1		BELLSOUTH TELECOMMUNICATIONS, INC.
2		<b>REBUTTAL TESTIMONY OF JOHN A. RUSCILLI</b>
3		BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
4		DOCKET NO. 000731-TP
5		JANUARY 3, 2001
6		
7	Q.	PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH
8		TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR
9		BUSINESS ADDRESS.
10		
11	А.	My name is John A. Ruscilli. I am employed by BellSouth as Senior Director
12		for State Regulatory for the nine-state BellSouth region. My business address
13		is 675 West Peachtree Street, Atlanta, Georgia 30375.
14		
15	Q.	ARE YOU THE SAME JOHN RUSCILLI THAT FILED DIRECT
16		TESTIMONY IN THIS PROCEEDING ON NOVEMBER 15, 2000?
17		
18	Α.	Yes. I filed direct testimony, including three exhibits.
19		
20	Q.	WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?
21		
22	А.	The purpose of my rebuttal testimony is to respond the policy aspect of
23		numerous unresolved issues addressed in the testimony of Mr. Gregory
24		Follensbee, Mr. David Talbott and Mr. Joseph Gillan filed on behalf of AT&T
25		Communications of the Southern States, Inc. and TCG South Florida

-1-

1

•

•

4

DOCUMENT NUMBER-DATE OOI20 JAN-35 FPSC-RECORDS/REPORTING

.

1		(collectively "AT&T").
2		
3	Issue	4: What does "currently combines" mean as that phrase is used in 47 C.F.R. §
4	51.31	5(b)? (UNEs, Attachment 2)
5		
6	Issue	5: Should BellSouth be permitted to charge AT&T a "glue charge" when
7	BellS	outh combines network elements?
8		
9	Q.	HAS MR. GILLAN PROVIDED ANY RATIONALE TO THE
10		COMMISSION AS TO WHY BELLSOUTH SHOULD BE REQUIRED TO
11		COMBINE UNEs FOR ALECS AT COST-BASED RATES?
12		
13	Α.	No. In a futile attempt to make his point, Mr. Gillan first cites the specific
14		federal rule that forbids ILECs such as BellSouth from separating requested
15		network elements that are currently combined. BellSouth does not dispute that
16		it cannot separate elements that are currently combined, unless asked to do so
17		by the ALEC. Next, after Mr. Gillan cites federal rule 57 C.F.R. §51.315(c)
18		that required ILECs to combine elements for ALECs, he then notes that this
19		particular rule is vacated. Indeed, the fact that this rule is vacated makes clear
20		that ILECs have no obligation under the Act to combine network elements for
21		ALECs at all, and certainly not at cost-based rates.
22		
23		Mr. Gillan states at page 5 that "Issue 4 of this arbitration is needed to clarify
24		BellSouth's obligation with respect to network elements that it 'currently
25		combines,' but which may not yet be physically connected for a specific

•

٠

,

1		customer location." It is clear that Mr. Gillan, on behalf of AT&T, is asking
2		that BellSouth be required to physically combine elements that are not currently
3		combined, and that BellSouth forego any revenue for performing this work for
4		ALECs even though BellSouth is not obligated to perform this activity.
5		
6	Q.	WHEN BELLSOUTH PROVIDES A CUSTOMER WITH AN
7		ADDITIONAL LINE, OR SERVES A NEW PREMISES, DOESN'T
8		BELLSOUTH HAVE TO COMBINE NETWORK ELEMENTS?
9		
10	A.	In many cases, yes. Physical work is required to combine the elements required
11		to provide the service, and BellSouth incurs the cost of performing such work.
12		Mr. Gillan makes the feeble argument that, because BellSouth would have to do
13		this work if it is serving the customer, BellSouth should do the work when an
14		ALEC is going to serve the customer. Indeed, Mr. Gillan opines at page 8 that
15		"the most efficient solution is for BellSouth to combine these elements and
16		then provide the entrant with the requested combination." I certainly agree that
17		Mr. Gillan's suggestion would be the most efficient solution for the ALEC,
18		because the ALEC would get the benefit of BellSouth having done the ALEC's
19		work, and BellSouth would have incurred all the cost with no compensation
20		from the ALEC.
21		
22	Q.	PLEASE RESPOND TO MR. GILLAN'S CONTENTION THAT ACCESS
23		TO UNE COMBINATIONS IS NECESSARY FOR WIDESPREAD
24		COMPETITION.
25		

-3-

1	Α.	First, I must reiterate that BellSouth provides AT&T with nondiscriminatory
2		access to UNE combinations. That is simply not the issue here. What AT&T
3		wants, but does not have, is a situation where BellSouth has to take
4		uncombined UNEs and, at AT&T's request, put them together for AT&T.
5		That is not required of BellSouth by either the law or FCC regulations;
6		however, that does not seem to have much of an impact on AT&T when it
7		comes to what it thinks it is entitled to have.
8		
9		At any rate, the accuracy of Mr. Gillan's contention that access to UNE
10		combinations is necessary for widespread competition depends on which
11		segments of the market are examined. Obviously, facilities-based ALECs have
12		focused their efforts on the more lucrative business markets and all but ignored
13		the residential market. The hallmark reform of the Act was to remove the
14		statutory barriers and creating a three-pronged means for competition to
15		develop - build facilities, resale, and UNEs. ALECs have varied in their desire
16		to use each of these means, so measuring competition based solely on UNEs
17		(including UNE combinations) is misguided.
18		
19	Q.	WHAT DOES MR. GILLAN'S UNE-P DATA FOR NEW YORK AND
20		TEXAS SHOW?
21		
22	А.	First, his data does not show anything about the impact of UNE-P availability
23		on local competition development in Florida, New York or Texas. UNE-P is
24		available in all three states, so any disparity in ALECs' use of UNE-P in these
25		states is not a result of availability. Second, Mr. Gillan conveniently ignores the

-4-

1 most important factor that has driven increased UNE-P utilization in New York 2 and Texas, which was not the availability of the UNE-P, but rather the imminent likelihood of an RBOC gaining interLATA relief, which ultimately 3 happened. In New York, UNE-P has been available since mid-1998. Mr. 4 5 Gillan's Table 1 shows that ALECs had 75,000 UNE-Ps in New York in June, 1999. By December 1999, just six months later, the number of UNE-Ps in New 6 7 York had grown to 400,000. Interestingly, in September 1999, Bell Atlantic requested that the FCC grant it permission to provide interLATA service in 8 New York. It was widely believed – even before Bell Atlantic's petition was 9 filed - that Bell Atlantic would receive approval. The logical conclusion is that 10 it was the imminence of interLATA relief for Bell Atlantic in New York, not the 11 availability of UNE-P that spurred the growth of UNE-P in New York. 12 13 Likewise, Mr. Gillan's data for the levels of UNE-P subscription in Texas 14 follow a similar pattern. He quotes Texas data for December 1999 and January 15 2000. Of course, in January 2000, SBC requested that the FCC grant it 16 permission to provide interLATA service in Texas. As with New York, the 17 perception was that Texas had a high likelihood of succeeding. Indeed, Texas 18 received interLATA relief in June 2000. Again, the high levels of UNE-P 19 subscription in Texas are tied to the likelihood that interLATA relief was 20 imminent for Texas. Based on his data, if Mr. Gillan wants to spur on the 21 growth of UNE-P utilization in Florida, one would think he would support 22 BellSouth's entry into the interLATA market in Florida, since the possibility of 23 such entry seems to be what causes the ALECs to actually start providing 24 service using these combinations. 25

-5-

1		
2	Q.	PLEASE RESPOND TO MR. GILLAN'S CITE AT PAGES 8-9 TO THE
3		GEORGIA COMMISSION'S RULING ON THIS ISSUE IN ITS GENERIC
4		COMBINATION DOCKET.
5		
6	A.	While Mr. Gillan quotes accurately from the Georgia Commission's Order, he
7		fails to note that the Commission further stated that "if the Eighth Circuit Court
8		of Appeals determines that ILECs have no legal obligation to combine UNEs
9		under the Federal Act, the Commission will reevaluate its decision with regard
10		to the requirement that BellSouth provide combinations of typically combined
11		elements where the particular elements being ordered are not actually physically
12		connected at the time the order is placed." (February 1, 2000 Order in Docket
13		No. 10692-U at page 22).
14		
15	Issue	6: Under what rates, terms, and conditions may AT&T purchase network
16	eleme	nts or combinations to replace services currently purchased from BellSouth's
17	ta <b>r</b> iffs	? (UNEs, Attachment 2)
18		
19	Q.	PLEASE RESPOND TO MR. FOLLENSBEE'S CONTENTION AT PAGES
20		8-9 THAT BELLSOUTH MAY NOT APPLY TERMINATION LIABILITY
21		CHARGES WHEN TARIFFED SERVICES ARE CONVERTED TO
22		UNBUNDLED NETWORK ELEMENT ("UNE") COMBINATIONS.
23		
24	А.	First, as I explained in my direct testimony, the portion of this issue that the
25		parties request the Florida Public Service Commission ("Commission") to
	i	-6-

.

1 resolve deals with "termination liabilities." Mr. Follensbee has chosen in his direct testimony to refer to these termination liabilities as "cancellation 2 3 charges." He alleges that BellSouth plans to charge AT&T "cancellation" charges" when tariffed services AT&T is purchasing from BellSouth are, at 4 AT&T's request, converted to unbundled network elements. 5 6 BellSouth originally understood this issue to address two situations. In one 7 situation, an end user who has entered into a volume and term contract with 8 BellSouth for tariffed services now wishes to terminate his or her retail 9 relationship with BellSouth to move to another service provider. In the other 10 situation, AT&T has purchased a tariffed service from BellSouth under a 11 volume and term contract, and AT&T now wants to convert that tariffed 12 13 service to UNEs. In either case, the entity that is terminating the contractual relationship will have the obligation to meet the termination provisions to which 14 the entity agreed when the contract was made. 15 16 Based on AT&T's direct testimony in this case as presented by Mr. Follensbee, 17 and based on the assertion made by AT&T during the arbitration hearing in 18 Louisiana on December 19, 2000, BellSouth understands that AT&T has 19 narrowed the dispute to only the situation where AT&T is the customer 20 converting a tariffed service to UNEs. Therefore, I will only address that 21 situation in my rebuttal testimony. 22 23 Mr. Follensbee claims that "cancellation charges" are applicable only when a 24

-7-

25

service is completely terminated and is not replaced with another service. Since

1		AT&T is converting tariffed services to UNE combinations, and is not
2		"canceling" the service, Mr. Follensbee therefore contends that no termination
3		charges are applicable. This is incorrect. When BellSouth has a relationship
4		with a user of its services, and that relationship has certain conditions that have
5		to be met if the relationship changes, then those conditions - in this case,
6		termination charges - must be met.
7		
8	Q.	PLEASE EXPLAIN WHAT YOU MEAN BY "VOLUME AND TERM"
9		CONTRACT.
10		
11	Α.	Certain of BellSouth's tariffed offerings include rate schedules that vary
12		dependant upon the length of the contract or the quantity of lines the customer
13		agrees to order and maintain. Such pricing structures are common in the
14		industry. For example, a particular service might have a recurring monthly rate
15		of \$20.00. If the end user agrees to sign a 24-month contract, meaning that the
16		end user agrees to keep the service for a minimum of 24 months, the monthly
17		recurring rate might be \$18.00. Likewise, the tariff might include a 48-month
18		recurring rate of \$16.00. Typically, such tariffed services also include a
19		termination liability that applies if the end user terminates the contract early.
20		
21		A customer who has entered into a volume and term contract with BellSouth
22		has generally paid lower rates than the customer would have paid if it were not
23		under the contract. In exchange for these favorable rates, the customer
24		generally agrees to pay "termination" liabilities in the event the contract is
25		terminated early.

-8-

2	Q.	PLEASE ADDRESS MR. FOLLENSBEE'S CONTENTION AT PAGES 8-9
3		THAT THE SERVICE IS NOT BEING TERMINATED.

Α. BellSouth agrees that the service is not being terminated. However, the retail 5 relationship with BellSouth is being terminated. If AT&T is currently 6 7 purchasing tariffed services from BellSouth at month-to-month rates, then BellSouth will simply effect the conversion to UNE rates. However, if AT&T 8 is currently purchasing tariffed services under contract at lower rates based on a 9 volume and term commitment, then BellSouth will apply any applicable 10 termination liabilities when the service is converted to UNEs. This has to be the 11 12 case because, otherwise, a customer who purchases the service on a month-tomonth basis will be the victim of discrimination. A customer who purchases 13 service on a month-to-month basis in lieu of purchasing the same service on a 14 contract basis presumably does so because that customer does not want to 15 make a volume and term commitment or be exposed to a termination liability. 16 AT&T's position on this issue, if adopted, would mean that even though AT&T 17 agreed to a volume and term contract and obtained a lower rate than a 18 customer purchasing on a month-to-month basis would receive, AT&T could 19 avoid the termination liability simply by converting the service to UNEs prior to 20 the expiration of the contract. 21

22

1

4

Q. HOW DO YOU RESPOND TO MR. FOLLENSBEE'S ALLEGATION AT
 PAGE 8 THAT AT&T HAD NO CHOICE BUT TO PURCHASE THESE
 TARIFFED SERVICES FROM BELLSOUTH?

-9-

2 Α. I disagree completely with Mr. Follensbee's portrayal of BellSouth as "unwilling to provide combinations of network elements in lieu of special 3 access." AT&T, had it chosen to do so, could have combined the UNEs 4 5 necessary to provide the service that it wanted. However, in keeping with its position on several of the issues presented in this case, AT&T did not want to 6 7 incur the expense of doing so. AT&T wanted, and this was the real issue, for 8 BellSouth to combine the UNEs for AT&T, but BellSouth is not required to do this for AT&T at UNE rates. Because AT&T chose not to do the combining 9 itself, and because BellSouth is not required to do the combining, AT&T chose 10 11 to purchase the tariffed services from BellSouth, hoping to be able to convert those to UNEs at a later date. AT&T has done what it has done based on its 12 own economic self-interest. Again, BellSouth is not required to combine 13 elements for ALECs at UNE rates. 14 15 AT&T could have purchased these services on a month-to-month basis. Of 16 course, doing so would have cost more, so AT&T chose instead to enter into a 17 contract to receive lower rates based on a volume and term commitment and an 18 agreement to pay termination liabilities if that commitment was not honored. 19 Now, AT&T wants to keep the benefit of the lower rates and break the 20 commitment without bearing the consequences it agreed to bear. 21 22 23

1

Issue 7: How should AT&T and BellSouth interconnect their networks in order to
 originate and complete calls to end-users? (Local Interconnection, Attachment 3)

2	Q.	WHAT ARE THE CONSEQUENCES OF AT&T'S POSITION ON THIS
3		ISSUE, AS REPRESENTED BY MR. TALBOTT?

A. First, AT&T's position means that it gets to designate where it will deliver calls 5 originated by AT&T's end users to BellSouth for BellSouth to then deliver to 6 the BellSouth end user being called. BellSouth agrees with AT&T that it can 7 do this. However, AT&T's position also means that it gets to designate how 8 many places on BellSouth's network AT&T will accept BellSouth-originated 9 10 traffic destined for AT&T's end users. That is, there is absolutely no symmetry in terms of each party deciding where it is willing to hand off its originating 11 traffic to the other party. AT&T, under its approach, may decide to have only 12 one or two interconnection points in a LATA where it will hand its originating 13 traffic off to BellSouth. 14

15

1

4

If AT&T prevails, then BellSouth will be limited to no more than one or two 16 interconnection points as well, even if BellSouth has fifteen or twenty local 17 calling areas in the LATA. This means that, in a LATA with numerous local 18 calling areas. BellSouth would be required to incur the cost of hauling local 19 calls from one local calling area to a distant interconnection point, where the 20 call would then be handed off to AT&T to be switched and brought back by 21 AT&T to the same BellSouth local calling area in which the call originated. 22 Adopting AT&T's position means that even though AT&T itself has created 23 the situation where a call has to be hauled fifty or a hundred miles to be 24 switched, it will have managed to require BellSouth to pay for a portion of 25

-11-

these costs. Simply put, AT&T wants BellSouth to subsidize AT&T's selected network design.

3

2

1

As I explained in my direct testimony, BellSouth's position on this issue does 4 5 not mean that AT&T has to actually build a network to each of BellSouth's local calling areas. AT&T can build out its network that way if it chooses, but 6 7 it is not required to do so. AT&T can lease facilities from BellSouth or from any other provider to bridge the gap between its network (that is, where it 8 9 designates its Point of Interconnection) and each BellSouth local calling area. 10 Again, BellSouth's position is that BellSouth will be financially responsible for transporting its originating traffic to a single point in each local calling area. 11 12 However, BellSouth is not obligated to be financially responsible for hauling 13 AT&T's local traffic to a distant point dictated by AT&T. 14 Q. MR. TALBOTT SUGGESTS, AT PAGE 3 OF HIS TESTIMONY, AND 15 WHILE DISCUSSING HIS EXHIBITS DLT-3 THROUGH DLT-5, THAT 16 BELLSOUTH IS ATTEMPTING TO IMPOSE ADDITIONAL COSTS ON 17

18 AT&T, RATHER THAN THE OTHER WAY AROUND AS YOU

19 MAINTAIN. SINCE YOU BOTH CANNOT BE RIGHT, CAN YOU

20 EXPLAIN WHY MR. TALBOTT IS WRONG?

21

A. Mr. Talbott has created an illusion that is worthy of David Copperfield. First,
let me say that I agree with what he has portrayed in his Exhibit DLT-3.
Historically, when a BellSouth local subscriber in a BellSouth local calling area
places a call to another BellSouth local subscriber in that same local calling

1	area, BellSouth incurs the cost of switching at the originating caller's office,
2	transport to the called party's end office and switching at the called party's end
3	office. We do not have a dispute about that.
4	
5	Similarly, I agree with Mr. Talbott's Exhibit DLT-4, provided that the call
6	originates and terminates in the same BellSouth local calling area. A BellSouth
7	customer originates a call, and BellSouth switches the call and delivers it to
8	AT&T's Point of Interconnection located in that same local calling area.
9	BellSouth will pay the expenses of getting the call to that Point of
10	Interconnection in the BellSouth local calling area, because that is what
11	BellSouth's local subscribers are paying BellSouth to do. When the call reaches
12	the Point of Interconnection, and AT&T switches the call to its end user,
13	BellSouth will pay reciprocal compensation in the form of end office switching
14	to AT&T. BellSouth has absolutely no problem with that scenario. But
15	remember, because it is critically important, that all of this is taking place in the
16	same BellSouth local calling area.
17	
18	Turning to Mr. Talbott's Exhibit DLT-5, I must say that AT&T has the story
19	wrong. Or, more precisely, Mr. Talbott has obfuscated the story. If everything
20	that was pictured on Exhibit DLT-5 all took place within the BellSouth
21	Jacksonville local calling area, Mr. Talbott would be absolutely wrong. The
22	BellSouth customer would originate a call, and BellSouth, once again, would
23	deliver it to the designated Point of Interconnection. AT&T would pick up the
24	call at the Point of Interconnection and carry it back to its switch. AT&T
25	would then switch the call, and terminate it to its local customer. If all this

.

٠

-13-

	1		happened in the Jacksonville local calling area, BellSouth would owe AT&T for
	2		call transport from the Point of Interconnection to AT&T's switch, and then
	3		would owe AT&T for local switching for terminating the call. On Exhibit
	4		DLT-5, the facility between the BellSouth switch and the AT&T switch appears
	5		to be a dedicated facility, so the transport paid in this situation by BellSouth
	6		would be some proportional share of the cost of the dedicated facility. The
	7		switching rate would be the normal end office rate established for reciprocal
	8		compensation.
	9		
]	10		If the call were flowing the other way (i.e., from AT&T's end user to
1	11		BellSouth's end user), AT&T would incur the cost of switching its customer's
1	12		call as well as transporting the call to the Point of Interconnection, an amount
1	13		that would be exactly equal to what BellSouth pays AT&T when BellSouth's
1	14		customer originates a call to one of AT&T's customers.
1	15		
]	16	Q.	SO WHY IS THIS EVEN AN ISSUE?
1	17		
]	18	A.	It is an issue because Mr. Talbott failed to include something on his exhibit that
1	19		is critical to this issue. If AT&T's and BellSouth's networks were set up as
	20		pictured in Mr. Talbott's exhibit, everything would be fine. What he has
:	21		forgotten to point out is that even if AT&T has placed a local switch in a
2	22		LATA, that switch may be located fifty or a hundred miles from the BellSouth
2	23		local calling area that AT&T purports to serve. That is, in his Exhibit DLT-5,
:	24		the BellSouth customer and the BellSouth switch may be located in Lake City,
	25		and the AT&T customer may be located in Lake City, but AT&T's switch

.

•

-14-

might be located in Jacksonville. In such a case, AT&T has made the decision
to locate the switch in a distant location because that was what was economical
for AT&T. That is fine. BellSouth does not care that AT&T has located its
switch that far away from the local calling area it is serving.

However, it is absurd for AT&T to cry foul, as Mr. Talbott does in his 6 7 discussion of his Exhibit DLT-5, because BellSouth objects to incurring the cost of hauling a call that originates and terminates in Lake City, out of the 8 Lake City local calling area and over to Jacksonville. BellSouth will haul the 9 10 call to a point in the Lake City local calling area, and BellSouth will pay for that. It is not equitable, however, to require BellSouth to incur the cost of 11 12 hauling the call to Jacksonville because AT&T has chosen not to put a switch in Lake City, and that is the situation that is not accurately portrayed by Mr. 13 Talbott's Exhibit DLT-5. 14

15

5

As I discussed in my direct testimony, the local exchange rates that BellSouth's 16 local subscribers pay are not intended to cover the cost of hauling local calls 17 beyond BellSouth's local calling area. Nevertheless, that is exactly what AT&T 18 19 wants to force BellSouth (and other local service providers) to do. Evidently, AT&T refuses to pick up the traffic at the Point of Interconnection in each of 20 BellSouth's local calling areas in, for example, the Jacksonville LATA. At the 21 same time, AT&T has refused to compensate BellSouth for the additional cost 22 of transporting these calls from the various BellSouth local calling areas to a 23 distant location selected by AT&T solely for AT&T's own convenience. It is 24 the additional cost of transporting local traffic from BellSouth's designated 25

-15-

- Point of Interconnection to a distant location as desired by AT&T about which
   the parties disagree.
- 3

## 4 Q. WOULD THESE SAME COMMENTS APPLY TO MR. TALBOTT'S 5 "SIMPLE HYPOTHETICAL" BEGINNING ON PAGE 24 OF HIS 6 TESTIMONY?

7

Α. Yes. Again, in Mr. Talbott's example, if AT&T's switch and BellSouth's 8 9 switch were both located in the same local calling area, we would not have an 10 issue. However, the problem occurs when AT&T's switch is located at a 11 distant site. Following Mr. Talbott's logic in his example, AT&T could elect to provide local service to customers in Florida from AT&T's switch in California, 12 and AT&T would expect BellSouth to pay for part of the facility necessary to 13 14 get from Florida to California. Now, I am sure that AT&T would protest that I am overstating the matter; however, that is the ultimate result of AT&T's 15 16 proposed solution to this issue. I urge the Commission to reject this effort on the part of AT&T to make BellSouth pay for AT&T's network design 17 decisions. 18

19

Q. PLEASE RESPOND TO MR. TALBOTT'S STATEMENT THAT
"BELLSOUTH HAS A SUFFICIENT VOLUME OF TRAFFIC WITHIN
AND BETWEEN EACH [OF] ITS LOCAL CALLING AREAS TO COST
JUSTIFY TRUNKING TO THAT AREA AND HAD DESIGNED ITS
NETWORK ACCORDINGLY." (TALBOTT DIRECT, PAGE 10, LINES 1618)

-16-

1		
2	Α.	Mr. Talbott's statement reinforces the point that BellSouth is making
3		concerning this issue. BellSouth has designed its local networks appropriately
4		to transmit local traffic within each of its local calling areas, and has designed its
5		toll network to carry traffic between each of its local calling areas. What
6		BellSouth has not done, and what AT&T inappropriately insists that BellSouth
7		must do, is design its network to transmit BellSouth's originating local traffic
8		out of a local calling area to AT&T's single Point of Interconnection in the
9		LATA when the call originates and terminates within the same local calling
10		<u>area</u> .
11		
12	Q.	PLEASE COMMENT ON AT&T'S PROPOSED "NETWORK
13		INTERCONNECTION SOLUTION" AS PRESENTED BY MR. TALBOTT.
14		
15	A.	Mr. Talbott's proposed "solution" is simply an elaborate ruse that AT&T
16		attempts to use to impose the additional costs of its network design onto
17		BellSouth. Adopting Mr. Talbott's solution would create the inequities that I
18		discussed at length in my direct testimony. There is nothing equivalent,
19		equitable, fair or reasonable about AT&T's solution, and it should be rejected.
20		
21	Q.	CAN YOU ILLUSTRATE YOUR POINT BY ADDRESSING EACH OF
22		THE INDIVIDUAL COMPONENTS OF AT&T'S "SOLUTION"?
23		
24	Α.	Yes. AT&T proposes that each parties' interconnection points (i.e., where it
25		receives traffic for termination) should be situated at the "top" of its network.

.

٠

1	Apparently, in Mr. Talbott's view, when AT&T interconnects with BellSouth's
2	local network in Jacksonville, AT&T is interconnected to every BellSouth local
3	network in the Jacksonville LATA. That is not true because BellSouth has
4	numerous local networks within the Jacksonville LATA.
5	
6	AT&T proposes, in essence, that it will decide how many Points of
7	Interconnection are convenient and appropriate for AT&T, and then BellSouth
8	would be stuck with that same number. In effect, AT&T proposes that the
9	party with the fewest number of interconnection points, which would usually, or
10	at least for the foreseeable future, be AT&T, would require the other party to
11	aggregate all of its traffic to that same number of points. Further, AT&T
12	proposes that each party be responsible for delivering its interconnection traffic
13	(i.e., traffic originating on or transiting through its network) to the other party's
14	interconnection points. In other words, each party has to bear the cost of
15	delivering traffic to the location or locations specified by the other party.
16	Simply put, these parts of AT&T's solution operate together to force BellSouth
17	to provide free facilities to AT&T.
18	
19	To illustrate the effect of each party having an equal number of interconnection
20	points, let's look at the Jacksonville LATA. AT&T may only want to
21	interconnect with BellSouth at one point in the LATA. Therefore, under
22	AT&T's proposed solution, BellSouth would be required to aggregate all of the
23	local traffic from every one of its local networks in the Jacksonville LATA at a
24	single location for delivery to AT&T. Because BellSouth's existing local
25	networks are not aggregated at a single point in the LATA, BellSouth would

-18-

1 have to create this new network configuration just to accommodate AT&T. 2 3 AT&T's proposal that each party has to bear the cost of delivering its originating traffic to the location or locations specified by the other party would 4 5 require BellSouth to incur the cost of all of the new facilities needed to 6 implement the portion of AT&T's solution that requires each party to have the 7 same number of interconnection points. AT&T completely ignores the fact that it must connect to BellSouth's existing local networks. Instead, AT&T is 8 9 attempting to force BellSouth to extend its existing local networks to 10 accommodate AT&T, at no charge to AT&T. 11 IS AT&T'S PROPOSED SOLUTION CONSISTENT WITH THE FCC'S 12 Q. LOCAL COMPETITION ORDER? 13 14 No. Under AT&T's proposed solution, where the Point of Interconnection and 15 Α. the interconnection point are at the same place, the terminating party establishes 16 17 the Point of Interconnection. Of course, the FCC's Order established that the

24 We conclude that we should identify a minimum list of technically 25 feasible points of interconnection that are critical to facilitating entry by

Local Competition Order, the FCC states:

-19-

originating party is permitted to establish the Point of Interconnection. In

Section IV of its Order, the FCC established the concept that, due to reciprocal

compensation being paid by the originating company, the originating company

reciprocal compensation obligation to the terminating company. At ¶ 209 of its

may seek to determine its Point of Interconnection in order to minimize its

18

19

20

21

22

23

1		competing carriers. Section 251(c) gives competing carriers the right to
2		deliver traffic terminating on an incumbent LEC's network at any
3		technically feasible point on that network rather than obligating such
4		carriers to transport traffic to less convenient or efficient
5		interconnection points. Section 251(c)(2) lowers barriers to competitive
6		entry for carriers that have not deployed ubiquitous networks by
7		permitting them to select the points in an incumbent LEC's network at
8		which they wish to deliver traffic. Moreover, because competing
. 9		carriers must usually compensate incumbent LECs for the additional
10		costs incurred by providing interconnection, competitors have an
11		incentive to make economically efficient decisions about where to
12		interconnect.
13		
14		AT&T is requesting this Commission to adopt a plan which conflicts with this
15		ruling by the FCC. As I explained in my direct testimony, BellSouth simply
16		requests that AT&T be required to bear the cost of facilities that BellSouth may
17		be required to install, on AT&T's behalf, in order to connect from a BellSouth
18		local calling area to AT&T's Point of Interconnection located outside that local
19		calling area.
20		
21	Q.	HOW DOES BELLSOUTH PROPOSE TO RESOLVE THIS ISSUE?
22		
23	Α.	BellSouth should be allowed to designate one Point of Interconnection in each
24		of its local calling areas where AT&T must pick up BellSouth's originated local
25		traffic destined for AT&T's local customers. BellSouth, not AT&T, is entitled

•

•

-20-

.

1		to designate the pickup point for such traffic, and that point can be on
2		BellSouth's network. BellSouth is willing to accommodate AT&T's proposed
3		network design that does not have a Point of Interconnection in each BellSouth
4		local calling area. However, AT&T would have to compensate BellSouth for
5		transporting BellSouth's originating traffic to an AT&T designated Point of
6		Interconnection outside the basic local calling area (but inside the LATA) in
7		which the local call originates. I believe this to be an equitable arrangement for
8		both parties. This solution would also alleviate AT&T's concern that its
9		collocation space is being used for both interconnection as well as accessing
10		unbundled loops (Talbott, page 28, lines 3-28 and page 29, lines 1-2).
11		BellSouth's proposal would alleviate this concern because BellSouth would
12		deliver the BellSouth originated local traffic to a point in the LATA as
13		designated by AT&T which is outside the BellSouth local calling area and thus
14		not utilize additional collocation space.
15		
16	Issue 1	1: Should BellSouth be allowed to aggregate lines provided to multiple
17	locatio	ns of a single customer to restrict AT&T's ability to purchase local circuit
18	switch	ing at UNE rates to serve any of the lines of that customer? (UNEs,
19	Attach	ment 2)
20		
21	Q.	PLEASE RESPOND TO MR. FOLLENSBEE'S ALLEGATION AT PAGE
22		11 THAT BELLSOUTH'S POSITION ON THIS ISSUE IMPEDES
23		COMPETITION.
24		
25	<b>A</b> .	BellSouth's position on this issue comports with the FCC's Rule $51.319(c)(2)$ .

•

٠

-21-

1

1 As I explained in my direct testimony, the specific dispute that this Commission must address involves the question of whether the four lines identified in the 2 3 applicable FCC rule have to all be located at the same premises, or whether it is sufficient that the customer has four or more lines located anywhere in the 4 5 Metropolitan Serving Area ("MSA"). AT&T's position is that the lines all have to be located at the same premises. BellSouth's position is that the availability 6 of Enhanced Extended Links ("EELs") renders the actual geographic location 7 8 of the customer's lines, as long as the lines are all within the same MSA, 9 irrelevant

10

BellSouth's point is that it, in order to take advantage of this exemption, has to 11 provide EELs at any technically feasible location in the relevant geographic 12 13 area. Regardless of where the customer's individual lines are located, AT&T can use the EELs to connect the customers to AT&T's switch. For example 14 assume that a customer has three different locations with three lines each, all 15 within the same MSA. AT&T's position is that aggregation of the lines at the 16 three different locations in order to qualify BellSouth for the switching 17 exemption should be precluded. That is absurd. AT&T can use EELs to 18 connect those three locations to its own switch. 19

20

## Q. WHAT IF THE CUSTOMER WANTS TO RECEIVE THREE SEPARATE BILLS - ONE AT EACH OF HIS THREE LOCATIONS?

23

A. The number of bills the customer wants to receive has no impact on this issue.
When AT&T uses EELs to connect those three locations to its own switch,

AT&T can render bills to the customer in any form that the customer wants. There is absolutely no requirement in the rules that aggregation of the end user's lines cannot be accomplished because the end user wants multiple bills. Using that rationale, an end user with twenty lines into a single building who wanted ten different bills would prevent BellSouth from electing the local switching exemption.

- Clearly, the FCC intended no such gaming of its rule. The FCC determined that 8 9 the four-line cut-off would be used to distinguish between the mass markets, where there was little competition, and the medium to large business market, 10 where there is competition. In the example above, the customer with three 11 locations is not a mass market customer, irrespective of whether the three 12 locations are geographically separated or not. Indeed, if the customer is an 13 astute business person, one would assume that the three different locations 14 would be geographically dispersed. 15
- 16

7

Q. PLEASE RESPOND TO MR. FOLLENSBEE'S CONTENTION THAT
"SOME CUSTOMERS MAY ACTUALLY WANT TO HAVE SOME LINES
SERVED BY ONE CARRIER AND SOME LINES SERVED BY
ANOTHER." (FOLLENSBEE DIRECT, PAGE 11, LINES 12-13)

21

A. BellSouth agrees it is likely that a customer might want to have some lines served by one carrier and other lines served by another carrier, and BellSouth's position on this issue does not prevent the customer from doing so. This issue is not about which carrier - or how many carriers - the customer gets his service

-23-

from. BellSouth's proposal recognizes the FCC's conclusion that there are sufficient options other than unbundled switching from the incumbent LEC that are available to the carrier wanting to serve customers. Despite AT&T's attempt to characterize this as a "customer problem," the customer is not inconvenienced. AT&T simply has to avail itself of another option to serve the customer.

BellSouth's position on this issue is clearly the correct interpretation of the 8 9 FCC's rules using the logic that the FCC used to create the rule in the first instance. Where the end user is located in Density Zone 1 in a top 50 MSA and 10 11 BellSouth is willing to provide AT&T with EELs, all of the customer's lines within the MSA should be aggregated in order to determine whether BellSouth 12 is exempted from providing unbundled switching to serve that particular end 13 14 user. An EEL is an EEL, and it should make no difference whether the EELs run to a single geographic location or to several such locations. The end result 15 is the same; AT&T can connect the subscriber to its own switch using the EELs 16 and that is all that is required in order to allow BellSouth to avail itself of the 17 switching exemption. 18

19

7

Issue 12: Should AT&T be permitted to charge tandem rate elements when its
 switch serves a geographic area comparable to that served by BellSouth's tandem
 switch? (Local Interconnection, Attachment 3)

23

Q. PLEASE ADDRESS MR. TALBOTT'S CONTENTION THAT THE ONLY
 RELEVANT CRITERIA FOR DETERMINING ELIGIBILITY FOR

## TANDEM SWITCHING CHARGES IS THE GEOGRAPHIC AREA SERVED.

3

14

20

2

1

Mr. Talbott is incorrect. As I explained in my direct testimony, the FCC has a 4 A. 5 two-part test to determine if a carrier is eligible for tandem switching: 1) a CLEC's switch must serve a geographic area comparable to the geographic 6 7 area served by the ILEC's tandem switch, and 2) a CLEC's switch must perform tandem switching functions for local traffic. Indeed, various court 8 9 decisions support BellSouth's contention that the FCC has established a twopart test. In a case involving MCI (MCI Telecommunication Corp. v. Illinois 10 11 Bell Telephone, 1999 U.S. Dist. LEXIS 11418 (N.D. Ill. June 22, 1999)), the 12 U.S. District Court specifically determined that the test required by the FCC's rule is a functionality/geography test. In its Order, the Court stated: 13

15In deciding whether MCI was entitled to the tandem interconnection16rate, the ICC applied a test promulgated by the FCC to determine17whether MCI's single switch in Bensonville, Illinois, performed18functions similar to, and served a geographical area comparable with, an19Ameritech tandem switch.9 (emphasis added).

<sup>9</sup>MCI contends the Supreme Court's decision in IUB affects resolution
of the tandem interconnection rate dispute. It does not. IUB upheld the
FCC's pricing regulations, including the 'functionality/geography' test.
119 S. Ct. at 733. MCI admits that the ICC used this test. (Pl. Br. At
Nevertheless, in its supplemental brief, MCI recharacterizes its

-25-

1		attack on the ICC decision, contending the ICC applied the wrong test.
2		(Pl. Supp. Br. At 7-8.) But there is no real dispute that the ICC applied
3		the functionality/geography test; the dispute centers around whether the
4		ICC reached the proper conclusion under that test. (emphasis added).
5		
6		Indeed, the Ninth Circuit Court of Appeals viewed the rule in the same way,
7		finding that:
8		
9		[t]he Commission properly considered whether MFS's switch performs
10		similar functions and serves a geographic area comparable to US West's
11		tandem switch." (U.S. West Communications v. MFS Intelenet, Inc, et.
12		<u>al.</u> 193 F. 3d 1112, 1124).
13		
14		Furthermore, in evaluating whether a CLEC should receive the same reciprocal
15		compensation rate as would be the case if traffic were transported and
16		terminated via the incumbent's tandem switch, the United States District Court
17		in Minnesota ruled that, "it is appropriate to look at both the function and
18		geographic scope of the switch at issue" (U.S. West Communications, Inc. v.
19		Minnesota Public Utilities Commission, 55 F. Supp. 2d 968, 977 (D. Minn.
20		1999), emphasis added).
21		
22	Q.	PLEASE ADDRESS MR. TALBOTT'S CONTENTION THAT AT&T'S
23		SWITCHES PERFORM TANDEM FUNCTIONS.
24		
25	<b>A</b> .	While contending that FCC rules ignore tandem functionality as it relates to this

٠

-26-

,

1	issue, Mr. Talbott claims that AT&T's (including TCG's) switches, do, in fact,
2	perform "certain tandem functions." On page 34 of his testimony, Mr. Talbott
3	states that each of AT&T's switches "acts as an access tandem routing the
4	preponderance of interLATA traffic directly to the applicable interexchange
5	carrier." BellSouth doesn't take issue with that statement. However, it is
6	wholly irrelevant to the issue at hand. The fact that AT&T's switches perform
7	as tandems for interLATA service is simply not relevant to this issue –
8	reciprocal compensation at the tandem switching rate is due only when tandem
9	switching functions are performed for local traffic. Therefore, to qualify for
10	reciprocal compensation at the tandem rate, the switch must be performing the
11	tandem switching functions to transport local calls.
12	
13	Further, on page 34, Mr. Talbott addresses the traffic at issue when he explains
14	that "with respect to traffic between any AT&T customer and any BellSouth
15	customer within the same LATA, AT&T has direct trunking to each BellSouth
16	tandem in the LATA so that such traffic may be completed without transiting
17	multiple AT&T switches or multiple BellSouth tandems." (emphasis added).
18	Here, Mr. Talbott simply demonstrates that BellSouth's tandem switch
19	performs the tandem function for such local traffic – AT&T's switch is
20	functioning only as an end office switch. In fact, this statement further confirms
21	that AT&T is not performing a tandem function. Mr. Talbott's description
22	indicates that calls from BellSouth local customers to AT&T local customers
23	are delivered directly to the switch serving the AT&T customer. Indeed, as
24	evidenced by Mr. Talbott's testimony, there is no intermediate switch on
25	AT&T's network for local calls, so AT&T can't be incurring tandem switching

•

.

-27**-**

costs.

2

1

## Q. DO YOU AGREE WITH MR. TALBOTT'S CONTENTION THAT AT&T'S SWITCHES PERFORM THE "AGGREGATION" FUNCTION TYPICAL OF TANDEM SWITCHES?

6

7 Α. No. As I explained in my direct testimony, local tandem switches are used to aggregate traffic from numerous end office switches in a local calling area when 8 it is more economical to route local traffic in that manner than to install direct 9 trunk groups between each and every end office switch. When there are a lot of 10 end office switches in a local calling area, using a local tandem switch to 11 aggregate traffic and to act as a central connection point makes economic sense 12 and avoids a lot of extra trunking that would otherwise be required to ensure 13 14 that call blockage was limited to acceptable levels.

15

BellSouth's local network generally consists of local tandem switches, end
office switches and interoffice transport. However, AT&T's local network
generally consists of a single switch and long loops connecting the switch to
AT&T's subscribers.

20

When BellSouth routes a local call from an ALEC such as AT&T through one of BellSouth's tandems, BellSouth completes the call by first switching the call at the tandem, transporting the call to the appropriate local end office and then switching the call to the called party. BellSouth then charges AT&T reciprocal compensation based on the appropriate tandem switching rate, transport rate and local switching rate, since all of these parts of BellSouth's network were
 used in transporting and terminating the call.

3

On the other hand, when BellSouth hands off one of its local calls to AT&T,
AT&T carries the call back to its end office switch, where the call is switched
once and then placed on the appropriate loop to reach the intended recipient of
the call. That is, because of AT&T's network design, the call is only switched
once, and there are no interoffice transport facilities involved. According to
Mr. Talbott, AT&T has chosen this design because it is cheaper for AT&T to
build long loops rather than to build switches.

12 Nevertheless, and in spite of the fact that only one switch is involved, AT&T 13 wants BellSouth to 'pay reciprocal compensation to AT&T for calls placed from 14 BellSouth's local subscribers to AT&T's local subscribers at a rate equal to the 15 total of the tandem switching rate and the end office switching rate for every 16 such call AT&T handles. Indeed, AT&T's position that it is entitled to 17 reciprocal compensation from BellSouth at the tandem switching rate for every 18 local call it terminates from BellSouth is simply nonsensical.

19

11

For example, consider an AT&T end office switch in Jacksonville that is connected directly to a BellSouth end office also located in Jacksonville. When an AT&T end user originates a local call in Jacksonville that is routed directly to BellSouth's end office switch in Jacksonville, BellSouth will bill AT&T reciprocal compensation at the end office switching rate because that is the only portion of BellSouth's network that was used to terminate the local call.

-29-

1		However, AT&T's position is that, in this example, if the local call originates
2		from the same BellSouth end user and terminates to the same AT&T end user,
3		AT&T is due reciprocal compensation from BellSouth at the tandem switching
4		rate (again, the sum of the end office switching rate and the tandem switching
5		rate). The exact same end users are involved in both calls, the same switches
6		are used in both calls, yet AT&T's position results in one call generating
7		reciprocal compensation at the end office switching rate, while the other call
8		generates reciprocal compensation at the higher tandem switching rate. A
9		position that leads to such an illogical conclusion simply cannot be right.
10		
11	Q.	PLEASE RESPOND TO AT&T's CLAIM AT PAGE 32 THAT ITS
12		SWITCHES COVER A GEOGRAPHIC AREA COMPARABLE TO THE
13		AREA COVERED BY BELLSOUTH'S TANDEMS.
14		
15	А.	Mr. Talbott has provided maps indicating the geographic area AT&T's switches
16		"cover." Of course, it is a very simple matter to color in areas on a map and to
17		claim that these areas are "covered" by switches. However, in order to
18		establish that AT&T's switches actually serve a geographic area comparable to
19		that served by the incumbent local exchange carrier's tandem switches, AT&T
20		must show the particular geographic area it serves, not the geographic area that
21		its switches can serve. (See 47 C.F.R. § 51.711(a)(3)). In order to make a
22		showing that AT&T's switches serve a geographic area equal to or greater than
23		that served by BellSouth's tandem switches, AT&T must provide information
24		showing the location of its customers and give some indication as to how its
25		customers are actually being served by AT&T's switches. (MCI

.

٠

-30-

1	Telecommunications Corp. v. Illinois Bell Telephone, 1999 U.S. Dist. LEXIS
2	11418 (N.D. Ill. June 22, 1999)).
3	
4	To illustrate the importance of this point, assume AT&T has one thousand
5	customers in downtown Jacksonville, all of which are located in a single office
6	complex next door to AT&T's Jacksonville switch. Under no set of
7	circumstances could AT&T seriously argue that, in such a case, its switch
8	serves a comparable geographic area to BellSouth's tandem switch. See
9	Decision 99-09-069, In re: Petition of Pacific Bell for Arbitration of an
10	Interconnection Agreement with MFS/WorldCom, Application 99-03-047,
11	9/16/99, at 15-16 (finding "unpersuasive" MFS's showing that its switch served
12	a comparable geographic area when many of MFS's ISP customers were
13	actually collocated with MFS's switch).
14	
15	AT&T has offered no information to the Commission to demonstrate that its
16	switches currently serve areas comparable to BellSouth's tandem. AT&T has
17	not provided the Commission with the location of its customers in Florida,
18	information which would be essential for the Commission to determine whether
19	AT&T's switches actually serve areas comparable to BellSouth's tandem
20	switches. Absent such evidence, AT&T has clearly failed to satisfy its burden
21	of proof on this issue.
22	
23	Issue 16: What is the appropriate treatment of outbound voice calls over internet
24	protocol ("IP") telephony, as it pertains to reciprocal compensation? (Local
25	Interconnection, Attachment)

•

٠

-31-

1

2 Q. PLEASE ADDRESS MR. FOLLENSBEE'S VIEW OF HOW THE FCC HAS
3 ADDRESSED THE ISSUE OF REGULATING PHONE-TO-PHONE
4 INTERNET PROTOCOL TELEPHONY.

6 Α. Mr. Follensbee's testimony makes clear that the FCC has danced around the issue of Internet Protocol ("IP") telephony without making any definitive 7 rulings on how traffic routed via such protocol will be treated. As Mr. 8 9 Follensbee says, the FCC has not ruled that switched access charges are applicable to such calls. Of course, neither has the FCC ruled that switched 10 access charges are not applicable to such calls. Indeed, as I pointed out in my 11 direct testimony, in its April 10, 1998 Report to Congress the FCC stated that 12 13 "the record currently before us suggests that this type of IP telephony (i.e., phone-to-phone service) lacks the characteristics that would render them 14 'information services' within the meaning of the statute, and instead bear the 15 characteristics of 'telecommunication services'." (¶ 89) Because the FCC has 16 not made a determination that voice calls transmitted using IP telephony 17 represent information services, and because only information services are 18 exempted from paying access charges, the FCC has obviously not determined 19 that calls made over IP Telephony are exempt from access charges. 20

21

1

5

Indeed, a complete reading of the FCC's report makes clear that the FCC
recognizes the significant impact that a decision to treat IP telephony as
"information services" rather than as "telecommunications services" would have
on existing universal service mechanisms. The FCC indicated that upcoming

-32-

1		proceedings with more focused records would ensue prior to any final
2		determination. ( <u>Id.</u> , ¶91)
3		
4	Q.	PLEASE ADDRESS MR. FOLLENSBEE'S RELIANCE ON A SPEECH
5		GIVEN BY FCC CHAIRMAN KENNARD ON SEPTEMBER 12, 2000.
6		
7	Α.	It is not clear from Chairman Kennard's September 12, 2000, speech that he
8		was actually referring to "voice calls over IP telephony". Indeed, it is likely that
9		he was referring to "voice calls over the Internet" which, as I explained in my
10		direct testimony, is not what BellSouth is addressing in this issue.
11		
12		Obviously, this terminology is unfamiliar and subject to misuse and
13		misinterpretation. The bare fact is that a long distance voice communication
14		does not become an enhanced service when it is transmitted over a packet
15		switched network rather than over a circuit switched network.
16		
17	Q.	HASN'T THIS COMMISSION ALREADY ADDRESSED THIS SAME
18		ISSUE IN ANOTHER ARBITRATION PROCEEDING?
19		
20	A.	Yes. In its Order No. PSC-00-1519-FOF-TP in the BellSouth/Intermedia
21		arbitration proceeding, the Commission determined that phone-to-phone calls
22		transmitted via IP telephony to which access charges would typically apply are
23		switched access calls. The Commission's August 22, 2000 Order states:
24		phone-to-phone IP Telephony is technology neutral. A call
25		provisioned using phone-to-phone IP Telephony but not transmitted

,

-33-

1		over the internet, to which switched access charges would otherwise
2		apply if a different signaling and transmission protocol were employed,
3		is nevertheless a switched access call. Except for, perhaps, calls routed
4		over the internet, the underlying technology used to complete a call
5		should be irrelevant to whether or not switched access charges apply.
6		Therefore, like other telecommunications services, it would be included
7		in the definition of switched access traffic. (Order at page 57)
8		
9	Issue	27: Should the Commission or a third party commercial arbitrator resolve
10	dispu	tes under the Interconnection Agreement?
11		
12	Q.	WHY IS AT&T'S LATEST PROPOSED LANGUAGE ON THIS ISSUE
13		NOT ACCEPTABLE TO BELLSOUTH?
14		
15	A.	AT&T has offered BellSouth the sleeves out of AT&T's vest. AT&T's latest
16		proposal, if accepted, would typically result in disputes under the
17		Interconnection Agreement being resolved by a commercial arbitrator. I say
18		this because AT&T's proposed language lays out three situations. First, the
19		parties could agree that the dispute would be heard by the Commission.
20		Second, the parties could agree that the dispute would be heard by a
21		commercial arbitrator. Third, if the parties cannot agree, then the aggrieved
22		party will choose the method of resolution.
23		
24		Based on these three possibilities, it is hard to imagine an example where
25		AT&T is the aggrieved party, and commercial arbitration does not end up being

•

.

.

1		the method of resolution. Mr. Follensbee makes clear in his testimony that
2		AT&T believes disputes can be resolved more quickly through the alternative
3		dispute resolution process than through the Commission. As I explained in my
4		direct testimony, BellSouth disagrees with AT&T that using a commercial
5		arbitrator is a speedy process. Because one party would likely be staked out as
6		wanting disputes to be heard by a commercial arbitrator, and the other party
7		would likely be staked out as wanting disputes to be heard by the Commission,
8		it is unlikely that the parties would agree on the method of resolution.
9		Therefore, assuming that AT&T is the aggrieved party, AT&T's proposed
10		language would likely result in AT&T's choosing the method.
11		
12	Q.	PLEASE RESPOND TO MR. FOLLENSBEE'S CONCERN AS STATED AT
13		PAGE 21 THAT SERVICE AFFECTING DISPUTES THAT REQUIRE
14		IMMEDIATE RESOLUTION MIGHT BE DELAYED FOR NINE TO
15		TWELVE MONTHS DUE TO THE COMMISSION HAVING A FULL
16		CALENDAR.
17		
18	A.	First, I am certain that the Commission will take whatever steps are necessary
19		to resolve service affecting disputes in as expeditious a manner as possible.
20		Second, BellSouth does not share AT&T's view that commercial arbitration is a
21		speedy process. Further, BellSouth has serious concerns about the ability to
22		secure neutral arbitrators who have a sufficient understanding of the issues.
23		Again, BellSouth believes that this Commission and its staff are more capable of
24		handling disputes between telecommunications carriers than are commercial

•

٠

arbitrators. BellSouth should not be obligated to waive its right to have the

.

1

Issue 33: Should AT&T be allowed to share the spectrum on a local loop for voice 3 and data when AT&T purchases a loop/port combination and if so, under what 4 rates, terms and conditions? (UNEs, Attachment 2) 5 6 7 0. WILL BELLSOUTH ENABLE ALECS SUCH AS AT&T TO SHARE THE SPECTRUM ON A UNE LOOP IN ORDER TO PROVIDE DATA SERVICE 8 WHEN BELLSOUTH PROVIDES THE VOICE SERVICE? 9 10 Yes, as required by the FCC in its Third Report and Order in CC Docket No. 11 Α. 12 98-147 and Fourth Report and Order in CC Docket No. 96-98 ("Line Sharing 13 Order"), BellSouth makes available to ALECs, as a UNE, the high frequency portion of the loop so that the ALEC can share the loop in order to provide 14 data service to the customer when BellSouth is providing the voice service. 15 16 However, AT&T seeks to obligate BellSouth to offer line sharing when AT&T 17 has purchased the loop/port combination (often called "UNE-platform" or 18 "UNE-P"). As I explained in my direct testimony, BellSouth is clearly not 19 obligated to provide line sharing when BellSouth is not the voice provider. The 20 FCC has spoken definitively on this issue, stating in no uncertain terms that 21 "ILECs are not required to provide line sharing to a requesting carrier when the 22 ALEC purchases a combination of network elements known as the UNE 23 platform." (Third Report and Order in CC Docket No. 98-147 and Fourth 24 Report and Order in CC Docket No. 96-98 ¶ 72-73) 25

-36-

1		
2		Mr. Follensbee states that AT&T's "ability to compete will be significantly
3		constrained unless BellSouth is required to implement nondiscriminatory line
4		splitting procedures that enable it to add, modify, or remove xDSL capabilities
5		operating in the high frequency portion of the loop of a new or already
6		operating UNE loop." (Follensbee Direct, page 25, lines 3-7). As I explained
7		in my direct testimony, BellSouth offers such nondiscriminatory access to the
8		high frequency portion of the loop of a new or already operating UNE loop.
9		BellSouth's proposed rates for such access are contained in Exhibit JAR-1
10		attached to my direct testimony.
11		
12		Mr. Follensbee goes on to say that AT&T must "not be denied the opportunity
13		to migrate existing BellSouth customers to a UNE-P architecture simply
14		because BellSouth or its data affiliate provides advanced data services on the
15		high frequency portion of the loop." (Follensbee Direct, page 25, lines 7-10).
16		Of course, as Mr. Follensbee admits, what he addresses here is not "line
17		sharing," because line sharing occurs when the ILEC is the voice provider and
18		an ALEC shares the loop in order to provide data services. When an ALEC
19		serves the customer with UNE-P, the ALEC becomes the voice provider.
20		Indeed, the situation that Mr. Follensbee addresses is typically referred to as
21		"line splitting."
22		
23	Q.	HOW HAS THE FCC ADDRESSED THE ISSUE OF LINE SPLITTING?
24		

١

-37-

.

1	<b>A</b> .	In the SBC Texas 271 order, the FCC referred to the situation where an ALEC
2		provides voice service over UNE-P and data is provided by the ALEC (or
3		another ALEC, with a pre-existing agreement) as "line splitting". In that order,
4		the FCC determined that:
5		• line splitting is defined as a situation where the voice and data service
6		are provided by competing carriers over a single loop, rather than by the
7		incumbent LEC. (¶ 324).
8		• incumbent LECs have an obligation to permit competing carriers to
9		engage in line splitting over the UNE-P where the competing carrier
10		purchases the entire loop and provides its own splitter. <sup>1</sup> ( $\P$ 325).
11		• incumbent LECs have no obligation to furnish the splitter when the
12		ALEC engages in line splitting over the UNE-P. (¶ 327).
13		
14	Q.	PLEASE RESPOND TO MR. FOLLENSBEE'S CLAIM THAT "WHEN
15		AT&T BUYS A LOOP, THE ILECS ARE OBLIGATED TO PROVIDE
16		ACCESS TO ALL OF THE FUNCTIONALITIES AND CAPABILITIES OF
17		THAT LOOP, INCLUDINGASSOCIATED ELECTRONICS (SUCH AS
18		THE LINE SPLITTER)." (FOLLENSBEE DIRECT, PAGE 28, LINE 22 –
19		PAGE 29, LINE 1).
20		
21	A.	First, I must point out that, when AT&T purchases the UNE-P, it is not "buying

¢

<sup>22</sup> 

a loop" but is buying a loop/port combination. Second, in its SBC Texas 271

<sup>&</sup>lt;sup>1</sup> The FCC further explained that "if a competing carrier is providing voice service over the UNE-P, it can order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment and unbundled switching combined with shared transport to replace its UNE-P with a configuration that allows provisioning of both data and voice service." (¶ 325). The FCC also stated that the ILEC "provides the loop that was part of the existing UNE-P as the unbundled xDSL-capable loop, unless the loop that was used for the UNE-P is not capable of providing xDSL service." (Id.).

1		Order, the FCC was clear that it "did not identify any circumstances in which
2		the splitter would be treated as part of the loop, as distinguished from being
3		part of the packet switching element." (¶ 327). Of course, in its UNE Remand
4		Order, the FCC declined to require that packet switching be provided on an
5		unbundled basis. Thus, it is clear that the FCC does not consider the splitter to
_ 6		be part of the "functionalities and capabilities" of the loop.
7		
8	Q.	WHAT IS BELLSOUTH'S POSITION REGARDING LINE SPLITTING?
9		
10	A.	Clearly, BellSouth is not required to provide the splitter when the ALEC is
11		providing service via UNE-P. Several ALECs have requested that BellSouth
12		provide a means to allow them to provide data service when the ALEC has won
13		the voice customer and is providing the customer's voice service via the UNE-
14		P. BellSouth is willing to work with ALECs on procedures that will
15		accommodate ALECs to provide data service over UNE loops in the following
16		manner:
17		• BellSouth will deal with one ALEC of record. That ALEC must have
18		an interconnection agreement that authorizes it to buy loops and ports.
19		The voice provider, the data provider, or both the voice and data
20		providers will need a collocation agreement and will need authorization
21		to order cross-connections. If more than one ALEC is involved, they
22		will need an agreement to share BellSouth's ALEC of record's loop.
23		• After a loop and port is ordered, the ALEC of record would order cross
24		connections to a collocation space where an ALEC owned splitter is

¢

-39-

1		located. Another cross-connection would need to be ordered from the
2		splitter to the voice switch port.
3		
4		This arrangement would provide a UNE loop and port to provide the ALEC's
5		end user with voice service. The splitter owned and provisioned by the ALEC
6		would enable the high frequency portion of the loop to be available for data
7		service. BellSouth would bill the ALEC that is the customer of record and
8		would only deal with that customer of record.
9		
10	Q.	DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?
11		
12	Α.	Yes.
13 14	#238337	

ž

4

,

.