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August 16, 2004

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Mrs. Blanca S. Bayó
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No.: 040353-TP

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Response to Supra Telecommunications and Information Systems, Inc.'s Motion for Summary Final Order, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

James Meza III
James Meza III

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CTR _____
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**CERTIFICATE OF SERVICE
DOCKET NO. 040353-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via First Class U.S. Mail and Electronic Mail this 16th day of August, 2004 to the following:

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(*) Signed Protective Agreement


James Meza III

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Supra Telecommunications) Docket No. 040353-TP
And Information Systems, Inc. to Review)
And Cancel BellSouth's Promotional)
Offering Tariffs Offered in Conjunction With)
Its New Flat Rate Service Known as)
Preferred Pack) Filed: August 16, 2004

**BELLSOUTH TELECOMMUNICATIONS, INC.'S
OPPOSITION TO SUPRA'S MOTION FOR SUMMARY FINAL ORDER**

BellSouth Telecommunications, Inc. ("BellSouth"), pursuant to Rule 28-106.204(4), Florida Administrative Code, respectfully submits this Opposition to Supra Telecommunications and Information Systems, Inc.'s ("Supra") Motion for Summary Final Order ("Motion"). As discussed more fully below, the Florida Public Service Commission ("Commission") should deny Supra's most recent attempt to stifle competition in Florida¹ because (1) Supra is not entitled to judgment as a matter of law under either Section 364.051(5)(c) or 365.051(a)(2), Florida Statutes; and (2) genuine issues of material fact exist.

INTRODUCTION

I. SUPRA'S TIRED APPROACH: SUPRA WANTS COMPETITION BUT ONLY IF BELLSOUTH CANNOT COMPETE.

This Complaint proceeding represents the epitome of hypocrisy and is designed solely to insulate Supra from the rigors of a competitive marketplace. Supra argues that certain BellSouth promotional offerings – offerings designed to compete for customers of BellSouth's competitors -- violate Florida law because they result in BellSouth

¹ This is not the first time that Supra has attempted to use this Commission to prohibit Florida consumers from enjoying the benefits of a competitive marketplace by attacking BellSouth's tariffs. In Docket No. 030349-TP, Supra initially filed a complaint regarding BellSouth's \$75 cash back promotion and others, wherein it alleged, as it does here that BellSouth's tariffs violate Florida law. Supra ultimately withdrew these allegations after the Commission issued its Key Customer Order, discussed infra.

providing “free” service or result in BellSouth discriminating against certain customers. However, in making this argument, Supra conveniently ignores its own promotional offerings that provide Florida consumers “free” service or gifts that exceed \$300 in value. Indeed, in switching to Supra, a new Supra customer will not pay any “conversion fees,”² may receive one month of free service,³ or may receive the complete DVD set of “Friends”, a prize worth over \$300.⁴ Ironically, Supra admits that one of its promotions would “[u]nder a strict reading of the statute” be considered a “free service.” This is the same law it claims BellSouth is in violation of in providing a “free service”;⁵ yet, Supra is still advancing this case before the Commission. Thus, Supra’s argument appears to be that only BellSouth is subject to the laws of this State and that Supra may violate the law at will in the name of competition.

Notwithstanding the hypocritical nature of Supra’s Complaint, Supra’s arguments are fundamentally flawed as they are based on incorrect interpretations of Florida law, unsound mathematical calculations, and costs analysis performed by a Supra witness who the United States Bankruptcy Court for the Southern District of Florida found, as it relates to Privacy Director, “lacked a full understanding of what these cost studies

² See Copy of Supra’s website for its Total Solutions service offering, attached hereto as Exhibit 1.

³ See Supra’s Response to Staff’s First Set of Interrogatories, No. 1(c); Supra’s Response to Staff’s Second Set of Interrogatories, No. 7(d), collectively attached hereto as Exhibit 2.

⁴ See Copy of Supra’s website regarding its “‘Friends’ 7 Season DVD Giveaway.” See also a price list from Buy.com establishing that the list price of this DVD package is \$304.92. Both of these exhibits are attached hereto collectively as Exhibit 3.

⁵ See Supra’s Response to Staff’s Second Set of Interrogatories, No. 7(d) (Exhibit 2), wherein in response to Staff’s question of whether its one-month free service promotion constitutes free service under Section 364.08(2), Florida Statutes Supra stated: “Yes. Under a strict reading of the statute, Supra’s promotion would be considered free service.”

include.”⁶ Further, as will be established herein, all of the subject BellSouth promotions comply with Florida law.

II. WINBACK EFFORTS BENEFIT FLORIDA CONSUMERS.

As an initial matter, this Commission has already determined in In re: Petition for Expedited Review and Cancellation of BellSouth Telecommunications, Inc.’s Key Customer Tariffs, Docket No. 020119-TP, Order No. PSC-03-0726-FOF-TP, June 19, 2003 (Key Customer Order) that winback efforts, like the promotions at issue herein, benefit Florida consumers.⁷ Specifically, the Commission held the following in the Key Customer Order:

We believe a win-back promotion such as the Key Customer offering is not, in and of itself, detrimental. In fact, win-back promotions can be very beneficial to Florida consumers by giving them a choice of providers with varied services at competitive prices.⁸

In support of this finding, the Commission cited to In the Matter of Implementation of the Telecommunications Act of 1996, FCC Order 99-223 (Sept. 3, 1999), wherein the Federal Communications Commission (“FCC”) held:

Winback facilitates direct competition on price and other terms, for example, by encouraging carriers to “out bid” each other for a customer’s business, enabling the customer to select the carrier that best suits the customer’s needs.

Some commenters argue that ILECs should be restricted from engaging in winback campaigns, as a matter of policy, because of the ILEC’s unique historic position as regulated monopolies. Several commenters are concerned that the vast stores of CPNI gathered by ILECs will chill potential

⁶ See June 25, 2003 Transcript of Continued First True Up Hearing and All Motions of the Calendar, in the United States Bankruptcy Court for the Southern District of Florida, Case No. 02-41250-BKC-RAM at 990, attached hereto as Exhibit 4.

⁷ See Key Customer Order at 40.

⁸ Id.

local entrants and thwart competition in the local exchange. We believe that such action by an ILEC is a significant concern during the time subsequent to the customer's placement of an order to change carriers and prior to the change actually taking place. . . . However, once a customer is no longer obtaining services from the ILEC, the ILEC must compete with the new service provider to obtain the customer's business. We believe that such competition is in the best interest of the customer and see no reason to prohibit ILECs from taking part in this practice.

Because winback campaigns can promote competition and result in lower prices to consumers, we will not condemn such practices absent a showing they are truly predatory.

FCC Order 99-32 at ¶¶ 68-70 (emphasis added). Contrary to the FCC's express finding authorizing ILECs to compete for former customers, Supra's Complaint is a calculated effort to prohibit BellSouth from **competing and providing Florida consumers with choices and lower prices.**

In fact, as stated by Dr. William Taylor, an economist who has vast experience in the telecommunications industry, the "prevailing regulatory and public policy sentiment today is that winback promotional programs are pro-competitive and beneficial to consumers and society."⁹ Dr. Taylor further states that "[w]inback programs in the telecommunications industry have become so standard a competitive device that some observers regard them as possibly even more cost-effective and productive than programs designed to attract new or first-time customers."¹⁰ Dr. Taylor's comments are not surprising in light of the fact that almost all carriers offer some type of promotion that gives away "free" service or other inducements to entice consumers to switch carriers.

⁹ See Affidavit of William Taylor at ¶ 6, attached hereto as Exhibit 5. For a detail description of Dr. Taylor's education and experience, see paragraphs 2-3 and Exhibit WET-1, attached thereto.

¹⁰ *Id.* at ¶ 10.

For instance, in addition to the Supra promotions discussed above, CLECs have offered or are offering the following promotions:¹¹

- MCI offers one month of **“free service”** if a new customer signs up for Neighborhood Complete or Neighborhood 200 and 50 percent off all other Neighborhood Plans. In addition, new customers of the Neighborhood Plan receive “3,000” airline miles with Northwest Airlines and 6 free DVD or game rental certificates at Blockbuster.
- AT&T offers new customers who switch to AT&T local service a **\$25 credit** on their long distance bill. In addition, if a customer purchases a phone from AT&T, that customer is entitled to receive a **\$10 credit** on their AT&T bill.
- Z-Tel offers one month of **free service** of its Z-Line Home Unlimited for new customers who switch to Z-Tel service (a value of \$49.99). In addition, Z-Tel provides customers with a **\$20** credit on their bill for every referred customer.
- Momentum Telecom offers its customers a **\$20** credit and an opportunity to win **\$10,000** for all referred customers;
- Talk America offers new customers **\$10** off any plan price for six months;
- Vonage offers new customers a **“FREE month rebate credit”**, a value up to \$34.99 for switching to Vonage;
- AT&T’s CallVantage offers new customers a **\$120** credit for six months worth of service;
- Most of these carriers do not charge any conversion or switch fees.

¹¹ All of the identified promotions are collectively attached hereto as Exhibit 6.

BACKGROUND

BellSouth offers several different tariffed promotions to customers who switch from another service provider to BellSouth. These services and promotions are designed to reacquire prior BellSouth customers by bundling basic service with certain nonbasic services and BellSouth's Privacy Director service in conjunction with certain non-telecommunications incentives.¹² The services and promotions ("Promotions") challenged by Supra include:

- **PreferredPack Plan Service.** This residential service offering provides for a flat rate access line with the option of receiving up to 10 vertical features for \$26.95 a month.¹³ This service is available to current and new BellSouth customers. Supra had notice that BellSouth would be adding an access line to its PreferredPack feature package since November 2003 and this current offering has been in effect since January 9, 2004.¹⁴
- **Line Connection Charge Waiver.** With this offering, certain new BellSouth customers are eligible to receive a waiver of the line connection charge when they switch to BellSouth.¹⁵ Supra and other CLECs offer a similar type of promotion.¹⁶ Supra had notice of this offering since November 5, 2003 and the offering has been in effect since January 2, 2004.¹⁷
- **\$100 Cash Back Offer.** With this promotion, certain eligible new BellSouth customers are entitled to receive a \$100 cash back coupon after returning to BellSouth, purchasing the PreferredPack Plan service, and after meeting certain conditions and completing and returning applicable paperwork and coupons.¹⁸ Supra had notice of this offering since December 17, 2003 and the promotion has been in effect since January 2, 2004.¹⁹
- **\$25 Gift Card Promotion.** With this promotion, certain eligible new BellSouth customers were entitled to receive a \$25 gift card after

¹² See Affidavit of Elizabeth Stockdale at ¶ 3, attached hereto as Exhibit 7.

¹³ See BellSouth's General Subscriber Service Tariff at §A3.4.6, attached hereto as Exhibit 8.

¹⁴ See Exhibit 7 at ¶ 4.

¹⁵ See Exhibit 8 at § A2.10.2.

¹⁶ See Affidavit of William Taylor at ¶ 9, attached hereto as Exhibit 7; Exhibit 1.

¹⁷ See Exhibit 7 at ¶ 5.

¹⁸ See Exhibit 8 at § A2.10.2.

¹⁹ See Exhibit 7 at ¶ 6.

returning to BellSouth, purchasing the PreferredPack Plan service, and after meeting certain conditions and completing and returning applicable paper work and coupons.²⁰ BellSouth has not been promoting this promotion since April 2004, and, as of August 20, 2004, will no longer be offering it all. Supra had notice of this offering since December 17, 2003 and the promotion has been in effect since January 2, 2004.²¹

In order to receive the \$100 Cash Back or \$25 Gift Card promotion, the customer must meet certain eligibility criteria. First, the customer must be a returning BellSouth customer who has not had service with BellSouth at least 10 days prior to the new service connection date.²² Second, the customer must have local service at the same local service address.²³ Third, the customer must request service at the same address and in the same name (except for cases of an imminent move from one location in BellSouth's territory to another location in BellSouth's territory).²⁴ Fourth, the customer must have eligible services on the new service order and purchase BellSouth's PreferredPack Plan service (or other eligible bundled service).²⁵ Fifth, the customer must fill out a coupon and mail the coupon to a specified address within 90 days of the order date.²⁶ Sixth, the customer must still have the qualifying service after BellSouth processes the coupon and before issuing the cash back check.

Generally speaking, if BellSouth mails the coupon after order completion, the approximate time interval between the customer's service being established and BellSouth's issuance of the cash back coupon is 4-6 weeks.²⁷ Upon receipt of the

²⁰ See Exhibit 8 at § A2.10.2.

²¹ See Exhibit 7 at ¶ 7.

²² See Exhibit 8 at § A2.10.2.

²³ Id.

²⁴ Id.

²⁵ Id.; see also, BellSouth Response to Staff's First Set of Interrogatories, No. 1(b).

²⁶ Id.

²⁷ See BellSouth's Response to Staff's First Set of Interrogatories, No. 1(a).

completed coupon, BellSouth will verify the customer's eligibility. If at that time the customer no longer subscribes to the PreferredPack service, the customer will be deemed ineligible and the Cash Back check will not be sent.²⁸ In addition, BellSouth verifies whether the customer is receiving the subject service a second time, before mailing the Cash Back check, which is approximately another 4-6 weeks.²⁹ Thus, approximately two to three months will elapse between the time the customer submits an order to return to BellSouth and the time the customer actually receives any of the subject non-telecommunications promotions. During this time period, BellSouth bills the customer \$26.95 for the PreferredPack service (along with the \$6.50 subscriber line charge ("SLC")) and will treat the customer as any other customer for nonpayment of services rendered if payment is not received.³⁰ In addition, neither the \$100 Cash Back Offer nor the \$25 Gift Card can be applied towards payment of a customer's bill.³¹

BellSouth's data establishes that approximately ■ percent of reacquisition customers that receive cash back/gift card coupons region-wide redeem them³² and that the average reacquisition customer stays with BellSouth for approximately ■ months.³³ As to the latter, this is a conservative calculation because BellSouth only counts how long these customers have purchased its services up to the time that the lengths of stay were recorded. Thus, the true duration of stay is likely higher than the ■ months calculated.³⁴

²⁸ Id. at No. 1(d).

²⁹ Id. at No. 1(f).

³⁰ Id. at No. 8.

³¹ Id. at No. 6-7.

³² Id. at No. 3(d)(e).

³³ Id. at 4(i).

³⁴ See Exhibit 5 at ¶ 13.

Regarding the revenue BellSouth receives, as stated above, BellSouth receives \$26.95 a month for the PreferredPack Plan service. In addition, BellSouth charges each customer \$6.50 for the SLC.³⁵ The “SLC is an additional part of the monthly price of PreferredPack Plan service that is paid by *all* BellSouth customers of that service and, importantly, is received and *retained* as revenue by BellSouth.”³⁶ Accordingly, BellSouth receives \$26.95 + \$6.50 or \$33.45 a month for all PreferredPack Plan customers, including those that receive all or part of the subject Promotions.³⁷

In contrast, BellSouth’s the appropriate cost floor to provide the subject services and promotions is \$██████,³⁸ which is derived in the following manner. First, BellSouth’s monthly recurring costs for the flat rate access component of the PreferredPack Plan service is \$██████,³⁹ which is BellSouth statewide average 1FR rate for its retail, residential service. BellSouth determined this rate by dividing the total 1FR revenues by the total 1FR lines in Florida as of April 2003.⁴⁰ To this figure, the \$6.50 SLC charge to get a price of \$16.56 that should be attributed to the basic flat rate residential service. Second, the composite monthly TSLRIC cost of the monthly nonbasic features in the PreferredPack Service is \$██████. This cost includes BellSouth’s direct TSLRIC monthly cost of \$██████ for its Privacy Director service.⁴¹ Importantly, this feature cost calculation overestimates the cost of providing the service because it assumes that every

³⁵ Id. at ¶ 21.

³⁶ Id.

³⁷ Id.

³⁸ Id. at ¶ 46.

³⁹ Id. at ¶ 45; see also, BellSouth’s Responses to Staff’s First Set of Interrogatories, No. 4(d).

⁴⁰ See BellSouth’s Responses to Staff’s First Set of Interrogatories, No. 4(d).

⁴¹ See Exhibit 5 at ¶ 45; BellSouth’s Response to Supra’s Second Set of Interrogatories, No. 15.

PreferredPack Plan customer subscribes to and receives all of the features available with the service offering.⁴²

Third, BellSouth calculated the costs of the Promotions amortized over the average lifespan of a winback customer. Here, BellSouth's costs in providing the Promotions is \$██████, which is comprised of the \$100 cash back offer and the TSLRIC costs of \$██████ for the line installation charge waiver.⁴³ With these figures, and taking into account the █████ percent take rate on the Promotions and the █████ month term of a winback customer, the monthly amortized customer reacquisition cost is \$██████. This is also a conservative figure because it overestimates the true average customer monthly reacquisition costs that BellSouth experiences.⁴⁴

SUPRA'S ARGUMENTS

In its Complaint, Supra argued that BellSouth violated Section 364.08, 364.051(5)(c), and 364.01(4)(g), Florida Statutes because "the combination of these promotional offerings offered in conjunction with the PreferredPack Plan service has the effect of providing free service to the consumer for several months and one month of non-compensatory below cost service." Complaint at ¶¶ 9. In its Motion, Supra avoids the "free service" argument, obviously in recognition of its admission in discovery that a strict reading of the statute would suggest its own promotions violate Florida law,⁴⁵ and instead argues (1) that BellSouth is in violation of Section 364.051(5)(c) because it is pricing services below its costs; and (2) in a **new argument** not previously pled, that

⁴² Id.

⁴³ See Exhibit 5 at ¶¶ 27; BellSouth's Response to Staff's First Set of Interrogatories, No. 4(c).

⁴⁴ See Exhibit 5 at ¶¶ 27 and 28.

⁴⁵ BellSouth does not agree with Supra's interpretation of law regarding the provisioning of "free" service.

BellSouth is in violation of Section 364.051(5)(a)(2) by discriminating against current versus former BellSouth customers with the Promotions.

LAW AND ANALYSIS

I. SUPRA DOES NOT MEET THE STANDARD FOR A SUMMARY FINAL ORDER.

Rule 206.106.204(4), Florida Administrative Code provides that “[a]ny party may move for summary final order whenever there is no genuine issue of material fact. Recently, the Commission, in In re: Verizon Florida, Inc., Order No. PSC0-3-1460-FOF-TL (Dec. 24, 2003), articulated the standard for granting a request for a summary final order:

The standard for granting a summary final order is **very high**. The purpose of summary judgment, or in this instance summary final order, is to avoid the expense and delay of trial when no dispute exists concerning the material facts. The record is reviewed in the **light most favorable to the party against whom the summary judgment is to be entered**. When the movant presents a showing that no material fact on any issue is disputed, the burden shifts to his opponent to demonstrate the falsity of the showing. If the opponent does not do so, summary judgment is proper and should be affirmed. The question for determination on a motion for summary judgment is the existence or nonexistence of a material factual issue. There are two requisites for granting summary judgment: first, there must be no genuine issue of material fact, and second, one of the parties must be entitled to judgment as a matter of law on the undisputed facts. See, Trawick's Florida Practice and Procedure, § 25-5, Summary Judgment Generally, Henry P. Trawick, Jr. (1999).

Further, under Florida law, "the party moving for summary judgment is required to **conclusively demonstrate the nonexistence of an issue of material fact**, and . . . **every possible inference must be drawn in favor of the party against whom a summary judgment is sought**." Green v. CSX Transportation, Inc., 626 So. 2d 974 (Fla. 1st DCA 1993) (citing Wills v. Sears, Roebuck & Co., 351 So. 2d 29

(Fla. 1977). Furthermore, "A summary judgment should not be granted unless the **facts are so crystallized that nothing remains but questions of law.**" Moore v. Morris, 475 So. 2d 666 (Fla. 1985); City of Clermont, Florida v. Lake City Utility Services, Inc., 760 So. 1123 (5th DCA 2000). (emphasis added).

As will be established below, Supra does not satisfy this "very high" standard because (1) Supra is not entitled to judgment as a matter of law; and (2) at a minimum, genuine issues of material fact exist.

II. SUPRA IS NOT ENTITLED TO JUDGMENT AS A MATTER OF LAW.

A. BellSouth Recovers All of Its Costs and Thus Does Not Violate Section 364.051(5)(c).

Supra argues that BellSouth's Promotions violate Section 364.051(5)(c), Florida Statutes because the \$26.95 price that BellSouth charges for the PreferredPack Plan service is less than what BellSouth charges Supra in order for Supra to provide an equivalent service. Supra argues that Section 364.051(5)(c) requires BellSouth to price its services above its direct costs, which Supra interprets to mean "the TELRIC prices that CLECs pay for the UNEs needed to provide a service offering comparable to the ILEC's service offerings plus the TSLRIC costs of those network elements that are not competitively (UNE) provided."⁴⁶ In the very next sentence, Supra contradicts this suggested cost standard by stating that "TELRIC UNE prices are the correct and appropriate measure of the ILEC's 'direct costs' as mandated by Section 364.051(c) [sic] because BellSouth can point to no direct cost study for its retail products which must be implemented by UNE-P elements."

⁴⁶ See Motion at 8.

Thus, it appears that Supra is articulating two cost standards. Both standards are incorrect, however, as BellSouth's statewide 1FR price (plus the SLC) and TSLRIC costs for the features and Privacy Director service is the appropriate standard under Section 364.051(5)(c). Further, even assuming that something other than BellSouth's 1FR and TSLRICs for features and Privacy Director is the appropriate standard, BellSouth still meets the standard.

1. BellSouth's 1FR Plus TSLRICs for Features and Privacy Director Should Be the Relevant Cost Standard.

Although rather inartful, the gist of Supra's argument is that BellSouth's pricing of its PreferredPack Plan service in conjunction with the Promotions constitutes predatory pricing. "A price below an appropriate measure of costs is predatory if implemented to drive competitors from the market with the goal of recouping lost profits by charging above-market rates."⁴⁷ Although Chapter 364 Florida Statutes does not set forth a specific test for predatory pricing in a competitive telecommunications market, Section 364.051(5)(c) does provide a price floor to prevent anticompetitive pricing of a nonbasic service:⁴⁸

The price charged to a consumer for a nonbasic service shall cover the direct costs of providing the service and shall, to the extent a cost is not included in the direct cost, include as an imputed cost the price charged by the company to competitors for any monopoly component used by a

⁴⁷ See Exhibit 5 at ¶ 16. "Precisely what measure of cost should be used has long been debated, although it has become conventional in telecommunications relation for that cost to [LRIC], although, in some cases, the [TSLRIC] has been adopted instead." *Id.* It should also be noted that, "while a predatory price, by definition, must be below cost (whatever the applicable cost standard), not all prices below cost are predatory." *Id.* at ¶ 17.

⁴⁸ See Exhibit 5 at ¶ 18.

competitor in the provision of its same or functionally equivalent service.⁴⁹

In the Key Customer Order, the Commission addressed this statute and held the following:

Section 364.051(5)(c), Florida Statutes, examines direct costs, and we believe an examination of direct costs is needed to make a determination of whether the post-discounted rates offered in a Key-Customer contract remain “compensatory” for BellSouth. If a determination revealed that the [sic] such rates were “non-compensatory,” such a finding would sway us to conclude that the tariff offerings are unfair, anticompetitive, or discriminatory.⁵⁰

Thus, the relevant question for this Commission to decide is whether the price of the PreferredPack Plan service is compensatory after reviewing BellSouth’s “direct costs.” In the context of the instant retail, residential service offering and Promotions, the phrase “direct costs” must, with respect to the flat rate basic service component of the bundle, to be interpreted to mean BellSouth’s IFR rate.

First, because BellSouth must charge retail residential customers in Florida less than the costs to provide the service, BellSouth must be allowed to use this retail rate as a surrogate for its actual costs in determining whether BellSouth’s prices for bundled services that include a 1FR meet the cost standard set forth in Section 364.051(5)(c). Otherwise, BellSouth will be penalized twice: once by being forced by Commission rules to charge retail, residential customers a price that is substantially less than the cost to provide the service and then again by being forced to use its actual costs

⁴⁹ Section 364.051(5)(c), Florida Statutes

⁵⁰ Key Customer Order at 21-22.

(TSLRIC with a TELRIC imputation) in creating promotions and services bundles to try and winback that same customer. As stated by Dr. Taylor:

In determining the meaning of “direct cost” in Section 364.051(5)(c), a fundamental inconsistency between two of the Commission’s important public policy objectives arises: pricing residential basic exchange below cost to foster universal service on the one hand and encouraging competition among all potential providers of local exchange service on the other. The problem is that PreferredPack Plan service combines non-basic services with a basic exchange service whose standalone price is regulated and set below its direct costs. Now, if Section 364.051(5)(c) were interpreted to mean that the price of the PreferredPack Plan service had to equal or exceed its direct cost as measured by the sum of the TELRICs or TSLRICs that make up the bundle, then severe competitive distortions would be imposed on the market for telecommunications service. In particular, that interpretation of Section 364.051(5)(c) would frequently prevent BellSouth from offering bundles of basic and non-basic services at a competitive price when the standalone basic service was priced below direct **cost**.⁵¹

Thus, “direct cost” must be interpreted to mean BellSouth’s 1FR rate to reconcile the discrepancy between the rates BellSouth must charge residential customers per Commission rules and the fact that BellSouth must compete in a competitive market.

Second, Section 364.051(5)(a)(2), Florida Statutes requires that “direct cost” mean BellSouth’s 1FR rate because, with any other interpretation, BellSouth will be prohibited, as a practical matter, from bundling basic with nonbasic services. Section 364.041(5)(a)(2), however, provides:

Nothing contained in this section shall prevent the local exchange telecommunications company from meeting offerings by any competitive provider of the same, or functionally equivalent, nonbasic services in a geographic

⁵¹ See Exhibit 7 at ¶¶ 32-33.

market or to a specific customer by deaveraging the price of any nonbasic service, **packaging nonbasic services together with basic services**, using volume discounts and term discounts, and offering individual contracts.⁵²

In effect, requiring BellSouth to use something other than its 1FR rate as its "direct cost" would render this statute meaningless as it would prevent BellSouth from bundling basic and nonbasic services.⁵³ It is well settled in Florida law that a "statute should be interpreted to give effect to every clause in it, and to accord meaning and harmony to all of its parts."⁵⁴ Accordingly, the tenets of statutory construction require the Commission to interpret "direct cost" to mean BellSouth's 1FR average retail price as it relates to this specific service and Promotions. Otherwise, BellSouth will be at a severe competitive disadvantage, competitors will be insulated from competition, and consumers will be denied the benefits of competition.

Third, interpreting "direct cost" to mean something other than its 1FR rate would lead to absurd and unreasonable results. For instance, as described in detail by Dr. Taylor in his affidavit, if BellSouth is required to use its actual costs for determining the price floor, a consumer will be able to obtain the same services on a standalone basis for substantially less than on a bundled basis. To further illustrate this point, suppose that the standalone retail price of a basic service is \$15 and the standalone price for certain features is \$20. Further suppose that BellSouth's actual costs for providing the same services is \$20 for basic service and \$3 for the nonbasic service and features. When the services are offered separately, the price floor is \$18.00. If, however, the

⁵² Section 364.051(5)(a)(2) (emphasis added).

⁵³ See Exhibit 5 at ¶¶ 33-35.

⁵⁴ Jones v. ETS of New Orleans, Inc., 793 So. 2d 912, 914-15 (Fla. 2001)(quoting Acosta v. Richter, 671 So. 2d 149, 153-54 (Fla. 1996).

services are bundled, and if Section 364.051(5)(c) is interpreted to set the price floor at the sum of its actual costs in providing the services, the price floor would be \$23.⁵⁵

Such a result is absurd and conflicts with basic economic principles.

In a market where firms compete by offering bundled services to high-margin, price sensitive customers, a bundle price no lower than \$23 cannot compete with equivalent standalone services that can be offered as low as \$18. Bundling these basic and nonbasic services would cause BellSouth's price floor to rise from \$18 to \$23, and if the market price fell below \$23, BellSouth's bundled service would be priced out of the market. . . Economically, imposing a TELRIC or TSLRIC-based price floor on bundles containing basic services whose regulated standalone price is set below direct cost extends that distortion in a much more competitive segment of the market. Effectively, BellSouth would be *required* to price its standalone 1FR service below cost to customers for whom there is less competition, and at the same time, *required* to recover its full costs of 1FR service in bundles offered to the more competitive sector of the market. Such an inconsistent requirement obviously penalizes BellSouth, but more importantly, it harms consumers and the competitive process.⁵⁶

Another basic tenet of statutory construction is that, in interpreting statutes, courts are constrained to avoid absurd or unreasonable results.⁵⁷ Here, forcing BellSouth to have a different price floor for the same services simply because they are sold in a bundle rather than on a standalone basis makes no sense and leads to absurd and unreasonable results.

⁵⁵ See Exhibit 5 at ¶34.

⁵⁶ See Exhibit 5 at ¶¶ 35, 36. For a description of the type of harm that consumers will see with such an interpretation of "direct cost," see paragraph 37 of Dr. Taylor's Affidavit.

⁵⁷ See City of St. Petersburg v. Siebold, 48 So. 2d 291 (Fla. 1950).

Fourth, there is nothing anticompetitive about interpreting “direct cost” to mean BellSouth’s 1FR price because CLECs, like Supra, can still purchase unbundled loops at economic costs and on equal footing with BellSouth. As stated by Dr. Taylor:

As long as BellSouth prices the bundle of basic and nonbasic services to cover the retail price of the basic service and the direct costs of the nonbasic services, the CLEC can compete on equal footing. Such pricing may not be economically efficient, (because it is below cost) but it is not anticompetitive, particularly in the market for customers who buy bundled telecommunications services. As long as CLECs can purchase (or self-provide) loops at a price commensurate with BellSouth’s economic loop costs, there is nothing anticompetitive about selling 1FR service at a price below costs or in selling a bundle of services that includes the loop at a price that reflects the price of the standalone 1FR service.⁵⁸

Thus, the Commission should interpret “direct cost” as it is used in Section 364.051(5)(c) to mean BellSouth’s 1FR rate as the cost for the basic service and TSLRIC for the costs of the features and Privacy Director. Using this standard, it is clear that BellSouth’s PreferredPack Plan service, even with the subject Promotions, is compensatory as BellSouth’s total monthly cost is \$23.44⁵⁹ and BellSouth receives \$33.45 a month in revenue, providing a very healthy monthly margin of \$█. Thus, Supra’s argument fails as a matter of law.

2. BellSouth Still Complies with Section 364.051(5)(c) if an Imputation Standard Is Utilized.

Although BellSouth strongly discourages the Commission from ordering a cost standard other than the 1FR Price/TSLRIC standard discussed above in this particular

⁵⁸ See Exhibit 5 at ¶ 40.

⁵⁹ As stated above, this figure includes \$10.06 for the 1FR, \$3.46 for the TSLRIC cost of the features and BellSouth’s Privacy Director service, and \$3.42 for the cost of the Promotions.

case, even if the Commission construes Section 364.051(5)(c) to require imputation of prices of monopoly components to the cost standard, BellSouth meets this standard as well.

As an initial matter, Section 364.051(5)(c) only requires the imputation of certain costs when a cost is not included in BellSouth's direct cost ("Imputation Standard").⁶⁰ Under this interpretation of Section 364.051(5)(c), BellSouth's direct costs will include as an "imputed cost the price charged by the company to competitors for any monopoly component used by a competitor in the provision of its same or functionally equivalent service."⁶¹ The only monopoly component or essential facility⁶² that arguably exists with the Preferred Pack Plan service is the loop.⁶³ Indeed, Supra's own business plan proves this fact as Supra has deployed its own switches from which it serves approximately 18,000 customers.

With this Imputation Standard, BellSouth's monthly costs in providing the PreferredPack Plan with the subject Promotions is \$██████,⁶⁴ which is comprised of the following costs: \$██████ for the state-wide average UNE rate for the loop; \$██████ for the TSLRIC costs of the non-monopoly components of BellSouth's 1FR, which consists of the port and average usage;⁶⁵ \$██████ for the composite monthly nonbasic features plus

⁶⁰ BellSouth recovers its "direct costs" with the 1FR and TSLRIC standard discussed above and thus no imputation is required.

⁶¹ Section 364.051(5)(c).

⁶² As stated by Dr. Taylor, "for good economic and regulatory reasons," the imputation requirement only applies to essential facilities, *i.e.* "elements or components of services that (1) are not available competitively (BellSouth is the sole source) or through resale of a BellSouth retail service, (2) have no close or feasible substitutes, and (3) are essential for the provision of downstream retail services for which BellSouth and other carriers compete." See Exhibit 5 at ¶ 50.

⁶³ *Id.* Given the availability of wireless local loops, cellular service, VOIP, and cable connections, it is even arguable whether the loop is an essential facility or monopoly component today. For the sake of argument only in this particular proceeding, BellSouth presumes that the loop is an essential facility. BellSouth does not concede this fact.

⁶⁴ *Id.* at ¶ 53.

⁶⁵ See Affidavit of Bernard Shell at ¶¶ 3-4, attached hereto as Exhibit 11

privacy director costs; and \$[REDACTED] for the properly amortized monthly customer reacquisition costs associated with the Promotions.⁶⁶ Again, because BellSouth receives \$33.45 a month in revenue for the PreferredPack Plan, BellSouth recovers its costs even using the Imputation Standard.

3. Supra's Cost Calculation Is Irrelevant and Flawed.

Supra's simplistic and erroneous argument is that BellSouth receives \$26.95 for a service that it costs Supra \$28.14 to provide and thus is in violation of Section 364.051(5)(c).⁶⁷ Supra's \$28.14 cost calculation should be given no weight because it does not measure BellSouth's costs but rather Supra's costs. Further, \$4.65 of this cost is Supra's resale costs in purchasing Privacy Director from BellSouth, which has nothing to do with the statutory standard. Privacy Director is not a UNE and thus is not available at TELRIC.⁶⁸ Supra should be aware of this fact because it has already lost this argument before the United States Bankruptcy Court for the Southern District of Florida. Indeed, in that proceeding, Supra asserted a billing dispute as to its Privacy Director resale charges on the grounds that Privacy Director was a feature function of the switch and thus should be included in the UNE feature cost and local switch port charges. The Bankruptcy Court rejected this argument:

The debtor's argument on privacy director is that it is already paying for the components of privacy director as part of the charges embodied in the UNE bills for the \$2.26 features costs and the \$1.17 local switch port charge. BellSouth has maintained from the beginning that privacy director uses components that involve costs that did not go into the UNE billing charges that Supra is paying, and, therefore, under the contract, this service has to be acquired if the debtor wants it, just as it would be acquired by a retail

⁶⁶ *Id.*

⁶⁷ Motion at 5.

⁶⁸ Exhibit 5 at ¶ 50.

customer, albeit at a discount that is provided for these types of services.

The Court heard preliminary arguments and proffers on this at the last hearing, which I believe as of June 18th, and set a further evidentiary hearing for the purpose of allowing the debtor -- or I should say set a further evidentiary hearing based on the debtor's proffer that it would be able to show that all of the components of privacy director and all of the costs for those components were included in cost studies that BellSouth presented in order to obtain the UNE charges for the features component and for the local switch port.

The debtor has not met its burden. The Court has considered the exhibits that were referenced and those that are in evidence that have been referenced, the testimony of Mr. Nilson and Ms. Caldwell. The Court finds that Mr. Nilson's testimony is simply his interpretation of what's included in the cost studies. I don't believe Mr. Nilson was misrepresenting anything or was trying to deceive in any way. I just don't believe he has a full understanding of what these cost studies include.

By contrast, Ms. Caldwell is clearly an expert on the components of the cost studies and the methodology of their preparation and, in fact, a particular excerpt from Exhibit 9 that the debtor was relying on was prepared under her supervision. Specifically, I find that Ms. Caldwell was convincing and credible in her explanation of cost components for privacy director that were not included in the cost studies presented to the Public Service Commission in what I believe was the UNE docket that's been referred to. That is the Public Service Commission docket that determined the \$2.26 features charge and the \$1.17 local switch port charge.

These additional items, and my terminology is certainly not meant to be the technical terminology, include extra use of the network, including at least one, if not two, extra trips up to the SCP database, and if the query reveals that the caller has put on caller ID block or is unknown, that is, if it's identified as private or unknown, then you have, again in very lay terms, an extra round trip between the callers to require the originating caller to unblock or state their name. Second, you have access to

the privacy director software, which the Court finds credible Ms. Caldwell's testimony that this is a separate application on the SCP database. Third, you have use of the CSN and access to it if the first query shows that the caller is in the private or unknown category.

That may not be a full summary of the extra components, but even if it's not, and even if it's not, as I candidly admitted, a technical explanation of everything, I am fully satisfied that the debtor has failed to meet its burden and that there are substantial additional costs inherent in the privacy director service that the debtor is not paying for under the existing UNE billing. Therefore, the debtor's objection to the privacy director portions of the disputed bills is overruled.⁶⁹

Likewise, Privacy Director is not a monopoly component or essential facility and thus is not subject to the Imputation Standard (although BellSouth submits that the 1FR/TSLRIC standard is the appropriate standard). Thus, Supra's Privacy Director costs are irrelevant to any inquiry under Section 364.051(5)(c)

Further, as stated above, Supra is incorrect in its assertion that the appropriate cost standard for determining the price floor is what its costs are to provide an equivalent service. Rather, Section 364.051(5)(c) requires an analysis of BellSouth's direct costs. And, Supra is also incorrect in asserting that it needs to purchase all of the identified services via UNE-P in paragraph 8 of the Motion (totaling \$22.58) to provide an equivalent service. While BellSouth disputes the appropriateness of the cost standard articulated and Supra's calculated costs pursuant to such a standard, because BellSouth receives \$33.45 a month in revenue for the PreferredPack Service, BellSouth recovers all of its costs and thus complies with Section 364.051(5)(c) even using Supra's irrelevant cost calculations and standards.

⁶⁹ See Exhibit 4, supra.

4. Supra's Refusal To Amortize the Promotion Costs Is Improper and Inconsistent with Supra's Own Practice.

Supra's analysis fails to take into account how the nonrecurring customer acquisition costs should be considered in a Section 364.051(5)(c) analysis. Instead, Supra simply lumps the values of the Promotions together and argues that it cannot compete with this upfront cost. Supra's refusal to amortize these reacquisition cost is quite surprising because Supra conducts a similar analysis in determining whether its promotions comply with Florida law.

Specifically, in responding to Staff's question of whether its one month of free service promotion violated Section 364.08, Florida statutes (which prohibits a carrier from providing free or reduced service), Supra provided inconsistent answers. First, Supra essentially admitted that its promotion violated Florida law as it stated that, "[u]nder a strict reading of the statute, Supra's promotion would be considered free service."⁷⁰ Then, Supra provided an alternative explanation and states that the promotion would not result in the provisioning of free service because the tariff "requires the residential customer to remain with Supra for a minimum of 4 months in order to receive one month of 'free service.' Based on Surpa's costs and prices charged to its residential customers for the first 3 months, Supra makes enough of a profit to cover the costs of the fourth month."⁷¹

Supra's inconsistent answers notwithstanding, the important point is that, when it benefited Supra, Supra amortized its costs over the time a customer stays with Supra to

⁷⁰ See Exhibit 2 at No. 7(d).

⁷¹ Id. Because Supra also waives any line installation charges but, upon information and belief, does not require a minimum length of stay for this promotion, Supra apparently would still be providing free service under its interpretation of Florida law if the customer left after one month.

recover its costs in providing one month of free service. This is the same analysis employed by BellSouth here as BellSouth's reacquisition costs are amortized over the average lifespan of a winback customer. And, given the proliferation of promotions in general, this analysis must be universally employed by the Commission or no promotion would be acceptable under Florida law.

Indeed, there is nothing in regulatory principles that suggests that revenue must exceed cost for each individual customer.⁷² Rather, as set forth in Section 364.051(5)(c), the recovery of cost is expected to occur at the service level. This requirement is consistent with economic principles as stated by Dr. Taylor:

In economics, a price that prevents an equally-efficient firm from profitably serving a particular customer is not predatory. Rather, the test is whether an equally-efficient firm can profitably serve the market at that price. And at the market level, what matters is the behavior of the average customer: her usage, her duration of stay and the likelihood that she claims her \$100 Cash Back promotion.⁷³

5. The SLC Is a Price BellSouth Charges for the PreferredPack Service.

Although not addressed by Supra in the Motion, Supra previously asserted in the Complaint that the SLC should not be included in calculating the revenue BellSouth receives for providing the PreferredPack Service. Supra's argument, to the extent it attempts to resurrect it herein, is incorrect. BellSouth charges every PreferredPack Plan customer \$6.50 per month for the SLC in addition to the \$26.95 price.⁷⁴ "Hence the SLC is an additional part of the monthly price of PreferredPack Plan service that is paid by *all* BellSouth customers of that service and, importantly, is received and

⁷² See Exhibit 5 at ¶ 55.

⁷³ See Exhibit 5 at ¶ 55.

⁷⁴ See Exhibit 10 at ¶ 5.

*retained as revenue by BellSouth.*⁷⁵

The Commission, in its 1999 Report to the Legislature on Fair and Reasonable Residential Basic Rates, previously determined that revenue from the SLC constitutes both a source of revenue for BellSouth and a price paid by the consumer.⁷⁶ In its calculations, the Commission explicitly included revenue from the SLC in its measure of LEC Contribution, which it defined as the “difference between total revenues and total costs” for the service.⁷⁷ Similarly, it explicitly included the SLC as a price paid by the consumer in its affordability analysis comparison of rates for residential basic local service across the states.⁷⁸ Thus, there can be no question that the SLC should be included in determining the amount of revenue or price that BellSouth charges for a particular service under Section 364.051(5)(c).

B. BellSouth Does Not Discriminate Between Similar Customers.

In a new argument, Supra argues that BellSouth violates Section 364.051(5)(a)(2) because only former BellSouth customers are eligible to receive the Promotions. Thus, Supra argues that BellSouth “unreasonably discriminates against ‘similarly situated customers’ in the residential market.”⁷⁹ In support, Supra cites to the Key Customer Order and attempts to apply the factual specific holdings in that case to an entirely different promotion. Specifically, Supra argues that (1) BellSouth is not meeting “any offerings by any competitive provider;”⁸⁰ (2) the BellSouth’s Promotions

⁷⁵ Id. at ¶ 21.

⁷⁶ See Florida Public Service Commission, Report on the Relationship of the Costs and Charges of Various Services Provided by Local Exchange Companies and Conclusions as to the Fair and Reasonable Florida Residential Basic Local Telecommunications Service Rate, February 1999.

⁷⁷ Id. at 23.

⁷⁸ Id. at 86.

⁷⁹ Motion at 12.

⁸⁰ See Exhibit 6 to rebut this allegation. In fact, as stated by the Commission in the Key Customer Order, “[w]e agree with BellSouth’s witness Taylor that a BellSouth competitive offering need not be identical in

are not designed to compete in a “geographic market;” (3) the Promotions discriminate against “similarly situated customers;” and (4) BellSouth has not targeted customers by hot wire centers.⁸¹ While it is not quite clear how these arguments differ, *Supra* raises a general theme throughout: BellSouth discriminates against like customers and thus is in violation of Florida. For the following reasons, this argument must be rejected.

First, *Supra*'s assertion of this cause of action is procedurally improper because *Supra* never pled a violation of 364.051(5)(a)(2) in its Complaint. In fact, the Complaint is entirely devoid of any reference to a claim that the PreferredPack Plan service and Promotions discriminated against “similarly situated customers.”⁸² As held by the Florida Supreme Court in Hart Properties, Inc. v. Slack, 159 So. 2d 236, 239 (Fla. 1964), legal theories not pled cannot be tried absent consent of the parties. In reaching this conclusion, the Court stated the following:

We hold again that issues in a cause are made solely by the pleadings and that the function of a motion for summary judgment is merely to determine if the respective parties can provide sufficient evidence in support of the operative issues in the pleadings to require a trial to determine who shall prevail. “Pleadings are the allegations made by the parties to a suit for the purpose of presenting the issue to be tried an determined. They are the formal statements made by the parties of the operative, as distinguished from the evidential, facts on which their claim or defense is based. . . . Under existing rules, the only instance in which legal issues not raised by the pleadings may be tried and decided is where

service, in terms of either its price or non-price characteristics. BellSouth could introduce a bundles of services which may be more attractive than offerings of competitors and be priced higher or lower than a competitor's offering. Therefore, we find that the phrase 'meeting offerings by competitive provider' implies that BellSouth should have the ability to respond to offerings made by competitors in any of its wire centers.” Key Customer Order at 11-12.

⁸¹ Id. at 13-14.

⁸² *Supra* did cite to and allege a violation of Section 364.051 in general but all allegations as to this statute related to Section 364.051(5)(c), which as evidenced by *Supra*'s Motion, is an entirely different claim.

the issue, although not plead, is tried by the consent of the parties.⁸³

Here, BellSouth has not consented to litigating and trying the issue of whether BellSouth is in violation of Section 364.051(5)(a)(2). Thus, Supra's request for summary judgment on this issue should be denied as a matter of law.

Second, even if considered, Supra's substantive arguments fail as they misinterpret the Key Customer Order. From the outset, it should be noted that Supra attempts to take factual specific findings made by the Commission in relation to the Key Customer promotion and apply them to an entirely different promotion that is targeted to an entirely different set of customers. The Commission recognized the fact-specific nature of its holding in the Key Customer Order as it prefaced its finding on the meaning of "similarly situated" with clarifying language. Indeed, although not cited by Supra, the Commission stated that: "Therefore, we find that **for purposes of this docket**, 'similarly situated' or 'substantially similar' shall be interpreted as customer facing similar competitive alternatives in a 'specific geographic market' as defined in Section IV.D of this Order."⁸⁴ The seminal issue in the Key Customer proceeding was "whether geographic targeting in a BellSouth promotional tariff is unfair, anti-competitive or discriminatory."⁸⁵ Hence, the Commission's holding regarding its interpretation of "similarly situated" in relation to a particular geographic market is specific to this issue. In this case, there is not a similar issue as the Promotion is not targeted to a specific

⁸³ Hart Properties, Inc., 159 So. 2d at 239. This holding is consistent with Rule 25-22.036, Florida Administrative Code, which requires a party filing a complaint to identify the statute, rule, or order violated as well as the actions that constitute the violation. In the instant case, Supra did neither.

⁸⁴ Key Customer Order at 15.

⁸⁵ Id. at 8.

geographic market. Instead, the Promotions target former BellSouth customers who are presently served by CLECs.

While factually inapposite, the Commission's rationale, however, in the Key Customer Order, is applicable in the instant matter. Specifically, in the Key Customer Order, the Commission found that customers in wire centers with little or no competition are not similarly situated with customers in "hot" wire centers.⁸⁶ Likewise, the customers at issue here – current BellSouth customers v. current CLEC customers -- are not similarly situated because the two groups of customers "face different competitive choices and have different sets of substitute services available to them or they value those choices and substitute services differently."⁸⁷ For instance, the two groups of customers have different "price elasticities of demand."⁸⁸ In addition, current CLEC customers are likely to be more price-sensitive than BellSouth's residential customers.⁸⁹ Based on these facts, as a matter of economics, BellSouth's current customers and a CLEC's current customers are not similarly situated.⁹⁰

III. GENUINE ISSUES OF MATERIAL FACT EXIST.

In addition to the fact that Supra is not entitled to judgment as a matter of law, Supra's Motion should be denied because, at a minimum, several material questions of fact/policy exist that are necessary for a finding that Supra is entitled to a Summary Final Order.

As a practical matter, Supra's entire Motion is premature because Supra is still seeking discovery from BellSouth. In fact, on the day that Supra filed its Motion, it

⁸⁶ Id. at 15.

⁸⁷ See Exhibit 5 at ¶ 66.

⁸⁸ Id. at ¶ 64.

⁸⁹ Id. at ¶ 65.

⁹⁰ Id. at ¶ 67.

propounded 69 Requests for Admissions and asked for dates to depose BellSouth on topics that are essential to Supra's arguments, including (1) "The monopoly/UNE components used by a CLEC to provision the same or functionally equivalent services as those that compose BellSouth's PreferredPack Plan promotional offering in Florida;" (2) "BellSouth's direct costs of providing the services that compose BellSouth's PreferredPack Plan promotion offering in Florida;" and (3) "The price charged by BellSouth to Supra for any monopoly/UNE component used by Supra in the provision of the same or functionally equivalent services as those that compose BellSouth's PreferredPack Plan promotional offering in Florida."⁹¹

Supra's issuance of additional discovery while also contending that there "are no genuine issues of material fact" is not only materially inconsistent but fatal to Supra's Motion. Generally, speaking, "[a] court should decline to grant a motion for summary judgment until such time as the facts have been sufficiently developed to enable the court to be reasonably certain that there is no genuine issue of material fact."⁹² The Commission has previously followed this general principle of law in denying Motions for Summary Final Order.⁹³ Here, Supra asserted to this Commission that there were no genuine issues of material fact but also propounded discovery on BellSouth. Simply put, Supra's request for additional discovery on the date that it filed the Motion proves that genuine issue of material fact exist.⁹⁴

⁹¹ See Supra's Third Set of Request for Admissions, attached hereto as Exhibit A; July 27, 2004 e-mail from Supra's counsel to BellSouth's counsel, attached hereto as Exhibit 9.

⁹² See Florida Jurisprudence, § 66 (2nd ed.).

⁹³ See In re: Complaint of Florida Competitive Carriers Association Against BellSouth Telecommunications, Inc., Order No. PSC-02-1464-FOF-TL (Oct. 2002) ("We believe that the suitable time to seek summary final order, if otherwise appropriate, is after testimony has been filed and discovery has ceased.")

⁹⁴ Most of the case law addressing the issue deals with the situation where the nonmovant is still seeking discovery. In those cases, courts have held that summary judgment is improper when discovery is

In addition, there are several factual/policy considerations the Commission must take into consideration before granting Supra's Motion for Summary Final Order, including but not limited to:

- Although BellSouth does not believe that the issue is relevant to the standard set forth in Section 364.051(5)(c), if the Commission disagrees, a question of fact exists as to what are Supra's costs in providing an equivalent service? Supra has asserted two different cost analysis, each with differing sets of figures.⁹⁵
- Although BellSouth does not believe that the issue relevant to the standard set forth in Section 364.051(5)(c), if the Commission disagrees, a question of fact exists as to what services are necessary for Supra to provide an equivalent service via UNE-P? Again, Supra has apparently asserted conflicting positions.⁹⁶
- In the event the Imputation Standard is utilized, what are the "monopoly components used by a competitor in the provision of its same or functionally equivalent service."
- For promotional purposes, how can the Commission reconcile the prices BellSouth is required to charge for basic service with BellSouth's right to compete in a competitive marketplace?
- How will competition be impacted if the Commission interprets Florida law that limits BellSouth's ability to provide for bundled service?
- Are former BellSouth customers similarly situated with current BellSouth customers?
- Has competition been harmed by these Promotions? Have CLECs adjusted their business plans to address any competitive concerns?⁹⁷

pending. See Villages at Mango Key Homeowners Association, Inc. v. Hunter Development, 699 So. 2d 337, 338 (Fla. 5th DCA 1997); Arguelles v. City of Orlando, 855 So. 2d 1202, 1203 (Fla. 5th DCA 2003). Probably because of the obvious ramifications associated with taking such actions, exhaustive research has revealed no case where the party moving for summary judgment filed additional requests for discovery on or after filing the motion.

⁹⁵ Compare Complaint at 7 with Motion at 4-5.

⁹⁶ Id.

⁹⁷ See Excerpt from Supra's website countering the \$100 cash back offer, attached hereto as Exhibit 10.

- Should the Commission allow Supra to use regulatory authority to prevent firms from entering a market, competing, or lowering prices?⁹⁸

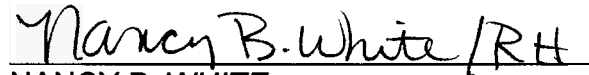
In light of these and other questions of fact/policy that remain, the Commission should deny Supra's Motion. As held by this Commission in Order No. PSC0-3-1460-FOF-TL, "the party moving for summary judgment is required to conclusively demonstrate the nonexistence of an issue of material fact, and . . . every possible inference must be drawn in favor of the party against whom a summary judgment is sought." Supra cannot meet this very high burden.

CONCLUSION

For the foregoing reasons, BellSouth requests that the Commission deny Supra's Motion for Summary Final Order.

Respectfully submitted this 16th day of August, 2004.

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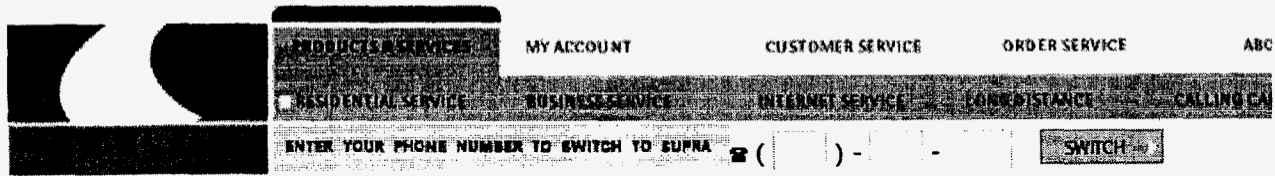
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⁹⁸ Exhibit 5 at 10



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BELLSOUTH EXHIBIT 1
RESPONSE TO MOTION
DOCKET 040353-TP

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to review and cancel, or in the alternative immediately suspend or postpone, BellSouth Telecommunications, Inc.'s PreferredPack Plan tariffs, by Supra Telecommunications and Information Systems, Inc.

DOCKET NO. 04
FILED: JUNE 7, 2004

RECEIVED

JUN 8 2004

U.S. MAIL-REG. RELATIONS
TALLAHASSEE, FL

SUPRA TELECOMMUNICATIONS AND INFORMATION SYSTEMS, INC.'S
OBJECTIONS AND ANSWERS TO STAFF'S FIRST SET OF INTERROGATORIES TO
SUPRA TELECOMMUNICATIONS & INFORMATION SYSTEMS, INC. (NOS. 1-6)

Pursuant to Rules 1.340 and 1.280, Florida Rules of Civil Procedure, Supra Telecommunications and Information Systems, Inc. ("Supra"), hereby files its Objections and Answers to the Florida Public Service Commission Staff's ("Staff"), First Set of Interrogatories (Nos. 1 through 6) to Supra, dated May 28, 2004.

GENERAL OBJECTIONS

1. Supra objects to any interrogatories and requests for production to the extent that they are irrelevant, overly broad, unduly burdensome, and oppressive.
2. Supra objects to any interrogatories and requests for production to the extent that they are intended to apply to matters other than those subject to the jurisdiction of the Commission.
3. Supra objects to each and every interrogatory and request for production and instruction to the extent that such calls for information that is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.
4. Supra objects to each and every interrogatory and request for production insofar as such are vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these interrogatories

SUPRA'S ANSWERS TO STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1-6)
DOCKET NO. 040353-TP

PAGE 2

and requests for production. Any answers provided by Supra in response to the interrogatories and requests for production will be provided subject to, and without waiver of, the foregoing objection.

5. Supra objects to each and every interrogatory and request for production insofar as it is not reasonably calculated to lead to the discovery of admissible evidence and are not relevant to the subject matter of this action. Supra will attempt to note in its responses each instance where this objection applies.

6. Supra objects to providing information to the extent that such information has already been provided, is already within the possession of Staff, or is readily accessible through publicly available means.

7. Supra objects to Staff's interrogatories, requests for production, instructions and definitions to the extent they seek to impose an obligation on Supra beyond the requirements of the Florida Rules of Civil Procedure and Florida Law.

8. Supra objects to each and every interrogatory and request for production to the extent that the information requested constitutes "trade secrets" pursuant to Section 90.506, Florida Statutes. Supra also objects to each and every interrogatory and request for production that would require the disclosure of customer specific information which is prohibited by Section 364.24, Florida Statutes. To the extent that Staff requests proprietary confidential business information, Supra will make such information available in accordance with a protective agreement, subject to any other general or specific objections contained herein.

ANSWERS TO INTERROGATORIES:

1. Please answer interrogatory 1, subparts a-c, for the period January 1, 2002 through April 30, 2004:

a. During this period, did Supra offer any promotions to residential customers in BellSouth's territory?

Answer: Supra objects to this interrogatory in that it is overly broad, not relevant to any issue in this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding and without waving said objections, Supra has offered promotions to residential customers in BellSouth's territory.

Answer provided by:

Carlos Lopez
Director of Marketing
2620 SW 27th Ave
Miami, FL 33133

b. If the response to (a) is affirmative, please describe the level, availability and duration of discount for each promotion.

Answer: Supra objects to this interrogatory in that it is overly broad, not relevant to any issue in this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding and without waiving said objections, Supra is producing its relevant pricelist(s) which are responsive to this Interrogatory. Such pricelists are already in possession of this Commission, having been duly filed as required.

Answer provided by:

Carlos Lopez
Director of Marketing
2620 SW 27th Ave
Miami, FL 33133

- c. Of those promotions described in (b), please identify any which were cash back promotions.

Answer: None of Supra's promotions are cash back promotions. Supra did however have a promotion offering one month's fee service.

Answer provided by:

Carlos Lopez
Director of Marketing
2620 SW 27th Ave
Miami, FL 33133

2. For interrogatory 2, subparts a-i, please refer to Supra's petition, paragraph 24.

- a. If a BellSouth customer switched to Supra immediately after receiving their \$100 cash back and \$25 gift card, would they have "free service" with Supra?

Answer: No. Depending on the length of stay with BellSouth, the customer would have received free service from BellSouth.

Answer provided by:

Carlos Lopez
Director of Marketing
2620 SW 27th Ave
Miami, FL 33133

- b. If the response to (a) is affirmative, how many months of free service would they have?

Answer: Not applicable.

- c. How does the response given in (b) differ from what Supra claims would be the number of months of free service the customer would have with BellSouth?

Answer: Not applicable.

- d. What would cause the difference in the number of months of free service expressed in (c)?

Answer: Not applicable.

- e. What actions could Supra take, if any, to mitigate any differences indicated in (c)?

Answer: Not applicable.

- f. If the response to (a) is negative, please explain, why not?

Answer: Regardless when the customer converts to Supra, the customer will be obligated to pay Supra for the services it receives from Supra. The customer will be receiving free service from BellSouth as, depending on the customer's length of stay with BellSouth, the customer will be paying BellSouth an amount equal to or less than their \$100 cash back and \$25 gift card

Answer provided by:

Carlos Lopez
Director of Marketing
2620 SW 27th Ave
Miami, FL 33133

- g. Would the reason given in (f) apply to BellSouth as well?

Answer: No, because Supra is not offering a cash back promotion, whereas BellSouth is.

Answer provided by:

Carlos Lopez
Director of Marketing
2620 SW 27th Ave
Miami, FL 33133

h. If the response to (g) is negative, please explain why not?

Answer: No, because Supra is not offering a cash back promotion, whereas BellSouth is.

Answer provided by:

Carlos Lopez
Director of Marketing
2620 SW 27th Ave
Miami, FL 33133

i. What would discourage a customer, if anything, from switching to Supra immediately after receiving their \$100 cash back and \$25 gift card?

Answer: Supra objects to this interrogatory to the extent that Supra can not know all the reasons which would discourage a customer from switching to Supra immediately after receiving their \$100 cash back and \$25 gift card. Notwithstanding this objection, a customer might be discouraged by an early termination penalty or deactivation fee assessed for any such switch back.

Answer provided by:

Carlos Lopez
Director of Marketing

2620 SW 27th Ave
Miami, FL 33133

3. Has Supra conducted any studies of customers flip-flopping between carriers in the wake of similar cash-back promotions? If so, please identify all related reports, documents and memoranda.

Answer: Supra has not conducted any studies of customers flip-flopping between carriers in the wake of similar cash-back promotions. Supra is aware of its customers leaving, and later coming back. However, Supra is unable to determine the magnitude of such flip-flopping as Supra does not possess any data which would allow it to determine when flip-flopping is the result of a specific win-back promotion. As for BellSouth's promotions and offerings, Supra submits that BellSouth is the only party in possession of the data which would provide the basis for any such analysis.

Answer provided by:

David Nilson
Vice-President of Technology
2620 SW 27th Ave
Miami, FL 33133

4. Has Supra conducted any studies of the effects of similar cash-back promotions upon competing carriers? If so, please identify all related reports, documents and memoranda.

Answer: Supra has not conducted any studies of the effects of similar cash-back promotions due to the lack of public data which would support such a study. Supra submits that only the competing carriers themselves offering such promotions are in possession of the data which would provide the basis for any such analysis.

Answer provided by:

Carlos Lopez
Director of Marketing
2620 SW 27th Ave
Miami, FL 33133

5. If Supra was to offer to its customers the same or functionally equivalent service as that being offered by BellSouth's Preferred Pack Plan:
- a. What BellSouth UNE components would be needed?

Answer: Supra would require the following BellSouth UNE-P components to offer its customers the same or functionally equivalent service as that being offered by BellSouth's Preferred Pack Plan:

(Following UNE element descriptors are as used by the FPSC in the Florida Generic UNE Docket 990649-TP, including sub-tracks A and B)

- P.1.1 2 Wire loop/port Combination; Zones 1-3 Consisting of:
2 wire Analog loop, zones 1-3 (Combined form of A.1.1, USOC UEPLX)
Unbundled Local switch port res/biz POTS service with extended area calling. (Combined form of B.1.1, USOC UEPxx)
- B.4.13 CLASS features– Complete Feature Set (USOC UEPVF)
Local Number Portability (USOC LNPCX)
ADUF – LD Access Billing Data records
ODUF – Local toll and OS/DA billing records.
Directory listing charges.
Unbundled usage, which varies by caller – called party location consisting of:
C.1.1 End Office switching per MOU¹
C.1.2 End Office Trunk Port – Shared per MOU².

¹ In a call to a BellSouth customer, this is billed as a times 2 rate recovering reciprocal compensation in UNE-P billing.

² In a call to a BellSouth customer, this is billed as a times 2 rate recovering reciprocal compensation in UNE-P billing.

- C.2.1 Tandem Switching per MOU³
 - C.2.2 Tandem Trunk Port – Shared per MOU⁴
 - D.1.1 Common Transport per mile, per MOU⁵
 - D.1.2 Common Transport – Facilities termination per MOU⁶.
- Operator services and Directory assistance services.

Additionally Privacy Director⁷ and BellSouth VoiceMail or Memory Call, none of which BellSouth currently offers as UNE, UNE-P or component of an existing UNE or UNE-P combination, or at TELRIC rates, are required.

Answer provided by:
David Nilson
Vice-President of Technology
2620 SW 27th Ave
Miami, FL 33133

- b. What monthly price does BellSouth charge Supra for those components identified in (a)?

³ Depending upon routing this element may be reflected multiple times.

⁴ Depending upon routing this element may be reflected multiple times.

⁵ Depending upon routing this element may be reflected multiple times.

⁶ Depending upon routing this element may be reflected multiple times.

⁷ Privacy Director is a component of generic switch software, software options, voice announcement units and SS7 database queries. BellSouth admits that costing for much of Privacy Director software is included in switching cost, but because there are two additional SS7 database queries involved that were supposedly not included in cost studies for 990649-TP, that they are excluded from having to offer this service as a UNE or UNE-P feature.

Answer: All rates below are pursuant to the parties' interconnection agreement dated July 15, 2002, or the September 2002 Order No. PSC-02-131-FOF- issued TP issued by this Commission in Docket 990649-TP, and 990649A-TP.

FPSC UNE code Or BellSouth USOC	Description	Rate
P.1.1.2 (UEPxx and UEPLX)	Wire loop/port Combination; Zones 1-3	
	Zone 2:	\$15.05
	Zone 3:	\$25.80
B.4.13 (UEPVF)	CLASS features	\$2.26 ⁸
LNPCX	Local Number Portability	\$0.35
(No USOC)	Directory Listings	\$0.31 ^{9,10}
DUF Records		
ADUF	LD Access Billing Data records	
ODUF	Local toll and OS/DA billing records.	
DUF Subtotal		\$0.98 ¹¹
MemoryCall	Per BellSouth A3 tariff without applying a resale discount	\$6.30
Privacy Director	Per BellSouth A3 tariff without applying a resale discount	\$4.52 ¹²
UNE usage	varies by caller – called party location	\$5.00
C.1.1	End Office switching per	

⁸ PSC-01-2051-FOF-TP

⁹ Average per line of all Supra customers, per BellSouth sworn testimony before the United States Bankruptcy Court, Southern District of Florida.

¹⁰ Per rates established in PSC-02-2051-FOF-TP. For older interconnection agreements (like Supra's) with rates per PSC-01-2051-FOF-TP, approx \$4.81 per line per month.

¹¹ Average per line of all Supra customers, per BellSouth sworn testimony before the United States Bankruptcy Court, Southern District of Florida.

¹² Average of all Privacy Director charges to all Supra customers taking Privacy Director. Actual tariff rate slightly different.

SUPRA'S RESPONSES TO STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1-6)
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PAGE 11

	MOU ¹³	
C.1.2	End Office Trunk Port – Shared per MOU ¹⁴ .	
C.2.1	Tandem Switching per MOU ¹⁵	
C.2.2	Tandem Trunk Port – Shared per MOU ¹⁶	
D.1.1	Common Transport per mile, per MOU ¹⁷	
D.1.2	Common Transport – Facilities termination per MOU ¹⁸ .	
(No USOC of FPSC code)	Operator services and Directory assistance services.	\$0.56

Given that the zones awarded to BellSouth in the final orders of 990649-TP put nearly 65% of Supra's customers in Zone 2 (as opposed to approx 30% per the December 1999 Stipulation zones), some geographic weighting needs to be considered.

Zone	Percent Customers in Zone	Rate
Zone 1	28%	
Zone 2	68%	
Zone 3	3%	
		$((.28*10.94)+(.68*15.05)+(.03*25.80))$
Weighted Average		\$14.07

¹³ In a call to a BellSouth customer, this is billed as a times 2 rate recovering reciprocal compensation in UNE-P billing.

¹⁴ In a call to a BellSouth customer, this is billed as a times 2 rate recovering reciprocal compensation in UNE-P billing.

¹⁵ Depending upon routing this element may be billed multiple times per call.

¹⁶ Depending upon routing this element may be billed multiple times per call.

¹⁷ Depending upon routing this element may be billed multiple times per call.

¹⁸ Depending upon routing this element may be billed multiple times per call.

Answer provided by:
David Nilson
Vice-President of Technology
2620 SW 27th Ave
Miami, FL 33133

c. Is the monthly price being charged to BellSouth customers for the PreferredPack Plan less than (b)?

Answer: Yes, according to BellSouth's GSST, effective 1/9/2004, the rate to BellSouth's customers for PreferredPack is \$26.95/Month. Utilizing current UNE-P rates and resale rates where required, this rate is lower than the costs charged to Supra Telecom ranging -- from \$4.27 to \$ 19.13 lower per line per month, averaging \$7.40 lower per line per month statewide. See answer to 5d below.

Answer provided by:
David Nilson
Vice-President of Technology
2620 SW 27th Ave
Miami, FL 33133

d. If the response to (c) is affirmative, please explain the basis for this determination.

Answer: By simply totaling the costs of the UNE-P components required for Supra to offer its customers the same or functionally equivalent service as that being offered by BellSouth's Preferred Pack Plan, it is evident that Supra can not charge the same \$26.95 monthly charge that BellSouth is applying.

The sum of all charges, minus the loop, is \$21.45 per line per month. Adding the recurring loop charges by zone, and statewide weighted average yields the following final costs:

Total average UNE-P costs plus voice mail and privacy director with Zone 1
Loop: \$31.22
Total average UNE-P costs plus voice mail and privacy director with Zone 2
Loop: \$35.33
Total average UNE-P costs plus voice mail and privacy director with Zone 3
Loop: \$46.08

The effect of this statewide using a weighted average loop cost:

Total average UNE-P costs plus voice mail and privacy director with statewide
weighted average loop cost Loop: \$ 34.35.

In all cases BellSouth's tariffed rate is below Supra's cost.

Answer provided by:
David Nilson
Vice-President of Technology
2620 SW 27th Ave
Miami, FL 33133

6. Please answer interrogatory 6, subparts a-b concerning "free" service:

a. If the costs to provide service using the PreferredPack Plan is \$26.95 or less per month and the customer is billed \$26.95 per month, how is that customer receiving free service?

Answer: The customer is only receiving "free" service, for some period of time, if he receives \$100 or \$125 from BellSouth while only paying \$26.95 per month for the bundle of services provided by BellSouth pursuant to its PreferredPack Plan. Of course, BellSouth, by virtue of the fact that its costs for providing the services pursuant to said plan are above \$26.95, which they would be if BellSouth was paying the best wholesale rates available to any CLEC, is engaging in anti-competitive predatory pricing.

Answer provided by:

- b. Is the cost to provide a service calculated as a shared costs among all recipients of that service?

Answer: Supra objects to this interrogatory as it is unintelligible.

- c. If the response to (b) is negative, please explain.

Answer: Not Applicable.

- d. By the statement in paragraph 15 of Supra's petition, that "after waiving the connection fee, the customer is given \$125," does Supra assume that:

- i. All PreferredPack customers qualify for the \$100 cash back coupon?

Answer: No, Supra is assuming that at least one PreferredPack customer qualifies for the \$100 cash back coupon.

Answer provided by:

Carlos Lopez
Director of Marketing
2620 SW 27th Ave
Miami, FL 33133

- ii. All PreferredPack customers qualify for the \$25 gift card?

Answer: No, Supra is assuming that at least one PreferredPack customer qualifies for the \$25 gift card.

Answer provided by:
Carlos Lopez
Director of Marketing
2620 SW 27th Ave
Miami, FL 33133

iii. All PreferredPack customers in (i and ii) will apply to receive it?

Answer: No, Supra is assuming that at least one qualifying PreferredPack customer will apply to receive it.

Answer provided by:
Carlos Lopez
Director of Marketing
2620 SW 27th Ave
Miami, FL 33133

If the response to (i and ii) is negative, please describe the subset of all PreferredPack customers to which this

Answer: Supra objects to this Interrogatory as it appears to be incomplete and as such, is unintelligible.

SECTION 3.0 – BASIC SERVICE DESCRIPTION & RATES (CONT'D)

3.16 PROMOTIONAL OFFERINGS

3.16.1 New customers to Supra Telecom who subscribe to Total Solution One Line Plan and Supra Friends Unlimited will receive a one month's waiver of the recurring charge with a minimum of two months service until June 30, 2004. (T)

3.16.2 Three Ways to Save and the First Months Free – Direct mail piece to non-Supra Telecom customers offering them the choice of three products to choose from. Customers will receive the first month free with a minimum of two consecutive months of service. The three products offered in the promotion are:

SupraSaver - \$17.95
Total Solution - \$27.95
Supra Friends Unlimited – \$42.95

3.16.3 Effective November 15, 2003, Supra will no longer be offering Life Line credit.

3.16.4 Supra Friends Promotion – Supra will be sending a post card to potential customers offering our Supra Friends Unlimited plan. Included in this mailing is a calling card worth 500 minutes of domestic long distance or the international equivalent. All new customers who sign up for Supra service from December 1 through December 19 will also receive this card.

This promotion will only be valid from December 24-31, 2003.

3.16.5 Any Supra customer upgrading from Supra Saver, Total Solutions, and Basic Service will be entitled to a one time credit of \$20 (on bill), but not more than two lines. This also includes child accounts. Promotion will run from 1/27 to 3/15/2004. (M)
|
(M)

3.16.6 Intentionally left blank. (N)

Material previously located on Sheet 40

ISSUED: May 13, 2004

EFFECTIVE: May 14, 2004

ISSUED BY:

Ann H. Shelfer, V.P. Regulatory Affairs
1311 Executive Center Drive, Suite 220
Tallahassee, FL 32301

SECTION 3.0 – BASIC SERVICE DESCRIPTION & RATES (CONT'D)

3.16 PROMOTIONAL OFFERINGS

3.16.7 A customer will receive one month's free service for any previous customer who agrees to switch back to Supra after two month's service. The products are Supra Saver, Total Solutions, Supra Friends Unlimited, and SupraCents Long Distance. The promotion will last from 1/24/04 – 3/31/04.

(M)
|
|
|
(M)

3.16.8 Intentionally left blank.

(N)

Material previously located on First Revised Sheet 39.1

ISSUED: May 13, 2004

EFFECTIVE: May 14, 2004

ISSUED BY:

Ann H. Shelfer, V.P. Regulatory Affairs
1311 Executive Center Drive, Suite 220
Tallahassee, FL 32301

SECTION 3.0 – BASIC SERVICE DESCRIPTION & RATES (CONT)

3.16 PROMOTIONAL OFFERINGS (CON'T)

- 3.16.9 Any Supra customer upgrading from Supra Saver, Total Solutions, and Basic service will be entitled to a one time credit of \$20 (on bill), but not more than two lines. This also includes child accounts. Promotion will run from 1/27 to 3/15/04. (T)
- 3.16.10 Offer one month of free service to any previous customer who had Supra service between June 2002 through July 2003 and agrees to switch back to Supra. The customer will be required to have two months of service before the free month is applied. Promotion will run from February 4 to March 31, 2004.
- 3.16.11 Offer one month of free service for any NEW customer who selects SupraSaver, Total Solutions, or Supra Friends Unlimited for two months. This promo will run from February 13, 2004 to March 31, 2004.
- 3.16.12 Offer Preferred Choice to NEW customers only for \$22.95. This includes Caller ID, Call Waiting, Call Return, 3-Way Calling, unlimited local calling, unlimited local long distance calling (LATA wide calling). This promo will run from April 15, 2004 to July 15, 2004.
- 3.16.13 Offer to new installations and conversions to existing customers who upgrade their service will receive a calling card worth 500 minutes of domestic long distance or the international equivalent. (N)
|
|
(N)

ISSUED: May 13, 2004

EFFECTIVE: May 14, 2004

ISSUED BY:

Ann H. Shelfer, V.P. Regulatory Affairs
1311 Executive Center Drive, Suite 220
Tallahassee, FL 32301

CERTIFICATE OF SERVICE

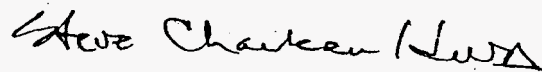
Docket No. 040353-TP

I HEREBY CERTIFY that a true and correct copy of the following was served via Facsimile, E-Mail, Hand Delivery, and/or U.S. Mail this 7th day of June 2004 to the following:

***Dovie Rockette-Gray/Adam Teitzman
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850***

***White/Lackey/Culpepper/Shore/Meza/Mays/Foshee
Ms. Nancy H. Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1556***

**SUPRA TELECOMMUNICATIONS
& INFORMATION SYSTEMS, INC.
2620 S. W. 27th Avenue
Miami, FL 33133
Telephone: 305/ 476-4239
Facsimile: 305/ 443-1078**



**By: Steve Chaiken
Florida Bar No. 0626791**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to review and cancel, or in the alternative immediately suspend or postpone, BellSouth Telecommunications, Inc.'s PreferredPack Plan tariffs, by Supra Telecommunications and Information Systems, Inc.

DOCKET NO. 040353

FILED: JUNE 28, 2004

RECEIVED

JUN 29 2004

U.S. MAIL-REG. RELATIONS
TALLAHASSEE, FL

SUPRA TELECOMMUNICATIONS AND INFORMATION SYSTEMS, INC.'S ANSWERS
TO STAFF'S SECOND SET OF INTERROGATORIES TO SUPRA
TELECOMMUNICATIONS & INFORMATION SYSTEMS, INC. (NOS. 7-17)

Pursuant to Rules 1.340 and 1.280, Florida Rules of Civil Procedure, Supra

Telecommunications and Information Systems, Inc. ("Supra"), hereby files its Objections and Answers to the Florida Public Service Commission Staff's ("Staff"), Second Set of Interrogatories (Nos. 7 through 17) to Supra, dated June 17, 2004.

ANSWERS TO INTERROGATORIES:

All responses provided by:
David Stahly
Director of Regulatory Affairs
2620 SW 27th Avenue
Miami, FL 33133

7. In Paragraph 10 of Supra's petition, Supra states that Section 364.08(2) of the Florida Statutes prohibits carriers from giving away free service.
 - a. Please define "free service" as it is being used in Paragraph 10.

Answer: Supra defines "free service" as for any given month, wherein a telecommunications company provides any service for below cost as defined by Section 364.051(c) and interpreted by the Commission in Order No. PSC-03-0726-FOF-TP, pgs 20-1.

Alternatively, Supra defines "free service" as a situation wherein a single customer could, under the life of the proposed promotion, render payment to a

telecommunications company which payment is less than the telecommunications company's costs (as defined by Section 364.051(c)) to provide such services.

Note 364.08(2) reads as follows: "A telecommunications company subject to this chapter may not, directly or indirectly, give any free or reduced service between points within this state. However, it shall be lawful for the commission to authorize employee concessions if in the public interest."

b. How does the definition given in (a) relate to the Florida statutes?

Answer: Supra's definition is consistent with the FPSC's interpretation of the Florida Statutes.

c. Pursuant to the definition in subpart (a) above, are all offerings of free service a violation of Section 364.08(2) of the Florida Statute?

Answer: Yes. Alternatively, each service must be evaluated individually. Pursuant to Supra's alternative definition in 7(a) above, any time there is the potential that a single customer could, under the life of the proposed promotion, render payment to a telecommunications company which payment is less than the telecommunications company's costs (as defined by Section 364.051(c)) to provide such services, such would be violative of Section 364.08(2) of the Florida Statute.

d. Supra is currently offering a one month free service promotion to residential customers in BellSouth's territory (see Supra Telecommunications & Information Systems, Florida Price List No. 1, First Revised Sheet 39.1, Sections 3.16.1). Is this promotion in violation of Section 364.08(2) of the Florida Statute?

Answer: Supra objects to Interrogatory Number 7 to the extent information regarding Supra's promotional offerings is requested. Pursuant to Florida Rules of Civil Procedure 1.280, "discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party" is permitted. Supra has raised a claim related to BellSouth's promotional offerings. BellSouth has not raised any counterclaims or defenses related to Supra's promotional offerings. Pursuant to Rule 1.280, any information regarding Supra's promotional offerings is therefore not relevant nor permissible.

Notwithstanding and without waiving said objections, Supra provides the following response:

Yes. Under a strict reading of the statute, Supra's promotion would be considered free service. In order to compete in the present marketplace, where BellSouth's tariffs are considered presumptively valid until invalidated by Commission order, Supra was forced to offer this service to compete with BellSouth's free service offering, pursuant to Section 364.051(5)(a)(2), Florida Statutes.

Under Supra's alternative definition of "free service" in response to 7(a) above, the answer is No. Supra, pursuant to the cited Price List, requires the residential customer to remain with Supra for a minimum of 4 months in order to receive one month of "free service." Based on Supra's costs and prices charged to its residential customers for the first 3 months, Supra makes enough of a profit to cover the costs of the fourth month. There is no situation where a customer, taking advantage of Supra's promotion, could ever render payment to Supra which is less than Supra's cost to provide the services during the life of the promotion. Therefore, Supra is not providing "free service."

Under either definition of free service, BellSouth's Preferred Pack Plan violates Section 364.08(2) of the Florida Statute.

e. If the response to (d) is negative, please explain what criteria are used to determine whether a promotion is or is not a violation of Section 364.08(2) of the Florida Statute.

Answer: Please see response to 7(a).

f. Please identify the basis for the differentiating between what is permissible under Section 364.08(2) of the Florida Statute and what is not permissible.

Answer: Please see response to 7(a).

g. If the statewide weighted average cost to provide a service is \$10 and a customer is charged \$9, does Supra believe that the service is offered below cost?

Answer: Statewide weighted average costs are not considered in Florida Statute 364 in determining the cost of providing service. As such, statewide weighted averages have no relevance in determining whether a service is offered below cost and therefore Supra is unable to provide either an affirmative or negative response to this Interrogatory.³

h. Given the same scenario in (g), does Supra believe that this customer has received \$1 worth of free service?

Answer: Please see response to 7(g).

8. The term "below cost" is used throughout Supra's petition.

a. Please define "below cost".

Answer: If BellSouth sells a service to a customer for less than its cost, then the service is being sold "below cost." However, when analyzing whether a service is being sold below cost, it is important to use the proper cost standard to determine the cost of the service. The correct cost standard depends upon the purpose for which it is being used. Different regulatory jurisdictions and different governmental agencies require different cost standards such as: interstate (FCC) vs. intrastate (FPSC) jurisdictions; IRS tax standards vs. investor accounting standards. Each of these entities may require or allow different depreciation schedules for telecommunications equipment; may require or allow a different return on equity, return on debt, or rate of return; may use different fill factors, salvage factors, and other factors.

Additionally, different cost standards are used for analyzing pricing of services and for calculating return on investment (ROI) such as short run incremental costs (SRIC), long run incremental costs (LRIC), total service long run incremental costs (TSLRIC), Total element long run incremental costs (TELRIC), embedded costs, historical costs, imputed costs, forward-looking costs, and fully distributed costs. The appropriate cost standard depends on the purpose for which the cost information will be used. For example, a different cost standard may be used when determining the

³ It should be noted that the costs/rates of the underlying basic service upon which BellSouth's PreferredPack Plan is based have been determined by this Commission to be geographically different.

cost of a competitively-provided non-regulated service versus a monopoly provided noncompetitive service or a competitively provided service upon which competitors rely, in part, on monopoly-provided unbundled network elements.

When analyzing whether a competitive service in which the ILEC provides unbundled network elements to the CLEC that are essential for the CLEC to use to provide a competing service, Section 364.051(c) states that the Commission must look at the imputed costs (which is TELRIC for UNEs) of the essential network elements or components plus the LRIC costs of those elements that a CLEC competitively self-provisions. Section 364.051 reads:

(c) The price charged to a consumer for a nonbasic service shall cover the direct costs of providing the service and shall, to the extent a cost is not included in the direct cost, include as an imputed cost the price charged by the company to competitors for any monopoly component used by a competitor in the provision of its same or functionally equivalent service.

This standard would set the "cost" of the service or the price floor below which the ILEC would not be allowed to price in order to prevent anti-competitive pricing behavior by the ILEC and to foster a level playing field and competitive market. The Commission applied this standard in docket nos. 020119-TP, 020578-TP, 021252-TP. In its analysis, the Commission looked at each individual Key Customer contract to determine if the bundle of services contained in the contract were priced below cost. (See Order p. 23). Likewise, the Commission should look at each individual PreferredPack customer to determine if the bundle of services purchased by the customer are indeed priced below cost.

b. Please compare and contrast the terms "below cost" and "free service."

Answer: If a service is being sold below cost to the customer, then the customer is receiving free service. In this sense, these terms are used interchangeably in Supra's petition. This is consistent with the intent of Florida Statute, as 364.082 provides that a telephone company may not "...give any free or reduced service..."

9. In examining whether a service is being offered at below cost:

- a. is the price for the service to be compared with the statewide weighted average cost for providing that service;

Answer: No.

- b. is the price for the service to be compared with the cost to provide that service to the individual customer; or

Answer: Yes.

- c. is the price for the service to be compared with the wholesale price for the same service?

Answer: Yes. The price of the service should be compared to the imputed cost of the service pursuant to section 364.051(c) of the Florida Statute and the Commission's findings in docket numbers 020119-TP, 020578-TP, 021252-TP.

- d. How does Supra determine whether or not the price for an offered service is below cost?

Answer: If the price of the service is less than the cost as defined in Florida Statute Section 364.051(c)), then it is below cost.

10. Please answer the following questions regarding the cash back offering of BellSouth's PreferredPack Plan.

- a. Does Supra believe that BellSouth's cash back offering has a direct impact the BellSouth customer's bill? Please explain your response.

Answer: Yes, BellSouth's \$100 Cash Back offer has a direct impact on the BellSouth customer's bill because the customer can use the \$100 cash back to pay their phone bill.

- b. Does Supra believe that the customer has unlimited discretion on the use of cash received from BellSouth's cash back offering? Please explain your response.

Answer: Yes. Customers are free to spend the money on other items; however, the bottom line impact is the same to the customer whether the \$100 is given as a credit on the customer's bill or a \$100 check. Either way, the customer's discretionary income has been increased \$100 due to a reduction of \$100 in their phone bill from receiving the \$100 cash back check.

- c. Does Supra believe that a customer can apply the cash received from BellSouth's PreferredPack Plan promotion toward their BellSouth bill? Please explain your response.

Answer: Yes. The customer can use their cash back to pay their phone bill.

- d. Does Supra believe that a customer can disconnect from BellSouth's service and apply the cash received from BellSouth's PreferredPack Plan promotion to purchase service from another competitor? Please explain your response.

Answer: Yes. Supra is unaware of any limitations contained in BellSouth's tariffs on the customer's use of the \$100 cash back promotion.

- e. Does Supra believe that a customer is required to apply the cash received from BellSouth's PreferredPack Plan to their phone bill? Please explain your response.

Answer: No. See response to 10(d). Nevertheless, the bottom line impact is the same as if the customer was required to use the money to pay their phone bill as the customer's discretionary income has been increased by \$100.

- f. What would be the potential benefits to BellSouth for BellSouth to give a customer \$100?

Answer: Supra objects to this Interrogatory as Supra is not in position to identify all potential benefits BellSouth may or may not receive. Notwithstanding, Supra submits that BellSouth receives an enormous benefit in a.) winning back customers that have gone to a competitor; b.) harming competitors by crippling their customer base (c) increasing competitors' costs (particularly in the UNE-L environment, where BellSouth currently bills Supra in excess of \$59.00 to perform each individual hot cut, not to mention additional disconnection and re-connection fees).

- g. Would each potential benefit described in (f) apply to BellSouth's competitors as well?

Answer: No. CLEC competitors are unable to match BellSouth's \$100 cash back offer to customers. Because BellSouth has an enormous revenue base of \$21.45 billion annually and profits (net income) of over \$3.9 billion^b annually, BellSouth can afford to give away \$100 to its customers. CLECs, on the other hand, have a much smaller revenue base and are struggling to be profitable. Thus, it is simply financially impossible for a CLEC to offer \$100 cash back to win customers. Therefore, none of the potential benefits could ever apply to a CLEC. For this reason, BellSouth's \$100 Cash Back offer is an anti-competitive program that hurts competition.

- h. Please explain why any potential benefit identified as not applying to BellSouth's competitors in response to (g), would not apply.

Answer: No BellSouth competitor is benefited by the loss of its own customer base nor by BellSouth's "promotional offerings" undercutting the competitor's prices.

- i. If a BellSouth PreferredPack Plan customer were to apply the \$100 received from BellSouth's PreferredPack Plan to their BellSouth bill, how many months of service could they purchase?

^b BellSouth financials provided by Reuters via www.yahoo.com for most current fiscal year.

SUPRA'S ANSWERS TO STAFF'S SECOND SET OF INTERROGATORIES (NOS. 7-17)

DOCKET NO. 040353-TP

PAGE 9

Answer: Supra understands that BellSouth's PreferredPack Plan costs \$26.95 per month. Dividing \$100 by this figure provides the customer with 3.7 months of service. This figure does not include any other promotional offerings, waivers, gift cards, or cash back programs which BellSouth provides. Further, this is exclusive of any taxes or related additional fees/charges.

- j. If a customer were to transfer from BellSouth's PreferredPack Plan to Supra's Total Solution product and could apply the \$100 they received from BellSouth to their Supra bill, how many months of service could they purchase from Supra without any of Supra's current promotional offerings?

Answer: Supra objects to this Interrogatory to the extent information regarding Supra's promotional offerings is requested. Pursuant to Florida Rules of Civil Procedure 1.280, "discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party" is permitted. Supra has raised a claim related to BellSouth's promotional offerings. BellSouth has not raised any counterclaims or defenses related to Supra's promotional offerings. Pursuant to Rule 1.280, any information regarding Supra's promotional offerings is therefore not relevant nor permissible.

Notwithstanding, Supra's Total Solutions (which does not include Privacy Director or MemoryCall or functionally equivalent services) offering is priced at \$27.95 per month. Thus, if a BellSouth PreferredPack Plan customer received the \$100 from BellSouth's PreferredPack Plan, left BellSouth and switched to Supra Telecom, the customer could use the \$100 cash back it received from BellSouth to pay for 3.58 months of Supra's Total Solution service from Supra. These answers are exclusive of any taxes or related additional fees/charges.

- k. If a customer were to transfer from BellSouth's PreferredPack Plan to Supra's Total Solution One Line Plan and Supra Friends Unlimited and could apply the \$100 they received from BellSouth to their Supra bill, how many months of service could that customer purchase from Supra with Supra's current promotional offering?

Answer: Supra objects to this Interrogatory to the extent information regarding Supra's promotional offerings is requested. Pursuant to Florida Rules of Civil Procedure 1.280, "discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party" is permitted. Supra has raised a claim related to BellSouth's promotional offerings. BellSouth has not raised any counterclaims or defenses related to Supra's promotional offerings. Pursuant to Rule 1.280, any information regarding Supra's promotional offerings is therefore not relevant nor permissible.

Notwithstanding, Supra's Total Solution One Line Plan is priced at \$27.95 and Supra Friends Unlimited Plan (both of which do not include Privacy Director or Memory Call or functionally equivalent services) offering is priced at \$42.95 per month. Thus, if a BellSouth PreferredPack Plan customer received the \$100 from BellSouth's PreferredPack Plan, left BellSouth and switched to Supra Telecom, the customer could use the \$100 cash back to pay for 3.58 months of Supra's Total Solution One Line Plan and 3.33 months of Supra Friends Unlimited Plan from Supra with the BellSouth \$100 and the Supra promotion (promotion only applicable to Supra Friends Unlimited). These answers are exclusive of any taxes or related additional fees/charges.

1. Given the same scenario in (j), if a customer were to spend the \$100 they received from BellSouth with Supra, does Supra maintain that this same \$100 provides effective free service with BellSouth?

Answer: Yes, what the customer does with the \$100 cash back is irrelevant.

- m. If the response to (l) is affirmative, please explain how that is determined.

Answer: The only issue is whether BellSouth received payment for services rendered which exceed the costs of BellSouth to provide such services plus the cash back and other perks given to the customer.

- n. If a customer never applies the cash received from BellSouth's PreferredPack Plan to a phone bill, has this customer received free phone service?

Answer: Yes. See response to 10(m) hereinabove.

o. If the response to (n) is affirmative, please explain how that is determined.

Answer: See response to 10(m) above.

p. Does Supra believe that a customer who receives \$100 in BellSouth's PreferredPack Plan has effectively received free phone service?

Answer: Yes, if the amount the customer pays BellSouth is less than \$100 plus BellSouth's costs of providing services to the customer.

q. If a customer who subscribes to BellSouth's PreferredPack Plan, receives \$100 and disconnects after one month of service and is left without dial tone, how many months of effective free phone service did they receive?

Answer: This customer would have received one free of month of service from BellSouth and received an additional \$73.05 to go along with it.

r. How was the figure in (q) determined?

Answer: The figure was determined by counting the number of months the customer received service from BellSouth as stated in the question.

s. If it is determined that a customer's cash back award provides that customer with 4 months of effective service, but that customer only uses 2 months of service, Would the effective value of free service remain 4 or would it become 2? Please explain your response.

Answer: The number of months of free service is wholly dependent upon the number of months of service the customer receives. Any monies exceeding the costs to the customer for service received, simply provides a surplus of cash to the customer for use at his/her discretion.

- t. If effective service may or may not be converted to substantial service,
- i. should one month of effective service be calculated as being equivalent to one month of substantial service, or

Answer: Regardless of treatment, once the Florida Statute is violated, the magnitude of the violation is irrelevant. Once violated, the promotional offering or tariff should be invalidated regardless how many months of substantial or effective service the customer receives for free.

- ii. should the probability of conversion be taken into consideration?

Answer: No. The sole issue to be taken into consideration is whether or not a single customer can receive free service in violation of Florida Statute.

- u. Please explain response to (t).

Answer: See response to 10(t).

- v. Is there a greater financial incentive for BellSouth's PreferredPack Plan customers to disconnect service from BellSouth after receiving their cash back award and take advantage of other winback or promotional offers available with other competitors for their service? Please explain your response.

Answer: No, as BellSouth's PreferredPack Plan is currently priced below all competitor's comparable offerings. Additionally, BellSouth is currently charging its customers a lower price that it charges its wholesale competitors for the same or functionally equivalent services.

11. Please answer the following questions comparing BellSouth's PreferredPack Plan with Supra's Total Solutions product.

- a. Is Supra's Total Solutions functionally equivalent to BellSouth's Preferred Pack Plan?

Answer: No. BellSouth's offering includes Privacy Director and a superior voicemail product.

- b. Please compare and contrast the functionality of these offerings to the best of Supra's knowledge.

Answer: Please see response to 11(a).

- c. What BellSouth UNE components are required to provide Supra's Total Solutions product?

Answer: See Supra's Response to Interrogatory Number 5 to Staff's First Set of Interrogatories.

- d. What is the total weighted average monthly price for the BellSouth UNE components stated in (c), using the same mathematical process used in response to Staff's Interrogatories 5(b) and 5 (c)?

Answer: Supra has insufficient information to be able to respond to this Interrogatory. In order to compute a weighted average of loop costs, the location of all customers included in the weighted average must be known. Notwithstanding such, see Supra's Response to Interrogatory Number 5 to Staff's First Set of Interrogatories, as well as Supra's Response to 7(g) hereinabove. It should be noted that these costs do not include Privacy Director or Memory Call services.

- e. Paragraph 14 of Supra's petition states that the price for BellSouth's PreferredPack Plan is \$1.00 less than the price of Supra's Total Solutions product. If the price for BellSouth's PreferredPack Plan is below cost, is Supra's Total Solutions product also below cost?

Answer: Supra objects to this Interrogatory to the extent information regarding Supra's promotional offerings is requested. Pursuant to Florida Rules of Civil Procedure 1.280, "discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party" is permitted. Supra has raised a claim related to BellSouth's promotional offerings. BellSouth has not raised any counterclaims or defenses related to Supra's promotional offerings. Pursuant to Rule 1.280, any information regarding Supra's promotional offerings is therefore not relevant nor permissible.

Notwithstanding and without waiving this objection, the answer is no. Unlike BellSouth's PreferredPack Plan, Supra does not offer Privacy Director and Memory Call as part of its Total Solutions product. If it did include such and based on BellSouth's asserted costs for these two features, Supra's Total's Solutions product would be well below cost at its current pricing.

12. In response to Staff's Interrogatory 6(d)(iii), Supra assumes that at least one PreferredPack customer receives the \$100 cash back coupon.
- a. Are Supra's calculations in paragraph 15 of Supra's petition based on the effect to a single customer?

Answer: Yes. The calculation should be made on a customer specific basis. If a single customer is paying less than the cost of providing service to that customer, then the offering is violative of Florida Statutes as to that specific customer.

- b. If only one customer receives the \$100 cash back coupon offered by BellSouth in its PreferredPack Plan, how would that impact the total statewide weighted average monthly cost to provide this service?

Answer: First, pursuant to Florida Statutes, statewide weighted average costs are irrelevant. Second, the \$100 cash back offer does not impact BellSouth's total statewide weighted average monthly cost to provide this service regardless of how many customers subscribe to BellSouth's PreferredPack Plan and complete the requirements for the Cash Back reward. The \$100 Cash Back offer is an anti-competitive pricing issue, not a costing issue. The cost of the service remains the

same regardless of the price. Third, according to BellSouth's tariff, BellSouth's PreferredPack Plan is not available statewide, but rather only to the customers of BellSouth competitors.

13. In making its calculations of the effective number of months of free service attributed to the PreferredPack Plan promotion, did Supra take into account the following:

a. an estimate of how many customers would probably receive the \$100 cash back coupon,

Answer: No, because the calculation should be made on a customer specific basis.

b. an estimate of how many customers would probably receive the \$25 gift card, or

Answer: No, because the calculation should be made on a customer specific basis.

c. an estimate of how many customers would probably receive a combination of both?

Answer: No, because the calculation should be made on a customer specific basis.

d. Please state the estimates used in (a) through (c).

Answer: Not applicable because the calculation of the effective number of months of free service attributed to the PreferredPack Plan promotion should be made on a customer specific basis.

e. What was the basis for any estimate given in (d)?

Answer: Not applicable.

- f. Please identify all reports, documents and memoranda that support the estimates made in (d).

Answer: Not applicable.

14. In making its calculations of the effective number of months of free service attributed to the PreferredPack Plan promotion,
- a. did Supra take into account the probable number of months a new subscriber would remain a BellSouth customer?

Answer: No. When calculating the effective number of months of free service attributed to the PreferredPack Plan promotion, Supra did not take into account the probable number of months a new subscriber would remain a BellSouth customer, because it is not relevant to the calculations. The only relevant information is whether, during any given month, the amount the customer pays BellSouth is less than \$100 plus BellSouth's costs of providing services to the customer.

- b. If the response to (a) is affirmative, what was that estimate?

Answer: Not applicable.

- c. What was the basis for the estimate given in (b)?

Answer: Not applicable.

- d. Please identify all reports, documents and memoranda that support the estimates given in (b).

Answer: Not applicable.

15. Please identify and explain all assumptions Supra made in making its calculations of the effective length of time of free service.

Answer: None.

16. If the cost of providing the PreferredPack Plan service is a statewide weighted average cost, and price is based on that cost, and if only a subset of the entire population of customers subscribing to BellSouth's PreferredPack Plan will receive \$100, should Supra's calculations of the number of months of effective free service be averaged over the entire population of subscribers to that service? Please explain your response.

Answer: No. The calculation should be made on a customer specific basis. If a single customer is paying less than the cost of providing service to that customer plus \$100, then the offering is anti-competitive and violative of Florida Statutes as to that specific customer.

17. Historically, there have been other winback programs by other carriers which included cash back offers, especially in the long distance market. To your knowledge, have any prior winback promotions using cash back offers been found by any of the following to be anti-competitive:

- a. The Florida Public Service Commission,

Answer: In Docket No. 990043-TP, the Complaint of Arrow Communications, the Commission suspended BellSouth's infamous "Three Free" tariff after staff found that BellSouth's winback tariff contained several problems requiring investigation. BellSouth quickly withdrew the tariff before the Commission could investigate it and reject it. In part, this Commission suspended BellSouth's winback tariff because the tariff was only available to customers served by an ALEC and thus, discriminated against similarly situated customers.

Supra reserves the right to do further research and amend its response should it find responsive decisions.

- b. Any State Commission, or

Answer: Supra has not researched the number of cases where other state commissions have found ILEC winback promotions to be anti-competitive or whether other state law differs from Florida Statue 364 in a manner material to this Docket. It is common knowledge that many states have found many ILEC winback programs to be anti-competitive. Supra reserves the right to do further research and amend its response should it find responsive decisions.

c. The Federal Communications Commission?

Answer: Supra has not researched such and is unaware of any such findings. Supra reserves the right to do further research and amend its response should it find responsive decisions.

d. If the response to (a), (b) or (c) is affirmative, please identify all reports, documents and memoranda which discuss the findings of that regulatory agency.

Answer: Supra has not researched such and is unaware of any such findings. Supra reserves the right to do further research and amend its response should it find responsive decisions.

- f. Please identify all reports, documents and memoranda that support the estimates made in (d).

Answer: Not applicable.

14. In making its calculations of the effective number of months of free service attributed to the PreferredPack Plan promotion,

- a. did Supra take into account the probable number of months a new subscriber would remain a BellSouth customer?

Answer: No. When calculating the effective number of months of free service attributed to the PreferredPack Plan promotion, Supra did not take into account the probable number of months a new subscriber would remain a BellSouth customer, because it is not relevant to the calculations. The only relevant information is whether, during any given month, the amount the customer pays BellSouth is less than \$100 plus BellSouth's costs of providing services to the customer.

- b. If the response to (a) is affirmative, what was that estimate?

Answer: Not applicable.

- c. What was the basis for the estimate given in (b)?

Answer: Not applicable.

- d. Please identify all reports, documents and memoranda that support the estimates given in (b).

Answer: Not applicable.

CERTIFICATE OF SERVICE

Docket No. 040353-TP

I HEREBY CERTIFY that a true and correct copy of the following was served via Facsimile, E-Mail, Hand Delivery, and/or U.S. Mail this 28th day of June 2004 to the following:

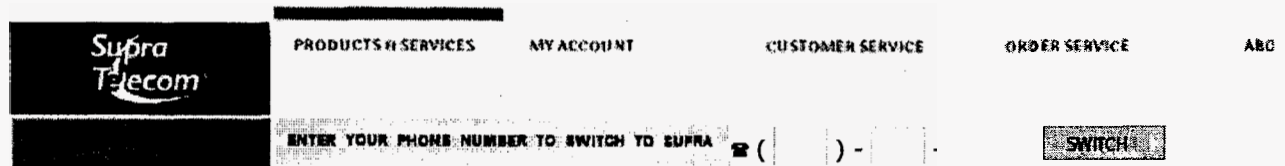
*Dovie Rockette-Gray/Adam Teitzman
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850*

*White/Lackey/Culpepper/Shore/Meza/Mays/Foshee
Ms. Nancy H. Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1556*

SUPRA TELECOMMUNICATIONS
& INFORMATION SYSTEMS, INC.
2620 S. W. 27th Avenue
Miami, FL 33133
Telephone: 305/ 476-4239
Facsimile: 305/ 443-1078

Steve Chaiken

By: Steve Chaiken
Florida Bar No. 0626791



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Supra Telecom® has an online giveaway contest for all new customers who subscribe to the "Supra Friends Unlimited" plan and existing customers who upgrade to our "Supra Friends Unlimited plan." This plan provides unlimited talk time to anyone in the United States , Canada , & Puerto Rico for one low rate. To qualify for this giveaway you need to subscribe via the web only! Good luck!

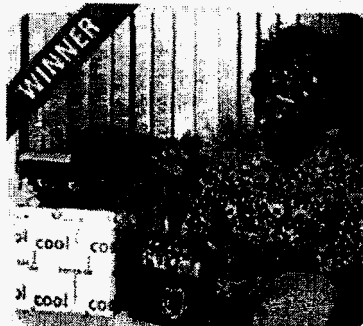
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Order Supra Friends Unlimited



Week 1 - Leckenbusch family

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Week 2 - Sonia Garbutt

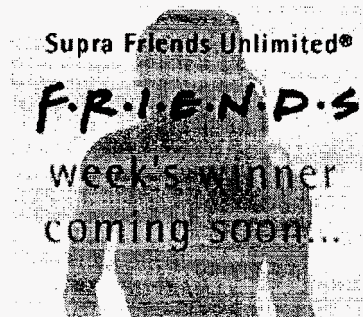
"It feels good to know that I don't have any calling limits when calling my family in New York ."



Week 3 Winner TBA



Week 4 Winner TBA



Week 5 Winner TBA



Week 6 Winner TBA

BELLSOUTH EXHIBIT 3
RESPONSE TO MOTION
DOCKET 040353-TP



Week 7 Winner TBA



Week 8 Winner TBA



Week 9 Winner TBA



Week 10 Winner TBA

Official Rules

"Friends" 7 Season DVD Giveaway is offered to new and existing customers who sign up for our Supra Friend Unlimited® Plan. This promotion is only available on our web site www.supratelecom.com or www.stis.com. Every week one customer is chosen at random and will be notified by phone number, mail, or email of their winnings. Customer must be in good standing on their account with Supra Telecom® in order to be eligible. Limit one winner per household. This promotion will end on Monday, September 13, 2004 before midnight. A personal information obtained will not be sold to any third-party. Your information is protected by the Consumer Internet Privacy Protection Act of 1997. Friends and all other trademarks, Designated trademarks and brands are the property of their respective owners.



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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

IN RE: CASE NO. 02-41250-BKC-RAM
SUPRA TELECOMMUNICATIONS,
Debtor.

CONTINUED FIRST TRUE-UP
HEARING AND ALL MOTIONS ON THE CALENDAR

June 25th, 2003

The above-entitled cause came on for hearing before the HONORABLE ROBERT A. MARK, Chief Judge of the UNITED STATES BANKRUPTCY COURT, in and for the SOUTHERN DISTRICT OF FLORIDA, at 51 SW 1st Avenue, Miami, Dade County, Florida on June 25, 2003, commencing at or about 9:30 a.m., and the following proceedings were had:

Reported By: Cheryl L. Jenkins, RPR
and
Robin Gonzalez, RPR

OUELLETTE & MAULDIN COURT REPORTERS (305) 358-8875

APPEARANCES:

MELAND, RUSSIN, HELLINGER & BUDWICK, P.A., by
MICHAEL S. BUDWICK, Esquire,

and
Page 1

sup06-25-03 transcript.txt
 SHAPIRO, NEIMAN & PORELLO, LLP, by
 4 KEVIN S. NEIMAN, Esquire
 and
 5 BRIAN W. CHAIKEN, Esquire
 In-House Counsel
 6 On behalf of the Debtor

BERGER SINGERMAN, by
 PAUL S. SINGERMAN, Esquire
 8 JAMES FIERBERG, Esquire
 STEVEN ZUCKERMAN, Esquire
 9 and
 EDWIN E. "KIP" EDENFIELD, JR., Esquire
 10 In-House Counsel
 DAVID FROLIO, Esquire
 11 Assistant General Counsel
 On behalf of BellSouth Telecommunications

KLUGER, PERETZ, KAPLAN & BERLIN, by
 13 MANUEL RODRIGUEZ, Esquire
 On behalf of the Committee of Unsecured Creditors

ALSO PRESENT

ALAN BAKSH,
 16 Supra Telecommunications

DAVID NILSON,
 18 Supra Telecommunications

GREGORY FOLLENSBEE,
 19 BellSouth Telecommunications

DAONNE CALDWELL
 20 BellSouth Telecommunications

KEN L. AINSWORTH,
 22 BellSouth Telecommunications

BRENDA SMITH OWENS,
 23 BellSouth Telecommunications

24
 25

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2 WITNESSES

	Dir	Cro	Redir	Recro
3 David Nilson				
4 By Mr. Chaiken	886		936	
4 By Mr. Edenfield		918		
5 Daonne Caldwell				
6 By Mr. Edenfield	937			
6 By Mr. Chaiken		966		

25 MR. CHAIKEN: Do I get an opportunity to call a

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989

1 rebuttal witness?

2 THE COURT: No, we're done.

3 The debtor's argument on privacy director is
4 that it is already paying for the components of privacy
5 director as part of the charges embodied in the UNE
6 bills for the \$2.26 features costs and the \$1.17 local
7 switch port charge.

8 BellSouth has maintained from the beginning
9 that privacy director uses components that involve costs
10 that did not go into the UNE billing charges that Supra
11 is paying, and, therefore, under the contract, this
12 service has to be acquired if the debtor wants it, just
13 as it would be acquired by a retail customer, albeit at
14 a discount that is provided for these types of services.

15 The Court heard preliminary arguments and
16 proffers on this at the last hearing, which I believe
17 was June 18th, and set a further evidentiary hearing for
18 the purpose of allowing the debtor -- or I should say
19 set a further evidentiary hearing based on the debtor's
20 proffer that it would be able to show that all of the
21 components of privacy director and all of the costs for
22 those components were included in cost studies that
23 BellSouth presented in order to obtain the UNE charges
24 for the features component and for the local switch
25 port.

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1 The debtor has not met its burden. The Court
2 has considered the exhibits that were referenced and
3 those that are in evidence that have been referenced,
4 the testimony of Mr. Nilson and Ms. Caldwell. The Court
5 finds that Mr. Nilson's testimony is simply his
6 interpretation of what's included in the cost studies.
7 I don't believe Mr. Nilson was misrepresenting anything
8 or was trying to deceive in any way. I just don't
9 believe he has a full understanding of what these cost
10 studies include.

11 By contrast, Ms. Caldwell is clearly an expert
12 on the components of the cost studies and the
13 methodology of their preparation and, in fact, a
14 particular excerpt from Exhibit 9 that the debtor was
15 relying on was prepared under her supervision.

16 Specifically, I find that Ms. Caldwell was
17 convincing and credible and credible in her explanation
18 of cost components for privacy director that were not
19 included in the cost studies presented to the Public
20 Service Commission in what I believe was the UNE docket
21 that's been referred to. That is the Public Service
22 Commission docket that determined the \$2.26 features
23 charge and the \$1.17 local switch port charge.

24 These additional items, and my terminology is
25 certainly not meant to be the technical terminology,

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□

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1 include extra use of the network, including at least
2 one, if not two, extra trips up to the SCP database, and
3 if the query reveals that the caller has put on caller
4 ID block or is unknown, that is, if it's identified as

5 private or unknown, then you have, again in very lay
6 terms, an extra round trip between the callers to
7 require the originating caller to unblock or state their
8 name.

9 Second, you have access to the privacy director
10 software, which the Court finds credible Ms. Caldwell's
11 testimony that this is a separate application on the SCP
12 database.

13 Third, you have use of the CSN and access to it
14 if the first query shows that the caller is in the
15 private or unknown category.

16 That may not be a full summary of the extra
17 components, but even if it's not, and even if it's not,
18 as I candidly admitted, a technical explanation of
19 everything, I am fully satisfied that the debtor has
20 failed to meet its burden and that there are substantial
21 additional costs inherent in the privacy director
22 service that the debtor is not paying for under the
23 existing UNE billing. Therefore, the debtor's objection
24 to the privacy director portions of the disputed bills
25 is overruled.

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1 We're running out of time. To end the
2 suspense, and perhaps to make the debtor feel better,
3 although my intent is not to make anybody feel good or
4 bad, the Court is ruling in favor of the debtor on the
5 other remaining issue, conversion of the resale lines.

6 I don't have the Bench Ruling laid out and
7 there's some additional legal pieces to it that we want
8 to beef up, that is, I'm looking at, for example,

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Supra Telecommunications) Docket No. 040353-TP
And Information Systems, Inc. to Review)
And Cancel BellSouth's Promotional)
Offering Tariffs Offered in Conjunction With)
Its New Flat Rate Service Known as)
Preferred Pack) Filed: August 16, 2004

AFFIDAVIT OF ELIZABETH STOCKDALE

Before me, the undersigned authority, personally appeared Elizabeth Stockdale, who, after being duly sworn, did depose and say:

1. My name is Elizabeth Stockdale. I am over the age of 18 and I make this Affidavit on personal knowledge. If called upon to do so, I would testify to each and every fact stated herein in open court.
2. I am employed with BellSouth Telecommunications, Inc. ("BellSouth") as a Manager – Strategic Pricing. In this position, I work with the Customer Market Organizations in evaluating BellSouth's Promotions.
3. BellSouth offers several different tariffed promotions that are designed to reacquire prior BellSouth customers by bundling basic service with certain nonbasic services and BellSouth's Privacy Director service in conjunction with certain non-telecommunications incentives.
4. Supra had notice that BellSouth would be adding an access line to its PreferredPack feature package since November 2003, and this current offering has been in effect since January 9, 2004.
5. Supra had notice of the line connection charge waiver since November 5, 2003 and the offering has been in effect since January 2, 2004.
6. Supra had notice of the \$100 Cash Back promotion since December 17, 2004 and the promotion has been in effect since January 2, 2004.
7. Supra had notice of the \$25 Gift Card promotion since December 17, 2004 and the promotion has been in effect since January 2, 2004. However, BellSouth stopped promoting this promotion since April 2004, and, as of August 20, 2004, will no longer be offering it at all.

BY: *Elizabeth Stockdale*
ELIZABETH STOCKDALE

WITNESSED BY:
Bernie Hill

The foregoing instrument was acknowledged before me this ___th day of June, 2004 by Elizabeth Stockdale, who produced a driver's license as identification.

NOTARY PUBLIC
Sign: *Lynn Barclay*
Print: Lynn Barclay

My Commission Expires: Lynn J. Barclay (SEAL)
Notary Public, DeKalb County, Georgia
My Commission Expires August 13, 2006.

The Neighborhood built by MCI

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Home



Get Unlimited Local, Long Distance & High Speed Internet

The Neighborhood offers unlimited local and long distance calling plans and high speed Internet service, as well as other calling packages you can tailor to meet your needs. Sign up today for Neighborhood Complete or Neighborhood 200 and get your first month FREE or sign up for any other Neighborhood calling plan and get 50% off your first month.†

With Neighborhood Complete, our most popular package, you can get the following for one low monthly price (starting at \$49.99 in most states).

- Unlimited long distance calls
- Unlimited local toll calls
- Unlimited local calls
- One company, one bill
- Call Waiting, Caller ID, Speed Dial 8 and 3-Way Calling
- Personal Voicemail & Message Center
- High speed Internet for as low as \$19.99 a month (where available)*

▶ [See an expanded list of features and benefits](#)

For more information call 1-877-777-6271

Add high speed Internet service for as low as \$19.99 a month!*

Enjoy the web without the wait



Find The Neighborhood plan that works for you.

Enter your home phone number below to check availability and pricing for The Neighborhood.

() -

Where is The Neighborhood available?
Features, pricing and availability vary by state.

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DOCKET 040353-TP

† Neighborhood California, Neighborhood Complete and Neighborhood 200 customers will receive a certificate for the first full month's primary and additional local line fees. Customers joining other Neighborhood calling plans will receive a certificate equal to 50% of these fees. Certificate excludes long distance, international, card and Personal 800 usage, taxes and surcharges. Offer available only for a limited time to customers that do not currently have or subscribe to MCI local service.

Additional Network Access Charge of \$6.50 per month for the first line, Carrier Cost Recovery Charge of 1.4%, Federal Universal Service fee, in-state fees, and taxes apply.

Unlimited calling is for residential voice service only. [Click here](#) for details.

*High speed Internet service rates vary from \$19.99-\$39.99 based on the Neighborhood calling plan selected. The price for high speed Internet service will be displayed at the beginning of the sign-up process.


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 - ▶ **Rewards Programs**
 - ▶ **Neighborhood Rewards**
 - ▶ **Long Distance Rewards**
 - ▶ **Prepaid Calling Cards**
 - ▶ **All Consumer Products**
 - ▶ **Manage My Account**
 - ▶ **Check Voicemail**
 - ▶ **Customer Service**

Rewards Programs

Neighborhood Rewards

Join now and earn rewards from these partners for amounts you spend with The Neighborhood.



WorldPerks™ and MCI Northwest Airlines

Earn 3,000 WorldPerks Bonus miles for joining The Neighborhood, and 5 miles for every \$1 spent with MCI, excluding taxes, credits, and surcharges.



◆ [Learn more about The Neighborhood and Northwest Airlines partner program](#)

Blockbuster

Get 6 free DVD or game rental certificates, good at a participating BLOCKBUSTER store, when you join The Neighborhood. Plus earn 1 free DVD or game rental certificate for every \$25 you spend with The Neighborhood (net of taxes, surcharges and credits).



◆ [Learn More about The Neighborhood and BLOCKBUSTER partner program](#)

Rewards With Quixtar

Earn Quixtar compensation for joining The Neighborhood through our Quixtar partner program.

◆ [Learn More about The Neighborhood and Quixtar partner program](#)

Contribute 5% to your selected school or organization

As part of the eScrip program MCI will contribute 5% of your monthly line fee to the school or organization of your choice.



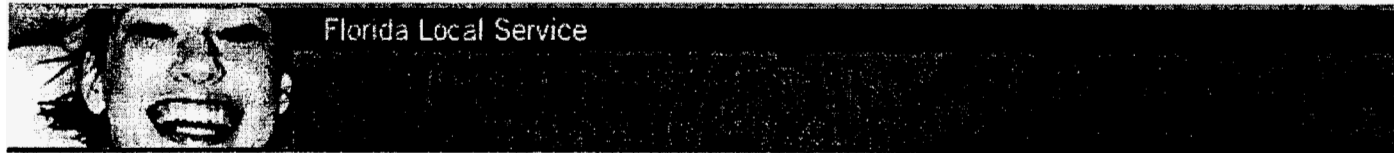
◆ [Learn more about The Neighborhood with eScrip](#)

◆ [Go to eScrip website](#)

SEARCH

AT HOME & ON THE GO: PRODUCTS & SERVICES | CUSTOMER CENTER | ASSISTANCE

& BUNDLES | CALLING SERVICES | INTERNET SERVICES | VOICE OVER IP | PHONES & ACCESSORIES | WIRELESS



Service Availability

Local service is available in your area.

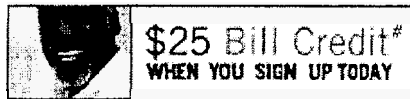
- Line 1
(305) 347-5561

Check another number

AT&T Local Service

- Compare All Plans
- ⇄ Promotions
- Billing Options
- FAQs

AT&T PROMOTIONS



Switch to AT&T Local Service and receive a \$25 credit towards the Long Distance portion of your bill. If you don't spend the full \$25 on Long Distance calling that month, don't worry, we'll apply the remaining amount to your next phone bill! (Please note: This credit will appear on "Other Charges and Credits" portion of your bill. Depending on when your billing cycle begins, it may not appear until your second AT&T bill.)#



#The bill credit will be applied to your first full month's bill and cannot be combined with any other AT&T Local Service promotion. You must also be an AT&T Residential Long Distance subscriber. If you have already accepted another offer to switch to AT&T Local Service we can only fulfill the first response received.

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CALLING PLANS INTERNET SERVICES BUNDLED SERVICES VOICE OVER IP WIRELESS PHONES & ACCESSORIES

PHONES ACCESSORIES

AT&T PHONES & ACCESSORIES

Introducing several exciting phones with clear, clean digital quality and state-of-the-art calling features.

- Phones that match your lifestyle: single-handset, multihandset, single-line, two-line cordless answering machines.
- Popular features such as Conferencing, Speakerphone, 50-Name/-Number Directory, Lighted Intercom, Call Transfer, and more!
- Phones starting as low as \$69.95*.
- You choose the payment option that's most convenient - one single payment or four monthly - and charge your order to your home telephone number.
- Plus, all cordless handsets come with a FREE earbud headset -- a \$12.99 value!
- **Purchase a phone online today... Get a \$10 credit on your AT&T bill. (Offer good thru 6/30/04)**


NOTE: To place an order and take advantage of this offer you must currently have AT&T R Long Distance or AT&T Local Service and an active e-mail account.

[View frequently asked questions about AT&T products.](#)

To proceed, view phones or accessories by clicking on the appropriate category tab below and select you wish to order. To adjust quantities, see your Order Summary at the bottom of this page. Please orders are limited to four phones per billing period.

[CORDLESS PHONES](#)
[CORDLESS PHONES WITH ANSWERING SYSTEMS](#)
[ACCESSORIES](#)
[HOME NET](#)

Features such as Caller ID and Call Waiting require separate subscriptions through your local service provider.

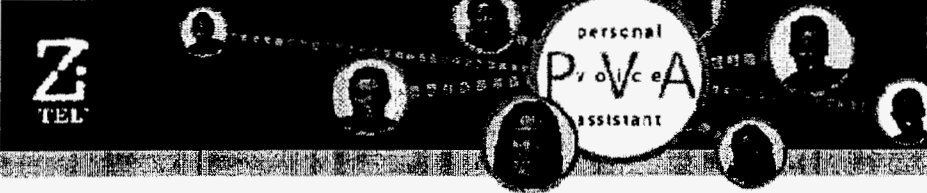
PHONE	DESCRIPTION	PRICE*
	<p>2320 Digital Cordless Telephone (equipped for Caller ID & Call Waiting[†])</p> <ul style="list-style-type: none"> • 2.4GHz Digital Transmission • Digital Spread-Spectrum Frequency-Hopping Technology • Expandable System (add up to three additional handsets) • Cordless Handset Speakerphone • 50-Name/-Number Directory 	<p>Four month payments (or one payment) \$79.95</p>

BELLSOUTH EXHIBIT 6
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 DOCKET 040353-TP

Henderson Enterprises

Break Free From Calling Limits!


Z-Tel Benefits Program SIGN UP NOW! FAQs Contact Us




People want simplicity and savings in home phone service. We've responded by partnering with Z-Tel, the only national local phone service company in the country. Z-Tel offers unlimited local calling, unlimited nationwide long distance calling (no matter where you call and how long you talk!) and all the popular features on one bill for one LOW price!

Z-LineHOME Unlimited includes:

- UNLIMITED Local Calling
- UNLIMITED Long Distance
- Enhanced Voicemail
- Call Waiting
- Caller ID
- 3-way Calling
- Speed Calling
- Find Me Call Forwarding
- Notify Me
- Z-LineHOME Access Card
- Personal Voice Assistant (demo)



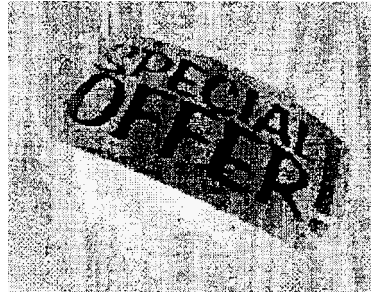


Z-Tel is the only national local phone company in the US!

BELLSOUTH EXHIBIT 6
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ONLY
\$49.99/MONTH*
in most areas

For a limited time only, sign up for any Z-TEL residential service and get your **FIRST MONTH FREE !!!**
(not including taxes and regulatory fees)



For a limited time, order today!

There is no cost to switch – and you can keep your current phone number!

Plus, we're offering an exclusive benefit to those who enroll today. Click on the link below to learn how to get a free discount program that offers THOUSANDS of dollars in savings to members!

[Click here to find out how to receive thousands of dollars in discounts \(even FREE VACATIONS!\) for free!](#)

Switch Existing Service:

[CLICK HERE TO CHECK Z-TEL AVAILABILITY IN YOUR AREA](#)

Please review minimum requirements for successfully placing an order

Order New Service:

- Call Z-Tel Sales at **877-237-6278**
- Tell Z-Tel Agent you want to order Z-LineHOME Unlimited.
- Tell Z-Tel Agent you learned about Z-Tel from a Z-Tel Affiliate.

- Give Z-Tel Agent the following Affiliate Agent ID Numbers:
- Master Agent ID #: **89506** (5LINX Enterprises, Inc.)
- Secondary Level ID#: **L102622**

Want To Get Your ENTIRE BILL FREE? Just sign up for our service yourself then return to this site, click on the link below and type in the e-mail addresses of friends that you think will benefit from this offer. We'll do the rest!

We'll give you \$20 off one month's bill for each referral that signs up for our great service! That means a few active referrals and your service is FREE for a month. You can refer as many potential customers and as often as you like!

Click on the link below to start getting \$20 off your bill for each referred customer and to help your friends get free long distance and great benefits as well!



Sign our guest book and receive a free report, "Inside the Telephone Rate Game," which provides insights on the hidden costs, fees and "gotchas" associated with most calling programs. The report includes examples of good plans for different calling patterns and was authored by an industry expert. It has helped many people save HUNDREDS of dollars on phone bills!

Click on "Sign our Guestbook" to receive your free report!

Note: Your name and e-mail address will be kept strictly confidential and cannot be viewed by anyone but the site webmaster.



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* NOTE:

~~\$49.99 Unlimited~~ / ~~\$29.99 Select~~ / \$25.00 each additional line.

This plan applies to AL, AR, CA, CT, DE, FL, GA, IL, IN, KS, KY, LA, MD, MI, NH, NJ, NY, NC, OH, PA, RI, TN, TX, VT, VA, and WI.

~~\$55.99 Unlimited~~ / ~~\$39.99 Select~~ / \$35.00 each additional line.

This plan applies to MA, MN, MO, OK, and WA

~~\$57.99 Unlimited~~ / \$35.00 each additional line.

This plan applies to IA, MS, and ND

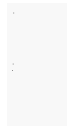
~~\$59.99 Unlimited~~ / \$35.00 each additional line.


This plan applies to AZ, CO, ME, NM, OR, SC, SD, and UT

~~\$79.99 Unlimited~~ / \$45.00 each additional line.

This plan applies to FL (Sprint Territory ONLY!), ID, MT, NE, WV, and WY

Monthly rate does not include applicable taxes and regulatory surcharges. Rates and savings vary by state. Terms and conditions apply.



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Tele-Friend & Win — MomentumFamily You could win **\$10,000** and get **\$20** off your phone bill

Start your own MomentumFamily.
Refer a friend and once they choose a MomentumFamily plan, they become a member of your MomentumFamily. For a limited time only telling your friends about the money you're saving with your MomentumFamily plan could win you \$10,000 through our \$150,000 sweepstakes! See official rules below for details.

Between May 1, 2003 and July 31, 2004, We'll be having fifteen \$10,000 drawings. Every time you add a new MomentumFamily member you get a chance in the drawing. Refer 10 members, get 10 chances. Starting June 5, 2003, we'll pick one winner each month for 15 months. If it's you, you win \$10,000.




Didn't win last month?
You could win next month; you're still eligible with your current M-members. Of course, if you add more members to your Momentum more chances to win!

Like the options and service you get with your MomentumFamily plan?
Then tell a friend. We'll give you **\$20 credit** for each MomentumF you refer, as soon as they pay their first bill.

Referring a friend is easy.
They can join by visiting our web site, calling our toll-free number filling out the reply card on one of our brochures and mail it in. As telephone number, as their "promotion code" and they automatica of your MomentumFamily.

How do I know who is in my MomentumFamily?
A list of your MomentumFamily is included on your monthly bill or time to MY ACCOUNT on our web site to see who has joined your I

Where can I find the contest rules?
The rules are explained here.

		
<p>Save a lot of Money! Choose from MomentumFamily 60 or MomentumFamily UNLIMITED and enjoy great savings on local and domestic long-distance phone service! more info ▼</p>	<p>Please enter your telephone number in the box below and click to see if you can get Momentum.</p> <p><input type="button" value="Check Availability"/></p> <p><input type="button" value="Join Now"/></p>	<p>WIN \$10,000! Enter our Tele-Friend and Win contest and win big money simply by telling your friends and loved ones about us! more info ▼</p>

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BELLSOUTH EXHIBIT 6
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DOCKET 040353-TP



To obtain a promo code
please [click here](#)

 Call 1-866-880-8255



Special Summer Savings

Take ^{UP TO} \$10 off any plan price for 6 MONTHS!

Get More. Save More.

For a limited time only.
Save \$5 or \$10 off
our Local Calling Plans
for **6 MONTHS!**

Are you a current Talk America customer and want more info about your plan? [Click here.](#)

start saving

To find plans available in your area, enter your phone number: **

() -

Looking for a calling plan for your small business? [Click here.](#)

Talk America brings you customized savings plans that include your complete local and long distance phone service for a low flat monthly rate.

Your savings plan will include:

- One low rate for complete phone service and dial-tone
- Local and/or regional calling minutes
- Selection of many features (call waiting, caller ID, etc)
- Unlimited FREE member-to-member calling - anywhere

In addition, receive world-class customer service, enhanced billing features, low rates and more! Hundreds of thousands of customers are saving today - find out how you can too!

Try our simple online evaluation tool to find the Talk America plan tailored to your needs!

* Offer available to new customers only and applies to primary line plan only. Not available in all states.

** Note: Your telephone number is used to determine eligible plans and available calling features. If you respond "go" to the above, Talk America will access your telephone records in order to determine your eligibility and current features. Your information will be confidential and your current telephone service will not be affected.

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& BUNDLES CALLING SERVICES INTERNET SERVICES VOICE OVER IP PHONES & ACCESSORIES WIRELESS

AT&T CALLVANTAGE HOME
WHAT IS AT&T CALLVANTAGE
HOW IT WORKS
ORDER NOW
REFER A FRIEND
IMPORTANT INFO AND FAQs
CONTACT US
SUBSCRIBER AGREEMENT
EXPERIENCE THE POWER

NOW YOUR PHONE ANSWERS TO

UNLIMITED LOCAL & LONG DISTANCE
PLUS POWERFUL NEW FEATURES

\$39.99 A MONTH
SIGN UP BY JUNE 30 AND SAVE 50%
SPECIAL INTRODUCTORY OFFER
\$19.99²
A MONTH FOR THE FIRST 6 MONTHS
→ GET IT NOW!

Already an AT&T CallVantage Customer?
→ [Access your account here.](#)

THE CUSTOMER BUZZ
See what people are saying.

[LEARN MORE](#)

TAKE THE TOUR

ROLL OVER THE SELECTIONS BELOW TO LEARN MORE

- [▶ HOW DOES IT WORK?](#)
- [▶ EXPLORE THE ADVANCED FEATURES](#)

IT GIVES YOU MORE AND ASKS YOU TO ENJOY:

- UNLIMITED LOCAL & LONG DISTANCE
- BASIC FEATURES LIKE VOICEMAIL & CALL FORWARDING
- PLUS ADVANCED FEATURES THAT YOU'VE EXPERIENCED—ALL INCLUDED.

→ [Learn More](#)

Sign up now or call to order service at 1-866-816-3815, ext. 64529

¹Early termination fee of \$59.99 for canceling service after 30 days and other charges may apply. AT&T CallVantage Service bills one month in advance. Your first bill will include charges for the second month of service. Automatic credit card payment via online billing is required. You can view your e-bill online at the AT&T Customer Care Center.

²A \$20 bill credit will be applied to each of your 1st 6 months of enrollment. Full retail price of \$39.99 automatically commences with 7th month of service. If you've recently accepted another offer to switch to AT&T CallVantage Service, we can fulfill only on the first response received. Offer expires 6/30/04.

³Minimum system requirements apply. DSL or 2 way cable Internet access required. Call Forwarding not available outside Continental U.S. Service does not support directory-listed numbers, dial-out directory assistance, direct dial calls outside the U.S. and Canada, operator assisted, pay per use or third-party billing (except calling cards or prepaid services). Other restrictions may apply. Personal conferencing currently provided free of charge but will become a paid feature in the future. You will be notified prior to that change occurring.

Service will not function during a power outage or broadband service outage. The Service does not support home alarm or security systems. 911 Emergency Dialing operates differently from traditional 911 Service. In order for us to correctly route emergency calls, the Service Address you have on file for you MUST correspond to the physical location of your AT&T CallVantageSM Service phone. This will enable us to accurately identify your emergency Public Safety Answering Point and correctly route your call.

See the FAQs for additional detail about 911 Emergency Dialing and other terms and conditions.

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BELLSOUTH EXHIBIT 6
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DOCKET 040353-TP



- HOME
- RATE PLANS
- AREA CODES
- FEATURES
- PRODUCT TOUR
- LEARNING CENTER
- SIGN UP

INSTANT Vonage Digital Voice REBATE.

New customers receive a FREE month rebate credit on their invoice, a value of up to \$34.99.

One rebate per Vonage customer.*

Click here BEFORE you sign up.

You must follow this link in order to receive your Vonage Rebate.



New Lower Prices!

Use your broadband internet connection for great savings every month

Unlimited Calls to ANYWHERE in the USA and Canada!

Check out these great features and benefits!

With Vonage Digital Voice you get local, regional, domestic long distance, and calls to Canada included. Plus all these Features and Benefits - included for FREE!

- FREE Long Distance**
(Domestic US, Hawaii, Alaska)
- FREE Call Transfer**
- Keep your current number**
- FREE Call Waiting**
- FREE Caller ID Block**
- 30 DAY MONEY-BACK guarantee****
- FREE Voicemail**
- Int'l Fees to Canada Waived!**
- Great International Rates**
- FREE Call Forwarding**
- Control features remotely**
- Any area code of your choice**
- Virtual Phone Numbers**
- FREE Repeat Dialing**

SIGN UP NOW!

NEW **Now Unlimited calls to Canada are included too!**

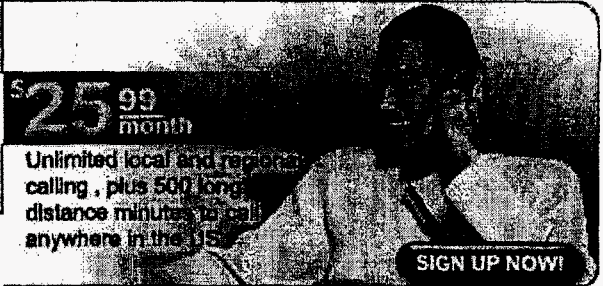
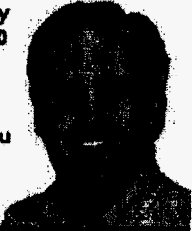



Effective immediately for all Vonage Digital Voice customers, international rates are waived for calls to Canada. Now when you dial friends North of the border, it's all part of one Vonage Digital Voice plan. Any minutes to Canada are billed just like domestic U.S. minutes. All Canadian territories are included. [\(more\)](#)

Residential Premium Unlimited Plan
Residential Unlimited Local Plan

Great International Rates!

Hong Kong	6¢ /min	London	5¢ /min
Mexico City	6¢ /min	Montreal	Waived
Moscow	6¢ /min	New Delhi	25¢ /min
Paris	6¢ /min	Sydney	6¢ /min

BELL SOUTH EXHIBIT 6
RESPONSE TO MOTION
DOCKET 040353-TP

<p>Small Business Unlimited Plan</p>	 <p>\$25⁹⁹ / month</p> <p>Unlimited local and regional calling, plus 500 long distance minutes to call anywhere in the US.</p> <p>SIGN UP NOW!</p>	<p>Tel Aviv 6¢ /min Tokyo 7¢ /min</p>
<p>Small Business Basic Plan</p>		<p>All of Vonage discount international rates</p>
<p>Vonage Customers Are Talking</p> <p>"Before I had Vonage, my telephone bills were \$700 a month. With Vonage, I pay only \$39!</p> <p>Once you go Vonage, you will never go back."</p> <p>-Daniel Connor</p>  <p>MORE ▶</p>	<p>Vonage In the News</p> <p>Talk as long as you want for \$40 a month. A single company gives you all the phone services you currently enjoy.</p> <p>- Christopher Allbritton, Popular Mechanics</p> <p>MORE ▶</p>	<p>Vonage Today</p> <p>Vonage Digital Voice now offers 911 service anywhere in the United States ▶ Vonage Digital Voice Comes to Sacramento, California more ▶</p> <p>MORE ▶</p>
		<p>Miami, Feb 5-7</p>  <p>Booth #506</p>
<p>Vonage Digital Voice Rebate offer.</p>		
<p>::: Contact Vonage Promotions ::: Privacy Policy ::: Terms Of Service :::</p>		
<p>Vonage Digital Voice™ is a service mark of Vonage Holdings Corp. copyright 2003, Vonage Holdings Corp., All Rights Reserved.</p>		
<p>Vonage local and regional calling Discount Rates - compare Rates Credit Vonage phone Broadband Installation Benefits How it works Questions Voicemail Terms of service Vonage Holdings Vonage DigitalVoice Customer service Coupon Features Keeping current number Area codes Rebate Amazon Discount international rates Canadian calling Shipping System requirements Rate plans Service features Referral Vonage DigitalVoice questions DSL-cable Billing and payment eBay Business Rate Plans FAQ Virtual phone numbers Fax 911 Sign Up Bandwidth Speed Test Broadband Internet Telephone</p>		

Meza, James

From: Steve.Chaiken@STIS.com
Sent: Tuesday, July 27, 2004 9:59 AM
To: Meza, James
Cc: Paul.Turner@stis.com
Subject: FW: Docket No.040353-TP

Jim:

Any word on depo dates?

-----Original Message-----

From: Chaiken, Steve
Sent: Friday, July 16, 2004 9:58 AM
To: James.Meza@BellSouth.com; Turner, Paul
Cc: Chaiken, Brian
Subject: Docket No.040353-TP

Jim:

We would like to schedule the depositions of the BellSouth-designated representatives with knowledge of:

1. The services that compose BellSouth's PreferredPack Plan promotional offering in Florida.
2. The non-service components of BellSouth's PreferredPack Plan promotional offering in Florida (e.g., \$100 Cash Back).
3. The establishment of the eligibility criteria for BellSouth's PreferredPack Plan promotional offering in Florida.
4. BellSouth's direct costs of providing the services that compose BellSouth's PreferredPack Plan promotional offering in Florida.
5. The monopoly/UNE components used by a CLEC to provision the same or functionally equivalent services as those that compose BellSouth's PreferredPack Plan promotional offering in Florida.
6. The price charged by BellSouth to Supra for any monopoly/UNE component used by Supra in the provision of the same or functionally equivalent services as those that compose BellSouth's PreferredPack Plan promotional offering in Florida.
7. BellSouth's discovery responses provided in this docket.

Please provide Paul and/or I with available dates and the location for such witnesses.

Thanks,

Steve

BELLSOUTH EXHIBIT 9
RESPONSE TO MOTION
DOCKET 040353-TP

8/6/2004

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to review and cancel, or in)
the alternative immediately suspend or)
postpone, BellSouth Telecommunications,)
Inc.'s PreferredPack Plan tariffs by Supra)
Telecommunications and Information)
Systems, Inc.)
_____)

Docket No.: 040353

Filed: July 27, 2004

RECEIVED

JUL 28 2004

U.S. MAIL-REG. RELATIONS
TALLAHASSEE, FL

SUPRA'S THIRD SET OF ADMISSIONS (NOS. 32-103)

SUPRA TELECOMMUNICATIONS AND INFORMATION SYSTEMS, INC.

("Supra"), through its undersigned counsel, hereby serves its Third Set of Admissions upon BELL SOUTH TELECOMMUNICATIONS, INC. ("BellSouth"), to be answered within 10 days from the date set forth herein pursuant to Order No. PSC-04-0549-PCO-TP.

32. Admit that, assuming Supra was to offer to its customers the same or functionally equivalent service as that being offered by BellSouth's Preferred Pack Plan, via the least cost combination of elements of BellSouth UNE-P and/or Resale products in BellSouth's territory in Florida, Supra would need to purchase the following recurring elements:

- a) P.1.1 2 Wire loop/port Combination; Zones 1-3 Consisting of:
 - 2 wire Analog loop, zones 1-3 (Combined form of A.1.1, USOC UEPLX)
 - Unbundled Local switch port res/biz POTS service with extended area calling. (Combined form of B.1.1, USOC UEPxx)
- b) B.4.13 CLASS features – Complete Vertical Feature Set (USOC UEPVF)
- c) Local Number Portability (USOC LNPCX)
- d) ADUF – LD Access Billing Data records
- e) ODUF – Local toll and OS/DA billing records.
- f) Directory listing charges.
- g) Unbundled usage, which varies by caller – called party location consisting of:
 - C.1.1 End Office switching per MOU
 - C.1.2 End Office Trunk Port – Shared per MOU
 - C.2.1 Tandem Switching per MOU
 - C.2.2 Tandem Trunk Port – Shared per MOU
 - D.1.1 Common Transport per mile, per MOU
 - D.1.2 Common Transport – Facilities termination per MOU

- h) Operator services and Directory assistance services
- i) Privacy Director (via Resale).

32. Please admit that, for Privacy Director BellSouth:

- a) Charges Supra a \$5.95 base rate for Supra to resell BellSouth's service.
- b) Applies the FPSC ordered resale discount for i) Residential, and ii) Business as appropriate.
- c) Applies a \$19.00 non-recurring charge to setup Privacy Director, per customer, per line.
- d) Applies a discount of 18% to the non-recurring Privacy Director charge for i) residential, and ii) business.

33. Admit that the price BellSouth receives from its retail end-users under its Preferred Pack Plan (\$26.95) is less than the price BellSouth receives from Supra for providing the functionally equivalent services from its Preferred Pack Plan, to Supra, on an average Supra line, on a UNE basis (for available elements) and resale (for Privacy Director)

34. Admit that BellSouth makes a profit when it provides the functionally equivalent services from its Preferred Pack Plan to Supra on a UNE basis (for available elements) and resale (for Privacy Director).

35. Admit that a 2 wire analog loop in Zone 1 in Florida is a component of BellSouth's UNE-P offering in Florida.

36. Admit that a 2 wire analog loop in Zone 1 in Florida is a component of BellSouth's PreferredPack Plan offering in Florida.

37. Admit that BellSouth incurs a cost in provisioning a 2 wire analog loop in Zone 1 in Florida.

38. Admit that the cost that BellSouth incurs in provisioning a 2 wire analog loop in Zone 1 in Florida is the same under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.

39. Admit that the cost that BellSouth incurs in provisioning a 2 wire analog loop in Zone 1 in Florida differs under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.

40. Admit that the cost that BellSouth incurs in provisioning a 2 wire analog loop in Zone 1 in Florida is higher under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

41. Admit that the cost that BellSouth incurs in provisioning a 2 wire analog loop in Zone 1 in Florida is lower under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

42. Admit that a 2 wire analog loop in Zone 2 in Florida is a component of BellSouth's UNE-P offering in Florida.

43. Admit that a 2 wire analog loop in Zone 2 in Florida is a component of BellSouth's PreferredPack Plan offering in Florida.

44. Admit that BellSouth incurs a cost in provisioning a 2 wire analog loop in Zone 2 in Florida.

45. Admit that the cost that BellSouth incurs in provisioning a 2 wire analog loop in Zone 2 in Florida is the same under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.

46. Admit that the cost that BellSouth incurs in provisioning a 2 wire analog loop in Zone 2 in Florida differs under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.

47. Admit that the cost that BellSouth incurs in provisioning a 2 wire analog loop in Zone 2 in Florida is higher under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

48. Admit that the cost that BellSouth incurs in provisioning a 2 wire analog loop in Zone 2 in Florida is lower under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

49. Admit that a 2 wire analog loop in Zone 3 in Florida is a component of BellSouth's UNE-P offering in Florida.

50. Admit that a 2 wire analog loop in Zone 3 in Florida is a component of BellSouth's PreferredPack Plan offering in Florida.

51. Admit that BellSouth incurs a cost in provisioning a 2 wire analog loop in Zone 3 in Florida.

52. Admit that the cost that BellSouth incurs in provisioning a 2 wire analog loop in Zone 3 in Florida is the same under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.

53. Admit that the cost that BellSouth incurs in provisioning a 2 wire analog loop in Zone 3 in Florida differs under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.

54. Admit that the cost that BellSouth incurs in provisioning a 2 wire analog loop in Zone 3 in Florida is higher under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

55. Admit that the cost that BellSouth incurs in provisioning a 2 wire analog loop in Zone 3 in Florida is lower under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.
56. Admit that local switch port is a component of BellSouth's UNE-P offering in Florida.
57. Admit that local switch port is a component of BellSouth's PreferredPack Plan offering in Florida.
58. Admit that BellSouth incurs a cost in provisioning a local switch port in Florida.
59. Admit that the cost that BellSouth incurs in provisioning a local switch port in Florida is the same under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.
60. Admit that the cost that BellSouth incurs in provisioning a local switch port in Florida differs under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.
61. Admit that the cost that BellSouth incurs in provisioning a local switch port in Florida is higher under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.
62. Admit that the cost that BellSouth incurs in provisioning a local switch port in Florida is lower under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.
63. Admit the local number portability is a component of BellSouth's UNE-P offering in Florida.
64. Admit the local number portability is a component of BellSouth's PreferredPack Plan offering in Florida.
65. Admit that BellSouth incurs a cost in provisioning local number portability in Florida.
66. Admit that the cost that BellSouth incurs in provisioning local number portability in Florida is the same under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.
67. Admit that the cost that BellSouth incurs in provisioning local number portability in Florida differs under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.
68. Admit that the cost that BellSouth incurs in provisioning local number portability in Florida is higher under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

69. Admit that the cost that BellSouth incurs in provisioning local number portability in Florida is lower under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

70. Admit that long distance access billing data records are a component of BellSouth's UNE-P offering in Florida.

71. Admit that long distance access billing data records are a component of BellSouth's PreferredPack Plan offering in Florida.

72. Admit that BellSouth incurs a cost in providing long distance access billing data records in Florida.

73. Admit that the cost that BellSouth incurs in providing long distance access billing data records in Florida is the same under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.

74. Admit that the cost that BellSouth incurs in providing long distance access billing data records in Florida differs under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.

75. Admit that the cost that BellSouth incurs in providing long distance access billing data records in Florida is higher under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

76. Admit that the cost that BellSouth incurs in providing long distance access billing data records in Florida is lower under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

77. Admit that local toll and OS/DA billing data records are a component of BellSouth's UNE-P offering in Florida.

78. Admit that local toll and OS/DA billing data records are a component of BellSouth's PreferredPack Plan offering in Florida.

79. Admit that BellSouth incurs a cost in providing local toll and OS/DA billing data records in Florida.

80. Admit that the cost that BellSouth incurs in providing local toll and OS/DA billing data records in Florida is the same under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.

81. Admit that the cost that BellSouth incurs in providing local toll and OS/DA billing data records in Florida differs under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.

82. Admit that the cost that BellSouth incurs in providing local toll and OS/DA billing data records in Florida is higher under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

83. Admit that the cost that BellSouth incurs in providing local toll and OS/DA billing data records in Florida is lower under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

84. Admit that directory listing charges are a component of BellSouth's charges for its UNE-P offering in Florida.

85. Admit that directory listing charges are a component of BellSouth's charges for its PreferredPack Plan offering in Florida.

86. Admit that BellSouth incurs a cost in providing directory listing charges in Florida.

87. Admit that the cost that BellSouth incurs in providing directory listing charges in Florida is the same under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.

88. Admit that the cost that BellSouth incurs in providing directory listing charges in Florida differs under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.

89. Admit that the cost that BellSouth incurs in providing directory listing charges in Florida is higher under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

90. Admit that the cost that BellSouth incurs in providing directory listing charges in Florida is lower under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

91. Admit that end user usage is a component of BellSouth's charges for its UNE-P offering in Florida.

92. Admit that end user usage is a component of BellSouth's charges for its PreferredPack Plan offering in Florida.

93. Admit that BellSouth incurs a cost in providing end user usage in Florida.

94. Admit that the cost that BellSouth incurs in providing end user usage in Florida is the same under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.

95. Admit that the cost that BellSouth incurs in providing end user usage in Florida differs under BellSouth's UNE-P and PreferredPack Plan offerings in Florida.

96. Admit that the cost that BellSouth incurs in providing end user usage in Florida is higher under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

97. Admit that the cost that BellSouth incurs in providing end user usage in Florida is lower under BellSouth's UNE-P offering in Florida than under BellSouth's PreferredPack Plan offering in Florida.

98. Admit that BellSouth provisions Privacy Director to BellSouth retail end users in Florida.

99. Admit that BellSouth provisions Privacy Director to CLECs in Florida.

100. Admit that BellSouth provisions Privacy Director to Supra in Florida.

101. Admit that BellSouth incurs a cost in provisioning Privacy Director in Florida.

102. Admit that the cost to provision a 2 wire analog loop in Zone 1 in Florida is higher to BellSouth when it provides such to Supra in the wholesale environment than it is to BellSouth when it provides the same to a BellSouth retail end-user.

103. Admit that the cost to provision a 2 wire analog loop in Zone 1 in Florida is higher to BellSouth when it provides such to Supra in the wholesale environment than it is to BellSouth when it provides IFR service to a BellSouth retail end-user.

RESPECTFULLY SUBMITTED this 27th day of July, 2004.

SUPRA TELCOMMUNICATIONS AND
INFORMATION SYSTEMS, INC.
2620 S.W. 27th Ave.
Miami, Florida 33133
Telephone: 305.476.4239
Facsimile: 305.443.1078

By: Steven B Chaiken / A7AS
STEVEN B. CHAIKEN
Florida Bar No. 0626791

BELLSOUTH
TELECOMMUNICATIONS, INC.
FLORIDA

GENERAL SUBSCRIBER SERVICE TARIFF

Second Revised Page 26.1
Cancels First Revised Page 26.1

ISSUED: December 24, 2003
BY: Joseph P. Lacher, President -FL
Miami, Florida

EFFECTIVE: January 9, 2004

A3. BASIC LOCAL EXCHANGE SERVICE

A3.4 Flat Rate Service (Cont'd)

A3.4.5 Optional Payment Plans for Multi-Line Flat Rate Service (Obsoleted, See Section A103)

(T)

A3.4.6 PreferredPack Plan

(N)

A. Description of Service

(N)

- 1. The PreferredPack plan provides the features/services specified following and a flat rate access line with Touch-Tone capability. (N)
- 2. The rate specified herein entitles a residence subscriber to unlimited calling to all exchange access lines within the subscriber's local calling area as defined in A3.3.1. of this Tariff. (N)
- 3. The rate specified herein also entitles a residence subscriber to unlimited use of the features/services specified following from the listed sections of this Tariff: (N)
 - A13.9 Call Waiting Deluxe, Three-Way Calling, Call Forwarding Busy Line, Call Forwarding Don't Answer (with or without Ring Control), Star 98 Access (N)
 - A13.19 Caller ID-Deluxe, Call Return (N)
 - A13.47 Message Waiting Indication (N)
 - A13.70 Privacy Director service (N)

B. Regulations and Limitations of Service

(N)

- 1. The PreferredPack plan is only available to residence subscribers. A residence subscriber may select any suitable combination of the features/services listed in A3.4.6.A.3. (N)
- 2. All rules, regulations and limitations specified in the Tariff sections listed in A3.4.6.A.3 apply to the respective features/services requested as part of this package. (N)
- 3. All features/services are furnished only from central offices that have been arranged to provide these services. The features/services are provided subject to availability of facilities. (N)
- 4. Service charges specified in Section A4. of this Tariff do not apply for transactions in which a subscriber only modifies an existing PreferredPack plan package by adding, deleting or changing features/services requested as part of the package. (N)
- 5. Existing customers of the PreferredPack plan can not take advantage of special promotions for the PreferredPack plan or any of the features/services specified in A3.4.6.A.3 preceding unless specifically allowed by the terms of the special promotion. (N)
- 6. The PreferredPack plan can be suspended as specified in A2.3.16 of this Tariff. During the period of suspension, the rate specified following applies. (N)

C. Rates and Charges

(N)

- 1. The following monthly rates apply for the PreferredPack plan. (N)

	Suspend Rate	Monthly Rate	USOC	
(a) Per plan package	\$5.50	\$26.95	PAMA5	(N)

BELLSOUTH EXHIBIT 8
RESPONSE TO MOTION
DOCKET 040353-TP

All BellSouth marks contained herein and as set forth in the trademarks and service marks section of this Tariff are owned by BellSouth Intellectual Property Corporation.

A2. GENERAL REGULATIONS

A2.10 Special Promotions (Cont'd)

A2.10.2 Descriptions (Cont'd)

A. The following promotions are on file with the Commission: (Cont'd)

Area of Promotion	Service	Charges Waived	Period Authority		
BellSouth's Service Territory - From Central Office where services are available	\$100 Cash Back Offer	- \$100 cash back will be given to customers returning to BellSouth and purchasing BellSouth Complete Choice PreferredPack plan.	01/02/04 to 12/26/04	(N)	
	- Customer must either not currently have local service with BellSouth or not have service with BellSouth on one or more of their existing lines, including the line on which the service qualifying for this promotion will be provisioned.	- The customer must place the order on or before 12/26/04.			(N)
	- Customer must have local service or equivalent (wireless in lieu of wire-line) at the same local service address on one or more of their existing lines.	- The customer must place their order through a BellSouth business office or outbound tele-marketing vendor or alternate channels as indicated.			(N) (N)
	- Customer must request service at the same address and in the same name, unless customer is planning an imminent move from one address in BellSouth territory to another address in BellSouth territory within thirty (30) days of responding to the offer. In the case of an imminent move, the BellSouth rep can offer the customer the promotion and place the order at the new address.	- The customer must fill out a coupon and mail the coupon to a specified address by a specified date in order to receive the \$100 cash back.			(N) (N)
		- Once the customer completes the above requirements they will receive the \$100 cash back. If the customer cancels or discontinues the qualifying service prior to fulfillment, he will be ineligible for the cash back offer.			(N)
	- Customer must have not had local service with BellSouth at least ten (10) days prior to the new service connection date to be eligible.				(N)
	- Customer must have the eligible services on their new service order (N) in order to receive the promotional offer.				(N)
	- Offer valid for only one (1) service line at the intended local service address.				(N)
	- BellSouth reserves the right to discontinue or modify this promotion at any time without customer notice.				(N)

BELLSOUTH
 TELECOMMUNICATIONS, INC.
 FLORIDA
 ISSUED: December 17, 2003
 BY: Joseph P. Lacher, President -FL
 Miami, Florida

GENERAL SUBSCRIBER SERVICE TARIFF

EFFECTIVE: January 2, 2004

A2. GENERAL REGULATIONS

A2.10 Special Promotions (Cont'd)

A2.10.2 Descriptions (Cont'd)

A. The following promotions are on file with the Commission: (Cont'd)

Area of Promotion	Service	Charges Waived	Period Authority	
BellSouth's Service Territory	\$100 Cash Back Offer (Cont'd)	-- Offer may be combined with	01/02/04	(N)
- From Central Office where services are available	- The customer must switch their local service to BellSouth and purchase any one of the following: BellSouth Complete Choice plan, BellSouth Complete Choice Two-Line Plan package, BellSouth Complete Choice Three-Line Plan package, Area Plus with BellSouth Complete Choice plan, Area Plus Two-Line Plan package with BellSouth Complete Choice, Area Plus Three-Line Plan package with BellSouth Complete Choice, BellSouth PreferredPack plan, BellSouth PreferredPack plan for Voicemail.	cash back offers or other promotional offers on the same services, as such offers may be concurrently available from time to time, provided that the Company reserves the right to prohibit the combination of this promotion with any other promotion, at the Company's sole discretion.	to 12/26/04	(N)

BELLSOUTH
TELECOMMUNICATIONS, INC.
FLORIDA

GENERAL SUBSCRIBER SERVICE TARIFF

ISSUED: December 17, 2003
BY: Joseph P. Lacher, President -FL
Miami, Florida

EFFECTIVE: January 2, 2004

A2. GENERAL REGULATIONS

A2.10 Special Promotions (Cont'd)

A2.10.2 Descriptions (Cont'd)

A. The following promotions are on file with the Commission: (Cont'd)

Area of Promotion	Service	Charges Waived	Period Authority	
BellSouth's Service Territory - From Central Office where services are available	\$25 Gift Card - Customer must either not currently have local service with BellSouth or not have service with BellSouth on one or more of their existing lines, including the line on which the service qualifying for this promotion will be provisioned. - Customer must have local service or equivalent (wireless in lieu of wire-line) at the same local service address on one or more of their existing lines from another provider. - Customer must request service at the same address and in the same name, unless customer is planning an imminent move from one address in BellSouth territory to another address in BellSouth territory within 30 days of responding to the offer. In the case of an imminent move, the BellSouth rep can offer the customer the promotion and place the order at the new address. - Customer must have not had local service with BellSouth at least ninety-one (91) days prior to the new service connection date or must have never been a BellSouth customer and currently have service with another provider. - The customer must switch their local service to BellSouth and purchase any one of the following: BellSouth Complete Choice plan or BellSouth PreferredPack plan. - The customer must place the order on or before 12/26/04. - Offer valid for only one (1) service line at the intended local service address.	- A \$25 gift card will be given to eligible residential customers who return to BellSouth and purchase BellSouth Complete Choice service or BellSouth PreferredPack plan and who have not been customers of BellSouth for ninety-one (91) or more days. - The customer must place their order through a BellSouth business office or outbound telemarketing vendor or alternate channels. - The customer must fill out a coupon and mail the coupon to a specified address by a specified date in order to receive the gift card. - Once the customer completes the above requirements they will receive the gift card. If the customer cancels or discontinues the qualifying service prior to fulfillment, he will be ineligible for the gift card. - BellSouth reserves the right to discontinue or modify this promotion at any time without customer notice. - Customer must have the eligible services on their new service order (N) in order to receive the promotional offer. - Offer may be combined with cash back offers or other services, as such offers may be concurrently available from time to time, provided that the Company reserves the right to prohibit the combination of this promotion with any other promotion, at the Company's sole discretion.	01/02/04 to 12/26/04	(N) (N) (N) (N) (N) (N) (N) (N) (N)

BELLSOUTH
TELECOMMUNICATIONS, INC.
FLORIDA

GENERAL SUBSCRIBER SERVICE TARIFF

ISSUED: December 17, 2003
BY: Joseph P. Lacher, President -FL
Miami, Florida

EFFECTIVE: January 2, 2004

A2. GENERAL REGULATIONS

A2.10 Special Promotions (Cont'd)

A2.10.2 Descriptions (Cont'd)

A. The following promotions are on file with the Commission: (Cont'd)

Area of Promotion	Service	Charges Waived	Period Authority	
BellSouth's Service Territory -- From Central Office where services are available	Line Connection Charge Waiver	-- The line connection charge to reacquisition or winover residential customers who currently are not using BellSouth for local service and who purchase BellSouth Complete Choice service, BellSouth PreferredPack service, or basic service and one (1) feature will be waived.	01/02/04 to 12/25/04	(N)
	-- Customer must either not currently have local service with BellSouth or not have service with BellSouth on one or more of their existing lines, including the line on which the service qualifying for this promotion will be provisioned.	-- Offer valid for only one (1) service line at the intended local service address.		(N)
	-- The target customer for this promotion is a customer that switches service from either a facility based or reseller CLEC. This promotion is not valid for out-of-region customers who are new to BellSouth.	-- The customer must place their order through a BellSouth business office or outbound telemarketing vendor or alternate channels as indicated.		(N)
	-- Customer must have local service or equivalent (wireless in lieu of wire-line) at the same local service address on one or more of their existing lines.	-- BellSouth reserves the right to discontinue or modify this promotion at any time without customer notice.		(N)
	-- Customer must request service at the same address and in the same name, unless customer is planning an imminent move from one address in BellSouth territory to another address in BellSouth territory within 30 days of responding to the offer. In the case of an imminent move, the BellSouth rep can offer the customer the promotion and place the order at the new address.	-- Customer must have the eligible services on their new service order (N) in order to receive the promotional offer.		(N)
		-- Offer may be combined with other offers for the same service at the same time.		(N)
	-- The customer must switch their local service to BellSouth and purchase any one of the following: BellSouth Complete Choice plan, BellSouth PreferredPack plan, or BellSouth basic service and one (1) custom calling (or Touchstar service) local features.			(N)
	-- The customer must place the order on or before 12/25/04.			(N)



PRODUCTS & SERVICES MY ACCOUNT CUSTOMER SERVICE ORDER SERVICE ABC

ENTER YOUR PHONE NUMBER TO SWITCH TO SUPRA () - SWITCH

« Home

Quarterly NewsLetter

Select a page: « Prev [1] [2] [3] [4] Next »

MESSAGE FROM THE CEO

DEAR VALUED CUSTOMERS:

Thanks for choosing Supra Telecom. Your continued loyalty, together with over 250,000 of your neighbors, made 2003 the best year ever for Supra.

2004 is off to a great start as well. We plan to hold the line on prices and offer three new products that are priced to save you even more money. Look for our new lower cost international long distance service, calling cards and high-speed Internet service – all priced to make you smile.

Customers have asked me to keep them informed of our corporate performance and this newsletter is intended to do just that. In the featured articles you can read about many of the exciting things happening at Supra including the successful resolution of our BellSouth litigation, our financial performance for 2003 and our important infrastructure initiatives.

I believe 2004 will be a great year for Supra Telecom. We are planning to bring in additional investment capital to support continued network expansion and important new products. We will successfully emerge from Chapter 11 in mid-2004 and plan on continuing to be a vibrant, competitive force serving our customers for years to come. It is our hope that you will turn to future editions of this newsletter to keep you up to date on these and other efforts.

Thanks again for your loyalty, perseverance, and belief in the power of competition. I hope 2004 is a super year for you and your family.

Sincerely,

Russ Lambert
CEO

BELLSOUTH'S GREAT DEAL IS NOT SO GREAT
Many of you may have received an intriguing promotion from BellSouth offering a \$100 for switching your service. It sounds like a great deal right? Well, when you break it down, it is actually not that great at all. Here is how they get you --*

SUPRA TELECOM®

Total Solution*	\$27.95
All Calling Features	FREE
Unlimited Local Calls	FREE
Unlimited Local LD	FREE
TOTAL CHARGES	\$27.95

BELL SOUTH®

Complete Choice*	\$30.00
All Calling Features	FREE
Unlimited Local Calls	FREE
Local LD @\$.25/call	\$26.25
<small>IF YOU MAKE MORE THAN 1 CALL/DAY</small>	
TOTAL CHARGES	\$56.25

If you are using BellSouth, it all works out equal as long as you never call Broadband, Palm Beach or anywhere else that BellSouth considers local long distance. If you do, you'll pay more. And if you don't, you'll pay more. It's a deal that only works if you never use any of the services that BellSouth considers local long distance.

Now remember the \$100 dollars they gave you at the beginning? Well, it will be gone in less than four months and for the rest of the year, you will actually pay more. So, before you take \$100 from BellSouth, consider your calling habits. We figured out that for many people we're a better option. We put about \$339 in their pockets.

**BELLSOUTH EXHIBIT 10
 RESPONSE TO MOTION
 DOCKET 040353-TP**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Supra Telecommunications) Docket No. 040353-TP
And Information Systems, Inc. to Review)
And Cancel BellSouth's Promotional)
Offering Tariffs Offered in Conjunction With)
Its New Flat Rate Service Known as)
Preferred Pack) Filed: August 16, 2004

AFFIDAVIT OF BERNARD SHELL

Before me, the undersigned authority, personally appeared Bernard Shell, who, after being duly sworn, did depose and say:

1. My name is Bernard Shell. I am over the age of 18 and I make this Affidavit on personal knowledge. If called upon to do so, I would testify to each and every fact stated herein in open court.
2. I am employed with BellSouth Telecommunications, Inc. ("Bell South") as a Manager in the Finance Department. In this position, I support and develop economic costs and am familiar with BellSouth cost methodologies and resulting calculations.
3. The state-wide UNE average rate for the loop in BellSouth's territory is \$ [REDACTED].
4. The TSLRIC costs for the non-monopoly components of Bellsouth's 1FR is \$ [REDACTED], which consists of the port and average usage.
5. BellSouth charges every PreferredPack Plan customer \$6.50 per month for the SLC in addition to the \$26.95 price.

BY: Bernard Shell
BERNARD SHELL

WITNESSED BY:
Chubbs Shedd

The foregoing instrument was acknowledged before me this ___th day of August, 2004 by Bernard Shell, who produced a driver's license as identification.

NOTARY PUBLIC

Sign: Lynn Barclay

Print: Lynn Barclay

My Commission Expires: Lynn J. Barclay (SEAL)
Notary Public, DeKalb County, Georgia
My Commission Expires August 13, 2006

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

**In re:)
Petition of Supra Telecommunications and)
Information Systems, Inc. to Review and)
Cancel BellSouth's Promotional Offering Tariffs)
Offered in Conjunction with its New Flat Rate)
Service Known as PreferredPack)
_____)**

**Docket No. 040353-TP
Filed: August 16, 2004**

Affidavit of

William E. Taylor, Ph.D.

On Behalf Of

Bellsouth Telecommunications, Inc.

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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AFFIDAVIT OF WILLIAM E. TAYLOR, Ph.D.

I. STATEMENT OF QUALIFICATIONS

1. My name is William E. Taylor. I am Senior Vice President of NERA Economic Consulting ("NERA"), head of its Communications Practice, and head of its Boston office located at 200 Clarendon Street, 35th Floor, Boston, Massachusetts 02116.
2. I have been an economist for thirty years. I earned a Bachelor of Arts degree from Harvard College in 1968, a Master of Arts degree in Statistics from the University of California at Berkeley in 1970, and a Ph.D. from Berkeley in 1974, specializing in Industrial Organization and Econometrics. For the past thirty years, I have taught and published research in the areas of microeconomics, theoretical and applied econometrics, and telecommunications policy at academic and research institutions. Specifically, I have taught at the Economics Departments of Cornell University, the Catholic University of Louvain in Belgium, and the Massachusetts Institute of Technology. I have also conducted research at Bell Laboratories and Bell Communications Research, Inc.
3. I have appeared before state and federal legislatures, testified in state and federal courts, and participated in telecommunications regulatory proceedings before state public utility commissions, as well as the Federal Communications Commission



("FCC"), the Canadian Radio-television Telecommunications Commission, the Mexican Federal Telecommunications Commission, and the New Zealand Commerce Commission. I have appeared before the Florida Public Service Commission ("FPSC" or "Commission") in several proceedings, including Docket Nos. 020119-TP, 020578-TP, and 021252-TP (consolidated) concerning the "Key Customer" promotional offerings of BellSouth Telecommunications, Inc. In addition, I have appeared before the Commission in proceedings for, among others, fair and reasonable local service rates, interLATA authorization, DSL policy, inter-carrier compensation, structural separation, and wholesale service quality performance measurement. My vita is attached as Exhibit WET-1.

II. PURPOSE OF AFFIDAVIT

4. I have been asked by BellSouth Telecommunications, Inc. ("BellSouth") to respond to economic issues raised in two filings before the Commission in this proceeding by Supra Telecommunications and Information Systems ("Supra") concerning BellSouth's promotional offerings in conjunction with its PreferredPack Plan service.¹ These tariffed promotional offerings that are available in conjunction with BellSouth's PreferredPack service are designed to re-acquire or acquire customers of competitive LECs ("CLECs") in Florida, of which Supra is one. Specifically, BellSouth offers a current CLEC customer a \$100 Cash Back coupon and a waiver of the line connection charge (worth \$40.88) as inducements ("Promotions") to switch carriers and obtain BellSouth's PreferredPack Plan service (which combines a flat-rated access line with several vertical features for \$26.95 per month).²
5. In making its case for the cancellation or immediate suspension of BellSouth's Promotions, Supra alleges in its *Motion* that the offerings violate Sections 364.051(5)(c) and 364.051(5)(a)(2) of the Florida Statutes. Whatever the legal

¹ The two filings are: *Petition of Supra Telecommunications and Information Systems, Inc. to Review and Cancel, or in the Alternative, Immediately Suspend or Postpone Tariffs* ("Supra's Petition"), dated April 20, 2004, and *Supra's Motion for Summary Final Order* ("Supra's Motion"), dated July 27, 2004.

² Originally, this offering included a \$25 gift card as well; however, I understand that BellSouth will no longer offer the gift card as a part of any promotion as of August 20, 2004.

underpinnings of these allegations, my *economic* analysis of BellSouth's Promotions, in light of the requirements of the two cited sections of the Florida Statutes, shows that Supra's complaints are unfounded. My analysis shows that, even with its Promotions, BellSouth's pricing of its PreferredPack Plan service is neither predatory nor otherwise anticompetitive. It also establishes that making only CLEC customers eligible for the promotional offering does not make that offering "unreasonably discriminatory."

III. "WINBACK" CAMPAIGNS, SUPPORTED BY PROMOTIONAL OFFERINGS, ARE PRO-COMPETITIVE AND BENEFICIAL TO CONSUMERS

6. Before evaluating Supra's specific allegations of pricing misconduct by BellSouth, it is important to note the consensus that has emerged on the value to consumers and, indeed, to the competitive process itself of imaginative "winback" (i.e., customer re-acquisition) campaigns that telecommunications service providers routinely use to regain customers lost to competitors.
7. The prevailing regulatory and public policy sentiment today is that winback promotional programs are pro-competitive and beneficial to consumers and society at large. This is a view with which economists generally agree. The FCC's view on the matter was best expressed several years ago in an important proceeding pertaining to the legitimate use of customer proprietary network information ("CPNI") by incumbent and competitive LECs alike:

Customers expect carriers to attempt to win back their business by offering better-tailored service packages, and that such precise tailoring is most effectively achieved through the use of CPNI. Winback restrictions may deprive customers of the benefits of a competitive market. Winback facilitates direct competition on price and other terms, for example, by encouraging carriers to "out bid" each other for a customer's business, enabling the customer to select the carrier that best suits the customer's needs.³

³ FCC, *In the Matter of Implementation of the Telecommunications Act of 1996, Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, and Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of*

Some commenters argue that ILECs should be restricted from engaging in winback campaigns, as a matter of policy, because of the ILECs' unique historic position as regulated monopolies. Several commenters are concerned that the vast stores of CPNI gathered by ILECs will chill potential local entrants and thwart competition in the local exchange. We believe that such a action by an ILEC is a significant concern during the time subsequent to the customer's placement of an order to change carriers and prior to the change actually taking place. Therefore, we have addressed that situation at Part V.C.3, *infra*. However, once a customer is no longer obtaining service from the ILEC, the ILEC must compete with the new service provider to obtain the customer's business. We believe that such competition is in the best interest of the customer and see no reason to prohibit ILECs from taking part in this practice.⁴

Because winback campaigns can promote competition and result in lower prices to consumers, we will not condemn such practices absent a showing that they are truly predatory.⁵

8. This Commission took due note of this FCC policy on winback promotions not only by reproducing the cited passages from the *CPNI Reconsideration Order* in its *Key Customer Order*, but also by conducting its own analysis from which it concluded:

We believe a win-back promotion such as the Key Customer offering is not, in and of itself, detrimental. In fact, win-back promotions can be very beneficial to Florida consumers by giving them a choice of providers with varied services at competitive prices.⁶

In other words, the Commission has accepted the competitive benefits from—indeed, the competitive necessity of—customer re-acquisition campaigns as long as they do not violate the provisions of Section 364.051(5)(c) of the Florida Statutes.

9. Indeed, actions speak louder than words. Several customer re-acquisition programs (many of them based on a waiver of the customer's switching and re-connection charges and other direct cash incentives) have been—and are being—used by

1934, as Amended, CC Docket Nos. 96-115 and 96-149, Order on Reconsideration and Petitions for Forbearance (“*CPNI Reconsideration Order*”), released September 3, 1999. See ¶168.

⁴ *CPNI Reconsideration Order*, ¶169.

⁵ *CPNI Reconsideration Order*, ¶170.

carriers that offer a wide range of telecommunications services, including programs offered by MCI, AT&T, Z-Tel, Vonage and even Supra.⁷ Indeed, Supra's own Total Solutions service (a competitor to BellSouth's Complete Choice service) promises, among other things, "no conversion fees," which amounts to a waiver of the line connection charge. In addition, Supra offers one month free service to customers that switch from BellSouth to Supra.⁸ Winback programs in the telecommunications industry have become so standard a competitive device that some observers regard them as possibly even more cost-effective and productive than programs designed to attract new or first-time customers.⁹

10. Finally, this Commission should be extremely wary of any attempt by an industry or firm to use regulatory authority to prevent firms from entering a market, competing, or lowering prices. To economists, the major problem with predatory pricing is that it is often used as an argument by firms to control and reduce the amount of price competition in a market, and it is precisely that price competition that produces the main benefits that consumers expect to receive from the competitive process. In a recent summary of the U.S. experience with economic regulation, FCC economist Peyton Wynn concluded that "[l]imiting entry to ensure a healthy industry is an inherent contradiction. [Footnote: It would be hard to find economists who think that predatory pricing is a reasonable worry.]"¹⁰

⁶ Commission's *Final Order on BellSouth's Key Customer Tariffs* ("Key Customer Order") in Docket Nos. 020119-TP, 020578-TP, and 021252-TP (consolidated), Order No. PSC-03-0726-FOF-TP, June 19, 2003, at 40.

⁷ See, e.g., BellSouth's Response to Staff's 1st Request for Production in this proceeding, Item No. 4, May 28, 2004.

⁸ See Supra's Responses to Staff's First Set of Interrogatories, No. 1(c).

⁹ See Carol Parenzan Smalley, "Overlooked Opportunity: The Win Back Customer," originally published July 17, 2000 by *SearchCRM.com*, reprinted April 2002 by *StakeholderPower.com*. Ms. Smalley cites independent sources as having estimated the probability of successfully selling to (i.e., re-acquiring) lost customers to be between 20 percent and 40 percent, and that for prospective new customers to be only between 5 percent and 20 percent. The article also cites Jill Griffin who (along with Michael Lowenstein) co-authored the best-selling book *Customer Winback: How to Recapture Lost Customers and Keep Them Loyal*, San Francisco: Jossey-Bass (Wiley), 2001. Ms. Griffin believes that some of the most successful winback programs have come from the telecommunications industry.

¹⁰ Peyton Wynn, "The Limits of Economic Regulation: The U.S. Experience," Federal Communications Commission, International Bureau Working Paper Series, Vol. 2, June 2004, at 12.

IV. SUPRA'S CHARGE OF PREDATORY AND ANTICOMPETITIVE PRICING

11. Supra devotes considerable space to the argument that BellSouth's promotional offering is predatory and anticompetitive.¹¹ The argument itself is two-pronged:
 1. BellSouth's PreferredPack Plan service, sold at retail for \$26.95 per month, is "priced below cost" in violation of Section 364.051(5)(c) of the Florida Statutes.¹²
 2. The offering of \$100 Cash Back, \$25 gift card, and the waiver of the \$40.88 line connection charge (collectively termed "Incentive Offerings" by Supra)¹³ *only* to current customers of CLECs, rather than to *all* customers, "seriously damages competition" by undercutting prices that Supra or any other CLEC "can profitably offer a customer" and by "unlawfully discriminat[ing] against similarly situated customers" in violation of Section 364.051(5)(a)(2) of the Florida Statutes.¹⁴
12. With respect to the latter argument, Supra claims that the cost of the promotion (or, essentially, the cost to re-acquire lost customers) can be offset by BellSouth from the more than \$21 billion that it allegedly makes in annual net income and other retained profits "accumulated over 100 years of cost plus accounting [it] was allowed to earn as the incumbent monopoly provider."¹⁵ Supra also claims that BellSouth's recent success at raising the price of flat-rated single residential access line service to Florida customers who take only that service gives it additional latitude to offer promotions that Supra and other CLECs allegedly cannot match.¹⁶ Supra suggests that this may amount to a cross-subsidy to the PreferredPack Plan service.¹⁷
13. According to Supra, the net effect of these promotional offerings is to offer CLEC customers up to four months of "free" service and a fifth month of service at a non-

¹¹ See, e.g., *Supra's Motion*, at 7-12.

¹² *Supra's Motion*, at 10.

¹³ *Id.*

¹⁴ *Supra's Motion*, at 12.

¹⁵ *Supra's Motion*, at 11.

¹⁶ *Id.*

¹⁷ *Id.*

compensatory rate, i.e., a price below cost.¹⁸ Supra's analysis does not include the monthly subscriber line charge ("SLC") in the total monthly price paid by a PreferredPack Plan customer, arguing that such a charge is "discretionary and need not be imposed."¹⁹ However, Supra argues, even if the SLC were to be included in the total monthly rate, BellSouth's promotional offerings would still amount to three months of "free service" for a PreferredPack Plan customer.²⁰

14. Finally, Supra argues that the alleged damage that BellSouth's promotional offerings can do to Supra and other competitors would ultimately prove detrimental to Florida consumers. That is because, Supra argues, once such pricing has "eliminated" BellSouth's CLEC competitors, consumers "will have fewer competitive choices and will eventually be subject to higher prices."²¹

V. ECONOMIC AND STATUTORY TESTS FOR PREDATORY PRICING

15. In order to judge Supra's claims, it is necessary first to examine the economic meaning of predatory pricing and how the Florida Statutes and this Commission have determined ways to prevent such pricing.
16. Simply stated, a price below an appropriate measure of cost is predatory if implemented to drive competitors from the market with the goal of recouping lost profits by charging above-market prices. Precisely what measure of cost should be used has long been debated, although it has become conventional in telecommunications regulation for that cost to be long run incremental cost ("LRIC") although, in some cases, the total service long run incremental cost ("TSLRIC") has been adopted instead.²²

¹⁸ *Supra's Petition*, at 5-6. With the value of the waived line connection charge factored in, Supra claims that BellSouth offers, in effect five months of "free" service and a sixth month of service at a non-compensatory price.

¹⁹ *Supra's Petition*, at 8.

²⁰ *Supra's Petition*, at 9.

²¹ *Supra's Motion*, at 12.

²² Courts have frequently adopted the *short* run marginal (or average incremental) cost as the price floor to apply in predatory pricing cases. The origin of this rule lies in Philip Areeda and Donald Turner,

17. It is important, however, to note that, while a predatory price, by definition, must be below cost (whatever the applicable cost standard), not all prices below cost are predatory.²³ For example, it is widely recognized that a profit-maximizing firm may well reduce its price as a necessary (and even desirable) response to competitive forces, an act that carries immediate benefits for consumers.²⁴ And, because predation is necessarily a long-run business strategy, cutting the price below cost temporarily cannot be viewed as predatory unless other long-run circumstances are also taken into account. This would involve, for example, assessing the probability and the firm's eventual success at recouping its losses from temporary, below-cost prices; its ability to expand output to deter competitive entry; or, once it has monopolized the market, its ability to *maintain* that monopoly power by preventing further entry.²⁵

"Predatory Pricing and Related Practices Under Section 2 of the Sherman Act," *Harvard Law Review*, 88, 1975, 697-733. Recognizing that the calculation of that cost may prove extremely difficult, particularly for multiproduct firms, others have advocated the use of long run incremental costs. See Frank Easterbrook, "Predatory Strategies and Counterstrategies," *University of Chicago Law Review*, 48, 1981, 263-337. Still others do so by recognizing that a firm that maximizes profits in the long run may well, for various reasons, move to prices that are lower than the short run marginal cost but not below the long run version of that cost. See Dennis Carlton and Jeffrey Perloff, *Modern Industrial Organization*, 3rd edition, New York: Addison-Wesley, 2000, Chapter 11. Still more sophisticated and complex economic tests of predatory pricing have been proposed. See, e.g., the discussion in W. Kip Viscusi, John Vernon, and Joseph Harrington, Jr., *Economics of Regulation and Antitrust*, 2nd edition, Cambridge, MA: The MIT Press, 1995, Chapter 9. In particular, the framework proposed in Paul Joskow and Alvin Klevorick, "A Framework for Analyzing Predatory Pricing Policy," *Yale Journal on Regulation*, 1979, is arguably formally similar to the two-stage rule first adopted by the U.S. Supreme Court in *Matsushita Electric Industrial Co., Ltd. v. Zenith Radio Corporation et al.*, 106 S. Ct. 1348, 1986 and then applied again in *Brooke Group v. Brown and Williamson Tobacco*, 113 S. Ct. 2578, 1993. This two-stage rule looks at *both* market structure (particularly at the structural conditions that either raise or lower the probability of successful predation) and the level of price relative to cost. From an antitrust perspective at least, it does not appear that *Supra* has demonstrated that current market structure in Florida (particularly with respect to entry barriers and the opportunity to recoup losses incurred initially under a predation strategy) favors the adoption by BellSouth of a *designed* predatory pricing strategy.

²³ This matter is clearly recognized by the Joskow-Klevorick rule and the Supreme Court's test for predatory pricing in *Matsushita* and *Brooke*.

²⁴ See Robert Pitofsky, Harvey Goldschmid, and Diane Wood, *Trade Regulation*, 5th edition, New York: Foundation Press, 2003, esp. Chapter 8, Section 2.

²⁵ See Viscusi et al., *op cit.*, at 286-289.

18. Although they identify no specific test for predatory pricing, the Florida Statutes do provide guidance. Section 364.051(5)(c) specifies a price floor to prevent anticompetitive pricing of a non-basic service:

The price charged to a consumer for a nonbasic service shall cover the direct costs of providing the service and shall, to the extent a cost is not included in the direct cost, include as an imputed cost the price charged by the company to competitors for any monopoly component used by a competitor in the provision of its same or functionally equivalent service.

19. The Commission has had occasion to interpret this and other related (or relevant) sections of the Florida Statutes in past proceedings.²⁶ In particular, the Commission recognized that Sections 364.051(5)(b) and 364.3381(2) of the Florida Statutes, which specified the TSLRIC as a price floor, focused only on the issue of cross-subsidization.²⁷ It considered Section 364.051(5)(c) to be more directly related to charges of unfair, anticompetitive, or discriminatory pricing of a non-basic service, even though the only cost standard applicable in that instance comprises the more nebulous “direct costs.”²⁸ Specifically, in the context of promotional offerings and winback campaigns (as represented, for example, by BellSouth’s Key Customer service in Florida), the Commission issued an important opinion:

Section 364.051(5)(c), Florida Statutes, examines direct costs, and we believe an examination of direct cost is needed to make a determination of whether the post-discounted rates offered in a Key Customer contract remain “compensatory” for BellSouth. If a determination revealed that the [sic] such rates were “non-compensatory,” such a finding would sway us to conclude that the tariff offerings are unfair, anticompetitive, or discriminatory.

20. Thus, the larger debate regarding economic and legal tests of predatory pricing notwithstanding, in Florida it would appear (from both the statement and the Commission’s interpretation of the Florida Statutes) that the relevant cost standard is

²⁶ See, e.g., *Key Customer Order*.

²⁷ *Key Customer Order*, at 21.

²⁸ *Key Customer Order*, at 21-22. The issues that fall within the purview of this Section would thus include specific forms of anticompetitive pricing such as predatory pricing and, where “monopoly components” or essential facilities are involved, price squeeze.

direct costs and the relevant test is whether or not the price of the non-basic service in question (in the present instance, BellSouth's PreferredPack Plan service) is compensatory (i.e., sufficient to recover the direct cost, subject to Section 364.051(5)(c)'s qualification for monopoly components of the service). To implement this standard, we need to know the price and the "direct cost" of the PreferredPack Plan service.

A. Price

21. "Price" is comparatively unambiguous. The current monthly charge for BellSouth's PreferredPack Plan service is \$26.95. In addition, BellSouth charges each such customer \$6.50 for the SLC. Although this is a discretionary charge for CLECs, the relevant point here is that BellSouth charges every PreferredPack Plan customer \$6.50 per month in addition to the \$26.95 price.²⁹ Hence, the SLC is an additional part of the monthly price of PreferredPack Plan service that is paid by *all* BellSouth customers of that service and, importantly, is received and *retained* as revenue by BellSouth.³⁰
22. This Commission has previously determined (in its 1999 Report to the Legislature on Fair and Reasonable Residential Basic Rates),³¹ that revenue from the SLC constitutes both a source of revenue for BellSouth and a price paid by the consumer. In its calculations, the Commission explicitly included revenue from the SLC in its measure of LEC Contribution, which it defined as "the difference between total revenues and total costs" for the service.³² Similarly, it explicitly included the SLC

²⁹ BellSouth assesses the SLC at its maximum level to partially recover the interstate portion of its non-traffic sensitive costs.

³⁰ The fact that BellSouth retains it as revenue makes the SLC unlike a tax whose proceeds are passed on to the levying authority. Thus, a tax would not count as revenue to BellSouth but the SLC would.

³¹ Florida Public Service Commission, *Report on the Relationship of the Costs and Charges of Various Services Provided by Local Exchange Companies and Conclusions as to the Fair and Reasonable Florida Residential Basic Local Telecommunications Service Rate*, February 1999 ("FPSC Report").

³² FPSC Report at 23.

as a price paid by the consumer in its affordability analysis comparison of rates for residential basic local service across the states.³³

23. In contrast, Supra claims that the SLC should not count as revenue because “the charge is still discretionary and need not be imposed.”³⁴ Whether BellSouth *must* charge its customers the \$6.50 SLC is irrelevant in assessing the price of PreferredPack Plan service. The fact is that BellSouth *does* charge the \$6.50 SLC to customers, and that \$6.50 is revenue that BellSouth keeps, just like any other source of revenue. Similarly, whether Supra is *permitted* or required to charge a SLC is irrelevant in this analysis, though it is my understanding that Supra does charge its residential customers a \$6.50 per month subscriber line charge in addition to price of the package. Of course, Supra is free to set its basic exchange rates at whatever level it pleases and, if it wishes, it could price its Total Solutions package—currently \$27.95 per month³⁵—at \$34.45 and assess its customers a \$0 SLC without changing its revenues or the price its customers pay.
24. Based on these considerations, the total monthly price to a PreferredPack Plan service customer—re-acquired or otherwise—will be considered in all subsequent analyses to be $\$26.95 + \$6.50 = \$33.45$.

B. Direct Cost

25. The phrase “direct cost” in the context of Section 364.051(5)(c), to my knowledge, is not explicitly defined in the Florida Statutes or in the Commission’s decisions implementing the Florida Statutes. However defined, the costs in question here must account for:
- BellSouth’s recurring costs for basic exchange access, local usage, vertical services and Privacy Director, and
 - BellSouth’s non-recurring costs for subscriber connection and for the one-time costs associated with the PreferredPack promotion. These costs consist of the

³³ *Ibid.*, at 86.

³⁴ *Supra’s Petition*, at ¶25.

³⁵ *Supra’s Petition*, at ¶14.

\$100 Cash Back Offer and the waiver of the \$40.88 line connection charge to win back CLEC customers to BellSouth.

26. The data required for measuring recurring costs were obtained directly from previous BellSouth filings, using methods approved by the Commission. For reasons discussed below, I use the statewide average retail price of 1FR services (including the SLC) as the economically appropriate measure of the direct recurring cost of basic exchange service in this circumstance. For the remaining direct recurring costs (for vertical services, Privacy Director and local usage), I follow the Commission's analysis in its Key Customer decision, where in determining whether the discounted service prices were compensatory and covered the "direct costs" of the service, the Commission compared prices with the corresponding service-level TSLRICs.³⁶ This measure of direct cost generally results in a more conservative test for anticompetitive pricing than the antitrust standard of average variable cost or LRIC (discussed above at ¶ 16), because TSLRIC includes volume-insensitive fixed costs that LRIC by definition excludes.
27. The non-recurring costs of the PreferredPack Plan promotion were calculated as follows. Following the discontinuance of the \$25 gift card offer to re-acquired customers, the total upfront cost of BellSouth's promotional offerings is the sum of the cost of the Cash Back offer (\$100) and the cost of waiving the line connection charge. The price of the line connection charge is \$40.88, and the non-recurring TSLRIC of line connection is **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY**. These costs—the \$100 offer and the **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY** line connection cost—would have to be amortized and recovered over the average duration of consumption by a re-acquired customer in the PreferredPack Plan service. BellSouth reports that the average duration a winback customer stays with BellSouth is **BEGIN PROPRIETARY [REDACTED] END PROPRIETARY** months³⁷ and that, on average, only **BEGIN PROPRIETARY [REDACTED] END PROPRIETARY**

³⁶ *Key Customer Order* at 21-22.

³⁷ BellSouth's Responses to Staff's 1st Set of Interrogatories in this proceeding, Item No. 4(g), May 28, 2004.

■ **END PROPRIETARY** percent of eligible customers actually redeem Cash Back offers associated with its winback promotional programs.³⁸ This implies that the monthly amortized customer re-acquisition cost is actually **BEGIN PROPRIETARY** \$ ■ **END PROPRIETARY**.³⁹

28. Note that this figure is conservative, in the sense that it overestimates the true average customer monthly re-acquisition cost that BellSouth experiences. It is my understanding that the average duration of stay of a re-acquired customer is calculated by adding up the lengths of time (in months) that re-acquired customers have been purchasing BellSouth's services and dividing that sum by the number of re-acquired customers.⁴⁰ That means that the divisor in that calculation includes both re-acquired customers that have since discontinued service from BellSouth and re-acquired customers that are still with BellSouth. In turn, this means that when the individual lengths of stay are added up, the sum consists *in some part* of the durations associated with re-acquired customers that have not yet left BellSouth. Clearly, the lengths of time actually recorded for such customers understate their eventual durations of stay; BellSouth only counts how long those customers have purchased its services *up to the time that the lengths of stay were recorded*. Because such censored measures of the duration of stay understate the average length of stay reported by BellSouth, the *true* duration for calculating the monthly amortized cost of customer re-acquisition is *higher* than the **BEGIN PROPRIETARY** ■ **END PROPRIETARY** months used by BellSouth.⁴¹ That is, the true monthly amortized

³⁸ This is a region-wide average, not specific to any state or winback program.

³⁹ This is based on a "principal" of **BEGIN PROPRIETARY** \$ ■ **END PROPRIETARY** an amortization period of **BEGIN PROPRIETARY** ■ **END PROPRIETARY** months, and an annual discount rate of 11.25%.

⁴⁰ BellSouth sources indicate that the average duration of stay for re-acquired customers (as reported in BellSouth's response to the Staff's 1st Set of Interrogatories) was calculated across *all* winback-type programs, not just that designed for PreferredPack Plan service. Moreover, that figure is a region-wide average, not specific to any state.

⁴¹ BellSouth's response to Item No. 4(i) in Staff's 1st Set of Interrogatories in this proceeding calculated this cost using a more conservative divisor, namely, the average duration of stay of its customers for *all packaged services* of **BEGIN PROPRIETARY** ■ **END PROPRIETARY** months rather than, as is more appropriate, the average duration of stay of its re-acquired customers. Using the shorter average

cost of customer re-acquisition would be lower than the **BEGIN PROPRIETARY** \$■■■ **END PROPRIETARY** calculated earlier.⁴²

29. Supra's analysis fails to recognize how non-recurring costs should be treated in the Section 364.051(5)(c) price floor. Instead, Supra measures the upfront cost of the promotional offerings (\$125 for the combined Cash Back and gift card offers and \$165.88 for the combined Cash Back, gift card, and connection charge waiver offers) in terms of the months of "free" service to which that cost would be equivalent. Such an analysis is misleading because BellSouth does not, in fact, give away PreferredPack Plan service for free for any number of months.⁴³ Rather, BellSouth charges its customers a levelized price for every month of service, and that price covers the properly amortized average cost of the promotional offers that BellSouth experiences over the expected duration of the customer relationship. For customers that stay with BellSouth for less than the average duration, that recovery may be partial; but, for customers that stay with BellSouth for more than the average duration, BellSouth would more than recover the customer re-acquisition costs. However, what matters is not how BellSouth fares with an *individual* customer; rather, it matters only that BellSouth recovers its costs across *all* re-acquired customers. That is why it is appropriate to use the average duration of stay to amortize the customer re-acquisition costs.

duration in my calculation above would increase the cost of customer re-acquisition to **BEGIN PROPRIETARY** \$■■■ **END PROPRIETARY**.

⁴² For example, if the true average duration of stay were 42, not **BEGIN PROPRIETARY** ■■ **END PROPRIETARY**, months, then the amortized monthly re-acquisition cost would be **BEGIN PROPRIETARY** \$■■■ **END PROPRIETARY**. Again, I assume an annual discount rate of 11.25%.

⁴³ Nonetheless, even analyzing the upfront costs as Supra does, BellSouth will more than recover the upfront costs for the entire group of customers that sign up for the PreferredPack plan service, given the average length of time customers are expected to retain the service.

VI. BELL SOUTH'S PRICING OF PREFERRED PACK PLAN SERVICE IS NOT PREDATORY OR ANTICOMPETITIVE

30. In this section, I examine the economically reasonable application of the measure of "direct cost" and show that BellSouth's pricing of its PreferredPack Plan service is not anticompetitive by the Section 364.051(5)(c) standard.

A. The Statutory Test Must Account for the Regulated Price of Basic Exchange Service

31. How should the statutory pricing standard for non-basic services be applied to BellSouth's PreferredPack Plan service, which is a bundle of non-basic services combined with basic exchange service? PreferredPack Plan service itself is obviously a non-basic service, (even though basic exchange service is included in the service), because the individual service components remain available to customers on a stand-alone basis.

32. In determining the meaning of "direct cost" in Section 364.051(5)(c), a fundamental inconsistency between two of the Commission's important public policy objectives arises: pricing residential basic exchange below cost to foster universal service on the one hand and encouraging competition among all potential providers of local exchange service on the other. The problem is that PreferredPack Plan service combines non-basic services with a basic exchange service whose standalone price is regulated and set below its direct cost.⁴⁴ Now, if Section 364.051(5)(c) were interpreted to mean that the price of PreferredPack Plan service had to equal or exceed its direct cost as measured by the sum of the TELRICs or TSLRICs that make up the bundle,⁴⁵ then severe competitive distortions would be imposed on the market for telecommunications services.

⁴⁴ For example, BellSouth's statewide average retail IFR price is **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY** plus the \$6.50 SLC. Its statewide average residential UNE loop and port TELRIC averages **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY** plus **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY** for local usage.

⁴⁵ I ignore, for the moment, the requirement to impute the price of monopoly components that the CLEC must purchase.

33. In particular, that interpretation of Section 364.051(5)(c) would frequently prevent BellSouth from offering bundles of basic and non-basic services at a competitive price when the standalone basic service was priced below direct cost. (This problem is explained below in ¶¶ 34-35) This interpretation of “direct cost” would thus violate Section 364.051(5)(a)(2) of the Florida Statutes, which states, in part:

Nothing contained in this section shall prevent the local exchange telecommunications company from *meeting offerings* by any competitive provider of the same, or functionally equivalent, nonbasic services in a specific geographic market or to a specific customer by deaveraging the price of any nonbasic service, *packaging nonbasic services together or with basic services*, using volume discounts and term discounts, and offering individual contracts. However, the local exchange telecommunications company shall not engage in any anticompetitive act or practice, nor unreasonably discriminate among similarly situated customers.⁴⁶

In addition, that interpretation of Section 364.051(5)(c) would restrict the market for packaged offerings in a way that would be unsustainable and economically inefficient and thus harmful to customers as well as to the competitive process.

34. A simple example shows the problem. Suppose (hypothetically) that the prices and direct costs (as measured by TSLRIC or TELRIC) of the basic and non-basic services that make up PreferredPack Plan service are as given in Table 1:⁴⁷

Table 1.

Analysis Using Hypothetical Prices and Direct Costs for PreferredPack Plan Components

Service	Stand-Alone Price	Direct Cost	Contribution
Basic Exchange	\$15	\$20	(\$5)
Non-Basic	\$20	\$3	\$17
Total	\$35	\$23	\$12

When the services are offered separately, the price floor for both of them together would be \$18.⁴⁸ If the services are offered as a bundle—and if Section

⁴⁶ Emphasis added for key terms.

⁴⁷ In this Table and discussion, “loss” and “contribution” are measured by price less direct cost, and I assume that the cost of the bundle is the sum of the costs of its components.

⁴⁸ Given by the sum of the regulated price of standalone basic exchange service (\$15) and the Section 364.051(5)(c) direct cost price floor for the non-basic services (\$3).

364.051(5)(c) is interpreted to set the price floor for the bundle at the sum of the direct costs of its constituent services—the price floor for the bundle would be \$23.

35. In a market where firms compete by offering bundled services to high-margin, price-sensitive customers, a bundle priced no lower than \$23 cannot compete with equivalent standalone services that can be offered as low as \$18. Bundling these basic and non-basic services would cause BellSouth's price floor to rise from \$18 to \$23, and if the market price fell below \$23,⁴⁹ BellSouth's bundled service would be priced out of the market, but its standalone services would not. This interpretation of the Section 364.051(5)(c) price floor is thus unsustainable in the market, and because it would prevent BellSouth from bundling non-basic services with basic services whose standalone price is below direct cost, it would violate Section 364.051(5)(a)(2) of the Florida Statutes.
36. Economically, imposing a TELRIC or TSLRIC-based price floor on bundles containing basic services whose regulated standalone price is set below direct cost extends that distortion into a much more competitive segment of the market. Effectively, BellSouth would be *required* to price its standalone 1FR service below cost to customers for whom there is less competition and, at the same time, *required* to recover its full cost of 1FR service in bundles offered to the more competitive sector of the market. Such an inconsistent requirement obviously penalizes BellSouth, but more importantly, it harms consumers and the competitive process.
37. First, consumers would be harmed because they would be denied the ability to buy bundled services from BellSouth at attractive, procompetitive prices. When the services are offered separately, the price floor is \$18, and BellSouth prices at or above that level are procompetitive. That is, competitive market forces that push the BellSouth price for the two services separately down from \$35 but above \$18 are

⁴⁹ The market price could fall to this level in several ways. First, CLECs that buy an unbundled loop (by assumption) for \$20 could have lower costs for supplying non-basic services. Second, BellSouth and CLECs could have the same costs but still find it profitable to serve customers at a price below \$23 because of additional revenues (e.g., from carrier access charges or Internet access service) associated with supplying basic exchange service to the customer. Third, intermodal carriers that do not use BellSouth's loop (e.g., wireless suppliers or cable companies) may have lower costs to provide substitute services.

good for customers. Second, the competitive process would be harmed if BellSouth were prevented from meeting competitive offerings in that price range. If competitive pressure forces the market price down to \$19, for example, when BellSouth offers non-basic services at \$4, it earns \$1 in contribution rather than pricing them higher and earning nothing. That the \$1 contribution from non-basic services is too small to offset entirely the \$5 loss on basic exchange service doesn't change the fact that a \$4 loss from selling both services is better than a \$5 loss from selling basic exchange service alone.

38. While permitting BellSouth to price a non-basic service (*i.e.*, the bundle that includes the 1FR service and various features) below its direct cost may appear to be predatory, it is not so in this case. This is because the regulated price of 1FR service is set below cost by the Commission. In any event, however, as long as competitors can buy BellSouth's unbundled loops at a price approximating BellSouth's economic cost, BellSouth and its competitors are on an equal footing with respect to competing for customers for individual and bundled services, irrespective of the retail price BellSouth charges for basic residential service (*i.e.*, 1FR service).
39. Because BellSouth's 1FR price is below its direct cost, it must obtain a higher margin from the other services that it sells that customer in order that it be profitable to acquire that customer. And as long as CLECs can purchase unbundled loops at BellSouth's economic cost, the CLEC can compete by doing exactly the same thing.
40. This logic applies equally to discounted bundled services like PreferredPack service. As long as BellSouth prices the bundle of basic and non-basic services to cover the retail price of the basic service and the direct costs of the non-basic services, the CLEC can compete on an equal footing. Such pricing may not be economically efficient, (because it is below cost) but it is not anticompetitive, particularly in the market for customers who buy bundled telecommunications services.⁵⁰ As long as

⁵⁰ Under these assumptions, a CLEC could not profitably compete with BellSouth for a customer that purchases no toll or vertical services, but CLECs have no interest in acquiring such customers. BellSouth loses money when it serves those customers solely because the Commission has set the price of residential basic exchange service below cost.

CLECs can purchase (or self-provide) loops at a price commensurate with BellSouth's economic loop costs, there is nothing anticompetitive about selling standalone 1FR service at a price below cost or in selling a bundle of services that includes the loop at a price that reflects the price of the standalone 1FR service.⁵¹

41. Thus, the Section 364.051(5)(c) direct cost price floor of \$18 is procompetitive when the services are offered separately, and there is nothing inherent in the packaging of the two sets of services that would make \$18 anything but a procompetitive price for the services offered together as a bundle. Any price floor higher than \$18 (the sum of the regulated basic exchange price and the non-basic service direct cost) would make both BellSouth's customers and BellSouth worse off, in the sense described above.
42. This problem arises only because the basic exchange component of a bundle of basic and non-basic services is regulated and priced below cost. If, in this case, the Section 364.051(5)(c) price floor were interpreted to be the sum of the non-basic services' direct costs and the regulated price for basic exchange service, the problem would go away. First, the economic distortion caused by pricing basic exchange service below cost would then apply equally to bundled and à la carte services, so that the regulatory distortion would not affect consumers' or suppliers' decisions regarding the packaging of services. Second, BellSouth and potential customers would be better off because the bundled service would have the same pricing flexibility currently possessed by the basic and non-basic services that make up the bundled service. Finally, competitors would be no worse off under this price floor

⁵¹ Hypothetically, if BellSouth loses \$5 per month on every 1FR service it sells to its retail customers, then it must obtain at least a \$5 per month contribution from other services in order to break even. An efficient CLEC that buys an unbundled loop from BellSouth at BellSouth's cost is in precisely the same position: it must also recover at least \$5 per month in contribution from other services if it is to break even. And, if BellSouth offers a package of non-basic and basic exchange services for which the non-basic service components are priced at cost and the basic exchange service component is priced at the retail price, then BellSouth would have to recover its \$5 shortfall from other services outside the package, as would its competitors.

because BellSouth could always price the component basic and non-basic services separately at this floor.⁵²

B. Under the Statutory Test, BellSouth's Price for PreferredPack Plan Service is Procompetitive

43. Given the economic and statutory foundations for conducting the price/cost comparisons under Section 364.051(5)(c) of the Florida Statutes, I next show that BellSouth's current pricing of PreferredPack Plan service, along with its promotional offerings, does not violate the prohibition against predatory and anticompetitive pricing. All of my results discussed below are also shown in a convenient tabular format in the proprietary Exhibit WET-2.
44. Assume for simplicity that direct costs alone matter (*i.e.*, there are no "monopoly services" and no imputation is necessary).⁵³ As I noted earlier, the monthly price of PreferredPack Plan service (\$33.45) is uncontroversial, and the direct non-recurring customer acquisition costs, although controversial, amount to about \$3.42 per month. The PreferredPack Plan service bundles a flat-rate access line (loop-port combination and usage) with various vertical services and Privacy Director service. The direct cost of PreferredPack Plan service is treated as the sum of the direct costs of the component services.
45. In this interpretation of the price floor in Section 364.051(5)(c), I use the retail price of the basic exchange component of PreferredPack service as its direct cost. According to BellSouth, the statewide average of its retail monthly residence flat-rate access line service (1FR service) is **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY** (as of April 2003)⁵⁴ to which we must add the \$6.50 SLC that all

⁵² Although BellSouth could always achieve a \$18 price floor by selling the basic and non-basic services separately, the competitive process would remain distorted. BellSouth would be unable to offer a bundled service, and since 1FR prices vary geographically across Florida, it would be unable to offer its equivalent PreferredPack service at a single statewide rate. Moreover, customers who prefer bundled services and compare the bundles offered by different suppliers would be worse off if BellSouth could not offer a comparable bundle.

⁵³ The case where imputation is necessary is addressed below.

⁵⁴ See BellSouth's response to Item No. 4(a) in Staff's 1st Set of Interrogatories in this proceeding.

customers pay. In addition, the monthly TSLRIC of the composite features and Privacy Director Service is **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY**.⁵⁵ This cost *includes* BellSouth's direct TSLRIC monthly cost of the Privacy Director service, which is **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY** per month.⁵⁶

46. Based on this information, the direct recurring cost of the service components is **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY**. When the properly amortized monthly customer re-acquisition cost of **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY** is added to this, the total monthly direct cost of providing PreferredPack Plan service to an average re-acquired customer (that also receives the promotional offerings) is **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY** per month.
47. From a comparison of the total direct cost of PreferredPack Plan service (inclusive of the cost of customer re-acquisition) with the monthly total rate of \$33.45, it is evident that the rate exceeds the direct cost by **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY**, a significant positive margin. Therefore, when direct costs are calculated in the manner described above, no violation of Section 364.051(5)(c) can be said to have occurred, and since price exceeds direct cost, that price cannot be construed as predatory.⁵⁷

⁵⁵ BellSouth explains that the monthly "composite UNE feature cost" of vertical services, as filed in Docket No. 990649-TP, is actually **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY**. That is a "conservative estimate of the direct cost that would be incurred on average based on a particular customer's utilization of the offered features." See BellSouth's Response to Staff's 1st Set of Interrogatories (Proprietary) in this proceeding, Item No. 4, May 28, 2004. Since Privacy Director is not a vertical feature, its cost is not included above. As noted above, the TSLRIC of Privacy Director and all the vertical features offered with the PreferredPack Plan is **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY**. The latter cost figure applies if all BellSouth customers for PreferredPack Plan service are assumed to subscribe to all of the features made available by that service.

⁵⁶ BellSouth's Response to Supra's 2nd Request for Admissions (Proprietary) in this proceeding, Item No. 30, July 15, 2004.

⁵⁷ That conclusion is unchanged even with the higher **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY** estimate of the monthly amortized customer re-acquisition cost, assuming that every eligible customer redeems the \$100 Cash Back offer.

C. BellSouth's Price for PreferredPack Plan Service is Still Procompetitive Even if One Imputes the UNE Price of Possible Monopoly Components into the Price Floor

48. For reasons discussed below, I believe the **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY** price floor calculated above represents the proper implementation of the price floor required in Section 364.051(5)(c). However, even if the Commission construes that rule differently and requires imputation of prices of monopoly components, a properly conducted price/cost comparison shows that BellSouth's PreferredPack plan service with its promotions is still priced consistently with that rule. All of the results discussed below are also shown in a convenient tabular format in the proprietary Exhibit WET-2.
49. This interpretation of Section 364.051(5)(c) assumes that the price charged by BellSouth for any monopoly component of its PreferredPack Plan service must be imputed into (*i.e.*, recovered by) the price charged by BellSouth for the PreferredPack Plan service itself. As is standard practice for good economic and regulatory reasons, the imputation requirement only applies to essential facilities, *i.e.*, elements or components of services that (1) are not available competitively (BellSouth is the sole source) or through resale of a BellSouth retail service, (2) have no close or feasible substitutes, and (3) are essential for the provision of downstream retail services for which BellSouth and other carriers compete. In this circumstance, the direct cost would pertain to all service components that are *not* essential facilities (*i.e.*, we would use the TSLRIC of those components), and the imputed cost would pertain only to essential facilities (*i.e.*, the prices of those components would be used rather than their costs in determining the price floor).
50. Of all the components of BellSouth's PreferredPack Plan service, only the access line itself (the loop) can arguably be considered an essential facility, and even for the loop, the presence of "last mile" alternatives in the form of wireless local loops, cellular wireless service, and cable connections are becoming increasingly available. The switching function and switch-based features and services can be self-supplied or can be obtained from non-BellSouth sources, and I observe that Supra has

deployed its own switches in Florida. While Supra may currently resell BellSouth's Privacy Director service, alternatives including self-supply are readily available, and Privacy Director has never been considered a UNE that BellSouth would have to unbundle and sell at TELRIC prices in order that CLECs not be impaired in their efforts to compete.⁵⁸ The customer re-acquisition costs are, of course, unrelated to service provision itself, and represent a marketing cost that Supra or other CLECs routinely incur on their own. Therefore, if any imputation is required by Section 364.051(5)(c), the facts of the present-day telecommunications marketplace limit that imputation to the loop component of the service.

51. Thus, the only change from the earlier cost calculation arises from regarding the loop as an essential facility which, under FCC rules that were extant until recently, is to be provided to requesting carriers as a UNE at a price based on its TELRIC. This means that instead of employing the direct cost of BellSouth's 1FR service, the "direct cost" of the loop should be measured by its TELRIC-based UNE price, while the cost of the other components of the service would be measured by their respective TSLRICs.
52. According to BellSouth, the state-wide average UNE rate in Florida for the unbundled loop is **BEGIN PROPRIETARY \$ [REDACTED].⁵⁹ END PROPRIETARY** Further, the combined TSLRIC of all non-monopoly components of BellSouth's 1FR service in Florida is **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY.⁶⁰** As noted earlier, the TSLRIC of the vertical features plus Privacy Director service is **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY.**

⁵⁸ Thus Supra's calculation of its costs to purchase the components of PreferredPack service from BellSouth in its *Motion* (¶¶ 8-12) is irrelevant. The Florida pricing standard in Section 364.051(5)(c) refers to BellSouth's direct costs (with the exception of imputation applied to monopoly services), not to the costs that Supra chooses to incur to supply the service.

⁵⁹ This statewide weighted average is calculated by BellSouth from deaveraged zone-specific UNE loop rates established by the Commission in Docket No. 990649-TP.

⁶⁰ BellSouth sources indicate that the TSLRIC of the port is **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY** and that of average usage is **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY**, making a total of **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY.**

53. Based on this information, the combined direct and imputed cost of the service components of PreferredPack Plan service is **BEGIN PROPRIETARY \$ [REDACTED] [REDACTED] END PROPRIETARY**. When the properly amortized monthly customer re-acquisition cost of **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY** is added to this, the total monthly direct and imputed cost of providing PreferredPack Plan service to a re-acquired customer (that also receives the promotional offerings) is **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY**.

54. Comparing the total direct and imputed cost of PreferredPack Plan service (inclusive of the cost of customer re-acquisition) with the monthly total price of \$33.45, it is evident that the rate exceeds the direct and imputed costs by **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY**, a positive margin. Therefore, when direct and imputed costs are calculated in the manner described above, no violation of Section 364.051(5)(c) can be said to have occurred, and the price of PreferredPack service, including its promotions, cannot be said to be predatory.⁶¹

D. The Statutory Test Must be Applied to the Service as a Whole, not to Individual Customers.

55. In its *Petition*, Supra asserts that

This Commission should also note that BellSouth's PreferredPack Tariff does not require a contractual arrangement between BellSouth and the winback/re-acquisition customers that will ensure retention of these customers for a period of time sufficient to allow BellSouth to break even on each individual winback customer⁶²

implying that the test requires BellSouth to break even on *every* re-acquired customer. However, nothing in the regulatory principles governing BellSouth's Florida operations suggests that revenue must recover cost for each *individual customer*. Rather, the recovery of costs in revenues is expected to occur at the

⁶¹ That conclusion is unchanged even with the higher **BEGIN PROPRIETARY \$ [REDACTED] END PROPRIETARY** estimate of the monthly amortized customer re-acquisition cost, assuming that *every* eligible customer redeems the \$100 Cash Back offer.

⁶² *Supra's Petition*, ¶24.

service level, as is evident from a literal reading of Section 364.051(5)(c). Similarly, in economics, a price that prevents an equally-efficient firm from profitably serving a particular customer is not predatory. Rather, the test is whether an equally-efficient firm can profitably serve the *market* at that price. And at the *market* level, what matters is the behavior of the *average* customer: her usage, her duration of stay and the likelihood that she claims her \$100 Cash Back promotion.

VII. SUPRA'S CHARGE OF DISCRIMINATION AMONG SIMILARLY-SITUATED CUSTOMERS IS UNFOUNDED

56. Citing parts of the Commission's *Key Customer Order*, Supra alleges that BellSouth is in violation of Section 364.051(5)(a)(2) of the Florida Statutes because its promotional offerings only target CLEC customers and are not offered to customers that are presently with BellSouth.⁶³ Supra claims that such offerings violate the dictum that "similarly situated" customers must be offered service on the same terms and conditions.

A. Economic and Statutory Definitions of Unfair Discrimination

57. To analyze Supra's arguments, it is necessary to first examine the economic meaning of unfair or undue discrimination and how the Florida Statutes and this Commission have determined ways to prevent such conduct.

58. In economics, price discrimination has a very specific meaning, namely, the offering of a product to different customers or groups of customers at different prices or under different terms and conditions. However, the word "discrimination" has no normative content, nor is it used pejoratively, unless it can be shown that the discriminating act in question leads to an avoidable loss of economic and social welfare to at least some customers or customer groups. That is, while *unfair*, *undue*, or *unreasonable* discrimination may be prohibited, the forms of discrimination that actually *increase* economic and social welfare are not (and should not) be.

⁶³ *Supra's Motion*, at 12-15.

59. It is quite often the case that customers of the very same product differ among themselves, perhaps even substantially, in their economic traits and characteristics. Some customers may be more sensitive to the *level* of the product's price than others, perhaps because they have to be more budget-conscious or because they are generally more aware of alternatives available from other sources. Some customers may find it more costly than others to change an economic decision once made (such as to buy a particular product), perhaps because the transaction costs (such as search costs, cost of gaining information about the product, etc.) of changing their minds are greater. Economic theory shows, and practical experience bears out, that when customers differ among themselves in these ways, offering a product at different prices (or terms and conditions) may actually induce more customers to consume than if the product were available at a single price (or under uniform terms and conditions). Greater consumption and purchases by customers with different traits are a sign of greater economic and social welfare; therefore, the offering of a product at different prices (or terms and conditions) is actually beneficial to society. For example, discrimination in the form of volume or term discounts is commonly observed, primarily because such discrimination taps the interest of diverse consuming groups. That is, under some circumstances, such discrimination is actually worthwhile and an improvement over uniformity.⁶⁴

60. In recognition of this basic economic truism, Section 364.051(5)(a)(2) states, in part:

Nothing contained in this section shall prevent the local exchange telecommunications company from *meeting offerings* by any competitive provider of the same, or functionally equivalent, nonbasic services in a *specific geographic market* or to a *specific customer* by deaveraging the price of any nonbasic service, packaging nonbasic services together or with basic services, using volume discounts and term discounts, and offering individual contracts. However, the local exchange telecommunications company shall not engage in any anticompetitive act or practice, nor *unreasonably* discriminate among *similarly situated* customers.⁶⁵

⁶⁴ See, e.g., a comprehensive treatment of this issue in Carlton and Perloff, *op cit.*, Chapter 9.

⁶⁵ Emphasis added for key terms.

61. In its *Key Customer Order*, the Commission gave operational meaning to some of the key terms in this passage, such as “meeting offerings,” “specific geographic market,” and “similarly situated.”⁶⁶ The Commission also cited a paragraph from my Direct Testimony in the *Key Customer* proceeding:

From an economic standpoint, the proper interpretation should be that “similarly situated” or “substantially similar” customers are those whose objective circumstances with respect to a specific service are similar. For example, customers with similar willingness to pay (or price elasticity of demand) for a service, or facing similar competitive alternatives in the same geographic market, could be considered similarly situated. Differential pricing (i.e., price discrimination in the economic sense) should not be permitted for similarly-situated or substantially similar customers. In the context of BellSouth’s Key Customer promotional offering, similarly situated customers are those for whom BellSouth faces competition from rivals offering substitute services. Those customers are, however, *not* similarly situated to BellSouth’s other customers who do not have the same competitive options.

Specifically, the Commission agreed with my statement that “similarly situated customers are those for whom BellSouth faces competition from rivals offering substitute services.”⁶⁷ Extending that line of thought, the Commission went on to find that BellSouth customers in wire centers with vigorous competition (or “hot” wire centers) were not similarly situated with BellSouth customers in wire centers with little or no competition, justifying the differential offering of the Key Customer service between the two types of wire centers (geographic markets) on the grounds that those customers faced different competitive alternatives.

62. *Supra* misinterprets the *Key Customer Order* to require that all customers in the same geographic market be treated as similarly situated.⁶⁸ First, *Supra* omits a key phrase of the Commission’s *Order* in its citation at 14. The complete citation (from page 15 of the *Key Customer Order*) reads:

⁶⁶ *Key Customer Order*, at 10-15.

⁶⁷ *Key Customer Order*, at 15.

⁶⁸ *Supra’s Motion* at 14-15.

Therefore, we find that for purposes of this docket, “similarly situated” or “substantially similar” shall be interpreted as customers facing similar competitive alternatives in a “specific geographic market” as defined in Section IV.D of this Order.

where the italicized words were omitted from Supra’s citation. First, the relevant issue in the Key Customer Docket was “to determine whether geographic targeting in a BellSouth promotional tariff is unfair, anti-competitive or discriminatory.”⁶⁹ For purposes of that docket, then, what mattered was whether BellSouth’s customers in different geographic markets were similarly situated. The Commission’s finding that customers in hot wire centers were differently situated from customers in other wire centers does not, as a matter of logic, imply that all customers in the same wire center are similarly situated. Second, the cited language does not, on its face, imply that *all* customers in a specific geographic market are similar situated; rather, it is only “customers facing similar competitive alternatives” in a specific geographic market are determined, for the purposes of the Key Customer promotion, to be similarly-situated. Finally, Section 364.051(5)(a)(2) of the Florida Statutes explicitly allows local exchange companies to meet offerings of competing non-basic services “in a specific geographic market *or to a specific customer*” by deaveraging, bundling, discounting and contracting (emphasis supplied).

B. BellSouth’s Promotional Offerings in Conjunction with its PreferredPack Plan Service Do Not Discriminate Among Similarly-Situated Customers

63. At issue is whether BellSouth’s decision to promote its PreferredPack Plan service to customers presently served by CLECs (using the Cash Back offer and the line connection charge waiver) but not to its own customers for that service violates Section 364.051(5)(a)(2)’s prohibition against discrimination against similarly-situated customers. In economics, this question comes down to a simple comparison of traits and characteristics: those of customers presently served by CLECs with those of BellSouth’s present customers.

⁶⁹ *Key Customer Order* at 8.

64. In general, the observed behaviors of CLEC and BellSouth customers can be compared in terms of the differences of the price elasticities of demand of the two customer groups.⁷⁰ It is precisely this kind of difference that marketing managers seek in order to design campaigns that induce their rivals' customers to switch to them. Clearly, offering the very same terms and conditions that are available to its current customers will not entice its former customers away from its competitors. Presumably they left for its competitors precisely because they preferred the terms and conditions available elsewhere. That is why winning back those former customers would necessarily require the firm to offer *more* attractive (necessarily different) terms to those customers. It would *not* be unreasonable discrimination, however, because by staying, the firm's existing customers have already demonstrated their preference for BellSouth's services at the terms and conditions offered to them. Thus, one can conclude that current CLEC and BellSouth customers differ in their price elasticities of demand or other preference characteristics that determine service choice.

65. On average, current CLEC residential customers are likely to be more price-sensitive than BellSouth's residential customers for several reasons. First, most current CLEC customers used to be BellSouth customers, and they, unlike the BellSouth customers who remain, did choose to switch to a CLEC in response to some price or service offering. Second, customers who find it worthwhile to go to the effort of switching service providers are likely to purchase more telecommunications services on average than those who stay with the incumbent firm, and small differences in price matter more to customers who purchase large quantities of service than to low-volume customers. Third, a higher fraction of customers who value packages of services are likely to be CLEC customers because (i) the incumbent firm generally retains customers who make little use of telephone service and (ii) CLECs market such packaged services heavily. Fourth, current CLEC customers, by definition, have an attractive competitive alternative to BellSouth's service, while not all current

⁷⁰ The own-price elasticity of demand measures the percentage change in demand occasioned by a one percent change in price.

BellSouth customers—particularly low-volume customers who do not value long distance service or vertical features—may have an attractive competitive alternative.

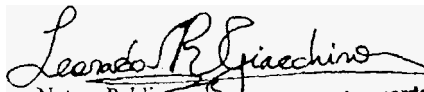
66. Thus, on average, current CLEC customers perceive the attractiveness of their competitive choices and the substitutes available to them differently from current BellSouth customers. Following the logic of the Commission's *Key Customer Decision*, then, current CLEC and current BellSouth customers are not similarly-situated because—on average—they face different competitive choices and have different sets of substitute services available to them or they value those choices and substitute services differently.
67. For all of these reasons, I conclude that, as a matter of economics, BellSouth can regard its current customers and CLECs current customers as not being similarly situated. Thus, the promotional offerings designed to entice current CLEC customers to switch to BellSouth are not unreasonably discriminatory in economics and following previous Commission decisions.

I declare under penalty of perjury that the foregoing is true and correct.



Subscribed and sworn to before me this

16 day of August, 2004.



Notary Public

Leonardo Giacchino
Notary Public
My Commission Expires
April 18, 2010

My Commission expires

NERA

Exhibit WET-1
August 16, 2004

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Dr. Taylor received a B.A. *magna cum laude* in Economics from Harvard College, an M.A. in Statistics and a Ph.D. in Economics from the University of California at Berkeley. He has taught economics, statistics, and econometrics at Cornell and the Massachusetts Institute of Technology and was a post doctoral Research Fellow at the Center for Operations Research and Econometrics at the University of Louvain, Belgium.

At NERA, Dr. Taylor is a Senior Vice President, heads the Cambridge office and is Director of the Telecommunications Practice. He has worked primarily in the field of telecommunications economics on problems of state and federal regulatory reform, competition policy, terms and conditions for competitive parity in local competition, quantitative analysis of state and federal price cap and incentive regulation proposals, and antitrust problems in telecommunications markets. He has testified on telecommunications economics before numerous state regulatory authorities, the Federal Communications Commission, the Canadian Radio-Television and Telecommunications Commission, the New Zealand Commerce Commission, the Comisión Federal de Telecomunicaciones de México, federal and state congressional committees and courts. Recently, he was chosen by the Mexican Federal Telecommunications Commission and Telmex to arbitrate the last two renewals of the Telmex price cap plan in Mexico. Other recent work includes studies of the competitive effects of major mergers among telecommunications firms and analyses of vertical integration and interconnection of telecommunications networks. He has appeared as a telecommunications commentator on PBS Radio and on The News Hour with Jim Lehrer.

He has published extensively in the areas of telecommunications policy related to access and in theoretical and applied econometrics. His articles have appeared in numerous telecommunications industry publications as well as *Econometrica*, the *American Economic Review*, the *International Economic Review*, the *Journal of Econometrics*, *Econometric Reviews*, the *Antitrust Law Journal*, *The Review of Industrial Organization*, and *The Encyclopedia of Statistical Sciences*. He has served as a referee for these journals (and others) and the National Science Foundation and has served as an Associate Editor of the *Journal of Econometrics*.

BELLSOUTH EXHIBIT WET-1
RESPONSE TO MOTION
DOCKET 040353-TP

William E. Taylor

National Economic Research Associates, Inc.

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Education

UNIVERSITY OF CALIFORNIA, BERKELEY
Ph.D., Economics, 1974

UNIVERSITY OF CALIFORNIA, BERKELEY
M.A., Statistics, 1970

HARVARD COLLEGE
B.A., Economics, 1968
(Magna Cum Laude)

Professional Experience

1988- NATIONAL ECONOMIC RESEARCH ASSOCIATES, INC. (NERA)
Senior Vice President, Office Head, Telecommunications Practice Director.

1983-1988 BELL COMMUNICATIONS RESEARCH, INC. (Bellcore)
Division Manager, Economic Analysis, formerly Central Services Organization, formerly American Telephone and Telegraph Company: theoretical and quantitative work on problems raised by the Bell System divestiture and the implementation of access charges, including design and implementation of demand response forecasting for interstate access demand, quantification of potential bypass liability, design of optimal nonlinear price schedules for access charges and theoretical and quantitative analysis of price cap regulation of access charges.

1975-1983 BELL TELEPHONE LABORATORIES
Member, Technical Staff, Economics Research Center: basic research on theoretical and applied econometrics, focusing on small sample theory, panel data and simultaneous equations systems.

Fall 1977 MASSACHUSETTS INSTITUTE OF TECHNOLOGY
Visiting Associate Professor, Department of Economics: taught graduate courses in econometrics.

1974-1975 CENTER FOR OPERATIONS RESEARCH AND ECONOMETRICS
Université Catholique de Louvain, Belgium.
Post Doctoral Research Associate: basic research on finite sample econometric theory and on cost function estimation.

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CORNELL UNIVERSITY

1972-1975 Assistant Professor, Department of Economics. (On leave 1974-1975.) taught graduate and undergraduate courses on econometrics, microeconomic theory and economic principles.

Miscellaneous

1985-1995 Associate Editor, *Journal of Econometrics*, North-Holland Publishing Company.

1990- Board of Directors, National Economic Research Associates, Inc.

1995- Board of Trustees, Treasurer, Episcopal Divinity School, Cambridge, Massachusetts.

Publications

“Smoothness Priors and Stochastic Prior Restrictions in Distributed Lag Estimation,” *International Economic Review*, 15 (1974), pp. 803-804.

“Prior Information on the Coefficients When the Disturbance Covariance Matrix is Unknown,” *Econometrica*, 44 (1976), pp. 725-739.

“Small Sample Properties of a Class of Two Stage Aitken Estimators,” *Econometrica*, 45 (1977), pp. 497-508.

“The Heteroscedastic Linear Model: Exact Finite Sample Results,” *Econometrica*, 46 (1978), pp. 663-676.

“Small Sample Considerations in Estimation from Panel Data,” *Journal of Econometrics*, 13 (1980) pp. 203-223.

“Comparing Specification Tests and Classical Tests,” Bell Laboratories Economics Discussion Paper, 1980 (with J.A. Hausman).

“Panel Data and Unobservable Individual Effects,” *Econometrica*, 49 (1981), pp. 1377-1398 (with J.A. Hausman).

“On the Efficiency of the Cochrane-Orcutt Estimator,” *Journal of Econometrics*, 17 (1981), pp. 67-82.

“A Generalized Specification Test,” *Economics Letters*, 8 (1981), pp. 239-245 (with J.A. Hausman).

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“Identification in Linear Simultaneous Equations Models with Covariance Restrictions: An Instrumental Variables Interpretation,” *Econometrica*, 51 (1983), pp. 1527-1549 (with J.A. Hausman).

“On the Relevance of Finite Sample Distribution Theory,” *Econometric Reviews*, 2 (1983), pp. 1-84.

“Universal Service and the Access Charge Debate: Comment,” in P.C. Mann and H.M. Trebing (editors) *Changing Patterns in Regulation, Markets, and Technology: The Effect on Public Utility Pricing*. The Institute of Public Utilities, Michigan State University, 1984.

“Recovery of Local Telephone Plant Costs under the St. Louis Plan,” in P.C. Mann and H.M. Trebing (editors) *Impact of Deregulation and Market Forces on Public Utilities*. The Institute of Public Utilities, Michigan State University, 1985.

“Access Charges and Bypass: Some Approximate Magnitudes,” in W.R. Cooke (editor) *Proceedings of the Twelfth Annual Telecommunications Policy Research Conference*, 1985.

“Federal and State Issues in Non-Traffic Sensitive Cost Recovery,” in *Proceedings from the Telecommunications Deregulation Forum*, Karl Eller Center, College of Business and Public Administration, University of Arizona, Tucson, Arizona, 1986.

“Panel Data” in N.L. Johnson and S. Kotz (editors), *Encyclopedia of Statistical Sciences*, John Wiley & Sons, New York, 1986.

“An Analysis of Tapered Access Charges for End Users,” in P.C. Mann and H.M. Trebing (editors) *New Regulatory and Management Strategies in a Changing Market Environment*. The Institute of Public Utilities, Michigan State University, 1987 (with D.P. Heyman, J.M. Lazorchak, and D.S. Sibley).

“Efficient Estimation and Identification of Simultaneous Equation Models with Covariance Restrictions,” *Econometrica*, 55 (1987), pp. 849-874 (with J.A. Hausman and W.K. Newey).

“Alternative NTS Recovery Mechanisms and Geographic Averaging of Toll Rates,” in *Proceedings of the Thirteenth Annual Rate Symposium: Pricing Electric, Gas, and Telecommunications Services*. The Institute for the Study of Regulation, University of Missouri, Columbia, 1987.

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“Price Cap Regulation: Contrasting Approaches Taken at the Federal and State Level,” in W. Bolter (editor), *Federal/State Price-of-Service Regulation: Why, What and How?*, Proceedings of the George Washington University Policy Symposium, December, 1987.

“Local Exchange Pricing: Is There Any Hope?,” in J. Alleman (editor), *Perspectives on the Telephone Industry: The Challenge of the Future*, Ballinger Publishing Company, Cambridge, Massachusetts, 1989.

“Generic Costing and Pricing Problems in the New Network: How Should Costs be Defined and Assessed,” in P.C. Mann and H.M. Trebing (editors) *New Regulatory Concepts, Issues, and Controversies*. The Institute of Public Utilities, Michigan State University, 1989.

“Telephone Penetration and Universal Service in the 1980s,” in B. Cole (editor), *Divestiture Five Years Later*, Columbia University Press, New York, New York, 1989 (with L.J. Perl).

“Regulating Competition for IntraLATA Services,” in *Telecommunications in a Competitive Environment*, Proceedings of the Third Biennial NERA Telecommunications Conference, 1989, pp. 35-50.

“Costing Principles for Competitive Assessment,” in *Telecommunications Costing in a Dynamic Environment*, Bellcore-Bell Canada Conference Proceedings, 1989 (with T.J. Tardiff).

“Optional Tariffs for Access in the FCC's Price Cap Proposal,” in M. Einhorn (ed.), *Price Caps and Incentive Regulation in the Telecommunications Industry*, Kluwer, 1991 (with D.P. Heyman and D.S. Sibley).

“Alternative Measures of Cross-Subsidization,” prepared for the Florida Workshop on Appropriate Methodologies for the Detection of Cross--Subsidies, June 8, 1991.

“Predation and Multiproduct Firms: An Economic Appraisal of the Sievers-Albery Results,” *Antitrust Law Journal*, 30 (1992), pp. 785-795.

“Lessons for the Energy Industries from Deregulation in Telecommunications,” *Proceedings of the 46th Annual Meeting of the Federal Energy Bar Association*, May, 1992.

“Efficient Price of Telecommunications Services: The State of the Debate,” *Review of Industrial Organization*, Vol. 8, pp. 21-37, 1993.

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“Status and Results of Regulatory Reform in the U.S. Telecommunications Industry,” in C.G. Stalon, *Regulatory Responses to Continuously Changing Industry Structures*, The Institute of Public Utilities, Michigan State University, 1992.

“Post-Divestiture Long-Distance Competition in the United States,” *American Economic Review*, Vol. 83, No. 2, May 1993 (with Lester D. Taylor). Reprinted in E. Bailey, J. Hower, and J. Pack, *The Political Economy of Privatization and Deregulation*, (London: Edward Elgar), 1994.

“Comment on ‘Pricing of Inputs Sold to Competitors,’ by W.J. Baumol and J.G. Sidak,” *Yale Journal on Regulation*, Vol. 11, Issue 1, 1994, pp. 225-240 (with Alfred E. Kahn).

“Comments on Economic Efficiency and Incentive Regulation,” Chapter 7 in S. Globerman, W. Stanbury and T. Wilson, *The Future of Telecommunications Policy in Canada*, Toronto: Institute for Policy Analysis, University of Toronto, April 1995.

“Revising Price Caps: The Next Generation of Incentive Regulation Plans,” Chapter 2 in M.A. Crew (ed.) *Pricing and Regulatory Innovations under Increasing Competition*, Boston: Kluwer Academic Publishers, May 1996 (with T. Tardiff).

“An Analysis of the State of Competition in Long-Distance Telephone Markets,” *Journal of Regulatory Economics*, May, 1997, pp. 227-256 (with J.D. Zona).

“An Analysis of the Welfare Effects of Long Distance Market Entry by an Integrated Access and Long Distance Provider”, *Journal of Regulatory Economics*, March, 1998, pp. 183-196 (with Richard Schmalensee, J.D. Zona and Paul Hinton).

“Market Power and Mergers in Telecommunications,” *Proceedings of the Institute of Public Utilities; 30th Annual Conference: Competition in Crisis: Where are Network Industries Heading?*, The Institute of Public Utilities, Michigan State University, 1999.

“The Baby and the Bathwater: Utility Competition, But at What Price?,” *Public Utilities Fortnightly*, Vol. 137, No.21, November 15, 1999, pp. 48-56 (with Anne S. Babineau and Matthew M. Weissman).

“Aligning Price Regulation with Telecommunications Competition,” *Review of Network Economics*, December, 2003, pp. 338-354 (with Timothy Tardiff).

Testimony

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1. Alabama

1. Alabama Public Service Commission (Docket No. 25677), on behalf of BellSouth Telecommunications, Inc., direct testimony regarding economic aspects of avoided costs of services supplied for resale. Filed November 26, 1996.
2. Alabama Public Service Commission, on behalf of BellSouth Long Distance, Inc., (Docket No. 25835): direct testimony regarding the probable economic benefits to consumers in Alabama from entry by BellSouth into the interLATA long distance market. Filed June 18, 1997. Rebuttal testimony filed August 8, 1997.
3. Alabama Public Service Commission, on behalf of BellSouth Telecommunications, Inc., (Docket No. 26029): rebuttal testimony of intervenor testimonies in BellSouth's cost and unbundled network element pricing docket in Alabama. Filed September 12, 1997.
4. Alabama Public Service Commission (Docket No. 25980), on behalf of BellSouth Telecommunications: rebuttal testimony regarding revenue benchmarks and other matters in universal service funding. Filed February 13, 1998.
5. Alabama Public Service Commission (Docket No. 27091), on behalf of BellSouth Telecommunications, rebuttal testimony regarding intercarrier compensation for Internet-bound traffic, filed October 14, 1999.
6. Alabama Public Service Commission (Docket No. 25835), on behalf of BellSouth Telecommunications, Inc., economic aspects of service quality penalty plans. Rebuttal testimony filed June 19, 2001.
7. Alabama Public Service Commission (Docket Nos. 15957 and 27989), on behalf of BellSouth Telecommunications, Inc.: economic support for promotional offerings. Direct testimony filed August 3, 2001, rebuttal testimony filed August 13, 2001. Additional rebuttal testimony filed August 17, 2001.
8. Alabama Public Service Commission (Docket No. 25835), on behalf of BellSouth Telecommunications, Inc., economic aspects of structural separations. Surrebuttal testimony filed July 24, 2001.

2. Alaska

9. Alaskan Public Utilities Commission, (Docket Nos. U-98-140/141/142 and U-98-173/174), testimony regarding the economic effects on competition of the acquisitions of Telephone Utilities of Alaska, Telephone Utilities of the Northland, Inc., and PTI Communications of Alaska by ALEC Acquisition Sub Corporation and of Anchorage Telephone Utility and ATU Long Distance, Inc. by Alaska Communications Systems, Inc. Filed February 2, 1999. Rebuttal testimony filed March 24, 1999.

3. Arizona

10. Arizona State Air Pollution Control Hearing Board (Docket No. A-90-02) on behalf of Arizona Public Service Company. A statistical study of SO₂ emissions entitled, "Analysis of Cholla Unit 2 SO₂ Compliance Test Data," (October 24, 1990) and an Affidavit (December 7, 1990).
11. Arizona Corporation Commission (Docket Nos. T-02432B-00-0026, T-01051B-00-0026), on

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- behalf of US WEST Communications, Inc., direct testimony regarding intercarrier compensation for Internet-bound traffic. Filed March 27, 2000.
12. Arizona Corporation Commission (Docket No. T-01051B-99-0497), on behalf of US West Communications, Inc., rebuttal testimony regarding economic issues arising in the proposed merger between U S WEST and Qwest. Filed April 3, 2000.
 13. Arizona Corporation Commission (Docket No. T-01051B-99-105), on behalf of Qwest Corporation., rebuttal testimony regarding rate design. Filed August 21, 2000.
 14. Arizona Corporation Commission (Docket Nos. T-03654A-00-0882,T-01051B-00-0882), on behalf of Qwest Corporation, direct testimony regarding intercarrier compensation for internet-bound traffic. Filed January 8, 2001.
 15. Arizona Corporation Commission (Docket No. T-00000A-00-0194, Phase 2), on behalf of Qwest Corporation., direct testimony regarding intercarrier compensation for Internet-bound traffic. Filed March 15, 2001.

4. Arkansas

16. Arkansas Public Service Commission (Docket No. 83-042-U) on behalf of Southwestern Bell Telephone Company: economic analysis of non-traffic sensitive cost recovery proposals. Filed October 7, 1985.

5. California

17. California Public Utilities Commission (Case 88-04-029) on behalf of Pacific Bell: commission payment practices, cross-subsidization of pay telephones, and compensation payments to competitive pay telephone suppliers. Filed July 11, 1988.
18. California Public Utilities Commission (Phase II of Case 90-07-037) on behalf of Pacific Bell: economic analysis of the effects of FAS 106, (accrual accounting for post-retirement benefits other than pensions) under state price cap regulation, (with Timothy J. Tardiff). Filed August 30, 1991. Supplemental testimony filed January 21, 1992.
19. California Public Utilities Commission, (Docket No. I.87-11-033), on behalf of Pacific Bell, "The New Regulatory Framework 1990-1992: An Economic Review," (with T.J. Tardiff). Filed May 1, 1992.
20. California Public Utilities Commission, (Docket No. I.87-11-033), on behalf of Pacific Bell, "Pacific Bell's Performance Under the New Regulatory Framework: An Economic Evaluation of the First Three Years," (with T.J. Tardiff). Filed April 8, 1993, reply testimony filed May 7, 1993.
21. California Public Utilities Commission, (Investigation No. I.95-05-047), on behalf of Pacific Bell, "Incentive Regulation and Competition: Issues for the 1995 Incentive Regulation Review," (with R.L. Schmalensee and T.J. Tardiff). Filed September 8, 1995, reply testimony filed September 18, 1995.
22. California Public Utilities Commission, (U 1015 C) on behalf of Roseville Telephone Company, testimony regarding productivity measures in Roseville's proposed new regulatory framework. Filed May 15, 1995. Rebuttal testimony filed January 12, 1996.

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23. California Public Utilities Commission, on behalf of Pacific Bell: Comments on the economic principles for updating Pacific Bell's price cap plan. Filed February 2, 1998.
24. California Public Utilities Commission, on behalf of Pacific Bell: reply comments regarding proposed changes to the price cap plan, filed June 19, 1998.
25. California Public Utilities Commission on behalf of California American Water Company, RWE AG, Thames Water Aqua Holding GmbH, Thames Water Plc and Apollo Acquisition Company, economic support regarding the merger between American Water Company and Thames Water, direct testimony filed May 17, 2002, rebuttal testimony filed July 15, 2002.
26. California Public Utilities Commission (Case No. 95-04-043/I.95-04-044) on behalf of Verizon California, Inc, forecast of incremental hot cut demand, filed November 7, 2003.
27. California Public Utilities Commission (Case No. 95-04-043/I.95-04-044) on behalf of Verizon California, Inc, rebuttal testimony regarding geographic market definition for unbundled network elements. Filed January 16, 2004.

6. Colorado

28. Colorado Public Utilities Commission (Docket No. 97A-540T), on behalf of U S WEST: testimony concerning the economic effects of a proposed price regulation plan. Direct testimony filed January 30, 1998. Rebuttal testimony filed May 14, 1998.
29. Colorado Public Utilities Commission (Docket No. 99A-001T), on behalf of US WEST, regarding US WEST's interconnection arbitration with AirTouch Paging in Colorado. Rebuttal testimony filed March 15, 1999.
30. Colorado Public Utilities Commission (Docket No. 99A-407T), on behalf of US West Communications, Inc., rebuttal testimony regarding the effects of the proposed Qwest-US West merger on economic welfare, filed December 7, 1999.
31. Colorado Public Utilities Commission (Docket No. 00B-011T), on behalf of US West Communications, Inc., direct testimony regarding intercarrier compensation for Internet-bound traffic. Filed March 28, 2000.
32. Colorado Public Utilities Commission (Docket No. 00B-103T), on behalf of US West Communications, Inc., rebuttal testimony regarding intercarrier compensation for Internet-bound traffic in arbitration with ICG. Filed June 19, 2000.
33. Colorado Public Utilities Commission (Docket No. 00B-601T), on behalf of Qwest. Rebuttal testimony regarding intercarrier compensation for internet-bound traffic in arbitration with Level 3. Filed January 16, 2001.
34. Colorado Public Utilities Commission (Docket No. ___), on behalf of Qwest. Direct testimony regarding reclassification of services as deregulated. Filed July 21, 2004.

7. Connecticut

35. State of Connecticut, Department of Public Utility Control, (DPUC Docket No. 95-03-01) on behalf of Southern New England Telephone Company, testimony concerning productivity growth targets in a proposed state price cap regulation plan. Filed June 19, 1995.
36. State of Connecticut, Department of Public Utility Control, (DPUC Docket No. 95-06-17) on behalf of Southern New England Telephone Company: testimony concerning economic principles of costing and cost recovery. Filed July 23, 1996.

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37. Connecticut Department of Public Utilities (DPUC Docket No. 96-09-22), on behalf of the Southern New England Telephone Company. Rebuttal testimony regarding alternative models of cost. Filed January 24, 1997.
38. Connecticut Department of Public Utilities (DPUC Docket No. 96-11-03), on behalf of the Woodbury Telephone Company, statement regarding the effects of resale and the provision of unbundled network elements on a rural telephone company. Filed February 11, 1997.
39. State of Connecticut, Department of Public Utility Control (Docket Nos. 95-03-01, 95-06-17 and 96-09-22), on behalf of Southern New England Telephone Company: direct testimony discussing economic principles the DPUC should use in evaluating SNET's joint and common overhead and network support expenses. Filed August 29, 1997. Rebuttal testimony filed December 17, 1998.
40. State of Connecticut, Department of Public Utility Control (Docket No. 96-04-07) on behalf of Southern New England Telephone Company: direct testimony regarding economic principles guiding access charge reform. Filed October 16, 1997.
41. State of Connecticut, Department of Public Utility Control (Docket No. 98-02-33), on behalf of Southern New England Telephone Company: direct testimony regarding reclassification of custom calling services as emerging competitive. Filed February 27, 1998.
42. Connecticut Department of Public Utility Control, on behalf of SBC Communications Inc. and Southern New England Telecommunications Corporation: direct testimony regarding the SBC-SNET merger, filed June 1, 1998.
43. Connecticut Department of Public Utility Control (Docket No. 95-06-17RE02), on behalf of The Southern New England Telephone Company, rebuttal testimony regarding local competition and reseller market. Filed June 8, 1999.
44. Connecticut Department of Public Utilities (Docket No. 99-03-17), on behalf of The Southern New England Telephone Company, rebuttal testimony regarding market power and termination liabilities in contracts. Filed June 18, 1999.
45. Connecticut Department of Public Utilities (Docket No. 00-07-17), on behalf of The Southern New England Telephone Company, testimony regarding local competition and pricing. Filed November 21, 2000.
46. State of Connecticut, Department of Public Utility Control, (Docket No. 03-09-01PH01) on behalf of SBC SNET, direct testimony concerning geographic market definition for unbundled network elements. Filed December 2, 2003. Rebuttal testimony filed January 9, 2004.

8. Delaware

47. Delaware Public Service Commission (Docket No. 86-20, Phase II) on behalf of The Diamond State Telephone Company: appropriate costing and pricing methods for a regulated firm facing competition. Filed March 31, 1989. Rebuttal testimony filed November 17, 1989.
48. Delaware Public Service Commission (Docket No. 89-24T) on behalf of The Diamond State Telephone Company: rebuttal testimony describing the appropriate costing and pricing methods for the provision of contract Centrex services by a local exchange carrier. Filed August 17, 1990.
49. Delaware Public Utilities Commission, (Docket No. 33), on behalf of Diamond State Telephone

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- Company, "Incentive Regulation of Telecommunications Utilities in Delaware," filed June 22, 1992.
50. Delaware Public Utilities Commission, (Docket No. 33), on behalf of Diamond State Telephone Company, analysis of productivity growth and a proposed incentive regulation plan: "Reply Comments," June 1, 1993, "Supplementary Statement," June 7, 1993, "Second Supplementary Statement," June 14, 1993.
 51. Delaware Public Utilities Commission, (Docket No. 42), on behalf of Bell Atlantic - Delaware, rebuttal testimony concerning the historical effects of equal access competition in interstate toll markets and the likely future effects of competition under 1+ presubscription in Delaware. Filed October 21, 1994.
 52. Delaware Public Utilities Commission, on behalf of Bell Atlantic - Delaware, direct testimony regarding costs and pricing of interconnection and network elements. Filed December 16, 1996. Rebuttal testimony (proprietary) filed February 11, 1997.
 53. Delaware Public Utilities Commission, on behalf of Bell Atlantic - Delaware: statement regarding costs and benefits from Bell Atlantic entry into interLATA telecommunications markets. Filed February 26, 1997. Rebuttal testimony filed April 28, 1997.
 54. Delaware Public Service Commission (PSC Docket No. 00-205), on behalf of Bell Atlantic-Delaware, direct testimony responding to the Petition for Arbitration of Focal Communications Group. Filed April 25, 2000.

9. District of Columbia

55. Affidavit to the U.S. District Court for the District of Columbia on behalf of Bell Atlantic Corporation in *United States of America v. Western Electric Company, Inc. and American Telephone and Telegraph Company*, re relief from the interLATA restrictions of the MFJ in connection with the pending merger with Tele-Communications, Inc. and Liberty Media Corporation. Filed January 14, 1994, (with A.E. Kahn).
56. Affidavit to the U.S. District Court for the District of Columbia on behalf of Southwestern Bell in *United States of America v. Western Electric Company, Inc. and American Telephone and Telegraph Company*, regarding provision of telecommunications and information services across LATA boundaries outside the regions in which its local exchange operations are located. Filed May 13, 1994, (with A.E. Kahn).
57. District of Columbia, Public Service Commission (Case No. 962), on behalf of Bell Atlantic - Washington, D.C., direct testimony regarding costing and pricing of interconnection and network elements. Filed January 17, 1997. Rebuttal testimony filed May 2, 1997.
58. Public Service Commission of the District of Columbia (Case No. 962), on behalf of Bell Atlantic - Washington, D.C., direct testimony regarding costing and pricing of interconnection and network elements. Filed July 16, 2001. Rebuttal testimony filed January 11, 2002.
59. United States District Court for the District of Columbia, (MDL No. 1285, Misc. No 99-0197 (TFH)), Declaration regarding statistical issues in measuring damages from price fixing in the vitamin industry, filed October 31, 2002. Reply Declaration filed January 15, 2003.
60. Public Service Commission of the District of Columbia on behalf of Verizon District of Columbia, Direct testimony regarding forecasts of incremental hot cut demand, filed December

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10. Florida

61. Florida Public Service Commission (Docket No. 820537-TP) on behalf of Southern Bell Telephone and Telegraph Company: economic analysis of premium intraLATA access charges. Filed July 22, 1983.
62. Florida Public Service Commission (Docket No. 820400-TP) on behalf of Southern Bell Telephone and Telegraph Company: economic principles underlying a proposed method for calculating marginal costs for private line services. Filed June 25, 1986.
63. Florida Public Service Commission (Docket No. 880069-TL) on behalf of Southern Bell Telephone and Telegraph Company: economic incentives for firms under the proposed Florida Rate Stabilization Plan. Filed June 10, 1988.
64. Florida Public Service Commission (Docket No. 900633-TL) on behalf of Southern Bell Telephone and Telegraph Company: alternative measures of cross-subsidization. May 9, 1991.
65. Florida Public Service Commission (Docket No. 920260-TL) on behalf of Southern Bell Telephone and Telegraph Company: economic analysis of a proposed price cap regulation plan. December 18, 1992.
66. Florida Public Service Commission (Docket No. 920385-TL) on behalf of Southern Bell Telephone and Telegraph Company: the economic relationship between depreciation rates, investment, and infrastructure development. September 3, 1992.
67. Florida Public Service Commission on behalf of BellSouth, "Local Telecommunications Competition: An Evaluation of a Proposal by the Communications Staff of the Florida Public Service Commission," filed November 21, 1997 (with A. Banerjee).
68. Florida Public Service Commission (Docket No. 980000-SP) on behalf of BellSouth Telecommunications, Inc.: "Costing and Pricing Principles for Determining Fair and Reasonable Rates Under Competition," economic principles for pricing local exchange services, filed September 24, 1998.
69. Florida Public Service Commission (Docket No. 980000-SP) on behalf of BellSouth Telecommunications, Inc.: "Determining Fair and Reasonable Rates Under Competition: Response to Major Themes at the FPSC Workshop," economic principles for pricing local exchange services, filed November 13, 1998.
70. Florida Public Service Commission (Docket No. 980696-TP) on behalf of BellSouth Telecommunications, Inc.: rebuttal testimony regarding measurements of cost for sizing a universal service fund, filed September 2, 1998.
71. Florida Public Service Commission (Docket No. 990750-TP), on behalf of BellSouth Telecommunications, rebuttal testimony regarding intercarrier compensation for Internet-bound traffic, filed September 13, 1999.
72. Florida Public Service Commission (Docket No. 000075-TP) on behalf BellSouth Telecommunications, Inc.: rebuttal testimony regarding intercarrier compensation for Internet-bound traffic, filed January 10, 2001.
73. Florida Public Service Commission (Docket No000121-TP) on behalf BellSouth Telecommunications, Inc.: direct testimony regarding properties of a service quality performance assurance plan. Filed March 1, 2001. Rebuttal filed March 21, 2001.

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74. Florida Public Service Commission (Docket No. 000075-TP) on behalf BellSouth Telecommunications, Inc., rebuttal testimony regarding efficient intercarrier compensation, filed April 12, 2001.
75. Florida Public Service Commission (Docket No. 960786-TL) on behalf BellSouth Telecommunications, Inc.: surrebuttal testimony regarding the state of local competition in Florida, filed August 20, 2001.
76. Florida Public Service Commission (Docket Nos. 020119-TP and 020578-TP) on behalf of BellSouth Telecommunications, Inc., regarding competitive promotional offerings. Direct testimony filed October 23, 2002, rebuttal filed November 25, 2002.
77. Florida Public Service Commission (Docket No. 020507-TP) on behalf of BellSouth Telecommunications, Inc., regarding bundling of basic and non-basic services. Rebuttal testimony filed December 23, 2002.
78. U.S. District Court, Southern District of Florida (Case No. 99-1706), on behalf of BellSouth Telecommunications, Confidential Reply Affidavit ("Economic Assessment of Damages"). Filed April 25, 2003.
79. Florida Public Service Commission (Docket No. 030869-TL), on behalf of BellSouth Telecommunications, Inc., regarding rate rebalancing in the Florida Statutes. Direct testimony filed August 27, 2003.
80. Florida Public Service Commission, (Docket No. 030851-TP) on behalf of Verizon Florida, Direct Testimony regarding forecasts of incremental hot cut demand, filed December 4, 2003.
81. Florida Public Service Commission, (Docket No. 030851-TP) on behalf of Verizon Florida, Rebuttal Testimony regarding geographic market definition for unbundled network elements, filed January 7, 2004.

11. Georgia

82. Georgia Public Service Commission (Docket No. 3882-U) on behalf of Southern Bell Telephone and Telegraph Company: analysis of incentive regulation plans. Filed September 29, 1989.
83. Georgia Public Service Commission (Docket No. 6863-U) on behalf of BellSouth Long Distance, Inc., direct testimony concerning benefits from BellSouth participation in long distance service markets. Filed January 3, 1997. Rebuttal testimony filed February 24, 1997.
84. Georgia Public Service Commission (Docket No. 10767-U), on behalf of BellSouth Telecommunications, rebuttal testimony regarding intercarrier compensation for Internet-bound traffic, filed October 25, 1999.
85. Georgia Public Service Commission (Docket No. 10854-U), on behalf of BellSouth Telecommunications, direct testimony regarding intercarrier compensation for Internet-bound traffic, filed November 15, 1999, rebuttal testimony filed November 22, 1999.
86. Georgia Public Service Commission (Docket No. 7892-U), on behalf of BellSouth Telecommunications, rebuttal testimony regarding implementation of service quality standards, filed June 27, 2000.
87. CPR Institute for Dispute Resolution Arbitral Tribunal, Rebuttal Affidavit in Arbitrations III and IV between BellSouth Telecommunications and Supra Telecommunications & Information Systems. Filed November 5, 2001.

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88. Georgia Public Service Commission (Docket No. 11901-U) on behalf of BellSouth Telecommunications, Inc., regarding the provision of DSL service to competitors' voice customers. Rebuttal testimony filed November 8, 2002.
89. CPR Institute for Dispute Resolution Arbitral Tribunal, Rebuttal Affidavit in Arbitration V between BellSouth Telecommunications and Supra Telecommunications & Information Systems. Filed November 21, 2003.

12. Idaho

90. Idaho Public Utilities Commission (Case No. GST-T-99-1), on behalf of US West Communications, Inc., direct testimony regarding intercarrier compensation for ISP-bound traffic, November 22, 1999, rebuttal testimony filed December 2, 1999.

13. Illinois

91. Illinois Commerce Commission (Docket No. 88-0412) on behalf of Illinois Bell Telephone Company: analysis of pricing issues for public telephone service. Filed August 3, 1990. Surrebuttal testimony filed December 9, 1991.
92. United States Bankruptcy Court, Northern District of Illinois, Eastern Division Telesphere Liquidating Trust vs. Francesco Galesi, Adv. Proc. Nos. 95 A 1051 & 99 A 131: expert opinion regarding the condition of alternative operator service provider and 900 service markets. Report filed August 23, 2002.
93. Illinois Commerce Commission (Docket No. 03-0595) on behalf of SBC Illinois. Direct testimony concerning geographic market definition for unbundled network elements. Filed December 2, 2003.

14. Iowa

94. Iowa Utilities Board, on behalf Qwest Communications Intl, Inc., rebuttal testimony regarding public interest effects of the proposed merger, filed December 23, 1999
95. Iowa Utilities Board, on behalf of Qwest Corporation, (Docket No. INU-04-01), Counterstatement regarding reclassification of services as competitive. Filed August 2, 2004.

15. Kentucky

96. Kentucky Public Service Commission on behalf of South Central Bell Telephone Company, testimony concerning telecommunications productivity growth and price cap plans, April 18, 1995.
97. Kentucky Public Service Commission (Administrative Case No. 96-608) on behalf of BellSouth Long Distance, Inc., testimony regarding the economic effects of BellSouth entry into interLATA services. Filed April 14, 1997. Rebuttal testimony filed April 28, 1997, supplemental rebuttal testimony filed August 15, 1997.
98. Kentucky Public Service Commission (Docket No. 98-292), on behalf of Cincinnati Bell Telephone Company, direct testimony regarding proposed price regulation plan containing earnings sharing requirements. Filed April 5, 1999.

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99. Kentucky Public Service Commission (Docket No. 99-218), on behalf of BellSouth Telecommunications, direct testimony regarding intercarrier compensation for Internet-bound traffic, filed October 21, 1999. Rebuttal testimony filed November 19, 1999.
100. Kentucky Public Service Commission (Docket No. 99-296), on behalf of GTE & Bell Atlantic, direct testimony on the effects of the Bell Atlantic-GTE merger on competition in Kentucky and on the benchmarking abilities of regulators. Filed July 9, 1999, rebuttal testimony filed August 20, 1999.
101. Kentucky Public Service Commission (Docket No. 2001-105), on behalf of BellSouth Telecommunications, Inc.: local competition in Kentucky and BellSouth's performance measurements plan to support its application for interLATA authority. Rebuttal testimony filed July 30, 2001. Surrebuttal testimony filed September 10, 2001.

16. Louisiana

102. Louisiana Public Service Commission (Docket No. U-17949, Subdocket E) on behalf of South Central Bell Telephone Company, rebuttal testimony concerning productivity growth accounting and other aspects of a price regulation plan, July 24, 1995.
103. Louisiana Public Service Commission (Docket No. U-17949, Subdocket E) on behalf of South Central Bell Telephone Company, supplemental and rebuttal testimony concerning economic issues in depreciation accounting in the presence of competition and price cap regulation, November 17, 1995. Surrebuttal testimony, December 13, 1995, Further Surrebuttal testimony, January 12, 1996.
104. Louisiana Public Service Commission (Docket No. U-20883) on behalf of South Central Bell Telephone Company, "Price Regulation and Local Competition in Louisiana," affidavit evaluating a framework for local competition and price regulation in Louisiana, November 21, 1995.
105. Louisiana Public Service Commission (Docket No. U-20883, Subdocket A) on behalf of South Central Bell Telephone Company, rebuttal testimony concerning methods for measuring the cost of providing universal service, August 16, 1995.
106. Louisiana Public Service Commission (Docket No. U-U-22020) on behalf of South Central Bell Telephone Company, testimony concerning economic principles determining wholesale prices for resold services. Filed August 30 1996. Rebuttal testimony filed September 13, 1996.
107. Louisiana Public Service Commission, on behalf of BellSouth Long Distance, Inc. (Docket No. U-22252), direct testimony regarding the probable economic benefits to consumers in Louisiana from entry by BellSouth into the interLATA long distance market. Filed March 14, 1997. Rebuttal testimony filed May 2, 1997. Supplemental testimony filed May 27, 1997.
108. Louisiana Public Service Commission (Docket No. U-24206), on behalf of BellSouth Telecommunications, direct testimony regarding intercarrier compensation for Internet-bound traffic. Filed September 3, 1999, rebuttal filed September 17, 1999.
109. Louisiana Public Service Commission (Docket No. U-22632) on behalf of BellSouth Telecommunications, rebuttal testimony concerning payphone access services, July 17, 2000.
110. Louisiana Public Service Commission (Docket No. U-22252, Subdocket E), on behalf of BellSouth Telecommunications, economic properties of service quality penalty plans. Reply affidavit filed June 25, 2001.

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111. United States District Court, Eastern District of Louisiana, Civil Action No. 02-0481: *Dwayne P. Smith, Trustee v. Lucent Technologies, Inc.*, on behalf of Lucent Technologies, Inc., damage calculation from alleged equipment failure. Expert Report filed June 16, 2003.

17. Maine

112. State of Maine Public Utilities Commission (Docket No. 89-397) on behalf of New England Telephone & Telegraph Company: theoretical and historical analysis of incentive regulation in telecommunications, entitled "Incentive Regulation in Telecommunications," filed June 15, 1990.
113. State of Maine Public Utilities Commission (Docket Nos. 94-123/94-254) on behalf of New England Telephone & Telegraph Company: analysis of appropriate parameters for a price regulation plan. Filed December 13, 1994. Rebuttal testimony filed January 13, 1995.
114. Maine Public Utilities Commission (Docket No. 96-388) on behalf of NYNEX, testimony regarding the economic effects of the proposed merger between Bell Atlantic and NYNEX, Direct Testimony filed September 6, 1996. Rebuttal Testimony filed October 30, 1996.
115. Maine Public Utilities Commission (Docket No. 97-505) on behalf of NYNEX: direct testimony regarding economic principles for setting prices and estimating costs for interconnection. Filed April 21, 1997. Rebuttal testimony filed October 21, 1997.
116. Maine Public Utilities Commission on behalf of NYNEX: affidavit regarding competitive effects of NYNEX entry into interLATA markets. Filed May 27, 1997 (with Kenneth Gordon, Richard Schmalensee and Harold Ware).
117. Maine Public Utilities Commission (Docket No. 99-851) on behalf of Verizon: direct testimony regarding the review of Maine's alternative regulation plan. Filed January 8, 2001. Rebuttal filed February 12, 2001.
118. Maine Public Utilities Commission (Docket No. 99-851), on behalf of Verizon- Maine, affidavit regarding economics of price cap regulation. Filed April 29, 2003.

18. Maryland

119. Maryland Public Service Commission (Case No. 8462) on behalf of The Chesapeake and Potomac Telephone Company of Maryland: competition and the appropriate regulatory treatment of Yellow Pages. Filed October 2, 1992.
120. Maryland Public Service Commission (Case No. 8584) on behalf of The Chesapeake and Potomac Telephone Company of Maryland: appropriate pricing and regulatory treatment of interconnection to permit competition for local service. Filed November 19, 1993, (with A.E. Kahn). Rebuttal testimony filed January 10, 1994, surrebuttal testimony filed January 24, 1994.
121. Maryland Public Service Commission (Case No. 8584, Phase II) on behalf of Bell Atlantic - Maryland: geographically deaveraged incremental and embedded costs of service. Filed December 15, 1994. Additional direct testimony concerning efficient rate structures for interconnection pricing filed May 5, 1995. Rebuttal testimony filed June 30, 1995.
122. Maryland Public Service Commission (Case No. 8659) on behalf of Bell Atlantic - Maryland: appropriate pricing of interconnection among competing local exchange carriers. Filed

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- November 9, 1994.
123. *FreBon International Corp. vs. BA Corp. Civil Action, No. 94-324 (GK): Defendants' Amended Expert Disclosure Statement*, regarding markets for teleconferencing services. Filed under seal February 15, 1996.
 124. Maryland Public Service Commission (Case No. 8715), on behalf of Bell Atlantic - Maryland: rebuttal testimony on the economic criteria for the reclassification of telecommunications services. Filed March 14, 1996, surrebuttal testimony filed April 1, 1996.
 125. Maryland Public Service Commission, on behalf of Bell Atlantic-Maryland, (Case No. 8731-II), statement regarding costing and pricing of interconnection and unbundled network elements. Filed January 10, 1997. Rebuttal testimony filed April 4, 1997.
 126. Maryland Public Service Commission, on behalf of Bell Atlantic - Maryland: statement regarding consumer benefits from Bell Atlantic's provision of interLATA service, filed March 14, 1997.
 127. Maryland Public Service Commission (Case No. 8786), on behalf of Bell Atlantic - Maryland: rebuttal testimony regarding economic principles underlying costs and prices for non-recurring services and access to operations support systems. Filed November 16, 1998.
 128. Maryland Public Service Commission (Case No. 8745), direct testimony on behalf of Verizon Maryland Inc. regarding efficient pricing of carrier access charges. Filed March 23, 2001. Rebuttal filed May 21, 2001. Surrebuttal filed June 11, 2001.
 129. Before the Public Service Commission of Maryland (Case No. 8879), direct testimony on behalf of Verizon Maryland Inc. regarding costing principles for network elements. Filed May 25, 2001. Rebuttal testimony filed September 5, 2001. Surrebuttal filed October 15, 2001.
 130. Circuit Court For Prince George's County, Maryland. Case No: CAL 99-21004, Jacqueline Dotson, et al. v. Bell Atlantic - Maryland, Inc. and Maryland Public Service Commission, affidavit on behalf of Bell Atlantic Maryland regarding late payment fees. Filed October 14, 2002.
 131. Maryland Public Service Commission (Case No. 8927), on behalf of Verizon Maryland, rebuttal testimony regarding complaint by CloseCall America alleging anti-competitive tying of Verizon's residential and small business local service with voice messaging and high-speed Internet access, filed September 24, 2002. Supplemental rebuttal testimony filed March 3, 2003. Surrebuttal testimony filed April 11, 2003.
 132. Maryland Public Service Commission (Case No. 8988) on behalf of Verizon Maryland, forecasts of the demand for incremental hot cuts, January 9, 2004.

19. Massachusetts

133. Massachusetts Department of Public Utilities (Docket No. D.P.U. 94-50), on behalf of NYNEX: analysis of appropriate parameters for a price regulation plan. Filed April 14, 1994. Rebuttal testimony filed October 26, 1994.
134. Massachusetts Department of Public Utilities (Docket No. D.P.U. 94-185) on behalf of NYNEX: economic analysis of terms and conditions for efficient local competition. Filed May 19, 1995. Rebuttal testimony filed August 23, 1995.
135. Affidavit to the Superior Court Department of the Trial Court (Civil Action No. 95-6363F), on

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- behalf of New England Telephone and Telegraph Company, d/b/a NYNEX: in opposition to Plaintiffs' Motion for Class Certification. Filed July 1996.
136. Massachusetts Department of Public Utilities (Docket Nos. D.P.U. 96-73/74, 96-75, 96-80/81, 96-83, 96-94) on behalf of NYNEX: economic analysis of costs avoided from resale of local exchange services. Testimony filed September 27, 1996. Rebuttal Testimony filed October 16, 1996.
 137. Massachusetts Department of Public Utilities (Docket Nos. D.P.U. 96-73/74, 96-75, 96-80/81, 96-83, 96-94) on behalf of NYNEX: Arbitration of interconnection agreements under the Telecommunications Act of 1996. Filed October 11, 1996. Rebuttal Testimony filed October 30, 1996.
 138. Massachusetts Department of Public Utilities (Docket No. DTE 98-15), on behalf of Bell Atlantic – MA: direct testimony regarding the method used to determine wholesale (avoided cost) discount that applies to resold retail services. Filed January 16, 1998.
 139. Massachusetts Department of Public Utilities (Docket No. D.P.U./D.T.E. 94-185-C) on behalf of Bell Atlantic: economic analysis of the usefulness of a regulatory price floor for wholesale services. Affidavit filed February 6, 1998. Reply Affidavit filed February 19, 1998.
 140. Massachusetts Department of Telecommunications and Energy (D.P.U. 96-3/74, 96-75, 96-80/81, 96-83, & 96-94), on behalf of Bell Atlantic – Massachusetts: rebuttal testimony discussing the types of costs for OSSs, filed April 29, 1998.
 141. Massachusetts Department of Telecommunications and Energy (Docket No. 85-15, Phase III, Part 1), on behalf of Bell Atlantic – Massachusetts: rebuttal testimony discussing appropriate forward-looking technology for costing network elements, filed August 31, 1998.
 142. Massachusetts Department of Telecommunications and Energy (Docket No. 98-15, Phase II), on behalf of Bell Atlantic – Massachusetts: rebuttal testimony concerning the avoided costs of resold services, filed September 8, 1998.
 143. Massachusetts Department of Telecommunications and Energy (Docket No. 98-67), on behalf of Bell Atlantic-Massachusetts: direct testimony regarding regulatory rules/economic principles pertaining to exogenous adjustment factors in Bell Atlantic's price cap formula, filed September 25, 1998.
 144. Massachusetts Department of Telecommunications and Energy (Docket No. 98-85), on behalf of Bell Atlantic-Massachusetts: direct testimony regarding efficiency changes from intraLATA presubscription, filed October 20, 1998.
 145. Massachusetts Department of Telecommunications and Energy (Docket No. D.T.E. 97-116-B), on behalf of Bell Atlantic-Massachusetts, affidavit regarding consequences for economic efficiency of different intercarrier compensation rules for ISP-bound traffic. Filed March 29, 1999.
 146. Massachusetts Department of Telecommunications & Energy (Docket No. 94-185-E), on behalf of Bell Atlantic, rebuttal testimony re: inclusion of overhead costs in the calculation of price floors for BA-MA services. Filed July 26, 1999.
 147. Massachusetts Department of Telecommunications and Energy (Docket DTE –1-20), on behalf of Verizon New England Inc., D/B/A/ Verizon Massachusetts, direct testimony regarding cost concepts and pricing principals for UNEs, filed May 4, 2001. Rebuttal testimony filed December 17, 2001.

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148. Massachusetts Department of Telecommunications and Energy, testimony on behalf of Verizon New England Inc. d/b/a/ Verizon Massachusetts, regarding benefits of alternative regulation in Massachusetts since adoption of price cap plan.. Filed April 12, 2001. Rebuttal testimony filed September 21, 2001. Reply filed November 14, 2001.
149. Massachusetts Department of Telecommunications and energy (Docket No. 03-60) on behalf of Verizon Massachusetts, forecast of incremental hot cut demand, filed November 12, 2003.
150. Massachusetts Department of Telecommunications and Energy (Docket No. 03-60) on behalf of Verizon Massachusetts, Reply Panel Testimony regarding geographic market definition. Filed February 25, 2004, Rebuttal Panel Testimony regarding hot cuts. Filed February 25, 2004.

20. Michigan

151. Testimony before the Michigan Circuit Court (Case No. 87-709234-CE and 87-709232-CE) on behalf of Combustion Engineering, Inc., in *Her Majesty the Queen, et al., v. Greater Detroit Resource Recovery Authority, et al.*, re statistical analysis of air pollution data to determine emissions limits for the Detroit municipal waste-to-energy facility, February, 1992.
152. Michigan Public Service Commission (Case No. U-11756), on behalf of Ameritech Michigan: direct testimony regarding efficient prices for services supplied to independent phone payers, filed October 9, 1998.
153. Michigan Public Service Commission (Case No. U-13796), on behalf of SBC Michigan: direct testimony regarding geographic markets for local exchange services, filed December 19, 2003. Reply testimony filed February 10, 2004. Response testimony filed March 5, 2004.

21. Minnesota

154. Minnesota Public Utilities Commission (Docket No. P3009, 3052, 5096, 421, 3017/PA-99-1192), on behalf of US WEST Communications, Inc., rebuttal affidavit regarding the effects of the proposed Qwest-US West merger on economic welfare. Filed January 14, 2000.
155. Minnesota Public Utilities Commission (Docket No. P3009, 3052, 5096, 421, 3017/PA-99-1192), direct testimony regarding the effects of the proposed Qwest-US West merger on economic welfare. Filed March 29, 2000.
156. Minnesota Public Utilities Commission (PUC Docket No. P-421/C1-01-1372, OAH Docket No. 7-2500-14487-2) on behalf of Qwest Corporation, economic aspects of separate affiliate requirements, affidavit filed December 28, 2001, Surrebuttal Affidavit filed January 16, 2002.

22. Mississippi

157. Mississippi Public Service Commission (Docket No. 95-UA-313) on behalf of BellSouth Telecommunications, Inc. d/b/a South Central Bell Telephone Company, rebuttal testimony addressing cost issues, as they pertain to price regulation raised in the direct testimony by intervenors. Filed October 13, 1995.
158. Mississippi Public Service Commission (Docket No. 95-UA-358) on behalf of BellSouth Telecommunications, Inc. d/b/a South Central Bell Telephone Company, testimony regarding universal service fund issues. Filed January 17, 1996. Rebuttal testimony filed February 28,

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- 1996.
159. Mississippi Public Service Commission (Docket No. 97-AD-0321), on behalf of BellSouth Long Distance, Inc., direct testimony regarding the likely economic benefits to consumers in Mississippi from entry by BellSouth into the interLATA long distance market. Filed July 1, 1997. Rebuttal testimony filed September 29, 1997.
 160. Mississippi Public Service Commission (Docket No. 97-AD-544), on behalf of BellSouth Telecommunications: rebuttal testimony regarding economic issues of costing and pricing unbundled network elements. Filed March 13, 1998.
 161. Mississippi Public Service Commission (Docket No. 98-AD-035), on behalf of BellSouth Telecommunications: direct testimony regarding universal service funding and price benchmark issues. Filed February 23, 1998, rebuttal testimony filed March 6, 1998.
 162. Mississippi Public Service Commission (Docket No. 99-AD-421), on behalf of BellSouth Telecommunications, direct testimony regarding intercarrier compensation for Internet-bound traffic, filed October 20, 1999. Rebuttal testimony filed November 12, 1999.
 163. Mississippi Public Service Commission (Docket No. 97-AD-321), on behalf of BellSouth Telecommunications, Inc.: local competition in Mississippi and BellSouth's performance measurements plan to support its application for interLATA authority. Rebuttal testimony filed August 2, 2001.

23. Montana

164. Montana Public Service Commission (Docket No. 90.8.46) on behalf of US West Communications: theoretical and historical analysis of incentive regulation plans in telecommunications. Filed October 4, 1990.
165. Montana Public Service Commission (Docket No. 90.12.86) on behalf of US West Communications: economic analysis of a proposed incentive regulation plan. Filed November 4, 1991. Additional testimony filed January 15, 1992.
166. Montana Public Service Commission (Docket No. D99.8.200), on behalf of US West Communications, Inc., rebuttal testimony regarding the effects of the proposed Qwest-US West merger on economic welfare. Filed February 22, 2000.
167. Montana Department of Public Service Regulation (Docket No. D2000.6.89), on behalf of US West Communications, Inc., direct testimony regarding efficient intercarrier compensation for Internet-bound traffic. Filed July 24, 2000. Rebuttal testimony filed February 7, 2001.
168. Montana Department of Public Service Regulation (Docket No. D2000.8.124), on behalf of Qwest Corporation., direct testimony in arbitration with TouchAmerica regarding efficient intercarrier compensation for Internet-bound traffic. Filed October 20, 2000. Rebuttal testimony filed December 20, 2000.
169. Montana Public Service Commission (Docket No. D2002.12.153) on behalf of Qwest Long Distance Corp.: rebuttal testimony regarding alleged anticompetitive practices in long distance services. Filed July 18, 2003.

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24. Nebraska

170. Nebraska Public Service Commission, on behalf of US WEST, (Application No. C-1628), economic analysis of local exchange and exchange access pricing, direct testimony filed October 20, 1998; reply testimony filed November 20, 1998.
171. Nebraska Public Service Commission, *In the Matter of the Petition of Sprint Communications Company L.P. for Arbitration of Interconnection Rates, Terms, Conditions, and Related Arrangements with US WEST Communications, Inc. N/K/A Qwest Corporation*, (Docket No. C-2328), Direct testimony regarding intercarrier compensation for Internet-bound traffic filed September 25, 2000. Rebuttal testimony filed October 4, 2000.

25. Nevada

172. United States District Court, District of Nevada (Case No. CV-S-99-1796-KJD(RJJ) on behalf of Broadwing Communications Services, Inc., affidavit regarding damages from alleged misuse of trade secret information. Filed December 28, 2000.

26. New Hampshire

173. New Hampshire Public Service Commission (Docket 89-010)) on behalf of New England Telephone & Telegraph Company: appropriate level and structure of productivity adjustments in a proposed price regulation plan. Filed March 3, 1989.
174. New Hampshire Public Service Commission, (Docket DE 90-002), on behalf of New England Telephone & Telegraph Company: the appropriate relationship between carrier access and toll prices. Filed May 1, 1992. Reply testimony filed July 10, 1992. Rebuttal testimony filed August 21, 1992.
175. Science, Technology and Energy Committee of the New Hampshire House of Representatives on behalf of New England Telephone Company, "An Economic Perspective on New Hampshire Senate Bill 77," an analysis of resale of intraLATA toll services. April 6, 1993
176. New Hampshire Public Service Commission, (Docket DE 96-252) on behalf of NYNEX: economic analysis of costs avoided from resale of local exchange services. Filed October 1, 1996.
177. New Hampshire Public Service Commission (Docket DE 96-220) on behalf of NYNEX, testimony regarding the economic effects of the proposed merger between Bell Atlantic and NYNEX. Filed October 10, 1996.
178. New Hampshire Public Service Commission, (Docket DE 96-252) on behalf of NYNEX: Arbitration of interconnection agreements under the Telecommunications Act of 1996. Filed October 23, 1996.
179. New Hampshire Public Service Commission (Docket No. 97-171, Phase II), on behalf of Bell Atlantic – New Hampshire: direct testimony discussing the basic economic principles regarding costs and prices of interconnection and unbundled network elements, filed March 13, 1998. Rebuttal filed April 17, 1998.

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180. New Hampshire Public Utilities Commission (Docket No. 99-018), on behalf of Bell Atlantic, direct testimony regarding the use of Total Element Long Run Incremental Cost (TELRIC) methodology as the basis for prices in special contracts. Filed April 7, 1999. Rebuttal testimony filed April 23, 1999.
181. New Hampshire Public Utilities Commission (Docket No. DT 02-111) on behalf of Verizon – New Hampshire, rebuttal testimony regarding private line pricing. Filed May 2, 2003.
182. New Hampshire Public Utilities Commission (Docket No. DT 02-165) on behalf of Verizon – New Hampshire, rebuttal testimony regarding Yellow Pages revenue imputation. Filed June 4, 2003. Surrebuttal filed November 10, 2003.

27. New Jersey

183. New Jersey Board of Public Utilities (Docket No. TX90050349) on behalf of New Jersey Bell Telephone Company: theoretical and empirical analysis of the Board's intraLATA compensation policy. Filed December 6, 1990.
184. New Jersey Board of Regulatory Commissioners, (Docket No. TX93060259), Affidavit analyzing statistical evidence regarding the effect of intraLATA competition on telephone prices. Filed October 1, 1993.
185. New Jersey Board of Public Utilities (Docket Nos. TX90050349, TE92111047, TE93060211) on behalf of Bell Atlantic-New Jersey: economic impacts of intraLATA toll competition and regulatory changes required to accommodate competition. Filed April 7, 1994. Rebuttal testimony filed April 25, 1994. Summary Affidavit and Technical Affidavit filed April 19, 1994.
186. New Jersey Board of Public Utilities (Docket No. TX94090388) on behalf of Bell Atlantic - New Jersey: economic analysis of issues regarding proposed presubscription for intraLATA toll traffic in New Jersey. Amended direct testimony filed April 17, 1995. Rebuttal Testimony filed May 31, 1995.
187. New Jersey Board of Public Utilities on behalf of Bell Atlantic - New Jersey: "Economic Competition in Local Exchange Markets," position paper on the economics of local exchange competition filed in connection with arbitration proceedings, August 9, 1996 (with Kenneth Gordon and Alfred E. Kahn).
188. New Jersey Board of Public Utilities (Docket No. TX95120631) on behalf of Bell Atlantic - New Jersey, incremental costs of residential basic exchange service. Filed August 15, 1996. Rebuttal testimony filed August 30, 1996.
189. New Jersey Board of Public Utilities (Docket No. TO96070519) on behalf of Bell Atlantic - New Jersey: evaluation of proxy models of the incremental cost of unbundled network elements, testimony filed September 18, 1996.
190. New Jersey Board of Public Utilities (Docket No. TX95120631) on behalf of Bell Atlantic - New Jersey: economic analysis of the avoided costs from resale of local exchange services. Rebuttal testimony filed September 27, 1996.
191. New Jersey Board of Public Utilities (Docket No. T096080621: MCI/Bell Atlantic Arbitration) on behalf of Bell Atlantic-New Jersey. Rebuttal testimony concerning the pricing of unbundled network elements, November 7, 1996.

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192. New Jersey Board of Public Utilities on behalf of Bell Atlantic - New Jersey (Docket No. T097030166) economic analysis of costs and benefits from Bell Atlantic provision of interLATA services, statement filed March 3, 1997, reply affidavit filed May 15, 1997.
193. New Jersey Board of Public Utilities (Docket No. TX95120631) on behalf of Bell Atlantic - New Jersey: economic analysis of proposed universal service funds. Direct testimony filed September 24, 1997. Rebuttal testimony filed October 18, 1997.
194. New Jersey Board of Public Utilities (BPU Docket No. TO97100808, OAL Docket No. PUCOT 11326-97N) on behalf of Bell Atlantic - New Jersey: economic analysis of imputation rules for long distance services. Direct testimony filed July 8, 1998, rebuttal testimony filed September 18, 1998.
195. The New Jersey Board of Public Utilities (OAL DOCKET Nos. PUCOT 11269-97N, PUCOT 11357-97N, PUCOT 01186-94N AND PUCOT 09917-98N) on behalf of Bell Atlantic - New Jersey: economic issues regarding alleged subsidization of payphone services. Rebuttal testimony filed March 8, 1999; surrebuttal testimony filed June 21, 1999.
196. New Jersey Board of Public Utilities (Docket No. TO 00031063), on behalf of Bell Atlantic-New Jersey, direct testimony regarding the measurement of economic costs of ISP-bound traffic and economic issues concerning intercarrier compensation for such traffic. Filed April 28, 2000. Rebuttal testimony filed May 5, 2000.
197. New Jersey Board of Public Utilities (Docket No. TO 99120934), on behalf of Bell Atlantic-New Jersey, direct testimony regarding reclassification of services as competitive. Filed May 18, 2000.
198. New Jersey Board of Public Utilities (Docket No. TO00060356), on behalf of Bell Atlantic-New Jersey, affidavit regarding the measurement of economic costs for unbundled network elements. Filed July 28, 2000.
199. The New Jersey Board of Public Utilities (Docket No. TO01020095), on behalf of Verizon-New Jersey, panel testimony regarding parameters in an incentive regulation plan. Filed February 15, 2001. Rebuttal filed June 15, 2001. Supplemental rebuttal filed September 25, 2001.
200. The New Jersey Board of Public Utilities (Docket No. TO01020095), on behalf of Verizon-New Jersey, panel testimony regarding measurement of cross-subsidies. Filed February 15, 2001. Rebuttal filed June 15, 2001.
201. The New Jersey Board of Public Utilities (Docket No. TO01020095), on behalf of Verizon-New Jersey, panel testimony regarding reclassification of business services as competitive. Filed February 15, 2001. Rebuttal filed June 15, 2001.
202. New Jersey Board of Public Utilities (Docket No. TT97120889), on behalf of Verizon - New Jersey, updated rebuttal testimony (with Michael Falkiewicz) regarding reclassification of directory assistance services as competitive, filed February 13, 2003.
203. New Jersey Public Utilities Commission on behalf of Verizon New Jersey, Direct Testimony regarding forecasts of incremental hot cut demand, filed December 10, 2003.
204. New Jersey Board of Public Utilities (Docket No. T003090705), on behalf of Verizon New Jersey. Rebuttal testimony regarding geographic market definition in applying the FCC's switching triggers. Filed February 26, 2004.
205. New Jersey Board of Public Utilities on behalf of Verizon New Jersey, Rebuttal Panel Testimony regarding forecasts of incremental hot cut demand, filed February 27, 2004.

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28. New Mexico

206. New Mexico Public Regulation Commission (Case No. 3131), On behalf of U S WEST Communications, direct testimony regarding intercarrier compensation for Internet-bound traffic, filed October 14, 1999. Rebuttal testimony filed October 18, 1999.
207. New Mexico Public Regulation Commission (Utility Case No. 3147), on behalf of US West Communications, Inc., direct testimony regarding efficient pricing and policies towards investment and new service implementation, filed December 6, 1999, rebuttal testimony filed December 28, 1999.
208. New Mexico Public Regulation Commission, on behalf of US West Communications, Inc., direct testimony regarding pricing flexible and alternatives to rate of return regulation, filed December 10, 1999.
209. New Mexico Public Regulation Commission (Case No. 3008), On behalf of U S WEST Communications, rebuttal testimony regarding local exchange rate levels and structure, filed May 19, 2000.
210. New Mexico Public Regulation Commission (Case No. 3225), on behalf of Qwest Corporation, direct testimony regarding the subsidy in existing telephone rates. Filed August 18, 2000.
211. New Mexico Public Regulation Commission (Case No. 3300), on behalf of Valor Telecommunications of New Mexico, LLC, rebuttal testimony regarding the subsidy in existing telephone rates. Filed October 19, 2000.

29. New York

212. New York State Public Service Commission (Case 28961 - Fifth Stage) on behalf of New York Telephone Company: appropriate level and structure of productivity adjustments in a proposed price regulation plan. Filed September 15, 1989.
213. Testimony before the United States District Court, Eastern District of New York on behalf of Jancyn Manufacturing Corp., in *Jancyn Manufacturing Corp. v. The County of Suffolk*. Commercial damages. Depositions: September 19, 1991, November 22, 1993; Testimony and Cross-Examination: January 11, 1994.
214. New York Public Service Commission (Case No. 28425) on behalf of New York Telephone Company, "Costs and Benefits of IntraLATA Presubscription," (with T.J. Tardiff). Filed May 1, 1992.
215. New York State Public Service Commission (Case 92-C-0665, Proceeding on Motion of the Commission to Investigate Performance-Based Incentive Regulatory Plans for New York Telephone Company) on behalf of New York Telephone Company: appropriate level and structure of productivity adjustments and competitive pricing safeguards in a proposed incentive regulation plan. Filed as part of panel testimony, October 3, 1994.
216. New York Public Service Commission (Case 94-C-0017) on behalf of New York Telephone Company, testimony regarding competition and market power in intrastate toll markets. Filed August 1, 1995.
217. New York Public Service Commission (Case Nos. 95-C-0657, 94-C-0095, 91-C-1174) on behalf

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- of New York Telephone Company, costing principles for resold services. Filed May 31, 1996. Costing and pricing principles for unbundled network elements. Filed June 4, 1996. Rebuttal testimony filed July 15, 1996.
218. New York Public Service Commission (Case Nos. 93-C-0451 and 91-C-1249) on behalf of New York Telephone Company, statistical issues in the calculation of damages in the provision of Mass Announcement Services: Rebuttal testimony filed July 23, 1996.
219. New York Public Service Commission (Case 96-C-0603) on behalf of NYNEX and Bell Atlantic, *Initial Panel Testimony*, regarding the economic effects of the proposed merger between Bell Atlantic and NYNEX. Filed November 25, 1996. *Reply Panel Testimony* filed December 12, 1996.
220. Affidavit to the U.S. District Court, Southern District of New York, on behalf of Multi Communication Media Inc., *Multi Communications Media Inc., v. AT&T and Trevor Fischbach*, (96 Civ. 2679 (MBM)) regarding the application of the filed tariff doctrine to contract tariffs in telecommunications. Filed December 27, 1996.
221. New York Public Service Commission on behalf of New York Telephone Company, "Competitive Effects of Allowing NYNEX To Provide InterLATA Services Originating In New York State," public interest analysis of NYNEX's proposed entry into in-region long distance service. Filed February 18, 1997 (with Harold Ware and Richard Schmalensee).
222. State of New York Public Service Commission (Case 94-C-0095 and 28425), on behalf of NYNEX, *Initial Panel Testimony*: direct testimony regarding InterLATA Access Charge Reform. Filed May 8, 1997. *Rebuttal Panel Testimony* filed July 8, 1997.
223. State of New York Public Service Commission (Cases 95-C-0657, 94-C-0095, 91-C-1174 and 96-C-0036), on behalf of Bell Atlantic, *Panel Testimony of Bell Atlantic – New York on Costs and Rates for Miscellaneous Phase 3 Services*: panel testimony regarding statistical sampling issues in cost studies for non-recurring charges. Filed March 18, 1998. Rebuttal filed June 3, 1998.
224. New York Public Service Commission, (Case 98-C-1357), on behalf of Bell Atlantic-New York, Panel Testimony on costs for wholesale services, Panel Testimony filed February 7, 2000. Panel Rebuttal Testimony filed October 19, 2000.
225. New York Public Service Commission, (Case 00-C-1945), on behalf of Verizon-New York, **Panel Testimony on price regulation**, filed May 15, 2001.
226. New York Public Service Commission, (Case 00-C-1945), on behalf of Verizon-New York, **Panel Testimony on the New York competitive marketplace**, filed May 15, 2001.
227. American Arbitration Association, New York, *MCI WorldCom Communications Inc. v. Electronic Data Systems, Corporation*, Expert Report on prices and incentives in a disputed contract filed June 25, 2001. Supplemental Expert Report filed July 13, 2001.
228. New York Public Service Commission (Case 01-C-0767), on behalf of Verizon-New York, panel testimony regarding incremental costs and pricing of mobile interconnection services. Filed October 31, 2001.
229. New York Public Service Commission, (Case 00-C-1945), economic issues in renewing the New York incentive regulation plan, (panel testimony), filed February 11, 2002.
230. American Arbitration Association, on behalf of Verizon – New York, direct testimony regarding events in telecommunications markets affecting employment. February 2003.

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231. American Arbitration Association (Case No: 50-T-180-00458-02), *Global Crossing USA, Inc. v. Softbank Corp.*, on behalf of Softbank Corp., damage calculations regarding undersea optical fiber capacity. Direct and Supplemental direct testimonies filed July 2003.
232. New York Public Service Commission, (Case 02-C-1425), on behalf of Verizon New York, forecasts of incremental hot cut demand (panel testimony), filed October 24,2003.

30. North Carolina

233. North Carolina Utilities Commission (Docket No. P-7, Sub 825; P-10, Sub 479) on behalf of Carolina Telephone and Telegraph Company and Central Telephone Company, direct and rebuttal testimony regarding price cap regulation for small telephone companies, February 9, 1996.
234. North Carolina Utilities Commission (Docket No. P-55, Sub1022) on behalf of BellSouth Long Distance, Inc.: direct testimony regarding the likely economic benefits to consumers in North Carolina from entry by BellSouth into the interLATA long distance market. Filed August 5, 1997. Rebuttal testimony filed September 15, 1997.
235. North Carolina Utilities Commission (Docket No. P-100, SUB 133d), on behalf of BellSouth Telecommunications: direct testimony on the proper economic basis for determining costs and prices of interconnection, unbundled network elements, and operating support systems. Filed December 15, 1997. Rebuttal filed March 9, 1998.
236. North Carolina Utilities Commission (Docket No. P-100, SUB 133g), on behalf of BellSouth Telecommunications: direct testimony on appropriate economic principles for sizing the state universal service fund. Filed February 16, 1998. Rebuttal filed April 13, 1998.
237. North Carolina Utilities Commission, *In re: Petition for Arbitration of ITC^DELTA COM Communications, Inc., with BellSouth Telecommunications, Inc., Pursuant to the Telecommunications Act of 1996*, (Docket No. P-500, Sub 10), testimony regarding economic interconnection issues, filed July 9, 1999.
238. North Carolina Utilities Commission, *In the Matter of Bell South Telecommunications, Inc., Complainant vs. US LEC of North Carolina, Respondent*, (Docket No. P-561, Sub 10), rebuttal testimony regarding economic efficiency and reciprocal compensation. Filed July 30, 1999.
239. North Carolina Utilities Commission (Docket No. P-100, SUB 133k), on behalf of BellSouth Telecommunications: rebuttal testimony regarding properties of a service quality performance assurance plan. Filed May 21, 2001.
240. North Carolina Utilities Commission (Docket No. P-55, SUB 1022), on behalf of BellSouth Telecommunications: rebuttal testimony regarding status of local competition in North Carolina. Filed October 8, 2001.

31. North Dakota

241. North Dakota Public Service Commission, on behalf of US WEST Communications, rebuttal testimony in support of US WEST's filing for a residential basic local service rate increase, filed May 30, 2000.

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32. Ohio

242. The Public Utilities Commission of Ohio (Case No. 94-1695-TP-ACE) on behalf of Cincinnati Bell Telephone Company: economic analysis of terms and conditions for efficient local competition. Filed May 24, 1995.
243. Ohio Public Utility Commission (Case No. 96-899-TP-ALT) on behalf of Cincinnati Bell Telephone Company: direct testimony regarding CBT's proposed rate rebalancing and price regulation plan. Filed February 19, 1997.
244. Ohio Public Utility Commission (Case No. 97-152-TP-ARB), on behalf of Cincinnati Bell Telephone Company: direct testimony regarding the application of MCI Telecommunications Corporation Petition for Arbitration Pursuant to Section 252 (b) of the Telecommunications Act of 1996. Filed April 2, 1997.
245. Ohio Public Utility Commission (Docket No. 98-1398-TP-AMT), on behalf of Bell Atlantic and GTE, rebuttal testimony concerning economic effects of the proposed merger of Bell Atlantic and GTE. Filed June 16, 1999, substitute rebuttal testimony filed October 12, 1999.

33. Oregon

246. Oregon Public Utility Commission (ARB 154) on behalf of US WEST Communications, direct testimony regarding intercarrier compensation for ISP-bound traffic, November 1, 1999, rebuttal testimony filed November 5, 1999.

34. Pennsylvania

247. Pennsylvania Public Utility Commission, (Docket No. P-009350715), on behalf of Bell Atlantic: a study of inflation offsets in a proposed price regulation plan. Filed October 1, 1993. Rebuttal testimony filed January 18, 1994.
248. Pennsylvania Public Utility Commission, (Docket No. I-940034) on behalf of Bell Atlantic: issues regarding proposed presubscription for intraLATA toll traffic. Filed as part of panel testimony, December 8, 1994. Reply testimony filed February 23, 1995. Surrebuttal testimony filed March 16, 1995.
249. *US WATS v. AT&T*: Retained by counsel for US WATS, a reseller of AT&T long distance services, plaintiff in an antitrust suit alleging monopolization and conspiracy in business long distance markets. Antitrust liability and damages. Confidential Report, August 22, 1995. Depositions September 30, October 1, October 12, December 3, 1995. Testimony October 18-20, 25-27, 30, 1995. Rebuttal testimony December 4, December 11, 1995.
250. Pennsylvania Public Utility Commission (Docket Nos. A-310203F0002, A-310213F0002, A-310236F0002 and A-310258F0002), on behalf of Bell Atlantic - Pennsylvania: rebuttal testimony to evaluate costing and pricing principles and cost models. Filed March 21, 1996.
251. Pennsylvania Public Utility Commission (Docket No. P-00961024), on behalf of Commonwealth Telephone Company: economic appraisal of a price cap regulation proposal, Direct testimony filed April 15, 1996. Rebuttal testimony filed July 19, 1996.

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252. Pennsylvania Public Utility Commission (Docket No. R-00963550), on behalf of Bell Atlantic - Pennsylvania: economic consequences of rate rebalancing, Direct testimony filed April 26, 1996. Rebuttal testimony filed July 5, 1996.
253. Pennsylvania Public Utility Commission (Docket No. R-963550 C0006), on behalf of Bell Atlantic - Pennsylvania: economic consequences of rate rebalancing, Direct testimony filed August 30, 1996.
254. Pennsylvania Public Utility Commission (Docket No. A-310258F0002 - Interconnection Arbitration, Eastern Teleologic Corporation/Bell Atlantic) on behalf of Bell Atlantic-Pennsylvania, direct and rebuttal testimony on economic costs of interconnection and unbundled network elements, September 23, 1996.
255. Pennsylvania Public Utility Commission, on behalf of Bell Atlantic-Pennsylvania, statement regarding costs and benefits from Bell Atlantic entry into interLATA telecommunications markets. Filed February 10, 1997. Rebuttal testimony filed March 21, 1997.
256. Pennsylvania Public Utility Commission (Docket No. I-00960066), on behalf of Bell Atlantic: direct testimony providing an economic framework for the intrastate carrier switched access rates charged by Bell Atlantic. Filed June 30, 1997. Rebuttal testimony filed July 29, 1997. Surrebuttal testimony filed August 27, 1997.
257. Pennsylvania Public Utility Commission (Docket No. I-00940035), on behalf of Bell Atlantic: direct testimony regarding the relationship between access charge reform and universal service funding. Filed October 22, 1997.
258. Pennsylvania Public Utility Commission (Docket No. P-00971307), on behalf of Bell Atlantic: direct testimony concerning the classification of Bell Atlantic's business services in Pennsylvania as competitive and the calculation of an imputation price floor for those services. Filed February 11, 1998. Rebuttal filed February 18, 1998.
259. Pennsylvania Public Utility Commission (Docket No. P-00981410), on behalf of The United Telephone Company of Pennsylvania: direct testimony regarding role of productivity offset in a price cap plan, filed October 16, 1998. Rebuttal testimony filed February 4, 1999.
260. Pennsylvania Public Utility Commission, on behalf of Bell Atlantic-Pennsylvania: A report entitled "Promises Fulfilled; Bell Atlantic-Pennsylvania's Infrastructure Development." Filed January 15, 1999 (with Charles J. Zarkadas, Agustin J. Ros, and Jaime C. d'Almeida).
261. Pennsylvania Public Utility Commission (Docket Nos. A-310200F0002, A-311350F0002, A-310222F0002, A-310291F0003), on behalf of Bell Atlantic Corporation and GTE Corporation, rebuttal testimony regarding economic issues raised in the proposed merger of Bell Atlantic and GTE. Filed April 22, 1999.
262. Pennsylvania Public Utility Commission (Docket No. A-310630F0002), on behalf of Bell Atlantic, direct testimony regarding the measurement of economic costs of ISP-bound traffic and economic issues concerning intercarrier compensation for such traffic. Filed April 14, 2000. Rebuttal testimony filed April 21, 2000.
263. Pennsylvania Public Utility Commission, (Docket No. M-00001435) on behalf of Verizon-Pennsylvania, Inc.: affidavit regarding the public interest benefits of Verizon entry into interLATA services. Filed January 8, 2001.
264. Pennsylvania Public Utility Commission (Docket No. P-00981449), on behalf of Verizon North, testimony regarding parameters in a Chapter 30 price cap plan. Filed October 31, 2000.

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Rebuttal testimony filed February 20, 2001.

265. **Pennsylvania Public Utility Commission, (Docket No. P-00032020), on behalf of Commonwealth Telephone Company.** Affidavit regarding exogenous events in price cap plans. Filed February 3, 2003.
266. **Pennsylvania Public Utility Commission, (Docket No. P-00930715F0002), on behalf of Verizon – Pennsylvania.** Rebuttal testimony regarding broadband development and productivity growth in the context of a price cap plan. Filed February 4, 2003.
267. **Pennsylvania Public Utility Commission on behalf of Verizon-PA Inc. and Verizon North Inc.,** surrebuttal testimony (proprietary) to support Verizon-PA rate rebalancing plan. Filed August 4, 2003.
268. **Pennsylvania Public Utility Commission (Docket No. P-00951005) on behalf of the Frontier Companies, testimony regarding a price regulation plan.** November 7, 2003.
269. **Pennsylvania Public Utility Commission (Docket No. I-00030099) on behalf of Verizon Pennsylvania,** rebuttal testimony regarding geographic market definition for unbundled network elements. January 20, 2004.
270. **Pennsylvania Public Utility Commission (Docket No. M-0031754) on behalf of Verizon Pennsylvania,** declaration regarding forecasts of incremental hot cuts. Filed January 28, 2004.

35. Rhode Island

271. **Rhode Island Public Utilities Commission (Docket No. 1997) on behalf of New England Telephone & Telegraph Company, “Rhode Island Price Regulation Plan,”** analysis of proposed price regulation plan and evidence of the effects of incentive regulation on prices and infrastructure development. Filed September 30, 1991.
272. **Rhode Island Public Utilities Commission on behalf of NYNEX (Docket No. 2252),** testimony addressing the economic conditions under which competition in the local exchange and intraLATA markets will bring benefits to customers. Direct testimony, November 17, 1995.
273. **Rhode Island Public Utilities Commission (Docket No. 2370), on behalf of New England Telephone and Telegraph Company, D/B/A NYNEX: economic review and revision of the Rhode Island price cap plan.** Direct testimony, February 23, 1996. Rebuttal testimony filed June 25, 1996.
274. **Rhode Island Public Utilities Commission, on behalf of Bell Atlantic – Rhode Island: direct testimony discussing basic economic principles regarding costs and prices of interconnection and unbundled network elements.** Filed November 25, 1997.
275. **Rhode Island Public Utilities Commission (Docket No. 2681), on behalf of Bell Atlantic-Rhode Island: rebuttal testimony regarding costs for OSSs, filed September 18, 1998.**
276. **Rhode Island Public Utilities Commission (Docket No. 2681), on behalf of Bell Atlantic:** rebuttal testimony regarding entry into the local services telecommunications market. Filed January 15, 1999.
277. **Rhode Island Public Utilities Commission (Docket No. 2681), on behalf of Bell Atlantic Rhode Island, direct testimony regarding incremental costs and switched access rates.** Filed October 22, 1999.
278. **Rhode Island Public Utilities Commission (Docket No. 2681), on behalf of Verizon Rhode**

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Island, direct testimony regarding incremental costs and switched access rates. Filed May 1, 2002.

279. Rhode Island Public Utilities Commission (Docket No. 3179), on behalf of Verizon Rhode Island, direct testimony regarding alternative regulation. Filed July 1, 2002. Rebuttal Testimony filed October 22, 2003.
280. Rhode Island Public Utilities Commission on behalf of Verizon Rhode Island, Direct Testimony regarding forecasts of incremental hot cut demand, filed December 8, 2003.

36. South Carolina

281. South Carolina Public Service Commission, on behalf of BellSouth Long Distance, Inc., (Docket No. 97-101-C) : direct testimony regarding the probable economic benefits to consumers in South Carolina from entry by BellSouth into the interLATA long distance market. Filed April 1, 1997. Rebuttal testimony filed June 30, 1997.
282. South Carolina Public Service Commission (Docket No. 97-374-C), on behalf of BellSouth Telecommunications, Inc.: rebuttal testimony concerning general economic principles for the pricing and costing of interconnection and unbundled network elements. Filed November 25, 1997.
283. South Carolina Public Service Commission (Docket No. 97-124-C), on behalf of BellSouth Telecommunications, Inc.: rebuttal testimony concerning economic principles for pricing interconnection services supplied to payphone providers. Filed December 7, 1998.
284. South Carolina Public Service Commission, *In re: Petition for Arbitration of ITC^DELTACOM Communications, Inc., with BellSouth Telecommunications, Inc., Pursuant to the Telecommunications Act of 1996*, (Docket No 1999-259-C), on behalf of BellSouth Telecommunications, testimony regarding economic interconnection issues. Filed August 25, 1999.
285. South Carolina Public Service Commission (Docket No. 2001-209-C), on behalf of BellSouth Telecommunications, Inc.: economic aspects of BellSouth's application to provide long distance services in South Carolina. Rebuttal testimony filed July 16, 2001.
286. South Carolina Public Service Commission (Docket No. 2001-209-C), on behalf of BellSouth Telecommunications, Inc.. Direct testimony regarding statistical issues in performance penalty plans, filed March 5, 2003.
287. Public Service Commission of South Carolina, Docket Nos. 2002-367-C and 2002-408-C on behalf of BellSouth Telecommunications, Inc.. Economic interpretation of "abuse of market position" and "inflation-based index" in legislation. Direct testimony filed July 23, 2003, Responsive testimony filed July 30, 2003.

37. Tennessee

288. Tennessee Public Service Commission (*In re: The Promulgation of Agency Statements of General Applicability to Telephone Companies That Prescribe New Policies and Procedures for Their Regulation*) on behalf of South Central Bell Telephone Company: theoretical analysis and appraisal of the proposed Tennessee Regulatory Reform Plan. Filed February 20, 1991.

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289. Tennessee Public Service Commission (Docket No. 95-02499) on behalf of BellSouth Telecommunications, Inc. d/b/a BellSouth Telephone Company, testimony addressing the definition and measurement of the cost of supplying universal service. (Direct testimony filed October 20, 1995. Rebuttal testimony filed October 25, 1995). Additional testimony regarding economic principles underlying the creation of a competitively-neutral universal service fund: direct testimony filed October 30, 1995. Rebuttal testimony filed November 3, 1995.
290. Tennessee Public Service Commission (In re: The Avoidable Costs of Providing Bundled Services for Resale by Local Exchange Telephone Companies) on behalf of BellSouth Telecommunications, Inc. (Docket No. 96-00067): economic costing and pricing principles for resold and unbundled services. May 24, 1996. Refiled with the Tennessee Regulatory Authority (Docket No. 96-00067), August 23, 1996.
291. Tennessee Regulatory Authority (In re: The Avoidable Costs of Providing Bundled Services for Resale by Local Exchange Telephone Companies) on behalf of BellSouth Telecommunications, Inc. (Docket No. 96-01331): economic costing and pricing principles for resold and unbundled services. Filed September 10, 1996. Rebuttal testimony filed September 20, 1996.
292. Tennessee Regulatory Authority (In re: Petition to Convene a Contested Case Proceeding to Establish "Permanent Prices" for Interconnection and Unbundled Network Elements) on behalf of BellSouth Telecommunications, Inc. (Docket No. 97-01262): rebuttal testimony regarding costing principles on which to base prices of unbundled network elements. Filed October 17, 1997.
293. Tennessee Regulatory Authority (Docket No. 97-00888), on behalf of BellSouth Telecommunications, Inc.: direct testimony regarding appropriate economic principles for sizing the state universal service fund, Filed April 3, 1998. Rebuttal filed April 9, 1998.
294. Tennessee Regulatory Authority (Docket No. 99-00377), on behalf of BellSouth Telecommunications, direct testimony regarding intercarrier compensation for Internet-bound traffic in Arbitration with ICG Telecom Group, filed October 15, 1999. Rebuttal testimony filed October 25, 1999.
295. Tennessee Regulatory Authority (Docket No. 99-00430), on behalf of BellSouth Telecommunications, direct testimony regarding intercarrier compensation for Internet-bound traffic in Arbitration with ITC-DeltaCom, filed October 15, 1999. Rebuttal testimony filed October 25, 1999.
296. Tennessee Regulatory Authority, (Docket No. 97-00409), on behalf of BellSouth Telecommunications, rebuttal testimony regarding efficient pricing for pay telephone services. Filed October 6, 2000.
297. Tennessee Regulatory Authority, (Docket No. 01-00193), on behalf of BellSouth Telecommunications: rebuttal testimony regarding performance measurements and self-effectuating penalties. Filed August 10, 2001.

38. Texas

298. *Darren B. Swain, Inc. d/b/a U.S. Communications v. AT&T Corp.*, United States District Court for the Northern District of Texas, Dallas Division, Civil Action 394CV-1088D: Retained by counsel for U.S. Communications, a reseller of AT&T long distance services, plaintiff in an

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antitrust suit alleging monopolization in inbound business long distance markets. Antitrust liability and damages. Confidential Report, November 17, 1995.

299. **Public Utility Commission of Texas (Docket No. 8585) on behalf of Southwestern Bell Telephone Company:** analysis of Texas intrastate switched access charges and bypass of switched access. Filed December 18, 1989.
300. **Texas Public Utility Commission (Docket No. 21982), on behalf of Southwestern Bell Telephone Company,** direct testimony regarding CLEC's rate for transport and termination of ISP-bound traffic. Filed March 13, 2000. Rebuttal testimony filed March 31, 2000.
301. **Texas Public Utility Commission (Docket No. 28607), on behalf of SBC Texas.** Direct testimony regarding geographic market definition for local telephone service. Filed February 9, 2004. Rebuttal testimony filed March 19, 2004.

39. Utah

302. **Utah Public Service Commission (Docket No. 99-049-41), on behalf of US West Communications, Inc.,** rebuttal testimony regarding the effects of the proposed Qwest-US West merger on economic welfare. Filed February 28, 2000.
303. **Utah Public Service Commission (Docket No. 00-999-05), on behalf of Qwest Corporation,** direct testimony regarding intercarrier compensation for Internet-bound traffic. Filed February 2, 2001. Rebuttal testimony filed March 9, 2001.
304. **Utah Public Service Commission on behalf of Qwest Corporation,** direct testimony regarding productivity offsets in a price cap plan. Filed October 5, 2001. Rebuttal testimony filed November 22, 2001.

40. Vermont

305. **Vermont Public Service Board, Petition for Price Regulation Plan of New England Telephone on behalf of New England Telephone Company, Dockets 5700/5702:** analysis of appropriate parameters for a price regulation plan. Filed September 30, 1993. Rebuttal testimony filed July 5, 1994.
306. **Vermont Public Service Board, (Open Network Architecture Docket No. 5713) on behalf of New England Telephone Company,** economic principles for local competition, interconnection and unbundling, direct testimony filed June 7, 1995. Rebuttal testimony filed July 12, 1995.
307. **Vermont Public Service Board (Docket No. 5713), on behalf of Bell Atlantic – Vermont,** direct testimony regarding economic principles for setting prices and estimating costs for interconnection. Filed July 31, 1997. Rebuttal testimony filed January 9, 1998. Surrebuttal testimony filed February 26, 1998. Supplemental rebuttal testimony filed March 4, 1998.
308. **Vermont Public Service Board (Docket No. 5900) on behalf of NYNEX,** testimony regarding the economic effects of the proposed merger between Bell Atlantic and NYNEX. Filed September 6, 1996.
309. **Vermont Public Service Board (Docket no. 6000), on behalf of Bell Atlantic:** direct testimony examining the likely benefits from adopting a price regulation plan. Filed January 19, 1998.
310. **Vermont Public Service Board (Docket No. 6077), on behalf of Bell Atlantic-Vermont:** rebuttal testimony regarding application of imputation standard, filed November 4, 1998.

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311. Vermont Public Service Board (Docket No. 6167), on behalf of Bell Atlantic, rebuttal testimony regarding reduction of access charges & pricing of new services. Filed May 20, 1999. Supplemental testimony filed May 27, 1999.

41. Virginia

312. Affidavit to the U.S. District Court for the Eastern District of Virginia (Alexandria Division) on behalf of United States Telephone Association, *United States Telephone Association, et al., v. Federal Communications Commission, et al.*, (Civil Action No. 95-533-A) regarding the Section 214 process for local exchange companies providing cable television services. Filed October 30, 1995, (with A.E. Kahn).
313. State Corporation Commission of Virginia (Case No. PUC 950067) on behalf of Bell Atlantic - Virginia, Inc., rebuttal testimony concerning economic standards for the classification of services as competitive for regulatory purposes, January 11, 1996.
314. State Corporation Commission of Virginia, on behalf of Bell Atlantic-Virginia, (Case No. PUC960), direct testimony regarding costing and pricing of interconnection and unbundled network elements. Filed December 20, 1996. Rebuttal testimony filed June 10, 1997 (Case No. PUC970005).
315. State Corporation Commission of Virginia *In re: Joint Petition of Bell Atlantic Corporation and GTE Corporation for approval of agreement and plan of merger*, economic effects of the proposed merger of Bell Atlantic and GTE. File May 28, 1999, rebuttal testimony filed October 8, 1999.
316. Virginia State Corporation Commission, (Case No. PUC000079) on behalf of Bell Atlantic-Virginia, direct testimony regarding intercarrier compensation for Internet-bound traffic in arbitration with Focal Communications Group. Filed April 25, 2000.
317. Virginia State Corporation Commission, (Case No. PUC 000003) on behalf of Bell Atlantic-Virginia, direct testimony regarding efficient pricing of carrier access charges. Filed May 30, 2000.
318. State Corporation Commission of Virginia (Case No. PUC-2003-00091) on behalf of Verizon - Virginia, Inc.. Affidavit concerning pricing of carrier access charges. Filed March 31, 2004.
319. State Corporation Commission of Virginia (Case No. PUC-2004-) on behalf of Verizon - Virginia, Inc.. Affidavit concerning alternative regulation of telecommunications services. Filed July 9, 2004.

42. Washington

320. Washington Public Utilities Commission (Docket No. UT-990300), on behalf of US WEST, regarding US WEST's interconnection arbitration with AirTouch Paging in Washington. Direct testimony filed February 24, 1999; rebuttal testimony filed March 8, 1999.
321. Washington Utilities and Transportation Commission (Docket No. UT-991358), on behalf of US West Communications, Inc., rebuttal testimony regarding the effects of the proposed Qwest-US West merger on economic welfare. Filed February 22, 2000.
322. Washington Utilities and Transportation Commission (Docket No. UT-003006), on behalf of US

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West Communications, Inc., direct testimony regarding intercarrier compensation for internet-bound traffic. Filed April 26, 2000. Rebuttal testimony filed May 10, 2000.

323. Washington Transportation and Utilities Commission, *In the Matter of the Petition of Qwest Corporation for Competitive Classification of Business Services in Specified Wire Centers*, Docket No. UT-000883. Rebuttal testimony regarding economic criteria for classification of services as competitive. Filed October 6, 2000.
324. Washington Utilities and Transportation Commission (Docket No. UT-02-11-20), on behalf of Qwest, rebuttal testimony regarding economic aspects of the sale of Qwest Dex (Yellow Pages). Filed April 17, 2003.

43. West Virginia

325. Public Service Commission of West Virginia (Case No. 94-1103-T-GI) on behalf of Bell Atlantic - West Virginia: economic analysis of issues regarding proposed presubscription for intraLATA toll traffic in West Virginia, March 24, 1995.
326. Public Service Commission of West Virginia (Case Nos. 96-1516-T-PC, 96-1561-T-PC, 96-1009-T-PC, and 96-1533-T-T) on behalf of Bell Atlantic - West Virginia: direct testimony regarding costing and pricing of interconnection and unbundled network elements. Filed February 13, 1997. Rebuttal testimony filed February 20, 1997.
327. Public Service Commission of West Virginia on behalf of Bell Atlantic - West Virginia: economic analysis of issues regarding Bell Atlantic's entry into the interLATA long distance market. Filed March 31, 1997.

44. Wisconsin

328. Wisconsin Public Service Commission, (Docket No. 6720-TI-173) on behalf of SBC Wisconsin, economic analysis of competition for small business customers. Filed October 31, 2003.
329. Wisconsin Public Service Commission, (Docket No. 05-TI-908) on behalf of SBC Wisconsin, geographic market analysis for local exchange service. Filed February 9, 2004.

45. Wyoming

330. Wyoming Public Service Commission (Docket No. 70000-TR-99), on behalf of US West Communications, direct testimony evaluating proposed prices of non-competitive US West services with regards to cost, pricing, competition, & regulation. Filed April 26, 1999.
331. Wyoming Public Service Commission (Docket Nos. 74142-TA-99-16, 70000-TA-99-503, 74037-TA-99-8, 70034-TA-99-4, 74089-TA-99-9, 74029-TA-99-43, 74337-TA-99-2, Record No. 5134), on behalf of US West Communications, rebuttal testimony regarding economic issues arising in the proposed merger between U S WEST and Qwest. Filed April 4, 2000.

Canada

332. Canadian Radio-Television and Telecommunications Commission (Docket No. 1990-73) on behalf of Bell Canada: "The Effect of Competition on U.S. Telecommunications Performance,"

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- (with L.J. Perl). Filed November 30, 1990.
333. Canadian Radio-Television and Telecommunications Commission (Docket No. 92-78) on behalf of Alberta General Telephone: "Lessons for the Canadian Regulatory Structure from the U.S. Experience with Incentive Regulation," and "Performance Under Alternative Forms of Regulation in the U.S. Telecommunications Industry," (with T.J. Tardiff). Filed April 13, 1993.
 334. Canadian Radio-Television and Telecommunications Commission (Application of Teleglobe Canada for Review of the Regulatory Framework of Teleglobe Canada Inc.): on behalf of Teleglobe Canada, Inc., structure of a price regulation plan for the franchised supplier of overseas telecommunications services in Canada. Filed December 21, 1994.
 335. Canadian Radio-Television and Telecommunications Commission, Response to Interrogatory SRCI(CRTC) 1Nov94-906, "Economies of Scope in Telecommunications," on behalf of Stentor. Filed January 31, 1995.
 336. Canadian Radio-Television and Telecommunications Commission, Implementation of Regulatory Framework and Related Issues, Telecom Public Notices CRTC 94-52, 94-56 and 94-58, "Economic Welfare Benefits from Rate Rebalancing," on behalf of Stentor. Filed February 20, 1995.
 337. Canadian Radio-Television and Telecommunications Commission, "Imputation Test to be Applied to Competitive Local Exchange Services," position paper on imputation for local exchange services filed in response to Telecom Public Notice CRTC 95-36 on behalf of Stentor on August 18, 1995.
 338. Canadian Radio-Television and Telecommunications Commission, in response to CRTC Telecom Public Notice CRTC 96-8, "Economic Aspects of Canadian Price Cap Regulation," on behalf of the Stentor companies. Filed June 10, 1996.
 339. Canadian Radio-Television and Telecommunications Commission, in response to CRTC Telecom Public Notice CRTC 96-8, "Economic Aspects of Price Cap Regulation for MTS NetCom Inc.," on behalf of MTS Net Com, Inc. Filed June 10, 1996.
 340. Canadian Radio-Television and Telecommunications Commission, in response to CRTC Telecom Public Notice CRTC 2000-108, "MTS Communications Inc., Recovery of 2000 and 2001 Income Tax Expense" on behalf of MTS Communications, Inc. Oral panel testimony, January 11, 2001.
 341. Canadian Radio-Television and Telecommunications Commission (Public Notice CRTC 2001-37) on behalf of Aliant Telecom Inc., Bell Canada, MTS Communications Inc., and Saskatchewan Telecommunications: "Price Cap Review and Related Issues," filed May 31, 2001. Rebuttal evidence filed September 20, 2001.

Federal Communications Commission

1988

342. Federal Communications Commission (Docket No. 87-313) on behalf of Bell Communications Research, Inc.: empirical analysis of price cap regulation of interstate access service, entitled "The Impact of Federal Price Cap Regulation on Interstate Toll Customers." Filed March 17, 1988.

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343. Federal Communications Commission (Docket No. 87-313) on behalf of Bell Communications Research, Inc.: "The Impact of the FCC Proposed Price Cap Plan on Interstate Consumers," Filed August 18, 1988. Rebuttal analysis filed November 18, 1988.

1989

344. Federal Communications Commission (Docket No. 87-313) on behalf of Cincinnati Bell Telephone Company, "Incentive Regulation and Estimates of Productivity," (with J. Rohlfs), June 9, 1989.
345. Federal Communications Commission (Docket No. 87-313) on behalf of the United States Telephone Association: "Analysis of AT&T's Comparison of Interstate Access Charges Under Incentive Regulation and Rate of Return Regulation." Filed as Reply Comments regarding the FCC's Report and Order and Second Further Notice of Proposed Rulemaking in CC Docket 87-313, August 3, 1989.
346. Federal Communications Commission (Docket No. 87-313) on behalf of Southwestern Bell Telephone Company, "Taxes and Incentive Regulation," filed as Exhibit 3 to the Reply Comments of Southwestern Bell regarding the FCC's Report and Order and Second Further Notice of Proposed Rulemaking in CC Docket 87-313, August 3, 1989.

1990

347. Federal Communications Commission (Docket 87-313) on behalf of the United States Telephone Association: "Local Exchange Carrier Productivity Offsets for the FCC Price Cap Plan," May 3, 1990.
348. Federal Communications Commission (Docket 87-313) on behalf of the United States Telephone Association: "Productivity Offsets for LEC Interstate Access," June 8, 1990.
349. Federal Communications Commission (Docket 87-313) on behalf of the United States Telephone Association: "Interstate Access Productivity Offsets for Mid-Size Telephone Companies," June 8, 1990.
350. Federal Communications Commission (Docket 87-313) on behalf of the United States Telephone Association: analysis of total factor productivity calculations, entitled "Productivity Measurements in the Price Cap Docket," December 21, 1990.

1991

351. Federal Communications Commission (Docket 87-313) on behalf of BellSouth Corporation, "The Treatment of New Services under Price Cap Regulation," (with Alfred E. Kahn), June 12, 1991.
352. Federal Communications Commission (Docket 91-141, Expanded Interconnection with Local Telephone Company Facilities) on behalf of Bell Atlantic, "Effects of Competitive Entry in the U.S. Interstate Toll Markets." August 6, 1991.
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395. Federal Communications Commission, *In the Matter of Customer Impact of New Access Charges* (CC Docket Nos. 96-262 and 96-45), affidavit on behalf of the United States Telephone Association analyzing long distance price reductions stemming from recent access charge reductions. Filed March 18, 1998.
396. Federal Communications Commission, *In the Matter of MCI Telecommunications Corp. Petition for Prescription of Tariffs Implementing Access Charge Reform* (CCB/CPD 98-12), affidavit on behalf of Bell Atlantic analyzing economic issues in MCI's petition for changes in the level and structure of interstate access charges. Filed March 18, 1998.
397. Federal Communications Commission, Merger of SBC Communications Inc. and Ameritech Corporation, comments on behalf of SBC and Ameritech analyzing the likely effects of the proposed merger on competition. (with R. Schmalensee) Filed July 21, 1998, reply affidavit filed November 11, 1998.
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411. Federal Communications Commission, *In the Matter of Application by Verizon New England Inc., et. al. for Authorization to Provide In-Region, InterLATA Services in Connecticut*, on behalf of Verizon New England, Appendix A, declaration regarding competition in Connecticut and the public interest benefits of interLATA entry, May 24, 2001.
412. Federal Communications Commission, *In the Matter of Application by Verizon Pennsylvania Inc., et. al. for Authorization to Provide In-Region, InterLATA Services in Pennsylvania*, on behalf of Verizon Pennsylvania, Appendix A, declaration regarding competition in Pennsylvania and the public interest benefits of interLATA entry, June 21, 2001.
413. Federal Communications Commission (CC Docket No. 01-92), on behalf of BellSouth Corporation: Reply Declaration (with Aniruddha Banerjee) on a unified regime of inter-carrier compensation (calling party's network pays or bill and keep?). Filed November 5, 2001.
414. Federal Communications Commission (CC Docket No. 01-277), on behalf of BellSouth Corporation: Reply Affidavit on BellSouth's application for interLATA authority in Georgia and Louisiana. Filed November 13, 2001.

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415. Federal Communications Commission (CC Docket Nos. 99-273, 92-105, 92-237), on behalf of BellSouth Corporation, Qwest Communications International, Inc., SBC Communications, Inc., and Verizon Telephone Companies: Affidavit: "Competition and Regulation for Directory Assistance Services" (with Harold Ware) regarding incremental costs and benefits from 411 presubscription. Filed April 1, 2002.
416. Federal Communications Commission (CC Docket Nos. 01-338, 96-98, 98-47), on behalf of BellSouth Corporation: Reply Declaration (with Aniruddha Banerjee, Charles Zarkadas and Agustin Ros) regarding unbundling obligations of local exchange carriers. Filed July 17, 2002.
417. Federal Communications Commission (RM No. 10593) on behalf of BellSouth Corporation, Qwest Corporation, SBC Communications, Inc., and Verizon, regarding pricing flexibility for interstate special access services (with A.E. Kahn), filed December 2, 2002.

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Mexico

421. Mexican Secretariat of Communications and Transport on behalf of Southwestern Bell International Holdings Corporation, affidavit on interconnection regulation (with T.J. Tardiff). Filed October 18, 1995.
422. Comisión Federal de Telecomunicaciones de México ("Cofetel"), "Economic Parameter Values in the Telmex Price Cap Plan," arbitrator's report on behalf of COFETEL and Telmex regarding the renewal of the price cap plan for Telmex, February 15, 1999.
423. Comisión Federal de Telecomunicaciones de México, on behalf of the Commission, "Telmex's 2003-2006 Price Cap Tariff Proposal," expert report regarding the renewal of the price cap plan for Telmex, (with A. Ros, G. Martinez and A. Banerjee), filed December 13, 2002.

New Zealand

424. Commerce Commission of New Zealand on behalf of New Zealand Telecom, "Review of CostQuest Associates' Benchmarking Survey" En banc hearings May 13-17, 2002.
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United States Department of Justice

426. Affidavit to the U.S. Department of Justice on behalf of NYNEX in *United States of America v. Western Electric Company, Inc. and American Telephone and Telegraph Company*, regarding provision of telecommunications services across LATA boundaries for traffic originating or terminating in New York State. Filed August 25, 1994.
427. Affidavit to the U.S. Department of Justice on behalf of SBC Communications Inc. in *United States of America v. Western Electric Company, Inc. and American Telephone and Telegraph Company*, regarding Telefonos de Mexico's (Telmex's) provision of interexchange telecommunications services within the United States. Filed May 22, 1995.
428. Affidavit to the U.S. Department of Justice on behalf of SBC Communications Inc. in *United States of America v. Western Electric Company, Inc. and American Telephone and Telegraph Company*, regarding provision of interexchange telecommunications services to customers with independent access to interexchange carriers. Filed May 30, 1995.

United States Senate

429. Subcommittee on Communications of the Senate Committee on Commerce, Science and Transportation, *Statement* and oral testimony regarding long distance competition and Section 271 of the Telecommunications Act of 1996. Filed March 25, 1998.

Declaration of William E. Taylor, Ph.D.
Proprietary Exhibit WET-2
Docket No. 040353-TP
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Price and Cost Comparisons for BellSouth's PreferredPack Plan Service with Promotional Offerings

Price

PreferredPack Plan (tariff)	\$ [REDACTED]
Subscriber Line Charge	\$ [REDACTED]
Total	\$ [REDACTED]

Cost

Statewide average 1FR rate	\$ [REDACTED]
Subscriber Line Charge	\$ [REDACTED]
Features plus Privacy Director	\$ [REDACTED]
Customer reacquisition	\$ [REDACTED]
Total	\$ [REDACTED]

Margin

Price	\$ [REDACTED]
Cost	\$ [REDACTED]
Margin	\$ [REDACTED]

Unbundled loop UNE rate	\$ [REDACTED]
Port and usage TSLRIC	\$ [REDACTED]
Features plus Privacy Director	\$ [REDACTED]
Customer re-acquisition	\$ [REDACTED]
Total	\$ [REDACTED]

Price	\$ [REDACTED]
Cost	\$ [REDACTED]
Margin	\$ [REDACTED]