ORIGINAL

Legal Department

Nancy B. White
General Counsel-Florida

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
305 347-5558

January 28, 2004

Mrs. Blanca S. Bayó
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RECEIVED-FPSC
JAN 28 PM 4:49
COMMISSION
CLERK

**Re: Docket No. 030851-TP**

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of BellSouth Telecommunications, Inc.'s Surrebuttal Testimony of Al Varner, Ron Pate, Eric Fogle, Milton McElroy, Al Heartley, Ken Ainsworth, Christopher Pleatsikas, Debra Aron, Keith Milner Wayne Gray, Randy Billingsley, Jim Stegeman, Pam Tipton and John Ruscilli, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

RECEIVED & FILED
FPSC-BUREAU OF RECORDS

Nancy B. White

Nancy B. White (BA)

Enclosure

AUS
CAF
CMP
COM 5 7 Orig
CTR
ECR
GCL 1
OPC
MMS 2
SEC 1
OTH

cc: Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Meredith Mays

DNS 01299-04 thru 01312-04

524334

**CERTIFICATE OF SERVICE**
**Docket No. 030851-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail, Hand Delivery* and FedEx this 28th day of January 2004 to the following:

Jeremy Susac, Staff Counsel*
Pat Lee
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Phone: (850) 413-6212
Fax: (850) 413-6250
jsusac@psc.state.fl.us
plee@psc.state.fl.us

Michael A. Gross
VP Reg. Affairs & Reg. Counsel
Florida Cable Telecomm. Assoc.
246 East 6th Avenue
Tallahassee, FL 32303
Tel. No. (850) 681-1990
Fax. No. (850) 681-9676
mgross@fcta.com

Joseph A. McGlothlin (+)
Vicki Gordon Kaufman (+)⊗
McWhirter, Reeves, McGlothlin,
Davidson, Kaufman & Arnold PA
117 South Gadsden Street
Tallahassee, FL 32301
Tel. No. (850) 222-2525
Fax. No. (850) 222-5606
Represents FCCA
Represents Covad ~
jmcglothlin@mac-law.com
vkaufman@mac-law.com

Charles E. Watkins (+)⊗
Covad Communications Company
1230 Peachtree Street, N.E.
19th Floor
Atlanta, Georgia 30309
Tel. No. (404) 942-3492
Fax. No. (404) 942-3495
gwatkins@covad.com
jbell@covad.com

Nanette Edwards, Esq. (+)⊗
Director – Regulatory
ITC^DeltaCom
4092 S. Memorial Parkway
Huntsville, AL 35802
Tel. No. (256) 382-3856
nedwards@itcdeltacom.com

Floyd Self, Esq. (+)⊗
Norman H. Horton, Esq. ~
Messer Caparello & Self
215 South Monroe Street, Suite 701
Tallahassee, FL 32301
Tel. No. (850) 222-0720
Fax. No. (850) 224-4359
Represents ITC^DeltaCom,
Represents KMC
Represents MCI
Represents Xspedius~
fself@lawfla.com
nhorton@lawfla.com

De O'Roark, Esq. (+)⊗
MCI WorldCom Communications, Inc.
6 Concourse Parkway, Suite 3200
Atlanta, GA 30328
de.oroark@mci.com

Jon Moyle, Jr.
Moyle Law Firm (Tall)
The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301
Phone: (850) 681-3828
Fax: 681-8788
Email: jmoylejr@moylelaw.com

Andrew O. Isar
Miller Isar, Inc.
7901 Skansie Avenue
Suite 240
Gig Harbor, WA 98335
Tel. No. (253) 851-6700
Fax No. (253) 851-6474
aisar@millerisar.com

Jason Spinard, Esq.
Rand Currier
Geoff Cookman
Granite Telecommunications, LLC
234 Copeland Street
Quincy, MA 02169
Tel. No. 617 847-1500
Fax No. 617 847-0931
jspinard@granitenet.com
rcurrier@granitenet.com
gcookman@granitenet.com

Donna McNulty, Esq. (+)⊗
MCI WorldCom Communications, Inc.
1203 Governors Square Blvd., Suite 201
Tallahassee, FL 32301-2960
donna.mcnulty@mci.com

Tracy Hatch, Esq. **
AT&T
101 North Monroe Street
Suite 700
Tallahassee, FL 32301
Tel. No. (850) 425-6360
thatch@att.com

Lisa A. Sapper (+)⊗
AT&T
1200 Peachtree Street, N.E.
Suite 8100
Atlanta, GA 30309
Tel. No. (404) 810-7812
lisariley@att.com

Jake E. Jennings (+)⊗
NewSouth Communications Corp
Two North Main Center
Greenville, SC 29601-2719
Tel. No. 864 672-5877
Fax No. 864 672-5313
jejennings@newsouth.com

Marva Brown Johnson, Esq.
KMC Telecom III, LLC
1755 North Brown Road
Lawrenceville, GA 30034-8119
marva.johnson@kmctelecom.com

Susan S. Masterton, Esq. (+)⊗
Sprint-Florida, Inc.
Sprint Communications Co. L.P.
1313 Blair Stone Road
P.O. Box 2214
Tallahassee, FL 32316-2214
Tel. No. (850) 599-1560
Fax. No. (850) 878-0777
susan.masterton@mail.sprint.com

Charles V. Gerkin, Jr.(+) ⊗
Regulatory Counsel
Allegiance Telecom, Inc.
9201 North Central Expressway
Dallas, TX 75231
Phone: 469-259-4051
Fax: 770 234-5945
Cell: 770 855-0466
charles.gerkin@algx.com

Terry Larkin
Allegiance Telecom, Inc.
700 East Butterfield Road
Lombard, IL 60148
Phone: (630) 522-6453
terry.larkin@algx.com

Jean Houck
Business Telecom, Inc.
4300 Six Forks Road
Raleigh, NC 27609
Tel. No. (919) 863-7325
jean.houck@btitelecom.net

Jonathan Audu**
Manager, Regulatory Affairs
Supra Telecommunications
1311 Executive Center Drive
Suite 220
Tallahassee, FL 32301-5027
Tel. No. (850) 402-0510
Fax. No. (850) 402-0522
jonathan.audu@stis.com

Margaret Ring, Director
Regulatory Affairs
Network Telephone Corporation
815 S. Palafox St.
Pensacola, FL 32501
850-465-1748
Margaret.Ring@networktelephone.net

Jorge Cruz-Bustillo (+)⊗
Assistant General Counsel
Supra Telecommunications & Information Systems, Inc.
2620 S.W. 27th Avenue
Miami, FL 33133
Phone: (305) 476-4252
Fax: (305) 443-1078
jorge.cruz-bustillo@stis.com

**AT&T by E-Mail only: (+)**
soniadaniels@att.com

Richard Chapkis (+)⊗
Kimberly Caswell
Verizon Florida Inc.
P.O. Box 110, FLTC0007
Tampa, FL 33601-0110
Phone: (813) 483-1256
Fax: (813) 273-9825
Email: richard.chapkis@verizon.com

Matthew Feil (+)⊗
Scott Kassman
FDN Communications
390 North Orange Avenue
Suite 2000
Orlando, FL 32801-1640
Tel. No. 407 835-0460
Fax No. 407 835-0309
mfeil@mail.fdn.com
skassman@mail.fdn.com

Thomas M. Koutsky
Vice President, Law and Public Policy
Z-Tel Communications, Inc.
1200 19th Street, N.W., Ste. 500
Washington, D.C. 20036
Tel. No. (202) 955-9653
tkoutsky@z-tel.com

Charlie Beck (+)⊗
Deputy Public Counsel
Office of Public Counsel
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
Phone: (850) 488-9330
Fax No. (850) 488-4491
Beck.Charles@leg.state.fl.us

Nancy B. White (LA)

**(+ )signed Protective Agreement**
**(*) via Hand Delivery**
**(**) via Electronic Mail only**

BELLSOUTH TELECOMMUNICATIONS, INC.

SURREBUTTAL TESTIMONY OF ALPHONSO J. VARNER

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FILED JANUARY 28, 2004

DOCKET NO. 030851-TP

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS ADDRESS.

A. My name is Alphonso J. Varner. I am employed by BellSouth as Assistant Vice President in Interconnection Services. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. ARE YOU THE SAME ALPHONSO J. VARNER WHO FILED DIRECT AND REBUTTAL TESTIMONY IN THIS PROCEEDING?

A. Yes I am.

Q WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My Surrebuttal Testimony is filed in response to several issues raised by CLEC witnesses Sherri Lichtenberg of MCI, Cheryl Bursh and Mark Van De Water of AT&T, Michael Gallagher of Florida Digital Network, Inc., ("FDN") and Mark Neptune of Supra.

Q. HOW WOULD YOU GENERALLY CHARACTERIZE THE NATURE OF THE ARGUMENTS MADE BY THESE PARTIES?

A. There are four (4) themes repeatedly asserted by the CLECs in an attempt to frustrate a finding by this Commission that they are not operationally impaired without access to local circuit switching offered as a UNE. The first assertion, and the most blatantly erroneous, is that the performance data provided in my Direct Testimony are not relevant to the issues to be addressed in this proceeding. In order to support this faulty conclusion, the CLECs engage in a narrow and clumsy interpretation of the FCC's Triennial Review Order ("TRO") and ignore other parts of the order that directly contradict their conclusion.

Second, while claiming that the performance results are not relevant on the one hand, on the other hand the CLECs use these same data to argue that because UNE-P and UNE-L intervals are different, CLECs are automatically impaired without UNE-P. First, their conclusion does not comport with either the TRO or a practical assessment of whether impairment exists. Further, the CLECs did not fulfill the fundamental need to offer tangible evidence that the differences about which they comment constitute operational impairment.

Next, most of the CLEC witnesses replay the contention that disaster looms in the future. Once again, they argue that unless BellSouth's systems and processes used in ordering, provisioning and maintaining

UNE-Loops are substantially more mechanized, the potential for errors in manual operations and the increased demand for UNE-L would cause BellSouth's performance to plummet. As a result, they claim that CLECs would be unable to compete if UNE-P was not required. In the past, CLECs claimed that this scenario was inevitable if BellSouth was allowed into the long distance business. Now, they imply that the sky will fall once again if UNE-P is eliminated and CLECs must rely on UNE-L.

Finally, the CLECs falsely contend that unless the performance standards for UNE-P and UNE-L are exactly the same, CLECs will face operational barriers that would prohibit CLECs from competing effectively in the local mass market. In this instance, the CLECs rely on an unsound interpretation of the FCC statement in the TRO that it "is necessary to ensure that customer loops can be transferred from the [ILEC]...to a [CLEC] ...as promptly and efficiently as [ILECs] can transfer customers using local circuit switching." [fn. 1574] The CLECs raising this issue use an impractical inference as a basis to assert that any variation between UNE-P and UNE-L performance is enough to establish impairment.

## I. BELLSOUTH'S CURRENT PERFORMANCE RESULTS ARE NOT ONLY RELEVANT TO THIS PROCEEDING, BUT WITHOUT SUCH DATA THERE IS NO OBJECTIVE BASIS TO DETERMINE IF THE CLECS FACE OPERATIONAL IMPAIRMENT.

Q. DO YOU HAVE ANY RESPONSE TO THE COMMENTS ON PAGE 3 OF MS. BURSH'S, PAGE 8 OF MR VAN DE WATER'S AND PAGE 2 OF MS. LICHTENBERG'S REBUTTAL TESTIMONY, WHERE EACH CITE PARAGRAPH 469 FROM THE FCC'S TRIENNIAL REVIEW ORDER AS A REASON TO CONCLUDE THAT BELLSOUTH'S CURRENT PERFORMANCE RESULTS ARE NOT RELEVANT IN THIS PROCEEDING?

A. Yes. These witnesses cite the FCC's statement in paragraph 469 of the Triennial Review Order that "the number of hot cuts performed by BOCs in connection with the 271 process is not comparable to the number that incumbent LECs would need to perform if unbundled switching were not available for all customer locations served with voice-grade loops." This fragment is construed as the basis to declare that the current performance data are irrelevant. This conclusion is neither required by the TRO, nor is it a reasonable way for the Commission to proceed.

Paragraph 469 merely indicates that ILECs, like BellSouth, cannot rely only on the findings in the 271 proceedings to conclude that there is no impairment for CLECs if unbundled switching is not available. The point that the FCC was making is that the question the state commissions must answer is how the ILEC will handle increased volumes. They did not dismiss current performance data as relevant evidence to be considered by state commissions. Moreover, in paragraph 512 of its Triennial Review

Order, the FCC encouraged the use of such data in these proceedings with respect to loop provisioning in general when it explains:

> Evidence relevant to this inquiry might include, for example, commercial performance data demonstrating the timeliness and accuracy with which the incumbent LEC performs loop provisioning tasks and the existence of a penalty plan with respect to the applicable metrics. For the incumbent LECs that are BOCs subject to the requirements of section 271 of the Act, states may choose to rely on any performance data reports and penalty plans that might have been developed in the context of the past, pending, or planned application for long-distance authority.

Clearly, the FCC intended for states to use the facts of current performance instead of proceeding solely on the basis of unsupported assumptions as these witnesses propose.

The intent of the FCC's statement in paragraph 469 is to indicate why it could not find on a national basis that CLECs are not impaired without access to unbundled local switching, or hold unequivocally that they are impaired. If the FCC had made such a clear finding, there would be no need for the state proceedings. In footnote 1435 of the same paragraph 469 that these witnesses cite, the FCC states: "our decision does not overlook the possibility that if in some markets the incumbents' ability to perform batch hot cuts does not pose impairment, the states may simply make the findings to this effect." In essence, these witnesses are proposing to unnecessarily restrict this Commission in its deliberations by ignoring factual data.

BellSouth's performance data evidence BellSouth's ability to perform loop provisioning in a timely and reliable manner. Hot cuts are simply a

specific type of loop provisioning activity. Thus, BellSouth's current exemplary performance data are relevant and important.

The performance data should be used in conjunction with the testimony of BellSouth witnesses such as Mr. McElroy and Mr. Ainsworth to determine whether operational impairment exists. The performance data calculated as prescribed by this Commission is an important part of this inquiry because it demonstrates the extent of BellSouth's commitment and action on that commitment to provide nondiscriminatory loop provisioning. BellSouth has shown a commitment to provisioning loops, including hot cuts in a timely and accurate manner for CLECs in Florida. These measurement results clearly show that performance does not pose an operational barrier to market entry for the CLECs. Performance data provided in my Direct Testimony offers a factual basis for the Commission's decisions instead of the unsupported assumptions offered by these witnesses.

Q. MS. BURSH, ON PAGE 2 OF HER REBUTTAL TESTIMONY ALLEGES THAT BELLSOUTH HAS TWISTED CURRENT PERFORMANCE DATA TO SUPPORT THE CLAIM THAT BELLSOUTH'S EXISTING PROCESSES WILL ADEQUATELY SUPPORT ANTICIPATED LOOP MIGRATION. DO YOU AGREE?

A. No, I disagree. As demonstrated in Exhibit AJV-1 to my Direct Testimony, BellSouth has shown a commitment to performing hot cuts in a timely and

accurate manner for CLECs in Florida. If Ms. Bursh considers the hot cut volumes to be low, they simply reflect the CLECs' choices, which according to Ms Bursh is rationale to penalize BellSouth. That aside, hot cuts are not a new process to BellSouth. The fact is BellSouth has been doing what we now call 'hot cuts' for many years. BellSouth has extensive experience in performing large numbers of hot cuts by completing the work steps required to transfer a geographic area from one wire center to another. These transfers are called 'Area Transfers.' Another example of the BellSouth's experience with 'hot cuts' is the T&F process, wherein a customer moves from one location to another within the same wire center. Both of these examples have been subject to Commission oversight for many years, even predating the Telecom Act of 1996. They have also been included in such retail measurements as Customer Trouble Report Rate.

Further, when the Commission set performance standards for CLEC hot cuts, these standards did not have any volume limitations or constraints. BellSouth was required to meet these standards regardless of the volume offered. The data show that BellSouth has met the performance standards established by the Commission, which of course required dedication of the resources necessary to do so. Having met this challenge in the past certainly lends credence to the proposition that BellSouth will do so in the future. These are the facts and these facts cannot be disputed.

Rather than try to refute the facts, Ms. Bursh resorts to the supposition that the facts will change. The allegation that the existing processes will be inadequate to support anticipated loop migration is merely an unsupported conjecture that BellSouth will not continue to meet the standards that it has met in the past. Both current and historical data contradict her claim. Also, in the unlikely event that BellSouth does not meet the standards, there are indicators, such as measurements, and consequences such as SEEM payments, complaints and other remedies that this Commission and the FCC established that can be used to address her concerns.

If Ms. Bursh, like Ms. Lichtenberg, is implying that the processes are not scalable with increased volumes, the FCC has at least partially addressed this issue where the agency has found in 49 decisions under section 271 that incumbents could scale their hot-cut processes as necessary (*e.g., New York Order* ¶ 308). While I agree that this finding was made in an environment where UNE-P was required, nonetheless, it is a recognition that a significant degree of scalability exists. Mr. McElroy (p. 22 of his Rebuttal Testimony) explains how BellSouth's batch migration process of unbundled network element platform (UNE-P) to unbundled loop (UNE-L) service will sufficiently support the batch conversion of a CLEC's embedded UNE-P customer base to UNE-L services. Furthermore, Mr. Ainsworth and Mr. Heartley describe how BellSouth's processes are also scalable and will be able to meet the standards in the future. BellSouth's performance record shows that it has, and is, meeting the challenge of

providing nondiscriminatory loop provisioning including hot cuts. Consequently, the CLEC witnesses can only attempt to trivialize the facts because they can't refute them. These facts coupled with the implementation of proven provisioning plans, as attested to by other BellSouth witnesses, provide a clear path to determine that anticipated performance will be commendable.

Q. ON PAGE 3 OF HER REBUTTAL TESTIMONY, MS. LICHTENBERG CLAIMS THAT YOUR DIRECT TESTIMONY: (1) AT BEST, "ADDRESSES BELLSOUTH'S PERFORMANCE WITH RESPECT TO THE CURRENT LOW LEVEL OF UNE-L ORDERS; AND (2) "DOES NOT GIVE A CLEAR PICTURE OF BELLSOUTH'S ACTUAL PERFORMANCE ON UNE-L ORDERS." PLEASE COMMENT.

A. With respect to her first comment, that my Direct Testimony only addresses performance with respect to the "current low level of UNE-L orders", Ms. Lichtenberg misses the obvious purpose of performance data. The only options for performance reporting are past or present results, based on whatever level of activity the CLECs generate. The only meaningful way to assess BellSouth's ability to effectively process potential increases in future demand is to consider current performance results, the commonality and capacity of systems used in processes that handle significant volumes for similar activities today, the practical options available to BellSouth (or any business for that matter) of shifting resources to meet demand, and planned improvements in processes to

accommodate anticipated requirements. Thus, the intent of my Direct Testimony, which provided BellSouth's performance with respect to Loop Provisioning in general and hot cuts in particular, was not for the data to be considered in isolation. Rather, as previously stated, the performance results provided in my Direct Testimony should be considered in conjunction with the testimony of other BellSouth witnesses addressing other relevant aspects of the impairment issue.

The current volumes reflect what the CLECs are ordering and BellSouth can only report what is being ordered. Ms. Lichtenberg does not adequately address why the Commission should believe that BellSouth would not be able to handle an increase in UNE-L volumes. It should be remembered that when the CLECs opposed BellSouth's long distance, the CLECs erroneously predicted a similar inability regarding BellSouth's capacity to meet future volume demands for UNE-P and ordering in general. This erroneous prediction was contradicted by the data available at the time. Of course, they were proved wrong then, and they are wrong now. Rather than rely upon the facts, she feebly postulates the vaporous notion that if it has not happened in the past, it can't happen in the future while completely ignoring the fact that both current and historical data contradict this forecast.

In addition, Ms Lichtenberg goes on to reiterate the point that some processes are manual. The thrust of her whole argument in this case is the faulty assumption that the presence of a manual procedure anywhere

in the stream of processes equals impairment. Indeed, there is an obvious and significant gap between quoting the percentage of UNE-L orders that were Fully Mechanized during a specific period and concluding that these percentages establish CLEC impairment. The flow-through of LSRs is only one aspect of providing UNE-Loops to CLECs and, as the FCC has clearly explained, a secondary one at that.

As a practical matter, BellSouth will obviously assign its resources to the areas that generate the most volume. Certainly, as CLECs begin to submit more UNE-L orders, and less of other order types, BellSouth would, of course, make adjustments to address the change in CLEC order types. Significantly, BellSouth's current and past performance record, in conjunction with the process and procedure plans provided by other BellSouth witnesses, is a reasonable basis to infer that its future performance will be similar. Surely, the performance results provided in my Direct Testimony provide a more rationale basis for this Commission's determinations than the pure conjecture of CLEC witnesses such as Ms. Lichtenberg. If the Commission ignores the data completely, as Ms. Lichtenberg suggests, the door is open for a wide variety of conjectures about potential problems for which there is no factual basis.

In contending that my Direct Testimony does not "give a clear picture of BellSouth's actual performance", Ms. Lichtenberg focuses on two aspects of performance, flow through and order completion interval. Of course, this approach ignores the substantial amount of data that I provided

demonstrating that BellSouth's UNE loop provisioning performance has been and continues at a high level. I will address her flow through testimony now and her order completion interval testimony later because it has some common elements with other witnesses.

Any discussion of flow-through must first be placed into context with respect to it usefulness, which Ms Lichtenberg did not address. In addition, she ignored the value of the measurement results as prescribed by this Commission. First, the performance results provided in my Direct Testimony are based on the performance measures and standards established for the Flow-Through metric by this Commission and approved by the FCC. Moreover, the FCC has repeatedly stated that Flow-Through is a secondary measure and that other measures are more important indicators of performance. In particular, the FCC stated in its Texas Order:

> We have not considered flow-though rates as the sole indicia of parity, however, and thus have not limited our analysis of a BOC's ordering processes to a review of its flow-through performance data. Instead, we have held that factors such as a BOC's overall ability to return timely order confirmation and rejection notices, accurately process manually handled orders, and scale its systems are relevant and probative for analyzing a BOC's ability to provide access to its ordering functions in a nondiscriminatory manner. *See* Texas Order, ¶ 179.

While the FCC has repeatedly expressed the secondary nature and importance of the flow-through metric, the CLECs have repeatedly raised this same issue. The FCC's statement doesn't mean that flow through is irrelevant; it simply means that its significance is dictated by performance on other measures. In this proceeding, Ms. Lichtenberg attempts to

overstate its importance apparently because it is being reviewed in connection with batch hot cuts. In fact, she apparently recognizes its secondary role, because she refers to service order accuracy as an important consequence of flow-through. Service Order Accuracy is one of the measures that bears upon the significance of flow-through, and is a measure that BellSouth currently reports and will continue to report in its monthly data.

Q. MS. LICHTENBERG, ON PAGE 4 OF HER TESTIMONY, STATES THAT "LOW FLOW THROUGH MEANS THAT MOST UNE-L ORDERS MUST BE PROCESSED MANUALLY...INCREASING STILL MORE THE CHANCES FOR HUMAN ERROR AND CUSTOMER SERVICE OUTAGES AND OTHER PROBLEMS." PLEASE COMMENT.

A. Ms. Lichtenberg, again, makes predictions about BellSouth's ability to process orders accurately by referring to "chances" for human error and customer service outages without indicating any factual or other rationale or basis for her predictions. Rather, than using the performance data to support her analysis, she simply opines that the prospect of excessive human errors by BellSouth or customer service outages, and the "potential" for problems is enough for this Commission to find that CLECs are impaired without access UNE-P at TELRIC rates.

If BellSouth's performance results are reviewed, however, it is reasonable to infer that Ms. Lichtenberg's repeated contention that unless BellSouth's

ordering and provisioning processes are significantly more mechanized, CLECs will become impaired without UNE-P is without merit. For example, with respect to Ms. Lichtenberg's concern about the possibility of human errors in the ordering process, BellSouth reports its monthly performance relative to errors in the ordering process via measure P-11A (P-11 prior to September 2003), Service Order Accuracy. The following chart compares BellSouth's performance for the Service Order Accuracy measure for UNE-P versus UNE-L for the most recent three months: October, November and December 2003 (the results show the percent of orders that are accurate).

| MONTH | UNE-P | UNE-L |
|---|---|---|
| October 2003 | 95.84% | 97.41% |
| November 2003 | 96.41 | 97.94 |
| December 2003 | 96.80 | 98.53 |

Based on the performance data above, the Service Order Accuracy rate was quite high. Even if the argument is made that the current UNE-L levels are much less than anticipated volumes, for December 2003, the volume for UNE-L orders was approximately 11,000 orders in Florida, which is clearly sufficient to demonstrate the level of BellSouth's performance. Moreover, the anticipated future increase in UNE-L orders would be accompanied by an anticipated significant decrease in UNE-P as well, which must be considered when predicting future performance levels.

Similarly, with respect to Ms. Lichtenberg's issue concerning potential customer service outages with UNE-L, in my Rebuttal Testimony (page 8, line 5 through page 9, line 11), I provided data for two Maintenance and Repair measures, Customer Trouble Report Rate and Maintenance Average Duration, showing UNE-P results and UNE-L results (shown as CLEC SL1). Although I do not agree that comparing UNE-L and UNE-P performance is a reasonable approach for reasons discussed in my rebuttal, as well as later in this testimony, even those comparisons do not support her claim. The data showed that for maintenance and repair, BellSouth performed comparably for UNE-P and UNE-L. In fact, the UNE-L results were better than UNE-P. Again, an argument that these are smaller UNE-L volumes than anticipated in the future, does not establish that performance levels will deteriorate to a point that CLECs are operationally impaired without UNE-P.

Q. DO YOU HAVE OTHER EVIDENCE OF BELLSOUTH'S EFFECTIVENESS IN HOT CUT PERFORMANCE?

A. Yes. The rebuttal testimony of Mr. Gallagher of Florida Digital Network, Inc. (FDN) contains clear and objective evidence that BellSouth's hot cut process is effective. On page 3 of his rebuttal testimony, Mr. Gallagher states "FDN believes that the hot cut process of the ILECs works well for the most part." On page 8, Mr. Gallagher states "As a UNE-L based CLEC that performs over two hundred hot cuts for DS-0 Loops daily and has performed more hot cuts than any other single CLEC in the state,

FDN would be hard pressed to say that the hot cut process does not work well." Then on page 11, Mr. Gallagher notes "On a daily basis FDN and BellSouth work cooperatively together to install loops through IDLC for mass market customers."

Q. WHY ARE THESE COMMENTS PARTICULARLY SIGNIFICANT?

A. Mr. Gallagher represents a facility-based CLEC that has first-hand knowledge and daily experience at a significant volume with hot cuts. This is in stark contrast to the testimony of other CLECs in this docket who primarily use UNE-P. Additionally, FDN has approximately 6 years of experience with UNE-L, as noted in Mr. Gallagher's testimony on page 2, and, FDN is of the opinion that it uses a significant amount of the UNE Loops provided by BellSouth. Referring to page 9 of his rebuttal testimony, Mr. Gallagher states, "there were 156,746 lines in Florida served by a combination of a BellSouth unbundled loop and a CLEC switch. " "FDN believes it constitutes about two-thirds of that total."

This testimony from a CLEC who actually has experience with the hot cut process is consistent with the data. This corroboration from someone with factual experience stands in stark contrast to the predictions of several other witnesses who have offered no basis for their claims that BellSouth will fail to perform in the future.

## II. THE CLAIM THAT UNLESS THE PERFORMANCE STANDARDS FOR UNE-L ARE EQUIVALENT TO UNE-P, CLECS ARE IMPAIRED DUE TO OPERATIONAL BARRIERS WITHOUT ACCESS TO LOCAL SWITCHING IS CONTRARY TO BOTH LOGIC AND THE TRO.

Q. ON PAGES 3 AND 4 OF HER REBUTTAL TESTIMONY, MS. BURSH STATES THAT "BELLSOUTH USES THE WRONG STANDARD IN ATTEMPTING TO DEMONSTRATE THAT CLECS DO NOT FACE OPERATIONAL BARRIERS TO MARKET ENTRY ABSENT UNBUNDLED LOCAL SWITCHING." DOES MS. BURSH PROPOSE AN APPROPRIATE STANDARD TO COMPARE DELIVERY METHODS?

A. No, her proposal is inappropriate. First, I would like to note a bit of inconsistency in Ms Bursh's position. After claiming that BellSouth's data is irrelevant and instructing this Commission to discard the evidence, Ms. Bursh then concedes that the FCC suggested a review of performance data could be appropriate as part of the inquiry into the ILEC's "ability to transfer loops in a timely and reliable manner." (TRO at ¶ 512.) Having now agreed that the data are relevant, she disagrees with the manner in which this Commission chose to develop the data. The discussion of performance measurements data for hot cuts and UNE local loops in Exhibit AJV-1 provides the relevant information addressed by the FCC. These performance measurements were approved in this Commission's docket to establish permanent performance metrics (Docket No. 000121-TP) and further refined during the review of metrics standards during the

six-month review of the Performance Assessment Plan (Order No. PSC-01-1819-FOF-TP). This Commission has now completed a six-month review cycle and issued an order on April 22, 2003, which updated the Performance Assessment Plan. Instead of assessing Bellsouth's performance relative to those standards as I did in my direct testimony, Ms. Bursh claims that my "discussion provides little insight into the issue of whether BellSouth's loop provisioning is as prompt and efficient as UNE-P", Instead, Ms Bursh along with Ms. Lichtenberg and Mr. Van de Water create their own standard. None of them, however, explains how they derived their standard. As to Ms Bursh's self-proclaimed "FCC-prescribed standard of UNE-P performance", there is neither a directive that establishes this standard, nor would it be a reasonable standard by which to measure performance.

The key point is that it is not appropriate to compare UNE-P and UNE-L processes in the instances where they are not analogous. They are not the same products and do not offer the same functionality to the CLEC. Consequently, Congress, the FCC, nor this Commission required them to be the same. The question before the Commission is NOT whether UNE-L can be made the same as UNE-P. The question before the Commission, rather, is whether an efficient CLEC can compete in a particular market using UNE-L. Because the answer to this question is unequivocally "yes," the CLECs are attempting to change the question.

Q. ON PAGES 4 – 5 OF HER REBUTTAL TESTIMONY, FOLLOWING THE

SAME GENERAL APPROACH AS MS. BURSH, MS. LICHTENBURG COMPARES UNE-L INSTALLATION INTERVALS TO UNE-P INSTALLATION INTERVALS AND CONCLUDES THAT UNE-L MIGRATIONS TAKE SUBSTANTIALLY LONGER THAN UNE-P MIGRATIONS. IS THIS A FAIR COMPARISON?

A. No, this is a comparison that identifies the obvious fact that the products are different, but fails to identify the relevance or usefulness of that fact for determining operational impairment comparison. As I stated in my Rebuttal Testimony, responding to the same issue raised by AT&T witness Mark David Van De Water, there is an inherent flaw in attempting to equate two different products and processes – expecting the results to be the same. Where UNE-P orders require little more than a billing change of the existing end-user, UNE-L will always require some type of physical work whether at the central office or the customer premise. What Ms. Lichtenberg and other CLEC witnesses raising this issue fail to do is demonstrate how they are impaired because of the difference.

As already mentioned, BellSouth, the CLECs and the Commission have all spent an enormous amount of time establishing performance measurements, disaggregating products and processes, and creating performance standards based on the differences in these products and processes. In most cases, the retail analog standards are reasonable and relevant, and where they are not, the reason is that CLEC products are compared to dissimilar retail products. When this incongruity occurs, the

situation is considered an error, and more analysis of the data is necessary to determine whether a performance problem exists. Later, the erroneous standard can be revised in the next periodic review. However, these witnesses would have the Commission believe the far-fetched idea that a retail analog is only appropriate in this case if the retail process bears no resemblance to the CLEC process. In the absence of something more tangible, the fact that the standards adopted by all nine state commissions in BellSouth's region, and accepted by the FCC, reflect differences based on the different products and processes renders moot this point stressed by Ms. Lichtenberg, and other CLEC witnesses. I should also point out that failure to meet this Commission's prescribed standards for order completion interval, as set forth in the Performance Assessment Plan is met with immediate penalty plan consequences. This occurs in some cases even where the performance standard is clearly improper.

Q. TURNING AGAIN TO MS. BURSH, ON PAGES 3 AND 4 OF HER REBUTTAL TESTIMONY, MS. BURSH, NOTING AS MS. LICHTENBERG DID THAT UNE-P AND UNE-L HAVE DIFFERENT INTERVALS, GOES FURTHER AND MAKES THE ASSERTION THAT IF "UNE-P IS NO LONGER AVAILABLE, THE ILEC MUST FOLLOW THE SAME STANDARD IN PERFORMING ITS REPLACEMENT." DOES THIS CONCLUSION HAVE MERIT?

A. Not entirely. It is a reasonable conclusion when the processes required to provide the two products are analogous. Ms. Bursh, however, is narrowly asserting that the only relevant standard is the Order Completion Interval (OCI) where the processes are not analogous. She then mistakenly asserts that the OCI for UNE-P and its' replacement, presumably UNE-L; must be the same.

The only determination that the Commission need make is: 'Will BellSouth's performance for UNE-L provide the CLECs with a meaningful opportunity to compete?' Which is another way of asking: does UNE-L performance impair the CLEC's ability to compete? In making this determination, the Commission should consider not only the order completion interval but also the other measurements of maintenance, billing, provisioning, and ordering processes. The Commission should also consider the fact that UNE-L provides the CLEC with a number of competitive advantages that they do not have with UNE-P. For instance, once an end-user is served by UNE-L terminated on the CLEC's switching equipment, the CLEC can change switch dependant features and offer promotional packaging without involving BellSouth.

Q. YOU STATED THAT MS. BURSH, MS. LICHTENBERG AND MR. VAN DE WATER ALL CLAIM THAT PERFORMANCE FOR UNE-P AND ITS' REPLACEMENT, PRESUMABLY UNE-L, MUST BE THE SAME. DO YOU AGREE WITH THEIR BASIS FOR THIS CLAIM?

A. No, in coming to the conclusion that the OCI for UNE-P and UNE-L should be the same, these witnesses cite a partial reference to footnote 1574 in the TRO, which states:

> In determining whether granular evidence contradicts our finding that the hot cut process imposes an operational barrier, the state commission should review evidence of consistently reliable performance in three areas: (1) Timeliness: percentage of missed installation appointments and order completion interval; (2) Quality: outages and percent of provisioning troubles; and (3) Maintenance and Repair: customer trouble report rate, percentage of missed repair appointments, and percentage of repeat troubles. This review is necessary to ensure that customer loops can be transferred from the incumbent LEC main distribution frame to a competitive LEC collocation as promptly and efficiently as incumbent LECs can transfer customers using unbundled local circuit switching. This evidence will permit states to evaluate whether competitive carriers are impaired because the quality of their services is below that offered by the incumbent.

While the State Commission is encouraged to review performance, there is nothing in this footnote that requires an identical standard for UNE-P and UNE-L. Ms. Bursh and Mr. Van de Water cite the portion of the footnote that discusses "transferring customer loops from the incumbent LEC main distribution frame to a competitive LEC collocation." This function has a performance standard that the activity must be completed within 15 minutes, 95% of the time. They erroneously conclude that the Order Completion Interval, which is not even a measure of the process that they address, for UNE-L must therefore be the same as UNE-P. These products are different, which means they have inherent advantages and disadvantages. For example, some forms of UNE-P will have a shorter order completion interval than some forms of UNE-L, but UNE-L as previously stated provides the CLEC with more direct control of some

of the services provided to their customer. There are significant parallel processes for ordering and provisioning unbundled network element platform (UNE-P) and unbundled loop (UNE-L) services but they are not analogous with respect to order completion interval. Therefore, it would be illogical to interpret this footnote as meaning that these two performance standards should be equivalent.

Further, they fail to cite the portion of the footnote that directs "states to evaluate whether competitive carriers are impaired because the quality of their services is below that offered by the incumbent." In other words, the FCC directed the states to use the same tests used to establish the retail analogues and benchmarks in the performance plan – substantially the same time and manner and meaningful opportunity to compete. Given that the Commission has already established analogues and benchmarks setting those standards, it should rely on that data to meet the FCC's directive.

Significantly, AT&T made this same argument before the FCC that the standard must be the same for UNE-P and UNE-L, contending that until ILECs offer an electronic loop provisioning (ELP) method of transferring large volumes of local customers unbundled switching for voice grade loops is essential. The FCC, in paragraph 491 of its TRO, rejected this contention stating: "the evidence in the record suggests that an ELP process, to be effective, would require significant and costly upgrades to the existing local network at both the remote terminal and the central

office...we, decline to require ELP at this time, although we may reexamine AT&T's proposal if hot cut processes are not, in fact, sufficient to handle necessary volumes." Clearly, the FCC did not support the idea that UNE-P and UNE-L installation intervals must be the same. Consequently, it is impractical for this Commission to superimpose such a blatantly self-serving standard simply because CLECs want to do so.

A more rational interpretation of the TRO is that BellSouth's performance relative to the applicable standards for UNE-L should be equivalent to BellSouth's performance relative to applicable standards for UNE-P. Said another way, it means that BellSouth must provide nondiscriminatory UNE-L performance just like it must provide nondiscriminatory UNE-P performance. Of course, because the data show that BellSouth meets this rational test, the CLECs witnesses ignore it.

Q. MS. BURSH ON PAGES 4 AND 5 PRESENTS A TABLE THAT SHE CLAIMS DEMONSTRATES THAT BELLSOUTH'S LOOP PERFORMANCE FALLS "WOEFULLY SHORT" WHEN COMPARED AGAINST UNE-P PERFORMANCE. WHAT IS THE RELEVANCE OF THIS COMPARISON IN THIS PROCEEDING?

A. It provides no useful information to this Commission. Ms. Bursh is reiterating the same point raised by Mr. Van De Water on pages 15 and 16 of his direct testimony and that I addressed in my rebuttal of Mr. Van De Water's testimony and just addressed again in this testimony. Table 1

(page 5) simply points out that the Order Completion Interval (OCI) is the average time interval to complete UNE-P orders, which are mostly orders requiring a records change only, and require no physical work, is less than the average time to complete 2W Analog Loop w/LNP Non-Design < 10 / Dispatch In, where some form of physical work is required. In other words, UNE-P orders are primarily "switch as is" and 2W Analog Loop w/LNP Non-Design < 10 / Dispatch In are not. Here Ms. Bursh twists her analysis as she attempts to draw conclusions by equating the installation interval for two different products and processes. As pointed out in my rebuttal testimony on page 15, an order for UNE-P has typically involved little more than changing the billing of an existing end-user from BellSouth retail, or from another CLEC, to the acquiring CLEC. It is important to note that for most UNE-P orders the following three factors apply: 1) no physical work is required, 2) no outside dispatch is needed, and 3) the order is not subject to facility shortages. The other order type listed, 2W Analog Loop w/LNP Non-Design < 10 / Dispatch In, will always require some form of physical work.

To reiterate, the relevant question is not whether UNE-L and UNE-P are the same, but whether an efficient CLEC can compete using UNE-L. BellSouth's UNE-L performance, coupled with the advantages of UNE-L, provides CLECs a meaningful opportunity to compete. For instance, any alleged timeliness advantage that BellSouth has with respect to loops connected to its switch, becomes an advantage to the CLEC after the CLEC has acquired the customer using UNE-L. In that case, because the

loop is already connected to the CLEC's switch and only requires minimal work, BellSouth must perform a hot cut to win-back the customer. Other advantages include the business opportunities to perform their own work, on their own switches, and the marketing opportunities to offer their own features and functionalities that are not offered by BellSouth. I only make these points to illustrate the lack of logic surrounding the CLECs claim that Order Completion Interval results should be viewed in a vacuum and are required to be the same for UNE-P and UNE-L.

Q. ON PAGES 11-12 OF HIS TESTIMONY, MR. VAN DE WATER ARGUES THAT BELLSOUTH'S HOT CUT MEASURE BENCHMARK SHOULD BE 5 MINUTES AS OPPOSED TO 15 MINUTES. DO YOU AGREE?

A. No, I do not agree. Mr. Van De Water's allegation that BellSouth insisted in performance measure proceedings to be able to keep the customer out of service for 15 minutes "should it so choose" is quite untrue. First, BellSouth does not have an average interval benchmark like the one that Mr. Van de Water describes. Instead, the standard is to complete 95% of all hot cuts within 15 minutes.

Second, the benchmark is reasonable, as the Commission already has determined. The benchmark provides for the conversion work described in BellSouth witness Mr. Ainsworth's testimony. By performing the pre-conversion work before the actual transfer from switch to switch, BellSouth

increases its efficiencies and minimizes the actual impact of the physical transfer to the end-user.

Third, although AT&T was one of the primary participants in the FPSC's six-month review of the Florida Performance Assessment Plan (PAP), neither they nor other members of the ALEC Coalition proposed to modify this benchmark. In fact, in the most recent Florida PAP six-month review in Docket No. 000121A-TP, the ALEC Coalition, including AT&T, in its August 30th, 2002 filing included as Exhibit 3, an ALEC Modified Service Quality Measurement (SQM) plan that proposed absolutely no changes to this hot cut measure. The fact is, that during the six-month review workshops, this measure and the interval of 15 minutes was not even one of the topics of discussion. So, Mr. Van de Water's belated portrayal of what occurred in the measurement development process, where he was not a participant, is without merit.

## III. BELLSOUTH HAS PROVIDED ALL OF THE UNE LOOP DATA NECESSARY TO ASSESS ITS PERFORMANCE AND, CONTRARY TO IMPLICATIONS BY THE CLECS, DID NOT "HIDE" ANY RELEVANT LOOP OR HOT CUT PERFORMANCE RESULTS.

Q. MS. BURSH, ON PAGES 5 AND 6 CLAIMS THAT CONSOLIDATING RESULTS FOR "ALL LOOPS" HIDES PERFORMANCE RESULTS RELEVANT TO THE ISSUE OF OPERATIONAL BARRIERS TO

MARKET ENTRY ABSENT UNBUNDLED LOCAL SWITCHING. HOW DO YOU RESPOND?

A. BellSouth did not aggregate or offset the performance assessments in a manner that masks the more relevant performance as Ms. Bursh claims on page 6. On the contrary, Exhibit AJV-1 provided overall hot cut performance in detail as well as, in Attachment 1 to the Exhibit AJV-1, the other performance data for UNE Local Loops in Florida. The data show that BellSouth met the Coordinated Customer Conversion 15-minute benchmark for over 99.9% of all cutovers in the past 12 months in Florida. This measurement reflects the average time it takes to disconnect an unbundled loop from the BellSouth switch and cross connect it to the CLEC equipment. For UNE Local Loops, BellSouth processed 95% of all LSRs by the required benchmark interval during the 12-month period (September 2002 – August 2003). For the same period, BellSouth met the performance standard for 90% of the provisioning sub-metrics and 87% of the maintenance & repair sub-metrics.

Further, the detailed data for each individual sub-metric was provided. This was clearly the case, because Ms. Bursh refers to some of that data in her testimony. The problem with analyzing performance at the sub-metric level is that many of the sub-metrics have such small volumes, that they don't provide a useful basis for analysis. To help remedy that problem, I refer to aggregate statistics in the body of the testimony; however, the detail is plainly visible for anyone who wants to see it.

Q. ON PAGE 7, BEGINNING ON LINE 9 MS. BURSH APPEARS TO BELIEVE THAT BELLSOUTH'S AGGREGATED ASSESSMENT MAY MASK PERFORMANCE. HOW DO YOU RESPOND?

A. As I indicated above, BellSouth did not aggregate the performance assessments to mask anything. On pages 8 and 9 of my Direct Testimony, I explain which products are included within the UNE Loop performance data. Also, as previously stated, Exhibit AJV-1 provides a detailed discussion of the data and the detailed performance results at the sub-metric level. That exhibit beginning on page 16 provided overall hot cut performance and the charts in Attachment 1 to the Exhibit AJV-1, provided the data individually. It is this detailed comparative performance data for UNE Local loops that actually facilitates evaluation of the extent to which nondiscriminatory performance is provided. But regardless of the individual or aggregated presentation of the data, the fact remains that BellSouth performance is high.

Q. SHOULD THE COMMISSION GIVE ANY WEIGHT TO MS. BURSH'S STATEMENT ON PAGE 7 THAT "EVEN IF BELLSOUTH'S CLAIM OF COMPLIANCE FOR 90% OF THE PROVISIONING SUB-METRICS WERE TRUE, THIS IS SOMEWHAT MEANINGLESS GIVEN THAT A NUMBER OF THE MISSED SUB-METRICS WERE FOR PROVISIONING OF PRODUCT AREAS THAT WILL BE DOMINANT IF UNBUNDLED LOCAL SWITCHING IS ELIMINATED" AND CRITICISM OF THE HIGH LEVEL DATA REVIEW IN YOUR TESTIMONY?

A. No. Ms. Bursh on page 8, focuses on the 10% of the provisioning sub-metrics that were missed and ignores the fact that BellSouth met an average of 90% of all the UNE Loop provisioning sub-metrics over the last 12 months in Florida. Ms. Bursh then implies that BellSouth may not have met 90% of the sub-metrics, but offers no basis for this derogatory remark. Her criticism of the value of a cursory review of the data is misguided. The reason for using this high level review is to demonstrate that results are good even at that level. More detailed analysis shows that the results are actually better than a cursory review indicates, not worse as Ms. Bursh insinuates. CLECs and this Commission can certainly review the detailed data to confirm this conclusion.

For example, let's look at the details surrounding 2 of the provisioning sub-metrics that concerned Ms. Bursh. One of these sub-metrics was Order Completion Interval (OCI) for 2-W Analog Loop w/LNP Non-Design/ >10 Circuits/Dispatch In. For this sub-metric, the volumes for each of the three months out of twelve that were not in parity (September 2002, December 2002, and January 2003) were 30, 38, and 50 orders respectively for all of Florida, which is not a large enough volume in this case to perform a root cause analysis. Nonetheless, detailed analysis of the results for this and the other missed sub-metrics in the non-dispatch category shows that there is no significant performance problem.

First, BellSouth data reveals that the OCI for Retail Residence and Business Orders that do not require a dispatch is typically about 2 days.

In contrast, the OCI for UNE Loops w/ LNP is a minimum of 3 days. The origin of this 3-day minimum is actually an industry agreement, which allows for the new service provider (either CLEC or BellSouth ) to accomplish the work and coordination necessary to perform a number port. In short, in July 2003, the Local Number Portability Administration Working Group (LNPAWG), which includes CLEC and ILEC representatives, approved a set of number porting procedures that place a lower limit on the Order Completion Interval for number ports in an NPA-NXX exchange. These procedures, in part, state: "Any subsequent port in that NPA NXX will have a due date no earlier than three (3) business days after FOC receipt." The LNPAWG is a sanctioned committee of the North American Numbering Council (NANC). AT&T is a member of the LNPAWG who approved these procedures.

With a 3-day industry standard minimum it is unlikely that 2W Analog Loop orders that do not require an outside dispatch will be completed as quickly as retail Residence and Business Orders that do not have that requirement. Perhaps a better comparison for parity determination purposes is the interval on BellSouth retail win-backs where the process is essentially the same for both BellSouth and the CLECs. Of course, little winback activity existed when these standards were established, but that is probably no longer the case, so a more analogous standard can be set.

Also, for all 2-W Analog Loops, including 2-W Analog Loops w/ LNP Non-Design/ <10 Circuits Dispatch In, as I explained in Exhibit 1 of my Direct

Testimony, at the time of scheduling, BellSouth is unable to determine whether or not a "dispatch out" is required and, therefore, must schedule all of these orders with the longer interval. When these orders are then compared with the shorter non-dispatched retail analogue results, an out of parity condition is reported. As a result, there are differences in the OCI comparisons of UNE Loop to Retail Residence and Business because the products are not as analogous as they were once believed to be. These differences between the CLEC orders and the retail analogue indicate that an out of parity condition is, in part, a result of inequality in the measurements instead of actual poor performance, as Ms. Bursh claims. While the Commission and the parties in the 6-month review established these standards of comparing UNE Loops w/LNP to Residence and Business, these standards are, in retrospect, inappropriate, particularly with regard to the Non-Dispatch comparisons raised by Ms. Bursh.

Despite the aforementioned 3-day minimum, BellSouth is investigating ways to shorten the OCI time, particularly for UNE Loop orders not requiring a dispatch. Of course any such change must still adhere to industry standards and may be delayed by CLECs through the change control process.

Finally, while there may be a difference in OCI time, there is limited impact to the customer experience for two obvious reasons: 1) the customer is already in service, either with retail or with UNE-P, and 2) the only difference is in planning time – the time between when the order is

received and when it is completed. And once the slight difference in OCI time is encountered and the CLEC has the customer in its own switch, the Commission should also consider that UNE-L provides the CLEC with a number of competitive advantages. As I mentioned earlier, this arrangement, once an end-user is served by UNE-L terminated on the CLEC's switching equipment, affords the CLEC the opportunity to change switch dependant features and offer promotional packaging and service intervals without involving BellSouth.

All of the information stated above was available to Ms. Bursh, and she was certainly free to analyze the circumstances surrounding the data. Somehow she apparently overlooked these relevant facts, an oversight which resulted in unfair criticism of BellSouth's performance.

Q. MS. BURSH AGAIN PRESENTS PERFORMANCE RESULTS (PAGE 9) FOR SUB-METRICS TO BOLSTER THE CLAIM "THAT THE PERFORMANCE FOR LOOPS COLLECTIVELY DOES NOT NECESSARILY REPRESENT THE PERFORMANCE FOR INDIVIDUAL LOOP CATEGORIES. HOW DO YOU RESPOND?

A. Ms. Bursh continues her course of identifying examples of sub-metrics where BellSouth has not obtained the benchmark and ignoring the overall performance of the measurement. In the case of FOC and Reject Response Completeness, performance actually averaged 96% over the period from September 2002 through August 2003. First, additional

background information is necessary to understand the measurement O-11, FOC and Reject Response Completeness - Mechanized. This measurement calculates the number of Firm Order Confirmations or Auto Clarifications sent to the CLEC from EDI, or TAG in response to electronically submitted LSRs. That is, the numerator is the total number of service requests for which a FOC or Reject is sent, and the denominator is the total number of service requests received in the report period, as the metric is designed to capture the data for the current data month. CLECs do, however, submit LSRs on the last day of the month. Fully mechanized LSRs, which are captured in the 2W Analog Loop w/LNP Design and 2W Analog Loop w/LNP Non-Design sub-metrics referenced by Ms. Bursh, that are submitted on the last day of the month have a FOC benchmark of 95% within 3 hours. This means the FOC may or may not be due in the month submitted, depending upon the actual receipt time of the LSR and as a result may not be included in the numerator, although they would be in the denominator.

Lastly, for this measurement, FOC and Reject Response Completeness – Mechanized, in the case of the remaining 3 out of the 4 sub-metrics Ms. Bursh references, Ms. Bursh fails to account for the fact that for the period in question (September 2002 through August 2003) for many of these months the transaction volume was so low that BellSouth could not miss even a single transaction. That is, in a month where the volume of transactions for the sub-metric was less than 20, even 1 failure results in missing the 95% benchmark for this sub-metric. For example, the sub-

metric for 2W Analog Loop w/LNP Design/TAG did miss the benchmark of 95% for 11 out of 12 months, but only one of the months in this 12-month period had a volume of greater than 11 LSRs. That month was December 2002, which had a volume of 21 LSRs. Again, Ms. Bursh's interpretation of the data does not consider these pertinent facts.

Q. STARTING ON PAGE 9, LINE 16 OF HER REBUTTAL TESTIMONY, MS. BURSH APPEARS TO ALLEGE THAT BELLSOUTH IS MISREPRESENTING THE PERFORMANCE RESULTS BY INCLUDING LOOPS THAT ARE NOT MIGRATABLE FROM UNE-P? HOW DO YOU RESPOND?

A. Actually, it appears that Ms. Bursh seems to be creating confusion with the Commission by making an argument that appears to have little, if any, relevance. BellSouth is presenting performance data for all products that a CLEC might use in significant volume to provide service using UNE-L. This inquiry should not be limited simply to those loops that can be migrated from UNE-P. Also, her testimony and that of other witnesses indicate that they are certainly interested in ensuring that no operational impairment exists on loops regardless of whether they can be migrated from UNE-P. The data represents all loops including those that are newly provisioned, migrated from Retail, switched from other CLECs, as well those that are migrated from UNE-P and is not limited to hot cuts. This is the appropriate scope of the inquiry, and allows the Commission to assess

BellSouth's performance in provisioning UNE Loops for all relevant products.

## IV. THE EXISTING FLORIDA PERFORMANCE ASSESSMENT PLAN METRICS TOGETHER WITH THE PROPOSED CHANGES INCLUDED IN MY DIRECT TESTIMONY ARE MORE THAN SUFFICIENT TO ADDRESS CURRENT AND ANTICIPATED HOT CUT PERFORMANCE CONCERNS.

Q. ON PAGE 10, LINES 14 - 20, MS. BURSH ASSERTS THAT BELLSOUTH'S PROPOSED ENHANCEMENTS TO THE PERFORMANCE MEASURES AND SEEM PLAN ARE INADEQUATE. HOW DO YOU RESPOND?

A. I disagree. For example, contrary to Ms. Bursh's assertion, Bellsouth indeed suffers negative consequences if elongated response intervals to the Bulk Migration Notification forms are reflected in the results for PO-3, UNE Bulk Migration – Response Time. As stated in my Direct Testimony, any extensive response intervals to the Bulk Migration Notification forms would penalize BellSouth since BellSouth's incentive is to migrate the customer to UNE-L and not to delay any response and lengthen response time of the Bulk Migration. BellSouth does not believe it should offer to write the CLECs a check for the privilege of providing them today's UNE-P after it is no longer required. Ms. Bursh's statement that "If BellSouth has no incentive to delay the response, as suggested by Mr. Varner then

BellSouth should have no concerns with including PO-3 in SEEM" makes absolutely no sense. The SEEM plan should be designed to penalize poor performance, not simply generate an unwarranted windfall to CLECs. Ms. Bursh's view, that CLECs should receive payments whether they are harmed or not, is consistent with her past positions, so it comes as no surprise.

Q. ON PAGE 10, MS. BURSH CONTENDS THAT BELLSOUTH SHOULD ESTABLISH ADDITIONAL METRICS FOR MONITORING THE BATCH HOT CUT PROCESS. HOW DO YOU RESPOND?

A. The new measurements and modification to existing measurements proposed in my Direct Testimony provide sufficient additional data to monitor BellSouth's performance during hot cuts. Although Ms. Bursh asserts that even more measurements are essential, she does not provide any specifications for the additional measurements that she claims are so desperately needed. Ms. Bursh proposes titles for new measures, such as "Percent of Batches Started on Time", "Percent of Batches Completed On Time", and "Percent Conversion Service Outages" but falls short of providing specific measurements. In any event, it appears that her concerns have already been addressed.

Regarding the requested "Percent Batches Started on Time" measure, this Commission has already established and BellSouth already produces a measurement, P-7A, for Hot-Cut Timeliness that measures whether or not

a coordinated hot cut begins within 15 minutes of the requested start time. For non-coordinated hot cuts, they simply need to start on the due date, so the missed installation appointment metric and the new measure P-7E described in my Direct Testimony and again below capture that performance.

Likewise, it appears that "Percent of Batches Completed on Time" data is already being addressed. For coordinated hot cuts, measure P-7 captures whether the cut was completed on time. To address the "Percent of Batches Completed On Time" for non-coordinated hot cuts, BellSouth has already proposed P-7E, Non-Coordinated Customer Conversions - % Completed and Notified on Due Date as referenced in my direct testimony on pages 42-43. The proposed new measure, complete with a definition, exclusions, business rules, calculation, report structure and benchmark is included in Exhibit AJV-2. To summarize, this report measures the percentage of non-coordinated conversions that BellSouth completed on the due date and provided notification to the CLEC on the same date. This measure is also proposed to be included in both Tier 1 and Tier 2 of SEEM.

Lastly, Ms. Bursh proposes the establishment of a "Percent Conversion Service Outages" measurement. It appears, however, that this performance is already covered by measures P-7B and P-7C, which are the Average Recovery Time, and Percent Provisioning Troubles in 7 Days measures.

As for the SEEM consequence, my disagreement with Ms. Bursh's proposal, *i.e.*, equal to the average net revenue time the average life of the customer, has already been addressed in my rebuttal to Mr. Van De Water's testimony.

Q. MS. LICHTENBERG, ON PAGES 11 AND 12 OF HER REBUTTAL TESTIMONY, ALSO CRITICIZES THE EXISTING HOT CUT PROCESS AND CLAIMS THAT THERE IS A NEED FOR A NUMBER OF CHANGES TO BELLSOUTH'S PERFORMANCE MEASURES. MS. LICHTENBERG ALSO CITES A NEED FOR A METRIC FOR TIMELY UNLOCKING OF THE E911 DATABASE. PLEASE COMMENT.

A. Ms. Lichtenberg begins this discussion by stating: "metrics need to be developed that address the process and its possible flaws." I underline the word "possible" here because Ms. Lichtenberg's approach is to consider any possible problem that might occur and use that contrived possibility to advocate the creation of yet another measure to address a problem that does not exist. Again, she makes general and rhetorical proposals for measurements without providing any evidence that BellSouth's existing or proposed measurements are not sufficient. Notwithstanding Ms. Lichtenberg's generalities, I will attempt to address her suggestions for measures.

Ms. Lichtenberg's first suggestion is for some measure of "errors created by BellSouth in the multiple LSRs generated by the batch LSR." There is

no need for a unique measure to address this issue. The Global LSR (or "batch LSR" using Ms. Lichtenburg's term) creates the individual LSRs and the CLEC must still enter the information for the customers included in the batch to populate the individual LSRs. Because the individual LSRs associated with the batch are entered into the systems in the same way as any other LSR, any errors in processing the multiple LSRs would be captured by the Service Order Accuracy measure, P-11A.

The next issue raised by Ms. Lichtenberg is the alleged need for "a metric for timely unlocking of the E911 database." This issue involves cases where the customer changes from BellSouth to a CLEC, or for that matter from a CLEC to BellSouth, and the order including the request for the change must have reached completion status before an "unlock" message will be sent to Intrado. Intrado is the vendor currently maintaining the databases that are utilized by the Public Safety Answering Points (PSAPs) in handling E911 calls.

Any problems associated with unlocking the E911 database would apply whether it involves a customer changing from BellSouth to a CLEC, or from a CLEC to BellSouth. Therefore, both BellSouth and CLEC customers would be impacted in the same way by this third party. Situations where retail and CLEC customers are affected in the same way means that the process is in parity by design, so no performance measurements in the SQM or penalties under the SEEM plan are needed. If the CLECs believe that there is a problem associated with the unlocking

of the E911 database significant enough to establish a finding that they are operationally impaired due to the problems encountered, they should present this evidence. Simply declaring that there is a need for a metric is no basis for establishing one, particularly when there is no basis to claim discriminatory treatment.

Ms. Lichtenberg further states: "[a] metric also is needed to track the due dates that CLECs are assigned." It is unclear how a new metric would "track" due dates, and it is even less clear how this information is meaningful. As an example, if a new metric were to be created that 'tracked due dates' and the measurement showed there were 3 orders due on February 1 and 4 orders due on February 10, there is little information to be gleaned or conclusions drawn from such a report. All the report conveys is that a combination of the CLEC's requested due date and BellSouth's committed date resulted in 3 orders due on February 1 and 4 orders due February 10. I believe the more relevant information is how well BellSouth meets due date commitments. That information is available in the existing Percent Missed Installation Appointments measurement. As an alternative, each CLEC is capable of tracking due dates that they receive from BellSouth through its own internal systems. If CLECs believe that there is a problem with the due dates that they are receiving from BellSouth, they can very easily collect and provide these data to have BellSouth solve any problem that it caused and ultimately involve this Commission, if appropriate.

Further, in order for performance metrics to be useful, there should be some objective basis for determining whether reported results are consistent with standards for relatively uniform activities. The due dates are negotiated between the CLECs and BellSouth according to many factors. This is because of the case-by-case nature of batch hot cuts. Moreover, the Ordering, Provisioning and Maintenance & Repairs domains each either already has a timeliness measure or will include a timeliness measure, based on changes proposed in my Direct Testimony, that addresses batch hot cuts. Therefore, creating a metric to track due dates that CLECs receive for batch hot cuts, which is recommended by Ms. Lichtenberg without any meaningful detail, is a suggestion that should be rejected by the Commission.

Ms. Lichtenberg also suggests that "the number of 'batch' orders that are rejected needs to be tracked." As discussed in my Direct Testimony, BellSouth has proposed modifying the measures O-7 (Percent Rejected Service Requests) and O-8 (Reject Interval) to include batch hot cuts. Since, as recognized by Ms. Lichtenberg in her Rebuttal Testimony, a batch LSR generates multiple LSRs, measure O-7 will track rejected LSRs, including batch LSRs. Also, measure O-8 will track how long it takes to reject these LSRs.

Finally, Ms. Lichtenberg contends: "[a] separate disaggregation for batch orders is needed to ensure that the batch orders move smoothly from ordering to provisioning." This is unnecessary. As already explained,

when a CLEC issues a request for a batch order, the batch order results in individual LSRs that proceed through the Ordering systems, as would any other LSR. All of the measurements that capture BellSouth's performance related to the processing of LSRs would include batch hot cuts, based on BellSouth's proposal as outlined in my Direct Testimony. Once the orders reach the provisioning process, there are five (5) measures (the existing measures P-7, P-7A, P-7B, P-7C and the proposed measure P-7E) that would monitor BellSouth's performance related to all hot cuts, including batch hot cut provisioning measures that apply. Clearly, there is no need to establish a separate disaggregation for batch hot cuts.

Q. ON PAGE 9 OF HIS TESTIMONY, MR. GALLAGHER SUGGESTS THAT "ILECs WOULD BE INCENTED TO CURE PERCEIVED FLAWS IN THE HOT CUT PROCESS IF THE COMMISSION TILTED KEY PERFORMANCE METRICS AND COMPENSATION PAYMENTS TO FOCUS MORE ON THE REALITIES OF A UNE-L WORLD RATHER THAN A UNE-P WORLD." DO YOU AGREE?

A. It is unclear what action Mr. Gallagher is proposing for the Commission to take. The current Performance Assessment Plan (PAP) approved by this Commission addresses UNE-P as well as UNE Loops. In fact, in the provisioning measurements, there are 25 product categories of UNE Loops including analog loops, ISDN loops and digital loops. Additionally, in my Direct Testimony, I proposed modifications to measurements in both the Ordering and Provisioning domains and the SEEM plan to more

closely focus on the batch hot cut processes. The Ordering measurements include PO-3: UNE Bulk Migration – Response Time, O-7: Percent Rejected Service Requests, O-8: Reject Interval, O-9: Firm Order Confirmation Timeliness, and O-11: Firm Order Confirmation and Reject Response Completeness. The Provisioning measurements include P-7: Coordinated Customer Conversions Interval and P-7E: Non-Coordinated Customer Conversions - % Completed and Notified on Due Date.

The existing PAP, coupled with these modifications is more than sufficient to address real flaws (rather than "perceived flaws") in the hot cut process. Given the comprehensive coverage that UNE-L receives in the PAP, it does not appear that any "tilting" to favor UNE-L is necessary.

Q. IN DESCRIBING SUPRA'S EXPERIENCE WITH RESPECT TO THE ORDER COMPLETION STEP ON PAGE 6 OF HIS TESTIMONY, MR. NEPTUNE STATES "BELLSOUTH HAS NO METRIC NOR HAVE THEY OFFERED ONE SIMILAR TO VERIZON'S TO ASSURE THAT THE CENTRAL OFFICE TECHNICIAN WILL ENTER COMPLETIONS INTO THEIR SYSTEMS IN A TIMELY MANNER." PLEASE COMMENT.

A. As discussed in my Direct Testimony pages 30 and 31, BellSouth reports the time it takes for the coordinated cutover of customer loops to CLECs (with a benchmark of 15-minutes) as part the measure P-7 (Coordinated Customer Conversions Interval), and has an objective to notify the CLEC within 5 minutes of the loop being cutover. Moreover, in my Direct

Testimony (pages 43 – 44) I proposed modifying this measure to include, in addition to the 15-minute requirement for cutover of the loop, a 5-minute requirement to notify the CLEC that the cutover has completed (see also Exhibit AJV-2 of my direct filing). So when, with respect to a measure of timely notice of loop completions, Mr. Neptune remarks: "BellSouth has no metric nor have they offered one", this is inaccurate. BellSouth's measure may differ from similar measures that Verizon may report, however, the activity of which Mr. Neptune voices a concern is captured by the BellSouth metric.

It should also be noted that while Mr. Neptune contends that BellSouth's coordinated conversion process does not work well, based in part on "Supra's experience in the last 60 days with over 3,500 conversions," he fails to point out that none of the conversions during this period (presumably November and December 2003) were ordered as "coordinated." Mr. Neptune does admit (on page 5, lines 4 –5 of his Rebuttal Testimony) that "Supra has not used the level entitled 'Coordinated/Time Specific' option as yet," but what he neglects to clarify is that neither has Supra ordered Coordinated/Non-Time Specific. In fact, for November and December 2003, all of Supra hot cut conversions were ordered as "non-coordinated." Moreover, if we consider BellSouth's performance in performing customer conversions for Supra for the months November and December 2003, out of ***--------*** conversions, only ***---*** due dates were missed for BellSouth reasons. This means that BellSouth performed according to Supra's due date requirements for over

99.8% of these conversions. The Commission should promptly dismiss these baseless and inaccurate claims, and consider instead the more objective and verifiable performance data filed with my testimony (Direct, Rebuttal and Surrebuttal.

## V. OTHER ISSUES RAISED

Q. MR. VAN DE WATER, ON PAGE 12 OF HIS TESTIMONY, DESCRIBES A SITUATION IN FLORIDA WHERE CUSTOMERS WERE OUT OF SERVICE FOR 17 AND 18 AND ONE HALF HOURS. PLEASE ADDRESS THIS SITUATION.

A. Although Mr. Van De Water once again presents an incomplete story, the average recovery times he describes are correct for the customers who experienced a service outage during a hot cut during October and November. However, as I noted in my rebuttal testimony to Mr. Van De Water, several key facts need to be pointed out and restated here. First, these 44 outages in the two months of October and November represent only 1.04% of the 4226 coordinated customer conversions for those same two months. Second, this 1.04% of the coordinated conversions is below the Commission's benchmark of 3% for provisioning troubles within seven days of the hot cut. And third, for the 2418 coordinated hot cuts in October 2003 there were 23 service outages, 4 of which, due to an extended outage, caused the average for these 23 to be 17 hours; for the 1808 coordinated hot cuts in November 2003 there were 21 service outages, 6