



Manuel A. Gurdian
Attorney

AT&T Florida
150 South Monroe Street
Suite 400
Tallahassee, FL 32301

T: (305) 347-5561
F: (305) 577-4491
manuel.gurdian@att.com

October 7, 2009

Ms. Ann Cole
Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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09 OCT -7 PM 4:30
COMMISSION
CLERK

**Re: Docket No. 080631-TP: Petition for Commission to intervene,
investigate and mediate dispute between DSL Internet Corporation d/b/a
DSLi and BellSouth Telecommunications, Inc.**

Dear Ms. Cole:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Direct Testimony of Cindy Clark and P.L. (Scot) Ferguson. Pursuant to AT&T Florida's discussion with your office, Exhibit Nos. PLF-1 thru PLF-3 and CAC-1 and CAC-3 are being provided as follows: seven paper copies along with eight copies produced on CD. We ask that you file the testimony and exhibits in the captioned docket. Confidential Exhibit Nos. CAC-2 and CAC-4 will be filed under a separate Notice of Intent.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Manuel A. Gurdian

COM 5
ECR _____
GCL 1
OPC _____
RCP _____
SSC _____
SGA _____
ADM _____
CLK Ct. Rpr.

cc: All parties of record
Gregory R. Follensbee
Jerry D. Hendrix
E. Earl Edenfield, Jr.

DOCUMENT NUMBER-DATE

10377 OCT-7 8

FPSC-COMMISSION CLERK

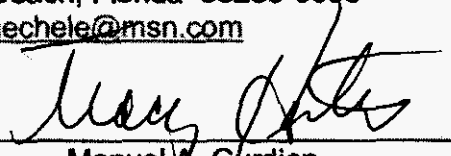
CERTIFICATE OF SERVICE
Docket No. 080631-TP

I HEREBY CERTIFY that a true and correct copy was served via Electronic Mail
and First Class U. S. Mail this 7th day of October, 2009 to the following:

Florida Public Service Commission
Charles Murphy, Staff Counsel
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Tel. No. (850) 413-6098
cmurphy@psc.state.fl.us

Eduardo Maldonado
Vice President - Operations
DSL Internet Corporation
815 NW 57th Avenue
Suite 300
Miami, Florida 33126
Tel. No. (305) 779-5752
Fax. No. (305) 779-4329
emaldonado@dsli.net

Mark E. Buechele
Attorney at Law
P.O. Box 398555
Miami Beach, Florida 33239-8555
markbuechele@msn.com



Manuel A. Gurdian

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AT&T FLORIDA
DIRECT TESTIMONY OF CINDY A. CLARK
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 080631-TP
OCTOBER 7, 2009

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

A. My name is Cindy A. Clark. I am employed by AT&T Operations, Inc. as a Senior Quality/M&P/Process Manager. My business address is 2300 Northlake Centre Drive, Tucker, Georgia 30084.

Q. PLEASE SUMMARIZE YOUR BACKGROUND AND EXPERIENCE.

A. I received a Bachelor of Science degree in Accounting from Auburn University in 1979. I joined BellSouth Telecommunications, Inc. in 1998 as a Billing Manager in Tucker, Georgia. Since joining the company I have had several positions within the Wholesale Billing and Claims organization, including Claims Center Manager, Claims Support and Process Design, and Claims Escalation Manager. In my current position I manage billing dispute escalations and have direct responsibility for the current dispute between BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Florida ("AT&T Florida") and DSL Internet Corporation d/b/a DSLi Corp ("DSLi").

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

1 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

2

3 A. The purpose of my testimony on behalf of AT&T Florida is to present AT&T
4 Florida's position regarding Issues 2, 3, 4(A) and 4(B) identified in Order No.
5 PSC-09-0585-PCO-TP. Specifically, I will address: (1) The \$188,820.59 that
6 AT&T Florida has billed DSLi for the difference in the UNE and Special Access
7 billing for the delisted UNE circuits; (2) how the \$188,820.59 was calculated; (3)
8 how the \$188,820.59 was billed; (4) how much DSLi owes AT&T Florida; and
9 (5) when the \$188,820.59 plus late payment charges were due from DSLi.

10

11 Q. PLEASE EXPLAIN HOW YOUR TESTIMONY IS ORGANIZED.

12

13 A. I will first explain how AT&T calculated the difference between the UNE and
14 Special Access pricing for all Competitive Local Exchange Carriers ("CLECs")
15 that AT&T billed for the UNE to Special Access difference and how CLECs
16 (including DSLi) were billed if they failed to comply with the Commission's
17 Order, the 2003 Interconnection Agreement ("2003 Agreement"), the 2006 TRRO
18 Amendment ("TRRO Amendment"), the 2007 Interconnection Agreement ("2007
19 Agreement") and relevant sections of AT&T's F.C.C. Tariff No. 1 ("Tariff") on
20 file with the Federal Communications Commission. See Exhibit PLF-1, PLF-2,
21 and PLF-3 attached to Mr. Scot Ferguson's direct testimony and Exhibit CAC-1
22 to my direct testimony. Then I will discuss the specific interactions between
23 AT&T and DSLi regarding this billing.

24

1 **ISSUE 2: WAS THE "TRUE-UP" AMOUNT AT&T SEEKS TO COLLECT**
2 **FROM DSLi (\$188,820.59 PLUS LATE PAYMENT CHARGES AS**
3 **APPLICABLE) CALCULATED IN ACCORDANCE WITH THE**
4 **DOCUMENT(S) AND/OR APPLICABLE LAW IDENTIFIED IN ISSUE 1?**

5
6 Q. WHAT IS THE TRUE-UP AMOUNT?

7
8 A. The true-up amount is \$188,820.59.

9
10 Q. HOW WAS THE TRUE-UP AMOUNT OF \$188,820.59 CALCULATED?

11
12 A. As Mr. Ferguson indicated in his direct testimony, AT&T Florida identified the
13 circuits that should have been disconnected or converted to special access for each
14 CLEC that did not submit the required conversion spreadsheets.

15
16 To calculate the amount due, AT&T Florida used the circuit structure of the UNE
17 circuit to determine the appropriate special access billing for that circuit. So, for
18 DSLi, AT&T Florida reviewed the specific circuits that DSLi should have
19 converted or disconnected, and used the UNE billed elements as the basis for the
20 true-up calculation. For each circuit component, or USOC, billing on the UNE
21 circuit, AT&T Florida identified and substituted the comparable special access
22 USOC.

23
24 The true-up period for embedded base circuits, or the circuits in place prior to
25 March 11, 2005, began on March 11, 2006 and ended on the date the circuit was

1 actually disconnected. For circuits installed after March 11, 2005, the start date
2 for the true-up was the service effective date, through the date the service was
3 disconnected.

4
5 The \$188,820.59 amount due is the difference between the UNE billing that was
6 rendered to DSLi, and the appropriate special access billing for the particular
7 circuit configuration, for the time period described above.

8
9 **ISSUE 3: WAS THE "TRUE-UP" AMOUNT AT&T FLORIDA SEEKS**
10 **TO COLLECT FROM DSLi (\$188,820.59 PLUS LATE PAYMENT**
11 **CHARGES AS APPLICABLE) BILLED IN ACCORDANCE WITH THE**
12 **DOCUMENT(S) AND/OR APPLICABLE LAW IDENTIFIED IN ISSUE 1?**

13
14 Q. HOW WAS THE TRUE-UP AMOUNT OF \$188,820.59 BILLED?

15
16 A. The true-up amounts were billed to CLECs' accounts in May 2008. Upon a
17 CLEC's request, AT&T Florida provided that CLEC with the detailed
18 calculations for this billing for its review and validation. Attached as Proprietary
19 and Confidential Exhibit CAC-2 to my direct testimony is the circuit detail
20 calculation provided to DSLi. AT&T Florida provided this circuit detail
21 calculation to DSLi on three separate occasions: August 20, 2008, August 25,
22 2008 and September 9, 2008. See Exhibit CAC-3. After receiving the circuit
23 detail calculation, DSLi never indicated that AT&T Florida's calculations for this
24 billing were inaccurate

25

1 Q. WHICH PROVISIONS OF THE 2003 AGREEMENT, TRRO AMENDMENT,
2 2007 AGREEMENT AND TARIFF PERMIT AT&T FLORIDA TO BILL DSLi?

3
4 A. As Mr. Ferguson explained in his direct testimony, the Florida Commission
5 entered an Order requiring CLECs that had entered into interconnection
6 agreements with AT&T Florida to amend these agreements. Pursuant to this
7 Order, AT&T Florida and DSLi entered into the TRRO Amendment. It is my
8 understanding that the TRRO Amendment provided that if DSLi failed to submit
9 the required spreadsheet identifying the circuits it intended to convert or
10 disconnect by March 10, 2006, AT&T Florida would identify and transition such
11 circuits to the "equivalent wholesale services provided by [AT&T Florida]." *See*
12 Sections 1.8, 1.8.1, 1.8.2 and 1.9 of the TRRO Amendment attached as Exhibit
13 PLF-2 to Mr. Ferguson's direct testimony. Moreover, Section 1.8 of Attachment
14 2 of the 2007 Agreement provides as follows:

15
16 BellSouth shall bill DSLi the difference between the UNE recurring
17 rates for such circuits pursuant to this Agreement and the applicable
18 recurring charges for the equivalent BellSouth tariffed service or 271
19 service in the state of Georgia from the date UNE circuit was installed
20 in the unimpaired wire center to the date the circuit is disconnected or
21 transitioned to the equivalent BellSouth tariffed service. If DSLi fails
22 to submit an LSR or spreadsheet identifying such de-listed circuits
23 within thirty (30) days as set forth above, BellSouth will identify such
24 circuits and convert them to the equivalent BellSouth tariffed service,
25 and charge DSLi applicable disconnect charges for the UNE circuit
26 and the difference between the UNE recurring rate billed for such
27 circuit and the full non-recurring and recurring charges for the tariffed
28 service from the date the UNE circuit was installed in the unimpaired
29 wire center to the date the circuit is transitioned to the equivalent
30 BellSouth tariffed service.

1 The UNE rates used in the circuit detail calculation were the rates from the
2 parties' interconnection agreements that were actually billed to DSLi for the de-
3 listed UNE circuits. The "wholesale services" rates used for the circuit detail
4 calculation are provided in the Tariff, Section 7.5 – Rates and Charges. See
5 Exhibit CAC-1.

6

7 Q. HAS DSLi PAID ANY OF THE \$188,820.59 BILLED BY AT&T FLORIDA?

8

9 A. As of the date of the filing of my direct testimony, no.

10

11 Q. DO THE 2003 AGREEMENT, THE TRRO AMENDMENT, THE 2007
12 AGREEMENT OR THE TARIFF HAVE ANY PROVISIONS THAT WOULD
13 RESTRICT AT&T FLORIDA FROM BILLING DSLi?

14

15 A. I am not aware of anything in these documents that would prevent AT&T Florida
16 from billing DSLi as a result of DSLi's failure to comply with the Commission's
17 Order.

18

19 **ISSUE 4(A): BASED ON THE DOCUMENT(S) AND/OR APPLICABLE**
20 **LAW IDENTIFIED IN ISSUE 1, AND ANY AFFIRMATIVE DEFENSES,**
21 **WHAT AMOUNT, IF ANY, DOES DSLi OWE FOR AT&T'S "TRUE-UP"**
22 **BILLING OF \$188.820.59 PLUS LATE PAYMENT CHARGES AS**
23 **APPLICABLE?**

24

1 Q. HOW MUCH DOES DSLi OWE AT&T FLORIDA FOR THE "TRUE-UP"
2 BILLING?

3

4 A. DSLi owes AT&T Florida \$188,820.59 plus late payment charges.

5

6 Q. HOW MUCH DOES DSLi OWE FOR ANY LATE PAYMENT CHARGES?

7

8 A. As of September 28, 2009, DSLi owes AT&T Florida late payment charges in the
9 amount indicated on Proprietary and Confidential Exhibit CAC-4. These late
10 payment charges continue to accrue at 1% per month (.000329 per day) or 12%
11 annually. See Exhibit CAC-1.

12

13 Q. HOW WERE THE LATE PAYMENT CHARGES CALCULATED?

14

15 A. Based upon Section 2.4.1 (B)(3)(b) of the Tariff, AT&T Florida calculated the
16 late payment charges due from DSLi as of September 28, 2009. See Exhibit
17 CAC-1 and Proprietary and Confidential Exhibit CAC-4.

18

19 **ISSUE 4(B): WHEN SHOULD ANY SUCH OWED AMOUNT BE DUE?**

20

21 Q. BASED UPON THE MAY 28, 2008 BILL DATE, WHEN WAS THE
22 \$188,820.59 ORIGINALLY DUE?

23

24 A. The \$188,820.59 was originally due on June 27, 2008.

25

1 Q. WHEN SHOULD DSLI PAY AT&T FLORIDA THE \$188,820.59 FOR THE
2 "TRUE-UP" BILLING AND THE LATE PAYMENT CHARGES?

3

4 A. DSLi should pay the \$188,820.59 plus late payment charges immediately.

5

6 Q. HAS AT&T DISCUSSED THE BILLING WITH DSLi IN AN EFFORT TO
7 RESOLVE THE BILLING DISPUTE?

8

9 A. Yes, AT&T and DSLi have met to discuss this billing dispute. I met with Mr.
10 Frank Johnson of DSLi on several occasions between October 2008 and
11 December 2008 to discuss DSLi's failure to pay this specific bill. As I indicated
12 above, to date, DSLi has not questioned the details of the calculation. In early
13 conversations with Mr. Johnson, he indicated that he had reviewed the
14 calculations and did not express any concerns regarding the accuracy of the
15 calculation.

16

17 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

18

19 A. Yes.

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AT&T FLORIDA
DIRECT TESTIMONY OF P.L. (SCOT) FERGUSON
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 080631-TP
OCTOBER 7, 2009

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

A. My name is Scot Ferguson. I am an Associate Director in AT&T Operations' Wholesale organization. As such, I am responsible for certain issues related to wholesale policy, primarily related to the general terms and conditions of interconnection agreements throughout AT&T's operating regions, including Florida. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE SUMMARIZE YOUR BACKGROUND AND EXPERIENCE.

A. I graduated from the University of Georgia in 1973, with a Bachelor of Journalism degree. My career spans more than 35 years with Southern Bell, BellSouth Corporation, BellSouth Telecommunications, Inc., and AT&T. In addition to my current assignment, I have held positions in sales and marketing, customer system design, product management, training, public relations, wholesale customer and regulatory support, and wholesale contract negotiations.

1 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

2

3 A. The purpose of my testimony on behalf of BellSouth Telecommunications, Inc.
4 d/b/a AT&T Florida ("AT&T Florida") is to present AT&T Florida's policy
5 positions on the issues raised by the complaint filed by DSL Internet Corporation
6 ("DSLi") with the Florida Public Service Commission ("Commission") on
7 October 9, 2008. My testimony explains why, from a policy perspective, DSLi is
8 obligated to pay AT&T Florida the charges billed to DSLi arising out of the
9 changes of law as a result of the Federal Communications Commission's
10 ("FCC's") Triennial Review Order ("TRO") and the FCC's Triennial Review
11 Remand Order ("TRRO") and the resulting Commission Orders. The testimony
12 of AT&T Florida witness Cindy Clark presents facts supporting these policy
13 positions, including the calculations of the billed amounts at issue in this
14 proceeding. AT&T Florida's attorneys will present legal arguments supporting
15 these positions in post-hearing briefs, and, if necessary, in oral argument.

16

17 Q. PLEASE SUMMARIZE WHAT IS AT ISSUE IN THIS COMPLAINT
18 PROCEEDING.

19

20 A. The issue is whether DSLi is obligated to pay AT&T Florida the charges billed by
21 AT&T Florida in May 2008 under rights granted to AT&T Florida by provisions
22 of the FCC's TRO and TRRO, the Commission's Orders, the 2003
23 interconnection agreement ("2003 Agreement") between the parties, the 2006
24 TRRO amendment ("TRRO Amendment") to the 2003 Agreement, the 2007
25 interconnection agreement ("2007 Agreement") between the parties and AT&T's

1 F.C.C. Tariff No. 1 ("Tariff") on file with the Federal Communications
2 Commission. AT&T Florida believes that DSLi is obligated to pay not only those
3 original charges, but, as Ms. Clark explains in her testimony, the late payment
4 charges that continue to accrue as DSLi has not paid the original charges.
5

6 Q. PLEASE EXPLAIN HOW YOUR TESTIMONY IS ORGANIZED.

7
8 A. First, my testimony describes the circumstances and applicable documents that
9 authorized AT&T Florida to bill DSLi (and other Competitive Local Exchange
10 Carriers, or "CLECs") the charges at issue in this proceeding. Next, I address
11 how the calculations and billing of those charges complied with the terms of the
12 FCC's TRO and TRRO, the Commission's Orders and applicable documents as
13 described below. Finally, I provide AT&T Florida's request for relief in this
14 proceeding.
15

16 **ISSUE 1: WHAT DOCUMENT(S) AND/OR APPLICABLE LAW**
17 **GOVERNS THE PARTIES' RELATIONSHIP AS IT RELATES TO**
18 **AT&T'S "TRUE-UP" BILLING FOR \$188,820.59 PLUS LATE PAYMENT**
19 **CHARGES AS APPLICABLE?**
20

21 Q. WHICH DOCUMENT(S) GOVERN THE PARTIES' RELATIONSHIP AS IT
22 RELATES TO AT&T FLORIDA'S BILLING OF \$188,820.59 TO DSLi?

23
24 A. The following documents govern the parties' relationship with respect to this
25 specific billed amount: 1) the 2003 Agreement; 2) the TRRO Amendment; 3) the

1 2007 Agreement; and 4) AT&T's Tariff. The 2003 Agreement, the TRRO
2 Amendment, and the 2007 Agreement are attached hereto as Exhibits PLF-1,
3 PLF-2, and PLF-3. The relevant portions of the Tariff are attached as Exhibit
4 CAC-1 to Ms. Clark's direct testimony.

5
6 Q. WHAT APPLICABLE LAW GOVERNS THE PARTIES' RELATIONSHIP AS
7 IT RELATES TO AT&T FLORIDA'S BILLING OF \$188,820.59 TO DSLI?

8
9 A. Although I am not a lawyer, it is my understanding that the following orders
10 govern in this case: 1) the FCC's TRO; 2) the FCC's TRRO; 3) the Commission's
11 Order No. PSC-06-0172-FOF-TP in Docket No. 041269-TP; and, 4) the
12 Commission's Order No. PSC-05-0639-PCO-TP in Docket No. 041269-TP.

13
14 Q. WHAT ARE THE TRO AND TRRO?

15
16 A. It is my understanding that on August 21, 2003, the FCC released its TRO, which
17 contained revised unbundling rules and responded to the D.C. Circuit Court of
18 Appeals' remand decision in *United States Telecom Association v. FCC*, 290 F.
19 3d 415 (D.C. Cir. 2002)("USTA I"). On March 2, 2004, the D.C. Circuit Court of
20 Appeals released its decision in *United States Telecom Association v. FCC*, 359 F.
21 3d 554 (D.C. Cir. 2004)("USTA II"), which vacated and remanded certain
22 provisions of the TRO. On February 4, 2005, the FCC released the TRRO,
23 wherein the FCC's final unbundling rules were adopted with an effective date of
24 March 11, 2005.

1

2 Q. AS A RESULT OF THESE CHANGES OF LAW, WHAT REGULATORY
3 ACTIVITY TOOK PLACE IN THE STATE OF FLORIDA?

4

5 A. AT&T Florida (then, BellSouth) filed a Petition with the Commission on
6 November 1, 2004, in Docket No. 041269-TP to establish a generic docket to
7 consider amendments to interconnection agreements resulting from changes of
8 law. On February 7, 2006, the Commission rendered its decision, and, on March
9 2, 2006, the Commission released Order No. PSC-06-0172-FOF-TP in the docket.

10

11 Q. WAS DSLI REQUIRED TO COMPLY WITH THE COMMISSION'S
12 ORDERS?

13

14 A. Yes. On page 96 of Order No. PSC-06-0172-FOF-TP in Docket No. 041269-TP,
15 the Commission cited Order No. PSC-05-0639-PCO-TP in the same docket,
16 wherein the Commission ruled that "it is appropriate that all certificated CLECs
17 operating in BellSouth's Florida territory be bound by the ultimate findings in this
18 proceeding" and held that "non-parties should be bound by the amendments
19 arising from our determinations in this proceeding". Accordingly, DSLI was
20 subject to the Commission's Orders.

21

22 Q. WHY WAS THE 2003 AGREEMENT AMENDED ON MARCH 10, 2006?

23

24 A. The Commission's Order No. PSC-06-0172-FOF-TP required AT&T Florida and
25 CLECs to amend their interconnection agreements to reflect the changes of law

1 resulting from the TRO and TRRO. Further, the Commission's Order in
2 Appendix A provided the approved language for the TRRO Amendment. That
3 language included instructions on the conversion process and associated billing
4 procedures consistent with the TRO and TRRO.

5

6 Q. DID DSLI SIGN THE ORDERED TRRO AMENDMENT TO THE
7 INTERCONNECTION AGREEMENT BETWEEN THE PARTIES?

8

9 A. Yes. See Exhibit PLF-2.

10

11 Q. WHAT WAS DSLI REQUIRED TO DO PER THE FLORIDA PUBLIC
12 SERVICE COMMISSION'S ORDER AND THE TERMS OF THE 2003
13 AGREEMENT, THE TRRO AMENDMENT AND THE 2007 AGREEMENT?

14

15 A. My understanding of this Order as it pertains to this complaint is that it required
16 CLECs (DSL_i included) to do one of the following regarding their delisted UNE
17 circuits: 1) move the circuits to the CLEC's own network; 2) move the circuits to
18 a third-party's network; 3) disconnect the circuits; or 4) convert the circuits to
19 equivalent special access circuits.

20

21 Therefore, per the Order, DSL_i was required to convert its DS1 and DS3 UNE
22 circuits, and, by March 10, 2006, provide to AT&T Florida spreadsheets
23 identifying its DS1 and DS3 UNE circuits to assist AT&T Florida in making the
24 proper conversions or disconnections.

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Specifically, the Order at p. 24 provided as follows:

With regard to the transition period process, we find that (1) CLECs are required to submit conversion orders for the affected de-listed arrangements by the end of the transition period, but conversions do not have to be completed by the end of the applicable transition period (March 10, 2006, for local circuit switching and affected high-capacity loops and transport and September 10, 2006, for dark fiber loops and transport); and (2) there should not be a required date for CLECs to identify the respective embedded bases of the de-listed UNEs. However, if CLECs do not identify the applicable embedded bases by March 10, 2006, and by September 10, 2006, respectively, we find that BellSouth shall be permitted to (1) identify the arrangements itself, (2) charge CLECs the applicable disconnect charges and full installation charges, and (3) charge CLECs the resale or wholesale tariffed rate beginning March 11, 2006, for local circuit switching and affected high-capacity loops and transport (September 11, 2006, for dark fiber loops and transport), regardless of when the conversion is completed.

Appendix A to Order No. PSC-06-0172-FOF-TP provided the Commission's approved language implementing its decision, and the TRRO Amendment executed by the parties is consistent with the Order. Thus, if DSLi failed to act, AT&T was permitted to convert the delisted circuits to special access circuits.

Sections 1.8, 1.8.1, 1.8.2 and 1.9 of the TRRO Amendment state as follows:

- 1.8 DSLi shall provide spreadsheets to BellSouth no later than March 10, 2006, identifying the specific DS1 and DS3 Loops, including the Embedded Base and Excess DS1 and DS3 Loops to be either (1) disconnected and transitioned to wholesale facilities obtained from other carriers or self-provisioned facilities; or (2) converted to other available UNE Loops or other wholesale facilities provided by BellSouth, including special access. For Conversions as defined in Section 17, such spreadsheets shall take the place of an LSR or ASR. The Parties shall negotiate a project schedule for the Conversion of the Embedded Base and Excess DS1 and DS3 Loops. If a DSLi chooses to convert the DS1 and

1 DS3 UNE Loops to special access circuits, BellSouth will include such
2 DS1 and DS3 Loops once converted within DSLi's total special access
3 circuits and apply any discounts to which DSLi is entitled.
4

5 1.8.1 If DSLi submits the spreadsheet(s) for its Embedded Base and Excess DS1
6 and DS3 Loops on or before March 10, 2006, those identified circuits shall
7 be subject to the Commission-approved switch-as-is conversion
8 nonrecurring charges and no UNE disconnect charges.
9

10 1.8.2 If DSLi fails to submit the spreadsheet(s) for its Embedded Base and
11 Excess DS1 and DS3 Loops on or before March 10, 2006, BellSouth will
12 identify and transition such circuits to the equivalent wholesale services
13 provided by BellSouth. Those circuits identified and transitioned by
14 BellSouth pursuant to this Section shall be subject to all applicable UNE
15 disconnect charges as set forth in this Agreement and the full nonrecurring
16 charges for installation of the equivalent tariffed BellSouth service as set
17 forth in BellSouth's tariffs.
18

19 1.9 For Embedded Base circuits and Excess DS1 and DS3 Loops converted,
20 the applicable recurring tariff charge shall apply to each circuit as of
21 March 11, 2006. The transition of the Embedded Base and Excess DS1
22 and DS3 Loops should be performed in a manner that avoids, or otherwise
23 minimizes to the extent possible, disruption or degradation to DSLi's
24 customers' service.
25

26 Moreover, Section 1.8 of Attachment 2 of the 2007 Agreement provides as
27 follows:

28
29 BellSouth shall bill DSLi the difference between the UNE recurring
30 rates for such circuits pursuant to this Agreement and the applicable
31 recurring charges for the equivalent BellSouth tariffed service or 271
32 service in the state of Georgia from the date UNE circuit was installed
33 in the unimpaired wire center to the date the circuit is disconnected or
34 transitioned to the equivalent BellSouth tariffed service. If DSLi fails
35 to submit an LSR or spreadsheet identifying such de-listed circuits
36 within thirty (30) days as set forth above, BellSouth will identify such
37 circuits and convert them to the equivalent BellSouth tariffed service,
38 and charge DSLi applicable disconnect charges for the UNE circuit
39 and the difference between the UNE recurring rate billed for such
40 circuit and the full non-recurring and recurring charges for the tariffed
41 service from the date the UNE circuit was installed in the unimpaired
42 wire center to the date the circuit is transitioned to the equivalent
43 BellSouth tariffed service.

1 Q. DID DSLi COMPLY WITH THE COMMISSION'S ORDER AND THE TRRO
2 AMENDMENT?

3

4 A. No. DSLi did not provide the spreadsheets identifying its delisted UNE circuits
5 by March 10, 2006, as required by the Commission's Order and the TRRO
6 Amendment.

7

8 Q. WHAT WAS THE RESULT OF DSLi'S FAILURE TO TIMELY CONVERT
9 OR DISCONNECT ITS DELISTED UNE CIRCUITS?

10

11 A. AT&T Florida was left with the significant task of identifying all of DSLi's
12 delisted circuits, making a determination as to what to do with the circuits,
13 validating this determination with DSLi, performing the physical work and/or
14 systems conversion, and rendering a true-up (as opposed to prospective) bill.
15 Accordingly, because DSLi did not convert or disconnect its delisted UNE
16 circuits as required, AT&T Florida was entitled to bill DSLi "the resale or
17 wholesale tariffed rate beginning March 11, 2006, for...affected high-capacity
18 loops and transport (September 11, 2006, for dark fiber loops and transport),
19 regardless of when the conversion is completed." Order No. PSC-06-0172-FOF-
20 TP at p. 24.

21

22 Q. AS A RESULT OF DSLi'S FAILURE TO DISCONNECT OR CONVERT
23 DELISTED UNE CIRCUITS, HOW DID AT&T FLORIDA BILL DSLi?

24

1 A. As described in Ms. Clark's direct testimony, AT&T Florida billed DSLi the
2 difference between the UNE billing that was rendered to DSLi, and the
3 appropriate charges under the Tariff for the particular circuit configurations for an
4 applicable time period.

5

6 Q. WAS DSLi THE ONLY CLEC NOT TO PROVIDE THE REQUIRED
7 SPREADSHEET?

8

9 A. No. Unfortunately, a large number of Florida (and regional) CLECs failed to
10 provide the required spreadsheets and this created a significant amount of
11 additional work for AT&T.

12

13 Q. HOW DID THIS IMPACT AT&T?

14

15 A. For every CLEC that failed to disconnect, convert or submit a spreadsheet listing
16 its delisted UNE circuits as required by the TRRO, the Commission's Order, and
17 the interconnection agreement, AT&T Florida was left with the significant task of
18 identifying all of the delisted circuits, making a determination as to what to do
19 with the circuits, validating this determination with the customer, performing the
20 physical work and/or systems conversion, and rendering a true-up (as opposed to
21 prospective) bill.

22

23 Q. DO ANY OF THE APPLICABLE DOCUMENTS HAVE ANY PROVISIONS
24 THAT WOULD RESTRICT AT&T FLORIDA FROM BILLING DSLi FOR
25 THE "TRUE-UP AMOUNT"?

1

2 A. No, I am not aware of anything in the applicable documents that would prevent
3 AT&T Florida from billing DSLi as a result of DSLi's failure to comply with the
4 Commission's Orders, the 2003 Agreement, the TRRO Amendment, the 2007
5 Agreement and the Tariff.

6

7 Q. TO YOUR KNOWLEDGE, IS THERE ANY APPLICABLE LAW THAT
8 PREVENTS AT&T FLORIDA FROM BILLING DSLi FOR THE "TRUE-UP"
9 AMOUNT?

10

11 A. No, I am not aware of anything that would prevent AT&T Florida from billing
12 DSLi as a result of DSLi's failure to comply with the Commission's Orders, the
13 2003 Agreement, the TRRO Amendment, the 2007 Agreement and the Tariff.

14

15 **ISSUE 2: WAS THE "TRUE-UP" AMOUNT AT&T SEEKS TO**
16 **COLLECT FROM DSLI (\$188,820.59 PLUS LATE PAYMENT CHARGES**
17 **AS APPLICABLE) CALCULATED IN ACCORDANCE WITH THE**
18 **DOCUMENT(S) AND/OR APPLICABLE LAW IDENTIFIED IN ISSUE 1?**

19

20 Q. DID AT&T FLORIDA CALCULATE THE AMOUNT BILLED TO DSLI IN
21 ACCORDANCE WITH THE DOCUMENT(S) AND/OR APPLICABLE LAW
22 IDENTIFIED IN ISSUE 1?

23

1 A. Yes. As I explained above, and as Ms. Clark details in her testimony, AT&T
2 Florida followed the terms of the Commission's Orders, the 2003 Agreement, the
3 TRRO Amendment, the 2007 Agreement, and the Tariff.

4

5 **ISSUE 3: WAS THE "TRUE-UP" AMOUNT AT&T FLORIDA SEEKS**
6 **TO COLLECT FROM DSLI (\$188,820.59 PLUS LATE PAYMENT**
7 **CHARGES AS APPLICABLE) BILLED IN ACCORDANCE WITH THE**
8 **DOCUMENT(S) AND/OR APPLICABLE LAW IDENTIFIED IN ISSUE 1?**

9

10 Q. DID AT&T FLORIDA BILL THE "TRUE-UP" AMOUNT TO DSLI IN
11 ACCORDANCE WITH THE DOCUMENT(S) AND/OR APPLICABLE LAW
12 IDENTIFIED IN ISSUE 1?

13

14 A. Yes. As I explained above, and as Ms. Clark details in her testimony, AT&T
15 Florida followed the terms of the Commission's Orders, the 2003 Agreement, the
16 TRRO Amendment, the 2007 Agreement, and the Tariff..

17

18 **ISSUE 4(A): BASED ON THE DOCUMENT(S) AND/OR APPLICABLE**
19 **LAW IDENTIFIED IN ISSUE 1, AND ANY AFFIRMATIVE DEFENSES,**
20 **WHAT AMOUNT, IF ANY, DOES DSLI OWE FOR AT&T'S "TRUE-UP"**
21 **BILLING OF \$188.820.59 PLUS LATE PAYMENT CHARGES AS**
22 **APPLICABLE?**

23

24 Q. WHAT AMOUNT DOES DSLI OWE AT&T FLORIDA?

25

1 A. As Ms. Clark details in her testimony, DSLi owes AT&T Florida \$188,820.59
2 plus late payment charges.

3

4 **ISSUE 4(B): WHEN SHOULD ANY SUCH OWED AMOUNT BE DUE?**

5

6 Q. WHEN SHOULD THE \$188,820.59 PLUS ANY APPLICABLE LATE
7 PAYMENT CHARGES BE DUE FROM DSLi TO AT&T FLORIDA?

8

9 A. As Ms. Clark details in her testimony, the \$188,820.59 is past due. AT&T
10 Florida billed DSLi on May 28, 2008, and payment was originally due on or
11 before June 27, 2008. Since that time, DSLi has failed to pay AT&T Florida the
12 \$188,820.59, and late payment charges continue to accrue.

13

14 Q. WHAT SHOULD THE COMMISSION ORDER IN THIS PROCEEDING?

15

16 A. Based upon the facts presented by AT&T Florida in this proceeding, the
17 applicable documents and law, the Commission should enter an order 1)
18 dismissing DSLi's Complaint, 2) finding that AT&T Florida correctly calculated
19 and billed DSLi the "true-up" amount of \$188,820.59 in accordance with the
20 orders and agreements cited above and 3) finding that DSLi should pay AT&T
21 Florida this amount plus applicable late payment charges.

22

23 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

24

25 A. Yes.