1 Mr. Follensbee responded "Thank YOU, I forgot that we will add that to the bill", and
2 since then no amount of discussion has swayed BellSouth's course.
3 Now other than seeking every opportunity to inflate Supra's bills[115], I can find no other
4 justification for BellSouths actions in this regard. Simply put, how could the company that had
5 **already** provisioned over "**300,000** hotcuts between November 2000 and September 2003"[116]
6 suddenly be dependent upon David Nilson's suggestion as to what to bill for them?
7
8 **Q. IS THERE ANY RELEVANCE TO THE COVAD DOCKET?**
9 A. No. It is a bald attempt to justify a BellSouth billing error, the genesis of which I
10 describe above. This entire issue should be rejected by the Commission, and BellSouth should
11 be ordered to immediately stop billing this charge in connection with a UNE-L loop.
12
13 **VII. Economic issues relating to the Cost of Hot Cuts**
14 **Q. Does BellSouth's $59 Hot Cut Charge Create an Economic Barrier that Would**
15 **Prevent Supra from Competing Effectively in the Mass Market, absent UNE-P?**
16
17 A. Yes. Bellsouth's $59 hot cut charge is an economic barrier that would prevent Supra
18 from competing effectively in the mass market in BellSouth's monopoly territory, absent UNE-
19 P. When coupled with both the substantial costs for capital expenditures and the internal costs
20 Supra incurs to establish service for a new mass market customer, BellSouth's $59 non-recurring
21 charge for a hot cut becomes the straw that breaks the camel's back. Additionally, customer

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115 And those of other CLECs.
116 *See* Supra Exhibit # DAN-23 Direct Testimony of Kenneth Ainsworth

churn exacerbates the financial burden of BellSouth's excessive hot cut charge that Supra must bear. BellSouth's $59 non-recurring charge for a hot cut is particularly repugnant because it is priced far above its actual cost and serves no purpose other than to create an insurmountable financial burden for CLECs trying to compete in the mass market in BellSouth's monopoly territory. In the final analysis, it is simply not cost effective for Supra or any CLEC to pay BellSouth's current unjustified non-recurring charge for an individual hot-cut. Perhaps this is why CLECs in general have not successfully engaged in a business strategy in the state of Florida to serve mass market customers via their own switching facilities. The $59 charge acts as an economic barrier to facilities-based competition for the mass market.

In the FCC's recent Triennial Review Order released August 21, 2003, the FCC concluded that the high cost of non-recurring charges for hot cuts constituted a significant economic barrier for CLECs serving mass market customers such that CLECs were impaired from serving the mass market. In paragraph 459, the FCC stated that,

> "....We find on a national basis, that competing carriers are impaired without access to unbundled local circuit switching for mass market customers. <u>This finding is based on evidence in our record regarding the economic and operational barriers caused by the cut over process. These barriers include the associated non-recurring costs,...</u>" (emphasis added.)

Because the non-recurring charges for hot cuts were so high, the FCC ordered State Commissions to find ways to reduce the ILEC's non-recurring charges for hot cuts in an effort to eliminate that particular barrier to entry. In paragraph 460, the FCC stated that,

"...we ask state commissions to take specific actions designed to alleviate impairment in markets over which they exercise jurisdiction. Because we find that operational and economic factors associated with the current hot cut process used to transfer a loop from one carrier's switch to another's serve as barriers to competitive entry in the absence of unbundled switching, state commissions must, within nine months from the effective date of this Order, approve and implement a batch cut process that will render the hot cut process more efficient and reduce per-line hot cut costs." (Emphasis added.)

The FCC stated that the non-recurring charges for hot cuts are so high that they prohibit facilities-based competition for mass market customers. In paragraph 465, the FCC stated,

"The record contains evidence that hot cuts frequently lead to provisioning delays and service outages, and are often priced at rates that prohibit facilities-based competition for the mass market." (Emphasis added.)

AT&T echoed the FCC's finding when it stated in its Reply Comments (at 321) in the TRO proceeding, "the current charges for hot cuts in many states forecloses the use of UNE-L."[117]

In defining what constitutes a "high" non-recurring charge for a hot cut, the FCC provided some guidance by noting that a non-recurring hot cut charge of $51 was high and was a "significant barrier to entry." In paragraph 470, the FCC stated,

"Although hot cut costs vary among incumbent LECs, we find on a national level that that these costs contribute to a significant barrier to entry. WorldCom submitted hot cut non-recurring costs (NRCs) for several states, with an average non-recurring charge of approximately $51..."

[117] See www.biznessonline.com Feb. 14, 2003 *Ex Parte* Letter at 5 n.12

1 Thus, if the FCC has already determined that a $51 non-recurring charge for a hot cut is too high
2 and constitutes an economic barrier to entry, then BellSouth's $59 non-recurring charge is
3 clearly too high.
4
5 **Q. What effect does Customer Churn Have on the Economics?**
6
7 A. Customer churn exacerbates the problem of excessive non-recurring charges for hot cuts
8 to the point where it becomes uneconomic to serve the mass market. Supra estimates that
9 approximately 3% - 4% of its mass market customers churn each month, due in no small part to
10 BellSouth winback activities, legal or otherwise. Z-Tel estimates that at least four percent of its
11 lines turn over each month[118] and WorldCom states that it loses 25% of its new local customers
12 within the first three months of service and a has a monthly churn rate of 4 – 6% after the first
13 six months of service.[119] This churn is due, no doubt, to BellSouth's tremendous winback
14 activities, including significant cash back and other promotions – see PreferredPack Plan Tariff
15 and Supra's challenge of such in Docket 040353-TP -- which exceed $135 in value to an
16 individual residential customer.

17 Supra's only hope to recover the high non-recurring hot cut charges that BellSouth charges is for
18 a local customer to stay with Supra for a number of years. However, if that customer leaves
19 before payback has been reached, then Supra incurs a loss for having served that local customer.
20 The FCC found that CLECs' customer churn rates exacerbated the economic barriers that
21 CLECs faced when serving the mass market.

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[118] See TRO proceeding, Z-Tel Comments at 31.
[119] See TRO Proceeding WorldCom Comments.

1 "The evidence in the record demonstrates that customer churn exacerbates the operational
2 and economic barriers to serving mass market customers. For example, competitive
3 LECs incur non-recurring costs upon establishing an end user's service, but generally
4 recover those costs over time, spreading them out over monthly customer bills; high
5 churn rates thus often deprive competitive carriers the opportunity fully to recover those
6 outlays. The record demonstrates that the current level of churn for carriers providing
7 service to the mass market has significant negative revenue effects on the ability of
8 competitive carriers to recover the high costs associated with manual hot cuts. (para. 471)

9

10 **Q. What other economic issues must be taken into consideration?**

11

12 A. Supra also incurs its own internal costs to manage and execute a hot cut. Supra service
13 representatives and outside plant personnel must be involved to execute a hot cut from Supra's
14 end of the process. If BellSouth does not successfully execute the hot cut, then Supra personnel
15 must spend additional time resolving the hot cut problem. When these internal costs of
16 completing a hot cut are coupled with BellSouth's high non-recurring charge for a hot cut, the
17 cost makes serving mass market customers, via Supra's own facilities, unprofitable. In the
18 FCC's recent TRO, other CLECs noted this same problem. Paragraph 470 of the TRO Order
19 states,

20

21 "In addition to the high non-recurring charges imposed by the incumbent LECs,
22 the evidence in the record shows that hot cuts also require significant internal
23 resources and expenditures which must be borne by the competitive LEC. Thus,
24 the record evidence indicates that the non-recurring costs associated with cutting
25 over large volumes of loops would likely be prohibitively expensive for a
26 competitive carrier seeking to provide service without the use of unbundled local
27 circuit switching.

28

29 **Q. What did the FCC state regarding BellSouth's Cost Studies Purporting to Show**
30 **that Its Non-Recurring Charge For Hot Cuts Was Not An Economic Barrier To Entry**

A. The FCC has already rejected BellSouth's cost studies purporting to show that its non-recurring charge for hot cuts was not an economic barrier. In the recent TRO investigation, BellSouth submitted cost studies to the FCC alleging that it was possible for a CLEC to pay BellSouth's high non-recurring charges for hot cuts and still be financially viable in the market. The FCC rejected BellSouth's cost study for a number of reasons. (see para. 482 - 483).

> The studies presented by SBC and BellSouth examine whether economic entry is possible, taking into consideration the revenue opportunities available and the typical costs of utilizing a UNE-L strategy. (para. 482)
>
> We find that these studies fail to provide sufficient evidence to form a basis for making a national finding of no impairment, or a finding of impairment on the basis of non-hot cut factors alone. These studies either failed to adopt the proper framework for determining impairment, were insufficiently granular, or failed to provide sufficient support for the parameters they employed.... The incumbent LEC studies also used incorrect revenues, failing to use the likely revenues to be obtained from the typical customer. (para. 483.)

The real test of the validity of BellSouth's cost study is whether BellSouth believes in the results of its own cost study and enters another ILEC's market as a CLEC. The fact that BellSouth has refused to operate as a CLEC and enter markets outside of its traditional monopoly franchise territory is strong evidence that BellSouth realizes that entry costs such as non-recurring charges for hot cuts, are too high for a CLEC to profitably enter other markets. If economic barriers to entry were truly low, one would expect that BellSouth would capitalize on its core competency as a telephone company and expand its operations into Verizon's and Sprint's territory to compete as a CLEC. Instead, BellSouth seeks only to protect its historic monopoly franchise territory by maintaining high economic barriers to entry while alleging that its high nonrecurring

charges are not barriers to entry. It is not surprising that the FCC rejected BellSouth's cost studies as an unrealistic portrayal of the real world.

VII. Problems with the way BS is handling/has handled the process to date – loss of Internet speed, etc.

Q. WHAT IS BELLSOUTH'S PERFORMANCE IN PROVISIONING LOOPS FOR SUPRA'S CUSTOMERS

A. I adopt the testimonies of Mark Neptune and David A. Nilson in Docket 030851-TP (TRO Switching Docket) in this regard.

Q. WHAT IS THE ISSUE OF INTERNET MODEM SPEED HAVE TO DO WITH UNE-P TO UNE-L CONVERSIONS?

A. Supra asks the Commission to consider BellSouth's use of pair-gain technologies, including Digital Loop Carrier ("DLC") in its analysis of the loop UNE. BellSouth uses DLC to concentrate additional loops onto existing feeder circuits in areas where they have "run out of loops. Over time, this has become the predominant method of outside plant buildouts since 1995[120].

DLC (and other) digital loop technology synthesize the normal operation of a loop by digitizing each telephone call and passing the digitized information over a single circuit consisting of DLC,

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[120] See Supra Exhibit Supra Exhibit # DAN-27 which shows that the predominant construction, region wide, of feeder circuits is no longer copper, but fiber optic cable. DLC must be used In the remote terminal to support this method of buildout.

1 fiber backhaul (i.e. F2 transport), and the F1 subloop. The digitized signals are extracted by
2 corresponding central office based electronics and placed on separate two wire copper circuits
3 and fed to the Class 5 switch.
4
5 Ever since modem speeds increased above 28.8 BPS, it has become essential that the loop
6 serving a customer have, at most, a single analog to digital conversion. The compression
7 algorithms inherent in 56K modems will tolerate no more, and indeed require non-standard
8 implementations of the GR-303 to achieve full rated speed. GR-303 is the standard
9 communication protocol between Digital Loop Carrier (DLC) equipment and the Class 5 switch
10 that serves it. With a standard GR-303 interface a 56K modem can easily be limited to 28.8K or
11 less. With DAML added in such a loop communications can fall as low as 4.8K!
12 Given the ubiquitous presence of the Internet, digital modem, DSL and future Advanced
13 Services depend upon the loop characteristics, and particularly equal access to control loop
14 quality characteristics. While the BellSouth has the unbridled ability to "tune" a loop to satisfy a
15 given customers complaint, BellSouth currently only "guarantees" its loops to be capable of 9600
16 baud operation![121] Clearly BellSouth has a substantial advantage over Supra in this situation,
17 and the opportunity for anti-competitive "win-back" of a customer whose line speed dramatically
18 drops at conversion to Supra is all too difficult to ignore.
19
20 Typically the scenario is that a BellSouth customer converts to Supra. At some point in time,
21 either at conversion or sometime after, with no prior warning to Supra, the customer line is

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[121] Supra's current Interconnection agreement has extended that figure, but only to 14.4 Kbps!

1 converted to DAML (or run through multiple DLC systems). Immediately the customer begins
2 complaining about the drop in modem speed.
3
4 This final issue is most insidious to Supra as it represents hidden, undocumented, and often
5 denied violations of the Telecommunications Act[122], all FCC orders in this regard[123], including
6 orders that have been sustained by the Supreme Court of the United States[124]. Further the
7 commission needs to set new and higher standards for the digital transmission capabilities of the
8 loop that only ILECs are currently capable of fully enjoying.
9

10 **VIII. VII. Economic issues relating to the Cost of Hot Cuts**

11 **IX. Q. DOES BELLSOUTH'S $59 HOT CUT CHARGE CREATE AN ECONOMIC**
12 **BARRIER THAT WOULD PREVENT SUPRA FROM COMPETING**
13 **EFFECTIVELY IN THE MASS MARKET, ABSENT UNE-P?**

14

15 A. Yes. Bellsouth's $59 hot cut charge is an economic barrier that would prevent Supra
16 from competing effectively in the mass market in BellSouth's monopoly territory, absent UNE-
17 P. When coupled with both the substantial costs for capital expenditures and the internal costs
18 Supra incurs to establish service for a new mass market customer, BellSouth's $59 non-recurring
19 charge for a hot cut becomes the straw that breaks the camel's back. Additionally, customer
20 churn exacerbates the financial burden of BellSouth's excessive hot cut charge that Supra must
21 bear. BellSouth's $59 non-recurring charge for a hot cut is particularly repugnant because it is

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[122] Telecommunications Act of 1996, 47 U.S.C.A. § 251(c)(3).
[123] 47 C.F.R. § 51.315(b).
[124] *AT&T v. Iowa Utilities Bd.* 525 U.S. 366, 119 S.Ct 721 (Iowa Utilities Board II) at pg. 368, and pg. 393-395

1 priced far above its actual cost and serves no purpose other than to create an insurmountable
2 financial burden for CLECs trying to compete in the mass market in BellSouth's monopoly
3 territory. In the final analysis, it is simply not cost effective for Supra or any CLEC to pay
4 BellSouth's current unjustified non-recurring charge for an individual hot-cut. Perhaps this is
5 why CLECs in general have not successfully engaged in a business strategy in the state of
6 Florida to serve mass market customers via their own switching facilities. The $59 charge acts
7 as an economic barrier to facilities-based competition for the mass market.
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9 In the FCC's recent Triennial Review Order released August 21, 2003, the FCC concluded that
10 the high cost of non-recurring charges for hot cuts constituted a significant economic barrier for
11 CLECs serving mass market customers such that CLECs were impaired from serving the mass
12 market. In paragraph 459, the FCC stated that,
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14 "....We find on a national basis, that competing carriers are impaired without
15 access to unbundled local circuit switching for mass market customers. This
16 finding is based on evidence in our record regarding the economic and operational
17 barriers caused by the cut over process. These barriers include the associated
18 non-recurring costs,..." (emphasis added.)
19 Because the non-recurring charges for hot cuts were so high, the FCC ordered State
20 Commissions to find ways to reduce the ILEC's non-recurring charges for hot cuts in an effort to
21 eliminate that particular barrier to entry. In paragraph 460, the FCC stated that,
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23 "...we ask state commissions to take specific actions designed to alleviate
24 impairment in markets over which they exercise jurisdiction. Because we find
25 that operational and economic factors associated with the current hot cut process
26 used to transfer a loop from one carrier's switch to another's serve as barriers to
27 competitive entry in the absence of unbundled switching, state commissions must,

> within nine months from the effective date of this Order, approve and implement a batch cut process that will render the hot cut process more efficient and reduce per-line hot cut costs." (Emphasis added.)

The FCC stated that the non-recurring charges for hot cuts are so high that they prohibit facilities-based competition for mass market customers. In paragraph 465, the FCC stated,

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Thus, if the FCC has already determined that a $51 non-recurring charge for a hot cut is too high and constitutes an economic barrier to entry, then BellSouth's $59 non-recurring charge is clearly too high.

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1

2 A. Customer churn exacerbates the problem of excessive non-recurring charges for hot cuts
3 to the point where it becomes uneconomic to serve the mass market. Supra estimates that
4 approximately 3% - 4% of its mass market customers churn each month, due in no small part to
5 BellSouth winback activities, legal or otherwise. Z-Tel estimates that at least four percent of its
6 lines turn over each month and WorldCom states that it loses 25% of its new local customers
7 within the first three months of service and a has a monthly churn rate of 4 – 6% after the first
8 six months of service. This churn is due, no doubt, to BellSouth's tremendous winback activities,
9 including significant cash back and other promotions – see PreferredPack Plan Tariff and
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11 residential customer.

12 Supra's only hope to recover the high non-recurring hot cut charges that BellSouth charges is for
13 a local customer to stay with Supra for a number of years. However, if that customer leaves
14 before payback has been reached, then Supra incurs a loss for having served that local customer.
15 The FCC found that CLECs' customer churn rates exacerbated the economic barriers that
16 CLECs faced when serving the mass market.

17 "The evidence in the record demonstrates that customer churn exacerbates the operational
18 and economic barriers to serving mass market customers. For example, competitive
19 LECs incur non-recurring costs upon establishing an end user's service, but generally
20 recover those costs over time, spreading them out over monthly customer bills; high
21 churn rates thus often deprive competitive carriers the opportunity fully to recover those
22 outlays. The record demonstrates that the current level of churn for carriers providing
23 service to the mass market has significant negative revenue effects on the ability of
24 competitive carriers to recover the high costs associated with manual hot cuts. (para. 471)

25

26 **Q. What other economic issues must be taken into consideration?**

A. Supra also incurs its own internal costs to manage and execute a hot cut. Supra service representatives and outside plant personnel must be involved to execute a hot cut from Supra's end of the process. If BellSouth does not successfully execute the hot cut, then Supra personnel must spend additional time resolving the hot cut problem. When these internal costs of completing a hot cut are coupled with BellSouth's high non-recurring charge for a hot cut, the cost makes serving mass market customers, via Supra's own facilities, unprofitable. In the FCC's recent TRO, other CLECs noted this same problem. Paragraph 470 of the TRO Order states,

> "In addition to the high non-recurring charges imposed by the incumbent LECs, the evidence in the record shows that hot cuts also require significant internal resources and expenditures which must be borne by the competitive LEC. Thus, the record evidence indicates that the non-recurring costs associated with cutting over large volumes of loops would likely be prohibitively expensive for a competitive carrier seeking to provide service without the use of unbundled local circuit switching.

Q. What did the FCC state regarding BellSouth's Cost Studies Purporting to Show that Its Non-Recurring Charge For Hot Cuts Was Not An Economic Barrier To Entry

A. The FCC has already rejected BellSouth's cost studies purporting to show that its non-recurring charge for hot cuts was not an economic barrier. In the recent TRO investigation, BellSouth submitted cost studies to the FCC alleging that it was possible for a CLEC to pay BellSouth's high non-recurring charges for hot cuts and still be financially viable in the market. The FCC rejected BellSouth's cost study for a number of reasons. (see para. 482 - 483).

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> We find that these studies fail to provide sufficient evidence to form a basis for making a national finding of no impairment, or a finding of impairment on the basis of non-hot cut factors alone. These studies either failed to adopt the proper framework for determining impairment, were insufficiently granular, or failed to provide sufficient support for the parameters they employed.... The incumbent LEC studies also used incorrect revenues, failing to use the likely revenues to be obtained from the typical customer. (para. 483.)

The real test of the validity of BellSouth's cost study is whether BellSouth believes in the results of its own cost study and enters another ILEC's market as a CLEC. The fact that BellSouth has refused to operate as a CLEC and enter markets outside of its traditional monopoly franchise territory is strong evidence that BellSouth realizes that entry costs such as non-recurring charges for hot cuts, are too high for a CLEC to profitably enter other markets. If economic barriers to entry were truly low, one would expect that BellSouth would capitalize on its core competency as a telephone company and expand its operations into Verizon's and Sprint's territory to compete as a CLEC. Instead, BellSouth seeks only to protect its historic monopoly franchise territory by maintaining high economic barriers to entry while alleging that its high nonrecurring charges are not barriers to entry. It is not surprising that the FCC rejected BellSouth's cost studies as an unrealistic portrayal of the real world.

Problems with the way BS is handling/has handled the process to date – loss of Internet speed, etc.

Q. Does this conclude your direct testimony?

A. Yes it does.

X. Exhibits

1 **Supra Exhibit # DAN-1** Order PSC-01-1181-FOF-TP (Florida Public Service Commission)
2 Final Order in Florida Generic UNE Docket 990649-TP dated May 25, 2001. (electronic
3 copy only)
4 **Supra Exhibit # DAN-2** Order PSC-01-2051-FOF-TP (Florida Public Service Commission)
5 Order on Reconsideration in Florida Generic UNE Docket 990649-TP dated October 18,
6 2001. (electronic copy only)
7 **Supra Exhibit # DAN-3** Order PSC-02-1311-FOF-TP (Florida Public Service Commission)
8 Order Florida Generic UNE Docket 990649-TP dated September xx, 2002. (electronic copy
9 only)
10 **Supra Exhibit # DAN-4** Order PSC-02-0413-FOF-TP (Florida Public Service Commission)
11 Order on Arbitration of Interconnection Agreement UNE Docket 001305-TP dated
12 3/26/2002. (electronic copy only)
13 **Supra Exhibit # DAN-5** \Supra – BellSouth Interconnection agreement dated July 15, 2002
14 (electronic copy only)
15 **Supra Exhibit # DAN-6** **Confidential (CD2) -** BellSouth August 16, 2000 cost study filing
16 in Docket 990649-TP. (electronic copy only)
17 **Supra Exhibit # DAN-7** **Confidential (CD-3) –** BellSouth October 8, 2001, Revision 1
18 Supplemental 120 Compliance filing Cost Study. (electronic copy only)
19 **Supra Exhibit # DAN-8** **Confidential (CD4) –** BellSouth cost study from the Covad
20 Arbitration, Docket 001797-TP. (electronic copy only)
21 **Supra Exhibit # DAN-9** **Confidential** – Supra A.1.1 and A.1.2 NRC cost study for loops
22 served by Copper / UDLC.

1 **Supra Exhibit # DAN-10** **Confidential** – BellSouth FL-2w.xls A.1.1 and A.1.2 NRC cost
2 study from the October 8, 2001 120 day compliance filing. (Electronic and paper copy).
3 **Supra Exhibit # DAN-11** **Composite exhibit – the testimonies, Direct, Rebuttal and**
4 **surebuttal of Mark Neptune and David A. Nilson in Docket 030851-TP (TRO Switching**
5 **Docket).**
6 **Supra Exhibit # DAN-12** Composite Exhibit of Intercompany meeting minutes UNE-P to
7 UNE-L conversion Project(s).
8 A. $49.57 UNE-L NRC rate – March 5, 2003 Intercompany meeting
9 minutes D. Smith to Supra. BellSouth promised response on UNE-L
10 NRC rate demand.
11 B. $ 49.57 UNE-L NRC rate – 3/5/ 2003 Intercompany meeting #2 re:
12 implementation of UNE-P to UNE-L conversion project.
13 **Supra Exhibit # DAN-13** $51.09 UNE-L NRC rate – 5/21/2003 Letter G. Follensbee to D.
14 Nilson re: Adequate assurance adjustment.
15 **Supra Exhibit # DAN-14** 5/29/2003 response D. Nilson to G. Follensbee re: Adequate
16 assurance adjustment, challenging both the recurring and non-recurring rates BellSouth seeks
17 to charge, and requesting promised support for BellSouth's position (which was to date,
18 never provided).
19 **Supra Exhibit # DAN-15** $51.09 UNE-L NRC rate – June 5, 2003 response, G. Follensbee
20 to D. Nilson explaining how BellSouth aggregated the UNE-L recurring charges above
21 FPSC ordered rates, and making for the first time, the claim that the FPSC order in 990649-
22 TP was indeed inclusive of a UNE-P to UNE- conversion.

1 **Supra Exhibit # DAN-16** 6/16/2003 Supra request to the FCC for consideration of Supra's
2 complaint for inclusion in the Accelerated Docket.
3 **Supra Exhibit # DAN-17** 6/18/2003 email A. Starr to C. Savage, esq. of the FCC
4 enforcement division regarding BellSouth's failure to respond to the contractual arguments
5 raised in Supra's AD letter of 6/16/2003.
6 **Supra Exhibit # DAN-18** 6/18/2003 Supra supplement to the 6/1/62003 request for
7 consideration in response to the FCC 6/17/2003 request for supplemental information.
8 **Supra Exhibit # DAN-19** $59.31 UNE-L NRC rate – 6/23/2003 - Emergency Motion of
9 BellSouth Telecommunications, Inc. for Interim Relief Regarding Obligation to Perform
10 UNE-P to UNE-L Conversions. BellSouth's motion for interim relief now includes an $8.22
11 crossconnect charge for the first time, along with an admission that the contract does not
12 specify a process.
13 **Supra Exhibit # DAN-20** 07/14/2004 Letter L. Foshee (BST) to A. Starr (FCC) in response
14 to Supra's request that its complaint against BellSouth (re: UNE-p to UNE-L conversion
15 costs) be included in the Accelerated Docket.
16 **Supra Exhibit # DAN-21** 7-15-2003 United State Bankruptcy Court order in Case 02-41250-
17 BKC-RAM, granting a temporary award to BellSouth of $59.31[125] after finding that the
18 interconnection agreement did "… specifically set a rate for UNE-P to UNE-L
19 conversions…"not provide for this rate, deferring judgment upon such a rate to the FCC or
20 the FPSC.

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[125] Based upon BellSouths **belief** that it would ultimately be receive authorization to charge that rate.

1 **Supra Exhibit # DAN-22** 7/23/2003 Letter C. Savage, esq. to A. Starr (FCC) in response to

2 BellSouth's position(s) before the FCC.

3 **Supra Exhibit # DAN-23** Direct Testimony of Kenneth Ainsworth filed December 4, 2003 in

4 Docket 030851-TP.

5 **Supra Exhibit # DAN-24** Surebuttal Testimony of John A. Ruscilli, filed January 28, 2004.

6 2003 in Docket 030851-TP.

7

1 **Supra Exhibit # DAN-25** BellSouth Spreadsheet file (filename BellSouth Network
2 Statistics.xls) available from
3 http://www.BellSouth.com/investor/xls/ir_businessprofile_statistics.xls showing 65.8% of all
4 loop feeder routes contain fiber in the entire nine state region, and 70% of homes qualify for
5 DSL. BST Technology and Deployment Statistics ir_businessprofile_statistics.xls
6 **Supra Exhibit # DAN-26** Excerpt from the Testimony of Kenneth Ainsworth filed December
7 4, 2003 in Docket 030851-TP at pg. 21.
8 **Supra Exhibit # DAN-27** 9-16-2003 BellSouth Document "Fiber Loops", author Peter Hill.
9 Presentation to the FPSC in Docket 030381-TP.
10 **Supra Exhibit # DAN-28** 5-5-2003 BellSouth Letter to AT&T (L. MacKenzie to D. Berger)
11 documenting IDLC penetration levels by state.
12 **Supra Exhibit # DAN-29** 4/18/00 Coordinated Hot Cut Process Flow (as defined by the
13 parties Interconnection agreement). Exhibit NDT-3 to Testimony in FPSC Docket 001305-
14 TP.
15 **Supra Exhibit # DAN-30** 8-15-2003 Supra UNE-P to UNE-L Conversion Process document.
16 **Supra Exhibit # DAN-31** BellSouth Provisioning Process Flow (Coordinated cuts), Exhibit
17 KLA-1 to the testimony of Kenneth Ainsworth in FPSC Docket 030851-TP.

Supra Exhibit # DAN-32 3-5-2003 high level BellSouth IDLC Document identifying the 8 methods by which BellSouth agrees to convert IDLC served UNE-P lines to UNE-L

Supra Exhibit # DAN-33 3-26-03 BellSouth UNE-Port/Loop Combination (UNE-P) to UNE-Loop (UNE-L) Bulk Migration – CLEC Information Package, Version 1. BellSouth's process documentation to CLECs for this conversion.

Supra Exhibit # DAN-34 2-18-04 BellSouth UNE-Port/Loop Combination (UNE-P) to UNE-Loop (UNE-L) Bulk Migration – CLEC Information Package, Version 2. BellSouth's process documentation to CLECs for this conversion.

Supra Exhibit # DAN-35 7-26-04 BellSouth UNE-Port/Loop Combination (UNE-P) to UNE-Loop (UNE-L) Bulk Migration – CLEC Information Package, Version 3. BellSouth's process documentation to CLECs for this conversion.

XI.

Q. END OF TESTIMONY

1 I, DAVID A. NILSON, am the Chief Technology Officer of Supra Telecommunications and
2 Information Systems Inc., and am authorized to make this Affidavit on behalf of said
3 corporation. The statements made in the foregoing comments are true of my own knowledge,
4 except as to those matters which are therein stated on information and belief, and as to those
5 matters I believe them to be true.
6
7 I declare under penalty of perjury that the foregoing is true and correct this 2nd day of
8 September, 2004.
9 _____
10 David Nilson
11
12 STATE OF FLORIDA)
13) SS:
14 COUNTY OF MIAMI-DADE)
15
16 The execution of the foregoing instrument was acknowledged before me this 2nd day of
17 September, 2004, by David Nilson, who [X] is personally known to me or who [] produced
18 _____ as identification and who did take an oath.
19
20 My Commission Expires:
21 NOTARY PUBLIC
22 State of Florida at Large
23 Print Name:
24

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OCT 26 2004
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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

REPLY COMMENTS OF SUPRA TELECOMMUNICATIONS AND INFORMATION SYSTEMS, INC

Exhibit 3

BEFORE THE FPSC – REBUTTAL TESTIMONY OF

DAVID A. NILSON

ON BEHALF OF SUPRA TELECOMMUNICATIONS AND INFORMATION SYSTEMS, INC.

DOCKET NO. 04-0301-TP

FILED: OCTOBER 8, 2004

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ISSUE 2 – UNDER THE PARTIES' EXISTING INTERCONNECTION AGREEMENT, WHAT NONRECURRING RATE, IF ANY, APPLIES FOR A HOT-CUT FROM UNE-P TO UNE-L, WHERE THE LINES BEING CONVERTED ARE NOT SERVED BY COPPER OR UDLC, FOR (A) SL1 LOOPS AND (B) SL2 LOOPS? 14

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VI. THE "COVAD" CROSSCONNECT IS FOR CONSTRUCTION OF INFRASTRUCTURE AND IS BEING IMPROPERLY APPLIED BY BELLSOUTH IN A MANNER WHICH ALLOWS BELLSOUTH DOUBLE RECOVERY OF ITS COST(S). 63

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1 **I. INTRODUCTION AND SUMMARY OF TESTIMONY**

2

3 **Q. PLEASE STATE YOUR NAME AND ADDRESS**

4 A. My name is David A. Nilson. My business address is 2620 SW 27th Avenue, Miami,

5 Florida 33133.

6

7 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

8 A. I am employed by Supra Telecommunications and Information Systems, Inc. ("Supra")

9 as its Chief Technology Officer.

10

11 **Q. ARE YOU THE SAME DAVID NILSON WHO FILED DIRECT TESTIMONY IN**

12 **THIS DOCKET?**

13 A. I am.

14

15 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

16 A. The purpose of my testimony is to rebut the testimony of D. Daonne Caldwell, and

17 Kenneth Ainsworth of Bellsouth on issues 1 through 4.

18

19 **Q. WHICH ISSUES DO YOU ADDRESS IN YOUR TESTIMONY?**

20 A. I provide rebuttal testimony regarding the position of the BellSouth witnesses relative to

21 what nonrecurring rate, if any, applies for a conversion from UNE-P to UNE-L when the UNE-P

22 line is served by copper or UDLC loop **(Issue 1)** or IDLC loop **(Issue 2)**, and whether a new

23 nonrecurring rate should be created for a conversion from UNE-P to UNE-L when the UNE-P

line is served by copper or UDLC (**Issue 3**), or IDLC (**Issue 4**), and what should be the rate for such a conversion (**Issues 3 and 4**).

II. How to read a cost study.

Q. WILL YOU PLEASE EXPLAIN HOW TO READ AND INTERPRET THE COST STUDIES FILED IN THIS DOCKET?

A. Gladly. Turn to Supra Exhibit # DAN-45. The structure and for of these costs studies is as defined by Bellsouth in Docket 990649-TP from Tab 3 – Tab 10. Tabs 1 and 2 represent the output of the Bellsouth cost calculator BSCC 2.4, but were created by Hand in Excel to provide a single Excel workbook, self contained for this project.

Tab 1 – Non Recurring Cost Summary.

This tab is the final, top level rollup of Cost (direct and TELRIC), Gross receipts factor and Common Cost factor leading to the final "Economic Cost" for installation and disconnection of the relevant elements. Tabs 1 and 2 represent the output of the Bellsouth cost calculator BSCC 2.4. This Tab derives its input from Tab 2.

Tab 2 Non recurring Cost development

This tab is where the line item departmental / paygrade totals developed in Tab 5 are multiplied by the Direct Labor rates to arrive at the TELRIC cost. Tabs 1 and 2 represent the output of the Bellsouth cost calculator BSCC 2.4. This Tab derives its input from Tab 5.

Tab 3 Index