BELLSOUTH TELECOMMUNICATIONS, INC.

SURREBUTTAL TESTIMONY OF ALPHONSO J. VARNER

BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

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DOCKET NO. 2003-326-C

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

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

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

A. Yes I am.

Q WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My Surrebuttal Testimony is filed in response to several issues raised by competitive local exchange carriers ("CLEC") witnesses Sherry Lichtenberg of MCI, and Cheryl Bursh and Mark Van De Water of AT&T.

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

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

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

Next, some of these CLEC witnesses replay the contention that disaster looms in the future. Once again, they argue that unless BellSouth's systems and processes used in ordering, provisioning and maintaining UNE-Loops are substantially more mechanized, the potential for errors in manual operations and the increased

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

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

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

Q. DO YOU HAVE ANY RESPONSE TO THE COMMENTS ON PAGES 3 AND 4 OF MS. BURSH'S, PAGE 6 OF MR VAN DE WATER'S, AND PAGE 3 OF MS. LICHTENBERG'S REBUTTAL TESTIMONY, WHERE EACH CITE

PARAGRAPH 469 FROM THE FCC'S TRO AS A REASON TO CONCLUDE THAT BELLSOUTH'S CURRENT PERFORMANCE RESULTS ARE NOT RELEVANT IN THIS PROCEEDING?

A. Yes. These witnesses cite the FCC's statement in paragraph 469 of the TRO that "the number of hot cuts performed by BOCs in connection with the 271 process is not comparable to the number that incumbent LECs would need to perform if unbundled switching were not available for all customer locations served with voice-grade loops." This is construed as the basis to declare that the current performance data are irrelevant. This conclusion is not required by the TRO, nor is it a reasonable interpretation of the Order, nor is it a reasonable way for the Commission to proceed.

Paragraph 469 merely indicates that incumbent local exchange carriers ("ILECs"), like BellSouth, cannot rely <u>only</u> on the findings in the 271 proceedings to conclude that there is no impairment for CLECs if unbundled switching is not available. The point that the FCC was making is that the question the state commissions must answer is how the ILEC will handle increased volumes. They did not dismiss current performance data as relevant evidence to be considered by state commissions in that regard. Moreover, in paragraph 512 of its TRO, the FCC encouraged the use of such data in these proceedings with respect to loop provisioning in general when it explains:

> Evidence relevant to this inquiry might include, for example, commercial performance data demonstrating the timeliness and accuracy with which the incumbent LEC performs loop provisioning tasks and the existence of a penalty plan with respect to the applicable metrics. For the incumbent LECs that are BOCs subject to the requirements of section 271 of the Act, states may

> choose to rely on any performance data reports and penalty plans that might have been developed in the context of the past, pending, or planned application for long-distance authority.

Clearly, the FCC intended for states to use the facts of current performance instead of proceeding solely on the basis of unsupported assumptions as these witnesses propose. In essence, these witnesses are proposing to unnecessarily restrict this Commission in its deliberations by ignoring factual data.

The intent of the FCC's statement in paragraph 469 is more reasonably interpreted as the rationale for why it could not find on a national basis that CLECs are not impaired without access to unbundled local switching, or hold unequivocally that they are impaired. If the FCC had made such a clear finding, there would be no need for the state proceedings. Clearly, the FCC was unwilling to make a definitive finding. For example, in footnote 1435 of the same paragraph 469 that these witnesses cite, the FCC states: "our decision does not overlook the possibility that if in some markets the incumbents' ability to perform batch hot cuts does not pose impairment, the states may simply make the findings to this effect." BellSouth's performance data provide evidence of BellSouth's ability to perform loop provisioning in a timely and reliable manner. Hot cuts are simply a specific type of loop provisioning activity. Thus, BellSouth's current exemplary performance data are relevant and important.

The performance data should be used in conjunction with the testimony of BellSouth witnesses such as Mr. McElroy, Mr. Ainsworth, and Mr. Heartley to determine whether operational impairment exists. The performance data calculated as prescribed by this Commission is an important part of this inquiry because it demonstrates the extent of BellSouth's commitment and action on that

commitment to provide nondiscriminatory loop provisioning. BellSouth has shown a commitment to provisioning loops, including hot cuts, in a timely and accurate manner for CLECs in South Carolina. These measurement results clearly show that performance does not pose an operational barrier to market entry for the CLECs. The performance data provided in my Direct Testimony offers a factual basis for the Commission's decisions instead of the unsupported assumptions offered by these witnesses.

Q. MS. BURSH, ON PAGES 3 AND 4 OF HER REBUTTAL TESTIMONY ALLEGES THAT BELLSOUTH HAS TWISTED CURRENT PERFORMANCE DATA TO SUPPORT THE CLAIM THAT BELLSOUTH'S EXISTING PROCESSES WILL ADEQUATELY SUPPORT ANTICIPATED LOOP MIGRATION. DO YOU AGREE?

A. No, I disagree. As demonstrated in Exhibit AJV-1 to my Direct Testimony, BellSouth has shown a commitment to performing hot cuts in a timely and accurate manner for CLECs in South Carolina. If the hot cut volumes are low, they simply reflect the CLECs' choices, which according to Ms Bursh is rationale to penalize BellSouth. That aside, hot cuts are not a new process to BellSouth. The fact is BellSouth has been doing what we now call "hot cuts" for many years. BellSouth has extensive experience in performing large numbers of hot cuts by completing the work steps required to transfer a geographic area from one wire center to another. These transfers are called "Area Transfers."

Another example of BellSouth's experience with "hot cuts" is the T&F process, wherein a customer moves from one location to another within the same wire center. Yet one more example of hot cuts in very large volumes is switch replacement. This occurs when BellSouth replaces the switching equipment in a central office with newer technology, such as the replacement of an analog switch with a digital switch. Switch replacement involves the hot cut of thousands of customer lines, in a very short period of time. These examples have been subject to Commission oversight for many years, even predating the Telecom Act of 1996. They have also been included in such retail measurements as Customer Trouble Report Rate.

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

Looking specifically at the activity to disconnect and reconnect the loop, for the twelve-month period from November 2002 to October 2003, BellSouth performed this function within 15 minutes for 99% of the 1,444 coordinated loop conversions in South Carolina during that period. For all states in BellSouth's region for the three-month period of August 2003 through October 2003,

BellSouth performed this function within 15 minutes for 99.60% of the 4,213 coordinated loop conversions. The average time to cutover a loop was 2 minutes 59 seconds during the twelve-month period from November 2002 to October 2003 for South Carolina. Similarly, for all states in BellSouth's region, the average time to cutover a loop was less than 3 minutes during the three-month period of August 2003 through October 2003.

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

If Ms. Bursh, like Ms. Lichtenberg, is implying that the processes are not scalable with increased volumes, the FCC has at least partially addressed this issue where the agency has found in 49 decisions under section 271 that incumbents could scale their hot-cut processes as necessary (*e.g., New York Order* ¶ 308). While I agree that this finding was made in an environment where UNE-P was required, nonetheless, it is a recognition that a significant degree of scalability exists.

Mr. McElroy in his Direct Testimony explains how a test of BellSouth's batch migration process for converting UNE-P to UNE-L service demonstrated that the process would sufficiently support the batch conversion of a CLEC's embedded UNE-P customer base to UNE-L services. Furthermore, Mr. Ainsworth and Mr. Heartley describe how BellSouth's processes are also scalable and will be able to meet the standards in the future. BellSouth's performance record shows that it has, and is, meeting the challenge of providing nondiscriminatory loop provisioning, including hot cuts. Consequently, the CLEC witnesses attempt to trivialize the data because they can't refute the meaning of the facts. These facts, coupled with the implementation of proven provisioning plans as attested to by other BellSouth witnesses, provide a clear path to determine that anticipated performance will be commendable.

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

A. With respect to her first comment, that my Direct Testimony only addresses performance with respect to the "current low level of UNE-L orders," Ms. Lichtenberg misses the obvious purpose of performance data. The only options for performance reporting are past or present results, based on whatever level of activity the CLECs generate. Certainly, the only meaningful way to assess

BellSouth's ability to effectively process potential increases in future demand is to consider current performance results, the commonality and capacity of systems used in processes that handle significant volumes for similar activities today, the practical options available to BellSouth (or any business for that matter) of shifting resources to meet demand, and planned improvements in processes to accommodate anticipated requirements. Thus, the intent of my Direct Testimony, which provided BellSouth's performance with respect to loop provisioning in general and hot cuts in particular, was not for the data to be considered in isolation. Rather, as previously stated, the performance results provided in my Direct Testimony should be considered in conjunction with the testimony of other BellSouth witnesses addressing other relevant aspects of the impairment issue.

The current volumes reflect what the CLECs are ordering and BellSouth can only report what is being ordered. Ms. Lichtenberg provides no reasonable basis as to why the Commission should believe that BellSouth would not be able to handle an increase in UNE-L volumes. In contrast, BellSouth has provided factual data and a concrete rationale to support its claim that performance will indeed be adequate. It should be remembered that when the CLECs opposed BellSouth's long distance applications, they erroneously predicted a similar inability regarding BellSouth's capacity to meet future volume demands for UNE-P and ordering in general. This erroneous prediction was contradicted by the data available at the time. Notably, the facts proved the CLECs' prediction wrong then, and they are wrong now. Rather than rely upon the facts, Ms. Lichtenberg feebly postulates the vaporous notion that if it has not happened in the past, it can't happen in the

future. She takes this position while completely ignoring the fact that both current and historical data contradict her prediction.

In addition, Ms Lichtenberg goes on to reiterate the point that some processes are manual. The thrust of her whole argument in this case is the faulty assumption that the presence of a manual procedure anywhere in the stream of ordering and provisioning processes somehow results in impairment. Indeed, there is an obvious and significant gap between quoting the percentage of UNE-L orders that were Fully Mechanized during a specific period and concluding that these percentages establish CLEC impairment. The flow-through of LSRs is only one aspect of providing UNE-Loops to CLECs and, as the FCC has clearly explained, a secondary one at that.

As a practical matter, BellSouth will obviously assign its resources to the areas that generate the most volume. Certainly, as CLECs begin to submit more UNE-L orders, and less of other order types, BellSouth would make adjustments to address the change in CLEC ordering patterns. I should also point out that the priority with which BellSouth makes changes to such systems is largely controlled by CLECs through the Change Control Process (CCP). If the flow-through of UNE-L orders becomes a high priority with CLECs, it should be reflected in their CCP prioritization.

Significantly, BellSouth's current and past performance record, in conjunction with the process and procedure plans provided by other BellSouth witnesses, form a reasonable basis to infer that its future performance will be similar. Surely, the

performance results provided in my Direct Testimony provide a more rational basis for this Commission's determinations than the conjecture offered by CLEC witnesses such as Ms. Lichtenberg. If the Commission ignores the data completely, as Ms. Lichtenberg suggests, the door is open for a wide variety of such suppositions about potential problems for which there is no factual basis.

In contending that my Direct Testimony does not "give a clear picture of BellSouth's actual performance", Ms. Lichtenberg, on pages 4 and 5 of her rebuttal testimony, focuses on two aspects of performance - flow through and order completion interval. Notably, this approach ignores the substantial amount of data that I provided demonstrating that BellSouth's UNE loop provisioning performance has been and continues at a high level. I will address her flow through testimony now and her order completion interval testimony later because it has some common elements with other witnesses.

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

> We have not considered flow-though rates as the sole indicia of parity, however, and thus have not limited our analysis of a BOC's ordering processes to a review of its flow-through performance

> data. Instead, we have held that factors such as a BOC's overall ability to return timely order confirmation and rejection notices, accurately process manually handled orders, and scale its systems are relevant and probative for analyzing a BOC's ability to provide access to its ordering functions in a nondiscriminatory manner. *See* Texas Order, ¶ 179.

While the FCC has repeatedly expressed the secondary nature and importance of the flow-through metric, the CLECs have repeatedly ignored this point in assessing the impact of flow-through. The FCC's statement does not mean that flow through is irrelevant; it simply means that its significance is dictated by performance on other measures. In this proceeding, Ms. Lichtenberg attempts to overstate the importance of flow-through, apparently because overall performance is being reviewed in connection with batch hot cuts. Oddly, she seems to be aware of its secondary role, because she refers to service order accuracy as an important consequence of flow-through. Service Order Accuracy is one of the measures that bears upon the significance of flow-through, and is a measure that BellSouth currently reports and will continue to report in its monthly data.

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

A. Ms. Lichtenberg, again, makes predictions about BellSouth's ability to process orders accurately by referring to "chances" for human error and customer service outages without indicating any factual or other rationale or basis for her

predictions. Rather than using performance data to support her analysis, she simply opines that the prospect of excessive human errors by BellSouth or customer service outages and the "potential" for problems is enough for this Commission to find that CLECs are impaired without access UNE-P at TELRIC rates.

If BellSouth's performance results are reviewed, however, it is reasonable to infer that Ms. Lichtenberg's repeated contention that, unless BellSouth's ordering and provisioning processes are significantly more mechanized, CLECs will become impaired without UNE-P is without merit. For example, with respect to Ms. Lichtenberg's concern about the possibility of human errors in the ordering process, BellSouth reports its monthly performance relative to errors in the ordering process via measure P-11, Service Order Accuracy. While the Service Order Accuracy measure in South Carolina does not split the UNE category into UNE-P and UNE-L, the three states that have adopted the mechanized approach requested by the CLECs (i.e., Florida, Georgia, and Tennessee) show UNE-P and UNE-L separately. In these states, for both UNE-P and UNE-L, performance exceeds the 95% benchmark. The following chart reflects BellSouth's combined performance for Florida, Georgia, and Tennessee for the Service Order Accuracy measure for UNE-P and UNE-L for a recent three-month period, October, November and December 2003 (the results show the percent of orders that are accurate).

MONTH	**UNE-P**	**UNE-L**
October 2003	95.84%	97.41%
November 2003	96.41	97.94

December 2003	96.80	98.53

As can be seen, performance for both products exceeded the 95% benchmark ordered by these state commissions, which is the same benchmark adopted by this Commission. Based on the performance data above, the Service Order Accuracy rate was quite high. Even if the argument is made that the current UNE-L levels are much less than anticipated volumes, for December 2003, the volume for UNE-L orders was approximately 11,000 orders for these three states, which is clearly sufficient to demonstrate the level of BellSouth's performance. Moreover, the anticipated future increase in UNE-L orders would be accompanied by an anticipated significant decrease in UNE-P as well, which must be considered when predicting future performance levels.

Similarly, with respect to Ms. Lichtenberg's issue concerning potential customer service outages with UNE-L, on page 7 of my Rebuttal Testimony, I provided data for two Maintenance and Repair measures, Customer Trouble Report Rate and Maintenance Average Duration, showing UNE-P results and UNE-L results. Although I do not agree that comparing UNE-L and UNE-P performance is a reasonable approach for reasons discussed in my rebuttal as well as later in this testimony, even those comparisons do not support Ms. Lichtenberg's claim. The data show that for maintenance and repair, BellSouth performed comparably for UNE-P and UNE-L. In fact, the UNE-L results were as good as, if not better than, UNE-P results. Moreover, the data show that if the proper comparisons are made, *i.e.*, if UNE-L results are compared to the established retail analogues, BellSouth performs at a very high level in maintaining UNE loops. Again, simply recognizing that these are smaller UNE-L volumes than anticipated in the future,

does not establish that performance levels will deteriorate to a point that CLECs are operationally impaired without UNE-P.

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

Q. ON PAGES 5 THROUGH 7 OF HER REBUTTAL TESTIMONY, MS. BURSH STATES THAT "BELLSOUTH USES THE WRONG STANDARD IN ATTEMPTING TO DEMONSTRATE THAT CLECS DO NOT FACE OPERATIONAL BARRIERS TO MARKET ENTRY ABSENT UNBUNDLED LOCAL SWITCHING." DOES MS. BURSH PROPOSE AN APPROPRIATE STANDARD TO COMPARE DELIVERY METHODS?

A. No, her proposal is inappropriate. First, I would like to note a bit of inconsistency in Ms. Bursh's position. After claiming that BellSouth's data is irrelevant and instructing this Commission to discard this evidence, Ms. Bursh appears to contradict her own testimony. She concedes that the FCC suggested a review of performance data could be appropriate as part of the inquiry into the ILEC's "ability to transfer loops in a timely and reliable manner." (TRO at ¶ 512.) Having now agreed that the data are relevant, she disagrees with the manner in which this Commission chose to develop the data.

The discussion of performance measurements data for hot cuts and UNE local loops in Exhibit AJV-1 provides the relevant information that the FCC suggested for use by this Commission. BellSouth has been producing performance measurements using South Carolina data, based on the Georgia April 6, 2001 measurement plan, for many months. Instead of assessing BellSouth's performance relative to standards set by that SQM, as I did in my direct testimony, Ms. Bursh claims that my "discussion provides little insight into the issue of whether BellSouth's loop provisioning is as prompt and efficient as UNE-P." Instead, Ms. Bursh along with Ms. Lichtenberg and Mr. Van de Water create their own standard. None of these witnesses, however, explains how they derived their standard. As to Ms Bursh's self-proclaimed "FCC-prescribed standard of UNE-P performance," there is neither a directive that establishes this standard, nor would it be a reasonable standard by which to measure performance.

The key point is that it is not appropriate to compare performance for UNE-P and UNE-L processes in the instances where they are not analogous. They are not the same products and do not offer the same functionality to the CLEC. Consequently, neither the FCC, nor this Commission required them to be the same. The question before the Commission is NOT whether UNE-L can be made the same as UNE-P. The question before the Commission, rather, is whether an efficient CLEC can compete in a particular market using UNE-L. Because the answer to this question is unequivocally "yes," the CLECs are attempting to change the question.

Q. ON PAGES 4 – 5 OF HER REBUTTAL TESTIMONY, FOLLOWING THE SAME GENERAL APPROACH AS MS. BURSH, MS. LICHTENBURG COMPARES UNE-L INSTALLATION INTERVALS TO UNE-P INSTALLATION INTERVALS AND CONCLUDES THAT UNE-L MIGRATIONS TAKE SUBSTANTIALLY LONGER THAN UNE-P MIGRATIONS. IS THIS A FAIR COMPARISON?

A. No. This is a comparison that identifies the obvious fact that the products are different, but fails to identify the relevance or usefulness of that fact for determining operational impairment. As I stated in my Rebuttal Testimony, responding to the same issue raised by AT&T witness Mark David Van De Water, there is an inherent flaw in attempting to equate two different products and processes and expecting the results to be the same. Where UNE-P orders require little more than a billing change of the existing end-user, UNE-L will always require some type of physical work whether at the central office or the customer's premises. What Ms. Lichtenberg and other CLEC witnesses raising this issue fail to do is demonstrate how they are impaired because of the difference. Furthermore, the CLEC witnesses do not provide any rationale why this Commission should suddenly change the Commission-ordered performance standards for UNE-P and UNE-L, which are generally retail analogs, to now be a simple comparison of UNE-P to UNE-L.

As already mentioned, BellSouth, the CLECs, and the Commission have all spent an enormous amount of time establishing performance measurements, disaggregating products and processes, and creating performance standards based

on the differences in these products and processes. Where the performance standards are retail analogs, in most cases these retail analogs are reasonable and relevant. Where they are not reasonable or relevant, CLEC and retail performance results cannot be compared to arrive at a meaningful conclusion. In this instance, more analysis of the data is necessary to determine whether a performance problem exists. The erroneous standard can be revised in the next periodic review. Contrary to this approach, which CLECs agreed to and this Commission ordered, CLECs now propose to establish UNE-P performance as the analog for UNE-L performance, despite the fact that the two products are not analogous in all cases.

The Commission has determined that the performance standard for both UNE Loops and UNE-P is a retail analog. In the absence of something more tangible, the fact that the standards adopted by all nine state commissions in BellSouth's region and accepted by the FCC, reflect differences based on the different products and processes renders moot this point stressed by Ms. Lichtenberg, and other CLEC witnesses. I should also point out that failure to meet this Commission's prescribed standards for order completion interval, as set forth in the Service Quality Measurement ("SQM") Plan, is met with immediate penalty plan consequences. This occurs, in some cases, even where the performance standard is clearly improper.

Q. TURNING AGAIN TO MS. BURSH, ON PAGES 5 THROUGH 7 OF HER REBUTTAL TESTIMONY, MS. BURSH, NOTING AS MS. LICHTENBERG DID, THAT UNE-P AND UNE-L HAVE DIFFERENT INTERVALS, GOES FURTHER AND MAKES THE ASSERTION THAT IF "UNE-P IS NO LONGER AVAILABLE, THE ILEC MUST FOLLOW THE SAME STANDARD IN PERFORMING ITS REPLACEMENT." DOES THIS CONCLUSION HAVE MERIT?

A. Not entirely. It is a reasonable conclusion when the processes required to provide the two products are analogous. Ms. Bursh, however, is narrowly asserting that the performance standard for Order Completion Interval (OCI) should be the same for these two products even though the processes measured by OCI are not analogous. The basis for this illogical approach is purported to be the FCC in the TRO.

The only determination that the Commission need make is: Will BellSouth's performance for UNE loops provide the CLECs with a meaningful opportunity to compete? Stated another way: Does UNE-L performance impair the CLEC's ability to compete? In making this determination, the Commission should consider not only the order completion interval, but also the other provisioning measurements as well as ordering and maintenance processes. The Commission should also consider the fact that UNE-L provides the CLEC with a number of competitive advantages that they do not have with UNE-P. For instance, once an end-user is served by a UNE loop which is terminated on the CLEC's switching

equipment, the CLEC can change switch dependant features and offer promotional packaging without involving BellSouth.

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

A. No. In coming to the conclusion that the Order Completion Interval for UNE-P and UNE-L must be the same, these witnesses cite a partial reference to footnote 1574 in the TRO. The entire footnote is as follows:

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

While the State Commissions are encouraged to review performance, there is nothing in this footnote that requires an identical standard for UNE-P and UNE-L. Ms. Bursh (on page 5 of her rebuttal testimony) and Mr. Van de Water (on pages 6-7 of his rebuttal testimony) cite the portion of the footnote that discusses 'transferring customer loops from the incumbent LEC main distribution frame to a competitive LEC collocation.' This function has a performance standard

requiring that the activity must be completed within 15 minutes, 95% of the time. These CLEC witnesses erroneously conclude that the Order Completion Interval for UNE-L, which is not even a measure of the process that they address, must therefore be the same as UNE-P. Once again, these products are different, which means they have inherent advantages and disadvantages. For example, some forms of UNE-P will have a shorter order completion interval than some forms of UNE-L, such as migration only orders. Other forms of UNE-P, such as those orders requiring the dispatch of a technician, will have longer intervals as shown in my rebuttal testimony on this subject. Finally, UNE-L, as previously stated, provides the CLEC with more direct control of some of the services provided to their customers. Particularly, CLECs can change custom calling features themselves with UNE-L.

There are significant parallel processes for ordering and provisioning UNE-P and UNE-L services, but they are not analogous with respect to order completion interval. The CLEC's ignore, in the same order, the language to which this footnote applies. Namely, in paragraph 512, which references footnote 1574, the FCC states:

> We therefore ask the state commissions to consider more granular evidence concerning the incumbent LEC's ability to transfer loops in a timely manner. Specifically, we ask the states to determine whether incumbent LECs are providing nondiscriminatory access to unbundled loops. [fn. 1574] Evidence relevant to this inquiry might include, for example, commercial performance data demonstrating the timeliness and accuracy with which the incumbent LEC performs loop provisioning tasks and the existence of a penalty plan with respect to the applicable metrics. <u>For incumbent LECs that are BOCs subject to the requirements of section 271 of the Act, states may chose to rely on any performance data</u> <u>reports and penalty plans</u> <u>that might have been</u>

> developed in the context of a past, pending, or planned application for long-distance authority. (emphasis added)

Clearly, the FCC is asking states to use existing performance plans with full knowledge that those plans equate performance on UNE-L to retails analogs, not to UNE-P. Therefore, given that the performance data that the FCC encourages states to use in their evaluations do not reflect the same standards for UNE-P and UNE-L, it would be illogical to interpret the footnote cited by the CLECs as meaning that these two performance standards should be equivalent.

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

Q. HAS THE ARGUMENT THAT THESE INTERVALS SHOULD BE THE SAME BEEN MADE BEFORE TO THE FCC?

A. Yes. Significantly, AT&T made this same argument before the FCC that the standard must be the same for UNE-P and UNE-L. In particular, AT&T argued that until ILECs offer an electronic loop provisioning (ELP) method of transferring large volumes of local customers, unbundled switching for voice grade loops is essential. The FCC, in paragraph 491 of its TRO, rejected this

contention stating: "the evidence in the record suggests that an ELP process, to be effective, would require significant and costly upgrades to the existing local network at both the remote terminal and the central office…we, decline to require ELP at this time, although we may reexamine AT&T's proposal if hot cut processes are not, in fact, sufficient to handle necessary volumes." Clearly, the FCC did not support the idea that UNE-P and UNE-L installation intervals must be the same. Consequently, it is impractical for this Commission to superimpose such a blatantly self-serving standard simply because CLECs want to do so.

A more rational interpretation of the TRO is that BellSouth's performance relative to the applicable standards for UNE-L should be equivalent to BellSouth's performance relative to applicable standards for UNE-P. Said another way, it means that BellSouth must provide nondiscriminatory UNE-L performance just like it must provide nondiscriminatory UNE-P performance. Of course, analysis of the data shows that BellSouth meets this rational test, which is a fact that CLEC witnesses cannot refute.

Q. MS. BURSH ON PAGE 6 PRESENTS TABLE 1 THAT SHE CLAIMS DEMONSTRATES THAT BELLSOUTH'S LOOP PERFORMANCE FALLS "WOEFULLY SHORT" WHEN COMPARED AGAINST UNE-P PERFORMANCE. WHAT IS THE RELEVANCE OF THIS COMPARISON IN THIS PROCEEDING?

A. It provides no useful information to this Commission. Ms. Bursh is reiterating the same point raised by Mr. Van De Water on page 17 of his direct testimony and

that I addressed in my rebuttal of Mr. Van De Water's testimony and just addressed again in this testimony. Ms. Bursh's Table (page 6 of her rebuttal testimony) simply points out that the Order Completion Interval (OCI) or the average time interval to complete UNE-P orders, which are mostly orders requiring a records change only, and require no physical work, is less than the average time to complete 2W Analog Loop w/LNP Non-Design < 10 / Dispatch-In, where some form of physical work is required. In other words, UNE-P orders are primarily "switch as is" and 2W Analog Loop w/LNP Non-Design < 10 / Dispatch-In orders are not.

Here Ms. Bursh twists her analysis as she attempts to draw conclusions by equating the installation interval for two different products and processes. Many of the UNE-P orders that Ms. Bursh refers to here are largely orders for feature changes. So, she has stated incorrectly what OCI would be in a UNE-L environment. In particular, for features changes the order completion interval in the UNE-L environment would be zero, because the CLEC would do this work itself, compared to the "fraction of a day" for UNE-P orders reflected in Ms. Bursh's Table.

Further, it should be noted that the interval for 2-W Analog Loop w/LNP Non-Design < 10 / Dispatch-In includes a 3-day minimum for the LNP portion of the work. This 3-day minimum was requested by the CLECs in collaborative teams so that the CLECs have the time to perform their work necessary to provision the service. The origin of this 3-day minimum is actually an industry agreement,

which allows for the new service provider (either CLEC or BellSouth) to accomplish the work and coordination necessary to perform a number port.

Specifically, as background, in July 2003, the Local Number Portability Administration Working Group (LNPAWG), which includes CLEC and ILEC representatives, approved a set of number porting procedures that place a minimum interval on the Order Completion Interval for number ports in an NPA-NXX exchange. These procedures, in part, state: "Any subsequent port in that NPA NXX will have a due date no earlier than three (3) business days after FOC receipt." A subsequent port refers to any number port that occurs after the very first one in that NPA-NXX code, which would encompass virtually all of the number ports applicable here. The LNPAWG is a sanctioned committee of the North American Numbering Council (NANC). AT&T is a member of the LNPAWG who approved these procedures requiring the 3-day minimum.

However, despite the aforementioned 3-day minimum for LNP orders, BellSouth has implemented ways to shorten the OCI time for non-LNP orders, particularly for UNE Loop orders not requiring a dispatch. Of course, additional changes must still adhere to industry standards and may be delayed by CLECs through the change CCP.

As pointed out in my rebuttal testimony on pages 13 and 14, an order for UNE-P typically involves little more than changing the billing of an existing end-user from BellSouth retail, or from another CLEC, to the acquiring CLEC. It is important to note that for most UNE-P orders, the following three factors apply:

1) no physical work is required, 2) no outside dispatch is needed, and 3) the order is not subject to facility shortages. The other order type listed in Ms. Bursh's Table, 2W Analog Loop w/LNP Non-Design < 10 / Dispatch-In, will always require some form of physical work.

Finally, to reiterate, the relevant question is not whether UNE-L and UNE-P are the same, but whether an efficient CLEC can compete using UNE-L. BellSouth's UNE-L performance, coupled with the advantages to the CLEC of UNE-L, provides CLECs a meaningful opportunity to compete. For instance, any alleged timeliness advantage that BellSouth has with respect to loops connected to its switch, becomes an advantage to the CLEC after the CLEC has acquired the customer using UNE-L. In that case, because the loop is already connected to the CLEC's switch and only requires minimal work, BellSouth and the CLEC must perform a hot cut to win-back the customer. Other advantages include the business opportunities to perform their own work on their own switches, and the marketing opportunities to offer their own features and functionalities that are not offered by BellSouth. I only make these points to illustrate the lack of logic surrounding the CLECs claim that Order Completion Interval results should be viewed in a vacuum and are required to be the same for UNE-P and UNE-L.

Q. ON PAGE 10 OF HIS REBUTTAL TESTIMONY, MR. VAN DE WATER ARGUES THAT BELLSOUTH'S HOT CUT MEASURE BENCHMARK SHOULD BE 5 MINUTES AS OPPOSED TO 15 MINUTES. DO YOU AGREE?

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

Second, the benchmark provides for the conversion work described in BellSouth witness Mr. Ainsworth's testimony. By performing the pre-conversion work before the actual transfer from switch to switch, BellSouth increases its efficiencies and minimizes the actual impact of the physical transfer to the end-user. And third, the benchmark is reasonable, as all of the state commissions already has determined.

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

Q. MS. BURSH, ON PAGES 7 THROUGH 9 CLAIMS THAT CONSOLIDATING RESULTS FOR "ALL LOOPS" HIDES PERFORMANCE RESULTS RELEVANT TO THE ISSUE OF OPERATIONAL BARRIERS TO MARKET ENTRY ABSENT UNBUNDLED LOCAL SWITCHING. HOW DO YOU RESPOND?

A. BellSouth did not aggregate or offset the performance assessments in a manner that masks the more relevant performance as Ms. Bursh claims on page 9. On the contrary, Exhibit AJV-1 and Attachment 1 provided hot cut performance in detail, as well as the other performance data for UNE Local Loops in South Carolina. The data show that BellSouth met the Coordinated Customer Conversion 15-minute benchmark for over 99% of all cutovers in the past 12 months in South Carolina. This measurement reflects the average time it takes to disconnect an unbundled loop from the BellSouth switch and cross connect it to the CLEC equipment. For UNE Local Loops, BellSouth met the specified benchmark intervals for FOCs at a rate of 93%% during the 12-month period (November 2002 – October 2003). For the same period, BellSouth met the performance standard for 96% of the provisioning sub-metrics and 96% of the maintenance & repair sub-metrics.

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

Q. ON PAGE 9, BEGINNING ON LINE 3 MS. BURSH APPEARS TO BELIEVE THAT BELLSOUTH'S AGGREGATED ASSESSMENT MAY MASK PERFORMANCE. HOW DO YOU RESPOND?

A. As I indicated above, BellSouth did not aggregate the performance assessments in a way that masks anything. On pages 8 and 9 of my Direct Testimony, I explain which products are included within the UNE Loop performance data. Also, as previously stated, Exhibit AJV-1 provides a detailed discussion of the data <u>and</u> the detailed performance results at the sub-metric level. That exhibit beginning on page 12 provided overall hot cut performance and the charts in Attachment 1 to the Exhibit AJV-1 provided the data individually. It is this detailed comparative performance data for UNE Local loops that actually facilitates evaluation of the extent to which nondiscriminatory performance is provided. But regardless of the individual or aggregated presentation of the data, the fact remains that BellSouth's performance is very high.

Q. MS. BURSH AGAIN PRESENTS PERFORMANCE RESULTS (PAGES 9 AND 10) FOR SUB-METRICS TO BOLSTER THE CLAIM "THAT BELLSOUTH IS NOT PROVIDING EXCELLENT SERVICE LEVELS IN STATES WITH MORE VOLUME." HOW DO YOU RESPOND?

A. Ms. Bursh continues her pattern of identifying anecdotal examples of sub-metrics where BellSouth has not met the benchmark and ignoring the overall performance of the measurement. Ms. Bursh picks a few sub-metrics of the partially mechanized FOCs as her examples. As stated previously, overall FOC

performance for South Carolina actually averaged 93% over the period from November 2002 through October 2003. However, Ms. Bursh focuses on only one sub-metric, FOC Timeliness – Partially Mechanized in Georgia. In previous states such as North Carolina, Ms. Bursh focused her attention on the FOC and Reject Completeness fully mechanized sub-metric. However, when she filed rebuttal testimony in Alabama, because BellSouth met 100% of the 2W Analog Design loops for that sub-metric in Alabama, she moved to another sub-metric.

Thus, Ms. Bursh's pattern is clear. She looks for any sub-metrics where BellSouth misses the benchmark, instead of looking at the overall performance being provided to the CLECs, and ignores the fact that for the sub-metrics she chooses, because of the small volume, the results are inconclusive. This is the case where, on page 9 of her rebuttal testimony, she chooses FOC Timeliness (partially mechanized) for 2W Analog Loop w/LNP Design.

Specifically, Ms. Bursh fails to account for the fact that for the period in question (March through September 2003 in Georgia), that in several of the months where BellSouth performance missed the 90% benchmark, the transaction volume was sufficiently low that BellSouth could not miss more than a few transactions. For example, in the month of June 2003 for 2W Analog Design Loops with LNP where the volume of transactions for the sub-metric was 16, BellSouth returned 13 FOCs within the benchmark. Thus, the 3 failures result in an 81.25% performance and a miss of the 90% benchmark for this sub-metric because of the low volume.

Ms. Bursh also filed as Exhibit No. CLB-R1 of her rebuttal testimony in this proceeding the rebuttal testimony that she filed with the Georgia Public Service Commission in the TRO proceeding. Therefore, I have attached my surrebuttal testimony filed in Georgia, included here as Exhibit AJV-5, which addresses the issues she raised in that proceeding. The issues that she raised there, however, represent the same type of anecdotal approach that the example above highlights.

In short, with such a low volume, only near-perfection could have achieved the standard. Ms. Bursh's analysis ignores these practical facts. Also, in March 2003 this benchmark changed from 85% in 10 hours to 90% in 7 hours for partial mechanized LSRs in Georgia, which is the example Ms. Bursh cited in her rebuttal. This benchmark is more stringent than most of the 9 states that BellSouth serves.

Q. STARTING ON PAGE 10 OF HER REBUTTAL TESTIMONY, MS. BURSH APPEARS TO ALLEGE THAT BELLSOUTH IS MISREPRESENTING THE PERFORMANCE RESULTS BY INCLUDING LOOPS THAT ARE NOT MIGRATABLE FROM UNE-P. HOW DO YOU RESPOND?

A. Actually, it appears that Ms. Bursh seems to be creating confusion with the Commission by making an argument that appears to have little, if any, relevance. BellSouth is presenting performance data for all products that a CLEC might use in significant volume to provide service using UNE-L. This inquiry should not be limited simply to those loops that can be migrated from UNE-P because a CLEC can acquire customers by conversion from retail, or from new installations.

Additionally, CLECs can add lines to existing accounts. All of these possibilities allow a CLEC to compete, but none of them involve migration from UNE-P.

Also, Ms. Bursh's testimony and that of other witnesses indicate that they are certainly interested in ensuring that no operational impairment exists on loops regardless of whether they can be migrated from UNE-P. The data represent all loops including those that are newly provisioned, migrated from Retail, switched from other CLECs, as well those that are migrated from UNE-P, and are not limited to hot cuts. This is the appropriate scope of the inquiry, and allows the Commission to assess BellSouth's performance in provisioning UNE Loops for all relevant products.

IV. THE EXISTING SOUTH CAROLINA SERVICE QUALITY MEASUREMENT PLAN METRICS TOGETHER WITH THE PROPOSED CHANGES INCLUDED IN MY DIRECT TESTIMONY ARE MORE THAN SUFFICIENT TO ADDRESS CURRENT AND ANTICIPATED HOT CUT PERFORMANCE CONCERNS.

Q. ON PAGE 11 MS. BURSH ASSERTS THAT BELLSOUTH'S PROPOSED ENHANCEMENTS TO THE PERFORMANCE MEASURES AND IPP PLAN ARE INADEQUATE. DO YOU AGREE?

A. No. Contrary to Ms. Bursh's assertion, BellSouth indeed suffers negative consequences if elongated response intervals to the Bulk Migration Notification forms are reflected in the results for PO-3, UNE Bulk Migration – Response

Time. As stated in my Direct Testimony, any extensive response intervals to the Bulk Migration Notification forms would penalize BellSouth since BellSouth's incentive is to migrate the customer to UNE-L and not to delay any response and lengthen response time of the Bulk Migration. BellSouth does not believe it should offer to write the CLECs a check for the privilege of providing them UNE-P at today's highly discounted rate after it is no longer required. The IPP plan should be designed to penalize poor performance, not simply generate an unwarranted windfall to CLECs. Ms. Bursh's view, that CLECs should receive payments whether they are harmed or not, is consistent with her past positions, so it comes as no surprise.

Q. ON PAGES 11 AND 12, MS. BURSH CONTENDS THAT BELLSOUTH SHOULD ESTABLISH ADDITIONAL METRICS FOR MONITORING THE BATCH HOT CUT PROCESS. DOES THIS CONTENTION HAVE ANY MERIT?

A. No. The new measurements and modifications to existing measurements proposed in my Direct Testimony provide sufficient additional data to monitor BellSouth's performance during hot cuts. Although Ms. Bursh asserts that even more measurements are essential, she does not provide any specifications for the additional measurements that she claims are so desperately needed. All companies, not just the CLECs, have the need to optimize the utilization of resources. Creating and producing unnecessary measurements does not further that goal. Although, Ms. Bursh proposes titles for new measures, such as "Percent of Batches Started on Time", "Percent of Batches Completed On Time",

and “Percent Conversion Service Outages,” she does not provide the specifics of the measurements she is suggesting. In any event, it appears that her concerns have already been addressed.

Regarding the requested “Percent Batches Started on Time” measure, this Commission has already established and BellSouth already produces a measurement, P-7A, for Hot-Cut Timeliness that measures whether or not a coordinated hot cut begins within 15 minutes of the requested start time. For non-coordinated hot cuts, the hot cuts simply need to start on the due date. If a non-coordinated hot cut does not start on the due date, the existing missed installation appointment metric and the new measure P-7E described in my Direct Testimony and again below capture that performance.

Likewise, it appears that Ms. Bursh’s suggestion for a metric for “Percent of Batches Completed on Time” data is already being addressed. For coordinated hot cuts, measure P-7A, Coordinated Customer Conversions – Hot Cut Timeliness % within Interval and Average Interval coupled with P-7, Coordinated Customer Conversions Interval, captures whether the cut was started on time and completed on time. To address the “Percent of Batches Completed On Time” for non-coordinated hot cuts, BellSouth has already proposed P-7E, Non-Coordinated Customer Conversions - % Completed and Notified on Due Date as referenced in my direct testimony on page 42. The proposed new measure, complete with a definition, exclusions, business rules, calculation, report structure and benchmark is included in Exhibit AJV-2. To summarize, this report measures the percentage of non-coordinated conversions that BellSouth completed on the due date and

provided notification to the CLEC on the same date. This measure is also proposed to be included in both Tier 1 and Tier 2 of the IPP.

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

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

V. OTHER ISSUES

Q. HOW WOULD BELLSOUTH PROPOSE TO ADDRESS PROCESS CHANGES THAT WOULD AFFECT MEASUREMENTS?

A. BellSouth is planning several enhancements to the batch hot cut process, as discussed in the surrebuttal testimony of BellSouth witness Mr. Ken Ainsworth. In my direct testimony, I proposed two new measurements, PO-3 and P-7E, and changes to measures O-7, O-8, O-9, O-11 and P-7. To the extent that these enhancements affect the measurements, BellSouth will, of course, modify its proposed measurement changes and additions accordingly.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

BELLSOUTH TELECOMMUNICATIONS, INC.

SURREBUTTAL TESTIMONY OF ALPHONSO J. VARNER

BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION

FILED FEBRUARY 18, 2004

DOCKET NO. 17749-U

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

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

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

A. Yes I am.

Q WHAT IS THE PURPOSE OF YOUR TESTIMONY?

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

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

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

Second, while claiming that the performance results are not relevant, some of these same CLECs use these same data to argue that because the standards for one measure of performance for UNE-Platform ("UNE-P") and UNE Loops ("UNE-L") are different, CLECs are automatically impaired without unbundled local switching. This argument does not comport with either the TRO or a practical assessment of whether impairment exists. Further, the CLECs did not fulfill the fundamental need to offer tangible evidence that the differences about which they comment constitute operational impairment.

Third, some of these CLEC witnesses replay the contention that disaster looms in the future. Once again, they argue that unless BellSouth's

systems and processes used in ordering, provisioning and maintaining UNE-Loops are substantially more mechanized, the potential for errors in manual operations and the increased demand for UNE-L would cause BellSouth's performance to plummet. As a result, they claim that CLECs would be unable to compete if UNE-P is not required. These are the same type of claims CLEC made in opposing BellSouth's entry into the long distance market, although this time they suggest the sky will fall once again if UNE-P is eliminated and CLECs must rely on UNE-L.

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

My Surrebuttal Testimony addresses of each of these issues, none of which constitutes impairment.

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

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

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

Paragraph 469 merely indicates that ILECs, like BellSouth, cannot rely <u>only</u> on the findings in the 271 proceedings to conclude that there is no

impairment for CLECs if unbundled switching is not available. The point that the FCC was making is that the question the state commissions must answer is how the ILEC will handle increased volumes. They did not reject current performance data as evidence that a state commission should consider in that regard. On the contrary, in paragraph 512 of its Triennial Review Order, the FCC encouraged the use of such data in these proceedings with respect to loop provisioning in general:

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

Clearly, the FCC intended for states to use the facts of current performance instead of proceeding based solely on findings in prior 271 proceedings. The FCC clearly did not intend for the states to proceed on the basis of unsupported assumptions and restrictive fact finding as these witnesses propose.

The intent of the FCC's statement in paragraph 469 is more reasonably interpreted as the rationale for why the FCC believed it could not find on a national basis that CLECs are not impaired without access to unbundled local switching, or hold unequivocally that they are impaired. If the FCC had made such a clear finding, there would be no need for the state proceedings.

For example, in footnote 1435 of the same paragraph 469 that these witnesses cite, the FCC states: "our decision does not overlook the possibility that if in some markets the incumbents' ability to perform batch hot cuts does not pose impairment, the states may simply make the findings to this effect." BellSouth's performance data evidence BellSouth's ability to perform loop provisioning in a timely and reliable manner. Hot cuts are simply a specific type of loop provisioning activity. Thus, BellSouth's current exemplary performance data are relevant and important.

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

Q. MS. BURSH, ON PAGES 3 and 4 OF HER REBUTTAL TESTIMONY ALLEGES THAT BELLSOUTH HAS TWISTED CURRENT

PERFORMANCE DATA TO SUPPORT THE CLAIM THAT BELLSOUTH'S EXISTING PROCESSES WILL ADEQUATELY SUPPORT ANTICIPATED LOOP MIGRATION. DO YOU AGREE?

A. No, I disagree. As demonstrated in Exhibit AJV-1 to my Direct Testimony, BellSouth performs hot cuts in a timely and accurate manner for CLECs in Georgia. If the hot cut volumes are low, they simply reflect the CLECs' choices, which according to Ms Bursh is rationale to penalize BellSouth. That aside, hot cuts are not a new process to BellSouth. The fact is BellSouth has been doing what we now call 'hot cuts' for many years. BellSouth has extensive experience in performing large numbers of hot cuts by completing the work steps required to transfer a geographic area from one wire center to another. These transfers are called 'Area Transfers.' Another example of the BellSouth's experience with 'hot cuts' is the T&F process, wherein a customer moves from one location to another within the same wire center. Yet one more example of hot cuts in very large volumes is switch replacement. This occurs when BellSouth replaces the switching equipment in a central office with newer technology such as the replacement of an analog switch with a digital switch. Switch replacement involves the hot cut of thousands of customer lines, in a very short period of time. These examples have been subject to Commission oversight for many years, even predating the Telecom Act of 1996.

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

Looking specifically at the activity to disconnect and reconnect the loop, for the seven-month period from March to September 2003, BellSouth performed this function within 15 minutes for 99.7% of the more than 4,000 coordinated loop conversions in Georgia during that period. The average time to cutover a loop was less than 3 minutes.

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

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

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

A. With respect to her first comment, that my Direct Testimony only addresses performance with respect to the "current low level of UNE-L orders", Ms. Lichtenberg misses the obvious purpose of performance

data. The only options for performance reporting are past or present results, based on whatever level of activity the CLECs generate. The only meaningful way to assess BellSouth's ability to effectively process potential increases in future demand is to consider current performance results, the commonality and capacity of systems used in processes that handle significant volumes for similar activities today, the practical options available to BellSouth (or any business for that matter) of shifting resources to meet demand, and planned improvements in processes to accommodate anticipated requirements. Thus, the intent of my Direct Testimony, which provided BellSouth's performance with respect to loop provisioning in general and hot cuts in particular, was not for the data to be considered in isolation. Rather, as previously stated, the performance results provided in my Direct Testimony should be considered in conjunction with the testimony of other BellSouth witnesses addressing other relevant aspects of the impairment issue.

The current volumes reflect what the CLECs are ordering and BellSouth can only report what is being ordered. Ms. Lichtenberg provides no reasonable basis as to why the Commission should believe that BellSouth would not be able to handle an increase in UNE-L volumes. In contrast, BellSouth has provided factual data and a concrete rationale to support its claim that performance will be continue to be superior. It should be remembered that when the CLECs opposed BellSouth's long distance applications, they erroneously predicted a similar inability regarding BellSouth's capacity to meet future volume demands for UNE-P and

ordering in general. This erroneous prediction was contradicted by the data available at the time. Notably, the facts proved the CLECs' prediction wrong then and they are wrong now. Rather than rely upon the facts, Ms. Lichtenberg feebly postulates the vaporous notion that if it has not happened in the past, it can't happen in the future while completely ignoring the fact that both current and historical data contradict her prediction.

In addition, Ms Lichtenberg goes on to reiterate the point that some processes are manual. The thrust of her whole argument in this case is the faulty assumption that the presence of a manual procedure anywhere in the stream of ordering and provisioning processes somehow results in impairment. Indeed, there is an obvious and significant gap between quoting the percentage of UNE-L orders that were Fully Mechanized during a specific period and concluding that these percentages establish CLEC impairment. The flow-through of LSRs is only one aspect of providing UNE-Loops to CLECs and, as the FCC has clearly explained, a secondary one at that.

As a practical matter, BellSouth will obviously assign its resources to the areas that generate the most volume. Certainly, as CLECs begin to submit more UNE-L orders, and less of other order types, BellSouth would make adjustments to address the change in CLEC order types. I should point out that the priority with which BellSouth makes changes to such systems is largely controlled by CLECs through the Change Control

Process (CCP). If the flow-through of UNE-L orders becomes a high priority with CLECs, it should be reflected in their CCP prioritization.

Significantly, BellSouth's current and past performance record, in conjunction with the process and procedure plans provided by other BellSouth witnesses, is a reasonable basis to infer that its future performance will be similar. Surely, the performance results provided in my Direct Testimony provide a more rational basis for this Commission's determinations than the pure conjecture offered by CLEC witnesses such as Ms. Lichtenberg.

In contending that my Direct Testimony does not "give a clear picture of BellSouth's actual performance", Ms. Lichtenberg focuses on two aspects of performance - flow through and order completion interval. Of course, this approach ignores the substantial amount of data that I provided demonstrating that BellSouth's UNE loop provisioning performance has been and continues at a high level. I will address her flow through testimony now and her order completion interval testimony later because it has some common elements with other witnesses.

Any discussion of flow-through must first be placed into context with respect to it usefulness, which Ms Lichtenberg did not address. In addition, she ignored the value of the measurement results as prescribed by this Commission. First, the performance results provided in my Direct Testimony are based on the performance measures and standards

established for the Flow-Through metric by this Commission and accepted by the FCC. Moreover, the FCC has repeatedly stated that Flow-Through is a secondary measure and that other measures are more important indicators of performance. In particular, the FCC stated in its Texas Order:

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

While the FCC has repeatedly expressed the secondary nature and importance of the flow-through metric, the CLECs have repeatedly ignored this point in assessing the impact of flow-through. The FCC's statement doesn't mean that flow through is irrelevant; it simply means that its significance is dictated by performance on other measures. In this proceeding, Ms. Lichtenberg attempts to overstate the importance of flow-through apparently because overall performance is being reviewed in connection with batch hot cuts. Oddly, she seems to be aware of its secondary role, because she refers to service order accuracy as an important consequence of flow-through. Service Order Accuracy is one of the measures that bears upon the significance of flow-through, and is a measure that BellSouth currently reports and will continue to report in its monthly data.

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

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

If BellSouth's performance results are reviewed, however, the lack of merit to Ms. Lichtenberg's repeated contention that unless BellSouth's ordering and provisioning processes are significantly more mechanized, CLECs will become impaired without UNE-P becomes clear. For example, with respect to Ms. Lichtenberg's concern about the possibility of human errors in the ordering process, BellSouth reports its monthly performance relative to errors in the ordering process via measure P-11, Service Order Accuracy. For both UNE-P and UNE-L performance exceeds the 95% benchmark. The following chart reflects BellSouth's performance for the Service Order Accuracy measure for UNE-P and UNE-L for the most

recent three months: October, November and December 2003 (the results show the percent of orders that are accurate).

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

Performance for both products exceeded the Commission ordered 95% benchmark. Based on the performance data above, the Service Order Accuracy rate was quite high. Even if the argument is made that the current UNE-L levels are much less than anticipated volumes, for December 2003, the volume for UNE-L orders was approximately 11,000 orders regionally, which is clearly sufficient to demonstrate the level of BellSouth's performance. Moreover, the anticipated future increase in UNE-L orders would be accompanied by an anticipated significant decrease in UNE-P as well, which must be considered when predicting future performance levels.

Similarly, with respect to Ms. Lichtenberg's issue concerning potential customer service outages with UNE-L, on page 6 of my Rebuttal Testimony, I provided data for two Maintenance and Repair measures, Customer Trouble Report Rate and Maintenance Average Duration, showing UNE-P results and UNE-L results (reflected as CLEC SL1 Although I do not agree that comparing UNE-L and UNE-P performance is

a reasonable approach for reasons discussed in my rebuttal, as well as later in this testimony, even those comparisons do not support Ms. Lichtenberg's claim. The data show that for maintenance and repair, BellSouth performed comparably for UNE-P and UNE-L. In fact, the UNE-L results were better than UNE-P. Moreover, the data show that if the proper comparisons are made, i.e., if UNE-L results are compared to the established retail analogues, BellSouth performs at a very high level in maintaining UNE loops. Again, simply recognizing that these are smaller UNE-L volumes than anticipated in the future, does not establish that performance levels will deteriorate to a point that CLECs are operationally impaired without UNE-P.

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

A. Yes. The rebuttal testimony of Mr. Matthew J. Blocha of Florida Digital Network, Inc. (FDN) contains clear and objective evidence that BellSouth's hot cut process is effective. On page 4 of his rebuttal testimony, Mr. Blocha states "FDN believes that the hot cut process of the ILECs works well for the most part." On page 9, Mr. Blocha states "As a UNE-L based CLEC that performs numerous hot cuts for DS-0 loops daily and has more working DS-0 loops than any other single CLEC in the state, FDN would be hard pressed to say that the hot cut process does not work well." Then on page 11, Mr. Blocha notes "On a daily basis, FDN and BellSouth work

cooperatively together to install loops through IDLC for mass market customers."

Q. WHY ARE THESE COMMENTS PARTICULARLY SIGNIFICANT?

A. Mr. Blocha represents a facility-based CLEC that has first-hand knowledge and daily experience at a significant volume with hot cuts. This is in stark contrast to the testimony of other CLECs in this docket who primarily use UNE-P and who have a vested interest in seeing that the availability of UNE-P continues. FDN has approximately 6 years of experience with UNE-L and Mr. Blocha believes that FDN uses a significant amount of the UNE Loops provided by BellSouth, and BellSouth has no reason to disagree.

This testimony, from a CLEC with actual experience with BellSouth's hot cut process, is consistent with BellSouth's data. Corroboration from someone with factual experience stands in stark contrast to the speculative predictions of witnesses for AT&T and MCI who have offered no basis for their claims that BellSouth will fail to perform in the future.

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

Q. ON PAGES 4 AND 5 OF HER REBUTTAL TESTIMONY, MS. BURSH STATES THAT "BELLSOUTH USES THE WRONG STANDARD IN ATTEMPTING TO DEMONSTRATE THAT CLECS DO NOT FACE OPERATIONAL BARRIERS TO MARKET ENTRY ABSENT UNBUNDLED LOCAL SWITCHING." DOES MS. BURSH PROPOSE AN APPROPRIATE STANDARD TO COMPARE DELIVERY METHODS?

A. No, her proposal is inappropriate. First, I would like to note a bit of inconsistency in Ms Bursh's position. After claiming that BellSouth's data is irrelevant and instructing this Commission to disregard this evidence, Ms. Bursh takes precisely the opposite position, conceding that the FCC suggested a review of performance data could be appropriate as part of the inquiry into the ILEC's "ability to transfer loops in a timely and reliable manner." (TRO at ¶ 512.)

Having now agreed that the data are relevant, Ms. Bursh disagrees with the manner in which this Commission chose to require that the data be developed and reported. Since May 1998, BellSouth has been providing performance data consistent with the Commission's requirements. These requirements have been refined as a result of the Commission's ongoing review of BellSouth's Service Quality Measurements (SQMs) plan. The current SQM plan, which was the culmination of the Commission's six-month review cycle, has been in effect since March 2003.

Instead of assessing Bellsouth's performance relative to those standards as I did in my direct testimony, Ms. Bursh claims that my "discussion provides little insight into the issue of whether BellSouth's loop provisioning is as prompt and efficient as UNE-P." Instead, Ms. Bursh along with Ms. Lichtenberg and Mr. Van de Water create their own standard. None of these witnesses, however, explains how they derived their standard. As to Ms Bursh's self-proclaimed "FCC-prescribed standard of UNE-P performance", there is neither a directive that establishes this standard, nor would it be a reasonable standard by which to measure performance.

The key point is that it is not appropriate to compare performance for UNE-P and UNE-L processes in the instances where they are not analogous. They are not the same products and do not offer the same functionality to the CLEC. Consequently, neither the FCC nor this Commission required them to be the same. The question before the Commission is NOT whether UNE-L can be made the same as UNE-P. The question before the Commission, rather, is whether an efficient CLEC can compete in a particular market using UNE-L. Because the answer to this question is unequivocally "yes," the CLECs are attempting to change the question.

Q. ON PAGES 4 – 5 OF HER REBUTTAL TESTIMONY, FOLLOWING THE SAME GENERAL APPROACH AS MS. BURSH, MS. LICHTENBURG COMPARES UNE-L INSTALLATION INTERVALS TO UNE-P

INSTALLATION INTERVALS AND CONCLUDES THAT UNE-L MIGRATIONS TAKE SUBSTANTIALLY LONGER THAN UNE-P MIGRATIONS. IS THIS A FAIR COMPARISON?

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

Furthermore, the Commission has determined that the performance standard for both UNE Loops and UNE-P is a retail analog. In the absence of something more tangible, the fact that the standards adopted by all nine state commissions in BellSouth's region, and accepted by the FCC, reflect differences based on the different products and processes renders moot this point stressed by Ms. Lichtenberg, and other CLEC witnesses. I should also point out that failure to meet this Commission's prescribed standards for order completion interval, as set forth in the Performance Assessment Plan, is met with immediate penalty plan

consequences. This occurs, in some cases, even where the performance standard is clearly improper. To the extent the CLECs seek a change in the Commission-ordered performance standards for UNE-P and UNE-L, that request should be addressed in the next SQM review, not in this proceeding.

Q. TURNING AGAIN TO MS. BURSH, ON PAGES 4 AND 5 OF HER REBUTTAL TESTIMONY, MS. BURSH, NOTING AS MS. LICHTENBERG DID, THAT UNE-P AND UNE-L HAVE DIFFERENT INTERVALS, GOES FURTHER AND MAKES THE ASSERTION THAT IF "UNE-P IS NO LONGER AVAILABLE, THE ILEC MUST FOLLOW THE SAME STANDARD IN PERFORMING ITS REPLACEMENT." DOES THIS CONCLUSION HAVE MERIT?

A. This conclusion has merit only to the extent the processes required to provide the two products are analogous. Ms. Bursh, however, is narrowly asserting that the performance standard for Order Completion Interval (OCI) should be the same for these two products even though the processes measured by OCI are not analogous.

The only determination that the Commission need make in this proceeding is: Will BellSouth's performance for UNE loops provide the CLECs with a meaningful opportunity to compete? Which is another way of asking: does UNE-L performance impair the CLEC's ability to compete? In making this determination, the Commission should consider not only the order

completion interval but also the other measurements of maintenance, billing, provisioning, and ordering processes. The Commission should also consider the fact that UNE-L provides the CLEC with a number of competitive advantages that they do not have with UNE-P. For instance, once an end-user is served by UNE-L terminated on the CLEC's switching equipment, the CLEC can change switch dependant features and offer promotional packaging without involving BellSouth.

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

A. No, in coming to the conclusion that the Order Completion Interval for UNE-P and UNE-L should be the same, these witnesses cite a partial reference to footnote 1574 in the TRO. The entire footnote is as follows:

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

While the State Commission is encouraged to review performance, there is nothing in this footnote that requires an identical standard for UNE-P and UNE-L. Ms. Bursh and Mr. Van de Water cite the portion of the footnote that discusses "transferring customer loops from the incumbent LEC main distribution frame to a competitive LEC collocation." This function has a performance standard that the activity must be completed within 15 minutes, 95% of the time. They erroneously conclude that the Order Completion Interval for UNE-L, which is not even a measure of the process that they address, must therefore be the same as UNE-P. Once again, these products are different, which means they have inherent advantages and disadvantages. For example, some forms of UNE-P will have a shorter order completion interval than some forms of UNE-L, such as migration only orders. Other forms of UNE-P, such as those orders requiring the dispatch of a technician, will have longer intervals as shown in my rebuttal testimony on this subject. Finally, UNE-L as previously stated provides the CLEC with more direct control of some of the services provided to their customer. Particularly, CLECs can change custom calling features themselves with UNE-L.

There are significant parallel processes for ordering and provisioning the unbundled network element platform (UNE-P) and unbundled loop (UNE-L) services, but they are not analogous with respect to order completion interval. The CLEC's ignore the language in paragraph 512, which references this footnote, in which the FCC states:

> We therefore ask the state commissions to consider more granular evidence concerning the incumbent LEC's ability to transfer loops in a timely manner. Specifically, we ask the states to determine whether incumbent LECs are providing nondiscriminatory access to unbundled loops. [fn. 1574] Evidence relevant to this inquiry might include, for example, commercial performance data demonstrating the timeliness and accuracy with which the incumbent LEC performs loop provisioning tasks and the existence of a penalty plan with respect to the applicable metrics. <u>For incumbent LECs that are BOCs subject to the requirements of section 271 of the Act, states may chose to rely on any performance data reports and penalty plans</u> <u>that might have been developed in the context of a past, pending, or planned application for long-distance authority</u>. (emphasis added)

Clearly, the FCC is asking states to use existing performance plans with full knowledge that those plans equate CLEC performance to retails analogs, not UNE-P to UNE-L. Therefore, given that the performance data that the FCC encourages states to use in their evaluations do not reflect the same standards for UNE-P and UNE-L, it would be illogical to interpret the footnote cited by the CLECs as meaning that these two performance standards should be equivalent.

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

and benchmarks setting those standards, it should rely on that data to meet the FCC's directive.

Significantly, AT&T made this same argument before the FCC that the standard must be the same for UNE-P and UNE-L, contending that until ILECs offer an electronic loop provisioning (ELP) method of transferring large volumes of local customers unbundled switching for voice grade loops is essential. The FCC, in paragraph 491 of its TRO, rejected this contention stating: "the evidence in the record suggests that an ELP process, to be effective, would require significant and costly upgrades to the existing local network at both the remote terminal and the central office…we, decline to require ELP at this time, although we may reexamine AT&T's proposal if hot cut processes are not, in fact, sufficient to handle necessary volumes." Clearly, the FCC did not support the idea that UNE-P and UNE-L installation intervals must be the same. Consequently, it is impractical for this Commission to superimpose such a blatantly self-serving standard simply because CLECs want to do so.

A more rational interpretation of the TRO is that BellSouth's performance relative to the applicable standards for UNE-L should be equivalent to BellSouth's performance relative to applicable standards for UNE-P. Said another way, it means that BellSouth must provide nondiscriminatory UNE-L performance just like it must provide nondiscriminatory UNE-P performance. Of course, the data show that BellSouth meets this rational test, which is a fact that CLEC witnesses cannot refute.

Q. MS. BURSH ON PAGE 6 PRESENTS A TABLE THAT SHE CLAIMS DEMONSTRATES THAT BELLSOUTH'S LOOP PERFORMANCE FALLS "WOEFULLY SHORT" WHEN COMPARED AGAINST UNE-P PERFORMANCE. WHAT IS THE RELEVANCE OF THIS COMPARISON IN THIS PROCEEDING?

A. It provides no useful information to this Commission. Ms. Bursh is reiterating the same point raised by Mr. Van De Water on pages 15 and 16 of his direct testimony and that I addressed in my rebuttal of Mr. Van De Water's testimony and just addressed again in this testimony. Ms. Bursh's Table 1 (page 6 of her rebuttal testimony) simply points out that the Order Completion Interval (OCI) is the average time interval to complete UNE-P orders, which are mostly orders requiring a records change only, and require no physical work, is less than the average time to complete 2W Analog Loop w/LNP Non-Design < 10 / Dispatch In, where some form of physical work is required. In other words, UNE-P orders are primarily "switch as is" and 2W Analog Loop w/LNP Non-Design < 10 / Dispatch In orders are not. Here Ms. Bursh twists her analysis as she attempts to draw conclusions by equating the installation interval for two different products and processes. The UNE-P orders that Ms. Bursh refers to here are largely orders for feature changes. So she has stated incorrectly what OCI would be in a UNE-L environment. In particular, for features changes, the order completion interval in the UNE-L environment would be zero, because the CLEC can do this work itself, compared to the "fraction of a day" for UNE-P orders reflected in Ms. Bursh's Table 1.

Further, it should be noted that the interval for 2-W Analog Loop w/LNP Non-Design < 10/Dispatch In includes a 3-day minimum for the LNP portion of the work, which has been requested by the CLECs in collaborative teams so that they can perform work on their side.

As pointed out in my rebuttal testimony on page 15, an order for UNE-P typically involves little more than changing the billing of an existing end-user from BellSouth retail, or from another CLEC, to the acquiring CLEC. It is important to note that for most UNE-P orders the following three factors apply: 1) no physical work is required, 2) no outside dispatch is needed, and 3) the order is not subject to facility shortages. The other order type listed in Ms. Bursh's Table 1, 2W Analog Loop w/LNP Non-Design < 10 / Dispatch In, will always require some form of physical work.

To reiterate, the relevant question is not whether UNE-L and UNE-P are the same, but whether an efficient CLEC can compete using UNE-L. BellSouth's UNE-L performance, coupled with the advantages of UNE-L, provides CLECs a meaningful opportunity to compete. For instance, any alleged timeliness advantage that BellSouth has with respect to loops connected to its switch, becomes an advantage to the CLEC after the CLEC has acquired the customer using UNE-L. In that case, because the loop is already connected to the CLEC's switch and only requires minimal work, BellSouth must perform a hot cut to win-back the customer. Other advantages include the business opportunities to perform their own work, on their own switches, and the marketing opportunities to offer their own

features and functionalities that are not offered by BellSouth. I only make these points to illustrate the lack of logic surrounding the CLECs claim that Order Completion Interval results should be viewed in a vacuum and are required to be the same for UNE-P and UNE-L.

Q. ON PAGE 10 OF HIS REBUTTAL TESTIMONY, MR. VAN DE WATER ARGUES THAT BELLSOUTH'S HOT CUT MEASURE BENCHMARK SHOULD BE 5 MINUTES AS OPPOSED TO 15 MINUTES. DO YOU AGREE?

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

Second, the benchmark provides for the conversion work described in BellSouth witness Mr. Ainsworth's testimony. By performing the pre-conversion work before the actual transfer from switch to switch, BellSouth increases its efficiencies and minimizes the actual impact of the physical transfer to the end-user.

Third, the Commission-approved benchmark is reasonable, and the Commission has already considered and rejected CLEC attempts to

change that benchmark. In the six-month review in Docket No. 7892-U, the CLEC Coalition, which included AT&T, in its September10th, 2001 filing included, as Attachment 2, a CLEC proposal for business rule changes to the existing P-7 Coordinated Customer Conversions Interval measurement, but no valid rationale for the changes. The proposed measurement, titled OP-13, Coordinated Customer Conversions Hot Cut Timeliness % within Interval and Average Interval proposed an interval of 1 hour for 1-10 lines and 2 hours for 11 or more lines. This Commission rejected the CLEC opinion that "BellSouth's 15 minutes per loop is excessive". The fact is, this Commission determined that 95% <= 15 minutes is a reasonable benchmark standard, retained the existing P-7 measurement, and declined to adopt the CLEC proposal. So, Mr. Van de Water's belated portrayal of what occurred in the measurement development process, where he was not a participant, is without merit.

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

Q. MS. BURSH, ON PAGES 7 AND 8 CLAIMS THAT CONSOLIDATING RESULTS FOR "ALL LOOPS" HIDES PERFORMANCE RESULTS RELEVANT TO THE ISSUE OF OPERATIONAL BARRIERS TO MARKET ENTRY ABSENT UNBUNDLED LOCAL SWITCHING. HOW DO YOU RESPOND?

A. BellSouth did not aggregate or offset the performance assessments in a manner that masks the more relevant performance as Ms. Bursh claims on page 6. On the contrary, Exhibit AJV-1 and Attachment 1 provided hot cut performance in detail, as well as the other performance data for UNE Local Loops in Georgia. The data show that BellSouth met the Coordinated Customer Conversion 15-minute benchmark for over 99.7% of all cutovers in the past 7 months in Georgia. This measurement reflects the average time it takes to disconnect an unbundled loop from the BellSouth switch and cross connect it to the CLEC equipment. For UNE Local Loops, BellSouth processed 95% of all LSRs by the required benchmark interval during the 7-month period (March 2003 – September 2003). For the same period, BellSouth met the performance standard for 91% of the provisioning sub-metrics and 93% of the maintenance & repair sub-metrics.

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

Q. ON PAGE 8, BEGINNING ON LINE 6 MS. BURSH APPEARS TO BELIEVE THAT BELLSOUTH'S AGGREGATED ASSESSMENT MAY MASK PERFORMANCE. HOW DO YOU RESPOND?

A. As I indicated above, BellSouth did not aggregate the performance assessments in a way that masks anything. On pages 8 and 9 of my Direct Testimony, I explain which products are included within the UNE Loop performance data. Also, as previously stated, Exhibit AJV-1 provides a detailed discussion of the data <u>and</u> the detailed performance results at the sub-metric level. That exhibit beginning on page 14 provided overall hot cut performance and the charts in Attachment 1 to the Exhibit AJV-1, provided the data individually. It is this detailed comparative performance data for UNE Local loops that actually facilitates evaluation of the extent to which nondiscriminatory performance is provided. But regardless of the individual or aggregated presentation of the data, the fact remains that BellSouth's performance is very high.

Q. SHOULD THE COMMISSION GIVE ANY WEIGHT TO MS. BURSH'S STATEMENT ON PAGE 8 CONCERNING THE FACT THAT BELLSOUTH MET AN AVERAGE OF 91% OF ALL THE UNE LOOP PROVISIONING SUB-METRICS OVER THE LAST 7 MONTHS IN GEORGIA, STATING "THIS IS MEANINGLESS GIVEN THAT A NUMBER OF THE MISSED SUB-METRICS WERE FOR PROVISIONING OF PRODUCT AREAS THAT WILL BE DOMINANT IF UNBUNDLED

LOCAL SWITCHING IS ELIMINATED" AND CRITICISM OF THE HIGH LEVEL DATA REVIEW IN YOUR TESTIMONY?

A. No, the Commission should accord this comment no weight, for several reasons. As a preliminary matter, Ms. Bursh's supposition that this docket will result in an increase in UNE Loops if local switching is eliminated presupposes that loops must be ordered because UNE-P will not be available. This is an incorrect assumption as switching will continue to be available, but at market-based prices. Secondly Ms. Bursh's comments on pages 8 and 9, focus on the 9% of the provisioning sub-metrics that were missed and ignores the fact that BellSouth met an average of 91% of all the UNE Loop provisioning sub-metrics over the last 7 months in Georgia. Her criticism of the value of a cursory review of the data is misguided. The reason for using this high level review is to demonstrate that results are good even at that level. More detailed analysis shows that the results are actually better than a cursory review indicates, not worse as Ms. Bursh insinuates. CLECs and this Commission can certainly review the detailed data to confirm this conclusion.

For instance, for the Order Completion Interval sub-metric cited by Ms. Bursh, starting at the bottom on page 8 of her rebuttal testimony, the volumes for each of the seven months that were not in parity were relatively low. Nonetheless, detailed analysis of the results for this and the other missed sub-metrics in the non-dispatch category shows that there is no significant performance problem.

Q. IN LOOKING AT THESE ORDER COMPLETION INTERVAL COMPARISONS, IS THERE AN EXPLANATION FOR THE DIFFERENT INTERVALS?

A. Yes. The simple answer is that the processes for CLEC orders and for the retail analog are significantly different. Taking the CLEC orders first, the Order Completion interval (OCI) for Retail Residence and Business Orders that do not require a dispatch is typically about 2 days. In contrast, the OCI for UNE Loops w/ LNP is a minimum of 3 days. The origin of this 3-day minimum is actually an industry agreement, which allows for the new service provider (either CLEC or BellSouth) to accomplish the work and coordination necessary to perform a number port. In July 2003, the Local Number Portability Administration Working Group (LNPAWG), which includes CLEC and ILEC representatives, approved a set of number porting procedures that place a lower limit on the Order Completion Interval for number ports in an NPA-NXX exchange. These procedures, in part, state: "Any subsequent port in that NPA NXX will have a due date no earlier than three (3) business days after FOC receipt." The LNPAWG is a sanctioned committee of the North American Numbering Council (NANC). AT&T is a member of the LNPAWG who approved these procedures requiring the 3-day minimum.

In contrast, the Order Completion Interval retail analog for this sub-metric, retail Residence and Business Orders that do not require a dispatch is

typically about 2 days, primarily because number porting is not required for new retail residence and business orders. But, with a 3-day industry standard minimum for 2W Analog Loops with LNP, it is unlikely that these orders, which do not require an outside dispatch, will be completed as quickly as retail Residence and Business Orders that do not have that requirement. Perhaps a better comparison for parity determination purposes is the interval on BellSouth retail win-backs where the process is essentially the same for both BellSouth and the CLECs. Of course, little winback activity existed when these standards were established, but that is probably no longer the case, so a more analogous standard can be set in the next periodic review.

There are differences in the OCI comparisons of UNE Loop to Retail Residence and Business because the products are not as analogous as they were once believed to be. These differences between the CLEC orders and the retail analogue indicate that an out of parity condition is, in part, a result of the inequality CLEC and retail comparisons where LNP is involved, instead of poor performance, as Ms. Bursh claims. While the Commission and the parties in the 6-month review established these standards of comparing UNE Loops w/LNP to Residence and Business, these standards are, in retrospect, inappropriate, particularly with regard to the Non-Dispatch comparisons raised by Ms. Bursh.

Q. ON PAGE 9 OF HER REBUTTAL TESTIMONY, MS. BURSH INTERPRETS THE AVERAGE COMPLETION INTERVAL ANALYSIS

FOR UNE 2W ANALOG LOOPS NON-DESIGN IN EXHIBIT AJV-1 BY STATING "BECAUSE BELLSOUTH CANNOT MAKE ACCURATE DUE DATE ASSIGNMENTS, BELLSOUTH GIVES DUE DATES THAT REQUIRE THE CLEC AND ITS CUSTOMERS TO WAIT LONGER THAN NECESSARY." PLEASE COMMENT.

A. For all 2-W Analog Loops, including 2-W Analog Loops w/ LNP Non-Design/ <10 Circuits Dispatch In, as I explained in Exhibit 1 of my Direct Testimony, at the time of scheduling, BellSouth is unable to determine whether or not a "dispatch out" is required and, therefore, must schedule all of these orders with the longer interval. There is no means to provide this information and CLECs have not prioritized a system change to get this information despite the fact that they have had the opportunity to do so for several years in the CCP. When these orders are then compared with the shorter non-dispatched retail analogue results, an out of parity condition is reported. For example, looking at the details surrounding the provisioning sub-metric to which Ms. Bursh refers on page 9, the sub-metric was Order Completion Interval (OCI) for 2-W Analog Loop w/LNP Non-Design/<10 Circuits/Dispatch In. For this sub-metric, the results for the 7-month period, March 2003 through September 2003, would have been compliant if compared to a more appropriate retail analog.

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

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

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

Q. MS. BURSH AGAIN PRESENTS PERFORMANCE RESULTS (PAGES 10 AND 11) FOR SUB-METRICS TO BOLSTER THE CLAIM "THAT THE PERFORMANCE FOR LOOPS COLLECTIVELY DOES NOT NECESSARILY REPRESENT THE PERFORMANCE FOR INDIVIDUAL LOOP CATEGORIES." HOW DO YOU RESPOND?

A. Ms. Bursh continues her course of identifying anecdotal examples of sub-metrics where BellSouth has not obtained the benchmark and ignoring the overall performance of the measurement. Ms. Bursh picks a few sub-metrics of the two measurements FOC and Reject Response

Completeness, and Firm Order Confirmation Timeliness. For the first of these, FOC and Reject Response Completeness, performance actually averaged 97% over the period from March 2003 through September 2003. However, Ms. Bursh focuses on <u>one</u> sub-metric, FOC and Reject Completeness – Non-Mechanized. This measurement calculates the number of Firm Order Confirmations or Auto Clarifications sent to the CLEC via FAX Server in response to manually submitted LSRs. That is, the numerator is the total number of service requests for which a FOC or Reject is sent, and the denominator is the total number of service requests received in the report period, as the metric is designed to capture the data for the current data month. CLECs do, however, submit manual LSRs on the last day of the month. Non- mechanized LSRs, which are captured in the 2W Analog Loop w/LNP Non-Design sub-metric referenced by Ms. Bursh, that are submitted on the last day of the month have a benchmark of 95% within 24 hours for both the FOC Timeliness and Reject Interval metrics. This means that the FOC or reject may not be due in the month submitted, depending upon the actual receipt time of the LSR and as a result the eventual FOC and Reject may not be included in the numerator of the FOC and Reject Responses Completeness measurement, even though the LSR would be in the denominator. One of the major issues that affect this measure are numerous versions of the same LSR being filed by the CLEC within minutes and LSRs received at the end of the month with the FOC or Reject returned in the following month. When a

CLEC submits multiple versions of an LSR within minutes, only the last LSR receives a response. All previous versions do not receive a response and therefore are counted as "missed" responses. The key point is that the FOC and Reject could have been returned to the CLEC, even though the FOC and Reject Completeness measurement indicates a less than 100% response rate. This becomes particularly significant when the ordering volumes are small.

Ms. Bursh also fails to account for the fact that, for the period in question (March 2003 through August 2003), in all of these months the transaction volume was so low that BellSouth could not miss even a single transaction. That is, in a month where the volume of transactions for the sub-metric was 25 or less, even 1 failure results in a miss of the 97% benchmark for this sub-metric. Ms. Bursh's analysis ignores this fact. Thus, the sub-metric listed by Ms. Bursh, 2W Analog Loop w/LNP Non-Design, did miss the benchmark of 97% for 7 months, but only one of the months in this 7-month period had a volume of greater than 19 LSRs. That month was April 2003, which had a volume of 25 LSRs. By missing two LSRs, BellSouth attained 92% performance but missed the benchmark of 97%.

Turning to the second metric cited by Ms. Bursh, FOC Timeliness - Partially Mechanized, she offers two submetrics, 2W Analog Loop w/LNP Design and 2W Analog Loop w/LNP Non-Design as products that failed to meet benchmarks for several consecutive months. However, as

previously explained in Exhibit AJV-1 of my Direct Testimony, beginning on page 21, BellSouth's data analysis revealed three specific areas associated with the mechanization of the partially mechanized LSRs. To summarize, these are 1) a situation where a number of FOCs were entered into the system within the 7-hour benchmark but were not counted correctly due to repeated attempts to respond to the CLEC; 2) a situation where BellSouth experienced delays in processing LSRs submitted via the EDI system; and 3) a situation where some CLECs are requesting that certain rejected LSRs be corrected and processed without the CLEC resubmitting a new version of the existing LSR.

The first issue is noteworthy because although BellSouth met its requirement of initially returning the FOC within the 7-hour benchmark the system error has the affect of producing an understatement BellSouth's performance. To address the second issue, where BellSouth experienced delays in processing LSRs via EDI, BellSouth replaced both EDI system CPUs and hard drives as well as installing increased CPU capacity. Additionally during September and October 2003, BellSouth added additional pathways between the EDI translator and down stream Legacy systems. Electronic processing of certain administrative and archival functions was removed from the EDI translator to reduce the processing time of the LSRs. The third issue is the impact caused when some LSRs are being corrected and put in the ordering systems without receiving a new version of the existing LSR from the CLEC. Although this almost

always causes the FOC interval to exceed the 7-hour benchmark, BellSouth is meeting the request of the CLECs.

Ms. Bursh's conclusions do not consider these pertinent facts.

Q. STARTING ON PAGE 11, LINE 16 OF HER REBUTTAL TESTIMONY, MS. BURSH APPEARS TO ALLEGE THAT BELLSOUTH IS MISREPRESENTING THE PERFORMANCE RESULTS BY INCLUDING LOOPS THAT ARE NOT MIGRATABLE FROM UNE-P? HOW DO YOU RESPOND?

A. Actually, it appears that Ms. Bursh seems to be creating confusion by making an argument that appears to have little, if any, relevance. BellSouth is presenting performance data for all products that a CLEC might use in significant volume to provide service using UNE-L. This inquiry should not be limited simply to those loops that can be migrated from UNE-P because a CLEC can acquire customers by conversion from retail, or from new installations. Additionally, CLECs can add lines to existing accounts. All of these possibilities allow a CLEC to compete, but none of them involve migration from UNE-P.

Also, Ms. Bursh's testimony and that of other witnesses indicate that they are certainly interested in ensuring that no operational impairment exists on loops regardless of whether they can be migrated from UNE-P. The data represents all loops including those that are newly provisioned,

migrated from Retail, switched from other CLECs, as well those that are migrated from UNE-P and is not limited to hot cuts. This is the appropriate scope of the inquiry, and allows the Commission to assess BellSouth's performance in provisioning UNE Loops for all relevant products.

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

Q. ON PAGE 12, LINES 6 - 15, MS. BURSH ASSERTS THAT BELLSOUTH'S PROPOSED ENHANCEMENTS TO THE PERFORMANCE MEASURES AND SEEM PLAN ARE INADEQUATE. HOW DO YOU RESPOND?

A. I disagree. For example, contrary to Ms. Bursh's assertion, Bellsouth indeed suffers negative consequences if elongated response intervals to the Bulk Migration Notification forms are reflected in the results for PO-3, UNE Bulk Migration – Response Time. As stated in my Direct Testimony, any extensive response intervals to the Bulk Migration Notification forms would penalize BellSouth since BellSouth's incentive is to migrate the customer to UNE-L and not to delay any response and lengthen response time of the Bulk Migration. BellSouth does not believe it should offer to

write the CLECs a check for the privilege of providing them UNE-P at today's highly discounted rate after it is no longer required. The SEEM plan should be designed to penalize poor performance, not simply generate an unwarranted windfall to CLECs. Ms. Bursh's view, that CLECs should receive payments whether they are harmed or not, is consistent with her past positions, so it comes as no surprise.

Q. ON PAGE 12, MS. BURSH CONTENDS THAT BELLSOUTH SHOULD ESTABLISH ADDITIONAL METRICS FOR MONITORING THE BATCH HOT CUT PROCESS. HOW DO YOU RESPOND?

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

Regarding the requested "Percent Batches Started on Time" measure, this Commission has already established and BellSouth already produces a measurement, P-7A, for Hot-Cut Timeliness that measures whether or not a coordinated hot cut begins within 15 minutes of the requested start time. For non-coordinated hot cuts, they simply need to start on the due date, so the missed installation appointment metric and the new measure P-7E described in my Direct Testimony and again below capture that performance.

Likewise, it appears that "Percent of Batches Completed on Time" data is already being addressed. For coordinated hot cuts, measure P-7 captures whether the cut was completed on time. To address the "Percent of Batches Completed On Time" for non-coordinated hot cuts, BellSouth has already proposed P-7E, Non-Coordinated Customer Conversions - % Completed and Notified on Due Date as referenced in my direct testimony on pages 41-43. The proposed new measure, complete with a definition, exclusions, business rules, calculation, report structure and benchmark is included in Exhibit AJV-2. To summarize, this report measures the percentage of non-coordinated conversions that BellSouth completed on the due date and provided notification to the CLEC on the same date. This measure is also proposed to be included in both Tier 1 and Tier 2 of SEEM.

Lastly, Ms. Bursh proposes the establishment of a "Percent Conversion Service Outages" measurement. It appears, however, that this

performance is already covered by measures P-7B and P-7C, which are the Average Recovery Time, and Percent Provisioning Troubles in 7 Days measures.

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

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

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

Notwithstanding Ms. Lichtenberg's generalities, I will address her suggestions for measures.

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

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

Any problems associated with unlocking the E911 database would apply whether it involves a customer changing from BellSouth to a CLEC, or from a CLEC to BellSouth. Therefore, both BellSouth and CLEC

customers would be impacted in the same way by this third party. Situations where retail and CLEC customers are affected in the same way means that the process is in parity by design, so no performance measurements in the SQM or penalties under the SEEM plan are needed. If the CLECs believe that there is a problem associated with the unlocking of the E911 database significant enough to establish a finding that they are operationally impaired due to the problems encountered, they should present this evidence. Simply declaring that there is a need for a metric is no basis for establishing one, particularly when there is no basis to claim discriminatory treatment.

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

CLECs believe that there is a problem with the due dates that they are receiving from BellSouth, they can very easily collect and provide these data to have BellSouth solve any problem that it caused and ultimately involve this Commission, if appropriate.

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

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

LSRs, including batch LSRs. Also, measure O-8 will track how long it takes to reject these LSRs.

Finally, Ms. Lichtenberg contends: "[a] separate disaggregation for batch orders is needed to ensure that this means of handling unbundled loop provision[ing] is moving smoothly from ordering to provisioning – from ordering to performing activities within the start and end time for the whole batch." This is unnecessary and impractical. As already explained, when a CLEC issues a request for a batch order, the batch order results in individual LSRs that proceed through the Ordering systems, as would any other LSR. All of the measurements that capture BellSouth's performance related to the processing of LSRs would include batch hot cuts, based on BellSouth's proposal as outlined in my Direct Testimony. These LSRs can have varying due dates. Some customer orders will be due in 14 days and some in 20 days, but the CLECs simply placed them on the same batch. Any consolidated orders would reflect these intervals dictated by the CLECs. So there is no way to create a standard.

Once the orders reach the provisioning process, there are five (5) measures (the existing measures P-7, P-7A, P-7B, P-7C and the proposed measure P-7E) that would monitor BellSouth's performance related to all hot cuts, including batch hot cut provisioning measures that apply. From a practical standpoint, there is no need to establish a separate disaggregation for batch hot cuts.

Q. ON PAGE 10 OF HIS TESTIMONY, MR. BLOCHA SUGGESTS THAT "ILECs WOULD BE INCENTED TO CURE PERCEIVED FLAWS IN THE HOT CUT PROCESS IF THE COMMISSION TILTED KEY PERFORMANCE METRICS AND COMPENSATION PAYMENTS TO FOCUS MORE ON THE REALITIES OF A UNE-L WORLD RATHER THAN A UNE-P WORLD." DO YOU AGREE?

A. It is unclear what action Mr. Blocha is proposing for the Commission to take. The current Georgia SQM and SEEM plans approved by this Commission address UNE-P as well as UNE Loops in a very comprehensive way. In fact, in the provisioning measurements, there are 25 product categories of UNE Loops including analog loops, ISDN loops and digital loops. Additionally, in my Direct Testimony, I proposed modifications to measurements in the Pre-Ordering, Ordering and Provisioning domains and the SEEM plan to more closely focus on the batch hot cut processes. The Pre-Ordering and Ordering measurements addressed include PO-3: UNE Bulk Migration – Response Time, O-7: Percent Rejected Service Requests, O-8: Reject Interval, O-9: Firm Order Confirmation Timeliness, and O-11: Firm Order Confirmation and Reject Response Completeness. The Provisioning measurements addressed include P-7: Coordinated Customer Conversions Interval and P-7E: Non-Coordinated Customer Conversions - % Completed and Notified on Due Date.

The existing SQM and SEEM plans, coupled with these modifications are more than sufficient to address any actual flaws in the hot cut process. Therefore, given the comprehensive coverage that UNE-L receives in the current plan structure, no "tilting" to favor UNE-L is necessary.

V. OTHER ISSUES RAISED

Q. MR. VAN DE WATER, ON PAGE 10 OF HIS TESTIMONY, DESCRIBES A SITUATION IN GEORGIA, IN THE PAST SIX MONTHS, WHERE CUSTOMERS WHO EXPERIENCED A SERVICE OUTAGE DURING A COORDINATED HOT CUT WERE OUT OF SERVICE FOR AVERAGE OF ELEVEN HOURS. PLEASE ADDRESS THIS SITUATION.

A. Mr. Van De Water tells an incomplete story. The average recovery time was 9.9 hours for the customers who experienced a service outage during a hot cut during the period of June through November 2003. However, as I noted in my rebuttal testimony to Mr. Van De Water, several key facts need to be pointed out and restated here. First, there were 36 outages in the 6-month period from June to November 2003. Second, this total number represents only 0.84% of the 4279 coordinated customer conversions for those same six months. This translates to 7 outages out of 520 hot cuts in June, 5 outages out of 937 hot cuts in July, 8 outages out of 834 hot cuts in August, 8 outages out of 710 hot cuts in September, 5 outages out of 812 hot cuts in October, and 3 outages out of 463 hot cuts in November. And third, this 0.84% of the coordinated conversions is

below the Commission's benchmark of 5% for provisioning troubles within seven days of the hot cut. Significantly, only a very few customers actually experienced the outage situation that Mr. Van De Water claims is prevalent for all customers experiencing a conversion.

Mr. Van De Water's conjecture about translating this effect for all customers in the future is contrary to BellSouth's past performance and continuing commitment to service. More importantly, as stated on page 16 of my Rebuttal Testimony, less than 1% of hot cuts experienced the condition when this measure would apply.

Q. HOW WOULD BELLSOUTH PROPOSE TO ADDRESS PROCESS CHANGES THAT WOULD AFFECT MEASUREMENTS?

A. BellSouth has agreed to implement several enhancements to the batch hot cut process, as discussed in the surrebuttal testimony of BellSouth witness Mr. Ken Ainsworth. In my direct testimony, I proposed two new measurements, PO-3 and P-7E, and changes to measures O-7, O-8, O-9, O-11 and P-7. To the extent that these enhancements affect the measurements, BellSouth will, of course, modify its proposed measurement changes and additions accordingly.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.