include these costs in the prices of unbundled elements and in the prices of wholesale services. In other words, NYT proposes to recover all the non-recurring charges, including those that it should bear itself, from competitors.

Q. IN YOUR VIEW, SHOULD THE COMMISSION ADOPT NYT'S PLAN?

A. No. For all of the reasons stated above, the Commission should not adopt the proposed plan. NYT's plan is anticompetitive and against the public interest. If adopted, the plan will increase entry barriers, will slow the entry process, will enable NYT to steer competitive entry to less potent competitors, and will create a danger that NYT will be able to finance its own investments designed to combat competition under the ruse of recovering the onset costs.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

Q. PLEASE STATE YOUR NAME, PRESENT POSITION AND BUSINESS ADDRESS.

A. My name is Kevin Curran, my business address is 32 Avenue of the Americas, New York, New York 10013. I am presently employed by AT&T as Director Northeast Local Services Organization.

Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

A. I received a B.S. in Accounting degree from the Pennsylvania State University in 1981. I received a Masters in Business Administration degree from Columbia University in 1990. My course work emphasized marketing and general management techniques.

Q. WHAT IS YOUR WORK EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY?

A. I joined AT&T as a manager in the Operator Services organization. I was responsible for managing the overall performance of operator services offices in New York City and Long Island. I moved to the White Plains Government Affairs office in 1987, where I was responsible for managing the complex customer/supplier relationship with NYNEX and SNET. In 1988, I moved into a headquarters Operator Services position in Basking Ridge, New Jersey. In that assignment, I developed the dynamic marketing channel where branding, sales leads and marketing information were captured and delivered via the operator channel. I became the Product Manager for the AT&T Calling Card and Operator Services business unit in 1990, where I was responsible for the overall profitability and business planning for these services. In 1991, I became the Sales Director of the Eastern Region with responsibility for contracting with the away from home locations (e.g., hotels, airports, hospitals, etc.) to insure AT&T was the selected long distance carrier.

In May 1994, I accepted my current position in New York City developing AT&T's in-state consumer initiatives in the Northeast Region of the country.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. Because I am the AT&T executive with direct responsibility for implementing AT&T's plans to provide local services in New York, I want to give this Commission my perspective on how the development of local services competition could be affected by permitting NYT to recover from its potential competitors the charges that NYT is proposing in this phase of this case. I understand how easy it is in a "cost case" for everyone involved quickly to become immersed in the details of the cost presentation. Before that happens in this case, I believe that it is essential first to look at the big picture, to understand from a business perspective the significance of the impact of the additional costs proposed by NYT to new entrants beyond the wholesale discount and unbundled network element (UNE) rates.

Q. WHAT DO YOU SEE AS THE POTENTIAL SIGNIFICANCE OF THE COMMISSION'S DECISIONS ON THE COSTS THAT NYT HAS CLAIMED IN THIS PHASE OF THE CASE?

A. To be blunt, the Commission's decisions in this phase of the case may well determine whether local services competition ever becomes a reality in New York. Those decisions will certainly determine whether or to what extent AT&T, for one, can enter the local services market in New York, either as a reseller of NYT's services or utilizing NYT's UNEs, with any expectation of earning a positive return in that market. AT&T has no interest in launching new lines of business just to lose money. Although AT&T is eager to be a vigorous competitor of NYT for local services in New York, it will not enter this or any other new market unless it believes that it can do so profitably. The extraordinary additional claimed costs that NYT is now proposing to impose on its potential local services competitors would dramatically, and negatively, impact the economics of local services entry for AT&T and presumably for all other potential resellers and purchasers of UNEs.

Q. DON'T YOU AGREE THAT NYT SHOULD BE ENTITLED TO RECOVER THE COSTS THAT IT INCURS IN ORDER TO BE IN A POSITION TO RESELL SERVICES AND UNES TO OTHER CARRIERS?

A. There are at least two questions that need to be considered. The first is whether NYT will actually incur the costs that it claims to modify its current systems and procedures in order to provide wholesale services. Although it is simply incredible to me that NYT will incur costs well in excess of $100 million in order to serve wholesale customers, I make no claim to have examined the details of NYT's cost presentation and therefore leave to others the debate over that issue. The second question that is presented by NYT's cost presentation, however, is one where I do feel qualified to express my views. That question is, once the nature and level of costs have been determined, who should pay for them? It is absolutely clear to me that the correct answer to this question is not "NYT's competitors." To permit that outcome will guarantee a windfall for NYT, will ensure that the local services market for years will be slanted dramatically in favor of NYT, and will cripple the development of competition at the local level. The costs must be allocated across all CLECs and NYT retail in a competitively neutral manner.

Q. BUT ISN'T IT THE POTENTIAL LOCAL SERVICES COMPETITORS OF NYT THAT ARE CAUSING NYT TO INCUR THE COSTS AT ISSUE, AND SHOULDN'T THOSE CARRIERS BE REQUIRED TO PAY THE COSTS THAT THEY CAUSE?

A. Absolutely not. In my opinion, it is nonsense to suggest that NYT's potential competitors are the "causers" of the costs that NYT will incur in order to become an efficient (hopefully) provider of local services. Local services competition is, as a result of the Telecommunications Act of 1996, a matter of national policy. It is the United States Congress that has "caused" the costs that NYT now proposes to recover from its competitors. Just as NYT is incurring costs in the process of implementing this new federal policy mandate, so are AT&T and every other carrier that is planning to pursue the new lines of business that the statute has opened to competition. NYNEX has chosen to establish its wholesale operations as a profit center. NYNEX's competitors should not be funding new NYNEX business ventures. In my view, it would be antithetical to the policy goal of opening local services markets to competition if one competitor, namely the incumbent monopolist, were to be permitted to pass its implementation costs off to its competitors (which are themselves incurring substantial costs of their own in the process of gearing up to enter new markets.) In fact, I can think of no faster or more effective way to stifle the development of competition.

Q. IS IT YOUR POSITION THAT NYT SHOULD BE PERMITTED TO IMPOSE NO CHARGES FOR ITS WHOLESALE SERVICES?

A. Of course not. A great deal of time and energy, both of the Commission and of the parties, has been devoted to the determination of the appropriate level of resale discount and the appropriate TELRIC prices for UNEs. I recognize that there may be certain transaction charges it is appropriate to impose on competitors for specific services or functions that NYT provides in response to a carrier's direct request or order (although the amount of any such charges proposed by NYT needs to be carefully scrutinized). What is not appropriate, in my view, is for NYT to pass along to its Resellers or UNE purchasers the start up costs that NYT claims it will incur to enable itself to enter the wholesale business. As I understand it, it is this latter category of costs that makes up the vast majority of the costs now under consideration.

Q. WHAT IMPACT WILL THE COSTS CLAIMED BY NYT HAVE ON COMPETITION IF THEY ARE INCLUDED AS A COST OF ENTRY INTO THE NEW YORK MARKETPLACE?

A. The impact would be dramatic. Let me discuss resale first. Attached to the testimony of AT&T's witness Lee Globerson are charts showing the impact of NYT's proposed costs on the wholesale discount rate in a resale scenario. For ease of reference, copies of those charts are attached to my testimony as Exhibit A, Charts 1-4. As the charts illustrate, if NYT is permitted to charge its competitors its proposed costs, it will greatly reduce the actual wholesale discount rate and thus reduce overall financial viability of the New York local services resale market.

Q. WHAT IMPACT WOULD NYT'S PROPOSED COSTS HAVE ON THE RESALE RATES FOR THE AVERAGE RESIDENTIAL CUSTOMER IN NEW YORK?

A. Referring to the resale scenario in Chart 1, the additional costs proposed by NYT associated with a new residential customer installation for the first month of service add up to $7.34. These charges would not only eliminate the 19.1% wholesale discount rate approved by the Commission but would require that a reseller pay 4.20% <u>above</u> NYT's retail rate. A new entrant would lose $1.33 on every new customer installation.

In the resale scenario of a customer migrating to a new entrant with no changes to service, shown in Chart 2, the new entrant would pay NYT charges of $3.15 in the first month of service, reducing the wholesale discount from 19.1% to 9.04%. In order to reduce these charges, the new entrant would begin questioning whether or not to change its customer servicing strategy by, for example, not checking the customer service record or checking on the status of the order that was sent to NYT.

In a migration as specified resale scenario (which is AT&T's preferred methodology and which has been accepted by all other RBOCs), shown in Chart 3, NYT has proposed, for a limited volume of orders, to process service orders for an additional charge of $8.28. This effectively reverses the wholesale discount rate of 19.1% discount to 19.97 % above NYT's retail rate.

Even on an ongoing or steady state basis, as shown in Chart 4, a reseller will have the wholesale rate reduced from a 19.1% discount to 12.87%. This does not even take into account those instances where an existing customer adds new lines or features or makes any changes to their existing service. In those scenarios, the application of additional non-retail charges would be similar to a new install situation, further exacerbating the erosion of the wholesale discount rate.

Q. WHAT IMPACT WOULD NYT'S PROPOSED COSTS HAVE ON THE UNBUNDLED NETWORK ELEMENTS (UNE) PLATFORM RATE FOR THE AVERAGE RESIDENTIAL CUSTOMER IN NEW YORK?

A. It is impossible to determine the answer to this question because over 100 additional UNE costs have not yet been quantified by NYT. See Exhibit Part A to Mr. Globerson's testimony, which is a condensed version of the potential additional charges included in Exhibit M to NYT's cost study. The number of costs that NYT proposes (but does not as yet have charges for) is staggering. Those potential future charges are a significant market barrier to entry. NYT seeks to insure that new entrants will pay so many costs to provide customers with facilities-based options that it will not be financially viable for new entrants to enter the market on this basis. In addition to paying a higher flat per carrier monthly rate than the rate for resellers, and paying the same per transaction charge of $1.08, call usage detail per record charge and customer service record access charge, a UNE provider also must pay, for example, a minimum service order processing and provisioning charge of $46.48 for a new line using UNE platform[1] and $73.92 for a new line using UNE loop. These charges are just the "tip of the iceberg" because NYT is proposing additional charges for service order processing but has not yet provided the proposed costs in its cost study.

Q. WHAT TYPES OF NEW COSTS IS NYNEX RESERVING THE RIGHT TO PROPOSE?

A. NYT seeks additional charges for rebranding and rerouting of Operator Services and Directory Assistance calls, for provisioning of switching features including port additives and for various other installation and non-recurring charges. These are only a few of the more than 100 additional charges set forth in NYT's Exhibit M.

Q. DOES THERE APPEAR TO BE A STRATEGY BASED ON HOW NYNEX HAS PROPOSED ITS ADDITIONAL COSTS?

A. The multitude of unknown costs NYT wants to impose on UNE providers will heavily influence competitors to consider reselling NYT's services rather than competing on a facilities basis, contrary to the intent of the New York Public Service Commission and the Federal Telecommunications

[1] UNE Platform refers to a connectivity option where the CLEC purchases all network elements in combination.

Act. It is apparent that NYT is attempting to influence the scale and scope of facilities-based competition through these cost "placeholders". AT&T is very interested in being a facilities-based provider, but its market entry strategy will be significantly influenced if it must shoulder the burden of the proposed costs and of unquantified but potentially burdensome future costs.

Q. WILL THE IMPOSITION OF NYT'S PROPOSED CHARGES, IF APPROVED, IMPACT CUSTOMER SERVICE?

A. NYT has structured its cost impositions so that its competitors not only pay on a flat rate per month basis, but also so that each and every transaction done on behalf of a new entrant's end user drives the costs even higher, further eroding, if not totally eliminating, any possible profitability for new entrants. These charges will incent new entrants to perform the minimum number of transactions they can on behalf of a customer. This will ultimately impact customer service because new entrants will not want to pay to access a customer service record, or pay $1.08 to check on the status of an order or question a bill.

Q. WHAT DOES AT&T PROPOSE TO THE COMMISSION TO DETERMINE THE APPROPRIATENESS OF NYT'S PROPOSED COSTS?

A. The question of whether NYT's proposed costs are appropriate or not and the criteria that should be used in making that evaluation are dealt with in detail in the testimony of AT&T witnesses Ordover, Globerson and Lynott, filed herewith. I rely on their opinion and analysis.

Q. IF THE COMMISSION DETERMINES THAT CERTAIN OF NYT'S CLAIMED COSTS ARE VALID AND SHOULD BE RECOVERED AT LEAST IN PART FROM NYT'S COMPETITORS, WHAT SHOULD BE THE MECHANISM FOR RECOVERY OF SUCH COSTS?

A. Professor Ordover discusses this issue in detail. From my perspective as a businessman, any onset or nonrecurring costs that NYT is not required to absorb should be allocated among all competitive local exchange carriers in New York that resell NYT service or purchase UNEs from NYT, as well as NYT's retail operations, in a competitively neutral and non-discriminatory manner to ensure that the costs are not borne solely by new entrants.

One possible method for allocating costs in this way would be to use the total number of local service access lines for new entrants as well as the incumbent. The costs which have passed the evaluation process would be allocated by dividing them by the total number of access lines, including NYT retail's access lines, to derive a per access line cost, which should then be multiplied by the number of access lines that NYT retail has or that a CLEC has obtained during the given year either via resale or UNE . In this way each CLEC, as well as NYT retail, would be burdened only with the proportionate share of costs based upon the number of customers it had been able to obtain and would not be subsidizing the costs of another CLEC or of NYT. NYT, which has benefited and will continue to benefit from the opening of the telecommunications market, and which will be obtaining revenues for providing services to the customers it retains, would be responsible for its proportionate share of costs based upon its proportion of access lines. Furthermore, competition will be stimulated because the costs of entering the market will be competitively neutral. Customers will truly benefit by choice of carrier and choice of service offering that best meet their needs, which after all was the intent of the Federal Telecommunications Act and of this Commission.

Q. SHOULD THE COMMISSION ALLOW NYT TO SUBMIT ADDITIONAL COST ONSETS AFTER THIS PROCEEDING IS CONCLUDED?

A. No. NYT should not be allowed to subsequently claim additional costs beyond those that it is claiming here. Over time, NYT's costs should go down due to efficiency improvement which should mitigate the need for any future submission of additional claimed costs. NYT has made no showing of why, in the many months that have passed, it has been prevented from determining all of the onset costs and nonrecurring costs that it believes are attributable to the start up of local services competition. To permit NYT to reserve the right to return to this Commission at some unspecified future time with claims of additional costs to be recovered from its competitors would be unfair in the extreme. Those competitors (including AT&T) must make determinations now about the financial viability of their planned local services roll outs. No rational profitability analysis can be made today if NYT is permitted to come forward tomorrow with surprise increases or additions in the costs it charges for the services the new entrant needs in order to provide its own service.

However, if the Commission finds that it is appropriate to allow NYT to submit additional cost onsets in the future, the Commission should establish a time limit for any such submission by NYT (e.g., six months from the conclusion of this proceeding), and establish a maximum cap on the total amount of costs that can be allocated to new entrants. Without a capped amount NYT will come forward with a staggering array of costs. Any doubts that this is NYT's intent is eliminated by a review of the more than 100 potential future costs that NYT has already identified.

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. The importance of the decisions to be made in this phase of the case cannot be overstated. Like the innkeeper who takes "here a little cut, there a little slice", NYT is attempting by its proposed charges for cost onsets and other start up costs to nickel and dime competition to death. While any one of the proposed charges may seem relatively insignificant by itself, in combination, if imposed on NYT's competitors, they will kill competition before it can begin. Facing their own substantial start up costs, potential new entrants to the local services market will be unable to justify entry if they are required to pick up NYT's bill as the price of going into business. This will certainly be the reality for AT&T, which, as I stated at the outset, has no interest in providing local services on a "loss leader" basis. AT&T is prepared, indeed eager, to compete with NYT in both the local business and residential markets in New York, but it cannot do so if it is required to bear NYT's start up costs as well as its own. I urge the Commission in the strongest possible terms to scrutinize with care the costs claimed by NYT, to require NYT itself to bear those costs that enable NYT to provide wholesale services and with respect to any remaining costs to apply the evaluation criteria outlined in the testimony of Professor Ordover.