**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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| Re: Petition for Arbitration of Interconnection Agreement Between BellSouth Telecommunications, LLC d/b/a AT&T Florida and Communications Authority, Inc. | ) ) ) ) | Docket 140156-TP |

# Direct Testimony of Susan Kemp

# On Behalf of AT&T Florida

**February 16, 2015**

**ISSUES:**
**1-10, 31, 44, 48, 50-59, 62, 64-66**

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## I. INTRODUCTION

**Q. PLEASE STATE YOUR NAME, AND BUSINESS ADDRESS.**

A. My name is Susan Kemp. My business address is 311 S. Akard Street, Dallas, Texas 75202.

**Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR POSITION?**

A. I am an Associate Director – Wholesale Regulatory Policy and Support for AT&T Services, Inc. I work on behalf of the AT&T incumbent local exchange carriers ("ILECs") throughout AT&T's 21-state ILEC territory. I am responsible for providing regulatory and witness support relative to various wholesale products and pricing, supporting negotiations of local interconnection agreements ("ICAs") with Competing Local Exchange Carriers ("CLECs") and Commercial Mobile Radio Service ("CMRS") providers, participating in state commission and judicial proceedings, and guiding compliance with the federal Telecommunications Act of 1996 ("1996 Act" or "Act") and its implementing rules.

**Q. PLEASE SUMMARIZE YOUR BACKGROUND AND EXPERIENCE.**

A. My career with AT&T spans 27 years, the last 16 of which have been spent working in wholesale organizations that support and interact with CLECs and CMRS providers. In addition to my current role, I have held management and supervisory positions in contract management, negotiations support, negotiations, and regulatory support.

**Q. HAVE YOU PREVIOUSLY TESTIFIED IN ANY REGULATORY PROCEEDINGS?**

A. Yes. I have submitted testimony and affidavits and/or appeared in regulatory proceedings in two states where AT&T ILECs provide local service.

**Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

A. BellSouth Telecommunications, LLC d/b/a AT&T Florida, which I refer to as AT&T Florida.

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

A. I will discuss AT&T Florida's positions on arbitration Issues 1-10, 31, 44, 48, 50-59, 62, 64-66.

**Q. ARE SOME OF THOSE ISSUES PURE LEGAL ISSUES?**

A. Yes, they are. And what I mean by that is that there are some issues whose resolution depends entirely on the application of the 1996 Act and/or the FCC's regulations implementing the 1996 Act. These pure legal issues do not involve any factual disagreements or policy questions.

**Q. ARE YOU A LAWYER?**

A. No, I am not.

**Q. THEN WHAT IS THE PURPOSE OF YOUR TESTIMONY ON PURE LEGAL ISSUES.**

A. The purpose of my testimony on those issues is simply to inform the Commission of what AT&T Florida's position is and what it is based on – based on input provided to me by counsel. The real experts on these issues are the lawyers, and ultimately, the Commission should rely on the arguments in the parties' briefs to

resolve the pure legal issues. In fact, I will not necessarily set forth in this testimony the full legal support for AT&T Florida's positions that will appear in the briefs. Thus, my testimony on the pure legal issues is intended only to provide a preview, based on information provided by counsel, of the arguments the Commission will see in AT&T Florida's briefs.

**Q. HOW WILL THE READER OF YOUR TESTIMONY KNOW WHICH OF THE ISSUES YOU DISCUSS ARE PURE LEGAL ISSUES?**

A. I will make that clear in my discussion of the individual issues.

## II. DISCUSSION OF ISSUES

**ISSUE 1: IS AT&T FLORIDA OBLIGATED TO PROVIDE UNES FOR THE PROVISION OF INFORMATION SERVICES?**

**Affected Contract Provision: UNE Attachment § 4.1**

**Q. WHAT IS THE DISPUTE IN ISSUE 1?**

A. Issue 1 involves section 4.1 of the UNE Attachment. AT&T Florida's proposed language states that it will provide UNEs for CA to use to provide a telecommunications service. CA's proposed language, by contrast, would require AT&T Florida to provide UNEs for use by CA "in any technically feasible manner." Although the disputed language does not make it apparent, CA's position statement in the DPL and the issue statement above show that CA's main goal is to use UNEs to provide information services.

**Q. IS AT&T FLORIDA'S POSITION CONSISTENT WITH THE 1996 ACT?**

A. Yes. This is a pure legal issue, and I will summarize AT&T Florida's position as I understand it from counsel. Section 251(c)(3) of the 1996 Act requires ILECs to

provide access to UNEs "*for the provision of a telecommunications service . . . .*" 47 U.S.C. § 251(c)(3) (emphasis added); *see also*47 C.F.R. § 51.307(c) (ILECs must provide access to UNEs "in a manner that allows the requesting carrier *to provide any telecommunications service . . .*") (emphasis added). AT&T Florida's language appropriately reflects this requirement.

**Q. IS CA'S POSITION CONSISTENT WITH THE 1996 ACT?**

A. No. CA's proposed language (use of UNEs "in any technically feasible manner") ignores the fact that federal law only requires AT&T Florida to provide UNEs "for the provision of a telecommunications service." CA's proposed language would require AT&T Florida to provide UNEs to CA solely for the purpose of providing information services. That would be unlawful, because "information service" and "telecommunications service" are different things. The terms are defined differently in the 1996 Act and in FCC rules and the two categories of service are regulated differently. *See* 47 U.S.C. §§ 153(20) & (46); 47 C.F.R. § 51.5. As one treatise explains, "[t]he 1996 Act's complementary definitions of 'telecommunications service' and 'information service' are drafted to cover mutually exclusive territory. . . . There is no hint in the Act that Congress expected the categories of telecommunications and information services to be anything other than mutually exclusive." Huber, Kellogg & Thorne, Federal Telecommunications Law, § 12.2.3 at 1078-79 (2d ed. 1999).

**Q. WHAT ALTERNATIVES ARE AVAILABLE FOR CA TO PROVISION INFORMATION SERVICES TO ITS CUSTOMERS?**

A. To name a few, CA may self-provision facilities, lease them from third parties, or lease them from AT&T Florida's intrastate Special Access Tariff.

**Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE 1?**

A. The Commission should adopt AT&T Florida's proposed language, which comports with controlling federal law, and reject CA's proposed language, which does not.

**Q. IF THE COMMISSION DOES ADOPT AT&T FLORIDA'S LANGUAGE, DOES THAT MEAN CA WILL BE PROHIBITED FROM USING UNES TO PROVIDE INFORMATION SERVICES?**

A. No. As long as CA is using a UNE to provide telecommunications service, it may also use the UNE to provide information service.

**ISSUE 2: IS CA ENTITLED TO BECOME A TIER 1 AUTHORIZED INSTALLATION SUPPLIER (AIS) TO PERFORM WORK OUTSIDE ITS COLLOCATION SPACE?**

**Affected Contract Provision: Collocation Attachment § 1.7.3**

**Q. IS CA ENTITLED TO BECOME AN APPROVED AIS VENDOR FOR THE PURPOSE OF PERFORMING WORK OUTSIDE ITS COLLOCATION SPACE?**

A. No. Neither CA nor any other CLEC has an inherent right to become a Tier 1 Authorized Installation Supplier ("AIS").

**Q. WHAT IS AN AUTHORIZIED INSTALLATION SUPPLIER?**

**A**. An AIS is an entity that is qualified and selected to install facilities and equipment in a central office and perform other work within the central office. There are two types of AIS: Tier 1 and Tier 2. A Tier 1 supplier is authorized to perform work

throughout the central office for any entity with facilities in the central office, including CLECs and AT&T Florida. Each Tier 1 AIS has demonstrated its qualifications and competence to perform work on behalf of carriers in AT&T Florida central offices. A complete description of a Tier 1 AIS qualification and selection process is shown in Exhibit SK-1. A Tier 2 supplier is authorized to perform work only on its own equipment in its own collocation space. Tier 2 suppliers are simply required to attend a one-day training course regarding AT&T Florida central office awareness.

**Q. WHAT IS THE PRINCIPAL DIFFERENCE BETWEEN A TIER 1 AND TIER 2 AIS?**

A. The principal difference is one of scope of permissible work in a central office. A Tier 1 AIS has access to, and is allowed to perform work on, all the equipment in a central office both for AT&T Florida and all CLECs collocated in that office. A Tier 2 AIS is confined to its own equipment in its own collocation space. There is an enormous responsibility and potential risk inherent in having access to everyone's equipment in a central office. The process for becoming a Tier 1 AIS is therefore extensive and rigorous.

**Q. WHAT ARE THE IMPLICATIONS OF CA'S ASSERTED ENTITLEMENT TO BECOME A TIER 1 AIS?**

A. First, there is no entitlement. There is nothing in the 1996 Act, the FCC's Rules or any Commission order that entitles a CLEC to become a Tier 1 AIS. Second, if the Commission were to endow CA with such a right in this case, it would have to do the same for every other CLEC in Florida. There is significant risk in allowing

any vendor access to every carrier's equipment in a central office, and mandating that all CLECs be permitted access to every other carrier's equipment in a central office would substantially increase the risk of damage or destruction of equipment in that office, as well as danger to other personnel.

**Q. IS AT&T FLORIDA CURRENTLY ACCEPTING APPLICATIONS FOR TIER 1 AIS VENDORS?**

A. No. There are 87 vendors on the Tier 1 list as of January 2015, each of which is authorized to perform work in any AT&T central office across AT&T's footprint. AT&T Florida is not aware of any shortage of Tier 1 vendors to perform work in a timely fashion either for itself or for CLECs.

**Q. HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

A. The Commission should reject CA's proposed language for section 1.7.3 of the Collocation Attachment that would create an entitlement for any vendor to become a Tier 1 AIS.

**ISSUE 3: WHEN CA SUPPLIES A WRITTEN LIST FOR SUBSEQUENT PLACEMENT OF EQUIPMENT, SHOULD AN APPLICATION FEE BE ASSESSED?**

**Affected Contract Provision: Collocation Attachment § 3.17.3.1**

**Q. DOES AT&T FLORIDA IMPOSE AN ADDITIONAL CHARGE ON CA FOR REVIEW OF CA-FURNISHED EQUIPMENT THAT DOES NOT APPEAR ON THE ALL EQUIPMENT LIST ("AEL")?**

A. No. Although AT&T Florida does not accept CA's proposed language, it offers the following proposed language for the end of section 3.17.3.1 in an effort to

resolve this Issue 5b: "AT&T Florida shall not charge any separate fee for review under this subsection."

**ISSUE 4a: IF CA IS IN DEFAULT, SHOULD AT&T FLORIDA BE ALLOWED TO RECLAIM COLLOCATION SPACE PRIOR TO CONCLUSION OF A DISPUTE REGARDING THE DEFAULT?**

**Affected Contract Provision: Collocation Attachment § 3.20.1**

**ISSUE 4b: SHOULD AT&T FLORIDA BE ALLOWED TO REFUSE CA'S APPLICATIONS FOR ADDITIONAL COLLOCATION SPACE OR SERVICE OR TO COMPLETE PENDING ORDERS AFTER AT&T FLORIDA HAS NOTIFIED CA IT IS IN DEFAULT OF ITS OBLIGATIONS AS COLLOCATOR BUT PRIOR TO CONCLUSION OF A DISPUTE REGARDING THE DEFAULT?**

**Affected Contract Provision: Collocation Attachment § 3.20.2**

**Q. WHAT IS THE DISAGREEMENT UNDERLYING ISSUES 4a AND 4b?**

A. The parties have agreed in Collocation sections 3.20.1 and 3.20.2 that if CA defaults on its obligations as Collocator, AT&T Florida will have certain remedies, including reclaiming collocation space and refusing to process new or pending collocation orders. CA proposes to add language to those two provisions that would prohibit AT&T Florida from exercising those remedies if CA is pursuing dispute resolution, including litigation and any subsequent appeals. Specifically, CA proposes to add the following at the end of both section 3.20.1 and section 3.20.2:

> ***This provision shall not apply until the conclusion of any dispute resolution process initiated by either party under this agreement where CA has disputed the alleged default, including any regulatory proceeding, litigation or appellate proceeding.***

AT&T Florida opposes this language.

**Q. WHY?**

A. If CA breaches its collocation obligations, AT&T Florida should not be forced to suffer the consequences of continuing to provide collocation services to CA. For instance, if CA fails to pay material amounts it owes for collocation services, AT&T Florida should not have to incur additional financial loss by allowing CA to remain collocated or to obtain additional collocation space that it cannot or will not pay for. Similarly, if CA's default is a failure to follow safety requirements that protect the personnel or equipment of other collocators, and of AT&T Florida, CA should not be allowed to continue to collocate, and to continue the violation – and the endangerment of those personnel or equipment – during the potentially very long period while CA is disputing the violation through appeals.

**Q. HOW LONG WOULD THE DISPUTE RESOLUTION LAST?**

A. It would last as long as it takes the Commission to resolve the matter, plus the duration of any appeal – initially to a federal district court and then, in many cases, to a federal court of appeals. That is likely to be a matter of years.

**Q. DO THE REMEDIES THAT SECTIONS 3.20.1 AND 3.20.2 MAKE AVAILABLE FOR COLLOCATION DEFAULTS APPLY TO ALL COLLOCATION DEFAULTS?**

A. No, they only apply to material defaults, because of a contract language change AT&T Florida recently made in response to a question from Staff. In connection with Issue 4a, Staff asked the following interrogatory: "According to AT&T Florida, what substantiates a 'default'? Does AT&T Florida have various default categories in place to address this type of situation? Please explain in

detail." AT&T Florida responded, in part, that it does not have categories of default. But since it appeared that Staff might be concerned about the remedies for collocation defaults applying to all defaults, regardless of severity, AT&T Florida adjusted the pertinent contract language so that the remedies made available by sections 3.20.1 and 3.20.2 apply only to ***material*** defaults.[1]

**Q. ARE THERE STEPS CA CAN TAKE TO PREVENT AT&T FLORIDA FROM RECLAIMING COLLOCATION SPACE OR REFUSING TO PROCESS REQUESTS FOR ADDITIONAL COLLOCATION SPACE WHEN AT&T FLORIDA NOTIFIES CA IT IS IN DEFAULT?**

A. Yes. First and foremost, CA can cure its default. The agreed language does not allow AT&T Florida to reclaim collocation space or refuse to process collocation requests until 60 days after AT&T Florida notifies CA of the default. That is ample time for CA to cure its default, for instance by paying past due amounts, correcting safety violations or ceasing to violate the operational requirements of the collocation attachment.

Furthermore, if CA maintains it is not in default, CA is free to initiate a proceeding to determine whether it is or is not default. Although I am not a lawyer, it is my general understanding that in such a proceeding, CA could fairly quickly obtain an order temporarily prohibiting AT&T Florida from taking action against CA by showing that the action would significantly harm CA and that CA is likely to show that it is not in default.

[1] Oddly, CA has not accepted AT&T Florida's addition of the word "materially," notwithstanding that the change operates to CA's benefit.

**Q. BUT WITHOUT THE LANGUAGE CA IS PROPOSING, ISN'T CA STILL SUBJECT TO POSSIBLY UNJUSTIFIED AND VERY HARMFUL ACTION BY AT&T FLORIDA BASED ON AN INCORRECT CLAIM THAT CA IS IN DEFAULT?**

A. No. AT&T Florida is well aware that if it were to reclaim CA's collocation space or refuse a CA request for collocation based on its belief that CA is in default, AT&T Florida would face potentially enormous liability to CA if AT&T Florida could not prove that it was right. This ensures that AT&T Florida will be extraordinarily cautious in exercising those remedies if CA disputes the default.

**Q. HOW SHOULD THE COMMISSION RESOLVE ISSUES 4a AND 4b?**

A. The Commission should reject CA's proposal to prohibit AT&T Florida from exercising the remedies the ICA provides for a material default by CA in the event that CA disputes the default. Otherwise, AT&T Florida, and other carriers collocated near CA, would be subject to prolonged and possibly dangerous defaults by CA.[2]

**ISSUE 5: SHOULD CA BE REQUIRED TO PROVIDE AT&T FLORIDA WITH A CERTIFICATE OF INSURANCE PRIOR TO STARTING WORK IN CA'S COLLOCATION SPACE ON AT&T FLORIDA'S PREMISES?**

**Affected Contract Provision: Collocation Attachment § 4.6.2**

**Q. WHAT IS THE DISAGREEMENT THAT GIVES RISE TO ISSUE 5?**

A. It is not the disagreement suggested by the statement of the issue above, because the parties have agreed in Collocation section 4.6.2 that, "A certificate of

[2] In her testimony on Issue 19, AT&T Florida witness Pellerin provides additional detail on some of the points I have made in my discussion of Issue 4b.

insurance stating the types of insurance and policy limits provided the Collocator must be received prior to commencement of any work." Thus, it is a given that CA must provide a certificate of insurance before it can start work in a collocation space. This stands to reason, because the required insurance is necessary to protect personnel and equipment in the collocation space and central office.

The actual disagreement concerns the situation in which CA breaches its obligation to provide an insurance certificate before it starts work. In that scenario, CA of course must cure its breach, but the parties disagree on how long CA should have to do so. AT&T Florida proposes that CA should have five business days. CA proposes 30 thirty calendar days.

**Q. WHAT IS WRONG WITH CA'S PROPOSAL?**

A. It is patently unreasonable. The parties have agreed that insurance *must* be in place before any collocation work is commenced. This recognizes that it is essential for CA, as a collocated CLEC that has access to secure buildings and expensive equipment, to carry insurance in order to protect against the financial consequences of insurable events. To give CA 30 days to cure its breach while CA continues to work in the collocation space, and thus to create the dangers against which the agreed insurance is supposed to protect, would make a mockery of the agreement that insurance must be in place *before* work begins. If CA breaches that obligation, it would be perfectly reasonable to require CA to stop work until it obtains insurance and provides the required certificate. The five-day

grace period that AT&T Florida proposes is generous, and is sufficient for CA to cure its breach.

**Q. CA CLAIMS IN ITS COMMENTS THAT IT CANNOT OBTAIN INSURANCE IN FIVE DAYS AND THAT "MOST INSURANCE CARRIERS HAVE REFUSED TO WRITE SUCH COVERAGE FOR CLECS."[3] HOW DO YOU RESPOND?**

A. First, CA will not have to obtain insurance within five days if it abides by the agreement. All it needs to do is obtain the insurance before it begins collocation work, as the contract requires. The five days comes into play only after AT&T Florida notifies CA that it breached its contractual obligation to provide the insurance certificate before starting work. CA is in control of the timing of its collocation work and can make arrangements for insurance well in advance of starting work.

Second, CA's assertion that "most insurance carriers have refused to write such coverage for CLECs" is, to say the least, problematic. If the assertion is true, one has to wonder why CA committed to obtaining the required coverage in the first place. Indeed, the assertion counsels in favor of a shorter grace period, or no grace period, not a longer one. If it is likely that CA cannot obtain the required insurance coverage at all, then CA should not be operating in AT&T Florida's collocation space, even for five business days (let alone 30).

In any event, AT&T Florida disputes CA's contention that obtaining the required coverage is extremely difficult, if not impossible. CLECs have been

[3] When I refer to CA's Comments, I mean the comments on each issue that CA included in Exhibit B to its Petition for Arbitration.

collocating in AT&T Florida's premises for nearly 20 years and have been subject to similar insurance requirements. Other CLECs have not expressed concerns about complying with the insurance provisions and AT&T Florida has not had issues with CLEC non-compliance.

**Q. CA ALSO PROPOSES LANGUAGE TO "CLARIFY" THAT AT&T FLORIDA MAY NOT OBTAIN INSURANCE ON BEHALF OF CA "IF CA HAS NOT COMMENCED THE WORK FOR WHICH THE INSURANCE IS REQUIRED TO COVER." IS THIS LANGUAGE APPROPRIATE?**

A No. On the contrary, the language is unclear and nonsensical. The scenario being addressed in § 4.6.2 only arises if CA has begun work in the collocation space and has not obtained the required insurance certificate. AT&T Florida can only send out a deficiency notice if there is a deficiency, and there can be no deficiency unless work has commenced without the required insurance certificate having been provided. Since the five (or 30) day cure period will not begin to run until work has commenced (and a subsequent deficiency notice has been sent), it follows that the remedy that arises *after* the cure period expires will also not occur until after work has commenced. Thus, CA's clarification language is unnecessary and potentially confusing.

**ISSUE 6: SHOULD AT&T FLORIDA BE ALLOWED TO RECOVER ITS COSTS WHEN IT ERECTS AN INTERNAL SECURITY PARTITION TO PROTECT ITS EQUIPMENT AND ENSURE NETWORK RELIABILITY AND SUCH PARTITION IS THE LEAST COSTLY REASONABLE SECURITY MEASURE?**

**Affected Contract Provision: Collocation Attachment § 4.11.3.4**

**Q. SHOULD AT&T FLORIDA BE ALLOWED TO RECOVER ITS COSTS TO ERECT AN INTERNAL SECURITY PARTITION TO PROTECT ITS**

**EQUIPMENT IF SUCH PARTITION IS THE LEAST COSTLY REASONABLE SECURITY MEASURE?**

A. Yes. AT&T Florida must be able to protect its equipment and the equipment of other collocators, and is entitled to recover the costs of such protection.

A partition is a physical barrier that separates a CLEC's collocation space from other CLECs' or AT&T Florida's space. It can range from a wire mesh cage screen to fully framed walls. In some situations, a security partition is the least costly reasonable security measure. In other situations, the least costly reasonable security measure is to place the Collocator's equipment in a different location (i.e., isolation). AT&T Florida will use the least cost, most efficient solution – whether partition, isolation or some other measure – as indicated by the circumstances of the individual case. The agreed language regarding security partition follows that approach, by allowing AT&T Florida to recover the cost of a security partition only "if the partition costs are lower than the costs of any other reasonable security measure for such Eligible Structure." The agreed language further provides that the Collocator will not "be required to pay for both an interior security partition … and any other reasonable security measure for such Eligible Structure." This approach is fair and reasonable.

**Q. ARE SECURITY PARTITIONS COMMON?**

A. No, but one could be necessitated by environmental or safety conditions. For example, if a CLEC's equipment generates substantial heat, it may affect nearby CLEC equipment or AT&T Florida equipment. The most economical solution

could be to wall off the collocation space to minimize the increased cooling capacity that must be installed to cool the equipment.

**Q. HAS AT&T FLORIDA EVER ERECTED AN INTERNAL SECURITY PARTITION?**

A. It seems it has not. To the best of AT&T Florida's knowledge (by which I mean my knowledge and the knowledge of collocation experts I consulted with), neither AT&T Florida nor any other AT&T ILEC has ever erected an internal security partition. AT&T Florida wants to retain the right to do so if it becomes necessary in the future, however, perhaps in light of changes in technology. Section 4.11.3.4 provides the appropriate flexibility to address future technology needs, while protecting CA by limiting cost recovery to those instances where a security partition is the least costly reasonable measure.

**Q. CA PROPOSES TO LIMIT AT&T FLORIDA'S RIGHT TO RECOVER THE COST OF A SECURITY PARTITION TO THE SITUATION WHERE CA OR ITS AGENT HAS COMMITTED WRONGDOING OR VIOLATED THE PARTIES' AGREEMENT ON AT&T FLORIDA'S PROPERTY. WOULD THAT BE REASONABLE?**

A. No, it is not. If CA's presence on AT&T Florida's premises creates the need for a security partition, CA should bear the cost – whether or not CA has done something wrongful. And indeed, some reasons a partition might be necessary have nothing to do with wrongdoing. For instance, in my example above, where a collocator's equipment required specialized cooling, it might make the most sense to partition off that area. That has nothing to do with anyone doing anything wrong.

**Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE 6?**

A. It should reject CA's proposal to permit AT&T Florida to recover the costs of a necessary security partition from CA only if CA is guilty of wrongdoing.

**ISSUE 7a: UNDER WHAT CIRCUMSTANCES MAY AT&T FLORIDA CHARGE CA WHEN CA SUBMITS A MODIFICATION TO AN APPLICATION FOR COLLOCATION, AND WHAT CHARGES SHOULD APPLY?**

**Affected Contract Provision: Collocation Attachment § 7.4.1**

**Q WHEN CA MODIFIES A COLLOCATION APPLICATION IS REVIEW OF THE APPLICATION REQUIRED?**

A. Yes. When a CLEC makes a substantive change to a collocation application, whether an initial application or an augment, the modified application must be reviewed. The collocation application is required to inform AT&T Florida about what equipment and facilities the CLEC wants to collocate and the type of interconnection needed by the CLEC. When a pending application is modified, the modified application must be reviewed for the same reasons. When an application is changed, the review must look at the entire application to see what changed, as well as what needs to change to accommodate the revised application. Whether in an initial or an augment scenario, the application is required in order to provide AT&T Florida with sufficient information to evaluate whether the proposed equipment is authorized for collocation, is compatible with the other technical requirements in the central office, and is safe to install.

**Q IS AN APPLICATION FEE REQUIRED FOR THE REVIEW OF EACH APPLICATION?**

A. Yes. A revised application requires review as much as an initial application. Accordingly, AT&T Florida is entitled to recover the costs associated with the review of the application and any subsequent modifications.[4]

**Q. WHAT IS THE PARTICULAR DISPUTED LANGUAGE IN THE ICA?**

A. The bolded/italicized language is proposed by CA and opposed by AT&T Florida:

> 7.4.1 If a modification or revision is made to any information in the Application after AT&T-21STATE has provided the Application response and prior to a BFFO, with the exception of modifications to (1) Customer Information, (2) Contact Information or (3) Billing Contact Information, whether at the request of Collocator or as necessitated by technical considerations, the Application shall be considered a new Application and handled as a new Application with respect to the response and provisioning intervals. AT&T-21STATE will charge Collocator the appropriate Application/Augment fee associated with the level of assessment performed by AT&T-21STATE. ***This provision shall not apply if AT&T-21STATE requested or required the revision or modification, in which case no additional charges shall apply. This provision shall not apply if the revision results in no change in the number, type or size of cables, or floor space, and has no other cost impact on AT&T-21STATE.***

**Q. WHAT ARE THE IMPLICATIONS OF CA'S PROPOSED LANGUAGE?**

A. The language proposed by CA is an attempt to shift the cost of review of all reviews subsequent to the first application to AT&T Florida despite the necessity of review of all applications as discussed previously. As noted in the undisputed portion of the language above, AT&T Florida does not ask for a revision to an application unless a review shows a change needs to be made for technical

[4] Collocation Attachment, Section 7.4 provides exceptions to the rule that modified applications are subject to application fees: 1) Customer name, 2) Contact information, or 3) Billing Contact information.

reasons, for example: If the customer requests an entrance facility and the ducts are full, the application would need to be revised to remove the entrance cable, or if the customer requests non-standard power, and subsequently decides to change it to request standard power. Keep in mind, the fee is associated with the level of assessment performed by AT&T Florida. Further, CA's proposal would eliminate one significant incentive to provide accurate complete information on its applications the first time. Absence of any financial incentive to get it right the first time will inevitably encourage lackadaisical behavior for CA and every CLEC that obtains this provision in its ICA.

**Q. IS THERE ANY MERIT TO CA'S PROPOSAL FOR AN EXEMPTION TO AN APPLICATION FEE WHEN THERE IS NO CHANGE IN THE SIZE OR NUMBER OF CABLES?**

A. No. The number or size of cables and whether they change is irrelevant to the fact that any proposed change to a collocation arrangement necessitates a review of the changes. It is this review that requires an application fee, not the underlying physical changes. A proposed change requires an application review which in turn requires an application fee to allow for AT&T Florida to recover its costs caused by the review process. When there is a change to a collocation application, a review is required and an application fee is necessary.

**Q. HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

A. The Commission should reject CA's proposed additional language shown above in Collocation Attachment, Section 7.4.1.

**ISSUE 7b: WHEN CA WISHES TO ADD TO OR MODIFY ITS COLLOCATION SPACE OR THE EQUIPMENT IN THAT SPACE, OR TO CABLE TO THAT SPACE, SHOULD CA BE REQUIRED TO SUBMIT AN APPLICATION AND TO PAY THE ASSOCIATED APPLICATION FEE?**

**Affected Contract Provision: Collocation Attachment § 7.5.1**

**Q. HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

A. This issue is essentially the same as Issue 7a. This issue deals with augments to the collocation arrangement rather than modifications to the application for collocation. The analysis and the result should be the same as issue 7a. There is, however, a difference in the specific language proposed by CA. CA proposes to delete the word "equipment" from Collocation Attachment section 7.5.1 and to add the language in bold italics:

> 7.5.1 A request from a collocator to add or modify space, **equipment**, and/or cable to an existing collocation arrangement is considered an augment. Such a request must be made via a complete and accurate application. ***This provision shall not apply and no fee shall be due if collocator is installing or replacing collocated equipment in its own space, without requesting any action by AT&T even if collocator submits updated equipment designations to AT&T in accordance with this agreement.***

CA's proposed language is another attempt to shift the cost of review of changes to CA's collocation arrangement to AT&T Florida. Further, it could be read to suggest that CA has the ability to modify its equipment and facilities in its collocation space with no oversight at all. Neither is acceptable. As explained previously, the augment application will be reviewed by AT&T Florida to ensure that the collocator's equipment and facilities are compliant with the standards set out in Section 3.18.1, and meet the requirements for "necessary equipment" and

to ensure the revision causes no adverse effect either on equipment or personnel. The cost caused by this review must be recovered from the cost causer. CA's proposed changes to section 7.5.1 must be rejected in its entirety.

**ISSUE 8: IS 120 CALENDAR DAYS FROM THE DATE OF A REQUEST FOR AN ENTRANCE FACILITY, PLUS THE ABILITY TO EXTEND THAT TIME BY AN ADDITIONAL 30 DAYS, ADEQUATE TIME FOR CA TO PLACE A CABLE IN A MANHOLE?**

**Affected Contract Provision: Collocation Attachment § 14.2**

**Q. IS 120 CALENDAR DAYS FROM THE DATE OF A REQUEST FOR AN ENTRANCE FACILITY, PLUS THE ABILITY TO EXTEND THAT TIME BY AN ADDITIONAL 30 DAYS, ADEQUATE TIME FOR CA TO PLACE A CABLE IN A MANHOLE?**

A. Yes. This is the same period of time that all other carriers with which AT&T Florida has ICAs have to complete the same work, and those carriers have consistently been able to meet the 120 plus 30 day deadline. CA has not presented any information that would suggest it needs more time than other carriers in Florida to place cable in a manhole.

CA has control over its own activities, including the date on which it submits a collocation application, and so can take into account whatever other projects CA is working on when it decides when to submit its application. Through proper project management, CA can address any hurdles or challenges it might encounter and complete the work within 120 days, or 150 days if CA requests the automatic 30-day extension.

It takes 30 to 90 days for AT&T Florida to complete its portion of the work to meet CA at the manhole subsequent to the Bona Fide Firm Order

("BFFO"). It is unreasonable to expect AT&T Florida's cable to be coiled and waiting for CA to meet at the manhole for up to 270 days (nine months), as CA proposes. Leaving the cable coiled and waiting for CA clutters the vault area near the manhole and makes it difficult to work there. Giving CA up to 270 days would also effectively allow CA to reserve space in the duct, which other carriers are not able to do. By tying up space for up to nine months as CA proposes, but not actually using that space for much of the time, CA would prevent AT&T Florida from accommodating a request from another CLEC who is willing and able to use that space within the timeframes that AT&T Florida proposes and that other CLECs abide by.

**Q. CA ASSERTED IN ITS COMMENTS THAT CA MIGHT ENCOUNTER DELAYS DUE TO WEATHER OR OCCURRENCES BEYOND ITS REASONABLE CONTROL. DOES CA HAVE A REMEDY TO OBTAIN EXTRA TIME TO COMPLETE A CABLE INSTALL IN THOSE CASES?**

A. Yes, CA can rely on the force majeure language of the ICA if it encounters circumstances beyond its control that prevent it from meeting a deadline.

**Q. IF EITHER PARTY ENCOUNTERS DELAYS DUE TO WEATHER ISSUES OR OCCURRENCES BEYOND ITS REASONABLE CONTROL, DOES IT HAVE A REMEDY TO RELY UPON TO PROVIDE NOTICE TO THE OTHER PARTY?**

A. Yes, either Party may rely on force majeure language of the interconnection agreement if occurrences beyond its reasonable control are encountered.

**ISSUE 9a: SHOULD THE ICA REQUIRE CA TO UTILIZE AN AT&T FLORIDA AIS TIER 1 FOR CLEC-TO-CLEC CONNECTION WITHIN A CENTRAL OFFICE?**

**Affected Contract Provision: Collocation Attachment § 17.1.2**

**Q. WHAT ARE THE STANDARD REQUIREMENTS FOR CLEC-TO-CLEC CONNECTION AS SET BY AT&T FLORIDA?**

A. AT&T Florida requires carriers to utilize an AT&T-21State Approved Installation Supplier ("AIS") Tier 1 for all installation work done in a central office. This would include CLEC to CLEC connections. The process and qualifications for becoming an AIS are described in Issue 2 and described in detail in AT&T Florida's responses to Staff's First Set of Interrogatories for Issue 2. An AIS has the demonstrated qualifications and competence to perform the work efficiently and safely. These qualifications are essential when working on or around CLEC and AT&T Florida equipment.

**Q. IF A CARRIER'S COLLOCATION ARRANGEMENT IS WITHIN TEN (10) FEET OF THE OTHER CARRIER'S COLLOCATION ARRANGEMENT, IS IT ACCEPTABLE FOR A COLLOCATOR TO CONSTRUCT ITS OWN DIRECT CONNECTION FACILITY WITHOUT UTILIZING AN AT&T-21STATE AIS TIER 1?**

A. No, it is not acceptable for collocator to construct its own direct connection facility, regardless of the distance between collocation arrangements. An AIS Tier 1 supplier must conduct the work. AIS Tier 1 suppliers are the only individuals approved to perform central office installation work for AT&T Florida and for CLECs in AT&T Florida's central offices in all collocation areas and common areas. Without exception, one must be an AIS Tier 1 supplier to perform work outside of the caged collocation area and outside the footprint of the bay in a cageless physical collocation within the central office. Failure to properly install and maintain equipment and associated power could create hazards that may result in network outage, electrical issues,

damage to collocator and AT&T Florida equipment, and could put the personal safety of those individuals in the building at risk. AT&T Florida does not cut corners related to safety and security.

**Q. WHY DOES AT&T FLORIDA REQUIRE AIS TIER 1 SUPPLIERS TO PERFORM WORK OUTSIDE THE COLLOCATOR'S COLLOCATION FOOTPRINT?**

A. The reason is simple: safety and security. AT&T Florida must be certain anyone performing work in a central office outside the collocation footprint meets AIS Tier 1 training requirements and possesses the credentials to enable entry to the work area. AT&T Florida must ensure the safety and integrity of its network, the facilities of each collocator and the safety of individuals working in the building. It is a top priority. To accomplish that, it is imperative to utilize individuals who are trained, experienced, and have obtained the credentials to perform the work and to enter and move about the central office.

**ISSUE 9b: SHOULD CLEC-TO-CLEC CONNECTIONS WITHIN A CENTRAL OFFICE BE REQUIRED TO UTILIZE AT&T FLORIDA COMMON CABLE SUPPORT STRUCTURE?**

**Affected Contract Provision: Collocation Attachment § 17.1.5**

**Q. WHAT IS COMMON SUPPORT STRUCTURE?**

A. Common support structure is cable support equipment, such as wire racks, used to safely and efficiently organize and manage all the wiring in a central office. These structures support fiber or copper cables as they are routed from CLEC collocated equipment to the main distribution frame or other CLEC's or AT&T Florida's

equipment. Common support structure is required for all; AT&T Florida uses the same structure as CLECs. See photos in Exhibit SK-2.

**Q. IS THE USE OF AT&T FLORIDA COMMON CABLE SUPPORT STRUCTURE REQUIRED FOR CLEC TO CLEC CONNECTIONS, REGARDLESS OF THE DISTANCE BETWEEN COLLOCATION ARRANGEMENTS?**

A. Yes, collocators are required to use AT&T Florida common cable support structures for CLEC to CLEC connections, regardless of the distance between collocation arrangements. To allow every CLEC to run facilities without regard to a systematic and safe method utilizing appropriate support structures would be inappropriate. AT&T Florida must ensure the safety and integrity of its network and the facilities of each collocator.

**Q. WHY IS IT IMPORTANT TO USE COMMON SUPPORT STRUCTURE FOR ALL WIRE ROUTES IN A CENTRAL OFFICE?**

A. In a central office that houses the equipment of multiple CLECs and AT&T Florida, it is imperative that the enormous amount of wire be organized in a safe and efficient manner. The common support structure is the mechanism by which wire is efficiently organized and safely routed from one piece of equipment to the next. CA proposes to ignore this system and simply run wires at random with no organizational system. Running wires even for a short distance without common support structure substantially increases the potential for unsafe working conditions as well as interfering with other carriers' equipment. If all CLECs took advantage of an opportunity to avoid using common support structure the central office would degenerate into a disorganized, unsafe mess.

**Q. HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE**

A. The Commission should reject CA's proposed modification to 17.1.5.

**ISSUE 10: IF EQUIPMENT IS IMPROPERLY COLLOCATED (E.G., NOT PREVIOUSLY IDENTIFIED ON AN APPROVED APPLICATION FOR COLLOCATION OR NOT ON AUTHORIZED EQUIPMENT LIST), OR IS A SAFETY HAZARD, SHOULD CA BE ABLE TO DELAY REMOVAL UNTIL THE DISPUTE IS RESOLVED?**

**Affected Contract Provision: Collocation Attachment § 3.18.4**

**Q. WHAT DOES SECTION 3.18.4 OF THE COLLOCATION ATTACHMENT ADDRESS?**

A. Section 3.18.4 addresses what happens in two different scenarios where the parties disagree about CA's compliance with the provisions of the Collocation Attachment. Specifically, the provision addresses disputes about (1) whether equipment that CA has collocated is necessary for interconnection or access to UNEs (as it must be in order to be permissibly collocated) and (2) whether the equipment is improperly collocated because it does not comply with safety standards or was collocated without having been previously identified on an approved application for collocation or on the All Equipment List ("AEL").

**Q. WHAT IS THE DISAGREEMENT ABOUT SECTION 3.18.4?**

A. The primary dispute is whether CA's equipment may remain in place in the second scenario if CA disputes AT&T Florida's determination that the equipment is improperly collocated, either because it does not comply with minimum safety standards or because it was not previously identified on an approved application for collocation or included on the AEL. The parties have already agreed that CA

may leave its equipment in place pending dispute resolution if the dispute pertains to the first scenario – whether equipment is necessary for interconnection or access to UNEs – because in that scenario, unlike the one about which the parties disagree, CA is not endangering anyone else's personnel or property.

**Q. SHOULD CA BE PERMITTED TO KEEP ITS EQUIPMENT IN PLACE IF CA DISPUTES AT&T FLORIDA'S DETERMINATION THAT THE EQUIPMENT IS IMPROPERLY COLLOCATED?**

A. No. In this scenario, AT&T Florida has determined that CA's equipment does not meet safety standards or was not approved for collocation. The purpose of the safety standards is to provide a safe environment for the personnel and equipment of AT&T Florida, CA and other collocated carriers. If AT&T Florida has determined that CA's equipment creates a safety or security risk, CA should be required to remove its equipment, even if CA is disputing that determination. Dispute resolution proceedings, which might include litigation and subsequent appeals, can last a long time, and it makes no sense to allow equipment that AT&T Florida has determined presents a safety risk to continue to present that risk during that process.

Much the same reasoning applies if CA has installed equipment that it did not include on its collocation application or that does not appear on the AEL. The AEL is available on the AT&T CLEC online website. If the equipment CA desires to use does not appear on the AEL, CA's collocation application can include a request to place such equipment, and AT&T Florida will not unreasonably withhold its consent.

CA has control over what equipment it lists on its collocation application. If CA lists a piece of equipment that is not on the AEL, it of course should not install it. And CA certainly should not be rewarded for improperly installing an unapproved piece of equipment by being allowed to keep the equipment in place pending dispute resolution.

**Q. IN ITS POSITION STATEMENT, CA EXPRESSED CONCERN THAT AT&T FLORIDA WILL ACT "SOLELY UPON" AT&T FLORIDA'S "BELIEF." CAN YOU ADDRESS CA'S CONCERN?**

A. AT&T Florida has no incentive to make unsubstantiated claims that CA is not complying with the safety standards in the agreement, or to assert that CA has installed equipment that has not previously been approved.

**Q. IS THERE ANOTHER DISAGREEMENT CONCERNING SECTION 3.18.4?**

A. Yes. AT&T Florida proposes that CA have 10 business days (at least two calendar weeks) to remove its equipment if (i) the equipment does not comply with the minimum safety standards or was not approved in advance, or (ii) the equipment is not used for interconnection or access to UNEs and CA does not dispute that fact. CA proposes that time period should be 30 days.

**Q. WHY IS TEN BUSINESS DAYS MORE REASONABLE THAN 30 CALENDAR DAYS?**

A. The timetable for removal comes into play only if AT&T Florida has determined the equipment is improperly collocated, or if CA has opted not to dispute a determination by AT&T Florida that the equipment is not necessary for

interconnection or access to UNEs. In the former scenario, ten business days is an appropriate time for CA to comply with safety or equipment requirements in the agreement. Because the equipment could pose a safety hazard, it cannot remain and must be removed promptly. The thirty days that CA proposes is too long.

In the case where CA has installed equipment that is not necessary for interconnection or access to UNEs and CA is not challenging that determination, CA indisputably should not have brought the equipment into the collocation space in the first place. Ten business days is a more than enough time for CA to remove equipment it should never have installed in the first place.

**ISSUE 31: DOES AT&T FLORIDA HAVE THE RIGHT TO REUSE NETWORK ELEMENTS OR RESOLD SERVICES FACILITIES UTILIZED TO PROVIDE SERVICE SOLELY TO CA'S CUSTOMER SUBSEQUENT TO DISCONNECTION BY CA'S CUSTOMER WITHOUT A DISCONNECTION ORDER BY CA?**

**Affected Contract Provision: GT&C Attachment § 28.4**

**Q. SUBSEQUENT TO DISCONNECTION, DOES AT&T FLORIDA HAVE THE RIGHT TO REUSE NETWORK ELEMENTS OR RESOLD SERVICES FACILITIES?**

A. Yes, after disconnection, AT&T Florida has the right to reuse network elements or resold services facilities. If CA's end user transfers service to another Local Exchange Carrier, the facility becomes available for reuse by AT&T.

**Q. IN AN EFFORT TO RESOLVE THE ISSUE, WHAT REVISIONS TO THE LANGUAGE DOES AT&T FLORIDA OFFER?**

A. In the first sentence, AT&T Florida offers to add "resale" before End User and strike the language starting with the word "regardless" to the period. The section would then read as follows:

> 28.4 When a **resale** End User of CLEC elects to discontinue service and to transfer service to another Local Exchange Carrier, including AT&T-21STATE, AT&T-21STATE shall have the right to reuse the facilities provided to CLEC regardless of whether the End User served with such facilities has paid all charges to CLEC or has been denied service for nonpayment or otherwise. AT&T-21STATE will notify CLEC that such a request has been processed after the disconnect order has been completed.

**Q. IF CA ACCEPTS THE REVISION, WOULD THIS RESOLVE ISSUE 31?**

A. Yes, Issue 31 would be resolved if CA accepts AT&T's revisions in GT&C Section 28.4.

**Q. IN CASE THE AT&T FLORIDA REVISIONS ARE NOT ACCEPTED, HOW WOULD CLEC END USER'S CHOICE TO DISCONNECT SERVICE AFFECT CA'S UNBUNDLED NETWORK ELEMENTS ("UNES")?**

A. CLEC End User's choice to disconnect would not affect CA's UNEs in any way. UNEs provisioned for CA would not be disconnected or changed as the result of an end user's choice to disconnect, until CA submitted its disconnect order.

**Q. DOES THE LANGUAGE IN SECTION 28.4 ENABLE AT&T FLORIDA TO DISCONNECT A UNE THAT HAS BEEN ORDERED AND PAID FOR BY CA?**

A. No, the language does not address UNEs that have been ordered by and are being paid for by CA. This Section is specific to a CLEC End-User who discontinues its service and transfers to another Local Exchange Carrier.

**ISSUE 44: SHOULD THE AGREEMENT CONTAIN A DEFINITION FOR HDSL-CAPABLE LOOPS?**

**Affected Contract Provisions: UNE Attachment § 16.5**

**Q. SHOULD THE AGREEMENT CONTAIN A DEFINITION FOR HDSL-CAPABLE LOOPS?**

A. No. There is no difference between an HDSL loop and an HDSL-capable loop. An HDSL loop is simply a dry copper loop with certain design specifications that is capable of a signal speed of 1.544 megabytes per second ("MBPS"). The actual transmission speed is achieved when the appropriate electronic equipment is added to each end of the loop. Whether CA orders an HDSL loop or and HDSL-capable loop, it receives exactly the same facility, a copper loop capable of 1.544 mbps. CA concedes this point in its Responses to Staff's First Set of Interrogatories, No. 19. The only difference discernable by CA is the electronics that CA must place on each end of the loop to actually provide the 1.544 mbps transmission. There is no separate element distinct from an HDSL loop that can be defined as an HDSL-capable loop. Thus, no separate definition should be required.

**Q. WHY DOES CA WANT A SECOND DEFINITION FOR AN HDSL LOOP?**

A. CA appears to desire a second definition simply to evade the caps that limit the number of DS1 loops that can be purchased at UNE rates. HDSL loops are subject to the DS1 loop cap in an impaired wire center because HDSL loops are included in the CFR definition of a DS1 loop. As defined in CFR 51.319, a DS1 loop is a digital local loop having a total digital signal speed of 1.544 megabytes

per second. DS1 loops include, but are not limited to, two-wire and four-wire copper loops capable of providing high-bit rate digital subscriber line services ("HDSL"), including T1 services. It is subject to the cap in an impaired wire center (i.e., one that does not have at least 60,000 business lines and at least four fiber-based collocators). By attempting to redefine HDSL loops, CA is creating an artificial distinction and thereby evading the caps by claiming that an HDSL-capable loop is not subject to the caps. CA essentially concedes this point in its Responses to Staff's First Set of Interrogatories, No. 17.

**Q. HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

**A.** The Commission should reject CA's proposed language addition UNE Attachment, Section 16.5 in its entirety.

**ISSUE 48a: SHOULD THE PROVISIONING DISPATCH TERMS AND RELATED CHARGES IN THE OSS ATTACHMENT APPLY EQUALLY TO BOTH PARTIES?**

**Affected Contract Provisions: OSS Attachment § 6.4**

**Q. DO AT&T FLORIDA AND CA PROVISION SERVICES FOR EACH OTHER?**

A. No. AT&T Florida receives orders from CA and proceeds to complete the orders as requested. Sometimes completion of an order requires AT&T Florida to dispatch a technician to complete an order. AT&T Florida never orders services from CA and CA never dispatches on behalf of AT&T Florida. For that reason

alone reciprocity of the ordering and provisioning requirements in Section 6.4 is simply inapplicable.

**Q. WHAT IS AT&T FLORIDA'S PROCESS FOR COMPLETING SERVICE ORDERS?**

A. AT&T Florida completes UNE service orders to meet the parameters of the UNE that CA orders. Occasionally, there may be a case in which CA has not completed its work in the collocation area. Under that circumstance, AT&T Florida technicians proceed with working the service order and testing the loop for continuity and resistive balance. This assures that the loop is free of any physical faults and meets the parameters of the UNEs ordered by CA prior to completion of the order by the due date.

**Q. DOES CA'S PROPOSED LANGUAGE PROVIDE RECIPROCAL TERMS FOR THE PARTIES RELATED TO PROVISIONING?**

A. No. The reciprocal scenario whereby AT&T Florida provides CA with incorrect or incomplete information (e.g., incomplete address, incorrect contact name/number, etc.) simply will never occur; therefore, no reciprocal terms for billing should be included in the contract. The address and contact information would be transmitted from CA to AT&T Florida on the service order. AT&T Florida would never submit a service order nor order any service from CA. Thus, in this context, CA's proposed reciprocity is meaningless. OSS Section 6.3 deals with ordering and provisioning. CA's proposed addition of Section 6.4 expands the scope of 6.3 far beyond ordering and provisioning. Under the guise of ordering and provisioning within the context of the OSS Attachment, CA wants

the Commission to award CA the ability to bill AT&T Florida for any dispatch by CA based simply on a claim that AT&T Florida created the problem. The language in Section 6.3 of the OSS Attachment limits AT&T Florida's ability to bill CA to include only situations in which incorrect or incomplete information, such as address, or contact name/number, has been provided by CA and the incorrect/incomplete information resulted in an additional AT&T Florida dispatch. The proposed Section 6.4 contains no limits, enables CA alone to determine that the issue was caused by AT&T Florida, and bills AT&T Florida for all dispatches that CA attributes to AT&T Florida's error.

**Q. HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

A. The Commission should reject the addition of Section 6.4 as proposed by CA. There is simply no basis to insert an open-ended provision that allows CA to bill AT&T Florida for a dispatch anytime it claims AT&T Florida supposedly created a problem for CA. During the provisioning process, prior to dispatching, the parties should employ due diligence to isolate the trouble to determine its origin, and to move toward resolving the problem. CA's proposal fails to ensure that CA provides due diligence to isolate faults prior to reporting provisioning trouble. Rather, the language assumes that any problems are automatically attributed to AT&T Florida, and contains no limits. CA's proposed addition of a 6.4 to the ICA should be rejected.

**ISSUE 48b: SHOULD THE REPAIR TERMS AND RELATED CHARGES IN THE OSS ATTACHMENT APPLY EQUALLY TO BOTH PARTIES?**

**Affected Contract Provisions: OSS Attachment § 7.12**

**Q. IS THIS ISSUE ESSENTIALLY THE SAME AS ISSUE 48A?**

A. Yes. For the same reasons it should be resolved in the same way; CA's proposed addition 7.12 to Section 7.11 should be rejected. As with the previous discussion, the idea of reciprocity does not apply in the context of trouble repair. The activities of AT&T Florida are not comparable to the activities of CA in a repair context. Because AT&T Florida does not request repair services from CA, AT&T will never provide CA with incorrect or incomplete information (e.g., incomplete address, incorrect contact name/number, etc.). The address and contact information would be transmitted from CA to AT&T Florida on the repair ticket. AT&T Florida would never submit a trouble ticket to CA (as it would not have ordered any service from CA). Thus, no reciprocal charges are appropriate.

**Q. ARE THERE PROBLEMS WITH CA'S LANGUAGE OTHER THAN SIMPLE RECIPROCITY?**

A. Yes. Under the guise of repair within the context of the OSS Attachment, CA wants the Commission to award CA the ability to bill AT&T Florida for any dispatch by CA based simply on a claim that AT&T Florida created the problem. However, Section 7.11 OSS language limits AT&T Florida's ability to bill CA to include only situations in which incorrect or incomplete information, such as address, or contact name/number, has been provided by CA and the incorrect/incomplete information resulted in an additional AT&T Florida repair

dispatch. The proposed addition to Section 7.11 contains no limits, enables CA alone to determine that the issue was caused by AT&T Florida, and allows CA to bill AT&T Florida for all dispatches that CA attributes to AT&T Florida's error. When trouble is discovered, prior to dispatching, the parties should employ due diligence to isolate the trouble to determine its origin, and to move toward resolving the problem. It is impractical and inefficient for the parties to attempt to charge each other for purportedly erroneous attributions of fault other than incorrect information received on the initial repair ticket. In addition, AT&T Florida would have no reason to "tamper with CA End User's service".

**Q. HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

A. The Commission should reject the addition of 7.12 to Section 7.11 as proposed by CA. There is simply no basis to insert an open-ended provision that allows CA to bill AT&T Florida for a dispatch anytime it claims AT&T Florida has created a problem for CA. During the repair process, prior to dispatching, the parties should employ due diligence to isolate the trouble to determine its origin, and to move toward resolving the problem. CA's proposal fails to ensure that CA provides due diligence to isolate faults prior to reporting trouble. Instead, the proposed language assumes that any problems are attributed to AT&T Florida, and contains no limits. CA's proposed addition of 7.12 to the ICA should be rejected.

**ISSUE 50: IN ORDER FOR CA TO OBTAIN FROM AT&T FLORIDA AN UNBUNDLED NETWORK ELEMENT (UNE) OR A COMBINATION OF UNES FOR WHICH THERE IS NO PRICE IN**

**THE ICA, MUST CA FIRST NEGOTIATE AN AMENDMENT TO THE ICA TO PROVIDE A PRICE FOR THAT UNE OR UNE COMBINATION?**

**Affected Contract Provisions: UNE Attachment § 1.3**

**Q. PLEASE EXPLAIN WHAT THIS ISSUE IS ABOUT.**

A. CA proposes that the Commission allow it to obtain a UNE or UNE combination from AT&T Florida at the price that appears in another carrier's ICA if CA's ICA includes no price for the UNE or UNE combination. Specifically, CA proposes the following language for section 1.3 of the UNE Attachment:

> ***If CA orders any UNE or UNE combination for which a price does not exist in this agreement, but for which a price does exist in any then-current Commission-Approved AT&T-21STATE Interconnection Agreement, then CA shall be entitled to obtain that UNE or UNE combination on a non-discriminatory basis under the same rate and terms. The Parties shall execute an amendment within thirty (30) days of request from CA for such an amendment, and the UNE(s) shall be available to CA for ordering within five (5) days after execution of the amendment.***

CA's proposal is contrary to controlling federal law, and its language therefore cannot be included in the ICA.

**Q. IS THIS ONE OF THE PURE LEGAL ISSUES YOU MENTIONED IN THE INTRODUCTION TO THIS TESTIMONY?**

A. Yes, it is. There are no facts or policies for the Commission to consider on this issue; the Commission must reject CA's proposal because it is contrary to the 1996 Act.

**Q. HOW SO?**

A. Counsel informs me it is contrary to law for two reasons: First, once a CLEC has an ICA with an ILEC, the ILEC's only obligations to the CLEC with respect to the requirements of section 251 of the 1996 Act – including interconnection, UNEs and resale – are the obligations set forth in that ICA. Thus, the CLEC must see to it, through the negotiation and arbitration process, that the ICA sets forth everything the CLEC wants and is entitled to under the 1996 Act. If the ICA does not cover resale, for example (as it may not because some CLECs choose not to engage in resale), then the CLEC cannot obtain services from the ILEC for resale until the CLEC obtains a new ICA. Similarly, if the ICA doesn't provide for the CLEC to obtain a particular UNE at a specified price, the CLEC cannot obtain that UNE from the ILEC (subject, of course, to the occurrence of a possible change of law or negotiation/arbitration of a new ICA).

Second, CA's proposal violates the FCC's "All-or-Nothing" Rule. That rule prohibits CLECs from adopting only selected parts of an ICA; if a CLEC wants to obtain the benefit of prices or terms of an existing, Commission-approved ICA, it can only do so by adopting that ICA in its entirety. By asking the Commission to allow it to adopt just a price or two from another CLEC's ICA, CA is asking the Commission to violate the FCC's rule.

**Q. PLEASE ELABORATE ON YOUR FIRST POINT – THAT ONCE THE COMMISSION APPROVES AN ICA BETWEEN CA AND AT&T FLORIDA, CA'S ONLY SECTION 251 RIGHTS WITH RESPECT TO AT&T FLORIDA ARE THE RIGHTS SPELLED OUT IN THAT ICA.**

A. Section 252 of the 1996 Act requires ILECs to enter into what § 252(a) calls "binding agreements" with requesting CLECs. 47 U.S.C. § 252(a). Those

agreements may be arrived at through negotiation, arbitration, or adoption. To the extent they are arrived at through negotiation, § 252(a) allows the parties to agree to what they wish "without regard to the standards set forth in subsections (b) and (c) of Section 251" – that is, without regard to the substantive requirements of the 1996 Act that govern interconnection, network element unbundling and so forth. Thus, AT&T Florida and a requesting CLEC are free to enter into an ICA that, for example, does not require AT&T Florida to provide a particular telecommunication service for resale, even though § 251(c)(4) of the 1996 Act generally requires ILECs to provide that service, or to agree on prices that are different than those called for by the 1996 Act. The give and take of negotiation is a core value of the 1996 Act,[5] so the parties' agreement on a contract that entitles the CLEC to more than the law requires in one respect, or to less than the law requires in another, must be respected. That is what makes it a "binding agreement."

The interconnection agreement then is "the Congressionally prescribed vehicle for implementing the substantive rights and obligations set forth in the Act." *Michigan Bell Tel. Co. v. Strand.*, 305 F.3d 580, 582 (6th Cir. 2003). Accordingly, once a carrier enters "into an interconnection agreement in accordance with section 252, . . . it is then regulated directly by the interconnection agreement." *Law Office of Curtis V. Trinko LLP v. Bell Atl.*

[5] *See, e.g., AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366, 405 (1999) (Thomas, J., concurring in part and dissenting in part) ("[s]ection 252 sets up a preference for negotiated interconnection agreements"); *Verizon North, Inc. v. Strand*, 309 F.3d 935, 940 (6th Cir. 2002) ("private negotiation . . . is the centerpiece of the Act").

*Corp.*, 305 F.3d 89, 104 (2d Cir. 2002), *rev'd in part on other grounds sub nom.*, *Verizon Commc'ns, Inc. v. Law Offices of Curtis V. Trinko, LLP*, 540 U.S. 398 (2004). With the interconnection agreement in place, the requirements of the 1996 Act no longer apply. *Mich. Bell Tel. Co. v. MCImetro Access Trans. Servs., Inc.*, 323 F.3d 348, 359 (6th Cir. 2003) ("[O]nce an agreement is approved, these general duties [under the 1996 Act] do not control" and parties are "governed by the interconnection agreement" instead, and "the general duties of [the 1996 Act] no longer apply").

**Q, HOW DOES THAT APPLY TO CA'S PROPOSAL TO BE ALLOWED TO OBTAIN A UNE OR A UNE COMBINATION FROM AT&T FLORIDA AT THE PRICE IN ANOTHER CARRIER'S ICA IF THERE IS NO PRICE FOR THE UNE IN THE ICA THE PARTIES ARE NOW ARBITRATING?**

A. If CA wanted to be able to obtain a UNE or UNE combination from AT&T Florida, the 1996 Act required CA to make sure that its ICA covers – and includes a price for – that UNE or UNE combination. If CA failed to do that, CA cannot obtain that UNE or UNE combination from AT&T Florida.

**Q. IN ITS POSITION STATEMENT ON THE DPL, CA SAID, "CA BELIEVES THAT IT IS ENTITLED TO ORDER ANY ELEMENT WHICH AT&T IS REQUIRED TO PROVIDE AS A UNE, WHETHER OR NOT IT IS LISTED IN THIS AGREEMENT." HOW DO YOU RESPOND?**

A. CA is simply wrong, and CA provided no basis for its asserted belief.

**Q. CA'S PROPOSED LANGUAGE CONTEMPLATES THAT THE PARTIES WOULD AMEND THE ICA TO COVER THE MISSING UNE OR UNE COMBINATION. DOES THAT UNDERMINE YOUR ARGUMENT THAT CA IS ONLY ENTITLED TO WHAT THE ICA PROVIDES?**

A. Not at all. Once the ICA is in place, CA has no right to amend it willy-nilly. The parties can of course agree to amend it, and one party can force an amendment pursuant to the change of law provision in the ICA if there is a change of law that warrants an amendment. Other than that, though, the parties are bound by the ICA. If CA were to come to AT&T Florida during the term of the ICA and say, "I forgot to include this UNE in the ICA and now I want to amend the ICA to include it," AT&T Florida would be perfectly within its rights to decline to do so.

**Q. YOU SAID THAT CA'S PROPOSAL WAS CONTRARY TO LAW NOT ONLY BECAUSE CA'S RIGHTS ARE LIMITED TO THOSE PROVIDED BY THE ICA, BUT ALSO BECAUSE THE PROPOSAL VIOLATES THE "ALL-OR-NOTHING" RULE. PLEASE EXPLAIN.**

A. The FCC has squarely held that a carrier can obtain a product pursuant to another carrier's interconnection agreement *only* if it adopts that other carrier's agreement in its entirety. Thus, as applied here, the only way CA could lawfully obtain a UNE from AT&T Florida on the rates, terms and conditions of another carrier's ICA would be by adopting that ICA in its entirety.

Section 252(i) of the 1996 Act allows a requesting carrier to adopt the terms of an existing, state commission-approved ICA.[6] In its initial set of regulations implementing the 1996 Act, the FCC ruled that section 252(i) permits requesting carriers to "pick and choose" ICA provisions – that is, to adopt selected portions of an ICA, while not adopting others. In 2004, however, the

[6] 47 U.S.C. § 252(i) provides: "A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement."

FCC abandoned the "pick and choose" rule, and adopted the "all-or-nothing" rule that is now in place. The FCC stated,

> [W]e adopt an "all-or-nothing rule" that requires a requesting carrier seeking to avail itself of terms in an interconnection agreement to adopt the agreement in its entirety, taking all rates, terms, and conditions from the adopted agreement.

Second Report and Order, *In the Matter of the Review of the Section 252 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, 19 FCC Rcd 13494, (rel. July 8, 2004), at ¶ 1. Accordingly, the FCC promulgated 47 C.F.R. § 51.809(a):

> An incumbent LEC shall make available without unreasonable delay to any requesting telecommunications carrier any agreement ***in its entirety*** to which the incumbent LEC is a party that is approved by a state commission pursuant to section 252 of the Act, upon the same rates, terms, and conditions as those provided in the agreement. (Emphasis added.)

Consequently, CA can obtain a UNE from AT&T Florida pursuant to the rates and terms of another carrier's ICA only if CA adopts that ICA in its entirety.

**Q. HOW DOES THAT APPLY HERE?**

A. The Commission must reject CA's proposal that CA be allowed to obtain a UNE from AT&T Florida at a price in another carrier's ICA (with or without an amendment), because the proposal is directly contrary to the All-or-Nothing Rule. This not only is the law, but also is perfectly reasonable. The whole point of the All-or-Nothing Rule is that the UNE price in that other carrier's ICA might be a low price that AT&T Florida agreed to in exchange for a concession from the CLEC in another provision – a provision that CA is not proposing to adopt.

**ISSUE 51: SHOULD AT&T FLORIDA BE REQUIRED TO PROVE TO CA'S SATISFACTION AND WITHOUT CHARGE THAT A REQUESTED UNE IS NOT AVAILABLE?**

**Affected Contract Provisions: UNE Attachment § 1.5**

**Q. DOES CA HAVE ACCESS TO AT&T'S RECORDS TO CONFIRM AVAILABILITY OF FACILITIES IF IT IS SKEPTICAL OF AT&T'S DETERMINATION THAT FACILITIES ARE NOT AVAILABLE?**

A. Yes, CA has access to the same tools to determine the availability of facilities that AT&T Florida uses to make a determination. For example, CA may perform a mechanized Loop Make Up "LMU" by accessing the Loop Facility Assignment Center ("LFACS") via the GUI (Graphical User Interface) OSS like Enhanced Verigate, and by using either an existing telephone number or end user address. This process utilizes the same records AT&T Florida relies upon to determine availability, and would enable CA to conduct its own research if it is not satisfied with AT&T Florida's response. In addition, if CA desires, it may request AT&T Florida to perform a manual LMU at the charge found in the Pricing Schedule.

**Q. WHY IS CA'S PROPOSED LANGUAGE PROBLEMATIC?**

A. CA's proposed language would require AT&T Florida to prove unavailability of facilities to CA's satisfaction, with CA having sole discretion to determine if/when it is satisfied. AT&T Florida does not understand what proof it could offer CA other than the means already at CA's disposal to make the same determination. Moreover, CA's vague one-sided subjective standard may never be met. There must be a limit to one party's obligation to the other party. Accordingly, the Commission should reject CA's proposed addition to UNE 1.5.

**Q. WHAT RECOURSE WOULD CA HAVE IF IT BELIEVES AT&T'S RESPONSE IS INCORRECT?**

A. If CA believes that AT&T Florida's determination regarding a lack of facilities is incorrect, CA is free to invoke its right to dispute resolution under the ICA and further could submit the issue to the Commission for resolution.

**ISSUE 52: SHOULD THE UNE ATTACHMENT CONTAIN THE SOLE AND EXCLUSIVE TERMS AND CONDITIONS BY WHICH CA MAY OBTAIN UNES FROM AT&T FLORIDA?**

**Affected Contract Provisions: UNE Attachment § 1.9**

**Q. IS THIS ISSUE RESOLVED?**

A. Yes, AT&T Florida withdrew its language in UNE Section 1.9 and thereby resolved this issue.[7]

**ISSUE 53 a and b: SHOULD CA BE ALLOWED TO COMMINGLE ANY UNE ELEMENT WITH ANY NON-UNE ELEMENT IT CHOOSES?**

**Affected Contract Provisions: UNE Attachment § 2.3, UNE ATTACHMENT § 6.3.3**

**Q. WHAT IS THE DISPUTE IN ISSUES 53a AND 53b?**

A. As I will explain, Issue 53b has been resolved; there is no longer a dispute about UNE section 6.3.3. The disagreement that remains is whether the ICA should impose a commingling requirement that exceeds the commingling required by the FCC's definition.

[7] I note that AT&T Florida withdrew it's language not because it was incorrect, but because it was unnecessary to include the language in the ICA.

**Q. HOW DOES THE FCC DEFINE COMMINGLING?**

A. The FCC defines commingling in 47 C.F.R. § 51.5 as follows:

> Commingling means the connecting, attaching, or otherwise linking of an unbundled network element, or a combination of unbundled network elements, to one or more facilities or services that a requesting telecommunications carrier has obtained at wholesale from an incumbent LEC, or the combining of an unbundled network element, or a combination of unbundled network elements, with one or more such facilities or services.

**Q. HOW DOES CA PROPOSE DEFINE COMMINGLING?**

A. Section 2.3 of the UNE Attachment defines "Commingling" (or "Commingled Arrangement"). The provision begins with language on which the parties have agreed. After the agreed language, CA proposes to add:

> ***CLEC shall be entitled to commingle any UNE with any other service element purchased from AT&T-21STATE either from this Agreement or from any AT&T-21STATE tariff, so long as the combination is technically feasible. Such commingling shall be required even if the specific arrangement sought by CLEC is not commonly commingled by AT&T-21STATE.***

**Q. IS CA'S PROPOSED LANGUAGE CONSISTENT WITH THE FCC'S DEFINITION?**

A. No. The FCC's definition limits commingling to linking a UNE with facilities or services obtained from AT&T Florida at wholesale. The agreed language in the first sentence of UNE Attachment § 2.3 tracks this limitation. CA, however, seeks to undo that limitation by adding language that would allow it to commingle a UNE with "any other service element purchased from" AT&T Florida. CA's

added language does not limit commingling to "wholesale" services or facilities, as the FCC's definition requires.

In addition, CA's language would mandate commingling of a UNE with any "service element" – a term that is not defined and that CA might claim means any sub-part of a service or facility, even those that AT&T Florida does not provide at wholesale on a stand-alone basis. CA's added language is overreaching and inconsistent with the binding FCC definition of commingling, and the Commission should reject it.

**Q. IS THERE ANY OTHER DISPUTED LANGUAGE IN UNE SECTION 2.3?**

A. No. AT&T Florida previously proposed a sentence for UNE section 2.3 that CA opposed, but AT&T Florida has withdrawn that sentence. AT&T Florida has also withdrawn its previously proposed UNE section 6.3, which was closely related to the sentence in section 2.3 that AT&T Florida withdrew. The upshot of this is that Issue 53b is resolved, and the only dispute in Issue 53a concerns the unlawful language proposed by CA and quoted above.

**ISSUE 54a: IS THIRTY (30) DAYS' WRITTEN NOTICE SUFFICIENT NOTICE PRIOR TO CONVERTING A UNE TO THE EQUIVALENT WHOLESALE SERVICE WHEN SUCH CONVERSION IS APPROPRIATE?**

**Affected Contract Provisions: UNE Attachment § 6.2.6**

**Q. UNDER WHAT CIRCUMSTANCES WOULD SUCH A CONVERSION FROM UNE TO WHOLESALE SERVICES BE APPROPRIATE? CAN YOU PROVIDE AN EXAMPLE?**

A. Such a conversion would be appropriate at such time CA fails to meet or ceases to meet the eligibility criteria applicable to the UNE or UNE combination. An example would be related to DS1 UNE loop "Caps" in Section 8.1.3.4.4 in this UNE Attachment. AT&T Florida is not obligated to provide CA more than ten (10) DS1 UNE Loops to any single Building in which DS1 UNE Loops have not been otherwise declassified. A conversion to wholesale services would be appropriate for CA's DS1 UNE Loops to that building over the count of ten (10).

**Q. IS SUCH A CONVERSION RELATED TO RECLASSIFICATION OF A WIRE CENTER OR A UNE SUNSET?**

A. No, this conversion would not be related to reclassification of a wire center or a sunset of any kind. It would be specifically related to CA failing to meet or ceasing to meet the eligibility criteria, such as going over a cap.

**Q. HOW WOULD CA KNOW IN ADVANCE THAT IT WAS ABOUT TO REACH OR HAS GONE OVER THE CAP?**

A. CA should be well aware of how many loops it has to every building it serves. CA should have this information and therefore should not need notice from AT&T Florida. Regardless, AT&T Florida has proposed providing 30 days' notice when CA's UNEs or UNE combinations no longer meet the eligibility criteria. CA can avoid the necessity of this notice, however, by effectively monitoring its activities and UNE and UNE combination loop inventory. This would enable CA to proactively convert the services on its own, rather than waiting until AT&T Florida manages the conversion for CA.

**Q. WHAT ADVANTAGE WOULD CA ENJOY BY DELAYING THE CONVERSION? WHAT DISADVANTAGE WOULD AT&T FLORIDA EXPERIENCE?**

A. By delaying the conversion from UNE to wholesale services, CA would enjoy the lower UNE rates for that length of time. By the same token, AT&T Florida would experience the loss of revenue equal to the difference between the lower UNE rates and the higher special access rates it is entitled to bill.

**Q. IS THIRTY (30) DAYS' WRITTEN NOTICE SUFFICIENT?**

A. Yes, because CA should already know it no longer meets the criteria, thirty (30) days' written notice is more than sufficient. CA's request of 180 days is simply an attempt to keep UNE rates as long as possible, which is unreasonable.

**ISSUE 54b: IS THIRTY (30) CALENDAR DAYS SUBSEQUENT TO WIRE CENTER NOTICE OF NON-IMPAIRMENT SUFFICIENT NOTICE PRIOR TO BILLING THE PROVISIONED ELEMENT AT THE EQUIVALENT SPECIAL ACCESS RATE/TRANSITIONAL RATE?**

**Affected Contract Provisions: UNE Attachment § 14.10.2.2, 14.10.2.3.1.1, and 14.10.2.3.1.2**

**Q. UNDER WHAT CIRCUMSTANCES WOULD SUCH A CONVERSION FROM UNE TO WHOLESALE SERVICES BE APPROPRIATE?**

A. Such a conversion would occur when AT&T Florida reclassifies a wire center and provides written notification to CLECs that the specific wire center meets one or more of the FCC's impairment thresholds.

**Q. IS ISSUE 54b AKIN TO ISSUE 54a?**

A. No, this issue 54b is related to the reclassification of a wire center. Issue 54a above is related to the scenario when CA fails to meet or ceases to meet the eligibility criteria applicable to the UNE or UNE combination.

**Q. WHAT RECOURSE DOES CA HAVE IF IT BELIEVES THE AT&T FLORIDA WIRE CENTER NON-IMPAIRMENT DESIGNATION IS NOT VALID?**

**A.** If CA disputes the AT&T Florida wire center non-impairment designation, it may provide a self-certification to AT&T Florida. Subsequent to that, AT&T Florida may choose to file for dispute resolution at the FPSC setting off a different timeline, during which AT&T Florida will continue to provide the high-capacity UNE loop or transport facility in question to CA at the rates in the pricing schedule. The wire center non-impairment process follows the FCC's Triennial Review Remand Order ("TRRO"),[8] which provides CLECs an opportunity to self-certify, which sets off a timeline different from the 30-day special access billing.

**Q. COULD THE TRUE UP ACTIVITY CAUSE A SERVICE OUTAGE FOR CA OR ITS CUSTOMERS?**

A. No, the language enables a true up of rates; no conversion of facilities is involved.

**Q. WHY IS THIRTY (30) CALENDAR DAYS SUBSEQUENT TO WIRE CENTER NOTICE OF NON-IMPAIRMENT SUFFICIENT?**

[8] *In re Unbundled Access to Network Elements, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338, *Order on Remand*, FCC 04-290 (Rel. Feb. 4, 2005) ("TRRO").

A. Thirty days is sufficient notice subsequent to wire center non-impairment for CA to pay special access rates because at such time the wire center meets the criteria set out by the FCC. In this situation, the wire center is non-impaired, and AT&T Florida is no longer obligated to offer UNE loop/transport elements at UNE rates to CA or other CLECs in this wire center. This provision does not relate to conversion of the elements, but simply relates to true up. CA's suggested 180 calendar days, or six months, is unreasonable.

**Q. WHAT ADVANTAGE WOULD CA ENJOY BY DELAYING THE TRUE UP? WHAT DISADVANTAGE WOULD AT&T FLORIDA EXPERIENCE?**

A. By delaying the true up for more than 30 days after notice, CA would enjoy the lower UNE rates for that length of time. By the same token, AT&T Florida would experience the loss of revenue equal to the difference between the lower UNE rates and the higher special access rates to which it is entitled.

**ISSUE 55: TO DESIGNATE A WIRE CENTER AS UNIMPAIRED, SHOULD AT&T FLORIDA BE REQUIRED TO PROVIDE WRITTEN NOTICE TO CA?**

**Affected Contract Provisions: UNE Attachment § 15.1**

**Q. WHAT EXISTING NOTICE IS AVAILABLE TO CA?**

A. There are two main ways that AT&T Florida notifies CLECs of network related changes. First, network information is posted on CLEC Online in the form of an Accessible Letter. As defined in the GT&C, Accessible Letter(s) means "the correspondence used to communicate pertinent information regarding AT&T

Florida to the CLEC community and is (are) provided via posting to the AT&T CLEC Online website". This website is accessible to all CLECs. Second, the Accessible Letters are sent via email to CLECs that subscribe to this process. The Accessible Letter process, with the option of direct notices, is used by all AT&T ILECs and is accepted by the CLEC community.

**Q. DOES CA HAVE THE ABILITY TO DESIGNATE INDIVIDUALS IN ITS ORGANIZATION TO RECEIVE THE ACCESSIBLE LETTERS?**

A. CA, and any CLECs that want to receive individual notices and thus not rely on CLEC Online, may subscribe to direct notices of Accessible Letters. A CLEC that elects this option specifies the recipients to whom AT&T Florida is to send the Accessible Letters. CA's proposal that the Commission require AT&T Florida to provide customized individualized notice just for CA's benefit would be discriminatory as to other CLECs, costly, inefficient, and patently unreasonable.

**ISSUE 56: SHOULD THE ICA INCLUDE CA'S PROPOSED LANGUAGE BROADLY PROHIBITING AT&T FLORIDA FROM TAKING CERTAIN MEASURES WITH RESPECT TO ELEMENTS OF AT&T FLORIDA'S NETWORK?**

**Affected Contract Provisions: UNE Attachment §4.6.4**

**Q. WHAT IS CA'S PROPOSAL?**

A. CA proposes the addition of a new UNE Attachment, Section 4.6.4. CA's proposal is as follows:

***AT&T-21-STATE shall not tamper with or convert an in-service UNE provided to CA for its own benefit or business purposes or for its own customers and/or substitute another UNE in its place.***

**Q. WHY IS CA'S LANGUAGE INAPPROPRIATE?**

A. First, AT&T Florida does not "tamper" with any CLEC's UNEs or services. If CA believes that AT&T Florida has done so, it is free to file a complaint and support its claim. Second, and more importantly, the language is overly broad and could inhibit AT&T Florida from maintaining its network in an efficient fashion. There is no reasonable basis to include CA's proposed Section 4.6.4 in the ICA.

**Q. WOULD AT&T FLORIDA HAVE A NECESSITY TO SUBSTITUTE A UNE?**

A. Yes. It may be necessary for AT&T Florida, in the course of maintaining and repairing its network, to switch CA's UNE from one facility to another to ensure the integrity of the UNE being provided to CA or to another CLEC. For example, if a cable serving CA is cut, it could be necessary for AT&T Florida to transfer CA's UNE circuit to a different cable to place it back in service. This certainly would not be tampering, but the vague unqualified language proposed by CA opens AT&T Florida to such a claim. CA's proposed addition UNE Attachment, Section 4.6.4 is unreasonable and should be rejected.

**ISSUE 57: MAY CA USE A UNE TO PROVIDE SERVICE TO ITSELF OR FOR OTHER ADMINISTRATIVE PURPOSES?**

**Affected Contract Provisions: UNE Attachment § 4.7.1**

**Q. DOES THE 1996 ACT ALLOW A CLEC TO USE A UNE TO PROVIDE SERVICE TO ITSELF OR FOR OTHER ADMINISTRATIVE PURPOSES?**

A. No. This is another pure legal issue and I am not an attorney, so I will summarize AT&T Florida's position based on input provided by counsel. Section 251(c)(3) of the 1996 Act requires an ILEC to provide UNEs to a CLEC "for the provision of a telecommunications service . . . ." 47 U.S.C. § 251(c)(3); *accord*, 47 C.F.R. §§ 51.307(a) and 51.309(d). The 1996 Act and the FCC's rules define a "telecommunications service" as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." 47 U.S.C. § 153(46); 47 C.F.R. § 51.5. A CLEC that used a UNE to provide service to itself or for its own administrative purposes would not be using that UNE to provide service "to the public" or "for a fee," and therefore would not be using the UNE to provide a telecommunications service.

**Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE 57?**

A. The Commission should approve AT&T Florida's proposed UNE section 4.7.1, which correctly states that CA cannot use a UNE to provide service to itself or for other administrative purposes.

**ISSUE 58a and b:**

**IS MULTIPLEXING AVAILABLE AS A STAND-ALONE UNE INDEPENDENT OF LOOPS AND TRANSPORT?**

**Affected Contract Provisions: UNE Attachment § 6.4.2 and UNE Attachment § 9.6.1**

**Q. IS MULTIPLEXING AVAILABLE AS A STAND-ALONE UNE INDEPENDENT OF LOOPS AND TRANSPORT?**

A. No, multiplexing is not available as a standalone UNE because it is not listed in 47 CFR §51.319. This is another legal issue. But a brief explanation is appropriate. FCC Rule 51.319 is the sole and exclusive list of UNEs, and states cannot add to it. Multiplexing is not on the list and, therefore, does not have to be provided on a stand-alone basis.

**Q. SINCE MULTIPLEXING MAY NOT BE ORDERED AS A STAND-ALONE UNE, IS MULTIPLEXING AVAILABLE IN SOME OTHER MANNER?**

A. Yes, a CLEC may order stand-alone multiplexing from AT&T Florida's special access tariff. Additionally, multiplexing may be ordered in conjunction with Unbundled Dedicated Transport ("UDT") at the time the UDT is ordered; in this instance it will be provided at the rates contained in the pricing schedule.

**Q. WHAT IS AT&T FLORIDA PROPOSING IN THIS ISSUE?**

A. AT&T Florida is proposing the following language (bolded and underlined) in Sections 6.4.2:

> 6.4.2 AT&T-21STATE is not obligated, and shall not, provide access to (1) an unbundled DS1 UNE Loop in combination, or Commingled, with a DS1 UDT facility or service or a DS3 or higher UDT facility or service, or an unbundled DS3 UNE Loop in combination, or Commingled, with a DS3 or higher UDT facility or service, or (2) an unbundled DS1 UDT facility in combination, or Commingled, with an unbundled DS1 UNE Loop **or a DS1 channel termination service, or to an unbundled DS3 UDT facility in combination, or Commingled, with an unbundled DS1 UNE Loop or a DS1 channel termination service,** or to an unbundled DS3 UNE Loop **or a DS3 or higher channel termination service** (collectively, the "Included Arrangements"), unless CLEC

certifies that all of the following conditions are met with respect to the arrangement being sought:

The remainder of the language has been agreed to by CA. CA opposes the addition of only the bolded/underlined language.

**Q. SHOULD THE LANGUAGE IN UNE, SECTION 6.4.2 MIRROR 47 CFR §51.318 (b)?**

A. Yes, Section 6.4.2 of the UNE Attachment should mirror 47 CFR §51.318 (b). AT&T Florida proposes to conform the ICA to the matching provision in 47 CFR §51.318 (b). CA is trying to prevent inclusion of the additional language that relates to channel termination to support its case that multiplexing must be priced as a UNE with or without associated transport.

**Q. IS THERE ANY BASIS FOR CA TO OBJECT TO CONFORMING LANGUAGE IN THE ICA TO SPECIFICALLY MIRROR THE FCC'S RULES?**

A. No. There is no reasonable basis for an objection to conforming the language. CA's opposition to the additional language to conform 6.4.2 to CFR §51.318(b) must be rejected.

**Q. SHOULD THE ICA CONTAIN THE DEFINITION OF MULTIPLEXING IN UNE SECTION 9.6.1?**

A. Yes, the definition in AT&T Florida's proposed UNE Attachment, Section 9.6.1, accurately defines multiplexing as an item ordered in conjunction with DS1 or DS3 UDT that converts a circuit from higher to lower bandwidth, or from digital to voice grade. Multiplexing is only available when ordered at the same time as DS1 or DS3 UDT at the rates set forth in the Pricing Schedule. Because the

definition conflicts with CA's desire to order standalone multiplexing, it has omitted the definition from the ICA. Because it does not appear elsewhere in the ICA, Section 9.6.1 is the appropriate location for the definition of multiplexing.

**ISSUE 59a: IF AT&T FLORIDA ACCEPTS AND INSTALLS AN ORDER FOR A DS1 AFTER CA HAS ALREADY OBTAINED TEN DS1S IN THE SAME BUILDING, MUST AT&T FLORIDA PROVIDE WRITTEN NOTICE AND ALLOW 30 DAYS BEFORE CONVERTING TO AND CHARGING FOR SPECIAL ACCESS SERVICE?**

**Affected Contract Provisions: UNE Attachment § 8.1.3.4.4**

**Q. DOES THE FCC LIMIT HOW MANY DS1 UNBUNDLED LOOPS CA CAN OBTAIN TO A SINGLE BUILDING?**

A. Yes. FCC Rule 319(a)(4)(ii) limits a CLEC to obtaining "a maximum of ten unbundled DS1 loops to any single building . . . ." 47 C.F.R. § 51.319(a)(4)(ii). Thus, if a carrier orders more than ten DS1 UNE loops to a single building, it is not entitled to pay DS1 UNE loop rates on loops 11 and above. Rather, it must switch to a DS3 unbundled loop, or build its own loops, or pay tariffed special access rates to AT&T Florida. *See Triennial Review Remand Order*, ¶ 181.

**Q. WHAT IS THE DISPUTED CONTRACT LANGUAGE THAT RELATES TO THIS?**

A. UNE section 8.1.3.4.4 begins with agreed language that recites the ten DS1 cap. The remainder of section 8.1.3.4.4 looks like this, with AT&T Florida's proposed language in bold underscore and CA's language in bold italics:

> If, notwithstanding this Section, CLEC submits such an order, at AT&T-21STATE's option it may accept or reject the order**, <u>but convert any requested DS1 Digital UNE Loop(s) in excess of the Cap to Special Access; applicable Special Access charges will apply to CLEC for such DS1 Digital</u>**

**<u>UNE Loop(s) as of the date of provisioning</u>.** ***If AT&T-21STATE accepts an order and installs the service, then it must follow the conversion process in this provision prior to billing for the circuit as special access Prior to conversion of a CLEC circuit to Special Access, AT&T-21STATE shall notify CLEC in writing and CLEC shall then have 30 days in which to transition or disconnect the circuit prior to conversion by AT&T-21STATE or to invoke the dispute resolution process in this agreement if it believes that AT&T is not entitled to the conversion.***

**Q. DOES AT&T FLORIDA'S PROPOSED LANGUAGE ACCURATELY REFLECT THE LAW?**

A. Yes. It correctly provides that if CA orders more DS1s than the FCC's rules permit, AT&T Florida can accept the order but convert the DS1s that exceed the cap from UNE rates to special access rates.

**Q. DOES CA'S PROPOSED LANGUAGE ACCURATELY REFLECT THE LAW?**

A. No. CA's language provides that if AT&T Florida accepts an order for a DS1 unbundled loop to a building where CA has already met the cap, AT&T Florida must provide 30 days' prior written notice before converting that facility to special access and charging the tariffed special access rate. In other words, CA proposes to put the burden on AT&T Florida to track the number of CA's DS1 unbundled loops to make sure they do not exceed the cap, and to keep charging UNE rates for at least a month after it discovers that CA has improperly obtained a DS1 facility that exceeds the cap.

**Q. DOES THE FCC REQUIRE ILECS TO TRACK CLECS' LOOP TOTALS AND DELAY ENFORCING THE TEN DS1 CAP IN THIS MANNER?**

A. No. As the carrier that orders and obtains DS1 UNE loops, CA is responsible for tracking the number of DS1 UNE loops it orders to any building and knowing when it has reached the ten DS1 cap. AT&T Florida is not required to notify CA when it exceeds the cap. Nor, if it fills an order for a DS1 UNE loop that exceeds the cap, is AT&T Florida required to keep charging UNE rates for a 30-day notice period. A CLEC has no legal right to obtain more than 10 DS1 UNE loops to a building, and if CA exceeds that limit, AT&T Florida is entitled to charge special access rates for the extra circuits from the day they are provisioned, regardless of whether AT&T Florida notified CA it exceeded the cap or of when AT&T Florida discovers the error. CA's language would unfairly require AT&T Florida to act as CA's UNE record keeper and would unlawfully allow CA to pay UNE rates for some period when it has no legal right to UNE rates.

**ISSUE 59b: MUST AT&T PROVIDE NOTICE TO CA BEFORE CONVERTING DS3 DIGITAL UNE LOOPS TO SPECIAL ACCESS FOR DS3 DIGITAL UNE LOOPS THAT EXCEED THE LIMIT OF ONE UNBUNDLED DS3 LOOP TO ANY SINGLE BUILDING?**

**Affected Contract Provisions: UNE Attachment § 8.1.3.5.4**

**Q. IS THIS ISSUE ESSENTIALLY THE SAME AS ISSUE 59a?**

A. Yes; the only difference is that this issue concerns DS3 loops instead of DS1s. FCC Rule 319(a)(5)(ii) limits a CLEC to "a maximum of a single unbundled DS3 loop to any single building . . . ." 47 C.F.R. § 51.319(a)(5)(ii). When a CLEC needs two or more DS3's to single building, the CLEC must either self-deploy DS3 beyond the first one or find some other way to carry its traffic – it cannot obtain a second DS3 loop at UNE rates from the ILEC. *See Triennial Review*

*Remand Order*, ¶ 177 & n.483. And if a carrier orders more than one DS3 UNE loop to a single building, the ILEC is entitled to charge special access rates for those additional circuits above the cap. As with Issue 59a, CA seeks to avoid these requirements and shift the burden to AT&T Florida to act as CA's record keeper and allow CA to keep paying UNE rates for some period when it has no right to do so. Thus, the Commission should adopt AT&T Florida's language and reject CA's proposed language for Issue 53b for the same reasons as on Issue 59a.

**ISSUE 59c: FOR UNBUNDLED DS1 OR DS3 DEDICATED TRANSPORT CIRCUITS THAT AT&T FLORIDA INSTALLS THAT EXCEED THE APPLICABLE CAP ON A SPECIFIC ROUTE, MUST AT&T FLORIDA PROVIDE WRITTEN NOTICE AND ALLOW 30 DAYS PRIOR TO CONVERSION TO SPECIAL ACCESS?**

**Affected Contract Provisions: UNE Attachment §§ 9.6.2, 9.6.3[9]**

**Q. HOW DOES THIS ISSUE RELATE TO 59a AND 59b?**

A. Once again, it is essentially the same issue, but in this instance it pertains not to loops, but to DS1 and DS3 dedicated transport.

**Q. SHOULD AT&T FLORIDA BE OBLIGATED TO PROVIDE 30 DAYS' WRITTEN NOTICE TO CA BEFORE CONVERTING TO AND CHARGING FOR SPECIAL ACCESS SERVICE FOR DS1 UDT OR DS3 UDT CIRCUITS OVER THE CAP ON A ROUTE?**

A. No, because AT&T Florida is not obligated to provide more than twelve DS3 UDT circuits and ten DS1 UDT circuits on any route, AT&T Florida should not be obligated to provide 30 days' written notice to CA before converting transport

[9] CA's Petition for Arbitration, and consequently DPLs and Issue Lists, identify the affected contract provisions as subsections of UNE § 9.1.5. The affected provisions are in fact sections 9.6.2 and 9.6.3, as indicated above.

circuits that exceed the UNE limit it to special access. If CA does not want to pay special access rates, CA should cease ordering when the cap has been met. If CA has already obtained the limit of DS1 UDT or DS3 UDT circuits on a single route, and orders additional UDT circuits, AT&T Florida may choose to reject the order or to install the service. Once it is installed, AT&T Florida may convert any UDT circuit in excess of the cap to special access with no notice.

**Q. HOW WOULD CA KNOW IT IS ABOUT TO REACH OR GO OVER THE CAP ON A SINGLE ROUTE?**

A. By monitoring its activities and DS1 UDT and DS3 UDT circuit inventory on a given route, CA would know when it is about to reach or go over the cap.

**Q. WHAT WOULD BE THE PRACTICAL EFFECT OF DELAYING THE CONVERSION FOR 30 DAYS AS CA PROPOSES?**

A. By requiring 30 days' written notice from AT&T Florida and thereby delaying the conversion of the UDT circuits from UNE to special access, CA would enjoy the lower UNE rates for that length of time. By the same token, AT&T Florida would experience the loss of revenue equal to the difference between the lower UNE rates and the higher special access rates it is entitled to bill.

**Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE 59c?**

A. As with Issues 59a and 59b, the Commission should reject CA's proposed language that would unreasonably make AT&T Florida CA's UNE record keeper and unlawfully allow CA to pay UNE rates for facilities that CA has no right to obtain at UNE rates.

**ISSUE 62a: SHOULD THE ICA STATE THAT OS/DA SERVICES ARE INCLUDED WITH RESALE SERVICES?**

**Affected Contract Provisions: Customer Information Services Attachment § 1.2.2**

**Q. ARE THE OS/DA SERVICES PROVIDED FOR RESALE SERVICES REQUIRED TO BE ORDERED BY CA?**

A. No. In the context of resale of retail services (resale), a CLEC purchases in its entirety the existing retail service being provided to the customer the CLEC acquires. Because AT&T Florida's retail local service includes operator services and directory assistance ("OS/DA") each resale line comes equipped with OS/DA services. Thus, CA does not order or request them. CA obtains them simply by purchasing the resold service of a retail customer.

**Q. IS THE PROCESS FOR OS/DA SERVICES DIFFERENT FOR FACILITES-BASED END USERS?**

A. Yes, CA must order OS/DA services for each facilities-based end user. In other words, the OS/DA service does not come equipped on a facilities-based end user's line unless CA so equips it.

**Q. IF IT DESIRES, MAY CA CHOOSE TO REMOVE OS/DA SERVICES FROM A RESALE LINE?**

A. Yes, if CA desires to remove the OS/DA service from a resale line, it must order the appropriate blocking for each line and pay the associated charges.

**Q. DOES AT&T FLORIDA OFFER ITS RETAIL END USERS THE ABILITY TO BLOCK OS/DA SERVICES?**

A. Yes, AT&T Florida's retail end users do have the ability to block OS/DA services.

**Q. HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

A. The Commission should approve AT&T Florida's proposed language in 1.2.2 and make clear that the ICA should state that OS/DA services are included with resale services.

**ISSUE 62b: DOES CA HAVE THE OPTION OF NOT ORDERING OS/DA SERVICE FOR ITS RESALE END USERS?**

**Affected Contract Provisions: Customer Information Services Attachment § 1.2.3.3**

**Q. DOES CA HAVE THE OPTION OF NOT ORDERING OS/DA SERVICE FOR ITS RESALE END USERS?**

A. No, each resale line comes equipped with OS/DA.

**Q. IF IT DESIRES, MAY CA CHOOSE TO REMOVE OS/DA SERVICES FROM A RESALE LINE?**

A. Yes, if CA desires to remove the OS/DA service from a resale line, it must order the appropriate blocking for each line and pay the associated charges.

**ISSUE 63: SHOULD CA BE REQUIRED TO GIVE AT&T FLORIDA THE NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF CA'S END USER**

This issue is resolved. AT&T has accepted CA's language for this ICA provision.

**ISSUE 64: WHAT TIME INTERVAL SHOULD BE REQUIRED FOR SUBMISSION OF DIRECTORY LISTING INFORMATION FOR INSTALLATION, DISCONNECTION, OR CHANGE IN SERVICE?**

**Affected Contract Provisions: Customer Information Services §6.1.5**

**Q. WHAT TIME INTERVAL SHOULD BE REQUIRED FOR SUBMISSION OF DIRECTORY LISTING INFORMATION FOR INSTALLATION, DISCONNECTION, OR CHANGE IN SERVICE?**

A. Within one (1) business day of installation, disconnection or change is the appropriate time for CA to submit directory listing information.

**Q. WHAT IS THE REASON AT&T FLORIDA SET THE ONE BUSINESS DAY REQUIREMENT FOR SUBMISSION OF DIRECTORY LISTING INFORMATION?**

A. AT&T works hard to maintain the accuracy of the Directory Assistance ("DA") database. This requires that information be updated as soon as possible to ensure that customers seeking directory assistance have the most accurate information available. The sooner the database is updated the better because it is unlikely the new customer will provide updated information to all those who may wish to reach the customer. Those wishing to reach the customer can obtain directory listing only if it is in the DA database. AT&T Florida set the one business day requirement to ensure the same level of quality for accurate directory listings that AT&T Florida provides for itself, and for other CLECs.

**Q. HOW WOULD DELAYED SUBMISSIONS AFFECT CA'S END USERS?**

A. CA's end users may be harmed by the inability of others to find the CA Customer's number in the absence of up to date DA submissions. The longer it takes CA to make directory listing submissions the more likely this is so.

Directory listings will not be updated until AT&T Florida receives the submission from CA. CA is doing a disservice to its end users by not providing the listings timely as their end users' listings will not be accurate.

**Q. HOW WOULD DELAYED SUBMISSIONS AFFECT AT&T FLORIDA?**

A. Delayed submissions would simply be one more administrative step to and the attendant cost to query CA for its DA submission information. AT&T Florida would place the directory listing service order in pending status. If the pending service orders are not resolved timely by CA, AT&T Florida would contact CA in an attempt to resolve the issue. This effort could be avoided if CA submits the directory listing within the timeframe set out in the ICA.

**Q. HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

A. The Commission should reject CA's proposal that it have no specific timelines for submission of DA listing information and adopt AT&T Florida's language in the in CIS section 6.2.3.

**ISSUE 65: SHOULD THE ICA INCLUDE CA'S PROPOSED LANGUAGE IDENTIFYING SPECIFIC CIRCUMSTANCES UNDER WHICH AT&T FLORIDA OR ITS AFFILIATES MAY OR MAY NOT USE CLEC SUBSCRIBER INFORMATION FOR MARKETING OR WINBACK EFFORTS?**

**Affected Contract Provisions: Customer Information Services § 6.1.9**

**Q. REGARDING AT&T'S TREATMENT OF SUBSCRIBER LISTING INFORMATION, IS IT APPROPRIATE TO POINT TO SECTION 222 OF THE ACT?**

A. Yes, it is appropriate to point to 47 U.S.C §222. This section describes the treatment of customer proprietary network information and subscriber listings and no further language or criteria is necessary.

**Q. WHY IS CA'S LANGUAGE DESCRIBING POTENTIAL CIRCUMSTANCES IN WHICH AT&T FLORIDA MAY OR MAY NOT USE SUBSCRIBER LISTING INFORMATION INAPPROPRIATE?**

A. CA's language attempts to add specific criteria language that must be met to enable AT&T or its affiliates to use CA subscriber information. This additional language is not appropriate because the original language cited Sections 251 and 271 of the Act, then AT&T Florida provided additional language that cites Section 222. The three Sections of the Act sufficiently address the parties' requirements, therefore, no additional details regarding scenarios or criteria is necessary. AT&T Florida complies with these Sections of the Act.

**ISSUE 66: FOR EACH RATE THAT CA HAS ASKED THE COMMISSION TO ARBITRATE, WHAT RATE SHOULD BE INCLUDED IN THE ICA?**

**Q. WHICH DISPUTED PRICES DO YOU ADDRESS?**

A. I address prices related to UNEs, commingling, EELs, collocation, and branding for directory assistance and operator services.

**Q. HAS THE COMMISSION PREVIOUSLY APPROVED COST-BASED PRICES FOR THE DIRECTORY ASSISTANCE, OPERATOR SERVICES, UNES, AND COLLOCATION RATE ELEMENTS CA CHALLENGES?**

A. The Commission previously approved AT&T Florida's UNE rates in Docket No. 990649-TP, Order No. PSC-01-2051-FOF-TP and Docket No. 990649A-TP, Order No. PSC-02-1311-FOF-TP. Collocation rates were previously approved in

Dockets Nos. 981834-TP and 990321-TP, Orders Nos. PSC-04-0895-FOF-TP and PSC-04-0895A-FOF-TP. There are no Commission approved rates for branding for directory assistance and operator services.

**Q. ON WHAT BASIS DOES AT&T CHARGE FOR BRANDING FOR DIRECTORY ASSISTANCE AND OPERATOR SERVICES SINCE THERE ARE NO COMMISSION APPROVED COST BASED RATES?**

A. Branding for directory assistance and operator services are not UNEs and are subject to market based rates. For these services, AT&T charges market-based rates. The charges are identical for every CLEC in Florida.

**Q. DOES CA HAVE ANY SUPPORT FOR ITS PROPOSED RATES?**

A. To the best of my knowledge, no; certainly, CA has not provided any such support so far.

**Q. IS CA ENTITLED TO ARBITRATE NEW RATES IN THIS PROCEEDING?**

A. No. For the same reasons discussed in Witness Pellerin's testimony, CA is not entitled to arbitrate new rates in this proceeding.

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

A. Yes.

# Vendor Approval Process for AT&T 21-State LEC Approved Central Office Installation Vendors (Tier 1 and Tier 2 Vendors)

A Tier 1 vendor is defined as a vendor that can perform installation work throughout the central offices (wireline and mobility) and work around working AT&T customers' circuits. These vendors and their work force comply and are knowledgeable of AT&T's technical practices, process, and safety requirements. Currently, AT&T is not approving additional Tier 1 vendors at this time.

A Tier 2 vendor is defined as a vendor that can perform installation work within a collocator cage or within a collocator's equipment footprint only. They are not required to go through the Tier 1 approval process. They are required to send a representative to attend a one-day training course regarding AT&T central office awareness. Upon completing the course, they will be given a certificate that will enable them to perform collocator installations as defined in this paragraph. To apply for Tier 2 approval and to schedule training, a vendor must contact Virginia Berger at vb4156@att.com. There is a nominal fee for the training.

The remainder of this document outlines AT&T process for becoming an approved Tier 1 vendor:

AT&T uses a common vendor approval and management process for AT&T LEC central office installation across the states in which AT&T is the LEC. The vendor approval process is managed by two-tiered teams: Local Vendor Review Teams (LVRT) and/or Regional Vendor Review Teams (RVRTs). In addition, a single oversight team called the Vendor Approval Team (VAT) made up of representatives from the AT&T LECs sets policy and manages the process. VAT selects potential new Tier 1 vendors to be entered into the approval process on an as-needed basis depending upon AT&T's current and future demands for additional capacity required to meet the overall installation requirements (including collocation) in each region. The VAT selects a potential Tier 1 vendor to be evaluated for approval based on the vendor's overall qualifications (vendor questionnaire and financial review) from the CO Vendor Waiting List maintained by AT&T's contracting department (see contact below).
The LVRTs and RVRTs also review the quality and performance of the existing approved vendors for recommendations of corrective action, probation and/or removal from the approved vendor list. These recommendations are then presented to the VAT for approval. The VAT manages the process policy.

A new CO installation vendor, including vendors recommended by the CLECs or CLECs that have their own installation organizations, may apply to be considered for the process by contacting an AT&T Services, Inc. contract manager via email for central office installation (Troy Young at ty6159@att.com or Fran Shepard at fs7175@att.com). The vendor will be provided a supplier questionnaire and AT&T's requirements for the following items: Insurance, financial information, requirements for state contractor license (applicable if work is to be performed in CA, NV), and a request for the vendor's quality manual. The vendor is required to meet these requirements and submit these documents to AT&T for review.

Upon AT&T review and successful completion of these preliminary requirements, the contract manager will add the vendor's company name to the "CO Installation Vendor Waiting List" of vendors seeking approval for central office installation. The contract manager sends this list to the chairperson of each

of the VAT when requested by the chairperson. Based upon overall demand and projection of future demand for installation labor (AT&T and collocation workloads) in the regions, the VAT will select new vendors to be evaluated for approval from this list. This merit-based vendor selection criteria includes: Installation experience across many types of equipment within a technology category, licensing requirements, quality manual, workforce size and location, technical capabilities, contractor licenses where required, detailed engineering experience, and financial stability. The VAT will notify the RVRT and the LVRT that it plans to evaluate a new vendor.

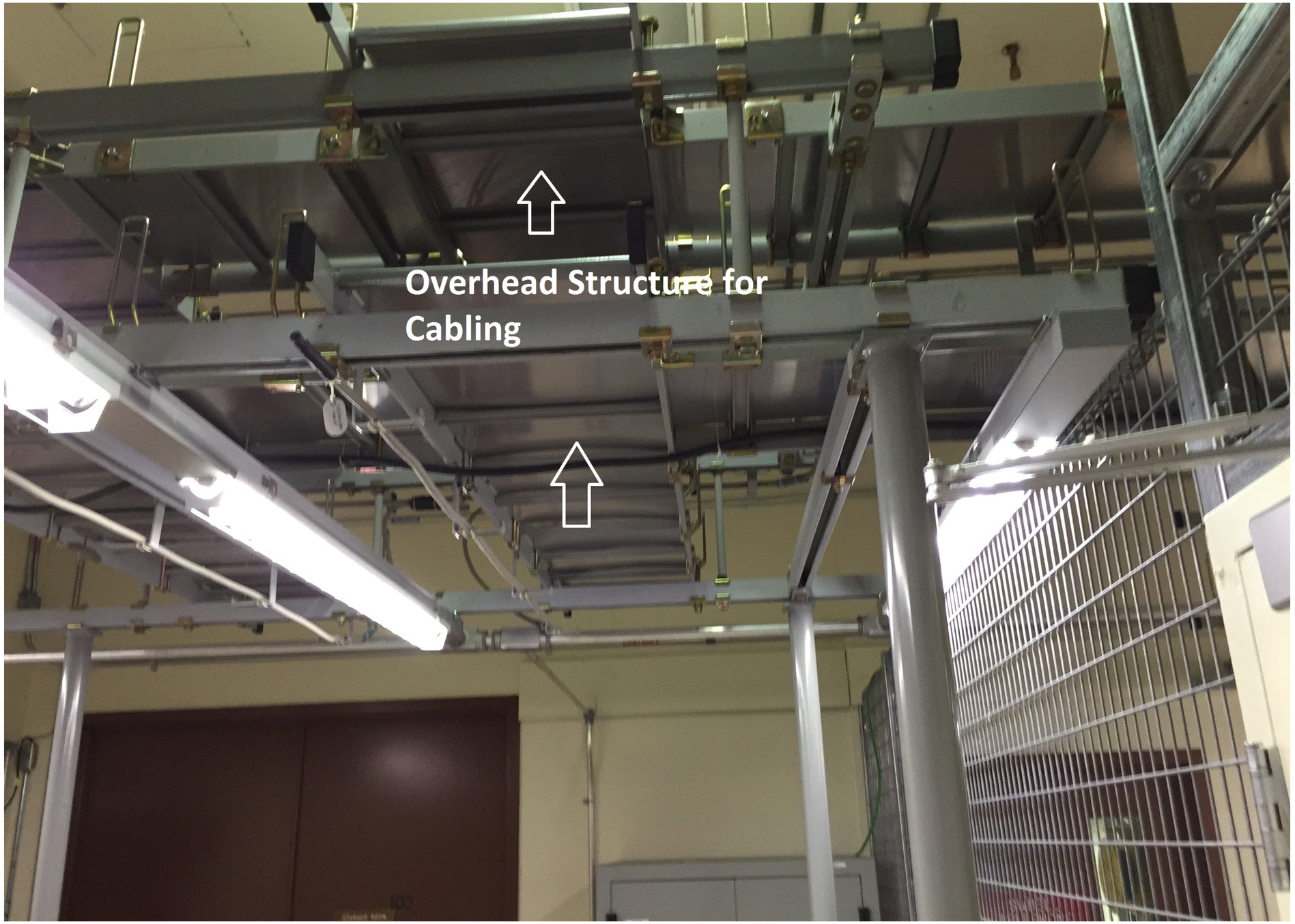
Once the VAT has selected a new vendor, the vendor will be contacted by the Contract Manager regarding next steps. Three of the first five jobs that are awarded are required to be different types of equipment types including equipment bay installations. The jobs are usually awarded one or two at a time in order for the work to be completed, audited and feedback made for corrective action before the next job begins. AT&T audits each of the first five jobs for quality according to the AT&T installation guidelines. Upon successful completion of the work as determined by the audits, the vendor is notified by the AT&T contract manager that it is an approved vendor and its name will then be placed on the AT&T LEC Approved Central Office Installation Vendor List (Tier 1). This list is maintained on the AT&T CLEC Online web site for access by the CLECs. This trial process usually takes about 9 to 12 months to complete from the point in time that the VAT selects the vendor for the 5 job trials. Duration of the trial is dependent on AT&T's current and future demands for additional capacity.

The AT&T Approved Central Office Installation Vendors (Tier 1) may be approved within each geographical area/region.

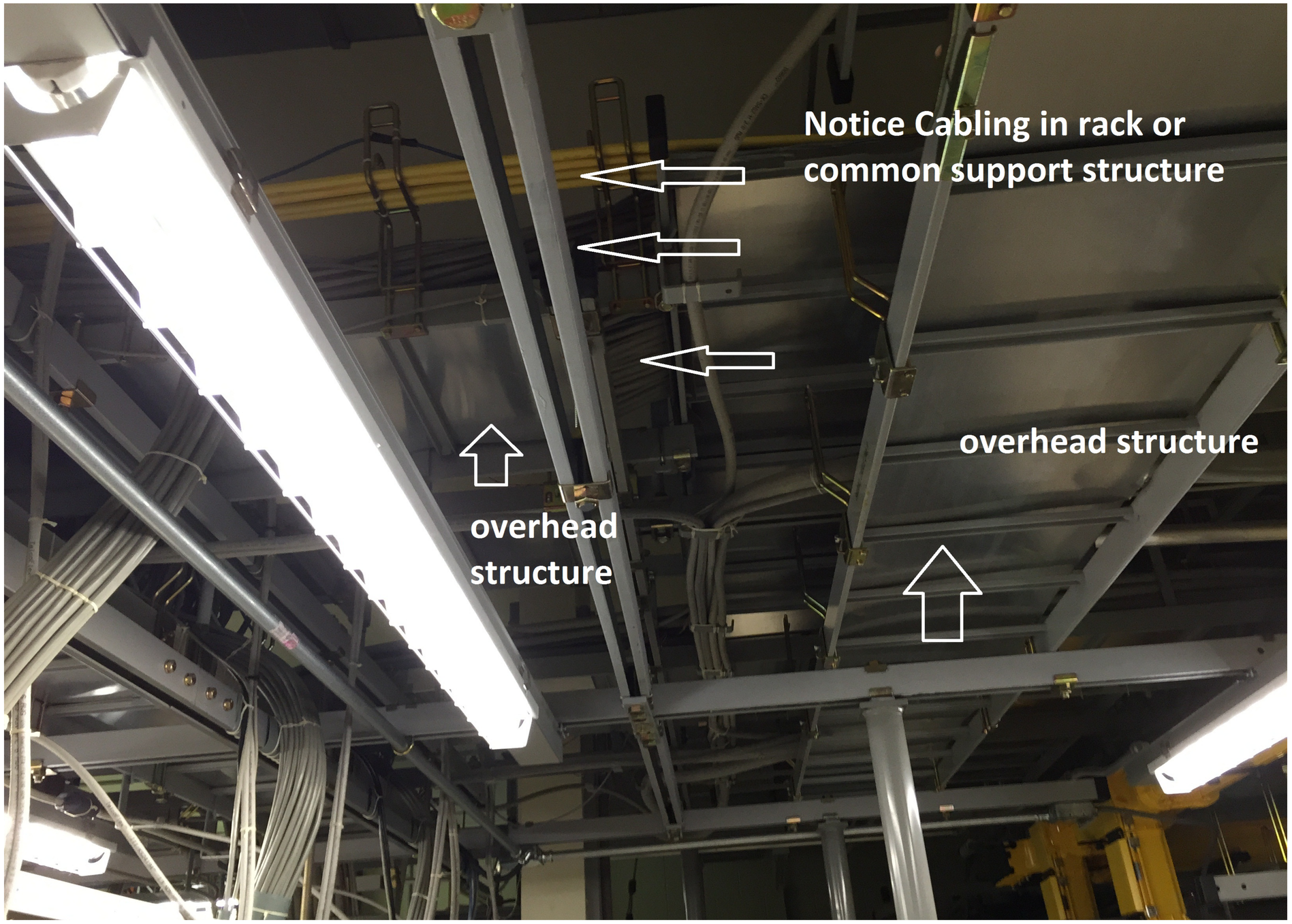
Vendors on the AT&T Approved Central Office Installation Vendor List (Tier 1) are approved to perform installation work on a job-by-job basis for the AT&T LECs throughout the central office. These vendors are also approved to perform installation work on a job-by-job basis for CLECs in the virtual, cageless and caged collocation areas and common areas of the central offices within the geographical areas/regions and technologies on the list for which they are designated as approved in the list. Vendors on the AT&T Approved Central Office Installation Vendor List must strictly abide by all AT&T's quality requirements as outlined in AT&T's TP76300, TP76400, and TP76900 documents. Failure to abide by these standards could lead to a vendor being disapproved as an AT&T Approved Central Office Installation Vendor. This list is reviewed periodically by the VAT for inactivity as suppliers of services to AT&T. The inactive vendors may be removed from the list upon recommendation by the VAT.
This document is intended to be used as a general guide. AT&T Contract Manager will provide specifics to a vendor that is being considered for Tier 1 approval.

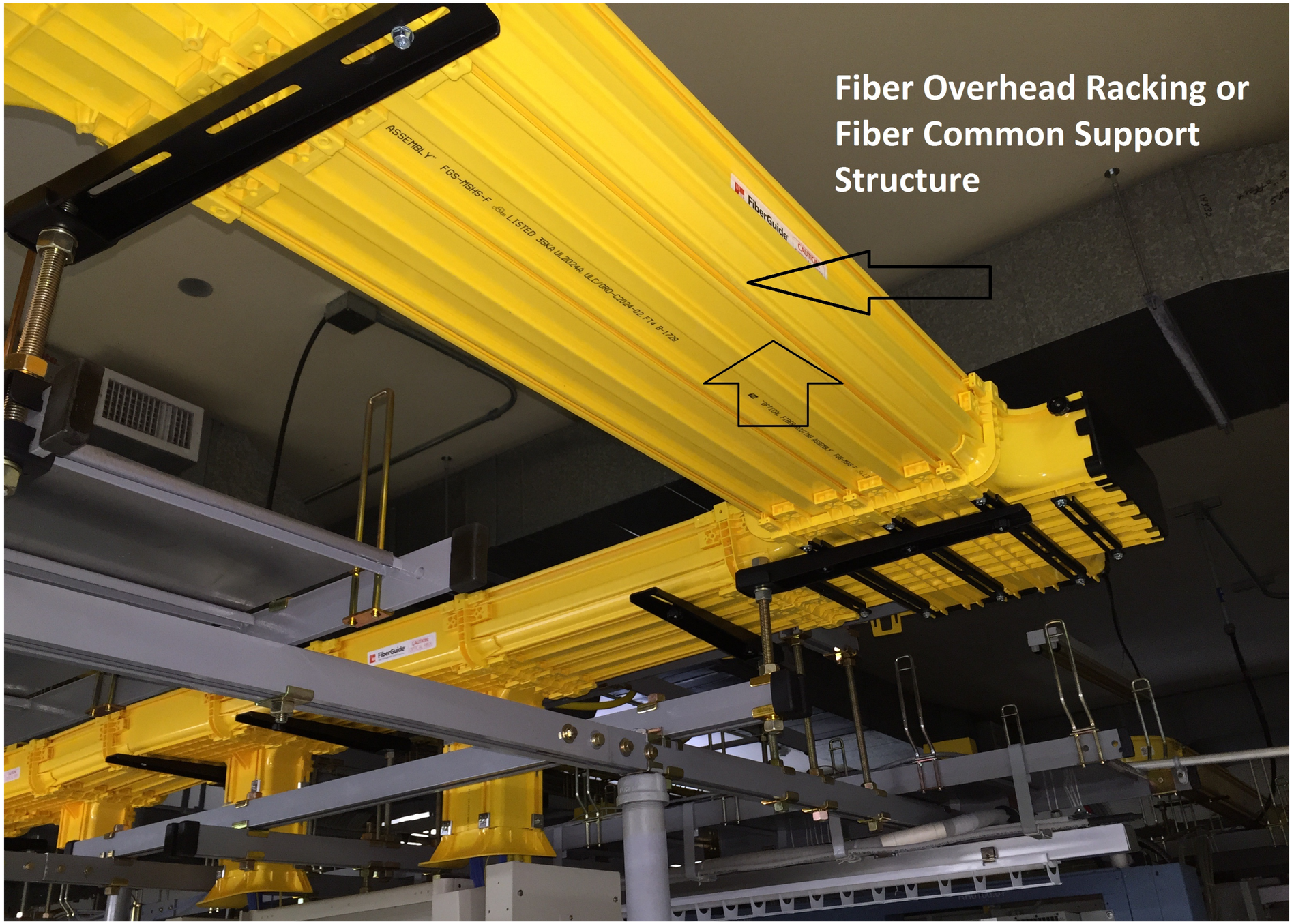
AT&T reserves the right to amend this process from time to time.

Troy Young, Jr.
Sr. Contract Manager
AT&T Services, Inc.


Overhead Structure for
Cabling


Overhead Common Cable Racking or Common Cable Support Structure--This would go from Collo Cage to Collo Cage Placed by a Tier 1 Vendor. Arrows Showing Racking which Cabling is run on.


Notice Cabling in rack or
common support structure
overhead
structure
overhead structure


Fiber Overhead Racking or
Fiber Common Support
Structure
ASSEMBLY - FGS-HSHS-F LISTED 35KA UL2024A ULC/ORD-C2024-02 FT4 8-1/2"
FiberGuide
CAUTION
FiberGuide
CAUTION