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Case No.: TO-2006-0360
Date Testimony Prepared: March 30, 2007

SOUTHWESTERN BELL TELEPHONE, L.P. d/b/a
AT&T MISSOURI

CASE NO. TO-2006-0360

DIRECT TESTIMONY

OF

CAROL A. CHAPMAN

Dallas, Texas

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of NuVox Communications of Missouri, Inc., for an Investigation into the Wire Centers that AT&T Missouri Asserts are Non-Impaired Under the TRRO.	) Case No. TO-2006-0360.

AFFIDAVIT OF CAROL A. CHAPMAN

STATE OF TEXAS)
) SS
COUNTY OF DALLAS)

I, Carol A. Chapman, of lawful age, being duly sworn, depose and state:

1. My name is Carol A. Chapman. I am presently an Associate Director – Wholesale Customer Care for Southwestern Bell Telephone, L.P.
2. Attached hereto and made a part hereof for all purposes is my direct testimony.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

Carol A. Chapman

Subscribed and sworn to before this 21st day of March, 2007.

Notary Public

My Commission Expires: 11-12-2007

TOYA FRAZIER-MAIDEN NOTARY PUBLIC STATE OF TEXAS EXPIRES 11-12-2007

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DIRECT TESTIMONY OF CAROL A. CHAPMAN

I. INTRODUCTION AND PURPOSE OF TESTIMON

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Carol A. Chapman. My business address is 311 S. Akard, Dallas, Texas 75202.

Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR POSITION?

A. I am an Associate Director-Wholesale Customer Care for Southwestern Bell Telephone, L.P. I work on behalf of the AT&T incumbent local exchange carriers ("ILECs"), including AT&T Missouri.[1]

Q. WHAT ARE YOUR CURRENT JOB RESPONSIBILITIES?

A. The primary responsibilities of my current work group are to support the development and management of wholesale products and services for AT&T's wholesale customers (i.e., Competitive Local Exchange Carriers ("CLECs")); to support negotiations of local interconnection agreements ("ICAs") with CLECs; to participate in state arbitration proceedings; and to guide compliance with the Telecommunications Act of 1996 ("Act") and the FCC's rules implementing the Act. I am responsible, in conjunction with others, for researching, formulating, and communicating AT&T's positions regarding the provisioning of various Unbundled Network Elements ("UNEs") and other AT&T wholesale offerings used by CLECs. As part of my responsibilities, I also monitor various state and federal regulatory proceedings, regulations and orders that may affect AT&T's local wholesale operations or current and future ICAs with CLECs. In addition, I represent AT&T's local wholesale positions to regulatory bodies.

[1] AT&T Inc. ("AT&T") was formerly known as SBC Communications Inc. Southwestern Bell Telephone, L.P. does business in Missouri as AT&T Missouri.

Q. PLEASE DESCRIBE YOUR PREVIOUS WORK EXPERIENCE.

A. Prior to my current position, from 1999 to 2000, I was Area Manager - Product Management. In that position, I was responsible for researching, formulating, and communicating AT&T's policy regarding the provision of UNEs used for advanced services to CLEC customers. I was also responsible for leading product teams which developed and provided ongoing enhancements to various advanced service offerings.

My job responsibilities between 1998 and 1999 included developing, writing, and/or modifying the methods and procedures used by the AT&T Southwest region[2] to process CLECs' loop (including DSL loop) and loop qualification requests. In this position, I was involved in AT&T Missouri's initial roll-out of xDSL-loops and in the early development of AT&T Missouri's frame due time ("FDT") hot cut process. I began my career with AT&T in 1997 as Manager at the Local Service Center ("LSC") in Fort Worth, Texas. I was part of the group that handled the initial roll-out of local number portability ("LNP") in the AT&T Southwest region states. In that position, I supervised service representatives who processed CLEC requests for local telecommunications services and handled day-to-day operational issues, questions, and concerns of the CLECs supported by those service representatives.

Q. HAVE YOU PREVIOUSLY TESTIFIED IN REGULATORY PROCEEDINGS?

A. Yes. I have filed written testimony and/or provided live testimony as a subject matter expert on various AT&T ILEC product offerings before this Commission and before state regulatory agencies in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Nevada, Ohio, Oklahoma, Texas and Wisconsin.

[2] When used in this Testimony, the term "AT&T Southwest region" refers to AT&T's incumbent local exchange areas in Arkansas, Kansas, Missouri, Oklahoma, and Texas.

I have also testified and/or filed affidavits as a subject matter expert on AT&T's advanced services offerings in state and/or federal 271 proceedings for Arkansas, California, Kansas, Illinois, Indiana, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin.

Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

A. My direct testimony supports AT&T Missouri's request that the Commission review and approve AT&T Missouri's designations of certain wire centers under the FCC's rules implemented in connection with the FCC's *Triennial Review Remand Order* ("*TRRO*").[3]

More particularly, my direct testimony explains and supports the counting methodology used by AT&T Missouri in making its wire center determinations in Missouri. As will be explained in greater detail below, the FCC intended that its rules governing access to dedicated transport and high-capacity loops be administratively simple[4] by requiring evaluations of impairment to be based upon "objective and readily identifiable facts" which the FCC identified.[5] I demonstrate that AT&T Missouri's implementation of the FCC's rules is in keeping with the FCC's prescribed approach.

I provide an overview of the counting methodology used by AT&T Missouri to support the wire center designations it filed with the FCC and this Commission. I also discuss the reasons that AT&T Missouri used this methodology. Next, I show the results of the application of AT&T Missouri's wire center counting methodology and provide a list of those wire centers where the objective and readily available information establishes that

[3] 20 FCC Rcd 2533 (2005). The Circuit Court of Appeals later affirmed the *TRRO*. See, Covad Communications Co. v. FCC, 450 F. 3d 528 (D.C. Cir. 2006).
[4] *TRRO* ¶ 3.
[5] *TRRO* ¶ 234.

no impairment exists under the FCC's rules.[6] Mr. Marvin Nevels also provides direct testimony on behalf of AT&T Missouri giving a more detailed discussion of the activities and network-related considerations associated with the fiber-based collocator count. Together, our direct testimonies establish that the counting methodology used by AT&T Missouri is consistent with the methodology required by the FCC and should be approved by the Commission.

II. BACKGROUND OF THE FCC'S IMPAIRMENT RULES

Q. WHAT IS THE PURPOSE OF THE WIRE CENTER DESIGNATIONS?

A. In the *TRRO*, the FCC adopted an "impairment framework" for high-capacity UNE loops and dedicated interoffice transport that it intended to be "*self-effectuating*, forward-looking, and consistent with technology trends that are reshaping the industry."[7] To this end, the FCC announced a framework "based upon *objective and readily obtainable facts*, such as the number of business lines or the number of facilities-based competitors in a particular market."[8]

Under the FCC's framework, whether an ILEC like AT&T Missouri is required to provide unbundled access to high-capacity (DS1 or DS3) loops depends on whether the serving wire center serves a threshold number of "business lines" and unaffiliated "fiber-based collocators," both of which are defined in FCC Rule 51.5 (47 C.F.R. § 51.5). Similarly, whether an ILEC must provide unbundled access to DS1, DS3 and dark fiber

[6] In addition to the list of wire centers that met the non-impairment thresholds established by the FCC in its implementing rules as of the effective date of the *TRRO* (March 11, 2005), I have also identified modifications to the wire center designations that AT&T Missouri has made in accordance with commitments made to the FCC as part of the SBC/AT&T merger and the AT&T/BellSouth merger.

[7] *TRRO* ¶ 3 (emphasis added).

[8] *TRRO* ¶ 234 (emphasis added).

dedicated interoffice transport facilities depends on whether those facilities connect a pair of wire centers, both of which either contain a specified minimum number of unaffiliated fiber-based collocators or serve a minimum number of business access lines.[9]

Q. WHAT ARE THE SPECIFIC WIRE CENTER THRESHOLDS ESTABLISHED BY THE FCC IN THE *TRRO*?

A. The *TRRO* held that CLECs are not impaired without unbundled access to DS3 UNE loops in wire centers with at least 38,000 business lines *and* four (4) or more unaffiliated fiber-based collocators. For DS1 loops, the *TRRO* held that CLECs are not impaired without unbundled access in wire centers with at least 60,000 business lines *and* four (4) or more unaffiliated fiber-based collocators.[10] With respect to high capacity unbundled dedicated interoffice transport, the *TRRO* held that CLECs are not impaired without access to unbundled DS1 dedicated interoffice transport on any route connecting two wire centers where both wire centers contain at least 38,000 business lines *or* four (4) or more unaffiliated fiber-based collocators ("Tier 1" wire centers).[11] For dark fiber and DS3 dedicated interoffice transport, CLECs are not impaired without unbundled access on any route between wire centers that are either Tier 1 wire centers (discussed above) or non-Tier 1 wire centers that contain at least 24,000 business lines *or* three (3) or more unaffiliated fiber-based collocators ("Tier 2" wire centers).[12]

[9] *TRRO* ¶ 5.
[10] 47 C.F.R. § 51.319(a)(4) & (5).
[11] Tier 1 wire centers also include any AT&T Missouri tandem switching locations that have no line-side switching facilities, but nevertheless serve as a point of traffic aggregation accessible by competitive LECs. *See* 47 C.F.R. 51.319(e)(3)(i).
[12] 47 C.F.R. § 51.319(e).

Q. WHAT DO YOU BELIEVE ARE THE KEY DISPUTES BETWEEN AT&T MISSOURI AND THE CLEC PARTIES IN THIS CASE REGARDING THE WIRE CENTER DESIGNATIONS FOR MISSOURI?

A. As explained above, the FCC established two inputs for establishing the wire center designations used to determine impairment for DS1/DS3 loops and dedicated interoffice transport: the number of "Business Lines" and the number of "Fiber-Based Collocators."[13] The disputes at issue in this case concern whether AT&T Missouri correctly counted the number of Business Lines and the number of Fiber-based Collocators for the wire centers it has designated as (i) "non-impaired" for DS3 loops, or (ii) "Tier 1" or "Tier 2" for dedicated interoffice transport.

Q. HOW DID THE FCC DESCRIBE THE CRITERIA IT CHOSE FOR THE IMPAIRMENT TESTS?

A. The FCC described the criteria it chose for determining the high-capacity loop and dedicated interoffice transport impairment thresholds in some detail. Specifically, the FCC noted that the criteria it chose for the impairment tests:

- are objective[14];
- rely on data possessed by and readily available to ILECs[15]; and
- are simple to apply.[16]

These characteristics apply to both the Business Line definition and the Fiber-Based Collocator definition. The FCC explained that the approach it chose "significantly

[13] 47 C.F.R. § 51.5 defines both of these terms.
[14] *TRRO* ¶¶ 108, 161.
[15] *TRRO* ¶ 108.
[16] *TRRO* ¶¶ 93, 105.

reduce the burdens of implementing the standard in comparison with the extensive and litigious proceedings that followed the issuance of the *Triennial Review Order*."[17]

The FCC acknowledged that in meeting the above objectives, its rules "may prove occasionally to over- or under-predict the presence of actual competitive facilities." Nonetheless, the FCC stated that its rules provide "the best means to deduce where competitive LECs have the ability to duplicate the incumbent LECs' networks."[18] The Court of Appeals for the D.C. Circuit, in affirming the *TRRO*, agreed that the FCC struck a proper balance:

> The FCC explained that it chose to focus on wire centers, fiber-based collocation, and business line density because those variables are objective, easily verifiable, and highly correlated with both extent and potential levels of competition. (citation omitted). This explanation easily qualifies as "rational," "reasonable," and "non-arbitrary."[19]

Q. WHY IS THE FCC'S DISCUSSION AND DESCRIPTION OF THE CRITERIA RELEVANT TO THE DISPUTE IN THIS CASE?

A. The FCC's stated intent and understanding of its criteria are important when considering the parties' disputes here regarding the interpretation of the FCC's definitions for Business Lines and Fiber-Based Collocators. Based on AT&T's previous experience with these issues in Missouri and other states, however, AT&T Missouri expects that the CLECs will propose an interpretation of the Business Line and/or Fiber-Based Collocator definitions that relies upon data that are not objective, not readily available to AT&T Missouri or simple to apply. Such an approach would be directly contrary to the FCC's

[17] *TRRO* ¶ 108.
[18] *TRRO* ¶ 94.
[19] 450 F. 3d at 544.

rules and inconsistent with the text of the *TRRO*. The Commission should instead adopt AT&T Missouri's methodology, which tracks the FCC's straightforward definitions.

III. AT&T Missouri's Wire Center Designations

Q. CAN YOU PROVIDE THE BACKGROUND OF AT&T MISSOURI'S WIRE CENTER DESIGNATIONS?

A. Yes. As I explained above, the *TRRO* establishes "non-impairment" criteria for high-capacity loops and dedicated transport: 1) the number of business lines served by the wire center; and 2) the number of fiber-based collocators at the wire center. When the specified thresholds are satisfied, impacted network elements are no longer subject to an unbundling requirement under section 251 of the Act at that location.

On February 4, 2005, the FCC issued data requests to AT&T, asking that it identify the wire centers in Missouri that satisfy the non-impairment criteria established in the *TRRO*. On February 18, 2005, AT&T responded to that data request and identified wire centers that satisfy the non-impairment criteria for DS1 loops, DS3 loops, Tier 1 wire centers and Tier 2 wire centers.

Q. DID AT&T MISSOURI NOTIFY MISSOURI CLECS OF THESE WIRE CENTER DESIGNATIONS?

A. Yes. The CLECs were informed of these determinations via Accessible Letters CLECALL05-027 and CLECALL05-031 on February 22, 2005, which were posted on the CLEC Online website.

Q. DID THE WIRE CENTER INFORMATION THAT AT&T MISSOURI FILED WITH THE FCC INCLUDE ANY SUPPORTING DATA?

A. Yes. The information that AT&T Missouri filed with the FCC included confidential data supporting AT&T Missouri's determinations. CLECs have the ability to review this

confidential data subject to the protective order associated with the filing. AT&T Missouri informed CLECs of the availability of this data via accessible letter.[20]

Q. HAS AT&T MISSOURI UPDATED THE WIRE CENTER LIST (AND SUPPORTING DATA) ON FILE WITH THE FCC BASED UPON ITS MERGER COMMITMENTS?

A. Yes. As explained in more detail below, AT&T agreed to revise its wire center designations in merger commitments to which it agreed in connection with the FCC's approval of the 2005 SBC/AT&T merger and the 2006 AT&T/BellSouth merger. With the SBC/AT&T merger, AT&T committed to exclude any fiber-based collocation arrangements that belonged to AT&T Corp. (i.e., "pre-merger" AT&T) from its fiber-based collocator count. AT&T filed with the FCC an updated wire center list with supporting data in compliance with this merger commitment. Then, as part of the AT&T/BellSouth merger, AT&T made an additional commitment to exclude certain collocation arrangements from its fiber-based collocator counts.[21] This second merger commitment did not change any of the wire center designations in Missouri. Each of the wire centers that had enough fiber-based collocators to satisfy the FCC's rules *before* the exclusion still had enough fiber-based collocators to satisfy those rules even *after* the exclusion of some fiber-based collocations.

AT&T Missouri's most recent designations, effective December 29, 2006, reflect both of these merger commitments.

[20] *See* Accessible Letters CLECALL05-037 and CLECALL05-039.

[21] In accordance with the AT&T/BellSouth Merger Commitments, AT&T/BellSouth agreed to exclude for the specified period: (i) fiber-based collocation arrangements established by AT&T or its affiliates; (ii) entities that do not operate (i.e., own or manage the optronics on the fiber) their own fiber into and out of their own collocation arrangement but merely cross-connect to fiber-based collocation arrangements; and (iii) special access lines obtained by AT&T from BellSouth as of the day before the Merger Closing Date.

Q. WHAT IS AT&T MISSOURI SEEKING IN THIS PROCEEDING?

A. In this proceeding, AT&T Missouri seeks the Commission's approval of the methodology (and resulting designations) for three sets of wire center designations that it has issued and applied over time. The first set of designations took effect on the March 11, 2005 effective date of the *TRRO* and reflect the FCC's rules as written: the designations and backup calculations are attached as Attachment CAC-1 (HC).

The second set of designations reflects the FCC's rules, as modified by certain commitments that AT&T made in connection with the 2005 SBC/AT&T merger. These designations took effect on December 16, 2005. The designations and backup calculations are attached hereto as Attachment CAC-2 (HC).

The third set of designations reflects the FCC's rules, as modified by the SBC/AT&T merger commitments described above and by certain additional commitments that AT&T made in connection with the 2006 AT&T/BellSouth merger. These designations took effect on December 29, 2006. The designations and backup calculations are attached hereto as Attachment CAC-3 (HC).[22]

Q. HAS AT&T MISSOURI SHARED ITS COUNTING METHODOLOGY WITH CLECS?

A. Yes. AT&T Missouri has proactively shared its counting methodology with CLECs. AT&T Missouri issued Accessible Letter CLECALL05-044 describing its counting methodology on March 27, 2005. Issues associated with counting methodology have been described in numerous industry discussions across the pre-BellSouth AT&T's 13-states. Throughout these discussions, AT&T ILECs have freely responded to CLEC

[22] The modifications to the original March 11, 2005 wire center designations agreed to in conjunction with the SBC/AT&T merger and the AT&T/BellSouth merger will continue to apply for the duration of the merger commitments set forth in the respective merger orders.

questions. In addition, AT&T Missouri has responded to numerous individual CLEC questions through its account teams. AT&T Missouri also provides requesting CLECs with a list of the wire centers where AT&T Missouri has identified that CLEC as a fiber-based collocator for purposes of the wire center designations. Individual CLECs can use this information to resolve any factual disputes that they have regarding AT&T Missouri's wire center designations.

IV. Identification of Wire Centers

Q. HOW DID AT&T MISSOURI DETERMINE WHICH WIRE CENTERS IN MISSOURI HAVE MET THE FCC'S BUSINESS LINE THRESHOLDS?

A. The FCC's rule, 47 C.F.R. § 51.5, states that "[t]he number of business lines in a wire center shall equal the sum of all incumbent LEC business switched access lines, plus the sum of all UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements." The FCC's order explains that the sources to be used in carrying out that rule are "business lines" from the incumbent LECs' annual "ARMIS 43-08" reports, "plus business UNE-P, plus UNE-loops."[23] Thus, as described in more detail below, AT&T Missouri added (i) the total number of business lines contained in its ARMIS 43-08 report, (ii) the total number of UNE-P business lines, and (iii) the total number of UNE loops ("UNE-L) that were not provisioned as part of a UNE-P arrangement.[24] The ARMIS 43-08 business lines and the UNE-P business lines in AT&T Missouri's calculations correspond to the rule's requirement that the business

[23] *TRRO*, ¶ 105.

[24] Throughout this testimony, all references to UNE-L loops are intended to refer to all unbundled loops that are not part of a UNE-P arrangement. For purposes of this testimony, the term UNE-L includes "stand-alone" UNE loops and UNE loops that are part of an enhanced extended link ("EEL").

line count include "all incumbent LEC business switched access lines." [25] The UNE-L lines (stand-alone loops and loops in an EEL arrangement) in AT&T Missouri's calculations correspond to the rule's requirement that the business line count include "all UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements."[26] For each of these categories, as required by the FCC's rule, the business line count for ISDN and other digital loops were determined by calculating each 64 kbps-equivalent as one business line (for example, a DS1 loop was counted as 24 business lines).[27] The sum of these three categories provides the total number of all business lines for the wire center.

The most recent ARMIS 43-08 data available on March 11, 2005, the effective date of the *TRRO*,[28] were the 2003 ARMIS 43-08 report data. To ensure consistency, AT&T Missouri also used December 2003 data for its UNE-P and UNE-L line counts. All of the business line counts were derived from AT&T Missouri's billing data.

The UNE-P business line totals were limited to lines ordered by the CLEC for business end users (as specified on the CLEC's service request). AT&T Missouri's UNE-P

[25] *See* 47. C.F.R. § 51.5, definition of "Business Line." The only ILEC-switched business lines contained in AT&T Missouri's billing data at the time the *TRRO* became effective were ARMIS 43-08 business lines (which include both retail and resale business lines) and UNE-P business lines. Since that time, additional ILEC-switched business lines have been provisioned pursuant to AT&T Missouri's commercial UNE-P replacement offering. Per the FCC's rule, these ILEC-switched business lines would be counted for any future designations.
[26] *See* 47. C.F.R. § 51.5, definition of "Business Line."
[27] *See* definition of "Business line" in 47 C.F.R. § 51.5. The ARMIS 43-08 business line counts account for digital equivalency per the ARMIS 43-08 reporting rules. No additional modification of the ARMIS 43-08 business line counts was necessary to implement this requirement. For UNE-P and UNE-L lines, AT&T Missouri performed the required calculations to determine digital equivalency. These results of these calculations are shown in Attachments CAC-1 (HC), CAC-2 (HC) and CAC-3 (HC).
[28] *TRRO* ¶ 239.

business line counts are categorized by loop type, including 2-wire analog, 2-wire digital and DS1.

The UNE-L line total includes all of the following UNE loops (when not part of a UNE-P arrangement): 2-wire analog loops, 2-wire digital loops, DS1 loops and DS3 loops.

Q. HOW DID AT&T MISSOURI DETERMINE WHICH WIRE CENTERS MET THE FCC'S FIBER-BASED COLLOCATOR THRESHOLDS?

A. AT&T Missouri identified wire centers that it believed might meet one or more of the FCC's thresholds for non-impairment based on various factors, including collocation billing records, business line counts, and UNE-L counts. As explained in the testimony of Mr. Nevels, AT&T Missouri Network personnel then physically inspected each of the identified wire centers and reported their findings back to AT&T Missouri's Local Interconnection Services organization. AT&T Missouri reviewed the data provided by the Network personnel to determine which wire centers contained three or more fiber-based collocators as defined by the FCC. All of the wire centers that AT&T Missouri has designated as meeting one or more of the FCC's thresholds for non-impairment were physically inspected. In keeping with the FCC's rule, AT&T Missouri only counted fiber-based collocators that are not affiliated with AT&T Missouri.[29] In cases where two or more carriers affiliated with each other were located in a single wire center, AT&T Missouri only counted one of the carriers as a fiber-based collocator.

[29] Collocation arrangements belonging to the pre-merger AT&T were included in the counts supporting the March 11, 2005 designations. These pre-merger AT&T collocations were excluded from the wire center designations as of December 16, 2005 in accordance with a commitment associated with the SBC/AT&T merger.

Q. HOW DO AT&T'S MERGER COMMITMENTS IMPACT THE WIRE CENTER DESIGNATIONS?

A. AT&T agreed to merger commitments relating to wire center designations as part of both the SBC/AT&T merger and the AT&T/BellSouth merger. As part of these commitments, described more fully below, AT&T agreed to exclude certain fiber-based collocators from the fiber-based collocator counts supporting its wire center designation for the duration of each merger commitment. As I noted earlier, to illustrate the impact of these commitments, AT&T Missouri has provided three different lists of wire center designations and supporting data. The first list, Attachment CAC-1 (HC), contains the wire center designations as of March 11, 2005 (the effective date of the *TRRO*) and reflects the designations that should be adopted based on the impairment rules established by the FCC in the *TRRO*. The second list, Attachment CAC-2 (HC), reflects modifications to the original designations based on the SBC/AT&T merger commitment (effective as of December 16, 2005 through the end of the merger commitment). The third list, Attachment CAC-3 (HC) (which did not result in any changes in designation for any Missouri wire centers) reflects modifications based on the AT&T/BellSouth merger commitment (effective as of December 29, 2006 through the end of the merger commitment).

Q. HOW MANY WIRE CENTERS MEET THE FCC'S NON-IMPAIRMENT THRESHOLDS FOR DS1 LOOPS?

A. At this time, AT&T Missouri has not identified any wire centers in the state that meet the FCC's non-impairment thresholds for DS1 Loops.

Q. HOW MANY WIRE CENTERS MEET THE FCC'S NON-IMPAIRMENT THRESHOLDS FOR DS3 LOOPS?

A. As of March 11, 2005, three (3) wire centers in Missouri met the FCC's criteria for DS3 Loop impairment (see Attachment CAC-1 (HC):

- KSCYMO55
- STLSMO01
- STLSMO21

Each of these wire centers contained a minimum of 38,000 business lines and at least four fiber-based collocators.

On December 16, 2005, in accordance with the SBC/AT&T merger commitments to the FCC, AT&T Missouri revised its list of wire centers and supporting data (see Attachment CAC-2 (HC) to exclude the fiber-based collocations of the pre-merger AT&T (or its affiliates) from its fiber-based collocator counts. The exclusion of pre-merger AT&T fiber-based collocation arrangements did not result in any changes to the designation of any of the wire centers meeting the thresholds for non-impairment of DS3 Loops on December 16, 2005.

On December 29, 2006, in accordance with an AT&T merger commitment to the FCC associated with the AT&T/BellSouth merger, AT&T Missouri revised its list of wire centers and supporting data (see Attachment CAC-3 (HC) to exclude the fiber-based collocations of carriers that do not operate (*i.e.*, own or manage the optronics on the fiber) their own fiber into and out of their own collocation arrangement but instead have established fiber-based collocation through a cross-connection to another fiber-based

collocator from its fiber-based collocator counts. The exclusion of these carriers from the fiber-based collocator counts did not impact any of the Missouri wire center designations.

Q. HOW MANY WIRE CENTERS MEET THE FCC'S NON-IMPAIRMENT THRESHOLDS FOR TIER 1?

A. As noted above, a "Tier 1" wire center is one that either (i) has 38,000 or more business lines, (ii) has four or more fiber-based collocators, or (iii) is an ILEC tandem switching location with no line-side switching facilities. As of March 11, 2005, fourteen (14) wire centers in Missouri met the FCC's criteria for Tier 1 designation (see Attachment CAC-1 (HC)):

- KSCYMO02
- KSCYMO05
- KSCYMO55
- SPFDMOMC
- SPFDMOTL
- SPFDMOTU
- STLSMO01
- STLSMO05
- STLSMO07
- STLSMO08
- STLSMO21
- STLSMO27

- STLSMO41
- STLSMO42

Each of these wire centers contained a minimum of 38,000 business lines and/or at least four fiber-based collocators.

As a result of the exclusion of pre-merger AT&T fiber-based collocations, five of the fourteen wire centers were removed from the list of Tier 1 wire centers on December 16, 2005, and reclassified to Tier 2. See Attachment CAC-2 (HC). The nine (9) wire centers that continue to meet the FCC's non-impairment thresholds for Tier 1 wire centers are as follows:

KSCYMO02

KSCYMO05

KSCYMO55

SPFDMOMC

SPFDMOTL

STLSMO01

STLSMO05

STLSMO21

STLSMO27

The December 29, 2006 exclusion of the collocation arrangements impacted by the AT&T/BellSouth merger commitment did not affect the bottom-line result for any of these Missouri wire centers. (See Attachment CAC-3 (HC)).

Q. HOW MANY WIRE CENTERS MEET THE FCC'S NON-IMPAIRMENT THRESHOLDS FOR TIER 2?

A. A Tier 2 wire center is a wire center which contains a minimum of 24,000 business lines and/or at least three fiber-based collocators but does not qualify as a Tier 1 wire center.[30] As of March 11, 2005, no wire centers in Missouri met the FCC's criteria for Tier 2 designation. See Attachment CAC-1 (HC).

As a result of the exclusion of pre-merger AT&T fiber-based collocations, five (5) of the wire centers that were originally designated as Tier 1 wire centers were reclassified as Tier 2 wire centers as of December 16, 2005. See Attachment CAC-2 (HC). The five (5) wire centers that were reclassified as Tier 2 wire centers are as follows:

- SPFDMOTU
- STLSMO07
- STLSMO08
- STLSMO41
- STLSMO42

All five (5) of these wire centers had qualified as "Tier 1" under the FCC's rule; however, they were reduced to Tier 2 based on AT&T Missouri's voluntary commitment

[30] 47 C.F.R. § 51.319(e)(3)(ii).

to exclude collocation arrangements belonging to the pre-merger AT&T prior to the SBC/AT&T merger.

The December 29, 2006 exclusion of the collocation arrangements impacted by the AT&T/BellSouth merger commitment did not impact any of the Missouri wire center designations. See Attachment CAC-3 (HC).

A. Definition of "Business Lines"

Q. HOW DOES THE BUSINESS LINE COUNT IMPACT THE DETERMINATION OF IMPAIRMENT UNDER THE FCC'S RULES?

A. As noted above, the FCC's rules for impairment and non-impairment for DS1 and DS3 loops and dedicated transport are based in part on the number of "business lines" served in a given wire center. The definition of "Business Lines" determines which lines should be counted, and how those lines should be counted.

Q. HOW DID THE FCC DEFINE "BUSINESS LINES"?

A. The FCC's rule, 47 C.F.R. § 51.5, states that "[t]he number of business lines in a wire center shall equal the sum of all incumbent LEC business switched access lines, plus the sum of all UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements." The text of the *TRRO* provides detailed instructions for counting "business lines" for purposes of its impairment analysis as follows:

> A business line is an incumbent LEC-owned switched access line used to serve a business customer, whether by the incumbent LEC itself or by a competitive LEC that leases the line from the incumbent LEC. *The number of business lines in a wire center shall equal the sum of all incumbent LEC business switched access lines, plus the sum of all UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements.* Among these requirements, business line tallies (1) shall include only those access lines connecting end-user customers with incumbent LEC end-offices for switched

> services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line. For example, a DS1 line corresponds to 24 64 kbps-equivalents, and therefore to 24 "business lines."[31]

Q. DID THE FCC PROVIDE ANY FURTHER DESCRIPTION OF ITS BUSINESS LINE DEFINITION?

A. Yes. The FCC detailed the manner in which business line counts should be calculated for purposes of determining high capacity UNE loop and dedicated interoffice transport non-impairment. Specifically, the FCC explained that:

> [A]s we define them, business line counts are an objective set of data that *incumbent LECs already have to create* for other regulatory purposes. The *BOC wire center data that we analyze* in this Order is based on ARMIS 43-08 business lines, plus business UNE-P, plus UNE-loops. *We adopt this definition of business lines* because it fairly represents the business opportunities in a wire center, including business opportunities already being captured by competing carriers through the use of UNEs. Although it may provide a more complete picture to measure the number of business lines served by competing carriers entirely over competitive loop facilities in particular wire centers, such information is extremely difficult to obtain and verify. Conversely, by basing our definition in an ARMIS filing required of incumbent LECs, and adding UNE figures, which must also be reported, we can be confident in the accuracy of the thresholds, and a simplified ability to obtain the necessary information.[32]

In this way, paragraph 105 of the *TRRO* makes clear that the FCC's business line definition is the same as the definition used for the data the FCC analyzed. The FCC also stated that:

> [b]ecause the initial record evidence on this point varied from one BOC to another and did not show evidence of wire centers below 5,000 business lines, the BOCs each filed revised data sets, all based on the same definition of business line, and including all wire centers. . . . We find that the second set of data provided by the BOCs is more reliable, enabling us to make better comparisons across all

[31] 47 C.F.R. § 51.5. (emphasis added).

[32] *TRRO* ¶ 105 (footnotes omitted; emphasis added).

companies. Accordingly, *we base our analysis in this Order on the BOC data received in December*.[33]

Q. ARE THERE ANY DIFFERENCES BETWEEN THE BUSINESS LINE COUNTS THAT AT&T FILED WITH THE FCC IN DECEMBER 2004 AND THE BUSINESS LINE COUNTS THAT AT&T FILED WITH THE FCC IN FEBRUARY OF 2005?

A. Yes. Each UNE-P and UNE-L contained in AT&T's December 2004 filing was counted as a single business line regardless of loop type or capacity. After the FCC issued its *TRRO* in February 2005, stating that digital business lines should be counted based on their digital equivalency, AT&T accordingly revised its calculation to reflect the FCC's order and determine digital equivalency. AT&T informed the FCC of this revision, and the reasons for it, in an *Ex Parte* Letter dated February 18, 2005, to Mr. Jeffrey J. Carlisle, Chief, FCC Wireline Competition Bureau from Mr. James C. Smith of AT&T at page 1, fn. 2.

Although AT&T disclosed this difference – and the fact that the *TRRO* required it to change the method for counting digital lines – to the FCC prior to the effective date of the *TRRO,* the FCC did not change and has not changed its business line thresholds, nor has it required AT&T to adjust its data to change the digital equivalency factor.[34]

[33] *TRRO* n. 322 (emphasis added).

[34] Further, a group of CLECs filed a Petition for Reconsideration with the FCC in March 2005, asking the FCC to modify its business line count definition as it related to the digital equivalency calculation calculations for UNE-L lines. The FCC has not modified its rules, nor has it said that the rules should be applied any differently. *See In the Matter of Unbundled Access to Network Elements Review of Section 251 Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338, Petition for Reconsideration (March 28, 2005) at 11-14.

Q. WHAT ARE SOME OF THE KEY CHARACTERISTICS OF THE FCC'S BUSINESS LINE DEFINITION?

A. As stated above, the FCC described its business line definition in paragraph 105 of the *TRRO*. The FCC's discussion provides crucial guidance when seeking to resolve any disputes as to the meaning of the definition. The FCC explained that it:

- based its business line definition on objective criteria;
- created a business line definition that depended upon data already created by the ILECs – ARMIS 43-08 business line data, UNE-P business lines counts, and UNE loop counts;
- made its impairment decision based upon the data provided by the ILECs;[35]
- adopted a definition of Business Line that is consistent with the data it analyzed (the data provided by the ILECs);
- chose not to use evidence that would have been difficult to obtain and verify even if such evidence might have provided a more complete picture;
- was confident in the accuracy of the thresholds; and
- created thresholds based on data that could be obtained easily.

Q. ARE THESE CHARACTERISTICS IMPORTANT?

A. Yes. AT&T Missouri determined the total number of business lines using the only methodology that is consistent with the FCC's description. AT&T Missouri's business line counts are based upon ARMIS 43-08 business line data, UNE-P business lines counts, and UNE loop counts, as the FCC specified in its Order, using the same definition

[35] *TRRO* n.322.

that was used when AT&T Missouri provided the data that the FCC relied upon for its analysis. (However, as noted above, AT&T Missouri has since applied the digital equivalency calculation that the FCC mandated in its order to the UNE-P and UNE-L lines contained in this definition.) In other states, CLECs have suggested that the business line definition be modified in a manner that is inconsistent with the definition that was used for the data the ILECs provided to the FCC. Furthermore, AT&T Missouri anticipates that the CLECs will suggest criteria that require the use of data that AT&T Missouri does not possess. Such an interpretation of the business line definition is inconsistent with the *TRRO* and must be rejected.

Q. HOW DID AT&T MISSOURI DETERMINE THE NUMBER OF BUSINESS LINES IN EACH WIRE CENTER?

A. As required by the *TRRO* and implementing rules, AT&T Missouri took two basic steps to calculate the total business line count for each applicable wire center. First, AT&T Missouri calculated the total number of retail and resale switched access business lines it serves using the data underlying its December 2003 ARMIS 43-08 report – the most recent report on file with the FCC as of the effective date of the *TRRO*. Second, AT&T Missouri calculated the total number of UNE loops and the total number of business UNE-P lines leased by CLECs from AT&T Missouri as of December 2003 – again, to be consistent with the data in the most recent ARMIS report.

Q. WHAT SPECIFIC AREAS OF DISPUTE DOES AT&T MISSOURI ANTICIPATE FOR THE BUSINESS LINE COUNTS?

A. AT&T Missouri believes that the disputes will primarily concern how digital access lines should be counted and which UNE-L Loops (UNE loops that are not part of a UNE-P arrangement) should be included in the business line count. As described in more detail

below, AT&T Missouri's position on this issue is consistent with the FCC's definition of "business lines" and the FCC's description of the business line definition discussed above. Moreover, it relies upon the same data as that provided to the FCC (upon which the FCC relied when making its impairment determinations).

1. UNE Loop Count

Q. HOW SHOULD UNE LOOPS BE COUNTED WHEN DETERMINING THE BUSINESS LINE COUNT?

A. In addition to the ARMIS 43-08 line counts, paragraph 105 of the *TRRO* and FCC Rule 51.5 require that "[t]he number of business lines in a wire center shall equal the sum of all incumbent LEC business switched access lines, plus the sum of all UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements." For UNE loops that are not provisioned as part of a UNE-P arrangement (in other words, UNE loops that are not part of an AT&T Missouri business switched access line), the *TRRO* requires that AT&T Missouri include each such UNE loop in the business line counts. This treatment is consistent with the data that the then-SBC ILECs provided to the FCC as well as the specific language in the *TRRO*:

> The BOC wire center data that we analyze in this Order is based on ARMIS 43-08 business lines, plus business UNE-P, plus UNE-loops.[36]

[36] *TRRO* ¶ 105 (citing submissions that utilized only business UNE-P but utilized all UNE loop counts). *See, e.g.,* BellSouth October 4, 2004 Padgett Aff. ¶ 5 (Attachment CAC-4); SBC December 7, 2004, Ex Parte, at 1 (Attachment CAC-5); SBC December 10 Ex Parte at 1 (Attachment CAC-6). (The attachments originally filed with CAC-4, CAC-5 and CAC-6 are omitted.) This interpretation of the FCC's rules is not unique. *See, e.g.*, Birch Telecom Petition for Reconsideration, *In the Matter of Unbundled Access to Network Elements*, WC Docket No. 04-313, at 15 (filed March 28, 2005) (arguing for reconsideration of rule that includes all UNE-L lines in business line counts, "regardless of whether they are used to serve business or residential customers.").

AT&T Missouri has limited its count of UNE-P lines to circuits used to support a business class of service. This approach is consistent with the instruction in the FCC's rule stating that the business line count should include "the sum of all incumbent LEC business switched access lines"[37] as well as paragraph 105 of the *TRRO* and the business line data that SBC provided to the FCC.

Q. PLEASE DESCRIBE THE BUSINESS LINE DATA PROVIDED BY SBC REFERENCED IN FOOTNOTES 304 AND 322 OF THE *TRRO* AS THE DATA THE FCC USED FOR ITS IMPAIRMENT ANALYSIS.

A. The definition that AT&T (then SBC) used for the business line count it provided to the FCC (and that the FCC considered in making its impairment analysis) counted the total number of switched access business lines it serves using the data underlying its ARMIS 43-08, and all of the UNE loops and all business UNE-P lines leased by CLECs.[38]

Q. DID AT&T MISSOURI ATTEMPT TO DETERMINE THE NATURE OR TYPE OF SERVICE THAT A CLEC PROVIDED OVER A UNE-L LOOP?

A. No. To the contrary, the FCC explicitly required that all UNE-L lines be included in the business line count. As a result, AT&T Missouri did not attempt to determine if a UNE-L line was used to provide business or residential service, if the loop was actually used to provide a switched service, or the capacity of the loop's bandwidth that was actually utilized.

[37] See definition of "Business line" in 47 C.F.R. § 51.5.
[38] AT&T (then SBC) would have also included switched access business lines used for its UNE-P replacement offering had any existed at the time.

Q. DOES AT&T MISSOURI HAVE THE INFORMATION NECESSARY TO DETERMINE HOW A CLEC IS ACTUALLY USING ITS UNE-L LOOPS?

A. No. When AT&T Missouri provides a UNE-L to a CLEC, the loop is terminated at a collocation arrangement. AT&T Missouri does not know (and cannot know) the service(s) that the CLEC actually provides to the end user over the loop.

2. Digital Access Lines

Q. HOW SHOULD DIGITAL ACCESS LINES BE COUNTED WHEN DETERMINING THE BUSINESS LINE COUNT?

A. Both the ARMIS 43-08 rules and the FCC's business line definition require that digital access lines be calculated by "counting each 64 kbps-equivalent as one line."[39] The FCC gave a concrete example of the application of this requirement, stating that "a DS1 line corresponds to 24 64 kbps-equivalents, and therefore to 24 'business lines.'"[40] The same approach applies for UNE lines and non-UNE lines.

Q. DOES AT&T MISSOURI ANTICIPATE A DISPUTE REGARDING THE CALCULATION OF THE DIGITAL EQUIVALENCY FOR ALL DIGITAL BUSINESS LINES?

A. No. Although the CLECs' positions on this issue have varied somewhat across the states, AT&T Missouri believes that the parties agree on the proper methodology for calculating digital equivalency for business lines counted using the ARMIS 43-08 rules and UNE-P business lines. If there is a dispute on this issue, AT&T Missouri anticipates the dispute will concern the appropriate calculation of digital equivalency for UNE-L lines.

[39] 47 C.F.R. § 51.5 (Business Line definition).
[40] 47 C.F.R. § 51.5 (Business Line definition).

Q. HOW SHOULD DIGITAL EQUIVALENCY BE CALCULATED FOR DIGITAL UNE-L LINES?

A. The FCC's definition of business lines requires that a calculation be performed based on the digital bandwidth of each line.[41] The number of business lines that must be counted for a digital UNE-L line is determined based upon the bandwidth of the loop divided by 64 kbps. For example, a 2-wire digital UNE-L has a bandwidth of 160 kbps. When 160 is divided by 64, the result is 2.5. Based on this calculation a 2-wire digital UNE-L is counted as two business lines. This approach must be used to determine the digital equivalency for all UNE-L lines.[42]

Q. HOW DID AT&T MISSOURI DETERMINE THE BANDWIDTH OF THE UNE-L LOOPS IT CONSIDERED?

A. The bandwidth of the UNE-L lines used for AT&T Missouri's calculations was based on the type of loop requested by the CLEC and provisioned by AT&T Missouri.

Q. DOES AT&T MISSOURI KNOW WHETHER A CLEC IS USING THE FULL BANDWIDTH OF ITS UNE-L LOOPS?

A. No. AT&T Missouri's records indicate only the bandwidth of the digital loops that it provides. AT&T Missouri does not possess the data necessary to determine what service, if any, the CLEC is actually providing to the end user over the UNE-L Loops that AT&T Missouri has provided.

[41] 47 C.F.R. § 51.5 (Business Line definition).

[42] In calculating the UNE-L voice grade equivalent totals, AT&T Missouri counted each 2-wire analog (or DS0) UNE-L line as one (1) line, each 2-wire digital UNE-L as 2 voice grade equivalent lines, each DS1 UNE-L line as 24 voice grade equivalent lines, and each DS3 UNE-L line as 672 voice grade equivalent lines.

B. Definition of "Fiber-Based Collocator"

Q. DID THE FCC PROVIDE A DESCRIPTION OF ITS FIBER-BASED COLLOCATOR DEFINITION?

A. Yes. The FCC's description of its fiber-based collocator definition is similar to the description of the business line definition in a number of ways. Specifically, the FCC described the data necessary for determining the fiber-based collocator count as:

- objective[43];
- administratively simple and readily verifiable[44];
- within the possession of the ILECs[45]; and
- applicable without regard to the service(s) the collocator provides.[46]

The FCC clearly intended to create an objective and readily verifiable standard, to avoid extended regulatory proceedings and uncertainty. Indeed, as the FCC explained:

> We are acutely aware of the need to base any test we adopt here on the most objective criteria possible in order to avoid complex and lengthy proceedings that are administratively wasteful but add only marginal value to our unbundling analysis. Most parties seem to agree that long, extended proceedings add significant costs as well as uncertainty about the future state of the rules and an easily administrable test will avoid that uncertainty.[47]

Q. HOW DID THE FCC DEFINE "FIBER-BASED COLLOCATOR"?

A. The FCC defined a fiber-based collocator as follows:

[43] *TRRO* at ¶ 99.
[44] *TRRO* at n. 283.
[45] *TRRO* at ¶ 100.
[46] *TRRO* at ¶ 102
[47] *TRRO* at ¶ 99.

> A fiber based collocator is any carrier, unaffiliated with the incumbent LEC, that maintains a collocation arrangement in an incumbent LEC wire center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a collocation arrangement within the wire center; (2) leaves the incumbent LEC wire center premises; and (3) is owned by a party other than the incumbent LEC or any affiliate of the incumbent LEC, except as set forth in this paragraph. Dark fiber obtained from an incumbent LEC on an indefeasible right of use basis shall be treated as non-incumbent LEC fiber-optic cable. Two or more affiliated fiber-based collocators in a single wire center shall collectively be counted as a single fiber-based collocator. For purposes of this paragraph, the term affiliate is defined by 47 U.S.C. § 153(1) and any relevant interpretation of this Title.[48]

Q. WHAT ARE THE KEY COMPONENTS OF THE FCC'S FIBER-BASED COLLOCATOR DEFINITION?

A. In order to qualify as a fiber-based collocator, a carrier must:

- be unaffiliated with AT&T Missouri;
- maintain collocation with active electrical power supply in an AT&T Missouri wire center; and
- operate fiber optic cable or comparable transmission facility.

Furthermore, in order to be counted, the fiber optic cable or comparable transmission facility that the carrier operates must:

- terminate at a collocation arrangement in the wire center;
- leave the wire center; and
- not be owned by AT&T Missouri (unless the fiber is dark fiber provided on an indefeasible right of use ("IRU") basis).

[48] 47 C.F.R. § 51.5.

In instances where two or more carriers that are affiliated with each other meet these requirements in a given wire center, only one of the affiliated carriers may be counted.

Q. HOW DID AT&T MISSOURI DETERMINE WHETHER A CLEC OPERATES A FIBER-OPTIC CABLE OR COMPARABLE TRANSMISSION FACILITY THAT TERMINATES AT A COLLOCATION ARRANGEMENT?

A. In order to be consistent with the *TRRO*, any test that applies here must be objective, administratively simple, verifiable, and based on information that is readily available to AT&T Missouri "via review of billing records or physical inspection of central office premises."[49] As explained in more detail in the direct testimony of Mr. Nevels, AT&T Missouri performed an inspection of each wire center that it has identified as satisfying these requirements. In particular, AT&T Missouri performed a visual inspection of each wire center to determine whether a collocator had fiber optic cable (or a comparable transmission facility) that terminated at its collocation arrangement. The FCC's rule does not require that AT&T Missouri determine the ownership of the fiber optic cable (or comparable transmission facility) as long as it does not belong to AT&T Missouri or its affiliates.

Q. WHAT INFORMATION IS AVAILABLE TO AT&T MISSOURI?

A. As explained in more detail in the direct testimony of Mr. Nevels, AT&T Missouri can determine the following through physical inspection and/or a review of its billing records:

- the identity of a collocator;
- the collocation arrangements where fiber or a comparable transmission medium terminates;
- whether electricity is being supplied to a collocator;

[49] *TRRO* ¶ 100.

- whether the collocator is connected to fiber facilities (or their equivalent) that leave the wire center;
- whether the AT&T Missouri has provided the fiber facility in question; and
- whether the collocator is affiliated with other collocators.

On the other hand, AT&T Missouri does not have the information necessary to determine:

- the owner of any fiber (or comparable transmission facilities) that are not provided by AT&T Missouri;
- the business relationship that may exist between collocated carriers;
- the actual transmission speed of the collocator's facilities, or
- how a collocator has chosen to utilize the facilities it has available.

As the FCC found, the fiber-based collocator count must be based on criteria that AT&T Missouri has readily available.[50]

Q. WHAT TYPE OF ARRANGEMENT SHOULD BE CONSIDERED A "FIBER-BASED COLLOCATION"?

A. I do not believe there is any dispute between the parties regarding how to count what I would consider a "typical" fiber-based collocator. In a typical fiber-based collocation arrangement, a single fiber cable (not owned by AT&T Missouri) from outside the wire center terminates at the collocation arrangement of a single carrier unaffiliated with AT&T Missouri. If that collocation arrangement has active power and is not affiliated with any other fiber-based collocator in the wire center, I believe the CLECs will agree

[50] *TRRO* ¶ 100.

that AT&T Missouri should count the carrier as a fiber-based collocator. The critical issue concerns arrangements that involve less traditional collocation arrangements or provide comparable transmission facilities. As I discuss below, the FCC expressly stated that "less traditional" arrangements were to be counted, and AT&T Missouri has counted them in a manner consistent with the FCC's order.

Q. WHAT DO YOU MEAN BY "LESS TRADITIONAL COLLOCATION ARRANGEMENTS" AND ARRANGEMENTS THAT INVOLVE COMPARABLE TRANSMISSION FACILITIES?

A. In the *TRRO*, the FCC found that the definition of fiber-based collocator should include not only what I described above as a typical arrangement, but also "less traditional collocation arrangements such as Verizon's CATT fiber termination arrangements"[51] and comparable transmission facilities. Mr. Nevels discusses the technical aspects of the less traditional arrangements and comparable transmission facilities in his testimony.

Q. WHY DO YOU BELIEVE THE ISSUE OF COMPARABLE TRANSMISSION FACILITIES IS A CRITICAL ISSUE?

A. The FCC's definition of Fiber-Based Collocator is not limited to fiber connections. Instead, the FCC designed its rule to include any "comparable transmission facility" in order to ensure that the rule looked at transport capabilities rather than the physical attributes of the transport network. Regardless of how a particular carrier's network may be configured, the real test is whether or not the resulting arrangement provides the carrier with a network configuration that provides a "comparable transmission facility" to fiber.

[51] *TRRO* ¶ 102.

Q. DO ANY OF THE CURRENT WIRE CENTER DESIGNATIONS RELY UPON ARRANGEMENTS THAT USE COMPARABLE TRANSMISSION FACILITIES?

A. No. Although AT&T Missouri did identify fiber-based collocators that qualified under the FCC's definition based on a comparable transmission facility, none of the identified arrangements made a difference in any of the current wire center designations. In Missouri, there were enough "typical" fiber-based collocations to satisfy the FCC's thresholds whether or not the "less traditional" arrangements are counted. However, such arrangements may impact future wire center designations.[52]

Q. DID THE FCC PROVIDE ANY GUIDANCE ON WHAT TYPE OF ARRANGEMENT WOULD CONSTITUTE AN ATYPICAL ARRANGEMENT OR A "COMPARABLE TRANSMISSION FACILITY"?

A. Yes. The FCC noted that its definition of a Fiber-Based Collocator included "less traditional collocation arrangements such as Verizon's CATT fiber termination arrangements."[53] The FCC also included "fixed-wireless collocation arrangements at a wire center if the carrier's alternative transmission facilities both terminate in and leave the wire center."[54] The FCC went on to explain that "although we refer to our indicia as 'fiber-based collocation,' our test is actually *agnostic as to the medium used to deploy an alternative transmission facility*, because we find that a technologically neutral test better

[52] It should be noted that under the terms of a merger commitment agreed upon in the context of the AT&T/BellSouth merger, until the time period for the merger commitment has passed, AT&T Missouri will refrain from counting certain fiber-based collocation arrangements that utilize collo-to-collo connections to establish a comparable transmission facility in which the connecting carrier does not light fiber leaving the wire center; however, AT&T Missouri may once again count such arrangements after the expiration of the commitment.
[53] *TRRO* ¶ 102.
[54] *TRRO* ¶ 102.

helps us to capture the actual and potential deployment in the marketplace than would a wireline-specific test."[55]

Q. WHAT TYPES OF FACILITIES SHOULD BE CONSIDERED AS COMPARABLE TO FIBER FOR PURPOSES OF DETERMINING FIBER-BASED COLLOCATORS?

A. When deciding the criteria that must be satisfied when determining whether a particular medium qualifies as a comparable transmission facility, once again, the question must be answered using data that is objective, administratively simple, verifiable, and based on information that is readily available to AT&T Missouri via review of billing records or physical inspection of central office premises. As such, the determination should be based on the known capabilities of the technology AT&T Missouri is able to identify through its review and/or inspection.

Q. HOW DID AT&T MISSOURI DETERMINE WHICH ARRANGEMENTS SHOULD BE CONSIDERED COMPARABLE?

A. The FCC did not define the specific characteristics that a comparable arrangement must meet in order to be counted as a fiber-based collocation arrangement; however, the FCC *did* provide an example of a type of comparable arrangement that should be counted. In order to determine which arrangements met the standard of a "comparable transmission facility," AT&T Missouri considered the capabilities of fixed wireless arrangements that the FCC had determined would be considered to be comparable. As explained in more detail in the direct testimony of Mr. Nevels, a fixed wireless arrangement would typically provide a carrier with a minimum of DS3 level transport. In light of this fact, AT&T Missouri only included collocation arrangements where, based on the network configuration identified, it appeared that the collocator had the ability to provide at least

[55] *TRRO* at footnote 295.

DS3 level transport out of the wire center. This is an eminently fair and reasonable definition of a "comparable" transmission facility in light of the fact that the FCC's fiber-based collocation rule was designed to be technologically neutral, and any other definition would count some arrangements providing DS3 level transmission but not count others.

Mr. Nevels' direct testimony discusses the comparable transmission facilities that AT&T Missouri encountered and explains why these transmission facilities allow a carrier to provide at least DS3 level transport and why these facilities should be considered comparable to fiber optic cable. In addition, Mr. Nevels describes similarities between various collocator-to-collocator arrangements and the atypical fiber-based collocation arrangements described by the FCC.

V. CONCLUSION

Q. HOW SHOULD THE COMMISSION RULE ON THESE ISSUES?

A. The Commission should endorse the methodology that AT&T Missouri used to count business lines and fiber-based collocators and approve AT&T Missouri's wire center designations.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A Yes.

Missouri Wire Center Supporting Data
as of
March 11, 2005

WIRE CENTER SUMMARY DATA ** ** Denotes Highly Confidential				
Wire Center	**Carrier Name**	**Collocator Threshold Met**	**Business Line Threshold Met[1]**	**Impairment Designation**
KSCYMO02	** **	Four or more	** **	Tier 1
KSCYMO05	** **	Four or more	** **	Tier 1
KSCYMO55	** **	Four or more	** **	DS3 Loop Tier 1
SPFDMOMC	** **	Four or more	** **	Tier 1
SPFDMOTL	Tandem switching location	N/A	N/A	Tier 1
SPFDMOTU	** **	Four or more	** **	Tier 1
STLSMO01	** **	Four or more	** **	DS3 Loop Tier 1
STLSMO05	** **	Four or more	** **	Tier 1
STLSMO07	** **	Four or more	** **	Tier 1
STLSMO08	** **	Three or more	** **	Tier 1
STLSMO21	** **	Four or more	** **	DS3 Loop Tier 1
STLSMO27	** **	Four or more	** **	Tier 1
STLSMO41	** **	Four or more	** **	Tier 1
STLSMO42	** **	Four or more	** **	Tier 1

[1] Detailed information for business line counts is provided in a separate table below.

DETAILED BUSINESS LINE COUNT DATA ** ** Denotes Highly Confidential											
WIRE CENTER	**ARMIS 43-08 Business Lines**	**2-Wire Analog Business UNE-P Lines**	**DS1 Business UNE-P Lines[2]**	**2-Wire Digital UNE-P Business Lines[3]**	**TOTAL Business UNE-P[4]**	**2-Wire Analog UNE-L Lines**	**DS1 UNE-L Lines[5]**	**DS3 UNE-L Lines[6]**	**2 Wire Digital UNE-L Lines[7]**	**TOTAL UNE-L[8]**	**TOTAL BUSINESS LINES**
KSCYMO02						** **					
KSCYMO05						** **					
KSCYMO55	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
SPFDMOMC	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
SPFDMOTL	**TANDEM**										
SPFDMOTU	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
STLSMO01	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
STLSMO05						** **					
STLSMO07	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **

[2] This column reflects the actual number of DS1 business UNE-P lines, not the voice grade equivalent for the lines.
[3] This column reflects the actual number of 2-wire Digital business UNE-P lines, not the voice grade equivalent for the lines.
[4] In calculating the business UNE-P voice grade equivalent totals, AT&T Missouri counted each 2-wire analog business UNE-P line as one (1) line, each 2-wire Digital business UNE-P line as two (2) voice grade equivalent lines, and each DS1 business UNE-P as 24 voice grade equivalent lines.
[5] This column reflects the actual number of DS1 UNE-L lines, not the voice grade equivalent for the lines.
[6] This column reflects the actual number of DS3 UNE-L lines, not the voice grade equivalent for the lines.
[7] This column reflects the actual number of 2-wire Digital UNE-L lines, not the voice grade equivalent for the lines.
[8] In calculating the UNE-L voice grade equivalent totals, AT&T Missouri counted each 2-wire analog UNE-L line as one (1) line, each 2-wire Digital UNE-L as two (2) voice grade equivalent lines, each DS1 UNE-L line as 24 voice grade equivalent lines, and each DS3 UNE-L line as 672 voice grade equivalent lines.

STLSMO08	** **										
STLSMO21	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
STLSMO27	** **										
STLSMO41	** **										
STLSMO42	** **										

Updated Missouri Wire Center Supporting Data as of December 16, 2005 (per SBC/AT&T merger commitment)

WIRE CENTER SUMMARY DATA ** ** Denotes Highly Confidential				
Wire Center	**Carrier Name**	**Collocator Threshold Met**	**Business Line Threshold Met[1]**	**Impairment Designation**
KSCYMO02	** **	Four or more	** **	Tier 1
KSCYMO05	** **	Four or more	** **	Tier 1
KSCYMO55	** **	Four or more	** **	DS3 Loop Tier 1
SPFDMOMC	** **	Four or more	** **	Tier 1
SPFDMOTL	Tandem switching location	N/A	** **	Tier 1
SPFDMOTU	** **	Three or more	** **	Tier 2
STLSMO01	** **	Four or more	** **	DS3 Loop Tier 1
STLSMO05	** **	Four or more	** **	Tier 1
STLSMO07	** **	Three or more	** **	Tier 2
STLSMO08	** **	Three or more	** **	Tier 2
STLSMO21	** **	Four or more	** **	DS3 Loop Tier 1
STLSMO27	** **	Four or more	** **	Tier 1
STLSMO41	** **	Three or more	** **	Tier 2

[1] Detailed information for business line counts is provided in a separate table below.

Non-Proprietary

CAC-2 NP

WIRE CENTER SUMMARY DATA ** ** Denotes Highly Confidential				
Wire Center	**Carrier Name**	**Collocator Threshold Met**	**Business Line Threshold Met**[1]	**Impairment Designation**
STLSMO42	** **	Three or more	** **	Tier 2

DETAILED BUSINESS LINE COUNT DATA **__** Denotes Highly Confidential											
WIRE CENTER	**ARMIS 43-08 Business Lines**	**2-Wire Analog Business UNE-P Lines**	**DS1 Business UNE-P Lines[2]**	**2-Wire Digital UNE-P Business Lines[3]**	**TOTAL Business UNE-P[4]**	**2-Wire Analog UNE-L Lines**	**DS1 UNE-L Lines[5]**	**DS3 UNE-L Lines[6]**	**2 Wire Digital UNE-L Lines[7]**	**TOTAL UNE-L[8]**	**TOTAL BUSINESS LINES**
KSCYMO02						** **					
KSCYMO05						** **					
KSCYMO55	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
SPFDMOMC	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
SPFDMOTL	**TANDEM**										
SPFDMOTU	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
STLSMO01	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
STLSMO05						** **					
STLSMO07	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **

[2] This column reflects the actual number of DS1 business UNE-P lines, not the voice grade equivalent for the lines.
[3] This column reflects the actual number of 2-wire Digital business UNE-P lines, not the voice grade equivalent for the lines.
[4] In calculating the business UNE-P voice grade equivalent totals, AT&T Missouri counted each 2-wire analog business UNE-P line as one (1) line, each 2-wire Digital business UNE-P line as two (2) voice grade equivalent lines, and each DS1 business UNE-P as 24 voice grade equivalent lines.
[5] This column reflects the actual number of DS1 UNE-L lines, not the voice grade equivalent for the lines.
[6] This column reflects the actual number of DS3 UNE-L lines, not the voice grade equivalent for the lines.
[7] This column reflects the actual number of 2-wire Digital UNE-L lines, not the voice grade equivalent for the lines.
[8] In calculating the UNE-L voice grade equivalent totals, AT&T Missouri counted each 2-wire analog UNE-L line as one (1) line, each 2-wire Digital UNE-L as two (2) voice grade equivalent lines, each DS1 UNE-L line as 24 voice grade equivalent lines, and each DS3 UNE-L line as 672 voice grade equivalent lines.

STLSMO08	** **										
STLSMO21	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
STLSMO27						** **					
STLSMO41						** **					
STLSMO42						** **					

Updated Missouri Wire Center
Supporting Data as of
December 29, 2006
(per AT&T/BellSouth merger commitment)

WIRE CENTER SUMMARY DATA

** ** Denotes Highly Confidential

Wire Center	Carrier Name	Collocator Threshold Met	Business Line Threshold Met[1]	Impairment Designation
KSCYMO02	** **	Four or more	** **	Tier 1
KSCYMO05	** **	Four or more	** **	Tier 1
KSCYMO55	** **	Four or more	** **	DS3 Loop Tier 1
SPFDMOMC	** **	Four or more	** **	Tier 1
SPFDMOTL	Tandem switching location	N/A	N/A	Tier 1
SPFDMOTU	** **	Three or more	** **	Tier 2
STLSMO01	** **	Four or more	** **	DS3 Loop Tier 1
STLSMO05	** **	Four or more	** **	Tier 1

[1] Detailed information for business line counts is provided in a separate table below.

Non-Proprietary

CAC-3 NP

WIRE CENTER SUMMARY DATA ** ** Denotes Highly Confidential				
Wire Center	**Carrier Name**	**Collocator Threshold Met**	**Business Line Threshold Met[1]**	**Impairment Designation**
STLSMO07	** **	Three or more	** **	Tier 2
STLSMO08	** **	Three or more	** **	Tier 2
STLSMO21	** **	Four or more	** **	DS3 Loop Tier 1
STLSMO27	** **	Four or more	** **	Tier 1
STLSMO41	** **	Three or more	** **	Tier 2
STLSMO42	** **	Three or more	** **	Tier 2

DETAILED BUSINESS LINE COUNT DATA ** ** Denotes Highly Confidential											
WIRE CENTER	**ARMIS 43-08 Business Lines**	**2-Wire Analog Business UNE-P Lines**	**DS1 Business UNE-P Lines[2]**	**2-Wire Digital UNE-P Business Lines[3]**	**TOTAL Business UNE-P[4]**	**2-Wire Analog UNE-L Lines**	**DS1 UNE-L Lines[5]**	**DS3 UNE-L Lines[6]**	**2 Wire Digital UNE-L Lines[7]**	**TOTAL UNE-L[8]**	**TOTAL BUSINESS LINES**
KSCYMO02						** **					
KSCYMO05						** **					
KSCYMO55	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
SPFDMOMC	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
SPFDMOTL	**TANDEM**										
SPFDMOTU	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
STLSMO01	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
STLSMO05						** **					
STLSMO07	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **

[2] This column reflects the actual number of DS1 business UNE-P lines, not the voice grade equivalent for the lines.
[3] This column reflects the actual number of 2-wire Digital business UNE-P lines, not the voice grade equivalent for the lines.
[4] In calculating the business UNE-P voice grade equivalent totals, AT&T Missouri counted each 2-wire analog business UNE-P line as one (1) line, each 2-wire Digital business UNE-P line as two (2) voice grade equivalent lines, and each DS1 business UNE-P as 24 voice grade equivalent lines.
[5] This column reflects the actual number of DS1 UNE-L lines, not the voice grade equivalent for the lines.
[6] This column reflects the actual number of DS3 UNE-L lines, not the voice grade equivalent for the lines.
[7] This column reflects the actual number of 2-wire Digital UNE-L lines, not the voice grade equivalent for the lines.
[8] In calculating the UNE-L voice grade equivalent totals, AT&T Missouri counted each 2-wire analog UNE-L line as one (1) line, each 2-wire Digital UNE-L as two (2) voice grade equivalent lines, each DS1 UNE-L line as 24 voice grade equivalent lines, and each DS3 UNE-L line as 672 voice grade equivalent lines.

STLSMO08					** **						
STLSMO21	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **	** **
STLSMO27					** **						
STLSMO41					** **						
STLSMO42					** **						

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20544

In the Matter of	)	
	)	
Unbundled Access to Network Elements	)	WC Docket No. 04-313
	)	
Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers	)	CC Docket No. 01-338

AFFIDAVIT OF SHELLEY W. PADGETT

I, Shelley W. Padgett, being of lawful age, and duly sworn upon my oath, do hereby depose and state:

1. My name is Shelley Padgett. I am employed by BellSouth as Assistant Director – Regulatory and Policy Support in the Interconnection Services organization. My business address is 675 West Peachtree Street, Atlanta Georgia 30375.
2. I graduated summa cum laude from Harding University in 1992, with a Bachelor of Arts degree in International Studies, and I did post-graduate work at The George Washington University. I began my career at ALLTEL Telecommunications, Inc. but left to obtain a Master of Business Administration degree from Texas A&M University, graduating in 1998. After receiving my graduate degree, I began employment with BellSouth in the Interconnection Services organization. I have held various positions involving negotiations, product management, and regulatory and policy support within the BellSouth Interconnection Services organization. I have held my present position since May 2004.

3. I am submitting this Affidavit in support of BellSouth's comments in this proceeding. The purpose of my Affidavit is to: (1) outline BellSouth's tests to determine whether Competing Local Exchange Carriers ("CLECs") are impaired without unbundled access to high capacity interoffice transport and high capacity loops; (2) identify those central offices in BellSouth's region where CLECs are not impaired without unbundled access to high capacity interoffice transport and high capacity loops based on the application of BellSouth's proposed impairment test; (3) explain how granting unbundling relief for high capacity interoffice transport and high capacity loops in the central offices identified by BellSouth would be consistent with the D.C. Circuit's decision in *USTA I* and *USTA II;* and (4) explain why entrance facilities should not be subject to unbundling.

Overview

4. CLECs self-provide high-capacity facilities by deploying their own fiber networks, as they have done for years. The term "high capacity facilities" refers to DS1 and above, which CLECs use to serve business customers (as well as other telecommunications carriers), and include transport, loops, and dark fiber.

5. In developing a test to determine whether CLECs are impaired without access to unbundled high capacity facilities, BellSouth began by examining readily available factors that are indicative of actual and potential competition. I will discuss each of these factors in greater detail below. BellSouth then examined the data for each factor and attempted to identify common and recurring patterns to determine the most significant correlation of the data to create a "bright line" test for assessing impairment. Through this process, it became obvious that grouping

of central offices by the number of business lines served by each office provided a compelling basis for identifying markets where competition was economically possible. The number of business lines was derived by adding the business and coin line counts from the December 2003 43-08 ARMIS Report to the UNE loop and UNE-P business line counts as of December 2003.

High Capacity Transport

6. BellSouth examined the deployment of competitive fiber optic facilities as an indication of actual competition. Fiber-based collocation arrangements are one indication of fiber optic deployment. Specifically, using billing data and collocation application records, BellSouth identified the number of fiber-based collocation arrangements in each central office in BellSouth's region. Fiber-based collocation refers to a collocation arrangement where the CLEC has non-BellSouth provided fiber optic cable entrance facilities. Fiber-based collocation provides a readily accessible indication of the level of competition in an area, as it clearly shows that alternative networks have been deployed and are accessible from a particular central office. Furthermore, the presence of even one fiber-based collocation or fiber optic network is evidence that carriers can enter and have entered the market. However, not all alternative networks extend into many, or even any, ILEC central offices, and many carriers bypass the ILEC network entirely or maintain networks that may be accessed from some place other than an ILEC central office, such as a collocation hotel. Thus, using fiber-based collocation as a proxy for competitive fiber optic network deployment underestimates the alternative facilities that are actually available.

7. Furthermore, fiber-based collocation arrangements only indicate where competitive fiber optic facilities have already been deployed; they say nothing about where competition by CLEC-provided high capacity transport is possible. Consequently, BellSouth also analyzed the annual special access revenues that it receives in each central office. The volume of special access services (as expressed by annual revenue) reflects the extent to which a market exists for "premium" telecommunications services and thus provides an indication where competitive fiber optic facilities could readily be deployed.

8. As reflected in Table 1, a strong relationship exists between fiber-based collocation and central offices that serve 5,000 or more business lines. Whereas, only 3.1% of BellSouth's central offices with less than 5,000 business lines have one or more fiber-based collocation arrangements, almost 72% of central offices with at least 5,000 business lines have one or more fiber-based collocation arrangements. Similarly, only 1% of central offices with less than 5,000 business lines have two or more fiber-based collocation arrangements, as compared with over 50% of central offices with at least 5,000 business lines. This same pattern – a significantly greater preponderance of fiber-based collocation in central offices with 5,000 or more business lines -- continues when three, four, or more fiber-based collocation arrangements are considered.

Central Offices By No. of Business Access Lines	Number of Fiber-Based Collocators				
	0	1+	2+	3+	4+
Below 5,000	96.9%	3.1%	1.0%	0.1%	0.1%
Above 5,000	28.4%	71.6%	50.3%	38.7%	28.4%

Table 1

9. As reflected in Table 2, almost 90% of BellSouth's central offices with one or more fiber-based collocation arrangements are those with 5,000 or more business lines. Central offices with 5,000 or more business lines also account for approximately 96% of central offices with two or more fiber-based collocation arrangements and nearly 100% of those with three or more fiber-based collocation arrangements. That competitors have deployed fiber optic facilities primarily in central offices with at least 5,000 business lines is compelling evidence that such central offices are attractive markets capable of supporting competitive transport facilities.

Number of Fiber-Based Collocators	Central Offices By No. of Business Access Lines	
	Below 5,000	Above 5,000
0	90.1%	9.9%
1+	10.2%	89.8%
2+	4.5%	95.5%
3+	0.6%	99.4%
4+	0.8%	99.2%

Table 2

10. A strong relationship also exists between BellSouth's annual special access revenues and central offices that serve 5,000 or more business lines. Of all BellSouth's central offices with at least 5,000 business lines

- more than 97% have at least $200,000 in special access services purchased annually from BellSouth;
- almost 90% have more than $400,000 in special access services purchased annually from BellSouth; and
- more than 50% have more than $1,000,000 in special access services purchased annually from BellSouth.

Table 3 provides a detailed breakdown of these central offices by special access revenues.

Central Offices by No. of Business Access Lines	Special Access Revenues					
	$200K+	$400K+	$600K+	$800K+	$1M+	$2M+
Below 5,000	15.6%	4.6%	1.8%	1.1%	0.6%	0.2%
Above 5,000	97.4%	89.3%	74.6%	62.2%	54.3%	29.4%

Table 3

11. Table 4 shows a dramatic distinction at every revenue level in the distribution between central offices with less than 5,000 business lines and those that have at least 5,000 business lines. Seventy percent of the central offices with more than $200,000 in special access services purchased annually from BellSouth also serve 5,000 or more business lines. Central offices with 5,000 or more business lines also account for approximately 88% of those central offices with more than $400,000 in annual special access spend and more than 94% of those with more than $600,000 in annual special access spend. In short, almost all of the "highest value" central offices (as measured by special access revenues) have at least 5,000 business lines, and the demand for "premium" telecommunications services (again, as measured by special access revenues) is greatest in central offices with at least 5,000 business lines. Of course, using BellSouth special access revenue as a proxy for markets where competitive supply would be economically possible is conservative because it does not account for all demand for telecommunications services. In particular, the demand for switched access services, services provided via alternative facilities, or services not offered by BellSouth are not included in the figures for special access revenues reflected in Table 4.

Annual Special Access Revenues	Central Offices By No. of Business Access Lines	
	Below 5,000	Above 5,000
$200K+	30.0%	70.0%
$400K+	12.2%	87.8%
$600K+	5.9%	94.1%
$800K+	4.3%	95.7%
$1M+	2.9%	97.1%
$2M+	1.6%	98.4%

Table 4

12. Because there is compelling evidence that competitors are providing competitive transport in central offices with at least 5,000 business lines and because there is a sizeable market for "premium" telecommunications services in those central offices, it is obvious that central offices with 5,000 or more business lines can economically support competitive high capacity transport.

13. Based on this evidence, the Commission should find that CLECs are not impaired without access to unbundled high-capacity transport from any central office with 5,000 or more business lines. This represents approximately 27% of BellSouth's central offices. Exhibit SWP-1 contains a list of those central offices in BellSouth's region where the Commission should grant unbundling relief. Exhibit SWP-1 also contains corresponding data for number of business lines, number of fiber-based collocation arrangements, and annual special access revenues for each of these central offices.

14. The Commission should consider impairment for interoffice transport on a central office basis and should not define each individual interoffice route as a market, which is both an inefficient and unrealistic method of examining competitive deployment.

15. First, the Commission must consider the impairment CLECs face, if any, when entering the market in a broader sense. While there may be some question as to the proper geographic market that should be examined, it is clear that carriers do not decide to enter a market consisting of a single route. Carriers enter a customer market and design their networks to serve the geographic area which encompasses those customer locations.

16. Second, examining competitive deployment on a route-by-route basis would ignore that CLECs are not constrained by the traditional tandem switch-end office switch design of the incumbent's network. Instead, CLECs design their networks so that they can reach the offices of interexchange carriers, carrier hotels, and numerous multi-tenant and other private buildings from a single central office. If CLECs can economically self-provide transport from a single central office, the end point of the fiber optic route is irrelevant in assessing impairment.

17. Third, a route-by-route impairment test for interoffice transport also will encourage CLECs to engage in gaming in order to minimize their transport costs. For example, assume the Commission finds that there is no impairment on the route between Central Office 1 and Central Office 2 (CO1-CO2) so UNE interoffice transport is not available along that route (see Exhibit SWP-2). Further assume the Commission requires that the ILEC provide unbundled access to transport between Central Office 1 and Central Office 3 (CO1-CO3) and between Central Office 2 and Central Office 3 (CO2-CO3). In this instance, when in the absence of market-distorting pricing regulations, carriers would route traffic directly from CO1 to CO2. However, in order to take advantage of

TELRIC transport rates, carriers would likely route their traffic from CO1 to CO3 and then from CO3 to CO2, for no reason other than to game the system.

18. Given the realities of market entry decisions as well as the gaming opportunities afforded by a route-by-route impairment ruling, the Commission should consider the characteristics of each central office when examining the impairment a carrier may face in a market.

High Capacity Loops

19. In proposing a test to determine whether CLECs are impaired without access to unbundled high capacity loops and unbundled dark fiber, BellSouth followed the same process as described above for analyzing competitive deployment and potential deployment: specifically, business lines by central office and fiber-based collocation arrangements. BellSouth also analyzed special access services used by CLECs to serve end users.

20. Although evidence of actual deployment of CLEC-provided high capacity loops would be probative, such evidence has been very hard to come by. It is has been difficult for BellSouth to obtain comprehensive information concerning the locations where CLECs have deployed high capacity loops either from third-party sources or the CLECs themselves. During the state impairment proceedings that were initiated in response to the *Triennial Review Order* (before the D.C. Circuit's decision in *USTA II*), BellSouth served discovery on numerous carriers in several of the states in BellSouth's region in an attempt to learn where CLECs had deployed fiber optic facilities. The CLEC responses to BellSouth's discovery responses were generally evasive and otherwise unhelpful in providing the

locations of high-capacity loops and transport, even though the CLECs obviously have this information.

21. However, there is little doubt that CLECs are deploying their own fiber optic facilities, including high capacity loops. For example, as noted in the 2004 UNE Fact Report, both AT&T and MCI have trumpeted the number of high-capacity circuits, including DS-1 equivalent service, provided exclusively through their own networks. While not a perfect test, fiber-based collocation also is indicative of the presence of alternative fiber optic networks, which, as discussed above, is highly concentrated in larger central offices.

22. Given these facts as well as the need for an easily administered, bright line impairment test, BellSouth considered several factors, which I describe below, each of which is indicative of competitive deployment or potential deployment of high-capacity loops. These factors, when considered as a whole, support the conclusion that CLECs are not impaired without access to unbundled high-capacity loops and unbundled dark fiber in central offices serving at least 5,000 business lines.

23. The first factor is evidence of actual competitive deployment of high-capacity loop facilities. As mentioned previously, CLECs have been less than forthcoming in providing such evidence, and BellSouth has been forced to derive competitive information from the GeoResults GeoLIT™ Plus Report ("GeoResults Report"), which is based on data self-reported by carriers to Telcordia. In this context, a building is "lit" if it is served in part or in whole by fiber optic cable facilities with associated electronic equipment in place. This data understates the extent of

competitive high-capacity loop deployment, if for no other reason than the GeoResults Report only contains self-reported data and does not reflect buildings served by carriers who have elected not to report such information to Telcordia. The data also is conservative in that BellSouth removed competitively lit buildings from the GeoResults Report in which BellSouth appeared to be the underlying wholesale provider of the fiber optic facilities. Based on the data in the GeoResults Report, BellSouth analyzed the percentage of central offices in which CLECs are providing high-capacity facilities to end users using non-BellSouth fiber optic facilities based on the number of business lines served by each central office. This analysis appears in Table 5.

24. Table 5 reflects that, although only a little more than one-quarter of BellSouth's central offices have at least 5,000 business lines, 86% of the central offices with CLEC lit buildings are in central offices that have at least 5,000 business lines. CLECs have deployed fiber optic facilities to serve end users and these facilities are disproportionately concentrated in central offices with a business line density of at least 5,000.

Central Office by No. of Business Access Lines	Percent of Central Offices with Known CLEC Lit Buildings	Percent of Central Offices
Below 5,000	14.5%	72.7%
Above 5,000	85.5%	27.3%

Table 5

25. The second factor BellSouth considered is the level of actual competition using special access services. A carrier providing competitive service via special access is not impaired without access to the same underlying facilities purchased on an unbundled basis, as the D.C. Circuit recognized. Therefore, BellSouth analyzed

data from its billing records for all special access DS1 services provided to CLECs in July 2004. These records were then screened to remove services where the end user customer was listed as the requesting CLEC; other carriers, including wireless carriers; a collocation arrangement; or simply a piece of telecommunications equipment. BellSouth also analyzed data from its billing records from the same time period to ascertain unbundled DS1 loops provided to CLECs to serve their respective end user customers.

26. Through this analysis, BellSouth identified 106,640 buildings in its territory that are served by CLECs using DS1 circuits, either purchased as special access services, UNEs, or both. Of these 106,640 buildings, 63% (67,312) are served either by special access services exclusively (51.8%) or both special access services and UNE circuits (11.3%). While approximately 37% of the buildings (39,328) were served by CLECs using UNE DS1 circuits exclusively, it is not readily apparent why CLECs could not use special access to serve customers in those buildings. To be sure, UNEs are cheaper than special access, and it may be that certain CLECs have made the business decision to compete by paying the minimum amount for the underlying network facilities in order to maximize their profits. However, the fact that CLECs can earn more profit by buying UNE DS1 circuits does not mean that CLECs are impaired without access to unbundled high-capacity loops. Because only CLECs have access to the information underlying their business decisions, only CLECs can adequately explain why they must have UNE DS1 circuits to serve customers in some buildings when they can

readily compete using special access DS1 circuits to serve customers in many other buildings.

27. In addition to the ability of CLECs to use special access to compete, a strong relationship exists between such use and the number of business lines in central offices. As reflected in Table 6, 92.4% of the central offices with less than 5,000 business lines have 50 or fewer buildings in which CLECs are using DS1 special access circuits to serve end users. By contrast, 95.6% of the central offices with at least 5,000 business lines have more than 51 buildings in which CLECs are using DS1 special access circuits to serve end users.

28. Table 7 further underscores the relationship between CLECs' use of special access to serve end users and the number of business lines in the central office. Central offices that have 20 or fewer buildings served by CLECs using special access to serve end users and central offices with 21 to 50 buildings served by CLECs using special access are considerably more likely to be those central offices with fewer than 5,000 business lines (100% and 90.7%, respectively). By contrast, the vast majority (82.5%) of central offices with 51 or more buildings in which CLECs are using special access to serve end users are central offices with 5,000 or more business lines.

Central Offices by No. of Business Access Lines	Number of Buildings Served by CLECs using SpA to Serve End Users			
	0	1-20	21-50	51+
Below 5,000	16.9%	59.4%	16.2%	7.6%
Above 5,000	0.0%	0.0%	4.4%	95.6%

Table 6

Number of Buildings Served by CLECs using SpA to Serve End Users	Central Offices By No. of Business Access Lines	
	Below 5,000	Above 5,000
0	100.0%	0.0%
1-20	100.0%	0.0%
21-50	90.7%	9.3%
51+	17.5%	82.5%

Table 7

29. A third factor BellSouth considered were the revenues from CLEC using special access to serve end users, which is reflected in Table 8. Not surprisingly, central offices with fewer than 5,000 business lines account for considerably lower levels of special access revenues. For example, only 12.1% of the central offices with fewer than 5,000 business lines had special access revenues from CLECs serving end users that were in excess of $200,000 annually. By contrast, more than 92% of the central offices with at least 5,000 business lines had special access revenues from CLECs serving end users that exceeded $200,000 annually.

30. Table 9 indicates that more than 74% of the central offices in which there is more than $200,000 generated annually by CLECs using special access to serve end users are central offices with 5,000 or more business lines. Central offices with 5,000 or more business lines also account for more than 93% of those in which at least $400,000 in revenue is generated annually by CLECs using special access to serve end users.

Central Office by No. of Business Access Lines	Annual Special Access Revenues from CLECs Serving End Users						
	<$100K	$100K+	$200K+	$400K+	$600K+	$800K+	$1M+
Below 5,000	72.3%	27.7%	12.1%	2.0%	0.6%	0.3%	0.1%
Above 5,000	2.8%	97.2%	92.5%	73.4%	54.1%	40.1%	31.7%

Table 8

SpA Revenues From CLECs Serving End Users	Central Offices By No. of Business Access Lines	
	Below 5,000	Above 5,000
<$100k	98.6%	1.4%
$100k+	43.2%	56.8%
$200k+	25.8%	74.2%
$400k+	6.8%	93.2%
$600k+	2.9%	97.1%
$800k+	1.7%	98.3%
$1M+	0.7%	99.3%

Table 9

31. Given the need for a simplified test and that these items all show the presence of existing competition or indicate that competition is possible, the Commission should find that CLECs are not impaired without access to unbundled high-capacity loops from any central office with 5,000 or more business lines. Exhibit SWP-3 contains a list of those central offices in BellSouth's region where the Commission should grant unbundling relief. Exhibit SWP-3 also contains corresponding data for number of business lines, number of fiber-based collocation arrangements, annual end user special access revenues and quantity of end user special access circuits for each of these central offices.

D.C. Circuit Decisions

32. A determination that CLECs are not impaired without unbundled access to high capacity loops, transport and dark fiber in central offices with 5,000 or more business lines is consistent with the decisions of the D.C. Circuit.

33. First, BellSouth's impairment test takes into account not only those geographic areas where CLECs are currently deploying competitive fiber optic facilities but also where they are capable of doing so without access to unbundled network elements. Specifically, eliminating the unbundling of high capacity loops and transport and dark fiber in central offices with 5,000 or more business lines is

consistent with the evidence that CLECs are serving customers in those central offices with their own fiber optic networks or readily could be.

34. Second, BellSouth's impairment test recognizes that CLECs are not impaired in those geographic areas when they can and do serve customers via special access. In fact, competition for high capacity loops and transport has emerged in central offices with 5,000 or more business lines with CLECs relying more upon special access than UNEs, which undermines any CLEC claims of impairment.

35. Third, making impairment determinations for high capacity loops and transport and dark fiber at the central office level, as BellSouth proposes, is consistent with the D.C. Circuit's admonition in *USTA I* that the Commission should use "nuanced market definitions" in analyzing impairment. Because high capacity loops and transport are designed primarily to serve business customers, BellSouth's impairment test focuses on business access lines. Furthermore, examining impairment at the central office level for high capacity loops and transport is consistent with competitive entry.

36. Finally, BellSouth's impairment test is straightforward, easily administered, and provides a "bright line" for determining where high-capacity loops and transport must be unbundled. Furthermore, as required by the D.C. Circuit, the test will allow the Commission to make reasonable impairment findings without further fact-finding proceedings or involvement of the states.

Entrance Facilities

37. The Commission properly found in its Triennial Review Decision that entrance facilities should not be classified as UNEs. First, entrance facilities are dedicated

to one carrier customer and are built to order. When a requesting carrier orders an entrance facility from BellSouth, BellSouth designs, engineers, constructs and deploys the facility based on the carrier's order. After construction, the entrance facility is dedicated to the use of the ordering carrier and is not used by BellSouth to serve its own end users.

38. Second, the ordering carrier has a variety of options for provisioning the facility and no one provisioning company faces more impairment than any other. The carrier may choose BellSouth, provision its own entrance facilities, or purchase capacity from a wholesaler. In any of these cases, the provisioning company faces the same obstacles, including costs and provisioning time.

39. Third, the entrance facility market is highly competitive. Most carriers who chose to order entrance facilities order BellSouth's special access services. Almost 99% of the entrance facilities provisioned by BellSouth are purchased as special access facilities, while less than 1.5% are purchased as UNEs. However, in the past year, 10-20% of the entrance facilities BellSouth had provided have been replaced by non-BellSouth facilities.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Shelley W. Padgett
Assistant Director – Regulatory & Policy Support
Interconnection Services

Subscribed and sworn to before me

This 4th day of October, 2004

Notary Public

Gay P. Dilz
Notary Public, DeKalb County
Georgia
My Commission Expires
February 09, 2007

EX PARTE OR LATE FILED

Brian J. Benison
Associate Director-
Federal Regulatory

SBC Telecommunications, Inc.
1401 I. Street, N.W.
Suite 1100
Washington, DC 20005
202.326.8847 Phone
202.408.4806 Fax

December 7, 2004

ORIGINAL

RECEIVED

DEC - 7 2004

Federal Communications Commission
Office of Secretary

VIA Hand Delivery

Ms. Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: **Memorandum of Ex Parte Presentation**
WC Docket 04-313, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; **Redacted for Public inspection pursuant to protective order adopted in WC 04-313**

Dear Ms. Dortch:

Pursuant to a staff request, SBC is submitting data regarding the extent of fiber-based collocation for its wire centers in every state but Connecticut[1]. The wire center business line data is based on the ARMIS 43.08 report and includes retail business, resale and coin lines. UNE-P business lines and stand alone UNE loops and EELs were added to these numbers to reach a total business line number. These business line counts ignore the millions of lines that CLECs serve using their own last-mile facilities, competitive fiber, and other types of bypass.

I ask that this letter be placed in the files for the proceedings identified above.

Please call me should you have any questions.

Sincerely,

No. of Copies rec'd 0+2
List ABCDE

CC: Ian Dillner

[1] In order to be responsive to the staff's requests, SBC is filing the first twelve states because they are available and will supplement this filing with Connecticut data as soon as it is available.

EX PARTE OR LATE FILED

Brian J. Benison
Associate Director-
Federal Regulatory

SBC Telecommunications, Inc.
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December 10, 2004

ORIGINAL

RECEIVED

DEC 10 2004

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Office of Secretary

VIA Hand Delivery

Ms. Marlene H. Dortch
Secretary
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445 12th Street, SW
Washington, DC 20554

RE: **Memorandum of Ex Parte Presentation**
WC Docket 04-313, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; **Redacted for Public inspection pursuant to protective order adopted in WC 04-313**

Dear Ms. Dortch:
Pursuant to a direct staff request, SBC hereby supplements its December 7th, 2004 wire center data filing with information for Connecticut. The wire center business line data is based on the ARMIS 43.08 report and includes retail business, resale and coin lines. UNE-P business lines and stand alone UNE loops and EELs were added to these numbers to reach a total business line number. These business line counts ignore the millions of lines that CLECs serve using their own last-mile facilities, competitive fiber, and other types of bypass.

I ask that this letter be placed in the files for the proceedings identified above.

Please call me should you have any questions.

Sincerely,

CC: Ian Dillner