

ALABAMA PUBLIC SERVICE COMMISSION

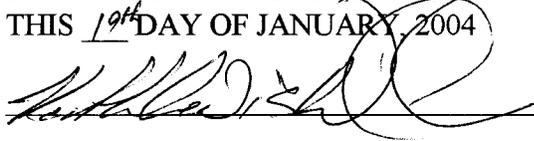
COUNTY OF California  
STATE OF Alameda

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Christopher J. Pleatsikas, who being by me first duly sworn deposed and said that he/~~she~~ is appearing as a witness on behalf of BellSouth Telecommunications, Inc. before the Alabama Public Service Commission in Docket No. 29054, IN RE: Implementation of the Federal Communications Commission's Triennial Review Order (Phase II - Local Switching for Mass Market Customers), and if present before the Commission and duly sworn, his/her statements would be set forth in the annexed direct testimony consisting of 13 pages and 2 exhibits.

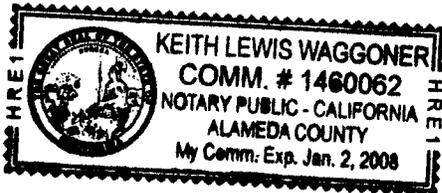


Christopher Jon Pleatsikas

SWORN TO AND SUBSCRIBED BEFORE ME  
THIS 19th DAY OF JANUARY, 2004



Notary Public



1 **BELLSOUTH TELECOMMUNICATIONS, INC.**

2 **BEFORE THE**

3 **ALABAMA PUBLIC SERVICE COMMISSION**

4 **DOCKET NO. 29054 PHASE II**

5 **DIRECT TESTIMONY OF**

6 **DR. CHRISTOPHER JON PLEATSIKAS**

7

8 **Q. PLEASE STATE YOUR NAME AND POSITION.**

9 A. My name is Christopher Jon Pleatsikas. I am a Principal at LECG, Inc. My  
10 business address is 2000 Powell Street, Suite 600, Emeryville, California 94608.

11

12 **Q. PLEASE DESCRIBE LECG.**

13 A. LECG is an economics and finance consulting firm that provides economic  
14 expertise in litigation, regulatory proceedings, and business strategy. Our firm  
15 comprises more than 550 economists from academe and business, and has 25  
16 offices in six countries. LECG's practice areas include antitrust analysis,  
17 intellectual property, and securities litigation, in addition to specialties in the  
18 telecommunications, gas, electric, and health care industries.

19

20 **Q. PLEASE DESCRIBE YOUR PROFESSIONAL QUALIFICATIONS.**

21 A. I have a B.A. from the University of Pennsylvania, as well as an M.S. in Natural  
22 Resources from the University of Vermont and an M.A. and a Ph.D. in Regional

1 Economic Analysis from the University of Pennsylvania. I have taught economics  
2 at both the University of Pennsylvania and the University of Maryland. My  
3 particular areas of expertise are industrial organization, competition policy, and  
4 microeconomics. I have extensive experience, both in the U.S. and abroad, in  
5 damages analysis, antitrust litigation, and in other litigation and strategic consulting  
6 assignments concerning a number of industries including telecommunications and a  
7 wide variety of other network industries. I have testified and submitted testimony  
8 before a number of courts and administrative agencies both in the U.S. and abroad.  
9  
10 Prior to joining LECG, I was a Principal at Putnam Hayes & Bartlett. I have also  
11 been a Manager in the Economic Analysis Unit at Price Waterhouse. I have  
12 authored and co-authored a number of papers. My most recent papers include a  
13 book chapter and a journal article on analyzing market definition and market power  
14 issues in high technology industries and a journal article comparing the merger  
15 guidelines in the United States, Australia, and New Zealand. My professional  
16 qualifications are detailed in my curriculum vitae, which is submitted as Pleatsikas  
17 Exhibit No. CJP-1.

18  
19 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

20 A. Section 51.319(d)(2)(i) of the Rules promulgated by the Federal Communications  
21 Commission (“FCC”) in connection with its Triennial Review Order (“TRO”)

1 requires state commissions to define the “relevant geographic area” that they will  
2 use as their geographic unit of analysis in determining whether competitive local  
3 exchange carriers (“CLECs”) are impaired without unbundled access to an  
4 incumbent local exchange carrier’s (“ILEC’s”) local circuit switching to serve  
5 mass-market customers. The purpose of my testimony is to provide the  
6 appropriate, economically sound definition of these “geographic areas” for the  
7 Alabama Public Service Commission’s (“Commission’s”) use in this proceeding.

8

9 **Q. WHAT IS THE ROLE OF THE GEOGRAPHIC MARKET DEFINITION IN**  
10 **AN IMPAIRMENT ANALYSIS?**

11 A. The FCC requires that, having defined “the markets in which they will evaluate  
12 impairment by determining the relevant geographic area to include in each market,”  
13 a state commission must apply the impairment analysis required for unbundled  
14 local switching for mass-market customers “on a granular basis to each identifiable  
15 market” (TRO, ¶495).

16

17 That is, having decided how to define the geographic markets, the Commission  
18 must determine whether CLECs are impaired or not impaired at the level of these  
19 geographic markets—no determination of impairment at a different geographic  
20 scale should be made. Further, the same geographic area must be used for both the

1 “triggers” analysis and the “potential deployment” analysis that this Commission  
2 must perform.

3

4 **Q. DOES THE FCC PROVIDE GUIDANCE REGARDING THE DEFINITION**  
5 **OF THE APPROPRIATE GEOGRAPHIC AREAS TO BE USED IN A**  
6 **STATE COMMISSION’S IMPAIRMENT ANALYSIS?**

7 A. Yes, it does. Section 51.319(d)(2)(i) provides that direction, stating:

8 Market definition. A state commission shall define the markets in  
9 which it will evaluate impairment by determining the relevant  
10 geographic area to include in each market. In defining markets, a  
11 state commission shall take into consideration the locations of mass  
12 market customers actually being served (if any) by competitors, the  
13 variation in factors affecting competitors’ ability to serve each group  
14 of customers, and competitors’ ability to target and serve specific  
15 markets profitably and efficiently using currently available  
16 technologies. A state commission shall not define the relevant  
17 geographic area as the entire state.

18

19 **Q. DR. PLEATSIKAS, GIVING APPROPRIATE CONSIDERATION TO THE**  
20 **FCC’S DIRECTION, CAN YOU PROVIDE THE DEFINITION OF THE**

1           **GEOGRAPHIC MARKET THAT YOU BELIEVE THE COMMISSION**  
2           **SHOULD APPLY IN THESE PROCEEDINGS?**

3    A.    Yes. Based on my considerations of the factors that the FCC has outlined, I  
4           recommend that the Commission define as the relevant geographic markets in  
5           Alabama the unbundled network elements rate zones (“UNE Zones”) that this  
6           Commission has defined previously, subdivided into Component Economic Areas  
7           (“CEA”) as defined by the Bureau of Economic Analysis, a part of the United  
8           States Department of Commerce. I have attached as Pleatsikas Exhibit No. CJP-2 a  
9           map that displays the 34 markets that exist in Alabama as a result of using this  
10          definition.

11

12   **Q.    WHY ARE THE COMMISSION’S UNE ZONES THE APPROPRIATE**  
13   **STARTING POINT FOR THE DEFINITION OF THE GEOGRAPHIC**  
14   **AREA?**

15   A.    The FCC’s discussion in its TRO suggested that state commissions might “consider  
16           how UNE loop rates vary across the state” in determining the geographic markets,  
17           and that UNE zones may therefore be a useful part of the market definition to use in  
18           this proceeding (TRO, ¶496).

19

20           Moreover, using UNE Zones as the basis for market definition is directly  
21           responsive to the TRO’s Rule that I cited. UNE Zones reflect the “locations of

1 mass-market customers actually being served by competitors.” I understand that  
2 CLECs in Alabama serve the greatest number of customers in the more urban UNE  
3 Zones 1 and 2 than in the more rural UNE Zone 3. UNE Zones also take into  
4 account the “variation in factors affecting competitors’ ability to target and serve  
5 specific markets profitably,” because loop rates are determined by UNE Zone, with  
6 higher UNE loop rates in areas that are more costly to serve. This variation in costs  
7 is an important factor in determining where a CLEC may be able to serve  
8 customers profitably because, although each CLEC will have to consider a number  
9 of company-specific factors in deciding where to offer services with its own switch,  
10 most CLECs will have to consider the cost of the unbundled loops used to connect  
11 end users to the CLECs’ switches. Use of UNE Zones is therefore directly  
12 responsive to the TRO’s guidance to “consider how competitors’ ability to use self-  
13 provisioned switches or switches provided by a third-party wholesaler to serve  
14 various groups of customers varies geographically...” (TRO, ¶ 495).

15  
16 In Alabama, as in most other states, the Commission has divided the state into three  
17 separate zones, with different unbundled loop rates in each zone. The price of a  
18 loop is a factor a CLEC considers when determining where it will provide mass-  
19 market service using its own switch. This is the behavior we have seen with  
20 CLECs using the unbundled network element-platform (“UNE-P”), whose rates  
21 also vary by UNE Zone. For example, according to one investment analyst, AT&T

1 takes a targeted approach to market entry and enters only those areas where its  
2 UNE-P costs are at a 45 percent (or greater) discount to retail prices.

3

4 **Q. WHY SHOULD UNE ZONES BE FURTHER SUBDIVIDED TO DEFINE**  
5 **THE RELEVANT GEOGRAPHIC MARKETS IN ALABAMA?**

6 A. The TRO repeatedly indicates the determination of impairment be “granular,” i.e.,  
7 that the geographic areas chosen must be smaller than a state and should “attempt  
8 to distinguish among markets where different findings of impairment are likely”  
9 (TRO, ¶495). In Alabama, for example, there are local telephone subscribers  
10 located in UNE Zone 1 in Birmingham, and there are local telephone subscribers  
11 located in UNE Zone 1 in Mobile. Even though all of these customers are in the  
12 same UNE Zone, and therefore a competitor would face the same UNE loop prices  
13 in both places, the two areas are so geographically distant that the costs of transport  
14 could impact the ability to consider these two distant locations to be a single  
15 market. That is not to say that UNE Zones 1 in Birmingham and Mobile might not  
16 be a single market for some CLECs, but to be granular in the assessment of  
17 impairment, it is necessary to further divide the UNE zones to account for other  
18 types of costs that separate Birmingham and Mobile into distinct geographic  
19 markets. Having considered several alternatives, I find that superimposing the  
20 Component Economic Areas (“CEAs”) on top of the UNE Zones addresses issues  
21 such as this in an economically reasonable manner. I would note that CEA

1 boundaries follow county lines, and zones follow wire center boundaries. As a  
2 result, sometimes a CEA boundary will split a wire center service area. In these  
3 instances, the entire wire center is associated with the CEA in which the majority of  
4 the wire center area falls. You can see an example of this by looking at Pleatsikas  
5 Exhibit No. CJP-2 and particularly at the Columbus GA-AL CEA. You will see  
6 that the Columbus GA-AL CEA Zone 2 market area actually extends across the  
7 CEA boundary into the Anniston, AL CEA.

8

9 **Q. WHAT IS A CEA?**

10 A. A CEA is one of 348 geographic areas defined by the U.S. Government's Bureau  
11 of Economic Analysis ("Bureau"). Each CEA comprises adjacent counties that are  
12 economically related, and collectively, the 348 CEAs cover the entire United  
13 States. The Bureau devised CEAs to define granular, economically meaningful  
14 geographic areas that could be used, for example, by "government agencies [that]  
15 often use relatively small areas for design of their program regulations or  
16 implementation of their licensing programs," or by "businesses [that] need such  
17 detail for determining plant locations and for defining sales and marketing  
18 territories." CEAs have, for example, been used by the FCC for its geographical  
19 licensing schemes and used by the Bureau as the basis for its local economic  
20 projections.

21

1 **Q. HOW ARE CEAS DETERMINED?**

2 A. The Bureau has described the process that it used to determine CEAs in the  
3 following manner. The Bureau first identified “economic nodes,” which are  
4 metropolitan (or similar) areas that serve as “centers of economic activity.” The  
5 Bureau then assigned to each node those counties that were “[the] most closely  
6 related.” Thus, each CEA consists of a single economic node and the surrounding  
7 counties that are economically related to the node. Of the nodes, nationwide, 90  
8 percent are in metropolitan areas, and 10 percent are in non-metropolitan areas.  
9 The resulting CEAs are continuous and cover the entire country.

10

11 CEAs were created to be economically meaningful in that they separate various  
12 parts of a state into different geographic market areas based on economic factors  
13 (such as commuting patterns and newspaper readership). Using the CEA creates a  
14 geographic area with a community of interest. For example, because CEAs reflect  
15 newspaper circulation and commuting patterns, a CLEC could choose to market in  
16 one CEA but not in another, e.g., through print advertising and billboards. In short,  
17 my definition of the appropriate “geographic area” takes one concept that is  
18 relevant for this proceeding, namely the UNE Zones, and subdivides those zones by  
19 another relevant geographic delimiter, the CEA, to produce a set of granular,  
20 economically-meaningful markets consistent with the TRO’s guidance.

21

1 **Q. ARE THERE OTHER DEFINITIONS OF THE RELEVANT GEOGRAPHIC**  
2 **MARKET THAT THE COMMISSION COULD CONSIDER?**

3 A. The answer is yes, in part. I believe that any definition that is not based on UNE  
4 Zones would be inappropriate. Once the decision to use UNE Zones is made,  
5 however, there are other ways to subdivide the UNE Zones that the Commission  
6 could consider. I have considered those that appear relevant, and have determined  
7 that UNE Zones subdivided by CEAs is the most reasonable basis for defining  
8 geographic market for the present purposes.

9  
10 **Q. COULDN'T THE COMMISSION SUBDIVIDE THE UNE ZONES BY**  
11 **METROPOLITAN STATISTICAL AREAS ("MSAS")?**

12 A. Yes it could. Unlike CEAs, however, MSAs do not cover an entire state. For  
13 example, of the 3,151 counties in the U.S., only 836 are part of an MSA. In  
14 contrast, all counties are associated with a relevant CEA. Accordingly, if the  
15 Commission chose to use MSAs (along with UNE Zones), parts of Alabama would  
16 be excluded from consideration in any impairment test.

17  
18 **Q. YOU HAVE DISCUSSED USING UNE ZONES SUBDIVIDED BY CEAS OR**  
19 **MSAS. WHAT ABOUT USING SMALLER GEOGRAPHIC AREAS SUCH**  
20 **AS WIRE CENTERS?**

1 A. My conclusion is that using wire centers would be inconsistent with economic  
2 principles and with the tenets established in the TRO. The FCC in its order said  
3 that the states “should not define the market so narrowly that a competitor serving  
4 that market alone would not be able to take advantage of available scale and scope  
5 economies from serving a wider market” (TRO, ¶495). The FCC also required  
6 state commissions to take into consideration the locations of mass-market  
7 customers actually being served by competitors. A wire center level definition of  
8 the geographic market does not satisfy either of these criteria and is therefore  
9 inappropriate.

10  
11 To elaborate, CLECs today are not limiting the customers they serve from a single  
12 switch to those located in a single wire center. Rather, they are casting their nets as  
13 wide as is economically feasible to take advantage of economies of scale. This  
14 observation is consistent with actions the CLECs have taken to design and  
15 implement their networks independent of the existing ILEC’s network and wire  
16 centers. To use the language of the TRO, the ability to design a network to take  
17 advantages of the relative economics of switching, loops, and transport is one of the  
18 “countervailing advantages” that a new entrant may have (TRO at ¶84).

19  
20 **Q. WHAT SUPPORT DO YOU HAVE FOR THE PROPOSITION THAT**  
21 **CLECS HAVE NOT BUILT THEIR NETWORKS TO SERVE**

1           **CUSTOMERS BASED ON WHERE THE CUSTOMERS ARE LOCATED**  
2           **IN RELATION TO THE ILEC'S WIRE CENTERS?**

3    A.    I understand that the BellSouth witness discussing the “triggers” test has analyzed  
4           the locations of CLEC switches and CLEC customers and has found that the  
5           CLECs are serving customers in wire centers other than where their switches are  
6           located. In addition, the CLECs have been very clear that they are not designing  
7           their networks based on BellSouth’s hierarchy of wire centers. For example, in the  
8           transcript of an arbitration between AT&T and BellSouth in Florida (Docket No.  
9           000731-TP), the prefiled testimony of David L. Talbott, a witness for AT&T, notes  
10          that AT&T deploys its switches consistent with the “costs and efficiencies of  
11          today’s technologies.” Mr. Talbott stated in his prefiled testimony that AT&T has  
12          deployed fewer switches and more transport on the end user side of the switch  
13          (Transcript Vol. 1, page 94). The witness was very clear that AT&T did not intend  
14          to replicate BellSouth’s wire center-based architecture. AT&T also indicated in  
15          that proceeding that, even though it did not have as many switches as BellSouth, its  
16          switches were capable of serving every customer in BellSouth’s geographic  
17          footprint.

18  
19          Wire centers have been defined in terms of BellSouth’s switch locations and the  
20          customers served by those switches. AT&T has chosen another approach, which is  
21          to serve customers in a wider geographic area with a single switch, as have any

1           number of other CLECs. Therefore, the wire center concept is not relevant to  
2           market definition in this context, and specifically not economically relevant in  
3           terms of how CLECs provision services to their end users. The geographic scope  
4           of the service offered is limited in part by the CLEC's ability to economically serve  
5           those customers using the CLECs' network design, not by the location or span of  
6           BellSouth's wire centers.

7

8   **Q.    DOES THIS CONCLUDE YOUR TESTIMONY?**

9    A.    Yes it does.