

ORIGINAL

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September 10, 1999

VIA FEDERAL EXPRESS

Mrs. Blanco S. Bayó, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 3239-0850

Re: Docket No. 990649-TP

Dear Mrs. Bayó,

Enclosed for filing in the above-referenced docket are an original and fifteen (15) copies of the Rebuttal Testimony of Jeanne Senatore on behalf of Florida Digital Network, Inc.

An extra copy has also been included for the purpose of receipt stamping and return to my attention in the enclosed self-addressed, stamped envelope.

Copies of the attached rebuttal testimony have been served on all parties of record in accordance with the attached certificate of service.

- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CML Del \_\_\_\_\_
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Should there be any questions concerning the foregoing, kindly contact the undersigned directly.

Yours sincerely,

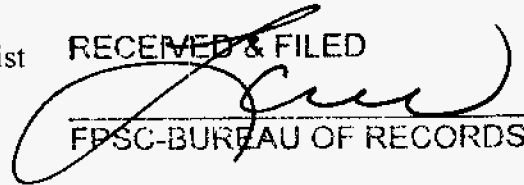


Morton J. Posner

Counsel for Florida Digital Network, Inc.

Enclosures  
cc: Service List

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**ORIGINAL**

**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Investigation into Pricing of )  
Unbundled Network Elements )  
\_\_\_\_\_ )

Docket No. 990649-TP

Filed: September 10, 1999

**REBUTTAL TESTIMONY OF  
JEANNE SENATORE**

**ON BEHALF OF**

**FLORIDA DIGITAL NETWORK, INC.**

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September 10, 1999

1 **FLORIDA DIGITAL NETWORK, INC.**

2 **REBUTTAL TESTIMONY OF JEANNE SENATORE**

3 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

4 **DOCKET NO. 990649-TP**

5 **SEPTEMBER 10, 1999**

6

7 Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH FLORIDA DIGITAL  
8 NETWORK, INC. AND YOUR BUSINESS ADDRESS.

9 A. My name is Jeanne Senatore. I am employed by Florida Digital Network, Inc.  
10 ("FDN") as its Product Business Manager. My business address is 390 North Orange  
11 Avenue, Suite 2000, Orlando, FL 32801.

12 Q. PLEASE GIVE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND  
13 EXPERIENCE.

14 A. I graduated from Southern Illinois University in 1977 with a BS degree in Marketing.  
15 I worked for Sprint Incorporated from 1987 to 1997 as Regional Manager of  
16 Data/Voice Applications. I then joined Intermedia Communications in June 1997 as  
17 Senior Product Manager of Frame Relay, and I currently work for FDN and am the  
18 Manager overseeing Marketing and Regulatory.

19 Q. PLEASE DESCRIBE THE NATURE OF FDN'S BUSINESS.

20 A. FDN is a new Alternative Local Exchange Carrier ("ALEC") headquartered in  
21 Orlando Florida. We are a facilities based carrier operating in Orlando, Fort  
22 Lauderdale and Jacksonville. FDN is planning additional collocation facilities with  
23 BellSouth in Miami and West Palm Beach Florida later this year. FDN has three

1 Nortel DMS500 switches in place currently, and plan to add another three by early  
2 2000. These switches provide a full range of local exchange services, long distance  
3 and xDSL capabilities. We have acquired an Internet Company located in  
4 Jacksonville Florida, who currently resell ADSL from BellSouth. FDN plans to  
5 remarket BellSouth ADSL throughout the State of Florida, and offer our own  
6 IDSL/SDSL technology in the markets previously described. Since FDN activated  
7 the DMS500 switch in June 1999, we have accumulated over 3,000 access lines and  
8 over 600 customers to date.

9 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

10 A. My testimony is submitted in order to rebut portions of the direct testimony submitted  
11 by BellSouth witnesses in this proceeding, and to provide clarification on certain  
12 pertinent issues from the ALEC perspective.

13 Q. DO YOU AGREE WITH BELLSOUTH'S WITNESS JERRY HENDRIX THAT  
14 DEAVERAGING OF UNBUNDLED NETWORK ELEMENTS SHOULD AWAIT  
15 RESOLUTION OF UNIVERSAL SERVICE ISSUES AND RATE  
16 REBALANCING?

17 A. No. I believe that the Commission should keep its focus on issues within the scope of  
18 this proceeding, and should not stay its hand while external issues are being resolved.  
19 Clearly, all of the factors BellSouth cites will have effects on competition in Florida,  
20 but it is not feasible to address all issues at once. The Commission can require  
21 deaveraging of UNEs and combinations of UNEs in this proceeding without waiting  
22 for these other issues. BellSouth is simply attempting to defer the Commission's  
23 action indefinitely, and this will not accomplish the competitive goals of federal law

1 and policy or Florida state law and policy. Other issues can be considered separately,  
2 in other proceedings, and any necessary adjustments can be made.

3 Q. BUT WHAT ABOUT MR. HENDRIX'S ARGUMENT THAT THIS  
4 COMMISSION CAN'T REASONABLY ACT UNTIL THE FCC'S 319  
5 PROCEEDING IS COMPLETE?

6 A. This argument is also fallacious, based on BellSouth's policy position that the FCC  
7 may not require ILECs to offer many of the unbundled network elements ("UNEs")  
8 that are currently offered. In BellSouth's view, it is entirely possible that the FCC  
9 may find that even such fundamental building blocks as loops need not be offered to  
10 ALECs, or that they will be offered on a restrictive basis, in certain markets but not in  
11 others. But this, in my opinion, is not a realistic view. It overlooks the monopoly  
12 power of ILECs, and their absolute dominance of the local infrastructure. Although it  
13 is concededly unclear what the precise list of UNEs will be after the FCC's 319  
14 proceeding is concluded, the Commission can proceed with a clear conscience to  
15 deaverage such UNEs as loops.

16 Q. DO YOU AGREE THAT LOOPS ARE THE ONLY UNE THAT REQUIRES  
17 DEAVERAGING AT THIS POINT?

18 A. No. But first of all, I should make my company's position clear as to loops. We  
19 consider that all types of loops: voice-grade, xDSL capable, DS-1, DS-3, etc. should  
20 be deaveraged. We do not think that there is any basis for limiting the menu of loops  
21 that should be deaveraged: they are all distance-sensitive in terms of their costs, and  
22 they are a logical starting point for the Commission. Since deaveraging of loops will  
23 have the greatest impact on competition in Florida, this should come first. Once this

1 is accomplished, the Commission should turn its attention to other UNEs such as  
2 local switching, transport, etc.

3 Q. DO YOU AGREE WITH MR. VARNER (PAGE 7, LINES 5-13) THAT  
4 ADVANCED SERVICES SHOULD NOT BE REQUIRED TO BE UNBUNDLED,  
5 AND THEREFORE CAN BE EXCLUDED FROM THIS PROCEEDING?

6 A. Not at all. In particular, xDSL technologies, which depend on the availability of  
7 copper loop infrastructure, are directly dependent on bottleneck monopoly of the  
8 ILEC. Even if it were true that ALECs are faster out of the starting gates on such  
9 technologies, the fact remains that ILECs have an overwhelming inherent advantage  
10 due to their ubiquitous existing networks. This cannot be overlooked, because it  
11 essentially enables ILECs to dominate the field of advanced services any time they  
12 wish to devote the resources. In addition, there are other built-in economies that can  
13 be enjoyed by the ILECs alone at this point that are pertinent to advanced services,  
14 such as loop sharing: while an ALEC cannot presently share an existing in-use ILEC  
15 loop, and must separately obtain a loop to the end-user premises to offer xDSL  
16 services, in many instances there is nothing to prevent an ILEC from pumping these  
17 high-speed data services over the same loop that it presently uses to provide POTS  
18 service. Moreover, the entrenched brand-recognition and market presence enjoyed by  
19 an ILEC give it a tremendous headstart on the offering of new services to its  
20 customers. So advanced services should not be excepted from this proceeding, and to  
21 the extent that they implicate UNEs, those UNEs may be subject to deaveraging  
22 consistent with the objectives of the Commission herein.

1 Q. WHAT ABOUT MR. HENDRIX'S ARGUMENT (ON PAGE 6, LINES 4-9) THAT  
2 GEOGRAPHIC DEAVERAGING SHOULD BE LIMITED TO TWO DISCRETE  
3 RATE ZONES?

4 A. We are presently evaluating this argument, but I can state generally that it would  
5 appear to be inconsistent with the FCC's approach, which contemplated at least 3 rate  
6 zones, urban, suburban and rural. Although it is not impossible that the conditions in  
7 Florida would warrant less than 3 zones, I think that BellSouth's proposal of 2 rate  
8 zones is based on its overall position that geographic deaveraging should be offered  
9 only in non-competitive areas, and that market pricing should govern in competitive  
10 areas. This position again overlooks the monopoly position of the ILECs with respect  
11 to local infrastructure, particularly loops. Although it is true that there has been some  
12 incursion into facilities by ALECs in urban areas, particularly to serve businesses, at  
13 present this is just a drop in the bucket compared with the ILECs' commanding  
14 dominance in all market segments. We consider it likely that three, or possibly more,  
15 rate zones will be required to reflect geographic cost variances.

16 Q. DO YOU AGREE WITH MR. HENDRIX (PAGE 7, LINES 4-11) THAT UNE  
17 COMBINATIONS SHOULD BE "PRICED TO MEET MARKET CONDITIONS"?

18 A. No. UNE combinations should be priced based on their forward-looking TELRIC  
19 costs. And, to the extent that the price of any element making up the combination is  
20 deaveraged, the overall price of the UNE combination should be deaveraged.  
21 Accordingly, if the combination is, say, Extended Link (loop plus transport), the price  
22 of the combination should be deaveraged to reflect at a minimum the deaveraged  
23 price of the loop. Mr. Hendrix's desire to price UNE combinations at a "market"

1 price assumes a competitive situation that is just not extant at this point. The  
2 monopoly position of the ILEC warrants a different treatment than if a level playing  
3 field truly existed. If the so-called "market" price were adopted, it would surely be a  
4 higher price than forward-looking cost, and it would be a disincentive to market entry  
5 by ALECs. This would be incompatible with the competitive goals of public policy.

6 Q. ARE THERE ANY SPECIFIC UNE COMBINATIONS THAT ILECS SHOULD BE  
7 REQUIRED TO OFFER TO ALECS, AND THAT SHOULD BE DEAVERAGED  
8 IN THIS PROCEEDING?

9 A. Yes, in addition to the conventional loop and transport combination (Extended Link)  
10 and loop and port combinations, the Commission should also require ILECs to offer a  
11 DS1 loop and DS1 transport combination, essential to serving business customers  
12 with high-speed, full service telecommunications options. In its Order No. PSC-99-  
13 1089-FOF-TP, issued May 27, 1999, the Commission required BellSouth to offer this  
14 combination to MCImetro Access Transmission Services LLC ("MCI"), and found  
15 that it did not duplicate BellSouth's MegaLink service offering. I should note that  
16 FDN has attempted to obtain this same combination from BellSouth, but has been  
17 repeatedly denied access to it at prices consisting of the sum of the UNEs involved.  
18 For purposes of this proceeding, since this combination is being offered to one  
19 ALEC, the Commission should find that it must be made available to other ALECs as  
20 well, commencing immediately. The pricing for this combination, consistent with my  
21 testimony herein, should be deaveraged to reflect the deaveraging of the prices for the  
22 constituent loop and transport elements.



1 Q. BASED ON ITS POLICY POSITION, BELLSOUTH ARGUES (HENDRIX, PAGE  
2 9, LINES 1-6) THAT IT SHOULD ONLY BE REQUIRED TO SUBMIT UNE  
3 COST STUDIES FOR ITS DESIGNATED GEOGRAPHIC RATE ZONES, AND  
4 ONLY FOR LOOPS. DO YOU AGREE?

5 A. No. As I stated earlier, I consider that the premise underlying BellSouth's proposal of  
6 only two discrete rate zones is faulty. The Commission should make a determination  
7 concerning how many, and which rate zones are required to deaverage UNEs based  
8 on their geographic cost variances. I suspect that 3 or more rate zones will be  
9 required once this takes place. BellSouth should be required to submit cost studies  
10 for each of these zones as designated by the Commission. As to the issue of whether  
11 cost studies should be limited to loops, I consider that the *initial* cost studies  
12 submitted should focus on loops – all varieties of loops – but that subsequent cost  
13 studies should consider other elements and combinations, as required by the  
14 Commission. The initial focus on loops will allow this proceeding to move forward  
15 expeditiously and have the most positive effect on competition in the shortest  
16 timeframe. But the door should be left open for the requirement of additional cost  
17 studies.

18 Q. WHAT OTHER COST STUDIES SHOULD ILECS ULTIMATELY BE  
19 REQUIRED TO FILE?

20 A. I believe that cost studies for local switching, as well as recurring and non-recurring  
21 cost studies to support the pricing of certain combinations such as Extended Link  
22 (loop plus transport) should be required. In addition, if the FCC identifies any other  
23 UNEs or combinations in its 319 proceeding that should be deaveraged, the ILECs

1 should be required to file recurring and non-recurring cost studies to support those  
2 prices as well.

3 Q. DO YOU AGREE WITH BELLSOUTH WITNESSES CALDWELL AND  
4 VARNER THAT BELLSOUTH'S "ACTUAL COSTS" FOR UNES, AND NOT  
5 TELRIC COSTS, SHOULD BE THE BASIS OF UNE PRICING?

6 A. No. BellSouth's attempt to recover "actual costs" is just another means of inflating  
7 the price of UNEs to reflect historical, embedded costs rather than stressing forward-  
8 looking costs. BellSouth makes numerous policy arguments in support of its position,  
9 but all of them are focusing on existing inefficiencies rather than deployment of  
10 facilities on a forward-going basis. Pricing on the basis of TELRIC costs will  
11 encourage efficiency rather than monopolistic complacency, will enable market entry  
12 for competitive companies, and will send the right signals. Mr. Varner argues that the  
13 Commission should develop a pricing policy that encourages facilities-based entry  
14 (Varner at 21, lines 17-22). But this is essentially shorthand for the assertion that the  
15 prices for UNEs should be set so high as to repel market entry by firms that rely on  
16 UNEs to build all or a portion of their networks in favor of those comparatively well-  
17 heeled competitors that can afford to build their own infrastructure from scratch.  
18 Such a pricing policy would fly in the face of the goals of the 1996 Act, because it  
19 would thin out the competition excessively, making it impossible for small firms and  
20 innovative start-ups to compete in Florida. Of course, this would play directly into  
21 the hands of the monopolists, and it would deprive the consumer in Florida of  
22 competitive choices.

1 Q. BUT WHAT ABOUT BELLSOUTH'S ARGUMENT THAT A PORTION OF  
2 COMMON COSTS AND SHARED COSTS MUST ALSO BE CONSIDERED IN  
3 ADDITION TO TSLRIC COSTS?

4 A. As Caldwell points out (pp. 3-6), both the FCC and this Commission consider that  
5 TELRIC pricing includes a "reasonable allocation of forward-looking joint and  
6 common costs." But this doesn't mean that all common costs and shared costs are  
7 appropriate for inclusion. As pointed out by AT&T witness Dr. August Ankum in his  
8 Direct Testimony (pp. 25-26), the common costs and shared costs need to be  
9 forward-looking in character, should not be allowed to be a "dumping ground" for  
10 embedded costs. They must be appropriately allocated, and certain costs should be  
11 excluded. I note, for example, that in an exhibit to the testimony of BellSouth witness  
12 Walter S. Reid (Exhibit WSR-2), BellSouth states that it intends to include "External  
13 Relations" as a common cost. But why should ALECs be compelled to subsidize  
14 BellSouth's "external relations," including, presumably advertising and public  
15 relations campaigns, and possibly political contributions, etc., which are essentially  
16 used to compete against CLECs for customers? This inclusion doesn't make any  
17 sense, and the Commission should take a very detailed look at the sorts of common  
18 and shared costs that BellSouth is seeking to slip into the hopper. If, for example,  
19 "executive costs" include chauffeur-driven limousines, expensive artwork for the  
20 President's office, or other unnecessary luxuries, it is unclear why ALECs are being  
21 allocated such costs.

22

1 Q. DO YOU HAVE ANY REACTION TO THE DIRECT TESTIMONY OF  
2 RICHARD D. EMMERSON?

3 A. Yes. I found most of it to be inapposite to this proceeding. Mr. Emmerson spends a  
4 great deal of time arguing whether UNEs should be unbundled at all, and also  
5 attempts to show that incremental costs should not be used in pricing UNEs. These  
6 are issues that are settled in Florida already, and they are not pertinent to the scope of  
7 this proceeding. In addition, Mr. Emmerson takes the insupportable position that  
8 rates in Florida are already deaveraged "in a manner of speaking" because loop rates  
9 in urban areas are higher than in rural areas. (Emmerson at 30, lines 1-17). It is  
10 unclear why this confusing assertion was made at all; it is precisely the mismatch  
11 between the cost of UNEs in urban areas and the rates charged that leads to the need  
12 to deaverage, in order to match the prices of UNEs more closely to their costs.

13 Q. SHOULD ILECS BE ALLOWED A PROFIT "ON TOP OF" THE COST OF  
14 CAPITAL, AS ASSERTED BY MR. VARNER (PAGE 26, LINES 9-18).

15 A. No. This Commission has not taken that position, and there is no reason to believe  
16 that ILECs are not compensated appropriately with the approach already adopted in  
17 Florida.

18 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

19 A. Yes, it does.

20

21

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of September, 1999, copies of the foregoing  
REBUTTAL TESTIMONY OF JEANNE SENATORE ON BEHALF OF FLORIDA DIGITAL  
NETWORK, INC., have been served via First-Class mail, U.S. postage prepaid, to the parties on  
the attached service list.

  
\_\_\_\_\_  
Sonja L. Sykes-Minor

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