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1 BEFORE THE
2 FLORIDA PUBLIC SERVICE COMMISSION

3 In the Matter of:

4 DOCKET NO. 140156-TP

5 PETITION BY COMMUNICATIONS
AUTHORITY, INC. FOR
6 ARBITRATION OF SECTION 252(B)
INTERCONNECTION AGREEMENT WITH
7 BELLSOUTH TELECOMMUNICATIONS,
LLC D/B/A AT&T FLORIDA.
8 _________________________________/

9

10 VOLUME 1

11 (Pages 1 through 163)

12

PROCEEDINGS: HEARING

13

COMMISSIONERS
14 PARTICIPATING: COMMISSIONER RONALD A. BRISÉ
COMMISSIONER JULIE I. BROWN
15 COMMISSIONER JIMMY PATRONIS

16 DATE: Wednesday, May 6, 2015

17 TIME: Commenced at 9:34 a.m.
Concluded at 10:40 a.m.

18

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

21 REPORTED BY: LINDA BOLES, CRR, RPR
Official FPSC Reporter
22 (850) 413-6734

23

24

25

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4 20006, appearing on behalf of Communications Authority,
5 Inc.

6 TRACY HATCH, ESQUIRE, 150 South Monroe Street,
7 Suite 400, Tallahassee, Florida 32301 and DENNIS G.
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9 Drive, Chicago, IL, 60606, appearing on behalf of AT&T
10 Florida.

11 LEE ENG TAN and LESLIE AMES, ESQUIRES, FPSC
12 General Counsel's Office, 2540 Shumard Oak Boulevard,
13 Tallahassee, Florida 32399-0850, appearing on behalf of
14 the Florida Public Service Commission Staff.

15 CHARLIE BECK, GENERAL COUNSEL, MARY ANNE
16 HELTON, and SAMANTHA CIBULA, ESQUIRES, FPSC General
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18 Tallahassee, Florida 32399-0850, Advisors to the
19 Commission.

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1 I N D E X

2 WITNESSES

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EXHIBITS

NUMBER:	ID.	ADMTD.
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1 P R O C E E D I N G S

2 **COMMISSIONER BRISÉ:** Good morning. So we're
3 going to go ahead and call this hearing to order, Docket
4 No. 140156-TP. It is slightly after -- according to the
5 clock up here, it's 9:34, so we're going to go ahead and
6 start, and we're going to ask staff to read the notice.

7 **MS. LEE:** By notice published April 10th,
8 2015, this time and place is set for a hearing
9 conference in the Docket 140156-TP. The purpose of this
10 hearing conference is set out in the notice.

11 **COMMISSIONER BRISÉ:** Thank you very much.
12 We'll take appearances at this time.

13 **MR. TWOMEY:** On behalf of Communications
14 Authority, Christopher E. Twomey.

15 **COMMISSIONER BRISÉ:** Okay. Anyone else with
16 you?

17 **MR. RAY:** For Communications Authority, Mike
18 Ray.

19 **COMMISSIONER BRISÉ:** Okay. Thank you.

20 **MR. HATCH:** Good morning, Commissioners.
21 Tracy Hatch appearing on behalf of AT&T Florida. Also
22 appearing with me is Dennis Friedman from the law firm
23 of Mayer, Brown.

24 **COMMISSIONER BRISÉ:** All right. Thank you.

25 **MS. TAN:** And Lee Eng Tan and Leslie Ames on

1 behalf of Commission staff.

2 **COMMISSIONER BRISÉ:** Thank you.

3 **MS. HELTON:** And Mary Anne Helton, advisor to
4 the Commission. I'd also like to make an appearance for
5 our General Counsel, Charlie Beck, and Samantha Cibula.

6 **COMMISSIONER BRISÉ:** All right. Thank you
7 very much.

8 Staff, are there any preliminary matters that
9 we need to address at this time?

10 **MS. TAN:** Yes, Commissioner. Staff has filed
11 a motion for official reignition of certain FCC orders
12 in other state utility commissions along with FCC rules
13 pursuant to Section 90.202(5) of the *Florida Statutes*.

14 **COMMISSIONER BRISÉ:** Okay. Any other
15 preliminary matters?

16 Okay. Seeing none, is there any -- are there
17 any objections to the motion for official recognition?

18 **MR. HATCH:** No objections from AT&T.

19 **MR. TWOMEY:** No objections.

20 **COMMISSIONER BRISÉ:** Okay. Thank you. So
21 with that, we will deal with that and we'll put that in
22 the order as necessary.

23 **MS. TAN:** Okay. We can take care of that.

24 **COMMISSIONER BRISÉ:** Thank you very much.

25 Okay. We're going to go -- staff is going to

1 walk us through what we need to do with the exhibits,
2 so, Lee Eng.
3 **MS. TAN:** Yes. Staff has compiled a
4 stipulated Comprehensive Exhibit List which includes the
5 prefiled exhibits attached to the witness testimony in
6 this case. The list has been provided to the parties,
7 the Commissioners, and the court reporter. This list is
8 marked as the first hearing exhibit, and the other
9 exhibits should be marked as set forth in the chart. At
10 this time staff would like to move staff's exhibits,
11 Exhibits No. 26 through 55, into the record as set forth
12 in the Comprehensive Exhibit List.
13 **COMMISSIONER BRISÉ:** Okay. We will move
14 Exhibits 26 through 55 into the record, if there are no
15 objections.
16 **MR. HATCH:** No objections.
17 **MR. TWOMEY:** No objections.
18 **COMMISSIONER BRISÉ:** Okay. So at this time
19 Exhibits 25 through -- 26 through 55 have been moved
20 into the record.
21 (Exhibits 1 through 55 marked for
22 identification.)
23 (Exhibits 26 through 55 admitted into the
24 record.)
25 **MS. TAN:** That is correct. And staff would

1 also like to include affidavits from AT&T's Florida --
2 AT&T Florida's discovery responses which was provided to
3 staff on May 4th. We would ask to mark the affidavits
4 as Exhibit 56 and move the exhibit into the record.
5 **COMMISSIONER BRISÉ:** Okay. Any there
6 objections?
7 **MR. HATCH:** No objections.
8 **MR. TWOMEY:** No objections.
9 **COMMISSIONER BRISÉ:** Okay. So we're going to
10 mark it as Exhibit 56, the affidavits for AT&T. Thank
11 you very much. And the short title will be AT&T's
12 affidavits.
13 (Exhibit 56 marked for identification and
14 admitted into the record.)
15 Okay. Any there other preliminary matters?
16 **MS. TAN:** At this time staff is not aware of
17 any other preliminary matters.
18 **COMMISSIONER BRISÉ:** All right. Thank you.
19 So we're going to give you a sense of how this is going
20 to run. We expect to run until about 5:30 today.
21 Tomorrow morning we will begin at 8:30, okay, and we
22 will run for as long as we need to tomorrow to see if we
23 can end by tomorrow. Okay. That's, that's our game
24 plan. We expect to take a lunch break -- hopefully we
25 can cut right around noon, depending upon where we are

1 with a witness or maybe plus or minus ten minutes or so.
2 We expect to take about an hour for lunch.
3 On tomorrow, if we continue to run past 5:00,
4 we can probably expect to take a break between 5:00 and
5 6:00 for a dinner break, and then come back, reconvene
6 at 6:00 and then go for whatever amount of time we need
7 to tomorrow evening. So let's try to manage yourselves
8 professionally during this process.
9 We appreciate the briefs. As Commissioners,
10 they're, they're -- they work very well for us. So
11 it's, it's interesting to hear what people have to say
12 on, say on the stand, but the briefs are really good and
13 work really well for us as well.
14 Okay. So with that, we are prepared to take
15 opening statements, 7.5 minutes for opening statements.
16 And my good friend Commissioner Brown is going to manage
17 the time for me. She's going to let me know when
18 there's about a minute left, and then I will let you
19 know that there's about a minute left and so forth.
20 Okay. And after we get through with that
21 process of the opening statements, then I will swear in
22 the witnesses. The witnesses will have five minutes for
23 their opening statements, and then we'll get into
24 cross-examination. Okay? With that, we'll begin with
25 opening statements. CA.

1 **MR. TWOMEY:** Thank you, Commissioner.
2 First, I'd like to provide some context as to
3 why we're all gathered here today. The CLEC/ILEC
4 relationship is not a normal commercial arrangement. A
5 new CLEC wants to start a business and needs an
6 interconnection agreement with the local incumbent. The
7 first thing you do is you ask for negotiations with, in
8 this case, AT&T. Then we start the dance that I call
9 the AT&T shuffle.
10 We ask the negotiator for the available ICAs
11 to adopt. This creates -- this brings up the
12 fundamental problem with the ICA adoption process. Only
13 ICAs that have a, quote, reasonable time left on the
14 original term are available to adopt. The problem that
15 has occurred over the course of the last decade is that
16 there are no reasonable ICAs to adopt. They're all
17 boilerplate ICAs that AT&T starts out with as a template
18 on which to negotiate, but negotiating is expensive, and
19 in many cases it's difficult to get AT&T to make the
20 changes that a CLEC might think are necessary for their,
21 for their business. This isn't just happening in
22 Florida. This is, this is across the country. And it's
23 not just with AT&T. It's across the industry.
24 The difficulty for Mr. Ray in starting
25 Communications Authority is he looked out there and

1 said, all right, well, what's available to adopt, and
2 there was, there was nothing. So he's given the
3 boilerplate and he began to try to negotiate some, some
4 of the terms and it just didn't work. He, he has
5 decades of telecom experience, built many CLEC networks,
6 and as he looked through it, he realized there are a
7 number of terms in the boilerplate agreement that just
8 would not work, that they would blow the business case
9 right out of the water.
10 So he decided at some point that there was, he
11 would continue to push to negotiate, but on the 135th
12 day after the window of negotiations closed, that he
13 would probably be forced to go to arbitration to get a
14 more reasonably commercially viable interconnection
15 agreement.
16 Partially the reason is there wasn't real
17 strong negotiation during the course of the -- that
18 negotiation window. There was substantial negotiation
19 after filing the arbitration, however. AT&T was very
20 cooperative. We went back and forth on hours of
21 conversations trying to at least narrow the scope of
22 some of the issues, and we got a good sense of what
23 their concerns were and I think they got a good sense of
24 what ours were. But at the end there are just too many
25 things that we could not agree on that are still issues

1 in the case today.
2 For example, forcing 911 selective router
3 interconnection even if CA would choose to use a
4 rather -- more reliable 911 vendor, escrow disputed
5 amounts for billing that's admittedly inaccurate,
6 requiring Communications Authority to maintain choke
7 trunks for high volume traffic for a switch that's not
8 even technically capable of generating such high volume
9 traffic, effectively forcing Communications Authority to
10 use a captive, very expensive vendor for collocation
11 work, accepting the proposition that in effect there can
12 be two points of interconnection in a single central
13 office, some sort of voodoo definitional game over HDSL
14 loops, requiring CA to pay AT&T over and over again for
15 a cross-connect in the central office that
16 Communications Authority already paid an installer to
17 run to connect to the point of interconnection in the
18 central office, demanding AT&T reimburse -- excuse me --
19 Communications Authority demanded AT&T reimburse any
20 unnecessary truck rolls. For example, when AT&T
21 admit -- essentially lied about a circuit being ready
22 for a customer turn up or for repair. Allowing AT&T to
23 be the sole judge rather than the Commission to decide
24 on disputes between the parties that arise under this
25 interconnection agreement, and finally, accepting rates

1 that are just out of line with the current realities of
2 the marketplace and that were approved by the PSC when
3 AT&T was a much smaller entity known as BellSouth, and
4 the entity AT&T was actually a CLEC at the time.
5 So throughout AT&T's testimony there are
6 suggestions that Communications Authority is just being
7 unreasonable and demanding wholesale changes to AT&T's
8 systems. That's not true. The Telecom Act of
9 '96 opened the way for local competition to be sure, but
10 no reasonable observer would consider the playing field
11 level. Maybe it's a bit more level for a huge CLEC that
12 has a whole room of people to analyze perpetually
13 inaccurate ILEC bills and file disputes. In several
14 cases, AT&T witnesses claim that adhering to AT&T's
15 demands are just the cost of doing business. The
16 Telecom Act said nothing of the sort, and it's safe to
17 say that Congress's intent wasn't to limit competition
18 to publicly traded entities.
19 The draft ICA shows a pattern throughout it of
20 AT&T's desire to increase CA's cost of doing business;
21 make procedures that are -- may not work with a typical
22 CLEC but are, quote, consistent with AT&T's internal
23 business rules, just convenient; consistent --
24 consistently valuing AT&T's convenience over,
25 administration over Communications Authority's cost and

1 time; and to protect AT&T from any risk in collecting
2 from Communications Authority.
3 **COMMISSIONER BRISÉ:** Mr. Twomey, you have
4 about a minute left.
5 **MR. TWOMEY:** Thank you, sir.
6 And the risk of collecting from a small CLEC
7 with a small monthly bill while AT&T averages around
8 $7 billion profit per quarter and returned $11 billion
9 in investor dividends in 2014.
10 If you read the whole -- if you read the
11 actual language proposed by Communications Authority
12 that ignore -- the AT&T testimonies' somewhat
13 astonishing level of whoa is me hyperbole, it should
14 become clear that Communications Authority is just
15 asking for some measure of fairness to try to create a
16 certain level of parity that is difficult to achieve in
17 an inherently unfair industry.
18 AT&T argues that the issue list comprises a
19 wish list. They're right. It's a painstakingly,
20 expensively compiled list by an experienced CLEC
21 operator. Make no doubt this is David versus Goliath
22 and we don't even have a slingshot, but we're right.
23 **COMMISSIONER BRISÉ:** All right. Time's up.
24 You can finish your statement and then time's up.
25 **MR. TWOMEY:** Okay. That's fine. So even

1 after 17 years of practice in this crazy industry, I
2 still think that matters. I appreciate the staff's work
3 thus far in developing the record. I look forward to
4 gathering more information during this hearing. Thank
5 you very much.
6 **CHAIRMAN GRAHAM:** All right. Thank you.
7 Mr. Hatch.
8 **MR. HATCH:** Thank you. Good morning,
9 Commissioners.
10 This arbitration is very unusual. First,
11 simply because of the number and the breadth of the
12 issues makes it difficult, as you have heard with
13 Mr. Twomey and his laundry list, to do any reasonably
14 comprehensive summary of the issues other than just say
15 here's the issue.
16 Second, I guess it's important that previous
17 arbitrations typically are devoted to significant policy
18 issues. And then in the aftermath of the Commission's
19 determination of those issues, then parties get together
20 and file conforming contract language. This arbitration
21 is very different because it has been essentially
22 focused on contract minutia from the very beginning, and
23 so you don't get to the policy issues until essentially
24 after you started going through the contract language.
25 Now, make no mistake, there are a lot of

1 policy implications to the contract language. But in a
2 sense you have to back into them just from the contract
3 language disputes. In this case, CA has chosen to
4 attempt policy change through the backdoor of contract
5 language rather than raise its issues clearly upfront.
6 And as you can see from AT&T Florida's testimony in this
7 case, we have directed the Commission's consideration of
8 these issues essentially back to where it should be,
9 which is the statutory requirements under the Telecom
10 Act, the FCC's policy decisions and the FCC's rules, as
11 well as the Commission's own orders on all of these
12 issues.
13 It's real critically important to keep in mind
14 that all of these statutes, rules, and orders should be
15 the polestar that guide your determinations for all the
16 issues in this case. All of them devolve right back to
17 that. Those are the answers to the policy questions.
18 There is a common theme for CA in this
19 proceeding, and essentially it's CA is a small CLEC with
20 limited resources, with its collocation, construction,
21 network elements, billing, it doesn't really matter,
22 it's just a matter that CA just needs things to cost a
23 little less, be a little easier to get, more freely
24 available in order to compete. But CA presents little
25 more than bold assertions to support its policy

1 proposals and no cost support at all for its pricing
2 proposals.
3 In isolation, some of CA's proposal may at
4 first blush appear reasonable. However, much of what
5 they want would require significant change in AT&T's
6 processes and practices and systems, and it would shift
7 to AT&T the burden of requirements that law and
8 commercial practice currently impose on CLECs and shift
9 that burden to AT&T simply to make it easier for CA and
10 for no other reason. All of CA's assertions here
11 simply beg the rhetorical question. If it is so
12 difficult to compete, why aren't other CLECs making
13 these same claims, making these same assertions that
14 their business plan can't work under the current
15 regime?
16 The Commission's own records will show you
17 that there's a dearth of complaints from CLECs other
18 than from CA itself and CA's principal client such as
19 Terra Nova. I think the Commission should keep a very
20 broad perspective in mind, and it's this, stepping back
21 a little bit. In negotiations between AT&T Florida and
22 a CLEC, the starting place of negotiations is the last
23 ICA that the Commission approved. AT&T does not get to
24 go back and start over and negotiate from point A like
25 they did in prior negotiations, and CA gets the

1 advantage of beginning its negotiations with the
2 benefit of all that the prior CLECs have achieved, and
3 this arbitration is a clear reflection of that fact.
4 Our negotiations with CA, essentially AT&T yielded to
5 CA on numerous contract provisions that CA wanted.
6 This came some before and a lot after the arbitration
7 process began. And all of this came on top of the
8 cumulative total of prior CLEC achievements from all
9 prior negotiations and arbitrations. As a result, in
10 this arbitration CA has nothing to lose and everything
11 to gain.
12 I guess finally it's important to keep in
13 mind that this is not a simple, as Mr. Twomey alluded,
14 it's not simple CA as David against an AT&T Goliath.
15 CA has made it abundantly clear its intention in this
16 arbitration. It is arbitrating for the benefit of
17 unidentified and unknown CLECs, none of whom are
18 present here. All of whom will be able to opt into
19 this agreement that results from this proceeding.
20 AT&T Florida has given enough in these
21 negotiations, both those that preceded the filing of
22 the arbitration petition, as well as what we have done
23 since, which has resulted in the resolution of a
24 considerable number of issues that CA originally set
25 for arbitration. The Commission should view CA as the

1 stalking horse that it is and reject CA's policy and
2 rate proposals and the accompanying contract language
3 in favor of that of AT&T. Thank you.
4 **COMMISSIONER BRISÉ:** Thank you very much.
5 Okay. At this time we're going to go ahead
6 and prepare for witnesses. If all the witnesses who are
7 present, if you would stand.
8 (Witnesses collectively sworn.)
9 All right. Thank you. You may be seated.
10 So all the witnesses today will be providing
11 direct and rebuttal testimony together -- that's my
12 understanding -- and witnesses are permitted up to five
13 minutes to summarize their testimony. And per the order
14 of witnesses, we will begin with Mr. Ray, followed by
15 Ms. Pellerin, then Mr. McPhee, then Mr. Neinast,
16 Neinast -- sorry -- and then Ms. Kemp. I think that
17 that is the order that was agreed to. So with that, we
18 will ask CA to call their first witness.
19 **MR. TWOMEY:** Just minute a minute, please.
20 **COMMISSIONER BRISÉ:** Sure.
21 **MR. TWOMEY:** Communications Authority calls as
22 its first witness Mike Ray, president of Communications
23 Authority.
24 **COMMISSIONER BRISÉ:** Okay. Mr. Ray, there is
25 a seat over there on that end. I don't know if anyone

1 gave you instructions as to where the seating is. So
2 there's a spot over there with at the three lights.
3 You'll see a green light, yellow light, and so that
4 would be the place that you would sit to testify.
5 And while you're on your way over there, those
6 lights are set up so that you can know how much time you
7 have left with the five minutes. When the light turns
8 red, you will have -- it lets you know you have 30
9 seconds left. When it's flashing, it means that you
10 need to stop. Okay?
11 Whereupon,
12 **MIKE RAY**
13 was called as a witness on behalf of Communications
14 Authority, Inc., and, having first been duly sworn,
15 testified as follows:
16 **THE WITNESS:** Good morning. I do not have an
17 opening statement at this time.
18 **COMMISSIONER BRISÉ:** Okay.
19 **EXAMINATION**
20 **BY MR. TWOMEY:**
21 **Q** Mr. Ray, has anything changed to alter the
22 direct and/or rebuttal testimony or exhibits filed
23 thereto that would make the voracity of that testimony
24 any different?
25 **A** No, nothing.

1 **MR. TWOMEY:** Okay. I'd like to move that
2 Mr. Ray's direct and rebuttal testimony and associated
3 exhibits be placed into the record.
4 **COMMISSIONER BRISÉ:** Okay. At this time we
5 will move Mr. Ray's direct and rebuttal testimony into
6 the record, seeing no objections. Okay. Thank you.
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1 **Introduction**

2 **Q. Please state your name, position, and provide your business address.**

3 A. My name is Mike Ray and I am President of Communications Authority, Inc. My business

4 address is 11523 Palm Brush Trail #401, Lakewood Ranch, Florida 34202.

5

6 **Q. On whose behalf are you submitting testimony?**

7 A. My testimony is provided in support of Communications Authority, Inc. ("CA")

8

9 **Background**

10 **Q. Please describe your educational and professional background.**

11 A. I earned a Bachelor of Science Degree in Business Administration from Estonian-

12 American Business College, and a Master's Degree in Business Administration from Pacific

13 Coast University. I also have earned various industry certifications for technical expertise

14 and telecommunications engineering over the years from Novell, Astron, Altigen and

15 Hewlett-Packard.

16

17 I started my first company Systems Consulting Group ("SCG") in 1992. SCG was a

18 computer, network and technology consulting company providing technology sales and

19 service to small and medium businesses. I have been working in the telecommunications

20 industry since I founded internet service provider Tampa Bay Connect in 1995 and also

21 developed a hosted fax-to-email telecommunications service that is still in use today known

22 as SmartMail FAX. In 1997 SCG became authorized as a reseller and service/repair

1 organization for Altigen PBX systems and I earned industry certifications to sell and service
2 that product.
3
4 In 2001, I co-founded Eagle Telecommunications Inc., a competitive local exchange carrier
5 ("CLEC") serving Florida. I served as its Network Operations Director from 2001 through
6 2004 and was responsible for all of its network engineering and design. In 2004 I acquired a
7 controlling interest in Eagle and assumed managerial control of the company, re-branding it
8 to EagleTel. As the company expanded its network footprint in Florida, it encountered a
9 similarly-named company doing business in Miami and was re-branded once again to
10 AstroTel. I managed AstroTel's gradual expansion to a service area of approximately 90%
11 of the State of Florida in 2012. I was responsible for all aspects of AstroTel's operations
12 until March 2012 when its assets were sold to Birch Communications Inc. After AstroTel's
13 acquisition, I became the Operations Director for another CLEC, Terra Nova Telecom Inc,
14 which I had helped to establish years before while working for AstroTel. Continuing through
15 today, as its Operations Director I am responsible for oversight of all Terra Nova operations
16 in Florida and Georgia, including interconnection with four ILECs in Florida with a footprint
17 that covers most of the State of Florida.
18
19 In my roles at AstroTel and Terra Nova, and now with CA, I am and have been responsible
20 for oversight of all aspects of CLEC operations including network design and
21 interconnection, OSS design and maintenance, regulatory matters, legal matters, intercarrier
22 negotiations and issue resolution, both subscriber and intercarrier billing and collections,
23 general finance, billing disputes, human resources, product development, service delivery
24 and quality assurance. I

1 **Q. Have you previously presented testimony before the Florida Public Service**
2 **Commission?**
3 A. No.
4
5 **Q. Have you read the Petition for Arbitration filed by Communications Authority, Inc.**
6 **in this docket?**
7 A. Yes.
8
9 **Q. Are the contents of the Petition for Arbitration true and accurate?**
10 A. Yes.
11
12 **Q. Were you involved in the negotiations of the interconnection agreement on behalf of**
13 **Communications Authority, Inc.?**
14 A. Yes, I was the sole person representing Communications Authority during the
15 negotiations.
16
17 **Issue 1: Is AT&T Florida obligated to provide UNEs for the provision**
18 **of Information Services?**
19 **Q. Please state Communications Authority's position regarding Issue 1.**
20 A. CA believes that it is well established that a CLEC is entitled to use UNEs to provide any
21 service it desires to its end-users, including Telecommunications Service and Information
22 Service. AT&T's affiliate, AT&T U-Verse, uses UNE facilities provided by AT&T (or some
23 other affiliated entity) for the provision of information services. CA believes that AT&T's

1 proposed restriction in UNE §4.1 of the Draft ICA is anti-competitive and not supported by
2 the Telecommunications Act of 1996 ("the Act") or Commission regulations.
3
4 **Issue 2: Is Communications Authority entitled to become a Tier 1 Authorized**
5 **Installation Supplier (AIS) to perform work outside its collocation space?**
6 **Q. Please state Communications Authority's position regarding Issue 2.**
7 A. AT&T requires CA to hire an AT&T Approved Installation Supplier (AIS) for
8 constructing its collocations within AT&T Central Offices. In many areas, AT&T has
9 approved a very limited number of AIS contractors and has refused to permit, in its sole
10 discretion, new entrants to become certified as an AIS. In those cases, the cost of using an
11 AIS is often prohibitive for a CLEC, who may itself possess the same technical skills and
12 abilities as the AIS. This creates an artificial barrier to entry by CLECs by AT&T. CA should
13 be entitled to become certified as an AIS upon the same terms and conditions as any other
14 AIS for the purpose of installing its own collocations. AT&T should not erect artificial
15 barriers allowing new entities to become an AIS.
16
17 AT&T has objected to CA being entitled to become an AIS on an equal access basis on the
18 grounds that AT&T desires not to permit CLECs carte blanche access into its Central
19 Offices. CA believes that a reasonable solution to this problem is for the parties to establish
20 a total elemental long run incremental cost ("TELRIC")- based price for each collocation
21 construction element to be placed in the ICA, in the same manner that every other ILEC
22 does. Then, when CA desires collocation construction it pays AT&T the established rate and
23 AT&T can use whatever AIS it desires to complete the work. This solution prevents CLECs
24 from obtaining access to the sensitive areas of the Central Office as AT&T indicated it was

1 troubled by. CA believes that its more recent proposal for TELRIC-based construction prices
2 in the ICA to be paid to AT&T is fair to all parties.
3
4 **Issue 3: When Communications Authority supplies a written list for subsequent**
5 **placement of equipment, should an application fee be assessed?**
6 **Q. Please state Communications Authority's position regarding Issue 3.**
7 A. It is well established that ILEC charges to CLECs for interconnection and unbundled
8 network elements should be based on TELRIC. AT&T does not always follow this FCC
9 mandate. As an example, AT&T has a history of charging CLECs more to enter the records
10 for new cross-connect cables into its databases than the actual materials and labor costs for
11 the same installation. These "cables records charges" are not cost-based and are in fact an
12 artificial barrier to entry for CLECs created by AT&T. CA is aware of no other ILEC in
13 Florida which charges anything for entering cable records into its own systems.
14
15 CA has proposed this revision to Collocations §3.17.3.1 in the Draft ICA to ensure that cable
16 records charges are always cost based and remove this barrier to entry. CA has agreed to
17 move this language to the pricing schedule, but has re-opened the issue because AT&T failed
18 to respond to any of CA's pricing schedule revisions.
19
20 **Issue 4a: If AT&T alleges that Communications Authority is in default, should AT&T**
21 **Florida be allowed to reclaim collocation space prior to conclusion of a dispute**
22 **regarding the default?**
23 **Issue 4b: Should AT&T Florida be allowed to refuse Communications Authority's**
24 **applications for additional collocation space or service or to complete pending orders**

1 **after AT&T Florida has notified Communications Authority it is in default of its**
2 **obligations as Collocator but prior to conclusion of a dispute regarding the default?**
3 **Q. Please state Communications Authority's position regarding Issues 4a and 4b.**
4 A. AT&T's language seeks to give AT&T the ability to unilaterally take action against CA
5 which could severely harm CA (and may threaten CA's very existence), without first
6 providing an opportunity for CA to contest the assertion that it is in default. The Draft ICA
7 has a dispute resolution provision, but AT&T's language in Collocation §3.20.1 *et seq.* seeks
8 to bypass its obligation to invoke that provision to resolve disputes in good faith and to
9 instead allow it to act unilaterally without oversight or review. CA believes that this is anti-
10 competitive and arbitrary; AT&T has not alleged or shown that the dispute resolution process
11 is not adequate to address this concern. The Commission has recently approved an
12 accelerated dispute resolution process which would be available to either party for resolution
13 of time-sensitive issues.
14
15 **Issue 5: Should Communications Authority be required to provide AT&T Florida with**
16 **a certificate of insurance prior to starting work in Communications Authority's**
17 **collocation space on AT&T Florida's premises?**
18 **Q. Please state Communications Authority's position regarding Issue 5.**
19 A. AT&T's language requiring insurance to be obtained within five days is not feasible. CA
20 cannot obtain insurance within five days; it takes much longer to obtain this coverage in
21 Florida and most insurance carriers have refused to write such coverage for CLECs. CA has
22 also added language to clarify that AT&T may not obtain insurance and bill CA for that
23 insurance if CA has not commenced the work for which the insurance is required to cover.
24 This is logical because AT&T has no risk as long as the subject work has not commenced

1 and CA's proposed language prevents AT&T from creating arbitrary costs it then seeks to
2 impose on CA while CA is working to meet the insurance requirements in good faith prior to
3 commencement of the applicable service.
4
5 **Issue 6: Should AT&T Florida be allowed to recover its costs when it erects an internal**
6 **security partition to protect its equipment and ensure network reliability and such**
7 **partition is the least costly reasonable security measure?**
8 **Q. Please state Communications Authority's position regarding Issue 6.**
9 A. AT&T's proposed language would permit it to charge CA for arbitrary construction costs
10 entirely unrelated to CA's collocation in an AT&T central office. CA believes that this is
11 inappropriate, and could be used by AT&T to impose arbitrary, non-cost-based financial
12 obligations upon its competitor to artificially increase CA's operational costs. CA has added
13 language to the Draft ICA clarifying that AT&T may only bill CA for such security upgrades
14 if those upgrades are in response to CA's proven misconduct.
15
16 It is also worthy of note that AT&T is solely in control of where CA's collocations are placed
17 within the AT&T Central Office, and generally speaking, AT&T Central Offices already
18 have a "CLEC Collocation Area" which is already segregated from AT&T's own equipment.
19 AT&T's language is further inappropriate to the extent that it seeks to impose a cost upon
20 CA as a result of AT&T changing its mind about the initial placement of CA's collocation
21 through no fault of CA.
22

1 **Issue 7a: Under what circumstances may AT&T Florida charge Communications**
2 **Authority when Communications Authority submits a modification to an application**
3 **for collocation, and what charges should apply?**
4 **Issue 7b: When Communications Authority wishes to add to or modify its collocation**
5 **space or the equipment in that space, or to cable to that space, should Communications**
6 **Authority be required to submit an application and to pay the associated application**
7 **fee?**
8 **Q. Please state Communications Authority's position regarding Issues 7a and 7b.**
9 A. AT&T's proposed Draft ICA language permits AT&T to charge application fees over and
10 over again for the same application, even if AT&T has rejected the application improperly or
11 if the resubmission of the application does not increase AT&T's costs. Since collocation
12 should be cost-based and subject to TELRIC, CA believes AT&T's proposed language is
13 inappropriate. CA has added a provision that ensures that if AT&T's costs have not
14 increased, it is not entitled to keep charging additional application fees for resubmitted
15 applications.
16
17 With regard to modification of its collocation space, it seems obvious that AT&T's proposed
18 application fees and various extraneous fees are not TELRIC-based as applied to CA
19 replacing its own equipment. AT&T does not subject itself to extensive, time consuming and
20 costly reviews of all of its own equipment replacements within its Central Offices, and it
21 certainly does not impose such a process during an outage when equipment must be replaced
22 to restore service.
23

1 Under the agreed language in this ICA, CA is already required to use NEBS-certified
2 equipment in its collocations and AT&T is entitled to conduct a “safety review” which CA
3 believes is entirely redundant to the NEBS approval process and unnecessary. CA objects to
4 AT&T’s position that AT&T should be entitled to charge thousands of dollars for CA to
5 purchase a replacement piece of equipment, then for CA to replace its own equipment with
6 NEBS-certified equipment, when AT&T has no role in the replacement other than a cursory
7 review of the equipment change that CA has made or plans to make.
8
9 As for adding cross-connects to a collocation, CA does not object to cost-based pricing in the
10 ICA. Other state regulators have already found this to be a requirement. However, AT&T’s
11 proposed language would require CA to both pay AT&T thousands of dollars and also to pay
12 an AT&T AIS for the labor and materials to complete the installation. As I mentioned
13 earlier, we think there should be a single price certain for cross-connects which includes
14 application, cable records entries, materials and labor for the work requested. This price
15 should be cost based, and AT&T’s proposal clearly does not envision cost-based pricing.
16
17 Moreover, as another example, AT&T has a well-documented history of providing inaccurate
18 connecting facility assignments (“CFA”) when delivering a new collocation to a CLEC. In
19 some cases, inaccurate CFAs have been provided four times or more by AT&T on a single
20 collocation. Each time this occurs, the CLEC is denied use of the collocation for a significant
21 period of time, which delays the CLEC’s entry into the market. The CLEC also expends
22 resources and capital connecting or attempting to connect its network to the CFAs provided
23 by AT&T. There is no way for the CLEC to know that AT&T has provided incorrect
24 information until the CLEC has tried unsuccessfully to place orders with AT&T for circuits

1 connecting to those CFAs and they are rejected. By that time, the CLEC has already paid the
2 AT&T AIS substantial sums to run cables to the incorrect CFAs and has incurred other
3 substantial costs. Without this provision, AT&T is able to significantly increase CA's costs
4 due solely to AT&T's "error" repeatedly without any detriment to AT&T. It therefore seems
5 fair that AT&T should reimburse CA's actual demonstrated costs when such "errors" occur.
6
7 **Issue 8: Is 120 calendar days from the date of a request for an entrance facility, plus the**
8 **ability to extend that time by an additional 30 days, adequate time for Communications**
9 **Authority to place a cable in a manhole?**
10 **Q. Please state Communications Authority's position regarding Issue 8.**
11 A. The Act plainly states that it is intended to encourage competition, and CA believes there
12 is no better measure of competition than a CLEC installing its own fiber optic network to
13 serve the public. There are numerous hurdles and challenges that a CLEC may encounter
14 when attempting to deploy its own fiber optic network, many of which are erected by AT&T.
15 CA believes that it is more reasonable to specify an initial period of 180 days for it to install
16 its fiber optics, and that an extension should be 90 days instead of 30 days in case CA needs
17 more time.
18
19 CA has also removed the provision that requires the request for extension 15 days prior to the
20 expiration of the original window, because there is no demonstrated need for such advance
21 notice or harm to AT&T if notice is not given in advance. AT&T has not demonstrated that it
22 is harmed by the longer installation window or extension, and AT&T's language seems
23 designed solely to increase CA's costs by forcing it to re-apply and double-pay for the entire

1 arrangement when there are delays. Such delays could be caused by AT&T, by weather or
2 other elements, and would unnecessarily increase CA's cost.
3
4 **Issue 9a: Should the ICA require Communications Authority to utilize an AT&T**
5 **Florida AIS Tier 1 for CLEC-to-CLEC connection within a central office?**
6 **Issue 9b: Should CLEC-to-CLEC connections within a central office be required to**
7 **utilize AT&T Florida common cable support structure?**
8 **Q. Please state Communications Authority's position regarding Issues 9a and 9b.**
9 A. CA would incur substantial costs if it were required to utilize an AT&T AIS to install a
10 data cable that runs less than 10 feet to another collocated CLEC which is less than 10 feet
11 away from CA's central office collocation. CA's language permits CA to directly connect to
12 another collocated CLEC to prevent such unnecessary costs only when the two collocators
13 are within ten feet of each other and when the connection can be made without use of
14 AT&T's common cable support structure. AT&T has not demonstrated that it would be
15 harmed by this provision nor has it given any reason at all for its opposition, and CA believes
16 that AT&T's language is intended solely to artificially increase CA's costs and to delay CA's
17 entry into the market served by the central office where it is collocated. CA is open,
18 however, to using the same mechanism that it has proposed for other collocation construction
19 elements. This would involve establishing a rate in the ICA for each type of CLEC-to-CLEC
20 cross-connect. CA would then order the cross-connect from AT&T, and AT&T could use its
21 choice of AIS to complete the work. However, CA believes that this price must be cost-
22 based and that AT&T's current proposal attempts to circumvent that by requiring CA to use a
23 third-party contractor who is not constrained to cost-based pricing and can also impose
24 substantial minimum project charges for a simple ten minute job.

1 **Issue 10: If equipment is improperly collocated (e.g., not previously identified on an**
2 **approved application for collocation or not on authorized equipment list), or is a safety**
3 **hazard, should Communications Authority be able to delay removal until the dispute is**
4 **resolved?**
5 **Q. Please state Communications Authority's position regarding Issue 10.**
6 A. CA objects to AT&T's proposed language because it permits AT&T to inflict serious and
7 possibly fatal harm to CA based solely upon AT&T's "belief" and without any apparent
8 provision for that belief to be properly contested prior to harming CA. As shown elsewhere
9 in AT&T's proposed language for this agreement, AT&T seems to propose that CA's sole
10 remedy for anything is the dispute resolution process in this agreement, but AT&T seeks to
11 embed other remedies for itself which do not require it to comply with the dispute resolution
12 provisions.
13
14 CA does not find this arrangement fair or equitable, so CA has instead inserted proposed
15 language in the Draft ICA to require compliance with dispute resolution. CA also lengthened
16 the cure time to 30 days to give CA ample time to replace equipment or notify customers that
17 CA will not be able to provide service any longer. CA has left in AT&T's language holding
18 CA responsible for all resulting damage, which should mitigate any concerns about the
19 longer cure time.
20
21 **Issue 11: Should the period of time in which the Billed Party must remit payment be**
22 **thirty (30) days from the bill date or twenty (20) days from receipt of the bill?**
23 **Q. Please state Communications Authority's position regarding Issue 11.**

1 A. AT&T has a well-established history of failure to properly and timely send complete bills
2 to CLECs. I have personally seen cases where the postmark on the envelope containing
3 AT&T bills is ten days or more after the date printed on the bill inside. In the event that
4 AT&T does not timely send a bill to CA, the due date should be adjusted to provide time for
5 the CA to dispute and/or remit payment as appropriate. If CA abuses this provision, AT&T
6 would still be able to seek dispute resolution remedies, and AT&T is also able to send bills to
7 CA with delivery confirmation to prove date of receipt.
8 CA notes that many previous interconnection agreements contain CA's language, and CA
9 believes this is common enough to be considered industry standard.
10
11 **Issue 12: i) Should a Discontinuance Notice allow the Billed Party fifteen (15) days or**
12 **thirty (30) to remit payment to avoid service disruption or disconnection? ii) Should the**
13 **terms and conditions applicable to bills not paid on time apply to both disputed and**
14 **undisputed charges?**
15 **Q. Please state Communications Authority's position regarding Issue 12.**
16 A. AT&T has a well-established history of improperly billing CLECs and failing to properly
17 and timely process CLEC billing disputes. For its own convenience, AT&T's language in
18 this case is designed to once again permit AT&T to circumvent the dispute resolution process
19 in the agreement in favor of one-sided, unilateral action by AT&T which likely results in
20 fatal damage to the CLEC instead. AT&T's language would permit it to cause fatal damage
21 to a CLEC even if the issue is caused by AT&T's errors or omissions.
22 CA has modified AT&T's language to clarify that AT&T may only demand payment of
23 undisputed and unpaid charges under threat of disconnection. CA has also clarified that
24 AT&T may not disconnect service under this agreement in response to any alleged unpaid

1 amounts for service not provided under this agreement, and CA has lengthened the cure time
2 from 15 days to 30 days from receipt of notice.
3
4 CA has already agreed to AT&T's language requiring a security deposit equal to two months
5 of service, which may be adjusted by AT&T at any time to ensure that the deposit keeps pace
6 with CA's monthly billing. AT&T is not at risk if it timely invokes the dispute resolution
7 process due to CA's failure to pay for services, and is also not at risk under CA's proposed
8 language here because the two month deposit will cover any billing if AT&T timely sends
9 the notices of non-payment. AT&T is able, at any time, to invoke dispute resolution
10 including use of the Commission's new expedited process if it so chooses. This should render
11 moot any concern of long-running bad-faith disputes by CA.
12
13 CA has already agreed that if either party seeks dispute resolution from the Commission and
14 the Commission finds against CA that CA would be required to post a bond in order to
15 appeal that decision. This further limits AT&T's risk if it follows the Dispute Resolution
16 process that it seeks to impose upon CA.
17
18 Although the parties have exchanged emails regarding resolving this issue by combining it
19 with issue 24, CA has not accepted that proposal. CA believes combining the issues adds
20 confusion rather than any clarification, as was conveyed by CA's counsel to AT&T's counsel
21 via email on January 22nd. AT&T counsel acknowledged CA's continuing disagreement via
22 email on January 23rd. As such, AT&T is unilaterally attempting to close this issue. Mr.
23 Hatch's email to Lee Eng Tan of January 29th regarding CA's acquiescence to the resolution
24 of issue 12 this is not correct.

1 **Issue 13a: i) Should the definition of "Late Payment Charge" limit the applicability of
2 such charges to undisputed charges not paid on time? ii) Should Late Payment Charges
3 apply if Communications Authority does not provide the necessary remittance
4 information?**
5 **Issue 13b: Should the definition of "Past Due" be limited to undisputed charges that are
6 not paid on time?**
7 **Issue 13c: Should the definition of "Unpaid Charges" be limited to undisputed charges
8 that are not paid on time?**
9 **Issue 13d: Should Late Payment Charges apply only to undisputed charges?**
10 **Q. Please state Communications Authority's position regarding Issues 13a-d.**
11 A. CA has modified AT&T's proposed language to clarify that only undisputed charges shall
12 accrue late payment charges if not timely paid, and notes that the dispute resolution process
13 already provides for payment of retroactive late payment charges for any disputes resolved
14 AT&T's favor. CA has also removed language that would subject CA to late payment
15 charges if CA does not submit remittance information, because AT&T has stated a
16 preference for electronic payment and in my experience, sometimes remittance information is
17 not properly transmitted when paying electronically. CA has no incentive to send payments
18 without remittance information.
19
20 The parties have access to dispute resolution if this becomes a chronic issue, but CA
21 disagrees that late payment charges should apply solely due to remittance information issues
22 if payment was actually received by AT&T on-time. CA has modified AT&T's proposed
23 language to clarify that only undisputed charges are considered unpaid charges if not timely

1 paid and notes that the dispute resolution process already provides for payment of retroactive
2 late payment charges for any disputes resolved in AT&T's favor.
3
4 CA does not object, as a practical matter, to AT&T's proposal that Late Payment Charges
5 accrue on all unpaid balances and then are refunded for disputed amounts resolved in CA's
6 favor. CA simply seeks to ensure that it is clear to all parties that it is entitled to withhold
7 payment of properly disputed charges without being in default, and that CA shall not be
8 obligated to pay Late Payment Charges for disputed amounts resolved in CA's favor whether
9 or not they are initially charged and then credited later. CA agrees to pay Late Payment
10 Charges on disputed amounts if and only if a dispute is ultimately resolved against CA.
11
12 **Issue 14a: Should the GTCs state that the parties shall provide each other local**
13 **interconnection services or components at no charge?**
14 **Q. Please state Communications Authority's position regarding Issue 14a.**
15 A. It is well settled that each party must bear its own costs for local interconnection, but
16 AT&T has refused to explain the nature of its objections to CA's revisions which make this
17 clear.
18
19 For further clarity, CA's position would not require AT&T to provide Entrance Facilities at
20 no charge. Since this Agreement requires that the point of interconnection ("POI") be
21 located inside an AT&T Central Office, and CA's language would only require each party to
22 bear its own costs on its side of the POI, then by definition Entrance Facility is not included
23 since it would connect from CA's side of the POI in the AT&T Central Office to another
24 location specified by CA. CA believes that the placement of this language is appropriate to

1 make clear that similar elements listed in the pricing attachment (such as Entrance Facilities)
2 may not be charged to CA for anything on the AT&T side of the POI.
3
4 CA also seeks to clarify that the POI is the Central Office building, and not a specific
5 location within that building. CA believes it is obvious that if CA obtains a collocation in an
6 AT&T Central Office which is designated as the POI, AT&T should not be entitled to charge
7 for Local Interconnection Circuits which CLEC delivers to its collocation to meet AT&T.
8 However, AT&T has, incredibly, attempted to charge for intra-building circuits for local
9 interconnection in this manner recently which is why CA seeks this clarification.
10
11 **Issue 14b: i) Should an ASR supplement be required to extend the due date when the**
12 **review and discussion of a trunk servicing order extends beyond 2 business days? Ii)**
13 **Should AT&T Florida be obligated to process Communications Authority's ASRs at no**
14 **charge?**
15 **Q. Please state Communications Authority's position regarding Issue 14b.**
16 A. No. AT&T routinely fails to complete Local Interconnection Orders for weeks or months
17 past the agreed due date, while the CLEC tries in futility to get AT&T to properly complete
18 the orders. It is not parity for CA to be required to resubmit an access service request
19 ("ASR") when the due date is not met, while AT&T is permitted to let the due date pass for
20 weeks or months without consequence.
21
22 CA rejects AT&T's characterization that CA is the "cost causer" and that CA is the sole
23 beneficiary of Local Interconnection Trunks. Local Interconnection Trunks benefit both
24 parties equally, permitting their respective subscribers to pass traffic to each other. Although

1 this Agreement places the ordering burden upon CA, this does not mean that the trunks are
2 solely for CA's benefit nor is it grounds to depart from the practice whereby "each party
3 bears its own costs." CA shall bear its own costs to prepare and submit a Local
4 Interconnection order, and AT&T should bears its own costs to process that order.
5
6 **Issue 15: i) What is the appropriate time period for Communications Authority to**
7 **deliver the additional insured endorsement for Commercial General Liability**
8 **insurance? ii) May Communications Authority exclude explosion, collapse and**
9 **underground damage coverage from its Commercial General Liability policy if it will**
10 **not engage in such work?**
11 **Q. Please state Communications Authority's position regarding Issue 15.**
12 A. CA should not be required to obtain insurance for service or work that it is not engaged in,
13 and should not be required to provide additional insured endorsements until CA issues an
14 order for such additional work. The parties have agreed to language resolving Issue 15(i).
15
16 AT&T's proposed language would require CA to obtain costly insurance for collocations,
17 conduits and pole attachments even if CA has not ordered or used those elements. This
18 artificially increases CA's costs. CA's language provides the same protections but only if CA
19 is utilizing the elements to be insured. Further, CA may not be able to obtain insurance for
20 hazardous activities that it is not engaged in and for which it does not have expertise. CA
21 rejects AT&T's comments as verifiably false.
22
23 AT&T has a very effective mechanism to determine whether CA is engaged in the subject
24 work or not. CA is not entitled to work in AT&T manholes, on AT&T poles, or in AT&T

1 Central Offices until CA has submitted and AT&T has processed a Conduit, Pole
2 Attachment, or Collocation application. AT&T already verifies CLEC insurance as part of
3 this application process, and therefore AT&T's proposed language in this item is clearly
4 designed solely to increase CA's costs. Many CLECs operate in a more limited capacity
5 after inception and wait for years before deploying their own physical networks, and
6 therefore would not need such coverage until the deployment begins.
7
8 **Issue 16: Which party's insurance requirements are appropriate for the ICA when**
9 **Communications Authority is collocating?**
10 **Q. Please state Communications Authority's position regarding Issue 16.**
11 A. CA believes that its proposed insurance limits are reasonable to cover AT&T's risk. CA's
12 limits were based upon Verizon's insurance limit requirements as shown in several ICAs
13 approved by the Commission, notably the Verizon/Terra Nova Telecom agreement which is
14 currently in force. AT&T has not shown why CA's limits would not be adequate, and CA
15 notes that AT&T already segregates CLEC collocations from AT&T's own equipment in its
16 Central Offices. Therefore, the risk to AT&T is much lower since CA does not have physical
17 access to AT&T's equipment within the Central Office. This risk is further mitigated by the
18 fact that this ICA requires the use of NEBS-certified equipment in any collocation, which
19 equipment must have been demonstrated to self-contain any equipment fire that may occur.
20 This requirement prevents collocated equipment from starting a fire in the Central Office
21 which spreads to other equipment or the structure itself.
22
23 **Issue 17: i) What notification interval should Communications Authority provide to**
24 **AT&T Florida for a proposed assignment or transfer? ii) Should AT&T Florida be**

1 **obligated to recognize an assignment or transfer of the ICA that the ICA does not**
2 **permit? iii) Should the ICA disallow assignment or transfer of the ICA to an Affiliate**
3 **that has its own ICA in Florida?**
4 **Q. Please state Communications Authority's position regarding Issue 17.**
5 A. Issue 17(i) has been resolved by the parties now with a requirement for 120 days' notice.
6 As for Issue 17(ii) and 17(iii), CA has added a simple provision to the Draft ICA preventing
7 AT&T from unreasonably withholding consent to an assignment. CA has also deleted two
8 sentences which would give AT&T unreasonable ability to prevent the sale or acquisition of
9 CA or its assets. Both changes are common to any commercially negotiated contract.
10
11 **Issue 18: Should the ICA expire on a date certain that is two years plus 90 days from**
12 **the date the ICA is sent to Communications Authority for execution, or should the term**
13 **of the ICA be five years from the effective date?**
14 **Q. Please state Communications Authority's position regarding Issue 18.**
15 A. CA is a small company with limited resources, has expended tremendous resources to
16 negotiate the Draft ICA, and is being forced to arbitrate dozens of issues that AT&T has
17 refused to even discuss in those negotiations. CA believes that AT&T has not shown that it is
18 entitled to a two year term, which is what AT&T has demanded. AT&T has claimed that it
19 desires a two year term due to expected changes in the marketplace over the next two years,
20 but AT&T has a well-established history of exercising "Change of Law" provisions in order
21 to accomplish changes to Agreements prior to the expiration of their term when it serves
22 AT&T's interests to do so. AT&T has not shown any reason why it would be unable to
23 invoke Change of Law for this Agreement, but instead has demanded a two-year term which
24 would artificially and needlessly increase CA's costs.

1 CA believes that the real reason why AT&T desires a two year term is so that it can claim
2 that this agreement is in "evergreen" status after two years, even though it will likely
3 continue in full force and effect. This will make the ICA unavailable for other CLECs to
4 adopt. CA notes that there are currently no arbitrated agreements between AT&T and any
5 CLEC in Florida which AT&T does not make such an evergreen claim on and refuse to
6 permit adoption by a CLEC.
7
8 In addition to relieving its unnecessary burden to renegotiate every two years, CA believes
9 that it is also in the interest of competition that this agreement have a five year term so that
10 other CLECs can have a fair and equitable ICA available to adopt under the Act in the
11 absence of any other.
12
13 It is also worthy of note that during negotiations, AT&T verbally offered to provide
14 assurance to CA under separate cover that it would permit the Agreement to run longer than
15 two years in "evergreen" status, but that AT&T desired the two year term specifically in
16 order to limit the time that other CLECs may adopt this Agreement. CA rejected that offer,
17 and believes that such tactics are not in good faith and are blatantly anti-competitive. AT&T
18 currently maintains dozens of ICAs for CLECs that have been in evergreen status for almost
19 a decade. These are routinely amended to reflect changes in law, even though they are
20 technically expired, and AT&T continues to deny CLECs the ability to adopt them.
21
22 **Issue 19: Should termination due to failure to correct a material breach be prohibited if**
23 **the Dispute Resolution process has been invoked but not concluded?**
24 **Q. Please state Communications Authority's position regarding Issue 19.**

1 A. Although AT&T's language throughout the draft ICA provides that CA's sole remedy for
2 any dispute or issue should be the Agreement's Dispute Resolution provision, AT&T
3 repeatedly seeks to provide itself with exclusive, one-sided alternative remedies such as this
4 one. Under AT&T's proposed language, it could simply allege a breach, invoking no formal
5 process and proving nothing, and terminate all service to CA and CA's customers thereby
6 putting its competitor out of business. This is clearly anti-competitive, and does not
7 encourage competition as the Act requires.
8
9 If AT&T alleges that CA has breached the ICA and CA disputes the allegation, AT&T
10 should be required to follow the dispute resolution provision and prove its allegations before
11 causing fatal harm to CA and CA customers. AT&T has access to the Commission's new
12 expedited dispute resolution process for a speedy decision if it so chooses.
13
14 **Issue 20: Should AT&T Florida be permitted to reject Communications Authority's**
15 **request to negotiate a new ICA when Communications Authority has a disputed**
16 **outstanding balance under this ICA?**
17 **Q. Please state Communications Authority's position regarding Issue 20.**
18 A. Although AT&T's language throughout the Draft ICA provides that CA's sole remedy for
19 any dispute or issue should be the Agreement's dispute resolution provision, AT&T
20 repeatedly seeks to provide itself with exclusive, one-sided alternative remedies such as this
21 one. Under AT&T's proposed language, it could fail or refuse to cooperate with CA to
22 resolve bona fide billing disputes, fail to invoke the dispute resolution provision of this
23 Agreement to resolve such disputes, but then refuse to negotiate a successor agreement at the
24 end of the term, essentially blackmailing CA into paying disputed charges if it wishes to

1 continue its operations. CA points out that AT&T is already entitled to terminate the
2 Agreement for breach, and if it so terminates then there would be no requirement to negotiate
3 a successor. AT&T should not have the right to refuse negotiations simply because it has not
4 pursued the Dispute Resolution remedies available to it under this Agreement to resolve
5 disputes with CA.
6
7 **Issue 21: Should Communications Authority be responsible for Late Payment Charges**
8 **when Communications Authority's payment is delayed as a result of its failure to use**
9 **electronic funds credit transfers through the ACH network?**
10 **Q. Please state Communications Authority's position regarding Issue 21.**
11 A. CA seeks to strike this paragraph in the Draft ICA entirely, because is seems to impose
12 late payment charges upon CA if CA makes timely payments to AT&T in a manner other
13 than ACH, and AT&T does not timely post those payments after receipt. This would
14 constitute an unfair penalty upon CA if CA chose not to process payment via ACH, even if
15 CA made payment on time.
16
17 **Issue 22a: Should the disputing party be required to use the billing party's preferred**
18 **form or method to communicate billing disputes?**
19 **Issue 22b: Should Communications Authority use AT&T Florida's form to notify**
20 **AT&T Florida that it is disputing a bill?**
21 **Q. Please state Communications Authority's position regarding Issues 22a and 22b.**
22 A. In my experience, AT&T has a history of inaccurate CLEC billing and failure to timely
23 resolve disputes in good faith. As a result, CLECs must devote substantial resources to
24 AT&T billing disputes month after month for the same issues. CA has its own automated

1 systems which can automatically submit billing disputes to AT&T when appropriate, which
2 saves CA considerable time and resources. CA's automated process provides all information
3 required by Section 13.4 of this Agreement for billing disputes and emails the CA form to the
4 address provided by AT&T for that purpose.
5
6 Requiring the use of AT&T's "special form" spreadsheet for each dispute submittal requires
7 substantial extra resources to be allocated by CA to the processing of billing disputes, as CA
8 must dedicate one or more employees to manually take the dispute details from CA's dispute
9 form and place those same details upon AT&T's form. This manual process also
10 unnecessarily increases the likelihood of errors not present with the automated system. Since
11 both forms provide the exact same information and both forms are emailed to the same
12 AT&T email address, requiring the use of AT&T's form is simply an extra burden unfairly
13 and needlessly placed by AT&T upon its competitor. CA sees no reason why AT&T should
14 not process disputes in good faith solely because they are not on a special form. CA believes
15 that any mechanism whereby the billing party is provided written notice of a dispute which
16 contains sufficient details to describe the dispute should be adequate.
17
18 **Issue 23: Should a party that disputes a bill be required to pay the disputed amount**
19 **into an interest-bearing escrow account pending resolution of the dispute?**
20 **Q. Please state Communications Authority's position regarding Issue 23.**
21 A. CA objects to and has stricken AT&T's requirement that all disputed charges must be paid
22 into escrow by CA. This requirement is clearly unfair to CA, as it would permit AT&T to bill
23 CA any amount that it chooses "in error" and CA, through no fault of its own, would
24 automatically be in default of this agreement if it was unable to raise the funds that AT&T

1 incorrectly billed and place them into escrow. Further, AT&T's proposed language does not
2 require AT&T to compensate CA for its costs to raise and escrow the funds even if disputes
3 are resolved in CA's favor.
4
5 Once again, AT&T seeks to require CA to follow the Dispute Resolution process but seeks to
6 create a separate, one-sided process for itself instead of following the Dispute Resolution
7 provision. CA has already agreed to AT&T's deposit requirement, and that would provide
8 adequate assurance of payment to AT&T if it timely invoked Dispute Resolution, including
9 use the Commission's expedited dispute resolution process if it chooses, limiting its exposure
10 and obtaining finality on any disputes.
11
12 **Issue 24: i) Should the ICA provide that the billing party may only send a**
13 **discontinuance notice for unpaid undisputed charges? ii) Should the non-paying party**
14 **have 15 or 30 calendar days from the date of a discontinuance notice to remit payment?**
15 **Q. Please state Communications Authority's position regarding Issue 24.**
16 A. Once again, AT&T seeks to provide itself with remedies other than the Dispute
17 Resolution process in this agreement while denying CA the protections of due process. CA
18 must have a right to not pay disputed charges, until conclusion of the Dispute Resolution
19 process.
20
21 AT&T should not be permitted to unilaterally cause potentially fatal harm to its competitor
22 without due process. Since it is entitled to a two month service deposit from CA at all times,
23 AT&T has not shown that it would suffer undue risk or exposure if it timely invoked dispute
24 resolution in order to get finality when billing disputes were not resolved between the parties,

1 including access to the Commission's expedited dispute resolution process. However, AT&T
2 seeks to provide itself with unfair, one-sided remedies that would clearly be catastrophic to
3 its much smaller competitor instead of AT&T complying with the same Dispute Resolution
4 process which CA is forced to use to resolve disputes. This is not parity.
5
6 **Issue 25: Should the ICA obligate the billing party to provide itemized detail of each**
7 **adjustment when crediting the billed party when a dispute is resolved in the billed**
8 **party's favor?**
9 **Q. Please state Communications Authority's position regarding Issue 25.**
10 A. If AT&T is not required to reference a specific dispute for each credit given on CA's bill,
11 CA will be unable to ever determine which disputes should be closed and which need to stay
12 open. Given the volume of billing errors and disputes, this would cause the entire process to
13 become unmanageable. There is no reason why AT&T should not or cannot identify the
14 original dispute when CA has prevailed and AT&T issues the resulting credits.
15
16 CA notes that when filing a billing dispute with AT&T, CA is required to provide many
17 details including the BAN, invoice number, invoice date, IOSC code, circuit ID, telephone
18 number and /or order number for each dispute. If CA is to be required to provide such
19 details, it is clearly in the interest of parity that AT&T should be required to identify which
20 dispute it is providing credits for and in what amounts when CA prevails. AT&T never
21 responded to CA on this issue in negotiations. CA rejects AT&T's assertion that this
22 identification is impossible; that has not been shown. Indeed, if AT&T's assertion were true
23 it would be tantamount to an admission that AT&T's billing records are entirely unreliable to
24 start with since those are the basis of all billing and billing disputes. If it is impossible for

1 AT&T to determine what it billed incorrectly and what it is crediting, how could CA have
2 any chance of understanding AT&T's billing or dispute resolutions process at all?
3
4 **Issue 26: What is the appropriate time frame for a party to dispute a bill?**
5 **Q. Please state Communications Authority's position regarding Issue 26.**
6 A. CA should not be foreclosed from filing billing disputes in cases with when AT&T did
7 not timely deliver bills and later sends copies to CA, or when AT&T sends a summary but
8 fails to send a detailed bill and delays sending the proper detail to CA. CA is unable to file
9 disputes unless it receives a detailed bill; AT&T's billing dispute process requires data that is
10 only found on a detailed bill. CA should have a reasonable time from receipt of AT&T's bill
11 in which to dispute it, and has suggested 30 days to complete the dispute analysis after it
12 receives the detailed bill.
13
14 **Issue 27: Should the ICA permit Communications Authority to dispute a class of**
15 **related charges on a single dispute notice?**
16 **Q. Please state Communications Authority's position regarding Issue 27.**
17 A. CA should be entitled to dispute a class of charges in a single dispute notice because
18 AT&T may bill for an incorrect charge using hundreds or thousands of separate line items on
19 a bill. An example of this would be if AT&T bills for local interconnection trunks which it is
20 not entitled to do; it could bill for each separate trunk as one or more line items on each
21 monthly bill. If CA were required to dispute each individual line item, it would be a
22 tremendous waste of time for both parties and there is no benefit to that approach. AT&T
23 never responded to CA on this issue in negotiations.
24

1 CA notes that the ICA currently in force between Terra Nova Telecom and Verizon,
2 approved by the Commission, contains a provision allowing single disputes of a class of
3 related charges.
4
5 **Issue 28: i) Should a party that disputes a bill be required to pay the disputed amount**
6 **into an interest-bearing escrow account pending resolution of the dispute? ii) Should**
7 **the ICA reflect that Communications Authority must either pay to AT&T Florida or**
8 **escrow disputed amounts related to resale services and UNEs within 29 days of the bill**
9 **due date or waive its right to dispute the bill for those services?**
10 **Q. Please state Communications Authority's position regarding Issue 28.**
11 A. Issue 28(ii) has been resolved.
12
13 As for Issue 28(i), CA believes that this AT&T provision is clearly anti-competitive and
14 unfair. First, it seeks to unilaterally revoke CA's right to dispute unpaid charges while
15 preserving that right for AT&T regarding its bills from CA. This is clearly not parity.
16 Second, AT&T Florida and its parent AT&T wield monopoly market power, with a net worth
17 many orders of magnitude greater than CA. It is clearly unfair and inexcusable for AT&T to
18 be entitled to bill CA any amount it chooses "in error," and to then require the comparably
19 tiny CA to raise the capital to pay that amount as a condition to resolve the problem which
20 was solely caused by AT&T in the first place.
21
22 CA also notes that in addition to the parity issue raised above, AT&T would suffer no
23 detriment whatsoever in this process according to its proposed language; CA would entirely
24 bear the cost and effects of having to raise potentially tremendous capital to pay a debt that it

1 did not owe based solely upon AT&T's "mistake." AT&T failed to respond to CA on this
2 issue in negotiations.
3
4 Finally, in an ICA arbitration with AT&T, at least one state commission (Michigan) that
5 considered this issue found this escrow practice to be unacceptable.
6
7 **Issue 29: i) Should the ICA permit a party to bring a complaint directly to the**
8 **Commission, bypassing the dispute resolution provisions of the ICA? ii) Should the ICA**
9 **permit a party to seek relief from the Commission for an alleged violation of law or**
10 **regulation governing a subject that is covered by the ICA?**
11 **Q. Please state Communications Authority's position regarding Issue 29.**
12 A. CA believes that the Commission is the most appropriate forum for disputes to be heard,
13 because only the Commission has the subject matter expertise to fully understand technical
14 details which may be at issue between the parties. AT&T seems to prefer its elective
15 commercial arbitration provision which CA has not stricken because it is elective. However,
16 CA would never elect for commercial arbitration because CA believes commercial arbitrators
17 lack the subject matter expertise to decide complex disputes between telecommunications
18 companies. This would allow AT&T to use its considerable resources to present expert
19 witnesses advocating its side of an issue. CA would not be able to afford similar assistance to
20 protect itself. The Telecom Act specifically recognized this issue and appointed state
21 commissions as the decision makers to solve it.
22
23 CA also believes that it has a statutory right to seek relief from the Commission at any time,
24 including use of the Commission's Expedited Dispute Resolution process, for violation by

1 AT&T of this Agreement or any law or regulation, whether or not it invokes the dispute
2 resolution process in this Agreement. This is especially true in cases of alleged violation of
3 law or regulation by AT&T, whether or not the same act also violates the ICA. For example,
4 AT&T was required to negotiate in good faith with CA on this agreement. However, even
5 after CA agreed to extend the negotiation window, AT&T failed and refused to negotiate in
6 good faith and the parties are now arbitrating issues that could clearly have been resolved by
7 negotiations. CA believes this is a strategy which has been employed to delay CA's entrance
8 into the marketplace and to artificially increase CA's costs.
9
10 CA has the same concern regarding Dispute Resolution; there are a number of actions that
11 AT&T might take using its monopoly power which could cause severe harm to CA. CA may
12 not have the luxury of invoking Dispute Resolution while AT&T runs out the clock, because
13 CA and its customers could be suffering severe harm due to AT&T's actions.
14
15 I have had this experience several times in my interactions with AT&T on behalf of AstroTel
16 Inc. and Terra Nova Telecom Inc., and have had to seek help from the Commission staff to
17 get problems resolved. Since the Commission's new expedited Dispute Resolution process
18 specifically states that it cannot be invoked if the ICA requires some other process first, CA
19 seeks to make clear that both parties have the right to seek relief from the Commission when
20 they deem necessary under this agreement. CA also notes that while AT&T has attempted to
21 carve out unilateral remedies available only to AT&T under this agreement, CA has
22 consistently proposed parity as it has done here.
23

1 **Issue 30: i) Should the joint and several liability terms be reciprocal? ii) Can a third-**
2 **party that places an order under this ICA using Communications Authority's company**
3 **code or identifier be jointly and severally liable under the ICA?**
4 **Q. Please state Communications Authority's position regarding Issue 30.**
5 A. CA has revised AT&T's language to provide parity between the parties. CA has also
6 removed language which would illegally bind non-parties to this agreement, clarifying that
7 each party is responsible to the other for the actions of any other party acting on its behalf.
8
9 **Issue 31: Does AT&T Florida have the right to reuse network elements or resold**
10 **services facilities utilized to provide service solely to Communications Authority's**
11 **customer subsequent to disconnection by Communications Authority's customer**
12 **without a disconnection order by Communications Authority?**
13 **Q. Please state Communications Authority's position regarding Issue 31.**
14 A. CA is entitled to and may choose to provide service to multiple end-users using shared
15 UNE(s), such as a commercial office building, a shopping center or apartment complex. In
16 such cases, CA may order the UNEs under its own name and use the UNEs as a component
17 of its overall service to its End Users. Once a UNE is in-service after being ordered by CA,
18 the UNE becomes a part of CA's network which CA, and not AT&T, controls. AT&T should
19 not have the unilateral right to disconnect a component of CA's network which is being paid
20 for by CA when CA is not in default under this Agreement and CA has not placed a
21 disconnect order with AT&T for the affected UNE(s). Further, AT&T's language only
22 provides notice to CA after CA's service has been disconnected and re-used by AT&T,
23 without any validation that the service belongs to AT&T's customer. This betrays a total
24 disregard by AT&T for continuity of service to CA customers.

1 CA only seeks to protect itself from AT&T's re-use of UNEs without a disconnect order
2 from CA. If AT&T agrees that it will not re-use a UNE facility without a disconnect order
3 from CA in any case, then CA's proposal for simple language in the Draft ICA will clarify
4 that point. CA agrees that once it disconnects a UNE, it has no control over AT&T's use of
5 that facility.
6
7 **Issue 32: Shall the purchasing party be permitted to not pay taxes because of a failure**
8 **by the providing party to include taxes on an invoice or to state a tax separately on such**
9 **invoice?**
10 **Q. Please state Communications Authority's position regarding Issue 32.**
11 A. Taxes should be billed as separate line items so CA may audit its invoices. AT&T already
12 bills taxes as a separate line item, so this language is simply intended to codify the current
13 process. Under the agreed billing dispute process, CA would be unable to dispute improperly
14 billed taxes if AT&T did not itemize those taxes.
15
16 **Issue 33a: Should the purchasing party be excused from paying a Tax to the providing**
17 **party that the purchasing party would otherwise be obligated to pay if the purchasing**
18 **party pays the Tax directly to the Governmental Authority?**
19 **Q. Please state Communications Authority's position regarding Issue 33a.**
20 A. AT&T should exempt CA from taxes for which CA has provided the appropriate
21 documentation that it pays the taxes directly to the government authority.
22

1 **<u>Issue 33b: If Communications Authority has both resale customers and facilities-based</u>**
2 **<u>customers, should Communications Authority be required to use AT&T Florida as a</u>**
3 **<u>clearinghouse for 911 surcharges with respect to resale lines?</u>**
4 **Q. Please state Communications Authority's position regarding Issue 33b.**
5 A. Because CA will be a facilities-based and a reseller CLEC, its systems will report its 911
6 subscriber data in the aggregate to the Florida 911 Board using the Board's monthly form
7 separated by county, and CA will pay the surcharges based upon that data. AT&T does not
8 provide any way for CA to determine the county for each resale line for which AT&T bills
9 the E911 surcharge on its bill. Therefore, it is impossible for CA to deduct the resale lines
10 from its monthly filings and payments to the Florida 911 Board which are county-specific.
11 AT&T's language would effectively require CA to double-pay for its E911 surcharges each
12 month.
13
14 **<u>Issue 34: Should Communications Authority be required to interconnect with AT&T</u>**
15 **<u>Florida's E911 Selective Router?</u>**
16 **Q. Please state Communications Authority's position regarding Issue 34.**
17 A. In 2015, there are ample competitors for CLECs and VoIP companies to choose from in
18 the 911 Emergency Services marketplace with at least four large competitors to AT&T for
19 statewide 911 service in Florida. All of these competitors provide modern, superior features
20 and functionality compared to AT&T's antiquated, decades-old 911 infrastructure which has
21 not noticeably changed or been significantly updated in over a decade. While acknowledging
22 that it has a duty to provide reliable 911 service to its subscribers, CA objects to AT&T's
23 monopolistic position that it is entitled to be paid for its inferior 911 services even when CA
24 does not need or intend to use those services. Except for ILEC resale service which is not at

1 issue in this provision, regulations place the burden on the CA, not AT&T, to provide reliable
2 911 service to CA subscribers. AT&T has not shown any reason why CA should be required
3 to purchase inferior 911 services from AT&T instead of a superior service from an AT&T
4 competitor. Indeed, several counties have abandoned AT&T's archaic 911 system entirely
5 and now direct CLECs to directly interconnect with Intrado on the county's behalf for 911
6 service.
7
8 **Issue 35: Should the definition of "Entrance Facilities" exclude interconnection**
9 **arrangements where the POI is within an AT&T Florida serving wire center and**
10 **Communications Authority provides its own transport on its side of that POI?**
11 **Q. Please state Communications Authority's position regarding Issue 35.**
12 A. AT&T's definition of entrance facilities implies that AT&T could charge for entrance
13 facilities regardless of where the POI is located. AT&T should only be entitled to charge for
14 actual entrance facilities between the CLEC side of the POI and the CLEC network. In cases
15 where the POI is in an AT&T Central Office and CA meets AT&T at the POI, Entrance
16 Facilities should not apply or be billed. Entrance Facility charges should only apply if CA
17 requests AT&T to provide transport for interconnection trunks from AT&T's Central Office
18 to another location.
19
20 **Issue 36: Should the network interconnection architecture plan section of the ICA**
21 **provide that Communications Authority may lease TELRIC-priced facilities to link one**
22 **POI to another?**
23 **Q. Please state Communications Authority's position regarding Issue 36.**

1 A. If CA has an existing POI at a AT&T Tandem and AT&T requires CA to establish a new,
2 secondary POI at another location due to excessive transit traffic between CA and the
3 secondary location, then CA should be entitled to lease AT&T dedicated interoffice transport
4 between the original POI where CA's network is already interconnected and the proposed
5 new POI. This provision is desired by CA to establish clarity that the interoffice transport in
6 such a case may be purchased by CA at TELRIC Entrance Facility rates and need not require
7 special access circuits for local interconnection.
8
9 **Issue 37: Should Communications Authority be solely responsible for the facilities that**
10 **carry Communications Authority's OS/DA, E911, Mass Calling, Third Party and Meet**
11 **Point trunk groups?**
12 **Q. Please state Communications Authority's position regarding Issue 37.**
13 A. Of the types of trunk groups cited here, CA intends only to use 911 trunks. In Florida, the
14 county historically pays for 911 trunks on the AT&T side of the POI. Every CLEC I have
15 ever done work for has been done this way. Therefore, CA's objection stems from AT&T's
16 language which seems to permit it to double-bill both the county and the CLEC for the same
17 911 trunks. If AT&T omitted 911 trunks from this language, CA would have no objections.
18
19 **Issue 38: May Communications Authority designate its collocation as the POI?**
20 **Q. Please state Communications Authority's position regarding Issue 38.**
21 A. CA believes that it is clear that the Act intended for each party to bear its own costs on its
22 side of the POI. AT&T has recently begun to use language such as its proposed language
23 here to attempt to subvert that intention and to create a revenue opportunity for AT&T at the
24 expense of CA. CA has direct knowledge of situations where the parties agree that the POI is

1 at a AT&T wire center, a CLEC orders, pays for, and obtains a collocation in that wire
2 center, and then AT&T claims that the POI is actually in some other area of the building and
3 that the CLEC must pay AT&T for circuits between the alleged POI and the CLEC's
4 collocation in the same building. This does not seem to be in good faith or in keeping with
5 the Act's intentions, so CA seeks to revise this language to clarify.
6
7 CA believes that if it extends its network all the way into the AT&T wire center where the
8 POI is located, the least AT&T can do is connect to CA's collocation at its own expense. It is
9 worthy of note that CA is not permitted to present interconnection circuits to AT&T
10 anywhere else in the wire center other than a collocation. AT&T's language would make it
11 impossible for CA to actually meet AT&T at the POI.
12
13 **Issue 39a: Should the ICA state that Communications Authority may use a third party**
14 **tandem provider to exchange traffic with third party carriers?**
15 **Q. Please state Communications Authority's position regarding Issue 39a.**
16 A. CA desires to clarify that it is not required to use AT&T's tandem to exchange call traffic
17 with other carriers and may instead use any third-party tandem provider at CA's option.
18
19 **Issue 39b: Should the ICA provide that either party may designate a third party**
20 **tandem as the Local Homing Tandem for its terminating traffic between the parties'**
21 **switches that are both connected to that tandem?**
22 **Q. Please state Communications Authority's position regarding Issue 39b.**
23 A. Although there are several third-party tandem providers currently operating throughout
24 Florida, AT&T seeks to maintain its monopoly on tandem services by use of this proposed

1 language. CA's language would introduce parity between the parties; CA would still be
2 required to send calls to AT&T's network using the tandem specified by AT&T. CA's
3 language, however, would permit it to select a third party tandem to be used by other carriers
4 to reach CA's own network rather than CA being required to use only AT&T's tandem. CA
5 believes that AT&T has not been and should not be granted a monopoly for local tandem
6 service, which is exactly what AT&T's proposed language would do.
7
8 **Issue 40: Should the ICA obligate Communications Authority to establish a dedicated**
9 **trunk group to carry mass calling traffic?**
10 **Q. Please state Communications Authority's position regarding Issue 40.**
11 A. Through this provision, AT&T seeks to force CA to purchase unnecessary services from
12 AT&T in order to obtain local interconnection. In practice, many CLECs today do not use
13 HVCI trunks, including several that I am personally familiar with in Florida. HVCI or
14 "choke" trunks are a relic of a telecommunications network that no longer exists; choke
15 trunks are deprecated with the use of Signalling System 7 for the exchange of call traffic
16 between carriers. This agreement already requires all trunks to be SS7, and so choke trunks
17 would be useless. This provision is anti-competitive because it requires the purchase by CA
18 of useless trunks from AT&T. It is also discriminatory, because this requirement is not
19 imposed uniformly by AT&T upon CLECs and CMRS carriers, and AT&T's proposed
20 language does not impose any requirements upon AT&T to order choke trunks to CA. CA
21 should have total control of which trunks it will order to interconnect its own switches to
22 others. AT&T did not respond to CA on this issue.
23

1 **Issue 41: Should the ICA include Communications Authority's language providing for**
2 **SIP Voice-over-IP trunk groups?**
3 **Q. Please state Communications Authority's position regarding Issue 41.**
4 A. CA believes that if AT&T at some point offers more modern, cost effective local
5 interconnection to others that CA should have an equal ability to order the same
6 interconnection services offered to others. AT&T has an anti-competitive motive for keeping
7 CLECs interconnected using legacy technology because legacy TDM trunks are less scalable
8 and more expensive for the CLEC. CA's language does not require AT&T to develop or
9 invent anything new; it simply prohibits AT&T from offering modern services selectively to
10 others and not to CA.
11
12 This is also important because CA believes that AT&T already provides SIP interconnection
13 to others but is denying the same to CA under this agreement. CA's language would be the
14 only mechanism in this ICA to ensure that CA receives fair and equal treatment with regard
15 to this issue.
16
17 **Issue 42: Should Communications Authority be obligated to pay for an audit when the**
18 **PLF, PLU and/or PIU factors it provides AT&T Florida are overstated by 5% or more**
19 **or by an amount resulting in AT&T Florida under-billing Communications Authority**
20 **by $2,500 or more per month?**
21 **Q. Please state Communications Authority's position regarding Issue 42.**
22 A. This revision is necessary because the cost of an audit is not capped, and could exceed
23 $100,000.00. For a small CLEC, a 5% discrepancy is not only common but could amount to
24 as little as $100.00. This could be used by AT&T as a very effective tool to bankrupt its

1 competition, if it forced a CLEC to pay for a $100,000 audit to reveal $100.00 in under-
2 billing. CA believes that its language strikes a better balance, holding CA accountable for
3 misstatements but not permitting AT&T to artificially drive up CA's costs.
4 CA has offered to revise the language to cap the CA portion of the audit cost at 100% of the
5 value of the billing discrepancies found by the audit, and we believe this is a fair
6 compromise.
7
8 **Issue 43: i) Is the billing party entitled to accrue late payment charges and interest on**
9 **unpaid intercarrier compensation charges? ii) When a billing dispute is resolved in**
10 **favor of the billing party, should the billed party be obligated to make payment within**
11 **10 business days or 30 business days?**
12 **Q. Please state Communications Authority's position regarding Issue 43.**
13 A. CA believes that late payment charges and interest are mutually exclusive and may not be
14 combined. CA has also revised the true-up timeframe from 10 to 30 days, as CA may need
15 time to secure financing to make payment of such amounts if it is found responsible for them.
16
17 **Issue 44: Should the ICA contain a definition for HDSL-capable loops?**
18 **Q. Please state Communications Authority's position regarding Issue 44.**
19 A. CA desires to clarify this point in the Agreement because AT&T has recently conflated
20 the terms "DS1 loop", "HDSL loop" and "HDSL-capable loop" in order to deny CAs access
21 to HDSL-capable loops in Tier 1 Wire Centers. CA notes that the term "HDSL Compatible
22 Loop" is also sometimes used, which is substantially the same as "HDSL-Capable".
23
24

1 **Issue 45: How should the ICA describe what is meant by a vacant ported number?**

2 **Q. Please state Communications Authority's position regarding Issue 45.**

3 A. CA objects to AT&T's language, because it seems to require that any time an original end
4 user no longer owns a number, it must return back to AT&T. This would mean that if end
5 user A ported their telephone number to CA, and then conveyed the number to end user B
6 who desired to assume end user A's service with CA, CA would be required to release the
7 number, and the customer, back to AT&T. AT&T has confirmed that this is its intent. CA
8 believes that this is anti-competitive, as it increases costs and denies the end user a choice of
9 provider without cause. CA's language clarifies that only if the number is no longer assigned
10 must it be returned.

11

12 **Issue 46: i) Should the ICA include limitations on the geographic portability of**
13 **telephone numbers? ii) Should the ICA provide that neither party may port toll-free**
14 **service telephone numbers?**

15 **Q. Please state Communications Authority's position regarding Issue 46.**

16 A. CA believes that it is well settled that subscribers may port numbers regardless of rate
17 center designation as long as the gaining provider's network can support the service. To
18 support the service, the gaining provider would need to have local interconnection in the
19 LATA in which the number is issued along with working 911 emergency service for the
20 subscriber's actual location. The FCC has affirmed the use of "nomadic VoIP" which
21 involves local telephone numbers which are used outside of their original geographic rate
22 center.

23

1 CA agrees that toll-free portability is not controlled by this Agreement since it is not local
2 service, but CA does not waive its right to port toll-free numbers which AT&T's language
3 would seem to do. The parties have since resolved Issue 46(ii).
4
5 **Issue 47: Should the ICA require the parties to provide access to live agents for**
6 **handling repair issues?**
7 **Q. Please state Communications Authority's position regarding Issue 47.**
8 A. In my experience, AT&T has a well-established history of making it nearly impossible for
9 CLECs to obtain repair during even the most critical of outages. One such mechanism that
10 AT&T regularly employs is the use of robotic telephone answering systems for CLEC repair
11 calls, which make it virtually impossible for CLEC repair staff to reach a live AT&T agent or
12 in fact to accomplish anything at all. Often the AT&T robot will reject CLEC telephone,
13 account or circuit numbers even if they are valid and after numerous attempts. This behavior
14 by AT&T substantially lengthens CLEC outages large and small, and could be easily
15 remedied if both parties were required to provide a live human agent when the other party
16 has a network outage which must be cooperatively resolved. Regardless of which party is at
17 fault, the CLEC's reputation suffers more during such outages due to its smaller size and
18 market share. Therefore, CA believes that its language is reasonable and necessary in order to
19 best provide parity.
20
21 **Issue 48a: Should the provisioning dispatch terms and related charges in the OSS**
22 **Attachment apply equally to both parties?**
23 **Issue 48b: Should the repair terms and related charges in the OSS Attachment apply**
24 **equally to both parties?**

1 **Q. Please state Communications Authority's position regarding Issues 48a and 48b.**
2 A. AT&T's Draft ICA language does not provide parity; it requires CA to compensate
3 AT&T when CA causes AT&T to dispatch a technician and the problem is not within
4 AT&T's network. However, AT&T's language provides CA with no recourse and instead,
5 CA must absorb all of the costs of AT&T's error if the opposite occurs. AT&T often reports
6 to CA that a service is installed or repaired when in fact AT&T has not installed or repaired
7 the service. CA then must dispatch its own technician, who finds that the service was not
8 installed or repaired after all. CA language would hold AT&T to the same standard that
9 AT&T's language holds CA to; each party would be required to compensate the other for
10 wasting each other's resources. CA has added a rate parity requirement so that CA's rate
11 cannot exceed AT&T's rate.
12
13 **Issue 49: When Communications Authority attaches facilities to AT&T Florida's**
14 **structure, should Communications Authority be excused from paying inspection costs if**
15 **AT&T Florida's own facilities bear the same defect as Communications Authority's?**
16 **Q. Please state Communications Authority's position regarding Issue 49.**
17 A. The parties have resolved Issue 49.
18
19 **Issue 50: In order for Communications Authority to obtain from AT&T Florida an**
20 **unbundled network element (UNE) or a combination of UNEs for which there is no**
21 **price in the ICA, must Communications Authority first negotiate an amendment to the**
22 **ICA to provide a price for that UNE or UNE combination?**
23 **Q. Please state Communications Authority's position regarding Issue 50.**

1 A. CA believes that it is entitled to order any element which AT&T is required to provide as
2 a UNE, whether or not it is listed in this Agreement. CA's proposed language provides
3 certainty so that the price and terms are agreed to before ordering, and provides adequate
4 time to load the element into AT&T's systems. CA has already agreed to accept whatever
5 Commission-approved rate exists for the UNE being sought.
6
7 **Issue 51: Should AT&T Florida be required to prove to Communications Authority's**
8 **satisfaction and without charge that a requested UNE is not available?**
9 **Q. Please state Communications Authority's position regarding Issue 51.**
10 A. CA proposed the following addition to the ICA: "CA shall be entitled to challenge such
11 denials of UNE facilities and AT&T-212STATE shall reasonably prove at no charge to CA
12 that the requested facilities do not exist or are all in use." CA believes its proposed ICA
13 language is reasonable to prevent AT&T from arbitrarily and incorrectly denying UNE
14 orders placed by CA, to which CA would have no recourse.
15
16 In my roles with AstroTel and with Terra Nova Telecom, I have seen AT&T reject UNE
17 orders and claim that no facilities exist when in fact facilities do exist. In those cases, it has
18 been very difficult to obtain AT&T's cooperation to override the incorrect reject notice and
19 get facilities installed. This is why CA seeks this language.
20
21 **Issue 52: Should the UNE Attachment contain the sole and exclusive terms and**
22 **conditions by which Communications Authority may obtain UNEs from AT&T**
23 **Florida?**
24 **Q. Please state Communications Authority's position regarding Issue 52.**

1 A. CA believes that AT&T has improperly inserted this language to compel CA to waive its
2 rights to obtain UNE facilities. CA believes that it has the absolute right to obtain any UNE
3 or UNE combination which AT&T is required to provide, regardless of whether or not it is
4 contained in this agreement. Therefore, CA does not waive such rights and believes that
5 AT&T may not insist upon such a waiver as a condition to obtaining this ICA.
6
7 **Issue 53: Should Communications Authority be allowed to comingle any UNE element**
8 **with any non-UNE element it chooses?**
9 **Q. Please state Communications Authority's position regarding Issue 53.**
10 A. CA proposed additional language: "CA shall be entitled to commingle any UNE with any
11 other service element purchased from AT&T-21STATE either from this Agreement or from
12 any AT&T- 21STATE tariff, so long as the combination is technically feasible. Such
13 commingling shall be required even if the specific arrangement sought by CA is not
14 commonly commingled by AT&T-21STATE."
15
16 CA believes that it is entitled to commingle facilities as specified in its language, and that
17 AT&T's language restricts CA's ability to commingle in a manner inconsistent with FCC
18 rules and orders.
19
20 **Issue 54a: Is thirty (30) days written notice sufficient notice prior to converting a UNE**
21 **to the equivalent wholesale service when such conversion is appropriate?**
22 **Q. Please state Communications Authority's position regarding Issue 54a.**
23 A. CA cannot possibly transition its customer base to new service arrangements in 30 days.
24 Moreover, AT&T itself cannot provide the necessary services for such a transition in that

1 time period. Upon notice from AT&T of a UNE sunset, CA must re-design and re-engineer
2 the affected service(s), and then must place orders for new service with AT&T or others to
3 replace the sunset elements. Interconnection agreements typically have provided 180 days for
4 such a transition, and CA continues to believe that this is reasonable.
5
6 **Issue 54b: Is thirty (30) calendar days subsequent to wire center Notice of**
7 **Nonimpairment sufficient notice prior to billing the provisioned element at the**
8 **equivalent special access rate/Transitional Rate?**
9 **Q. Please state Communications Authority's position regarding Issue 54b.**
10 A. The actual effect of AT&T's language, if approved, would be to prevent CA from using
11 the most valuable UNEs it is entitled to such as dark fiber. Without adequate transition time,
12 CA would likely be immediately bankrupt if AT&T ever invoked this sunset provision as
13 proposed.
14
15 CA believes this is inconsistent with the FCC's intent. Clearly the FCC intended that when a
16 wire center becomes "non-impaired," CLECs should transition services from UNEs to
17 alternate commercial arrangements rather than being forced out of the marketplace and into
18 bankruptcy, leaving subscribers without service. AT&T's proposed language makes a
19 transition impossible and harms consumers who would lose service as a direct result.
20
21 **Issue 55: To designate a wire center as unimpaired, should AT&T Florida be required**
22 **to provide written notice to Communications Authority?**
23 **Q. Please state Communications Authority's position regarding Issue 55.**

1 A. AT&T should provide actual notice to CA for such major changes affecting CA. Simply
2 posting them to a website with no further notice is unreasonable and could harm CA and
3 CA's customers without adequate warning for CA to prevent any disruption of services. CA
4 is simply requesting that such information be conveyed through the existing Notices
5 procedure in the ICA. All other ILECs in Florida send non-impairment notices via certified
6 mail; the least AT&T can do is use the same notices process that CA is required to use.
7

8 **Issue 56: Should the ICA include Communications Authority's proposed language**
9 **broadly prohibiting AT&T Florida from taking certain measures with respect to**
10 **elements of AT&T Florida's network?**

11 **Q. Please state Communications Authority's position regarding Issue 56.**

12 A. CA believes that in-service UNE facilities are a part of its network and are not subject to
13 tampering by AT&T for the purpose of serving AT&T customers. In some cases, CLECs
14 have paid AT&T for loop conditioning on UNE loops and have performed their own pre-
15 service testing on those loops prior to placing customer's service on them. If AT&T takes a
16 CLEC's conditioned, tested loop for its own customer and substitutes an unconditioned,
17 untested one, a CLEC's customers are made to suffer for the benefit of AT&T and its
18 customers. This is unfair and does not represent parity; AT&T will not disadvantage its own
19 customer in order to supply a UNE loop to a CLEC.
20

21 **Issue 57: May Communications Authority use a UNE to provide service to itself or for**
22 **other administrative purposes?**

23 **Q. Please state Communications Authority's position regarding Issue 57.**

1 A. I believe it is well settled that a CLEC is permitted to order and use UNEs as a part of its
2 network for any permissible purpose, subject to certifications and impairment restrictions
3 contained elsewhere in the ICA and consistent with FCC rules. CA does not believe that
4 AT&T is entitled to specify exactly what CA may do or not do with UNEs to which CA is
5 entitled. Unlike resale service, UNEs often do not serve a specific end user subscriber but
6 instead are part of a CLEC's overall network infrastructure which is used to serve its
7 subscribers. As a practical matter, such non-customer-specific UNEs could be interpreted to
8 be used to provide service to CA itself. CA must be entitled to use UNEs as envisioned by
9 the Act and FCC rules, without artificial barriers and restrictions added by AT&T.
10
11 **Issue 58: Is Multiplexing available as a stand-alone UNE independent of loops and**
12 **transport?**
13 **Q. Please state Communications Authority's position regarding Issue 58.**
14 A. CA is not arguing that multiplexing must be offered as a standalone UNE. CA is arguing
15 that multiplexing (or a "mux") should be offered/combined with UNE loops (a loop/mux
16 combo), offered/combined with UNE transport (a mux/transport combo), and offered/
17 combined with UNE loops that are combined with UNE transport (multiplexed enhanced
18 extended loops ("EELs")). AT&T does all of the above for itself and should be required to do
19 this for CLECs as well at cost-based rates.
20
21 CA's specific objection is that UNE multiplexing should not automatically be considered an
22 EEL, subject to the restrictions and additional costs imposed upon EELs. A
23 multiplexing/loop combination, for instance, should be permitted but would not be an EEL if

1 the multiplexer is fed from a CLEC collocation and no UNE transport is part of the
2 arrangement.
3
4 **Issue 59a: If AT&T Florida accepts and installs an order for a DS1 after**
5 **Communications Authority has already obtained ten DS1s in the same building, must**
6 **AT&T Florida provide written notice and allow 30 days before converting to and**
7 **charging for Special Access service?**
8 **Issue 59b: Must AT&T Florida provide notice to Communications Authority before**
9 **converting DS3 Digital UNE loops to special access for DS3 Digital UNE loops that**
10 **exceed the limit of one unbundled DS3 loop to any single building?**
11 **Issue 59c: For unbundled DS1 or DS3 dedicated transport circuits that AT&T Florida**
12 **installs that exceed the applicable cap on a specific route, must AT&T Florida provide**
13 **written notice and allow 30 days prior to conversion to Special Access?**
14 **Q. Please state Communications Authority's position regarding Issues 59a, 59b, and**
15 **59c.**
16 A. CA believes that it is reasonable that AT&T must actually notify CA of its intention prior
17 to converting an in-service circuit, so that CA has time to make its own decision and service
18 change before AT&T's action occurs. For new orders, CA does not believe that AT&T
19 should automatically install a circuit other than what was ordered if what was ordered is
20 unavailable. AT&T should reject the UNE order back to CA stating that the ordered service
21 is not available, instead of installing special access when UNE was ordered. If AT&T installs
22 the circuit, then it should be installed as a UNE as ordered by CA, and then AT&T may begin
23 the conversion process by sending the required notice if desired.
24

1 **Issue 60: Should Communications Authority be prohibited from obtaining resale**
2 **services for its own use or selling them to affiliates?**
3 **Q. Please state Communications Authority's position regarding Issue 60.**
4 A. AT&T should have no input into how CA designs its network or provisions its customers.
5 CA believes that it is entitled to sell resale service to any party it chooses, as long as it does
6 not violate the terms of this Agreement. For example, CA should be entitled to order and use
7 resale service for a burglar/fire alarm line or for a fax line at an affiliate's office building or
8 at the home of one of CA's officers. CA does not object to and has left unchanged AT&T's
9 language prohibiting use of resale service to provide access or interconnection.
10
11 **Issue 61: Which party's language regarding detailed billing should be included in the**
12 **ICA?**
13 **Q. Please state Communications Authority's position regarding Issue 61.**
14 A. CA believes that it is entitled to the billing detail sought because it is already required by
15 FCC 99-72. CA notes that it would be unable to properly bill its end users if AT&T failed to
16 provide the detail required. CA disagrees that 47 CFR 64.2400-2401 applies only to retail
17 consumer bills; AT&T has not shown this to be true and the plain language of the regulation
18 indicates the opposite. Further, the detail required by CA's language is required for CA to
19 comply with the billing disputes provisions of the Draft ICA. It is not logical that AT&T
20 would not be required to provide billing detail which CA cannot file billing disputes without.
21
22 **Issue 62a: Should the ICA state that OS/DA services are included with resale services?**
23 **Issue 62b: Does Communications Authority have the option of not ordering OS/DA**
24 **service for its resale end users?**

1 **Q. Please state Communications Authority's position regarding Issue 62a and 62b.**
2 A. CA believes that it should not be compelled to offer AT&T OS/DA service to either its
3 facilities-based customers or its resale customers. CA notes that AT&T retail customers have
4 the ability to limit pay-per-use calls such as OS/DA, so CA should have the same ability.
5
6 **Issue 63: Should Communications Authority be required to give AT&T Florida the**
7 **names, addresses, and telephone numbers of Communications Authority's end user**
8 **customers who wish to be omitted from directories?**
9 **Q. Please state Communications Authority's position regarding Issue 63.**
10 A. CA believes that AT&T's proposed language is anti-competitive. There is no compelling
11 reason why CA should be obligated to share any customer proprietary network information
12 ("CPNI") with AT&T when there is no reason to do so. For CA to be required to provide its
13 customer list, and then be obligated to pay AT&T to keep it confidential, is ridiculous.
14 AT&T has rejected CA's Draft ICA language, but failed to provide any justification for its
15 position.
16
17 **Issue 64: What time interval should be required for submission of directory listing**
18 **information for installation, disconnection, or change in service?**
19 **Q. Please state Communications Authority's position regarding Issue 64.**
20 A. CA believes that AT&T has no compelling reason, nor any right to control CA's business
21 processes which affect CA customers. Therefore, CA has deleted one sentence from AT&T's
22 proposed language in the Draft ICA related to Directory Listings. CA believes that the End
23 User Customer is the sole party in control of when and if a directory listing should be

1 ordered. Neither CA nor AT&T should have the right to force the end user to place a listing,
2 and AT&T's retail customers are not forced to do so. Therefore, this is also a parity issue.
3
4 **Issue 65: Should the ICA include Communications Authority's proposed language**
5 **identifying specific circumstances under which AT&T Florida or its affiliates may or**
6 **may not use Communications Authority's subscriber information for marketing or**
7 **winback efforts?**
8 **Q. Please state Communications Authority's position regarding Issue 65.**
9 A. CA believes that its position is reasonable and complies with current FCC orders
10 regarding customer proprietary network information ("CPNI") and Section 222 of the Act.
11
12 **Issue 66: For each rate that Communications Authority has asked the Commission to**
13 **arbitrate, what rate should be included in the ICA?**
14 **Q. Please state Communications Authority's position regarding Issue 66.**
15 A. In most cases, CA has suggested alternate rates that are similar to those charged in Florida
16 by Verizon for the same rate element. For other charges, particularly those that are not found
17 in Verizon's ICAs or do not appear to be cost-based, CA has suggested rates that are more
18 commercially reasonable than those suggested by AT&T.
19
20 **Q. Do you have anything more to add?**
21 A. Not at this time.

1 **<u>Introduction</u>**

2 **Q. Please state your name, position, and provide your business address.**

3 A. My name is Mike Ray and I am President of Communications Authority, Inc. My business

4 address is 11523 Palm Brush Trail #401, Lakewood Ranch, Florida 34202.

5

6 **Q. On whose behalf are you submitting rebuttal testimony?**

7 A. My testimony is provided in support of Communications Authority, Inc. ("CA")

8

9 **<u>Background</u>**

10 **Q. Have you read the direct testimony submitted on behalf of AT&T?**

11 A. Yes, I have read the direct testimony of Susan Kemp, Patricia Pellerin, Scott McPhee,

12 Mark Neinast, and Mark Chamberlin, filed on February 16, 2015.

13

14 **<u>Issue 1: Is AT&T Florida obligated to provide UNEs for the provision</u>**

15 **<u>of Information Services?</u>**

16 **Q. Please state Communications Authority's position regarding Issue 1.**

17 A. CA believes that it is well established that a CLEC is entitled to use UNEs to provide any

18 service it desires to its end-users, including Telecommunications Service and Information

19 Service. There is little question that is the case. AT&T's language is simply overly restrictive

20 and seems to preclude CA from providing exactly the same services AT&T and its various

21 affiliates provide to AT&T U-Verse customers.

22

23

1 **Q. Is there another reasonable compromise on this issue?**

2 A. Yes. Perhaps the language should simply allow CA to provide any services allowed by the
3 FCC's rules and regulations rather than parsing regulatory distinctions between
4 "telecommunications services" and "information services." After all, the FCC's recent
5 decision applying Title II regulations to broadband Internet access services, and the certain
6 legal appeals that will be filed, makes this issue even muddier now. It could get even more
7 confusing following appellate rulings, subsequent FCC action, and any potential re-write of
8 the Telecom Act as Congress is currently considering. If, as Ms. Kemp states in her
9 testimony, this is a "pure legal issue"[1], simply stating that CA must follow all FCC rules
10 should be sufficient and would be more flexible during the term of this ICA.

11 **Q. Have you made this suggestion to AT&T yet?**

12 A. No, but I will soon through counsel.

13

14 **Issue 2: Is Communications Authority entitled to become a Tier 1 Authorized**
15 **Installation Supplier (AIS) to perform work outside its collocation space?**

16 **Q. What is the alternative to CA being allowed to qualify as an AIS?**

17 A. Higher cost and even more delays. In some AT&T Florida central offices, there is only
18 one vendor that a CLEC can practically use for small collocation work—Mastec. In fact,
19 AT&T Florida allows Mastec employees to maintain offices inside the central office.
20 Because there is a *de facto* monopoly in place, prices for simple work are very high. This
21 restricts CA's ability to order new work to be done and therefore restricts CA's ability to
22 compete for customers. Ultimately, this harms Florida consumers and businesses because it

[1] Kemp testimony at page 3, line 22.

1 harms CA's ability to offer competitive services at lower prices than the AT&T/incumbent
2 cable company duopoly.

3 **Q. Does CA believe there is an "inherent right"[2] under the Telecom Act to become an**
4 **AIS?**

5 A. I'm not a lawyer, but I do not believe so. I do believe that AT&T should be prevented
6 from essentially gaming the system, however, and forcing excessive costs on CA.

7 **Q. Do you believe AT&T's security concerns are valid?**

8 A. No.

9 **Q. Why not?**

10 A. Security in central offices is very tight and there is constant video surveillance and strict
11 access control, along with insurance requirements for anyone granted access.

12 **Q. Do you agree that those security concerns are sufficient to preclude CA from**
13 **becoming a Tier 1 AIS?**

14 A. No, AT&T's security concerns are its problem and they have plenty of resources to
15 address them. Getting reasonably priced collocation construction costs is CA's problem.
16 AT&T suggests that every CLEC would seek to become an AIS. That process is difficult and
17 time consuming so it is highly unlikely that many CLECs would pursue it. Besides, the
18 central offices are not exactly full of CLECs anymore as there are so few CLECs left that
19 actually collocate in central offices.

20 **Q. Is Ms. Kemp correct in stating that there are 87 vendors on the Tier 1 list authorized**
21 **to perform work in any central office in Florida?**

[2] *See* Kemp testimony at page 6.

1 A. I doubt it, but I do not know for sure. I do know that there is often only one vendor that
2 will even provide a quote for smaller work to be completed and there are high per-job
3 minimums even for simple work. CA could do the work for far less money.
4 **Q. How does collocation construction work in other ILECs' central offices?**
5 A. Verizon has a simple price list for work in a central office, the CLEC orders the work it
6 needs from Verizon, then Verizon contracts the work to its choice of COEI contractor and
7 then bills the CLEC from the price list. The prices are fair and reasonable and this is not an
8 issue with Verizon. I cannot provide an opinion on other ILECs.
9 **Q. Have you suggested this as an alternative to AT&T?**
10 A. Yes, we have discussed it verbally and AT&T said they would "take it back for
11 consideration." We also provided a copy of Verizon's price list. AT&T has not yet responded
12 so we assume that idea is a non-starter.
13 **Q. Is it CA's opinion that collocation costs should be based on TELRIC?**
14 A. Yes, and I believe BellSouth took that very position back in 2004 when the Commission
15 last reviewed collocation costs.
16
17 **Issue 3: When Communications Authority supplies a written list for subsequent**
18 **placement of equipment, should an application fee be assessed?**
19 **Q. Do you accept the proposal made in Ms. Kemp's testimony?**
20 A. No. It is not reasonable to charge the application fee for review of a single page document
21 when nothing else is required. AT&T incurs no costs (other than made-up costs that it claims
22 it self-imposes) when a CLEC changes out one piece of equipment for another. The
23 Agreement already requires that all equipment must be NEBS compliant. While AT&T is
24 entitled to its own review, it is not entitled to reject CLEC equipment that is NEBS-compliant

1 on the basis of safety. If AT&T decides to claim that equipment is not necessary for
2 collocation, then that is an AT&T business decision and the CLEC should not bear costs for
3 that.
4
5 **Issue 4a: If AT&T alleges that Communications Authority is in default, should AT&T**
6 **Florida be allowed to reclaim collocation space prior to conclusion of a dispute**
7 **regarding the default?**
8 **Issue 4b: Should AT&T Florida be allowed to refuse Communications Authority's**
9 **applications for additional collocation space or service or to complete pending orders**
10 **after AT&T Florida has notified Communications Authority it is in default of its**
11 **obligations as Collocator but prior to conclusion of a dispute regarding the default?**
12 **Q. Do you believe AT&T's concerns about perpetual disputes are valid.**
13 A. No. As I stated in my direct testimony, the Commission has recently approved an
14 accelerated dispute resolution process which would be available to either party for resolution
15 of time-sensitive issues. AT&T appears desperate to avoid using that procedure. Specifically
16 applying the accelerated dispute resolution procedure within this agreement being arbitrated
17 to these types of issues would eliminate AT&T's concerns. Besides, CA appreciates that
18 AT&T must protect the safety of the central offices and has offered suggestions to allow for
19 that.
20 **Q. Do you agree with Ms. Kemp's assertion that CA would be able to seek a stay in any**
21 **dispute resolution proceeding[3]?**

[3] Kemp testimony at page 10, line 17 *et seq.*

1 A. Our language would make it clear that we are entitled to continue operations while a
2 dispute is pending. She seems to be saying here that, if granted, we would be entitled to a
3 stay while the case was ongoing. It sounds like she agrees with our language.
4 **Q. Are you assuaged by Ms. Kemp's answer at the top of page 11 suggesting that**
5 **AT&T would never disturb CA's collocation space because of the potential liability**
6 **concerns?**
7 A. No, that's silly. AT&T's makes more in profit per day than CA could hope to generate in
8 gross revenue over its entire lifetime. CA requests its language here, and in many other
9 places in the ICA, in recognition of this gross imbalance and to provide a reasonable degree
10 of protection given CA's limited resources.
11 **Q. Do you have any direct experience causing your concerns?**
12 A. I have direct experience as to how "careful" AT&T's actions can be. AT&T knocked out
13 service for thousands of CLEC customers when it unilaterally, and mistakenly, disconnected
14 service due to an alleged default. As it turned out, AT&T disconnected the wrong company
15 and had intended to disconnect a different CLEC which had a similar billing account number
16 issued by AT&T. The outage for Terra Nova's entire South Florida network had been in
17 progress for several hours before AT&T even admitted to Terra Nova that it had deliberately
18 disconnected Terra Nova's interconnection facilities. Even after Terra Nova told AT&T that
19 it had no billing issues, payment disputes or notice of default from AT&T, AT&T still left
20 Terra Nova's customers out of service for a whole business day. The outage was only
21 resolved after Terra Nova informally sought the help of the Commission later in the day
22 when it could not get a straight answer out of AT&T. In the aftermath of this devastating
23 outage for which AT&T eventually admitted fault, AT&T refused to reimburse Terra Nova's

1 demonstrated costs and agreed only to reimburse Terra Nova less than 10% of its actual costs
2 for the outage.
3 **Q. What do you take away from AT&T's addition of the word "materially"?**
4 A. They simply added the word "materially" to their language, but they have still left entirely
5 up to themselves what a material default is. I am not comfortable with that and would prefer
6 that a neutral party decide that.
7
8 **Issue 5: Should Communications Authority be required to provide AT&T Florida with**
9 **a certificate of insurance prior to starting work in Communications Authority's**
10 **collocation space on AT&T Florida's premises?**
11 **Q. What is your response to Ms. Kemp's testimony on issue 5?**
12 A. Ms. Kemp does not appear to understand how the process actually works for CLECs.
13 CLECs must provide all the necessary insurance proof at the time of submitting its first
14 application for collocation, pole attachment or conduit rental. . As such, AT&T's language
15 does not reflect the operational reality and AT&T is already protected from the potential
16 harms she cites.
17 **Q. Is 5 days sufficient time to find insurance?**
18 A. No. It is increasingly difficult for CLECs to find appropriate (and reasonably priced)
19 insurance coverage. Thirty days is the minimum amount of time that would be required. CA
20 understands that it may not continue work if the insurance lapses and certainly would never
21 risk the potential financial harm by doing so.
22

1 **Issue 6: Should AT&T Florida be allowed to recover its costs when it erects an internal**
2 **security partition to protect its equipment and ensure network reliability and such**
3 **partition is the least costly reasonable security measure?**

4 **Q. What is your reaction to Ms. Kemp's testimony on Issue 6?**

5 A. Incredulity, mostly. AT&T admits it has never erected such a security partition. As such,
6 there is simply no reason for such a provision in the ICA.

7 **Q. In reality, how would AT&T or any other ILEC address the potential issues she**
8 **cites?**

9 A. Building modification and environmental modification charges are already part of the
10 application process, and this is not something that is going to come up later if AT&T
11 properly prepared the collocation space for what the CLEC ordered in the first place.
12 Presumably the chief concern would be heat. However, all collocators must disclose their
13 power requirements and heat dissipation for each piece of collocated equipment to AT&T
14 when the collocation is ordered or augmented. Collocators such as CA have no input into the
15 location of a collocation within the Central Office; AT&T exclusively decides where to place
16 each collocation. Therefore, if AT&T knows the power requirements and heat dissipation of
17 each collocator's equipment, AT&T should be able to reasonably design each collocation so
18 that it will not interfere with other equipment. In practice, this is exactly what AT&T already
19 does, which is why I believe it has never erected such a partition and will not need to do so.
20 Why should CA have to pay anything for such an issue above and beyond what it already
21 pays to be in the central office if CA has not violated this agreement?
22

1 **Issue 7a: Under what circumstances may AT&T Florida charge Communications**
2 **Authority when Communications Authority submits a modification to an application**
3 **for collocation, and what charges should apply?**
4 **Issue 7b: When Communications Authority wishes to add to or modify its collocation**
5 **space or the equipment in that space, or to cable to that space, should Communications**
6 **Authority be required to submit an application and to pay the associated application**
7 **fee?**
8 **Q. What is your reaction to Ms. Kemp's testimony on Issue 7(a)?**
9 A. In her response on this issue, Ms. Kemp tries to make the case that even if AT&T requires
10 CA to submit a revised collocation application, we should have to pay for the
11 resubmission. First, is that really reflective of AT&T's costs? If AT&T asked CA to change
12 something, then they have reviewed it already and know what they want changed. Only a
13 cursory re-review would be needed in that case, because they already know what changes
14 they've asked us to make so they know what to look for on the revised application. Second,
15 Ms. Kemp then alleges that CLECs will never submit correct orders unless there's a financial
16 incentive to do so. That's illogical as CLECs want the collocation work done as fast as
17 possible. In my experience, the only reason why AT&T demands changes to a collocation
18 application has nothing to do with incorrect CLEC information and everything to do with
19 AT&T's various systems not working correctly and/or being inadequately documented and
20 not accepting a valid order unless a special tweak is made. In the cases I have seen, these
21 tweaks are not anything the CLEC could have known to do; they are quirks in the AT&T
22 systems.
23

1 I also take issue with Ms. Kemp's statement about CLEC lackadaisical behavior. As an
2 example, when Terra Nova collocated in the Miami Grande Central Office, AT&T provided
3 incorrect circuit facility assignment ("CFA") information five times over a course of as many
4 months. Terra Nova had to fight for months for billing credits to not have to pay for the
5 collocation which it could not use because of AT&T's sheer incompetence. AT&T did not
6 compensate Terra Nova (and does not propose to compensate CA) for this sort of
7 eventuality. It is not parity for a CLEC to have to pay application fees over and over again,
8 unless AT&T has to also pay a fee whenever it fails to live up to its obligations.
9
10 Finally, we argue that all collocation costs must be TELRIC-based, including the application
11 fee. AT&T seems to be saying they are entitled to charge an enormous application fee over
12 and over again. There is no rational justification for that. If the application fees were
13 reasonable, CA would not object to them.
14
15 **Issue 8: Is 120 calendar days from the date of a request for an entrance facility, plus the**
16 **ability to extend that time by an additional 30 days, adequate time for Communications**
17 **Authority to place a cable in a manhole?**
18 **Q. Do you agree with Ms. Kemp's assertion that "all other carriers with which AT&T**
19 **Florida has ICAs have to complete the same work, and those carriers have consistently**
20 **been able to meet the 120 plus 30 day deadline"?**
21 A. I do not know, but given that AT&T has changed many of its policies in the past ten years,
22 it seems unlikely that all existing ICAs have the same timeframe.
23

1 **Issue 9a: Should the ICA require Communications Authority to utilize an AT&T**
2 **Florida AIS Tier 1 for CLEC-to-CLEC connection within a central office?**
3 **Issue 9b: Should CLEC-to-CLEC connections within a central office be required to**
4 **utilize AT&T Florida common cable support structure?**
5 **Q. What is your response to Ms. Kemp's testimony regarding issue 9a?**
6 A. Ms. Kemp suggests that using an AIS for CLEC-to-CLEC cross-connections is the only
7 method employed in AT&T central offices. Counsel has informed me that this is not true.
8 For one example, AT&T California offers a straightforward price for such circuits.
9
10 **Q. What is your response to Ms. Kemp's testimony regarding issue 9b?**
11 A. If CA is collocated directly next to another CLEC, CA should have the right to just
12 connect a short cable to them and be done. The cable does not traverse any CO space other
13 than ours and the other CLECs. It does not harm AT&T in the least, nor does it cause a
14 "safety and security" issue to have a short cable connecting the two CLECs. Frankly, I find
15 her argument ridiculous and question to what extent she understands how CLECs actually
16 operate. "Safety and security" appears to be AT&T-speak for increasing a CLEC's costs
17 throughout this ICA.
18
19 **Issue 10: If equipment is improperly collocated (e.g., not previously identified on an**
20 **approved application for collocation or not on authorized equipment list), or is a safety**
21 **hazard, should Communications Authority be able to delay removal until the dispute is**
22 **resolved?**
23 **Q. Do you agree with Ms. Kemp's concerns cited in her testimony regarding Issue 10?**

1 A. Just to be clear, NEBS certification is the standard for CO equipment safety, not AT&T's
2 arbitrary opinion. While we do not disagree that AT&T is entitled to do its own review, we
3 do disagree that it can supersede NEBS compliance and apply any different "safety" criteria
4 to prevent CLECs from collocating equipment.

5 **Q. Is CA willing to compromise on its position?**

6 A. CA would be willing to agree that CA may not leave collocated equipment in a
7 collocation if it is not NEBS-certified as required by the ICA and standard industry
8 practice. AT&T has not demonstrated any additional risk to AT&T by waiting on the dispute
9 resolution process to conclude as long as CA's equipment is NEBS-certified. However, if CA
10 must replace a failed piece of gear with a newer model of the same equipment which is also
11 NEBS certified to resolve an outage, CA should not be in default. If the equipment is
12 NEBS-certified, then CA should be allowed to leave it in pending the dispute resolution
13 process.

14 **Q. Is CA willing to adjust its position on time frames to remove equipment?**

15 A. Yes. We propose to split the difference on the time frame. AT&T suggests 10 business
16 days, CA asked for 30 calendar days. CA proposes a compromise of 15 business days.

17

18 **Issue 11: Should the period of time in which the Billed Party must remit payment be**
19 **thirty (30) days from the bill date or twenty (20) days from receipt of the bill?**

20 **Q. Ms. Pellerin claims, "The Bill Due Date must be a readily ascertainable date…and**
21 **minimize disputes."[4]**

22 A. This may be more convenient for AT&T to dictate if/when/how a bill must be paid, but it
23 is not reasonable based on my experience running CLECs. It appears AT&T would prefer

[4] Pellerin testimony page 3 at line 15.

1 that it not be questioned and must remain in total control of everything. The problem with
2 AT&T's language is that it allows for bills with a normal bill date to be sent late. The lack of
3 time to process, dispute and pay a bill, or extreme tardiness of delivery, would allow AT&T
4 to charge Late Payment Charges for virtually every bill it sends. This places CA in a no-win
5 situation where no matter how late they are in sending the bill, CA would owe late charges
6 (and interest it seems). CLECs often get bills from AT&T long after the bill date printed on
7 the bill. In 2015, Terra Nova has received AT&T bills more than once which were
8 postmarked more than 10 days after the date printed on the bill and arrived by mail 20 days
9 after the date printed on the bill. That only gives a CLEC 10 days to process the bill, file
10 disputes, send payment and also allow for mail delays. Even if a CLEC processed, disputed
11 and paid the bill on the same day that it was received in a case like this the payment could
12 still be considered late under AT&T's proposed language solely because of AT&T's delay in
13 mailing.

14 **Q. How do other ILECs address this issue?**

15 A. I do not know about all of them, but Verizon ICAs have long contained the "20 days from
16 receipt" language. That is much more reasonable as it allows CA just enough time to audit
17 the bills and make payment.

18 **Q. Ms. Pellerin states that CA's proposal "complicates the billing process unnecessarily,**
19 **would impose system modification costs on AT&T Florida that CA has not offered to**
20 **pay, and is likely to lead to disputes." Do you agree?**

21 A. No. The simple proposed language by CA merely changes the timeframe for when the
22 clock starts for auditing and paying a bill. There are no system modifications necessary or
23 any "imposed costs." In fact, we found three examples of AT&T ICAs currently in force
24 which already have our language in them. Therefore, CA's proposal is not new to AT&T

1 and whatever modifications are needed to its processes would already have been
2 implemented for those other CLECs. However, it is worthy of note that our 20 day proviso
3 only kicks in if it takes more than 10 days from the bill date for us to receive a bill. If AT&T
4 did not cause the mailing delays, the 30 days from bill date would be the controlling date.
5 **Q. How do you respond regarding the performance measure of bill timeliness and the**
6 **issue of bill parity?**
7 A. That really is irrelevant. I have never seen a credit for their bill tardiness, only late fees
8 and the man hours required to correct their billing mistakes. Is "parity" achieved allowing
9 AT&T to charge late fees and interest to CLECs at the same rate that it does retail
10 customers? Parity shouldn't mean "equally terrible." As far as I know, the Commission has
11 now lost any authority to regulate AT&T's retail services and the delivery of them anyway.
12 Even if the retail bills were tardy, the Commission couldn't force AT&T to fix the problem.
13 AT&T admitted that it wrote the state legislation which stripped that authority away from the
14 Commission. It should not now be able to argue that CLECs are only entitled to parity with
15 retail, when AT&T is responsible for removing oversight from those retail operations. If
16 there is any sort of parity issue involved here, then I'd argue that CLECs should generally be
17 treated equally in the state of Florida. AT&T should simply accept the same ICA billing
18 language that Verizon uses. However, I believe that this is an issue of fairness, and not one of
19 parity. Any reasonable person would conclude that a CLEC should be permitted adequate
20 time to review, process, dispute and pay a bill before Late Payment Fees apply.
21 **Q. Ms. Pellerin argues that you have only experienced this with Terra Nova. Is that**
22 **true?**
23 A. No. That is my most recent experience, but I had over a decade of AT&T billing
24 experience before that with Eagle/AstroTel.

1 **Issue 12: i) Should a Discontinuance Notice allow the Billed Party fifteen (15) days or
2 thirty (30) to remit payment to avoid service disruption or disconnection? ii) Should the
3 terms and conditions applicable to bills not paid on time apply to both disputed and
4 undisputed charges?**
5 Resolved.
6
7 **Issue 13a: i) Should the definition of "Late Payment Charge" limit the applicability of
8 such charges to undisputed charges not paid on time? ii) Should Late Payment Charges
9 apply if Communications Authority does not provide the necessary remittance
10 information?**
11 **Q. In addressing late payment charges, Ms. Pellerin again argues that CA is asking for
12 costly changes to its billing system. Is that accurate?**
13 A. No. What we're asking for results in no changes to their billing systems at all; they are
14 going to bill LPCs in any case. It just means that, on dispute, we have a right to credits for
15 LPCs for bills we didn't get on time. That's reasonable, which the standard we believe
16 should be used is. Ms. Pellerin's statement is also inaccurate because we provided three
17 examples of other in-force ICA between AT&T and other CLECs in Florida which have
18 language similar to ours. Two of the three were even more generous, providing 30 days after
19 receipt of bill instead of the 20 that we asked for. We would be happy to accept the 30 days
20 from receipt language from either of those ICAs if it would address AT&T's concern here.
21 **Q. Will CA ever submit a payment without proper remittance information on it?**
22 A. No, this is standard practice for any company that I manage and is a built-in feature of the
23 OSS software which we use to process carrier bills.

1 **Q. Does AT&T always apply payments consistent with the remittance information**
2 **provided ?**
3 A. No.
4
5 **Issue 13b: Should the definition of "Past Due" be limited to undisputed charges that are**
6 **not paid on time?**
7 **Q. Through its insertion of "undisputed," is CA suggesting that if a dispute is found in**
8 **AT&T's favor that CA would not owe any late fees?**
9 A. No. CA simply seeks to ensure that it is clear to all parties that it is entitled to withhold
10 payment of properly disputed charges without being in default, and that CA shall not be obligated
11 to pay Late Payment Charges for disputed amounts resolved in CA's favor whether or not they
12 are initially charged and then credited later.
13
14 **Issue 13c: Should the definition of "Unpaid Charges" be limited to undisputed charges**
15 **that are not paid on time?**
16 **Q. At page 15, lines 13-15, Ms. Pellerin claims that CA's billing language would "serve**
17 **no defensible purpose and would turn perfectly sensible contract provisions on which**
18 **the parties have agreed into nonsense." Do you agree?**
19 A. Absolutely not. CA's language actually clarifies standard industry practice respecting a
20 CLEC's right to dispute a bill.
21
22 **Issue 13d: Should Late Payment Charges apply only to undisputed charges?**
23 **Q. On page 16, Ms. Pellerin claims that "it does not appear that CA would ever pay**
24 **LPCs on any amounts it disputed – even when the dispute is resolved against CA. CA**

1 **should not be permitted to pay late at will and avoid late payment and interest charges**
2 **by disputing the bill." Do you agree?**
3 A. No, that's a very strained reading of the proposed language. CA's proposal simply adds
4 clarity as to when LPCs should be applied rather than leaving it to AT&T's whims.
5
6 **<u>Issue 14a: Should the GTCs state that the parties shall provide each other local</u>**
7 **<u>interconnection services or components at no charge?</u>**
8 **Q. How do you react to Ms. Pellerin's testimony on this issue?**
9 A. Both sides accept the proposition that each party must pay its costs on its side of the POI.
10 AT&T seems to be claiming that CA's language further clarifying that point is unnecessary.
11 **Q. Do you agree?**
12 A. No, and this is a theme throughout the ICA. I believe the more clear the ICA's language
13 can be, the better it is for both parties as it will eliminate potential points of dispute. This
14 language directly addresses a problem that I have had in practice with AT&T where one side
15 of the company says it would never do something, and then the other side of the company
16 does. AT&T has already attempted to do what this language prevents, but it recently argued
17 before Commission staff that it would never do that. We think it's very important to clarify
18 this point now because of that disparity within AT&T.
19
20 **<u>Issue 14b: i) Should an ASR supplement be required to extend the due date when the</u>**
21 **<u>review and discussion of a trunk servicing order extends beyond 2 business days?</u>**
22 **Q. Ms. Pellerin raises the issue of performance metrics for trunk orders. How do you**
23 **respond?**

1 A. I find it ironic that AT&T is concerned about being measured on the timeliness of order
2 completion. Their language requires CA to submit a supplemental order to extend the due
3 date in cases where AT&T fails to meet the due date. This has the effect of falsifying
4 AT&T's performance metrics.
5 **ii) Should AT&T Florida be obligated to process Communications Authority's ASRs at**
6 **no charge?**
7 **Q. In what situation is CA suggesting that AT&T should process ASRs at no charge?**
8 A. AT&T should be required to process all Local Interconnection ASRs at no charge. It is
9 well established that Local Interconnection is required to be revenue-neutral between the
10 parties, because Local Interconnection Trunks benefit both parties. This ICA, like most
11 others, places the ordering burden upon CA for Local Interconnection Trunks. This makes
12 sense, because CA will be in a better position to know what type and quantity of trunks it
13 needs in each area to meets its business objectives. However, CA bears the costs on "its
14 side" of Local Interconnection by bearing the ordering responsibility, including the cost of
15 any ordering consultants that it may choose to use. AT&T bears the cost on "its side" of
16 Local Interconnection by processing the orders submitted by CA. That is parity. If CA
17 submits an ASR for anything other than Local Interconnection, then CA should be charged
18 the TELRIC-based rate for such an ASR which is found in the pricing attachment.
19 **Q. At page 19, line 19, Ms. Pellerin argues that CA's proposed language is inconsistent**
20 **with agreed language in the pricing schedule? Is that true?**
21 A. CA's language is not inconsistent with agreed language at all. The provision that they cite
22 is a general provision for the ordering of trunks. Not all trunks are local interconnection
23 trunks. The section she cites mandates that CA shall pay for trunk orders, etc. but the reason
24 why the provision at issue is sought is to clarify that local interconnection does not permit

one party to bill the other. The pricing schedule does not distinguish between local interconnection orders and other orders, and as a result AT&T has attempted to charge CLECs previously for Local Interconnection Trunk orders which we seek to avoid. Also, it's important to keep in mind that AT&T refused to negotiate anything on the pricing schedule when CA raised its issues so that's really not "agreed language."

Issue 15: i) What is the appropriate time period for Communications Authority to deliver the additional insured endorsement for Commercial General Liability insurance?

Resolved.

ii) May Communications Authority exclude explosion, collapse and underground damage coverage from its Commercial General Liability policy if it will not engage in such work?

Q. Ms. Pellerin suggests that CA would be able to engage in work prior to providing insurance.[5] Is that accurate?

A. No, like all of AT&T's employees that are testifying, she does not seem to understand how the process actually works from the CLEC perspective. In this case, she is wrong about AT&T's procedures. It is impossible to proceed with accessing AT&T structures or to perform any other attachments to AT&T property without AT&T's acceptance of the CLEC's application for such work. The application process requires full insurance information to be provided upon submittal.

[5] Pellerin testimony, page 21 at line 1.

1 **Issue 16: Which party's insurance requirements are appropriate for the ICA when**
2 **Communications Authority is collocating?**
3 **Q. Ms. Pellerin claims that AT&T's proposed insurance limits are consistent with**
4 **industry practice. Is that true?**
5 A. Again, this reflects AT&T hubris. She claims the limits are consistent to what AT&T has
6 "negotiated" with CLECs over the last several years. That may be AT&T practice, but AT&T
7 is not the entire industry. CA's proposed insurance levels are actually in line with the
8 "industry practice" and consistent with what AT&T used to require. Moreover, it should be
9 noted that none of the ICAs cited by AT&T was arbitrated. The Commission must be careful
10 not to conflate CLEC acquiescence, and/or fear of trying to negotiate with AT&T, with any
11 form of "standard industry practice." CA is unaware of any CLEC in Florida which is
12 collocating under a boilerplate AT&T ICA such as those approved over the past several
13 years. Although those agreements may contain collocation provisions, it does not necessarily
14 follow that the CLECs cared about such provisions because they may not plan to collocate.
15 **Q. How do you respond to Ms. Pellerin's fire damage concerns?**
16 A. She appears to be overlooking the fact that a) we're in a segregated part of the CO from
17 AT&T own equipment and b) that all equipment must comply with the NEBS standard which
18 does not permit equipment to cause a fire external to its own chassis or which spreads to any
19 other equipment. That's the whole point of NEBS certification, which is already required for
20 all collocated equipment.
21
22 **Issue 17: i) What notification interval should Communications Authority provide to**
23 **AT&T Florida for a proposed assignment or transfer?**
24 Resolved.

1 **Issue 18: Should the ICA expire on a date certain that is two years plus 90 days from**
2 **the date the ICA is sent to Communications Authority for execution, or should the term**
3 **of the ICA be five years from the effective date?**
4 **Q. How do you respond to Ms. Pellerin's testimony on this issue?**
5 A. First to be clear, AT&T refused to engage in substantive negotiations with CA about the
6 term length. I raised the five year term verbally with AT&T's negotiator, Lora Mach, with
7 no response. I did make clear that CA wanted 5 years and that is what we were going to ask
8 for in the arbitration. There were verbal discussions at that time about a 3 year compromise,
9 but AT&T would not agree to the compromise after it asked CA to propose it in the language
10 being negotiated. In their response, I do not see any rationale as to why their proposal is
11 better. AT&T seems to be just trying to narrow the window for other CLECs to adopt the
12 arbitrated version of this ICA. That does not seem to be a reasonable excuse to potentially
13 force CA to have to expend another huge investment of time, money and resources for
14 another arbitration two years later.
15 **Q. Ms. Pellerin suggests the need for flexibility going forward. Do you agree?**
16 A. AT&T has only given a very vague "rapidly changing industry" defense of their position.
17 The change in law provision in the ICA is sufficient to address future modifications.
18 Moreover, the parties are free to amend the ICA at any time. Seems to me that AT&T does
19 not want to be locked into a more reasonable ICA for 5 years. I do not believe that the
20 industry is changing any more rapidly now than it has over the past two decades. Since the
21 passage of the Act, it is clear that the industry has undergone constant changes in law,
22 regulation, technology and business practices. AT&T has suggested but has offered no
23 evidence that the pace of change is different now.
24 **Q. Does CA have a problem with "hard coding" a date certain for expiration?**

1 A. No, in fact, that would be preferred as Ms. Pellerin's testimony is correct on this point. It
2 seems AT&T is changing policy here and that is good for the industry. We still disagree on
3 the term length however.

4 **Q. Is CA at all comforted by Ms. Pellerin's suggestion that the ICA would likely go into**
5 **evergreen status so no new arbitration would be necessary?**

6 A. No. AT&T has every incentive to limit the availability of an arbitrated ICA as the terms
7 are much more favorable to any CLEC than their standard boilerplate ICA. I fully expect
8 AT&T to send a notice of ICA expiration as soon as they are allowed. Even if it did not,
9 however, since AT&T has taken the position that evergreen ICAs may not be adopted by
10 another CLEC and/or could limit what AT&T considers a "reasonable time," this would once
11 again mean that there are no arbitrated ICAs in Florida for CLECs to adopt. That would
12 leave only AT&T's boilerplate ICA as an option for new CLECs, and this clearly harms
13 competition in general which the Commission is mandated to protect.
14

15 **Issue 19: Should termination due to failure to correct a material breach be prohibited if**
16 **the Dispute Resolution process has been invoked but not concluded?**

17 **Q. Do you agree with Ms. Pellerin's testimony on Issue 19?**

18 A. No. The rule says that if the ICA requires a different dispute resolution process other than
19 before the PSC, then that takes precedence. CA's proposed language allows either party the
20 right to take disputes to the PSC at any time. Thus, our language precludes what they've said
21 here. We have offered repeatedly to include language that would mandate a bond in the event
22 that we lose a proceeding before the PSC and decide to appeal. This is standard for appellate
23 proceedings and in most state commissions. This gives AT&T finality or security after the
24 first adverse decision, which is not open-ended as they stated.

1 **Q. What is your opinion of AT&T's stance towards the Commission's newly created**
2 **expedited resolution procedure?**
3 A. Frankly, AT&T seems desperate to avoid the Commission's expedited resolution
4 procedure by striking the possibility from the ICA. CA would prefer this avenue to resolving
5 disputes rather than being forced into a long, resource-intensive formal complaint
6 proceeding.
7 **Q. How do you respond to Ms. Pellerin's testimony beginning on page 31 regarding**
8 **termination of an ICA due to breach?**
9 A. She makes it plain that AT&T wants to be the sole arbiter of what constitutes a legitimate
10 dispute and what does not. If that was the case, then none of CA's disputes would pass the
11 test. The very fact that a dispute must be escalated shows that AT&T does not consider it to
12 be legitimate.
13 **Q. What about AT&T's alleged reluctance to terminate?**
14 A. The fact is, AT&T would suffer no damage whatsoever if it wrongfully terminated a
15 CLEC's services and then dared the now-defunct CLEC to sue it for damages. Even if it
16 won, the CLEC would be out of business; its network, business relationships and credibility
17 destroyed. AT&T might at some point be forced to pay a settlement to the CLEC but there
18 should be no question that the CLEC suffers catastrophic harm while AT&T carries on with
19 annual profits approaching $1 billion. This is not adequate incentive for AT&T to "play by
20 the rules."
21 **Q. Do you have any recent experience involving AT&T's termination for breach?**
22 A. Yes. AT&T caused a catastrophic outage for Terra Nova in the entire South
23 FloridaMSA. AT&T did not suffer any huge civil liability as Ms. Pellerin implies. Instead,
24 TNT was forced to accept a payment equal to 10% of Terra Nova's demonstrated damages.

1 **Issue 21: Should Communications Authority be responsible for Late Payment Charges**
2 **when Communications Authority's payment is delayed as a result of its failure to use**
3 **electronic funds credit transfers through the ACH network?**
4 Resolved.
5
6 **Issue 22a: Should the disputing party be required to use the billing party's preferred**
7 **form or method to communicate billing disputes?**
8 **Issue 22b: Should Communications Authority use AT&T Florida's form to notify**
9 **AT&T Florida that it is disputing a bill?**
10 **Q. How do you react to react to Ms. Pellerin's comparison of AT&T and the IRS?**
11 A. I find it instructive as to AT&T's mentality—they are the law so they set the rules. The
12 IRS requires forms so that people can comply with a federal law. AT&T is suggesting CA
13 use their inadequate dispute forms because it's more convenient for them. I do not see the
14 situations as similar. There is no rule or regulation requiring CLECs to use forms that seem
15 purposely designed to allow AT&T to reject disputes and waste a CLEC's resources first in
16 trying to complete the form and then later in esacalations and appeals. If the form was
17 sufficient, that would be a different situation. But again, if their bills were accurate, then
18 AT&T wouldn't have such a volume of disputes to address every month.
19 **Q. On page 40 at line 5, Ms. Pellerin states that since it is CA that wishes to take the**
20 **action i.e. to dispute the bill, it is CA that should bear the cost.**
21 A. Do you agree? First, AT&T should send accurate bills. That is out of CA's control.
22 Second, the disputes must be realistic. The ICA requires that all disputes be bona fide and
23 the filing of bad faith disputes is a breach of the ICA. Therefore, AT&T is entitled to remedy
24 if CA files bad faith disputes. Assuming that CA does not file bad faith disputes, then

1 AT&T's inaccurate billing is the cause of billing disputes and therefore it further exacerbates
2 the unfair treatment of CA to make it bear the cost of using AT&T's cumbersome disputes
3 form.

4 **Q. Throughout her testimony, Ms. Pellerin implies that the commercial relationship**
5 **between CLECs is reasonably normal. Do you agree?**

6 A. No. AT&T goes to great lengths to try to establish that the relationship between AT&T
7 and a CLEC is a normal business relationship, when it is clear that this is far from the
8 truth. In a normal B2B relationship, a vendor wants customers to do business with it and so
9 the vendor designs its business processes around what is best for the customer. Not so with
10 the ILEC/CLEC relationship. AT&T barely hides its contempt for CLECs and its desire for
11 its CLEC burdens under the Telecom Act to be lifted. AT&T has a perverse incentive to
12 escalate a CLEC's costs, which is what it is attempting in this arbitration.
13

14 Under AT&T's proposal, the CLEC bears all the costs of billing disputes and AT&T bears
15 none. Thus, the more incorrect billing AT&T sends to a CLEC, the more the CLEC is
16 harmed while AT&T suffers nothing. Alas, AT&T has every incentive to bill a CLEC
17 incorrectly and no incentive at all to correct billing errors. Especially in light of their
18 comparative size, this is hardly fair.
19

20 Finally, AT&T belabors the point over and over again about what all of its other customers
21 accept. Well of course they do; they didn't have the will or the resources to arbitrate an ICA
22 so they took whatever AT&T offered. But that's asking the wrong question. How many of
23 those customers would prefer not to use AT&T's cumbersome disputes form and would opt-
24 in to CA's ICA to obtain that benefit? That's the question that should be asked, and it is not

1 at all relevant what other CLECs have accepted in the context if this arbitration. This
2 proceeding is not about the other CLECs who did not arbitrate; it's about the one CLEC who
3 dared to stand up and say this whole situation is not ok.
4
5 **Issue 23: Should a party that disputes a bill be required to pay the disputed amount**
6 **into an interest-bearing escrow account pending resolution of the dispute?**
7 **Q. Ms. Pellerin cites AT&T's risk exposure as a rationale for requiring disputed**
8 **amounts be placed in escrow. Does that seem reasonable?**
9 A. Absolutely not. AT&T claims that they are unfairly exposed if a CLEC files billing
10 disputes month after month and the CLEC deposit would not cover AT&T's exposure. First,
11 we believe that it is unreasonable for AT&T to take a position that it never has any risk,
12 ever. Nothing in law says that AT&T shall bear no risk. Second, if a CLEC disputes bills
13 month after month in bad faith, AT&T has the option to invoke dispute resolution to get
14 finality on the disputed issue. Under CA's proposed language, AT&T expressly also has
15 access to the Commission's new expedited process. The scenario explained here supposes
16 that AT&T chooses not to invoke the Dispute Resolution mechanism available to it, and just
17 lets things go. That is an action that AT&T took, by its own choice, that leads to AT&T's
18 increased risk. AT&T proposes that CA should be required to address anything AT&T does
19 via the Dispute Resolution process, but proposes for itself remedies like this one where it
20 avoids that same process in favor of a more favorable one where it retains total control and
21 can harm CA without oversight or risk to itself.
22 **Q. Do you agree that AT&T's exceptions to the escrow requirement are sufficient to**
23 **assuage CA's concerns?**

1 A. No. Ms. Pellerin ignores entirely that the more common occurrence is frivolous billing by
2 AT&T to the CLEC. The latter is not only not discouraged by AT&T's language but is
3 encouraged as the CLEC is subjected to greater and greater harm the more AT&T engages in
4 this conduct. If this escrow language were fair, it would require AT&T to reimburse the
5 CLEC both for the cost of capital and administrative costs for escrow monies which end up
6 refunded to the CLEC. However, AT&T proposes none of that in its exceptions or anywhere
7 else.
8 **Q. At the top of page 46, she argues, "the parties' ICA will include comprehensive**
9 **dispute resolution provisions (GT&C section 13), and the Commission's expedited**
10 **dispute resolution process is only available for resolution of disputes not governed by**
11 **the dispute resolution provisions of the ICA." How do you respond?**
12 A. Again, just because they say it over and over again does not make it true. The expedited
13 dispute resolution is available to either party so long as the ICA does not prevent it. That is
14 why we have proposed language (which AT&T has opposed) which provides that either
15 party may directly take any dispute to the Commission.
16 **Q. Ms. Pellerin states at line 21 on page 46, "AT&T Florida should not be exposed to**
17 **the risk of seven months unpaid bills. How do you respond?"**
18 A. I disagree with her assessment. First, what law or regulations says that AT&T is entitled
19 to take no risks, and that the CLEC must assume all risks and burdens including those of
20 incorrect AT&T billing? Second, I do not believe that AT&T would take such risks if it
21 promptly processed disputes in good faith and initiated the Dispute Resolution process when
22 it is entitled to do so.
23
24

1 **Q. Is CA's position changed at all by her discussion of the Biddix fraud?**

2 A. No. The Biddix episode demonstrates what happens when AT&T fails to timely exercise
3 its rights under an ICA. Moreover, it highlights AT&T's lack of reasonable institutional
4 financial loss prevention controls. Why should CLECs have to escrow disputed amounts
5 because of AT&T's openly displayed incompetence? AT&T had dispute resolution avenues
6 available to it during that time which it failed to invoke. That hardly shows that the standard
7 ICA deposit language is inadequate if AT&T's loss is a direct result of Biddix's actions
8 coupled with AT&T's failure to invoke the dispute resolution provisions of the ICA.

9 **Q. Ms. Pellerin raises concerns about CA due to your involvement with AstroTel. How**
10 **do you respond?**

11 A. AstroTel's bankruptcy was solely the result of an unfavorable outcome of a
12 commercially arbitrated dispute with Verizon. Both Verizon and AT&T were paid in full as
13 part of the bankruptcy process. As it happens, AT&T filed a claim in the bankruptcy case
14 trying to collect disputed charges for which it had never responded to AstroTel, but then
15 AT&T failed to appear for the hearing on its own claim. As a result, AstroTel was awarded a
16 default judgment on the claim. Therefore, AT&T took no loss and in fact had to refund
17 AstroTel's deposit in the end. AstroTel, Inc. was permitted not to pay the Regulatory
18 Assessment Fees for 2012 and 2013 because it was not doing business in those years; its
19 operations had previously been sold to Birch Communications and its corporate structure was
20 being wound-down during that time. Her implications are way off base and inappropriate.

21

22 **<u>Issue 24: i) Should the ICA provide that the billing party may only send a</u>**
23 **<u>discontinuance notice for unpaid undisputed charges? ii) Should the non-paying party</u>**
24 **<u>have 15 or 30 calendar days from the date of a discontinuance notice to remit payment?</u>**

1 **Q. Ms. Pellerin claims that the Commission has approved many ICAs with this**
2 **language since 2005. How do you respond?**
3 A. She does not indicate if any of those were arbitrated, so I assume they are all boilerplate
4 ICAs. I researched all ICAs since 2000 prior to deciding to arbitrate this one, and found that
5 there were no arbitrated agreements in at least 6 or 7 years with AT&T Florida. She also
6 notes in a footnote that "vintage ICAs" contain the 30 day provision and dos not explain why
7 AT&T changed its policy.
8 **Q. Do you still maintain that 30 days is necessary?**
9 A. Yes. What makes 30 days unreasonably long to resolve a non-payment problem? The
10 reason why we need 30 days is that the most likely scenario is that there is a payment posting
11 error on AT&T's side or a payment was not received. It is not reasonable to expect the
12 CLEC to track down what happened to the payment, then get it corrected in 14 days. In the
13 case of a bona fide dispute that needs to go to the Commission, it would be nearly impossible
14 to get that prepared and filed in 14 days. The focus here needs to be on the harm done to the
15 CLEC if AT&T is wrong and terminates services, versus the harm done to AT&T if the
16 CLEC has an extra 14 days. Buried in the footnote is their admission that "vintage ICAs"
17 said 30 days. I think that means that the newer, non-arbitrated ones are the ones that are
18 different. That means that in previous arbitrations, the Commission thought that 30 days was
19 reasonable. What regulatory decision or change of law entitled AT&T to cut this window in
20 half? Nothing, I imagine. I assume AT&T just slipped it into uncontested agreements without
21 any change in law or regulation.
22

1 **Issue 25: Should the ICA obligate the billing party to provide itemized detail of each**
2 **adjustment when crediting the billed party when a dispute is resolved in the billed**
3 **party's favor?**

4 **Q. On page 53, Ms. Pellerin argues, "AT&T Florida should not be contractually**
5 **obligated to do the impossible." How do you respond?**

6 A. AT&T claims that when a CLEC files a billing dispute (the format and detail of which are
7 subject to many AT&T requirements), then AT&T investigates the specific dispute filed by
8 the CLEC and finds that the CLEC is correct, it is then impossible for AT&T to identify
9 which dispute is being credited when billing credits are issued by AT&T to correct billing
10 errors that AT&T made in the first place? Exactly how and why is that impossible? Why is
11 it appropriate for the CLEC to never be able to reconcile its dispute records simply by letting
12 AT&T off the hook for proper accounting after it admits that it billed incorrectly?
13
14 Further, if CA is required to file formal billing disputes with the Commission, those will
15 certainly be based upon quantifiable billing disputes that CA has already filed with AT&T
16 which AT&T has failed to resolve. Why would the fact that the Commission had to decide
17 the issues cause confusion about which disputes are being credited and in what
18 amounts? CA would still be entitled to a fair accounting of billing credits related to its
19 disputes. AT&T appears to acknowledge that its position is that CA is not entitled to a fair
20 accounting even after AT&T admits that it billed in error. Could CA refuse to submit
21 detailed disputes to AT&T solely because it doesn't understand AT&T's billing or thinks the
22 bill is too high and should therefore be excused from "doing the impossible" of
23 understanding the bills?
24

1 At the end of the day, stating that a thing is impossible does not make it so. And in any event,
2 AT&T has made no showing why providing information as to how a credit was resolved is
3 impossible. AT&T simply does not want to be required to provide fair accounting (after it
4 has admitted a mistake) to fully show that the mistake has been corrected. AT&T should be
5 required to do that, at a minimum.
6
7 **Issue 26: What is the appropriate time frame for a party to dispute a bill?**
8 Resolved
9
10 **Issue 29: i) Should the ICA permit a party to bring a complaint directly to the**
11 **Commission, bypassing the dispute resolution provisions of the ICA? ii) Should the ICA**
12 **permit a party to seek relief from the Commission for an alleged violation of law or**
13 **regulation governing a subject that is covered by the ICA?**
14 **Q. Do you agree with Ms. Pellerin's position that CA seems to be seeking PSC**
15 **intervention without any discussion between the parties first?**
16 A. No, that's absurd. No CLEC has the time for that and we would much prefer to work
17 things out amicably. CA seeks the right to PSC assistance as a counter-balance to AT&T's
18 position of overwhelming market power.
19 **Q. In her testimony, Ms. Pellerin appears to suggest that no laws or regulations apply to**
20 **the parties outside of the ICA. Do you agree?**
21 A. No, as a broad, sweeping generalization, that is not accurate. I don't think it's true that
22 when two parties have an ICA that no regulations or laws outside of the ICA apply any
23 more. Ms. Pellerin seems to miss a key point—CLECs suffer much greater risk in most ICA
24 disputes than does AT&T. If AT&T is refusing to connect or repair service, the CLEC

1 suffers great harm. If AT&T has taken some action against the CLEC or its customers that is
2 in dispute the CLEC suffers far greater harm than does AT&T. Therefore, time is far more
3 of the essence to the CLEC than to AT&T.
4
5 Ms. Pellerin makes a false assumption throughout her testimony that the CLEC is not being
6 harmed during the dispute resolution process, but that is hardly ever the case in my
7 experience. If AT&T has disconnected something important to the CLEC, the CLEC may
8 not exist after the 60 day window that AT&T proposes. AT&T should not be permitted to
9 "run out the clock" on the ICA's dispute resolution process perhaps without actually trying to
10 resolve anything, because that action could be fatal to the CLEC and AT&T has an incentive
11 to do that. I cannot envision a dispute wherein a CLEC suffers less harm than AT&T if a
12 party runs out the clock on the dispute resolution process before going to the
13 Commission. Therefore, AT&T's proposal is disproportionately harmful to the CLEC.
14 **Q. Do you agree that CA's language is barred due to agreed language in the section?**
15 A. No, our language is in the same section 13 and states "Nothing in this agreement shall be
16 construed…" therefore we have been consistent with our proposal that we never intended for
17 the agreed language to supercede our proposed language. Indeed, it makes no sense for a
18 CLEC to waive its right to regulatory relief which it may urgently need in order to protect
19 itself from anti-competitive behavior by AT&T. Even if a complaint was for a violation of
20 the ICA as Ms. Pellerin claims, either party should be able to proceed directly to the
21 Commission with that complaint when the circumstances warrant, to prevent further harm
22 caused by the other party. The only way that would be contrary to the ICA would be if CA's
23 provision were not added, which is why we want it. Their argument seems to be "You can't
24 add this because you can't go to the commission for breach of ICA claims", while the reason

1 why you can't is because they presuppose that this provision is not included. That's circular
2 logic.
3
4 **Issue 31: Does AT&T Florida have the right to reuse network elements or resold**
5 **services facilities utilized to provide service solely to Communications Authority's**
6 **customer subsequent to disconnection by Communications Authority's customer**
7 **without a disconnection order by Communications Authority?**
8 Resolved
9
10 **Issue 33a: Should the purchasing party be excused from paying a Tax to the providing**
11 **party that the purchasing party would otherwise be obligated to pay if the purchasing**
12 **party pays the Tax directly to the Governmental Authority?**
13 **Q. Mr. McPhee states, "the issue is whether CA can improperly pay a tax to a**
14 **government authority that AT&T Florida is supposed to pay – and does in fact pay – on**
15 **resale services and then obtain reimbursement from AT&T Florida for those taxes." Do**
16 **you agree?**
17 A. No. I believe AT&T has previously argued that the 911 "surcharge" is a tax, while now
18 they are arguing the opposite. CA is certainly not suggesting that AT&T "reimburse" us for
19 the tax that we pay.
20 **Q. In response to a question on why it is proper for AT&T rather than CA to pay taxes**
21 **on CA's customers' services, Mr. McPhee argues that the ICA language requires it. Is**
22 **that accurate?**
23 A. No. They are essentially arguing that we must double-pay this tax because that is how the
24 ICA would read if AT&T's proposed language was accepted.

1 **Q. His testimony goes on to suggest that it is impossible for a CLEC to double pay a tax.**
2 **Do you agree?**
3 A. The CLEC cannot determine what taxes AT&T has paid to whom so that it can claim
4 exemption, because AT&T does not give the CLEC the county designation for each resale
5 line or an aggregate count of the number of lines (and thus 911 surcharges) per
6 county. Exemptions from the CLEC's 911 obligations must be taken per county, thus the
7 CLEC is forced to double-pay under AT&T's language. AT&T's language assumes that a
8 resale CLEC is not also facilities-based, which is contrary to reality and to the intent of the
9 Act. We need to point out the gall in this incorrect statement.
10
11 **Issue 33b: If Communications Authority has both resale customers and facilities-based**
12 **customers, should Communications Authority be required to use AT&T Florida as a**
13 **clearinghouse for 911 surcharges with respect to resale lines?**
14 **Q. Do you think it is as strange as Mr. McPhee implies that CA wishes to aggregate tax**
15 **burdens between facilities-based and resale customers?**
16 A. No. All taxes other than 911 work that way already. Why should 911 be different, and
17 why is it bizarre to want to bill, collect, and remit 911 charges the same way? I have direct
18 experience with two other ILECs in Florida on this issue, Verizon and CenturyLink. Both of
19 those ILECs exempt CLECs from 911 taxes in the manner that we are requesting here.
20 **Q. Is Mr. McPhee's distinction between resale and facilities-based charges accurate?**
21 A. AT&T seems to argue that resale is exactly the same as retail, but gloss over the fact that
22 CA is already entitled to exemption from all other taxes with resale. From what I understand,
23 all other ILECs in Florida provide the 911 exemption that CA seeks beyond the two that I

1 mentioned. AT&T even has a form for such an exemption which I have seen. This makes me
2 wonder if AT&T's proposed language treats CA differently than other CLECs in Florida.
3
4 **Issue 34: Should Communications Authority be required to interconnect with AT&T**
5 **Florida's E911 Selective Router?**
6 **Q. What is your reaction to Mr. McPhee's testimony regarding this issue?**
7 A. Essentially, AT&T seems to be arguing that CA can send 911 traffic wherever it likes, but
8 must still maintain expensive 911 trunks to AT&T anyway. Similar to if I went to a
9 restaurant and ordered a glass of water, that's fine, but I still have to pay for a bottle of wine
10 whether I wanted it or not. That's absurd.
11 **Q. Mr. McPhee claims that the only way CA could use a third-party 911 carrier would**
12 **be if there was a middleman between us and AT&T's tandem. Is that true?**
13 A. No. Mr. McPhee does not seem to understand how AT&T itself routes 911 calls. AT&T
14 chooses to ignore the fact that the most popular competitor – Intrado – is also who AT&T
15 Florida has contracted out its own 911 database and call routing service to. When a CLEC
16 sends a 911 call to AT&T, a lookup is performed against the Intrado ALI database before the
17 call is sent to a dispatcher even if the call is carrier by AT&T circuits. Thus, the same
18 "middleman" is being used whether or not the CLEC uses AT&T or send 911 calls directly to
19 Intrado for completion.
20 **Q. AT&T suggests that protection of public safety necessitates CLECs using AT&T's**
21 **911 services. Would that provide any guarantee of safety and reliability?**
22 A. No. I have direct experience with this issue recently with Terra Nova Telecom which has
23 had multiple instances where calls were sent to the wrong PSAP by the AT&T Selective
24 Router in the past two years. Terra Nova has detailed records of these events. After

1 numerous calls from Terra Nova, AT&T did eventually correct their error which caused the
2 calls to misroute, but would never connect TNT to an agent who could discuss the problem,
3 never did explain what the cause of the issue was, and failed to return any of TNT's calls on
4 the matter. This is one of many reasons why a CLEC would not want to use AT&T for 911
5 service.
6
7 **Issue 37: Should Communications Authority be solely responsible for the facilities that**
8 **carry Communications Authority's OS/DA, E911, Mass Calling, Third Party and Meet**
9 **Point trunk groups?**
10 **Q. Ms. Pellerin states at page 74 that Pellerin says "CA should be solely responsible for**
11 **the facilities that carry OS/DA, E91, HVCI and Third Party Trunk Groups because**
12 **they are used by CA for the sole benefit of its own customers and not for the mutual**
13 **exchange of traffic with AT&T Florida." How do you respond to this statement?**
14 A. If HVCI trunks are for the sole benefit of CA and solely at CA's expense, then CA should
15 be entitled to opt out of them as it has asserted. This statement seems to be in conflict with
16 their other testimony about HVCI "Choke" trunks. She continues stating that HVCI is not
17 local interconnection but is instead "ancillary services." If that is true, then HVCI should not
18 be required by AT&T as the trunks are not part of local interconnection.
19
20 **Issue 38: May Communications Authority designate its collocation as the POI?**
21 **Q. Is CA arguing that the POI should be in its actual collocation cage?**
22 A. That depends. The industry standard until recently, even involving AT&T, was that any
23 ILEC Central Office is a point on that ILEC's network and thus a collocation within that
24 Central Office is "at the POI". However, AT&T has recently begun to take the absurd

1 position that only a special location within its Central Office is or can ever be a POI because
2 of AT&T's arbitrary distinction of which rooms within its own building are "on its network"
3 or not. We added this language to make clear that if we go to the trouble and expense to
4 build a collocation inside AT&T's Central Office (which is the only location in that Central
5 Office where we can legally go) and we deliver local interconnection circuits there, then we
6 have met our burden to "meet at the POI" and are exempt from any charges AT&T may try
7 to charge for local interconnection circuits delivered by that collocation to some other room
8 in the building which has been arbitrarily designated as "on AT&T's network". And so, if
9 one were to accept AT&T's ridiculous argument that some rooms in its Central Office are on
10 its network and others are not, then yes we are arguing that the POI should be at our
11 collocation. However, we believe that this distinction should not be required; any reasonable
12 person would conclude that the AT&T Central Office itself is "on AT&T's network" and that
13 therefore the POI is the building itself. The ICA already implies that Entrance Facilities
14 connect to the Central Office itself and not to a specific room in the Central Office in
15 AT&T's proposed language for ICC 3.3.2.1 which states "When CLEC does not elect to
16 collocate transport terminating equipment at an AT&T-21STATE Tandem or End Office,
17 CLEC may self-provision facilities, deploy third party interconnection facilities, or lease
18 existing Entrance Facilities from AT&T-21STATE." I see no way to reconcile that language
19 with AT&T's presumption that Entrance Facilities may be charged for circuits within its
20 Central Office. CA's entire point is that when it DOES elect to collocate transport
21 terminating equipment in the Central Office it has no need for Entrance Facility. AT&T's
22 language seems to agree with our position here.

23 **Q. How would you characterize AT&T's position?**

1 A. Their entire argument seems to be that certain rooms within AT&T's own Wire Center are
2 not on AT&T's network. That's silly. AT&T is arguing that the POI is not the building but
3 is an area inaccessible to CLECs thus the ILEC gets to charge the CLEC to reach it. This
4 makes it impossible for the CLEC to "meet at the POI" without incurring made-up charges
5 from AT&T.
6 **Q. Do other ILECs take this position?**
7 A. No. I have personally managed interconnection projects in Florida with three other
8 ILECs: Verizon, Embarq, and Northeast Florida Telephone. None of them have taken this
9 position.
10 **Q. Has AT&T consistently had this position over the past decade?**
11 A. No, this appears to be a change in policy. The interconnections that I project managed
12 from 2005 through 2012 with AT&T/Bellsouth did not encounter this issue.
13 **Q. Why is this position unreasonable?**
14 A. The FCC cannot possibly have intended to impose intra-building costs on CLECs who
15 meet the ILEC in their own central office as the POI. Since CA is entirely paying for its
16 collocation construction, AT&T has absolutely no cost here and no right to charge for
17 imaginary circuits on a monthly basis.
18 **Q. So you disagree then with the statement by Mr. Neinast arguing that "**CA language
19 that shifts the cost of CA's network build-out onto AT&T Florida."
20 A. Yes, that's absolutely false.
21
22 **<u>Issue 39a: Should the ICA state that Communications Authority may use a third party</u>**
23 **<u>tandem provider to exchange traffic with third party carriers?</u>**
24 Resolved

1 **Issue 39b: Should the ICA provide that either party may designate a third party**
2 **tandem as the Local Homing Tandem for its terminating traffic between the parties'**
3 **switches that are both connected to that tandem?**
4 Resolved
5
6 **Issue 40: Should the ICA obligate Communications Authority to establish a dedicated**
7 **trunk group to carry mass calling traffic?**
8 **Q. Do you agree with Mr. Neinast's assertion that all CLECs typically have HVCI**
9 **trunks?**
10 A. No. CLECs are not uniformly required to have HVCI trunks. His response that essentially
11 "this is how we've done it for 6 years" is irrelevant because no CLEC has dared seek an
12 arbitrated ICA in that time period in Florida. That means that the agreements during that
13 time have been at AT&T's pleasure so of course their language has prevailed.
14 **Q. Do you find his examples of mass calling events persuasive?**
15 **A. No.** Their most recent example of a mass calling event was in 2002, and they have only
16 cited three events. First, three events nationwide (none of them in Florida) over the entire
17 history of the telephone network are not indicative of an overall problem. Further, none of
18 the events involved a CLEC, but instead all were internal network issues within AT&T's
19 network.
20 **Q. Does his testimony raise any issues of parity?**
21 A. Yes. He states, "AT&T believes all carriers should provide adequate mass calling choke
22 trunking for their end users." This directly conflicts with their proposed language, because
23 they have not proposed to obligate themselves to purchase HVCI trunks as they propose for
24 CA. They do have language about us being required to notify them of any choke numbers

1 we may acquire, but they do not propose language requiring them to order, whether needed
2 or not, HVCI trunks to us or language requiring AT&T to pay us for them. Therefore, that is
3 not parity.

4 **Q. Mr. Neinast claims that CA has not objected to anything specific about the trunks.[6]**
5 **Do you agree?**

6 A. No. We should not be required to order and pay for useless trunks, especially when other
7 CLECs currently operating in Florida do not have such trunks and no harm has been
8 demonstrated as a result. That is our objection.

9

10 **Issue 41: Should the ICA include Communications Authority's language providing for**
11 **SIP Voice-over-IP trunk groups?**

12 **Q. Do you find it strange that AT&T would refuse ICA language seeking to require**
13 **AT&T to offer a future service should it become available?**

14 A. Yes.

15 **Q. Mr. McPhee claims that AT&T Florida does not exchange any traffic over SIP**
16 **trunks with CLECs. Do you disagree?**

17 A. I believe Mr. McPhee is just playing the usual AT&T corporate shell game. Some version
18 of AT&T offers SIP termination for IP-originated calls. It is called AT&T Voice Over IP
19 Connect Service (AVOICS) and my previous company subscribed to the service.[7] It worked
20 well. I do not believe that the AVOICS service is technically distinct from local
21 interconnection service, and so I do not believe that AT&T is not technically capable of local
22 interconnection in the same manner. It seems to me that AT&T is willing to provide modern

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[6] Neinast testimony, page 13 at line 5.
[7] *See*, http://www.business.att.com/wholesale/resource_item/Family/ip-solutions-wholesale/voip-wholesale/Brochure/w_avoics/

1 interconnection when such service generates revenue for AT&T, but claims technical
2 infeasibility for local interconnection which would both be revenue-neutral and would also
3 help CLECs to reduce unnecessary costs which is contrary to AT&T's business objectives.
4 **Q. Do you believe that some AT&T entity provides "SIP interconnection" as Mr.**
5 **McPhee describes it?**
6 A. Yes. For one example, the Michigan PSC ordered AT&T to file its SIP interconnection
7 agreement with the PSC as an interconnection agreement under §251 and §252. Verizon is
8 facing a similar problem with Massachusetts.[8]
9 **Q. Do you agree that the Florida PSC is precluded from ordering SIP interconnection**
10 **due to a pending FCC decision on the issue?**
11 A. I am not a lawyer, but I do not see why. The PSC has authority under the Act to decide on
12 the terms of interconnection agreements, that's why we are in this arbitration. It would seem
13 to me that the PSC could not order anything that was prohibited by federal law. But on the
14 other hand, the PSC could decide that ILEC interconnection should be technology neutral
15 and order SIP interconnection. In any case, all CA is asking for now is that its language make
16 it possible in the future should AT&T offer it to someone else. If some version of AT&T is
17 offering IP interconnection now (whether under an ICA, contract, or by tariff), then IP
18 interconnection must be technically feasible, and yes, CA believes it should be entitled to it
19 immediately. CA's proposed ICA language memorializes that position.
20 **Q. What is your response to Mr. McPhee's suggestion that CA should simply adopt**
21 **another ICA in the future if an ICA with SIP interconnection became available?**

[8] http://www.fiercetelecom.com/story/att-mandated-michigan-psc-file-interconnection-agreement-sprint/2014-03-25

1 A. This is exactly the problem—CA should not have to do so, particularly after spending so
2 much of its resources arbitrating to make this ICA more reasonable.
3 **Q. Mr. McPhee brings up the issue of pick and choose. Do you agree that CA is**
4 **attempting to make that possible?**
5 A. No, CA understands the law and is not attempting to allow for pick and choose other ICA
6 provisions. Pick and choose is a construct of ICA adoption under the Act. CA does not seek
7 here to adopt another CLEC's agreement or any part thereof. Rather, CA seeks to include a
8 reasonable provision in its arbitrated agreement which is solely at issue because of AT&T's
9 claim that it is not technically capable of SIP interconnection today. CA does not believe this
10 claim is true, and believes that it is entitled to such SIP interconnection but for AT&T's
11 claim that it is not feasible. So it seems reasonable that if this claim is proven false or is no
12 longer true, CA should be entitled to SIP interconnection in parity with what AT&T offers to
13 others.
14 **Q. Mr. McPhee states in a footnote, if CA asked AT&T Florida for the same rates, terms**
15 **and conditions and AT&T Florida refused, CA might try to assert some sort of**
16 **discrimination claim – but any such claim would not arise under the 1996 Act, and so is not**
17 **a proper consideration here. Do you agree?**
18 A. I do not understand his point. If he is suggesting that providing language in an ICA preventing
19 discrimination is inappropriate, then I disagree. The PSC maintains jurisdiction to ensure that
20 discrimination among CLECs does not occur.
21
22 **Issue 42: Should Communications Authority be obligated to pay for an audit when the**
23 **PLF, PLU and/or PIU factors it provides AT&T Florida are overstated by 5% or more**

1 **or by an amount resulting in AT&T Florida under-billing Communications Authority**
2 **by $2,500 or more per month?**
3 Resolved
4
5 **Issue 43: i) Is the billing party entitled to accrue late payment charges and interest on**
6 **unpaid intercarrier compensation charges? ii) When a billing dispute is resolved in**
7 **favor of the billing party, should the billed party be obligated to make payment within**
8 **10 business days or 30 business days?**
9 **Q. Ms. Pellerin claims that CA agrees with the principle that AT&T may charge both**
10 **interest and late payment charges for everything except intercarrier compensation**
11 **charges. Do you agree?**
12 A. No, I do not recall agreeing to that proposition anywhere. To be clear, CA's view is that
13 late payment charges in the agreed amount of 18% APR (1.5% per month) shall apply,
14 period. Adding interest to that is just greedy, and we do not agree. No other ILEC does that.
15 Our intent was to remove interest charges from all sections leaving only the agreed-upon
16 18% late payment charge. Moreover, AT&T's application of interest would violate Florida's
17 usury limit of 18%.
18
19 **Issue 44: Should the ICA contain a definition for HDSL-capable loops?**
20 **Q. Do you agree with Ms. Kemp's assertion that there is no distinction between an**
21 **HDSL loop and HDSL compatible loop?**
22 A. No, she is simply incorrect.
23 **Q. Why would AT&T ignore the distinction?**

1 A. It's simple—under the FCC's Triennial Review Remand Order ("TRRO"), a Tier 1
2 central office becomes non-impaired for a CLEC for DS1 loop facilities. By ignoring the
3 distinction between DS1 and HDSL-compatible (also called HDSL-capable), AT&T can
4 force CLECs to purchase special access DS1 circuits at a much higher cost than HDSL-
5 compatible circuits which should still be priced as UNE. Further, HDSL-compatible circuits
6 can be used by a CLEC to provide a variety of different services and not just DS1. By
7 conflating the definitions of DS1 and HDSL-compatible, AT&T seeks to deny CA the ability
8 to deploy other advanced services using HDSL-compatible loops.
9 **Q. Do you agree with her assertion that CA has conceded this point?**
10 A. Absolutely not. HDSL is the method by which AT&T sometimes delivers a DS1, but the
11 loop is just copper. HDSL-compatible means that it meets the technical requirements for
12 HDSL, not that AT&T has actually lit it and therefore would not be subject to the TRRO's
13 cap.
14
15 **<u>Issue 45: How should the ICA describe what is meant by a vacant ported number?</u>**
16 **Q. Do you agree with Ms. Pellerin's testimony?**
17 A. No, the FCC set clear number portability rules and carriers follow them routinely now.
18 The end user has the right to move the number at its option until that number is disconnected.
19 CA also does not agree that a telephone number may not be conveyed, particularly in the
20 example of an asset purchase sale. Her example at page 84, line 13 is also off-point because
21 they have shown a residential example. That situation is very unlikely to happen; it would be
22 much more likely that a business might be sold and seek to convey its number, which is a
23 routine business transaction that is very common.

1 **Q. Do you agree with Ms. Pellerin's statement at page 88, line 15, "AT&T Florida's**
2 **description of when a ported number is vacant is consistent with industry treatment of**
3 **ported numbers and CA's is not."**
4 A. No, I do not. That is a conclusory statement without any support.
5
6 **<u>Issue 46: i) Should the ICA include limitations on the geographic portability of</u>**
7 **<u>telephone numbers?</u>**
8 **Q. Do you agree with Mr. neinast's characterization of this issue?**
9 A. No. He seems to be framing it in terms of the old dial-up reciprocal compensation battles
10 from 15 years ago. Our disagreement has nothing to do with intercarrier compensation or
11 call routing. We do not seek to change the rate center designations of numbers. We're just
12 saying that if a subscriber wants to keep his number when he moves to a new area, we are
13 permitted to let him do that. That's clearly required by FCC number portability rules.
14 **Q. Do you agree with his example on page 14 at line 21 regarding geographical porting?**
15 A. No. Whether the end user customer in his example is in Miami or Jacksonville, if we port
16 the number from AT&T then AT&T delivers calls to us at the local tandem to which we are
17 connected. AT&T has no visibility or control of where the end user is and the end user
18 location changes nothing for AT&T in how the order is submitted, processed or how service
19 works after the number ports, as it should be.
20
21 **<u>ii) Should the ICA provide that neither party may port toll-free service telephone</u>**
22 **<u>numbers?</u>**
23 Resolved.
24

1 **Issue 47: Should the ICA require the parties to provide access to live agents for**
2 **handling repair issues?**
3 **Q. Mr. Chamberlin's testimony suggests that CA expects a live agent to immediately**
4 **answer the phone to make a human agent immediately available for "any CA telephone**
5 **call to report an outage, open a repair ticket, or inquire about a repair ticket." Is that the**
6 **case?**
7 A. No. CA is simply seeking a method whereby a repair call gets some attention rather than
8 entering an IVR black hole.
9 **Q. How does that occur?**
10 A. When making a call into the repair center, the IVR generally asks for a circuit ID or ticket
11 number. After entering the correct number, the IVR system often cannot locate the circuit or
12 ticket and then disconnects the call without any progress being made.
13 **Q. Does Mr. Chamberlin's testimony indicate a lack of understanding as to how the**
14 **system actually operates for CLECs?**
15 A. Yes. First, it has not been shown that calls are handled more efficiently or quickly via IVR
16 without human intervention. Perhaps AT&T thinks it is cheaper, but it is surely not as
17 efficient. AT&T does not seem to acknowledge the difficulties that it has forced upon CLECs
18 who have to use this bizarre system. In my opening testimony, I offered specific examples of
19 major outages for TNT where AT&T did not make a live agent available to TNT which
20 dramatically lengthened the outage. His comment that CA will reach a live agent after going
21 through call tree prompts is patently false; he is omitting the fact that some of the prompts
22 often cannot be correctly navigated (i.e. circuit ID).
23
24

1 **Q. Is CA requesting a single live agent dedicated to CA?**

2 A. CA has not demanded a dedicated agent. That would certainly be nice, but AT&T has no
3 incentive to make life easy and efficient for CLECs. It is not unreasonable for AT&T to
4 provide live agents to handle repair issues even if it means for all CLECs in Florida. That is
5 how it used to be, and AT&T did not ask (to my knowledge) the PSC's permission to change
6 that.

7 **Q. Mr. Chamberlin claims that the cost of AT&T providing live repair agents to**
8 **CLECs is not reflected in the pricing that it proposes to charge CLECs. Do you agree?**

9 A. I don't see how that can be true, because AT&T's UNE price list has been the same (or
10 has increased substantially in some cases) since all repairs were handled by live agents.

11 **Q. Mr. Chamberlin cites a previous ICA arbitration that purportedly addresses this**
12 **issue. Do you agree it is applicable?**

13 A. No, that case was seeking substantial changes to BellSouth's OSS. How is asking for
14 eventual access to a live, reasonably well-trained employee the same thing? Requiring AT&T
15 to allow a phone ring on an agent's desk or in a call queue is not the same thing. CA's
16 proposal is not overly complicated nor would is involve any huge expense or
17 undertaking. His response is a smokescreen. AT&T would prefer to leave CLECs with the
18 current disadvantage of not being able to have repairs or outages timely addressed. Even
19 though the problem was not caused by CA, eventually customers get frustrated with the
20 process and decide to go elsewhere for service, including to AT&T.

21 **Q. Is CA concerned about AT&T's repair times?**

22 A. Yes, but that is not the issue here. Many years ago, the PSC recognized that problem and
23 created the SEEMS program. SEEMS is a self-reporting mechanism where BellSouth can
24 self-disclose how often it fails to process orders, complete repairs, or complete installations

1 and makes payments for the CLEC's troubles. Just because SEEMS still exists should not
2 mean that Bellsouth is excused from fair treatment of CLECs (and more specifically CA). In
3 my experience in the past several years, practically all such issues caused by AT&T were not
4 self-disclosed through SEEMS or compensated for. This is in contrast to what I witnessed
5 prior to the AT&T acquisition of Bellsouth where SEEMS payments were regular.
6 **Q. Does it appear that Mr. Chamberlin is trying to reframe the issue and make CA**
7 **appear unreasonable?**
8 A. Yes, that is a common theme throughout AT&T's testimony. This issue regards AT&T's
9 deliberate construction of a barrier which delays the reporting and resolution of a problem
10 through normal channels by imposing an unworkable process for the reporting of
11 repairs. Although AT&T does provide an "escalation list," my experience is that everyone
12 on that list, when called, goes directly to voicemail and they never call back. This is why the
13 process is broken. By the time a CLEC tries their normal process which fails, then calls
14 everyone on the escalation list and leaves voicemail, the outage has now been in progress for
15 several hours. While that is not troubling to AT&T, it is to a CLEC. Especially with a major
16 outage.
17
18 **Issue 48a: Should the provisioning dispatch terms and related charges in the OSS**
19 **Attachment apply equally to both parties?**
20 **Issue 48b: Should the repair terms and related charges in the OSS Attachment apply**
21 **equally to both parties?**
22 **Q. How do you respond to Ms. Kemp's testimony on Issue 48a and 48b?**
23 A. Ms. Kemp has created an artificial CA and then developed a story around that. Again, she
24 seems not to fully understand how things actually work on the ground for CLECs. She

1 states, “AT&T never orders services from CA.” Although true, CA never suggested AT&T
2 did. She continues with, “CA never dispatches on behalf of AT&T Florida.” Perhaps not, but
3 CA might dispatch based upon false information provided by AT&T Florida (install
4 complete, or repair complete) just as AT&T’s language permits it to charge CA if it
5 dispatches based upon false information from CA (service not working).
6
7 She then states, “The reciprocal scenario whereby AT&T provides CA with incorrect or
8 incomplete information (e.g. incomplete address, incorrect contact name/number, etc.)
9 simply will never occur; therefore no reciprocal terms for billing should be included.” CA
10 never raised this as a possibility. It is not the issue that actually happens. The more common
11 scenario is that AT&T claims “no trouble found” on a trouble ticket and after rolling a truck,
12 the CLEC determines that, in fact, AT&T was wrong. In many cases that I have seen, the
13 CLEC’s end user states that no AT&T employees has even shown up. Then AT&T has to
14 dispatch “again” and the problem continues. AT&T should reimburse CA for wasting its time
15 and resources.
16 She continues with, “AT&T Florida would never submit a service order nor order any service
17 from CA” CA never said they did, this is about one party rolling a truck based upon false
18 information from the other. She concludes with, “Thus, in this context, CA’s proposed
19 reciprocity is meaningless.” That would be true only if you accept the above false statements
20 and ignore CA’s actual proposed language.
21
22 Finally, Ms. Kemp argues, “The proposed addition to Section 7.11 contains no limits, enables
23 CO alone to determine that the issue was caused by AT&T Florida, and allows CA to bill
24 AT&T Florida for all dispatches that CA attributes to AT&T Florida’s error.” This is false

on its face. The actual clear language that we proposed is the exact same language that AT&T proposed for itself, with our added proviso: "such as AT&T tampering with CLEC End User's ICA Service, AT&T falsely reporting that ICA Service has been properly installed when it has not, or AT&T falsely reporting that ICA Service has been repaired when it has not)." Those are very clear limits, and the language is reciprocal because it is their actual language from the paragraph above.

She goes on to complain, "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." Again, actually, this is parity as it is exactly the same rights that AT&T has reserved to itself for billing isolation charges.

Issue 49: When Communications Authority attaches facilities to AT&T Florida's structure, should Communications Authority be excused from paying inspection costs if AT&T Florida's own facilities bear the same defect as Communications Authority's?

Resolved.

Issue 50: In order for Communications Authority 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 Communications Authority first negotiate an amendment to the ICA to provide a price for that UNE or UNE combination?

Q. Do you agree with Ms. Kemp's characterization of CA's position on this issue?

A. No. She is suggesting that CA seeks to "pick and choose" from ICAs and that is not the case. CA simply seeks some assurance in the ICA that should a UNE or UNE combination

1 become available in the future to another carrier, CA may seek that same element(s). It is an
2 issue of preventing discrimination, one that is controlled by federal law. Presumably, if the
3 new UNE was created by a change in law, CA could seek an amendment using the change in
4 law provision in the ICA. AT&T can always refuse to execute an amendment, however,
5 leaving CA with no recourse but follow the dispute resolution process. CA's language simply
6 attempts to make it clear that AT&T cannot discriminate in the future in the provision of new
7 UNE(s), something that is plainly true.
8
9 **Issue 51: Should AT&T Florida be required to prove to Communications Authority's**
10 **satisfaction and without charge that a requested UNE is not available?**
11 **Q. Do you agree with Ms. Kemp's characterization of CA's position on this issue?**
12 A. Absolutely not, and again, it appears she does not understand how AT&T's systems
13 actually work for CLECs. She states, "CA has access to the same tools to determine the
14 availability of facilities that AT&T Florida uses to make a determination." This is not true.
15 My experience is that in Florida, their automated systems automatically say no facilities are
16 available everywhere. A CLEC must issue a request and it queries AT&T's TIRKS database
17 for dark fiber. TIRKS does not, however, contain an inventory of dark fiber so the request
18 automatically returns "no facilities available." As such, dark fiber queries normally need
19 manual intervention and those records are not accessible to CLECs as Ms. Kemp has
20 claimed.
21
22 For copper UNE facilities, the situation is similar. AT&T's on-line tools for CLECs often
23 show no facilities when in fact the facilities exist. That forces CLECs to request a manual
24 LMU which we have to pay for, and which they use as a reason to delay another two

1 weeks. Then AT&T often replies to the LMU with a simple "no facilities" when we know
2 the facilities do exist. Most often, this is because they have unofficially retired the facilities
3 (to prevent CLECs from obtaining them) even though the facilities are still in place. This is
4 the issue that causes this disagreement. CA seeks its language in the ICA to avoid this
5 problem.
6
7 **Issue 52: Should the UNE Attachment contain the sole and exclusive terms and**
8 **conditions by which Communications Authority may obtain UNEs from AT&T**
9 **Florida?**
10 Resolved
11
12 **Issue 53: Should Communications Authority be allowed to comingle any UNE element**
13 **with any non-UNE element it chooses?**
14 **Q. How do you respond to Ms. Kemp's testimony on Issue 53?**
15 A. CA believes that it is entitled to commingle facilities as specified in its language, and that
16 AT&T's language restricts CA's ability to commingle in a manner inconsistent with FCC
17 rules and orders. That is all. Ms. Kemp repeatedly claims that CA's language is "unlawful,"
18 even when CA's language specifically requires consistency with FCC rules and regulations.
19 To make her point, Ms. Kemp appears to be using a fictional version of CA that would not
20 exist. CA would be open to adding language to clarify that any non-UNE "service element"
21 must be purchased from an AT&T agreement, tariff or price list. I do not think she
22 understands CA's actual operating concerns.
23

1 **<u>Issue 54a: Is thirty (30) days written notice sufficient notice prior to converting a UNE</u>**
2 **<u>to the equivalent wholesale service when such conversion is appropriate?</u>**
3 **Q. How would you distinguish CA's position from Ms. Kemp's testimony on Issue 54a?**
4 A. She cites a single example that on its face appears to be reasonable. However, there are
5 several obvious problems with her proposal:
6 1. If CA ceases to meet the UNE eligibility criteria, this could only happen if the central
7 office were reclassified as non-impaired. That's the only trigger event that would change
8 UNE eligibility, contrary to her assertion.
9 2. CA and AT&T may define the term "building" differently. For instance, often
10 customers in the same building have different physical addresses. CA may not be in a
11 position to know which different physical address AT&T considers to be in the same
12 "building".
13 3. Once the parties agree that a transition away from UNE is justified, AT&T has a
14 number of different non-UNE service options that CA can choose from. To do this, CA
15 would need to submit an LSR to AT&T to convert the UNE(s) to the new arrangement. This
16 is not a simple (it is UNE or non-UNE) question, and it will take time for CA to determine,
17 for each UNE being converted, what its best option will be. CA may also need to consider
18 other options, such as using a third-party provider for the service or disconnecting the
19 customer's service because it is no longer financially feasible to provide without the UNE.
20 4. CA, like most CLECs, has far more limited resources than does AT&T. While
21 AT&T may not think it is a big deal to find new service arrangements for dozens or hundreds
22 of customers, to a small CLEC this is a large project that takes considerable time and
23 resources. AT&T has not shown that it will be substantially harmed by CA's proposed
24 timeline.

1 **Issue 54b: Is thirty (30) calendar days subsequent to wire center Notice of**
2 **Nonimpairment sufficient notice prior to billing the provisioned element at the**
3 **equivalent special access rate/Transitional Rate?**

4 **Q. Do you agree with Ms. Kemp's position on Issue 54(b)?**

5 A. No. I do not believe that Ms. Kemp is correct in her assertion on page 50, line 10 that this
6 is only about true-up and not facilities changes. If there is no special access equivalent, what
7 then? In any case, I have several observations:

8 1. AT&T's argument here presumes that this is a simple flip-of-the-switch conversion of
9 billing from UNE to Special Access, which everyone knows has One Clear Price. This is far
10 from true. Once a central office is designated as non-impaired, AT&T has a number of
11 different non-UNE service options that CA can choose from. To do this, CA would need to
12 submit an LSR to AT&T to convert the UNE(s) to the new arrangement. This is not a simple
13 (it is UNE or non-UNE) question, and it will take time for CA to determine, for each UNE
14 being converted, what its best option will be. CA may also need to consider other options,
15 such as using a third-party provider for the service or disconnecting the customer's service
16 because it is no longer financially feasible to provide without the UNE.

17 2. CA, like most CLECs, has far more limited resources than does AT&T. While AT&T
18 may not think it is a big deal to find new service arrangements for dozens or hundreds of
19 customers, to a small CLEC this is a large project that takes considerable time and
20 resources. AT&T has not shown that it will be substantially harmed by CA's proposed
21 timeline, other than its inability to cause maximum damage to its smaller rival.

22 3. CA has cited three currently in-force ICAs with other CLECs where the 180 day
23 transition period is used. The last six years of boilerplate AT&T ICAs, none of which were
24 arbitrated,should have no bearing on what is reasonable here.

1 4. Even assuming that this is just about true-up, the real issue is that under AT&T's
2 language, it would be entitled to convert CA's UNE service to its most-expensive Special
3 Access service, even if lower cost options were available. In order for CA to manage such a
4 transition effectively, it must have enough time to assess the impact of the re-designation,
5 determine what customer circuits are affected, determine for each customer which conversion
6 options are available for that customer location, and then place an order with AT&T to
7 convert the service to the new arrangement or disconnect the service entirely if there are no
8 feasible conversion options. Any competent engineer would tell you that this process will
9 take far longer than 30 days to complete. Therefore, there is really no situation in which this
10 would be a simple billing-only change unless AT&T were permitted to force a CLEC into its
11 most-expensive service offering during the conversion. We think the intent of the Act is not
12 to do that, but is instead to provide CLECs with a reasonable transition time.
13 5. She closes this out with "AT&T Florida would experience the loss of revenue equal
14 to the difference between the lower UNE rates and the higher special access rates to which it
15 is entitled." The TRRO itself gave a longer transition time when it first occurred, 180 days,
16 and other state commissions have agreed this is reasonable. CA seeks only the interval
17 specified in the TRRO, which did not seem to agree that the "loss of revenue" cited by Ms.
18 Kept was compelling.
19
20 **Issue 55: To designate a wire center as unimpaired, should AT&T Florida be required**
21 **to provide written notice to Communications Authority?**
22 **Q. Please respond to Ms. Kemp's position regarding Issue 55.**

1 A. She states that the CLEC community has accepted accessible letters posted to their
2 website is accepted by "the CLEC Community". On what basis does she make this
3 claim? She seems to know nothing about how CLECs actually operate. She continues with
4 "…to provide customized individualized notice just for CA's benefit would be
5 discriminatory as to other CLECs, costly, inefficient and patently unreasonable." Every
6 other ILEC I have worked with sends written notice. Verizon sends such notices via certified
7 mail. What would happen if a CLEC did not check the AT&T website for a notice, or if
8 AT&T were allowed to say, "we emailed it, we don't know why you didn't get it" for such
9 an important notice? We are just asking AT&T to conform with industry standard and with
10 what any reasonable person would expect, not to create a special procedure for CA.
11
12 **Issue 56: Should the ICA include Communications Authority's proposed language**
13 **broadly prohibiting AT&T Florida from taking certain measures with respect to**
14 **elements of AT&T Florida's network?**
15 **Q. How do you respond to Ms. Kemp's positon on Issue 56.**
16 A. She doesn't understand that AT&T does take in-service loops from CLECs for its own
17 customers and then leaves CLECs with inferior loops. We are open to alternative language
18 but have not reached a consensus on this. If her position is that AT&T would never do what
19 we are concerned with, then I do not understand her reluctance to commit to not doing that.
20
21 **Issue 57: May Communications Authority use a UNE to provide service to itself or for**
22 **other administrative purposes?**
23 Resolved
24

1 **Issue 58: Is Multiplexing available as a stand-alone UNE independent of loops and**
2 **transport?**
3 **Q. How do you respond to Ms. Kemp's testimony on this issue?**
4 A. CA's specific objection is that UNE multiplexing should not automatically be considered
5 an EEL, subject to the restrictions and additional costs imposed upon EELs. Multiplexing
6 should be considered a routine network modification.
7
8 **Issue 59a: If AT&T Florida accepts and installs an order for a DS1 after**
9 **Communications Authority has already obtained ten DS1s in the same building, must**
10 **AT&T Florida provide written notice and allow 30 days before converting to and**
11 **charging for Special Access service?**
12 **Issue 59b: Must AT&T Florida provide notice to Communications Authority before**
13 **converting DS3 Digital UNE loops to special access for DS3 Digital UNE loops that**
14 **exceed the limit of one unbundled DS3 loop to any single building?**
15 **Q. Doe CA have a response to Ms. Kemp's testimony on this issue?**
16 A. We think our position is reasonable. AT&T, as a rule, should not be able to install a
17 different service than what was ordered. AT&T should either install what was ordered, or
18 refuse to install that. We've only asked for 30 days after their notice to decide what to do
19 about it and make a change, so there's not a lot of time that will pass. If we have ordered a
20 UNE service when we were not entitled to it, we are going to bear two sets of ordering costs
21 and the likely cost of re-designing the service. There is a financial disincentive for CA to
22 order UNEs which we are not entitled to in these cases.
23

1 **Issue 59c: For unbundled DS1 or DS3 dedicated transport circuits that AT&T Florida**
2 **installs that exceed the applicable cap on a specific route, must AT&T Florida provide**
3 **written notice and allow 30 days prior to conversion to Special Access?**
4 **Q. Do you agree with Ms. Kemp's assertion that CA's language would "unlawfully**
5 **allow CA to pay UNE rates?"**
6 A. I do not believe there is any such law regarding this issue, but it misses the point. CA is
7 simply asking AT&T to notify CA that CA's chosen service is not available. AT&T, as a
8 rule, should not be able to install a different service than what was ordered. AT&T should
9 either install what was ordered, or refuse to install that. We've only asked for 30 days after
10 their notice to decide what to do about it and make a change, so there's not a lot of time that
11 will pass. If we have ordered a UNE service when we were not entitled to it, we are going to
12 bear two sets of ordering costs and the likely cost of re-designing the service. There is a
13 financial disincentive for CA to order UNEs which we are not entitled to in these cases.
14
15 **Issue 62a: Should the ICA state that OS/DA services are included with resale services?**
16 **Issue 62b: Does Communications Authority have the option of not ordering OS/DA**
17 **service for its resale end users?**
18 **Q. How do you respond to Ms. Kemp's testimony on Issues 62a and 62b?**
19 A. We believe that AT&T provides OS/DA blocking at no charge to its retail customers
20 upon request. All CA is seeking is parity with that arrangement. Ms. Kemp states that we
21 can order the blocking and pay for it, but we should not have to pay for that via resale if the
22 AT&T retail offering provides it at no cost.
23

1 **Issue 63: Should Communications Authority be required to give AT&T Florida the**
2 **names, addresses, and telephone numbers of Communications Authority's end user**
3 **customers who wish to be omitted from directories?**
4 Resolved.
5
6 **Issue 64: What time interval should be required for submission of directory listing**
7 **information for installation, disconnection, or change in service?**
8 **Q. Do you agree with Ms. Kemp that AT&T has a right to receive directory listing**
9 **information from CA's customers?**
10 A. This portion of the testimony really highlights AT&T's self-perception as keeper of the
11 public good. It is ironic that AT&T demands this information but does not even bother to
12 publish residential directories anymore. This interferes with the relationship between CA and
13 its customers. Ms. Kemp's testimony provides no reasonable justification for it.
14
15 **Issue 65: Should the ICA include Communications Authority's proposed language**
16 **identifying specific circumstances under which AT&T Florida or its affiliates may or**
17 **may not use Communications Authority's subscriber information for marketing or**
18 **winback efforts?**
19 **Q. do you agree with Ms. Kemp's assertion that CA's additional language is**
20 **unnecessary?**
21 A. No, she agrees that §222 of the Act should be followed regarding the protection of CPNI,
22 but makes no argument as to why CA's additional language that deals with CPNI in more
23 granularity should not be included. It is interesting that AT&T has not really discussed what
24 it should be permitted to do with CA's information that this language prevents, and why.

1 **Issue 66: For each rate that Communications Authority has asked the Commission to**
2 **arbitrate, what rate should be included in the ICA?**
3 **Q. Ms. Pellerin suggests that CA should accept AT&T's proposed rates because those**
4 **rates have already been approved. Do you agree?**
5 A. No, those rates were approved more than a decade ago. Ms. Pellerin suggests that CA
6 should provide support for our pricing. That is not how it's done as she later addresses, "Like
7 almost all state commissions in the United States, 1 this Commission establishes
8 TELRIC-based rates in generic dockets in which all interested parties are allowed to
9 participate. Docket Nos. 990649-TP and 000649-TP were such dockets."
10 **Q. What would be the cleanest solution to address the rate issues raised by CA?**
11 A. To be clear, CA raised these issues during negotiation and AT&T refused to discuss them.
12 Since the arbitration began, AT&T has repeatedly stated as a foregone conclusion that a cost
13 study is not part of this docket. Nobody asked CA if this is reasonable, AT&T just repeated it
14 over and over. CA has not objected.
15
16 The fact remains that the Commission has not ordered a UNE or collocation cost study since
17 2001. It is time for the Commission to require AT&T to justify those costs it believes are
18 subject to TELRIC via a new cost study case. CA would accept this as a suitable remedy for
19 all TELRIC-based charges raised by its petition and drop them from the case. CA does
20 desire to address one point which CA believes is a typographical mistake. AT&T's proposed
21 rates note that dark fiber transport has a non-recurring cost per mile. With all other ILECs in
22 Florida, the non-recurring charge for dark fiber transport is per termination and not per mile.
23 In other AT&T states, dark fiber transport NRCs seem to also be per termination. While this
24 may not be a rate dispute, CA seeks to correct what it believes is a typographical error in

1 AT&T's document. However, AT&T refused to discuss even this issue in negotiations so it
2 remains unresolved.
3
4 For the charges in the ICA that AT&T alleges are not subject to TELRIC, the Commission
5 should revise the charges to be more reasonable and consistent with those charged by
6 Verizon as a similarly situated ILEC. Ms. Kemp's claim that these charges are "market-
7 based" is ludicrous. There is no "market;" AT&T controls a complete monopoly on all rates
8 in its incumbent territory. CA seeks the Commission's assistance on making these rates more
9 reasonable be it through an order in this case, or part of a larger generic proceeding. To the
10 extent that the Commission decides that it does not have authority over any given rate
11 element, CA believes that the rate should not be included in this agreement and is more
12 appropriately placed in a separate commercial agreement between the parties.
13
14 **Q. Do you have anything more to add?**
15 A. Not at this time.

1 **MR. TWOMEY:** And at this time I have no other
2 questions, but I'd like to reserve redirect, if
3 possible.
4 **COMMISSIONER BRISÉ:** Sure. Okay. AT&T.
5 **MR. HATCH:** AT&T has no questions for Mr. Ray.
6 **COMMISSIONER BRISÉ:** Okay. Thank you very
7 much.
8 Okay. Thank you, Mr. Ray.
9 **THE WITNESS:** Thank you.
10 **COMMISSIONER BRISÉ:** Mr. Twomey.
11 **MS. TAN:** Excuse me. I'm sorry. Staff does
12 have questions.
13 **COMMISSIONER BRISÉ:** Oh, I'm sorry. Mr. --
14 sorry. I'm kind of rusty at this. And the
15 Commissioners may have questions as well, so.
16 Staff.
17 **EXAMINATION**
18 **BY MS. TAN:**
19 **Q** Good morning, Mr. Ray. I'd like to ask you a
20 question regarding Issue 13b. And here in Issue 13b the
21 question is in regards to the definition of past due.
22 And if the definition of past due is limited to
23 undisputed charges only, should Section 11.9 and/or
24 12.2 of the general terms and conditions further clarify
25 that the application of past due charges is only for the

1 undisputed charges?

2 **A** Yes. In my opinion, what we're seeking is
3 clarity that disputed charges cannot be accounted as
4 past due for two purposes: For the purpose of assessing
5 late payment charges and for the purpose of considering
6 CA to be in default of the agreement. And our concern
7 is that there was conflicting language that, on the one
8 hand, some parts of the ICA refer to dispute, the right
9 to dispute charges, but our feeling was that other parts
10 of the ICA seem to try to countermand that and say that
11 all charges, dispute or not, would be past due if they
12 were not paid on time.

13 So our goal in general was just to provide
14 clarity that if charges are disputed, that they cannot
15 be considered past due for the specific purposes of
16 assessing late payment charges or considering CA to be
17 in default of its agreement.

18 **Q** And what would Communications Authority believe
19 to be an undisputed charge?

20 **A** And undisputed charge would be a charge that
21 is on a bill that CA has received and for which CA has
22 not submitted a dispute to AT&T, or for, for a dispute
23 that has been submitted to AT&T but which has been found
24 against CA and not escalated.

25

1 **Q** Thank you. Staff also has questions on Issue
2 15(ii), or (ii). And here you have stated previously
3 that Communications Authority's business plan does not
4 initially include collocation; is that correct?
5 **A** It is correct that the plan is -- the initial
6 plan does include collocation, but collocation is not
7 part of the initial startup of the company in that
8 certain other prerequisites have to happen first before
9 collocation would be necessary.
10 **Q** So there is a point in the future which
11 Communications Authority plans to physically collocate in
12 AT&T's central offices?
13 **A** Yes, absolutely.
14 **Q** And at, at that particular point would
15 insurance from the commercial general liability be
16 necessary for Communications Authority to pursue its
17 collocation business plan?
18 **A** Yes.
19 **Q** Okay. Now I'd like to ask you a question
20 regarding Issue 17ii. And here I'd like you to take a
21 look at Section 7.1.1 of the general terms. Do you have
22 that in front of you?
23 **A** I'm sorry, I do not.
24 **Q** That is actually part of -- what I can do is I
25 can go ahead and give you a copy to be handed out. And

1 this is part of the exhibits of Patricia Pellerin, and
2 that is Exhibit No. 2. And when you've had an
3 opportunity to look that over, please let me know.
4 **A** I'm sorry. Which section are we looking at
5 again?
6 **Q** 7.1.1.
7 **A** Okay. I have that. Thank you. I'm ready.
8 **Q** Okay. And could you please read the first
9 sentence of Section 7.1.1 out loud?
10 **A** "CLEC may not assign, delegate, or otherwise
11 transfer its right or obligations under this agreement
12 voluntarily on involuntarily, directly or indirectly,
13 whether by merger, consolidation, dissolution, operation
14 of law, change in control, or any other manner without
15 the prior written consent of AT&T-21STATE which shall
16 not be unreasonably withheld."
17 **Q** And do you believe that this appears to be a
18 comprehensive limitation on the transfer of the
19 agreement?
20 **A** I do.
21 **Q** And do you believe that any additional language
22 is necessary, such as proposed by AT&T?
23 **A** Yes. I believe that it -- I do not agree with
24 the language as stated in that piece. Yes.
25 **Q** Okay. And now I'd like to ask you a question

1 regarding Issue 19. And do you have -- and in Issue 19
2 we're talking about material breach. What do you believe
3 that the term material breach should encompass in regards
4 to dispute resolution?
5 **A** We kind of had a back and forth during this
6 proceeding with AT&T about whether or not the term
7 "material breach" breech ought to be used. And I think
8 the original language did not say material and AT&T then
9 proposed to add that word. And we really haven't come
10 to an understanding between the parties as to what the
11 difference would be, whether it said breach or material
12 breach, and so I'm not clear on what the difference is,
13 and we really weren't -- didn't resolve that issue
14 between the parties. In our view, a breach is a breach.
15 **Q** Do you believe that a material breach should be
16 defined as any breach of the interconnection agreement
17 that relates to the safety of equipment or personnel?
18 **A** I suppose that's one definition. But I do
19 think that that is still too vague in that -- especially
20 in this, in the context of this negotiation, AT&T has
21 cited safety issues to us on issues that we don't agree
22 are safety related. And so to the extent that that
23 could be used as a mechanism to try to claim a material
24 breach, which would then apparently be more severe than
25 a nonmaterial breach, we would disagree.

1 For instance, on the issue of the security
2 partition, which is one of the issues here to be
3 decided, the -- this was originally captioned as a
4 safety issue; that is, a security partition to protect
5 something. But then as we got down into the, into the
6 meat of it, it turned out not to be a safety issue at
7 all. And so we're concerned with the ability to
8 conflict that term "safety" to achieve purposes that
9 are really not related to safety.
10 **Q** Okay. But, if -- so if you're looking at a
11 material breach -- if you were to look at the material
12 breach as a safety related issue, in your mind does it
13 include issues related to level of insurance,
14 unauthorized equipment in a collocation space, or are you
15 looking for -- are you looking at something else?
16 **A** Well, again, I'm not clear about the
17 difference between a breach and a material breach. For
18 instance, I think there has been a suggestion that a
19 material breach would also include a failure to make
20 payment. And so I'm not clear as to what the, what the
21 actual proposed definition of that is. And, again, we,
22 we believe that a breach is a breach and that a material
23 breach is not substantially different. So I'm afraid I
24 don't have a clear understanding of what the proposal
25 is, what would or wouldn't be included in a material

1 breach to make it distinct from a nonmaterial breach.

2 **Q** So do you believe that material breach should

3 be defined such that there's no question if one has

4 occurred?

5 **A** I believe that, that material breach should

6 not be different than any other breech.

7 **Q** And do you believe that the dispute resolution

8 process can be invoked to resolve a material breach?

9 **A** Yes. I believe dispute resolution should be

10 invoked to resolve any dispute.

11 **Q** Okay. I'd like to ask you some questions

12 regarding Issue 20. And here the proposed

13 interconnection agreement includes provisions to place

14 disputed amounts into an interest bearing escrow account

15 until the dispute is resolved and then disbursed to the

16 prevailing party.

17 Is Communication in favor of establishing an

18 escrow account in this interconnection agreement?

19 **A** We are not.

20 **Q** If an escrow account were to be established and

21 if the disputing party has established an escrow account

22 and has deposited the disputed amounts in that account

23 pending resolution of the dispute or disputes, is the

24 disputing party in good standing?

25 **A** I believe under, under AT&T's proposed

1 language the disputing party would be in good standing,
2 yes.
3 **Q** So does Communications Authority believe that
4 AT&T can reject a request to negotiate a new
5 interconnection agreement if Communications Authority has
6 a disputed outstanding balance?
7 **A** AT&T's proposed language -- and I believe in
8 their clarifying testimony they clarified that, that in
9 the event that money has been escrowed to cover disputed
10 amounts, that they can still -- they still consider that
11 to be nonpayment, and, therefore, that they would not
12 negotiate a new interconnection agreement even if the
13 escrow took place.
14 **Q** Okay. Is it rare for a CLEC such as
15 Communications Authority to have amounts in dispute?
16 **A** No, it's not rare at all.
17 **Q** And do you believe that a new agreement can
18 include language that requires a CLEC such as
19 Communications Authority to resolve existing disputes
20 under the terms of the previous agreement and limiting
21 disputes to the new agreement?
22 **A** Yes. I believe that's pretty standard. I've
23 seen that in several other interconnection agreements.
24 **Q** Thank you. I'd like to ask you some questions
25 regarding Issue 22a. Is it correct that Communications

1 Authority would like to use its own billing dispute form?

2 **A** Yes, that's correct.

3 **Q** And can you explain why?

4 **A** Yes. There are a couple of different reasons.
5 The primary reason is that the AT&T official form which
6 AT&T's language would require us to use does not provide
7 adequate space to fully describe the issue. And my
8 experience has been that billing disputes get rejected
9 regularly by AT&T because AT&T cannot ascertain from the
10 description of the issue what exactly the problem is.
11 And so it airs on the side of caution and just rejects
12 the dispute outright, which then causes an escalation
13 process where the CLEC then has to go back and
14 re-dispute and then provide a -- some other form of
15 communication that contains the full text of what's
16 going on. And that costs additional time and resources
17 for the CLEC, which is unnecessary. And so that's the
18 first and most important reason that we don't want to
19 have to use that form.

20 The second reason is, is that the -- there is
21 a process that AT&T has implemented where certain
22 fields on their form are required to be populated
23 before they will even consider the dispute, and those
24 fields are required to be populated even when they're
25 not relevant to the dispute at hand. And so if you

1 have a dispute for a particular element and there's a
2 field on the form that doesn't relate to that element,
3 you then have a situation where AT&T automatically and,
4 I believe, mechanically rejects the dispute outright.
5 And the CLEC then has to go through the process again
6 and escalate and put more time into the issue simply
7 because AT&T has created this process where the
8 original dispute, there is no possible way that that
9 first dispute can, can be even looked at.
10 **Q** So in your experience has resolution of billing
11 disputes been delayed by using AT&T forms versus CLEC
12 forms?
13 **A** Yes. I believe that the use of AT&T's form
14 has presented delays like the ones that I've just
15 described.
16 **Q** Okay. And then, conversely, do you believe
17 that the resolution of disputes have been delayed as a
18 result of using CLECs' forms versus AT&T forms?
19 **A** AT&T has never been willing to accept CLEC
20 forms before, so I can't speak to any experience in that
21 regard. I can say that the CLECs that I have
22 represented and worked for historically have been able
23 to use the same CLEC form that we've proposed in this
24 proceeding with Verizon and CenturyLink, and we have
25 had far better experience with those two companies using

1 our own dispute form.

2 **Q** So is it a matter of just having additional

3 space for more clarification on the billing form?

4 **A** That is the primary issue. The second issue

5 is that our systems can automatically generate our form.

6 And so we, we potentially have -- any CLEC potentially

7 has hundreds or even thousands of disputes per month.

8 Obviously a small CLEC would, would be in the dozens or

9 hundreds of disputes per month because of the way that

10 the billing is inaccurate. And so it really is a --

11 it's a major factor in disputes for, for a small CLEC

12 for us to be -- for our system to be able to

13 automatically generate that form. Our system cannot

14 automatically generate or populate AT&T's form because

15 of the issue I mentioned with fields that are not

16 relevant required to be populated.

17 **Q** Thank you. I'd like to address now some

18 questions for Issue 33a. And I'd like you to refer to

19 Witness McPhee's deposition exhibit which is labeled

20 indemnification agreement, and it is Exhibit No. 48, and

21 do you have that in front of you?

22 **A** I'm sorry. I do not.

23 **Q** Okay. I can go ahead and hand you an excerpt

24 from that. And when you have an opportunity to review

25 that form, just let me know.

1 **A** I'm familiar with it.

2 **Q** All right. And is this a form from AT&T?

3 **A** Yes, it is.

4 **Q** Okay. And what is your understanding of when
5 and how this form is used?

6 **A** It's my understanding that this form is used
7 for a CLEC to certify to AT&T that it is exempt from
8 certain government taxes and surcharges so that AT&T
9 would not charge the CLEC those surcharges or taxes
10 because the CLEC is directly paying them to the
11 governmental authority.

12 **Q** So on the top the form has listed gross
13 receipts tax, state Universal Service Fund, 911, E911,
14 PUC surcharges, Telecommunication Relay Service
15 surcharges. Isn't it your -- is it your understanding
16 that this form would indemnify AT&T and allow
17 Communications Authority to remit these charges directly
18 to the taxing authority?

19 **A** Yes, that is my understanding.

20 **Q** I'd like to ask you a series of questions on
21 Issues 35 and 38. And do you have the collocation rule
22 in front of you?

23 **A** I do not.

24 **Q** Okay. I'd like to go ahead and pass out a copy
25 of the collocation rule. And this is, this is an excerpt

1 of 51, Section 51.323.

2 **A** Thank you.

3 **Q** And if you would just briefly look that over.

4 Let me know when you're done.

5 **A** I'm ready.

6 **Q** Mr. Ray, could you please tell me what a point

7 of interconnection is?

8 **A** A point of interconnection is a location where

9 the -- a CLEC's network is interconnected to an ILEC's

10 network.

11 **Q** And both Issues 35 and 38 concern where the

12 point of interconnection can or should be; is that

13 correct?

14 **A** Yes.

15 **Q** And what is the significance of a point of

16 interconnection?

17 **A** I'd like to clarify. Do you mean the

18 significance of Communications Authority's issues about

19 this or the significance overall of what a point of

20 interconnection is?

21 **Q** I would say overall, please.

22 **A** Overall, a point of interconnection is very

23 important in that it establishes a location where the

24 CLEC must construct its network up to that point to meet

25 with the ILEC's network for the purpose of exchanging

1 call traffic between the parties.

2 **Q** Thank you. And what is your understanding of

3 where AT&T wants that point of interconnection to be?

4 **A** In this proceeding and recently it has been my

5 experience that AT&T wants the point of interconnection

6 to be its main distribution frame, which is a location

7 in the central office where CA or CLECs in general are

8 not permitted to go.

9 **Q** So does Communications Authority have the

10 ability to physically access AT&T's proposed point of

11 interconnection?

12 **A** It does not.

13 **Q** Okay. Do you have physical access to your own

14 collocation space?

15 **A** Yes. All CLECs do have physical access to

16 their own collocations.

17 **Q** And can you tell me what the collocation space

18 is for Communications Authority?

19 **A** Yes. This is theoretical since Communications

20 Authority is not operating yet. But in general for a

21 CLEC the collocation space is a, basically a real estate

22 lease within the central office where the, the CLEC puts

23 its own equipment and extends its telecommunications

24 network into that space for the purpose of

25 interconnecting with the ILEC and also accessing

1 unbundled network elements.

2 **Q** So if you do not have physical access to AT&T's

3 proposed point of interconnection, how do you get from

4 your collocation space to AT&T's proposed point of

5 interconnection?

6 **A** So as part of the construction of a

7 collocation in the central office for AT&T specifically,

8 the CLEC has to pay an AT&T vendor, which is called an

9 AIS, or authorized installation supplier, to run

10 interconnection cables from the collocation to AT&T's

11 main distribution frame. So at the inception of the

12 collocation, a very large part of the expense of the

13 collocation for the CLEC is to pay this vendor to run

14 cables from its collocation to the main distribution

15 frame. And from there the CLEC can use those cables

16 that it has paid for to interconnect with the ILEC or

17 access unbundled network elements.

18 **Q** So does AT&T in this interconnection agreement

19 also propose to charge you a monthly local channel charge

20 link for this connection?

21 **A** Yes. AT&T proposes in this interconnection

22 agreement to charge us for that cable that we paid the

23 installation supplier to install.

24 **Q** I'd like you to go ahead and look at the, the

25 collocation rule, specifically under Section 51.323(d),

1 and let me know when you're there.

2 **A** I have it.

3 **Q** Could you please read Sections (d) and

4 (d)(1) for me?

5 **A** "When an incumbent LEC provides physical

6 collocation, virtual collocation, or both, the incumbent

7 LEC shall provide an interconnection point or points

8 physically accessible by both the incumbent LEC and the

9 collocating telecommunications carrier at which the

10 fiberoptic cable carrying an interconnector's circuits

11 can enter the incumbent LEC's premises, provided that

12 the incumbent LEC shall designate interconnection points

13 as close as reasonably possible to its premises."

14 **Q** Do you believe that AT&T's proposed point of

15 interconnection is physically accessible to both the

16 incumbent LEC and the collocating telecommunication

17 carrier?

18 **A** It is not.

19 **Q** I'd like to refer to your deposition. Do you

20 have that in front of you?

21 **A** I believe I do. Just a moment, please.

22 **Q** And that is --

23 **A** I'm sorry. I did not get a transcript of the

24 deposition.

25 **Q** Okay. All right. I can provide you with an

1 excerpt that is Bates No. 01580 through 01581, and that
2 is staff Exhibit No. 46.
3 **A** Thank you.
4 **Q** All right. And here you explain that the link
5 is between your collocation space and AT&T, just like we
6 were talking about previously; is that correct?
7 **A** Yes.
8 **Q** Okay. And you used the term "main distribution
9 frame."
10 **A** Yes.
11 **Q** To you, is there a difference between a main
12 distribution frame and a cross-connect -- and
13 cross-connect equipment?
14 **A** Cross-connect equipment is a more general term
15 which could include the main distribution frame or other
16 elements, so I think the main distribution frame term is
17 more specific.
18 **Q** So the difference is, is just one is more
19 specific than the other?
20 **A** Yes, that's correct.
21 **Q** Okay. And so which one is the more specific
22 one?
23 **A** Main distribution frame.
24 **Q** Okay. So you would not use these terms
25 interchangeably?

1 **A** I would not, no.
2 **Q** Okay. All right. I'd like to talk about the
3 term "entrance facilities." And I'd like to go ahead and
4 refer to your deposition again. And since you do not
5 have that in front of you, I will provide you with an
6 excerpt of that, and that is staff's Exhibit No. 46 again
7 and Bate's No. 01582. At this time I'd also like to give
8 you your deposition exhibit, which is Bates Nos. 01637
9 and 01648.
10 **A** Thank you.
11 **Q** And you say in your testimony that AT&T's
12 definition of entrance facilities implies that AT&T could
13 charge for entrance facilities regardless of where the
14 point of interconnection is located. Is that correct?
15 **A** Yes.
16 **Q** Okay. So I'd like you to look at the emails,
17 and here you explain that you have emails from AT&T
18 regarding a dispute with Terra Nova where AT&T has used
19 the term "entrance facilities" to refer to intrabuilding
20 facilities. And the emails that I've given you is your
21 Exhibit 2; is that correct?
22 **A** Yes, it is.
23 **Q** Okay. Could you in those emails please
24 identify where AT&T Florida referred to the intrabuilding
25 facilities as entrance facilities?

1 **A** In the emails AT&T did not refer to it as
2 entrance facilities. The reference from the deposition
3 where I said "I believe that I do," in the -- the
4 context of this issue is that this is a dispute that has
5 been running with Terra Nova Telecom and AT&T for almost
6 two years, and both I and my team at Terra Nova Telecom
7 have had dozens of discussions with AT&T about this
8 issue. And at the time of the deposition I wasn't, I
9 wasn't sure if the entrance facility claim was made by
10 AT&T in writing or verbally. Once I had time to go back
11 and review the written correspondence I found that the
12 emails were consistent and did not refer to it as
13 entrance facility, but instead referred to it as a local
14 channel. But the verbal conversations -- we had a lot
15 of back and forth on this issue, and we had several
16 times where we would say, AT&T, you're not permitted to
17 charge us this charge on the basis of this specific
18 clause in our interconnection agreement, and they would
19 come back with, well, would you believe it's this
20 instead? And so there was quite a bit of that. And I
21 know that there were some conference calls where it was
22 verbally kind of put out there by AT&T's team that this
23 was interconnection -- that this was entrance
24 facilities, and that was something that we disagreed
25 with.

1 So the local channel was one of the possible
2 explanations they gave us. Entrance facilities was
3 another possible explanation to try to justify this
4 charge, which we didn't believe was, was proper. And
5 so as we embarked on this negotiation in this
6 proceeding, my goal was to try to shore that up and
7 make sure that our new agreement did not have that
8 ambiguity which has now caused almost two years of
9 disputes between Terra Nova and AT&T.
10 **Q** Can you please look at those emails and tell me
11 where it says "local channel"?
12 **A** The term that is used by AT&T's person is
13 "customer channel interface." On the very first page in
14 the email from Eileen Mastracchio, the last sentence in
15 her email says, "The USOC PE1W1 is the customer channel
16 interface which is prior to the POI but after the
17 collocation cage." It is my understanding that a
18 customer channel interface is the same as a local
19 channel, and the USOC PE1W1, although there are hundreds
20 of USOCs in Terra Nova's interconnection agreement,
21 PE1W1 is not listed in Terra Nova's interconnection
22 agreement.
23 So the basis of our dispute was that customer
24 channel is the same as local channel and also that this
25 USOC that they were charging is not in the

1 interconnection agreement.

2 **Q** And that would be Bates No. 01637; is that

3 correct?

4 **A** Yes. That's the page that I'm referring to

5 right now. Yes.

6 **Q** And in your deposition on page 63 you stated

7 that AT&T has used the term "entrance facilities" for

8 intrabuilding circuits connecting your collocation to

9 AT&T's switch; is that correct?

10 **A** Yes.

11 **Q** Okay. And can you please explain to me what an

12 entrance facility is in the terms of this interconnection

13 agreement and specifically for these issues?

14 **A** Yes. An entrance facility is a transport

15 mechanism that would be provided by AT&T in this case to

16 connect the point of interconnection with some other

17 point on the CLEC network. So if we were not -- if, if,

18 if the CLEC did not desire to have a collocation in

19 AT&T's central office, we could purchase entrance

20 facilities to connect that central office to our network

21 at some other location.

22 **Q** Thank you. I'd like to ask you some questions

23 regarding Issues 58, and can you please tell me what an

24 enhanced extended loop or EEL is?

25 **A** Yes. An EEL is a type of circuit that a CLEC

1 can order when it needs to serve a customer that is
2 served from a central office where the CLEC does not
3 have a collocation. An EEL contains two components,
4 those components being loop and transport, where the
5 loop serves the customer premise, and there is a
6 transport component connected to that loop which then
7 carries that circuit back to a collocation that the CLEC
8 has in a different central office.
9 **Q** Thank you. So what is multiplexing then?
10 **A** Multiplexing is a routine network modification
11 which is used to further divide a time division
12 multiplexed circuit such as a DS3 into what we call
13 tails. So you could take a circuit and divide it into
14 smaller subdivided circuits which are used for various
15 different purposes.
16 **Q** Thank you. I'd like you to take a look at
17 another part of, of the federal code, and that's going to
18 be, it's part of -- it's Section 51.319(d)(4). And I'm
19 going to go ahead and pass that out for you to go ahead
20 and take a look at.
21 Okay. And if you could just skim over that
22 and let me know when you're ready.
23 **A** Thank you. I'm ready.
24 **Q** So do you believe the federal rules have
25 requirements relating to the provision of routine network

1 modifications?

2 **A** I do.

3 **Q** And do you see that subsection ii addresses

4 multiplexing?

5 **A** I do.

6 **Q** And, in your opinion, if Communications

7 Authority provides its own transport but used AT&T's

8 loop, would the multiplexing be a routine network

9 modification under this section of the rules?

10 **A** Yes, I believe it is.

11 **Q** Can you explain why?

12 **A** I believe it is because it is specifically

13 listed here in, in this document as a routine network

14 modification.

15 **Q** Okay. And I'd like you to take a look at a

16 portion of your deposition. And since you don't have

17 that in front of you, this is Exhibit No. 46, staff's

18 Exhibit No. 46, Bates No. 01619 and 01620.

19 **A** Thank you.

20 **Q** And I'd like you to look at page 102,

21 specifically lines 7 through 18.

22 **A** Okay.

23 **Q** And here you've testified that multiplexing is

24 or should be classified as a routine network

25 modification; is that correct?

1 **A** That's correct.

2 **Q** Can you explain why?

3 **A** Yes. Because multiplexing is something that

4 AT&T does on a regular basis for its own customers.

5 **Q** Thank you. I'd like to ask you some questions

6 on Issue 66. And here, as you know, along with several

7 terms and conditions, Communications Authority is also

8 disputing a number of rates in this proceeding; is that

9 correct?

10 **A** That's correct.

11 **Q** And would you say that there's about

12 200 separate rates more or less; would that be correct?

13 **A** I believe that's correct.

14 **Q** Okay. And have you recognized that the vast

15 majority of these rates were set by this Commission in a

16 previous generic proceeding?

17 **A** Yes.

18 **Q** And would that be called a -- was that a

19 TELRIC-based proceeding?

20 **A** Yes, I believe it was.

21 **Q** Okay. So would you say the appropriate venue

22 for deciding these rates would be a new generic

23 proceeding to set new TELRIC-based rates for UNES; would

24 that be correct?

25 **A** Yes.

1 **Q** Okay. And are you advocating that a new
2 generic TELRIC proceeding be conducted in Florida?
3 **A** Yes.
4 **Q** Okay. Given all the variables at play, do you
5 know with any certainty whether or not rates would
6 increase or decrease as a result of a new generic TELRIC
7 proceeding?
8 **A** I believe that rates would decrease.
9 **Q** Okay. And could you please explain why?
10 **A** Yes. Because the cost of the various cost
11 components that are used -- that I understand are used
12 in that rate study have substantially diminished, and
13 also because the equipment and facilities that AT&T owns
14 which are, which comprise UNE loops have largely been
15 depreciated. And so the -- AT&T's actual costs have
16 diminished, in my opinion, for unbundled network
17 elements.
18 **MS. TAN:** Thank you. Staff has no further
19 questions.
20 **COMMISSIONER BRISÉ:** Thank you.
21 Mr. Twomey, redirect?
22 **MR. TWOMEY:** Thank you.
23 **EXAMINATION**
24 **BY MR. TWOMEY:**
25 **Q** Mr. Ray, I'd like to go back to question or

1 issue, rather, 35, specifically the email exhibits that
2 were provided to you.
3 As I'm looking through here, it looks like
4 the monthly disputes are $5, $7. Aren't you being a
5 bit petty? What's the big deal?
6 **A** No.
7 **MR. HATCH:** Objection. That's beyond the
8 scope of the cross that staff performed.
9 **COMMISSIONER BRISÉ:** Yeah, I would agree.
10 **MR. TWOMEY:** Very well.
11 Mr. Ray -- I'll rephrase the question, if I
12 may.
13 **COMMISSIONER BRISÉ:** Sure.
14 **BY MR. TWOMEY:**
15 **Q** Can you explain why this particular issue is
16 important to Communications Authority?
17 **MR. HATCH:** Objection. Again, way beyond the
18 scope of what -- anything that the staff asked. He's
19 asking what amounts to now new direct testimony.
20 **COMMISSIONER BRISÉ:** I would agree. If you
21 would limit the, the redirect to clarification of, of
22 issues that were brought up during cross-examination,
23 that would be greatly appreciated.
24 **MR. TWOMEY:** Understood.
25

1 **BY MR. TWOMEY:**

2 **Q** Mr. Ray, can you explain the difference between

3 entrance facilities then and what's listed here as local

4 interconnection trunks?

5 **A** Entrance facilities are a transport mechanism

6 that connects the ILEC central office to a point outside

7 the ILEC central office and are optional for a CLEC to

8 order if it needs those, and for which the CLEC would

9 pay the ILEC a TELRIC-based rate.

10 Interconnection trunks are a revenue neutral

11 mechanism which are designed for the exchange of

12 traffic between subscribers of each of the two parties.

13 **Q** In your opinion, does the Terra Nova Telecom

14 interconnection agreement allow for the charges?

15 **MR. HATCH:** Objection. Again, beyond the

16 scope of staff's cross.

17 **MR. TWOMEY:** Okay.

18 **COMMISSIONER BRISÉ:** Mr. Twomey, if you want

19 to address that or --

20 **BY MR. TWOMEY:**

21 **Q** Can you explain the reason for the disputes

22 that -- provided in this email?

23 **A** Yes. The reasons for the --

24 **COMMISSIONER BRISÉ:** Mr. Twomey, no, not for

25 him to explain. For you to explain why your question is

1 within the scope of, of the redirect.

2 **MR. TWOMEY:** Sure. I'm just trying to get
3 some clarification on the record as to -- so staff was
4 asking what the difference was or trying to explain in
5 his, what he said in his testimony. Mr. Ray testified
6 there was entrance facilities at issue, and in actuality
7 it doesn't appear entrance facilities appears anywhere
8 in these emails. So I'm trying to figure out and get on
9 the record what exactly the difference is between the
10 two types of facilities and what the disputes are about
11 and how they relate to the issue that actually is before
12 the Commission.

13 **COMMISSIONER BRISÉ:** Mr. Hatch.

14 **MR. HATCH:** Thank you. Essentially what he's
15 doing is trying to flesh out additional testimony. It
16 is not what staff asked him. It is not within the scope
17 of what the staff asked him. He is now trying to delve
18 into questions that he thinks now have arisen as a
19 result of that examination unrelated to what staff has
20 asked him.

21 **COMMISSIONER BRISÉ:** I was just trying to make
22 sure that there was a, a fine point that specifically
23 related to, to the staff cross-examination, but I don't
24 think I found it.

25 **MR. TWOMEY:** That's fine.

1 **COMMISSIONER BRISÉ:** Okay.
2 **MR. TWOMEY:** Okay. I have no further
3 redirect.
4 **COMMISSIONER BRISÉ:** Okay. Exhibits that you
5 would like to move into the record?
6 **MR. TWOMEY:** Communications Authority has no
7 exhibits to move into the record at this time.
8 **COMMISSIONER BRISÉ:** Okay. Staff?
9 **MS. TAN:** Staff has no exhibits to move into
10 the record at this time.
11 **COMMISSIONER BRISÉ:** Okay. All right. Thank
12 you.
13 Mr. Ray, thank you.
14 **THE WITNESS:** Thank you.
15 (Transcript continues in sequence in Volume
2.)
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1 STATE OF FLORIDA)
 : CERTIFICATE OF REPORTER
2 COUNTY OF LEON)

3

4 I, LINDA BOLES, CRR, RPR, Official Commission Reporter, do hereby certify that the foregoing
5 proceeding was heard at the time and place herein stated.

6

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

9

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

12

13 DATED THIS 19th day of May, 2015.

14

15

16 LINDA BOLES, CRR, RPR
FPSC Official Hearings Reporter
17 (850) 413-6734

18

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1 **Q Do you have any written documentation of AT&T**
2 **using the term "entrance facilities" for these circuits**
3 **such as in notices, e-mails, or anything similar?**
4 A I believe that I do. I know that -- I know
5 that this has definitely been discussed as entrance
6 facilities verbally. I believe that I do have e-mails
7 between Terra Nova and AT&T's dispute department where
8 AT&T explained that this was entrance facility.
9 And I can research that and provide them to
10 the extent that I have. I'm not a hundred percent sure,
11 but I believe I do.
12 MS. TAN: I think I would like those. If you
13 could make -- can we go ahead and make that a depo
14 Exhibit No. 2? And we'll have that -- you can give
15 that to us later.
16 I would like to call that -- you believe they
17 are e-mails?
18 THE WITNESS: I believe they are, yes.
19 MS. TAN: All right. Let's go ahead and call
20 those entrance facility e-mails. And if you have
21 them, please provide them as depo Exhibit No. 2.
22 THE WITNESS: Okay. No, problem. I've got
23 it.
24 MS. TAN: Excellent. Thank you very much.
25 (Exhibit No. 2 marked.)

Demonstrative . 46

1 co-location to the main distribution frame are
2 facilities that the CLEC has already had to install
3 itself and pay an AIS to install. Those facilities were
4 not put in by AT&T. AT&T didn't spend any money doing
5 that. Those were part of the CLEC's expenses and costs
6 to build its co- location.
7 So, AT&T is double dipping here. On one hand,
8 it is forcing the CLEC to pay an AIS to construct those
9 facilities between the co-location and the main
10 distribution frame. And then on the other hand, it is,
11 then, charging the CLEC a monthly fee for using the
12 cable that the CLEC paid to put in in the first place.
13 **Q If you could, refer to Patricia Pellerin's**
14 **rebuttal testimony, specifically -- oh, I'm sorry.**
15 **Nevermind.**
16 A Okay.
17 **Q If you could, do me a favor and look at**
18 **Communications Authority's response to staff's third set**
19 **of interrogatories, specifically No. 75.**
20 A Okay. I have it.
21 **Q You state here that AT&T has called the**
22 **circuits in question entrance facilities; is that**
23 **correct?**
24 A They have called them entrance facilities
25 among other things at various times, yes.

Demonstrative Exhibit to Question witness Ray

6.4 If CLEC chooses the self insurance requirements as shown in 6.0, the following applies:

6.4.1 Workers' Compensation:

6.3.1.1 provide a copy of the Certificate of Authority to Self Insure Workers' Compensation obligations issued by the state in which the operations are to be performed or the employer's state of hire; and,

6.3.1.2 provide a copy of the Certificate of Authority annually for the term of this Agreement; and,

obtain Workers' Compensation and Employers' Liability insurance immediately if the state rescinds the Certificate of Authority.

6.3.1.3 The option to self insure Workers' Compensation is specific to CLEC and does not extend to subcontractors CLEC may hire.

6.4.2 Commercial General Liability:

6.4.2.1 provide a copy of the most recent audited financial statements with an unqualified opinion from the auditor; or,

6.4.2.2 provide a current Dun & Bradstreet report with a composite credit appraisal score of "1" or "2"; or,

6.4.2.3 maintain a long-term unsecured issuer rating of BBB- from Standard & Poors or Baa from Moody's during the term of this Agreement; and,

6.4.2.4 maintain a net worth of a least then (10) times the amount of insurance required; and,

6.4.2.5 obtain Commercial General Liability insurance immediately if the party is unable to comply with the financial strength and size requirements in the section; and,

6.4.2.6 provide this information annually for the term of the Agreement.

6.4.2.7 If CLEC is a publicly-traded company or a wholly-owned subsidiary of a publicly-traded company, the financial ratings of the publicly-traded company may be used to satisfy the requirements of this section.

6.4.3 Automobile Liability:

6.4.3.1 provide a copy of the Certificate of Authority to Self Insure Automobile Liability obligations issued by the state in which the operations are to be performed; and,

6.4.3.2 provide a copy of the Certificate of Authority annually for the term of this Agreement; and,

6.4.3.3 obtain Automobile Liability insurance immediately if the state rescinds the Certificate of Authority to self insure Automobile Liability obligations.

6.4.3.4 The option to self insure Automobile Liability is specific to CLEC and does not extend to subcontractors CLEC may hire.

6.5 This Section 6.0 is a general statement of insurance requirements and shall be in addition to any specific requirement of insurance referenced elsewhere in this Agreement or a Referenced Instrument.

7.0 Assignment or Transfer of Agreement, Change in Control and Corporate Name Change

7.1 Assignment or Transfer of Agreement:

7.1.1 CLEC may not assign, delegate, or otherwise transfer its rights or obligations under this Agreement, voluntarily or involuntarily, directly or indirectly, whether by merger, consolidation, dissolution, operation of law, Change in Control or any other manner, without the prior written consent of AT&T-21STATE, which shall not be unreasonably withheld. For any proposed assignment or transfer CLEC shall provide AT&T-21STATE with a minimum of sixty (60) calendar days' advance written Notice of any assignment associated with a CLEC Company Code (ACNA/CIC/OCN) change or transfer of ownership of assets and request AT&T-21STATE's written consent. CLEC's written Notice shall include the anticipated effective date of the assignment or transfer. **Any attempted assignment or transfer that is not permitted is void as to AT&T-21STATE and need not be recognized by AT&T-21STATE unless it consents or otherwise chooses to do so for a more limited purpose.** CLEC may assign or transfer this Agreement and all rights

and obligations hereunder, whether by operation of law or otherwise, to an Affiliate by providing sixty (60) calendar days advance written Notice of such assignment to AT&T-21STATE; provided that such assignment or transfer is not inconsistent with Applicable Law (including the Affiliate's obligation to obtain and maintain proper Commission certification and approvals) or the terms and conditions of this Agreement. **Notwithstanding the foregoing, CLEC may not assign or transfer this Agreement, or any rights or obligations hereunder, to an Affiliate if that Affiliate is a Party to a separate interconnection agreement with AT&T-21STATE under Sections 251 and 252 of the Act that covers the same state(s) as this Agreement. Any attempted assignment or transfer that is not permitted is void *ab initio*.**

7.2 CLEC Name Change:

7.2.1 Any change in CLEC's corporate name including a change in the "d/b/a", or due to assignment or transfer of this Agreement wherein only the CLEC name is changing, and no CLEC Company Code(s) are changing, constitutes a CLEC Name Change. For any CLEC Name Change, CLEC is responsible for providing proof of compliance with industry standards related to any Company Code(s). CLEC is responsible for paying normal applicable service order processing/administration charges and/or nonrecurring charges for each service order submitted by CLEC, or by AT&T-21STATE on behalf of CLEC, for updating billing accounts and End User records, as set forth in the Pricing Schedule attachment of this Agreement.

7.2.2 The Parties agree to amend this Agreement to appropriately reflect any CLEC Name Change.

7.3 Company Code(s) Change:

7.3.1 Unless within ninety (90) days of acquisition, CLEC provides AT&T-21STATE with appropriate paperwork reflecting that Third Party-administered codes have been updated to reflect CLEC's name on each Company Code associated with acquired assets including but not limited to any Interconnection, Resale Service, 251(c)(3) UNEs, function, facility, product or service, CLEC must submit an order for each acquired asset to reflect the change of ownership in all appropriate AT&T-21STATE systems. All orders must be submitted no later than nine (9) months after the closing date of the acquisition.

7.3.2 In the event of a Company Code Change, CLEC shall comply with Applicable Law relating thereto, including but not limited to all FCC and state Commission rules relating to notice(s) to End Users.

7.3.3 For any CLEC Company Code Change, CLEC must negotiate a separate transfer or assignment agreement.

7.3.4 CLEC acknowledges that failing to comply with this Section 7 shall entitle AT&T-21STATE to issue a Notice under and in accordance with Section 8.3 of this Agreement.

7.4 Wherever required by this Section 7, AT&T-21STATE's consent shall be conditioned upon receipt of payment for all outstanding charges associated with any transferred or acquired assets.

7.5 CLEC acknowledges that CLEC may be required to tender additional assurance of payment to AT&T-21STATE as a result of any assignment, acquisition or transfer of assets if requested under the terms of this Agreement. Such assurance shall not exceed two months of revenue for the services provided.

8.0 Effective Date, Term and Termination

8.1 Effective Date:

8.1.1 The Effective Date of this Agreement shall be no later than ten (10) days after either (i) approval of this Agreement by the Commission or, absent such Commission approval, (ii) this Agreement is deemed approved under Section 252(e)(4) of the 1996 Act.

8.2 Term:

8.2.1 Unless terminated for breach (including nonpayment), the term of this Agreement shall commence upon the Effective Date of this Agreement and shall expire on **[Two years +90 days from the date sent to CLEC for execution]** ***five years from the Effective Date*** (the "Initial Term").

8.3 Termination for Nonperformance or Breach:

Demonstrative FOR MIKE RAY 33A.

INDEMNIFICATION AGREEMENT

GROSS RECEIPTS TAX / STATE UNIVERSAL SERVICE FUND / 911 / E911 / PUC SURCHARGES/ TELECOMMUNICATION RELAY SERVICE SURCHARGES

ANY MODIFICATION TO THIS CERTIFICATE RENDERS IT NULL AND VOID

VALID ONLY FOR THE FOLLOWING STATE(S) INCLUDING COUNTY, MUNICIPAL, CITY AND SPECIAL DISTRICTS THEREIN

[ ] Alaska	[ ] Idaho[4]	[ ] Minnesota[7]	[ ] Pennsylvania
[ ] Arizona[1]	[ ] Illinois[5]	[ ] Missouri	[ ] Rhode Island
[ ] California[2]	[ ] Indiana	[ ] Nebraska[8]	[ ] South Carolina[12]
[ ] Colorado	[ ] Iowa	[ ] Nevada[9]	[ ] South Dakota
[ ] Connecticut	[ ] Kansas	[ ] New Hampshire	[ ] Texas[13]
[ ] Delaware	[ ] Kentucky[6]	[ ] New Mexico	[ ] Utah[14]
[ ] District of Columbia	[ ] Louisiana	[ ] New York[10]	[ ] Virginia[15]
[ ] Florida[3]	[ ] Maine	[ ] North Carolina[11]	[ ] Washington[16]
[ ] Georgia	[ ] Maryland	[ ] Oklahoma	[ ] West Virginia[17]
[ ] Hawaii	[ ] Michigan	[ ] Oregon	[ ] Wisconsin

1. Includes Transaction Priviledge and Telecommunication Service Excise.
2. Includes Teleconnect, ULTS, DEAF, CHCF, and UUT.
3. Includes Communications Services Tax.
4. Includes Telecommunications Service Assistance Surcharge.
5. Includes Municipal Telecommunications Tax and Infrastructure Maintenance Fees.
6. Includes Lifeline Surcharge/TRS/TAP
7. Includes Telecommunication Access for Communication Impaired Persons
8. Includes City Business and Occupation.
9. Includes City Business License.
10. Includes NYS section 183, 184, 184(a), 186(e), Taxes and NYC Utility Excise/Franchise Tax.
11. Includes Privilege Tax on Gross Receipt from Toll Telecommunications Services.
12. Includes City License Tax.
13. Includes TIF, Equalization Surcharge, and Margins Tax.
14. Includes Emergency Service Charge for Poison Control Center, City Resort and City Utility User Tax
15. Includes Local Consumer Utility Tax.
16. Includes City Utility Tax.
17. Includes City Excise Tax.

ISSUED TO SELLER: AT&T

I certify that ______________________________ (name of issuer/buyer)

______________________________(address of issuer/ buyer)

______________________________(accounts of issuer/ buyer)

Is register to do business in the above States and that services purchased during the period covered by the resale agreement are purchases for resale, whether wholesale or retail, in the normal course of business and will pay the tax to the proper taxing authority.

I further certify that if any telecommunications service so purchased tax-free is used or consumed by issuer as to make it subject to tax, issuer will pay the tax directly to the proper taxing authority when the applicable law so provides or when proper taxing authority informs vendor for added tax billing. This certificate will be considered a part of each order that our company may hereafter give to vendor and shall be valid until canceled by our company in writing or revoked by the state. I further agree to hold harmless, and indemnify, and defend AT&T and its affiliated entities from any claims (asserted or threatened), damages, penalties, interest, expenses, and/or liabilities based on or arising out of the failure to properly collect and/or remit taxes on services ordered hereunder.

I declare under penalties of making false statement that this certificate has been examined by me and to the best of my knowledge and belief, reflect true, correct, and accurate statements.

Authorized Signature ______________________________ Print Name: ______________________________

Title ______________________________ Date: ______________________________

Demonstrative Exhibit for Mike Rey.

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR data is current as of April 30, 2015

Title 47 → Chapter I → Subchapter B → Part 51 → Subpart D → §51.323

Title 47: Telecommunication
PART 51—INTERCONNECTION
Subpart D—Additional Obligations of Incumbent Local Exchange Carriers

§51.323 Standards for physical collocation and virtual collocation.

(a) An incumbent LEC shall provide physical collocation and virtual collocation to requesting telecommunications carriers.

(b) An incumbent LEC shall permit the collocation and use of any equipment necessary for interconnection or access to unbundled network elements.

(1) Equipment is necessary for interconnection if an inability to deploy that equipment would, as a practical, economic, or operational matter, preclude the requesting carrier from obtaining interconnection with the incumbent LEC at a level equal in quality to that which the incumbent obtains within its own network or the incumbent provides to any affiliate, subsidiary, or other party.

(2) Equipment is necessary for access to an unbundled network element if an inability to deploy that equipment would, as a practical, economic, or operational matter, preclude the requesting carrier from obtaining nondiscriminatory access to that unbundled network element, including any of its features, functions, or capabilities.

(3) Multi-functional equipment shall be deemed necessary for interconnection or access to an unbundled network element if and only if the primary purpose and function of the equipment, as the requesting carrier seeks to deploy it, meets either or both of the standards set forth in paragraphs (b)(1) and (b)(2) of this section. For a piece of equipment to be utilized primarily to obtain equal in quality interconnection or nondiscriminatory access to one or more unbundled network elements, there also must be a logical nexus between the additional functions the equipment would perform and the telecommunication services the requesting carrier seeks to provide to its customers by means of the interconnection or unbundled network element. The collocation of those functions of the equipment that, as stand-alone functions, do not meet either of the standards set forth in paragraphs (b)(1) and (b)(2) of this section must not cause the equipment to significantly increase the burden on the incumbent's property.

(c) Whenever an incumbent LEC objects to collocation of equipment by a requesting telecommunications carrier for purposes within the scope of section 251(c)(6) of the Act, the incumbent LEC shall prove to the state commission that the equipment is not necessary for interconnection or access to unbundled network elements under the standards set forth in paragraph (b) of this section. An incumbent LEC may not object to the collocation of equipment on the grounds that the equipment does not comply with safety or engineering standards that are more stringent than the safety or engineering standards that the incumbent LEC applies to its own equipment. An incumbent LEC may not object to the collocation of equipment on the ground that the equipment fails to comply with Network Equipment and Building Specifications performance standards or any other performance standards. An incumbent LEC that denies collocation of a competitor's equipment, citing safety standards, must provide to the competitive LEC within five business days of the denial a list of all equipment that the incumbent LEC locates at the premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that the incumbent LEC contends the competitor's equipment fails to meet. This affidavit must set forth in detail: the exact safety requirement that the requesting carrier's equipment does not satisfy; the incumbent LEC's basis for concluding that the requesting carrier's equipment does not meet this safety requirement; and the incumbent LEC's basis for concluding why collocation of equipment not meeting this safety requirement would compromise network safety.

(d) When an incumbent LEC provides physical collocation, virtual collocation, or both, the incumbent LEC shall:

(1) Provide an interconnection point or points, physically accessible by both the incumbent LEC and the collocating telecommunications carrier, at which the fiber optic cable carrying an interconnector's circuits can enter the incumbent LEC's premises, provided that the incumbent LEC shall designate interconnection points as close as reasonably possible to its premises;

(2) Provide at least two such interconnection points at each incumbent LEC premises at which there are at least two entry points for the incumbent LEC's cable facilities, and at which space is available for new facilities in at least two of those entry points;

(3) Permit interconnection of copper or coaxial cable if such interconnection is first approved by the state commission; and

(4) Permit physical collocation of microwave transmission facilities except where such collocation is not practical for technical reasons or because of space limitations, in which case virtual collocation of such facilities is required where technically feasible.

Demonstrative.
Depo Exhibits
for Mike Ray.

Mike Ray, MBA, CNE, CTE

From:	MASTRACCHIO, EILEEN G <eg2483@att.com>
Sent:	Tuesday, February 24, 2015 4:39 PM
To:	'support@astrocompanies.com'
Subject:	RE: Terra Nova Telecom, Inc. Dispute Escalation Notice (Dispute ID 1315)

Denied. The Point of Interconnection (POI) is not the TerraNova collocation cage, nor is it the AT&T switch. The POI is the Cross-connect Equipment (the MUX) where carrier connect to their respective networks. After the POI, AT&T Local Interconnection trunks carry traffic to the AT&T switch. The USOC PE1W1 is the customer channel interface which is prior to the POI but after the Collocation cage.

Eileen Mastracchio
Lead Billing Ops – Billing Dispute Escalations Team
Financial Billing Operations, AT&T Services, Inc.
New Phone Number: 843 399-7361
Fax: 704 595-1582
Email: eg2483@att.com

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From: OSS Autoprocess [mailto:carrierdisputes@tntelecom.net]
Sent: Sunday, February 22, 2015 10:03 PM
To: MASTRACCHIO, EILEEN G
Subject: Terra Nova Telecom, Inc. Dispute Escalation Notice (Dispute ID 1315)

According to our records, this dispute was escalated more than 30 days ago and no response has been received. Details are provided below:

Carrier/Vendor	Bellsouth UNE
Our Dispute ID	1315
Your Carrier Claim Number (if known)	ABB005548705, FileID 748900
Billing Account Number	904N130073073
Invoice Number	N130073073-14317
Invoice Date	Nov 13 2014
TN/CktID	All PE1W1

Ray
EXHIBIT NO. 2
A KOMARIDIS

Order/PON	
Dispute Amount	5.30
Dispute Type (if applies)	MRC
Dispute Reason	Each party must bear its own costs for connection of Local Interconnection Trunks, charge not valid per ICA
Comments	PE1W1 not permitted due to ICA language: 3.3.1: neither Party will charge the other Party recurring and nonrecurring charges for trunks
Escalation Comments	1/5/15 @ 2:59pm - DENIED - REFER TO EXHIBITE A FOR THE PE1W1 WHICH IS NOT PART OF YOUR ICA AND WON'T FALL UNDER THE BILL AND KEEP. ALSO STATED IN THE ICA LANGUAGE IN SECTION 3.3.1 THE APPROPRIATE RATE ELEMENTS THAT ARE SUBJECT TO THIS BILL AND KEEP COMPENSATION PLAN ARE SET FORTH IN EXHIBIT A. THE PE1W1 USOC IS A PHYSICAL EXPANDED INTERCONNECTION SERVICE BILLED AS SWITCHED ACCESS ON A DS1 BECAUSE THE CFA THAT THIS CKT IS RIDING IS A PHYSICAL COLLO T1TIE. AT&T Contact: JEAN M GALLUPS Telep

Please process this dispute and contact me at carrierdisputes@tntelecom.net or call 305 453-7100 if you have any questions regarding this dispute.

Thank you,
Terra Nova Telecom, Inc. Carrier Disputes

Mike Ray, MBA, CNE, CTE

From:	MASTRACCHIO, EILEEN G <eg2483@att.com>
Sent:	Tuesday, February 24, 2015 4:26 PM
To:	'support@astrocompanies.com'
Subject:	RE: Terra Nova Telecom, Inc. Dispute Escalation Notice (Dispute ID 1260)

This is denied. The Point of Interconnection (POI) is not the TerraNova collocation cage, nor is it the AT&T switch. The POI is the Cross-connect Equipment (the MUX) where carrier connect to their respective networks. After the POI, AT&T Local Interconnection trunks carry traffic to the AT&T switch. The USOC PE1W1 is the customer channel interface which is prior to the POI but after the Collocation cage.

Eileen Mastracchio
Lead Billing Ops – Billing Dispute Escalations Team
Financial Billing Operations, AT&T Services, Inc.
New Phone Number: 843 399-7361
Fax: 704 595-1582
Email: eg2483@att.com

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From: OSS Autoprocess [mailto:carrierdisputes@tntelecom.net]
Sent: Saturday, February 21, 2015 10:03 PM
To: MASTRACCHIO, EILEEN G
Subject: Terra Nova Telecom, Inc. Dispute Escalation Notice (Dispute ID 1260)

According to our records, this dispute was escalated more than 30 days ago and no response has been received. Details are provided below:

Carrier/Vendor	Bellsouth UNE
Our Dispute ID	1260
Your Carrier Claim Number (if known)	ABB005512890
Billing Account Number	305N220219219
Invoice Number	N220219219-14295
Invoice Date	Oct 22 2014
TN/CktID	All PE1W1
Order/PON	

Dispute Amount	7.95
Dispute Type (if applies)	MRC
Dispute Reason	Each party must bear its own costs for connection of Local Interconnection Trunks, charge not valid per ICA
Comments	
Escalation Comments	Changed carrier claim # from to ABB005512890: DENIED - DENIED. USOC PE1W1 WAS NOT LISTED IN ICA SO IS BILLING FROM THE STATE TARIFF, SECTION 13.3.23 B2C. THE PE1W1 ISAPPICABLE BECAUSE DS1 IS A SWITCHED DS1 RIDING A TIE CFA. PLEASE CONTACT YOUR AE FOR MORE INFORMATION Jean Gallups

Please process this dispute and contact me at carrierdisputes@tntelecom.net or call 305 453-7100 if you have any questions regarding this dispute.

Thank you,
Terra Nova Telecom, Inc. Carrier Disputes

Mike Ray, MBA, CNE, CTE

From:	MASTRACCHIO, EILEEN G <eg2483@att.com>
Sent:	Wednesday, March 4, 2015 5:44 PM
To:	'support@astrocompanies.com'
Subject:	RE: Terra Nova Telecom, Inc. Dispute Escalation Notice (Dispute ID 1039)

3/4: As a onetime courtesy AT&T processed this bulked claim. However going forward AT&T must insist that disputes be sent into the dispute mailboxes in the proper manner.

• Disputes must be sent in individually and cannot be bulked or sent in under a "class of charges".
• They must be submitted on the correct dispute forms. In the case of disputes that are recurring charges (MRCs), those charges need to be disputed each month in the amount that was billed on the invoice.
o Each dispute line item should contain as much information as possible. Account ID, Bill Date, $ Billed, $ Claimed, Customer Comments, Circuit ID/WTN, USOC, PON included with the dispute form will assist with the prompt disposition of the dispute and eliminates the need for clarifications for more information.

AT&T is committed to resolving disputes in a timely manner and wants to work with TerraNova to quickly and efficiently resolve billing issues. However we cannot process disputes that do not contain enough information for investigation or where the amount being disputed does not match any dollar amount on the invoice referenced in the dispute (bulked amounts).
The response was sent individually as follows:
ABB005581716 - resolved and sent on 1/30/2015 $155.00 DENIED. USOC PE1W1 WAS NOT LISTED IN ICA SO IS BILLING FROM THE STATE TARIFF, SECTION 13.3.23 B2C. THE PE1W1 ISAPPICABLE BECAUSE DS1 IS A SWITCHED DS1 RIDING A TIE CFA. PLEASE CONTACT YOUR AE FOR MORE INFORMATION. Katrine Hofman at jh1934@att.com
ABB005581717 - resolved and sent on 1/30/2015 $155.00 resolved and sent on 1/30/2015 $155.00 DENIED. USOC PE1W1 WAS NOT LISTED IN ICA SO IS BILLING FROM THE STATE TARIFF, SECTION 13.3.23 B2C. THE PE1W1 ISAPPICABLE BECAUSE DS1 IS A SWITCHED DS1 RIDING A TIE CFA. PLEASE CONTACT YOUR AE FOR MORE INFORMATION. Katrine Hofman at jh1934@att.com
ABB005581718 - resolved and sent on 1/30/2015 $52.42 DENIED. OMC CHARGES ARE VALID BASED ON THE HISTORY OF ORDER CQ1VW3C8. THIS ORDER HAD THE DUE DATE CHANGED 4 DIFFERENT TIMES PER SUP'S SUBMITTED ON THE ORDER
ABB005581719 - resolved and sent on 1/30/2015 $155.00 resolved and sent on 1/30/2015 $155.00 DENIED. USOC PE1W1 WAS NOT LISTED IN ICA SO IS BILLING FROM THE STATE TARIFF, SECTION 13.3.23 B2C. THE PE1W1 ISAPPICABLE BECAUSE DS1 IS A SWITCHED DS1 RIDING A TIE CFA. PLEASE CONTACT YOUR AE FOR MORE INFORMATION. Katrine Hofman at jh1934@att.com

Eileen Mastracchio
Lead Billing Ops – Billing Dispute Escalations Team
Financial Billing Operations, AT&T Services, Inc.
New Phone Number: 843 399-7361
Fax: 704 595-1582
Email: eg2483@att.com

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843 399-7361 and delete this message immediately from your computer. Any other use, retention, dissemination, forwarding, printing or copying of this e-mail is strictly prohibited

From: OSS Autoprocess [mailto:carrierdisputes@tntelecom.net]
Sent: Monday, March 02, 2015 10:04 PM
To: MASTRACCHIO, EILEEN G
Subject: Terra Nova Telecom, Inc. Dispute Escalation Notice (Dispute ID 1039)

According to our records, this dispute was escalated more than 30 days ago and no response has been received. Details are provided below:

Carrier/Vendor	Bellsouth UNE
Our Dispute ID	1039
Your Carrier Claim Number (if known)	ABB005581716, FileID:754467
Billing Account Number	305N220219219
Invoice Number	N220219219-14142
Invoice Date	May 22 2014
TN/CktID	All NRCs
Order/PON	
Dispute Amount	517.42
Dispute Type (if applies)	NRC
Dispute Reason	Each party must bear its own costs for connection of Local Interconnection Trunks, charge not valid per ICA
Comments	
Escalation Comments	1/30/15 @ 11:28 am - DENIED - Resolution: DENIED. USOC PE1W1 WAS NOT LISTED IN ICA SO IS BILLING FROM THE STATE TARIFF, SECTION 13.3.23 B2C. THE PE1W1 ISAPPICABLE BECAUSE DS1 IS A SWITCHED DS1 RIDING A TIE CFA. PLEASE CONTACT YOUR AE FOR MORE INFORMATION. Katrine Hofman at jh1934@att.com AT&T Contact: JEAN M GALLUPS Telephone No: (877) 811 - 2060

Please process this dispute and contact me at carrierdisputes@tntelecom.net or call 305 453-7100 if you have any questions regarding this dispute.

Thank you,
Terra Nova Telecom, Inc. Carrier Disputes

Mike Ray, MBA, CNE, CTE

From:	MASTRACCHIO, EILEEN G <eg2483@att.com>
Sent:	Friday, February 13, 2015 4:57 PM
To:	'support@astrocompanies.com'
Subject:	RE: Terra Nova Telecom, Inc. Dispute Escalation Notice (Dispute ID 1269)

Denied for the following reason:

AT&T assesses a service order processing charge for the use of its OSS, which is appropriate per the parties' ICA. Specifically, and in support of its position and the charges assessed, AT&T references the following provisions of the parties' ICA:
Attachment 5- Access to Numbers and Number Portability
3. OSS RATES
3.1 The terms, conditions and rates for OSS are as set forth in Attachments 1 and 2.
Attachment 1 (Resale) - Sections 3.14.1, 3.14.2, and Exhibit D of the parties' ICA:
3.14.1 [Terra Nova] must order services through resale interfaces, i.e., the Local Carrier Service Center (LCSC) and/or appropriate Complex Resale Support Group (CRSG) pursuant to this Agreement. BellSouth has developed and made available the interactive interfaces by which [Terra Nova] may submit a Local Service Request (LSR) electronically as set forth in Attachment 2 of this Agreement. Service orders will be in a reasonable standard format designated by BellSouth and will be required on a nondiscriminatory basis.
3.14.2 LSRs submitted by means of one of these interactive interfaces will incur an OSS electronic charge as set forth in Exhibit E (Note- should reference Exhibit D.) to this Attachment 1. An individual LSR will be identified for billing purposes by its Purchase Order Number (PON). LSRs submitted by means other than one of these interactive interfaces (Mail, fax, courier, etc.) will incur a manual order charge as set forth in Exhibit E to this Attachment 1 (Note- should reference Exhibit D.) Supplements or clarifications to a previously billed LSR will not incur an additional OSS charge over and above the original OSS charge.
ATT 1 - Exhibit D – Resale Discounts & Rates
Attachment 2 (Network Elements and Other Services) – Sections 2.8 & 11 and Exhibit A
2.8 Ordering Guidelines and Processes
2.8.1 Ordering and provisioning for UNEs and Other Services shall be as set forth in Attachment 6 of this Agreement.
11 Operational Support Systems (OSS)
11.1 BellSouth shall provide [Terra Nova] with nondiscriminatory access to operations support systems on an unbundled basis, in accordance with 47 C.F.R. § 51.319(g) and as set forth in Attachment 6. OSS functions consist of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by BellSouth's databases and information. BellSouth, as part of its duty to provide access to the pre-ordering function, shall provide [Terra Nova] with nondiscriminatory access to the same detailed information about the loop that is available to BellSouth.
Therefore, per Attachment 5 (referencing Attachments 1 and 2) of the Parties' ICA, AT&T is appropriately assessing an OSS Charge of $3.50 for submitting a mechanized LSR.

Eileen Mastracchio
Lead Billing Ops – Billing Dispute Escalations Team
Financial Billing Operations, AT&T Services, Inc.
New Phone Number: 843 399-7361
Fax: 704 595-1582
Email: eg2483@att.com

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From: OSS Autoprocess [mailto:carrierdisputes@tntelecom.net]
Sent: Saturday, January 31, 2015 10:04 PM
To: MASTRACCHIO, EILEEN G
Subject: Terra Nova Telecom, Inc. Dispute Escalation Notice (Dispute ID 1269)

According to our records, this dispute was escalated more than 30 days ago and no response has been received. Details are provided below:

Carrier/Vendor	Bellsouth UNE
Our Dispute ID	1269
Your Carrier Claim Number (if known)	LBB027228321, FileID:742853
Billing Account Number	904Q921557557
Invoice Number	10 14
Invoice Date	Oct 22 2014
TN/CktID	All LNP
Order/PON	
Dispute Amount	7.00
Dispute Type (if applies)	NRC
Dispute Reason	Local Number Portability is not billable per ICA and/or applicable law and regulation
Comments	
Escalation Comments	Changed carrier claim # from to LBB027228321, FileID:742853:

Please process this dispute and contact me at carrierdisputes@tntelecom.net or call 305 453-7100 if you have any questions regarding this dispute.

Thank you,
Terra Nova Telecom, Inc. Carrier Disputes

From:	MASTRACCHIO, EILEEN G <eg2483@att.com>
Sent:	Friday, February 13, 2015 4:39 PM
To:	'support@astrocompanies.com'
Subject:	RE: Terra Nova Telecom, Inc. Dispute Escalation Notice (Dispute ID 1253)

Denied. The Point of Interconnection (POI) is not the TerraNova collocation cage, nor is it the AT&T switch. The POI is the Cross-connect Equipment (the MUX) where carrier connect to their respective networks. After the POI, AT&T Local Interconnection trunks carry traffic to the AT&T switch. The USOC PE1W1 is the customer channel interface which is prior to the POI but after the Collocation cage.

Eileen Mastracchio
Lead Billing Ops – Billing Dispute Escalations Team
Financial Billing Operations, AT&T Services, Inc.
New Phone Number: 843 399-7361
Fax: 704 595-1582
Email: eg2483@att.com

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From: OSS Autoprocess [mailto:carrierdisputes@tntelecom.net]
Sent: Friday, January 30, 2015 10:04 PM
To: MASTRACCHIO, EILEEN G
Subject: Terra Nova Telecom, Inc. Dispute Escalation Notice (Dispute ID 1253)

According to our records, this dispute was escalated more than 30 days ago and no response has been received. Details are provided below:

Carrier/Vendor	Bellsouth UNE
Our Dispute ID	1253
Your Carrier Claim Number (if known)	ABB005511689, FileID:742555
Billing Account Number	904N130073073
Invoice Number	N130073073-14286

Invoice Date	Oct 13 2014
TN/CktID	All PE1W1
Order/PON	
Dispute Amount	5.30
Dispute Type (if applies)	MRC
Dispute Reason	Each party must bear its own costs for connection of Local Interconnection Trunks, charge not valid per ICA
Comments	
Escalation Comments	11/20/14 @ 10:10 a - DENIED - Resolve: Amount Adjusted ($):0.00 Correcting Order: Resolution: DENIED. REFER TO EXHIBITE A FOR THE PE1W1 WHICH IS NOT PART OF YOUR ICA AND WON'T FALL UNDER THE BILL AND KEEP. ALSO STATED IN THE ICA LANGUAGE IN SECTION 3.3.1 THE APPROPRIATE RATE ELEMENTS THAT ARE SUBJECT TO THIS BILL AND KEEP COMPENSATION PLAN ARE SET FORTH IN EXHIBIT A. THE PE1W1 USOC IS A PHYSICAL EXPANDED INTERCONNECTION SERVICE BILLED AS SWITCHED ACCESS ON A DS1 BECAUSE THE CFA THAT THIS

Please process this dispute and contact me at carrierdisputes@tntelecom.net or call 305 453-7100 if you have any questions regarding this dispute.

Thank you,
Terra Nova Telecom, Inc. Carrier Disputes

or virtual collocation arrangement, the provisioning party shall not charge for such cross connect. When a cross connect is made in the provisioning of Local Interconnection facilities/services, the providing Party will not charge the other Party a Local Channel Facility rate for such cross connect.

3.3.5 The facilities and associated components as set forth in Exhibit A purchased pursuant to this Section 3 shall be ordered via the Access Service Request (ASR) process. The terms, conditions and rates for ordering charges (i.e., expedite, cancellation, and order modification charges) are as set forth in the BellSouth FCC No. 1 Tariff. To the extent that BellSouth requests that KMC Data submit an ASR for an augmentation to the facilities purchased by KMC Data from BellSouth but utilized for BellSouth's originated traffic, the Parties will work in good faith and make best efforts to ensure that the ASR submitted for such augmentations does not require expedition, cancellation or modification and in the event that KMC Data incurs ordering charges, BellSouth and KMC Data shall work cooperatively to determine which Party caused the incurrence of such charges and that Party shall be responsible for such charges.

3.4 Fiber Meet

3.4.1 Notwithstanding Sections 3.2.1, 3.2.2, and 3.2.3 above, if KMC Data elects to establish interconnection with BellSouth pursuant to a Fiber Meet Local Channel, KMC Data and BellSouth shall jointly engineer, operate and maintain a Synchronous Optical Network (SONET) transmission system by which they shall interconnect their transmission and routing of Local Traffic via a Local Channel at either the DS1 or DS3 level. The Parties shall work jointly to determine the specific transmission system. However, KMC Data's SONET transmission system must be compatible with BellSouth's equipment, and the Data Communications Channel (DCC) must be turned off, unless otherwise mutually agreed to by the Parties.

3.4.2 Each Party, at its own expense, shall procure, install and maintain the agreed upon SONET transmission system in its network.

3.4.3 The Parties shall agree to a Fiber Meet point between the BellSouth Serving Wire Center and the KMC Data Serving Wire Center. The Parties shall deliver their fiber optic facilities to the Fiber Meet point with sufficient spare length to reach the fusion splice point for the Fiber Meet Point.. BellSouth shall, at its own expense, provide and maintain the fusion splice point for the Fiber Meet. A building type Common Language Location Identification (CLLI) code will be established for each Fiber Meet point. All orders for interconnection facilities from the Fiber Meet point shall indicate the Fiber Meet point as the originating point for the facility.

3.4.4 Upon verbal request by KMC Data, and within a reasonable and non-discriminatory time frame, BellSouth shall allow KMC Data access to the fusion

Demonstrative Exhibit for Mike Ray

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR data is current as of May 1, 2015

Title 47 → Chapter I → Subchapter B → Part 51 → Subpart D → §51.319

Title 47: Telecommunication
PART 51—INTERCONNECTION
Subpart D—Additional Obligations of Incumbent Local Exchange Carriers

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§51.319 Specific unbundling requirements.

(a) *Local loops.* An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to the local loop on an unbundled basis, in accordance with section 251(c)(3) of the Act and this part and as set forth in paragraphs (a)(1) through (8) of this section. The local loop network element is defined as a transmission facility between a distribution frame (or its equivalent) in an incumbent LEC central office and the loop demarcation point at an end-user customer premises. This element includes all features, functions, and capabilities of such transmission facility, including the network interface device. It also includes all electronics, optronics, and intermediate devices (including repeaters and load coils) used to establish the transmission path to the end-user customer premises as well as any inside wire owned or controlled by the incumbent LEC that is part of that transmission path.

(1) *Copper loops.* An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to the copper loop on an unbundled basis. A copper loop is a stand-alone local loop comprised entirely of copper wire or cable. Copper loops include two-wire and four-wire analog voice-grade copper loops, digital copper loops (*e.g.,* DS0s and integrated services digital network lines), as well as two-wire and four-wire copper loops conditioned to transmit the digital signals needed to provide digital subscriber line services, regardless of whether the copper loops are in service or held as spares. The copper loop includes attached electronics using time division multiplexing technology, but does not include packet switching capabilities as defined in paragraph (a)(2)(i) of this section. The availability of DS1 and DS3 copper loops is subject to the requirements of paragraphs (a)(4) and (5) of this section.

(i) *Line splitting.* An incumbent LEC shall provide a requesting telecommunications carrier that obtains an unbundled copper loop from the incumbent LEC with the ability to engage in line splitting arrangements with another competitive LEC using a splitter collocated at the central office where the loop terminates into a distribution frame or its equivalent. Line splitting is the process in which one competitive LEC provides narrowband voice service over the low frequency portion of a copper loop and a second competitive LEC provides digital subscriber line service over the high frequency portion of that same loop. The high frequency portion of the loop consists of the frequency range on the copper loop above the range that carries analog circuit-switched voice transmissions. This portion of the loop includes the features, functions, and capabilities of the loop that are used to establish a complete transmission path on the high frequency range between the incumbent LEC's distribution frame (or its equivalent) in its central office and the demarcation point at the end-user customer premises, and includes the high frequency portion of any inside wire owned or controlled by the incumbent LEC.

(A) An incumbent LEC's obligation, under paragraph (a)(1)(i) of this section, to provide a requesting telecommunications carrier with the ability to engage in line splitting applies regardless of whether the carrier providing voice service provides its own switching or obtains local circuit switching from the incumbent LEC.

(B) An incumbent LEC must make all necessary network modifications, including providing nondiscriminatory access to operations support systems necessary for pre-ordering, ordering, provisioning, maintenance and repair, and billing for loops used in line splitting arrangements.

(ii) *Line conditioning.* The incumbent LEC shall condition a copper loop at the request of the carrier seeking access to a copper loop under paragraph (a)(1) of this section or a copper subloop under paragraph (b) of this section to ensure that the copper loop or copper subloop is suitable for providing digital subscriber line services, whether or not the incumbent LEC offers advanced services to the end-user customer on that copper loop or copper subloop. If the incumbent LEC seeks compensation from the requesting telecommunications carrier for line conditioning, the requesting telecommunications carrier has the option of refusing, in whole or in part, to have the line conditioned; and a requesting telecommunications carrier's refusal of some or all aspects of line conditioning will not diminish any right it may have, under paragraphs (a) and (b) of this section, to access the copper loop or the copper subloop.

(A) Line conditioning is defined as the removal from a copper loop or copper subloop of any device that could diminish the capability of the loop or subloop to deliver high-speed switched wireline telecommunications capability, including digital subscriber line service. Such devices include, but are not limited to, bridge taps, load coils, low pass filters, and range extenders.

(B) Incumbent LECs shall recover the costs of line conditioning from the requesting telecommunications carrier in accordance with the Commission's forward-looking pricing principles promulgated pursuant to section 252(d)(1) of the Act and in compliance with rules governing nonrecurring costs in §51.507(e).

(C) Insofar as it is technically feasible, the incumbent LEC shall test and report troubles for all the features, functions, and capabilities of conditioned copper lines, and may not restrict its testing to voice transmission only.

(iii) *Maintenance, repair, and testing.* (A) An incumbent LEC shall provide, on a nondiscriminatory basis, physical loop test access points to a requesting telecommunications carrier at the splitter, through a cross-connection to the requesting telecommunications carrier's collocation space, or through a standardized interface, such as an intermediate distribution frame or a test access server, for the purpose of testing, maintaining, and repairing copper loops and copper subloops.

(B) An incumbent LEC seeking to utilize an alternative physical access methodology may request approval to do so from the state commission, but must show that the proposed alternative method is reasonable and nondiscriminatory, and will not disadvantage a requesting telecommunications carrier's ability to perform loop or service testing, maintenance, or repair.

(iv) *Control of the loop and splitter functionality.* In situations where a requesting telecommunications carrier is obtaining access to the high frequency portion of a copper loop through a line splitting arrangement, the incumbent LEC may maintain control over the loop and splitter equipment and functions, and shall provide to the requesting telecommunications carrier loop and splitter functionality that is compatible with any transmission technology that the requesting telecommunications carrier seeks to deploy using the high frequency portion of the loop, as defined in paragraph (a)(1)(i) of this section, provided that such transmission technology is presumed to be deployable pursuant to §51.230.

(2) *Hybrid loops.* A hybrid loop is a local loop composed of both fiber optic cable, usually in the feeder plant, and copper wire or cable, usually in the distribution plant.

(i) *Packet switching facilities, features, functions, and capabilities.* An incumbent LEC is not required to provide unbundled access to the packet switched features, functions and capabilities of its hybrid loops. Packet switching capability is the routing or forwarding of packets, frames, cells, or other data units based on address or other routing information contained in the packets, frames, cells or other data units, and the functions that are performed by the digital subscriber line access multiplexers, including but not limited to the ability to terminate an end-user customer's copper loop (which includes both a low-band voice channel and a high-band data channel, or solely a data channel); the ability to forward the voice channels, if present, to a circuit switch or multiple circuit switches; the ability to extract data units from the data channels on the loops; and the ability to combine data units from multiple loops onto one or more trunks connecting to a packet switch or packet switches.

(ii) *Broadband services.* When a requesting telecommunications carrier seeks access to a hybrid loop for the provision of broadband services, an incumbent LEC shall provide the requesting telecommunications carrier with nondiscriminatory access to the time division multiplexing features, functions, and capabilities of that hybrid loop, including DS1 or DS3 capacity (where impairment has been found to exist), on an unbundled basis to establish a complete transmission path between the incumbent LEC's central office and an end user's customer premises. This access shall include access to all features, functions, and capabilities of the hybrid loop that are not used to transmit packetized information.

(iii) *Narrowband services.* When a requesting telecommunications carrier seeks access to a hybrid loop for the provision of narrowband services, the incumbent LEC may either:

(A) Provide nondiscriminatory access, on an unbundled basis, to an entire hybrid loop capable of voice-grade service (i.e., equivalent to DS0 capacity), using time division multiplexing technology; or

(B) Provide nondiscriminatory access to a spare home-run copper loop serving that customer on an unbundled basis.

(3) *Fiber loops*—(i) *Definitions*—(A) *Fiber-to-the-home loops.* A fiber-to-the-home loop is a local loop consisting entirely of fiber optic cable, whether dark or lit, serving an end user's customer premises or, in the case of predominantly residential multiple dwelling units (MDUs), a fiber optic cable, whether dark or lit, that extends to the multiunit premises' minimum point of entry (MPOE).

(B) *Fiber-to-the-curb loops.* A fiber-to-the-curb loop is a local loop consisting of fiber optic cable connecting to a copper distribution plant that is not more than 500 feet from the customer's premises or, in the case of predominantly residential MDUs, not more than 500 feet from the MDU's MPOE. The fiber optic cable in a fiber-to-the-curb loop must connect to a copper distribution plant at a serving area interface from which every other copper distribution subloop also is not more than 500 feet from the respective customer's premises.

(ii) *New builds.* An incumbent LEC is not required to provide nondiscriminatory access to a fiber-to-the-home loop or a fiber-to-the-curb loop on an unbundled basis when the incumbent LEC deploys such a loop to an end user's customer premises that previously has not been served by any loop facility.

(iii) *Overbuilds.* An incumbent LEC is not required to provide nondiscriminatory access to a fiber-to-the-home loop or a fiber-to-the-curb loop on an unbundled basis when the incumbent LEC has deployed such a loop parallel to, or in replacement of, an existing copper loop facility, except that:

(A) The incumbent LEC must maintain the existing copper loop connected to the particular customer premises after deploying the fiber-to-the-home loop or the fiber-to-the-curb loop and provide nondiscriminatory access to that copper loop on an unbundled basis unless the incumbent LEC retires the copper loops pursuant to paragraph (a)(3)(iv) of this section.

(B) An incumbent LEC that maintains the existing copper loops pursuant to paragraph (a)(3)(iii)(A) of this section need not incur any expenses to ensure that the existing copper loop remains capable of transmitting signals prior to receiving a request for access pursuant to that paragraph, in which case the incumbent LEC shall restore the copper loop to serviceable condition upon request.

(C) An incumbent LEC that retires the copper loop pursuant to paragraph (a)(3)(iv) of this section shall provide nondiscriminatory access to a 64 kilobits per second transmission path capable of voice grade service over the fiber-to-the-home loop or fiber-to-the-curb loop on an unbundled basis.

(iv) *Retirement of copper loops or copper subloops.* Prior to retiring any copper loop or copper subloop that has been replaced with a fiber-to -the-home loop or a fiber-to-the-curb loop, an incumbent LEC must comply with:

(A) The network disclosure requirements set forth in section 251(c)(5) of the Act and in §51.325 through §51.335; and

(B) Any applicable state requirements.

(4) *DS1 loops.* (i) Subject to the cap described in paragraph (a)(4)(ii) of this section, an incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to a DS1 loop on an unbundled basis to any building not served by a wire center with at least 60,000 business lines and at least four fiber-based collocators. Once a wire center exceeds both of these thresholds, no future DS1 loop unbundling will be required in that wire center. 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, including T1 services.

(ii) *Cap on unbundled DS1 loop circuits.* A requesting telecommunications carrier may obtain a maximum of ten unbundled DS1 loops to any single building in which DS1 loops are available as unbundled loops.

(5) *DS3 loops.* (i) Subject to the cap described in paragraph (a)(5)(ii) of this section, an incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to a DS3 loop on an unbundled basis to any building not served by a wire center with at least 38,000 business lines and at least four fiber-based collocators. Once a wire center exceeds both of these thresholds, no future DS3 loop unbundling will be required in that wire center. A DS3 loop is a digital local loop having a total digital signal speed of 44.736 megabytes per second.

(ii) *Cap on unbundled DS3 loop circuits.* A requesting telecommunications carrier may obtain a maximum of a single unbundled DS3 loop to any single building in which DS3 loops are available as unbundled loops.

(6) *Dark fiber loops.* An incumbent LEC is not required to provide requesting telecommunications carriers with access to a dark fiber loop on an unbundled basis. Dark fiber is fiber within an existing fiber optic cable that has not yet been activated through optronics to render it capable of carrying communications services.

(7) *Routine network modifications.* (i) An incumbent LEC shall make all routine network modifications to unbundled loop facilities used by requesting telecommunications carriers where the requested loop facility has already been constructed. An incumbent LEC shall perform these routine network modifications to unbundled loop facilities in a nondiscriminatory fashion, without regard to whether the loop facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.

(ii) A routine network modification is an activity that the incumbent LEC regularly undertakes for its own customers. Routine network modifications include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that the incumbent LEC ordinarily attaches to a DS1 loop to activate such loop for its own customer. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the construction of a new loop, or the installation of new aerial or buried cable for a requesting telecommunications carrier.

(8) *Engineering policies, practices, and procedures.* An incumbent LEC shall not engineer the transmission capabilities of its network in a manner, or engage in any policy, practice, or procedure, that disrupts or degrades access to a local loop or subloop, including the time division multiplexing-based features, functions, and capabilities of a hybrid loop, for which a requesting telecommunications carrier may obtain or has obtained access pursuant to paragraph (a) of this section.

(b) *Subloops.* An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to subloops on an unbundled basis in accordance with section 251(c)(3) of the Act and this part and as set forth in paragraph (b) of this section.

(1) *Copper subloops.* An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to a copper subloop on an unbundled basis. A copper subloop is a portion of a copper loop, or hybrid loop, comprised entirely of copper wire or copper cable that acts as a transmission facility between any point of technically feasible access in an incumbent LEC's outside plant, including inside wire owned or controlled by the incumbent LEC, and the end-user customer premises. A copper subloop includes all intermediate devices (including repeaters and load coils) used to establish a transmission path between a point of technically feasible access and the demarcation point at the end-user customer premises, and includes the features, functions, and capabilities of the copper loop. Copper subloops include two-wire and four-wire analog voice-grade subloops as well as two-wire and four-wire subloops conditioned to transmit the digital signals needed to provide digital subscriber line services, regardless of whether the subloops are in service or held as spares.

(i) *Point of technically feasible access.* A point of technically feasible access is any point in the incumbent LEC's outside plant where a technician can access the copper wire within a cable without removing a splice case. Such points include, but are not limited to, a pole or pedestal, the serving area interface, the network interface device, the minimum point of entry, any remote terminal, and the feeder/distribution interface. An incumbent LEC shall, upon a site-specific request, provide access to a copper subloop at a splice near a remote terminal. The incumbent LEC shall be compensated for providing this access in accordance with §§51.501 through 51.515.

(ii) *Rules for collocation.* Access to the copper subloop is subject to the Commission's collocation rules at §§51.321 and 51.323.

(2) *Subloops for access to multiunit premises wiring.* An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to the subloop for access to multiunit premises wiring on an unbundled basis regardless of the capacity level or type of loop that the requesting telecommunications carrier seeks to provision for its customer. The subloop for access to multiunit premises wiring is defined as any portion of the loop that it is technically feasible to access at a terminal in the incumbent LEC's outside plant at or near a multiunit premises. One category of this subloop is inside wire, which is defined for purposes of this section as all loop plant owned or controlled by the incumbent LEC at a multiunit customer premises between the minimum point of entry as defined in §68.105 of this chapter and the point of demarcation of the incumbent LEC's network as defined in §68.3 of this chapter.

(i) *Point of technically feasible access.* A point of technically feasible access is any point in the incumbent LEC's outside plant at or near a multiunit premises where a technician can access the wire or fiber within the cable without removing a splice case to reach the wire or fiber within to access the wiring in the multiunit premises. Such points include, but are not limited to, a pole or pedestal, the network interface device, the minimum point of entry, the single point of interconnection, and the feeder/distribution interface.

(ii) *Single point of interconnection.* Upon notification by a requesting telecommunications carrier that it requests interconnection at a multiunit premises where the incumbent LEC owns, controls, or leases wiring, the incumbent LEC shall provide a single point of interconnection that is suitable for use by multiple carriers. This obligation is in addition to the incumbent LEC's obligations, under paragraph (b)(2) of this section, to provide nondiscriminatory access to a subloop for access to multiunit premises wiring, including any inside wire, at any technically feasible point. If the parties are unable to negotiate rates, terms, and conditions under which the incumbent LEC will provide this single point of interconnection, then any issues in dispute regarding this obligation shall be resolved in state proceedings under section 252 of the Act.

(3) *Other subloop provisions*—(i) *Technical feasibility.* If parties are unable to reach agreement through voluntary negotiations as to whether it is technically feasible, or whether sufficient space is available, to unbundle a copper subloop or subloop for access to multiunit premises wiring at the point where a telecommunications carrier requests, the incumbent LEC shall have the burden of demonstrating to the state commission, in state proceedings under section 252 of the Act, that there is not sufficient space available, or that it is not technically feasible to unbundle the subloop at the point requested.

(ii) *Best practices.* Once one state commission has determined that it is technically feasible to unbundle subloops at a designated point, an incumbent LEC in any state shall have the burden of demonstrating to the state commission, in state proceedings under section 252 of the Act, that it is not technically feasible, or that sufficient space is not available, to unbundle its own loops at such a point.

(c) *Network interface device.* Apart from its obligation to provide the network interface device functionality as part of an unbundled loop or subloop, an incumbent LEC also shall provide nondiscriminatory access to the network interface device on an unbundled basis, in accordance with section 251(c)(3) of the Act and this part. The network interface device element is a stand-alone network element and is defined as any means of interconnection of customer premises wiring to the incumbent LEC's distribution plant, such as a cross-connect device used for that purpose. An incumbent LEC shall permit a requesting telecommunications carrier to connect its own loop facilities to on-premises wiring through the incumbent LEC's network interface device, or at any other technically feasible point.

(d) *Dedicated transport.* An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to dedicated transport on an unbundled basis, in accordance with section 251(c)(3) of the Act and this part, as set forth in paragraphs (d) through (d)(4) of this section. A "route" is a transmission path between one of an incumbent LEC's wire centers or switches and another of the incumbent LEC's wire centers or switches. A route between two points (*e.g.,* wire center or switch "A" and wire center or switch "Z") may pass through one or more intermediate wire centers or switches (*e.g.,* wire center or switch "X"). Transmission paths between identical end points (*e.g.,* wire center or switch "A" and wire center or switch "Z") are the same "route," irrespective of whether they pass through the same intermediate wire centers or switches, if any.

(1) *Definition.* For purposes of this section, dedicated transport includes incumbent LEC transmission facilities between wire centers or switches owned by incumbent LECs, or between wire centers or switches owned by incumbent LECs and switches owned by requesting telecommunications carriers, including, but not limited to, DS1-, DS3-, and OCn-capacity level services, as well as dark fiber, dedicated to a particular customer or carrier.

(2) *Availability.*

(i) *Entrance facilities.* An incumbent LEC is not obligated to provide a requesting carrier with unbundled access to dedicated transport that does not connect a pair of incumbent LEC wire centers.

(ii) *Dedicated DS1 transport.* Dedicated DS1 transport shall be made available to requesting carriers on an unbundled basis as set forth in paragraphs (d)(2)(ii)(A) and (B) of this section. Dedicated DS1 transport consists of incumbent LEC interoffice transmission facilities that have a total digital signal speed of 1.544 megabytes per second and are dedicated to a particular customer or carrier.

(A) *General availability of DS1 transport.* Incumbent LECs shall unbundle DS1 transport between any pair of incumbent LEC wire centers except where, through application of tier classifications described in paragraph (d)(3) of this section, both wire centers defining the route are Tier 1 wire centers. As such, an incumbent LEC must unbundle DS1 transport if a wire center at either end of a requested route is not a Tier 1 wire center, or if neither is a Tier 1 wire center.

(B) *Cap on unbundled DS1 transport circuits.* A requesting telecommunications carrier may obtain a maximum of ten unbundled DS1 dedicated transport circuits on each route where DS1 dedicated transport is available on an unbundled basis.

(iii) *Dedicated DS3 transport.* Dedicated DS3 transport shall be made available to requesting carriers on an unbundled basis as set forth in paragraphs (d)(2)(iii)(A) and(B) of this section. Dedicated DS3 transport consists of incumbent LEC interoffice transmission facilities that have a total digital signal speed of 44.736 megabytes per second and are dedicated to a particular customer or carrier.

(A) *General availability of DS3 transport.* Incumbent LECs shall unbundle DS3 transport between any pair of incumbent LEC wire centers except where, through application of tier classifications described in paragraph (d)(3) of this section, both wire centers defining the route are either Tier 1 or Tier 2 wire centers. As such, an incumbent LEC must unbundle DS3 transport if a wire center on either end of a requested route is a Tier 3 wire center.

(B) *Cap on unbundled DS3 transport circuits.* A requesting telecommunications carrier may obtain a maximum of 12 unbundled DS3 dedicated transport circuits on each route where DS3 dedicated transport is available on an unbundled basis.

(iv) *Dark fiber transport.* Dark fiber transport consists of unactivated optical interoffice transmission facilities. Incumbent LECs shall unbundle dark fiber transport between any pair of incumbent LEC wire centers except where, through application of tier classifications described in paragraph (d)(3) of this section, both wire centers defining the route are either Tier 1 or Tier 2 wire centers. An incumbent LEC must unbundle dark fiber transport if a wire center on either end of a requested route is a Tier 3 wire center.

(3) *Wire center tier structure.* For purposes of this section, incumbent LEC wire centers shall be classified into three tiers, defined as follows.

(i) Tier 1 wire centers are those incumbent LEC wire centers that contain at least four fiber-based collocators, at least 38,000 business lines, or both. Tier 1 wire centers also are those incumbent LEC tandem switching locations that have no line-side switching facilities, but nevertheless serve as a point of traffic aggregation accessible by competitive LECs. Once a wire center is determined to be a Tier 1 wire center, that wire center is not subject to later reclassification as a Tier 2 or Tier 3 wire center.

(ii) Tier 2 wire centers are those incumbent LEC wire centers that are not Tier 1 wire centers, but contain at least 3 fiber-based collocators, at least 24,000 business lines, or both. Once a wire center is determined to be a Tier 2 wire center, that wire center is not subject to later reclassification as a Tier 3 wire center.

(iii) Tier 3 wire centers are those incumbent LEC wire centers that do not meet the criteria for Tier 1 or Tier 2 wire centers.

(4) *Routine network modifications.* (i) An incumbent LEC shall make all routine network modifications to unbundled dedicated transport facilities used by requesting telecommunications carriers where the requested dedicated transport facilities have already been constructed. An incumbent LEC shall perform all routine network modifications to unbundled dedicated transport facilities in a nondiscriminatory fashion, without regard to whether the facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.

(ii) A routine network modification is an activity that the incumbent LEC regularly undertakes for its own customers. Routine network modifications include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; installing a repeater shelf; and deploying a new multiplexer or reconfiguring an existing multiplexer. They also include activities needed to enable a requesting telecommunications carrier to light a dark fiber transport facility. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the installation of new aerial or buried cable for a requesting telecommunications carrier.

(e) *911 and E911 databases.* An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to 911 and E911 databases on an unbundled basis, in accordance with section 251(c)(3) of the Act and this part.

(f) *Operations support systems.* An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to operations support systems on an unbundled basis, in accordance with section 251(c)(3) of the Act and this part. Operations support system functions consist of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by an incumbent LEC's databases and information. An incumbent LEC, as part of its duty to provide access to the pre-ordering function, shall provide the requesting telecommunications carrier with nondiscriminatory access to the same detailed information about the loop that is available to the incumbent LEC.

[68 FR 52295, Sept. 4, 2003, as amended at 68 FR 64000, Nov. 12, 2003; 69 FR 54591, Sept. 9, 2004; 69 FR 77953, Dec. 29, 2004; 70 FR 8953, Feb. 24, 2005;78 FR 5746, Jan. 28, 2013]

Need assistance?

1 **answer.**

2 So, my next set of questions are for Issue 58.

3 A Okay.

4 **Q Okay. What is your understanding of what an**

5 **enhanced extended link or EEL is and what it includes?**

6 A My understanding is that an EEL is a term that

7 was defined -- that was defined by the FCC, which an EEL

8 is comprised of a combination of loop plus transport.

9 It may also include other components such as

10 multiplexing. But the two components that would cause

11 that to be an EEL would be loop plus transport when they

12 are combined by the ILEC.

13 **Q Okay. If you could, please refer to Page 54**

14 **and 55 of Witness Kemp's testimony. And just let me**

15 **know when you're there. If you could, look that over.**

16 **Thank you.**

17 A Okay. I've got it.

18 **Q Is Communications Authority in agreement to**

19 **the bolded, underlined language cited on Page 54 of**

20 **AT&T's -- of Witness Kemp's direct testimony?**

21 A We are not in agreement.

22 **Q Could you please explain?**

23 A We believe that AT&T is and has in the past

24 attempted to redefine the term "EEL" so that it does not

25 simply mean the combination of loop plus transport, but

1 also means the combination of multiplexing plus anything
2 such that AT&T seeks to not be required to provide
3 multiplexing other than in cases where it can call it an
4 EEL.
5 And the end result of that attempt is to
6 artificially inflate the cost of those combination
7 arrangements that a CLEC might need and also to deny a
8 CLEC access to multiplexing in cases where a CLEC is not
9 entitled to an EEL.
10 And so, that is the basis of our objection to
11 this. We don't believe there is any regulatory basis
12 for multiplexing being considered in that way as a
13 component of an EEL where is there no transport.
14 **Q Okay. Thank you.**
15 And I believe that you were also sent as an
16 attachment to 47-CFR-51.318(b). Can you see if you have
17 that available?
18 A Okay. I've got 318 and 319. We're looking at
19 318 now?
20 **Q That is correct.**
21 A Okay. I've got it.
22 **Q And does the language proposed by AT&T**
23 **Florida -- by Witness Kemp closely resemble the language**
24 **of the rule?**
25 A I would say it has some similarities, but I'm

1 going to need to defer to Counsel on the legal
2 interpretation.
3 **Q All right. Thank you. That's fine.**
4 **If you could, look at your rebuttal testimony**
5 on Page 57.
6 A Okay.
7 **Q Here, you've identified multiplexing as a**
8 **routine network modification. Could you please**
9 **elaborate on how this is a routine network modification?**
10 A I believe that multiplexing is a routine
11 network modification in that it is a standard component
12 that is part of local service that AT&T routinely
13 deploys for its own customers in conjunction with the
14 provision of unbundled loops.
15 And because AT&T routinely does that for its
16 own customers in conjunction with the use of local
17 loops, that that also entitles the CLEC to that as a
18 routine network modification.
19 **Q Thank you. What other modifications to the**
20 **network does Communications Authority believe are**
21 **routine, if any?**
22 A Examples of other routine network
23 modifications would be the removal of load coils from a
24 local loop being ordered by a CLEC, the removal of
25 bridge taps from a local loop being ordered by a CLEC,