BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030851-TP

In the Matter of

IMPLEMENTATION OF REQUIREMENTS ARISING FROM FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL UNE REVIEW: LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS.

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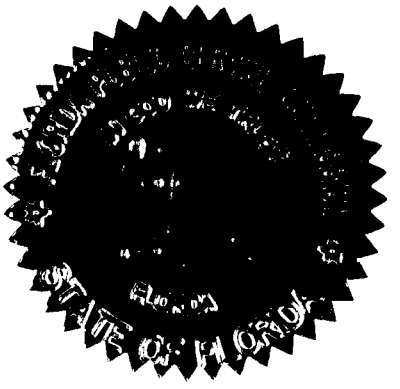

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VOLUME 10

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PROCEEDINGS: HEARING

BEFORE: CHAIRMAN BRAULIO L. BAEZ
COMMISSIONER J. TERRY DEASON
COMMISSIONER LILA A. JABER
COMMISSIONER RUDOLPH "RUDY" BRADLEY
COMMISSIONER CHARLES M. DAVIDSON

DATE: Tuesday, February 24, 2004

TIME: Commenced at 9:35 a.m.

PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	JANE FAUROT, RPR Chief, Office of Hearing Reporter Services FPSC Division of Commission Clerk and Administrative Services (850) 413-6732
APPEARANCES:	(As heretofore noted.)

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WITNESSES

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EXHIBITS

NUMBER:	ID.	ADMTD.

(No exhibits.)

P R O C E E D I N G S

(Transcript follows in sequence from Volume 9.)

MR. VARNER: Well, now that we have got a batch hot cut process, how do we measure it? As I said, you already have four specific measures of hot cuts. However, there are a few elements of the batch process that are either not covered by those measures or that the Commission may want to monitor more closely. For that reason I propose two new measurements. One is a new preordering measure which will measure the amount of time that it takes for us to return the due date request form that the CLEC sends to us. The other new measurement is a provisioning measure that will indicate how quickly we -- how well we complete noncoordinated customer conversions on time. We already have a measure like that for coordinated conversations.

Currently, project managed hot cuts, which include the batch hot cuts, are excluded from all of the ordering measures as directed by the Commission. To monitor batch hot cuts, we propose to revise those ordering measures such that these batch hot cuts would be included. The measures that would be modified are 07, percent rejected service requests; 08, reject interval; 09, FOC timeliness; and 011, FOC and reject response completeness.

Finally, I propose to revise the measure of whether the wiring work is completed on time for coordinated cuts,

namely P7. This measure will now include the time it takes to notify the CLEC that the cut was completed. Now, these changes will measure the relevant component parts of the batch process.

There is no end-to-end measure and let me tell you why. The principal obstacle is the fact that the measuring interval to complete the order is partly controlled by the CLEC. As the diagram illustrates, CLECs send us a spreadsheet to start the process. We return it with the due dates for the hot cuts, and then the CLECs send us a global LSR which can contain up to 99 individual LSRs. And as you can see in the ordering section, they submit those EDI, LENS, or TAG, and up to 99 individual LSRs are created.

This global LSR in this example was received on 9/1. LSR 1 is due on 9/16, LSR 2 is due on 9/28, LSR 99 is due on 9/26. The hot cut will be completed on the date specified on the LSR, but the CLECs decide which LSRs for which intervals are included in the initial global LSR that they send to us. So any overall interval for completion will simply reflect the time frame from when the CLEC elected to send us the initial LSR to when the cut was completed for the hot cuts that they chose to include in it. As a result, there is no meaningful information about our performance that would be included in such a measure.

In sum, BellSouth's existing measures with the proposed additions and modifications will allow this Commission

to fully monitor our batch hot cut process. And, Mr. Milner, please continue.

MR. MILNER: Thank you. We have talked about the process we are proposing, we have talked about why we know it works, and we have talked about how we can scale it to meet even worst-case volumes. Now let's talk about the enhancements to which BellSouth has agreed. First, why did we agree to do these things? The batch hot cut process we have has been in place since March of 2003 and it complies with the TRO. We recognize, however, that this Commission must adopt a process in this proceeding.

We looked at all of the CLEC criticisms of BellSouth's process that we were able to learn about in this Commission's hot cut workshops and elsewhere, and we evaluated their feasibility. As Mr. Ainsworth discusses in his surrebuttal testimony, we have agreed to do virtually everything the CLECs asked for. Let me explain that. The CLECs asked for after hours cut-overs. We have agreed to do that and the documentation has already been changed to reflect that.

The CLECs asked for cuts on weekends. Okay, we have done that. The CLECs asked that all the lines within a single account be cut on the same day. Good enough, we will do that. CLECs asked for a time window within which the hot cuts would be performed. That's done. CLECs asked for a timely restoral

process in case things go badly. Okay, we gave you one. CLECs asked that for CLEC UNE-Ps that moved to another CLEC's unbundled loop that you give us a batch process for that. That is done. They asked that for the cases where we hot cut from one CLEC's unbundled loop to a different CLEC's unbundled loop that we give you process. That is done. You asked for e-mail notifications that BellSouth had finished its part of the work. That was done actually last year.

CLECs asked that we provide a process that converted from UNE-P to DS-0 EELs. That work is in progress and should complete around July of this year, 2004. CLECs asked for a web-based scheduler. That work is in process and will be done by October of this year. CLECs asked for web-based notifications. That work is in progress and will be done by June of this year. And, lastly, CLECs asked for shorter intervals in the batch hot cut process, and that work will be completed by July 2004.

In sum, CLECs asked for 12 enhancements to BellSouth's batch hot cut process, eight have been done, four are already in progress. With these enhancements, which are not required by the TRO, but which BellSouth has agreed to make, there can be no meaningful debate about the sufficiency of BellSouth's process. Simply, we have addressed the CLECs' concerns and we have made them nonissues.

MS. FOSHEE: So, Commissioners, that brings us to

what is left. What other things are you going to hear from the CLECs about BellSouth's batch hot cut process? Let me touch on two of them briefly. First, they are going to tell you that BellSouth's batch process does not include loops served by integrated digital loop carrier, or IDLC. This is not correct. BellSouth's batch process does include loops served by IDLC.

Secondly, CLECs, such as MCI, are going to complain about the performance for loops served by IDLC. But as Ms. Lichtenberg, or as MCI responded in discovery responses, they don't have any actual experience in Florida with loops served by IDLC, and their statement simply referred to ILECs in general.

The CLECs will also tell you that they won't be able to get loops served by IDLC if we don't have spare copper. As we have told you in our testimony, in rare cases in which special construction might apply, BellSouth will provide UNE-P at TELRIC rates to the CLEC.

And, lastly, let's look again to the CLEC that is actually using UNE loops in Florida. FDN told us in their testimony that on a daily basis FDN and BellSouth work cooperatively together to install loops served by IDLC.

The second thing that you are going to hear from the CLECs is that UNE-L -- that the TRO requires that UNE loops must equal UNE-P. The most quoted footnote in this proceeding, at least in our part of the case, is likely to be Footnote

1574, on which the CLECs hang their argument that the TRO requires UNE-L to equal UNE-P. First of all, Commissioners, as a matter of common sense, BellSouth's unbundled loop performance should not equal UNE-P. Unbundled loops and UNE-P are different.

This Commission recognized that difference when it established performance standards for the services. If the Commission had believed they should be the same, it presumably would have established the same standards.

Secondly, and I've got it on the screen, when you read the footnote in context, which is Paragraph 512 of the TRO, you will see that that paragraph is referring to nondiscriminatory access. That is the access that you measure with your UNE loop performance measures. So every time this week that the CLECs point you to Footnote 15774, be sure to look at Paragraph 512, which they will notably not point out.

Mr. Milner.

MR. MILNER: Thank you. Now, I want to talk a moment about BellSouth's mass migration conversion process. The goal of this process is for BellSouth to handle as many functions for the CLEC as possible, and thereby allow BellSouth to gain maximum efficiencies by scheduling the cuts when it is most economical to do so. In this process the CLEC submits a spreadsheet containing minimal information about the loops it wants migrated. BellSouth then handles the rest, including the

number porting once the hot cut is complete.

Now, to make a CLEC indifferent as to when a particular loop is cut, BellSouth gives the CLEC the unbundled loop rate after it submits the spreadsheet rather than at the completion of the hot cut. The mass migration process allows the CLEC to migrate large volumes of UNE-Ps to unbundled loops with the least expenditure of CLEC effort.

MS. FOSHEE: And, Commissioners, in conclusion, you have been charged, as Mr. Lackey told you, with adopting and implementing a batch cut process in this proceeding. BellSouth is the only party that has proposed any specific process, and BellSouth's evidence proves that the process works and that it is scalable. BellSouth's evidence includes a third-party test, actual data and real facts. The CLECs, on the other hand, admittedly build their case on speculation, three-year-old data, entirely uncorroborated data, and suppositions about a process that they have never used.

You should ask yourself, Commissioners, why the CLECs have not used BellSouth's batch cut process. The answer is simple. If they did, it would prove BellSouth's case rather than their own.

The Commission's decision here is simple really. Do you want to base your decision on facts and empirical evidence, or base it on supposition and speculation. The facts show that BellSouth's batch hot cut process works even for worst-case

scenario loads. So, accordingly, the Commission should adopt BellSouth's batch process.

Now, Commissioner -- Mr. Chairman, if I could have your indulgence, Commissioner Jaber had asked a question about what a CLEC needs to do to prepare to migrate to UNE loop in situations in which no impairment is found, and Mr. Milner is prepared to address that question if this would be an appropriate time.

CHAIRMAN BAEZ: You can go ahead and answer the question, I guess.

MS. FOSHEE: Okay. Mr. Milner.

MR. MILNER: Okay, thank you. If I understood the question correctly -- and, Commissioner Jaber, please interrupt me if I did not -- I think your question went to what sort of activities would the CLEC have to do to migrate loops to its own switches and how long might that take and what sort of transition period might apply.

COMMISSIONER JABER: Right, to its own switches or to another provider.

MR. MILNER: Okay, good. Let me start this way. These at a high level are the things that the CLEC would have to do. A CLEC would have to acquire collocation, would have to acquire the switching facilities, the transport facilities, what I will call ancillary facilities, or services such as operator services, voicemail platforms, and the like.

Now, your question said, you know, what is the impact on the customer of the migrations. Well, all of those things that I just described are invisible to the end user. In other words, those go on before the transition is made from BellSouth's network to the CLEC's network. So that part at least is invisible to the end user.

What is visible is the time that it takes to do this hot cut; that is, the period of time between when the customer is removed from BellSouth's switches and is not yet reattached to the CLEC switches. And, as Mr. Varner pointed out a moment ago, on average that is about 2 minutes and 39 seconds. There are some other functions, such as number porting which have to be performed in order for the customer to receive calls. The CLEC in the batch hot cuts process performs those functions.

The second part, if I understood your question right, was what sort of transition period should apply. Well, I think the TRO has already set out that transition period. If the Commission rules in this case around -- by July, rather, of 2004, the FCC's transition period does not commence until August of 2005, over a year away. And I think that is a sufficient time, if a CLEC were to decide to acquire switches, build transport networks, to do those things. And I said if, because a CLEC does not necessarily have to do those things, because some CLECs already have switches. They could adapt those switches to add their UNE-P customers to them. They

could acquire switching from another CLEC on a wholesale basis, or the CLEC and BellSouth could strike an agreement that the customer would stay on BellSouth's switch at some market rate.

COMMISSIONER JABER: So the five months proposed by the FCC would not start until August of 2005?

MR. MILNER: No, that is the end of the five-month period.

COMMISSIONER JABER: Oh, okay.

MR. MILNER: And then there is a period that a third have to be moved in a period, a third, and a third. And that takes almost another two years.

COMMISSIONER JABER: Okay.

MR. MILNER: Did I get at your question, Commissioner?

COMMISSIONER JABER: You did. And with regard to what is invisible to the end user, all of the acquisitions the CLEC has to make and the agreement signed as it relates to collocation switching and operational facilities happen obviously between the two providers. Is that what you propose the 90 days be used for?

MR. MILNER: No.

COMMISSIONER JABER: Okay.

MR. MILNER: And if you started from scratch and had none of those assets, you would probably be hardpressed to do it in 90 days. I think it could be done even in 90 days, but

that would be a stretch.

No, what I meant was that the proposed transition period that the FCC lays out commences August of next year. Once CLECs have your order in this docket, then they can examine the markets in which you gave relief to BellSouth and begin that effort. They will still have over a year to get those things done.

COMMISSIONER JABER: Okay. Thank you.

MS. FOSHEE: Mr. Lackey.

MR. LACKEY: Thank you. Mr. Chairman, Commissioners. In addition to our direct case, we also filed responses to the various claims made by the people who claim that they are going to be impaired with that access to our local switching. I want to tell you a little bit more about what you are going to hear from the other side and what I think you ought to look for.

As you review the evidence that is presented by the impairment group, there are three themes probably not intended by them which will jump out at you. Dr. Aron gave away the first theme, and that is that the FCC has sent you on a snipe hunt. They sent you looking for an animal that doesn't exist.

According to the CLECs, for the foreseeable future it is impossible for any state commission to make a finding of no impairment. In this regard, I would refer you to Mr. Gillan's direct testimony where he says UNE-P is a part of a natural market transition whose duration is unknown because it is in

the hands of customers themselves. He suggested UNE-P will be required until customers have moved to shared platforms using soft switch technology, or alternatively, until we have AIN architecture that is open to competitive innovation.

In this same vein, the CLECs refuse to admit that there is a single trigger candidate in Florida. Let me give you an example of what I'm talking about. Quite frankly, I have no idea what Mr. Gallagher is going to say, and I'm going to nervously listen to it, but you will hear from him shortly. He has 100,000 -- more than 100,000 loops hooked up to his switches. He states without equivocation that his firm is a trigger candidate, and he states that he hopes to be around for awhile.

It would seem logical that everybody would agree that FDN is a trigger candidate, and we would move on to look for the other two trigger candidates in the markets where FDN operates. That is not the tack the CLECs have taken in this case. Instead, they have done what I call a scorched earth policy. They testify that you shouldn't consider FDN as a trigger candidate. In fact, Mr. Gillan questions whether FDN has the financial ability to survive. Its financial security is tenuous is what he said, ignoring Paragraph 5 of the TRO, which specifically precludes the states from evaluating any other factors, such as financial stability. For all I know, FDN is fine. But, I mean, the point of the matter is the TRO

precludes you from looking at what Mr. Gillan tells you to look at.

I said there were three themes that would jump out at you. Let me tell you about the second one that Dr. Aron didn't given away. The second theme is that consistency doesn't count. The CLECs here find no need, apparently, to be consistent today with what they told you in the past. They find no need to be consistent with each other, and they find no need to be consistent in the logic that they are advocating to you.

Let me given you examples. In 2000, AT&T speaking to you about its network in Florida, said that TCG is able to connect virtually any customer in a LATA to the TCG switch serving that LATA. They didn't say business customer, they didn't say large business customer, medium business customer, small customer, residential customer. Virtually any customer. This was done under direct examination. It wasn't under cross. It wasn't in the heat of the moment. It was prefiled.

They also told you that they could serve end users economically. They have a menu of options capable of economically connecting end users located relatively far from the switch. And one of the examples they used was UNE-L. Now they are telling you that what they meant back then was that their switches had the potential to cover an area equal to BellSouth's switches. I don't think that is what they said.

It's an interesting argument by AT&T in 2000 when AT&T wanted something that required them to have a network that covered the entire area that BellSouth served. When that happened they said virtually any customer in the LATA could be served by their switches. They bragged about the efficiency of their network, and they said that a network design with fewer switches and longer loops was the way to go. Then their network was efficient, and they could economically serve customers, now they cannot apparently.

What about the consistency between the parties? You have got parties on the market definition who are telling you it ought to be a wire center, it ought to be MSA, it ought to be LATAs. I have no idea how they are going to reconcile their positions. I assume they will, but I don't have any idea how they are going to reconcile what are obviously inconsistent positions.

There is a third inconsistency that I hope you find particularly troubling. What the CLECs have said -- this is Mr. Gillan -- has said is that eliminating UNE-P would reduce local competition in 2004 based on BellSouth's projections by nearly 90 percent. Evidence is going to show that that claim is not true, but that is not the point here. The question that you have to consider is that how can the CLEC say that 90 percent of the competition is going to disappear if you do away with UNE-P on the one hand, and then claim that our hot cut

process isn't going to be able to handle the volume of conversions from UNE-P to UNE-L if you find no impairment. Is it it is going to go away, or is there going to be so many conversions that we can't handle them? It seems like to me they can't have it both ways. They have to be consistent I would suggest.

Not only is their story inconsistent, but there is a third thing in our view. They keep rewriting the TRO and the rules to make their theories, or make the TRO and the rules consistent with their theories. Consider what they do to the FCC's bright line test. Remember, this thing was pretty simple. Find three CLECs not affiliated with each other, not affiliated with BellSouth, self-provisioning switches, vast market customers and a market. That's it. When you listen to the impairment folks, however, you are going to wonder whether we are all reading the same order and rules.

Basically, they have turned the FCC's objective bright line test on its head. For instance, Mr. Gillan has worked up a list of six criteria and claims that a trigger candidate has to meet every single one of them before they can be a trigger candidate. Am I fairly characterizing the evidence? Let's take a look at it. This is from his testimony. The self-provisioning trigger criteria must be satisfied. The six categories are -- and this is Number 3, the self-provisioning trigger candidate should be relying on ILEC

analog loops to connect a customer to its switch. Well, guess what, intermodal carriers, cable companies, electric companies, and wireless companies don't use our loops. Buried in Mr. Gillan's list of criteria is a requirement that will eliminate every cable company in Florida from potentially being a trigger candidate.

Now, is that fair? No. The rule that we are talking about here specifically mentions intermodal providers. Here is the rule on the self-provisioning trigger. You include intermodal providers of service comparable in quality with that of the incumbent LEC, and so forth. Moreover, the FCC has said that you include intermodal carriers. And, indeed, the CLECs in Washington in their arguments acknowledge that you could include intermodal carriers. Yet if you adopt Mr. Gillan's criteria, the intermodal carriers are gone.

In this regard I want to refer you to your own report to the legislature and remind you of what happened in Panama City where we have lost 35 to 40 percent of the local market. And you know who we have lost it to? A cable company.

What else does Mr. Gillan do? Consider his last criteria. He wants to impose a de minimis requirement on it, on the trigger candidates. What does this mean? It means that when you look at the trigger candidate he wants you to have some minimum number of customers that they have to be serving. Now, is this in the rule? No, that's not in the rule. Even

Mr. Gillan admits this is an interpretation of what the TRO says. The question is if the CLEC can serve ten customers, why can't it serve a thousand? If it can serve a thousand, why can't it serve ten thousand? What is the limitation? There isn't one.

If the FCC had wanted -- well, switch size obviously, but if the FCC had wanted to put a de minimis test in the rule, they could have done it. And they didn't do it. But if you adopt the criteria the CLECs are advocating, that is what you are going to do.

What also are you going to hear? This is one of my favorite ones. You know, I have several. According to the CLECs, if a CLEC is providing service to customers with its own switch, unless the CLEC is using 20 percent or more of the capacity of that switch to serve mass market customers, it doesn't count. Let me give you an example. Let's suppose we have got a switch out there, a CLEC owns a switch of 50,000 voice grade equivalent capacity. The CLEC is serving 5,000 residential customers, each with a single line into the house. The other 45,000 lines they serve business customers. Let's just agree that they are enterprise customers. According to the CLECs, the CLEC that has that switch and uses it in that way isn't a trigger candidate, even though they are serving 5,000 residential customers.

Indeed, according to this testimony, if the CLEC were

serving 10,999 residential customers with a single line to each house it wouldn't qualify. Where is the logic in that? If the CLEC is serving mass market customers with the switch, the switch ought to count. The rules that we were talking about do not require anything different. The FCC didn't require anything different.

I have got one more point I want to make with regard to the triggers test, which I hope will make my point even more clearly. This is a picture of Florida, and it is taken from your web page, and it has got the codes in it. You can see in the southeastern LATA, which is now highlighted up there, there are four areas. When I looked at them last time the 305 was gray, the 954 was yellow, 561 is red, and the 561 to 772 was white. But it will make my purpose.

You can see that there are four divisions in the southeastern LATA and that will serve my purpose. I asked the FCCA witness who was advocating the use of the LATA as the geographic market, whether if there were four CLECs serving the southeast LATA, each serving 10,000 customers, but each confined to its own service area, each of those blocks, those four blocks we are looking at there, whether those four CLECs could be trigger candidates. His answer was that they could not. According to the CLECs, each of the trigger candidates would have to serve customers from Key West to Vero Beach in order to qualify as a trigger candidate.

Now, of course that is not what the FCC said. Look at the quote from the FCC brief. These deletions eliminate any suggestion that a state's finding of no impairment is contingent on a determination that a facility-based competitor could economically serve all customers in the market. The FCC hasn't required that.

Moreover, I asked the FCCA witness whether he knew of any single CLEC that served the entire area using UNE-Ps. It seemed like that would be a logical requirement if that is what you want the facility-based carrier to do. The answer was nope. Actually, he said that is correct to my very articulate question, but that is still the sentiment.

In addition to the points that they make challenging the criteria, they also challenge our trigger candidates on other grounds. For instance, one argument you are going to hear, particularly from AT&T, is that the analog lines that AT&T has that are being used to serve mass market customers, basically using TCG switches, can't be counted. That AT&T and TCG -- or AT&T I guess I should just say -- is not a trigger candidate. Their logic is that TCG is serving these customers as sort of legacy customers and it is part of a failed business plan, and so, therefore, you can't count it.

Well, the question that we asked them and that you ought to ask them is whether it's a product of a failed business plan, or is it simply the result of UNE-P becoming

available. I mean, it is no secret, if you can buy a UNE-P for $15 and it costs you $20 to put your own loop in, anybody in their right mind -- I don't want to go too far. I better not go too far with that. Most people would conclude that you ought to provide the service using the UNE-P. You wouldn't use your own switches, you would use UNE-P. It's easier.

So, the question is, is why isn't TCG a trigger candidate? Now, Mr. Gallagher, as I told you, I don't know what he is going to say, but what he did say in his deposition is that when he was working for Brooks Fiber and MCI, that they were using -- Brooks Fiber was using UNE-P loops, and when MCI bought them, they quit using UNE-P loops as a business decision. Not because it didn't work, not because it couldn't be made to happen, as a business decision. We need to know whether TCG was doing that same thing.

Now, I have talked about the trigger test. Let me talk about the potential deployment test for just a moment. Quite frankly, I expect most of the attacks on the potential deployment test to deal with the economic model. I mean, I don't think anybody is going to challenge that there is actual deployment out there. They may. But I think from looking at the outline of their presentation, most of it is going to address the economic barriers.

Their attacks on the model are really kind of interesting. Some of the CLECs claim that the model is too

sensitive to the inputs. Other CLEC witnesses claim that the model isn't sensitive enough to inputs. Sprint's witnesses will probably continue to echo their cry that they have been deprived of a meaningful opportunity to look at all of this. I would note, however, that Mr. Stegeman sat in his deposition and went through the source code a line at a time using the same documents we have given them, the source code in PDF format. I would also note that of all the CLECs that have looked at the model, the only one who continues to harp on access to it is Sprint.

Finally, I hope you look at the Sprint testimony that was filed last Friday after they had access to this information. I may be wrong about this, and I'm sure they will straighten me out, but it looked like to us that all of the testimony they filed on Friday, a month after testimony was due, dealt with inputs, inputs that they have had for three months. Not source code. They didn't say, oh, we found this mistake in the source code, it doesn't work. It dealt with inputs.

Now, while I'm on Sprint, I expect Sprint is going to be held up as the poster child in this proceeding. The ILEC that did right. The good ILEC. You will notice they are sitting on the other side of the table from us. If you are inclined to think about that, let me refer you back to your report to the legislature again. I think if you will take a

look through that you will see why they are on that side of the table.

It is clear that the CLECs don't like anything about this model. They claim that it doesn't work, that it's wrong. That, gosh, if you could make money going into these markets they would have done it. Gee, people have been going into these markets for years and have gone broke. This just can't possibly be right.

Well, two points. First of all, this is the only model in this docket that comports with the FCC's TRO requirements. It was done by Mr. Stegeman who has done models that have been accepted by this Commission before. He knows what he is doing. He has developed a model that reflects what will happen in these markets. Now, maybe it is easier and better to use UNE-P than to go in and do it, but that doesn't mean the model is not right. And in that regard, let me ask you to ask them how they are going to explain away the CLECs who are in those seven markets, seven of the nine that we were talking about, who are using their own facilities. If it can't be done, how are they doing it?

Now, basically the answer to all of this is they came into this with a preconceived notion. The preconceived notion was there ain't no such thing as a potential deployment test that is going to work. If it could work, we would have made money at it. We haven't, we can't, so it must be wrong. If

you will look at their testimony, and I'm not going to read it. Unless I've got it backwards this is Mr. Gillan's testimony first, and basically what he is saying is he knows we have got the opportunity to show this, but you look back over history it hasn't worked before so, you know, clearly a potential deployment model isn't going to work. This was in his direct testimony, I believe, but I could be wrong. Yes, it is direct testimony.

Then you look at AT&T's witness' testimony, which I believe was also in his direct testimony, where he says it is not likely that an impairment model will establish anything. Now, again, I mean, this testimony was filed before we filed our direct case, or when we filed our direct case. This was a preconceived notion these folks had, it ain't going to work. That is the bottom line here.

A couple of more points and I will sit down. I don't know whether the CLECs are going to waste their time on this when they get up or not, but several of their witnesses talk about how even if you find under the TRO that there is no impairment in the market, you, the Florida Commission under Florida law, can require UNE unbundled switching and UNE-Ps.

Now, I told you at the beginning I'm a lawyer, what I say isn't evidence. Well, I'm going to tell you even though some of them don't realize it, they are not lawyers and what they tell you ain't the law. The FCC has clearly addressed

this subject already in the TRO, and I'm not going to read it to you, but what it basically says is if the FCC finds that a UNE, or a network element isn't a UNE, or if they delist it, then a state decision that requires us to provide it -- well, if they say they believe it would be unlikely that such a decision would fail to conflict with and substantially prevent implementation of the federal regime. I mean, this has already been addressed.

Let me tell you about another topic that I think you are going to hear about. I think one of the witnesses is going to sit up here, stand up here, whatever they do, and say, look, what is going on here? Why are the ILECs doing this? Why does BellSouth want the CLECs to go out and put their own switches on the ground and take the calls off of their switches? That doesn't make any sense. Obviously what they -- they, meaning BellSouth -- want to do is run the CLECs out of business. That is the only reason that they could possibly be doing that.

Well, that ignores the obvious answer, and that is this. We don't want them to put in their own switches, we want them to either use the switches that are there that they have already, or we want them to pay us a fair market price to use our switches. We would rather have competitors use their own existing switches rather than being required to sell ours to them at the rates we are currently allowed to charge. It is as simple as that. We have a dispute about it. I know we have a

dispute about it. We think that the prices that we are being allowed to charge are below our relevant cost and we would rather have them on their own switches than be spending our investors' money giving them service below what we think the cost is. That's the answer. Nothing nefarious about it.

Now, furthermore with regard to continued competition, let me remind everyone that no matter what you all do, BellSouth still has a 271 obligation to provide unbundled switching in Florida. If you find no impairment in Florida under 251, we still have to provide switching under 272. We just don't have to do it at TELRIC pricing, and we don't have to provide UNE-P. Now, we have said that we will provide UNE-P on a commercially viable basis for a fair price, and we will. We just don't want to have to give it away.

Competition isn't going away. In fact, reasonable people might conclude that competition will be stronger. Reselling our loops and switches may be a form of competition, just like resale is, but these folks are just recycling our network, not innovating.

This has taken a while to cover, I'm just about done. I appreciate your attention. You have got some things you have got to do. You have got to define who constitutes a mass market customer. We have given you a definition. You have to define market areas. We have given you a definition that actually has economic meaning. You have to apply the bright

line trigger test. We have shown you the results of doing that. You have to apply the potential deployment test. We have shown you the results of doing that. You have to approve and implement a hot cut process, and we have given you one. When you do all of that, you ought to find that CLECs in Florida in BellSouth's territory are not impaired in 21 of 31 markets without access to our unbundled switching. And the 21 markets are listed on the slide in front you and in back of you, I suppose.

On behalf of BellSouth, we appreciate your attention, we appreciate you letting us use this format. We hope it has been productive. I guess only time will tell. With that, I think I need to turn this over to Mr. Feil.

CHAIRMAN BAEZ: Thank you, Mr. Lackey. We are going to take a five-minute break.

(Recess.)

CHAIRMAN BAEZ: All right. We will go back on the record.

Mr. Feil, I think we were up to you now.

MR. FEIL: Thank you, Mr. Chairman. FDN is in a little bit of an uncomfortable spot here in that we do not fit neatly or completely on one side or the other, yet here we are. I actually may be moving my seat depending on who the witness is at any given time. It is true, FDN does support BellSouth and Verizon on certain issues, opposes BellSouth and Verizon on

other issues. But the way the time division worked by side, I start here first.

FDN agrees with specific aspects of the BellSouth and Verizon nonimpairment claims, and specifically those which are identified in Mr. Gallagher's testimony. He is here today to testify. To be in agreement, though, FDN did not have to be here. We could have sat on the sidelines and watched as the ILECs and the UNE-P providers fought it out. We could have sat back and had a beer. However, we believed that we needed to be here so the Commission would have a complete and broad perspective of what is going on in the marketplace and have a balanced view of the case.

We are here to ensure that you know that CLECs can and do own and operate their own switches, can and do serve mass market customers from those switches. Indeed, what the Telecom Act envisioned is what FDN is, a facility-based UNE-L provider. FDN acquired its own switching, as any CLEC can. FDN made the resource commitment necessary to serve via UNE-L, as any CLEC can. FDN built its own OSS from scratch to interface with the ILECs, as any CLEC can. FDN made the local service focus necessary to do hot cuts, as any CLEC can.

And not only is FDN what the Telecom Act envisioned, FDN is also what the TRO envisioned, and that is a trigger company. FDN is a trigger company in all of the BellSouth and Verizon markets that BellSouth and Verizon have identified in

their prefiled cases except for one market, and that is BellSouth's Pensacola market.

Notably under the TRO, great significance is attached to trigger companies even if the bright line test of three is not met. The TRO states substantial weight must be given to the presence of two or even just one UNE-L trigger company. Why is that? Because it shows that UNE-L can be done. And along that line, Mr. Gallagher testifies that if you can do one hot cut to a CLEC switch, you can do 1,000 and more.

FDN's geographic coverage is as I have described. FDN serves one-line, two-line, three-line customers and above in that geography. Its status as a trigger company should be unquestioned. In fact, if we weren't here, you might be wondering to yourselves why we weren't here. And yet there are CLECs in this room who argue that FDN is not a trigger company, and they are all busy saying that none of them are trigger companies either, even though they too serve mass market customers with their own switches.

These CLECs unfortunately are asking you to do what they couldn't get the FCC to do, which is rewrite the TRO as Mr. Lackey referred to. I would urge you, as Mr. Lackey did, not to rewrite the TRO.

And now for a moment I would like to change hats and not necessarily change chairs, but talk briefly about the points where FDN agrees with the other CLECs and disagrees with

BellSouth and Verizon. And specifically that concerns aspects of the batch hot cut proposals. Here the ILEC proposals abound with inconsistencies, illogic, and questions.

I don't know that I could disagree more with what Ms. Foshee said when the theater in the round was standing up here earlier. It sort of reminded me of how the Greeks use to present tragedies, and like every Greek tragedy, there is a protagonist who suffers from hubris. And the hubris here for BellSouth is it is refusing to recognize what the TRO requires. And what the TRO requires is a batch process, if approved, is supposed to cover any conversion two or more loops from one carrier switch to another carrier's switch. And all of the improvements that Mr. Lackey showed you on his slide above, those improvements did not include the one exclusion from BellSouth's proposed batch process, which is ILEC retail to CLEC UNE-L orders are not covered under the batch process. So if you have asked yourself why hasn't FDN used the batch process, it is because they don't let us. We are excluded from it. We are foreclosed.

Interestingly enough, Verizon in their batch proposal, which is not yet implemented, agrees that the TRO says that ILEC retail to CLEC UNE-L orders must be encompassed within the batch process. Interestingly enough also, while Mr. Lackey was pointing out inconsistencies among the CLECs, there is an inconsistency among the ILECs which needs to be fleshed

out and explained. And, again, the TRO flatly requires the batch process is supposed to cover conversions from one switch to another.

Under the BellSouth proposal, some CLEC orders are eligible, some are not. FDN's would be excluded. In other words, UNE-P providers under the Bell proposal could convert loops from BellSouth's switch to the CLEC switch, but FDN could not cut loops from the BellSouth switch to the FDN switch under a batch process. There is simply no supportable reason to exclude the FDN type of orders, ILEC retail to CLEC UNE-L.

Moreover, the FCC's idea behind the batch process is that it is supposed to be a lower cost, more efficient means for cutting over multiple loops, two or more. If you listen to and look carefully at what Mr. Lackey was showing you, you would see that the provisioning intervals were longer. The discounts that are mentioned in BellSouth's testimony for batch processes are not significant. So, the question that you are left with is if this is supposed to be a more efficient, less costly means for processing hot cuts, where is the efficiency with minimal discounts and extended provisioning intervals.

And with that I wanted to ask Mr. Gallagher to the stand so he can give a brief presentation to the Commission. He has been sworn.

MR. GALLAGHER: Thank you. My name is Mike Gallagher. I am CEO of FDN Communications. As Mr. Feil

indicated, FDN is caught in the middle of this debate. I must admit it is a strange feeling sharing a common viewpoint with BellSouth. As this Commission is aware, Mr. Feil and I have opposed BellSouth in many cases here. I know first-hand what it is like to take on an endless barrage of Ph.D.'s and expert witnesses and rehearsed presentations, so I do understand what it is like to be on the other side of this proceeding. But our experience for six years as a CLEC has to count for something, and that's why we are here.

We are here today to debate the concept of gluing together UNEs. The local UNE, the local loop UNE, and the switching, the ILEC switching to form something called UNE-P. The UNE-P agenda has historically been driven by large interexchange carriers who were looking for a nationwide entry process into the local phone business, similar to PIC changes in the early LD divestiture days.

While we acknowledge the temporary availability of UNE-P when we were starting FDN, we never really believed in the underlying regulatory premise that UNE-P must be made available because switching was impaired. This is only because our own experience has shown us that a UNE-L business plan does indeed work. We assumed that regulators would eventually surmise the same and that switching as an impaired UNE would be made unavailable. Thus, the FDN business plan includes collocations, switching, and hot cuts for small, medium, and

residential customers throughout Florida.

If this Commission decides to keep UNE-P available, however, in the name of good public policy, then FDN will abide by whatever rules are eventually implemented. We will adjust and we will thrive. There is no doubt, however, that the TRO triggers are met and switching is not impaired. The triggers are met and multiple facilities-based providers exist today. We see this when we walk through the COs and look at other peoples' equipment, and we see it when we price deals in the marketplace. We provide our own switching. We have 50,000 happy customers. We make money and we plan to continue to do so for quite sometime.

FDN has become very proficient at hooking up customers via UNE-L hot cuts. The key to this is geographic focus and regional alignment with the local ILEC. This is because the local telephone business requires local attention to detail.

As I mentioned in my testimony, we serve significant numbers of one, two, and three-line customers. Our average customer size is approximately 2.9 lines. A company like FDN could have been created with less capital probably by using the UNE-P entry method. Class 5 voice switches that once cost large sums of money may have been avoided. I believe, however, that our investment in switches and collocations is ultimately good for consumers in the State of Florida, because these

investments allow FDN access to the local loop and provide a platform for innovation.

The local loop is clearly impaired as there is no possible way a competitor could ever duplicate this infrastructure. FDN has used its collocations to create new forms of DSL and to provide DSL service to thousands of users who could not otherwise get broadband. FDN uses these collocations and switches to provide voice over DSL and voice over IP services to small businesses, allowing firms to get a competitive bundle of voice and high speed Internet access. We provide special switching based features to customers unique to the ILEC and UNE-P providers. Unlike the large IXCs, we built our own OSS around the UNE-L provisioning method, which allows for prompt ordering and timely installation of voice services to the mass market.

Ultimately, FDN's network architecture ensures that there are real market forces keeping the ILEC in check and not just regulation. Should this Commission find no impairment for switching, however, I would caution staff and regulators that this body must remain vigilant regarding ILEC tactics and pricing as it relates to collocation, Internet interconnection, and access to UNE-P loops. Further remedy payments from the ILECs should be adjusted accordingly to acknowledge a UNE-L universe.

A poor hot cut can result in customer outages,

complaints, and long-term bad will towards the CLEC and possibly this Commission. Punishment of the ILEC on such occasion, therefore, should be swift and financially compensatory. Further, this Commission should take advantage of provisions in the TRO which allow the ILEC hot cut rates to be examined and possibly reduced. As I mentioned in my deposition, funds which large IXCs use to advertise on TV to acquire customers must be spent by FDN to pay for UNE-L installations.

In conclusion, FDN offers its experience in this matter to this Commission in hopes of finding the best possible solution for the people of the State of Florida.

CHAIRMAN BAEZ: Thank you, Mr. Gallagher. Does that conclude your presentation?

MR. FEIL: That concluded FDN's presentation unless there were Commissioner questions.

CHAIRMAN BAEZ: Commissioners, do you have any questions at this moment?

COMMISSIONER JABER: Mr. Chairman, I have one question of Mr. Gallagher. I didn't understand the distinction Mr. Feil was making in his opening about BellSouth creating an exemption, or there was an exemption in BellSouth's batch hot cut process that applies to you all. Could you elaborate on that, please?

MR. FEIL: I can, Commissioner. BellSouth has an

established batch process. Of the types of orders eligible for batch treatment, the type of order that FDN typically does, ILEC retail to UNE-L CLEC, are not eligible for batch processing.

COMMISSIONER JABER: And why is that?

MR. FEIL: Well, if you listen to the BellSouth witnesses it is because it is not needed.

COMMISSIONER JABER: Well, let me ask Mr. Gallagher that so we can -- since he is the witness. Is there is a technical reason, Mr. Gallagher, for that conversion not to take place? I understand the legal argument that it is not covered in the TRO. Are there technical reasons?

MR. GALLAGHER: No. Every day we cut large numbers of customers over this way. We believe the TRO reads that a cut such as that is just two loops or more which we do every day. So, therefore, we believe that BellSouth is just exempting this particular type of cut-over when we take one of their retail customers and put them on our network as just some way to avoid reducing their UNE-L hot cut rates.

COMMISSIONER JABER: Mr. Chairman, I wonder if Mr. Lackey has a witness through the cross-examination process that will be able to address that?

CHAIRMAN BAEZ: We are getting you a name in a second, Commissioner.

MS. FOSHEE: Mr. Ainsworth will be available on

cross-examination and he can address that, or, Commissioner Jaber, we would be happy to address it now, whichever you would prefer.

COMMISSIONER JABER: I think just to maintain the flow of the proceeding, Mr. Chairman, for you, I can certainly wait.

CHAIRMAN BAEZ: And I would agree with you, I think we can hold off until cross-examination.

MS. FOSHEE: Okay, thank you.

CHAIRMAN BAEZ: Thank you.

COMMISSIONER JABER: Thank you.

CHAIRMAN BAEZ: Commissioner Jaber, is that the end of your questions?

COMMISSIONER JABER: Yes, thank you.

COMMISSIONER DAVIDSON: Chairman, I have a couple of questions. Thank you.

CHAIRMAN BAEZ: Commissioner Davidson.

COMMISSIONER DAVIDSON: Mr. Gallagher, thank you for being here. In my view you are the type of competitor we want to see in this state, a facilities-based competitor. My question for you is what response do you have to the contention of the CLECs' consultant, Mr. Gillan, when he says in his testimony that you have got the wrong business model and ultimately may not succeed?

MR. GALLAGHER: That is not my plan. We certainly

have been fighting this thing out long enough here. We are now in a good position financially, and we think we are going to succeed. All of our products and prices calculate a positive NPV for all of our products or we wouldn't do it. It's just rational.

COMMISSIONER DAVIDSON: Are you familiar with the company Knology?

MR. GALLAGHER: Yes.

COMMISSIONER DAVIDSON: Would you consider Knology in one form or another a competitor of FDN?

MR. GALLAGHER: Yes. In the specific areas where they are, yes.

COMMISSIONER DAVIDSON: Is Knology a facilities-based competitor, or do they rely upon the UNE-P platform, if you know?

MR. GALLAGHER: I believe that they are what is called a cable over builder, and that they build their own loop and switching facilities.

COMMISSIONER DAVIDSON: FDN provides their own switching, Knology provides their own switching, there are some other CLECs that provide their own switching. Is it accurate to conclude that there is a market for switches in this country? I mean, can switches be bought and sold, acquired, put into place?

MR. GALLAGHER: Yes, there is absolutely an active

market for switches.

COMMISSIONER DAVIDSON: Thanks. That's all of my questions.

MR. GALLAGHER: I was just going to say there is also a market for switching as evidenced by like a Vonage or someone like that that can buy switching.

COMMISSIONER DAVIDSON: Capacity.

MR. GALLAGHER: Capacity, yes.

COMMISSIONER DAVIDSON: Thank you.

CHAIRMAN BAEZ: Thank you, Commissioner. Any other questions, Commissioners? All right.

Mr. Feil, you said you had concluded your presentation?

MR. FEIL: Yes, sir. And I would like to turn it over to Verizon of completion of that side.

CHAIRMAN BAEZ: Mr. Chapkis, did you get your technical difficulties straightened out or --

MR. CHAPKIS: Chairman Baez, if we might have a minute to just pass out some handouts and to ensure that our technical difficulties are straightened out, I would appreciate it.

CHAIRMAN BAEZ: By all means.

MR. MOYLE: To take advantage of this brief lull on an administrative point, the presentation that BellSouth did, I presume that to be a demonstrative exhibit. We would just like

to be able to have a copy of that electronically so that we can kind of have that for the record.

MS. MAYS: Mr. Chairman, I believe BellSouth has advised staff that it will be provided on Friday. We will be happy to provide a copy to the parties on Friday and it can be entered at that time, if it is appropriate.

MR. MOYLE: We were hoping to have access to it to go through some of it as putting on a case. I mean, obviously it is available because it was shown up here.

CHAIRMAN BAEZ: Is there a technical reason for not having it until Friday?

MS. MAYS: There would be an objection, Mr. Chairman. This format did not -- was not intended to provide a copy of a presentation and summary of evidence that is already in the record so that the parties would be able to perhaps change their presentations. We would just -- Mr. Chairman, just as a matter of just legal strategy presentation, we would be happy to provide it at the conclusion of the case. We did not intend to provide it at the outset and we would object to doing so.

CHAIRMAN BAEZ: Mr. Moyle, let me take that under advisement.

MR. MOYLE: Okay. Most times when I have been in circuit court or whatnot, if it is a demonstrative exhibit and it is made available to an open court, you are entitled to a copy of it.

CHAIRMAN BAEZ: I need to let staff brief me on it.

MR. MOYLE: Thank you.

CHAIRMAN BAEZ: Thank you.

(Off the record briefly.)

CHAIRMAN BAEZ: Go ahead, Mr. Chapkis.

MR. CHAPKIS: Good afternoon, Chairman Baez, Commissioners. Richard Chapkis appearing on behalf of Verizon. Can I have the next slide, please?

We are going to present our direct case in three parts. I'm going take about 15 minutes to give a broad overview of the case, then Verizon Witnesses Doug Fulp and Bill Taylor will take about 30 minutes to give a more detailed presentation about our mass market switching case. And, finally, Verizon Witnesses Tom Maguire and Dr. Bill Taylor will take about 30 minutes to delve more deeply into our hot cuts case. Can I have the next slide, please?

I would like to begin with an overview of our mass market switching case. As you are aware, the FCC has established two distinct tests for determining impairment or no impairment in the mass market. The first test is a triggers test, and the second test is a potential deployment test. If either of these two tests are met, the Commission must make a finding of no impairment.

The FCC has made clear that this Commission's consideration involves a two-step process. First is an

analysis of the triggers. And, second, if the triggers are not satisfied, is the potential deployment analysis, assuming that the ILEC in question requests the potential deployment analysis to be made. Can I have the next slide, please.

Under the triggers test, the states must consider whether either of two mandatory objective triggers have been met in the relevant market, and as Mr. Lackey explained, these two triggers consist of the wholesale trigger and the self-provisioning trigger. Verizon's case, similar to BellSouth's case, does not address the wholesale trigger, so I'm not going to discuss it further in this presentation.

Under the self-provisioning trigger, the Commission must find no impairment when three or more unaffiliated competing carriers are offering mass market switching using their own switches. May I have the next slide, please.

As the prehearing officer expressly recognized in his order on Verizon's motion to clarify the scope of this proceeding, the triggers analysis is mandatory. If either of the triggers is satisfied, this Commission must find no impairment. Moreover, as the prehearing officer has made clear, the triggers analysis is objective. The triggers are key to objective criteria and they provide bright line rules. So as Mr. Lackey quoted from the prehearing officer's order, the triggers analysis essentially amounts to a simple counting exercise.

Because the triggers are mandatory and because they are objective, they have the potential to provide a simple solution to this Commission's review. If an ILEC shows the proper number of competitive alternatives, then the Commission must make a finding of no impairment.

In applying the triggers, the FCC has tasked the states with defining the relevant geographic market to which the triggers apply. Fortunately, it is not necessary for the Commission to reinvent the wheel in this area. That is because the FCC has authorized this Commission to use existing geographic market definitions to define the relevant market in this case.

The Commission should adopt metropolitan statistical areas, or MSAs, or, alternatively, density zones within the MSA as the relevant market definition. MSAs were established by the OMB. They were established by the federal government. They meet the FCC's criteria for defining the relevant geographic market. They have well-established geographic boundaries that were specifically designed to capture economic communities of interest. What's more, the evidence and maps in our testimony show an unmistakable correlation between the population centers represented by certain MSAs and customers actually served by competitors using their own switches. May I have the next slide, please.

In applying the triggers, the states must also

distinguish between a mass market service and an enterprise service. Here again, the Commission should adopt a simple objective strategy for distinguishing between these two types of service. If a CLEC is currently serving a customer using DSL loops, regardless of how many DSL loops are at issue, it has already made the determination that it is most economical to serve that customer using a mass market service rather than as an enterprise service. Accordingly, the cutoff should be between customers actually being served with DS-0 lines on one hand and customers being served with enterprise DS-1 loops on the other. Can I have the next slide, please.

If the triggers aren't satisfied, the Commission may then proceed to the second step of the analysis. In the second step of the analysis, the Commission can -- pardon me, the ILEC can ask the Commission to evaluate certain economic and operational criteria to determine whether or not there is impairment without unbundled switching. The second step, that being the potential deployment analysis, is far more complex than the first step. It involves a consideration of subjective factors such as potential CLEC revenue sources, market demand assumptions, the costs properly incorporated in the CLEC's business case, and a variety of operational issues.

Of course, on the other hand, if the triggers have been met, demonstrating that a number of real world CLECs are already operating their switches in the relevant market, there

is no need to consider potential deployment. Simply stated, there is no need to show in theory whether CLECs could potentially operate in a geographic market when, in fact, they are already operating in that market.

While BellSouth has elected to bring both a triggers case and a potential deployment case, Verizon has chosen to rely solely on the FCC's self-provisioning trigger and the relevant geographic market. And that geographic market in this case, as far as Verizon is concerned, is the Tampa/St. Petersburg MSA. And, as Verizon's testimony demonstrates, Verizon easily satisfies the self-provisioning trigger in the Tampa/St. Pete MSA, because there are a number of CLECs serving mass market customers with their own switches in this MSA.

And it is not close. Similar to the slide that BellSouth showed, it is not as if there are three CLECs serving Verizon customers in this MSA, there are eight. And it is not as if they are serving just a couple of customers, they are serving tens of thousands of customers in the Tampa/St. Petersburg MSA. Therefore, the Commission must find no impairment in the Tampa/St. Petersburg MSA as the triggers outcome is mandatory.

Verizon's mass market switching case is simple and it is straightforward. It turns simply and exclusively on whether there are three or more unaffiliated carriers serving the Tampa/St. Petersburg MSA with their own switches. Therefore,

as you apply the trigger you cannot and you should not allow other irrelevant factors to spill over to improperly distort the triggers analysis.

Unfortunately, some carriers, the CLECs, who have made it very clear that they believe that UNE-P should be preserved regardless of the cost to society, regardless of whether it distorts competition, regardless of what it says in the TRO, have attempted to interject just such distortions into the FCC's triggers analysis.

As this Commission reviews the hundreds of pages of testimony that these carriers have filed, it should note just how few actual factual disputes exist. The CLECs effectively concede the facts, as they must, since these facts are simple and irrefutable. Verizon has shown that there are eight CLECs serving mass market customers on their own switches in the Tampa/St. Petersburg MSA. These CLECs don't deny that they are providing service in that MSA.

Having opted not to dispute seriously Verizon's factual testimony, they attempt to sweep away the meaning of these facts by misstating the requirements of the TRO and attempting to graft nonexistent requirements onto the FCC's objective triggers analysis. Can I have the next slide, please.

Contrary to the CLECs' contentions, as you can see on the first bullet point, there is no business-only exclusion.

The bright line self-provisioning trigger does not require a finding that residential customers are being served by these switches. There is no such requirement in the order. Instead, the FCC was clear that the relevant customer class is mass market customers, which the FCC has expressly stated includes both residential customers and small business customers. It does not include solely residential customers.

Let's look at the second bullet point. Contrary to the CLECs' contentions, there is no geographic ubiquity exclusion. The bright line self-provisioning trigger does not require a finding that a CLEC currently serve or be capable of serving customers throughout the market. The FCC's errata makes clear that the FCC did not intend to impose any such requirement.

Let's take a look at the third bullet point. Contrary to the CLECs' contention, there is no market share or de minimis exclusion contained in the TRO. The bright line self-provisioning trigger does not require a finding that a certain number of customers are being served by these CLECs switches. There is no mention at all of any such requirement in the order, and the FCC would have expressly established a de minimis test if it had wanted to create one.

Moreover, a de minimis test doesn't even make sense in the context of the FCC's rules. If the FCC had intended to establish a de minimis test, then why did it allow the states

to make a finding of no impairment on the basis of potential competition, competition that involves no customers?

And, finally, let's look at the fourth bullet point. Contrary to the CLECs' contentions, there is no exclusion for switches that serve enterprise customers in addition to the mass market. The bright line self-provisioning trigger does not require a finding that the switch is only used to serve mass market customers. Indeed, the FCC expressly noted, "The evidence in the record shows that the cost of providing mass market service is significantly reduced if the necessary facilities are already in place and used to provide other higher revenue services." And that is Paragraph 508. And I would like the next slide, please.

I don't want to go into detail about the slide, but I have included it in the packet that I have handed out because this is revised Paragraph 499, and the source is the TRO errata dated September 17th, 2003. This puts to rest many of the CLECs' contentions about what they are saying about what the TRO requires, and I would commend you to read this paragraph carefully.

Because the facts are not in dispute and the CLECs are misstating and misinterpreting the TRO, the Commission must find no impairment in the Tampa/St. Petersburg MSA. And now briefly I would like to turn your attention to Verizon's hot cut case. Can I have the next slide, please.

In the TRO, the FCC determined that hot cut processes could be improved if hot cuts were offered on a bulk or batch basis. To this end, the FCC gave the state commissions two options. One, they could implement and approve a batch process to make the process of transferring large volumes of customers more effective and less costly. Or, two, they could determine that a batch -- the absence of a batch process is not causing impairment in a particular market and they could make findings to that effect. Could I have the next slide, please.

It is important to understand that this requirement is entirely distinct from the mass market switching analysis that I have just described. As I explained, operational issues, including hot cuts, have nothing to do with whether CLECs are impaired without access to mass market switching under the triggers test; that is, the purpose of this part of the case is to develop a batch hot cut process that is consistent with the requirements of the TRO, not to demonstrate that there is no impairment, because CLECs can easily migrate from UNE-P to UNE-L. Could I have the next slide, please.

As Verizon Witness Tom Maguire will explain later in greater detail, Verizon is offering a menu of hot cut processes, all of which are scalable and all of which are sufficient to handle the volume of hot cuts that will be requested from the elimination of UNE-P. These processes include Verizon's basic large job processes that Verizon

currently offers to CLECs, as well as the new proposed batch hot cut process. These processes provide a package of rapid, efficient, and low cost options for migrating customers from one carrier's switch to another.

All of Verizon's hot cut processes use an innovative provisioning system known as the wholesale provisioning and tracking system, or WPTS. This system eliminates the need for many manual processes in telephone conversations that used to have to occur between a CLEC and the ILEC to implement a hot cut, and they are still required by certain other carriers. As Mr. Maguire will explain, Verizon's batch hot cut process meets every single requirement laid out in the FCC's rules. Can I have the next slide, please.

Were rare exception, the CLECs do not substantively address Verizon's batch hot cut proposal, notwithstanding the fact that Verizon aired this proposal in a collaborative some months ago, notwithstanding the fact that its testimony is quite detailed on this issue, and notwithstanding the fact that it submitted its proposal in other states to which CLECs to this proceeding are also parties. The few criticisms that have been raised regarding Verizon's batch hot cut proposal lack merit. Could I have the next slide, please.

The CLECs hypothesize a variety of electronic loop provisioning processes that would, in theory, eliminate the need for manual wiring. But, as the FCC recognized in the TRO,

the hot cut process is inherently manual and it requires the technician to lift and lay wires on the MDF, or main distribution frame, to disconnect and reconnect a customer's service. The purpose of this proceeding, therefore, is to establish the most efficient method of moving loops from UNE-P to UNE-L within the constraints of today's existing technology. Contrary to the CLECs' contentions, Verizon's hot cut processes are scalable and sufficient to handle the volume of customers or migrations that can be expected from the elimination of UNE-P.

Verizon has presented a sophisticated forced load model that shows that Verizon will be able to hire and be able to train additional workers necessary to meet the increased demand for hot cuts after UNE-P is eliminated.

The forced load model employed by Verizon employs conservative assumptions about the volumes of demand for hot cuts following the elimination of UNE-P. For example, Verizon's forecast assumes that UNE-P will be eliminated throughout the entire State of Florida, even though Verizon is only seeking the elimination of UNE-P in the Tampa/St. Petersburg MSA. In addition, Verizon's estimates assume that all UNE-P CLECs in Florida will switch to UNE-L following the elimination of UNE-P.

In reality, of course, not all carriers will choose to provision their service with UNE-L. For example, some

carriers might seek to go to resale or choose alternative provisioning technology. Out of an abundance of caution, however, Verizon's estimates deliberately ignore these alternative potential arrangements. As Tom Maguire with explain, and as our scalability analysis demonstrates, without question we can meet the hot cut demand expected when UNE-P is eliminated.

I would like to thank you for listening to me, and now I would like to turn you over to Dr. Bill Taylor and Verizon Witness Doug Fulp who are going to go into more detail about our mass market switching case.

DR. TAYLOR: Thank you. Commissioners, thank you for the opportunity to be here in February. My job is, first, as -- well, I am Bill Taylor. I think you remember me from previous iterations. I am an economist at this point. I will be a statistician a little later.

The first task that this Commission has is to determine markets. A product market which the FCC has more or less told us what it is, and a geographic market which the FCC wants your opinion on. Once those markets are fixed, the game is essentially over. We have to simply count noses and the self-provisioning trigger portion of this case is done.

The market definition obviously is important because it tells you the geographic area over which we are going to find that CLECs are found not to be impaired. So if it is a

wide geographic market, there will be a wide area where impairment is not found. If it is a narrow market, it will be a narrow area over which we find no impairment.

What techniques do you use to decide what a geographic market is? Fortunately, this is old hat in economics and in telecommunications. The standard economic test is explained in the merger guidelines of the Department of Justice. It is used every day for determining markets for mergers. It is used frequently by the FCC to determine the geographic markets which it regulates. And a simple version of that test is on the slide in front of you. It says that two areas are in the same market if they are connected by competition. If a change in price in one area affects the price in another area.

Now, that is a nice economist thought experiment. It really doesn't tell you how to apply it very well in the case at hand. So, what is the case at hand? What is the business plan? Well, the canonical CLEC business plan which I have taken from Mr. McDermitt's book on CLEC is the following: You choose a city or a region to enter. You think it is a good market; it has got good potential. You buy a switch. You deploy your switch. You then go hire customer service representatives, you hire yourself a sales force. Then you advertise your service.

It is a mass market service we are talking about, so

you advertise your service through mass market means. You then begin to sign up customers using resale or UNE-P until you can justify actually taking the next step, which for CLECs which use UNE-L is to collocate in the most attractive wire centers first, serve your customers there, and then as more and more customers come in, expand.

And that is the canonical business plan. How does that help us determine what the geographic market is? Well, what is the geographical market? Well, first, it has got to be larger than a wire center. A wire center is too small to exhaust the economies of scope and scale that come about from the following, the next three bullets essentially. A geographic market is roughly the intersection of three different geographic areas. One is the economic community of interest, sort of the demand-side of determining what a geographic market is. It is the area where a customer service organization would serve. It is where one set of sales people would serve.

The second area is the area served by mass market media. What do you get when you advertise on Channel 6. What do you get when you put an ad in the newspaper. What are the geographic limits of where you are actually effectively offering service to potential mass market customers.

And then third, the third area is the geographic area that is served by an efficiently sized switch. The switch you

are going to buy is one that is going to serve the customers you expect to get in the geographic area that that switch can serve, and the geographic market corresponding to the CLEC business plan is the intersection then of those three components, the economic community of interest where mass market media serve and where a switch can serve.

What a geographic market is not, a geographic market is not is individual customer locations. We are talking about mass media services here. About mass market services, about services to residential customers. So surely services offered to residential customers in one area affect the service offerings and prices of residential customers next door.

It isn't a wire center. It's not a wire center for the reasons I gave a moment ago. A wire center is too small. A wire center is certainly not the focus of market entry. You have never seen a CLECs that holds itself out to serve only customers in a given wire center. At some point in time it may only serve customers in a given wire center, but it sure doesn't market itself, that is not its business plan.

It is not the area where UNE-L is currently deployed. Why not? Well, because there are other areas where CLECs could -- and that is not impaired from using UNE-L, but areas where CLECs find it more economical to use UNE-P. So you can't just look at the existing market area served by UNE-L and suppose that that is the geographic market.

And then, finally, it isn't the area where UNE-P currently serves, because that is what the focus of the impairment docket is all about, about whether UNE-P should be the mechanism by which competition takes place, or a more network-based system in which CLECs use their own switches.

The most convenient preexisting geographic area I know of is the metropolitan statistical area. They are defined by the federal government, the Office of Management and Budget. They aren't controlled by an ILEC. It's not like a wire center where the boundaries of a wire center are ultimately in the ILEC's control.

The MSAs are county based, that is counties are either in or out of an MSA. They are based on a core urban area and they include outlying counties depending upon the degree of social and economic integration. They differ from the CEAs we heard about this morning mostly in that the MSA will exclude certain rural counties that have little relationship with the center city, whereas a CEA will. And for Verizon's case today, it won't make any difference because the two are the same for the ones we are talking about.

Let's look at a picture of what I'm talking about in geography. What we have there is Verizon's service territory in Florida. That is the sort of pink stuff. It is in three MSAs, the Tampa/St. Petersburg/Clearwater MSA. Below that, Sarasota and to the east is Lakeland/Winter Haven.

Verizon is asking for relief in only the Tampa/St. Petersburg/Clearwater MSA. And what I have shown you on this diagram is an example of what the reach of a switch might be. The small lines you see in the Verizon MSA territory are the wire centers, and if you look at the cross-hatched purple and pink territory, those are the territories served by the black dot switches, of which I think you can probably see two on the west coast of Florida.

And those are actual switches served by an actual, though anonymous for the moment, CLEC, and the cross-hatched area shows the widespread area which those switches serve. They do not serve individual single wire centers, they serve wherever they can find customers.

If we were to impose on this diagram two other circles, the circle of what is essentially the DNAs, that is the Nielson broadcasting markets, you would see a similar picture, and if you were to think about where you would hire customer service representatives and drop them, you would see a similar map, as well.

So that takes us to the preferred geographic market, namely the metropolitan statistical area. If this Commission were to give strong weight to variations across wire centers, in say cost and revenue opportunities, which is one of the things the TRO asks you to look at, it doesn't say it is dispositive, but it says it is a factor. If in your minds it

turns out to be a very important factor, then you can look at, and Verizon has offered for you, density zones within the MSA, because the density zones are the zones across which the UNE loop rates, which is a big component of CLEC costs, vary.

And, secondly, if you want to give weight, as the TRO says you should, but don't have to be dispositive, give weight to where competition is actually occurring. It turns out if you look at the maps and the competition that Mr. Fulp will show you in a moment, that that will occur more densely in the Density Zones 1 and 2 in our model.

And with that I will turn you over to Mr. Fulp.

CHAIRMAN BAEZ: Thank you, Dr. Taylor.

DR. TAYLOR: Thank you.

MR. FULP: Good afternoon, Chairman and Commissioners. My name is Orville Fulp, I am a director of regulatory with Verizon. I have approximately 20-plus years in the telecommunications field. I started out as a staff person with the Illinois Commerce Commission, worked with ConTel, which merged with GTE, which merged with Bell Atlantic. I have gone through two mergers. I have had various jobs in pricing policy, product management, operations for advanced services, and the last few years I have been doing regulatory, which is currently pricing policy across the states of Verizon.

You have heard from Mr. Chapkis, who talked about the legal requirements of the TRO, which is one of the steps that

we had to go through in putting together our case. You have heard from Dr. Taylor, who defined the geographic market which is another step that we have to have in defining our case. What you are going to hear from me is the evidence that we put together for our trigger case, as well as I'm going to define the mass market enterprise crossover as you have heard which has to be defined. You have to understand what a mass market customer is, and then pursuing the analysis that you would have for nonimpairment.

What else I will describe is the service territory of Verizon, which Dr. Taylor discussed briefly. I will show you where we are asking for relief and where we are not. I am going to describe the data that we utilize to make our triggers analysis. I am going to talk about the data request responses that we received given the staff's good job of getting data requests out to the parties, collecting the data, and allowing us to have additional data for our cases as well as confirming our cases. I'm going to graphically show through a series of maps what our coverage is with our triggers case, and I'm going to show you the density of the coverage that we have. And then, lastly, I will talk about the current competitive environment in Verizon's territory just looking at UNE loops and UNE-P.

So, first, as I said, we need to define what the mass market is going to be. As you can see, the FCC has given a

definition. Residential, very small business customers, and basically customers that do not require high bandwidth connectivity. The FCC went on to state in other places a point where it makes economic sense to serve a customer with DS-1. It went on to state where it is economically feasible for a CLEC to provide voice service with its own switch using DS-1.

Verizon's proposal in this case is the only proposal that speaks to what I will call the economic sense test. In that we are saying if you have DS-0 loops or DS-0 service, it is going to be categorized as mass market. If it is DS-1 or higher, it is going to be enterprise. It is based upon the current on-the-ground competition that we have today. It is based upon current customers and current CLECs and their relationships and how they serve those customers today. And so it is based upon the economic decisions of both the CLECs and the customers.

It is not a forecast, and it is not based upon a mathematical model, and it is not the FCC's default of four. And what this proposal does is it gives you an opportunity not to have to pick a number for a crossover. If you look at the information that has been filed in this case, it started off we had two parties that proposed a mathematical formula, one proposed a fixed number for the crossover. If you look across different states you are going to find different proposals with different numbers. You would never have the same number from

any one party, I don't believe, just based upon the assumptions and how you would do that calculation.

So, basically today there is no consensus among the CLECs. It seems like we are converging a little bit in this case, given the rebuttal testimony, it looks as though we only have one party that has stated anything basically against our proposal, which, again, is to go by what is on the ground today and what choices have been made.

So, again, this proposal will allow you not to have to pick a fixed number, because who knows what the right number should be, 4, 15, 18, we don't know. We don't think you have to decide that, and our proposal will allow you to just look at what is in place today.

Now, I want to talk about our service territory and just go through the map. First, I want to point out the MSA boundaries. Verizon is in three MSAs that comprises its service territory. The Tampa/St. Pete, the Sarasota and Lakeland MSAs. The yellow that you see on the map there is other Verizon service territory which you can see it comprises the two MSAs outside of Tampa. But the yellow inside of the Tampa MSA is Zone 3, the red inside the Tampa MSA is Zone 1, and the orange inside the Tampa MSA is Zone 2. And you can see in the northern part of the Tampa MSA, the white area is served by Sprint.

So the take away from this map is if you look at our

proposal as far as our market definition, which Dr. Taylor discussed, which is MSA, as well as we gave you an option if the Commission wanted to go to a more narrower definition, you could utilize the MSA and density Zone 1 and 2. So if you look at this map, you look at our service territory, you will see that we have got eight CLECs in our density Zone 1 that are currently serving mass market customers, and we have got four CLECs in Zone 2 that are currently serving mass market customers in our territory. The Tampa/St. Petersburg MSA is what our case is. We are not asking for nonimpairment in the other two MSAs, only the Tampa/St. Pete MSA.

Now I want to talk about the line count study. And, first, why do you need to have a line count study, and the answer is we have got to have some way of identifying the mass market customers that are utilizing voice grade loops served by CLEC switches. And so Verizon went to its billing records, its billing data, and reviewed the billing data for CLECs that were leasing stand-alone UNE voice grade loops. And, again, this is for providing mass market switching. Using their own switches, using our loops.

Following the TRO requirements, we screened out affiliate carriers. We made sure that we didn't double count and put those together, and we excluded data CLECs like Covad, and we excluded all of our ADSL lines, or our data lines. And so bottom line our line count study identifies voice grade

loops served by CLEC switches. And as I just showed you before in the previous map, in Tampa MSA Density Zone 1 and 2 we have eight CLECs currently serving our service territory that we are seeking impairment for in our case.

This is the results of our line count study. This is, again, for the Tampa/St. Pete/Clearwater MSA. And what it shows is Density Zone 1 and Density Zone 2. It shows the CLECs. And if I could, right now I would like to ask you if you would like, you have a decoder sheet, you should have a decoder sheet that allows you to see what CLECs I'm talking about as you look at the numbers up there. And so I think it would be helpful, because we are going to go through a few more maps just for your information to see what CLECs are we talking about. When I start overlaying CLEC service territories, you can see which CLECs are making a contribution to the coverage and the density of the coverage, as well as you can put a CLEC name to the number of switched lines that we showed, the DS-0s up on the chart.

So with that in front of you, you can look and see that Density Zone 1 currently has a total of 21,000 CLEC switched DS-0s. And, again, this is serving mass market customers only, and it is served utilizing CLEC switches. In Density Zone 2 you can see that we have a total of 5,000, so we have a total of 27,000 DS-0s that are being served by CLECs in the Tampa MSA Zone 1 and Zone 2.

This is our case. I'm going to show you in a minute a slide that talks about the CLEC data responses. We utilized for our initial case and are sticking to that what we pulled in our line count study. What we did with the CLEC responses is use that as a confirmation of what we initially pulled for our original case. So, bottom line, this is the case that we have before you for nonimpairment; 27,000 lines, eight CLECs in the Tampa MSA Zone 1 and 2.

The next slide shows you the same information as the previous one, but it has column where CLECs confirm mass market service. And, by the way, these last two slides that I showed you come from data that are in my testimony, in my attachments. This one comes from my direct testimony, ODF-2, and I believe the last one I showed you may have been ODF-1 or 2, but it is from my testimony as well as the map that I utilized.

So if you look at the column that I added, this is based upon the CLEC data responses that we got in conjunction with the Commission's data request. And, again, this was extremely helpful information. The Commission data request enabled us to be able to confirm our case, because we had line count information that we are currently billing, but now we had CLEC information. It allows the Commission to have a more robust record because now you have data from the CLECs themselves. So what this tells you is in each one of the density zones and wire centers that this is associated with for

the CLECs, we have confirmed mass market service provisioning by the CLECs.

Now, the next few slides, I'm going to go through the first one, and then I'm going to go through about four more and toggle back and forth. And, basically, what this is going to show you is if you look over at the left-hand corner you will see our Tampa/St. Pete MSA. And if you look at the legend, what we have shown is wire centers by number of CLECs serving it. So, the very light blue would show you a wire center that is served by one CLEC. Again, this slide starts off with three CLECs. So if you look at your decoder sheet you can see which CLECs we are talking about, and you can see the coverage area that these three CLECs provide based upon the data in our line count study.

Again, this is our wire center coverage. It is showing where CLECs are providing mass market loops utilizing their own switching. I'm going to go through some additional slides, and what I want you to look for is this. There is going to be a change in the coverage that you will see on the blues, so that is going to expand as I add CLECs, because I'm going to walk through, because right now you have got three CLECs. I'm going to walk through and I'm going to add additional CLECs. And so what you are going to see is, number one, an expansion of the coverage within the MSA. And, number two, you are going to see a deepening of the blue, which shows

the overlap of the CLECs in the particular wire centers so you are getting more dense coverage as you add CLECs.

And bottom line, if you look at this one slide alone, this meets the FCC's trigger requirements. I have got three CLECs serving mass market customers in my market area, in my MSA. And so according to the requirements, this meets the trigger analysis at this point.

So now I'm going to add a CLEC. I think it is 087. You can look down and see which one that was. And if you just flip back again you can see the change in the coverage and some change in the deepness of the blue. And then I am going to add another CLEC, which is 088, and I will add 073. And, again, you will see the expansion of the coverage area as well as the deepening of the blue.

And I don't know if you can see it flipping the maps, but you can see it on the projection. And, again, just making the point of this is the coverage that we have in our case, this is what it means when you look at our market area, which is the MSA, the Density Zone 1 and 2 if you choose that.

As I add additional CLECs, again, you will see further expansion. Bottom line, if you look at the last slide, that shows the coverage of the case that I told you we had with eight CLECs in the Tampa MSA. And all I want to do is just flip back to where we started so you can see where we started with three, which meets the requirements, and where we end up

with our case with our eight CLECs.

The next slide that I want to show you goes to the option that we have provided in our case, which says if you want to take a more narrow approach than the MSA, you can look at Density Zone 1 and 2. So the next slide is going to overlay what I just showed you, the Density Zones 1 and 2. The red hashmarks are the Density Zone 1, with the yellow being the Density Zone 2. From this you can see the correlation between the population centers, say, Tampa, for instance, and the locations of the customers being served by CLECs for mass market purposes. You can see that it covers for the most part the MSA, and you can see for the most part for Density Zone 1 and 2 that we have coverage there. So, again, this just takes the information and puts it into a density zone basis.

The next slide is talking about the competitive landscape in our territory. And if you look at the pie chart you can see there is quite a bit of UNE-L. In fact, it's like a six-to-one ratio in our service territory today. If you look at the -- I mean, basically what it tells you is that the CLEC business model in our territory is utilizing UNE-L versus UNE-P. What it also tells you is that you are not going to have a massive migration from UNE-P, because we don't have that much UNE-P compared to UNE-L. But, bottom line, I think this tells you a lot about the business model that the CLECs are deploying in our service territory today.

In summary, we have told you about the requirements of the TRO that Mr. Chapkis went over. We have defined the appropriate market that Dr. Taylor has. We have given you an alternative for the market which allows you to go to a more narrow view. We have provided our data to show where we are meeting the triggers and that we do meet the triggers. We have confirmed our data with the CLEC data responses, and shown the current competitive landscape in our service territory. And based upon that information, you should approve our nonimpairment case for the Tampa MSA in Zone 1/2 if you choose to use that as your market definition.

Thank you. And I will turn it over to Mr. Maguire.

MR. MAGUIRE: Good afternoon. My name is Tom Maguire, and I am senior vice-president for CLEC operations. I was here towards the end of last year to give -- during the collaborative process to discuss Verizon's hot cut offerings, and I was also down a couple weeks ago to give a demonstration of a hot cut using our wholesale provisioning tracking system.

I have 23 years in the telecom business. I started out as a service technician in Queens, New York, more years ago than I can count at this point. And I have worked in a number of different organizations focussing in on provisioning and maintenance of services to our end users and to the wholesale customers, as well.

If you will look at Slide 39, rather than go into a

detailed description of all the different steps involved in a hot cut process, what I hope to do is just give a high level overview of our various offerings. I think the folks at BellSouth did a very nice job of going through the individual steps using some of the video that I understand AT&T help produce, so I be won't get into a process method I actually have on Slide 40.

But just to give a high level overview, we currently offer or plan to soon offer three different types of hot cut processes. A basic process, which is the everyday process that has been in existence since the late '90s developed collaboratively with a number of CLECs up in the northeast portion of the country. A project process, or a large job process, that was, again, created collaboratively going back into the 2000 time frame. And the batch process, which was developed in August of last year in response to the TRO.

The basic process and the project process are ISO certified. The ISO certification involves some very strict guidelines set forth by the international standards organization that is based over in Europe, and every six months or so we undertake a recertification process. It is very arduous. It covers every facet of the operation. And we just moved to the latest standard for ISO in May of last year, ahead of schedule anticipating some sort of work stoppage activity in the August time frame.

As soon as the batch process is approved, we plan on pushing that through with ISO certification, as well. In addition to being committed to quality following the ISO processes, we have also consistently met or exceeded our metrics associated with the hot cut processes as they are today, and once the batch process is approved and we have sat down with the other members of the industry to come up with batch metrics, I would imagine that we are also going to live up to those, as well.

Now, each one of our processes makes use of WPTS, or the wholesale provisioning tracking system. This is a system that was created orders the 2000 time frame, again, working collaboratively with some of the customers that we deal with, those folks that specifically deal with hot cuts. And the purpose of WPTS is to virtually eliminate the need to make any sort of phone call as we complete any sort of hot cut. And I will explain that a little bit more as we go on. WPTS has been a very effective tool in optimizing our ability to process hot cuts in a very efficient effective fashion.

Now, it is also our belief that each one of these processes address the needs of the TRO as stipulated in FCC Rule 319(d)(2), in that we feel that they are efficient, they are timely, and that they have the ability to manage multiple loops simultaneously.

Again, I am not going to go into the chart. The only

reason put it up there is just to kind of show you this is something that I have used in a number of collaboratives before, just to kind of give a graphical or visual representation of what takes place during a hot cut. And essentially what we are talking about, irrespective of which process we are focusing on, is that we are lifting the ILEC cross-connect, or in the case of a CLEC-to-CLEC migration, the old local service provider cross-connect and coming down the new local service provider's cross-connect wire.

COMMISSIONER BRADLEY: Excuse me, Mr. Chair. I need for the gentleman to speak into the microphone.

CHAIRMAN BAEZ: Mr. Maguire, can you try and lean forward a little bit.

MR. MAGUIRE: I'm going to bounce my head off of it. Okay. How is that?

COMMISSIONER BRADLEY: That's better.

CHAIRMAN BAEZ: That's working.

COMMISSIONER BRADLEY: Thank you.

MR. MAGUIRE: Moving along to the basic process on Slide 41. The basic process applies to both residential and business lines. It involves services that are migrating to a UNE-L platform. They could come from UNE-P, they could come from resale, they could even come from retail. And, in fact, they typically come from retail. We use this, as I mentioned earlier, in the ordinary course of business. However, on

occasion working with the CLEC, we will accumulate or batch these orders for efficiency.

For example, if we know that we have a number of orders due in a particular central office over the course of a week, we might contact that CLEC and pull those orders in early to make use of the -- to take advantages of the fact that a CO technician is going to visit that particular office.

The orders in the basic process may include individual or multiple lines. Typically there is no more than three lines on your average hot cut. And, again, telecommunications and WPTS help provide a means of transmitting the status of the cut as well as the different status of whatever is happening with respect to that individual hot cut order.

The basic process involves all of the testing that was described earlier in that we do due date minus two prewire and ANI, automatic number identification tests to ensure that everything is set. We go through similar testing right before the cut takes place so as to ensure that the end user is not put out of service.

The project process, as I mentioned earlier, was created with one CLEC in particular, but we offer it to everybody. And this process was created to specifically move an embedded base of UNE-P or resale over to UNE-L. And this one company in particular would use this approach to migrate

customers over to their network that they felt were good customers, people that paid their bills, people that bought additional products and services from this customer, and people, for lack of a better phrase, worthy of being served off of this particular switch. It was a way to build up an embedded base of customers so as to justify capital investment in a switch.

Now, we have rolled this out across the country, it applies to both residential and business lines. And though it was specifically developed to move things from UNE-P or resale to UNE-L, you could also use it to move retail to UNE-L, as well. The one thing about this that is a little bit different from our batch process is that the CLECs need to come to us requesting that we are going to work up a project. And they used to do this by submitting a spreadsheet, but now we have since mechanized the process, or agreed to during a collaborative last year, and the CLEC would put a PON with a special project identifier into our ordering systems, and WPTS will create a spreadsheet essentially aggregating the orders so we can deal with the central office force and get these things worked in an appropriate fashion.

Though communications can take place via WPTS, as with the basic, typically because we are dealing with a large number of lines, the CLECs have requested that we either work this thing via miniconference bridge or via phone call letting

them know that after every, for example, 20 orders that the service -- the lift and lay operation, or cut in and out operation has been completed on a frame, so they could go ahead and port those numbers. It has proven to be a very efficient way to optimize the resources both in the CLEC organization as well as in Verizon's.

Now, we came up with the batch process in August of last year to try to take advantage of the things that we have learned over the course of the last few years, both in the basic process and with respect to the project process, as well. And for the basic process it was just our thought that we could optimize the use of WPTS. As a matter of fact, some of the CLECs have commented in their filings that they would like us to use WPTS as much as possible. So the batch process will rely solely on WPTS.

The other thing we wanted to do, realizing that the project process was a very efficient way to handle orders, was to try to figure out how can we open up the project approach to multiple CLECs. Again, taking advantage of one of the things that happens to be specific to WPTS. WPTS has the ability to count or aggregate orders on a CO-by-CO basis. And so it is our belief that if we have these orders come in identified as batch orders specifically, and that they flew -- or flowed, rather, into WPTS, that the CO force could look into WPTS and make a determination when they had a number of cuts to justify

having a technician work them.

And, again, our desire was to try to do things on a scheduled basis as opposed to an as-needed basis. And the basic process, what I mean by that is that if we have something due on a particular day in some areas, and I will explain this a little bit further in a minute, in some areas we actually have to dispatch a technician to a central office in order to work that cut. And it occurred to me that if we wanted to reduce our costs, if we can work that cut when the technician just happened to be making a scheduled visit, as opposed to making a specific special visit, that that was one way to reduce the costs. So WPTS is going to take advantage of that.

Now, incidentally, in the Tampa/St. Pete MSA that we are talking about, all of our central offices that have collocation are staffed continually, which is kind of unique. In some of our other states we actually have roving forces that cover some of the central offices. So I can see from a batch interval perspective that things would happen a lot more frequently in this particular area of the country as opposed to some other remote areas that I deal with.

Again, I mention it is open to multiple CLECs, and the other thing that we have added into this is that we are going to use WPTS upon completion of the cut to not only send a notification to the CLEC that the framework is done, but also send notification to NPAC essentially activating the port on

the CLEC's behalf. This will enable us to do cuts virtually 24 hours a day, seven days a week.

To go into WPTS a little bit, as I mentioned, this system was developed by Verizon working with the CLECs going back in the 2000 time frame. It is unique to Verizon. It provides status information to all of the parties that are involved in the hot cut, and by that I mean the CLEC provisioning organization, the regional CLEC coordination center which reports to me, as well as to the central office force that is actually doing the lift and lay operation.

In addition, besides providing information and status of cut to those different parties, it enables realtime communications electronically between the different folks. And the way we built this is to sort of give the CLECs the opportunity to manage their work within our systems following a self-service model, figuring that if we can give them visibility to see what was going on in our system and the ability to communicate with our frame techs electronically, that curtails a lot of the manual involvement, and coordination, and the associated expense, as well. So we found this to be an invaluable tool.

The other thing that is good about WPTS is that if there is a particular problem with an order, those are easily identified electronically to any of the parties that are involved so they can take appropriate action, rectify the

situation, and we can cut the order on the day it is due as opposed to having to issue sups or pushing things out, which in my experience is when things get a little bit fragile in terms of migrating end user service.

The other thing WPTS has done is streamline manual involvement such that besides the aforementioned counting that takes place, it also does stare and compare where it looks at vital pieces of information to ensure that they are correct from one order to another order. It performs edits. It really eliminates a lot of the manual involvement. In the central office, once a technician goes in there and updates WPTS, that update will flow to the downstream systems and take care of all of the other completions that need to be addressed.

We gave a demonstration of this about two or three weeks ago in the Sweetwater CO in Tampa, so a number of the folks from the Florida staff have seen this in operation, in addition to a number of the CLECs.

Now, this last one is a bit of an eye chart, and I'm not going to go through this in detail. But realizing that you have a lot of things to absorb with respect to hot cuts, what I wanted to do is put together a little cheat sheet for future use. And so what this, if you look down the first column of the horizontal rows numbered 1 through 13, there is a couple of different items there or categories of information. For example, if you wanted to look at class of service, Item Number

1, and you could see residential and small biz. It says yes under each one of the three hot cut offerings; basic, project, and batch. And when you look over in the note section it explains that hot cuts of POTS services are identical for those different classes of service.

And so what I have done is I have picked out a couple of the hot buttons that we have discussed in a number of either filings or other collaborative meetings and wanted to put a line there just for clarification in case the issue should raise up. For example, hunting, Line Item Number 5. And you can see that hunting is addressed under all the different processes, and then the notes go on to explain that since central office technicians work the hot cut on an order-by-order basis, that there really isn't any danger of somebody starting a hunting group in one side of the frame and then walking down to do another cut in the middle of working that hunt group.

One of the other things I wanted to mention was Line Item Number 13, which gets into provisioning intervals, and there has also been some discussion about our batch offering of six to 26 days. And as I explained earlier, our desire was to take advantage of scheduled visits as opposed to special visits in order to keep costs down. And the other thing we wanted to take into account is the fact that each one of our offices across the country are visited at least once every 26 or so

days.

Now, considering that all of the offices in our Tampa/St. Pete area are staffed continually, and given the current volumes that we are experiencing in those offices, I would imagine that an office like Sweetwater, which happens to be our busiest, then every day or every other day could be a batch hot cut in that office, whereas a place like North Gulf Beach, given the limited volume of work that we are getting into there, we might decide to do those things on a bi-weekly or once a month basis. So it all depends on the volumes that we take in, and that will determine the ultimate interval associated with the batch process. Lots of information, just wanted to get it out there for future reference.

Now, barring any questions, I was going to hand it back to Dr. Taylor to talk about scalability.

CHAIRMAN BAEZ: Commissioners, any questions?

Dr. Taylor.

DR. TAYLOR: The issue that remains is scalability. The question is the FCC has told us, and we know that hot cut processes are inherently more manual than the resale or UNE-P cut-over process, and the question that arises is does Verizon have the resources to handle the additional load, that is the additional number of hot cuts that would come about if UNE-P were no longer available.

Well, that load, or that additional incremental load

comes in three flavors. First, there is the ordinary migration of customers that move from CLEC-to-CLEC, from Verizon-to-CLEC, and that is the flow today of new UNE-P orders that come into Verizon. That is the first source.

The second is similar, that source in reverse, which is win back, that is customers going from a CLEC using UNE-P back to Verizon. That will be an additional source of hot cuts in the future where we didn't have hot cuts today.

And then, finally, third, there is a one-time increment to hot cut demand which is the conversion of the embedded base; that is, there is a stock of UNE-P lines or there will be when this game begins, and the FCC has set a schedule over which those UNE-P lines will all be converted to something over a 27-month period. And each of these three elements contributes to new hot cuts that have to be done, and thus, new force that has to be hired and trained, new costs.

So the object is to forecast each one of those three elements. The first is the hardest, and it is hard because this is an immature market. That is, the rate at which CLECs are taking customers from ILECs hasn't stabilized in any sense, particularly in Verizon territory in Florida. If you look at the numbers, it is growing very rapidly. And instead of looking at a sort of a worst case, what is the biggest month of UNE-P migration that we have seen, what I did as a statistician was try to forecast what the UNE-P migration would be from the

data that we have and a couple assumptions going forward. And actually the number we end up with is larger than -- much larger than the largest number we have seen to date.

The method is essentially to recognize that competition in this market, or CLEC size market share grows like an S-shaped curve; that is, we start out with a very small number of CLEC lines, there will be a period of rapid growth, and it reach, in a mature market, some asymptote and roughly tail off. And if you look at examples in more mature markets, you see precisely that.

And what I'm looking at is the fraction of new UNE-Ps, that is customers migrating from Verizon in this case, as a proportion of total lines. That is the number that sort of hits an asymptote and stabilizes.

So the actual data, we have data from January 2002 to September 2003, but that data is just upward sloping. You wouldn't want to forecast anything from that, and it is very dangerous forecasting something you know that has an upper asymptote, an upper limit from the data that you have today. There is no way you can learn from what we have today whether that asymptote is going to be one percent, 10 percent, or 20 percent of the stock of lines.

So what we did was examine evidence in a mature market, and the mature market we had was New York, which is about the most mature market for local competition that we have

in the United States, and we looked at the time period it took from when competition, UNE-P competition took off in New York, to when it stabilized. And we looked at the proportion of lines at which it stabilized, and we said if that is the stable condition for a mature market, let's apply that to Florida, use that information to forecast what the UNE-P migration component of our incremental hot cuts will be for Florida.

So, we started competition in Florida, we assume that it started to line it up with New York in December 2002, which is just after a reduction in UNE-P prices. And if you look at the data, that is when UNE-P activity -- and this is in Verizon territory -- started to take off.

So if we assume that competition began in December 2002, assume that there are roughly two years of competition until we reach some sort of steady state, that takes us to December 2004. Not there yet. And we assume that the proportion of migration, UNE-P migrations in that steady state are going to be what we see in New York. So those three things give us everything we need to do, the S-shaped curve.

Now, I should say this estimate of migrations that we get is going to be conservative as an estimate of incremental hot cuts. Why is it conservative? Well, not all UNE-P migrations go to UNE-L, or will go to UNE-L. There will be other ways; resale, a UNE-P type service offered by Verizon at market-based rates, that is one reason. A second reason is we

are observing over time increased migration away from wireline services towards wireless services and cable systems. So people who leave the wireline network a few years from now, a larger fraction of them won't be going to a CLEC or going to Verizon, won't be using Verizon's switch, they will be using something that doesn't involve a hot cut.

And, finally, we may be seeing a smaller rate of migrations because we are seeing more bundled services, that is local, long distance, all of that. And everything we see in the marketing literature tells us that the more bundled services are the lower the churn we will expect to see in customers. So for those reasons we think our assumption that every UNE-P is giving rise to a hot cut here is conservative.

That takes care of the first portion of where we get incremental hot cuts from. The second is easy, that is win backs. We don't have direct data, but we can infer the current data from UNE-L, and we simply take that as a fraction of total switched access lines; that is, Verizon will get back some fraction of the CLEC access lines. That fraction we will estimate from current data.

And then, finally, we have the third element, the one-time conversion of the embedded base of UNE-P. Our assumptions start that on the assumption that this Commission makes a decision in July of 2004 and finds nonimpairment somewhere. We first estimated what the embedded base would be

based on data in 2003. We increased it up until July 2004, and then five months -- for five further months while CLECs are allowed to continue to sign people up to UNE-P. Then we stop, that is where the embedded base is largest, and then we reduce it uniformly based on the FCC's schedule.

Now, uniform conversion over time is perhaps problematic because the more condensed in time that conversion is, the higher the peak month of conversion would be, or the month of hot cuts that Verizon would have to serve. However, there are economic reasons for thinking both that CLECs and ILECs would like to both front load, there are some reasons for that, or to back load conversion.

Second, the conversion schedule is negotiated between the CLEC and the ILEC. What the CLEC wants doesn't necessarily happen. What the ILEC wants doesn't necessarily happen, and this Commission gets an oar in, as well.

So, whatever can be done to make it seamless and effective presumably will be done. That leads you towards a more uniform conversion. And, finally, the ability of anybody to front load or back load the conversion of the embedded base is limited by the FCC's schedule. Because the FCC breaks up the period into three little parts, and it says you must be done with a third of the customers after the first 13 months. You must be done with the next third after the next seven months, and you must be through with the remaining third at the

end. So there are limits to how much even if you could, you could try to concentrate the conversion of the embedded base into one or two months.

Well, that gives us the forecast. That forecast gets flowed into the forced load model, the model that Verizon has put together. That takes hot cuts, incremental hot cuts, additional hot cuts and turns that into the level of staffing that is necessary to perform those hot cuts on a monthly basis. And if you want to look at the numbers, that is what the forecast looks like over the 27 months of the scheduled embedded base. You can see there is something roughly approximating an S-shaped curve.

Numerically, the incremental hot cut volume peaks in the 27th month at about a 28 percent increase in staffing in order to serve it. 28 percent is not a huge number. Sufficient staff can be hired and can be trained to perform the additional work. And that suggests or implies, at least to me, that given the expected volume of incremental hot cuts there will not be a difficulty in Verizon's staffing up to serve that volume.

MR. CHAPKIS: Commissioners, I want to take the time to thank you for listening to Verizon's no impairment case. I just want to leave you with two simple, very basic thoughts. There are eight unaffiliated CLECs serving mass market customers in the Tampa/St. Petersburg MSA with their own

switches. So under the FCC's self-provisioning triggers analysis, you must find that there is no impairment in that Tampa/St. Petersburg MSA.

The second point that I just wanted to point out very briefly is Verizon's innovative offerings will be able to handle the hot cut demand necessary if UNE-P is eliminated.

Thank you.

CHAIRMAN BAEZ: Thank you, Mr. Chapkis. That sounds like the presentations are concluded. Ms. Mays, you are lining up to say something?

MS. MAYS: Just a request, Mr. Chairman. One of our witnesses, Mr. Al Varner, was not designated for cross-examination. He has completed his presentation and we would ask if he could be excused.

CHAIRMAN BAEZ: I'm trying to think, did Ms. Foshee -- did you have Mr. Varner answering a question or was it Mr. Ainsworth? It wasn't Mr. Varner.

MS. FOSHEE: That was Mr. Ainsworth.

CHAIRMAN BAEZ: We're going to take a ten-minute break before we get started on the cross-examination, and then we'll talk about Mr. Moyle's request after.

(Recess.)

(Transcript continues in sequence with Volume 11.)

STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

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

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

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

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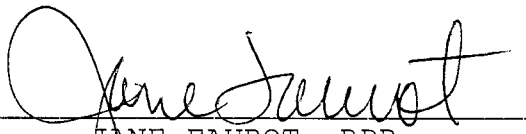

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