BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Re: Petition for Arbitration of Interconnection Agreement Between AT&T Florida Telecommunications, LLC d/b/a AT&T Florida and Communications Authority, Inc.	))))	Docket 140156-TP

REBUTTAL TESTIMONY OF MIKE RAY ON BEHALF OF COMMUNICATIONS AUTHORITY, INC.

March 23, 2015

Introduction

Q. Please state your name, position, and provide your business address.

A. My name is Mike Ray and I am President of Communications Authority, Inc. My business address is 11523 Palm Brush Trail #401, Lakewood Ranch, Florida 34202.

Q. On whose behalf are you submitting rebuttal testimony?

A. My testimony is provided in support of Communications Authority, Inc. ("CA")

Background

Q. Have you read the direct testimony submitted on behalf of AT&T?

A. Yes, I have read the direct testimony of Susan Kemp, Patricia Pellerin, Scott McPhee, Mark Neinast, and Mark Chamberlin, filed on February 16, 2015.

Issue 1: Is AT&T Florida obligated to provide UNEs for the provision of Information Services?

Q. Please state Communications Authority's position regarding Issue 1.

A. CA believes that it is well established that a CLEC is entitled to use UNEs to provide any service it desires to its end-users, including Telecommunications Service and Information Service. There is little question that is the case. AT&T's language is simply overly restrictive and seems to preclude CA from providing exactly the same services AT&T and its various affiliates provide to AT&T U-Verse customers.

Q. Is there another reasonable compromise on this issue?

A. Yes. Perhaps the language should simply allow CA to provide any services allowed by the FCC's rules and regulations rather than parsing regulatory distinctions between "telecommunications services" and "information services." After all, the FCC's recent decision applying Title II regulations to broadband Internet access services, and the certain legal appeals that will be filed, makes this issue even muddier now. It could get even more confusing following appellate rulings, subsequent FCC action, and any potential re-write of the Telecom Act as Congress is currently considering. If, as Ms. Kemp states in her testimony, this is a "pure legal issue"[1], simply stating that CA must follow all FCC rules should be sufficient and would be more flexible during the term of this ICA.

Q. Have you made this suggestion to AT&T yet?

A. No, but I will soon through counsel.

Issue 2: Is Communications Authority entitled to become a Tier 1 Authorized Installation Supplier (AIS) to perform work outside its collocation space?

Q. What is the alternative to CA being allowed to qualify as an AIS?

A. Higher cost and even more delays. In some AT&T Florida central offices, there is only one vendor that a CLEC can practically use for small collocation work—Mastec. In fact, AT&T Florida allows Mastec employees to maintain offices inside the central office. Because there is a *de facto* monopoly in place, prices for simple work are very high. This restricts CA's ability to order new work to be done and therefore restricts CA's ability to compete for customers. Ultimately, this harms Florida consumers and businesses because it

[1] Kemp testimony at page 3, line 22.

harms CA's ability to offer competitive services at lower prices than the AT&T/incumbent cable company duopoly.

Q. Does CA believe there is an "inherent right"[2] under the Telecom Act to become an AIS?

A. I'm not a lawyer, but I do not believe so. I do believe that AT&T should be prevented from essentially gaming the system, however, and forcing excessive costs on CA.

Q. Do you believe AT&T's security concerns are valid?

A. No.

Q. Why not?

A. Security in central offices is very tight and there is constant video surveillance and strict access control, along with insurance requirements for anyone granted access.

Q. Do you agree that those security concerns are sufficient to preclude CA from becoming a Tier 1 AIS?

A. No, AT&T's security concerns are its problem and they have plenty of resources to address them. Getting reasonably priced collocation construction costs is CA's problem. AT&T suggests that every CLEC would seek to become an AIS. That process is difficult and time consuming so it is highly unlikely that many CLECs would pursue it. Besides, the central offices are not exactly full of CLECs anymore as there are so few CLECs left that actually collocate in central offices.

Q. Is Ms. Kemp correct in stating that there are 87 vendors on the Tier 1 list authorized to perform work in any central office in Florida?

[2] *See* Kemp testimony at page 6.

A. I doubt it, but I do not know for sure. I do know that there is often only one vendor that will even provide a quote for smaller work to be completed and there are high per-job minimums even for simple work. CA could do the work for far less money.

Q. How does collocation construction work in other ILECs' central offices?

A. Verizon has a simple price list for work in a central office, the CLEC orders the work it needs from Verizon, then Verizon contracts the work to its choice of COEI contractor and then bills the CLEC from the price list. The prices are fair and reasonable and this is not an issue with Verizon. I cannot provide an opinion on other ILECs.

Q. Have you suggested this as an alternative to AT&T?

A. Yes, we have discussed it verbally and AT&T said they would "take it back for consideration." We also provided a copy of Verizon's price list. AT&T has not yet responded so we assume that idea is a non-starter.

Q. Is it CA's opinion that collocation costs should be based on TELRIC?

A. Yes, and I believe BellSouth took that very position back in 2004 when the Commission last reviewed collocation costs.

Issue 3: When Communications Authority supplies a written list for subsequent placement of equipment, should an application fee be assessed?

Q. Do you accept the proposal made in Ms. Kemp's testimony?

A. No. It is not reasonable to charge the application fee for review of a single page document when nothing else is required. AT&T incurs no costs (other than made-up costs that it claims it self-imposes) when a CLEC changes out one piece of equipment for another. The Agreement already requires that all equipment must be NEBS compliant. While AT&T is entitled to its own review, it is not entitled to reject CLEC equipment that is NEBS-compliant

on the basis of safety. If AT&T decides to claim that equipment is not necessary for collocation, then that is an AT&T business decision and the CLEC should not bear costs for that.

Issue 4a: If AT&T alleges that Communications Authority is in default, should AT&T Florida be allowed to reclaim collocation space prior to conclusion of a dispute regarding the default?

Issue 4b: Should AT&T Florida be allowed to refuse Communications Authority's applications for additional collocation space or service or to complete pending orders after AT&T Florida has notified Communications Authority it is in default of its obligations as Collocator but prior to conclusion of a dispute regarding the default?

Q. Do you believe AT&T's concerns about perpetual disputes are valid.

A. No. As I stated in my direct testimony, the Commission has recently approved an accelerated dispute resolution process which would be available to either party for resolution of time-sensitive issues. AT&T appears desperate to avoid using that procedure. Specifically applying the accelerated dispute resolution procedure within this agreement being arbitrated to these types of issues would eliminate AT&T's concerns. Besides, CA appreciates that AT&T must protect the safety of the central offices and has offered suggestions to allow for that.

Q. Do you agree with Ms. Kemp's assertion that CA would be able to seek a stay in any dispute resolution proceeding[3]?

[3] Kemp testimony at page 10, line 17 *et seq.*

A. Our language would make it clear that we are entitled to continue operations while a dispute is pending. She seems to be saying here that, if granted, we would be entitled to a stay while the case was ongoing. It sounds like she agrees with our language.

Q. Are you assuaged by Ms. Kemp's answer at the top of page 11 suggesting that AT&T would never disturb CA's collocation space because of the potential liability concerns?

A. No, that's silly. AT&T's makes more in profit per day than CA could hope to generate in gross revenue over its entire lifetime. CA requests its language here, and in many other places in the ICA, in recognition of this gross imbalance and to provide a reasonable degree of protection given CA's limited resources.

Q. Do you have any direct experience causing your concerns?

A. I have direct experience as to how "careful" AT&T's actions can be. AT&T knocked out service for thousands of CLEC customers when it unilaterally, and mistakenly, disconnected service due to an alleged default. As it turned out, AT&T disconnected the wrong company and had intended to disconnect a different CLEC which had a similar billing account number issued by AT&T. The outage for Terra Nova's entire South Florida network had been in progress for several hours before AT&T even admitted to Terra Nova that it had deliberately disconnected Terra Nova's interconnection facilities. Even after Terra Nova told AT&T that it had no billing issues, payment disputes or notice of default from AT&T, AT&T still left Terra Nova's customers out of service for a whole business day. The outage was only resolved after Terra Nova informally sought the help of the Commission later in the day when it could not get a straight answer out of AT&T. In the aftermath of this devastating outage for which AT&T eventually admitted fault, AT&T refused to reimburse Terra Nova's

demonstrated costs and agreed only to reimburse Terra Nova less than 10% of its actual costs for the outage.

Q. What do you take away from AT&T's addition of the word "materially"?

A. They simply added the word "materially" to their language, but they have still left entirely up to themselves what a material default is. I am not comfortable with that and would prefer that a neutral party decide that.

Issue 5: Should Communications Authority be required to provide AT&T Florida with a certificate of insurance prior to starting work in Communications Authority's collocation space on AT&T Florida's premises?

Q. What is your response to Ms. Kemp's testimony on issue 5?

A. Ms. Kemp does not appear to understand how the process actually works for CLECs. CLECs must provide all the necessary insurance proof at the time of submitting its first application for collocation, pole attachment or conduit rental. . As such, AT&T's language does not reflect the operational reality and AT&T is already protected from the potential harms she cites.

Q. Is 5 days sufficient time to find insurance?

A. No. It is increasingly difficult for CLECs to find appropriate (and reasonably priced) insurance coverage. Thirty days is the minimum amount of time that would be required. CA understands that it may not continue work if the insurance lapses and certainly would never risk the potential financial harm by doing so.

Issue 6: Should AT&T Florida be allowed to recover its costs when it erects an internal security partition to protect its equipment and ensure network reliability and such partition is the least costly reasonable security measure?

Q. What is your reaction to Ms. Kemp's testimony on Issue 6?

A. Incredulity, mostly. AT&T admits it has never erected such a security partition. As such, there is simply no reason for such a provision in the ICA.

Q. In reality, how would AT&T or any other ILEC address the potential issues she cites?

A. Building modification and environmental modification charges are already part of the application process, and this is not something that is going to come up later if AT&T properly prepared the collocation space for what the CLEC ordered in the first place. Presumably the chief concern would be heat. However, all collocators must disclose their power requirements and heat dissipation for each piece of collocated equipment to AT&T when the collocation is ordered or augmented. Collocators such as CA have no input into the location of a collocation within the Central Office; AT&T exclusively decides where to place each collocation. Therefore, if AT&T knows the power requirements and heat dissipation of each collocator's equipment, AT&T should be able to reasonably design each collocation so that it will not interfere with other equipment. In practice, this is exactly what AT&T already does, which is why I believe it has never erected such a partition and will not need to do so. Why should CA have to pay anything for such an issue above and beyond what it already pays to be in the central office if CA has not violated this agreement?

Issue 7a: Under what circumstances may AT&T Florida charge Communications Authority when Communications Authority submits a modification to an application for collocation, and what charges should apply?

Issue 7b: When Communications Authority wishes to add to or modify its collocation space or the equipment in that space, or to cable to that space, should Communications Authority be required to submit an application and to pay the associated application fee?

Q. What is your reaction to Ms. Kemp's testimony on Issue 7(a)?

A. In her response on this issue, Ms. Kemp tries to make the case that even if AT&T requires CA to submit a revised collocation application, we should have to pay for the resubmission. First, is that really reflective of AT&T's costs? If AT&T asked CA to change something, then they have reviewed it already and know what they want changed. Only a cursory re-review would be needed in that case, because they already know what changes they've asked us to make so they know what to look for on the revised application. Second, Ms. Kemp then alleges that CLECs will never submit correct orders unless there's a financial incentive to do so. That's illogical as CLECs want the collocation work done as fast as possible. In my experience, the only reason why AT&T demands changes to a collocation application has nothing to do with incorrect CLEC information and everything to do with AT&T's various systems not working correctly and/or being inadequately documented and not accepting a valid order unless a special tweak is made. In the cases I have seen, these tweaks are not anything the CLEC could have known to do; they are quirks in the AT&T systems.

I also take issue with Ms. Kemp's statement about CLEC lackadaisical behavior. As an example, when Terra Nova collocated in the Miami Grande Central Office, AT&T provided incorrect circuit facility assignment ("CFA") information five times over a course of as many months. Terra Nova had to fight for months for billing credits to not have to pay for the collocation which it could not use because of AT&T's sheer incompetence. AT&T did not compensate Terra Nova (and does not propose to compensate CA) for this sort of eventuality. It is not parity for a CLEC to have to pay application fees over and over again, unless AT&T has to also pay a fee whenever it fails to live up to its obligations.

Finally, we argue that all collocation costs must be TELRIC-based, including the application fee. AT&T seems to be saying they are entitled to charge an enormous application fee over and over again. There is no rational justification for that. If the application fees were reasonable, CA would not object to them.

Issue 8: Is 120 calendar days from the date of a request for an entrance facility, plus the ability to extend that time by an additional 30 days, adequate time for Communications Authority to place a cable in a manhole?

Q. Do you agree with Ms. Kemp's assertion that "all other carriers with which AT&T Florida has ICAs have to complete the same work, and those carriers have consistently been able to meet the 120 plus 30 day deadline"?

A. I do not know, but given that AT&T has changed many of its policies in the past ten years, it seems unlikely that all existing ICAs have the same timeframe.

Issue 9a: Should the ICA require Communications Authority to utilize an AT&T Florida AIS Tier 1 for CLEC-to-CLEC connection within a central office?

Issue 9b: Should CLEC-to-CLEC connections within a central office be required to utilize AT&T Florida common cable support structure?

Q. What is your response to Ms. Kemp's testimony regarding issue 9a?

A. Ms. Kemp suggests that using an AIS for CLEC-to-CLEC cross-connections is the only method employed in AT&T central offices. Counsel has informed me that this is not true. For one example, AT&T California offers a straightforward price for such circuits.

Q. What is your response to Ms. Kemp's testimony regarding issue 9b?

A. If CA is collocated directly next to another CLEC, CA should have the right to just connect a short cable to them and be done. The cable does not traverse any CO space other than ours and the other CLECs. It does not harm AT&T in the least, nor does it cause a "safety and security" issue to have a short cable connecting the two CLECs. Frankly, I find her argument ridiculous and question to what extent she understands how CLECs actually operate. "Safety and security" appears to be AT&T-speak for increasing a CLEC's costs throughout this ICA.

Issue 10: If equipment is improperly collocated (e.g., not previously identified on an approved application for collocation or not on authorized equipment list), or is a safety hazard, should Communications Authority be able to delay removal until the dispute is resolved?

Q. Do you agree with Ms. Kemp's concerns cited in her testimony regarding Issue 10?

A. Just to be clear, NEBS certification is the standard for CO equipment safety, not AT&T's arbitrary opinion. While we do not disagree that AT&T is entitled to do its own review, we do disagree that it can supersede NEBS compliance and apply any different "safety" criteria to prevent CLECs from collocating equipment.

Q. Is CA willing to compromise on its position?

A. CA would be willing to agree that CA may not leave collocated equipment in a collocation if it is not NEBS-certified as required by the ICA and standard industry practice. AT&T has not demonstrated any additional risk to AT&T by waiting on the dispute resolution process to conclude as long as CA's equipment is NEBS-certified. However, if CA must replace a failed piece of gear with a newer model of the same equipment which is also NEBS certified to resolve an outage, CA should not be in default. If the equipment is NEBS-certified, then CA should be allowed to leave it in pending the dispute resolution process.

Q. Is CA willing to adjust its position on time frames to remove equipment?

A. Yes. We propose to split the difference on the time frame. AT&T suggests 10 business days, CA asked for 30 calendar days. CA proposes a compromise of 15 business days.

Issue 11: Should the period of time in which the Billed Party must remit payment be thirty (30) days from the bill date or twenty (20) days from receipt of the bill?

Q. Ms. Pellerin claims, "The Bill Due Date must be a readily ascertainable date…and minimize disputes."[4]

A. This may be more convenient for AT&T to dictate if/when/how a bill must be paid, but it is not reasonable based on my experience running CLECs. It appears AT&T would prefer

[4] Pellerin testimony page 3 at line 15.

that it not be questioned and must remain in total control of everything. The problem with AT&T's language is that it allows for bills with a normal bill date to be sent late. The lack of time to process, dispute and pay a bill, or extreme tardiness of delivery, would allow AT&T to charge Late Payment Charges for virtually every bill it sends. This places CA in a no-win situation where no matter how late they are in sending the bill, CA would owe late charges (and interest it seems). CLECs often get bills from AT&T long after the bill date printed on the bill. In 2015, Terra Nova has received AT&T bills more than once which were postmarked more than 10 days after the date printed on the bill and arrived by mail 20 days after the date printed on the bill. That only gives a CLEC 10 days to process the bill, file disputes, send payment and also allow for mail delays. Even if a CLEC processed, disputed and paid the bill on the same day that it was received in a case like this the payment could still be considered late under AT&T's proposed language solely because of AT&T's delay in mailing.

Q. How do other ILECs address this issue?

A. I do not know about all of them, but Verizon ICAs have long contained the "20 days from receipt" language. That is much more reasonable as it allows CA just enough time to audit the bills and make payment.

Q. Ms. Pellerin states that CA's proposal "complicates the billing process unnecessarily, would impose system modification costs on AT&T Florida that CA has not offered to pay, and is likely to lead to disputes." Do you agree?

A. No. The simple proposed language by CA merely changes the timeframe for when the clock starts for auditing and paying a bill. There are no system modifications necessary or any "imposed costs." In fact, we found three examples of AT&T ICAs currently in force which already have our language in them. Therefore, CA's proposal is not new to AT&T

and whatever modifications are needed to its processes would already have been implemented for those other CLECs. However, it is worthy of note that our 20 day proviso only kicks in if it takes more than 10 days from the bill date for us to receive a bill. If AT&T did not cause the mailing delays, the 30 days from bill date would be the controlling date.

Q. How do you respond regarding the performance measure of bill timeliness and the issue of bill parity?

A. That really is irrelevant. I have never seen a credit for their bill tardiness, only late fees and the man hours required to correct their billing mistakes. Is "parity" achieved allowing AT&T to charge late fees and interest to CLECs at the same rate that it does retail customers? Parity shouldn't mean "equally terrible." As far as I know, the Commission has now lost any authority to regulate AT&T's retail services and the delivery of them anyway. Even if the retail bills were tardy, the Commission couldn't force AT&T to fix the problem. AT&T admitted that it wrote the state legislation which stripped that authority away from the Commission. It should not now be able to argue that CLECs are only entitled to parity with retail, when AT&T is responsible for removing oversight from those retail operations. If there is any sort of parity issue involved here, then I'd argue that CLECs should generally be treated equally in the state of Florida. AT&T should simply accept the same ICA billing language that Verizon uses. However, I believe that this is an issue of fairness, and not one of parity. Any reasonable person would conclude that a CLEC should be permitted adequate time to review, process, dispute and pay a bill before Late Payment Fees apply.

Q. Ms. Pellerin argues that you have only experienced this with Terra Nova. Is that true?

A. No. That is my most recent experience, but I had over a decade of AT&T billing experience before that with Eagle/AstroTel.

Issue 12: i) Should a Discontinuance Notice allow the Billed Party fifteen (15) days or thirty (30) to remit payment to avoid service disruption or disconnection? ii) Should the terms and conditions applicable to bills not paid on time apply to both disputed and undisputed charges?

Resolved.

Issue 13a: i) Should the definition of "Late Payment Charge" limit the applicability of such charges to undisputed charges not paid on time? ii) Should Late Payment Charges apply if Communications Authority does not provide the necessary remittance information?

Q. In addressing late payment charges, Ms. Pellerin again argues that CA is asking for costly changes to its billing system. Is that accurate?

A. No. What we're asking for results in no changes to their billing systems at all; they are going to bill LPCs in any case. It just means that, on dispute, we have a right to credits for LPCs for bills we didn't get on time. That's reasonable, which the standard we believe should be used is. Ms. Pellerin's statement is also inaccurate because we provided three examples of other in-force ICA between AT&T and other CLECs in Florida which have language similar to ours. Two of the three were even more generous, providing 30 days after receipt of bill instead of the 20 that we asked for. We would be happy to accept the 30 days from receipt language from either of those ICAs if it would address AT&T's concern here.

Q. Will CA ever submit a payment without proper remittance information on it?

A. No, this is standard practice for any company that I manage and is a built-in feature of the OSS software which we use to process carrier bills.

Q. Does AT&T always apply payments consistent with the remittance information provided ?

A. No.

Issue 13b: Should the definition of "Past Due" be limited to undisputed charges that are not paid on time?

Q. Through its insertion of "undisputed," is CA suggesting that if a dispute is found in AT&T's favor that CA would not owe any late fees?

A. No. CA simply seeks to ensure that it is clear to all parties that it is entitled to withhold payment of properly disputed charges without being in default, and that CA shall not be obligated to pay Late Payment Charges for disputed amounts resolved in CA's favor whether or not they are initially charged and then credited later.

Issue 13c: Should the definition of "Unpaid Charges" be limited to undisputed charges that are not paid on time?

Q. At page 15, lines 13-15, Ms. Pellerin claims that CA's billing language would "serve no defensible purpose and would turn perfectly sensible contract provisions on which the parties have agreed into nonsense." Do you agree?

A. Absolutely not. CA's language actually clarifies standard industry practice respecting a CLEC's right to dispute a bill.

Issue 13d: Should Late Payment Charges apply only to undisputed charges?

Q. On page 16, Ms. Pellerin claims that "it does not appear that CA would ever pay LPCs on any amounts it disputed – even when the dispute is resolved against CA. CA

should not be permitted to pay late at will and avoid late payment and interest charges by disputing the bill." Do you agree?

A. No, that's a very strained reading of the proposed language. CA's proposal simply adds clarity as to when LPCs should be applied rather than leaving it to AT&T's whims.

Issue 14a: Should the GTCs state that the parties shall provide each other local interconnection services or components at no charge?

Q. How do you react to Ms. Pellerin's testimony on this issue?

A. Both sides accept the proposition that each party must pay its costs on its side of the POI. AT&T seems to be claiming that CA's language further clarifying that point is unnecessary.

Q. Do you agree?

A. No, and this is a theme throughout the ICA. I believe the more clear the ICA's language can be, the better it is for both parties as it will eliminate potential points of dispute. This language directly addresses a problem that I have had in practice with AT&T where one side of the company says it would never do something, and then the other side of the company does. AT&T has already attempted to do what this language prevents, but it recently argued before Commission staff that it would never do that. We think it's very important to clarify this point now because of that disparity within AT&T.

Issue 14b: i) Should an ASR supplement be required to extend the due date when the review and discussion of a trunk servicing order extends beyond 2 business days?

Q. Ms. Pellerin raises the issue of performance metrics for trunk orders. How do you respond?

A. I find it ironic that AT&T is concerned about being measured on the timeliness of order completion. Their language requires CA to submit a supplemental order to extend the due date in cases where AT&T fails to meet the due date. This has the effect of falsifying AT&T's performance metrics.

ii) Should AT&T Florida be obligated to process Communications Authority's ASRs at no charge?

Q. In what situation is CA suggesting that AT&T should process ASRs at no charge?

A. AT&T should be required to process all Local Interconnection ASRs at no charge. It is well established that Local Interconnection is required to be revenue-neutral between the parties, because Local Interconnection Trunks benefit both parties. This ICA, like most others, places the ordering burden upon CA for Local Interconnection Trunks. This makes sense, because CA will be in a better position to know what type and quantity of trunks it needs in each area to meets its business objectives. However, CA bears the costs on "its side" of Local Interconnection by bearing the ordering responsibility, including the cost of any ordering consultants that it may choose to use. AT&T bears the cost on "its side" of Local Interconnection by processing the orders submitted by CA. That is parity. If CA submits an ASR for anything other than Local Interconnection, then CA should be charged the TELRIC-based rate for such an ASR which is found in the pricing attachment.

Q. At page 19, line 19, Ms. Pellerin argues that CA's proposed language is inconsistent with agreed language in the pricing schedule? Is that true?

A. CA's language is not inconsistent with agreed language at all. The provision that they cite is a general provision for the ordering of trunks. Not all trunks are local interconnection trunks. The section she cites mandates that CA shall pay for trunk orders, etc. but the reason why the provision at issue is sought is to clarify that local interconnection does not permit

one party to bill the other. The pricing schedule does not distinguish between local interconnection orders and other orders, and as a result AT&T has attempted to charge CLECs previously for Local Interconnection Trunk orders which we seek to avoid. Also, it's important to keep in mind that AT&T refused to negotiate anything on the pricing schedule when CA raised its issues so that's really not "agreed language."

Issue 15: i) What is the appropriate time period for Communications Authority to deliver the additional insured endorsement for Commercial General Liability insurance?

Resolved.

ii) May Communications Authority exclude explosion, collapse and underground damage coverage from its Commercial General Liability policy if it will not engage in such work?

Q. Ms. Pellerin suggests that CA would be able to engage in work prior to providing insurance.[5] Is that accurate?

A. No, like all of AT&T's employees that are testifying, she does not seem to understand how the process actually works from the CLEC perspective. In this case, she is wrong about AT&T's procedures. It is impossible to proceed with accessing AT&T structures or to perform any other attachments to AT&T property without AT&T's acceptance of the CLEC's application for such work. The application process requires full insurance information to be provided upon submittal.

[5] Pellerin testimony, page 21 at line 1.

Issue 16: Which party's insurance requirements are appropriate for the ICA when Communications Authority is collocating?

Q. Ms. Pellerin claims that AT&T's proposed insurance limits are consistent with industry practice. Is that true?

A. Again, this reflects AT&T hubris. She claims the limits are consistent to what AT&T has "negotiated" with CLECs over the last several years. That may be AT&T practice, but AT&T is not the entire industry. CA's proposed insurance levels are actually in line with the "industry practice" and consistent with what AT&T used to require. Moreover, it should be noted that none of the ICAs cited by AT&T was arbitrated. The Commission must be careful not to conflate CLEC acquiescence, and/or fear of trying to negotiate with AT&T, with any form of "standard industry practice." CA is unaware of any CLEC in Florida which is collocating under a boilerplate AT&T ICA such as those approved over the past several years. Although those agreements may contain collocation provisions, it does not necessarily follow that the CLECs cared about such provisions because they may not plan to collocate.

Q. How do you respond to Ms. Pellerin's fire damage concerns?

A. She appears to be overlooking the fact that a) we're in a segregated part of the CO from AT&T own equipment and b) that all equipment must comply with the NEBS standard which does not permit equipment to cause a fire external to its own chassis or which spreads to any other equipment. That's the whole point of NEBS certification, which is already required for all collocated equipment.

Issue 17: i) What notification interval should Communications Authority provide to AT&T Florida for a proposed assignment or transfer?

Resolved.

Issue 18: Should the ICA expire on a date certain that is two years plus 90 days from the date the ICA is sent to Communications Authority for execution, or should the term of the ICA be five years from the effective date?

Q. How do you respond to Ms. Pellerin's testimony on this issue?

A. First to be clear, AT&T refused to engage in substantive negotiations with CA about the term length. I raised the five year term verbally with AT&T's negotiator, Lora Mach, with no response. I did make clear that CA wanted 5 years and that is what we were going to ask for in the arbitration. There were verbal discussions at that time about a 3 year compromise, but AT&T would not agree to the compromise after it asked CA to propose it in the language being negotiated. In their response, I do not see any rationale as to why their proposal is better. AT&T seems to be just trying to narrow the window for other CLECs to adopt the arbitrated version of this ICA. That does not seem to be a reasonable excuse to potentially force CA to have to expend another huge investment of time, money and resources for another arbitration two years later.

Q. Ms. Pellerin suggests the need for flexibility going forward. Do you agree?

A. AT&T has only given a very vague "rapidly changing industry" defense of their position. The change in law provision in the ICA is sufficient to address future modifications. Moreover, the parties are free to amend the ICA at any time. Seems to me that AT&T does not want to be locked into a more reasonable ICA for 5 years. I do not believe that the industry is changing any more rapidly now than it has over the past two decades. Since the passage of the Act, it is clear that the industry has undergone constant changes in law, regulation, technology and business practices. AT&T has suggested but has offered no evidence that the pace of change is different now.

Q. Does CA have a problem with "hard coding" a date certain for expiration?

A. No, in fact, that would be preferred as Ms. Pellerin's testimony is correct on this point. It seems AT&T is changing policy here and that is good for the industry. We still disagree on the term length however.

Q. Is CA at all comforted by Ms. Pellerin's suggestion that the ICA would likely go into evergreen status so no new arbitration would be necessary?

A. No. AT&T has every incentive to limit the availability of an arbitrated ICA as the terms are much more favorable to any CLEC than their standard boilerplate ICA. I fully expect AT&T to send a notice of ICA expiration as soon as they are allowed. Even if it did not, however, since AT&T has taken the position that evergreen ICAs may not be adopted by another CLEC and/or could limit what AT&T considers a "reasonable time," this would once again mean that there are no arbitrated ICAs in Florida for CLECs to adopt. That would leave only AT&T's boilerplate ICA as an option for new CLECs, and this clearly harms competition in general which the Commission is mandated to protect.

Issue 19: Should termination due to failure to correct a material breach be prohibited if the Dispute Resolution process has been invoked but not concluded?

Q. Do you agree with Ms. Pellerin's testimony on Issue 19?

A. No. The rule says that if the ICA requires a different dispute resolution process other than before the PSC, then that takes precedence. CA's proposed language allows either party the right to take disputes to the PSC at any time. Thus, our language precludes what they've said here. We have offered repeatedly to include language that would mandate a bond in the event that we lose a proceeding before the PSC and decide to appeal. This is standard for appellate proceedings and in most state commissions. This gives AT&T finality or security after the first adverse decision, which is not open-ended as they stated.

Q. What is your opinion of AT&T's stance towards the Commission's newly created expedited resolution procedure?

A. Frankly, AT&T seems desperate to avoid the Commission's expedited resolution procedure by striking the possibility from the ICA. CA would prefer this avenue to resolving disputes rather than being forced into a long, resource-intensive formal complaint proceeding.

Q. How do you respond to Ms. Pellerin's testimony beginning on page 31 regarding termination of an ICA due to breach?

A. She makes it plain that AT&T wants to be the sole arbiter of what constitutes a legitimate dispute and what does not. If that was the case, then none of CA's disputes would pass the test. The very fact that a dispute must be escalated shows that AT&T does not consider it to be legitimate.

Q. What about AT&T's alleged reluctance to terminate?

A. The fact is, AT&T would suffer no damage whatsoever if it wrongfully terminated a CLEC's services and then dared the now-defunct CLEC to sue it for damages. Even if it won, the CLEC would be out of business; its network, business relationships and credibility destroyed. AT&T might at some point be forced to pay a settlement to the CLEC but there should be no question that the CLEC suffers catastrophic harm while AT&T carries on with annual profits approaching $1 billion. This is not adequate incentive for AT&T to "play by the rules."

Q. Do you have any recent experience involving AT&T's termination for breach?

A. Yes. AT&T caused a catastrophic outage for Terra Nova in the entire South FloridaMSA. AT&T did not suffer any huge civil liability as Ms. Pellerin implies. Instead, TNT was forced to accept a payment equal to 10% of Terra Nova's demonstrated damages.

Issue 21: Should Communications Authority be responsible for Late Payment Charges when Communications Authority's payment is delayed as a result of its failure to use electronic funds credit transfers through the ACH network?

Resolved.

Issue 22a: Should the disputing party be required to use the billing party's preferred form or method to communicate billing disputes?

Issue 22b: Should Communications Authority use AT&T Florida's form to notify AT&T Florida that it is disputing a bill?

Q. How do you react to react to Ms. Pellerin's comparison of AT&T and the IRS?

A. I find it instructive as to AT&T's mentality—they are the law so they set the rules. The IRS requires forms so that people can comply with a federal law. AT&T is suggesting CA use their inadequate dispute forms because it's more convenient for them. I do not see the situations as similar. There is no rule or regulation requiring CLECs to use forms that seem purposely designed to allow AT&T to reject disputes and waste a CLEC's resources first in trying to complete the form and then later in esacalations and appeals. If the form was sufficient, that would be a different situation. But again, if their bills were accurate, then AT&T wouldn't have such a volume of disputes to address every month.

Q. On page 40 at line 5, Ms. Pellerin states that since it is CA that wishes to take the action i.e. to dispute the bill, it is CA that should bear the cost.

A. Do you agree? First, AT&T should send accurate bills. That is out of CA's control. Second, the disputes must be realistic. The ICA requires that all disputes be bona fide and the filing of bad faith disputes is a breach of the ICA. Therefore, AT&T is entitled to remedy if CA files bad faith disputes. Assuming that CA does not file bad faith disputes, then

AT&T's inaccurate billing is the cause of billing disputes and therefore it further exacerbates the unfair treatment of CA to make it bear the cost of using AT&T's cumbersome disputes form.

Q. Throughout her testimony, Ms. Pellerin implies that the commercial relationship between CLECs is reasonably normal. Do you agree?

A. No. AT&T goes to great lengths to try to establish that the relationship between AT&T and a CLEC is a normal business relationship, when it is clear that this is far from the truth. In a normal B2B relationship, a vendor wants customers to do business with it and so the vendor designs its business processes around what is best for the customer. Not so with the ILEC/CLEC relationship. AT&T barely hides its contempt for CLECs and its desire for its CLEC burdens under the Telecom Act to be lifted. AT&T has a perverse incentive to escalate a CLEC's costs, which is what it is attempting in this arbitration.

Under AT&T's proposal, the CLEC bears all the costs of billing disputes and AT&T bears none. Thus, the more incorrect billing AT&T sends to a CLEC, the more the CLEC is harmed while AT&T suffers nothing. Alas, AT&T has every incentive to bill a CLEC incorrectly and no incentive at all to correct billing errors. Especially in light of their comparative size, this is hardly fair.

Finally, AT&T belabors the point over and over again about what all of its other customers accept. Well of course they do; they didn't have the will or the resources to arbitrate an ICA so they took whatever AT&T offered. But that's asking the wrong question. How many of those customers would prefer not to use AT&T's cumbersome disputes form and would opt-in to CA's ICA to obtain that benefit? That's the question that should be asked, and it is not

at all relevant what other CLECs have accepted in the context if this arbitration. This proceeding is not about the other CLECs who did not arbitrate; it's about the one CLEC who dared to stand up and say this whole situation is not ok.

Issue 23: Should a party that disputes a bill be required to pay the disputed amount into an interest-bearing escrow account pending resolution of the dispute?

Q. Ms. Pellerin cites AT&T's risk exposure as a rationale for requiring disputed amounts be placed in escrow. Does that seem reasonable?

A. Absolutely not. AT&T claims that they are unfairly exposed if a CLEC files billing disputes month after month and the CLEC deposit would not cover AT&T's exposure. First, we believe that it is unreasonable for AT&T to take a position that it never has any risk, ever. Nothing in law says that AT&T shall bear no risk. Second, if a CLEC disputes bills month after month in bad faith, AT&T has the option to invoke dispute resolution to get finality on the disputed issue. Under CA's proposed language, AT&T expressly also has access to the Commission's new expedited process. The scenario explained here supposes that AT&T chooses not to invoke the Dispute Resolution mechanism available to it, and just lets things go. That is an action that AT&T took, by its own choice, that leads to AT&T's increased risk. AT&T proposes that CA should be required to address anything AT&T does via the Dispute Resolution process, but proposes for itself remedies like this one where it avoids that same process in favor of a more favorable one where it retains total control and can harm CA without oversight or risk to itself.

Q. Do you agree that AT&T's exceptions to the escrow requirement are sufficient to assuage CA's concerns?

A. No. Ms. Pellerin ignores entirely that the more common occurrence is frivolous billing by AT&T to the CLEC. The latter is not only not discouraged by AT&T's language but is encouraged as the CLEC is subjected to greater and greater harm the more AT&T engages in this conduct. If this escrow language were fair, it would require AT&T to reimburse the CLEC both for the cost of capital and administrative costs for escrow monies which end up refunded to the CLEC. However, AT&T proposes none of that in its exceptions or anywhere else.

Q. At the top of page 46, she argues, "the parties' ICA will include comprehensive dispute resolution provisions (GT&C section 13), and the Commission's expedited dispute resolution process is only available for resolution of disputes not governed by the dispute resolution provisions of the ICA." How do you respond?

A. Again, just because they say it over and over again does not make it true. The expedited dispute resolution is available to either party so long as the ICA does not prevent it. That is why we have proposed language (which AT&T has opposed) which provides that either party may directly take any dispute to the Commission.

Q. Ms. Pellerin states at line 21 on page 46, "AT&T Florida should not be exposed to the risk of seven months unpaid bills. How do you respond?"

A. I disagree with her assessment. First, what law or regulations says that AT&T is entitled to take no risks, and that the CLEC must assume all risks and burdens including those of incorrect AT&T billing? Second, I do not believe that AT&T would take such risks if it promptly processed disputes in good faith and initiated the Dispute Resolution process when it is entitled to do so.

Q. Is CA's position changed at all by her discussion of the Biddix fraud?

A. No. The Biddix episode demonstrates what happens when AT&T fails to timely exercise its rights under an ICA. Moreover, it highlights AT&T's lack of reasonable institutional financial loss prevention controls. Why should CLECs have to escrow disputed amounts because of AT&T's openly displayed incompetence? AT&T had dispute resolution avenues available to it during that time which it failed to invoke. That hardly shows that the standard ICA deposit language is inadequate if AT&T's loss is a direct result of Biddix's actions coupled with AT&T's failure to invoke the dispute resolution provisions of the ICA.

Q. Ms. Pellerin raises concerns about CA due to your involvement with AstroTel. How do you respond?

A. AstroTel's bankruptcy was solely the result of an unfavorable outcome of a commercially arbitrated dispute with Verizon. Both Verizon and AT&T were paid in full as part of the bankruptcy process. As it happens, AT&T filed a claim in the bankruptcy case trying to collect disputed charges for which it had never responded to AstroTel, but then AT&T failed to appear for the hearing on its own claim. As a result, AstroTel was awarded a default judgment on the claim. Therefore, AT&T took no loss and in fact had to refund AstroTel's deposit in the end. AstroTel, Inc. was permitted not to pay the Regulatory Assessment Fees for 2012 and 2013 because it was not doing business in those years; its operations had previously been sold to Birch Communications and its corporate structure was being wound-down during that time. Her implications are way off base and inappropriate.

Issue 24: i) Should the ICA provide that the billing party may only send a discontinuance notice for unpaid undisputed charges? ii) Should the non-paying party have 15 or 30 calendar days from the date of a discontinuance notice to remit payment?

Q. Ms. Pellerin claims that the Commission has approved many ICAs with this language since 2005. How do you respond?

A. She does not indicate if any of those were arbitrated, so I assume they are all boilerplate ICAs. I researched all ICAs since 2000 prior to deciding to arbitrate this one, and found that there were no arbitrated agreements in at least 6 or 7 years with AT&T Florida. She also notes in a footnote that "vintage ICAs" contain the 30 day provision and dos not explain why AT&T changed its policy.

Q. Do you still maintain that 30 days is necessary?

A. Yes. What makes 30 days unreasonably long to resolve a non-payment problem? The reason why we need 30 days is that the most likely scenario is that there is a payment posting error on AT&T's side or a payment was not received. It is not reasonable to expect the CLEC to track down what happened to the payment, then get it corrected in 14 days. In the case of a bona fide dispute that needs to go to the Commission, it would be nearly impossible to get that prepared and filed in 14 days. The focus here needs to be on the harm done to the CLEC if AT&T is wrong and terminates services, versus the harm done to AT&T if the CLEC has an extra 14 days. Buried in the footnote is their admission that "vintage ICAs" said 30 days. I think that means that the newer, non-arbitrated ones are the ones that are different. That means that in previous arbitrations, the Commission thought that 30 days was reasonable. What regulatory decision or change of law entitled AT&T to cut this window in half? Nothing, I imagine. I assume AT&T just slipped it into uncontested agreements without any change in law or regulation.

Issue 25: Should the ICA obligate the billing party to provide itemized detail of each adjustment when crediting the billed party when a dispute is resolved in the billed party's favor?

Q. On page 53, Ms. Pellerin argues, "AT&T Florida should not be contractually obligated to do the impossible." How do you respond?

A. AT&T claims that when a CLEC files a billing dispute (the format and detail of which are subject to many AT&T requirements), then AT&T investigates the specific dispute filed by the CLEC and finds that the CLEC is correct, it is then impossible for AT&T to identify which dispute is being credited when billing credits are issued by AT&T to correct billing errors that AT&T made in the first place? Exactly how and why is that impossible? Why is it appropriate for the CLEC to never be able to reconcile its dispute records simply by letting AT&T off the hook for proper accounting after it admits that it billed incorrectly?

Further, if CA is required to file formal billing disputes with the Commission, those will certainly be based upon quantifiable billing disputes that CA has already filed with AT&T which AT&T has failed to resolve. Why would the fact that the Commission had to decide the issues cause confusion about which disputes are being credited and in what amounts? CA would still be entitled to a fair accounting of billing credits related to its disputes. AT&T appears to acknowledge that its position is that CA is not entitled to a fair accounting even after AT&T admits that it billed in error. Could CA refuse to submit detailed disputes to AT&T solely because it doesn't understand AT&T's billing or thinks the bill is too high and should therefore be excused from "doing the impossible" of understanding the bills?

At the end of the day, stating that a thing is impossible does not make it so. And in any event, AT&T has made no showing why providing information as to how a credit was resolved is impossible. AT&T simply does not want to be required to provide fair accounting (after it has admitted a mistake) to fully show that the mistake has been corrected. AT&T should be required to do that, at a minimum.

Issue 26: What is the appropriate time frame for a party to dispute a bill?

Resolved

Issue 29: i) Should the ICA permit a party to bring a complaint directly to the Commission, bypassing the dispute resolution provisions of the ICA? ii) Should the ICA permit a party to seek relief from the Commission for an alleged violation of law or regulation governing a subject that is covered by the ICA?

Q. Do you agree with Ms. Pellerin's position that CA seems to be seeking PSC intervention without any discussion between the parties first?

A. No, that's absurd. No CLEC has the time for that and we would much prefer to work things out amicably. CA seeks the right to PSC assistance as a counter-balance to AT&T's position of overwhelming market power.

Q. In her testimony, Ms. Pellerin appears to suggest that no laws or regulations apply to the parties outside of the ICA. Do you agree?

A. No, as a broad, sweeping generalization, that is not accurate. I don't think it's true that when two parties have an ICA that no regulations or laws outside of the ICA apply any more. Ms. Pellerin seems to miss a key point—CLECs suffer much greater risk in most ICA disputes than does AT&T. If AT&T is refusing to connect or repair service, the CLEC

suffers great harm. If AT&T has taken some action against the CLEC or its customers that is in dispute the CLEC suffers far greater harm than does AT&T. Therefore, time is far more of the essence to the CLEC than to AT&T.

Ms. Pellerin makes a false assumption throughout her testimony that the CLEC is not being harmed during the dispute resolution process, but that is hardly ever the case in my experience. If AT&T has disconnected something important to the CLEC, the CLEC may not exist after the 60 day window that AT&T proposes. AT&T should not be permitted to "run out the clock" on the ICA's dispute resolution process perhaps without actually trying to resolve anything, because that action could be fatal to the CLEC and AT&T has an incentive to do that. I cannot envision a dispute wherein a CLEC suffers less harm than AT&T if a party runs out the clock on the dispute resolution process before going to the Commission. Therefore, AT&T's proposal is disproportionately harmful to the CLEC.

Q. Do you agree that CA's language is barred due to agreed language in the section?

A. No, our language is in the same section 13 and states "Nothing in this agreement shall be construed…" therefore we have been consistent with our proposal that we never intended for the agreed language to supercede our proposed language. Indeed, it makes no sense for a CLEC to waive its right to regulatory relief which it may urgently need in order to protect itself from anti-competitive behavior by AT&T. Even if a complaint was for a violation of the ICA as Ms. Pellerin claims, either party should be able to proceed directly to the Commission with that complaint when the circumstances warrant, to prevent further harm caused by the other party. The only way that would be contrary to the ICA would be if CA's provision were not added, which is why we want it. Their argument seems to be "You can't add this because you can't go to the commission for breach of ICA claims", while the reason

why you can't is because they presuppose that this provision is not included. That's circular logic.

Issue 31: Does AT&T Florida have the right to reuse network elements or resold services facilities utilized to provide service solely to Communications Authority's customer subsequent to disconnection by Communications Authority's customer without a disconnection order by Communications Authority?

Resolved

Issue 33a: Should the purchasing party be excused from paying a Tax to the providing party that the purchasing party would otherwise be obligated to pay if the purchasing party pays the Tax directly to the Governmental Authority?

Q. Mr. McPhee states, "the issue is whether CA can improperly pay a tax to a government authority that AT&T Florida is supposed to pay – and does in fact pay – on resale services and then obtain reimbursement from AT&T Florida for those taxes." Do you agree?

A. No. I believe AT&T has previously argued that the 911 "surcharge" is a tax, while now they are arguing the opposite. CA is certainly not suggesting that AT&T "reimburse" us for the tax that we pay.

Q. In response to a question on why it is proper for AT&T rather than CA to pay taxes on CA's customers' services, Mr. McPhee argues that the ICA language requires it. Is that accurate?

A. No. They are essentially arguing that we must double-pay this tax because that is how the ICA would read if AT&T's proposed language was accepted.

Q. His testimony goes on to suggest that it is impossible for a CLEC to double pay a tax. Do you agree?

A. The CLEC cannot determine what taxes AT&T has paid to whom so that it can claim exemption, because AT&T does not give the CLEC the county designation for each resale line or an aggregate count of the number of lines (and thus 911 surcharges) per county. Exemptions from the CLEC's 911 obligations must be taken per county, thus the CLEC is forced to double-pay under AT&T's language. AT&T's language assumes that a resale CLEC is not also facilities-based, which is contrary to reality and to the intent of the Act. We need to point out the gall in this incorrect statement.

Issue 33b: If Communications Authority has both resale customers and facilities-based customers, should Communications Authority be required to use AT&T Florida as a clearinghouse for 911 surcharges with respect to resale lines?

Q. Do you think it is as strange as Mr. McPhee implies that CA wishes to aggregate tax burdens between facilities-based and resale customers?

A. No. All taxes other than 911 work that way already. Why should 911 be different, and why is it bizarre to want to bill, collect, and remit 911 charges the same way? I have direct experience with two other ILECs in Florida on this issue, Verizon and CenturyLink. Both of those ILECs exempt CLECs from 911 taxes in the manner that we are requesting here.

Q. Is Mr. McPhee's distinction between resale and facilities-based charges accurate?

A. AT&T seems to argue that resale is exactly the same as retail, but gloss over the fact that CA is already entitled to exemption from all other taxes with resale. From what I understand, all other ILECs in Florida provide the 911 exemption that CA seeks beyond the two that I

mentioned. AT&T even has a form for such an exemption which I have seen. This makes me wonder if AT&T's proposed language treats CA differently than other CLECs in Florida.

Issue 34: Should Communications Authority be required to interconnect with AT&T Florida's E911 Selective Router?

Q. What is your reaction to Mr. McPhee's testimony regarding this issue?

A. Essentially, AT&T seems to be arguing that CA can send 911 traffic wherever it likes, but must still maintain expensive 911 trunks to AT&T anyway. Similar to if I went to a restaurant and ordered a glass of water, that's fine, but I still have to pay for a bottle of wine whether I wanted it or not. That's absurd.

Q. Mr. McPhee claims that the only way CA could use a third-party 911 carrier would be if there was a middleman between us and AT&T's tandem. Is that true?

A. No. Mr. McPhee does not seem to understand how AT&T itself routes 911 calls. AT&T chooses to ignore the fact that the most popular competitor – Intrado – is also who AT&T Florida has contracted out its own 911 database and call routing service to. When a CLEC sends a 911 call to AT&T, a lookup is performed against the Intrado ALI database before the call is sent to a dispatcher even if the call is carrier by AT&T circuits. Thus, the same "middleman" is being used whether or not the CLEC uses AT&T or send 911 calls directly to Intrado for completion.

Q. AT&T suggests that protection of public safety necessitates CLECs using AT&T's 911 services. Would that provide any guarantee of safety and reliability?

A. No. I have direct experience with this issue recently with Terra Nova Telecom which has had multiple instances where calls were sent to the wrong PSAP by the AT&T Selective Router in the past two years. Terra Nova has detailed records of these events. After

numerous calls from Terra Nova, AT&T did eventually correct their error which caused the calls to misroute, but would never connect TNT to an agent who could discuss the problem, never did explain what the cause of the issue was, and failed to return any of TNT's calls on the matter. This is one of many reasons why a CLEC would not want to use AT&T for 911 service.

Issue 37: Should Communications Authority be solely responsible for the facilities that carry Communications Authority's OS/DA, E911, Mass Calling, Third Party and Meet Point trunk groups?

Q. Ms. Pellerin states at page 74 that Pellerin says "CA should be solely responsible for the facilities that carry OS/DA, E91, HVCI and Third Party Trunk Groups because they are used by CA for the sole benefit of its own customers and not for the mutual exchange of traffic with AT&T Florida." How do you respond to this statement?

A. If HVCI trunks are for the sole benefit of CA and solely at CA's expense, then CA should be entitled to opt out of them as it has asserted. This statement seems to be in conflict with their other testimony about HVCI "Choke" trunks. She continues stating that HVCI is not local interconnection but is instead "ancillary services." If that is true, then HVCI should not be required by AT&T as the trunks are not part of local interconnection.

Issue 38: May Communications Authority designate its collocation as the POI?

Q. Is CA arguing that the POI should be in its actual collocation cage?

A. That depends. The industry standard until recently, even involving AT&T, was that any ILEC Central Office is a point on that ILEC's network and thus a collocation within that Central Office is "at the POI". However, AT&T has recently begun to take the absurd

position that only a special location within its Central Office is or can ever be a POI because of AT&T's arbitrary distinction of which rooms within its own building are "on its network" or not. We added this language to make clear that if we go to the trouble and expense to build a collocation inside AT&T's Central Office (which is the only location in that Central Office where we can legally go) and we deliver local interconnection circuits there, then we have met our burden to "meet at the POI" and are exempt from any charges AT&T may try to charge for local interconnection circuits delivered by that collocation to some other room in the building which has been arbitrarily designated as "on AT&T's network". And so, if one were to accept AT&T's ridiculous argument that some rooms in its Central Office are on its network and others are not, then yes we are arguing that the POI should be at our collocation. However, we believe that this distinction should not be required; any reasonable person would conclude that the AT&T Central Office itself is "on AT&T's network" and that therefore the POI is the building itself. The ICA already implies that Entrance Facilities connect to the Central Office itself and not to a specific room in the Central Office in AT&T's proposed language for ICC 3.3.2.1 which states "When CLEC does not elect to collocate transport terminating equipment at an AT&T-21STATE Tandem or End Office, CLEC may self-provision facilities, deploy third party interconnection facilities, or lease existing Entrance Facilities from AT&T-21STATE." I see no way to reconcile that language with AT&T's presumption that Entrance Facilities may be charged for circuits within its Central Office. CA's entire point is that when it DOES elect to collocate transport terminating equipment in the Central Office it has no need for Entrance Facility. AT&T's language seems to agree with our position here.

Q. How would you characterize AT&T's position?

A. Their entire argument seems to be that certain rooms within AT&T's own Wire Center are not on AT&T's network. That's silly. AT&T is arguing that the POI is not the building but is an area inaccessible to CLECs thus the ILEC gets to charge the CLEC to reach it. This makes it impossible for the CLEC to "meet at the POI" without incurring made-up charges from AT&T.

Q. Do other ILECs take this position?

A. No. I have personally managed interconnection projects in Florida with three other ILECs: Verizon, Embarq, and Northeast Florida Telephone. None of them have taken this position.

Q. Has AT&T consistently had this position over the past decade?

A. No, this appears to be a change in policy. The interconnections that I project managed from 2005 through 2012 with AT&T/Bellsouth did not encounter this issue.

Q. Why is this position unreasonable?

A. The FCC cannot possibly have intended to impose intra-building costs on CLECs who meet the ILEC in their own central office as the POI. Since CA is entirely paying for its collocation construction, AT&T has absolutely no cost here and no right to charge for imaginary circuits on a monthly basis.

Q. So you disagree then with the statement by Mr. Neinast arguing that "CA language that shifts the cost of CA's network build-out onto AT&T Florida."

A. Yes, that's absolutely false.

Issue 39a: Should the ICA state that Communications Authority may use a third party tandem provider to exchange traffic with third party carriers?

Resolved

Issue 39b: Should the ICA provide that either party may designate a third party tandem as the Local Homing Tandem for its terminating traffic between the parties' switches that are both connected to that tandem?

Resolved

Issue 40: Should the ICA obligate Communications Authority to establish a dedicated trunk group to carry mass calling traffic?

Q. Do you agree with Mr. Neinast's assertion that all CLECs typically have HVCI trunks?

A. No. CLECs are not uniformly required to have HVCI trunks. His response that essentially "this is how we've done it for 6 years" is irrelevant because no CLEC has dared seek an arbitrated ICA in that time period in Florida. That means that the agreements during that time have been at AT&T's pleasure so of course their language has prevailed.

Q. Do you find his examples of mass calling events persuasive?

A. No. Their most recent example of a mass calling event was in 2002, and they have only cited three events. First, three events nationwide (none of them in Florida) over the entire history of the telephone network are not indicative of an overall problem. Further, none of the events involved a CLEC, but instead all were internal network issues within AT&T's network.

Q. Does his testimony raise any issues of parity?

A. Yes. He states, "AT&T believes all carriers should provide adequate mass calling choke trunking for their end users." This directly conflicts with their proposed language, because they have not proposed to obligate themselves to purchase HVCI trunks as they propose for CA. They do have language about us being required to notify them of any choke numbers

we may acquire, but they do not propose language requiring them to order, whether needed or not, HVCI trunks to us or language requiring AT&T to pay us for them. Therefore, that is not parity.

Q. Mr. Neinast claims that CA has not objected to anything specific about the trunks.[6] Do you agree?

A. No. We should not be required to order and pay for useless trunks, especially when other CLECs currently operating in Florida do not have such trunks and no harm has been demonstrated as a result. That is our objection.

Issue 41: Should the ICA include Communications Authority's language providing for SIP Voice-over-IP trunk groups?

Q. Do you find it strange that AT&T would refuse ICA language seeking to require AT&T to offer a future service should it become available?

A. Yes.

Q. Mr. McPhee claims that AT&T Florida does not exchange any traffic over SIP trunks with CLECs. Do you disagree?

A. I believe Mr. McPhee is just playing the usual AT&T corporate shell game. Some version of AT&T offers SIP termination for IP-originated calls. It is called AT&T Voice Over IP Connect Service (AVOICS) and my previous company subscribed to the service.[7] It worked well. I do not believe that the AVOICS service is technically distinct from local interconnection service, and so I do not believe that AT&T is not technically capable of local interconnection in the same manner. It seems to me that AT&T is willing to provide modern

[6] Neinast testimony, page 13 at line 5.
[7] *See*, http://www.business.att.com/wholesale/resource_item/Family/ip-solutions-wholesale/voip-wholesale/Brochure/w_avoics/

interconnection when such service generates revenue for AT&T, but claims technical infeasibility for local interconnection which would both be revenue-neutral and would also help CLECs to reduce unnecessary costs which is contrary to AT&T's business objectives.

Q. Do you believe that some AT&T entity provides "SIP interconnection" as Mr. McPhee describes it?

A. Yes. For one example, the Michigan PSC ordered AT&T to file its SIP interconnection agreement with the PSC as an interconnection agreement under §251 and §252. Verizon is facing a similar problem with Massachusetts.[8]

Q. Do you agree that the Florida PSC is precluded from ordering SIP interconnection due to a pending FCC decision on the issue?

A. I am not a lawyer, but I do not see why. The PSC has authority under the Act to decide on the terms of interconnection agreements, that's why we are in this arbitration. It would seem to me that the PSC could not order anything that was prohibited by federal law. But on the other hand, the PSC could decide that ILEC interconnection should be technology neutral and order SIP interconnection. In any case, all CA is asking for now is that its language make it possible in the future should AT&T offer it to someone else. If some version of AT&T is offering IP interconnection now (whether under an ICA, contract, or by tariff), then IP interconnection must be technically feasible, and yes, CA believes it should be entitled to it immediately. CA's proposed ICA language memorializes that position.

Q. What is your response to Mr. McPhee's suggestion that CA should simply adopt another ICA in the future if an ICA with SIP interconnection became available?

[8] http://www.fiercetelecom.com/story/att-mandated-michigan-psc-file-interconnection-agreement-sprint/2014-03-25

A. This is exactly the problem—CA should not have to do so, particularly after spending so much of its resources arbitrating to make this ICA more reasonable.

Q. Mr. McPhee brings up the issue of pick and choose. Do you agree that CA is attempting to make that possible?

A. No, CA understands the law and is not attempting to allow for pick and choose other ICA provisions. Pick and choose is a construct of ICA adoption under the Act. CA does not seek here to adopt another CLEC's agreement or any part thereof. Rather, CA seeks to include a reasonable provision in its arbitrated agreement which is solely at issue because of AT&T's claim that it is not technically capable of SIP interconnection today. CA does not believe this claim is true, and believes that it is entitled to such SIP interconnection but for AT&T's claim that it is not feasible. So it seems reasonable that if this claim is proven false or is no longer true, CA should be entitled to SIP interconnection in parity with what AT&T offers to others.

Q. Mr. McPhee states in a footnote, if CA asked AT&T Florida for the same rates, terms and conditions and AT&T Florida refused, CA might try to assert some sort of discrimination claim – but any such claim would not arise under the 1996 Act, and so is not a proper consideration here. Do you agree?

A. I do not understand his point. If he is suggesting that providing language in an ICA preventing discrimination is inappropriate, then I disagree. The PSC maintains jurisdiction to ensure that discrimination among CLECs does not occur.

Issue 42: Should Communications Authority be obligated to pay for an audit when the PLF, PLU and/or PIU factors it provides AT&T Florida are overstated by 5% or more

or by an amount resulting in AT&T Florida under-billing Communications Authority by $2,500 or more per month?

Resolved

Issue 43: i) Is the billing party entitled to accrue late payment charges and interest on unpaid intercarrier compensation charges? ii) When a billing dispute is resolved in favor of the billing party, should the billed party be obligated to make payment within 10 business days or 30 business days?

Q. Ms. Pellerin claims that CA agrees with the principle that AT&T may charge both interest and late payment charges for everything except intercarrier compensation charges. Do you agree?

A. No, I do not recall agreeing to that proposition anywhere. To be clear, CA's view is that late payment charges in the agreed amount of 18% APR (1.5% per month) shall apply, period. Adding interest to that is just greedy, and we do not agree. No other ILEC does that. Our intent was to remove interest charges from all sections leaving only the agreed-upon 18% late payment charge. Moreover, AT&T's application of interest would violate Florida's usury limit of 18%.

Issue 44: Should the ICA contain a definition for HDSL-capable loops?

Q. Do you agree with Ms. Kemp's assertion that there is no distinction between an HDSL loop and HDSL compatible loop?

A. No, she is simply incorrect.

Q. Why would AT&T ignore the distinction?

A. It's simple—under the FCC's Triennial Review Remand Order ("TRRO"), a Tier 1 central office becomes non-impaired for a CLEC for DS1 loop facilities. By ignoring the distinction between DS1 and HDSL-compatible (also called HDSL-capable), AT&T can force CLECs to purchase special access DS1 circuits at a much higher cost than HDSL-compatible circuits which should still be priced as UNE. Further, HDSL-compatible circuits can be used by a CLEC to provide a variety of different services and not just DS1. By conflating the definitions of DS1 and HDSL-compatible, AT&T seeks to deny CA the ability to deploy other advanced services using HDSL-compatible loops.

Q. Do you agree with her assertion that CA has conceded this point?

A. Absolutely not. HDSL is the method by which AT&T sometimes delivers a DS1, but the loop is just copper. HDSL-compatible means that it meets the technical requirements for HDSL, not that AT&T has actually lit it and therefore would not be subject to the TRRO's cap.

Issue 45: How should the ICA describe what is meant by a vacant ported number?

Q. Do you agree with Ms. Pellerin's testimony?

A. No, the FCC set clear number portability rules and carriers follow them routinely now. The end user has the right to move the number at its option until that number is disconnected. CA also does not agree that a telephone number may not be conveyed, particularly in the example of an asset purchase sale. Her example at page 84, line 13 is also off-point because they have shown a residential example. That situation is very unlikely to happen; it would be much more likely that a business might be sold and seek to convey its number, which is a routine business transaction that is very common.

Q. Do you agree with Ms. Pellerin's statement at page 88, line 15, "AT&T Florida's description of when a ported number is vacant is consistent with industry treatment of ported numbers and CA's is not."

A. No, I do not. That is a conclusory statement without any support.

Issue 46: i) Should the ICA include limitations on the geographic portability of telephone numbers?

Q. Do you agree with Mr. neinast's characterization of this issue?

A. No. He seems to be framing it in terms of the old dial-up reciprocal compensation battles from 15 years ago. Our disagreement has nothing to do with intercarrier compensation or call routing. We do not seek to change the rate center designations of numbers. We're just saying that if a subscriber wants to keep his number when he moves to a new area, we are permitted to let him do that. That's clearly required by FCC number portability rules.

Q. Do you agree with his example on page 14 at line 21 regarding geographical porting?

A. No. Whether the end user customer in his example is in Miami or Jacksonville, if we port the number from AT&T then AT&T delivers calls to us at the local tandem to which we are connected. AT&T has no visibility or control of where the end user is and the end user location changes nothing for AT&T in how the order is submitted, processed or how service works after the number ports, as it should be.

ii) Should the ICA provide that neither party may port toll-free service telephone numbers?

Resolved.

Issue 47: Should the ICA require the parties to provide access to live agents for handling repair issues?

Q. Mr. Chamberlin's testimony suggests that CA expects a live agent to immediately answer the phone to make a human agent immediately available for "any CA telephone call to report an outage, open a repair ticket, or inquire about a repair ticket." Is that the case?

A. No. CA is simply seeking a method whereby a repair call gets some attention rather than entering an IVR black hole.

Q. How does that occur?

A. When making a call into the repair center, the IVR generally asks for a circuit ID or ticket number. After entering the correct number, the IVR system often cannot locate the circuit or ticket and then disconnects the call without any progress being made.

Q. Does Mr. Chamberlin's testimony indicate a lack of understanding as to how the system actually operates for CLECs?

A. Yes. First, it has not been shown that calls are handled more efficiently or quickly via IVR without human intervention. Perhaps AT&T thinks it is cheaper, but it is surely not as efficient. AT&T does not seem to acknowledge the difficulties that it has forced upon CLECs who have to use this bizarre system. In my opening testimony, I offered specific examples of major outages for TNT where AT&T did not make a live agent available to TNT which dramatically lengthened the outage. His comment that CA will reach a live agent after going through call tree prompts is patently false; he is omitting the fact that some of the prompts often cannot be correctly navigated (i.e. circuit ID).

Q. Is CA requesting a single live agent dedicated to CA?

A. CA has not demanded a dedicated agent. That would certainly be nice, but AT&T has no incentive to make life easy and efficient for CLECs. It is not unreasonable for AT&T to provide live agents to handle repair issues even if it means for all CLECs in Florida. That is how it used to be, and AT&T did not ask (to my knowledge) the PSC's permission to change that.

Q. Mr. Chamberlin claims that the cost of AT&T providing live repair agents to CLECs is not reflected in the pricing that it proposes to charge CLECs. Do you agree?

A. I don't see how that can be true, because AT&T's UNE price list has been the same (or has increased substantially in some cases) since all repairs were handled by live agents.

Q. Mr. Chamberlin cites a previous ICA arbitration that purportedly addresses this issue. Do you agree it is applicable?

A. No, that case was seeking substantial changes to BellSouth's OSS. How is asking for eventual access to a live, reasonably well-trained employee the same thing? Requiring AT&T to allow a phone ring on an agent's desk or in a call queue is not the same thing. CA's proposal is not overly complicated nor would is involve any huge expense or undertaking. His response is a smokescreen. AT&T would prefer to leave CLECs with the current disadvantage of not being able to have repairs or outages timely addressed. Even though the problem was not caused by CA, eventually customers get frustrated with the process and decide to go elsewhere for service, including to AT&T.

Q. Is CA concerned about AT&T's repair times?

A. Yes, but that is not the issue here. Many years ago, the PSC recognized that problem and created the SEEMS program. SEEMS is a self-reporting mechanism where BellSouth can self-disclose how often it fails to process orders, complete repairs, or complete installations

and makes payments for the CLEC's troubles. Just because SEEMS still exists should not mean that Bellsouth is excused from fair treatment of CLECs (and more specifically CA). In my experience in the past several years, practically all such issues caused by AT&T were not self-disclosed through SEEMS or compensated for. This is in contrast to what I witnessed prior to the AT&T acquisition of Bellsouth where SEEMS payments were regular.

Q. Does it appear that Mr. Chamberlin is trying to reframe the issue and make CA appear unreasonable?

A. Yes, that is a common theme throughout AT&T's testimony. This issue regards AT&T's deliberate construction of a barrier which delays the reporting and resolution of a problem through normal channels by imposing an unworkable process for the reporting of repairs. Although AT&T does provide an "escalation list," my experience is that everyone on that list, when called, goes directly to voicemail and they never call back. This is why the process is broken. By the time a CLEC tries their normal process which fails, then calls everyone on the escalation list and leaves voicemail, the outage has now been in progress for several hours. While that is not troubling to AT&T, it is to a CLEC. Especially with a major outage.

Issue 48a: Should the provisioning dispatch terms and related charges in the OSS Attachment apply equally to both parties?

Issue 48b: Should the repair terms and related charges in the OSS Attachment apply equally to both parties?

Q. How do you respond to Ms. Kemp's testimony on Issue 48a and 48b?

A. Ms. Kemp has created an artificial CA and then developed a story around that. Again, she seems not to fully understand how things actually work on the ground for CLECs. She

states, “AT&T never orders services from CA.” Although true, CA never suggested AT&T did. She continues with, “CA never dispatches on behalf of AT&T Florida.” Perhaps not, but CA might dispatch based upon false information provided by AT&T Florida (install complete, or repair complete) just as AT&T’s language permits it to charge CA if it dispatches based upon false information from CA (service not working).

She then states, “The reciprocal scenario whereby AT&T provides CA with incorrect or incomplete information (e.g. incomplete address, incorrect contact name/number, etc.) simply will never occur; therefore no reciprocal terms for billing should be included.” CA never raised this as a possibility. It is not the issue that actually happens. The more common scenario is that AT&T claims “no trouble found” on a trouble ticket and after rolling a truck, the CLEC determines that, in fact, AT&T was wrong. In many cases that I have seen, the CLEC’s end user states that no AT&T employees has even shown up. Then AT&T has to dispatch “again” and the problem continues. AT&T should reimburse CA for wasting its time and resources.

She continues with, “AT&T Florida would never submit a service order nor order any service from CA” CA never said they did, this is about one party rolling a truck based upon false information from the other. She concludes with, “Thus, in this context, CA’s proposed reciprocity is meaningless.” That would be true only if you accept the above false statements and ignore CA’s actual proposed language.

Finally, Ms. Kemp argues, “The proposed addition to Section 7.11 contains no limits, enables CO alone to determine that the issue was caused by AT&T Florida, and allows CA to bill AT&T Florida for all dispatches that CA attributes to AT&T Florida’s error.” This is false

on its face. The actual clear language that we proposed is the exact same language that AT&T proposed for itself, with our added proviso: "such as AT&T tampering with CLEC End User's ICA Service, AT&T falsely reporting that ICA Service has been properly installed when it has not, or AT&T falsely reporting that ICA Service has been repaired when it has not)." Those are very clear limits, and the language is reciprocal because it is their actual language from the paragraph above.

She goes on to complain, "The proposed section 6.4 contains no limits, enables CA alone to determine that the issue was caused by AT&T Florida, and bills AT&T Florida for all dispatches that CA attributes to AT&T Florida's error." Again, actually, this is parity as it is exactly the same rights that AT&T has reserved to itself for billing isolation charges.

Issue 49: When Communications Authority attaches facilities to AT&T Florida's structure, should Communications Authority be excused from paying inspection costs if AT&T Florida's own facilities bear the same defect as Communications Authority's?

Resolved.

Issue 50: In order for Communications Authority to obtain from AT&T Florida an unbundled network element (UNE) or a combination of UNEs for which there is no price in the ICA, must Communications Authority first negotiate an amendment to the ICA to provide a price for that UNE or UNE combination?

Q. Do you agree with Ms. Kemp's characterization of CA's position on this issue?

A. No. She is suggesting that CA seeks to "pick and choose" from ICAs and that is not the case. CA simply seeks some assurance in the ICA that should a UNE or UNE combination

become available in the future to another carrier, CA may seek that same element(s). It is an issue of preventing discrimination, one that is controlled by federal law. Presumably, if the new UNE was created by a change in law, CA could seek an amendment using the change in law provision in the ICA. AT&T can always refuse to execute an amendment, however, leaving CA with no recourse but follow the dispute resolution process. CA's language simply attempts to make it clear that AT&T cannot discriminate in the future in the provision of new UNE(s), something that is plainly true.

Issue 51: Should AT&T Florida be required to prove to Communications Authority's satisfaction and without charge that a requested UNE is not available?

Q. Do you agree with Ms. Kemp's characterization of CA's position on this issue?

A. Absolutely not, and again, it appears she does not understand how AT&T's systems actually work for CLECs. She states, "CA has access to the same tools to determine the availability of facilities that AT&T Florida uses to make a determination." This is not true. My experience is that in Florida, their automated systems automatically say no facilities are available everywhere. A CLEC must issue a request and it queries AT&T's TIRKS database for dark fiber. TIRKS does not, however, contain an inventory of dark fiber so the request automatically returns "no facilities available." As such, dark fiber queries normally need manual intervention and those records are not accessible to CLECs as Ms. Kemp has claimed.

For copper UNE facilities, the situation is similar. AT&T's on-line tools for CLECs often show no facilities when in fact the facilities exist. That forces CLECs to request a manual LMU which we have to pay for, and which they use as a reason to delay another two

weeks. Then AT&T often replies to the LMU with a simple "no facilities" when we know the facilities do exist. Most often, this is because they have unofficially retired the facilities (to prevent CLECs from obtaining them) even though the facilities are still in place. This is the issue that causes this disagreement. CA seeks its language in the ICA to avoid this problem.

Issue 52: Should the UNE Attachment contain the sole and exclusive terms and conditions by which Communications Authority may obtain UNEs from AT&T Florida?

Resolved

Issue 53: Should Communications Authority be allowed to comingle any UNE element with any non-UNE element it chooses?

Q. How do you respond to Ms. Kemp's testimony on Issue 53?

A. CA believes that it is entitled to commingle facilities as specified in its language, and that AT&T's language restricts CA's ability to commingle in a manner inconsistent with FCC rules and orders. That is all. Ms. Kemp repeatedly claims that CA's language is "unlawful," even when CA's language specifically requires consistency with FCC rules and regulations. To make her point, Ms. Kemp appears to be using a fictional version of CA that would not exist. CA would be open to adding language to clarify that any non-UNE "service element" must be purchased from an AT&T agreement, tariff or price list. I do not think she understands CA's actual operating concerns.

Issue 54a: Is thirty (30) days written notice sufficient notice prior to converting a UNE to the equivalent wholesale service when such conversion is appropriate?

Q. How would you distinguish CA's position from Ms. Kemp's testimony on Issue 54a?

A. She cites a single example that on its face appears to be reasonable. However, there are several obvious problems with her proposal:

1. If CA ceases to meet the UNE eligibility criteria, this could only happen if the central office were reclassified as non-impaired. That's the only trigger event that would change UNE eligibility, contrary to her assertion.

2. CA and AT&T may define the term "building" differently. For instance, often customers in the same building have different physical addresses. CA may not be in a position to know which different physical address AT&T considers to be in the same "building".

3. Once the parties agree that a transition away from UNE is justified, AT&T has a number of different non-UNE service options that CA can choose from. To do this, CA would need to submit an LSR to AT&T to convert the UNE(s) to the new arrangement. This is not a simple (it is UNE or non-UNE) question, and it will take time for CA to determine, for each UNE being converted, what its best option will be. CA may also need to consider other options, such as using a third-party provider for the service or disconnecting the customer's service because it is no longer financially feasible to provide without the UNE.

4. CA, like most CLECs, has far more limited resources than does AT&T. While AT&T may not think it is a big deal to find new service arrangements for dozens or hundreds of customers, to a small CLEC this is a large project that takes considerable time and resources. AT&T has not shown that it will be substantially harmed by CA's proposed timeline.

Issue 54b: Is thirty (30) calendar days subsequent to wire center Notice of Nonimpairment sufficient notice prior to billing the provisioned element at the equivalent special access rate/Transitional Rate?

Q. Do you agree with Ms. Kemp's position on Issue 54(b)?

A. No. I do not believe that Ms. Kemp is correct in her assertion on page 50, line 10 that this is only about true-up and not facilities changes. If there is no special access equivalent, what then? In any case, I have several observations:

1. AT&T's argument here presumes that this is a simple flip-of-the-switch conversion of billing from UNE to Special Access, which everyone knows has One Clear Price. This is far from true. Once a central office is designated as non-impaired, AT&T has a number of different non-UNE service options that CA can choose from. To do this, CA would need to submit an LSR to AT&T to convert the UNE(s) to the new arrangement. This is not a simple (it is UNE or non-UNE) question, and it will take time for CA to determine, for each UNE being converted, what its best option will be. CA may also need to consider other options, such as using a third-party provider for the service or disconnecting the customer's service because it is no longer financially feasible to provide without the UNE.

2. CA, like most CLECs, has far more limited resources than does AT&T. While AT&T may not think it is a big deal to find new service arrangements for dozens or hundreds of customers, to a small CLEC this is a large project that takes considerable time and resources. AT&T has not shown that it will be substantially harmed by CA's proposed timeline, other than its inability to cause maximum damage to its smaller rival.

3. CA has cited three currently in-force ICAs with other CLECs where the 180 day transition period is used. The last six years of boilerplate AT&T ICAs, none of which were arbitrated,should have no bearing on what is reasonable here.

4. Even assuming that this is just about true-up, the real issue is that under AT&T's language, it would be entitled to convert CA's UNE service to its most-expensive Special Access service, even if lower cost options were available. In order for CA to manage such a transition effectively, it must have enough time to assess the impact of the re-designation, determine what customer circuits are affected, determine for each customer which conversion options are available for that customer location, and then place an order with AT&T to convert the service to the new arrangement or disconnect the service entirely if there are no feasible conversion options. Any competent engineer would tell you that this process will take far longer than 30 days to complete. Therefore, there is really no situation in which this would be a simple billing-only change unless AT&T were permitted to force a CLEC into its most-expensive service offering during the conversion. We think the intent of the Act is not to do that, but is instead to provide CLECs with a reasonable transition time.

5. She closes this out with "AT&T Florida would experience the loss of revenue equal to the difference between the lower UNE rates and the higher special access rates to which it is entitled." The TRRO itself gave a longer transition time when it first occurred, 180 days, and other state commissions have agreed this is reasonable. CA seeks only the interval specified in the TRRO, which did not seem to agree that the "loss of revenue" cited by Ms. Kept was compelling.

Issue 55: To designate a wire center as unimpaired, should AT&T Florida be required to provide written notice to Communications Authority?

Q. Please respond to Ms. Kemp's position regarding Issue 55.

A. She states that the CLEC community has accepted accessible letters posted to their website is accepted by "the CLEC Community". On what basis does she make this claim? She seems to know nothing about how CLECs actually operate. She continues with "…to provide customized individualized notice just for CA's benefit would be discriminatory as to other CLECs, costly, inefficient and patently unreasonable." Every other ILEC I have worked with sends written notice. Verizon sends such notices via certified mail. What would happen if a CLEC did not check the AT&T website for a notice, or if AT&T were allowed to say, "we emailed it, we don't know why you didn't get it" for such an important notice? We are just asking AT&T to conform with industry standard and with what any reasonable person would expect, not to create a special procedure for CA.

Issue 56: Should the ICA include Communications Authority's proposed language broadly prohibiting AT&T Florida from taking certain measures with respect to elements of AT&T Florida's network?

Q. How do you respond to Ms. Kemp's positon on Issue 56.

A. She doesn't understand that AT&T does take in-service loops from CLECs for its own customers and then leaves CLECs with inferior loops. We are open to alternative language but have not reached a consensus on this. If her position is that AT&T would never do what we are concerned with, then I do not understand her reluctance to commit to not doing that.

Issue 57: May Communications Authority use a UNE to provide service to itself or for other administrative purposes?

Resolved

Issue 58: Is Multiplexing available as a stand-alone UNE independent of loops and transport?

Q. How do you respond to Ms. Kemp's testimony on this issue?

A. CA's specific objection is that UNE multiplexing should not automatically be considered an EEL, subject to the restrictions and additional costs imposed upon EELs. Multiplexing should be considered a routine network modification.

Issue 59a: If AT&T Florida accepts and installs an order for a DS1 after Communications Authority has already obtained ten DS1s in the same building, must AT&T Florida provide written notice and allow 30 days before converting to and charging for Special Access service?

Issue 59b: Must AT&T Florida provide notice to Communications Authority before converting DS3 Digital UNE loops to special access for DS3 Digital UNE loops that exceed the limit of one unbundled DS3 loop to any single building?

Q. Doe CA have a response to Ms. Kemp's testimony on this issue?

A. We think our position is reasonable. AT&T, as a rule, should not be able to install a different service than what was ordered. AT&T should either install what was ordered, or refuse to install that. We've only asked for 30 days after their notice to decide what to do about it and make a change, so there's not a lot of time that will pass. If we have ordered a UNE service when we were not entitled to it, we are going to bear two sets of ordering costs and the likely cost of re-designing the service. There is a financial disincentive for CA to order UNEs which we are not entitled to in these cases.

Issue 59c: For unbundled DS1 or DS3 dedicated transport circuits that AT&T Florida installs that exceed the applicable cap on a specific route, must AT&T Florida provide written notice and allow 30 days prior to conversion to Special Access?

Q. Do you agree with Ms. Kemp's assertion that CA's language would "unlawfully allow CA to pay UNE rates?"

A. I do not believe there is any such law regarding this issue, but it misses the point. CA is simply asking AT&T to notify CA that CA's chosen service is not available. AT&T, as a rule, should not be able to install a different service than what was ordered. AT&T should either install what was ordered, or refuse to install that. We've only asked for 30 days after their notice to decide what to do about it and make a change, so there's not a lot of time that will pass. If we have ordered a UNE service when we were not entitled to it, we are going to bear two sets of ordering costs and the likely cost of re-designing the service. There is a financial disincentive for CA to order UNEs which we are not entitled to in these cases.

Issue 62a: Should the ICA state that OS/DA services are included with resale services?

Issue 62b: Does Communications Authority have the option of not ordering OS/DA service for its resale end users?

Q. How do you respond to Ms. Kemp's testimony on Issues 62a and 62b?

A. We believe that AT&T provides OS/DA blocking at no charge to its retail customers upon request. All CA is seeking is parity with that arrangement. Ms. Kemp states that we can order the blocking and pay for it, but we should not have to pay for that via resale if the AT&T retail offering provides it at no cost.

Issue 63: Should Communications Authority be required to give AT&T Florida the names, addresses, and telephone numbers of Communications Authority's end user customers who wish to be omitted from directories?

Resolved.

Issue 64: What time interval should be required for submission of directory listing information for installation, disconnection, or change in service?

Q. Do you agree with Ms. Kemp that AT&T has a right to receive directory listing information from CA's customers?

A. This portion of the testimony really highlights AT&T's self-perception as keeper of the public good. It is ironic that AT&T demands this information but does not even bother to publish residential directories anymore. This interferes with the relationship between CA and its customers. Ms. Kemp's testimony provides no reasonable justification for it.

Issue 65: Should the ICA include Communications Authority's proposed language identifying specific circumstances under which AT&T Florida or its affiliates may or may not use Communications Authority's subscriber information for marketing or winback efforts?

Q. do you agree with Ms. Kemp's assertion that CA's additional language is unnecessary?

A. No, she agrees that §222 of the Act should be followed regarding the protection of CPNI, but makes no argument as to why CA's additional language that deals with CPNI in more granularity should not be included. It is interesting that AT&T has not really discussed what it should be permitted to do with CA's information that this language prevents, and why.

Issue 66: For each rate that Communications Authority has asked the Commission to arbitrate, what rate should be included in the ICA?

Q. Ms. Pellerin suggests that CA should accept AT&T's proposed rates because those rates have already been approved. Do you agree?

A. No, those rates were approved more than a decade ago. Ms. Pellerin suggests that CA should provide support for our pricing. That is not how it's done as she later addresses, "Like almost all state commissions in the United States, 1 this Commission establishes TELRIC-based rates in generic dockets in which all interested parties are allowed to participate. Docket Nos. 990649-TP and 000649-TP were such dockets."

Q. What would be the cleanest solution to address the rate issues raised by CA?

A. To be clear, CA raised these issues during negotiation and AT&T refused to discuss them. Since the arbitration began, AT&T has repeatedly stated as a foregone conclusion that a cost study is not part of this docket. Nobody asked CA if this is reasonable, AT&T just repeated it over and over. CA has not objected.

The fact remains that the Commission has not ordered a UNE or collocation cost study since 2001. It is time for the Commission to require AT&T to justify those costs it believes are subject to TELRIC via a new cost study case. CA would accept this as a suitable remedy for all TELRIC-based charges raised by its petition and drop them from the case. CA does desire to address one point which CA believes is a typographical mistake. AT&T's proposed rates note that dark fiber transport has a non-recurring cost per mile. With all other ILECs in Florida, the non-recurring charge for dark fiber transport is per termination and not per mile. In other AT&T states, dark fiber transport NRCs seem to also be per termination. While this may not be a rate dispute, CA seeks to correct what it believes is a typographical error in

AT&T's document. However, AT&T refused to discuss even this issue in negotiations so it remains unresolved.

For the charges in the ICA that AT&T alleges are not subject to TELRIC, the Commission should revise the charges to be more reasonable and consistent with those charged by Verizon as a similarly situated ILEC. Ms. Kemp's claim that these charges are "market-based" is ludicrous. There is no "market;" AT&T controls a complete monopoly on all rates in its incumbent territory. CA seeks the Commission's assistance on making these rates more reasonable be it through an order in this case, or part of a larger generic proceeding. To the extent that the Commission decides that it does not have authority over any given rate element, CA believes that the rate should not be included in this agreement and is more appropriately placed in a separate commercial agreement between the parties.

Q. Do you have anything more to add?

A. Not at this time.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Communications Authority, Inc. for arbitration of Section 252(b) interconnection agreement with AT&T Florida Telecommunications, LLC d/b/a AT&T Florida.	DOCKET NO. 140156-TP DATED: MARCH 23, 2015

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of COMMUNICATIONS AUTHORITY'S REBUTTAL TESTIMONY has been served by electronic mail and US Mail this day March 23rd, 2015 to:

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