Exhibit No.:

Issue:	Mass Market/Enterprise Market Cross Over
Witness:	John F. Finnegan
Sponsoring Party:	AT&T Communications of the Southwest, Inc., TCG Kansas City, Inc. and TCG St. Louis, Inc.
Type of Exhibit:	Rebuttal Testimony
Case No.:	TO-2004-0207

AT&T COMMUNICATIONS OF THE SOUTHWEST, INC., TCG KANSAS CITY, INC. AND TCG ST. LOUIS, INC.

REBUTTAL TESTIMONY

OF

JOHN F. FINNEGAN

TO-2004-0207

January 16, 2004

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, ADDRESS AND OCCUPATION.

A. My name is John F. Finnegan. My address is 1875 Lawrence St., Denver, CO 80202. I am a Senior Policy Witness in AT&T's Law and Government Affairs organization.

Q. ARE YOU THE SAME JOHN F. FINNEGAN THAT CAUSED DIRECT TESTIMONY TO BE SUBMITTED IN THIS PROCEEDING?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is to respond to issues relating to the cross over analysis I submitted in my Direct Testimony that were raised by Telecommunications Department Staff ("Staff") witness Christopher C. Thomas. Mr. Thomas indicated that Staff "supports the type of analysis preformed by Mr. Finnegan, as it appears to be the most comprehensive study of the cost differential between providing service using DS0 and DS1 loops on an unbundled basis, including additional costs that a firm incurs when using UNE-Loop (UNE-L) over UNE-Platform (UNE-P)" if "more detailed cost information" supporting my analysis were provided.[1] In this testimony, I attempt to respond to the specific issues that Mr. Thomas raised in his rebuttal testimony. My testimony also responds to the testimony submitted by SBC Missouri's witness Gary A. Fleming.

[1] Thomas Rebuttal Testimony, pp. 6-7.

Response to Mr. Thomas

Q. WHAT SPECIFIC ADDITIONAL INFORMATION DID STAFF WITNESS THOMAS REQUEST YOU PROVIDE REGARDING THE AT&T CROSS OVER ANALYSIS?

A. Specifically, Staff Witness Christopher Thomas requested that I supply the following additional information regarding the cross over analysis I supplied in my Direct Testimony:

1. Additional supporting information for the marketing cost differential between marketing to mass market and enterprise customers of $625 as identified on page 6 of Mr. Finnegan's Direct Testimony;

2. Detailed analysis of the monthly UNE-P rate that Mr. Finnegan calculated, including supporting information for the 1,668 minutes used to estimate usage sensitive charges, identified in footnote 27 on page 14 of Mr. Finnegan's Direct Testimony;

3. Supporting information for the 30% discount that Mr. Finnegan identifies as the discount that efficient CLECs would likely obtain from CPE suppliers, and the source of the Adtran channel bank equipment, AC/DC power supply and battery charger and backup battery system prices;

4. Supporting information for the time estimates used in calculating the cost of installing CPE equipment;

5. Supporting information used to develop the average CPE maintenance cost per year;

6. Supporting information for the time estimates used in calculating the cost of CPE removal;

7. Supporting information detailing the cost of the Edgelink 100 multiplexer;

8. Support detailing the monthly recurring cost to backhaul a CLEC customer's DS1 circuits to on the transport DS3.[2]

[2] Thomas Rebuttal, pp. 7-8.

In the testimony that follows, I provide the information requested by Staff Witness Thomas.

Q. WHERE DID YOU OBTAIN THE PRICES FOR THE ADTRAN CHANNEL BANK EQUIPMENT, THE BATTERY BACKUP AND THE POWER SUPPLY/BATTERY CHARGER?

A. I obtained the price information for this equipment from the ComputerAnimal.com website. For ease of reference, I have attached the printouts from the website as Exhibit JFF-5. As can be seen from Exhibit JFF-5, ComputerAnimal.com lists the retail prices for the Adtran 750, the battery backup and the power supply/battery charger respectively as $2,496, $425 and $240. The total retail price for the three items is $3,161. As can also be seen in Exhibit JFF-5, ComputerAnimal.com offers to sell the Adtran 750, the battery backup and the power supply/battery charger respectively for $1874.70, $345.97 and $189.79. The total price that ComputerAnimal.com offers to sell the three products is $2,410.46. The ComputerAnimal.com offered price is a 23.7% lower than the list price.

While ComputerAnimal.com does not offer any volume discounts for the three products,[3] I assumed that a carrier that purchases quantities of units should be able to get better than the 23.7% discount off of the list price. For the purpose of the analysis, I assumed a discount of 30%.

[3] On the ComputerAnimal.com website, I priced out the three products with quantities of 1,000 units and the unit price was the same as for one unit.

Q. HOW DID YOU ARRIVE AT YOUR ESTIMATE OF THE BACKHAUL COSTS FOR THE DS1 SERVICE?

A. The backhaul cost estimates were based upon prices found in SWBT's FCC special access tariffs for a DS3 capacity circuit. Specifically, I relied upon *Southwestern Bell Telephone Company, Tariff F.C.C. No. 73* that was effective July 1, 2003.[4] SWBT's special access prices include a fixed rate and a rate that varies per mile. SWBT's prices vary in each of the three rate zones in Missouri and they vary depending upon whether the service area is under price cap regulation or SWBT has received pricing flexibility in the area. A summary of the relevant prices and the citation for the prices is found in the below table.

Type of Price Regulation	Zone	Contract Term	Fixed Rate	Per Mile Rate
Price Cap	1	5	$400.00[5]	$37.50[6]
Price Cap	2	5	$410.00[7]	$40.00[8]
Price Cap	3	5	$420.00[9]	$42.50[10]
Pricing Flexibility	1	5	$450.00[11]	$45.00[12]
Pricing Flexibility	2	5	$475.00[13]	$50.00[14]
Pricing Flexibility	3	5	$500.00[15]	$55.00[16]

[4] For ease of reference, I have attached a copy of the relevant tariff pages to this testimony as Exhibit JFF-6.
[5] *Southwestern Bell Telephone Company, Tariff F.C.C. No. 73*, p. 20-47.8, Section 20.5.3 (G).
[6] *Id.,* 20-47.15, Section 20.5.4 (G), Volume Option 1.
[7] *Id.,* p. 20-47.8, Section 20.5.3 (H).
[8] *Id.,* p. 20-47.15, Section 20.5.4 (H), Volume Option 1.
[9] *Id.,* Section 20.5.3 (I).
[10] *Id.,* p. 20-47.15, Section 20.5.4 (I), Volume Option 1.
[11] *Id.*, p. 39-154, Section 39.5.2.12 (C) (7).
[12] *Id.,* p. 39-161, Section 39.5.2.12 (D) (7), Volume Option 1.
[13] *Id.*, p. 39-154, Section 39.5.2.12 (C) (8).
[14] *Id.,* p. 39-161, Section 39.5.2.12 (D) (8), Volume Option 1.
[15] *Id.*, p. 39-154, Section 39.5.2.12 (C) (9).

		Average Rate	$442.50	$45.00
		Average Rate w/ 13% Discount	$384.975	$39.15

I calculated the average fixed and per mile rates because the cross over analysis is not based upon any specific CLEC switch location. The CLEC's switch could be placed in any of the rate zones or in an area that is under price cap regulation or pricing flexibility. As a conservative assumption, I used a five-year contract term in order to obtain the lowest special access pricing. If a carrier were obtaining special access via SWBT's "Managed Value Plan," the carrier would be entitled to a discount. For the purpose of the model, I conservatively assumed the service was purchased under a 5-year optional payment plan and that the carrier was in the fourth year of a five-year Managed Value Plan (MVP) contract. That would entitle the carrier to a 13% discount.[17]

As identified in my Direct Testimony, I assumed the CLEC was backhauling the traffic three miles. The fixed rate ($384.98) plus the mileage charges (3 * $39.15 = $117.45) results in a DS3 monthly rate of $502.43. I conservatively assumed that all 28 DS1 channels in the DS3 circuit were utilized. Consequently, I calculated the monthly rate for one DS1 channel in the DS3 circuit as 1/28 of the cost of the DS3 or $17.94.

[16] *Id.,* p. 39-161, Section 39.5.2.12 (D) (9), Volume Option 1.
[17] *Id.*, p. 38-9, Section 38.3 (E) (3).

Q. PLEASE DESCRIBE HOW THE UNE-P COSTS THAT YOU USED IN THE CROSS OVER ANALYSIS WERE DETERMINED.

A. The UNE-P costs were based upon the costs for: 1) the 2-wire analog loop recurring rate; 2) the analog switch port recurring rate; 3) usage sensitive recurring rate elements (end office switching, common switched transport, tandem switching, and signaling) charges; and 4) an amortized cost of annual white pages book delivery to the UNE-P customer. For ease of reference, the costs are summarized in Exhibit JFF-7 to this testimony. The rate zone-specific recurring rates for the 2-wire analog loop and the analog switch port were taken from the SBC Missouri interconnection agreement know as the "Missouri 271 Agreement" ("M2A") *Appendix Pricing UNE Schedule of Prices*, dated June 27, 2003. The charges for the white page book delivery were taken from Attachment 19 to the M2A. The specific charges used were the rates for "Price Per Book Copy Delivered to CLEC End User." Since customers expect new white page books to be delivered approximately once a year, the non-recurring rate for the book delivery was amortized over a twelve-month period by dividing the rate by twelve.

The usage-sensitive charges were determined by applying the rate zone specific charges for: 1) originating end office switching; 2) common switched transport; 3) tandem switching usage; and 4) terminating end office switching. The 1,668 minutes of use that the applicable rates were applied to included originating and terminating minutes for: 1) local calls; 2) IntraLATA calls; 3) InterLATA,

Intrastate calls; and 4) InterLATA, Interstate calls (including international calls). An additional charge was assessed per message for signaling charges.

Q. CAN YOU OFFER ADDITIONAL SUPPORT FOR THE ASSERTION IN YOUR DIRECT TESTIMONY THAT THE SALES AND MARKETING SUPPORT FOR SELLING A DS1 BASED SERVICE IS MORE EXPENSIVE THAN SIMILAR SUPPORT FOR ANALOG BASED SOLUTIONS?

A. Yes. Industry analysts have reported that the RBOCs view the additional sales and marketing expense as an obstacle to the offering of an Integrated Access Service ("IAS") DS1 service. Specifically, one analyst stated:

> Another obstacle they report is that integrated services require a consultative sales process. "This is simply not done for the SMB [Small and Medium Business] market by the RBOCs and large IXCs. When addressing the SMB market, RBOCs and IXCs do no use site visits, multiple meetings and they certainly do not offer individualize services," reports NetCon.[18]

Another analyst reported, "RBOCs have learned – as a result of competitive losses to CLECs in major metros – that service to SMBs must be hands-on and direct."[19] It was also reported:

> The market has not yet reached its competitive potential for two main reasons: RBOC trepidation and CLEC financial constraints. BellSouth, Verizon, and SBC offer integrated access in their in-region product portfolios, with Qwest on the sidelines. The lack of

[18] *Wooing SMBs with Integrated Service*, Khali Henderson and Tara Seals. Phone+, Accessed at http://www.phoneplusmag.com/articles/321FEAT1.html.
[19] *Integrated Access: The Last Great CLEC Hope*, The Yankee Group Report, Michael Lauricella, July 2003, p. 5.

> a sales and marketing push by the RBOCs means none are truly in the game. Concerns about cannibalization are driving RBOC hesitancy – at the low end, integrated access may challenge DSL. At the high end, customers may trade down from more expensive services. However, the slow-footedness of the RBOCs will prove costly.
>
> CLECs have seen a great deal of success despite considerable financial pressure and customer skepticism. As CLEC move toward positive cash flow, marketing expenditures will increase and expansion will resume.[20]

Analysts reported that BellSouth greatly increased its sales and marketing support once it entered the integrated access service market. Specifically, it was stated:

> BellSouth entered the integrated access space out of competitive necessity, forced to respond after CLECs demonstrated its market potential. It uses the offering as a tool for customer retention and reacquisition.
>
> The number of sales staff focused on this service at BellSouth underscores its importance. BellSouth has added its first premises-based agents to its small business division, and has doubled the number of sales staff in the general business division.[21]

The higher costs of marketing a DS1-based service was also recognized when it was reported after Qwest made a bid for the assets of Allegiance Telecom:

> To be successful, Qwest must lower the sales and marketing expenses of Allegiance. Qwest cannot afford to use a direct salesforce to call on the very smallest SMBs, and it cannot afford to ignore the more individualized needs of its largest SMBs. Allegiance was not able to resolve this sales and marketing conundrum, but Qwest must, if it is to be successful.[22]

[20] *Id.*, p. 6.
[21] *Id.*, p. 7.
[22] *Qwest Pledges Allegiance to Compete on a National Scale*, Mike Lauricella, Nancy Bedard and Steve Hilton, The Yankee Group, Research Note: December 30, 2003, p. 2.

Q. PLEASE EXPLAIN HOW YOU ARRIVED AT THE COST FOR THE EDGELINK 100 1:3 MULTIPLEXER IN THE CROSS OVER ANALYSIS.

A. As an initial matter, in my direct testimony, I identified the cost of an Edgelink 100 1:3 multiplexer as $3,600. That number used in the analysis should have been $3,000. Using the revised figure and assuming that twenty-eight DS1 circuits are being multiplexed by the multiplexers in the CLEC's collocation, a single DS1 loop would be responsible for 1/28 of the $3,000 cost of each multiplexer, or $107.14.[23] In contrast, SBC estimates a multiplexing capital cost of $538.00 per DS1.[24] In comparison to SBC's estimate, my estimate of the capital cost for multiplexing of the DS1 in the CLEC's collocation is conservatively low. I have attached to this testimony a revised cross over analysis that uses the revised cost of the Edgelink 100 unit as Exhibit JFF-8. It should be noted that the revision of the cost of the Edgelink 100 unit did not impact the overall cross over point in Missouri. It remains at thirteen lines.

For the Edgelink 100 1:3 Multiplexer, I used a cost estimate that was based on research conducted by AT&T that was validated as consistent with AT&T's marketplace experience.[25] To provide for a conservative estimate, that cost did not include any typical costs for the engineering and installation of the equipment.

[23] The per DS1 loop investment assumed for this analysis was calculated as follows: 1 multiplexer * 1/28 * 3,000 = $107.14.
[24] Flemming Direct Testimony, Schedule GAF-6 p.5.
[25] The cost of the 1:3 multiplexer of $3,000 is what AT&T has been using in the DS0 impairment tool that AT&T has been filing in many of the states conducting a Triennial Review potential deployment investigation.

Q. WHAT MUST THE CLEC DO TO INSTALL THE CHANNEL BANK AND BATTERY BACKUP EQUIPMENT?

A. To install the equipment, a CLEC must dispatch a technician to the customer's location. To connect the copper inside wire leading from the individual telephone lines to the channel bank equipment, the technician must cross-connect the customer side of the channel bank to an existing cross-connection device. If such a device does not exist independently of the analog NID, the technician must also deploy such a NID. The network side of the channel bank must be wired to the NID upon which the DS1 loop terminated. The battery backup unit must also be installed and connected to both the commercial power and the channel bank. Finally, the entire configuration must be tested for proper operation. I assumed that two hours of labor (including travel time) would be required.

Q. DID YOU COMPARE YOUR DS1 CHANNEL BANK EQUIPMENT INSTALLATION COST ESTIMATES TO ANY OTHER SOURCES?

A. Yes. I examined on Adtran's website the prices Adtran would charge for the installation of its Total Access 750 equipment. Adtran quoted a charge of $375.00 for a Remote Installation and $990.00 for an Onsite Installation.[26] I also examined Allegiance Telecom's tariffed rate in Missouri for the installation of its Integrated Access Service. Allegiance charges a non-recurring charge of $899.00.[27]

[26] For ease of reference a copy of the Adtran installation quote is attached to this testimony as Exhibit JFF-9.
[27] For ease of reference a copy of the relevant Allegiance Tariff pages are attached to this testimony as Exhibit JFF-10.

Q. WHAT CONCLUSION DID YOU REACH ABOUT YOUR INSTALLATION COST ESTIMATES AFTER REVIEWING THE ADTRAN AND ALLEGIANCE INSTALLATION COSTS?

A. I concluded that my estimates of the installation costs were conservatively low.

Q. WHAT DATA DID YOU EXAMINE IN SUPPORT OF YOUR ESTIMATE OF THE REPAIR RATE FOR THE CHANNEL BANK EQUIPMENT?

A. I examined trouble rate data for Qwest DS1 capable loops. While recognizing that the trouble rate for an unbundled loop is not the same as the trouble rate for the Channel Bank Equipment, I viewed the DS1 trouble rate data as a sanity check for my assumption of one repair visit every three years. I used Qwest DS1 unbundled loop data because I often review it, it is publicly available and I was unable to review any similar SBC data without an SBC-provided password. The Qwest results were the monthly trouble rate results for its entire fourteen state region for DS1 capable loops.[28] The trouble rates for the last six months are shown in the table below.

Month	Regional DS1 Capable Loop Trouble Rate
Nov-03	3.07
Oct-03	2.93
Sep-03	2.90
Aug-03	3.72
Jul-03	3.81
Jun-03	3.45

[28] Qwest Performance Results, Regional, December 02 – November 03, PID Format, December 18, 2003, p. 309. The complete performance measurements report can be viewed at http://www.qwest.com/wholesale/downloads/2003/031219/RG_271_Dec02-Nov03_Exhibit_PID-Final.pdf.

The Qwest DS1 capable loop trouble rate of about 3% a month or 36% in a year added support to my assumption of a repair visit once every three years.

Q. DID YOU COMPARE YOUR MAINTENANCE COST ESTIMATES FOR THE CHANNEL BANK EQUIPMENT TO ANY OTHER SOURCES?

A. Yes. The Adtran webpage that provided a quotation for the installation of the Total Acesss 750 Channel Bank equipment also provided the ability to request a quotation for a Maintenance Contract. Adtran quoted a price of $330.00 for a one-year service contract and $891.00 for a three-year service contract for the Adtran Total Access 750 equipment.

Q. WHAT CONCLUSION DID YOU REACH ABOUT YOUR MAINTENANCE COST ESTIMATES AFTER REVIEWING THE ADTRAN MAINTENANCE QUOTATION?

A. I concluded that my estimates of the maintenance costs were conservatively low.

Q. WHY DID THE CROSS OVER ANALYSIS INCLUDE A COST FOR THE EQUIPMENT REMOVAL?

A. I included this cost because the channel bank equipment may have residual value that allows it to be reused at another customer's location or refurbished and then reused. In addition, from the perspective of the customers, if the customer has changed providers, the customer is likely to want the CLEC to remove the equipment. When the customer terminates the service it receives from the CLEC,

the CLEC must send a technician to the customer's premises to disconnect and remove the channel bank and related equipment deployed by the CLEC. For the purpose of the analysis, I estimated that this work would require one hour of labor (including travel).

Q. DO YOU HAVE ANY ADDITIONAL COMMENTS REGARDING STAFF'S RESPONSE TO YOU CROSS OVER ANALYSIS?

A. Yes. Staff Witness Thomas states that to the extent he is not satisfied with the additional information I have supplied herein, he would support use of the Sprint's cross over recommendation.[29] I would also suggest another alternative to Staff, as well. All of the assumptions and inputs in my analysis are adjustable. So, to the extent Staff thinks my assumptions and inputs are too conservative or otherwise inappropriate, I can work with Staff to make adjustments.

<u>Response to Mr. Fleming</u>

Q. WHAT WERE YOU GENERAL IMPRESSIONS OF MR. FLEMING'S TESTIMONY ON THE DS0 CROSS OVER POINT?

A. My general impression is that there was some commonality in how we both approached the cross over analysis, there was also very significant differences based upon flaws in SBC's assumptions or inputs.

[29] Thomas Rebuttal, p. 8.

Q. WHAT WERE SOME OF THE COMMON ASPECTS OF YOUR RESPECTIVE ANALYSES?

A. Both analyses:

1. Attempted to quantify the costs of serving a customer with a DS1 based service that is commonly known as an Integrated Access Service ("IAS");

2. Used Adtran equipment as the customer premises equipment ("CPE") used to provide the IAS;

3. Amortized certain non-recurring costs over the assumed life of the customer; and

4. Used circuit lives to estimate network costs for network equipment.

Q. WHAT IS THE FIRST FLAW THAT YOU IDENTIFIED IN SBC'S CROSS OVER ANALYSIS?

A. The first flaw I noted in SBC's analysis is that Mr. Fleming's cross over point recommendation deviates from the clear guidance that the FCC provided in how the cross over point should be determined. Certain of Mr. Fleming's recommendations assume revenue from data services. As I discussed in my Direct Testimony, the FCC suggested that the number of DS0 lines a customer uses at a particular location would be an appropriate unit for the cross over analysis.[30] Specifically, the FCC stated, "as part of the economic and operational

[30] Finnegan Direct Testimony, p. 3.

analysis discussed below, a state must determine the appropriate cut-off for multi-line DS0 customers as part of its more granular review."[31] The FCC asked the state commissions to identify a bright line number of DS0 lines needed at a particular customer location before the customer crosses over from the mass market to the enterprise market.

There is no support in the FCC order that a state cross over point decision should make such an assumption. Instead the decision should identify a specific number of DS0 lines.

The FCC was clear that the cut off should be limited to voice service. Specifically, the FCC stated:

> We define "DS1 enterprise customers" for our impairment analysis as customers for which it is economically feasible for a competing carrier to ***provide voice service*** with its own switch using a DS1 or above loop. We find that this includes all customers that are served by the competing carrier using a DS1 or above loop. After the state commission conducts a "multiline DS0 cut-off" inquiry, it includes customers who could be served by the competing carrier using a DS1 or above loop.[33]

The FCC also stated:

> At some point, customers taking a sufficient number of multiple DS0 loops could be served in a manner similar to that described

[31] *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, and Deployment of Wireline Services Offering Advanced Telecommunications Capability,* CC Docket Nos. 01-338, 96-98 & 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. Aug. 21, 2003) *("Triennial Review Order"* or *"TRO").* ¶ 497.
[32] Fleming Direct Testimony, p. 34.
[33] TRO, footnote 1296, emphasis added

> above for enterprise customers – that is, ***voice services*** provided over one or several DS1s…[34]

Given the FCC's direction that the cross over analysis be conducted with voice service, it is inappropriate for Mr. Fleming to interject data services into the equation. Including data services in SBC's analysis is nothing less than SBC bootstrapping.

Q. WHAT IS THE SECOND FLAW IN SBC'S APPROACH?

A. The second significant difference is that Mr. Fleming inappropriately assumes there will be a myriad of revenue opportunities available to a CLEC when the CLEC serves the customer but which were not assumed when the customer was a multiline plain old telephone service ("POTS") customer. Mr. Fleming's analysis is internally inconsistent.

It is self-serving and contrary to how CLECs and even SBC for that matter serve customers for Mr. Fleming to assume no data opportunities with multiple POTS lines and lots of data opportunities with an IAS. In addition to the misuse of data in the analysis, Mr. Fleming's assumption is improper and skews the analysis.

[34] TRO, ¶ 497, emphasis added.
[35] Fleming Direct Testimony, p. 1.
[36] Fleming Direct Testimony, Schedule GAF-6, p. 2.

Q. IS A MULTILINE POTS CUSTOMER LIKELY TO BE WILLING TO PAY A PREMIUM PRICE TO HAVE ITS TELECOMMUNICATIONS NEEDS SATISFIED VIA A DS1 ARCHITECTURE RATHER THAN MULTIPLE POTS LINES?

A. No. An existing customer with multiple POTS lines is generally not going to be willing to pay a premium price to have its telecommunications needs satisfied with a DS1 architecture. Rather, to convince a customer that is currently being served with multiple POTS lines to leave its current carrier, a carrier that chooses to serve that customer with a DS1 architecture will likely have to offer the customer a reduction in the price the customer was paying for telecommunications services. Customers are much more concerned about the price they are paying for telecommunications service than the architecture that is used to provide the service.

Indeed, even SBC recognizes that customers should expect a savings in their telecommunications cost if they are considering a switch from multiple POTS lines to an IAS. In the SBC Missouri web page that promotes its SBC PremierSERV^{SM} T1 Integrated Access Solution, SBC states:

> SBC PremierSERV T1 Integrated Access Solutions is a complete solution that allows you to combine—over a T1 access line—local service, Dedicated Internet Access, Frame Relay, and CPE. SBC PremierSERV T1 Integrated Access Solutions offers you a menu of services you can tailor to fit your communication needs. It allows you to combine the services you already use in a package for ***potential cost savings*** and increased efficiency.
>
> ***

> **Economy**— SBC PremierSERV T1 Integrated Access Solutions ***potentially lowers your total telecommunications cost*** by combining multiple services on a single facility and maximizing all the available channels. By consolidating your network, ***you may minimize your cost***.[37] (emphasis added)

Mr. Fleming also recognized that the total revenue from a customer should be reduced when the customer moves from multiple POTS lines to an IAS when he stated, "[m]any CLECs offer service packages that include multiple voice, data, and Internet combinations over a single DS1 line, thereby saving customers money on their overall telecommunications bills."[38] In sum, serving a customer with a DS1 type service is neither going to allow a carrier to sell a wider variety of service to a multiple POTS line customer nor allow the CLEC to charge a premium price. SBC's notion that there is an "increased revenue opportunity" by serving a multiple POTS line customer with a DS1 type service is not supported by the realities of the small and medium business market or SBC's own marketing information.

Q. WHAT IS THE THIRD SIGNIFICANT FLAW IN SBC'S APPROACH?

A. The third significant flaw is that Mr. Fleming compares the cost of the DS1 service to the cost of a CLEC serving the customer with its own switch and multiple SBC loops. It is inappropriate to compare the DS1 costs to the costs of a CLEC's own switch and SBC-provided loops (hereafter referred to as UNE-L). Rather, the comparison should be between the costs to serve a customer with a

[37] Viewed at http://www01.sbc.com/Products_Services/Business/ProdInfo_1/1,,1205--4-1-33,00.html on January 15, 2004.
[38] Fleming Direct, p. 30.

DS1 service and the costs to serve the customer with multiple UNE-P lines. This issue is fundamentally about the number of lines below which SBC would no longer have to offer mass market switching at TELRIC rates. For mass market customers, UNE-P is the most economical method of serving the customer and consequently, what a rational CLEC would consider when deciding how to serve a customer with multiple POTS lines.

As SBC is aware, the overall costs to provision service with UNE-L are higher than the costs to provision UNE-P.[39] In Mr. Fleming's analysis, he compares the costs of a single DS1 service to the costs of a single UNE-L service. Since SBC's goal appears to be to set the cross over point as low as possible, SBC's "game" is to set the DS1 costs as low as possible and set the multiple POTS line costs as high as possible. As I will demonstrate in this testimony, Mr. Fleming's analysis does both. Mr. Fleming use the higher UNE-L costs, rather than the lower UNE-P costs to accomplish the goal of setting the multiple POTS lines as high as possible.

The use of UNE-L as the basis of comparison resulted in Mr. Fleming calculating a "DLC Savings per DS0" of $17.39 per year.[40] He then uses those savings as an offset to the DS1 costs. If Mr. Fleming used the less expensive, more appropriate UNE-P option, that savings would not be applicable and the DS1 costs would rise accordingly. Mr. Fleming's use of UNE-L also required the addition of UNE-L

[39] It should be noted that Mr. Fleming's UNE-L analysis does not include the costs of collocation space, switching or backhaul.
[40] Fleming Direct Testimony, Schedule GAF-6, p. 6.

hot cut costs. Once again, if Mr. Fleming used the less expensive UNE-P costs, the multiple POTS line costs would be lower.

Q. WHAT IS THE FOURTH SIGNIFICANT FLAW IN MR. FLEMING'S ANALYSIS?

A. A fourth significant flaw is that SBC's analysis understates the cost of providing a DS1-based service. I visited the web pages that were the basis of Mr. Fleming's Adtran 850 equipment prices and it appears that Mr. Fleming's configuration does not include any costs for battery backup. I have attached a copy of the Nextag.com and CDW.com web pages on Adtran 850 pricing to this testimony as Exhibit JFF-11. Mr. Fleming identified a price range from NexTag.com of $1,008.00 to $1,220.00 and a price of $1,569.63 from CDW.com for an Adtran 850 chassis bundle. As can be seen on page 2 of Exhibit JFF-11, the Adtran TA850 AC Chassis Bundle w/PSU BCU L2 & AC Charger price range is $1,028 to $1,213.00 from NexTag.com. On page 3 of Exhibit JFF-11 can be seen an Adtran 850 unit with a price of $1,569.63 from CDW.com. Neither configuration in NexTag.com nor CDW.com includes the battery backup. As can be seen on page 1 of Exhibit JFF-11, the NexTag.com prices for an Adtran TA750/850 Standalone Battery Back-Up System ranges from $255.00 to $332.00. These prices are consistent with the prices I used in my cross over analysis.

As I discussed in my Direct Testimony, the absence of a battery backup would leave the customer without telephone service in the event of an electric power

outage.[41] In contrast, a customer with multiple POTS lines would not lose telephone service during a commercial power outage. To ensure that the customer's telephone service is at least as good with a DS1-based service as with multiple POTS lines, it is imperative that the Adtran 850 equipment include the battery backup system.

Mr. Fleming's analysis is also flawed in that he did not include any costs for the CLEC to install the channel bank equipment at the customer's premises. As I discuss earlier in this testimony, Adtran would charge $375.00 for a remote installation. In a remote installation, Adran does not send an installer to the customer's premises. Instead, an Adtran technician would be on the telephone assisting the person that is doing the actual installation. If Adtran were to send a technician to the customer's premises to install the unit, the cost would be $990.00. While my analysis conservatively used a less expensive installation cost, there clearly is a cost incurred by the CLEC to install the equipment at the customer's premises. Mr. Fleming's failure to include that cost is a significant flaw and results in an understatement of the DS1 costs.

In addition, Mr. Fleming failed to include any costs for maintenance of the equipment or its removal after the customer has left the provider.

[41] Finnegan Direct Testimony, pp.15 – 17.

Q. WHAT IS THE FIFTH MAJOR FLAW IN MR. FLEMING'S ANALYSIS?

A. A fifth major flaw in Mr. Fleming's analysis is he failed to include in the DS1 costs the non-recurring and recurring costs of the DS1 cross connection and the central office access charge. SBC charges CLECs a non-recurring and recurring monthly rate for the connection between the SBC main distribution frame and the CLEC's collocation. SBC also charges CLECs a central office access charge when its technicians perform installation work in an SBC central office. As I pointed out in my Direct Testimony, the recurring cost of a cross connection for a DS1 unbundled loop is $9.00 and the nonrecurring cost is $45.03.[42] Mr. Fleming's analysis should have included this charge.

Q. WHAT IS THE SIXTH MAJOR FLAW IN MR. FLEMING'S ANALYSIS?

A. The sixth major flaw in Mr. Fleming's analysis is that he did not include any costs for backhaul, switching, and transport in the DS1 costs. This failure resulted in an understatement of the DS1 costs. Backhaul costs to a CLEC's switch, the actual switch costs and the costs of transporting traffic into and from the CLEC's switch are all costs the factor into the economies of providing a DS1-based service. My analysis includes those costs.

[42] M2A Appendix Pricing UNE, Schedule of Prices, June 27, 2003.

Q. WHAT IS THE SEVENTH SIGNIFICANT FLAW IN MR. FLEMING'S APPROACH?

A. The seventh significant flaw in Mr. Fleming's approach is that he understated the churn rate. Mr. Fleming used a churn rate of 1% per month.[43] Using this churn rate, Mr. Fleming amortized the DS1-related non-recurring costs over a ten-year period. It is unreasonable to believe that a customer is going to stay with a provider for ten years. The unreasonableness of assuming a customer will stay with a CLEC for ten years is underscored by SBC's winback rates for local access lines as SBC reported them to the financial community. SBC touted its success with winbacks to the financial community, stating "SBC's consumer winback rate improved to 52 percent in the second quarter, up more than 1,000 basis points from the first quarter this year and double its consumer winback rate in the second quarter of 2002."[44] SBC also bragged "SBC's business winback rate also topped 50 percent in the second quarter."[45] SBC has also previously stated that its winback rates for both consumer and business in states where it enjoys the ability to offer long distance services (such as Missouri) is greater than 50%.[46] An SBC assumption that a CLEC will maintain a customer for ten years flies directly in the face of the guidance SBC has been providing to the financial community. It is hard to see how a CLEC can maintain a customer for ten years if SBC is winning back over half of its business customers that were lost to CLECs.

[43] Fleming Direct Testimony, Schedule GSF-6, p. 7.
[44] SBC Investor Briefing, July 24, 2003, No. 237, p. 6.
[45] Id.
[46] SBC Investor Briefing, October 24, 2002, No. 233, p. 5.

Q. EVEN WITH THE NUMEROUS FLAWS IN THE ANALYSIS, WHAT DOES MR. FLEMING'S ANALYSIS SHOW?

A. Even with all of its flaws, Mr. Fleming's analysis shows a cross over point that is much higher than the four lines it is recommending this Commission adopt. Notwithstanding that Mr. Fleming understated the DS1 related costs and overstated the POTS costs, using Mr. Fleming's costs without adjustment results in a cross over point that is much higher than four lines. The below table shows the cross over result obtained if the SBC's calculated DS1 costs are divided by the SBC's calculated UNE-L costs.

SBC Proposed Costs[47]	Zone 1	Zone 2	Zone 3	Zone 4
DS1	$164.09	$168.48	$170.13	$164.28
UNE-L	$13.82	$19.75	$20.85	$17.52
Cross Over Point	11.87	8.5	8.15	9.37

If all of the appropriate DS1 costs were included, a more reasonable churn rate was employed and the POTS analysis used UNE-P instead of UNE-L, the SBC analysis would produce a cross over point much closer to the thirteen line recommendation that I made in my Direct Testimony.

Q. DOES THAT CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

[47] Fleming Direct Testimony, Schedule GAF-6, p. 9