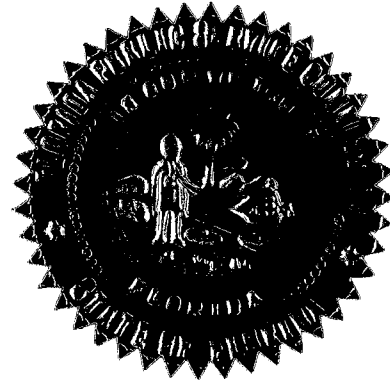


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT PETITION BY TDS TELECOM
D/B/A TDS TELECOM/QUINCY TELEPHONE;
ALLTEL FLORIDA, INC.; NORTHEAST
FLORIDA TELEPHONE COMPANY D/B/A
NEFCOM; GTC, INC. D/B/A GT COM;
SMART CITY TELECOMMUNICATIONS, LLC
D/B/A SMART CITY TELECOM; ITS
TELECOMMUNICATIONS SYSTEMS, INC.; AND
FRONTIER COMMUNICATIONS OF THE SOUTH,
LLC ["JOINT PETITIONERS"] OBJECTING
TO AND REQUESTING SUSPENSION AND
CANCELLATION OF PROPOSED TRANSIT
TRAFFIC SERVICE TARIFF FILED BY
BELLSOUTH TELECOMMUNICATIONS, INC.

DOCKET NO. 050119-TP



PETITION AND COMPLAINT FOR SUSPENSION
AND CANCELLATION OF TRANSIT TRAFFIC
SERVICE TARIFF NO. FL2004-284 FILED
BY BELLSOUTH TELECOMMUNICATIONS, INC.,
BY AT&T COMMUNICATIONS OF THE SOUTHERN
STATES, LLC.

DOCKET NO. 050125-TP

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VOLUME 3

Pages 173 through 314

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN LISA POLAK EDGAR
COMMISSIONER J. TERRY DEASON
COMMISSIONER ISILIO ARRIAGA
COMMISSIONER MATTHEW M. CARTER, II
COMMISSIONER KATRINA J. TEW

DATE: Wednesday, March 29, 2006

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION

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FPSC-COMMISSION CLERK

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TIME: Commenced at 9:30 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Chief, Hearing Reporter Services Section
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732

APPEARANCES: As heretofore noted.

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P R O C E E D I N G S

(Transcript follows in sequence from Volume 2.)

KEN MCCALLEN

resumed the stand, having been previously sworn, was examined and testified as follows:

CROSS EXAMINATION

BY MR. GERKIN:

Q Mr. McCallen, I have just a few questions for you. I believe it was when you were talking with -- when Ms. Berlin was talking with you.

CHAIRMAN EDGAR: Mr. Gerkin, I'm sorry, but we are having some difficulty hearing you here, as well. I need you to --

MR. GERKIN: I'm sorry. I'm accustomed to a smaller hearing room without a microphone.

BY MR. GERKIN:

Q When Ms. Berlin was talking with you, you were talking about the CLEC agreements that are summarized in your Exhibit KRM-2, I believe, listed there as evidence of what BellSouth believes is the reasonableness of this rate. And I believe you said that one of the reasons that you felt that this was appropriate was that these agreements and these rates have to be approved by the Commission, is that correct?

A Yes, that's my understanding. I think that they do have to be filed here.

1 Q Has BellSouth negotiated transit traffic agreements
2 that it hasn't filed with the Commission?

3 A With whom?

4 Q With any -- with any telecommunications carrier?

5 A Not that I am aware of.

6 Q Okay. We passed out some material during the break,
7 and I believe everybody should have a copy of what's marked as
8 Bell Response to MetroPCS POD 14. This is part of Composite
9 Exhibit 11. If you would, Mr. McCallen, I would like to just
10 draw your attention first to the request that is shown on the
11 second page of that exhibit. I'll give you a minute to read
12 that.

13 A Excuse me, but let me make sure I'm at the right
14 place. It's Item Number 14?

15 Q Right.

16 A It's a two-page --

17 Q Yes, sir.

18 A Okay.

19 Q And I will let you take just a moment to read that.

20 A Okay.

21 Q Okay. Is it your understanding that in this request
22 for production MetroPCS asked BellSouth to produce copies of
23 agreements concerning transit service that BellSouth has
24 entered into since 1996 that had not been filed with the
25 Florida Commission?

1 A I believe that's what it says, yes.

2 Q Okay. And what was BellSouth's response on that?

3 A I would have to refer to the response we provided
4 here.

5 Q It refers in the response to Number 3, right?

6 A Right.

7 Q Okay. That's all.

8 A Okay.

9 Q We have also passed out a copy of a document marked
10 Bell Request for Confidential Classification. This is a copy
11 of BellSouth's pleading requesting specified confidential
12 classification -- actually, it's their replacement request for
13 specified confidential classification for the responses to
14 MetroPCS's Request for Production, Item Number 3. And we
15 are -- we are not getting into the confidential aspect of the
16 response, but I just wanted to introduce this, and we would
17 like it marked as the next exhibit number, if we may.

18 In other words, I will refer to Attachment A to the
19 pleading that describes the document for which confidentiality
20 was requested. And if you look at Attachment A to that
21 document, Mr. McCallen, I'll give you a minute to read that,
22 and then I would like to ask you what does this indicate that
23 BellSouth was requesting confidential treatment for?

24 CHAIRMAN EDGAR: Okay. And while the witness is
25 doing that, do we need to number this exhibit?

1 MS. BANKS: Yes, Madam Chair.

2 CHAIRMAN EDGAR: Okay. So this will be Exhibit 36?

3 MS. BANKS: That is correct.

4 CHAIRMAN EDGAR: And, I'm sorry, Mr. Gerkin, how
5 would you like us to title this?

6 MR. GERKIN: Bell Request for Confidential
7 Classification, I think is the easiest title, since it's on the
8 document we're all holding. And that was Exhibit 36?

9 CHAIRMAN EDGAR: 36.

10 MS. BANKS: If we could just say Request for
11 Confidential Classification dated March 10th, 2006, which I
12 think is the date, since BellSouth filed several requests.

13 MR. GERKIN: That's fine.

14 (Exhibit 36 marked for identification.)

15 CHAIRMAN EDGAR: Okay. That's fine. And whenever
16 the witness is ready.

17 MR. GERKIN: Okay.

18 BY MR. GERKIN:

19 Q Mr. McCallen, what does this indicate? What kind of
20 document does this indicate BellSouth was requesting
21 confidential treatment for?

22 A This is referring to our interconnection agreement
23 with Vista United, if I'm on the right page with everyone now,
24 our modified access based compensation agreement. And that is
25 a document between us and, basically, one of the Small LECs

1 that covers a myriad of services, products and services and
2 different rates.

3 Q But it includes transit issues?

4 A Not local transit issues.

5 Q Not local transit issues.

6 A This is modified access based. This is the intraLATA
7 toll interconnection agreement.

8 Q And this was produced in response to MetroPCS's
9 Request for Production Number 3, is that right?

10 A Because it does --

11 Q And also --

12 A It does have to do with their originated traffic
13 transiting our network, but it is local -- I mean, it is toll,
14 excuse me, not local.

15 Q All right. So, once again, your testimony then is
16 that BellSouth has not entered into any agreements that relate
17 to local transit service that it has not filed with the Florida
18 Commission, is that correct?

19 A That's right, with any CLECs or wireless carriers,
20 that's right.

21 Q Mr. McCallen, is it your understanding or do you have
22 an understanding concerning -- or do you understand that
23 certain agreements are required to be filed with state
24 commissions for approval?

25 A Again, I'm not a lawyer, and I don't work in

1 regulatory.

2 Q I understand.

3 A We have people at BellSouth that take care of those
4 things for us and direct us negotiators as to what should be
5 filed.

6 Q Certainly. Is it your understanding, though, that
7 certain kinds of agreements have to be filed for approval?

8 A Yes.

9 Q Thank you. Is it your understanding that when an
10 agreement is filed and approved by a state commission, that any
11 other carrier who wants the terms of that agreement can adopt
12 that agreement as their own? Do you have an understanding
13 concerning that?

14 A Again, I don't deal in that part of the business that
15 much. I have heard the terminology and heard discussions about
16 it, but I don't have a firsthand working knowledge of that
17 occurring.

18 Q Okay. If BellSouth believes that it's not required
19 to provide this service, why are all the agreements that cover
20 this service filed with the Commission for approval?

21 A BellSouth believes we are not required to provide
22 strictly just the subject at hand, the transit service. It is
23 incorporated into the massive negotiations that cover all sorts
24 of other interconnections agreements between us and these
25 carriers. So it's not just a stand-alone transit agreement.

1 Q Why isn't it a stand-alone transit agreement, if you
2 don't have to provide the service?

3 A I don't understand your question.

4 Q If you don't have to provide the service, why doesn't
5 BellSouth do this as a stand-alone transit agreement so that it
6 wouldn't be filed with the Commission?

7 A I don't see what we would gain by that. During the
8 negotiations with CLECs and wireless carriers and talking about
9 all the myriad of issues, transiting traffic for them as an
10 originating carrier comes up and is negotiated.

11 Q And then when that is included in that agreement and
12 filed with the Commission, is it your understanding that
13 another carrier can adopt that agreement?

14 A Again, I don't know for sure firsthand personally.

15 Q Okay. Well, for example, one of the agreements that
16 is listed in your exhibit is BellSouth's interconnection
17 agreement with MCI metro Access Transmission Services, is that
18 correct?

19 A You are talking KRM-2?

20 Q KRM-2, yes, sir.

21 A Wait a minute. Bear with me just a minute. I'm
22 looking for my March 10th version. Bear with me. I know I had
23 it here.

24 Q Have you found your current version yet?

25 A I haven't found the March 10th version yet. It was

1 in this binder. Bear with me.

2 Here we go. I apologize. What am I looking for?

3 Q Okay. If I could direct your attention to Page 4 of
4 7? I'm looking for MCImetro Access Transmission Services, Inc.

5 A Yes.

6 Q Okay. And I believe you discussed this with either
7 Ms. Kaufman or Ms. Berlin, but what is the total transit
8 charges shown for that carrier?

9 A .000576.

10 Q Okay.

11 A And, again, I add the clarification, it has an
12 effective date of 2001. It is one of the older ones on that
13 list. And I believe that quite a bit of negotiations are still
14 ongoing between BellSouth and MCI.

15 Q And are there other carriers on this list that have a
16 total transit charge of .000576?

17 A I would have to just look through it for you and see
18 if there are. I'm sure you probably have already done so.

19 Q Okay. Well, just for an example, if I could direct
20 your attention to Page 7 of 7, the very last entry for Z-Tel
21 Communications.

22 A Yes.

23 Q Do you know whether Z-Tel Communications adopted the
24 MCImetro agreement?

25 A No, I do not know.

1 MR. TYLER: Excuse me, madam Chair.

2 CHAIRMAN EDGAR: Mr. Tyler.

3 MR. TYLER: I hate to interrupt, but I feel duty
4 bound. He has asked him now three times about adoption of
5 interconnection agreements. Improper question for this
6 witness. Again, he's a layperson. He cannot testify about
7 adoption of contracts.

8 MR. GERKIN: Madam Chairman, I'm not asking him about
9 rights to adopt. I'm asking him whether he knows whether
10 Z-Tel, in fact, did adopt the MCImetro agreement. A simple yes
11 or no question.

12 CHAIRMAN EDGAR: To the witness.

13 THE WITNESS: No, I do not know.

14 BY MR. GERKIN:

15 Q You don't know. Okay.

16 I believe when Ms. Berlin was talking with you, she
17 asked you how many CLECs actually originate transit traffic or
18 something like that, is that right?

19 A It seems like I remember that.

20 Q And I believe you said you didn't know?

21 A Could be.

22 Q Okay. Again, we have passed this out during the
23 break. This is marked Bell's Supplemental Response to MetroPCS
24 Interrogatory Number 3. It's part of Composite Exhibit
25 Number 9.

1 Mr. McCallen, this indicates that you provided the
2 response to this interrogatory on Page 1 of 1, is that correct?

3 A Yes. I worked with the people that put this together
4 for the response. That's correct.

5 Q Okay. So you have at least some knowledge of the
6 contents of this response, is that right?

7 A Yes, I do.

8 Q Okay. Is it accurate -- excuse me. Is it accurate
9 to say that the table beginning on the following page shows the
10 number of transit minutes originated by each CLEC in Florida
11 with their names redacted during the month of November of 2005?

12 A Yes, that's what this represents.

13 Q Okay. Excuse me. Will you accept, subject to check,
14 Mr. McCallen, that -- well, first of all, there are how many
15 CLECs listed on this table?

16 A I believe it was 279. I think we talked about this
17 during deposition.

18 Q Would you accept, subject to check, Mr. McCallen,
19 that approximately 40 of these have nonzero entries?

20 A Yes, subject to check.

21 Q Okay. So subject to check, approximately 240 have
22 zero entries?

23 A Yes, with the following clarification to keep in
24 mind: This is one month's data for originated traffic by these
25 CLECs.

1 Q Certainly. And do you think it would be a reasonable
2 assumption that a CLEC that had zero transit minutes in
3 November of 2005, do you think it would be a reasonable
4 assumption that that CLEC would have a very substantial number
5 of transit minutes in December of 2005?

6 A That is strictly a guess. I can't say for sure.
7 Their business plan could change. They could change the way
8 they operate. I really can't address that.

9 Q But do you think it would be more or less likely, or
10 can you say? Do you think it would be more or less likely that
11 they would generate a substantial volume in the following
12 month?

13 A Normally, you would not expect it to go from zero to
14 a huge amount.

15 Q Thank you. Now, we have a confidential exhibit. I
16 will give you a minute to look over this exhibit, Mr. McCallen.
17 This is BellSouth's supplemental response to MetroPCS's first
18 interrogatory that was submitted in response to -- or submitted
19 as a result of an agreement resolving MetroPCS's motion to
20 compel a response. And this is in the record as part of
21 Composite Exhibit 10 right now. This exhibit -- is it accurate
22 to say that this exhibit is a summary of the transit traffic
23 originated by MetroPCS over BellSouth's network in November of
24 2005?

25 A Yes.

1 Q Okay. And that is the same month we just looked at
2 on the other exhibit, is that correct?

3 A Yes.

4 Q Now, I will give you a minute to review the numbers
5 in the other exhibit just momentarily and also the number on
6 this exhibit, and then I have a question comparing them.

7 A Okay.

8 Q Is it accurate to state that in the month of November
9 2005, MetroPCS generated a substantially greater volume of
10 transit traffic than any one CLEC in Florida?

11 A Yes.

12 Q In fact, Mr. McCallen, would you accept, subject to
13 check, that MetroPCS generated more transit traffic in November
14 of 2005 than all but the top four CLECs combined?

15 A I'm not quite quick enough to add 40 different
16 numbers together here and compare.

17 Q Take your time.

18 A I mean, I'm pretty good, but I'm not that good. I do
19 have a little calculator right here. Subject to check probably
20 so, yes, sir.

21 Q Probably so. Okay. And that's all for the
22 confidential exhibit.

23 MR. GERKIN: I'm not familiar with the procedure. Do
24 we take these up now, or how does this work?

25 CHAIRMAN EDGAR: Do we need to retain these,

1 Ms. Banks, or can they be collected?

2 MS. BANKS: I'm sorry, Madam Chair?

3 CHAIRMAN EDGAR: The confidential exhibit that was
4 just being referred to in the most recent questioning, do we
5 retain these or -- I don't like to hold onto the red folders
6 any longer than I have to.

7 MS. BANKS: I think what happens generally is at the
8 next break staff will pick them up so they will not be out.

9 CHAIRMAN EDGAR: So we will retain them for a brief
10 period of time. Thank you.

11 MR. GERKIN: Okay. Thank you.

12 BY MR. GERKIN:

13 Q Just a few more questions, Mr. McCallen. We also
14 handed out during the break something identified as excerpts
15 from the XO Florida ICA. These are some pages that I
16 downloaded the other night from BellSouth's website from XO
17 Communications' currently effective agreement with BellSouth in
18 Florida.

19 MR. GERKIN: I would like to have this marked for
20 identification, if I may.

21 CHAIRMAN EDGAR: We will mark this as Exhibit Number
22 37.

23 MR. GERKIN: Thank you, Madam Chairman.

24 (Exhibit 37 marked for identification.)

25 BY MR. GERKIN:

1 Q The first page, first two pages of this exhibit
2 indicates at the bottom this is not part of the actual signed
3 contract, but, rather, a table of contents that BellSouth adds
4 for convenience of review, is that correct?

5 A I believe that is correct.

6 Q Okay. And this indicates that the Attachment 3 rates
7 in the agreement begin on Page 204, is that correct?

8 A That's what it has listed, yes.

9 Q Okay. If you flip through there is a page that is
10 marked as 204 of 450. And that page, what is the header on
11 that page, Mr. McCallen?

12 A On Page 204?

13 Q Uh-huh.

14 A Local interconnection Florida Attachment 3, Exhibit
15 A.

16 Q Okay. Now, if you will follow with me, roughly a
17 third of the way down the page is the heading tandem switching,
18 do you see that heading?

19 A Yes.

20 Q And there are three lines under tandem switching, and
21 the third one is tandem intermediary charge per MOU, is that
22 correct?

23 A That is correct.

24 Q And what is that charge?

25 A .0015.

1 Q Thank you. Now, if we could turn to the next page of
2 this exhibit. I'll give you a minute to review that. What
3 does this page appear to be?

4 A It appears to be an amendment to the interconnection
5 agreement.

6 Q And what is the substance of that amendment?

7 A It's dealing with Attachment 2, Attachment 3. I
8 mean, do you want me to read the whole page aloud?

9 Q I'm sorry. This is out of order. This was assembled
10 out of order. If you flip to the back, there's a page that is
11 labeled CCS359. I'm sorry, this is the amendment -- this is
12 the page I meant to ask you about.

13 A Okay. 359 of 450?

14 Q Yes, sir.

15 A Okay.

16 Q And what is the substance of this amendment?

17 A Amendment to interconnection agreement between
18 BellSouth and XO Florida.

19 Q Okay. And what is the subject of this amendment?

20 A It deals with Attachment 3, Exhibit A.

21 Q And what does it do?

22 A Let's see. "In consideration of the mutual
23 provisions contained herein and other good and valuable
24 consideration, the receipt and sufficiency of which are hereby
25 acknowledged, XO and BellSouth hereby covenant and agree as

1 follows:

2 "One, Attachment 3, Exhibit A of the agreement is
3 amended to delete the tandem intermediary charge rate element.
4 All other provisions of the interconnection agreement dated
5 October 25th, 2002, shall remain in full force and effect.
6 Either or both of the parties is authorized to submit this
7 amendment to the appropriate state commissions for approval
8 subject to Section 252," et cetera.

9 Q Okay. Thank you, sir.

10 A Sure.

11 Q And I believe it has been your testimony that
12 BellSouth believes that the rates -- excuse me. I believe it
13 has been your testimony that when two parties agree to a rate,
14 that indicates they believe it is a reasonable rate for the
15 service?

16 A Generically speaking, yes.

17 Q Generically speaking. Looking again at Page 359 at
18 the top of the page, what does it indicate was the effective
19 date of the agreement being amended?

20 A October. Are you talking about the October 25th,
21 2002, date?

22 Q Yes, sir.

23 A Yes.

24 Q So given that -- given that Page 204, which was the
25 original Attachment 3 rates, contained the transit intermediary

1 charge of .0015 cents per minute, would it then be your view
2 that as of October 25th, 2002, BellSouth and XO believed that
3 that was an appropriate rate for the transit function?

4 A For a piece part of the charge for the transit
5 function, yes, added to the other elemental piece.

6 Q Yes, sir. And then looking again at Page 359, what's
7 the date of that amendment?

8 A October 25th, 2002.

9 Q No, I'm sorry. Down at the bottom.

10 A Oh, I'm sorry. Are you talking November 19th and
11 21st, '02?

12 Q Right. November 19th or 21st.

13 A Yeah.

14 Q So the agreement originally had a TIC charge of
15 .0015, but it was amended less than a month later to eliminate
16 the TIC charge, is that correct?

17 A That's what it appears to be. I don't have any
18 personal knowledge of this one isolated instance between
19 BellSouth and one carrier.

20 Q Yes, sir. But based on your previous testimony,
21 would we then conclude that less than a month after signing the
22 interconnection agreement, XO and BellSouth believed that a
23 reasonable rate for the transit service would not include the
24 TIC charge?

25 A With all respect, not knowing any of the details of

1 why this occurred, of why that change was even necessary, I
2 don't know that I could agree. We agreed it was a different
3 rate.

4 Q But, again, you don't know the details of any
5 negotiation with a CLEC, do you?

6 A We have already been through that. I don't do it
7 personally, that's correct.

8 Q Thank you, sir. Do you know whether any of XO's
9 other interconnection agreements might have been amended?

10 A No, sir, I don't have any personal knowledge of that.

11 Q Again, Mr. McCallen, these are some pages that I
12 downloaded from BellSouth's website. These are some excerpts
13 from BellSouth's currently effective interconnection agreement
14 with XO for the state of Georgia. Do you accept that, subject
15 to check?

16 A Subject to check, of course.

17 Q Thank you, sir.

18 MR. GERKIN: Could we have this marked, Madam
19 Chairman?

20 CHAIRMAN EDGAR: We will show this as Exhibit Number
21 38.

22 MR. GERKIN: Thank you, ma'am.

23 (Exhibit 38 marked for identification.)

24 BY MR. GERKIN:

25 Q And, again, the first two pages are a table of

1 contents that BellSouth adds for convenience; is that correct?

2 A Yes.

3 Q Down toward the bottom of the first page -- well,
4 let's just go ahead and flip to the third page of the exhibit,
5 which at the bottom is numbered CCS356 of 469?

6 A Okay.

7 Q Okay. And could you take a minute to look at this,
8 and would you agree that this is substantially the same
9 amendment that we were looking at previously that was done to
10 the Florida agreement?

11 A It does appear to be, yes.

12 Q Okay. Thank you, sir.

13 MR. GERKIN: I don't believe I have any more
14 questions.

15 Madam Chairman, I would like to move Exhibits 37 and
16 38 into the record.

17 CHAIRMAN EDGAR: Ms. Banks.

18 MS. BANKS: Madam Chairman, I don't know if it is
19 your pleasure now or at the end of the examination of Witness
20 McCallen. We can move all the exhibits with respect to this
21 witness now or do that at the end, whatever your pleasure.

22 CHAIRMAN EDGAR: Yes. It is my preference,
23 Mr. Gerkin, if we will wait until the end to do them as a
24 group.

25 MR. GERKIN: That's fine, Madam Chairman.

1 CHAIRMAN EDGAR: Thank you.

2 MR. GERKIN: However you prefer to proceed.

3 CHAIRMAN EDGAR: Other questions from staff for the
4 witness?

5 MS. BANKS: Yes, Madam Chair, there are.

6 CROSS EXAMINATION

7 BY MS. SCOTT:

8 Q Good afternoon, Mr. McCallen. How are you?

9 A I'm fine. How are you?

10 Q Good.

11 My name is Kira Scott. I'm an attorney here with the
12 Commission. I'd like to start off my questions regarding
13 extended area service calls.

14 A Okay.

15 Q First, what is an extended area service call?

16 A An EAS call is basically an arrangement for a local
17 call that has no toll charge associated with it.

18 Q And what is the local number portability database?

19 A The local number portability database has to do
20 with -- due to the competitors in the business importing away
21 telephone numbers, when a call is originated, in order for a
22 carrier to find out exactly which terminating carrier that end
23 user belongs to, you need to make a query into that database to
24 find out the local routing number that is associated with the
25 switch of the terminating carrier. And that is, basically,

1 what's contained in the local number portability database.

2 Q If an EAS call is made from a small LEC to BellSouth,
3 what event would trigger a query to the LNP database?

4 A Well, the first scenario, from a small LEC originated
5 call, they have the option and can make the business decision
6 to launch their own query into a local number portability
7 database provider, so that they can get the information back to
8 their originating central office switch, so they will know the
9 LRN that I mentioned a minute ago of the terminating carrier,
10 so they will know how to route the call to the outside world,
11 wherever it is bound, to get it to the right carrier. So
12 that's one scenario.

13 If they don't launch that query on their own and make
14 the decision to do so and they send it as dialed, for instance,
15 and if it was a BellSouth telephone number, they send it to us.
16 Then in order for us to complete the call, we basically have to
17 do a query on their behalf into the LNP database to, again,
18 find out the proper terminating carrier to send the call to, to
19 successfully complete.

20 Q What carrier would pay for the database query?

21 A Well, back to my example, if the small LEC did their
22 own query into a database provider, then they would pay a query
23 charge to whoever the database provider is. If we have to do
24 the query on their behalf, because they chose not to do it,
25 then we would charge them a query charge.

1 Q Is the query only necessary when a carrier is unable
2 to route a call?

3 A This gets extremely technical. The query is
4 necessary any time that the dialed NPA/NXX is portable. If one
5 number out of that 10,000 numbers has been ported, then you
6 need to do a query to find out for sure where that call -- to
7 which terminating carrier that call needs to go.

8 Q Assume for a moment that a BellSouth customer within
9 an EAS calling area decides to change his or her service over
10 to a CLEC. Would a call from a small LEC, from a small LEC to
11 that now CLEC customer be subject to a transit service fee?

12 A Let me make sure I've got it right. A small LEC
13 originated that's being terminated by a CLEC, the CLEC is
14 serving the end user?

15 Q Yes, sir.

16 A Then, yes, if it's an EAS or local call.

17 Q Would the small LEC be subject to an LNP query fee in
18 that instance?

19 A If we have to do the query on their behalf, yes. Or
20 if they sign up with our LNP database service and use us as the
21 database provider, then they would be charged for a dip, if
22 they launched the query themselves into our database.

23 Q Would you agree that the small LEC in this scenario
24 would have no knowledge as to when the customer changed their
25 service provider?

1 A The BellSouth end user that might have decided to go
2 with the CLEC?

3 Q Yes, sir.

4 A Is that what you are talking about?

5 Q Yes, sir.

6 A Probably. That's probably true.

7 Q How would you reconcile the cost of a transit service
8 fee and an LNP query fee on those EAS calls described in the
9 scenario that I just stated earlier where previously there were
10 no such costs?

11 A Well, previously you didn't have any CLECs serving a
12 BellSouth end user customer that was an EAS call away. That is
13 just part of the business and the industry of where we are now.
14 In order to know how to get the call to the proper terminating
15 carrier, that's what all carriers are having to do.

16 Q Mr. McCallen, in your opening comments you had
17 mentioned several options that small LECs have, I guess, as an
18 alternative to transiting their service over BellSouth's
19 network. I believe one of those options was for the Small LECs
20 to not open up the codes. You can correct me if I'm not --

21 A Yes, that's correct. You've got it.

22 Q What would happen if the small LEC does not open up
23 the NPA/NXX codes to a CLEC or a CMRS provider, what would
24 result from that?

25 A The end result of that is that the small LEC's end

1 user would basically not be able to dial that particular
2 NPA/NXX. And I assume they would probably get a response back
3 from the small LEC's central office saying your call cannot be
4 completed as dialed. And that would keep the small LEC from
5 actually originating that transit traffic to that third-party
6 terminating carrier.

7 Q So, essentially, that would result in blocking?

8 A Yes.

9 Q Is that, in your opinion, a viable option?

10 A Oh, definitely -- it's not a popular option at all,
11 I'm sure, and it is definitely not what BellSouth wants, to
12 block any traffic. But to take it one step further, as a
13 clarification, if a particular small LEC, and this is a
14 scenario I have run across before, if a small LEC has tried due
15 diligence to get a particular terminating CLEC or a particular
16 terminating wireless carrier to negotiate with them about
17 interconnection agreements or financial arrangements, if there
18 is not going to be any originated traffic going to that
19 terminating CLEC, it might be one possible way to get them to
20 the negotiations table.

21 Q You stated in your testimony that the BellSouth
22 tariff transit rate is a market-based rate, is that correct?

23 A Yes.

24 Q And it has also been your testimony today and
25 throughout this proceeding that the rate is market based

1 because it is comparable to transit rates recently negotiated
2 between BellSouth, the CLECs, CMRS providers and other
3 carriers, is that correct?

4 A Yes, that's correct.

5 Q Other than Neutral Tandem, because you have mentioned
6 Neutral Tandem today as being one of the other companies out
7 there that you are aware of that is providing transit service
8 in BellSouth's territory, do you know of any other carriers?

9 A No, I'm not personally aware of any others.

10 Q So it's safe to conclude, then, that in Florida the
11 transit service market only consists of two providers,
12 BellSouth and Neutral Tandem?

13 A That's just what I'm personally aware of.

14 Q Is there any other information that BellSouth has
15 provided in this docket to support its claim that the tariffed
16 rate is market based, other than your exhibits?

17 A Other than the exhibits and all the testimony and all
18 the responses to the interrogatories, I don't believe so. I
19 mean, it's trying to state the case that we need a fair
20 compensation rate for providing a service, and we have all of
21 these other agreements with carriers.

22 Q And is it true that the purpose of the transit rate
23 is to compensate BellSouth for use of its network for
24 completing a call from a non-BellSouth originating carrier to a
25 third party?

1 A Yes, that's true.

2 Q Has BellSouth quantified those costs?

3 A Well, yes. We have actually been sending the billing
4 information to the Small LECs each month since it went into
5 effect.

6 Q That's the cost for the use of the network?

7 A No, that is the billing to the Small LECs. As I
8 mentioned earlier this morning -- you're talking about quantify
9 the impact of the transit charge on the Small LECs. Let me
10 make sure I understand your question.

11 Q Yes, sir, that's correct.

12 A Okay. That's what I addressed earlier this morning
13 when we first started. Currently, the most recent billing
14 month to the Small LECs is less than \$50,000 for all of their
15 originated local transit traffic. And I might add, 90 to 95
16 percent of that \$50,000 is one of the Small LECs, which is the
17 large LEC we are making very good progress with negotiating.

18 Q During the discovery process BellSouth was asked to
19 provide cost studies and any other supporting documentation for
20 the tariffed transit rate. Are you familiar with those
21 discovery requests?

22 A Yes.

23 MS. SCOTT: Actually, Madam Chair, at this moment may
24 staff approach the witness with copies of, actually, an already
25 entered exhibit, Exhibit 11?

1 CHAIRMAN EDGAR: Yes.

2 MS. SCOTT: Portions just for Mr. McCallen's benefit.

3 BY MS. SCOTT:

4 Q Mr. McCallen, what is being provided to you right now
5 is BellSouth's response to CompSouth's Request for Production
6 of Documents Number 1 and BellSouth's response to the Small
7 LECs' Production of Documents Number 1, which, as I mentioned,
8 is Exhibit 11.

9 A Okay.

10 Q As you see there from -- you see BellSouth's response
11 to the question or the request for cost studies or any other
12 supporting documentation. Do you see BellSouth's response?

13 A Yes. To Request Number 1?

14 Q Yes, sir.

15 A Yes, uh-huh.

16 Q Did BellSouth provide any cost studies or any
17 supporting documentation in response to those requests?

18 A No, we did not because, again, we are stressing that
19 this is a market-based rate, that it's not a cost-supported
20 tariff.

21 MS. SCOTT: Okay. Madam Chair, again, I would like
22 to -- oh, okay.

23 BY MS. SCOTT:

24 Q I have been informed that you already have what I'm
25 actually about to question you on right now.

1 A Okay.

2 Q It is actually Staff's Request for Production of
3 Documents Number 9.

4 A Okay.

5 Q And that's Exhibit 3. It has been already entered
6 into the record.

7 There you will see that BellSouth was asked to
8 provide a cost study developing a TELRIC-based rate for the
9 transit function in the event that the Commission decides that
10 a TELRIC-based rate should be charged. Did BellSouth respond
11 with any documentation to that request?

12 A No, we did not. Again, because we are not filing a
13 tariff that is cost-supportive. It is a market-based rate.

14 Q So did BellSouth not choose in that instance to
15 conduct the requested cost study developing a TELRIC-based
16 rate?

17 CHAIRMAN EDGAR: Mr. Tyler.

18 MR. TYLER: If I understood the question correctly,
19 the way it was phrased, was if BellSouth was ordered to develop
20 a cost-based rate, would BellSouth provide a cost study? And
21 maybe I misunderstood the question. But if so, I think it is
22 improper because BellSouth has not been directed to provide
23 this service at TELRIC. I don't believe it is appropriate to
24 be mandated to provide it at TELRIC; therefore, no rate study
25 would have been provided.

1 CHAIRMAN EDGAR: Ms. Scott.

2 MS. SCOTT: My question wasn't meant to infer that
3 BellSouth would be ordered to provide such a cost study. It
4 was merely a request that staff had made in the event that the
5 Commission were to decide to go with a TELRIC-based rate
6 instead of a market-based rate, and to develop a cost study
7 based on that possibility, based on the possibility that the
8 Commission would decide in that manner. And I was merely
9 asking whether or not BellSouth conducted the requested cost
10 study on developing a TELRIC-based rate.

11 CHAIRMAN EDGAR: Ms. Scott, the witness may very well
12 be clear as to the question, but I am not. So I'm going to ask
13 you to think about it for a moment and then rephrase.

14 MS. SCOTT: Okay.

15 BY MS. SCOTT:

16 Q Request Number 9 from staff is if the Commission
17 decides that a rate should be charged for transit traffic, but
18 that the rate should be TELRIC-based, please provide a cost
19 study developing such a rate. The response should include all
20 supporting documentation, inputs, and assumptions and should
21 include a narrative explaining how the rate was developed.

22 And BellSouth's response is, BellSouth does not have
23 any documents responsive to this request.

24 So does that mean that BellSouth chose not to conduct
25 the requested cost study developing a TELRIC-based rate?

1 MR. TYLER: And let me renew my objection. This is
2 dealing with discovery. And with all due respect, if there was
3 any type of discovery dispute regarding a request, this
4 particular request from staff or any other request, it should
5 have been addressed to BellSouth's attorneys. I'm not aware of
6 any such dispute, and it is improper to ask this witness about
7 what, I guess, Ms. Scott is purporting to be some type of a
8 discovery dispute.

9 CHAIRMAN EDGAR: Ms. Scott, I have a concern as well
10 with the direction that we are going, so I would ask you to
11 move along to the next question.

12 MS. SCOTT: I have no further questions.

13 CHAIRMAN EDGAR: Thank you, Ms. Scott.

14 And that brings us to redirect, but first we have a
15 question from Mr. Deason.

16 COMMISSIONER DEASON: Sir, has BellSouth performed
17 any TELRIC studies for a transit tariff?

18 THE WITNESS: For the transit tariff, no, sir.

19 CHAIRMAN EDGAR: Mr. Tyler, redirect?

20 MR. TYLER: Yes, Madam Chair, thank you.

21 REDIRECT EXAMINATION

22 BY MR. TYLER:

23 Q Mr. McCallen, do you recall Mr. Gerkin asking you
24 about the transit rate or the transit intermediary charge,
25 rather? Do you recall that line of questioning?

1 A Yes, I do.

2 Q And you were questioned about that by a number of
3 witnesses. Is that TIC rate or that transit intermediary
4 charge the same thing as the composite rate in BellSouth's
5 transit traffic tariff?

6 A No, it is not. The tandem intermediary charge or TIC
7 rate that has been referred to today several times is an
8 additive found in our agreements between BellSouth and CLECs.
9 That is an additive on top of some of the more elemental
10 charges for use of the network, and that is how we composed the
11 total transit rates shown in KRM-2, is adding all of those
12 components plus the TIC, if there was one.

13 Q And then you were also asked by Mr. Gerkin about
14 whether or not you were familiar with reasons for an amendment
15 to the XO interconnection agreement. Do you recall that?

16 A Yes, I do.

17 Q And is it possible that there may be an interrogatory
18 response that would refresh your recollection in that regard?

19 A It could be.

20 Q Would you look at Stipulated Exhibit Number 9?

21 A I'm assuming that is in this big stack. Do you have
22 it for me? Thank you.

23 Q And if you would look specifically at Request Number
24 15 of MetroPCS's second interrogatories and the response filed
25 there.

1 A Yes, I'm with you.

2 Q Does that refresh your recollection regarding that
3 amendment?

4 A Yes, and it helps me out. Also the response was
5 provided by Jerry Morrison with BellSouth instead of by me.

6 Q But do you have personal recollection regarding that
7 agreement?

8 A No, I don't. I was not personally involved.

9 Q Read the response that was provided to that
10 interrogatory, please?

11 MR. GERKIN: Objection.

12 CHAIRMAN EDGAR: Mr. Gerkin, we cannot hear you.

13 MR. GERKIN: Excuse me, Madam Chairman, the witness
14 said he had no personal knowledge of this matter. The only
15 reason to have him read this is to get something into the
16 record that is already in the record.

17 CHAIRMAN EDGAR: Mr. Tyler.

18 MR. TYLER: It's already in the record, Madam Chair.
19 I was asking him if it refreshed his recollection, but I'm
20 willing to move along.

21 BY MR. TYLER:

22 Q Mr. McCallen, do you remember when you were being
23 questioned by Ms. Kaufman about the .003 rate not being based
24 on an average number of miles or was it based on average number
25 of miles? Do you remember that line of questioning?

1 A Yes, I do.

2 Q Is that relevant to BellSouth's composite rate?

3 A No, I don't see that as being relevant. Again, this
4 is trying to be a composite market-based rate that takes into
5 account what other carriers have willingly agreed to pay
6 BellSouth for providing transit service.

7 Q And Ms. Kaufman also asked you about whether or not
8 there were contracts that may have been entered into without
9 any negotiation at all. Are you aware of any small companies
10 that have entered into contracts that are non-negotiated, just
11 a template contract, are you aware of that in your experience?

12 A Between BellSouth and the Small LECs or the ICOs, no,
13 I'm not.

14 Q You were asked by Ms. Berlin about KRM-2 and the
15 customers that are listed in that exhibit. Do you recall that?

16 A Yes, I do.

17 Q Do you know whether or not any of the CLECs that are
18 listed on KRM-2 buy transit service from BellSouth?

19 A I'm assuming that they are in a position to buy
20 transit by the fact that they have an agreement that covers it.

21 Q Ms. Hoffman asked you about why -- or Mr. Hoffman,
22 I'm sorry, asked you about why now for BellSouth's use of this
23 transit tariff, to paraphrase his line of questioning. Can you
24 provide the Commission with a historical backdrop, and why in
25 the past BellSouth wasn't charging a transit rate to the Small

1 LECs?

2 A This is more or less addressed to a lot of different
3 issues, but resource issues on negotiations with CLECs and CMRS
4 carriers that were originating traffic, and then the actual
5 amount of volume of traffic being originated by the Small LECs
6 in the opposite direction. It has to go with when you need to
7 address this either -- in an interconnection agreement, and we
8 tried that and started that and made no progress. So we have
9 attempted to come up with a tariff that would apply just in the
10 absence of an interconnection agreement.

11 Q Mr. Hoffman asked you about the BellSouth tariff rate
12 in the state of Tennessee. Are you aware of BellSouth's
13 transit traffic rate in any other states?

14 A Yes, I am. As a matter of fact, we have another
15 tariff in the state of South Carolina that was just recently
16 voted by the Commission that dismissed all complaints against
17 the tariff. And it, too, similarly to Tennessee, had a .003
18 rate that went to .006 effective with January 1st, 2006,
19 traffic.

20 MR. TYLER: Okay. Thank you.

21 That's all I have at this time, Madam Chair.

22 One other thing, we would ask that KRM-2 be moved
23 into the record. I'm not sure what the next exhibit number is.
24 I think it is 39.

25 CHAIRMAN EDGAR: I'm at 39. So let's show that as

1 Exhibit Number 39, And that is KRM-2.

2 (Exhibit 39 admitted into evidence.)

3 MR. TYLER: Thank you, Madam Chair.

4 May the witness be excused at this time?

5 CHAIRMAN EDGAR: Let's do the exhibits first.

6 MR. HOFFMAN: Madam Chairman, I would move Exhibits
7 34 and 35.

8 CHAIRMAN EDGAR: Seeing no objection, we will move
9 Exhibits 34 and 35 into the record.

10 And Mr. --

11 MR. TYLER: I'm sorry, Madam Chair. I did have one
12 brief objection to Exhibit Number 35. And inasmuch as it is
13 Footnote 70 of a case, and I don't see Footnotes 1 through 69,
14 let alone the rest of the text, I would just ask if it's to be
15 late-filed that it include the entire case that is cited here
16 as opposed to just one footnote.

17 CHAIRMAN EDGAR: Mr. Hoffman.

18 MR. HOFFMAN: I have no objection to that.

19 CHAIRMAN EDGAR: I have no problem with that.

20 Ms. Banks?

21 MS. BANKS: I have no problem with that. The only
22 request I would make is that we make an entry for the
23 late-filed exhibit, the exhibit number, with an exhibit number.

24 CHAIRMAN EDGAR: Will we want to call that Exhibit
25 40?

1 MS. BANKS: That would be fine, Madam Chairman.

2 CHAIRMAN EDGAR: Okay. Thank you, Ms. Banks.

3 (Exhibits 34 and 35 admitted into the record.)

4 (Late-Filed Exhibit 40 marked for identification.)

5 MR. TYLER: Thank you, Madam Chair.

6 MR. HOFFMAN: Madam Chairman, for clarification that
7 will be BellSouth's Late-Filed Exhibit 40?

8 CHAIRMAN EDGAR: I think so, yes, sir.

9 MR. GERKIN: Madam Chairman, if now is the
10 appropriate time, I would like to move Exhibits 37 and 38 into
11 the record.

12 CHAIRMAN EDGAR: It is. Thank you.

13 And, Mr. Tyler.

14 MR. TYLER: Yes. May the witness please be excused
15 at this time?

16 CHAIRMAN EDGAR: Just a moment. Okay, so we are
17 going to move Exhibits 37 and 38 into the record, and I believe
18 that brings us to Exhibit 39.

19 MR. TYLER: Oh, KRM-2.

20 CHAIRMAN EDGAR: Yes, sir.

21 MR. TYLER: Correct. We would ask that it be moved
22 into the record at this time.

23 CHAIRMAN EDGAR: Is there an objection?

24 MS. BANKS: Madam Chair, could I get just a
25 clarification on what we are calling a description for Exhibit

1 Number 40?

2 CHAIRMAN EDGAR: Okay. And that is the Footnotes 1
3 through 69, and the case in its entirety.

4 Mr. Tyler, could you speak to that, please.

5 MR. TYLER: Yes. Madam Chair, that would be the
6 entire case in the matters of TRS Wireless, LLC, et al. versus
7 U.S. West Communications, Incorporated, and that is FCC Docket
8 00194, with a release date of June 21st of 2000.

9 MS. KAUFMAN: Madam Chairman, I think we also need to
10 move -- MetroPCS needs to move Exhibit 36.

11 MR. GERKIN: Yes, ma'am. Mr. Hoffman just reminded
12 me that I had not moved Exhibit 36 in.

13 CHAIRMAN EDGAR: So Mr. Gerkin has requested that we
14 move 36 in addition to 37 and 38.

15 MR. GERKIN: Yes, ma'am.

16 CHAIRMAN EDGAR: And we will show 36 moved into the
17 record.

18 (Exhibit 36 through 38 admitted into evidence.)

19 CHAIRMAN EDGAR: And we have just been then
20 discussing 40, which will be late-filed on behalf of BellSouth,
21 and that still brings us back to, I believe, 39, which is the
22 KRM-2, and seeing no objection, I move that that be moved into
23 the record as well. And I believe that takes care of all of
24 the exhibits pertaining to this witness' testimony. Is that
25 correct? Okay. And with that, Mr. Tyler, Mr. McCallen, thank

1 you for your testimony. You are excused.

2 MR. TYLER: Thank you very much.

3 MS. BANKS: Madam Chair, this is just a footnote, and
4 we don't necessarily have to make this determination, but as it
5 relates to that Late-Filed Exhibit Number 40, I don't know if
6 you want to determine a time certain for when that would be
7 filed.

8 CHAIRMAN EDGAR: Mr. Tyler?

9 MR. TYLER: We can certainly have that filed by next
10 Monday, Madam Chair.

11 CHAIRMAN EDGAR: By next Monday. Thank you.

12 It's 3:15. Mr. Tyler, would you like a break or
13 would you like to move along?

14 MR. TYLER: Whatever the pleasure of the Commission
15 is.

16 CHAIRMAN EDGAR: I think that we will take a
17 ten-minute break.

18 MS. BANKS: Madam Chair, before we take that break,
19 as a wrap-up for Witness McCallen, I just want to, I guess,
20 make a clarification for Exhibit Number 39, KRM-2. That is
21 actually the second revised listing of agreements for rates in
22 Florida, just to make that distinguished, because there were
23 actually two, and this is the second revised.

24 CHAIRMAN EDGAR: Thank you, Ms. Banks.

25 Okay. We will call it 3:30 by the clock on the wall.

1 (Recess.)

2 CHAIRMAN EDGAR: We will go back on the record.

3 Ms. Kaufman.

4 MS. KAUFMAN: Thank you, Madam Chair. Sorry.

5 I just wanted to know if I could take up a

6 housekeeping matter before we move to Ms. Blake?

7 CHAIRMAN EDGAR: Yes, ma'am.

8 MS. KAUFMAN: This has to do with the order of

9 witnesses. And I think I mentioned at the prehearing

10 conference that MetroPCS's Witness, Ms. Bishop, really needs to

11 get back to her responsibilities in Texas, and I had discussed

12 with some of the parties two alternatives for her. The first

13 would be that she take the stand after Ms. Blake today, and if

14 that isn't satisfactory, perhaps she could take the stand first

15 thing in the morning so that she could make her flight out

16 tomorrow morning and get back to Texas.

17 CHAIRMAN EDGAR: Is there any objection to

18 accommodating the request from Ms. Kaufman and having Witness

19 Bishop go as witness number three?

20 MR. TYLER: No objection on the part of BellSouth.

21 CHAIRMAN EDGAR: Thank you. Okay. Then we will --

22 MR. HOFFMAN: Excuse me, Madam Chairman.

23 CHAIRMAN EDGAR: Mr. Hoffman.

24 MR. HOFFMAN: I guess this directly effects our

25 witness Mr. Watkins, who would have been next. And I think

1 kind of looking ahead toward the remainder of the hearing, my
2 guess is that the cross-examination for the remaining witnesses
3 will be relatively brief compared to what the parties may have
4 for Mr. Watkins. So we don't have an objection to
5 accommodating Ms. Bishop, but what I would ask as well is that
6 perhaps we keep moving forward through the witness list and
7 that we begin with Mr. Watkins first thing tomorrow morning.

8 CHAIRMAN EDGAR: It is certainly my hope that the
9 cross will move faster with the subsequent witnesses. That is
10 my hope and my desire. How about we go ahead and we will start
11 here in just a moment, Mr. Tyler, with Witness Blake, and let's
12 see where we are here towards the end of the business day.

13 MR. HOFFMAN: Thank you.

14 CHAIRMAN EDGAR: Mr. Tyler, if you will offer your
15 next witness.

16 MR. TYLER: Mr. Culpepper on behalf of BellSouth will
17 be calling the next witness, Madam Chair.

18 CHAIRMAN EDGAR: Mr. Culpepper.

19 MR. CULPEPPER: Madam Chair, BellSouth calls Kathy
20 Blake as its next witness.

21 Whereupon,

22 KATHY BLAKE

23 was called as a witness on behalf of BellSouth
24 Telecommunications, Inc., and having been duly sworn was
25 examined and testified as follows:

DIRECT EXAMINATION

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BY MR. CULPEPPER:

Q Ms. Blake, would you give your name and your business address?

A My name is Kathy Blake. My business address is 675 West Peachtree Street, Atlanta, Georgia 30075.

Q Where are you employed and in what capacity?

A BellSouth, as the Director of Policy Implementation.

Q Ms. Blake, did you cause to be filed in this docket rebuttal testimony?

A Yes, I did.

Q And do you have any changes to your rebuttal testimony?

A No, I do not.

Q Do you have any exhibits to your testimony?

A No, I do not.

Q If I were to ask you the same questions which appear in your testimony, would your answers be the same?

A Yes.

Q Do you have a summary of your rebuttal testimony?

A Yes, I do.

Q Would you please provide the summary?

A Certainly.

Good afternoon. The purpose of my testimony is to provide BellSouth's positions in response to direct testimony

1 filed by other parties to this proceeding. Several parties
2 have asserted that BellSouth is required to provide transiting
3 pursuant to Sections 251(a)(1) and 251(c)(2)(a) of the 1996
4 Act. There is no such requirement. Section 251(a)(1) imposes
5 obligations on any two carriers to interconnect their networks
6 either directly or indirectly. Section 251(a)(1) says nothing
7 at all about a third carrier's obligation to facilitate that
8 indirect interconnection. In fact, this Commission has already
9 determined in its joint CLEC arbitration order that transit
10 traffic has not been determined to be a Section 251 UNE.

11 Furthermore, the issue of whether transiting is a
12 Section 251 requirement is not one of the issues identified by
13 the Commission to be addressed in this current proceeding.
14 Then why have the other parties addressed this requirement
15 extensively in their testimony? Presumably, CompSouth, Sprint
16 Nextel, and T-Mobile are propounding their position that
17 BellSouth has a 251 obligation to provide transit service as
18 their justification for arguing that any charges for providing
19 the service should be at TELRIC rates. Again, this Commission
20 has already addressed this issue by finding in the joint CLEC
21 arbitration order that, "A TELRIC rate is inappropriate because
22 transit service has not been determined to be a Section 251
23 UNE."

24 Where BellSouth voluntarily agrees to provide a
25 valuable function such as transit service, it should be

1 compensated for providing that function. Regarding
2 compensation, this Commission has already concluded that
3 BellSouth can charge market-based rates for transit traffic
4 service.

5 To date, and despite many opportunities to do so, the
6 FCC has declined to impose on ILECs a transiting function
7 pursuant to Section 251. In its intercarrier compensation
8 docket, the FCC issued a further notice of proposed rulemaking
9 in which it requested comments on the FCC's legal authority to
10 impose transiting obligations in the scope of any such
11 regulation if rules are warranted. Unless and until the FCC
12 alters its prior ruling and finds that transiting is a 251
13 obligation, this Commission should follow its precedent and,
14 therefore, reject the motion that BellSouth's transit tariff
15 rate is inappropriate.

16 Thank you, and that concludes my summary.

17 MR. CULPEPPER: Madam Chair, I would ask that Ms.
18 Blake's rebuttal testimony be read into the read into the
19 record as if given orally from the stand.

20 Ms. Blake is available for cross-examination.

21 CHAIRMAN EDGAR: Are there exhibits?

22 MR. CULPEPPER: No exhibits.

23 CHAIRMAN EDGAR: Okay. Then please show the
24 testimony, prefiled testimony and rebuttal is to be inserted
25 into the record as though read.

REPORTER NOTE: Page 220 was inadvertently omitted from the record.

- 1 BELLSOUTH TELECOMMUNICATIONS, INC.
2 REBUTTAL TESTIMONY OF KATHY K. BLAKE
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
4 DOCKET NOS. 050119-TP AND 050125-TP
5 JANUARY 30, 2006
6
- 7 Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH
8 TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR
9 BUSINESS ADDRESS.
10
- 11 A. My name is Kathy K. Blake. I am employed by BellSouth as Director –
12 Policy Implementation for the nine-state BellSouth region. My business
13 address is 675 West Peachtree Street, Atlanta, Georgia 30375.
14
- 15 Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR
16 BACKGROUND AND EXPERIENCE.
17
- 18 A. I graduated from Florida State University in 1981 with a Bachelor of
19 Science degree in Business Management. After graduation, I began
20 employment with Southern Bell as a Supervisor in the Customer Services
21 Organization in Miami, Florida. In 1982, I moved to Atlanta where I held
22 various positions involving Staff Support, Product Management,
23 Negotiations, and Market Management within the BellSouth Customer
24 Services and Interconnection Services Organizations. In 1997, I moved into
25 the State Regulatory Organization with various responsibilities for

1 testimony preparation, witness support and issues management. I assumed
2 my current responsibilities in July 2003.

3

4 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS
5 PROCEEDING?

6

7 A. No.

8

9 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

10

11 A. The purpose of my testimony is to provide BellSouth's policy position on
12 several issues in response to direct testimony filed on December 19, 2005
13 by Timothy J. Gates on behalf of The Competitive Carriers of the South,
14 Inc. ("CompSouth"), Steven W. Watkins on behalf of the Small LECs, and
15 Billy H. Pruitt on behalf of Sprint Nextel and T-Mobile USA Inc. ("Sprint
16 Nextel/T-Mobile") and Richard T. Guepe on behalf of AT&T
17 Communications of the Southern States, LLC ("AT&T").

18

19 Q. COMPSOUTH (GATES, PP. 8-9), THE SMALL LECS (WATKINS, PP. 8-
20 10) AND SPRINT NEXTEL/T-MOBILE (PRUITT, PP. 8-9) ARGUE
21 THAT BECAUSE BELLSOUTH HAS PROVIDED TRANSIT TRAFFIC
22 IN THE PAST WITHOUT AN ADDED CHARGE, BELLSOUTH
23 SHOULD NOT BE ALLOWED TO COLLECT AN INTERMEDIARY
24 CHARGE GOING FORWARD. DO YOU AGREE?

25

1 A. No. In fact, the Florida Public Service Commission (“Commission” or
2 “FPSC”) found in Order No. PSC-05-0975-FPF-TP (“*FL Joint Petitioners*
3 *Arbitration Order*”):

4
5 “The Joint Petitioners’ argument that BellSouth should not
6 be allowed to impose the TIC because it has not been
7 imposed for the previous eight years is unconvincing.
8 ...[W]e find that the basis for the TIC has existed for some
9 time as evidenced by its appearance in BellSouth’s other
10 interconnection agreements. Also, it would seem that
11 BellSouth has attempted to implement the TIC in the past,
12 but elected to forego charging the Joint Petitioners on
13 earlier occasions. BellSouth should not be penalized for
14 deciding [not] [*sic*] to pursue the charge on prior
15 occasions.”¹

16

17 As explained in the Direct Testimony of Mr. McCallen filed on December
18 19, 2005 (pp. 4-5), although BellSouth has been providing the transit
19 function for many years, the explosive growth of wireless and ISP-bound
20 traffic has resulted in a substantial increase in the number of transit calls
21 being placed over BellSouth’s network. The transit service functionalities
22 are valuable to ICOs, CLECs and CMRS providers for their originated
23 traffic. Due to the increased volumes of traffic, BellSouth is taking the
24 appropriate steps so that it is no longer providing this service without
25 receiving compensation for the use of its network.

26

27

¹ *In re: Joint petition by NewSouth Communications Corp., NuVox Communications, Inc., and Xspedius Communications, LLC, on behalf of its operating subsidiaries Xspedius Management Co. Switched Services, LLC and Xspedius Management Co. of Jacksonville, LLC, for arbitration of certain issues arising in negotiation of interconnection agreement with BellSouth Telecommunications, Inc., Docket No. 040130-TP, issued October 11, 2005 (“FL Joint Petitioners Arbitration Order”), p. 52.*

1 Q. THE POSITION OF COMPSOUTH (GATES, PP. 14-15), AT&T (GUEPE,
2 P. 8) AND SPRINT NEXTEL/T-MOBILE (PRUITT, PP. 9-14) IS THAT
3 INCUMBENT LECS ARE REQUIRED TO PROVIDE TRANSITING
4 PURSUANT TO §§ 251(a)(1) AND 251(c)(2)(a) OF THE ACT. DO YOU
5 AGREE?

6
7 A. Certainly not. Although I am not an attorney, from a layman's perspective,
8 as BellSouth's witness Mr. McCallen stated in his direct testimony (page
9 12), Section 251(a)(1) imposes obligations on any two carriers to
10 interconnect their networks either directly or indirectly. Section 251(a)(1)
11 says nothing at all about any other carrier's obligation to facilitate that
12 indirect interconnection. If the parties' interpretation of what this section
13 means were correct, any and every carrier in Florida could be forced to
14 transport calls for other carriers, even though as a third party it neither
15 originated nor terminated the traffic. This is clearly beyond what Congress
16 intended when it stated that each telecommunications carrier has the duty
17 "to connect directly or indirectly with the facilities and equipment of other
18 telecommunications carriers." (Section 251(a)(1))

19
20 As Mr. Gates admits (Gates, p. 12), the FCC is "still pondering" whether the
21 FCC has a legal authority to impose transiting obligations pursuant to
22 Section 251 of the Act, and, if so, the basis for the appropriate rates for such

1 services. In addressing this issue in the *Virginia Arbitration Order*,² the
 2 Wireline Competition Bureau of the FCC declined to make such a finding³
 3 and is seeking comments in the pending Intercarrier Compensation
 4 FNPRM.⁴ In addition, the FCC stated in the *Triennial Review Order*
 5 (“*TRO*”) that, “[t]o date, the Commission’s rules have not required
 6 incumbent LECs to provide transiting.”⁵ While the FCC has not expressly
 7 held that ILECs do not have to provide the transit function, it is clear that
 8 the FCC has refused to make it a requirement to date, notwithstanding many
 9 opportunities to do so. Further, if the FCC were to impose such an
 10 obligation, there is no indication that TELRIC rates would apply.

11

12 Q. ON P. 16 OF HIS TESTIMONY, MR. GATES QUOTES THE *NC JOINT*
 13 *PETITIONERS ARBITRATION RECOMMENDED ORDER*⁶ AS STATING,
 14 “BELLSOUTH HAS CONCEDED THAT THE TANDEM TRANSIT
 15 FUNCTION IS A SECTION 251 OBLIGATION.” PLEASE RESPOND.

² See *In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(3)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, CC Docket No. 00-218, *In the Matter of Petition of Cox Virginia Telecom, Inc. Pursuant to Section 252(3)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Arbitration*, CC Docket No. 00-249, and *In the Matter of Petition of AT&T Communications of Virginia Inc. Pursuant to Section 252(3)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc.* CC Docket No. 00-251 Memorandum Opinion and Order dated July 17, 2002 (“*Virginia Arbitration Order*”).

³ *Virginia Arbitration Order*, at ¶ 117.

⁴ *In the Matter of Developing a Unified Intercarrier Compensation Regime*, cc Docket No. 01-92, Further Notice of Proposed Rulemaking, Federal Communications Commission, 20 FCC Rcd 4685; 1005 FCC LEXIS 1390, FCC 05-33, rel. March 3, 2005 (“*ICF FNPRM*”).

⁵ *FCC Triennial Review Order (“TRO”)*, FCC 03-36, rel. August 21, 2003, at ¶ 534, n. 1640..

⁶ *In the Matter of Joint Petition of NewSouth Communications Corp. et al. for Arbitration with BellSouth Telecommunications, Inc.*, Docket Nos. P-772, Sub 8; P-913, Sub 5; P-898, Sub 3; P-824, Sub 6; and P-1202, Sub 4, Recommended Arbitration Order, issued July 26, 2005 (“*NC Joint Petitioners Arbitration Recommended Order*”).

1 A. As clarified in BellSouth's Objections to Recommended Arbitration Order
2 and BellSouth's Reply Comments in Support of Objections to
3 Recommended Arbitration Order and my pre-filed testimony filed in the *NC*
4 *Joint Petitioners Arbitration* proceeding, BellSouth's position is that the
5 FCC has declined to find that ILECs have a 251 duty to provide transit
6 service at TELRIC rates. Mr. Gates' reference to my testimony from the
7 hearing transcript in the *NC Joint Petitioners Arbitration* proceeding (Tr.
8 Vol. 6, page 338) is a quote that BellSouth has a 251 obligation to provide
9 transiting traffic services "based on our read of the FCC's arbitration orders
10 in Virginia." This statement was incorrect. As acknowledged by Mr. Gates
11 in his testimony in the current proceeding (Gates, p. 12), and as discussed
12 above, the FCC's decision in the *Virginia Arbitration Order* refused to find
13 any 251 obligation to provide transit service, as recognized throughout my
14 written testimony and other oral testimony. BellSouth's written testimony,
15 oral testimony, and briefs in the *NC Joint Petitioners Arbitration*
16 proceeding, taken as a whole, demonstrate that BellSouth's position is that
17 the FCC has not found that ILECs have a Section 251 duty to provide transit
18 service.

19
20 Q. IS THE ISSUE OF TRANSIT TRAFFIC PROVISION AS A SECTION
21 251(a)(1) REQUIREMENT INCLUDED ON THE ISSUES LIST FOR
22 THIS PROCEEDING?

23
24 A. No. This issue is not included on the list of issues to be addressed per
25 Exhibit A of the Commission's Order Establishing Procedure, Order No.

1 PSC-05-1206-PCO-TP, issued December 6, 2005.

2

3 Q. THEN WHY IS THE ISSUE OF A SECTION 251 OBLIGATION BEING
4 RAISED BY COMPSOUTH (GATES, P. 15) AND SPRINT NEXTEL/T-
5 MOBILE (PRUITT, PP. 16-18 AND 27-28)?

6

7 A. Presumably, CompSouth and Sprint Nextel/T-Mobile are propounding their
8 position that BellSouth has a Section 251 obligation to provide transit
9 service as justification for arguing that any charges for providing the service
10 should be at TELRIC rates.

11

12 Q HOW DO YOU RESPOND TO THE ASSERTION THAT TRANSIT
13 RATES MUST BE DEVELOPED CONSISTENT WITH TELRIC
14 PRINCIPLES?

15

16 A. As I explained above, Mr. Gates' and Mr. Pruitt's initial premise – that
17 BellSouth has a Section 251/252 obligation to provide transit traffic – is
18 incorrect. Therefore, the conclusion that such traffic must be provided at
19 TELRIC rates is equally flawed. Because BellSouth is not required to
20 provide a transit function, TELRIC pricing principles are inapplicable.
21 Where BellSouth voluntarily agrees to provide a transit function, BellSouth
22 can charge market-based rates. Even if Section 251(a) could be read to
23 impose a transit obligation (which it cannot), TELRIC pricing would not be
24 applicable to that obligation.

25

1 Q. HAS THE FLORIDA PUBLIC SERVICE COMMISSION (FPSC)
 2 ALREADY ADDRESSED WHETHER TRANSITING IS A SECTION
 3 251/252 REQUIREMENT?
 4

5 A. Yes. The *Florida Joint Petitioners Arbitration Order*, issued October 11,
 6 2005, states,
 7

8 ... (W)e find the TIC [Tandem Intermediary Charge] is not
 9 required to be TELRIC-based and is more appropriately, in
 10 this instant proceeding, a negotiated rate between the
 11 Parties. A TELRIC rate is inappropriate because transit
 12 service has not been determined to be a § 251 UNE.⁷

13 In approving a Tandem Intermediary Charge (i.e., a charge in addition to
 14 the applicable TELRIC tandem switching and transport rates), the FPSC
 15 Order further concludes,
 16

17 BellSouth shall be allowed to charge the CLEC a Tandem
 18 Intermediary Charge (TIC) for transport of transit traffic
 19 when CLECs are not directly interconnected to third parties.
 20 Parties are strongly encouraged to continue negotiations
 21 beginning at a rate of \$.0015 per minute of use.⁸
 22

23 Q. IN RESPONSE TO THE QUESTION WHETHER ANY STATES IN
 24 BELLSOUTH'S SERVING AREA HAVE ISSUED FINAL DECISIONS
 25 ON THE TRANSIT TRAFFIC ISSUE, ON PAGES 15-16, MR. GATES
 26 DISCUSSES THE *NORTH CAROLINA JOINT PETITIONER*
 27 *ARBITRATION ORDER*. IS THAT A FINAL ORDER?
 28
 29

⁷ *FL Joint Petitioners Arbitration Order*, at p. 52.

⁸ *Id.*, at p. 53.

1 A. No. The North Carolina Joint Petitioner Arbitration Order is a
2 Recommended Arbitration Order. Comments were filed by the parties
3 through October, 2005. A final North Carolina order has not yet been
4 issued.

5
6 Q. IS THE *FLORIDA JOINT PETITIONERS ARBITRATION ORDER* THE
7 ONLY FINAL ORDER ON THIS ISSUE IN BELLSOUTH'S REGION?

8
9 A. No. On March 23, 2005, the Georgia Public Service Commission
10 ("GPSC") issued its order in Docket 16772-U, BellSouth's Petition for a
11 Declaratory Ruling Regarding Transit Traffic. The GPSC order approved
12 (with some modifications) the Memorandum of Understanding ("MOU")
13 filed by BellSouth and the Georgia Telephone Association, including
14 BellSouth's voluntary provision of the transiting function for third party
15 transit traffic, in exchange for transiting charges to be paid to the transiting
16 carrier at a rate of \$0.0025 per minute of use, unless otherwise agreed in an
17 effective interconnection agreement between the parties.

18
19 In Docket No. 03-00585⁹ on the issues of CMRS/ICO transit traffic, the
20 Tennessee Regulatory Authority ("TRA") found "the company that
21 originates the call is responsible for paying the party terminating the call."¹⁰

22 Specifically, the Order states:
23

⁹ *In Re: Petitions for Arbitration of Cellco Partnership d/b/a Verizon Wireless, BellSouth Mobility LLC, et al, AT&T Wireless, T-Mobile USA < Inc. and Sprint Spectrum L.P. d/b/a Sprint PCS*, Docket No. 03-00585, Order of Arbitration Award issued January 12, 2006. ("TN CMRS/ICO Arbitration Order").

¹⁰ *Id.*, at p. 24.

1 Similarly, calls that originate on an ICO member's network
2 which traverse the BellSouth trunk group obligates that ICO
3 member to pay the appropriate transport and termination
4 charges associated with getting that call to the POI of the
5 CMRS provider, which is located at the BellSouth tandem.¹¹

6
7 The TRA will address issues regarding BellSouth's Transit Tariff in Docket
8 No. 04-00380, which is currently in abeyance pending the resolution of the
9 ICOs' planned appeal of certain aspects of the *TN CMRS/ICO Arbitration*
10 *Order*.

11
12 In its *KY Joint Petitioners Arbitration* on September 26, 2005,¹² the KPSC
13 concluded at p. 15 that BellSouth would continue to be required to transit
14 third party traffic, but not as a Section 251 obligation. The KPSC further
15 held that "[t]he rates previously charged should be contained in the new
16 interconnection agreements until and unless BellSouth can justify the TIC
17 additive."¹³ On October 18, 2005, BellSouth filed a Motion for Rehearing
18 and Request for Oral Argument on several findings in the KPSC's Order,
19 including its finding on the transit traffic issue (Issue 65). Oral arguments
20 were heard on November 30, 2005. A decision on the Motions for
21 Reconsideration is pending.

22
23
24

¹¹ *Id.*, at p. 30.

¹² *In the Matter of: Joint Petition for Arbitration of NewSouth Communications Cop., NuVox Communications, Inc., KMC Telecom V., Inc., KMC Telecom III LLC, and Xspedius Communications, LLC et al of an Interconnection Agreement with BellSouth Telecommunications, Inc. pursuant to Section 252(B) of the Communications Act of 1934, as Amended, Case No. 2004-00044, ("KY Joint Petitioners Arbitration Order")*.

¹³ *Id.*, at p. 15.

1 Q. ARE THERE ANY OTHER DECISIONS FROM STATES IN
2 BELLSOUTH'S SERVING AREA ON THE THIRD-PARTY TRANSIT
3 TRAFFIC ISSUE?

4
5 A. There are no other final written orders; however, this issue has been
6 arbitrated by BellSouth and the Joint Petitioners in all nine of BellSouth's
7 states. In Mississippi, the Recommendation of the Arbitration Panel to the
8 Mississippi Public Service Commission, issued December 13, 2005,
9 concluded,

10

11 [T]here is no support for the proposition that BellSouth
12 must provide this transit function under Section 251.
13 Accordingly, we adopt BellSouth's position and language
14 for this issue.¹⁴

15

16 Q. MR. GATES MAKES THE ALLEGATION THAT "ABSENT THE
17 INCUMBENT'S TRANSITING SERVICES, COMPSOUTH MEMBERS
18 COULD BE REQUIRED TO ESTABLISH, MONITOR AND MAINTAIN
19 INTERCONNECTION ARRANGEMENTS WITH EVERY OTHER
20 LOCAL CARRIER TO HANDLE THIS TRAFFIC." (GATES, P. 17). IS
21 THIS WHAT BELLSOUTH IS SAYING?

22

23 A. No. BellSouth has agreed to provide the transit function between two other
24 carriers, but not at TELRIC rates. Carriers can connect directly with other
25 carriers in order to exchange traffic, and, in fact, are required to do so

¹⁴ *In the Matter of: Joint Petition for Arbitration by NewSouth Communications, Corp., KMC Telecom V, Inc., KMC Telecom III LLC, and Xspedius Communications, LLC et al of an Interconnection Agreement with BellSouth Telecommunications, Inc.*, Docket No. 2004-AD-094, issued December 13, 2005 ("*MS Joint Petitioners Arbitration*")

1 pursuant to Section 251(a). They do not need BellSouth to pass such traffic
2 for them. However, for whatever efficiencies they gain, carriers have
3 elected to have BellSouth perform a transit traffic function for them, and
4 BellSouth is entitled to compensation for performing that function.

5

6 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

7

8 A. Yes.

9

10

11

12

13

14

15

16

17

18 #617541

1

CHAIRMAN EDGAR: And we are ready for cross.

2

3

MR. GROSS: FCTA has no cross.

4

MR. HATCH: No cross.

5

MR. O'ROARK: Verizon Access has no cross.

6

MR. PALMER: Verizon Wireless has hopefully a little

7

bit of cross.

8

CROSS EXAMINATION

9

BY MR. PALMER:

10

Q Ms. Blake, my name is Chuck Palmer. I represent

11

Verizon Wireless. It's nice to meet you.

12

A Nice to meet you.

13

Q I gather from your title and from your prefiled

14

testimony that you direct the implementation of policy for

15

BellSouth throughout the nine-state region, is that correct?

16

A I am one of several folks that direct that

17

implementation, yes.

18

Q So there are other directors?

19

A Yes.

20

Q Okay. Since you are testifying as to Issue Number

21

11, I take it that rates to be included in interconnection

22

agreements are a matter of policy?

23

A Rates to be included in interconnection agreements

24

pursuant to Section 251, yes, involve policy decisions,

25

interpreting the rules and orders that come out of the FCC and

1 the state commissions.

2 Q So are the rates themselves considered to be a policy
3 matter, the actual rates that are negotiated?

4 A Not necessarily the actual rates that are negotiated,
5 but the foundation of the rates and how they are arrived at and
6 what pricing standard is applicable to such rates.

7 Q Okay. Are the individual negotiators for BellSouth,
8 are they free to negotiate rates?

9 A Let me kind of caveat my answer, if I will. On those
10 items for which we have an obligation pursuant to 251 and
11 TELRIC rates have been established by the state commission,
12 that pretty much dictates the rates for those services. If
13 it's a service or an offering we have outside of the scope of
14 that obligation, the negotiators again, and coupled with
15 product managers that may develop that product and what pricing
16 they want to charge for that nonobligation product, if you
17 will, would be consulted and they would put forth the
18 negotiations from that point.

19 Q Let's focus on the transit rates. That's why we are
20 here today. If a BellSouth negotiator were to say in a
21 negotiation that the transit rate is 3/10ths of a cent per
22 minute and can't be negotiated, is he or she following a
23 BellSouth policy in that regard?

24 A Well, let me just kind of back up and maybe explain
25 typically how that would work. For a service that we are not

1 obligated to provide, like I mentioned earlier, a product
2 manager would develop the product and arrive at the price to
3 charge for that product. That would be provided to the
4 negotiators as kind of the basket of stuff to offer to a
5 customer and what terms and conditions to make it available.

6 Again, negotiations, a lot of give and takes, and
7 there's, you know, parameters within which you want to get
8 involved in those gives and takes. So they do have some
9 latitude, but I believe if there was an issue it would, you
10 know, necessarily be escalated up to the negotiator's
11 supervisor if there was some concern about that.

12 Q Well, let's, again, focus on just the transit rate.
13 If a negotiator, again, were to take the position that it is
14 3/10ths of a cent per minute and cannot be negotiated at all,
15 is that consistent with BellSouth policy or is it not
16 consistent?

17 A Let me think about that for a second. I guess I
18 can't see a negotiator at this juncture saying that it's that
19 rate or take it. Again, we do negotiating, and like was
20 determined in the joint CLEC arbitration order, the beginning
21 point was the .0015, and that is the beginning point, and we
22 would put that forth and negotiate from there. I guess if we
23 got to a point where the negotiations failed, and they couldn't
24 go forward, we would cross that bridge when we got to it. But
25 the foundation is that we would, from that standpoint, start at

1 the .0015 for the CLEC negotiations.

2 Q With respect to CMRS negotiations, would it surprise
3 you to hear that BellSouth takes the position that it is
4 3/10ths of a cent per minute and no negotiation, would that
5 surprise you?

6 A As a composite rate, is that what you are discussing?

7 Q Well, the rate that we are talking about today is the
8 3/10ths of a cent per minute, which is your rate that you have
9 filed in your tariff, correct?

10 A Yes, that is correct. And, again, I can't speak to
11 what particulars may have gone on directly between the
12 negotiator and a customer. Again, there are other factors that
13 may come into play of other services that are being negotiated
14 and what was given and taken, but I can't speak to the specific
15 discussions between a customer and a --

16 Q And I'm not trying to get you into a specific
17 discussion or a specific negotiation. I'm just asking
18 generically would it surprise you to learn that BellSouth
19 negotiators may in a particular negotiation, wherever it might
20 be, and let's just say in Florida, since that is where we are
21 here today, were to take the position that the transit rate is
22 going to be 3/10ths of a cent per minute and that is not
23 negotiable?

24 A That may surprise me, it may not. Again, not knowing
25 all the foundation behind those negotiations of what may have

1 transpired.

2 Q What would happen to a negotiator who violates
3 BellSouth's policies on interconnection?

4 A I'm not in a position to speak to what the
5 ramifications are for -- again, depending on their duties and
6 responsibilities and what their job subscription is. That
7 would be between them and their supervisor if they violated
8 company policies or their procedures.

9 Q So, you are the director of policy implementation,
10 but you don't know what happens if somebody violates those
11 policies?

12 MR. CULPEPPER: Objection, Madam Chair. Counsel has
13 asked what appears to be a hypothetical in several fashions and
14 several times, and I believe the witness has given a response
15 on several occasions. If he has something specific to ask the
16 witness, then I think he can move on, but this appears to be
17 asked and answered several times.

18 MR. PALMER: Madam Chair, I don't recall asking that
19 particular question, and I think I'm entitled to some latitude
20 on cross-examination. I've asked her -- she says she is the
21 director of policy implementation. I have asked her what
22 happens if somebody violates the policy. And if she knows, she
23 knows, and if she doesn't, she doesn't. It is a yes or no.

24 CHAIRMAN EDGAR: I will allow it for now.

25 MR. PALMER: Thank you.

1 THE WITNESS: As far as what specifically might
2 happen to an employee for violating a policy or procedure of
3 the company would be dictated under our human resources
4 organization, and not something I'm directly involved in. As
5 far as my specific role in policy implementation, it is putting
6 forth BellSouth's policy positions in proceedings such as this
7 and other states.

8 MR. PALMER: All right. Thank you.

9 BY MR. PALMER:

10 Q Is BellSouth currently subject to any 252(b)
11 arbitrations within the nine-state region?

12 A As far as active proceedings under 252?

13 Q Yes.

14 A With CLECs?

15 Q Or with CMRS, either.

16 A Certainly there have been some filed. As far as
17 procedurally where they are, I'm not in a position sitting here
18 right now to know all the procedural orders in the different
19 states. But, yes, we do have some arbitration proceedings
20 pending in various states.

21 Q Thank you. If I were to tell you that Verizon
22 Wireless currently has a transit rate of 2/10ths of a cent per
23 minute with BellSouth, is it your position that BellSouth would
24 consider setting a transit rate lower -- excuse me, at that
25 rate or lower than 3/10ths of a cent per minute in future

1 negotiations?

2 A I think typically when we renegotiate a contract we
3 start with the current contract for the most part, again,
4 barring any changes in policy or positions that may have
5 happened since then. It is fully within the realm of
6 possibility to begin with that rate. Like Mr. McCallen stated,
7 we have offered provisions and contracts (confidential words
8 removed) and other providers that are lower than the tariff
9 rate that we are proposing here.

10 MR. PALMER: Thank you. I believe that's all I have.
11 Thank you.

12 CROSS EXAMINATION

13 BY MS. BERLIN:

14 Q Good afternoon, Ms. Blake. Susan Berlin for
15 Competitive Carriers of the South.

16 A Good afternoon.

17 Q Have you been involved in negotiating interconnection
18 agreements with CLECs directly?

19 A Yes, I have.

20 Q Is it the case that BellSouth has negotiated an
21 appropriate transit rate in Section 252 negotiations?

22 A We have put forth our transit offer in negotiations
23 with CLEC along with 251 obligations in those agreements. We
24 go forward with that under the premise that those are not --
25 transit is not a 251 obligation. We are putting in an

1 agreement for ease of administration. Any arbitration that may
2 get filed pursuant to 252 should not include the transit issue
3 because it is not a 251 obligation.

4 Q But BellSouth has arbitrated the transit issue in
5 Section 252 arbitrations, right?

6 A It has been presented as an issue for arbitration.
7 We have put forth a position that is not appropriate for
8 arbitration.

9 Q In your testimony at Pages 8 and 9, you discuss the
10 North Carolina arbitration decision in the
11 NuVox/Expedia/BellSouth arbitration?

12 A Yes.

13 Q And you mentioned that the final order was not yet
14 issued. Are you aware or do you know whether it has been
15 finally resolved?

16 A Yes. At the time I filed my testimony at the end of
17 January the final order was not issued. It has subsequently
18 come out in early February.

19 Q And how did the final decision come out?

20 A They confirmed their recommended order from
21 previously that basically the TIC rate that we were proposing
22 was not -- should be cost-based.

23 Q They found that -- I'm sorry, I have it here. Maybe
24 you should look at it.

25 A Sure.

1 MS. BERLIN: And maybe we could mark this for
2 discussion purposes as -- I have lost my current exhibit list.
3 This is not current. Here it is. Exhibit 40.

4 CHAIRMAN EDGAR: 41.

5 MS. BERLIN: Very good, 41.

6 (Exhibit 41 marked for identification.)

7 BY MS. BERLIN:

8 Q So you have seen this decision before, Ms. Blake?

9 A Yes, I have.

10 Q And what has been handed out I will represent to you
11 is the first page, the last page, and the relevant pages that
12 discuss this issue. And the Commission voted not to reconsider
13 their finding, and their original finding was that BellSouth
14 should not be permitted to charge a TIC when providing a tandem
15 transit function for competitive carriers, is that right?

16 A Yes, that's what the North Carolina Commission ruled.
17 However, the Florida Commission ruled the opposite of that in
18 their decision in this same arbitration proceeding.

19 Q And then in your testimony at Page 10 you mentioned
20 the Kentucky arbitration and the NuVox/Expedia/BellSouth
21 arbitration, and you mention that BellSouth filed for
22 reconsideration on that, as well. Do you know whether the
23 Kentucky Commission has issued an order on that?

24 A Yes, they did issue their order on recon.

25 Q And do you know how they found?

1 A Basically, they stuck with their original position
2 and denied reconsideration.

3 Q And in that instance, in Kentucky BellSouth will not
4 be permitted to charge a nonTELRIC based TIC, is that right?

5 A Yes, that is correct. Again, that is the same
6 proceeding this Commission found in the joint CLEC arbitration
7 order.

8 MS. BERLIN: I don't have any additional questions.

9 MS. BANKS: Madam Chair, on the Exhibit Number 41,
10 did we give that a description?

11 CHAIRMAN EDGAR: I was just doing that right now, and
12 let's start with North Carolina Utilities Commission Order
13 Excerpts, February 8th, 2006. Does that work?

14 MS. BANKS: That will work. Thank you.

15 CHAIRMAN EDGAR: Mr. Atkinson.

16 MR. ATKINSON: Thank you, Madam Chair.

17 CROSS EXAMINATION

18 BY MR. ATKINSON:

19 Q Good afternoon, Ms. Blake. Bill Atkinson on behalf
20 of Sprint Nextel. I have just a few questions for you this
21 afternoon, I believe.

22 A Okay.

23 Q Now, you have worked for BellSouth since 1982, is
24 that correct?

25 A '81.

1 Q '81. Thank you. I stand corrected. And you have
2 been in your present position since July 2003, is that correct?

3 A That is correct.

4 Q So almost three years?

5 A Correct.

6 Q And you have testified and presented prefiled
7 testimony and actually testified live in several arbitration
8 proceedings, is that correct?

9 A Yes, that's correct.

10 Q Do you know about how many over the years you have
11 testified in?

12 A Well, as far as actual cases in the different states,
13 probably over 20.

14 Q Now, you mentioned -- thank you. You mentioned a
15 Florida arbitration docket in your summary and just a minute
16 ago on cross. And my question to you is based on your
17 knowledge and extensive experience with arbitrations, you would
18 agree with me, wouldn't you, that in an interconnection
19 arbitration proceeding it's not normal and would be very
20 unusual for nonparties to the interconnection negotiations to
21 intervene and be allowed to participate in the arbitration
22 proceedings, would you agree with me?

23 A I would definitely agree with you. I don't believe
24 they are even allowed to intervene in a two-party arbitration.

25 MR. ATKINSON: Thank you. I have no further

1 questions.

2 MR. McDONNELL: The Small LECs have no questions.

3 CHAIRMAN EDGAR: Others? Mr. Self.

4 MR. SELF: No questions.

5 CHAIRMAN EDGAR: Mr. Gerkin?

6 MR. GERKIN: No questions.

7 CHAIRMAN EDGAR: Okay. That brings us to staff.

8 Questions?

9 MS. BANKS: No questions.

10 CHAIRMAN EDGAR: No questions.

11 Redirect?

12 MR. CULPEPPER: Briefly, Madam Chair.

13 REDIRECT EXAMINATION

14 BY MR. CULPEPPER:

15 Q Ms. Blake, do you recall a line of questioning from
16 Ms. Berlin regarding decisions in the joint petitioner
17 arbitration regarding North Carolina and Kentucky?

18 A Yes, I do.

19 Q Are you aware of any other decisions in the joint
20 petitioner arbitration related to the transit intermediary
21 charge issue?

22 A Besides the Florida order, the Mississippi PSC has
23 reached the same conclusion as Florida.

24 Q And what is that conclusion?

25 A That BellSouth is allowed to charge a TIC. It is not

1 a 251 obligation, and it can be market-based.

2 MR. CULPEPPER: Thank you, Ms. Blake. I have no
3 further questions.

4 CHAIRMAN EDGAR: Okay. Let's take up Exhibit 41.
5 Ms. Berlin.

6 MS. BERLIN: I would like to move Exhibit 41 into the
7 record, please.

8 CHAIRMAN EDGAR: Any objection?

9 MR. CULPEPPER: No objection.

10 CHAIRMAN EDGAR: Thank you. Okay. Please show
11 Exhibit 41 moved into the record.

12 (Exhibit 41 admitted into evidence.)

13 CHAIRMAN EDGAR: The witness may be excused.

14 THE WITNESS: Thank you.

15 CHAIRMAN EDGAR: Thank you. I have next on my list
16 Mr. Watkins. Would counsel like to bring their witness?

17 MR. TYLER: Madam Chair, I believe this was the issue
18 where we were going to change and take up Ms. Bishop in place
19 of Mr. Watkins.

20 CHAIRMAN EDGAR: That did, quite frankly, move a
21 little faster on the last witness than even I was expecting.
22 Mr. Hoffman.

23 MR. HOFFMAN: Madam Chairman, we had already stated
24 that we did not have an objection to taking Ms. Bishop up next
25 before Mr. Watkins.

1 CHAIRMAN EDGAR: In that case, I misunderstood your
2 earlier comment, because I was under the impression that you
3 were desirous of, if there was time, having Mr. Watkins go
4 next.

5 But if that is not your strong desire, then, Ms.
6 Kaufman, I believe we can take your witness up next.

7 MS. KAUFMAN: Thank you, Madam Chair.

8 CHAIRMAN EDGAR: Thank you.

9 MR. HOFFMAN: Madam Chair, while Ms. Bishop is coming
10 up, just so I can explain the suggestion that I made. I felt
11 that looking out ahead the cross for the remainder of the
12 witnesses would be relatively brief compared to that for Mr.
13 Watkins. And what I was suggesting is perhaps it would be
14 appropriate to keep going through the witnesses and skip Mr.
15 Watkins and take him up first thing in the morning. That's all
16 I was saying.

17 CHAIRMAN EDGAR: I appreciate that clarification. I
18 misunderstood actually earlier when you made that comment and I
19 understand now.

20 So, Ms. Kaufman.

21 MS. KAUFMAN: Madam Chair, Mr. Gerkin will put
22 Ms. Bishop on the stand.

23 DENA BISHOP

24 was called as a witness on behalf of MetroPCS Florida, LLC,
25 having been first duly sworn, was examined and testified as

1 follows:

2 DIRECT EXAMINATION

3 BY MR. GERKIN:

4 Q Good afternoon, Ms. Bishop. Would you please state
5 your name and address for the record.

6 A Dena Bishop, 8144 Walnut Hill Lane, Suite 800,
7 Dallas, Texas.

8 Q By whom are you employed and in what capacity?

9 A MetroPCS, Director of Intercarrier Finance.

10 Q And on whose behalf are you appearing here today?

11 A MetroPCS Florida, LLC.

12 Q And did you cause to be filed in this docket eight
13 pages of rebuttal testimony on January 30, 2006?

14 A Yes.

15 Q Was that testimony prepared under your direction and
16 supervision?

17 A Yes.

18 Q Do you have any changes or corrections to that
19 testimony?

20 A No, sir.

21 Q If I asked you these questions today, would your
22 answers be the same?

23 A Yes.

24 MR. GERKIN: Madam Chairman, I would ask that Ms.
25 Bishop's prefiled rebuttal testimony be entered into the record

1 as though read. And I would note that Ms. Bishop has
2 confidential information appearing on Pages 3, 4, and 5 of that
3 testimony. That has been given a separate exhibit number,
4 Exhibit Number 23.

5 CHAIRMAN EDGAR: Please show Ms. Bishop's prefiled
6 testimony to be entered into the record as though read, and
7 note the confidentiality matter as discussed by counsel.

8 MR. GERKIN: Thank you, Madam Chairman.

9 BY MR. GERKIN:

10 Q Ms. Bishop, do you have any exhibits to your
11 testimony?

12 A Yes, I do.

13 Q How many exhibits?

14 A One.

15 Q That's Exhibit DJB-1, is that right?

16 A That's correct.

17 MR. GERKIN: Madam Chairman, I believe that exhibit
18 was stipulated into the record as Exhibit Number 24.

19 CHAIRMAN EDGAR: Thank you.

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **REBUTTAL TESTIMONY AND EXHIBIT OF**

3 **DENA J. BISHOP**

4 **DOCKET NOS. 050119-TP AND 050125-TP**

5 **Q. Please state your name and address.**

6 A. My name is Dena J. Bishop. My business address is 8144 Walnut Hill Lane, Suite 800,
7 Dallas, Texas 75231.

8 **Q. By whom are you employed and in what capacity?**

9 A. I am Director of Intercarrier Finance for MetroPCS, Inc. I am responsible for all business
10 and policy matters related to intercarrier billing for MetroPCS, Inc. and its subsidiaries.

11 **Q. Please describe your education and your background in the telecommunications**
12 **industry.**

13 A. In December 1993 I graduated from The University of Texas at Austin with a Bachelor of
14 Business Administration and Masters in Professional Accounting. In May 1991, I began
15 working in the telecommunications industry. Over the course of the last 14 years, I have
16 held positions related to intercarrier billing and bill verification at various long distance
17 and competitive local companies, including a software company that specialized in the
18 audit of intercarrier invoices for long distance, local, and wireless carriers.

19 **Q. On whose behalf are you submitting this Rebuttal Testimony?**

20 A. I am submitting this Rebuttal Testimony on behalf of MetroPCS California/Florida, Inc.
21 ("MetroPCS").

1 Q. What is the purpose of your testimony?

2 A. The purpose of my testimony is to respond to portions of the "Direct Testimony of
3 Kenneth Ray McCallen on Behalf of BellSouth Telecommunications, Inc."

4 ISSUE 11A: WHAT IS THE APPROPRIATE RATE FOR TRANSIT SERVICE?

5 Q. Have you reviewed the testimony of BellSouth's witness, Mr. Kenneth Ray
6 McCallen?

7 A. Yes, I have.

8 Q. What does Mr. McCallen identify as the basis for BellSouth's proposed transit rate
9 of \$0.003 per minute?

10 A. At page 11, lines 13-15, he states that "BellSouth's tariffed transit rate is comparable to
11 rates in recently negotiated agreements between BellSouth and CLECs and between
12 BellSouth and CMRS carriers for transit services." He again says essentially the same
13 thing at page 19, lines 1-5.

14 Q. Does Mr. McCallen identify the CLECs who he says have agreed to "comparable"
15 rates and the rates to which they have agreed?

16 A. Yes, in Exhibit KRM-2, Mr. McCallen lists 205 CLECs who he says agreed to transit
17 rates ranging from \$0.0023 to \$0.006 per MOU in interconnection agreements that
18 became effective between June 2000 and December 2005.

19 Q. Does the fact that over 200 CLECs have agreed to pay transit rates of \$0.025 or
20 more per minute indicate to you that BellSouth's proposed rate is reasonable?

21 A. No, it does not.

1 Q. Why is that?

2 A. I would be surprised if any of those CLECs originate enough transit traffic to care about
3 BellSouth's transit rate, much less justify the cost of arbitrating or litigating the transit
4 rate.

5 Q. Do you know how much transit traffic each of those CLECs originates in Florida?

6 A. As of the date that my prefiled testimony was prepared, I do not. MetroPCS has asked
7 BellSouth for this information in discovery, but BellSouth's response was not due before
8 my rebuttal testimony needed to be filed. BellSouth's response to Item 1 of the Small
9 LECs' First Interrogatories, however, indicates that, *at most*, eighteen of those CLECs
10 (two of which are BellSouth affiliates) originated *any* transit traffic that was transited by
11 BellSouth to Florida independent incumbent local exchange carriers ("ILECs") in
12 November 2005. The response also indicates that about twenty-one CLECs who
13 BellSouth does *not* claim have agreed to such transit rates originated transit traffic to
14 Florida independent ILECs in November.

15 Q. Do you have any other information that indicates how much transit traffic CLECs
16 originate?

17 A. Yes. In the Georgia Public Service Commission docket concerning BellSouth's transit
18 service BellSouth has been filing reports showing the volume of transit traffic that it
19 switches and transports between CLECs and independent ILECs in Georgia. In
20 November, the last month for which BellSouth had filed information when my testimony
21 was prepared, MetroPCS originated (1) nearly [REDACTED] as much traffic that

1 BellSouth transited to independent ILECs in Georgia as BellSouth reported for all
2 Georgia CLECs combined, (2) more than [REDACTED] of the Georgia CLECs combined,
3 (3) more than [REDACTED] as much as any CLEC but one, and (4) [REDACTED] as much as that
4 one. This clearly indicates that most CLECs originate far less transit traffic than
5 MetroPCS does. The fact that over 200 CLECs may have agreed to a transit rate does not
6 prove anything concerning the reasonableness of that rate when most of them either
7 originate no transit traffic at all or originate only trivial amounts of transit traffic
8 compared to MetroPCS.

9 **Q. But doesn't Mr. McCallen indicate in Exhibit KRM-3 that 17 CMRS carriers have**
10 **also agreed to comparable transit rates?**

11 **A.** Yes, he does, but that list is not persuasive, either. First, of the CMRS carriers listed by
12 Mr. McCallen, MetroPCS, Verizon Wireless, Sprint Nextel and T-Mobile are all parties
13 in this docket, and all of those but Verizon directly oppose BellSouth's proposed transit
14 rate. Although Verizon Wireless is not directly challenging BellSouth's proposed transit
15 rate, it is controlled by Verizon Communications, which has the same interest as
16 BellSouth in being permitted to charge excessive transit rates. Cingular is BellSouth's
17 affiliated CMRS carrier and cannot be expected to challenge BellSouth's proposed rates.
18 AT&T Wireless, Nextel, NPCR, Tritel and GTE Wireless are all now part of Verizon,
19 Sprint Nextel or Cingular, companies that I have already discussed above. Although
20 AllTel Communications is not a party to this docket, its ILEC affiliate is, and the Georgia
21 AllTel ILECs are challenging a proposed Georgia transit rate of \$0.025 per MOU.¹

¹ See Georgia Public Service Commission Docket No. 16772-U.

1 Commnet of Florida is a very small, wholesale-only CMRS carrier. Its financial
2 statements indicate that its total *national* annual operating expenses (including
3 depreciation and amortization) are less than ██████████ MetroPCS's annual Florida transit
4 bill from BellSouth.² According to their web sites, Cricket Communications³ and United
5 States Cellular⁴ have no operations in Florida. Cellular South's web site⁵ indicates that its
6 Florida operations are limited to a small portion of the western panhandle. The FCC's
7 online database⁶ does not identify any CMRS carrier with the word "action" in its name.

8 The only Florida CMRS carriers that are not challenging BellSouth's proposed transit
9 rate in Florida, Georgia or both, either directly or through an affiliate, are Verizon,
10 Cingular, Commnet and Cellular South. The fact that Verizon and Cingular, whose parent
11 companies have the same interest as BellSouth in being permitted to charge excessive
12 transit rates, and two very small CMRS carriers are not challenging BellSouth's proposed
13 rate hardly indicates the wireless industry's endorsement of BellSouth's transit rate.

14 **Q. Mr. McCallen states that "BellSouth is not required to provide a transit function"**
15 **(page 6, lines 7-8 and page 17, line 4) and that the availability of transit service is the**
16 **result of "BellSouth's business decision" (page 7, line 8). What is your response?**

17 **A.** I disagree. The intended implication seems to be that BellSouth is free to price transit
18 service as it pleases or withdraw it altogether. Although I am not a lawyer, I believe that

² See <http://www.sec.gov/Archives/edgar/data/879585/000119312505225621/dex994/htm> at page 5.

³ See <https://www.mycricket.com/stores/>.

⁴ See http://www.uscc.com/uscellular/SilverStream/Pages/r_city.html?call=2.

⁵ See http://www.cellularsouth.com/plans/coverage_fl.jsp.

⁶ See <http://gullfoss2.fcc.gov/cib/form499/499a.cfm>.

1 the FCC has indicated that transit service is governed by Section 251(c) of the
2 Telecommunications Act.

3 **Q. Please explain.**

4 A. In October 2002, the FCC issued a declaratory ruling, in response to a petition by Qwest,
5 concerning the scope of interconnection agreements that must be filed with state
6 commissions under Section 252(a)(1) of the Telecommunications Act.⁷ In that
7 declaratory ruling, the FCC held that an agreement entered into by an incumbent LEC
8 “that creates an ongoing obligation pertaining to resale, number portability, dialing parity,
9 access to rights-of-way, reciprocal compensation, interconnection, unbundled network
10 elements, or collocation is an interconnection agreement that must be filed”⁸ More
11 specifically, the FCC ruled that “*only* those agreements that contain an ongoing
12 obligation *relating to section 251(b) or (c)* must be filed under 252(a)(1).”⁹ Other
13 agreements need not be filed.¹⁰

14 Subsequently, the FCC issued a Notice of Apparent Liability proposing to fine Qwest for
15 failing to file certain interconnection agreements with the Minnesota and Arizona
16 commissions in a timely fashion.¹¹ Qwest filed the Minnesota agreements on March 25

⁷ *Qwest Communications International Inc. Petition for Declaratory Ruling on the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements under Section 252(a)(1)*, Memorandum Opinion and Order, 17 FCC Rcd. 19337 (FCC 02-276) (released October 4, 2002) (“*Qwest Declaratory Ruling*”).

⁸ *Id.* at ¶ 8 (emphasis omitted).

⁹ *Id.* n.26 (emphasis added). See also, *id.* at ¶ 12 (“[A] settlement agreement that contains an ongoing obligation relating to section 251(b) or (c) must be filed under section 252(a)(1).”)

¹⁰ “We therefore disagree with the parties that advocate the filing of *all* agreements between an incumbent LEC and a requesting carrier.” *Id.* at ¶ 8 n.26 (emphasis in original)

¹¹ *In the Matter of Qwest Corporation Apparent Liability for Forfeiture*, Notice of Apparent Liability for Forfeiture, File No. EB-03-IH-0263, 19 FCC Rcd. 5169 (FCC 04-57) (released March 12, 2004) (“*Qwest NAL*”).

1 and 26, 2003.¹² The Minnesota Department of Commerce and Minnesota Public Utilities
2 Commission online eDocket system¹³ has copies of thirty interconnection agreements
3 filed by Qwest on those dates, one of which is attached hereto as Exhibit ___ DJB-1. The
4 only matters addressed by this agreement are transit services, the exchange of call detail
5 records for transit traffic, and the confidentiality of those records. As noted by the FCC,
6 the Minnesota PUC found that all of the agreements filed by Qwest on those dates were
7 interconnection agreements in whole or in part.¹⁴ The FCC agreed, rejecting Qwest's
8 arguments that the filed agreements were not interconnection agreements covered by the
9 *Qwest Declaratory Ruling*.¹⁵

10 While, again, I am not a lawyer, it seems clear to me that nothing in Section 251(b) of the
11 Telecommunications Act relates to the provision of a transit service. Paragraph (1)
12 requires LECs to permit resale of their services. Paragraph 2 requires LECs to provide
13 number portability. Paragraph 3 requires them to provide dialing parity. Paragraph 4
14 requires them to provide access to their poles, ducts, conduits and rights-of-way. And
15 Paragraph 5 requires LECs "to establish reciprocal compensation arrangements for the
16 transport and termination of telecommunications." Thus, when the FCC proposed to fine
17 Qwest for failing to file an agreement concerning transit service, a requirement that the
18 FCC previously had ruled applies only to agreements containing ongoing obligations

¹² *Id.* at ¶ 15.

¹³ See <http://www.edockets.state.mn.us/>.

¹⁴ *Qwest NAL* at ¶ 15.

¹⁵ See generally, *Qwest NAL* at ¶¶ 25-41.

1 under 251(b) and (c), the FCC necessarily ruled that the transit service addressed in
2 Exhibit ___ DJB-1 is governed by Section 251(c).

3 **Q. In light of that ruling, what do you believe is the appropriate rate for BellSouth's**
4 **transit service?**

5 A. It is my understanding that the FCC has held that TELRIC pricing is required for
6 interconnection services that are governed by Section 251(c) of the Telecommunications
7 Act. I thus agree with Mr. Billy Pruitt, the witness for Sprint Nextel and T-Mobile, that
8 BellSouth's transit service must be priced in accordance with TELRIC and must only
9 include the applicable rate elements for the functions performed by BellSouth when it
10 provides a transiting function.

11 **Q. Does that conclude your rebuttal testimony?**

12 A. Yes, it does.

1 BY MR. GERKIN:

2 Q Ms. Bishop, have you prepared a summary of your
3 rebuttal testimony?

4 A Yes, I have.

5 Q Would you please give that now?

6 A Yes.

7 Good afternoon, Commissioners. My name is Dena
8 Bishop, and I am Director of Intercarrier Finance at MetroPCS.
9 I submitted rebuttal testimony on behalf of MetroPCS, and.
10 While my testimony is quite short, it addresses an issue that
11 is of critical importance to MetroPCS, because MetroPCS
12 utilizes BellSouth's transit service so that customers can
13 efficiently complete calls.

14 My testimony discusses Issue 11a, which is what is
15 the appropriate rate for transit service, and I make three
16 points. First, as I understand it, transit service is
17 considered part of the ILEC's interconnection requirements, as
18 a transit service provides an ongoing interconnection
19 obligation between two carriers. While I am not a lawyer, and
20 I offer no legal interpretation or legal opinions, in my lay
21 opinion, my interpretation of two different FCC rulings support
22 my statement.

23 In an FCC declaratory ruling, FCC Document Number
24 02276, the FCC addressed a declaratory ruling petition filed by
25 Qwest concerning the scope of interconnection agreements that

1 needed to be filed pursuant to Section 252(a)(1). The FCC
2 said, and I quote, "We find that an agreement that creates an
3 ongoing obligation pertaining to resale, number portability,
4 dialing parity, access to rights-of-way, reciprocal
5 compensation, interconnection, unbundled network elements, or
6 collocation is an interconnection agreement that must be filed
7 pursuant to Section 252(a)(1). This interpretation, which
8 directly flows from the language of the Act, is consistent with
9 the procompetitive deregulatory framework set forth in the Act.
10 This standard recognizes the statutory balance between the
11 rights of competitive LECs to obtain interconnection terms
12 pursuant to Section 252(i) and removing unnecessary regulatory
13 impedance to commercial relations between incumbent and
14 competitive LECs," end of quote.

15 The FCC then, in Document Number FCC 04-57, fines
16 Qwest for not filing certain interconnection agreements. One
17 of those agreements is an agreement covering the exchange of
18 records for transit services. It seems to me that if the
19 exchange of transit records is considered an interconnection
20 agreement that must be filed, then surely the transit service
21 itself would be considered an interconnection requirement, as
22 well.

23 Second, rates charged for interconnection services
24 should be based upon forward-looking costs; that is, on TELRIC
25 principles, as Mr. Pruitt explains. MetroPCS supports that

1 position.

2 And, last, MetroPCS takes issue with BellSouth's
3 position that because particular rates are found in
4 interconnection agreements, that makes its rates reasonable.
5 It is our position that Mr. McCallen's Exhibit KRM-2 is of no
6 value in deciding the appropriate transit rate in this
7 proceeding. I have been negotiating interconnect agreements
8 for the past three years and can say from personal experience
9 that during the negotiation process a carrier chooses which
10 terms and rates mean the most to that carrier and which are of
11 no consequence. If a carrier does not use a transit rate, the
12 fact it may be an agreed-to rate, a transit rate is irrelevant.

13 As a confidential portion of my testimony
14 demonstrates, MetroPCS transits much more traffic than many of
15 the companies listed on the exhibit which BellSouth bases its
16 whole case. So I suggest to you that BellSouth's exhibit is
17 not helpful to your decision in this case and is not proof of
18 the appropriate rate.

19 Thank you, and that concludes my summary.

20 MR. GERKIN: The witness is now available for cross.

21 CHAIRMAN EDGAR: Thank you.

22 CROSS EXAMINATION

23 BY MR. CULPEPPER:

24 Q Good afternoon, Ms. Bishop.

25 A Good afternoon.

1 Q MetroPCS provides wireless service in Florida,
2 correct?

3 A That is correct.

4 Q And MetroPCS uses BellSouth as a transit traffic
5 service provider in Florida, right?

6 A That is correct.

7 Q And MetroPCS pays BellSouth for transit traffic
8 underneath its interconnection agreement with BellSouth,
9 correct?

10 A That is correct.

11 Q And your job responsibilities include interconnection
12 agreement negotiations?

13 A Yes, sir.

14 Q And you participated in the negotiations of
15 BellSouth's current interconnection agreement with BellSouth.
16 That's right, isn't it?

17 A Yes, that's correct.

18 Q And, indeed, MetroPCS filed for arbitration here in
19 Florida and raised as one of the arbitration issues the transit
20 traffic rate it must pay BellSouth, correct?

21 A That is correct. Our negotiations were not fruitful
22 in setting forth a reasonable rate as MetroPCS saw it, and that
23 was one of the leading factors that led us to arbitration.

24 Q And that is one of the issues -- the rate is one of
25 the issues MetroPCS raised in the arbitration petition it

1 filed, correct?

2 A That is correct.

3 Q And to use a legal term, the parties, MetroPCS and
4 BellSouth, agreed to punt the rate issue from that arbitration
5 to this docket, correct?

6 A I'm not familiar with that legal term. I'm familiar
7 with football, but if you will, then, yes.

8 Q And would you agree with me that under the terms of
9 MetroPCS's interconnection agreement with BellSouth, MetroPCS
10 agreed to pay BellSouth the tariffed rate for transit traffic,
11 subject to a potential true-up based on the Commission's ruling
12 in this consolidated docket, correct?

13 A That is correct.

14 Q And without disclosing any proprietary data, MetroPCS
15 sends a substantial amount of transit traffic to BellSouth,
16 correct?

17 A That is correct.

18 Q And, indeed, it is your testimony that the fact that
19 hundreds of CLECs have agreed that a transit rate that is
20 comparable to BellSouth's tariffed rate doesn't prove anything
21 about the reasonableness of the rate, because you believe those
22 carriers send a trivial amount of transit traffic as compared
23 to MetroPCS, isn't that your testimony?

24 A That is correct. If you look at the numbers of
25 transit traffic that those CLECs carry, it is very, very

1 minimal if you compare that to the total MetroPCS transit
2 traffic.

3 Q And MetroPCS's business in Florida is growing, right?

4 A That is correct.

5 Q In fact, in February of this year, MetroPCS issued a
6 press release that proudly proclaimed that it had reached the
7 two million subscriber milestone in just four years of
8 operation, right?

9 A That's correct.

10 Q And MetroPCS reached this milestone despite not
11 having a TELRIC-based transit traffic rate in its
12 interconnection agreement with BellSouth, correct?

13 A I don't believe the transit rate has anything to do
14 with the MetroPCS's growth of its subscribers.

15 Q It's your testimony that BellSouth transit service
16 must be priced at TELRIC, right?

17 A That is correct.

18 Q And it's your testimony that any transit rate that is
19 above TELRIC is an excessive rate, correct?

20 A That is correct.

21 Q And that is based on your understanding that all
22 telecommunications services offered by an ILEC must be priced
23 at TELRIC, right?

24 A That is my understanding, yes.

25 Q Ms. Bishop, you haven't reviewed any FCC orders, FCC

1 rules, or court opinions regarding when TELRIC pricing is
2 applicable, have you?

3 A I have not. That does not fall under the scope of my
4 duties.

5 Q In your testimony you do support TELRIC pricing for
6 BellSouth's transit service on Page 8 of your rebuttal
7 testimony, correct?

8 A I do. I support Mr. Pruitt's testimony that transit
9 should be priced at TELRIC.

10 Q And in your deposition you testified you didn't know
11 what TELRIC stands for, correct?

12 A I didn't remember what the acronym stood for, no.

13 Q Ms. Bishop, this is your first time testifying in a
14 regulatory proceeding?

15 A That's correct.

16 Q And you haven't filed testimony in any other
17 regulatory proceeding?

18 A No, I have not.

19 Q And, Ms. Bishop, you didn't draft the initial version
20 of your testimony, did you?

21 A I did not.

22 Q Ms. Bishop, you are the Director of Intercarrier
23 Finance for MetroPCS, right?

24 A That's correct.

25 Q But you are not sure whether you're the person most

1 qualified within MetroPCS to testify regarding intercarrier
2 billing arrangements, are you?

3 A I was the one elected to represent MetroPCS.

4 Q Fair enough. MetroPCS offers flat rate calling
5 plans, correct?

6 A That is correct.

7 Q And MetroPCS can raise or lower the price of its flat
8 rate calling plans, can't it?

9 A That would be a business decision, but, sure.

10 Q The answer to my question is yes, right?

11 A Yes.

12 Q Does MetroPCS have to obtain any regulatory approval
13 before it decides to raise or lower its flat rate service
14 plans?

15 A I don't know.

16 Q Not to your knowledge?

17 A Not to my knowledge.

18 Q If this Commission ordered BellSouth to lower its
19 tariff transit rate, would MetroPCS commit to lower its flat
20 rate based plans here in Florida?

21 MR. GERKIN: Madam Chairman, I have been very patient
22 here, but this line of questioning has absolutely nothing to do
23 with anything that was said in Ms. Bishop's testimony.

24 MR. CULPEPPER: Madam Chair, this line of questioning
25 is based on testimony and almost follows verbatim the

1 deposition.

2 CHAIRMAN EDGAR: Mr. Culpepper, I'm going to allow
3 it, but let's be sensitive.

4 MR. CULPEPPER: Understood.

5 BY MR. CULPEPPER:

6 Q Ms. Bishop, if this Commission ordered BellSouth to
7 lower its transit tariffed rate, would MetroPCS commit to
8 lowering its flat rate service plans in Florida?

9 A I cannot say. I do not make that decision at
10 MetroPCS.

11 Q And, Ms. Bishop, in all candor, isn't it true that
12 MetroPCS's sole interest in this proceeding is the hope that
13 the Commission will lower the tariffed transit service rate, so
14 that lower rate can be incorporated in MetroPCS's
15 interconnection agreement?

16 A Can you repeat that, please.

17 Q Sure. Isn't MetroPCS's sole interest in this
18 proceeding is the hope of a lowered transit tariffed rate,
19 because that lower rate will be incorporated into MetroPCS's
20 interconnection agreement?

21 A MetroPCS is participating in this docket to have the
22 Commission set a reasonable rate, and we believe that
23 reasonable transit rate should be based on TELRIC.

24 MR. CULPEPPER: Thank you, Ms. Bishop. I have no
25 further questions.

1 CHAIRMAN EDGAR: Mr. Gross.

2 MR. GROSS: No questions.

3 MR. HATCH: No questions.

4 MR. PALMER: No questions.

5 MR. McDONNELL: No questions.

6 CHAIRMAN EDGAR: Staff?

7 MS. BANKS: No questions.

8 MR. GERKIN: Just a few questions for redirect, Madam
9 Chairman.

10 CHAIRMAN EDGAR: Yes.

11 REDIRECT EXAMINATION

12 BY MR. GERKIN:

13 Q Ms. Bishop, would MetroPCS have agreed to BellSouth's
14 standard -- excuse me, transit tariff rate without a true-up?

15 A No, we would not have.

16 Q And if MetroPCS raises its rates to its customers, is
17 that likely to have an effect on how many customers MetroPCS
18 has?

19 A I can only speculate that, yes, higher rates would
20 cause subscribers to leave our service and choose another
21 service.

22 Q So does MetroPCS have complete flexibility of pricing
23 service however it likes or wants to do so?

24 A To the best of my knowledge, yes. But I think
25 subscribers and demand drive that also.

1 MR. GERKIN: Thank you. No further questions, Madam
2 Chair.

3 CHAIRMAN EDGAR: The witness is excused. Thank you.

4 THE WITNESS: Thank you.

5 CHAIRMAN EDGAR: Mr. Hatch.

6 MR. HATCH: AT&T calls Richard Guepe to the stand.

7 Whereupon,

8 RICHARD T. GUEPE

9 was called as a witness on behalf of AT&T Communications of the
10 Souther States, having been first duly sworn, was examined and
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MR. HATCH:

14 Q Mr. Guepe, were you previously sworn?

15 A Yes, I was.

16 Q Could you give your name and business address for the
17 record, please?

18 A My name is Richard Guepe. My business address is
19 1230 Peachtree Street, Atlanta, Georgia.

20 Q By whom are you employed and in what capacity?

21 A I'm employed by AT&T, and I am a district manager in
22 their external and the legislative affairs organization.

23 Q Did you prepare and cause to be filed direct
24 testimony consisting of thirteen pages and rebuttal testimony
25 consisting of four pages in this proceeding?

1 A Yes, I did.

2 Q Was that testimony prepared by you or under your
3 supervision?

4 A Yes, it was.

5 Q Do you have any changes or updates to your testimony?

6 A No, I do not.

7 Q If I asked you the same questions as are in your
8 prefiled testimony today, would your answers be the same?

9 A Yes, they would.

10 MR. HATCH: Madam Chairman, may I have Mr. Guepe's
11 testimony inserted into the record as though read?

12 CHAIRMAN EDGAR: Please show the prefiled testimony
13 inserted into the record as though read.

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1 I. INTRODUCTION AND QUALIFICATIONS
2

3 Q. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

4 A. My name is Richard T. Guepe. My business address is 1230 Peachtree Street,
5 Atlanta, Georgia, 30309.
6

7 Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

8 A. I am employed by AT&T Corp. as a District Manager in its External &
9 Legislative Affairs organization, providing support for AT&T's regulatory
10 advocacy related to AT&T's intrastate telecommunications services.
11

12 Q. BRIEFLY OUTLINE YOUR EDUCATIONAL BACKGROUND AND
13 BUSINESS EXPERIENCE IN THE TELECOMMUNICATIONS
14 INDUSTRY.

15 A. I received a Bachelor of Science Degree in Metallurgical Engineering from the
16 University of Notre Dame in South Bend, Indiana. I received a Masters of
17 Business Administration Degree from the University of Tennessee in Knoxville,
18 Tennessee. My telecommunications career began in 1973 with South Central Bell
19 Telephone Company in Maryville, Tennessee, as an outside plant engineer.
20 During my tenure with South Central Bell, I held various assignments in outside
21 plant engineering, buildings, and real estate, investment separations and division
22 of revenues. At divestiture (1/1/84), I transferred to AT&T where I have held
23 numerous management positions in Atlanta, Georgia, and Basking Ridge, New
24 Jersey, with responsibilities for investment separations, analysis of access charges

1 and tariffs, training development, financial analysis and budgeting, strategic
2 planning, regulatory issue management, product implementation, strategic
3 pricing, docket management activities, unbundled network element cost case
4 support and support for interconnection agreements.
5

6 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY STATE PUBLIC**
7 **SERVICE COMMISSION?**

8 A. Yes, I have testified on behalf of AT&T in Florida, Alabama, Georgia, Kansas,
9 Missouri, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and
10 Texas on product implementation issues, access and pricing issues, and policy
11 issues.
12

13 **II. PURPOSE**
14

15 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

16 A. The purpose of my testimony is to provide the Florida Public Service
17 Commission ("Commission") with AT&T's position and recommendation with
18 respect to those issues in this docket which directly impact the intrastate
19 operations of AT&T in Florida.
20

21 **Q. WHAT ISSUES DOES YOUR TESTIMONY ADDRESS?**

22 A. In the sections following, my testimony addresses Issues 1-3, 5-7 10-13 and 15-
23 17.
24
25

1 **III. GENERAL ISSUES**

2

3 **Issue 1. Is BellSouth's Transit Service Tariff an appropriate mechanism to**
4 **address transit service provided by BellSouth?**

5 **Q. WHAT MECHANISM DOES AT&T USE TO OBTAIN TRANSIT**
6 **SERVICE FROM BELLSOUTH?**

7 **A.** AT&T currently obtains transit traffic service from BellSouth through its
8 Interconnection Agreement (ICA) which contains the terms, conditions and rates
9 for the service negotiated by AT&T and BellSouth.

10 **Q. DOES BELLSOUTH'S TRANSIT SERVICE TARIFF "OVERRIDE" THE**
11 **PROVISIONS OF THE ICA?**

12 **A.** No. As specified in the tariff, if transit traffic is specifically addressed in a
13 separate agreement between BellSouth and the originating telecommunications
14 service provider, the rates terms and conditions of the tariff do not apply.

15 **Q. IF A TELECOMMUNICATIONS SERVICE PROVIDER UTILIZES**
16 **TRANSIT SERVICE, BUT DOES NOT HAVE A SEPARATE**
17 **AGREEMENT TO OBTAIN THE SERVICE, IS THE USE OF A TARIFF**
18 **APPROPRIATE?**

19 **A.** Yes. Logically, the provider of the service must have a means to offer the service,
20 and if it is not through a contract or agreement of some nature, a tariff is an
21 appropriate alternative.

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1 **Issue 2. If an originating carrier utilizes the services of BellSouth as a tandem**
2 **provider to switch and transport traffic to a third party not affiliated**
3 **with BellSouth, what are the responsibilities of the originating**
4 **carrier?**

5 **Q. DOES AT&T'S ICA WITH BELLSOUTH INDICATE AT&T'S, AS THE**
6 **ORIGINATING CARRIER OF TRANSIT TRAFFIC, RESPONSIBILITY**
7 **CONCERNING THIRD PARTY TRAFFIC ?**

8 A. Yes, as contained in AT&T's interconnection agreement with BellSouth which
9 provides for BellSouth to pass transit traffic to other third party network
10 providers, "AT&T shall be responsible directly to that third party for all
11 reciprocal compensation obligations."

12 **Q. IS ANY FURTHER DETAIL REQUIRED IN THE ICA ?**

13 A. No. It is strictly between the originating and terminating parties to pursue any
14 billing arrangement, including maintaining a bill and keep arrangement.
15

16 **Issue 3. Which carrier should be responsible for providing compensation to**
17 **BellSouth for the provision of the transit transport and switching**
18 **services?**

19 **Q. HAVE ANY COMMISSIONS IN THOSE STATES WHERE BELLSOUTH**
20 **PROVIDES LOCAL SERVICE RULED ON THE ISSUE OF WHO IS**
21 **RESPONSIBLE FOR THE PAYMENT OF TRANSIT TRAFFIC?**

22 A. Yes, the Georgia Public Service Commission issued an order on March 24, 2005
23 that specifically addressed the question of who pays for transit traffic. The
24 Georgia Commission ruled that the telephone service provider of the calling party,
25
26
27

1 the originating provider, is responsible to pay the transit traffic charges. In other
2 words, if a CLEC customer originates a call that is terminated to an ICO customer
3 and transited by BellSouth, the CLEC pays BellSouth for the transit function. If
4 an ICO customer originates a call that is terminated to a CLEC customer and
5 transited by BellSouth, the ICO pays BellSouth for the transit function.

6 In an order issued on May 2, 2005, the Georgia Commission affirmed the March
7 24, 2005 decision and denied the request for relief on Petition for Reconsideration
8 filed by the independent companies in that case.

9
10 **Q. SHOULD THE ORIGINATING CARRIER PAY THE TRANSIT**
11 **PROVIDER FOR THE USE OF TRANSIT SERVICE?**

12 A. Certainly, it is reasonable and appropriate for the originating telecommunications
13 service provider to pay the transit charges.

14 The concept that the originating party pays is standard practice in intercarrier
15 compensation processes. The industry operates under a long-standing economic
16 model in which the originating carrier collects the local exchange revenue and is
17 responsible for the costs of originating, transporting, and terminating its own
18 customer's traffic. Section 252(d)(2)(A) of the Telecommunications Act clearly
19 assigns such costs to the originating carrier:

20 [A] state commission shall not consider the terms and conditions
21 for reciprocal compensation to be just and reasonable unless...
22 such terms and conditions provide for the mutual and reciprocal
23 recovery by each carrier of costs associated with the transport and
24 termination on each carriers network facilities of calls that
25 originate on the network facilities of another carrier.
26

1 To meet the "just and reasonable" test under Section 252(d)(2)(A), both parties
2 must have comparable obligations to deliver traffic to the other party's network.
3 The scenario in which one party, for example an ICO, pays none, and the other
4 party, for example a CLEC, pays all transit costs does not provide comparable
5 obligations and clearly is not "just and reasonable" and is contrary to Section
6 252(d)(2)(A).

7 In the current environment, it would be extremely unreasonable for the
8 terminating party to be required to pay for traffic originated by another carrier's
9 customer.

10 **Q. ARE YOU AWARE OF ANY FLORIDA ICOs THAT HAVE AGREED**
11 **THAT THE ORIGINATING PARTY OF TRANSIT TRAFFIC PAYS THE**
12 **TRANSIT PROVIDER ?**

13 A. Yes, in an agreement filed with the Commission on October 28, 2005 between
14 Northeast Florida Telephone Company and New Cingular Wireless, the parties
15 agreed that it is the responsibility of the originating party to pay the provider of
16 transit service.

17
18 **IV. TRUNKING AND ROUTING ISSUES**

19 **Issue 5. Should the FPSC establish the terms and conditions that govern the**
20 **relationship between an originating carrier and the terminating**
21 **carrier, where BellSouth is providing transit service and the**
22 **originating carrier is not interconnected with, and has no**
23 **interconnection agreement with, the terminating carrier? If so, what**
24 **are the appropriate terms and conditions that should be established?**

25 **Q. DOES THE TELECOMMUNICATIONS ACT OF 1996 ALLOW**
26 **'INDIRECT' INTERCONNECTION BETWEEN CARRIERS ?**

1 A. Yes, Section 251(a) requires all telecommunications carriers to "interconnect
2 directly or indirectly" with all other telecommunications carrier networks¹. This
3 provision requires interconnection of all carriers, but expressly gives carriers the
4 option of relying on indirect interconnection to accomplish that end. Direct
5 interconnection between each carrier and every other would be neither efficient
6 nor feasible. Indirect interconnection - i.e., transiting - therefore is essential to
7 ensure the nationwide interconnectedness Congress envisioned.

8
9 **Q. DOES THE TELECOMMUNICATIONS ACT OF 1996 IMPART**
10 **OBLIGATIONS ON CARRIERS THAT CONNECT INDIRECTLY?**

11 A. Yes, all local exchange carriers have an obligation to establish reciprocal
12 compensation arrangements for the transport and termination of
13 telecommunications services. Section 251(b)(5) imposes this obligation on all
14 local exchange carriers. This section states in part:

15 251(b) OBLIGATIONS OF ALL LOCAL EXCHANGE CARRIERS. -

16 Each local exchange carrier has the following duties-

17 ***

18 (5) RECIPROCAL COMPENSATION.- The duty to establish reciprocal
19 compensation arrangements for the transport and termination of
20 telecommunications.

21
22 Thus, carriers that connect indirectly are obligated to establish reciprocal
23 compensation arrangements

¹ 47 U.S.C. § 251(a)(1).

1 Q. IS BILL AND KEEP A TYPE OF RECIPROCAL COMPENSATION
2 ARRANGEMENT?

3 A. Yes. Bill and Keep is a compensation arrangement for the transport and
4 termination of traffic by which neither carrier charges the other to transport and
5 terminate the originating party's traffic. Thus a default bill and keep arrangement
6 complies with a carrier's obligation to establish a reciprocal compensation
7 arrangement where a reciprocal compensation agreement does not exist and
8 neither Party has requested to enter into such an agreement.

9

10 Q. UNDER WHAT ARRANGEMENT DOES AT&T CURRENTLY
11 EXCHANGE TRANSIT TRAFFIC WITH INDEPENDENT LECS?

12 A. Currently, Section 251(b)(5) traffic defaults to bill and keep. Since the amount of
13 such traffic is presumed to be small, AT&T has neither requested, nor, to my
14 knowledge, been asked by the independent companies to enter into a billing
15 arrangement for the local transit traffic and, as such, has default bill and keep
16 arrangements for the termination of such traffic with the independent LECs. For
17 exchange access traffic, Section 251(g) traffic, the compensation is at the
18 terminating carrier's tariffed rate.

19 Q. DO YOU RECOMMEND BILL AND KEEP ARRANGEMENTS FOR ALL
20 TRANSITING SITUATIONS?

21 A. Not necessarily. I recommend this Commission order the continuation of the
22 default bill and keep mechanism based on the assumption that there is likely a de
23 minimis amount of traffic being exchanged between the terminating and originating
24 carriers and that the traffic is generally in balance. Where the parties demonstrate
25 this is not the case, other compensation arrangements may be appropriate. It is up to

1 the carriers to negotiate such arrangements. The Commission should not
2 predetermine such arrangements.

3
4 **Issue 6. Should the FPSC determine whether and at what traffic threshold**
5 **level an originating carrier should be required to forego use of**
6 **BellSouth's transit service and obtain direct interconnection with a**
7 **terminating carrier? If so, at what traffic level should an originating**
8 **carrier be required to obtain direct interconnection with a**
9 **terminating carrier?**

10 **Q. SHOULD THE FPSC MANDATE DIRECT INTERCONNECTION**
11 **BETWEEN CARRIERS?**

12 **A.** No. The Commission should not mandate a level of local traffic exchanged
13 between carriers, which would require the companies to establish direct trunking
14 between the carriers. The Telecommunications Act obligates all carriers to
15 connect either directly or indirectly. The Act says nothing about forcing direct
16 trunking arrangements that are cumbersome and time consuming to develop and
17 maintain. As long as an interconnecting carrier can reach agreement with a third
18 party transit provider, no obligations or thresholds should be set by this
19 Commission. In addition, whether to connect directly or indirectly with another
20 carrier involves network engineering decisions based upon utilization of the
21 existing network architecture and when it is efficient and economic to supplement
22 existing facilities. Imposing a regulatory mandate on when direct connection with
23 another carrier must occur would impose unreasonable and unnecessary
24 constraints on telecommunication carriers that may not be technically feasible.

25
26 **Q. DOES THE ICA INCLUDE AN AGREEMENT FOR BELL SOUTH TO**
27 **PROVIDE TRANSIT SERVICE TO AT&T?**

1 A. Yes. Therefore, any regulatory mandated threshold would be inappropriate.

2

3 **Issue 7. How should transit traffic be delivered to the Small LEC's networks?**

4

5 **Q. ARE YOU AWARE OF ANY NETWORK CHANGES THAT ARE**
6 **REQUIRED TO DELIVER TRANSIT TRAFFIC TO THE SMALL LEC**
7 **NETWORKS?**

8 A. No. There is no need to change the current process unless the parties mutually
9 agree on a different arrangement.

10

11 **Issue 10. What effect does transit service have on ISP bound traffic?**

12 **Q. DOES THE ROUTING OF ISP BOUND TRAFFIC CHANGE ISP BOUND**
13 **TRAFFIC?**

14 A. No. Transit service does not have any effect on ISP traffic.

15

16 **V. RATES, COMPENSATION AND COST RECOVERY ISSUES**

17

18 **Issue 11. How should charges for BellSouth's transit service be determined?**

19 a. What is the appropriate rate for transit service?

20 b. What type of traffic do the rates identified in "a" apply?

21

22 **Q. DOES AT&T'S INTERCONNECTION AGREEMENT WITH**
23 **BELLSOUTH PROVIDE RATES, TERMS AND CONDITIONS FOR THE**
24 **PROVISION OF TRANSIT TRAFFIC SERVICE TO AT&T?**

25 A. Yes, and as a result, the tariff that is the subject of this proceeding is not
26 applicable to AT&T.

27

28

1 **Issue 12.** Consistent with Order Nos. PSC-05-0517-PAA-TP and PSC-05-0623-
2 CO-TP, have the parties to this docket ("parties") paid BellSouth for
3 transit service provided on or after February 11, 2005? If not, what
4 amounts if any are owed to BellSouth for transit service provided
5 since February 11, 2005?

6

7 **Issue 13.** Have parties paid BellSouth for transit service provided before
8 February 11, 2005? If not, should the parties pay BellSouth for
9 transit service provided before February 11, 2005, and if so, what
10 amounts, if any, are owed to BellSouth for transit service provided
11 before February 11, 2005?

12

13 **Q. DOES AT&T PAY BELLSOUTH FOR THE TRANSIT SERVICE**
14 **BELLSOUTH PROVIDES TO AT&T?**

15

16 **A.** Yes, in accordance with the ICA between AT&T and BellSouth, AT&T pays
17 BellSouth for transit service provided. AT&T has no knowledge of any other
18 parties' transit traffic relationships or financial obligations with BellSouth.

19

20 **VI. ADMINISTRATIVE ISSUES**

21 **Issue 15.** Should BellSouth issue an invoice for transit services and if so, in
22 what detail and to whom?

23

24 **Issue 16.** Should BellSouth provide to the terminating carrier sufficiently
25 detailed call records to accurately bill the originating carrier for call
26 termination? If so, what information should be provided by
27 BellSouth?

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3 **Issue 17. How should billing disputes concerning transit service be addressed?**

4 **Q. DOES AT&T'S ICA WITH BELLSOUTH ADDRESS BILLING ISSUES?**

5 A. Yes, AT&T's ICA with BellSouth governs the rendering and payment of billing
6 along with billing dispute processes.

7

8

9 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

10 A. Yes.

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE**
2 **RECORD.**

3 A. My name is Richard T. Guepe. My business address is 1230 Peachtree Street,
4 Atlanta, Georgia, 30309.

5

6 **Q. ARE YOU THE SAME RICHARD GUEPE THAT PROVIDED**
7 **TESTIMONY EARLIER IN THIS PROCEEDING?**

8 A. Yes.

9

10 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

11 A. The purpose of my testimony is to respond to portions of the direct the testimony
12 of the Small LEC Petitioners' witness Mr. Steven E. Watkins. Specifically, I
13 address positions that impact the operation of AT&T in Florida. To the extent I
14 do not specifically address any arguments raised by parties in this docket, that
15 should not necessarily be taken as agreement with those positions. Instead, in
16 those instances, I would refer the Commission to my direct testimony which I
17 believe already fully addresses these issues.

18

19 **Q. DO YOU AGREE WITH THE SMALL LEC POSITION THAT THE**
20 **INDEPENDENT COMPANIES SHOULD NOT BE RESPONSIBLE FOR**
21 **TRANSIT TRAFFIC COSTS FOR ITS ORIGINATING TRAFFIC FOR**
22 **TRANSIT TRAFFIC BETWEEN THE ICO AND CLECS OR CMRS**
23 **PROVIDERS?**

24 A. No. Small LEC witness Watkins is the lone witness to support this position. All
25 other parties offering testimony in this case support the position that the
26 originating carrier is responsible for providing compensation to BellSouth for the
27 provision of the transit transport and switching service.

1 BellSouth witness McCallen (Direct, P. 14) states "the originating carrier (cost
2 causer) should be responsible for paying the transit charges to the transit
3 provider."

4 CompSouth witness Gates (Direct, P. 25) states "the originating carrier is
5 responsible for compensating BellSouth for transit services."

6 Sprint witness Pruitt (Direct, P.19) states "Pursuant to federal law, an originating
7 carrier is responsible for all costs, including transit costs, associated with
8 delivering traffic originate on its network to the terminating carrier's network."

9 Verizon Wireless witness Sterling (Direct, P. 5) states "the originating carrier is
10 responsible for delivering its traffic to BellSouth in such a manner that it can be
11 identified, routed, and billed. The originating carrier further is responsible for
12 paying the transit charges for the traffic it originates over a third party's network."

13
14 The concept that the originating party pays is standard practice in intercarrier
15 compensation processes for the traffic at issue here and it is appropriate for the
16 originating telecommunications service provider to pay the transit charges. As
17 Mr. McCallen points out, the party originating the call is the cost causer and the
18 originating provider is responsible to pay the transit traffic charges. In other
19 words, if a CLEC customer originates a call that is terminated to an ICO customer
20 and transited by BellSouth, the CLEC pays BellSouth for the transit function. If
21 an ICO customer originates a call that is terminated to a CLEC customer and
22 transited by BellSouth, the ICO pays BellSouth for the transit function. If the
23 ICO elected to deliver its originated traffic directly to the CLEC, the ICO would

1 be financially responsible for the transport of such traffic. In either case, the ICO
2 is financially responsible for delivery of its originated traffic; its use of a transit
3 provider does not change its obligation under the law.

4
5 **Q. DO YOU AGREE WITH MR. WATKINS ASSERTION (DIRECT, P. 10)**
6 **THAT SMALL LECS "SUBSIDIZE THE CLEC AND CMRS**
7 **PROVIDERS' OPERATIONS THROUGH THE PAYMENT OF TRANSIT**
8 **SERVICE CHARGES TO BELL SOUTH FOR THE CLECS' AND CMRS**
9 **PROVIDERS' USE OF THE BELL SOUTH NETWORK?"**

10 A. Absolutely not. AT&T pays BellSouth for the transit traffic it originates and
11 sends to the BellSouth network. The Small LECs do not pay BellSouth for the
12 traffic originated on AT&T's network and are not subsidizing AT&T.

13
14 **Q. IS THE SMALL LECS' TESTIMONY ON THE ISSUE OF WHO IS**
15 **RESPONSIBLE FOR PAYMENT OF COMPENSATION TO BELL SOUTH**
16 **FOR THE PROVISION OF THE TRANSIT TRANSPORT AND**
17 **SWITCHING SERVICE CONSISTENT WITH THE AGREEMENT**
18 **RECENTLY REACHED BY ONE OF ITS MEMBERS WITH CINGULAR**
19 **WIRELESS?**

20 A. No it is not. In an agreement filed with the Commission on October 28, 2005
21 between Northeast Florida Telephone Company and New Cingular Wireless, the
22 parties agreed that it is the responsibility of the originating party to pay the
23 provider of transit service.

24
25 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

26 A. Yes.

1 BY MR. HATCH:

2 Q You have no exhibits to your testimony, is that
3 correct?

4 A Correct.

5 Q Do you have a summary of your testimony?

6 A Yes, I do, a very brief summary.

7 Q Could you give that now, please?

8 A Yes.

9 Good afternoon, Madam Chair, Commissioners.

10 AT&T's principal interest in this docket involves a
11 question of who pays for transit traffic. AT&T strongly
12 supports the position that the telephone service provider of
13 the calling party, the originating provider, is responsible to
14 pay the transit traffic charges. In other words, if a CLEC
15 customer originates a call that is terminated to an ICO
16 customer and transited by BellSouth, the CLEC pays BellSouth
17 for the transit function. Conversely, if an ICO customer
18 originates a call that is terminated to a CLEC customer, and
19 transited by BellSouth, then the ICO pays BellSouth for the
20 transit function. This is consistent with the FCC and standard
21 industry practice concerning intercarrier compensation, and
22 there is no compelling reason to deviate from this practice in
23 Florida. This concludes my summary.

24 MR. HATCH: We tender the witness for cross.

25 CHAIRMAN EDGAR: Thank you.

CROSS EXAMINATION

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BY MR. GURDIAN:

Q Good afternoon. My name is Manny Gurdian. I'm here on behalf of BellSouth, Mr. Guepe.

Isn't it true that AT&T obtains transit traffic service from BellSouth through an interconnection agreement it has with BellSouth?

A It does. That is correct.

Q Isn't it true that a telecommunications provider has an interconnection -- that if a telecommunications provider has an interconnection agreement with BellSouth that addresses transit traffic the subject tariff does not apply?

A That is very true.

Q And as a result since AT&T has an interconnection agreement with BellSouth, you would agree that the subject tariff is not applicable to AT&T?

A That is correct.

Q And you would agree that where a telecommunications provider utilizes transit service and that provider does not have an interconnection agreement with BellSouth, then the use of the tariff in question is appropriate?

A If there is no other means to compensate BellSouth, you know, if the companies have decided not to have an interconnection agreement, then BellSouth needs some mechanism to be compensated, and a tariff is an alternative mechanism.

1 Q That would be a yes, sir?

2 A Yes.

3 Q Isn't it true that the originating party should pay
4 because the originating carrier is the party who may choose
5 alternative routes if the indirect route is not economically
6 efficient?

7 A Say that again. Repeat.

8 Q Sure. Isn't it true that, in your opinion, the
9 originating party should pay because the originating carrier is
10 the party who may choose alternative routes if the indirect
11 route is not economically efficient?

12 A Well, I think the originating party should pay,
13 because it is required by -- it's not only industry practice,
14 but current regulations would support that. I mean, it's --

15 Q And is it also because the originating party may
16 choose alternative routes if the indirect route is not
17 economically efficient?

18 A That is something that would go into the decision,
19 yes.

20 Q Okay. In your testimony you cite to a recent Georgia
21 Public Service Commission decision on transit traffic for the
22 proposition that the originating carrier should pay for transit
23 charges, is that correct?

24 A That's correct.

25 Q Are you aware of any other decisions where the

1 terminating party pays instead?

2 A I am not aware.

3 Q Isn't it true that at least one of the Small LECs in
4 this proceeding recently agreed in an agreement that the
5 originating party is responsible for paying the transit
6 provider for transit service?

7 A Yes, and I noted that in my testimony.

8 Q And that would be Northeast Florida Telephone Corp.?

9 A Correct.

10 Q And that agreement was reached with new Cingular
11 Wireless on October 28, 2005?

12 A That's correct.

13 Q Would you agree that you believe that the Public
14 Service Commission should not mandate direct interconnection
15 with carriers?

16 A I agree with that statement, yes.

17 Q Excuse me, between carriers?

18 A That they should not mandate direct interconnection,
19 that's correct. The Act allows both indirect and direct
20 interconnection.

21 Q And isn't it true that you agree that it is a
22 business decision as to whether a provider decides to establish
23 direct trunks with another provider?

24 A Yes, it is.

25 Q And part of that analysis of whether or not to

1 connect directly or indirectly with another carrier involves
2 network engineering decisions?

3 A Yes, it certainly does.

4 Q And as part of that analysis the provider looks at
5 whether it be would more efficient to just pay the transit rate
6 rather than to directly interconnect?

7 A I'm sure that would be part of the business case
8 analysis, yes.

9 Q And isn't it true that with all other things being
10 equal that the lower a transit rate is, the lower the incentive
11 is for carriers to directly interconnect?

12 A It would be, as I said, part of the business case
13 analysis. That is part of it.

14 Q That would be a yes?

15 A It would be -- that would be part of the business
16 case analysis.

17 Q Isn't it true that transiting ISP-bound traffic is no
18 different than transiting voice traffic?

19 A I believe that is correct. A minute looks the same.

20 Q And this is true because ISP-bound traffic is routed
21 the same as voice traffic?

22 A Yes, I believe I state that in my testimony.

23 Q And you would agree that the charges for transiting
24 ISP-bound traffic should be the same as voice traffic?

25 A Yes.

1 Q And you would agree that combining all traffic
2 between the points of switching on one trunk is more
3 economically efficient than segregating the traffic?

4 A That's part of the decision that whoever has that
5 trunk is going to make. And, normally, yes, if you can combine
6 traffic it certainly will be more efficient.

7 Q Going back to the Georgia Public Service Commission's
8 recent order, isn't it true that the Georgia Commission ordered
9 a transit rate of .0025?

10 A In that case the Commission -- I'll say they allowed
11 a rate of .0025, and it is going to be -- at that time in their
12 order they said they would have a subsequent case to determine
13 what the final rate should be.

14 Q And that was sometime in 2005?

15 A Yes, it was. And, no, they have not done anything
16 subsequent to that.

17 Q Are you aware that BellSouth and AT&T recently
18 entered into an interconnection agreement this month?

19 A I know that AT&T and BellSouth have been negotiating,
20 and my understanding was within the last week they came to an
21 agreement. That is about as much detail as I know.

22 MR. GURDIAN: Chairman, I would like to hand out an
23 exhibit and mark it as Exhibit --

24 CHAIRMAN EDGAR: I have 42.

25 (Exhibit 42 marked for identification.)

1 MR. GURDIAN: I would like to label this exhibit an
2 agreement between BellSouth and AT&T, dated 3-14 of '06 and 3-9
3 of '06.

4 BY MR. GURDIAN:

5 Q Mr. Guepe, will you take a look at this agreement,
6 please? Have you been handed a copy of it?

7 A No, I have not.

8 Q This is an excerpt of the agreement. (Pause.)
9 Have you read it, sir?

10 A Yes.

11 Q Would you agree with me that this is an agreement
12 between BellSouth and AT&T?

13 A Yes, it is.

14 Q And that AT&T executed the agreement on or about
15 March 9th of 2006?

16 A That's the date on the signature page, yes.

17 Q Do you know Stephen Hughes (phonetic)?

18 A I have met Stephen Hughes, yes.

19 Q Do you recognize his signature?

20 A I wouldn't recognize his signature, but I am assuming
21 this is his signature.

22 Q Do you have any reason to believe it is not his
23 signature?

24 A No, I do not.

25 Q And on the third -- excuse me, the fourth page of the

1 excerpt, Paragraph 18, there is a section transit traffic
2 service?

3 A Yes.

4 Q And in that section it refers to Exhibit A for the
5 rates for transit service, is that correct?

6 A That's correct.

7 Q And what are the rates provided for transit service?

8 A Now, I don't know what you have got your tandem
9 switch -- your single rate for local traffic and ISP-bound
10 traffic, per MOU -- wait a minute. Oh, that must be from the
11 previous page. Okay. The tandem switching -- under tandem
12 switching, you have got a multiple tandem switching charge of
13 .0006019, and then you have got a -- and I'm not sure whether
14 this is additive or otherwise, a local intermediary charge,
15 which gradually increases over time from .0015 up to .0025.

16 Q Would you agree with me, subject to check, that the
17 local intermediary charge is the transit traffic rate?

18 A Yes. It is a new term I have not seen (simultaneous
19 conversation) --

20 Q And the transit traffic rate for 2006 is .0015,
21 correct?

22 A Correct.

23 Q And for 2007 it goes up to .0020, correct?

24 A Correct.

25 Q And for 2008 it goes up to .0025, correct?

1 A Correct.

2 Q Now, these rates for the first two years are lower
3 than the rate ordered by the Georgia Public Service Commission,
4 correct?

5 A Correct.

6 Q In the Georgia order?

7 A Yes.

8 Q Okay. And isn't it true that the rates agreed to by
9 and between BellSouth and AT&T in this agreement are non-TELRIC
10 rates?

11 A Yes. From my familiarity with the TELRIC rates,
12 these are higher.

13 MR. GURDIAN: Thank you, Mr. Guepe.

14 MR. GROSS: No questions.

15 CROSS EXAMINATION

16 BY MR. O'ROARK:

17 Q Good afternoon, Mr. Guepe. I'm De O'Roark
18 representing Verizon Access.

19 A Good afternoon.

20 Q I have a few questions for you all relating to Issue
21 5, which concerns whether the Commission should establish terms
22 and conditions between the originating and terminating carriers
23 when they do not have an interconnection agreement. Let me ask
24 you, Mr. Guepe, if you would, please, turn to Page 8 of your
25 direct testimony.

1 A I'm there.

2 Q And by the way, AT&T's position on Issue 5 is that
3 the Commission should not establish such terms and conditions?

4 A That's correct.

5 Q Now, at Page 8 of your testimony you say that all
6 local exchange carriers have an obligation to establish
7 reciprocal compensation arrangements for the transport and
8 termination of telecommunications services, is that right?

9 A That's correct. That is right out of the Act.

10 Q And then if you go to Page 9, you state that when no
11 interconnection agreement exists, bill and keep complies with
12 this obligation?

13 A Yes.

14 Q Would you agree that CLECs do not have an obligation
15 under the Act to enter into interconnection agreements with one
16 another?

17 A I think that is true.

18 Q And would you agree that as an alternative to bill
19 and keep a CLEC may establish a reciprocal compensation tariff?

20 A I would say the law requires that if the two CLECs
21 don't want the bill and keep, then they are required to have
22 some sort of arrangement. Now, what that arrangement is might
23 be open to discussion. But, the two, both of them are required
24 to provide for some sort of arrangement, whether it's a billing
25 agreement, it could be that. You could call it what you want,

1 but --

2 Q One possibility would be bill and keep, right?

3 A Yes.

4 Q Another possibility would be that the two CLECs might
5 enter into an interconnection agreement, is that right?

6 A It doesn't even necessarily have to be a full
7 interconnection agreement because they are indirectly
8 connected, and they don't need that. They must have some sort
9 of what I will call a billing agreement.

10 Q An agreement of some sort?

11 A Uh-huh.

12 Q Would be another alternative?

13 A Yes.

14 Q And from AT&T's perspective is a tariff yet a third
15 option?

16 A I don't really know.

17 Q Let me direct your attention to the Q and A in your
18 testimony, in your direct beginning at Page 9, Line 10. Do you
19 see that?

20 A What page?

21 Q Page 9.

22 A Okay.

23 Q The question beginning at Line 10 where it says under
24 what arrangement does AT&T currently exchange transit traffic
25 with independent LECs?

1 A Yes.

2 Q And I gather that for -- what you call 251(b)(5)
3 traffic, the arrangement is bill and keep?

4 A That's correct.

5 Q And by 251(b)(5) traffic, are you talking about local
6 voice traffic?

7 A It's local traffic, correct, as opposed to toll,
8 which would be subject to access charges.

9 Q Let me direct your attention to the last sentence in
10 your answer to that question. For Section 251(g) traffic, the
11 compensation is at the terminating carrier's tariffed rate.
12 What do you mean by 251(g) traffic there?

13 A That is the traffic which prior to the Act was
14 subject to access charges. So it was already something that
15 had an access tariff.

16 Q Would that include ISP-bound traffic?

17 A No.

18 MR. O'ROARK: That's all I have. Thank you,
19 Mr. Guepe.

20 MR. PALMER: We have no questions.

21 CHAIRMAN EDGAR: Ms. Berlin?

22 MS. BERLIN: Maybe just two.

23 CROSS EXAMINATION

24 BY MS. BERLIN:

25 Q Good afternoon, Mr. Guepe.

1 A Good afternoon.

2 Q Susan Berlin for CompSouth.

3 Taking a look at Exhibit 42 as an agreement between
4 BellSouth and AT&T, do you know whether this agreement was
5 entered into before or after the announcement that BellSouth
6 and AT&T were merging?

7 A Tell me the date that the announcement was.

8 Q Well, if you don't know, it is okay, because I don't
9 know either.

10 A No, I don't know what the date was.

11 Q Another unrelated matter. Mr. Gurdian asked you and
12 you agreed -- I have different phrasing because I didn't have
13 it verbatim -- but you agreed with Mr. Gurdian that an
14 originating carrier might consider the cost of directly
15 interconnecting if it faced an exorbitant transit rate, is that
16 right?

17 A When your -- yeah, I think I mentioned it would be
18 part of a business case, and that's the costs, what you are
19 going to decide is how to do it, what is the best way to do it.
20 What is the most efficient and effective and economic way to do
21 it.

22 Q And even with a very high transit rate, a CLEC would
23 need a relatively large amount of traffic to justify a direct
24 interconnection with an ICO or a wireless provider, would you
25 agree?

1 A To go to the direct connect and negotiate an
2 agreement is an expensive ordeal, yes, I would agree with that.

3 MS. BERLIN: Thank you. No additional questions.

4 CHAIRMAN EDGAR: Mr. McDonnell.

5 MR. McDONNELL: Thank you, Madam Chair.

6 CROSS EXAMINATION

7 BY MR. McDONNELL:

8 Q Good afternoon, Mr. Guepe.

9 A Good afternoon.

10 Q Marty McDonnell on behalf of the Small LECs.

11 So is it your testimony that the decision to directly
12 interconnect or indirectly interconnect is driven by economic
13 factors?

14 A Ultimately most of the decisions are driven by
15 economic factors. There are other factors that can come into
16 play, but it is part of -- economic factors are a big part of
17 any business case.

18 Q Okay. So to kind of put it in walking around
19 language, if it is cheaper for a CLEC to indirectly connect,
20 the CLEC will indirectly connect to save money?

21 A I think that is true of any carrier. It is also true
22 of an ICO, because an ICO can -- one thing that seems to come
23 out is that the ICOs will have no -- or the Small LECs will
24 have no expense involved in direct interconnection, if a direct
25 interconnection is established. But that is not true because

1 they have got to get the facilities there to wherever that
2 point is going to be. Both sides are going to incur expenses,
3 and the ICO -- and the Small LEC as well is going to do a
4 business case to say, well, okay, is it worthwhile to me to
5 build these facilities, as well. So it's a two-way street.
6 Both parties are going to be looking at that.

7 Q Is the answer to my question, yes, if it's cheaper,
8 they will indirectly connect?

9 A I would say that would be a big piece of the thing.
10 There might be other considerations.

11 Q I understand what you're saying. And you are saying
12 that when the CLEC and the ICO directly interconnect, there are
13 costs associated on the ICO side?

14 A On both parties' side.

15 Q Okay. And the ICO is responsible on a direct
16 interconnection to the edge of its network, correct?

17 A Somewhere on its network, that is correct.

18 Q Not on BellSouth's network or somebody else's
19 network?

20 A But conversely --

21 Q Is that true?

22 A That is true. But the ICO chooses to send traffic,
23 and it is also the ICO that chooses to send traffic indirectly.

24 Q Because that is the way the CLEC chose to
25 interconnect?

1 A No, it's because that is the way the ICO is also
2 choosing to interconnect.

3 Q Now, you testified in response to Mr. Gurdian
4 regarding --

5 COMMISSIONER DEASON: I'm sorry, Madam Chair. May I
6 interrupt and ask a question?

7 CHAIRMAN EDGAR: Commissioner Deason.

8 COMMISSIONER DEASON: Explain to me how it was the
9 ICO's decision to have an indirect interconnection?

10 THE WITNESS: The ICO customer originates the
11 traffic. And the ICO can send it through to BellSouth, or the
12 ICO conceivably could come to -- I mean, to my knowledge no ICO
13 has come to AT&T in Florida and said we would like to directly
14 interconnect. Because I think the volume of traffic is so
15 small that it's not -- there is no reason for them to come to
16 us to say we want to do it, because to put in direct trunks
17 will be expensive for both parties. So, in my view, it is both
18 parties are looking at, okay, is it worthwhile for me to try to
19 get that.

20 There is nothing that says they can't come and ask.
21 There is certainly not an obligation on a CLEC's part to say,
22 yes, we will directly connect. But there is nothing adverse
23 that prevents the ICO from asking for it. And, to my
24 knowledge, they have not asked for direct interconnection with
25 CLECs.

1 COMMISSIONER DEASON: And, conversely, AT&T has not
2 asked for a direct interconnection with any of the Small LECs
3 in Florida.

4 THE WITNESS: That is very true.

5 CHAIRMAN EDGAR: Mr. McDonnell.

6 MR. McDONNELL: Thank you.

7 BY MR. McDONNELL:

8 Q And doesn't AT&T, as a CLEC, have the absolute right
9 to indirectly interconnect under the Act?

10 A Direct and indirect interconnection is an obligation
11 on all telecommunications providers.

12 Q So my question --

13 A Yes.

14 Q That is AT&T's right to indirectly interconnect?

15 A The Telecommunication Act gives them -- imparts the
16 obligation on all carriers to do it. So, yes, AT&T has a legal
17 right to do it.

18 Q On what has been marked for identification as Exhibit
19 42, Mr. Gurdian was asking you about the local intermediary
20 charge, I guess the LIC, and he said would you agree with him
21 that that is the transit charge under this agreement per minute
22 of use. Do you recall that?

23 A He said and subject to check. As I said, I was not
24 familiar with the term local intermediary charge.

25 Q Okay.

1 A But apparently that is the composite rate, what it is
2 being called now.

3 Q Okay. And that rate in this agreement is .0015?

4 A That's correct.

5 Q And just so I understand, that is approximately 50
6 percent of the rate in the tariff?

7 A Well, I would say it is exactly 50 percent of the
8 rate in the tariff.

9 Q And you were asked whether that number, the .0015,
10 was a TELRIC rate, and I don't want to put words in your mouth,
11 but I thought you said something along the lines that, well,
12 based on my knowledge of the TELRIC rate, I know that .0015 is
13 not a TELRIC rate?

14 A That is a good paraphrase.

15 Q Okay. Is the .0015 higher than the TELRIC rate?

16 A Yes.

17 Q So the .003 would be higher than twice the TELRIC
18 rate?

19 A I'm not sure the math there works out.

20 Q Well, if the TELRIC rate is --

21 A Well, I don't know what the multiples are.

22 Q Okay. If the TELRIC rate is less than .0015 --

23 A Uh-huh.

24 Q -- the TELRIC rate as you accurately put it, would be
25 less than one-half of --

1 A Okay. Yes. So it is at least that, yes.

2 Q Right?

3 A Okay.

4 Q And you entered into this agreement with BellSouth in
5 March of this year, March 9th and March 14th, according to the
6 signature lines?

7 A Correct.

8 Q Going to your Direct Testimony, Mr. Guepe, Page 4,
9 you state that BellSouth can basically price this transit
10 service through a tariff. Look on Line 20. I'm sorry, I
11 should have pointed it out. Line 19.

12 A And the answer to the question was -- the question
13 that I was referring to in my testimony, was is the use of a
14 tariff appropriate? And, essentially, I say yes, because the
15 provider of the service must have a means to offer the service.
16 And if it is not through a contract or agreement of some
17 nature, then a tariff is an appropriate alternative. They need
18 some way of getting it.

19 Q This transit service tariff is on local traffic,
20 correct?

21 A Correct.

22 Q So it would be non-access traffic?

23 A That's correct.

24 Q Okay. Are you familiar with the CFR, generally, the
25 rules of the FCC generally?

1 A Portions of them.

2 Q Okay.

3 A If you are wanting me to quote some of them, no.

4 Q I'm not asking you to quote some of them, but I'm
5 going to read to you Title 47, Section 20.11 as amended,
6 Subsection E: "Local exchange carriers may not impose
7 compensation obligations for traffic not subject to access
8 charges upon commercial mobile radio service providers pursuant
9 to tariffs."

10 Are you familiar with that rule?

11 A No, I'm not.

12 Q Okay. You also, in your direct testimony and during,
13 shall I say, noncombative cross-examination from BellSouth, you
14 referenced an agreement between Northeast Florida Telephone and
15 New Cingular Wireless, wherein those parties agreed that it is
16 the responsibility of the originating party to pay the provider
17 of transit service, correct?

18 A Correct.

19 Q Now, isn't it true that Northeast Florida and New
20 Cingular are not exchanging any local traffic that is subject
21 to a transiting fee?

22 A I have no idea. I just know that it was in their
23 agreement, and as far as the amount of traffic or type of
24 traffic which go between the companies, I'm not familiar.

25 Q It could be zero?

1 A It could be.

2 Q Would you accept that representation subject to
3 check?

4 A I have no reason to know that it is zero or that it
5 is a number greater than zero.

6 Q You also testified in your direct examination that --
7 and I'm on Page 7, Line 7. I'll let you get there.

8 A I'm there.

9 Q In the current environment it would be extremely
10 unreasonable for the terminating party to be required to pay
11 for traffic originated by another carrier's customer. Are you
12 referring to transit traffic in there?

13 A Yes, I'm calling to, you know, the current, I will
14 say regime, as far as intercarrier compensation is the calling
15 party pays, and to make the terminating party pay for both its
16 originating traffic and its terminating traffic certainly would
17 not be, to me, reasonable.

18 Q So is it your position, then, that the reciprocal
19 compensation general rule that the originating party carrier
20 pays transport and termination, that that is applicable in a
21 transit traffic scenario?

22 A I think it's the same. You know, it is an extension
23 of the same thing. I think it has been pointed out, and you
24 have probably pointed it out, that has the FCC specifically
25 said this is what transit traffic should be, and they have got

1 an NPRM that looks at what, you know, getting everybody's
2 opinion as to how it should be handled. But part of that is
3 working within the framework of the current rules. And I think
4 the current rules support saying, yes, that transit traffic
5 should be handled the same way as the originating party pays,
6 and there is no reason to change that.

7 Q And that's your opinion?

8 A Yes, that's my opinion.

9 Q And, do you know if the FCC had a different opinion
10 in the TSR Wireless order that is now in evidence, excuse me,
11 in the record as Exhibit 35?

12 A The specifics of it I don't know. I do know that I
13 believe that in the Georgia order, that order was referenced,
14 and the Georgia Commission took that into consideration before
15 they came to their conclusion that the originating party pays.

16 Q Okay. But my question was do you know if the FCC
17 took a contrary position than your opinion in the TSR Wireless
18 order?

19 A No, I do not know the details of the TSR Wireless
20 order.

21 MR. McDONNELL: I don't have any further questions.

22 CHAIRMAN EDGAR: Mr. Self.

23 MR. SELF: I have just a couple of questions, if I
24 may.

25 CROSS EXAMINATION

1 BY MR. SELF:

2 Q Good afternoon, Mr. Guepe. How are you?

3 A Good afternoon, Mr. Self.

4 Q I would like to follow up, if I can, on that last
5 question. Were you a witness in the Georgia proceeding?

6 A Yes, I was.

7 Q Okay. And I believe that the TRS order was just
8 referenced by counsel.

9 A I believe a lot of that was in the briefs as opposed
10 to coming out in actually the -- in the hearing itself.

11 Q Okay. And have you seen the Georgia order on
12 clarification and reconsideration, a copy of which is attached
13 to Mr. Pruitt's testimony?

14 A Yes, I have seen that.

15 Q Okay. And if I could just show that to you for a
16 moment, and what I am -- all I would like to do is for the
17 record to clarify that the Commission did not rely upon that,
18 but the Tex-Com reconsideration order. Is that familiar?

19 A That was another thing that was referenced in the
20 order.

21 MR. SELF: Okay. And, Commissioners, since that
22 order is already in the record, I will just let that stand for
23 what it is.

24 BY MR. SELF:

25 Q Mr. Guepe, if I could just ask you one more question.

1 After you retire this week, are you going to miss us?

2 A Yes.

3 MR. SELF: I have no further questions.

4 CHAIRMAN EDGAR: Thank you, Mr. Self.

5 MR. McDONNELL: Was he sworn to tell the truth?

6 MR. HATCH: It may be a comment on his credibility.

7 He has nothing to lose.

8 CHAIRMAN EDGAR: Mr. Gerkin.

9 CROSS EXAMINATION

10 BY MR. GERKIN:

11 Q Good afternoon, Mr. Guepe. I am Charlie Gerkin. I'm
12 here today for MetroPCS Florida, LLC.

13 A Good afternoon.

14 Q Just following up on one of Ms. Berlin's questions,
15 would you accept, subject to check, that AT&T and BellSouth
16 announced their planned merger or acquisition on March 6th,
17 2006?

18 A Yes. If that is the date, that's the date, yes.

19 Q And based on that date, was the agreement that has
20 been introduced -- portions of which have been introduced as
21 Exhibit 42, was that executed before or after the merger or
22 acquisition was announced?

23 A It was executed after. However, I know that the
24 discussions have been going on literally for months and months
25 and months on that arbitration.

1 Q I'm sure they have. Mr. Guepe, is AT&T an ILEC in
2 some parts of the country?

3 A Currently, yes. I had to think about that.

4 Q And in those parts of the country where AT&T is an
5 ILEC, does AT&T provide a local transit service?

6 A I'm sure they do. I can't say I am familiar with the
7 network, but I'm sure they do. I think all the incumbent --
8 the RBOCs provide it.

9 Q And where AT&T, as an ILEC, provides a local transit
10 service, does AT&T advocate that service be priced at TELRIC?

11 A I don't know, but I doubt it.

12 Q Do you think that AT&T perhaps advocates that it be
13 priced somewhat above TELRIC?

14 A I think that would be reasonable.

15 Q Do you think that AT&T as a general matter would
16 prefer that transit rates be above TELRIC?

17 A I don't know if I can really answer that. It
18 probably varies. I mean, I'm sure AT&T has -- it's a part of
19 the business that -- it is the -- I will say what -- I will say
20 the legacy SBC, which is now part of AT&T, but I'm not familiar
21 with the operations in the other regions that much, or from the
22 viewpoint of that part of the company.

23 Q Would it be your expectation that AT&T, as an ILEC,
24 would prefer that transit rates be above TELRIC?

25 A It would be my expectation, yes.

1 MR. GERKIN: Thank you, sir. I have no further
2 questions.

3 CHAIRMAN EDGAR: Questions from staff?

4 MS. BANKS: No, Madam Chair.

5 CHAIRMAN EDGAR: Redirect?

6 MR. HATCH: No redirect.

7 CHAIRMAN EDGAR: Thank you. We do have an exhibit.
8 I believe it was offered by BellSouth.

9 MR. GURDIAN: Yes, Chairman. I would like to move
10 that Exhibit 42 be moved into the record.

11 CHAIRMAN EDGAR: Any objections? Seeing none, show
12 Exhibit 42 moved into the record.

13 (Exhibit 42 admitted into evidence.)

14 MR. HATCH: May the witness be excused, Madam Chair?

15 CHAIRMAN EDGAR: Just a moment.

16 Commissioner Carter.

17 COMMISSIONER CARTER: Is there -- obviously with this
18 being a newsworthy event, is there some way that staff could
19 just have the press release about this merger with BellSouth
20 and AT&T and have that attached to this document so we don't
21 have several pieces of paper here and there? Would that make
22 sense, Madam Chairman?

23 CHAIRMAN EDGAR: Could you say that again?

24 COMMISSIONER CARTER: The questions revolved around
25 the date between the merger between BellSouth and AT&T in

1 conjunction with what we have marked for identification as
2 Exhibit Number 42. And I'm saying that since that announcement
3 was made in the press, it should be a matter of public record
4 and maybe we could attach that to the document so we could see
5 it in its proper context, and we don't have to go looking for
6 different pieces of paper here, there, and everywhere.

7 CHAIRMAN EDGAR: Okay.

8 COMMISSIONER CARTER: That's all I'm asking.

9 CHAIRMAN EDGAR: Ms. Banks.

10 MS. BANKS: Commissioner, I think that is more than
11 possible for us to do. With that, would we want to amend the
12 description of Exhibit Number 42?

13 MR. GURDIAN: Commissioner, Chairman, I would object
14 to that, and say if they want to move that issue, it would be a
15 separate exhibit, Exhibit 43, a press release of some sort of
16 late-filed exhibit. Exhibit 43, rather than attached to
17 Exhibit 42.

18 CHAIRMAN EDGAR: Mr. Hatch.

19 MR. HATCH: I'd be happy to provide the press release
20 as a late-filed exhibit. That's not a problem.

21 CHAIRMAN EDGAR: Okay.

22 Commissioner Carter, thank you for your question.
23 And, Mr. Hatch, let's handle it that way, and we will have a
24 late-filed exhibit that we will mark as Exhibit 43 to be the
25 press release that has been discussed, and could you get that

1 to us by Monday?

2 MR. HATCH: No problem.

3 CHAIRMAN EDGAR: Thank you.

4 (Late-Filed Exhibit 43 marked for identification.)

5 COMMISSIONER CARTER: Thank you, Madam Chairman.

6 CHAIRMAN EDGAR: Thank you.

7 And the witness may be excused.

8 Okay. Folks, it looks like we are at a good stopping
9 point. It is almost 5:00 o'clock. So, I have -- we will, of
10 course, take all the time that we need, but I am ever
11 optimistic that perhaps we may be able to finish by
12 mid-afternoon tomorrow. With that in mind, I have an interest,
13 and I believe that this works for my colleagues, as well, in
14 perhaps starting at 9:00 o'clock tomorrow morning. Would that
15 be a hardship for any of the parties or witnesses?

16 Okay. Then in a moment we will stand in recess until
17 9:00 o'clock tomorrow morning, and we will start with Witness
18 Watkins and then continue through the order of witnesses. And
19 with that, we are in recess.

20 MR. TYLER: Madam Chair.

21 CHAIRMAN EDGAR: Oh, excuse me.

22 MR. TYLER: Excuse me.

23 CHAIRMAN EDGAR: Mr. Tyler.

24 MR. TYLER: On behalf of BellSouth again, may I take
25 up just one brief housekeeping note?

1 CHAIRMAN EDGAR: You may raise it.

2 MR. TYLER: Thank you. This morning Mr. Hoffman had
3 interposed an objection regarding Mr. McCallen's summary,
4 wherein Mr. McCallen had provided a figure of -- I believe he
5 said \$50,000 for BellSouth's last month of transit traffic
6 billing, and I represented to the Commission that BellSouth had
7 filed in its interrogatory responses that figure. And I went
8 back to double-check and make certain that BellSouth was not
9 misrepresenting itself to the Commission. And in doing so I
10 found that in our Interrogatory Response Number 1 that there is
11 a clarification. The amount there for monthly usage was
12 actually \$55,853.

13 And I spoke with Mr. Hoffman, and I don't want to
14 misrepresent his position, I'm sure he will correct me if I'm
15 wrong, but I don't believe that he will renew any objection to
16 our providing that to you as a number that is in the
17 interrogatory response reflecting usage for December 1st
18 through 31st of 2005, which was the month prior to the filing
19 of that interrogatory response in January of 2006. But I did
20 want to make that clarification.

21 CHAIRMAN EDGAR: Okay. Mr. Tyler, thank you for the
22 attention to detail, sincerely.

23 Mr. Hoffman.

24 MR. HOFFMAN: Mr. Tyler is correct, Madam Chairman.
25 I withdrew that objection on the basis that Mr. Tyler

1 represented that the information was in the record. And to the
2 extent that he inadvertently misstated it, the information will
3 speak for itself.

4 CHAIRMAN EDGAR: Thank you.

5 Okay. Further matters?

6 All right. Seeing none, we are in recess until 9:00
7 o'clock tomorrow morning. Thank you.

8 (The hearing adjourned at 5:00 p.m.)

9 (Transcript continues in sequence in Volume 4.)

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STATE OF FLORIDA)

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CERTIFICATE OF REPORTER

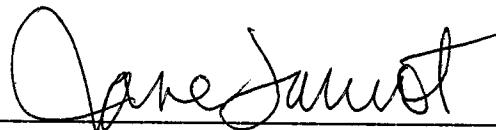
COUNTY OF LEON)

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

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

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

DATED THIS 13th day of April, 2006.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732