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RUTLEDGE, ECENIA, PURNELL & HOFFMAN

PROFESSIONAL ASSOCIATION  
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA  
RICHARD M. ELLIS  
KENNETH A. HOFFMAN  
LORENA A. HOLLEY  
MICHAEL G. MAIDA  
MARTIN P. McDONNELL  
J. STEPHEN MENTON

POST OFFICE BOX 551, 32302-0551  
215 SOUTH MONROE STREET, SUITE 420  
TALLAHASSEE, FLORIDA 32301-1841

TELEPHONE (850) 681-6788  
TELECOPIER (850) 681-6515

R. DAVID PRESCOTT  
HAROLD F. X. PURNELL  
MARSHA E. RULE  
GARY R. RUTLEDGE  
MAGGIE M. SCHULTZ  
GOVERNMENTAL CONSULTANTS  
MARGARET A. MENDUNI  
M. LANE STEPHENS

September 22, 2005

Ms. Blanca Bayo, Director  
Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

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Re: Docket No. 041269-TP

Dear Ms. Bayo:

Enclosed for filing on behalf of US LEC of Florida Inc. ("US LEC") is an original and fifteen copies of the Rebuttal Testimony of Wanda G. Montano.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

Thank you for your assistance with this filing.

Sincerely,



Kenneth A. Hoffman

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Page 2  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the Rebuttal Testimony of Wanda G. Montano, was furnished by U.S. Mail, this 22<sup>nd</sup> day of September, 2005 to the following:

Adam Teitzman  
Michael Barrett  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Michael A. Gross  
Florida Cable Telecommunications Asso.  
246 East 6<sup>th</sup> Avenue  
Suite 100  
Tallahassee, FL 32303

Vicki Gordon Kaufman  
Moyle, Flanigan, et al.  
118 North Gadsden Street  
Tallahassee, FL 32301

Norman H. Horton, Jr.  
Messer, Caparello, et al.  
P. O. Box 1876  
Tallahassee, FL 32302

John Heitmann  
Garret R. Hargrave  
Kelley Drye & Warren, LLP  
Suite 500  
1200 19<sup>th</sup> Street, N.W.  
Washington, DC 20036

Dana Shaffer  
XO Communications, Inc.  
105 Molloy Street, Suite 300  
Nashville, TN 37201

Wanda Montano  
Terry Romine  
US LEC Corp.  
6801 Morrison Boulevard  
Charlotte, NC 28211

Tracy W. Hatch  
AT&T  
101 North Monroe Street  
Suite 700  
Tallahassee, FL 32301

Sonia Daniels  
Docket Manager  
1230 Peachtree Street, N.E.  
4<sup>th</sup> Floor  
Atlanta, GA 30309

Donna Canzano McNulty  
MCI  
1203 Governors Square Boulevard  
Suite 201  
Tallahassee, FL 32301

De O'Roark  
MCI  
6 Concourse Parkway  
Suite 600  
Atlanta, GA 30328

Floyd Self  
Messer, Caparello, et. al.  
P. O. Box 1876  
Tallahassee, FL 32302

Page 3  
September 22, 2005

Steven B. Chaiken  
Supra Telecommunications  
2901 S.W. 149<sup>th</sup> Avenue  
Suite 300  
Miramar, FL 33027

Matthew Feil  
FDN Communications  
2301 Lucien Way  
Suite 200  
Maitland, FL 32751

Nanette Edwards  
ITC DeltaCom Communications, Inc.  
7037 Old Madison Pike  
Suite 400  
Huntsville, Alabama 35806

Susan Masterton  
Sprint Communications Company  
P. O. Box 2214  
Tallahassee, FL 32316-2214

Alan C. Gold  
Gables One Tower  
1320 South Dixie Highway  
Suite 870  
Coral Gables, FL 33146

Raymond O. Manasco, Jr.  
Gainesville Regional Utilities  
P. O. Box 147117  
Station A-138  
Gainesville, FL 32614-7117

Jody Lamar Finklea  
Florida Municipal Power Agency  
P. O. Box 3029  
Tallahassee, FL 32315-3209

Herb Bornack  
Orlando Telephone Systems, Inc.  
4558 S.W. 35<sup>th</sup> Street  
Suite 100  
Orlando, FL 32811

Adam Kupetsky  
WilTel Communications, LLC  
One Technology Center (TC-15)  
100 South Cincinnati  
Tulsa, Oklahoma 74103

Jonathan S. Marashlian  
The Helein Law Group, LLLP  
8180 Greensboro Drive, Suite 700  
McLean, VA 22102

Charles E. Watkins  
Covad Communications Co.  
1230 Peachtree Street, N.E., Suite 1900  
Atlanta, GA 30309

Andrew D. Shore  
BellSouth Telecommunications, Inc.  
150 South Monroe Street, Room 400  
Tallahassee, FL 32301

Azul Tel, Inc.  
2200 South Dixie Highway  
Suite 506  
Miami, FL 33133

Casey Law Firm  
Bill Magness  
98 San Jacinto Blvd., Suite 1400  
Austin, TX 78701

Page 4  
September 22, 2005

Charles A. Guyton, Esq.  
215 South Monroe Street  
Suite 601  
Tallahassee, FL 32301-1804

By:   
Kenneth A. Hoffman

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition to Establish Generic Docket to )  
Consider Amendments to Interconnection )  
Agreement Resulting From Changes of Law )  
\_\_\_\_\_ )

Docket No. 041269-TP

Filed: September 22, 2005

**REBUTTAL TESTIMONY OF**

**WANDA G. MONTANO**

**ON BEHALF OF**

**US LEC OF FLORIDA INC.**

Martin P. McDonnell, Esq.  
Rutledge, Ecenia, Purnell & Hoffmann, P.A.  
P.O. Box 551  
Tallahassee, Florida 3202  
(850) 681-6788 (Telephone)  
(850) 681-6515 (Telecopier)

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1 **Q: PLEASE STATE YOUR NAME FOR THE RECORD.**

2

3 **A:** My name is Wanda G. Montano.

4

5 **Q: ARE YOU THE SAME WANDA G. MONTANO WHO FILED DIRECT**  
6 **TESTIMONY IN THIS DOCKET ON AUGUST 16, 2005 ON BEHALF OF**  
7 **US LEC OF FLORIDA INC. AND THE SOUTHEASTERN**  
8 **COMPETITIVE CARRIERS ASSOCIATION?**

9

10 **A:** Yes.

11

12 **Q: ON WHOSE BEHALF ARE YOU FILING THIS REBUTTAL**  
13 **TESTIMONY?**

14

15 **A:** US LEC of Florida Inc.

16

17 **Q: WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

18

19 **A:** The purpose of my testimony is to respond to certain direct testimony propounded  
20 by BellSouth's witnesses in this docket. Specifically, I will address matters  
21 testified to by Kathy K. Blake and Pamela A. Tipton.

22

23

1 **Q: WHAT PORTIONS OF MS. BLAKE’S TESTIMONY DO YOU WANT TO**  
2 **RESPOND?**

3

4 **A:** I wish to respond to Ms. Blake’s testimony on the transition period process?

5

6 **Q: HOW DO YOU DIFFER WITH MS. BLAKE’S STATEMENTS ABOUT**  
7 **THE TRANSITION PERIOD PROCESS?**

8

9 **A:** Ms. Blake states that “the CLECs apparently believe they are only required to  
10 submit orders before March 10, 2006 ... and not complete other steps necessary to  
11 effectuate a smooth transition...” (Blake Direct Testimony (Issue 31), Page 17,  
12 Lines 8 - 12). As I previously testified, US LEC is certainly willing to cooperate  
13 with BellSouth and provide the necessary orders/conversion worksheets by the  
14 December date that BellSouth has proposed for submitting the initial conversion  
15 orders so long as BellSouth agrees that the pricing for the circuits does not  
16 “convert” until March 10, 2006. BellSouth has been unwilling to make that  
17 agreement. US LEC is concerned that BellSouth will attempt to change the  
18 pricing on the circuits as of the date the conversion spreadsheets are submitted,  
19 which is unacceptable to US LEC and contrary to the FCC’s rules, as I identified  
20 in my Direct Testimony and will discuss in this testimony.

21

22 **Q: WHAT PORTIONS OF MS. TIPTON’S TESTIMONY DO YOU WANT TO**  
23 **RESPOND?**

1

2 **A:** I wish to respond to Ms. Tipton's testimony on the transition period process for  
3 high capacity loops and dedicated transport (Tipton Direct Testimony, (Issue 1),  
4 Page 5, Line 17 though Page 7, Line 3 and Page 9, Line 24 through Page 13, Line  
5 14), and the manner in which BellSouth applied the FCC's definition of "business  
6 lines" to calculate the number of business lines in a wire center for the impairment  
7 analysis (Issue 3, Page 16, Line 11 through Page 18, Line 4 and Issue 4(b), Page  
8 29 Line 24 through Page 39, Line 25).

9

10 **Q: IN MS. TIPTON'S TESTIMONY ON BELLSOUTH'S TRANSITION**  
11 **PROPOSAL, MS. TIPTON DESCRIBES BELLSOUTH'S PROPOSAL**  
12 **THAT A CLEC SUBMIT SPREADSHEETS BY DECEMBER 9, 2005, TO**  
13 **IDENTIFY THE LOOPS AND TRANSPORT THAT THE CLEC WILL BE**  
14 **CONVERTING OR DISCONNECTING IN NON-IMPAIRED WIRE**  
15 **CENTERS. ALTHOUGH YOU DISCUSSED YOUR CONCERNS ABOUT**  
16 **THE PROPOSAL IN YOUR DIRECT TESTIMONY, CAN YOU BE MORE**  
17 **SPECIFIC AS TO WHY US LEC HAS BEEN RELUCTANT TO ACCEPT**  
18 **THE BELLSOUTH PROPOSAL?**

19

20 **A:** Yes, I can. In our negotiations with BellSouth, we discussed the December 9<sup>th</sup>  
21 date and expressed our reluctance to agree to that date because we were given no  
22 assurances as to when BellSouth would deem the conversions to have been  
23 completed. Under BellSouth's proposal, the increase of pricing for a circuit that



1 was being converted from a UNE to special access (even though no physical  
2 change to the circuit would be made) would be as of the date of the conversion of  
3 the circuit to the alternate arrangement or as of March 11, 2006, whichever was  
4 earlier; for example the language in connection with DS1 and DS3 Loops is in  
5 Section 2.1.4.11.2 of Exhibit PAT-1, Attachment 2, Page 10. BellSouth gave us  
6 no assurances of when the conversions would be completed, *i.e.*, whether the  
7 conversions would be completed prior to the end of the calendar year 2005 or at  
8 some unstated and potentially arbitrary date sometime in 2006. Although the  
9 BellSouth proposal provides that “the Parties shall negotiate a project schedule for  
10 the Conversion” of the UNEs on the spreadsheet, no specifics of what was meant  
11 by this very vague proposal was provided to us by BellSouth at any time (an  
12 example of the language in connection with DS1 and DS3 loops is in Section  
13 2.1.4.11 of Exhibit PAT-1, Attachment 2, Page 10). From our perspective, it is to  
14 BellSouth’s economic benefit, and our economic disadvantage, to have the  
15 conversions completed prior to March 10, 2006. At no time during our  
16 discussions did BellSouth ever offer to permit US LEC to select the dates on  
17 which the conversions would occur. Neither did BellSouth ever provide us any  
18 incentive to provide the spreadsheet earlier rather than later. The only incentive  
19 provided was essentially a club over the head, *i.e.*, if we failed to provide the  
20 spreadsheet by the date they demanded it, US LEC would be assessed additional  
21 charges for their “work” in identifying the circuits that would need to be  
22 converted. For business reasons, we wanted to ensure that conversions to the  
23 higher pricing for special access for the embedded base UNEs did not occur

1 during our 2005 fiscal year. In addition, it is clear that the FCC envisioned and  
2 indeed ordered a transition period for the transition pricing through March 11,  
3 2006.

4  
5 Our initial counteroffer to BellSouth was that we would provide a spreadsheet to  
6 them as soon as practicable upon signing of the TRRO amendment to our  
7 Interconnection Agreements, so long as BellSouth would not deem the  
8 conversions completed until March 10, 2006. Our offer was rejected, which  
9 increased our concerns that BellSouth would work the spreadsheets as quickly as  
10 possible to complete the conversions in advance of the expiration of the March  
11 11, 2005 - March 10, 2006 twelve month transition period. Consequently, we  
12 then offered to submit our spreadsheet identifying the circuits to be converted or  
13 disconnected to BellSouth by December 31, 2005. This is a mere 22 days later  
14 than the proposal by BellSouth, and gave us some assurance that we would not be  
15 at risk of any price increase on the embedded base during the 2005 fiscal year.

16  
17 US LEC has no issue with submitting a spreadsheet or issuing orders prior to  
18 March 10, 2006. Rather, our issue is that the UNE transition rate be made  
19 available on our embedded base facilities from March 11, 2005 until March 10,  
20 2006. The plain meaning of Sections 51.319(a)(4) (iii), (a)(5)(iii), (e)(2)(ii)(C),  
21 and (e)(2)(iii)(C)<sup>1</sup> of the FCC's Rules is that the network element that a CLEC is

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<sup>1</sup> Generally each of these rules provide "[f]or a 12-month period beginning on the effective date of the Triennial Review Remand Order, any [DS1 or DS3 Loop or DS1 or DS3 Dedicated Transport] UNE that a competitive LEC leases from the incumbent LEC as of that date, but which the incumbent LEC is no longer obligated to unbundle pursuant to [applicable FCC rule cite], **shall be available for lease** from the

1 leasing from the ILEC at UNE rates as of March 11, 2005 remains available to the  
2 CLEC at the UNE transitional rate until March 10, 2006. If the circuit is  
3 disconnected during the transition period, then, of course, the billing for the  
4 disconnected circuit would cease. But until the transition period ends, if the  
5 CLEC has any network elements serving customers as of March 11, 2005, then  
6 the rate for those elements does not increase above the UNE transitional rate until  
7 March 11, 2006, whether that element is considered a UNE or special access  
8 facility. Thus, US LEC believes that our embedded base of circuits in wire  
9 centers that are found to be non-impaired are entitled to the UNE Transitional  
10 Pricing until March 10, 2006. I remain concerned as noted in other portions of  
11 my testimony that wire centers have been designated as non-impaired that will  
12 subsequently be found to be impaired.

13  
14 I would also note that the FCC in the text of the TRRO distinguished between the  
15 transition process for loops and transport and the UNE-P. In paragraphs 143  
16 (transport) and 196 (loops) of the TRRO, the FCC states

17  
18 [carriers] have twelve months from the effective date of this Order  
19 to modify their interconnection agreements, including completing  
20 any change of law processes. **At the end of the twelve-month**  
21 **period**, requesting carriers must transition all of their affected  
22 [UNEs] to alternative facilities or arrangements. (emphasis added)  
23

---

incumbent LEC [at the applicable UNE transition rate] and the effective date of the Triennial Review Remand Order for that [loop or transport] element. (emphasis added)

1 I compare this language to the text of the order in connection with the transition  
2 of UNE-P, (TRRO, paragraph 216) which states:

3  
4 [c]ompetitive LECs must submit orders within twelve months to  
5 convert their embedded UNE-P customer base to UNE-L or  
6 another arrangement. However, within that twelve-month period,  
7 incumbent LECs must continue to provide access to mass market  
8 unbundled local circuit switching at a rate of TELRIC plus one  
9 dollar for the competitive LEC to service those customers until the  
10 incumbent LEC successfully convert those customers to the new  
11 arrangement.

12  
13 I have searched the TRRO and find no similar discussion that supports  
14 BellSouth's position that it may change the UNE transition rate on loops and  
15 transport that are subject to transition prior to the end of the transition period.  
16 Consequently, if the FCC intended to modify the plain meaning of the cited  
17 transition period rules for loops and transports to permit an ILEC to increase the  
18 rate upon conversions, it certainly could have done so.

19  
20 Most likely the reason that the FCC distinguished between the conversion of UNE  
21 loops and dedicated transport from the conversion of UNE-P is that if a CLEC is  
22 going to convert its UNE loops and dedicated transport to an alternative service of  
23 the ILEC, the CLEC will choose to convert to special access. Such conversion to  
24 special access generally does not require any physical rearrangement and the  
25 facilities do not "change", whereas the UNE-P conversion may require a physical

1 rearrangement to be accomplished, if, for example, the conversion is to a UNE-L.  
2 Additionally, as the conversion for a UNE loop or dedicated transport is more a  
3 “billing change” rather than a physical facility change, the billing change can be  
4 accomplished after March 11, 2006, with a true-up back to the date to account for  
5 the difference in pricing between the UNE transition rate and the higher special  
6 access rate. Such a true-up will ensure that both parties are protected in  
7 accordance with the TRRO. BellSouth is made whole for the alternative  
8 arrangements effective as of March 11, 2006 and the CLEC is correctly billed the  
9 UNE transition rates through the end of the transition period. Neither party thus  
10 is able to game the system and invoke any economic harm on the other.

11  
12 **Q: DO YOU HAVE ANY UNDERSTANDING OF THE DIFFERENCE**  
13 **BETWEEN THE WORK THAT BELLSOUTH MIGHT HAVE TO DO IF**  
14 **IT OBTAINED A LIST OF CIRCUITS FROM THE CLEC WHICH**  
15 **IDENTIFIES THE CIRCUITS THAT MUST BE CONVERTED AND IF**  
16 **BELLSOUTH CREATED THE LIST IDENTIFYING THE CIRCUIT?**

17  
18 **A:** Yes, I believe I do. Even if US LEC were to produce and submit a spreadsheet  
19 identifying all the UNEs that must be converted and/or disconnected, BellSouth  
20 will independently produce a list of circuits that it believes US LEC to have in a  
21 non-impaired wire center that must be converted or disconnected. My  
22 understanding is that BellSouth, using this list, would compare its list to the US  
23 LEC list and would identify any discrepancies between the two lists and then the

1 parties would discuss these discrepancies and resolve which list is correct. Thus,  
2 BellSouth will create a list of circuits whether US LEC provides a spreadsheet by  
3 December 9, 2006 or not.

4  
5 **Q: DOES US LEC OBJECT TO CREATING SUCH A LIST AND WORKING**  
6 **WITH BELLSOUTH TO IDENTIFY DISCREPANCIES BETWEEN THE**  
7 **TWO LISTS?**

8  
9 **A:** No, US LEC does not. We would welcome the opportunity to work with  
10 BellSouth to identify the circuits and issue the orders needed for the conversions,  
11 provided we have contractual assurances from BellSouth that **the conversions**  
12 will not occur prior to the end of the FCC's 12 month transition period. In  
13 addition, we have on several occasions advised BellSouth that we would not  
14 object to the physical conversion of the circuits prior to March 11, provided that  
15 the billing rates did not change until March 11, 2006. BellSouth has consistently  
16 rejected this proposal.

17  
18 **Q: DO YOU AGREE WITH BELLSOUTH'S METHODOLOGY IN**  
19 **DETERMINING THE NUMBER OF BUSINESS LINES WITHIN A WIRE**  
20 **CENTER AS DESCRIBED IN MS. TIPTON'S TESTIMONY?**

21  
22 **A:** No. My primary disagreement with the methodology used by BellSouth is that  
23 BellSouth has significantly increased the number of business lines attributable to  
24 a wire center by multiplying each high capacity circuit by its maximum

1 channelized capacity rather than (a) counting a UNE loop as one line regardless of  
2 the capacity, and / or (b) only including the activated channels of a high capacity  
3 facility provided by BellSouth that actually are providing voice switched access  
4 service to a business customer. For example, for a T-1 UNE loop, BellSouth has  
5 multiplied each circuit by 24, and for DS-3 capacity circuits, the multiplier is 672,  
6 thus inflating the number of CLEC “business lines” considerably. Accordingly,  
7 under BellSouth’s calculations, a number of wire centers are considered “non-  
8 impaired” when they should be deemed “impaired.” These offices should be  
9 removed from the BellSouth Non-impaired Wire Center Lists.

10  
11 **Q: COULD YOU EXPLAIN YOUR DISAGREEMENT IN MORE DETAIL?**

12  
13 **A:** Yes. BellSouth has interpreted the last sentence of the “business line” definition  
14 in Section 51.5 of the FCC rules (set forth in Ms. Tipton’s testimony on Page 16,  
15 Lines 13 –28) to permit it to create the “potential” number of business lines that  
16 could be activated in a wire center, whether by BellSouth or a CLEC. The FCC,  
17 in the text of the TRRO, does not support BellSouth’s reading as there is no  
18 discussion of any “grossing up” mechanism by which the ILECs could increase  
19 the ARMIS line information or the UNE loop numbers. The FCC stated that its  
20 analysis was based on “ARMIS 43-08 business lines, plus business UNE-P, plus  
21 UNE loops,” a formula that is clearly additive. (TRRO, Paragraph 105). There is  
22 no indication that the FCC expected anything but the “actual” line counts to be  
23 used. The FCC, at Paragraph 105 of the TRRO, stated “by basing our definition

1 in an ARMIS filing required of incumbent LECs, and adding UNE figures, which  
2 must also be reported, we can be confident in the accuracy of the threshold, and a  
3 simplified ability to obtain the necessary information.” BellSouth’s methodology  
4 is not so straightforward as they would have this Commission believe, and  
5 requires review of data that is not filed with the FCC and is not available to the  
6 CLECs to verify. Moreover, there is no indication in the TRRO that the FCC  
7 intended to inflate the business lines and, thereby, increase the number of wire  
8 centers that would be considered “non impaired.”

9  
10 Further, the plain meaning of the last sentence of the definition reflects guidance  
11 by the FCC of how the ILEC is to use the ARMIS data and calculate the sum of  
12 “the ILEC business switched access lines” that would then be added to the “sum  
13 of all the UNE loops connected to the wire center.” The last sentence in the  
14 subsection entitled “Business Lines” contained in Section 51.5 of the FCC’s rules  
15 states that “business line tallies (1) shall include **only** (emphasis added) those  
16 access lines connecting end-user customers with incumbent LEC end-offices for  
17 switched services, (2) shall not include non-switched special access lines, (3) shall  
18 account for ISDN and other digital access lines by counting each 64 kbps-  
19 equivalent as one line.” There is nothing within this last sentence, or indeed  
20 anywhere within the TRRO, that would indicate that the FCC was approving the  
21 “grossing up” of either the ILEC business switched access lines or high capacity  
22 UNE loops to each of their maximum capacity. Moreover, the use of the phrase  
23 “sum of all UNE loops” rather than the “sum of all UNE loop capacity” also



1 indicates that the FCC did not intend to increase the number of business lines in a  
2 wire center by the maximum capacity of a UNE loop.

3  
4 Further, the first sentence of the subsection entitled "Business Lines" contained in  
5 Section 51.5 of the FCC rules states that a "business line" is "an incumbent-  
6 owned switched access line used to serve a business customer, whether by the  
7 incumbent LEC itself or by a competitive LEC that leases the line from the  
8 incumbent LEC." I don't think that there is a disagreement between US LEC and  
9 BellSouth that a "UNE loop" is not within this definition of "business line."  
10 Otherwise, there would be no reason for the FCC's formula to have the ILECs do  
11 a mathematical calculation that (1) adds the "business lines" (as previously  
12 defined) with (2) "UNE loops" to determine the number of business lines in a  
13 wire center, as set forth in the second sentence of the rule. This simply represents  
14 the unilateral license that BellSouth has taken with the FCC's language, and  
15 BellSouth's methodology must be rejected.

16  
17  
18 **Q: DOES US LEC TYPICALLY UTILIZE ALL CHANNELS ON A T-1 LOOP**  
19 **FOR SWITCHED VOICE SERVICES TO BUSINESS CUSTOMERS?**

20  
21 **A:** No, we do not. Customers may purchase multiple T-1 facilities, which can be  
22 configured as 100% data access, 100% Internet access or 100% voice. Customers  
23 may also combine data services, Internet access and voice business lines on each

1 facility. Smaller customers who purchase a single T-1 for service may combine  
2 all three services on the single circuit. Thus, it is erroneous for BellSouth to  
3 assume that 100% of all facilities, both special access and UNE loops, are utilized  
4 100% as business switched access lines.

5

6 **Q: DOES THIS COMPLETE YOUR REBUTTAL TESTIMONY?**

7

8 **A:** Yes.