

AFFIDAVIT

STATE OF GEORGIA

COUNTY OF FULTON

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Pamela A. Tipton, who, being by me first duly sworn deposed and said that:

She is appearing as a witness before the Kentucky Public Service Commission in Case No. 2004-00427, Petition of BellSouth Telecommunications, Inc. to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Changes of Law, and if present before the Commission and duly sworn, her direct testimony would be set forth in the annexed testimony consisting of 73 pages and 4 exhibits.



Pamela A. Tipton

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 12th DAY OF AUGUST, 2005

 Notary Public

MICHEALE F. BIXLER
Notary Public, Douglas County, Georgia
My Commission Expires November 3, 2005

1 BELL SOUTH TELECOMMUNICATIONS, INC.
2 DIRECT TESTIMONY OF PAMELA A. TIPTON
3 BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION
4 DOCKET NO. 2004-00427
5 AUGUST 16, 2005
6

7 Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELL SOUTH
8 TELECOMMUNICATIONS, INC. ("BELL SOUTH"), AND YOUR
9 BUSINESS ADDRESS.

10
11 A. My name is Pamela A. Tipton. I am employed by BellSouth
12 Telecommunications, Inc., as a Director in the Interconnection Services
13 Department. My business address is 675 West Peachtree Street, Atlanta,
14 Georgia 30375.

15
16 Q. WHAT ARE YOUR CURRENT RESPONSIBILITIES?

17
18 A. I am a Director, responsible for regulatory policy implementation for
19 BellSouth's nine-state region.

20
21 Q. PLEASE SUMMARIZE YOUR BACKGROUND AND EXPERIENCE.

22
23 A. I received a Bachelor of Arts in Economics from Agnes Scott College in
24 1986, and a Masters Certification in Project Management from George
25 Washington University in 1996. I have over 17 years experience in
26 telecommunications, with my primary focus in the areas of process

1 development, services implementation, product management, marketing
2 strategy and regulatory policy implementation. I joined Southern Bell in
3 1987, as a manager in Interconnection Operations, holding several roles
4 over a 5-year period including process development and execution, quality
5 controls and services implementation. In 1994, I became a Senior
6 Manager with responsibility for End User Access Services and
7 implementation of Virtual and (later) Physical Collocation. In 2000, I
8 became Director, Interconnection Services, responsible for development
9 and implementation of UNE products, and later development of marketing
10 and business strategies. In June 2003, I became responsible for
11 implementation of state and federal regulatory mandates for the Local and
12 Access markets, the development of regulatory strategies and the
13 management of the switched services product portfolio. I assumed my
14 current responsibilities on August 1, 2005.

15

16 Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

17

18 A. I set forth BellSouth's positions on Issue Nos. 2, 4, 5, 8, 10, 11, 14, 15, 16,
19 22, 29 and 31, as listed in the June 30, 2005 Joint Issues Matrix filed with
20 this Commission. In doing so, I present the interconnection agreement
21 language that BellSouth is asking the Commission to approve in this
22 proceeding. I also explain why BellSouth's contract language is
23 appropriate in light of the FCC's applicable orders and rules.

1

2 **Issue 2, TRRO Final Rules: What is the appropriate language to implement**
3 **the FCC’s transition plan for (1) switching, (2) high capacity loops and (3)**
4 **dedicated transport as detailed in the FCC’s Triennial Review Remand**
5 **Order (“TRRO”), issued February 4, 2005?**

6

7 Q. AS AN INITIAL MATTER, WHAT LEVEL OF SWITCHING DID THE FCC
8 ADDRESS IN THE TRRO?

9

10 A. In the TRRO, the FCC addressed mass market local switching (“DS0 level
11 switching”) by eliminating the ILECs’ obligation to provide access to DS0
12 level switching as an unbundled network element (“UNE”). For purposes
13 of my testimony, “Local Switching” is DS0 level switching.

14

15 The FCC earlier eliminated “DS1 and above” level “enterprise” switching in
16 its Triennial Review Order (“TRO”) in 2003. Effective March 11, 2005, the
17 TRRO eliminated all new DS0 level switching. Thus, collectively, as a
18 result of the TRO and the TRRO, ILECs are no longer obligated to provide
19 unbundled access to either DS0 or DS1 and above level switching
20 pursuant to Section 251 of the Act.

21

22 Q. ISSUE 2 SPECIFICALLY DEALS WITH THE TRANSITION OF THE
23 EMBEDDED BASE FOR FORMER UNES. WHAT TIMEFRAME DOES
24 THE TRRO SET FORTH FOR CLECS TO TRANSITION THEIR
25 EMBEDDED BASE OF (1) LOCAL SWITCHING, (2) HIGH CAPACITY

1 LOOPS AND (3) DEDICATED TRANSPORT TO ALTERNATIVE
2 SERVING ARRANGEMENTS?

3

4 A. For most of these elements, the FCC established a 12-month transition
5 period; however, some elements have an 18-month transition period. The
6 transition period for each element is as follows:

7

8 LOCAL SWITCHING

9 The FCC established a 12-month period during which CLECs are
10 obligated to transition their embedded base of local switching, including
11 stand-alone switch ports and UNE-P lines, to alternative serving
12 arrangements. This 12-month transition period began on March 11, 2005,
13 and it ends on March 10, 2006.

14

15 HIGH CAPACITY LOOPS

16 DS1 and DS3 Loops

17 The FCC established a 12-month transition period during which CLECs
18 must transition their embedded base of unimpaired and excess DS1 and
19 DS3 loops to alternative serving arrangements. This 12-month transition
20 period began on March 11, 2005, and it ends on March 10, 2006.

21

22 Dark Fiber Loops

23 The FCC established an 18-month transition period during which CLECs
24 must transition their embedded base of dark fiber loops to alternative
25 serving arrangements. This 18-month transition period begins on March

1 11, 2005 and it ends on September 10, 2006.

2
3 DEDICATED TRANSPORT

4 DS1 and DS3 Transport Circuits

5 The FCC established a 12-month transition period during which CLECs
6 must transition their embedded base of unimpaired and excess DS1 and
7 DS3 transport to alternative serving arrangements. This 12-month
8 transition period began on March 11, 2005, and it ends on March 10,
9 2006.

10
11 Dark Fiber Transport

12 The FCC established an 18-month transition period during which CLECs
13 must transition their embedded base of dark fiber dedicated transport to
14 alternative serving arrangements. This 18-month transition period began
15 on March 11, 2005, and it ends on September 10, 2006.

16
17 Q. CAN CLECS WAIT UNTIL THE END OF THE TRANSITION PERIOD TO
18 BEGIN TRANSITIONING THEIR EMBEDDED BASE OF DSO LEVEL
19 SWITCHING, HIGH CAPACITY LOOPS AND DEDICATED TRANSPORT
20 TO ALTERNATIVE ARRANGEMENTS?

21
22 A. No. While some CLECs have taken the position that they are only
23 required to submit their conversion orders (i.e., orders to convert their
24 embedded base to an alternative arrangement) by March 10, 2006 (See
25 June 22, 2005 Response of Joint CLECs to BellSouth's Motion for

1 Summary Judgment, p. 62), it is clear from the FCC’s own language that
2 is not what the FCC intended. The FCC stated that its timeframes
3 provide: (1) adequate time to perform “the **tasks** necessary to an orderly
4 transition” (TRRO, ¶ 143 (DS1/3 transport); ¶ 196 (DS1/3 loops); ¶ 227
5 (local switching)); and (2) “the time necessary to **migrate** to alternative
6 fiber arrangements” (TRRO, ¶ 144 (dark fiber transport); ¶ 198 (dark fiber
7 loops)). Quite logically, the FCC provided a transition period for exactly
8 that purpose, to have an orderly transition. The creation of a transition
9 period by the FCC surely was not intended to simply provide the CLECs
10 with a holding period during which they were required to do nothing other
11 than prepare to submit, on the last day of the transition period, their orders
12 to move to alternative arrangements.

13
14 Furthermore, the FCC’s creation of a transition period for the embedded
15 base makes sense from BellSouth’s perspective and should make sense
16 from the CLECs’ perspective as well. As this Commission is aware,
17 BellSouth has interconnection agreements with over 250 CLECs in this
18 state. Both BellSouth and the CLECs need time to effectuate the move
19 from former UNEs to alternative serving arrangements; hence the
20 transition period. No one acting in good faith could possibly think that the
21 FCC intended to allow any CLEC to wait until March 10, 2006, to submit
22 its conversion orders. Neither the CLECs nor BellSouth could handle
23 such a volume of orders on a single day, or even in a single week, or a
24 single month. BellSouth is committed to working with CLECs to make this
25 transition as seamless as possible for the CLECs’ end users, but the only

1 way the parties can accomplish this is if the CLECs are willing to
2 communicate with us and work cooperatively to complete all the
3 necessary work before the expiration of the transition period.

4

5 Q. WHAT PROCEDURE DOES BELL SOUTH PROPOSE IN ORDER TO
6 ENSURE THAT AN ORDERLY TRANSITION IS COMPLETED BY
7 MARCH 10, 2006?

8

9 A. BellSouth proposes the procedures outlined below for each de-listed
10 element:

11

12 SWITCHING

13 Because four months of the transition period have expired with minimal
14 conversion activity, BellSouth has contacted many of its UNE-P CLECs
15 regarding their plans to convert their embedded base of UNE-P lines.
16 BellSouth has urged CLECs who plan to convert their UNE-P lines to
17 UNE-L to communicate their plans to BellSouth as soon as practicable.
18 BellSouth also reminded these CLECs that they must build into their
19 conversion plan adequate time for the preparation of collocation space,
20 unless the CLEC already has adequate collocation space.

21

22 To effectuate the actual conversion activities, BellSouth has requested
23 that CLECs submit orders by October 1, 2005, to convert or disconnect
24 their Embedded Base Local Switching. Given the current view of the
25 volume of lines that may need to be converted, this date represents the

1 last date on which such orders can be submitted with any reasonable
2 assurance that the conversions can be completed in time. Again,
3 BellSouth urges all CLECs to submit their conversion requests or
4 spreadsheets to BellSouth as soon as practicable. The October 1, 2005
5 deadline is reasonable, because it will take time for BellSouth to work with
6 each CLEC to ensure all embedded base lines are identified, to negotiate
7 project timelines, to issue and process service orders to change circuit
8 inventory and billing records for those lines and to perform all necessary
9 cutovers.

10

11 BellSouth established this order/spreadsheet submission time deadline to
12 ensure conversions are started in a timely manner. As I mentioned above,
13 at least four months of the transition period have elapsed with minimal
14 transition activity by CLECs. The October 1 deadline in no way suggests
15 BellSouth plans to cut the transition period short. In fact, Bellsouth has
16 been working to modify its on-line scheduling tool for bulk migrations to
17 extend the scheduling window from 120 days to 200 days for just this
18 purpose. CLECs will be able to schedule their bulk migration order due
19 dates up to and including the March 10, 2006 transition period end date.

20

21 This provides the CLECs with more than six months from the issuance of
22 the TRRO to determine what they want to do with their embedded base. If
23 CLECs are allowed to delay submission of their orders beyond October 1,
24 2005, then, depending on the number of conversions that must occur, for
25 the reasons stated above, it is unlikely that all of the conversions can be

1 accomplished before March 11, 2006.

2
3 Meeting BellSouth's proposed deadline is important because, as was the
4 case with the "new adds" issue involving adding new switching UNEs after
5 March 11, 2005, the FCC's deadline of March 10, 2006 is a fixed date,
6 beyond which CLECs are not entitled to maintain their embedded base of
7 UNE-P lines or stand-alone local switching, or their embedded base of
8 high capacity loops and transport (other than dark fiber loops and
9 transport) in unimpaired wire centers. If a CLEC fails to submit orders to
10 convert UNE-P lines to alternative arrangements in a timely manner so
11 that BellSouth can work the changes, BellSouth will convert any remaining
12 UNE-P lines to the resale equivalent effective March 11, 2006. For any
13 remaining stand-alone switch port arrangements, BellSouth will disconnect
14 these arrangements effective March 11, 2006. Disconnecting these ports
15 is the only reasonable response to CLEC inaction, because, even though
16 BellSouth does not have a tariffed service that is equivalent to a stand-
17 alone switch port, there are other alternatives the CLECs may choose.
18 Specifically, BellSouth has a Section 271 obligation to provide unbundled
19 switching to CLECs, and CLECs may obtain stand-alone switching
20 capability through one of BellSouth's commercial agreements.
21 Alternatively, CLECs have all of the alternatives that the FCC found to
22 exist, including using their own switches, or the switches of other CLECs.

23
24 HIGH CAPACITY LOOPS

25 DS1 and DS3 Loops

1 There are two categories of DS1 and DS3 loops that must be addressed.
2 First, there are those high capacity loops that were in service on March
3 11, 2005, in wire centers where CLECs are not impaired without access to
4 such high capacity loops. These constitute the “embedded base” of high
5 capacity loops. In addition, the FCC provided, by rule, that even in wire
6 centers where CLECs are impaired without access to DS1 and/or DS3
7 loops, there is a cap of ten (10) DS1 loops and a cap of one (1) DS3 loop
8 per building. Therefore, there are DS1 and DS3 loops in excess of the
9 cap that must be addressed. BellSouth refers to these as the “excess”
10 DS1 or DS3 loops, and they must be converted by March 10, 2006, just as
11 the embedded base of DS1 and DS3 loops must be converted by March
12 10, 2006.

13
14 To comply with the TRRO, BellSouth proposes that, by December 9,
15 2005, CLECs submit spreadsheets identifying their Embedded Base and
16 Excess DS1 and DS3 loops to be disconnected or converted to other
17 BellSouth services. If a CLEC submits its spreadsheet by December 9,
18 2005, BellSouth will establish a project schedule with that CLEC to convert
19 its Embedded Base and Excess DS1 and DS3 loops to alternative
20 arrangements by the end of the transition period. Again, as with
21 switching, the submission of spreadsheets by December 9 initiates the
22 process to be completed by March 10, 2006. If a CLEC does not provide
23 notice in a timely manner, such that orderly conversions cannot be
24 accomplished by March 10, 2006, BellSouth will convert any remaining
25 embedded or excess high capacity loops to the corresponding tariff

1 service beginning on March 11, 2006.

2
3 Dark Fiber Loops

4 The FCC established an 18-month transition period for dark fiber loops,
5 recognizing that ILECs generally do not offer dark fiber loops as a tariffed
6 service and that it “may take time for competitive LECS to negotiate IRUs
7 [“Indefeasible Right of Use”] or other arrangements with incumbent or
8 competitive carriers.” (*TRRO at ¶197*)

9
10 BellSouth proposes that, by June 10, 2006, CLECs submit spreadsheets
11 identifying their Embedded Base Dark Fiber Loops that are to be either
12 disconnected or converted to other BellSouth services. If a CLEC submits
13 its spreadsheet by this date, BellSouth will establish a project schedule
14 with that CLEC to convert its Embedded Base Dark Fiber Loops to
15 alternative arrangements by the end of the transition period. As with the
16 other de-listed UNEs, if a CLEC does not submit its orders in a timely
17 fashion so that the conversions can be completed by September 11, 2006,
18 BellSouth will commence, on that date, conversion of any remaining
19 unbundled dark fiber to the corresponding tariff service.

20
21 DEDICATED TRANSPORT

22 DS1 and DS3 Dedicated Transport

23 As was the case with the high capacity loops, CLECs have DS1 and DS3
24 transport that constitutes an embedded base, and, in some instances,
25 between certain central offices, constitutes “excess” high capacity

1 transport. Provisions must be made to transition all of the embedded and
2 excess high capacity transport. For purposes of fully implementing the
3 TRRO, BellSouth includes Entrance Facilities in its discussion of
4 Dedicated Transport

5
6 BellSouth's proposes that, by December 9, 2005, CLECs must submit
7 spreadsheets identifying their Embedded Base and Excess DS1 and DS3
8 dedicated transport and Embedded Base Entrance Facilities that are to be
9 either disconnected or converted to other BellSouth services. If a CLEC
10 submits its spreadsheet by December 9, 2005, BellSouth will negotiate a
11 project schedule with that CLEC to convert its Embedded Base and
12 Excess DS1 and DS3 Dedicated Transport and Embedded Base Entrance
13 Facilities to alternative arrangements by the end of the transition period.
14 Again, the spreadsheet or order submission deadline initiates the
15 transition process for CLECs that have not already done so. If a CLEC
16 fails to submit such orders in a timely fashion so that the conversions can
17 be completed by March 11, 2006, BellSouth will commence, on that date,
18 to convert any remaining high capacity transport to the corresponding tariff
19 service.

20

21 Dark Fiber Dedicated Transport

22 The FCC established a longer, 18-month transition period for dark fiber
23 conversions, recognizing that most ILECs do not offer dark fiber as a
24 tariffed service and that it "may take time for competitive LECs to
25 negotiate IRUs or other arrangements with incumbent or competitive

1 carriers.” (TRRO at ¶ 44)

2
3 For this reason, BellSouth proposes that, by June 10, 2006, CLECs must
4 submit spreadsheets identifying their Embedded Base Dark Fiber
5 Transport and Dark Fiber Entrance Facilities to be either disconnected or
6 converted to other BellSouth services as conversions. If a CLEC submits
7 its spreadsheet by June 10, 2006, BellSouth will establish a project
8 schedule with that CLEC to convert its Embedded Base Dark Fiber
9 Transport and Dark Fiber Entrance Facilities to alternative arrangements
10 by the end of the transition period. As with the other de-listed UNEs, if a
11 CLEC does not submit its orders in a timely fashion so that the
12 conversions can be completed by September 11, 2006, BellSouth will
13 commence, on that date, conversion of any remaining unbundled dark
14 fiber to a corresponding tariff service.

15
16 Q. WHAT LANGUAGE DOES BELLSOUTH PROPOSE THAT THE
17 COMMISSION APPROVE TO IMPLEMENT THE FCC’S TRANSITION
18 PERIOD FOR DS0 LEVEL SWITCHING, HIGH CAPACITY LOOPS AND
19 DEDICATED TRANSPORT?

20
21 A. LOCAL SWITCHING

22 For CLECs that had an interconnection agreement with BellSouth as of
23 March 11, 2005, BellSouth proposes the language set forth in Section 4.2
24 of Exhibit PAT-1 to my testimony for stand-alone switching and the
25 language set forth in Section 5.4.3 of Exhibit PAT-1 to my testimony for

1 UNE-P .

2

3 BellSouth is not proposing any rates, terms or conditions for switching or
4 UNE-P for new CLECs that sign an interconnection agreement with
5 BellSouth after March 11, 2005, since the TRRO precludes CLECs from
6 adding new UNE switching or UNE-P arrangements after that date.

7

8 DS1 AND DS3 LOOPS

9 For CLECs that had an interconnection agreement with BellSouth as of
10 March 11, 2005, this language is set forth in Section 2.1.4, 2.3.6 and 2.3.8
11 of Exhibits PAT-1 to my testimony.

12

13 DARK FIBER LOOPS

14 For CLECs that had an interconnection agreement with BellSouth as of
15 March 11, 2005, BellSouth proposes the language set forth in Section
16 2.8.4 of Exhibit PAT-1 to my testimony.

17

18 BellSouth is not proposing any rates, terms or conditions for dark fiber
19 loops with new CLECs who signed an interconnection agreement with
20 BellSouth after March 11, 2005, since the FCC found that “requesting
21 carriers are not impaired without access to unbundled dark fiber loops in
22 any instance.” TRRO at ¶ 146

23

24 DS1 AND DS3 DEDICATED TRANSPORT AND ENTRANCE FACILITIES

25 For CLECs that had an interconnection agreement with BellSouth as of

1 March 11, 2005, this language is set forth in Section 6.2 of Exhibit PAT-1
2 to my testimony.

3

4 DARK FIBER DEDICATED TRANSPORT

5 For CLECs that had an interconnection agreement with BellSouth as of
6 March 11, 2005, this language is set forth in Sections 6.9.1 of Exhibit PAT-
7 1 to my testimony.

8

9 **Issue 4, TRRO/Final Rules: What is the appropriate language to implement**
10 **BellSouth’s obligation to provide Section 251 access to high capacity loops**
11 **and dedicated transport and how should the following terms be defined (i)**
12 **Business Line (ii) Fiber-Based Collocation (iii) Building (iv) Route?**

13

14 Q. CAN YOU ADDRESS THE TERMS MENTIONED IN ISSUE 4 THAT
15 REQUIRE DEFINITION?

16

17 A. Issue 4 addresses the situations where, following the TRO and the TRRO,
18 BellSouth is still obligated to provide access to unbundled high capacity
19 loops and transport. In a nutshell, BellSouth is required to continue to
20 provide these elements in certain wire centers that do not meet specific
21 criteria defined by the FCC. In the TRRO, the FCC set forth non-
22 impairment thresholds for high capacity loops and dedicated transport.
23 While the specific thresholds differ by service type, each contains a
24 reference to “business line” count and “fiber-based collocation” count. The
25 rules defining non-impairment for loops also include the term “building,”

1 and the rules for defining non-impairment for dedicated transport contain
2 the term "route." Defining the terms "business line," "fiber-based
3 collocation," "building" and "route" are all important because they affect the
4 FCC's conclusions regarding the wire centers where CLECs are not
5 impaired without access to high capacity loops or transport.

6
7 First, I will address the definitions, and then I will describe the criteria
8 relative to identifying the wire centers where CLECs are not impaired
9 without access to high capacity loops and transport.

10

11 Q. WHAT IS THE PROPER DEFINITION OF "BUSINESS LINE?"

12

13 A. A business line, as used in my testimony and as defined by the FCC in 47
14 C.F.R. § 51.5, is:

15 ...an incumbent LEC-owned switched access line used to serve a
16 business customer, whether by the incumbent LEC itself or by a
17 competitive LEC that leases the line from the incumbent LEC. The
18 number of business lines in a wire center shall equal the sum of all
19 incumbent LEC business switched access lines, plus the sum of all
20 UNE loops connected to that wire center, including UNE loops
21 provisioned in combination with other unbundled elements. Among
22 these requirements, business line tallies (1) shall include only those
23 access lines connecting end-user customers with incumbent LEC
24 end-offices for switched services, (2) shall not include non-switched
25 special access lines, (3) shall account for ISDN and other digital
26 access lines by counting each 64 kbps-equivalent as one line. For
27 example, a DS1 line corresponds to 24 64 kbps-equivalents, and
28 therefore to 24 "business lines."

29

30

31 Q. DOES THE FCC'S RULE EXCLUDE ANY PARTICULAR TYPE OF
32 UNBUNDLED LOOP FROM INCLUSION IN THE BUSINESS LINE
33 COUNT?

1

2 A. No, it does not.

3

4 Q. ARE YOU AWARE OF ANY DISAGREEMENT BETWEEN BELLSOUTH
5 AND THE CLECS AS TO WHAT CONSTITUTES A BUSINESS LINE?

6

7 A. Yes. Some CLECs have questioned the manner in which BellSouth
8 counted UNE loops, claiming, for example, that certain types of UNE loops
9 that are used to provide DSL services are not “switched” by BellSouth.
10 The FCC’s definition of business lines clearly requires that BellSouth
11 include “the sum of all UNE loops connected to that wire center, including
12 UNE loops provisioned in combination with other unbundled elements.”
13 (emphasis added) Accordingly, BellSouth counted all UNE loops,
14 including those that CLECs may contend are not “switched” by BellSouth.

15

16 With respect to BellSouth’s retail lines, BellSouth counted only those
17 retail lines used to serve business customers with switched voice lines or
18 trunks, including those lines or trunks provided over high capacity
19 transport links. When identifying the 64 Kbps equivalency of the high
20 capacity links, BellSouth included only those high capacity transport links
21 identified by their Uniform Service Order Codes (USOCs) as providing
22 voice equivalent channels and did not count any with UCOCs indicating
23 the high capacity transport was used for data equivalent channels.
24 Where a CLEC provides a data service, such as a line sharing
25 arrangement, BellSouth did not count any retail or resold lines that carried

1 a residence class of service, regardless of whether a CLEC was providing
2 a data service over the same line. When both a voice and a data service
3 were provided on the same line carrying a business class of service,
4 BellSouth counted this as one line.

5

6 Q. WHAT DOES THE TERM "ROUTE" MEAN?

7

8 A. The term "route" is defined in 47 C.F.R. § 51.319(e) as the following:

- 9 ▪ a transmission path between one of an ILEC's wire centers or
10 switches and another of the ILEC's wire centers or switches;
- 11 ▪ a route between two points that may pass through one or more
12 intermediate wire centers or switches; and
- 13 ▪ transmission paths between identical endpoints are the same
14 "route" irrespective of whether they pass through the same
15 intermediate wire centers or switches, if any.

16

17 Q, PLEASE DEFINE A FIBER-BASED COLLOCATION ARRANGEMENT.

18

19 A. A fiber-based collocation, as specified by the TRRO in 47 C.F.R. § 51.5,
20 and as used in my testimony is:

21

22 "...any carrier, unaffiliated with the incumbent LEC, that maintains a
23 collocation arrangement in an incumbent LEC wire center, with
24 active electrical power supply, and operates a fiber-optic cable or
25 comparable transmission facility that (1) terminates at a collocation
26 arrangement within the wire center; (2) leaves the incumbent LEC
27 wire center premises; and (3) is owned by a party other than the
28 incumbent LEC or any affiliate of the incumbent LEC, except as set
29 forth in this paragraph. Dark fiber obtained from an incumbent LEC

1 on an indefeasible right of use basis shall be treated as non-
2 incumbent LEC fiber-optic cable. Two or more affiliated fiber-based
3 collocators in a single wire center shall collectively be counted as a
4 single fiber-based collocator. For purposes of this paragraph, the
5 term affiliate is defined by 47 U.S.C. § 153(l) and any relevant
6 interpretation of the Title.”
7

8 In applying the FCC’s definition, BellSouth counted the number of
9 collocators that have fiber-fed arrangements and not on how many fiber
10 “providers” supply fiber to the wire center in question. This is consistent
11 with the FCC’s focus on how many collocation arrangements are fiber-
12 based.
13

14 Q. WHAT IS THE APPROPRIATE DEFINITION OF A “BUILDING” FOR
15 PURPOSES OF THESE CRITERIA?

16
17 A. BellSouth is not proposing a definition of the word “building” in its contract
18 language, because, as a practical matter, common sense dictates that the
19 word “building” means just what it says – it is not a term of art or a
20 technical term. If a dispute materializes, however, “building” should be
21 defined using a “reasonable person” standard. That is, if reasonable
22 people would believe something is a building, then it is a building. For
23 instance, Norton’s Suburban Hospital located at 4001 Dutchman’s Lane
24 in Louisville isn’t a single building, but is a complex of several separate
25 buildings, and we believe that reasonable people would agree. Likewise,
26 buildings such as the National City Tower located at the corner of 5th and
27 Main Street in Louisville is a single building structure and - though it has
28 multiple tenants - it is a single building. BellSouth’s view is that this is a
29 single building, and we believe that reasonable people would agree with

1 that conclusion as well.

2

3 To my knowledge, the CLECs have not proposed a definition of the word
4 “building.” If they do so in direct testimony, BellSouth will comment on
5 their proposed definition in rebuttal testimony.

6

7 Q. DO YOU EXPECT THAT ANY CLECS WILL ARGUE THAT, IN MULTI-
8 TENANT BUILDINGS, EACH END USER PREMISES CONSTITUTES A
9 SEPARATE BUILDING?

10

11 A. That would not surprise me, given what I have heard and seen in the past,
12 but any such argument would not be reasonable. The TRRO certainly
13 does not support such a definition for “building.” Again, since the FCC did
14 not define “building” in the TRRO, the only logical way to define this word
15 is through its common use. A multi-tenant building is one building,
16 regardless of the number of tenants that work or live in that building.

17

18 Q. BASED ON THE FCC’S NEW RULES, AND USING THE DEFINITIONS
19 YOU HAVE JUST PROVIDED, UNDER WHAT CONDITIONS IS
20 BELLSOUTH OBLIGATED TO MAKE HIGH CAPACITY LOOPS
21 AVAILABLE TO CLECS ON AN UNBUNDLED BASIS?

22

23 A. The FCC has established specific criteria in the TRRO regarding an
24 ILEC’s continuing obligation to provide unbundled access to high capacity
25 loops. There are unique thresholds for each type and capacity of service.

1 Once a particular threshold has been met, BellSouth is no longer obligated
2 to provide the service associated with that threshold on an unbundled
3 basis. In the following paragraphs, I describe the circumstances under
4 which BellSouth remains obligated to provide access to unbundled high
5 capacity loops pursuant to the FCC's rules, separated by loop type:

6

7 DS1 Loops

8 BellSouth is obligated to make DS1 loops available on an unbundled basis
9 only to buildings served by a wire center with less than 60,000 business
10 lines or fewer than four fiber-based collocators. Said another way,
11 BellSouth is not obligated to make DS1 loops available on an unbundled
12 basis to buildings served by a wire center with at least 60,000 business
13 lines and at least four fiber-based collocators. In wire centers that do not
14 meet the FCC's threshold, and thus where unbundled DS1 loops are still
15 available, CLECs may only obtain unbundled access to ten (10) DS1
16 loops to any one building.

17

18 Once a wire center has at least 60,000 lines and four fiber-based
19 collocators, there will be no future unbundling of DS1 loops in that wire
20 center. BellSouth provided its list of wire centers that met such criteria in
21 its Carrier Notification Letter ("CNL") SN91085088, dated April 15, 2005,
22 which is posted on BellSouth's interconnection website at
23 www.interconnection.bellsouth.com (and is attached to my testimony as
24 part of Exhibit PAT-3). The April 15, 2005 CNL is based upon December
25 2003 line count data, which I will discuss in more detail later in my

1 testimony. Since the April 15, 2005 CNL was posted, as requested by
2 CLECs, BellSouth has recently updated its wire center list using
3 December 2004 line count data. Attached, as Exhibit PAT-4, is the list of
4 Kentucky wire centers that meet the FCC's criteria based upon the
5 December 2004 data. Comparing the 2003 list to the 2004 list, the
6 Kentucky wire centers meeting the DS1 loop threshold criteria did not
7 change.

8

9 The rules applicable to the provision of DS1 loops are set forth in 47 C.F.R.
10 §§ 51.319(a)(4)(ii) and (iii).

11

12 DS3 loops

13 BellSouth is obligated to make DS3 loops available on an unbundled basis
14 only to buildings served by a wire center with less than 38,000 business
15 lines or fewer than four fiber-based collocators. Said another way,
16 BellSouth is not obligated to make DS3 loops available on an unbundled
17 basis to buildings served by a wire center with at least 38,000 business
18 lines and at least four fiber-based collocators. In wire centers that do not
19 meet the FCC's threshold, and thus unbundled DS3 loops are still
20 available, CLECs may only obtain unbundled access to one (1) DS3 loop
21 to any one building.

22

23 Once a wire center has at 38,000 lines and four fiber-based collocators,
24 there will be no future unbundling in that wire center. As explained above,
25 BellSouth's April 15, 2005 CNL provided the list of unimpaired wire

1 centers based on 2003 data, and Exhibit PAT-4 provides BellSouth's
2 Kentucky list based on 2004 data. Comparing the 2003 list to the 2004
3 list, the Kentucky wire centers meeting the DS3 loop threshold criteria did
4 not change.

5

6 The FCC's unbundling requirements for DS3 loops are set forth in 47
7 C.F.R §§ 51.319(a)(5)(ii) and (iii).

8

9 Dark Fiber Loops

10 BellSouth is no longer obligated to provide unbundled access to new dark
11 fiber loops. The FCC addresses this in 47 C.F.R § 51.319 (a)(6)(ii).

12

13 Q. UNDER WHAT CONDITIONS MUST BELLSOUTH PROVIDE
14 UNBUNDLED ACCESS TO DEDICATED TRANSPORT?

15

16 A. DS1 Dedicated Transport

17 BellSouth is obligated to make DS1 Dedicated Transport available on an
18 unbundled basis on all routes for which at least one end-point of the route
19 is a wire center containing fewer than 38,000 business lines and fewer
20 than four fiber-based collocators. Thus, BellSouth is no longer obligated
21 to provide unbundled access to DS1 dedicated transport on routes
22 connecting a pair of wire centers, each of which contains at least 38,000
23 business lines or at least four fiber-based collocators. For routes between
24 wire centers that do not meet the FCC's thresholds, a CLEC may obtain
25 unbundled access to no more than ten (10) DS1 dedicated transport

1 circuits on such routes.

2
3 Once a wire center has either 38,000 lines or four fiber-based collocators,
4 there will be no future unbundling of DS1 dedicated transport to or from
5 that wire center when the route originates from or terminates to a wire
6 center also meeting the FCC's thresholds. As explained above,
7 BellSouth's April 15, 2005 CNL provided the list of unimpaired wire
8 centers based on 2003 data, and Exhibit PAT-4 provides BellSouth's
9 Kentucky list based on 2004 data. Those wire centers designated as "Tier
10 1" in Exhibit PAT-4 meet the thresholds for DS1 dedicated interoffice
11 transport, and unbundling is no longer required between these Tier 1 wire
12 centers. Comparing the 2003 list to the 2004 list, the Kentucky wire
13 centers meeting the Tier 1 transport test did not change.

14
15 The FCC addresses these unbundling requirements for DS1 dedicated
16 transport in 47 C.F.R § 51.319(e)(2)(ii).

17
18 DS3 Dedicated Transport

19 BellSouth is obligated to make DS3 Dedicated Transport available on an
20 unbundled basis on all routes for which at least one end-point of the route
21 is a wire center containing fewer than 24,000 business lines and fewer
22 than three fiber-based collocators. Thus, BellSouth is no longer obligated
23 to provide unbundled access to DS3 dedicated transport on routes
24 connecting a pair of wire centers, each of which contains at least 24,000
25 business lines or at least three fiber-based collocators. For routes

1 between wire centers that do not meet the FCC's thresholds, a CLEC may
2 obtain unbundled access to no more than twelve (12) DS3 dedicated
3 transport circuits on such routes.

4
5 Once a wire center has either 24,000 lines or three fiber-based
6 collocators, there will be no future unbundling of DS3 dedicated transport
7 to or from that wire center when the route originates from or terminates to
8 a wire center also meeting the FCC's thresholds. As explained above,
9 BellSouth's April 15, 2005 CNL provided the list of unimpaired wire
10 centers based on 2003 data, and Exhibit PAT-4 provides BellSouth's
11 Kentucky list based on 2004 data. Those wire centers designated as
12 either "Tier 1" or "Tier 2" in the exhibit meet the thresholds for DS3
13 dedicated interoffice transport and unbundling is no longer required
14 between Tier 1 wire centers, between Tier 2 wire centers, or between a
15 Tier 1 wire center and a Tier 2 wire center. Comparing the 2003 list to the
16 2004 list, the wire centers meeting the Tier 1 or Tier 2 transport test did
17 not change.

18
19 The FCC addresses its unbundling requirements for DS3 transport in 47
20 C.F.R. § 51.319(e)(2)(iii).

21
22 Dark Fiber Transport

23 BellSouth is obligated to make Dark Fiber Dedicated Transport available
24 on an unbundled basis on all routes for which at least one end-point of the
25 route is a wire center containing fewer than 24,000 business lines and

1 fewer than three fiber-based collocators. Thus, BellSouth is no longer
2 obligated to provide unbundled access to dark fiber dedicated transport on
3 routes connecting a pair of wire centers, each of which contains at least
4 24,000 business lines or at least three fiber-based collocators.

5

6 Once a wire center exceeds either of these thresholds, there will be no
7 future unbundling of Dark Fiber dedicated transport to or from that wire
8 center when the route originates from or terminates to a wire center also
9 meeting these thresholds. As explained above, BellSouth's April 15, 2005
10 CNL provided the list of unimpaired wire centers based on 2003 data, and
11 Exhibit PAT-4 provides BellSouth's Kentucky list based on 2004 data.

12

13 The FCC's unbundling Requirements for dark fiber dedicated transport are
14 set forth in 47 C.F.R. § 51.319(e)(2)(iv).

15

16 Entrance Facilities

17 Pursuant to 47 C.F.R. § 51.319(e)(2)(i), BellSouth is no longer obligated to
18 provide unbundled access to entrance facilities, e.g. dedicated transport
19 that does not connect a pair of BellSouth wire centers.

20

21 Q. HOW ARE UNBUNDLING DETERMINATIONS MADE WITH RESPECT
22 TO EELS?

23

24 A. The principles described above, relative to loops and dedicated interoffice
25 transport, also apply to EELs, as these elements are what comprise an

1 EEL. The end points of the dedicated transport portion of the EEL
2 determine the route. Dependant on the capacity, if there is no impairment
3 for dedicated transport at the wire centers comprising the end points of the
4 transport portion of the EEL, then BellSouth does not have to provision
5 that portion of the EEL on an unbundled basis. Likewise, if the designated
6 competitive threshold for the wire center serving the loop location is met,
7 BellSouth does not have to provision that portion of the EEL on an
8 unbundled basis. Where the competitive thresholds have been met for
9 both the dedicated transport and loop portions of the EEL, the service is
10 not available on an unbundled basis.

11

12 Q WHAT LANGUAGE DOES BELLSOUTH PROPOSE THAT THE
13 COMMISSION APPROVE TO IMPLEMENT BELLSOUTH'S
14 OBLIGATION, WHICH YOU DISCUSSED IN THE PRECEEDING
15 ANSWERS, TO PROVIDE SECTION 251 ACCESS TO HIGH CAPACITY
16 LOOPS AND DEDICATED TRANSPORT?

17

18 A. DS1 AND DS3 LOOPS

19 For CLECs that had an interconnection agreement with BellSouth as of
20 March 11, 2005, BellSouth is proposing the language is set forth in
21 Sections 1.8, 2.1.4, 2.3.6.2, and 2.3.12 of Exhibits PAT-1 to my testimony.
22 For CLECs that did not have an interconnection agreement with BellSouth
23 prior to March 11, 2005, this language is set forth in Sections 1.8, 2.1.4,
24 2.3.6, 2.3.6.2, 2.3.8 and 2.3.12 of Exhibit PAT-2 to my testimony.

25

1 DARK FIBER LOOPS

2 For CLECs that had an interconnection agreement with BellSouth as of
3 March 11, 2005, BellSouth proposes the language contained in Section
4 2.8.4 of Exhibit PAT-1 to my testimony.

5

6 For the same reasons I mentioned in my response to Issue 2, BellSouth is
7 not proposing rates, terms or conditions for dark fiber loops in its
8 interconnection agreements with new CLECs who signed an
9 interconnection agreement with BellSouth after March 11, 2005,

10

11 DS1, DS3 DEDICATED TRANSPORT AND ENTRANCE FACILITIES

12 For CLECs that had an interconnection agreement with BellSouth as of
13 March 11, 2005, this language is set forth in Sections 1.8, and 6.2 - 6.6 of
14 Exhibit PAT-1 to my testimony. For CLECs that did not have an
15 interconnection agreement with BellSouth prior to March 11, 2005, this
16 language is set forth in Sections 1.8 and 5.2 – 5.5 of Exhibit PAT-2 to my
17 testimony.

18

19 DARK FIBER DEDICATED TRANSPORT

20 For CLECs that had an interconnection agreement with BellSouth as of
21 March 11, 2005, this language is set forth in Sections 1.8 and 6.9 of
22 Exhibit PAT-1 to my testimony. For CLECs that did not have an
23 interconnection agreement with BellSouth prior to March 11, 2005, this
24 language is set forth in Sections 1.8 and 5.9 of Exhibit PAT-2 to my
25 testimony.

1

2 **Issue 5(a), TRRO Final Rules: Does the Commission have the authority to**
3 **determine whether or not BellSouth's application of the FCC's Section 251**
4 **non-impairment criteria for high – capacity loops and transport is**
5 **appropriate?**

6

7 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

8

9 A. The FCC established the impairment criteria for high capacity loops and
10 transport in the TRRO. The FCC is, therefore, the appropriate agency to
11 determine whether BellSouth has properly applied its criteria.

12

13 As a practical matter, however, this Commission is being asked to
14 approve contract language that governs the transition away from UNEs. If
15 the CLECs and BellSouth are unable to reach agreement on the wire
16 centers that satisfy the FCC's impairment criteria, then this Commission
17 will find itself in the position of deciding which wire centers satisfy the
18 FCC's rules. Indeed, consistent with the dispute resolution language in
19 the TRRO and in current interconnection agreements, disagreements
20 between BellSouth and CLECs over CLEC orders in wire centers that
21 satisfy the FCC's impairment criteria will have to be resolved by this
22 Commission.

23

24 **Issue 5(b), TRRO Final Rules: What procedures should be used to identify**
25 **those wire centers that satisfy the FCC's Section 251 non-impairment**

1 **criteria for high-capacity loops and transport?**

2

3 Q. ASSUMING AS A PRACTICAL MATTER THAT THE STATE
4 COMMISSION MUST ADDRESS THE MATTER OF IDENTIFYING WIRE
5 CENTERS WHERE CLECS ARE NOT IMPAIRED, IS THERE ANY NEED
6 FOR THIS COMMISSION TO ESTABLISH PROCEDURES OR
7 GUIDELINES FOR IDENTIFYING THOSE WIRE CENTERS?

8

9 A. Theoretically, no. The FCC has provided adequate guidance to allow
10 ILECs, including BellSouth, to identify those wire centers where there is no
11 impairment, without the need for intervention by this Commission. The
12 information needed to make that assessment - business line counts and
13 the presence of fiber-based collocation arrangements in BellSouth wire
14 centers - is readily available to BellSouth, and BellSouth has determined
15 the wire centers that meet the non-impairment test. Nonetheless, CLECs
16 continue to place orders for high capacity loops in several wire centers
17 (none in Kentucky) identified as meeting the FCC's criteria. Under the
18 FCC's rules, BellSouth has been provisioning those orders, even though
19 we believe that the CLECs are placing the orders in error and without
20 meeting the good faith due diligence requirements that the FCC placed on
21 the CLECs regarding the placement of such orders. In addition, because
22 some of BellSouth's obligations will end as the transition period ends, both
23 CLECs and BellSouth will need to have a common understanding of what
24 constitutes a CLEC's embedded base of customers. Therefore, in an
25 effort to efficiently resolve these types of disputes in one proceeding,

1 rather than dragging the matter out through individual proceedings for
2 each wire center, BellSouth explains below how it identified the wire
3 centers that satisfy the FCC's test.

4

5 Q. WHAT IS YOUR UNDERSTANDING OF THE IMPAIRMENT TEST?

6

7 A. My understanding of the impairment test is that, on a wire center basis,
8 there are checkpoints for impairment for dedicated interoffice transport
9 and high capacity loops. I explained the criteria in my response to Issue 4
10 above, and briefly do so again here. The criteria for assessing impairment
11 as set forth by the FCC in its TRRO is as follows: A CLEC is not impaired
12 without access to DS1 transport on routes connecting a pair of wire
13 centers, each of which contains at least four fiber-based collocators or at
14 least 38,000 business lines. For DS3 transport and dark fiber transport, a
15 CLEC is not impaired without access on routes connecting a pair of wire
16 centers, each of which contains at least three fiber-based collocators or at
17 least 24,000 business lines.

18

19 For high capacity loops, CLECs are not impaired without access to DS3
20 loops to any building within the service area of a wire center containing
21 38,000 or more business lines and four or more fiber-based collocators.
22 CLECs are not impaired without access to DS1 loops to any building in a
23 wire center serving area containing 60,000 or more business lines and
24 four or more fiber-based collocators.

25

1 Q. HOW DID BELLSOUTH IDENTIFY THE WIRE CENTERS THAT MEET
2 THE VARIOUS CRITERIA YOU HAVE JUST DESCRIBED?

3

4 A. In keeping with the FCC's request for wire center access line count data in
5 early December 2004, the starting point, as indicated by the FCC in its
6 request, was the Automated Reporting Measurement Information System
7 (ARMIS) reports, filed annually with the FCC by all ILECs. At the time of
8 the FCC's initial request in December 2004, the latest available filed
9 ARMIS reports reflected line counts as of December 2003. Following the
10 release of the TRRO in February 2005, BellSouth updated the line count
11 information that it had filed with the FCC in December 2004 to include the
12 UNE loop and UNE-P data not captured in ARMIS, as directed by the
13 FCC's definition of a business line. This data, which was almost a year
14 old at the time, was used to provide a consistent view of line counts and to
15 meet the FCC's intent to use line counts that were publicly available, at
16 least at a summary level. This ostensibly provided a consistent definition
17 of business lines known to the industry. Recently, BellSouth has updated
18 its wire center results to include the December 2004 ARMIS data and the
19 December 2004 UNE loop and UNE-P data so that the most current
20 information is used to establish the wire centers that satisfy the FCC's
21 tests.

22

1 Q. DID THE ARMIS REPORTS COUNT ALL OF THE LINES THAT THE
2 FCC INCLUDED IN ITS DEFINITION OF BUSINESS LINES?

3

4 A. No. Unbundled loops, whether provisioned on a stand-alone basis or in
5 combination with other network elements, are not included in BellSouth's
6 switched access line counts in ARMIS. As a result, to comply with the
7 FCC's definition of a business line, all UNE loops connected to a wire
8 center, including UNE loops provisioned in combination with other
9 unbundled elements, as well as all UNE-P arrangements for which a
10 business class of service USOC had been assigned, had to be added to
11 the data reflected in the ARMIS reports. Initially, BellSouth used in-
12 service quantities for December 2003 for UNE-P and UNE Loop line
13 counts to be consistent with the time period of the December 2003 ARMIS
14 43-08 data. BellSouth's recent update used December 2004 line counts.

15

16 Q. WERE ANY CHANGES MADE TO THE ARMIS DATA?

17

18 A. Yes. The ARMIS data is reported in summary fashion, and is not reported
19 by wire center. Therefore, BellSouth used the underlying source data for
20 retail and resold lines so that the ARMIS reported data could be provided
21 at the wire center level. In addition, the ARMIS reports do not report high
22 capacity business lines in the same manner that the FCC required in the
23 TRRO. That is, BellSouth had to identify the business high capacity digital

1 switched access lines in each wire center and expanded the count to full
2 system capacity. ARMIS 43-08 line counts only include provisioned or
3 “activated” 64 kbps channels that ride high capacity digital switched
4 access lines. For example, if a switched DS1 Carrier System had
5 eighteen (18) 64 kbps channels provisioned as business lines for a
6 customer, the ARMIS 43-08 would count only 18 business lines. The
7 TRRO definition of business lines requires that the full system capacity be
8 counted as business lines, so for TRRO purposes, the business line count
9 for that DS1 Carrier System would be the full system capacity, or 24
10 business lines.

11

12 Q. DID YOU TREAT THE UNE-P AND UNE LOOPS IN EACH WIRE
13 CENTER IN THE SAME MANNER AS YOU TREATED THE RETAIL AND
14 RESOLD LINES?

15

16 A. Generally, yes. Like the treatment of high capacity retail and resold high
17 capacity access lines, high capacity UNE Loop lines were counted at full
18 system capacity. For example, a DS1 UNE Loop in a wire center was
19 counted as having 24 business lines. Likewise, BellSouth counted DS1
20 and DS3 EELs on a voice- grade equivalency. BellSouth counted each
21 EEL at the end user wire center, not at the interoffice transport terminating
22 wire center. However, as Mr. Fogle explains, BellSouth did not count
23 HDSL loops at a full system capacity. Also, for certain other UNE loops –

1 such as ADSL compatible loops, UCL-S and IDSL loops – BellSouth
2 counted these lines on a one-for-one basis, without converting them to
3 voice grade equivalents. Bellsouth has thus presented the more
4 conservative view of business access lines by not availing itself of the full
5 potential capacity of an HDSL, ADSL or IDSL loop.

6

7 Q. HAS BELLSOUTH TAKEN ANY STEPS TO VERIFY ITS BUSINESS
8 LINE COUNTS?

9

10 A. Yes. BellSouth retained an independent third-party, Deloitte & Touche
11 (“Deloitte”), to confirm that BellSouth performed the analysis as stated and
12 to confirm the conclusions that BellSouth reached in implementing the
13 non-impairment thresholds set forth in the TRRO and to identify the
14 specific wire centers where those thresholds have been met. The results
15 of the Deloitte review are attached as exhibits to the direct testimony of
16 Mr. David Wallis. BellSouth did not ask Deloitte to independently define
17 “business line” nor make any interpretation of the application of the FCC’s
18 rules. I am responsible for the decisions that were made regarding what
19 constituted a business line, how high capacity loops were going to be
20 measured, and so forth. Deloitte was retained to determine whether we
21 did what we said we were going to do, and whether we did it correctly.

22

23 Q. YOU DEFINED FIBER-BASED COLLOCATORS EARLIER IN YOUR

1 TESTIMONY. CAN YOU NOW DESCRIBE HOW BELLSOUTH
2 COUNTED FIBER-BASED COLLOCATION ARRANGEMENTS?

3

4 A. BellSouth examined its records to determine the number of competitive
5 fiber-based collocation arrangements in each wire center. Consistent with
6 the FCC's specifications, if a collocation arrangement was not fed by
7 competitive fiber, or if the arrangement was fed by competitive fiber but
8 the equipment was not actively powered, BellSouth did not count the
9 collocation arrangement. BellSouth then conducted site visits to physically
10 inspect each qualifying collocation arrangement that resided in a wire
11 center potentially meeting one of the FCC's defined thresholds.

12

13 It is important to note that BellSouth did not rely only on its records for this
14 information. BellSouth personnel visited each wire center that its records
15 indicated had at least three fiber-based collocation arrangements to make
16 a physical check of the number of collocation arrangements and verify that
17 competitive fiber facilities were serving those collocation arrangements, as
18 well as to verify that the equipment in the arrangement was powered up.

19

20 Q. DID BELLSOUTH COUNT AFFILIATED CARRIERS' COLLOCATION
21 ARRANGEMENTS IN A SINGLE WIRE CENTER AS MULTIPLE FIBER-
22 BASED COLLOCATION ARRANGEMENTS IN THAT WIRE CENTER?

23

24 A. No. After the physical verification of the collocation arrangements was
25 completed, BellSouth manually compared the list of collocators in each

1 wire center with a list of customer names and former names from
2 BellSouth's records to determine if there were affiliated carriers in any wire
3 center. Where this was the case, BellSouth counted only one of the
4 affiliated carriers' fiber-based collocation arrangements.

5

6 Q. PLEASE DESCRIBE HOW BELLSOUTH USED THE COUNT OF
7 BUSINESS LINES AND FIBER-BASED COLLOCATION
8 ARRANGEMENTS IN DETERMINING THE WIRE CENTERS WHERE
9 CLECS ARE NOT IMPAIRED.

10

11 A. The collocation information for each wire center was merged with the
12 count of the business lines using December 2003 data in each of the wire
13 centers. This information was consolidated into a single list that reflects
14 the proper Tier for the wire center, as well as the Common Language
15 Location Identifier ("CLLI") Code for the wire center, and the number of
16 business lines. As explained earlier, BellSouth provided in Carrier
17 Notification Letter SN91085088, dated April 15, 2005, those wire centers
18 that qualified under the FCC's business line and or fiber-based collocator
19 criteria, using December 2003 line counts. Exhibit PAT-4 provides the
20 Kentucky information updated with December 2004 line counts.

21

22 Q. PLEASE EXPLAIN YOUR REFERENCE TO "TIER" IN YOUR PREVIOUS
23 RESPONSE.

24

25 A. The FCC defines "Tiers" in 47 CFR §51.319(e)(3).

- 1 • Tier 1 wire centers are those ILEC wire centers that contain at least
2 four fiber-based collocators, at least 38,000 business lines, or both.
3 Once a wire center is determined to be a Tier 1 wire center, that
4 wire center is not subject to later reclassification as a Tier 2 or Tier
5 3 wire center.
- 6 • Tier 2 wire centers are those ILEC wire centers that are not Tier 1
7 wire centers, but contain at least three fiber-based collocators, at
8 least 24,000 business lines, or both. Once a wire center is
9 determined to be a Tier 2 wire center, that wire center is not subject
10 to later reclassification as a Tier 3 wire center.
- 11 • Tier 3 wire centers are those ILEC wire centers that do not meet
12 the criteria for Tier 1 or Tier 2 wire centers.

13
14 Q. HOW MANY WIRE CENTERS IN KENTUCKY DID BELLSOUTH FIND
15 MEET THE CRITERIA SET FORTH BY THE FCC?

16
17 A. As shown in BellSouth's April 15, 2005 CNL, using December 2003 data
18 and the process described above, BellSouth determined that Kentucky
19 has one Tier 1 wire center with at least four (4) fiber-based collocation
20 arrangements or at least 38,000 business lines. Kentucky also has one
21 Tier 2 wire center that has at least three (3) fiber-based collocation
22 arrangements or at least 24,000 business lines. As shown on Exhibit
23 PAT-4, using the updated December 2004 data results in no change to
24 these wire centers.

25

1 Again looking at December 2003 data, there is one wire center in which
2 CLECs are not impaired without unbundled access to DS3 high capacity
3 loops, and no wire centers where CLECs are not impaired without
4 unbundled access to DS1 high capacity loops. Using the December 2004
5 data results in no change to these wire centers.

6

7 Q. HAS THIS INFORMATION BEEN SHARED WITH CLECS?

8

9 A. BellSouth initially shared the information based on the December 2003
10 data with CLECs on February 18, 2005, via BellSouth's Carrier Notification
11 Process. BellSouth subsequently released Carrier Notification Letters that
12 provided further details. These letters are all published on BellSouth's
13 website:

14 [http://interconnection.bellsouth.com/notifications/carrier/carrier_lett_05.ht](http://interconnection.bellsouth.com/notifications/carrier/carrier_lett_05.htm)
15 [m](http://interconnection.bellsouth.com/notifications/carrier/carrier_lett_05.htm). Copies of these Carrier Notifications Letters regarding the impairment

16 assessment process are attached as Exhibit PAT-3 to my testimony.

17 Because BellSouth just received the validated 2004 data report from
18 Deloitte, the updated wire center list based on December 2004 data has
19 not yet been posted to BellSouth's interconnection website. As I noted
20 earlier, the Kentucky wire center list is attached as Exhibit PAT-4 to my
21 testimony.

22

23 **Issue 5(c), TRRO Final Rules: What language should be included in**
24 **agreements to reflect the procedures identified in (b)?**

25

1 Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?

2

3 A. Once the "no impairment" wire center list is approved by an agency of
4 appropriate jurisdiction, CLECs may no longer self-certify that they are
5 entitled to obtain high capacity loops and transport on an unbundled basis
6 in wire centers where they are not impaired.

7

8 Q. WHAT LANGUAGE DOES BELL SOUTH PROPOSE THAT THE
9 COMMISSION APPROVE TO ADDRESS THIS ISSUE?

10

11 A. DS1 LOOPS

12 For CLECs that had an interconnection agreement with BellSouth as of
13 March 11, 2005, BellSouth is proposing the language in Section 2.1.4.9 of
14 Exhibits PAT-1 to my testimony. For CLECs that did not have an
15 interconnection agreement with BellSouth prior to March 11, 2005, this
16 language is set forth in Section 2.1.4.4 of Exhibit PAT-2 to my testimony.

17

18 DS3 LOOPS

19 For CLECs that had an interconnection agreement with BellSouth as of
20 March 11, 2005, this language is set forth in Section 2.1.4.10 of Exhibits
21 PAT-1 to my testimony. For CLECs that did not have an interconnection
22 agreement with BellSouth prior to March 11, 2005, this language is set
23 forth in Section 2.1.4.5 of Exhibit PAT-2 to my testimony.

24

25 DS1 DEDICATED TRANSPORT

1 For CLECs that had an interconnection agreement with BellSouth as of
2 March 11, 2005, this language is set forth in Section 6.2.6.7 of Exhibit
3 PAT-1 to my testimony. For CLECs that did not have an
4 interconnection agreement with BellSouth prior to March 11, 2005, this
5 language is set forth in Section 5.2.2.4 of Exhibit PAT-2 to my testimony.

6

7 DS3 DEDICATED TRANSPORT

8 For CLECs that had an interconnection agreement with BellSouth as of
9 March 11, 2005, this language is set forth in Section 6.2.6.8 of Exhibit
10 PAT-1 to my testimony. For CLECs that did not have an interconnection
11 agreement with BellSouth prior to March 11, 2005, this language is set
12 forth in Section 5.2.2.5 of Exhibit PAT-2 to my testimony.

13

14 **Issue 8, TRRO/Final Rules: (a) Does the COMMISSION have the authority to**
15 **require BellSouth to include in its interconnection agreements entered into**
16 **pursuant to Section 252, network elements under either state law, or**
17 **pursuant to Section 271 or any other federal law other than Section 251?**

18

19 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

20

21 A. The short answer is no – state regulators do not have the authority
22 to require BellSouth to include in section 252 interconnection
23 agreements any element not required by section 251 of the 1996
24 Act. This is a legal issue that BellSouth has already addressed in
25 its *Motion for Summary Judgment, or in the Alternative, Motion for*

1 *Declaratory Ruling* in this proceeding. My understanding is that
2 state commissions have no legal basis to require BellSouth to
3 include, in its interconnection agreements, network elements that
4 are not required by Section 251 of the Act, but that may be required
5 pursuant to either state law, Section 271 or other federal law. The
6 1996 Act requires interconnection agreements to comply with the
7 requirements of Section 251, and Section 251 requirements are the
8 only requirements that Section 252 obligates ILECs to include in
9 these agreements. I will defer to BellSouth's legal briefs for any
10 further comment on this issue.

11

12 **Issue 10, TRRO/Final Rules: What rates, terms, and conditions should**
13 **govern the transition of existing network elements that BellSouth is no**
14 **longer obligated to provide as Section 251 UNEs to non-Section 251**
15 **network elements and other services?**

16

17 Q. HOW DO YOU INTERPRET THIS ISSUE AND HOW DOES THIS ISSUE
18 DIFFER FROM ISSUE NUMBER 2?

19

20 A. I interpret this issue to address those de-listed network elements for which
21 there is no transition period or for which the transition period has already
22 ended. These network elements include: entrance facilities, enterprise or
23 DS1 level switching, OCN loops and transport, fiber to the home, fiber
24 sub-loop feeder, "greenfield" fiber build, and packet switching. To the
25 extent CLECs have interpreted this issue differently I will address that in

1 my rebuttal testimony.

2

3 Q. SHOULD THE PARTIES INCORPORATE LANGUAGE IN THEIR
4 AGREEMENT TO ALLOW CLECS TIME TO TRANSITION OFF OF
5 THESE ELEMENTS?

6

7 A. No. The FCC eliminated ILECs' obligation to provide unbundled access to
8 these elements almost two years ago, when it released the TRO. Any
9 CLEC that still has rates, terms and conditions for these elements in its
10 interconnection agreement has reaped the benefits of unlawful unbundling
11 of these elements for far too long. The Commission can not, and should
12 not, attempt to impose any sort of transition obligation where the FCC has
13 not required one.

14

15 Q. WHAT SHOULD THE COMMISSION ORDER WITH RESPECT TO
16 SUCH ELEMENTS?

17

18 A. BellSouth proposes that, to the extent a CLEC has rates, terms and
19 conditions for these elements in its interconnection agreement those rates,
20 terms and conditions should be removed. To the extent a CLEC has any
21 such elements or arrangements in place after the effective date of the
22 TRRO amendment, BellSouth shall, upon 30 days' written notice,
23 disconnect or convert such services. If the CLEC fails to submit orders to
24 disconnect or convert such arrangements within this 30 day period,
25 BellSouth will transition such circuits to equivalent BellSouth tariffed

1 services. If BellSouth must identify and transition the circuit, full
2 nonrecurring charges shall apply as set forth in BellSouth tariffs.

3

4 Q. WHAT LANGUAGE DOES BELLSOUTH PROPOSE TO ADDRESS THIS
5 ISSUE?

6

7 A. BellSouth is proposing the same language for both existing and new
8 CLECs. This language is set forth in Section 1.7 of Exhibits PAT-1 and
9 PAT-2 to my testimony.

10

11 **Issue 11, TRRO/ Final Rules: What rates, terms and conditions, if any,**
12 **should apply to UNEs that are not converted on or before March 11, 2006,**
13 **and what impact, if any should the conduct of the parties have upon the**
14 **determination of the applicable rates, terms and conditions that apply in**
15 **such circumstances?**

16

17 Q. DOES THIS ISSUE ADDRESS THE SAME NETWORK ELEMENTS
18 THAT ARE ADDRESSED IN ISSUE NUMBER 2?

19

20 A. Yes, these are de-listed UNEs subject to a transition period.

21

22 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

23

24 A. BellSouth's position is that none of the de-listed network elements for
25 which the FCC established a transition period may remain in place after

1 March 10, 2006 (or September 10, 2006, in the case of dark fiber
2 elements). I address each element in more detail below:

3
4 SWITCHING

5 The FCC made clear in the TRRO that CLECs must transition their entire
6 embedded base of DS0 level switching/UNE-P lines to alternative
7 arrangements *by* March 11, 2006, not *on* or *after* that date. 47 C.F.R.
8 51.319(d)(ii) states that a CLEC “*shall* migrate its embedded base of end-
9 user customers off of the unbundled local circuit switching element to an
10 alternative arrangement *within 12 months* of the effective date of the
11 Triennial Review Remand Order.” (emphasis added). There is no
12 question as to whether any of these elements may remain in place beyond
13 March 11, 2006. The plain language of the FCC’s Rule makes clear that
14 they may not.

15
16 STAND-ALONE SWITCHING PORTS

17 Consistent with the FCC’s goals to allow the parties time to “complete the
18 tasks necessary to an orderly transition,”¹ BellSouth is asking CLECs to
19 submit no later than October 1, 2005, orders to disconnect or convert their
20 Embedded Base local switching ports to other BellSouth services. Since
21 BellSouth offers no tariff equivalent for DS0 level switching, BellSouth
22 requests that the Commission provide that BellSouth may disconnect any
23 stand-alone switching ports which remain in place on March 11, 2006.

24

¹ TRRO at ¶ 227

1 UNE-P

2 As with stand-alone switching port UNEs, BellSouth is asking CLECs to
3 submit orders or spreadsheets to disconnect or convert their Embedded
4 Base UNE-Ps by October 1, 2005. If a CLEC fails to submit orders or
5 spreadsheets to convert its entire embedded base to alternative
6 arrangements by October 1, 2005, BellSouth should be permitted to
7 identify all such remaining Embedded Base UNE-P lines and convert them
8 to the equivalent resold services no later than March 10, 2006. Such lines
9 will be subject to applicable disconnect charges and the full nonrecurring
10 charges as set forth in BellSouth's tariffs.

11
12 HIGH CAPACITY LOOPS

13 DS1 and DS3 loops

14 The FCC stated clearly in the TRRO, again, that CLECs must transition
15 their Embedded Base and Excess DS1 and DS3 Loops to alternative
16 arrangements *by* March 11, 2006 (or September 10, 2006 in the case of
17 dark fiber loops). The FCC stated, with regard to DS1 and DS3 loops, for
18 example: "Because we remove a significant high-capacity loop unbundling
19 obligations formerly placed on incumbent LECs, ..., we find it prudent to
20 establish a plan to facilitate the transition of UNEs to alternative loop
21 options. Specifically, we adopt a twelve-month plan for competing carriers
22 to transition to alternative facilities or arrangements, including self-
23 provided facilities, alternative facilities offered by other carriers, or tariffed
24 services offered by the incumbent LEC. " (*TRRO at ¶195*)

1 Here again, the FCC explained that it established a 12-month transition
2 period to allow the parties time to “perform the tasks necessary to an
3 orderly transition....”² To comply with the FCC’s objectives, BellSouth is
4 asking CLECs to submit spreadsheets by December 9, 2005, to
5 disconnect or convert their Embedded Base and Excess DS1 and DS3
6 Loops to other BellSouth services. If a CLEC fails to submit such
7 spreadsheets by December 9, 2005, BellSouth should be permitted to
8 identify all such remaining Embedded Base and Excess DS1 and DS3
9 loops and transition such circuits to corresponding BellSouth tariffed
10 services no later than March 10, 2006. Such lines shall be subject to
11 applicable disconnect charges and full nonrecurring charges as set forth in
12 BellSouth’s tariffs.

13

14 Dark Fiber Loops

15 BellSouth is asking CLECs to submit spreadsheets to disconnect or
16 convert their Embedded Base Dark Fiber Loops to other BellSouth
17 services by June 10, 2006. If a CLEC fails to submit such spreadsheets by
18 June 10, 2006, BellSouth’s position is that it may identify all such
19 remaining Embedded Base Dark Fiber Loops and transition such circuits
20 to the corresponding BellSouth tariffed service no later than September
21 10, 2006. Such lines shall be subject to applicable disconnect charges
22 and full nonrecurring charges as set forth in BellSouth’s tariffs.

23

24 DEDICATED TRANSPORT

² TRRO at ¶ 196

1 DS1 and DS3 Dedicated Transport

2 As with the aforementioned elements, the FCC made clear its intention for
3 CLECs to transition their embedded base and excess DS1, DS3 and Dark
4 Fiber Transport to alternative arrangements by March 11, 2006. For
5 example, with respect to DS1 and DS3 dedicated transport, the FCC
6 stated: “Because we remove significant dedicated transport unbundling
7 obligations, ..., we find it prudent to establish a plan to facilitate the
8 transition from UNEs to alternative transport options, including special
9 access services offered by the incumbent LECs. Specifically, for DS1 and
10 DS3 dedicated transport we adopt a twelve-month plan for competing
11 carriers to transition to alternative facilities or arrangements...” (TRRO at
12 ¶142)

13
14 BellSouth is asking CLECs to submit spreadsheets by December 9, 2005,
15 identifying all Embedded Base and Excess DS1 and DS3 Dedicated
16 Transport and DS1 and DS3 Entrance Facilities to be disconnected or
17 converted to other BellSouth services. If a CLEC fails to submit such
18 spreadsheets by December 9, 2005, BellSouth should be permitted to
19 identify any remaining Embedded Base and Excess DS1 and DS3
20 Dedicated Transport as well as DS1 and DS3 Entrance Facilities and
21 convert such circuits to corresponding BellSouth tariff services no later
22 than March 10, 2006, and that such circuits shall be subject to all
23 applicable disconnect charges and full non-recurring charges as set forth
24 in BellSouth’s tariffs.

25

1 Dark Fiber Transport

2 BellSouth is asking CLECs to submit by June 10, 2006, spreadsheets
3 identifying all Embedded Base Dark Fiber Transport to be disconnected or
4 converted to other BellSouth services. If a CLEC fails to submit such
5 spreadsheets by June 10, 2006, BellSouth's position is it may identify all
6 remaining Embedded Base Dark Fiber Transport and convert such circuits
7 to the corresponding BellSouth tariff service by September 11, 2006, and
8 such circuits shall be subject to applicable disconnect charges and full
9 non-recurring charges as set forth in BellSouth's tariffs.

10
11 To be absolutely clear, once again, what BellSouth is requesting is that
12 the Commission make it clear that all conversions must occur prior to
13 March 11, 2006 or, in the case of dark fiber, September 11, 2006. In an
14 effort to ensure that end-user services are not disrupted because a CLEC
15 has failed to arrange for the proper conversions, BellSouth has provided
16 alternatives that unconverted elements can be changed to, for all
17 elements other than stand-alone switching (for which BellSouth does not
18 offer an alternative other than in its commercial agreement). However,
19 just as was the case with the March 11, 2005 date regarding no "new
20 adds," the March 11, 2006 date (September 11, 2006 for dark fiber) is a
21 final date, not merely a suggestion. The FCC has provided an ample
22 conversion period. BellSouth is willing and able to work with the CLECs to
23 facilitate an orderly conversion. The conversions cannot, however, be left
24 to the last minute, or last day. Should any CLEC elect to follow that
25 course, it should be prepared for the consequences. If the CLECs meet

1 the dates that BellSouth has requested, BellSouth will make the
2 conversions before March 11, 2006.

3

4 Q. WHAT RATES, TERMS AND CONDITIONS DOES BELLSOUTH
5 PROPOSE TO GOVERN EACH OF THE AFOREMENTIONED
6 ELEMENTS IF THEY ARE NOT CONVERTED TO ALTERNATIVE
7 ARRANGMENTS BY MARCH 11, 2006?

8

9 A. My response to this question is broken into subparts for each element
10 below:

11

12 LOCAL SWITCHING

13 For CLECs that had an interconnection agreement with BellSouth as of
14 March 11, 2005, BellSouth proposes the language contained in Sections
15 4.2.5 – 4.2.6 of Exhibit PAT-1 to my testimony for stand alone ports and in
16 Sections 5.4.3.5 – 5.4.3.6 of Exhibit PAT-1 to my testimony for UNE-P.

17

18 DS1 AND DS3 LOOPS

19 For CLECs that had an interconnection agreement with BellSouth as of
20 March 11, 2005, this language is set forth in Sections 2.1.4.11 – 2.1.4.11.2
21 of Exhibits PAT-1 to my testimony.

22

23 DARK FIBER LOOPS

24 For CLECs that had an interconnection agreement with BellSouth as of
25 March 11, 2005, BellSouth proposes the language contained in Sections

1 2.8.4.7 – 2.8.4.7.2 of Exhibit PAT-1 to my testimony.

2

3 DS1 AND DS3 DEDICATED TRANSPORT

4 For CLECs that had an interconnection agreement with BellSouth as of
5 March 11, 2005, this language is set forth in Sections 6.2.6.9 – 6.2.6.9.2 of
6 Exhibit PAT-1 to my testimony.

7

8 DARK FIBER TRANSPORT

9 For CLECs that had an interconnection agreement with BellSouth as of
10 March 11, 2005, this language is set forth in Sections 6.9.1.9 – 6.9.1.9.2 of
11 Exhibit PAT-1 to my testimony.

12

13 **Issue 14, TRO Commingling: What is the scope of commingling allowed**
14 **under the FCC’s rules and orders and what language should be included in**
15 **Interconnection Agreements to implement commingling (including rates)?**

16

17 Q. HOW DOES THE FCC DEFINE COMMINGLING?

18

19 A. The FCC defines “commingling” in 47 C.F.R. § 51.5. There it states:

20

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

28

29 Q. DID THE FCC CLARIFY WHAT IT MEANT BY “FACILITIES OR

1 SERVICES THAT A REQUESTING TELECOMMUNICATIONS CARRIER
2 HAS OBTAINED AT WHOLESALE FROM AN INCUMBENT LEC” IN ITS
3 RULE?

4

5 A. Yes. The FCC describes these wholesale services in paragraph 579 of
6 the TRO as “switched and special access services offered pursuant to
7 tariff.”

8

9 Q. DO THESE WHOLESALE SERVICES INCLUDE SECTION 271
10 ELEMENTS?

11

12 A. No. The FCC made clear in its TRO Errata Order that ILECs are not
13 obligated to combine UNEs and UNE combinations with Section 271
14 elements.

15

16 In paragraph 27 of its Errata Order, the FCC revised the first sentence of
17 paragraph 584 in Part VIII A of the TRO by removing the italicized portion
18 below: “As a final matter, we require that incumbent LECs permit
19 commingling of UNEs and UNE combinations with other wholesale
20 facilities and services, including *any network elements unbundled*
21 *pursuant to section 271 and any services offered for resale pursuant to*
22 *section 251(c)(4) of the Act.” That deletion makes clear the FCC’s intent*
23 *that ILECs are not required to commingle UNE and UNE combinations*
24 *with Section 271 elements.*

25

1 Some CLECs have attempted to confuse this issue by citing another
2 portion of the Errata Order, where the FCC removed the sentence in italics
3 below from footnote 1990:

4
5 We decline to require BOCs, pursuant to section 271, to combine
6 network elements that no longer are required to be unbundled
7 under section 251. Unlike section 251(c)(3), items 4-6 and 10 of
8 section 271's competitive checklist contain no mention of
9 "combining" and, as noted above, do not refer back to the
10 combination requirement set forth in section 251(c)(3). *We also*
11 *decline to apply our commingling rule, set forth in Part VII A, above*
12 *to services that must be offered pursuant to these checklist items.*

13
14 This Commission should not be fooled. The FCC revised the text of the
15 TRO specifically addressing this issue, and that demonstrates expressly
16 the FCC's intent that ILECs are not required to commingle UNEs with
17 section 271 elements. With the change to make that clear in the body of
18 the Order, there was no reason to include the footnote language the FCC
19 removed in the Errata Order.

20
21 Q. DO STATE COMMISSIONS HAVE JURISDICTION TO RESOLVE
22 WHETHER THE FCC INTENDED FOR ILECS TO COMMINGLE UNES
23 AND UNE COMBINATIONS WITH SECTION 271 ELEMENTS?

24
25 A. My lay understanding is that state commissions do not have jurisdiction
26 over decisions related to an ILEC's 271 obligations. The Act makes clear
27 that such decisions fall within the exclusive jurisdiction of the FCC. This
28 has been discussed extensively in the briefs filed in this proceeding by
29 BellSouth and I will defer to the comments made there.

1

2 Q. NOW THAT YOU HAVE ADDRESSED THE CLEC'S "271" ARGUMENT
3 RELATED TO COMMINGLING, PLEASE TELL US TO WHAT EXTENT
4 COMMINGLING IS ALLOWED PURSUANT TO THE TRO.

5

6 A. CLECs are permitted to commingle, or connect, attach, or otherwise link, a
7 UNE or UNE combination with one or more of BellSouth's tariffed access
8 services.

9

10 Q. IS BELLSOUTH OBLIGATED TO COMMINGLE EITHER ITS UNES OR
11 TARIFFED SERVICES WITH ANOTHER CARRIER'S SERVICES?

12

13 A. No. Neither the TRO nor the TRRO imposes any obligation on ILECs to
14 permit CLECs to commingle either their service, or a third party's service,
15 with an ILEC UNE or tariffed service. The FCC's commingling rule
16 requires only that "an incumbent LEC shall permit a requesting
17 telecommunications carrier to commingle a UNE or a UNE combination
18 with one or more facilities or services *that a requesting carrier has*
19 *obtained at wholesale from an incumbent LEC* pursuant to a method other
20 than unbundling under section 251(c)(3) of the Act." TRO at ¶ 579
21 (emphasis added). Clearly, the FCC did not require ILECs to permit
22 commingling of their services with any random service offered by another
23 carrier.

24

25 Q. IS BELLSOUTH REQUIRED TO RATCHET INDIVIDUAL FACILITIES

1 AND, IF NOT, HOW SHOULD BILLING FOR SUCH CIRCUITS BE
2 HANDLED?

3

4 A. No, BellSouth is not obligated to ratchet individual facilities. The FCC
5 made this clear in paragraph 580 of the TRO, where it stated: "...we do
6 not require incumbent LECs to 'ratchet' individual facilities." It likewise
7 stated in paragraph 582 of the TRO: "We decline, however, to require
8 'ratcheting,' which is a pricing mechanism that involves billing a single
9 circuit at multiple rates to develop a single blended rate." The FCC went
10 on, in paragraph 582, to address how billing of these circuits should be
11 handled. It stated that ILECs are permitted to "assess the rates for UNEs
12 (or UNE combinations) commingled with tariffed access services on an
13 element-by-element and a service-by service basis." In footnote 1796 of
14 the TRO, the FCC provided an example of a CLEC combining a UNE loop
15 to special access interoffice transport, and stated that the CLEC would
16 pay "UNE rates for the unbundled loops and tariffed rates for the special
17 access circuit." Therefore, BellSouth will bill the UNE portion of the circuit
18 at the rates set forth in the CLEC's interconnection agreement, and the
19 remainder of the circuit at the applicable tariff rate, or at the rates set forth
20 in a separate agreement between the parties.

21

22 Q. WHAT LANGUAGE DOES BELLSOUTH PROPOSE TO IMPLEMENT
23 COMMINGLING IN ITS INTERCONNECTION AGREEMENTS?

24

25 A. BellSouth is proposing the same language for both existing and new

1 CLECs. This language is set forth in Sections 1.11 – 1.12 of Exhibits
2 PAT-1 and PAT-2 to my testimony.

3

4 **Issue 15, TRO – Conversions: Is BellSouth required to provide conversion**
5 **of special access circuits to UNE pricing, and, if so, at what rates, terms**
6 **and conditions and during what timeframe should such new requests for**
7 **such conversions be effectuated?**

8

9 Q. WHAT ARE THE FCC'S RULES REGARDING CONVERSIONS?

10

11 A. In the TRO, the FCC concluded that carriers can convert either 1) UNE or
12 UNE combinations to wholesale services, or 2) wholesale services to UNE
13 and UNE combinations, provided the CLEC meets any applicable service
14 eligibility criteria. If the circuit fails to meet any applicable eligibility criteria,
15 the ILEC can convert the UNE or UNE combination back to the equivalent
16 wholesale service. In the TRRO, the FCC specifically prohibited CLECs
17 from using UNEs or converting special access circuits to UNEs for the
18 exclusive purpose of providing long distance or mobile service.³

19

20 Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?

21

22 A. BellSouth's position is that it is required to convert special access services
23 to UNE pricing, subject to the FCC's limitations on high-capacity EELs,
24 and to convert UNE circuits to special access services, provided that the

³ TRRO, at ¶¶ 229 and 230

1 requesting CLEC's contract has these terms incorporated in its contract.
2 BellSouth believes the same conversion rate should apply regardless of
3 the conversion and has offered that the conversion be effective as of the
4 next billing cycle following receipt of a complete and accurate request for
5 such a conversion. However, conversions should be limited to switch-as-
6 is arrangements. If physical changes to the circuit are required, it should
7 not be considered a conversion, and the full nonrecurring disconnect and
8 installation charges should apply. In addition, conversions should be
9 considered termination for purposes of any applicable volume and term
10 discount plan or grandfathered arrangements.

11

12 Q. WHAT IS BELLSOUTH'S PROPOSED LANGUAGE TO ADDRESS THIS
13 ISSUE?

14

15 A. BellSouth is proposing the same language for both existing and new
16 CLECs. This language is set forth in Sections 1.6, 1.13.1 and 1.13.2 of
17 Exhibits PAT-1 and PAT-2 of my testimony:

18

19 Q. WHAT IS BELLSOUTH'S PROPOSED RATE IN KENTUCKY FOR
20 SWITCH-AS-IS CONVERSIONS?

21

22 A. In Kentucky, BellSouth proposes \$24.96 for the first single DS1 or lower
23 capacity loop conversion on an LSR and \$3.52 per loop for additional loop
24 conversions on that LSR. For a project consisting of 15 or more loops
25 submitted on a single spreadsheet, BellSouth is proposing \$26.44 for the

1 first loop and \$5.01 for each additional loop on the same LSR generated
2 via a spreadsheet. For DS3 and higher capacity loops and for interoffice
3 transport conversions, BellSouth proposes a rate of \$40.26 for the first
4 single conversion on an LSR and \$13.51 per loop for additional single
5 conversions on that LSR. For a project consisting of 15 or more such
6 elements in a state submitted on a single spreadsheet, BellSouth is
7 proposing \$64.05 for the first loop and \$25.62 for each additional loop
8 conversion on that same spreadsheet. The Commission previously
9 ordered a rate of \$8.98 for EEL conversions.

10

11 **Issue 16, TRO-Conversions: What are the appropriate rates, terms and**
12 **conditions and effective dates, if any, for conversion requests that were**
13 **pending on the effective date of the TRO?**

14

15 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

16

17 A. BellSouth's position is that the terms of interconnection agreements in
18 effect on the effective date of the TRO are the appropriate rates, terms,
19 conditions, and effective dates for EEL conversion requests that were
20 pending on that date.

21

22 It is my understanding that some carriers may try to claim that the TRO
23 somehow held a retroactive requirement for ILECs to honor "pending
24 CLEC requests" for conversion of individual elements, rather than
25 combinations, to UNEs in spite of the fact that no rates, terms, or

1 conditions for such conversions existed in interconnection agreements
2 and ILECs had had no obligation to perform such conversions up to that
3 point. However, there is no basis for this claim.

4

5 Q. PLEASE EXPLAIN HOW YOU CONCLUDE THAT ILECS DID NOT HAVE
6 AN OBLIGATION TO PERFORM STAND-ALONE ELEMENT
7 CONVERSIONS PRIOR TO THE TRO.

8

9 A. First, neither the FCC nor any other regulatory body had issued an order
10 obligating ILECs to perform stand-alone element conversions. In the
11 TRO, the FCC held, for the first time, that ILECs had an obligation to
12 convert special access circuits to stand-alone UNEs at TELRIC rates.
13 (*TRO* at ¶¶ 586-87).

14

15 Second, the language of the TRO itself makes clear that this was a new
16 requirement. In paragraph 585 of the TRO, the FCC said: “We
17 decline...to adopt rules *establishing* specific procedures....” (emphasis
18 added) and “...carriers *can establish* any necessary procedures to perform
19 conversions....” (emphasis added). In the next paragraph, the FCC stated:
20 “We conclude that carriers may both convert UNEs and UNE
21 combinations to wholesale services and convert wholesale service to
22 UNEs and UNE combinations...” This language makes clear that this was
23 a new requirement, and not a modification of any previous requirement.

24

25 That point is also made clear by comparing the language above to the

1 language addressing conversion of combinations in the TRO. The FCC
2 stated in Paragraph 573: “We *reaffirm* our existing rules regarding UNE
3 combinations.” (emphasis added) Paragraph 574 says: “We *reiterate* the
4 conditions that apply to the duty of [ILECs] to provide UNE combinations
5 upon request....” (emphasis added). In addition, paragraph 575 says:
6 “...our rules *currently require* [ILECs] to make UNE
7 combinations...available....” (emphasis added).

8

9 Q. WHY DO CLECS THEN CLAIM THAT ILECS WERE REQUIRED BY THE
10 TRO TO CONVERT STAND-ALONE ELEMENTS IF THE CLEC HAD
11 REQUESTED SUCH CONVERSIONS IN THE PAST?

12

13 A. CLECs argue that paragraph 589 of the TRO supports this position.
14 However, paragraph 589 discusses EELs, and only EELs. This paragraph
15 required that for pending EEL requests that had not been converted
16 (whether or not they would actually be converted due to the change in the
17 qualifying criteria, i.e., the TRO’s service eligibility criteria), CLECs were
18 entitled to a true-up to the effective date of the TRO. Specifically,
19 paragraph 589 of the TRO states:

20

21 As a final matter, we decline to require retroactive billing to any time
22 before the effective date of this Order. The eligibility criteria we
23 adopt in this Order supersede the safe harbors that applied to EEL
24 conversions in the past. To the extent pending requests have not
25 been converted, however, competitive LECs are entitled to the
26 appropriate pricing up to the effective date of this Order.

27

28 There is nothing in this paragraph that addresses the conversion or

1 requested conversion of individual elements.

2

3 Q. WAS THIS PORTION OF THE TRO SELF-EFFECTUATING?

4

5 A. No. In the TRO, the FCC expressly stated that the change in law
6 procedures set forth in the interconnection agreements were the
7 appropriate means to implement the obligations set forth in the TRO.

8 “We decline the request of several BOCs that we override the section 252
9 process and unilaterally change all interconnection agreements to avoid
10 any delay associated with renegotiation of contract provisions.” (TRO at
11 ¶701).

12

13 **Issue 22, TRO – Call Related Databases: What is the appropriate ICA**
14 **language, if any to address access to call related databases?**

15

16 Q. AS AN INITIAL MATTER, PLEASE IDENTIFY THE CALL RELATED
17 DATABASES.

18

19 A. The FCC defines call related databases as “databases that are used in
20 signaling networks for billing and collection or for the transmission, routing
21 or other provision of telecommunications services.”⁴ It identifies the
22 following databases as call-related databases: 1) Line Information
23 Database Base (“LIDB”), 2) Calling Name and Number (“CNAM”), 3) Toll
24 Free Calling, 4) Local Number Portability (“LNP”), 5) Advanced Intelligent

⁴ TRO at ¶ 549

1 Network ("AIN"), and 6) E911.

2

3 Q. UNDER WHAT CIRCUMSTANCES IS BELLSOUTH OBLIGATED TO
4 PROVIDE UNBUNDLED ACCESS TO ITS CALL RELATED
5 DATABASES?

6

7 A. BellSouth is obligated to provide unbundled access to call-related
8 databases only while it is obligated to provide unbundled access to local
9 switching.

10

11 The FCC relieved ILECs of their obligation to provide unbundled access to
12 DS1 level switching when it released the TRO almost two years ago.
13 Therefore, BellSouth is no longer obligated to provide unbundled access
14 to call-related databases associated with DS1 level switching.

15

16 Subsequently, in the TRRO, the FCC relieved ILECs of their obligation to
17 provide unbundled access to DS0 level switching, subject to the transition
18 period established in that Order. As a result, BellSouth is only obligated to
19 provide unbundled access to call-related databases associated with DS0
20 level switching through the end of the 12 month transition period for
21 switching, or until March 10, 2006. Thereafter, call related databases will
22 no longer be available on an unbundled basis.

23

24 Q. WHAT LANGUAGE SHOULD BE INCLUDED IN THE
25 INTERCONNECTION AGREEMENT TO ADDRESS CALL-RELATED

1 DATABASES?

2

3 A. For CLECs that had an interconnection agreement with BellSouth as of
4 March 11, 2005, BellSouth proposes the language contained in Sections 7
5 and 8 of Exhibit PAT-1 to my testimony. This language works in
6 conjunction with BellSouth's proposed language for Local Switching and
7 UNE-P, and must accompany that language. Again, BellSouth is only
8 obligated to provide unbundled access to call-related databases while it is
9 still obligated to provide unbundled access to local switching and UNE-P.
10 BellSouth is not proposing rates, terms and conditions for call-related
11 databases with new CLECs that sign an interconnection agreement with
12 BellSouth after March 11, 2005, for the same reason BellSouth is not
13 proposing rates, terms and conditions for switching and UNE-P in
14 interconnection agreements with new CLECs.

15

16 **Issue 29: What is the appropriate ICA language to implement BellSouth's**
17 **EEL audit rights, if any, under the TRO?**

18

19 Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?

20

21 A. BellSouth's position is that the FCC was clear in stating the parameters of
22 an EELs audit. The language in the interconnection agreements should
23 reflect these parameters and need not go further. The TRO requires that:
24 1. ILECs may audit on an annual basis to determine compliance with the
25 qualifying service eligibility criteria;

- 1 2. ILECs initially obtain and pay for the auditor;
- 2 3. Auditors must be independent pursuant to American Institute for
- 3 Certified Public Accountants (AICPA) standards for independence;
- 4 4. The audit must be performed in accordance with AICPA standards for
- 5 an “examination engagement;”
- 6 5. The auditor determines material compliance or non-compliance;
- 7 6. CLECs who are determined by the auditor to have failed to comply with
- 8 the service eligibility requirements are required to true-up any
- 9 difference in payments, convert noncompliant circuits and make
- 10 correct payments on a going-forward basis;
- 11 7. CLECs who are determined by the auditor to have failed to comply with
- 12 the service eligibility requirements must reimburse the ILEC for the
- 13 cost of the auditor;
- 14 8. ILECs must reimburse CLECs who are determined by the auditor to
- 15 have complied with the service eligibility requirements for its
- 16 demonstrable costs associated with the audit; and
- 17 9. CLECs must maintain the appropriate documentation to support their
- 18 certifications of compliance with the service eligibility requirements.

19

20 Q. WHAT IS BELLSOUTH’S PROPOSED LANGUAGE ON THIS ISSUE?

21

22 A. BellSouth is proposing the same language for both existing and new
23 CLECs. For CLECs that had an interconnection agreement with BellSouth
24 as of March 11, 2005, this language is set forth in Section 5.3.4.3 of
25 Exhibit PAT-1 to my testimony. For CLECs that did not have an

1 interconnection agreement with BellSouth prior to March 11, 2005, this
2 language is set forth in Section 4.3.4.3 of Exhibit PAT-2 to my testimony.

3

4 Q. IS THERE ANY REASON TO INCLUDE A LIST OF "ACCEPTABLE"
5 AUDITORS IN THE INTERCONNECTION AGREEMENT?

6

7 A. No. Because the TRO and the ICA language proposed by BellSouth
8 include the requirement that the AICPA standards be followed, any auditor
9 who can meet those standards should be acceptable. There is no
10 conceivable reason for requiring that the universe of auditors be limited
11 beyond that standard nor be limited before any auditor is given the chance
12 to make a proposal to perform an audit.

13

14 Further, there is no requirement that the parties must agree to a particular
15 auditor. Even if a list of "acceptable" auditors is written into the
16 agreement, a CLEC might assert that it must agree to the particular
17 auditor before the audit takes place. This would not only lead to great
18 increases in the expense to both parties, but also would lead to endless
19 delays and provide a convenient means for CLECs to avoid an audit
20 altogether.

21

22 Q. WHEN MUST A CLEC REIMBURSE AN ILEC FOR THE COST OF THE
23 AUDITOR?

24

25 A. The TRO says in paragraph 627 that "...we retain the requirement

1 adopted in the *Supplemental Order Clarification* concerning payment of
2 the audit costs in the event the independent auditor concludes the
3 competitive LEC failed to comply with the service eligibility criteria.”
4 Further, footnote 1907 clarifies the *Supplemental Order Clarification* as
5 requiring Competitive LECs to “reimburse the incumbent if the audit
6 uncovers noncompliance with the local usage options.” Paragraph 627
7 goes on to say that “to the extent the independent auditor’s report
8 concludes that the competitive LEC failed to comply in all material
9 respects with the service eligibility criteria, the competitive LEC must
10 reimburse the incumbent LEC for the cost of the independent auditor.”

11

12 Q. WHEN MUST AN ILEC REIMBURSE A CLEC FOR ITS
13 DEMONSTRABLE COSTS OF THE AUDIT?

14

15 A. The TRO says in paragraph 628 that “to the extent the independent
16 auditor’s report concludes that the requesting carrier complied in all
17 material respects with the eligibility criteria, the incumbent LEC must
18 reimburse the audited carrier for its costs associated with the audit.”

19

20 Q. THE LANGUAGE IN THE TRO FOR THESE TWO INSTANCES IS VERY
21 SIMILAR. WHY DOESN’T BELL SOUTH PROPOSE TO USE THE
22 PHRASE “IN ALL MATERIAL RESPECTS” IN BOTH CASES?

23

24 A. Through discussions with CLECs in attempting to negotiate this language,
25 it became apparent that at least some CLECs would attempt unreasonably

1 to twist the meaning of “all.” Some CLECs indicated that they would argue
2 that they were not responsible for the cost of the auditor unless the auditor
3 found that they did not comply in any respect with the service eligibility
4 criteria. In other words, the CLECs argue that the sentence means “failed
5 in all material respects.” However, while I am not a grammar scholar, the
6 rules of English grammar suggest that the phrase “in all material respects”
7 was intended to modify “comply,” not “failed.” The reading requires that
8 the CLEC pay for the cost of the auditor if the CLEC did not materially
9 comply with the service eligibility requirements. This may mean that the
10 auditor determines that the CLEC did not comply with one portion of the
11 criteria, for instance, they did not have sufficient local interconnection
12 trunks in a LATA or some percentage of the circuits in question did not
13 meet the criteria. Whatever the noncompliance, to the extent the auditor
14 determines that this noncompliance is material, the CLEC would be
15 responsible for the cost of the audit even if each of the other criteria has
16 been met to the auditor’s satisfaction. To clarify this reading, BellSouth’s
17 proposal includes “any material respect” in the provision that governs
18 when the CLEC is responsible for the cost of the auditor. Similar
19 language changes were not needed with respect to the provision which
20 governs when an ILEC is responsible for reimbursing the CLEC’s
21 demonstrable audit costs since no CLEC has indicated that they would
22 argue that the language says they must have complied in each and every
23 way before being eligible for reimbursement.

24

25 **Issue 31, ISP Remand Core Forbearance Order: What language should be**

1 **used to incorporate the FCC’s ISP Remand Core Forbearance Order into its**
2 **interconnection agreements?**

3

4 Q. CAN YOU BRIEFLY DESCRIBE THE FCC’S ISP REMAND CORE
5 FOREBEARANCE ORDER?

6

7 A. Yes. In July 2004, Core Communications filed a petition requesting that
8 the FCC forbear from applying the provisions of the FCC’s Order on
9 Remand and Report and Order in CC Docket 99-68 released April 27,
10 2001 (“ISP Remand Order”). Specifically, Core requested that the FCC
11 forbear from applying the rate caps, growth caps, new markets rule, and
12 mirroring rule of the ISP Remand Order. In the Core Order, the FCC
13 granted Core’s request in relation to the application of growth caps and
14 the new market rule, but the FCC rejected Core’s request for forbearance
15 from the rate caps and the mirroring rule.

16

17 Q. WHAT ARE THE RATE CAPS, GROWTH CAPS, NEW MARKETS RULE,
18 AND MIRRORING RULE?

19

20 A. The FCC’s ISP Remand Order established that ISP-Bound Traffic is
21 “information access” subject to Section 251(g) of the Telecommunications
22 Act, therefore a part of the FCC’s jurisdiction. The compensation method
23 for ISP-bound Traffic consisted of growth caps, rate caps, as well as the

1 new markets and the mirroring rule.⁵ The FCC established growth caps to
2 place a limit on the number of ISP-bound minutes for which a CLEC could
3 collect compensation. The CLEC could not receive any compensation on
4 such minutes over the established cap.

5
6 Rate caps are limits on the per minute of use compensation rate applied to
7 ISP-bound Traffic eligible for compensation. The declining rate structure
8 was established as follows:

9 June 2001 through December 2001: \$0.0015

10 December 2001 through June 2003: \$0.0010

11 June 2003 until issuance of subsequent Order (current rate): \$0.0007

12

13 The new markets rule established that a CLEC did not qualify for
14 compensation on ISP-Bound Traffic in any state where the CLEC was not
15 being compensated for such traffic in the first quarter of 2001. The new
16 markets rule disallowed compensation to new market entrants and to
17 established CLECs who had entered into a bill and keep arrangement for
18 ISP-bound Traffic, because in both cases, the CLEC business plan was
19 not dependent on compensation for such traffic.

20

21 The mirroring rule requires that if ILECs want to utilize the rate caps
22 described above for ISP-bound traffic, the ILECs must also offer to
23 exchange traffic subject to section 251(b)(5), or what is commonly referred

⁵ ISP Remand Order- paragraphs 78-80

1 to as "Local Traffic," at the same declining rate as set forth in the rate caps
2 for ISP-bound Traffic. So long as the ILEC offers to exchange both Local
3 Traffic and ISP-bound Traffic at the capped rates, the CLEC may choose
4 either the capped rate for both ISP-bound Traffic and Local Traffic, or may
5 choose the capped rate for ISP-bound Traffic and the state ordered
6 elemental rates for Local Traffic. Of course, the parties are free to agree
7 on bill and keep or any other compensation mechanism.

8

9 Q. DOES BELLSOUTH AGREE THAT THE CORE PETITION SHOULD BE
10 INCORPORATED IN CLEC INTERCONNECTION AGREEMENTS?

11

12 A. Yes. I will discuss this more fully below as there are some qualifiers to my
13 response.

14

15 Q. IS IT POSSIBLE TO IMPLEMENT THIS ORDER IN THE SAME WAY
16 WITH EVERY CLEC IN BELLSOUTH'S REGION?

17

18 A. No. This order should be handled on a case by case basis for the
19 following reasons.

20

21 The mirroring rule allows for different rate structures that could be applied
22 at the discretion of the CLEC. In other words, the CLEC may choose
23 either the capped rate for both ISP-bound Traffic and Local Traffic, or may

1 choose the capped rate for ISP-bound Traffic and the state ordered
2 elemental rates for Local Traffic. If the Commission were to set forth a
3 unilateral regime implementing the Core Order, the CLEC would no longer
4 have the right to choose from these two rate structures.

5
6 BellSouth has also entered into carrier specific settlements that address
7 the compensation of ISP-bound Traffic, making a unilateral approach
8 unrealistic. Such settlements represented a compromise between the
9 carriers in relation to compensation for ISP-bound Traffic as well as other
10 issues between the companies and, thus, a change in compensation
11 structure would be inconsistent with the settlement agreement

12
13 Finally, certain CLEC's agreements address changes in law differently and
14 therefore the CLEC may not be entitled to implement the Core Order in
15 accordance with the terms of that CLEC's Interconnection Agreement.
16 For instance, Section 2.3 of Part A of the General Terms and Conditions
17 of the interconnection agreement between MCI WorldCom
18 Communications, Inc. ("MCI") and BellSouth dated July 29, 2002 in the
19 state of Kentucky states that:

20
21 MCI or BellSouth may, on thirty (30) days written notice
22 **(delivered not later than thirty (30) days following the**
23 **date on which such action has become legally binding**

1 **and effective)** require that such terms be renegotiated

2 (Emphasis added)

3

4 If MCIIm, or any company that opted in to the MCIIm interconnection
5 agreement, did not provide BellSouth with a request to amend the
6 interconnection agreement within 30 days following the effective date of
7 the Core Order, then such company would not be entitled to amend the
8 interconnection agreement to incorporate the Core Order.

9

10 Q. WHAT LANGUAGE DOES BELLSOUTH PROPOSE TO IMPLEMENT
11 THIS ORDER?

12

13 A. BellSouth's proposed language will vary depending upon the CLEC's
14 specific situation due to the fact that, as discussed above, the parties may
15 be prohibited from implementing the Core decision depending on the
16 terms of the current Interconnection Agreement and any settlement
17 agreement between BellSouth and that CLEC. Additionally, if the parties
18 are not prohibited from implementing the Core decision, the mirroring rule
19 still permits the CLEC to choose between two different rate structures.
20 Thus, there is no one set of language that would address each scenario
21 for compensation of ISP-bound Traffic. In the event a CLEC proposes
22 specific language to address this issue in its direct testimony, I will
23 comment on such language in my rebuttal testimony.

24

1 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

2

3 A. Yes, it does.