

Eric Fogle Summary

Good afternoon. My direct and rebuttal testimony addressed 11 issues on the Joint Issues Matrix and why this Commission should adopt BellSouth's position on each of those issues. Happily, two of those issues are now resolved [#20 and #25]. Some of the remaining issues, such as line sharing are not new to this Commission. Some, such as line conditioning, are also pending in the Joint Petitioners' Arbitration.

Let me overview each of those issues briefly.

Issue 6 relates to high bit rate digital subscriber lines, also known as HDSL. For context, let me say first that HDSL is an underlying technology that is used to provide the high capacity "pipes" often used by large business customers. These loops are commonly known as "T1s", and the FCC has said that a T1 and a DS1 are equivalent. BellSouth's position on Issue 6 is that UNE HDSL loops should be considered the same as DS1 1.544-megabit-per-second lines. BellSouth's position uses a common-sense approach that respects the FCC's ruling on this point. Moreover, for purposes of determining impairment, BellSouth used a conservative approach in its evaluation of non-impaired wire centers - only counting UNE HDSL lines as one business line each in data that was filed with the FCC.

Issues 17, 18, and 19 address line sharing and line splitting. The bottom line is that the FCC has ruled that BellSouth is not obligated to provide new line sharing arrangements, and no CLEC has pointed to any authority to the contrary, nor has any CLEC provided testimony supporting their alternative contract language. BellSouth agrees to abide by the FCC's rules establishing a transition plan for line sharing.

The CLECs' proposed language ignores the FCC's transition plan on line sharing. As the FCC intended, the CLECs can enter into line splitting agreements without any additional assistance required from BellSouth. In fact, this market-based solution is already working, as one CLEC has been quite successful in signing line

splitting agreements, according to their news releases referenced in my testimony. The third related issue boils down to who provides the splitter. BellSouth believes CLECs are not impaired, because they can provide either an inexpensive stand alone splitter or utilize the integrated splitter built into all ADSL platforms.

Issues 23, 24 and 28 address access to loops.

These issues are about the FCC's decision on how best to incent new network investments in areas where new construction exists. In summary, in so-called "greenfield" areas, BellSouth is not obligated to provide access to fiber facilities known as "fiber to the home" and "fiber to the curb", with one limited exception, which is captured in BellSouth's proposed contract language. Furthermore, BellSouth has agreed to comply with the FCC rules requiring only the TDM functionality on hybrid loops, and thus, the Commission should adopt BellSouth's contract language there too. BellSouth's position embraces the FCC's national policy regarding new network deployment in these areas.

Issues 26 and 27 concern the relationship between routine network modifications and line conditioning. This same issue has been raised in the Joint Petitioners Arbitration. BellSouth's position is that BellSouth will provide routine network modifications, including line conditioning, as required by the FCC at parity with what BellSouth does for its own customers. The disagreement here focuses on two issues. The first: should BellSouth condition loops longer than 18,000 feet by removing load coils, or by removing bridged taps for CLECs even though BellSouth does not do these functions for its own customers. And second: what should be the basis for rates to perform work not considered a routine network modification.

BellSouth believes that the FCC meant what it said about routine network modifications being the same for CLECs as BellSouth does for its own customers. For routine network modifications that were included in the cost study, a CLEC can pay the TELRIC rate. For modifications that are not routine, however, BellSouth will perform

such work at tariffed rates appropriate for the work involved, or as otherwise agreed to in industry collaboratives. The real dispute here is that the CLECs don't agree with the FCC's decision that BellSouth should not be required to perform work for CLECs that it does not perform for itself in the course of providing service to its own customers.

This concludes my summary. Thank you.