

# Testimony Summary of Pam Tipton

- **I testify on a number of issues in this proceeding; my summary will focus on 4 overarching issues**
  - Determining where the competitive thresholds are met
  - How and when services are transitioned
  - Commingling
  - EELs Audits
- **In regards to determining where thresholds are met...I acknowledge that in KY, only 2 Wire Centers are at issue**
  - **Parties have reached agreement on process for identifying Fiber Based Collo**
    - The only issue you will be asked to decide is the impact of merger/acquisition
    - If a merger / acquisition occurred after the effective date of TRRO, the merger/acquisition should not be a factor in determining the number of fiber based collocators – the TRRO effective date should govern to ensure there is a date certain upon which a determination can be made
  - **We have a dispute about how business lines are counted pursuant to the Business Line definition in the TRRO – the dispute regards:**
    - The inclusion of ALL UNE loops
    - The inclusion of the entire 64 Kbps equivalent count for each high capacity circuit
    - Several CLECs, including members of CompSouth, evidently agree that BellSouth applied the business line rule as the FCC intended .....and these CLECs spelled it out when they filed a Petition for Reconsideration with the FCC in March

- **The parties have stipulated the specific line counts for the two wire centers with no impairment in Kentucky (the one DS3 transport route and one wire center with DS3 loop relief)**
  
- **Despite the agreement on these two wire centers, I want to ensure this Commission has an understanding of the background:**
  - After the TRO impairment tests were essentially tossed out, numerous ex partes were filed by CLECs and ILECs alike, proposing new impairment tests
  
  - Near the end of the decision timeframe, in December 2004, the FCC specifically asked the ILECs (all ILECs) to file certain pieces of data:
    - **Retail and Resold business access lines from the previous year ARMIS 43-08 report**
    - **All UNE-L lines**
    - **UNE-P business lines**
  
  - The FCC considered this data, added to this “data” to construct its “business line definition” and established the thresholds in the TRRO
  
  - The FCC specifically acknowledged its use of and the appropriateness of the ILEC data in **paragraph 105** of the TRRO

- **Once business line count and fiber based collocation counts (Impairment Tests) are applied, need to transition**
  - No dispute on the start and stop of transition period
  - Dispute on the activities to be completed during the period, and
  - The price CLECs pay
- **While the impact in Kentucky may be minimal, BellSouth needs a somewhat uniform process across its nine-state region**
- **FCC expects the transition to be complete within the transition period**
  - CLECs cannot be permitted to wait until the 11<sup>th</sup> hour
  - FCC clearly prescribed an “orderly transition”
  - BellSouth proposed CLECs submit spreadsheets by October for UNE-P and December for high-cap loops and transport
    - Clearly this will not likely happen as these proceedings are just underway
  - BellSouth has no intent to issue orders immediately – but rather we are seeking to coordinate conversion activity with CLECs
  - Demonstration of that is BellSouth modified its UNE-P to UNE-loop hot cut scheduling tool in August to enable due dates to be established by CLECs as late as March 10
    - CLECs use the tool today – once a particular date is “full”, the next available date is offered
- **Nonetheless, once an element is transitioned, the rate for the new arrangement applies**

- **Commingling** - the issue is this: is BellSouth required to commingle or combine/attach 271 services with 251 elements?
  - BellSouth acknowledges it has a continuing obligation to unbundled elements under section 271
    - In his summary and discussion with Ms. Blake, Mr. Magness implies that nothing changes between section 251 and 271 except price.
    - Ms. Blake referenced numerous paragraphs in the TRO/TRRO that demonstrate that isn't the case
    - The 271 checklist is set apart – and it is clear; elements are offered “unbundled from ...other services”
  - CLECs are doing an end-run on FCC's national UNE-P policy; should be obvious the FCC didn't intend for UNE-P be eliminated then recreated as a mandate under 271
  - The same applies to loops and transport
- **Regarding EEL Audits**
  - BellSouth – preserving the safeguards the FCC put in place – (this Commission is aware of the importance of audits)
  - CLECs have the right to self-certify....BellSouth's right to an annual audit **balances** CLEC self-certification
- **This concludes my summary. Thank you**