A. Well, with hindsight, I would have worded that a little differently. It isn't real clear.

Take the whole paragraph in context. I talk about how BellSouth posts lines on PMAP. Then I make the statement Supra doesn't make its disconnect list available to any party. So there's no commercially available disconnect list of Supra's customers that isn't solely derived from the LSRs we submit.

In other words, we don't compile a list of LSRs that we submitted disconnect customers and make that information available to anyone, including ourselves. Therefore, that list doesn't show up on a PMAP site, which is what I'm referring to in the sentence on Line 32 through 33, there's no Supra PMAP site, and I didn't make that very clear. Therefore, BellSouth is not referring to a Supra PMAP site. You're marketing to the

list of customers we don't make available in list form to anyone.

Q. Well --

A. You have a PMAP site. We don't.

Q. Right, but that PMAP site provides you with your data, not BellSouth's data.

A. Right, but that's not what I'm stating here.
Q. Okay. What are you trying to state? Because I'm still confused.
A. I'm saying, other than the LSRs we submit to BellSouth, there is no Supra-generated disconnect list. That's what I'm saying in this paragraph.
Q. Okay. Is it your contention that BellSouth should be marketing to customers that Supra lost?
A. No, but you're marketing to customers we gain.
Q. Yeah, I'm just confused by the whole sentence, and I think you've clarified it.
A. We don't make these lists available to anyone. My point is, we don't make these lists available to anyone. We simply submit LSRs to BellSouth.
Q. Right.
A. Any marketing activity is based on customers Supra wins or loses.
Q. And my question to you is --
A. Is either coincidence or it's derived from the

fact that we submitted an LSR, because there's no other list anywhere.
Q. And my question to you is, what is the significance to this case of the fact that Supra doesn't create its own PMAP notification site identifying the customers that are lost?
A. I would say the significance is that anyone that's marketing to customers that we gain is in violation of Paragraph 28 of FCC Order 03-42.
Q. And why is that?

A. Because you're using information derived solely from a CLEC LSR as a result of being the executing carrier of that order to do marketing, which you would not otherwise have.

Q. So what you're saying is that if Supra has generated and made it available, this list of customers that they lost --

MR. CRUZ-BUSTILLO: I think he said gained. I think that's where the -- I didn't want to jump in. He's saying gained.

THE WITNESS: Gained or lost. I mean, in either case, we don't create the list; therefore, it's not available. Were it to be available, then you would have an argument.

BY MR. MEZA:

Q. Could I see that for a second, your direct testimony?

A. I take that back. You might have an argument.

Q. Okay. Getting back to your direct testimony, but I'm focusing on Page 22, Line 6 through 12, if you could read that, please?

A. All right.

Q. Okay. Do you believe that BellSouth uses a FOC in Sunrise?

A. It's my understanding of the way Sunrise works is that when a FOC is generated in SOCS, that order moves into the Harmonized table. Based on the testimony I heard from Mr. Wolfe last week, it stays there until it gets a completion notice, and then it goes into the

temporary table where it's sorted and filtered before moving to the permanent table.

Q. So the answer to my question is, no, FOC isn't used?

A. Well, certainly the FOC is the trigger for the entire activity.

Q. Well, let's see if we agree what a FOC is. A FOC is BellSouth telling Supra this is the date that you can expect the conversion order to be completed?

A. Right, and it's also what triggers the record to move out of the SOCS system through the Harmonized

feed into the Harmonized table, where it sits until it receives a completion notice.

You don't wait on the completion notice to move it. You move it on the FOC. So as a result, you're using the fact that we successfully submitted an order to extract that order from SOCS.

Q. Well, I thought we previously established that it's not the successful completion -- or submission of an order, but the completion of the order that Sunrise focuses on.

MR. CRUZ-BUSTILLO: Objection to form.

THE WITNESS: Well, no, that's not what I said. It's quite clear that a firm order commitment moves the record from SOCS into the Harmonized table. Now, I sat in a deposition last week, and the definition of Sunrise started at the Harmonized table. So I would have to disagree with you based on Mr. Wolfe's definition of where Sunrise starts.

Now, without being obtuse about the whole thing, obviously, it sits in the Harmonized table and doesn't -- it's inert. It doesn't do anything in the Harmonized table. It actually has to move to the temporary table and the permanent table before a marketing lead can even be considered, and that step takes the completion notice.

BY MR. MEZA:

Q. Okay.

A. Okay? But the fact -- the selection criteria out of all of the millions and billions of records that flow through SOCS, it's the firm order commitment that selects that record for potentially moving farther into the Sunrise system.

Q. Are you making, as part of this proceeding, an issue relating to the difference between D & N orders and the single C submission of orders?

A. Again, we had this discussion a few minutes ago. You're talking about this section of my testimony on Page 22, between Lines 15 and 20, where I essentially rebut Mr. Anderson's competitive landscape training document which states that we have the right to access a D order because it belongs to us, and I'm now making the contention that in a simple C world, there is no such separate disconnect order. There's a common order. So the whole logic by which he rationalizes that they're free -- that you are free to use the D order while not being free to touch the N order now kind of evaporates because there's one order. There's one in the same

document flowing through the system.

Q. All right. Can I have that back, please?

Exhibit DAN-2, I believe it's referenced as a

notice that BellSouth sent to you with a PIN number?

A. Uh-huh.

Q. And an 800 number?

A. Uh-huh. Again, PIN number being the customer code that was discussed at length last week.

Q. That's the PIN number you're referring to?

A. Well, you present it as a PIN number on the document, but, in reality, it is the customer code.

Q. Do you know what the purpose of this notification was, DAN-2?

MR. CRUZ-BUSTILLO: Objection to form.

THE WITNESS: I mean, I can tell you what the letter stated.

BY MR. MEZA:

Q. Yeah, why don't you tell me what the letter stated?

A. I couldn't quite divine what the purpose of it would be for BellSouth to send a mailing for a line that was converted from resale to UNE, except that it's not visible in your system that that wasn't an order going from one CLEC to another CLEC, because, indeed, those lines are recorded under two different operating company numbers.

Q. Let me ask you a different question. DAN-2 deals with a notice sent by BAPCO to you, as set forth

56

in your testimony, asking you if you want directories, correct?

A. Noticing me that they noticed there was a change in my service.

Q. And asking you if you want directories?

A. Uh-huh.

Q. Yes?

A. Yes.

Q. Okay. And if you want directories, it asks you to call this 800 number and use a PIN that it provides?

A. Uh-huh.

Q. Correct?

A. Uh-huh.

Q. That's a yes?

A. Yes.

Q. Okay. Did you call that 800 number?

A. I didn't need to. I had neither a change in my service, nor did I have any need for directories.

Q. Okay. Do you know if this PIN number that's provided by BAPCO on the notice is your customer code and not just a regular PIN number to access whatever information they need to provide you with the directories if you want them?

A. No, it's the customer code. The use of that PIN number is fairly consistent at BellSouth in terms of

57

identifying the true and accurate owner of the telephone line.

Q. And whose customer code is that? Is that BellSouth's customer code?

A. Well, at that point, it would have to -- you see, I heard some very conflicting testimony from Mr. Wolfe the other day saying a customer code is this and that. We've been through this at length, both in BellSouth training that I have attended and in past proceedings with BellSouth.

Every time an order is submitted on the line, that code number changes, and that's the mechanism by which you're able to keep multiple copies of -- multiple historical copies, if you will, of my customer record in CRIS. If I win a customer from you, the very fact that I issue an LSR on that line makes a change to the customer code, and so now there's a telephone number customer code combination from when it was your customer and a telephone number customer code combination from when it's my customer.

Then if I come along two days later and add Caller ID to the line, the customer code changes again, and thus, the records are preserved across time.

Q. Okay. What troubles you about what Mr. Wolfe said? Because he said it was the BellSouth customer

code.

A. I'm not sure where that's available to the system. At the point at which that record is extracted from SOCS, the customer code is already changed. It changes as a result of a successful firm order confirmation process.

Q. But how do you know that?

A. This has been my training. I was trained in that, and I've heard testimony in that regard from Mr. Payton. We had extensive discussions with the UNE trainers that were sent here in June 2001 in this regard.

Q. So is it -- well, do you know where in the process BellSouth's OSS places its customer code on the service order generated from a CLEC LSR?

A. Say that again.

Q. Do you know where in the process, the order flow process, where BellSouth's OSS places the customer code on a service order that's generated from a CLEC LSR?

A. Well, I know that customer code is changed as a result of the firm order confirmation in SOCS.

Q. All right. That wasn't my question. Do you know where in the process is the customer code placed on a service order?

A. I thought I answered the question.

Q. I don't think you did.

A. I thought I answered the question that when the firm order confirmation comes, the customer code is placed on the record there. I think what you're concerned about is whether or not I know whether there was a customer code there before the FOC.

Q. Correct.

A. And I don't know the answer to that.

Q. So you don't know, for instance, if in LESOG --

well, in LESOG, the LESOG places BellSouth's customer code on the service order, and when I use BellSouth's customer code, that's the customer code BellSouth gave the customer while it was a BellSouth customer?

A. I don't know that, nor do I think it's material to the discussion, because the FOC process changes that code and the record is not pulled out of SOCS and Harmonized until after it receives a FOC.

Q. You don't know in Sunrise that the customer code that's being pulled down is the customer code that's placed on there by LESOG?

A. Well, if it's a customer code that's on the service order, I do know that.

Q. Okay.

A. Because there's only one, and it's been changed

as a result of the FOC.

Q. So what you're telling me is that, on any Supra service order in a conversion from BellSouth to Supra, the customer code that's on the service order will be Supra's customer code and not BellSouth's while that customer was a BellSouth customer?

A. I firmly believe that to be true, and I've just told you why.

Q. Okay. Do you have any documents to support your contention that you received this DAN-2 when your account was converted to UNE-P from resale?

A. What kind of document? An affidavit from me or --

Q. Well, no. Do you have any -- do you have the

service order associated with the conversion of your phone number?

A. They're easy to obtain. It's in the CSOTS system.

Q. I'm asking, do you have it today?

A. Do I have it in this room? No, I do not.

Q. Do you have any evidence, other than your testimony, to suggest that the date you received this notice was on or about the time that your account was converted?

A. I wasn't aware I needed anything to support my

testimony.

Q. So the answer would be no, you don't?

A. No, I don't.

Q. Okay. You also reference that you got a second copy of DAN-2 when, to use your correct words, when your number was placed in a list of lines scheduled to be disconnected for nonpayment.

A. That's correct.

Q. When was that?

A. I can get you an exact date. It was either late July or early August 2002.

Q. Okay. And was this Supra disconnecting you for nonpayment?

A. Yes.

Q. Okay. And did Supra actually proceed with termination?

A. No.

Q. Okay. And I think you testified on Friday that

Supra doesn't terminate for nonpayment; they just put a hold on the account?

A. I told you we decided to suspend service to collect past-due amounts.

Q. But you don't issue a D order?

A. Is that exactly what I said, or did I say, you know, our efforts are to make sure that, you know, we

try to collect that money rather than do a disconnect?

Q. I believe what you testified was that you don't issue disconnect orders for nonpayment.

A. I don't really think I testified to that. I said -- I probably testified I wasn't aware of any particular volume of actual disconnects.

Q. Okay. Well, if your testimony relating to your account is that Supra did not issue a disconnect order to you personally for your account --

A. Yes.

Q. -- why is it that you believe that something changed in your account that would trigger receiving this notice from BAPCO? I mean, what is it in that scenario --

A. The notice stated there was a recent change in my line, and all I did was go into suspend and come back out of suspend.

Q. When Supra puts an account in suspend, does it issue any type of order to BellSouth?

A. Yes.

Q. What type of order does it issue?

A. A suspend order.

Q. And how is a suspend order submitted? Is that a C or a single C?

A. I don't have that information. I don't have

that information. You have to understand we submit LSRs. We don't submit C, D or N orders.

Q. But you can request order type, can't you?

A. Not in that regard. I mean, you're going to make a request type, which is, you know, new service, disconnect service, suspend service, restore service, but, I mean, those don't equate to D, C and N, except possibly a pure disconnect would, yeah, probably correspond to a D order.

Q. But you have the option of choosing whether you want a single C to be implemented rather than D & N, don't you?

A. I wasn't aware that there was any allowance for D & N orders at all anymore, so I wasn't aware that there was any way to select a D & N order. I thought all orders were single Cs.

Q. Now, do you know in relation to the notification from BAPCO, that on an LSR, you are required to check off that you want directories sent to your new customer?

A. Yes.

Q. That is a requirement; you agree with that?

A. Yes.

Q. Okay. Does Supra fill out that form or the check on the LSR?

64

A. If it's a requirement and the order gets processed, then, inherently, we must. I don't know of any way to get the order accepted by BellSouth without some answer being in that box.

Q. Okay. DAN-3, I think I have a copy here of that, and I believe your testimony in relation to DAN-3 is that a Supra attorney received this letter when he converted from BellSouth to Supra; is that right?

A. Uh-huh.

Q. What Supra attorney was that?

A. That would be Mr. Cruz-Bustillo.

Q. And when did he receive this letter?

A. I'd have to get my notes on that. It was last year.

Q. Okay. What evidence do you have that this letter was sent to Mr. Cruz-Bustillo within a week of converting to Supra from BellSouth?

A. I'm sorry, I'm not sure I understand what evidence other than him bringing that letter in and showing it to me right after we -- I was involved in getting this line converted, by the way -- bringing the letter in and saying, "Look what I got in the mail," is my recollection when we submitted the order and when I saw that letter.

Q. Yeah, but you don't know how many days

65

transpired from when the order completed until he received the letter, do you?

A. I'm not sure.

Q. You're not sure if you know, or you're not -- no, you don't know how many days transpired?

A. I mean, are we looking for a threshold, did you violate the ten-day rule or something?

Q. Well, I'm just asking if you know.

A. I'm not making that claim.

Q. Okay.

A. I'm just saying this was paired with his order. This was coincident with his order, and I'm not saying that you improperly mailed it early.

Q. So when you say within a week of the attorney converting, that's a not an indirect reference to violation of the ten-day rule?

A. No, that wasn't my purpose at all. I'm just looking at the triggering event.

Q. Okay. Thank you for that clarification.

DAN-4, correct me if I'm wrong, is a letter that you said was sent to a Supra customer that did not have any activity on the line for 619 days; is that correct?

A. Yes, sir.

Q. Who is the customer at issue?

A. I believe the customer's name was --

MR. CRUZ-BUSTILLO: Wait. Before you say his name, let this portion of the deposition be confidential, then say his name, and we are going to --

THE WITNESS: I don't think I improper -- I don't think I properly redacted the letter, and I think the name is still there.

MR. CRUZ-BUSTILLO: That's true.

THE WITNESS: You find the letter?

BY MR. MEZA:

Q. Okay.

A. I did promise to put it in the redacted form, and I think I failed to do that.

Do you have the exhibit?

Q. No, I don't have it with me.

MR. CRUZ-BUSTILLO: Do you want him to say the name or just point the name to you, so that we don't even say the name?

MR. MEZA: Well, if it's on the exhibit, I don't need you to answer the question.

MR. CRUZ-BUSTILLO: Yes.

THE WITNESS: It's on the exhibit. It's the name of the wife of an engineer that worked for me.

BY MR. MEZA:

Q. Okay. Is that person still a Supra customer

today?

A. Yes.

Q. What evidence do you have that this particular line has not had a single change on it and has not flowed through SOCS for 619 days?

A. Well, that's also attached to the letter. In that case, I attached records from the BellSouth's CSOTS system to document that particular --

Q. Line?

A. Well, the numbered -- one of the things CSOTS does is document the number of days since the last

change.

Q. Okay. And then I believe you have a statement on Page 26, Lines 12 to 13, that, "The only way for BellSouth to know which lines are still in service is to broach the retail/wholesale barrier and freely exchange information."

What is the basis for that statement in relation to DAN-4?

A. Where's the lines?

Q. Lines 12 and 13.

A. Well, the letter starts out with, "We're always disappointed to lose a valued customer like you."

After over two years, there's no real way for BellSouth to know that that telephone number is still

assigned to that person.

Q. So you're basing it on your belief that that telephone number could or could not be assigned to a different person? That's why you think there's a broach to the retail --

A. I'm saying, after two years of that line not being in BellSouth's service, you're either taking large chances in mailing out vast volumes of mail to people that are no longer there --

Q. That's a possibility, correct?

A. -- or you're looking past the retail/wholesale barrier.

Q. Do you have any evidence that it's not the former or the latter? That's a bad question.

Do you have any evidence that it's not -- this

letter was not sent as a result of what Mr. Ruscilli testified that we contact customers more than two years ago that left us?

A. Uh-huh.

Q. Do you have any evidence to suggest --

A. Based on a copy of the CSR that you made at the time, which is prohibited by the FCC order.

Q. No, that's a different issue. What you're saying is that, in addition to Sunrise, in generating a lead, what I understand you're saying with this exhibit

is that not only is the initial lead improper, but because BellSouth waited over two years to contact this customer, they have to be doing something other than Sunrise in breaching the wholesale/retail barrier to access this information?

A. Mr. Wolfe testified last week to something we have known for a long time, and that is, when we win a customer from you, you make a copy of the customer service record, which you consider to be your property, and then, essentially, deed over the customer service record to Supra by changing the ownership through the operating company number change.

My point is the FCC says you're not supposed to do that either.

Q. I understand what your position is, but in specific relation to DAN-4, I interpreted what you were saying to mean that this is another example, independent of Operation Sunrise, where BellSouth is breaching the wholesale/retail barrier. Is that not accurate?

A. Well, I don't know if it's independent of Sunrise or not, but with that exception, yeah, I agree.
Q. You agree what?
A. That this is another example.
Q. And my question to you is, what evidence do you have of that contention other than the fact there was no

activity on the line?
A. No activity on the line and that you mailed to the customer using their correct name and address.
Q. Do you have any evidence to suggest that the customer's name and address changed over the 619 days?
A. I wish it had, but, in fact, I'm pretty well certain that it didn't.
Q. Thank you.
All right. Let's go over some of your requested remedies. Page 31, Line 18, you state in response to the question of whether any CLEC should have access to the Sunrise database or receive feed of disconnect data used for win-back, your answer to that question was yes.
And my question to you is, what would a CLEC do with the list of customers that left BellSouth and went to another CLEC?
A. In a world of parity, where everybody gets to see the same information, that could be used for marketing.
Q. You're going to market a customer who just left BellSouth and went to a CLEC?
A. Sure. I think we provide a better value than

most any other CLEC in the market today. We're not just necessarily as well known as, say, perhaps MCI and AT&T,

and yet, that lead would indicate someone who had a dissatisfaction with BellSouth's services and was looking for alternative services. So that's definitely a possibility.

In the alternative, I think we would prefer that the entire feed out of SOCS be shut down altogether.

Q. All right. In the world of parity, would you agree with me that if Supra is given access to Sunrise, then BellSouth retail should get access to Supra's disconnects?

A. I think you already are making use of that at this time. I think you have that right now.

Q. Independent of Sunrise. Let's say we get rid of Sunrise, or you get Sunrise.

A. Strictly on a parity argument, yes, that does make sense. That does present issues where we would still fall afoul of the FCC regulations, though.

Q. How is that?

A. Well, I think you're still impaired -- or not impaired, but prohibited from using that type of information by the FCC rules.

Q. Well, is it -- under your interpretation of the FCC rules, doesn't that information become commercially available at that point?

A. That's an interesting interpretation which would probably serve to make it all right.

Q. Why do you need a date on the letter that you're referring to on Page 32, Lines 13 to 15 --

A. So that --

Q. -- showing when the letter was mail?

A. So in the future you don't have to ask me if I have any evidence as to when that letter came in in relation to an order and so that I don't have to scratch my head and wonder what the answer to that question is.

Q. Okay. All right. And why is Supra suggesting a 90-day waiting period for initiating win-back efforts?

A. To reduce thrashing. I think to provide customers with a little bit of relief from the onslaught of counter-marketing that occurs at the transition. We all hear people complain about the number of marketing attempts they get shortly after they change services, either from a local carrier or a long-distance carrier. And to minimize the potential for mischief.

Q. Are you aware that in the key customer docket, FDN also asks for a 90-day waiting period before initiating win-back efforts?

MR. CRUZ-BUSTILLO: Objection.

THE WITNESS: I'm not sure I am aware of that,

no.

BY MR. MEZA:

Q. Okay.

A. I might be.

Q. Do you know what the Commission ruled regarding how long BellSouth had to wait before initiating win-back efforts?

A. Well, the Commission didn't specifically rule how long they should wait. They ruled that they felt that what was in place at the time was adequate. Of course, they didn't know about Sunrise at the time.

Q. And what was in place at the time was a ten-day waiting period; would you agree with that?

A. Right, and I don't think, from my reading of the key customer tariff, that they so much addressed the ten-day waiting time as they endorsed BellSouth's rules in effect at the time.

Q. And you don't know if they rejected FDN's proposed 90-day waiting time?

A. Well, if FDN had put forward a 90-day waiting time, it got rejected because the status quo was maintained.

MR. MEZA: Let's take a five-minute break, and then we'll wrap up with your rebuttal testimony.

(Thereupon, a recess was taken.)

BY MR. MEZA:

Q. Mr. Nilson, do you have your rebuttal handy? I believe you do.

A. I had it earlier.

Q. On Page 5, Lines 1 through 3, you state that, "There is an absolute prohibition against the use of carrier-to-carrier information, such as switch orders,

to trigger market retention efforts," and in support, you cite Page 45 of the key customer order.

A. Okay.

Q. And would you agree with me that on Page 45 of that order, the Commission cites FCC Order 99-223, that the FCC is discussing retention marketing efforts?

A. All right.

Q. Would you agree with that statement?

A. All right, but I'd also --

Q. Wait. Before you -- I don't mean to interrupt you. "All right" can mean several things. Is that a yes or no?

A. I'm sorry. Repeat the question.

Q. The question is that your reference to Page 45 of the key customer order, and the FCC order cited therein, relates to retention marketing efforts?

A. Yes. However, as we saw when you showed me the earlier paragraph on 223, the FCC considers retention

and win-back both to be win-back activities, but then chooses not to call retention activities win-back.

Q. Right.

A. So within the text of 99-223, the FCC itself goes in convoluted circles as to what's retention and what's win-back and what name is going to be associated with these activities. That was the same order that we read earlier.

Q. Correct. But in that order, the FCC divides win-back into regaining a customer or retaining a customer, correct?

A. And calls them both win-back.

Q. Correct?

A. Yes, and then agrees not to call retention win-back anymore, all within the same paragraph.

You know, to me -- to me, you know, we can get some clarity out of this if we look at 03-42, and in 03-42, which I will concede also talks about retention activities, Paragraph 28 says, "We reiterate our finding in the second reconsideration order that carrier change request information" -- carrier change request information, whether that's local service or LPIC -- "transmitted to an executing carrier in order to effectuate a carrier change cannot," repeat, cannot, "be used for any purpose other than to provide the service

requested by the submitting carrier, and we will continue to enforce the provisions and will take appropriate action against those carriers found in violation."

I mean, it's quite clear there. Change orders can't be used for anything other than to execute the change. It can't be used for marketing.

It also says in Paragraph 28, "Executing carriers may not at any time in the carrier marketing process rely on specific information they obtained from submitting carriers due solely to their position as executing carriers."

So while the words tend to flip-flop, that paragraph sums it all up very clearly in plain language.

Q. All right. Go to Page 11.

A. Of my rebuttal testimony?

Q. Yes, Lines 21 through 22 onto Page 12, Lines 1 through 3. You say, "The FCC does allow incumbents to use carrier-to-carrier information but only after the incumbents' retail division has learned of the conversion from an independent retail source that is available throughout the retail industry and which is also available to competitors at the same time."

You see that?

A. Yes, I do.

Q. And you cite to key customer order, which also cites the 99-223, which is an FCC order.

Would you agree with me that 99-223, Paragraph 78, which you cite to, relates to retention marketing?

A. Before I answer your question, you make a supposition in your question that I don't agree with.

Q. Okay.

A. And that is that this is backed up by 99-223, and I think it's quite plain that this language comes from FCC Order 03-42, Paragraphs 28 -- 27 and 28.

Q. All right. Tell me where in Paragraph 27 and 28 there is a requirement that BellSouth learn of the information -- the retail division of BellSouth learn the information from an independent retail source.

A. All right. If you take a look at Paragraph 27, which is quoted in the key customer tariff at the bottom of Page 46 --

Q. Okay.

A. -- we talked about that earlier.
Q. Right.
A. "We clarify that to the extent that the retail arm of an executing carrier obtains carrier change information through its normal channels in the form available throughout the retail industry and after the

carrier change has been implemented, such as disconnect reports, we do not prohibit the use of that information in executing carriers' win-back efforts."

Now, that has to be read in conjunction with Paragraph 28, which follows it, and Paragraph 28 clearly says, "We reiterate our finding in the second order that carrier change request information transmitted to executing carriers in order to effectuate a carrier change cannot be used for any purpose and that executing carriers may not at any time in the carrier marketing process rely on specific information they obtain from submitting carriers."

Paragraph 28 excludes the feed from Sunrise.

Q. Okay.
A. Therefore, Paragraph 27 talks about information obtained from means that are not triggered by the CLEC LSR.
Q. Where in 27 do you see the phrase "from an independent retail source"?
A. In a form throughout the retail industry.
Q. So you're equating "in a form throughout the retail industry" to mean "independent retail source"?
A. Well --

Q. Yes?
A. Yes. I mean, your knowledge of the change

79

comes as a result of the LSR. We don't give you any other notification of that, and that disqualifies you as being the source of that information.
Q. But you would agree with me that the phrase "independent retail source" does not appear in 27, Paragraph 27 of FCC Order 03-42, or 28?
A. Well, I think it's implicit in Paragraphs 27 and 28.
Q. You may think that it's implicit. I'm asking --
A. I certainly do, and I would like to tell you why.
Q. If it's there, that was my question, and I'll ask -- you can explain all you want, but it was a simple yes or no question.
Does the phrase--
A. All right. What was your question?
Q. Does the phrase "independent retail source" appear in Paragraph 27 or 28 of FCC Order 03-42?
A. No, those words do not appear in that arrangement, in that paragraph. However, I do truly believe that that meaning is implicit in Paragraphs 27 and 28 when you read the two paragraphs together and realize that a form available throughout the retail industry cannot possibly be triggered through your

80

knowledge of that change acquired as a result of me submitting an LSR to BellSouth. That makes the information have to come from an independent source. It can't -- it doesn't come from Supra. It can't come from BellSouth.

Q. Would you agree with me that --

MR. MEZA: Please.

MR. CRUZ-BUSTILLO: Go ahead.

BY MR. MEZA:

Q. -- the phrase "independent retail means" appears in 99-223 in the discussion under retention marketing, and specifically Paragraph 79?

MR. CRUZ-BUSTILLO: He wants you to look at Paragraph 79 here.

THE WITNESS: I thought it was in a different paragraph. I was looking at the key customer tariff.

MR. CRUZ-BUSTILLO: Let me see this for a second. Okay. Here you go.

You want him to look at the highlighted portions?

MR. MEZA: No, he can look at the whole thing.

BY MR. MEZA:

Q. I just wanted to confirm -- and again, if my question gets lost in the translation or the reading, I want you to confirm that the phrase "independent retail

means" appears in FCC Order 99-223 under the section discussing retention marketing.

A. Yes, I see that. I see that statement in that paragraph, and for the record, I don't see that that's

inconsistent with 03-42, Paragraphs 27 and 28, either.

Q. Okay. In your opinion, what does, quote, unquote, "in a form available throughout the retail industry" mean as used in FCC 03-42?

A. It means there's no restrictions on who can obtain that information. It's not -- it's not available to some and not available to others.

Q. Why doesn't it mean in a form that's available throughout the retail industry, meaning a disconnect report that each carrier gets outlining and setting forth number and the specific customers that they lost? Why isn't that in a form available throughout the retail industry?

A. I'm not even clear what you're talking about in terms of an actual document that meets those requirements.

Q. The PMAP line loss report, why isn't that in a form available throughout the retail industry?

A. Well, one, it's not an independent -- it's not an independent notice, it comes from BellSouth, and it's not available throughout the retail industry. It's

available only to Supra Telecom. PMAP is locked down with a password. No one but Supra Telecom can read that report.

Q. Okay. What is your understanding of the word or the phrase "retail industry," as used by the FCC?

A. Retail industry as used by the FCC would indicate that something is available to any who wish to purchase it.

Q. Where is there a requirement in 03-42 that it come from an independent source?

I'll agree with you that it says "in a form available throughout the retail industry," but I don't see the word "independent."

A. Independent -- obviously, we just talked about independent being referenced in Paragraph 79 of 99-223.

Q. Okay.

A. It's cited in the key customer tariff.

Q. Right. And you would agree with me that when the Commission cites it, it's citing it in reference to retention activities. Look on Page 45 of the key customer order.

A. Well, I don't know if this order has a standard disclaimer of heading of no force or effect, but it is under a heading called Retention of Customers.

Q. Okay.

A. Retention being that subset of win-back where the customer has not yet left BellSouth, as we discussed earlier this morning.

Now, your question was, does the word --

Q. Independent.

A. You want me to help or should I just let you reask the question?

-- "independent" appear in 03-42?

Q. Right.

A. I don't have all of 03-42 here and --

Q. Here it is.

A. -- if I did, without being able to search it

electronically, we would kind of waste each other's time.

Q. But you would agree with me in Paragraph 27 and 28, and I think we've already established this, that there is no reference to that the information be independent?

A. I disagree. I would agree with you only to the extent that the word "independent" is not explicitly carved into the paragraph. However, reading the two paragraphs together, in a form available throughout the retail industry, and excluding your ability to count information that you received as part of a wholesale order, and that being the only information that

BellSouth receives in this regard, would disqualify you from the publisher of that information.

So I think while the word "independent" was not carved into the paragraph, implicitly it's there. It's there by the requirement of the two paragraphs, and it would be consistent with previous orders for it to be interpreted that way.

(Discussion off the record.)

THE WITNESS: As I was saying, I do believe the word "independent" is there in the meaning of the paragraph, if not in actual text.

BY MR. MEZA:

Q. Okay. On Page 14 of your rebuttal testimony, you state that, "Carrier change information can only be considered to be derived from independent retail means if competitors also have access to the same or

substantially the same information for use in their own marketing efforts," and in support, you cite to, I believe, FCC Order 03-42 and FCC Order 99-223; is that correct?

A. In support of what?

Q. That statement on Lines 7 through 9.

A. Well, I'm not exactly sure what question you're asking. Obviously, I've already told you that "available to competitors" is of the definition of

"available throughout the retail industry."

Q. Okay.

A. If there's something that's only available to Supra Telecom, that is not available throughout the retail industry.

Q. Okay. Look on Page 16, Lines 5 through 11. You state, and I'm paraphrasing, in the key customer order, this Commission defined independent retail means to be the following, and I would like for you to find for me in the key customer order where the Commission defined independent retail means to be what you said they defined it to be.

A. Can you repeat the question again?

Q. Where did the Florida Public Service Commission in the key customer order define independent retail means as set forth in your testimony on Line 6 through 11 on Page 16?

A. Okay. There's a couple of places, I think, needs pointing out. First of all, on Page 44, where they impose an explicit restriction for using the final

bill for marketing purposes, clearly indicating that your knowledge that you are to stop billing is not an appropriate trigger to do marketing.

Q. But they don't define independent retail means?

A. I said Page 44. That's at the bottom of Paragraph 1. Page 45 --

Q. I asked you a question before you get started. The Commission didn't define independent retail means on Page 44, did it? I mean, that's your interpretation of what they said on Page 44, but there is no express definition of independent retail means?

MR. CRUZ-BUSTILLO: Objection, asked and answered.

But go ahead and answer the question.

BY MR. MEZA:

Q. I'm asking you.

A. Is that the question you asked? Because your question sounded like something completely different.

Q. Is there an express definition of independent retail means in the FPSC key customer order?

MR. CRUZ-BUSTILLO: Let him read the whole thing.

Read this paragraph on both sides to answer the question.

THE WITNESS: Okay. All right.

Actually, they do.

BY MR. MEZA:

Q. Okay.

25 A. First of all, on Page 45 --

1 Q. Okay.
2 A. -- where they cite to FCC Order 99-223, at
3 Paragraph 76, "We conclude that Section 222 does not
4 allow carriers to use CPNI to retain soon-to-be former
5 customers, for the carrier gained notice of a customer's
6 imminent cancellation of service through the provision
7 of carrier-to-carrier services."
8 Then they go on to say, "We conclude the
9 competition is harmed when any," emphasized, "any
10 carrier uses carrier-to-carrier information such as
11 switch or PIC orders to trigger retention marketing
12 campaigns, and consequently, prohibit such actions
13 accordingly."
14 Now, taking it over to the following page, on
15 Page 46, the FPSC says, "The FCC made it clear there's
16 no prohibition against an ILEC initiating retention
17 marketing as long as the information regarding a
18 customer switch is obtained through independent retail
19 means."
20 They refer to the FCC's definition of that,
21 which says -- and this definition comes in several
22 pieces, actually. "We agree with SPC and Ameritac that
23 Section 222-B is not violated if the carrier has
24 independently learned from its retail operations that a
25 customer is switching to another carrier."

So that's the example we talked about earlier, where, in a de minimis amount of cases, the customer actually calls BellSouth to disconnect their service before they go to initiate service with a new customer, and based on a number of change -- or switch orders that you received from us, you would have to conclude that that's an infinitesimally small amount.

And then they go on to say that, "Under those circumstances, you can use that information to persuade the customer to stay."

Q. I guess, Mr. Nilson, I don't want to short-circuit your answer, but I don't need for you to read for me all the quotes referenced in the key customer order from the FCC order. Other than --

A. Well, you asked if the definition was contained herein, and I'm trying to show you where it is.

Q. But what you specifically say in your testimony -- and I don't want to squabble with you because I think that maybe we can reach an agreement on what your testimony means.

Is it your opinion that independent retail means was defined by the Commission by incorporating the specific and quoting the specific provisions from FCC Order 99-223? Because when I read that order, I don't see where they say, "We define independent retail means

to be X."

MR. CRUZ-BUSTILLO: Objection. When you say "we" --

MR. MEZA: The Florida Public Service

Commission.

THE WITNESS: No, they say the FCC made it clear, and then I'm talking about Paragraph 78 of 99-223, where they talk about information that's received from your retail division, or at the bottom of Paragraph 78, information about a customer switch were to come through independent retail means, then the carrier would -- so they are talking about information that you receive in your call center or something independent of that.

BY MR. MEZA:

Q. Okay. And that paragraph, Paragraph 78, deals with retention marketing, correct?

A. That's correct, but the FPSC is using it in the key customer docket in the win-back context.

Q. But the preceding paragraph before Paragraph 78, the FPSC says, "The FCC made it clear that there is no prohibition against an ILEC initiating retention marketing," and you're saying that that -- when they said retention marketing, they're really referring to win-back marketing or regaining marketing?

A. Well, again, retention marketing is a subset of win-back marketing, as we saw earlier in 99-223.

MR. CRUZ-BUSTILLO: And you already went over this area before.

MR. MEZA: Yeah, I understand, but he's --

MR. CRUZ-BUSTILLO: It dovetails with Paragraphs 27 and 28, which place that prohibition on the win-back reacquisition.

MR. MEZA: Please, I don't need for you to bolster your witness' testimony.

MR. CRUZ-BUSTILLO: No, no, he already went over that. I'm saying --

MR. MEZA: If you have an objection, asked and answered, then that's appropriate, but for you to try to explain --

MR. CRUZ-BUSTILLO: Okay. Two objections: Asked and answered, and mischaracterization of his earlier testimony. I won't say anything further.

BY MR. MEZA:

Q. Okay. Mr. Nilson, on Page 17, Lines 12 through 15 -- let me strike that question.

Did you write this portion of your rebuttal testimony?

A. Yes. I think it was added to by others, but --

Q. By who?

A. I'm not quite sure. I mean --

Q. Did your lawyers help you write this?

A. It was reviewed by -- it was reviewed by a number of people, including some attorneys, and it came back to me with some changes, which --

Q. Okay. Lines 12 through 15, starting with the sentence, "This word is a conjunctive term requiring those parties obligated," did you write that sentence?

A. I wrote most of it, yes. I think it was changed -- I think the wording was changed a little bit, but I agree with the wording as it stands. I represent that to be my opinion.

Q. What is your source of knowledge as to what the FCC meant by using the word "and"?

A. They meant that both the phrase on the left-hand side and the phrase on the right-hand side both simultaneously had to be met.

Q. Do you have any specialized training in interpreting --

A. The English language?

Q. -- FCC rules?

A. Well, I think that -- I think that's an interpretation of the English language, and I've been studying that since first grade.

Q. What's the word "import" mean?

A. The word import means -- can you point me to where I used it, so I can get it in context? It has to do with the weight of what is being referred to, or the relative importance of what is being referred to.

Q. Page 18, Lines 1 through 3, "The plain import of the language is that the FCC is setting a benchmark," et cetera.

Did you write that sentence?

A. Yes.

Q. Okay. And do you stand by your definition of "import" after reading that sentence?

A. Yes.

Q. Okay. Go to Page 19, Lines 6 through 7, "The FCC purposely uses parentheticals to set off the phrase 'such as in disconnect reports.' Parentheticals are used to include an illustration for the general

principle outside of a parenthetical."

How do you know the reason why the FCC used parentheticals in FCC Order 03-42?

A. I think this is more a discussion of English language constructs than the thought process behind the FCC staffer who wrote it.

Q. Make sure I'm clear. You're using -- you're interpreting the FCC's order how in relation to Page 19, Lines 5 through 9?

A. That the words "such as disconnect reports" is used as an illustration of the concept.

Q. And what are you using for that supposition?

A. My understanding of the English language, the same way as I understand what a comma and semicolon are used for.

Q. Look on Lines 11 through 16. You say that, "To the extent that some competitor brings an enforcement action claiming that the incumbent initiated market retention efforts prior to the completion of the conversion, the incumbent in defense can proffer an internal report, however characterized," open paren, "i.e., disconnect report," close paren, "identifying all of the carrier switches and the dates upon which those switches were completed."

You see that?

A. Uh-huh.

Q. Are you saying that BellSouth can use disconnect reports to defend against the claim that we violated CPNI laws, but can't use the same information

to market?

MR. CRUZ-BUSTILLO: Objection, compound, meaning there's two questions in there.

MR. MEZA: I understand what compound means. Thank you, Counselor.

MR. CRUZ-BUSTILLO: Well, for my witness.

MR. MEZA: Yes.

BY MR. MEZA:

Q. And to appease your counselor's objection, I'll separate it.

Are you saying that BellSouth can use disconnect reports to defend against the claim that BellSouth violated CPNI laws?

A. Yes.

Q. But BellSouth cannot use those same reports for marketing purposes?

A. That's correct.

Q. And why is that?

A. Because you're prohibited from using those reports which are generated as a result of a CLEC change order for marketing purposes. If you don't agree that 99-223 covers that, then, clearly, you have to agree that 03-42, Paragraph 28, clearly says that.

Q. Okay. On Page 20, Lines 8 through 10, you quote again the key customer order which quotes the 03-42 order from the FCC, stating, "Executing carriers may not at any time in the carrier marketing process rely on specific information they obtained from submitting carriers due solely to their position as

executing carrier."

95

Do you see that?

A. Uh-huh.

Q. Is that a yes?

A. Yes, I do.

Q. Okay. What is your understanding of what the FCC meant with the phrase "specific information"?

A. Anything contained within a CLEC LSR, including the implicit knowledge that the customer left BellSouth to go to the CLEC. The existence of the LSR itself is specific knowledge.

Q. So let me understand what your position is. Supra gets to use the fact that it lost a customer -- notice of the fact that it lost a customer for win-back purposes, correct?

A. I told you earlier we don't engage in that.

Q. I'm not saying whether you do or do not, but you can, and under your theory of the law, Supra is allowed to do that? Or any CLEC, if you're troubled with the Supra.

A. I don't see it prohibited in the FCC order.

Q. So you can use the information and the knowledge that you actually do receive that you lost a customer to initiate marketing and win-back activities, but BellSouth can't; is that right?

A. We don't do that, but I don't see any

96

prohibition against it.

Q. But BellSouth can't?

A. BellSouth can't, and Supra doesn't.

Q. Page 21 and Page 22, starting with Line 18 on Page 21, what is the basis of your statement on Page 22, Line 4 that, "The only reasonable conclusion that can be drawn from the operative phrase, quote, that information, end quote, is that the FCC was referring to the first of the two choices that I have outlined"?

A. When you read Paragraph 27, it's quite clear that the subject of that sentence is carrier change information. The restrictions on carrier change information are something that's acquired through normal channels in a form available throughout the retail industry and after a change has been implemented.

It's just outside reality or outside -- it's outside any understanding of English sentence structure to refer that to disconnect reports. The subject of the sentence is carrier change information available through retail means.

Q. So what is your understanding of why -- or what is your belief as to why the FCC put in the paren, such as in disconnect reports, close paren?

MR. CRUZ-BUSTILLO: Objection, asked and answered.

But go ahead.

THE WITNESS: It's an illustration.

BY MR. MEZA:

Q. And you would not give any significance to that illustration in your interpretation of Paragraph 27?

A. Well, it all depends, because throughout this proceeding, BellSouth has characterized disconnect reports as something that's derivative of the CLEC LSR, and if that's going to be your definition of a disconnect report, then it doesn't qualify by Paragraph 27 or 28.

Now, I don't think your definition of a disconnect report and the FCC's agree. The FCC's definition of a disconnect report is, first of all, carrier change information obtained through normal channels in a form available throughout the retail industry and after the change has been implemented.

Q. Okay.

A. None of which apply to a D order.

Q. Well, in your reference and in your understanding, what would be an appropriate disconnect report?

MR. CRUZ-BUSTILLO: Objection, calls for speculation.

THE WITNESS: You know, I -- I'm not aware of

anything in the industry today that would qualify under that.

BY MR. MEZA:

Q. Okay.

A. I mean, there might be something that I'm not unaware of, but I've searched for that answer as well.

Q. Look on Page 24.

A. Let me amend that last answer. In that limited -- in that limited avenue where the customer

calls you and notifies you directly, that would be one example.

Q. Okay.

A. That's probably the only one that I've actually been able to identify.

Q. What you testified is in the vast minority?

A. It is in the vast minority.

Q. Okay. If you'd go to Page 24 of your rebuttal, Lines 5 through 8, you're citing a rule of statutory construction that, "Courts should disfavor interpretations of statutes and presumably Commission orders that render the language superfluous and meaningless."

Is that your -- excuse me. Did you write that testimony, that sentence?

A. I didn't write that sentence. I wrote a much

cruder sentence.

Q. Okay. Where did you obtain your knowledge of statutory construction?

A. Actually, it was a concept that was heavily argued in Arbitrations I and II. When I was in the courtroom, I listened to them, and when I put this together, I made a reference to that that was then cleaned up.

Q. All right. Focus on FCC 03-42.

A. All right.

Q. Paragraph 27, last sentence, "Under these circumstances, the potential for anticompetitive behavior by an executing carrier is curtailed because

competitors have access to equivalent information for use in their own marketing and win-back operations."

Do you see that?

A. Uh-huh.

Q. I want to focus on the phrase "equivalent information." Is it your opinion that equivalent information means identical information?

A. Well, identical information is certainly equivalent.

Q. I agree with that.

A. Okay.

Q. But is equivalent information identical?

A. It would be my opinion that equivalent information does not necessarily have to meet the test of identical unless it's so stated.

Q. Why isn't the PMAP line loss report not equivalent information?

A. Well, if you were to take just the relationship between Supra and BellSouth, here you have one carrier, one incumbent. When Supra loses a customer, any customer, BellSouth sees it. On the other hand --

Q. Wait, wait. Let me -- I don't want to interrupt you, but the wholesale side of BellSouth sees it when Supra loses a customer. Would you agree with that?

A. I would agree with that.

Q. Okay. I didn't mean to interrupt you.

A. And it's not necessarily true that retail doesn't see it.

Q. But you're not -- well --
A. Certainly in the case where you win the customer back, retail sees that one.
Q. Correct.
A. Okay?
Q. Okay.
A. On the other hand, if you lose a customer to AT&T, Supra doesn't see it. You see, you see every

customer every CLEC loses. The CLEC, on the other hand, sees only the customers they lose.
Was that the nature of your question?
Q. I'm just asking you why is it that the PMAP line loss report isn't equivalent information that they can use in their own marketing and win-back operations as referenced in the last sentence of Paragraph 27?
A. It may well be, although -- although the population of orders that an ALEC can see is vastly smaller than the population of orders that BellSouth sees, but the mechanism is similar.
Q. So you may agree with me that a PMAP line loss report could constitute equivalent information, as that phrase is used in the last sentence of Paragraph 27?
A. Well, not exactly, because that is a sentence describing the characteristics of -- as we go back to the beginning of that paragraph, "Carrier change information acquired through normal channels in a form available throughout the retail industry and after the carrier change has been implemented."
PMAP doesn't meet those requirements. I mean,

I understand your argument, but you have to read the whole paragraph.

Q. And it doesn't meet that requirement because it's not in a form available throughout the retail

industry, meaning that not every carrier has access to every other carriers' information? Is that why it doesn't meet the above sentence?

A. That, and the argument that you and I have had this morning over the use of the word "independent," which I believe is implicitly in that paragraph --

Q. Fair enough.

A. -- due to the statements of Paragraph 28.

Q. Okay.

A. But it's certainly not available throughout the retail industry. It's only available to Supra.

Q. If you can give me one second?

Okay. Let me ask you a series of quick questions on your discovery responses that I just received this morning, but I believe was E-mailed to me last night.

MR. CRUZ-BUSTILLO: Yes, E-mailed to you yesterday at four o'clock.

BY MR. MEZA:

Q. And this may be more of an issue for your counsel and I to argue about, but on Page 24, Lines 1 through 4 of your direct, you're referring to what a BellSouth retail sales center will tell a customer. You're not including that claim in your complaint relating to Sunrise, are you?

A. It's not one of the identified issues. It is a fact. We produced evidence on that numerous times through the various arbitrations.

Q. And --

A. It really does happen. As a matter of fact, I think if you're not aware of it, that particularly in the area of DSL, you might want to contact Mr. Edenfield who receives routine letters from Mr. Chaiken on this matter.

Q. Do you consider this statement to be irrelevant to this proceeding?

A. Win-back is win-back. When you create an opportunity for win-back, it harms competition. That said, we're not pursuing any issues related to the specific activity in this docket, to the best of my knowledge. That doesn't mean it's not happening.

Q. Well, again, so let me ask my question again because the objection I got for "Identify basis and any documents to support your contention," was, "It's irrelevant."

A. Okay. It's irrelevant.

Q. So it's irrelevant?

A. I would have rather they wrote something different, but --

Q. If it's irrelevant, that's fine, but I don't

want to have to --

A. I didn't think you were going to argue with that one. I'm the one that wishes they said something different -- we said something different.

MR. CRUZ-BUSTILLO: You want to take a five-minute break?

MR. MEZA: I'm done.

MR. CRUZ-BUSTILLO: I mean, take a five-minute break and do redirect? I don't know if I have any redirect.

MR. MEZA: That's fine. You want to see if staff has any questions so we can gauge -- Staff, do you have any questions for Mr. Nilson? I think I'm done.

MS. DODSON: No, we have no questions.

(Thereupon, a recess was taken.)

MR. CRUZ-BUSTILLO: Okay. I guess we're back on the record, and we have no redirect. We're going to save it for the hearing.

(Thereupon, the deposition was concluded, reading and signing having been waived.)

CERTIFICATE OF OATH

STATE OF FLORIDA:
SS.
COUNTY OF MIAMI-DADE:

I, ROBIN GONZALEZ, Registered Professional

Reporter and Notary Public for the State of Florida at Large, do hereby certify that I was authorized to and did report in shorthand the deposition of DAVID A. NILSON, and that the pages, numbered from 1 through 104, inclusive, contain a full, true and complete transcription of my shorthand report of same.

I further certify that said witness was duly sworn according to law.

I further certify that I am not of counsel to said cause or otherwise interested in the event thereof.

WITNESS my hand this 26th day of August, 2003.

ROBIN GONZALEZ, RPR
Commission # CC 905865
Expires Feb. 7, 2004