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January 22, 2004

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: Docket No.: 030851-TP

Dear Ms. Bayo:

On behalf of the Florida Competitive Carriers Association (FCCA), enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ The Florida Competitive Carriers Association's Supplemental Rebuttal Testimony and Exhibits of Joe Gillan;
- ▶ The Florida Competitive Carriers Association's Motion Requesting Leave to File the Supplemental Rebuttal Testimony and Exhibits of Joe Gillan.

Please acknowledge receipt of the above on the extra copies and return the stamped copies to me. Thank you for your assistance.

Sincerely,

Vicki Gordon Kaufman
Vicki Gordon Kaufman

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McWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, KAUFMAN & ARNOLD, P.A.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising
From Federal Communications Commission
Triennial UNE review: Local Circuit Switching
For Mass Market Customers

Docket No. 030851-TP

Filed: January 22, 2004

SUPPLEMENTAL REBUTTAL TESTIMONY AND EXHIBITS

OF

JOSEPH GILLAN

ON BEHALF OF

THE FLORIDA COMPETITIVE CARRIERS ASSOCIATION

PUBLIC VERSION

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**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Implementation of Requirements Arising)
From Federal Communications Commission) **Docket No. 030851-TP**
Triennial UNE Review: Local Circuit Switching For) **Filed: January 22, 2004**
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**SUPPLEMENTAL REBUTTAL TESTIMONY AND EXHIBITS OF
JOSEPH GILLAN
ON BEHALF OF
THE FLORIDA COMPETITIVE CARRIERS ASSOCIATION

PUBLIC VERSION**

1 **Q. Please state your name and sponsoring party.**

2

3 A. My name is Joseph Gillan. I previously sponsored direct and rebuttal testimony
4 on behalf of the Florida Competitive Carriers Association.

5

6 **Q. What is the purpose of your supplemental rebuttal testimony?**

7

8 A. Shortly before I filed my rebuttal testimony, we received discovery responses
9 from BellSouth that were particularly germane to the issues in this proceeding,
10 but which we were unable to analyze and include in the rebuttal testimony. The
11 purpose of my supplemental rebuttal testimony is to provide an analysis of the
12 data provided by BellSouth, as I indicated in my rebuttal testimony.¹

13

¹ See Rebuttal Testimony of Joseph Gillan, page 5.

1 **Q. Which discovery response does your supplemental rebuttal testimony**
2 **analyze?**

3
4 A. The relevant data is from the proprietary attachment to BellSouth's Response to
5 Item No.3 in AT&T's Subpoena Duces Tecum Without Deposition, and Item No.
6 125 in AT&T 3rd Set of Interrogatories that asked:

7 Refer to the Direct Testimony of Pamela A. Tipton at page 11, lines 9-
8 21, please provide for the last eighteen months, by month, by market, by
9 wire center within the market, and by CLEC the number of:

- 10
11 a. 2-Wire UNE loops;
12 b. 4-Wire UNE loops;
13 c. DS1 UNE loops;
14 d. DS3 UNE loops;
15 e. DS0 EELs;
16 f. DS1 EELs;
17 g. DS3 EELs;
18 h. T-1 Special Access lines; and
19 i. DS3/T-3 Special Access lines

20
21 provisioned to the CLECs listed in Exhibit PAT-5.²
22

23 **Q. Why is the response to this data request significant?**

24
25 A. The question asked and the data requested asks BellSouth to identify (among
26 other items) the number of analog loops that BellSouth provides to each of the
27 alleged self-provisioning switch trigger candidates in Florida over the last
28 eighteen months. Consequently, the data can be used to determine whether the
29 named trigger candidates are purchasing analog loops (a necessary prerequisite to

² Exhibit PAT-5 lists carriers that BellSouth claims are self-provisioning switch triggers.

1 being a self-provider of switching to serve the analog POTS mass market), as well
2 as whether the carriers are adding analog loops (which would indicate whether the
3 carriers are “actively providing” analog POTS service, another requirement to
4 being considered a mass market switching trigger).

5
6 **Q. Have you analyzed BellSouth’s response?**

7
8 A. Yes. The most relevant information, however, is summarized in proprietary
9 Exhibit No. ____ (JPG-10). As Exhibit No. ____ (JPG-10) shows, the total number
10 of analog UNE loops leased by the alleged self-providers of mass market
11 switching represents a market share of 1.4%, less than half the CLEC market
12 share that the FCC rejected as insufficient proof that CLECs are not impaired
13 without access to UNE switching.³ As I explained in my rebuttal testimony, a
14 state-conducted analysis that *confirms* on a more granular basis the accuracy of
15 data that the FCC used to find impairment, cannot rationally be used to justify a
16 finding of non-impairment by the Commission. Other relevant facts revealed in
17 BellSouth’s data:

18
19 * BellSouth’s data indicates that four alleged self-providers of switching to
20 serve the analog POTS market –Begin Confidential ** [REDACTED]

21 [REDACTED]

³ TRO ¶ 438.

1 End Confidential ** – do not purchase analog loops in the relevant wire
2 centers.

3
4 * Only two of the CLECs named as trigger candidates by BellSouth have
5 added analog loops in the past year. Overall, the number of analog loops
6 provisioned to the named trigger candidate CLECs declined by more than
7 20%. This data is inconsistent with BellSouth’s claims that these
8 companies are actively providing analog mass market services.

9
10 * Only one company begin Confidential ** [REDACTED] End Confidential **
11 purchased loops in more than a small fraction of BellSouth’s wire centers.

12
13 **Q. What conclusions can be drawn from BellSouth’s Response to AT&T’s**
14 **Interrogatory?**

15
16 A. Based on BellSouth’s Response to AT&T’s Interrogatory, five additional
17 companies can be disqualified as self-provisioning switch trigger candidates
18 serving the analog POTS mass market because the data indicates that they do not
19 purchase analog loops from BellSouth –Begin Confidential ** [REDACTED]

20 [REDACTED]⁴ End Confidential
21 ** In addition, the data shows that more than 95% of the UNE loops leased by

⁴ In addition, Supra Telecom is independently addressing why it should not be considered a self-provisioning switch trigger.

1 Begin Confidential ** [REDACTED] End Confidential ** (as measured in VGE) are high-
2 speed digital loops and its switches should properly be considered enterprise
3 switches (and thus may not be counted as a mass market switch trigger for the
4 reasons detailed in the TRO and in my direct testimony).

5
6 In addition, Alltel should be disqualified because it is an affiliate an incumbent
7 ILEC within the market,⁵ and its has deployed a footprint that is too limited to be
8 considered a provider of mass market services, leasing loops in wire centers
9 serving less than begin Confidential ** [REDACTED] ** end confidential of the
10 Jacksonville LATA/CEA.

11
12 Attached is a revised Exhibit No. ____ (JPG-9) that summarizes my on-going
13 comparison of each claimed switch trigger candidate to the criteria that must be
14 satisfied in order to be legitimately considered to be “actively providing” of mass
15 market services. I am continuing my review and, if appropriate, will provide
16 additional information in my surrebuttal testimony.

17
18 **Q. Does this conclude your supplemental rebuttal testimony?**

19
20 A. Yes.

⁵ TRO ¶ 499.

Preliminary Summary Comparison of Trigger Candidates to Criteria

Trigger Candidate	Switches are not Enterprise	Actively Serving the Mass Market			Serving the Geographic Market	Relying on ILEC Loops or Offering Comparable Services	Not Affiliated with ILEC	Sufficient Activity to Support Finding
		Actively Providing Service	Serving Residential	Likely to Continue				
KMC Telecom	NO	NO	NO				NO Competitive Activity is De Minimus.	
PaeTec	NO	NO	NO					
ITC^DeltaCom	NO	NO	NO					
Comcast		NO		NO		NO		
TCG (AT&T)	Disqualified by Company Witness							
SBC Telecom	NO	NO	NO	NO	NO			NO
Allegiance	NO		NO	NO				
Time Warner	Claim Withdrawn by BellSouth							
XO	NO		NO					
Supra	Disqualified by Company Witness							
NuVox	NO	NO						
MCI/WCOM	Disqualified by Company Witness							
US LEC	NO	NO	NO					
AllTel					NO			NO
Xspedius	NO	NO	NO					
Network Telephone	NO	NO	NO					
Florida Multimedia	NO	NO	NO	NO				
Orlando Telephone	NO	NO	NO	NO				
Sprint	Disqualified by Company Witness							
FDN/MPower								

Note: Blanks do not mean that a trigger candidate satisfies a particular criterion. Analysis is ongoing and some trigger candidates will address whether they qualify directly in rebuttal testimony. Moreover, some criteria (such as geographic coverage and de minimus standard) require analysis of discovery that is not yet complete.

**In-Service Analog UNE Loops Leased by
 Alleged Self-Provisioning Switch Triggers**

Alleged Self-Provider	Wire Centers	In-Service UNE Loops		Annual Change
		Nov-02	Nov-03	
Allegiance				
AllTel				
FDN/MPower				
Florida Multimedia				
ITC^DeltaCom				
KMC				
MCI/WCOM				
Network Telephone				
NuVox/Trivergent				
Orlando Telephone				
PAETEC				
SBC				
Sprint				
Supra				
TCG/AT&T				
US LEC				
XO				
Xspedius/E*Spire				
Total				

Total Loops in Areas where BellSouth Claims Triggers Are Met	3,635,308
Market Share of BellSouth's Alleged Switch Triggers	1.4%

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing PUBLIC Supplemental Rebuttal Testimony and Exhibits of Joseph Gillan on behalf of the Florida Competitive Carriers Association has been provided by (*) hand delivery, (**) email and U.S. Mail this 22nd day of January 2004, to the following:

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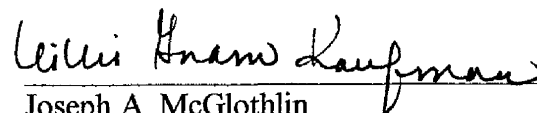
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