

Competition in Telecommunications Markets in Florida

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LIST OF ACRONYMS

ACI	Arrow Communications, Inc.
ALEC	Alternative Local Exchange Company
AT&T	AT&T Comm. of the Southern States
ATM	Asynchronous Transfer Mode
BEBR	Bureau of Economic and Business Research
Bell Laboratories	Bell Laboratories, Inc.
BellSouth	BellSouth Telecommunications, Inc.
COCUS	Central Office Code Utilization Survey
COLR	Carrier of Last Resort
Commission	Florida Public Service Commission
CTIA	Cellular Telecommunications Industry Assoc.
DSL	Digital Subscriber Line
FCC	Federal Communications Commission
FCCA	Florida Competitive Carriers Association
FLEC	Forward-Looking Economic Costs
FNPRM	Further Notice of Proposed Rulemaking
FPSC	Florida Public Service Commission
FTIA	Florida Telecommunications Industry Assoc.
GTEFL	GTE Florida, Inc.
ISP	Internet Service Provider
Joint Board.....	Federal-State Joint Board

LATA	Local Access and Transport Area
LEC	Local Exchange Company
LERG	Local Exchange Routing Guide
LNP	Local Number Portability
MCI	MCI Telecommunications Corp.
MTE	Multitenant Environment
NANPA	North America Number Plan Administrator
NXX	End Office Code
NPA	Area Code
OSS	Operational Support System
PBX	Private Branch Exchange Trunk
PICC	Presubscribed Interexchange Carrier Charge
SLC	Subscriber Line Charge
Sprint	Sprint-Florida, Inc.
TA 96	Telecommunications Act of 1996
TSLRIC	Total Service Long Run Incremental Cost
UNE	Unbundled Network Element
US	Universal Service

EXECUTIVE SUMMARY

- This report is prepared to satisfy the statutory requirements of Section 364.386, Florida Statutes. It contains a review of the major FPSC actions in the past year, discusses the status of local exchange competition within Florida's telecommunications markets, and reviews key federal rulings that affect telecommunications in Florida.
- As of September 15, 1999, the Commission has received 9 petitions this year for arbitration of rates, terms, and conditions for interconnection, unbundling, and resale. Since January 1999, we have received 310 negotiated agreements between ALECs/LECs for review, and have approved 1,045 negotiated agreements since June 1996.
- As of June 30, 1999, 265 ALECs were certificated in Florida, 80 of which were providing local service to over 555,000 business and residential access lines.
- Florida has experienced gains in competition since the last report, although the LECs clearly remain the dominant providers. Measured with respect to access lines served, ALECs have increased their total market share from 1.8% to 5.0%. Their percentage of total business access lines grew from 4.3% to 12.2%; residential lines rose to 1.3%, compared to .7% in 1998. Competitive entrants appear to be venturing into other areas of the state instead of concentrating solely on the heavily populated

areas.

- Consumer complaints against the three major LECs that were a violation of Commission rules have dropped since last year's report. Comparing the first seven months of 1998 to the same period in 1999, BellSouth complaints per 1,000 access lines served declined from .0382 to .0097; GTEFL, from .0861 to .0101; and Sprint-Florida, from .0226 to .0103.
- The Commission has received 25 ALEC complaints against LECs since last year's report. While 18 have been resolved, seven are scheduled for hearings in the upcoming months.

CHAPTER I: INTRODUCTION

Chapter 364, Florida Statutes, provides the framework the Florida Public Service Commission uses for regulation of the telecommunications industry. One requirement contained therein is that the Commission prepare and deliver a report on "the status of competition in the telecommunications industry" to the Governor and the Legislature by December 1 of each year.

The details of this report are specified in Chapter 364.386, Florida Statutes, which requires that the report discuss the following points:

- The overall impact of local exchange telecommunications competition on the continued availability of universal service.
- The ability of competitive providers to make functionally equivalent local exchange services available to both residential and business customers at competitive rates, terms, and conditions.
- The ability of customers to obtain functionally equivalent services at comparable rates, terms, and conditions.
- The overall impact of price regulation on the maintenance of reasonably affordable and reliable high-quality telecommunication services.
- What additional services, if any, should be included in the definition of basic local telecommunications services, taking into account advances in technology and market demand.
- Any other information and recommendations which may be in the public interest.

In addition to these requirements, a 1997 amendment to Section 364.161(4), Florida

Statutes, requires that the report include a discussion of all complaints filed by alternative local exchange companies (ALECs) against incumbent local exchange companies (LECs).

Information for this report was obtained by surveying the LECs and ALECs. Additional research was conducted by reviewing numerous sources, such as ALEC certification records, FCC and FPSC orders and dockets, industry publications, and articles from an assortment of sources.

The report is divided into three chapters. Following this introduction, Chapter II discusses several significant issues addressed by the FPSC during the past year. Chapter III specifically discusses the six issues identified in Section 364.386, Florida Statutes, and provides the telecommunications competition information on an exchange by exchange basis. Chapter IV is the concluding chapter.

Three appendices are included in the report this year. Appendix A provides a list of the alternative local exchange providers certificated as of June 30, 1999, and identifies those companies that have a basic local price list on file as of June 30, 1999. Appendix B pinpoints key rulings by the FCC and the United States Supreme Court during the past year. Appendix C discusses other entrants into the telecommunications industry including wireless, cable and electric companies.

CHAPTER II: FLORIDA PUBLIC SERVICE COMMISSION ACTIONS

In this chapter we discuss some of the major actions taken by the Commission during the past year to foster a more competitive telecommunications marketplace in Florida. Topics discussed include: 1) The cost of basic local service report; 2) fair and reasonable rates study; 3) multi-tenant environment report; 4) area code relief; and 5) the Florida Competitive Carriers Association/AT&T petition.

THE COST OF BASIC LOCAL SERVICE

Section 364.025(4)(b), Florida Statutes, required the Commission to determine and report to the Legislature the total forward-looking cost of providing basic local telecommunications services on a geographic basis no larger than a wire center, using a cost proxy model that was to be selected by the Commission after a formal evidentiary hearing. As stated in the law, the purpose of this study was to assist the Legislature in establishing a permanent universal service mechanism. For small local exchange companies that serve fewer than 100,000 access lines, Section 364.025(4)(c), Florida Statutes, allowed the Commission to select a different proxy model or a fully distributed embedded cost allocation.

In October 1998, the Commission conducted an administrative hearing according to the provisions of Chapter 120, Florida Statutes, and our rules. Twenty parties intervened and participated in the proceeding. There were many issues addressed at the hearing, including the fundamental issue of defining “basic local service” for the purpose of potentially establishing a permanent universal service mechanism.

The principal point of contention between the parties was which cost proxy model

the Commission should select for the three major incumbent local exchange companies (LECs): BellSouth Telecommunications, Inc. (BellSouth), GTE Florida, Inc. (GTEFL), and Sprint-Florida, Incorporated (Sprint). BellSouth, GTEFL, and Sprint all supported the BCPM 3.1 cost proxy model. AT&T Communications of the Southern States, Inc. (AT&T) and MCI Telecommunications Corp. (MCI) sponsored the HAI 5.0a cost proxy model. Both models contain highly complex algorithms and require thousands of discrete input values. Proponents of both models argued that while neither model was perfect, their model was superior and best met the requirements of Section 364.025(a), Florida Statutes. After much deliberation, the Commission decided to adopt the BCPM 3.1 cost proxy model but with certain model revisions that were completed by the sponsors and submitted to the Commission by January 12, 1999.

The Commission accepted the use of the embedded cost methodology proposed by the small LECs but with several required adjustments. The embedded cost methodology generally produced a lower cost for basic local service than the outputs of the models, and the Commission majority believed that it was appropriate to use these lower costs. However, the Commission also provided in its report forward-looking cost data so that the Legislature had the entirety of information available for the small LECs. A report containing the FPSC's recommendations from the cost proxy model docket and related topics was submitted to the Legislature in February 1999 as required by Section 364.025, Florida Statutes.

FAIR AND REASONABLE RATES STUDY

Chapter 98-277, Sections 2(1) and 2(2)(a), Laws of Florida, directed the Commission to study what would be a fair and reasonable basic local telecommunications rate in Florida. This directive imposed the following requirements on the Commission: (1) to study and report to the Legislature the relationships among the costs and charges associated with providing basic local service, intrastate access, and other services provided by local exchange telecommunications companies, and (2) to report its conclusions as to the fair and reasonable Florida residential basic local telecommunications service rate considering affordability, the value of service, comparable residential basic local telecommunications rates in other states, and the cost of providing residential basic local telecommunication services in this state, including the proportionate share of joint and common costs. The statute also imposed a requirement on the local exchange companies to provide to the Commission cost data and analyses that support the cost of providing residential basic local telecommunications service in their service area.

On June 4, 1998, the Commission opened Special Project No. 980000A-SP, titled Fair and Reasonable Residential Basic Local Telecommunications Rates, to provide the forum to address the issues in this study. Numerous interested persons, representing various segments of the telecommunications industry as well as consumer advocates and the public, participated in this project. Information for the study was gathered through a multi-faceted approach, including:

- Customer Hearings - Twenty-two customer hearings were held throughout the state to allow customers to address the Commissioners. In addition, customers who were unable to attend the hearings in person were encouraged to express their concerns in writing.

- Cost Studies - On August 1, 1998, the local exchange companies filed cost and other data with the Commission. The information that was filed, along with an executive summary, was made available to consumers through the public libraries in each county. Customers were notified through bill inserts from their local exchange company of its availability.
- Affordability Survey - The Commission staff, in conjunction with interested persons, developed an affordability survey to gauge affordability through the eyes of the consumer. The telephone survey was conducted through the University of Florida's Bureau of Economic and Business Research (BEBR) Survey Program.
- Survey of Rates and Rate Actions in Other States - This portion of the study consisted of two components: First, a survey of rates in other states was conducted. Florida rates were compared to rates in other states after controlling for differences in average per capita income, local calling scope, and population density (a surrogate for cost). Second, the Commission analyzed recent rate actions in other states.
- Technical Workshop - The Commission conducted a four-day technical workshop in Tallahassee on October 1, 2, 8, and 9, 1998. At that workshop, ten organizations sponsored speakers. The discussion largely centered on the cost of providing service, with the debate on the merits of allocating loop costs being the most contentious issue.

Each of the components included in the study addressed one or more of the elements required by the statute: affordability, the value of service, comparable residential

basic local telecommunications rates in other states, and the cost of providing residential basic local telecommunication services in this state.

Conclusions: Report on Fair and Reasonable Rates

One of the possible goals of any change in local rates would be to encourage competition. However, there was general consensus that there is no significant landline competition in any residential telecommunications market in this country, even though other states have higher rates. Participants in the study raised doubts as to whether there would ever be meaningful landline competition for most residential customers in Florida, due to barriers¹ to entry and other factors. Additionally, supply conditions may dictate the industry structure. Instead of facilities-based services, landline competition may be in services provided over facilities of a few providers. Thus, higher rates alone might not be sufficient to foster competition in landline telecommunications services. Nevertheless, the Commission concluded that if rebalancing is considered as a boost to competition, an increase of up to \$5 per month may be appropriate, based solely on the four elements the Commission was charged with studying. It was recommended that any such rate increase be offset by decreases in other rates, including touchtone and intrastate switched access charges.

A major concern of any rate increase would be the loss of certain at-risk citizens from the system, including low income and fixed income consumers. The Lifeline Assistance Plan and a no-frills rate could help to mitigate the negative impact of a rate increase. Lifeline currently provides up to a \$10.50 per month credit toward local service

¹ Consumer perceived barriers to entry include rate issues, industry structure and wireless competition.

for qualifying low-income subscribers. Several possibilities were considered for a no-frills rate that would provide an affordable alternative for those customers who only wished to have a basic level of service.

The Commission's report was filed with the Legislature and the Governor on February 15, 1999. During the 1999 Legislative session, no action was taken to rebalance telecommunications rates in Florida.

MULTITENANT ENVIRONMENT REPORT

A multitenant environment (MTE) where a landlord or building owner controls access to the telecommunications' equipment area or other related facilities in a structure may constitute a barrier to competition. A tenant in an MTE should have reasonable access to any telecommunications company, and a telecommunications company should have reasonable access to a tenant; landlords should not impede access to competitive telecommunications service. Equally important, it is unacceptable for a LEC to use its incumbent position to limit an ALEC's ability to market its services.

The pace of competition and outcome of negotiations between telecommunications providers, landlords, and tenants for access to MTEs is not acceptable to all participants. Some ALECs have experienced difficulty in negotiating acceptable financial and physical access arrangements with landlords and LECs. LECs have both obligations associated with carrier of last resort (COLR) responsibilities, and advantages associated with being the incumbent, monopoly provider. Landlords and property owners are protective of their constitutional rights to the exclusive use and possession of their property. Their concerns

about physical access to their facilities by multiple telecommunications companies are related to safety, security, time of access, liability, use of space, and limitations on available space.

In response to Chapter 98-277, Section 5, Laws of Florida, the FPSC submitted a report to the Legislature in February 1999 that considered the promotion of a competitive communications market to end users, consistency with any applicable federal requirements, landlord property rights, rights of tenants, and other considerations relevant to multitenant environments. The report addressed six specific issues, including the definition of a multitenant environment, definition of multitenant environment telecommunications service, definition of demarcation point, conditions for physical access, compensation, and jurisdiction. The FPSC report recommended that the following standards for review should apply in negotiating access or in determining whether a denial of access is reasonable:

1. Tenants, landlords, and telecommunications providers should make every reasonable effort to negotiate access to a tenant requesting service.
2. A landlord may charge a utility or tenant the reasonable and nondiscriminatory costs of installation, easement, or other costs related to providing service.
3. The tenant should be responsible for obtaining all necessary easements.
4. The landlord may impose conditions reasonably necessary for the safety, security, and aesthetics of the property.
5. A landlord may not deny access to space or conduit, previously dedicated to public service, if that space or conduit is sufficient to accommodate the facilities needed for access.

6. A landlord may not charge a fee solely for the privilege of providing telecommunications service in an MTE.

AREA CODE RELIEF

In Florida and around the country, the demand for telephone numbers has been growing at an increasing rate due to inefficient number allocation, customer growth and the rising use of fax machines, pagers, wireless phones and second lines. In order to provide more telephone numbers, new area codes must be introduced. Area codes are in finite supply, which places a premium on designing plans that use numbers efficiently, while trying to minimize the impacts on customers and carriers. However, on April 2, 1999 the FPSC filed a petition with the FCC seeking a grant of authority to implement number conservation measures in order to address Florida specific issues.

Status of Florida Area Codes

Florida has experienced unprecedented area code growth over the last 10 years. Prior to 1988, there were only three area codes in Florida; by 1999 that number has increased to 13. Being restricted to a three-digit NXX code, each area code has a limited number of telephone combinations at its disposal. In each NPA (area code), there are 792 NXX codes that can be assigned for use, which translates to 7,920,000 available telephone numbers. Thus, Florida's 13 current area codes provide for 102,960,000 assignable numbers. When an area code reaches its exhaust point or when nearly all the NXX codes

have been assigned, area code relief is necessary. The traditional approach to providing area code relief is through a “geographic split,” whereby the area covered by the existing area code is split into two sections. One section retains the old area code, while the other section receives the new area code. The other alternative is an overlay, which occurs when two area codes serve the same geographic area.

Area code relief began to take place in 1988 in Florida with the 407 area code being split from 305. The next wave of area code relief began in 1995 and continues to this day. The table below summarizes the implementation of area codes since 1995:

The date referred to in the above table was/is the starting date for mandatory use of the new area code. While adding numerous area codes in recent years, the problem of number exhaust still

exists. Table 2-2 represents area codes currently in use, the planned year of relief, and the

Table 2-1		
IMPLEMENTATION of AREA CODES		
New Area Code	Split From	Date
941	813	May 1995
954	305	September 1995
352	904	December 1995
561	407	May 1996
850	904	June 1997
786	305	July 1998
727	813	February 1999
321	407	November 1999
863	941	May 2000

current status.

As seen in Table 2-2, numerous area codes will need relief plans to begin in the latter half of 1999 and 2000. Hearings are scheduled in the 561, 904, and 954 area codes

Table 2-2		
STATUS of RELIEF FOR FLORIDA'S AREA CODES		
Area Code	Exhaust Year	Status
305 (Keys)	1999	Relief will be required soon!
305/786	2003	Relief will be required soon!
352	2010	N/A
321/407	2004	Permissive 7 and 10 digit dialing starts on 4/1/99 and mandatory dialing starts on 12/1/99.
321 (Brevard)	2008	Permissive dialing starts on 11/1/99 and mandatory dialing starts on 10/1/2000.
561	2002	Hearing scheduled: 3/23/2000 in Boca Raton and 3/24/2000 in West Palm Beach. Technical hearing: 4/18-19/2000 in Tallahassee.
727	2004	Relief will be required soon!
813	2004	Relief will be required soon!
850	2009	N/A
904	2001	Hearings scheduled: 1/26/2000 in Deltona and St. Augustine and 1/27/2000 in Jacksonville and Lake City. Technical hearing: 5/18-19/2000 in Tallahassee.
941	2002	A split relief plan has been approved by the Commission. Inland areas will get the 863 area code. Permissive dialing starts on 9/20/1999 and the mandatory dialing starts 5/22/2000.
954	2002	Hearing scheduled: 1-19/2000 in Ft. Lauderdale. Technical hearing: 2/11/2000 in Tallahassee.

within the next year. Of the 13 area codes in effect today, 10 are projected to need relief within the next decade. Because area codes and NXX codes are in finite supply, the FPSC realizes the urgency to develop number conservation measures to better utilize the

available telephone numbers. Exhibit 1 on the preceding page shows the Area codes used today in Florida and their geographic location. Staff is conducting a workshop on October 20, 1999 to analyze the results of a number utilization survey and to discuss the new interim authority granted by the FCC.

Florida's Petition to the FCC

At the March 30, 1999 Agenda Conference, the Commission approved filing a petition with the FCC requesting permission to implement numbering conservation measures. Currently, the FCC and the North American Numbering Plan Administrator (NANPA) have sole regulatory authority over the assignment and distribution of area codes. The FPSC petition focused on Florida-specific problems and asked for an expedited decision for grant of authority to implement numbering conservation measures.

The first issue addressed in the petition was the reservation of 20 NXX codes in the Monroe County section of the 305 area code on January 6, 1998. Initial calculations showed the NXX codes being sufficient to last until 2012. One year after the reservation of the NXX codes, the NANPA informed the FPSC the numbers had been exhausted, forcing an extraordinary jeopardy situation. An extraordinary jeopardy situation occurs when the actual demand for NXX codes will exceed the supply during the relief planning period.

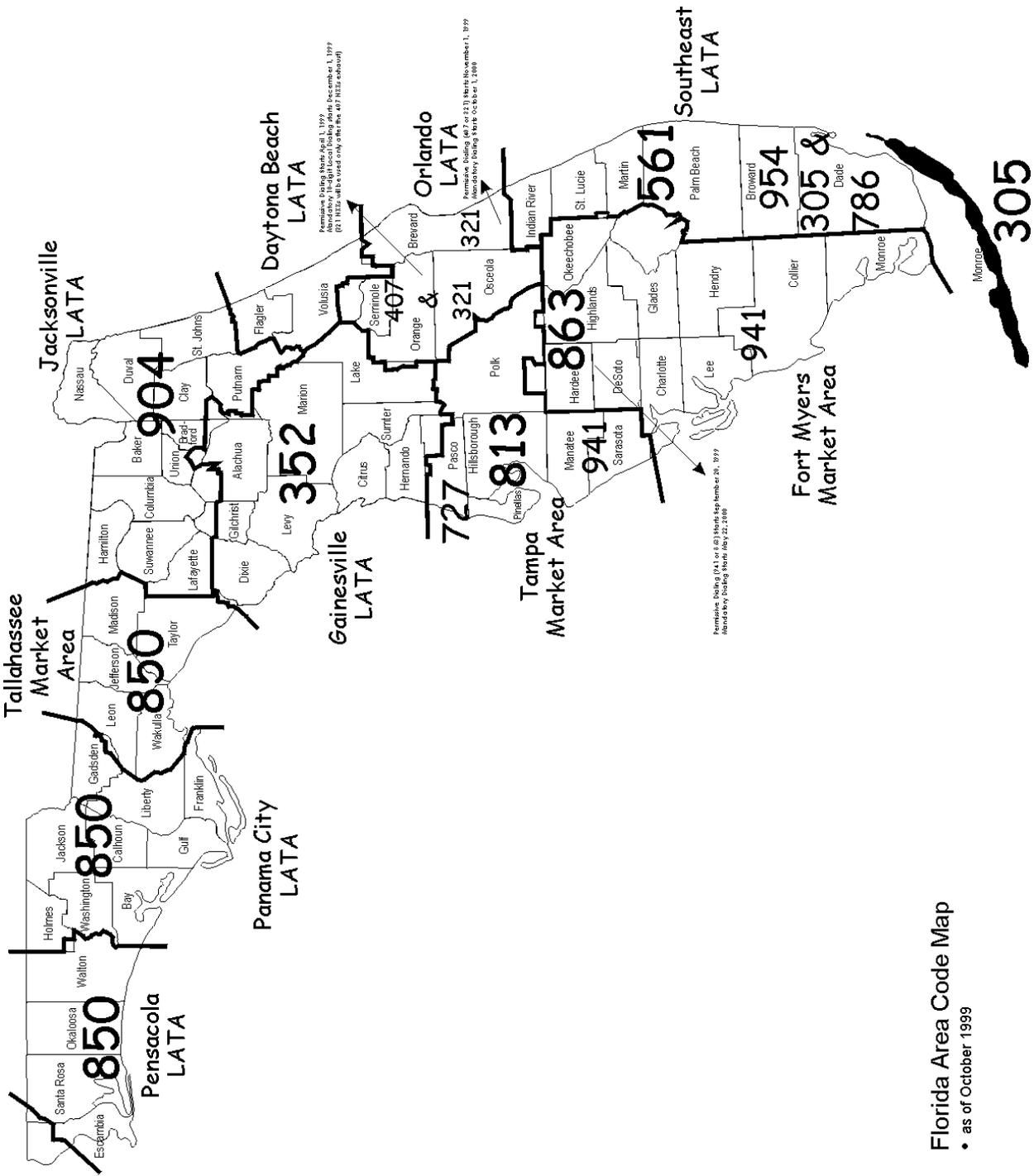


Exhibit 1

The second issue in the petition dealt with extraordinary jeopardy being declared by the NANPA in the 305, 561, 941, and the 954 area codes. Under the existing system for issuing telephone numbers to LECs, ALECs, wireless providers, and paging companies, a complete NXX is issued. For example, if a paging company files a request for telephone numbers, upon being approved, an entire NXX code will be assigned to that one company. The paging company then will have sole possession of 10,000 available numbers (NXX-0000 to NXX-9999). Because a company is assigned a complete NXX code, number utilization may not be efficient. To illustrate this point, at the time of the petition, in the 305 area code, 39% of the available telephone numbers were utilized; in the 561 area code, 35% were utilized; in the 941 area code, 37% were utilized; and in the 954 area code, 50% were utilized. This situation is a natural consequence of the present system of issuing telephone numbers in blocks of ten thousand.

The FPSC requested authority to implement the following actions:

- institute thousand-block number pooling instead of the traditional ten-thousand block,
- implement sharing of NXX codes in rate centers,
- revise rationing measures and institute NXX lotteries to allow the FPSC to prolong the life of existing area codes,
- reclaim unused and reserved central office codes and maintain the current central office code rationing measures for at least six months after implementation of area code relief plans,

- expand deployment of permanent number portability and implement unassigned number porting,
- implement rate center consolidation.

The FPSC also requested that the FCC direct the NANPA to:

- Update the Central Office Code Utilization Survey (COCUS) report quarterly, instead of annually. Quarterly data would provide a more current basis of planning for area code relief.
- Establish code allocation standards to more efficiently manage numbering resources.

In the petition the FPSC requested that the FCC expressly grant the FPSC authority to require wireless carriers to provide the necessary COCUS data and any other information needed to carry out proper planning.

On September 15, 1999, the FCC made its decision concerning the petition and released an Order. With certain caveats, the FCC approved the Florida petition and granted interim authority with the exception of three requests. The FCC did not approve the Commission's requests to: (1) implement unassigned number porting, (2) expand deployment of local number portability, and (3) direct NANPA to conduct COCUS quarterly.

COMPETITIVE CARRIERS' PETITION

In December 1998, the Florida Competitive Carriers Association (FCCA), on behalf of various industry groups and competitive local exchange companies, filed a Petition of Competitive Carriers for Commission Action to Support Local Competition in BellSouth's

Service Territory. Docket No. 981834-TP was opened to address this petition. In the petition, the FCCA requested the following relief from the Commission:

- Establishment of a generic BellSouth UNE pricing docket to address issues affecting local competition,
- Establishment of a Competitive Forum to address BellSouth operations issues,
- Establishment of third-party testing of BellSouth's OSS,
- Initiation of a rulemaking proceeding to establish expedited dispute resolution procedures applicable to all local exchange carriers.

Later in December 1998, BellSouth filed a Motion to Dismiss the FCCA's Petition with prejudice. In January 1999, the FCCA filed their Response in Opposition to BellSouth's Motion to Dismiss.

At the FPSC Agenda Conference on March 30, 1999, the Commission denied BellSouth's Motion to Dismiss. In addition, the Commission denied the FCCAs' request to initiate a rulemaking proceeding to establish expedited dispute resolution procedures for resolving interconnection agreement disputes. However, the Commission granted the remaining parts of the petition. Specifically, the Commission established a formal administrative hearing process to address UNE pricing, including UNE combinations and deaveraged pricing of unbundled loops. The Commission also directed that workshops on OSS issues be conducted concurrently, in an effort to resolve OSS operational issues. These workshops were held on May 5-6, 1999. In addition, a formal administrative hearing track was established to address collocation and access to loop issues, as well as costing and pricing issues.

Pricing of UNEs

Docket No. 990649-TL was opened to deal with the issues involving pricing of UNEs that were raised in the FCCA Petition. This docket will address UNE deaveraging, UNE combinations, and nonrecurring charges. Deaveraging refers to where more than one rate is established for the same service or offering, as opposed to a single rate made available in all areas. Where rates are deaveraged, they typically are designed to reflect differences in the cost of providing the service, due to such factors as density, distance and the like.

In Phase I, efforts will be focused on “how” (e.g., how to accomplish deaveraging) and “what” (e.g., which UNEs should be deaveraged) kinds of issues; these are largely policy issues and will be dealt with in a hearing scheduled for December 15-17, 1999. It is anticipated that an order will be issued in March 2000.

In Phase II, the incumbent LECs will make certain filings, in compliance with the decisions made in the Commission’s Phase I order, which will be scrutinized at a hearing probably commencing in the fall of 2000.

Access to Loops

Several companies contended BellSouth was restricting access to collocation in its central offices and filed petitions with the Commission to order BellSouth to allow collocation. In response to the petitions BellSouth filed requests for waivers contending that adequate floor space was not available for collocation in certain central offices. On March 31, 1999, the FCC released its First Report and Order and Further Notice of Proposed Rulemaking (FNPRM), FCC # 99-48 which mandates certain collocation practices by LECs, concerning types of equipment, alternative collocation arrangements, security, space preparation cost allocation, provisioning intervals, and space exhaustion. BellSouth filed

and was granted a continuance in the collocation waiver dockets in order to comply with the FCC order. BellSouth subsequently granted the requests for collocation by the ALECs who had filed the petitions, and has since withdrawn its waiver requests.

On March 12, 1999, a petition was filed by ACI Corp. asking the FPSC to investigate collocation procedures practiced by BellSouth, GTE Florida, and Sprint-Florida to determine if these procedures are in compliance with TA 96. Being similar to the collocation issues that arose earlier in Docket Number 981834-TP, the two dockets were combined. The FPSC issued an order on September 7, 1999 establishing initial procedures and guidelines for collocation. A hearing is scheduled in January 2000 to address other collocation issues with a resolution to the issues projected for mid-year 2000.

Operational Support System (OSS) Issues

On May 28, 1999, the FCCA and AT&T Communications of the Southern States filed a Motion for Independent Third Party Testing of BellSouth's OSS. They argued that the deficiency in BellSouth's OSS has been a significant barrier to ALEC entry into the local market. BellSouth filed its Response to this Motion on June 16, 1999. That same day, FCCA and AT&T filed a Supplement to the Motion for Third Party Testing. On June 17, 1999, ACI Corp. filed a Motion to Expand the Scope of Independent Third Party Testing. On June 28, 1999, BellSouth responded to the Supplement filed by the FCCA and AT&T. On June 29, 1999, BellSouth responded to ACI's Motion to Expand the Scope of Independent Third Party Testing.

FCCA argued that much time has been spent trying to evaluate the performance of BellSouth's OSS on the basis of testimony offered by BellSouth and the ALECs, instead of through the direct, impartial, and knowledgeable examination of the OSS by an

independent third party. They stated that thorough testing by an independent third party will, on a nondiscriminatory basis, isolate points where the OSS fail to perform properly, so that the OSS can be corrected quickly, thereby speeding the competitive process.

BellSouth argued that the FCCA/AT&T plan would involve a long and arduous series of hearings and debate at each stage of the process that would ensure that bickering would continue for months, if not years, before testing ever got underway. BellSouth also contended that its OSS systems were being tested in Georgia and since customers in Florida use the same systems, there would be no need to require separate tests for Florida.

The Commission agreed with BellSouth that the extent of ALEC involvement proposed in the FCCA/AT&T petition could delay the third party testing process. The Commission did not agree, however, that we should simply use the results of the third party testing currently underway in Georgia.

In its June 17, 1999, Motion to Expand the Scope of Independent Third Party Testing, ACI requested that the testing proposed by AT&T and FCCA be expanded to also evaluate the ability of ALECs to receive real-time, electronic information about the physical characteristics of the loops, such as: 1) loop length; 2) wire gauge; 3) the presence and number of repeaters, load coils, pair gains, and digital added main lines; 4) the presence of digital loop carrier systems; and 5) the presence, location on the loop and cumulative length of bridge taps on each loop. ACI argued that this information should be available to carriers before they decide whether to order a particular loop.

BellSouth argued that ACI's Motion raised questions beyond the scope of OSS. BellSouth noted that ACI's Motion focused on high speed data networks and DSL-capable

loops. BellSouth argued that these issues are currently before the FCC and that ACI has an opportunity to address its concerns to the FCC. BellSouth did not believe that this Florida proceeding was the proper forum for the issues raised by ACI.

The Commission agreed with BellSouth that the issues raised by ACI appeared to pertain more to actual services and products of BellSouth than to how BellSouth's services and products are provisioned to ALECs. As such, the Commission concluded that, at least preliminarily, third-party testing should not be expanded to cover the items identified by ACI.

While BellSouth contended its OSS testing in Georgia was sufficient, the Commission had concerns over the independence and the scope of the test. Accordingly, the Commission ordered that a proposal for a third-party OSS testing plan be developed for Florida that more closely resembled the tests conducted in New York and Pennsylvania. Under this approach, a third-party testing agency works diligently with the Commission to develop a master testing plan, with the Commission staff playing a vital role to ensure the independence and objectivity of the testing. The Commission also believed it was imperative that OSS testing include a review of the processes associated with BellSouth's establishment and maintenance of business relationships with the ALECs.

The third-party testing will be conducted in two phases. First, a test plan is being developed by a third-party vendor with oversight from the Commission; the plan is scheduled to be completed by November 15, 1999. If the test plan is approved and the Commission decides to go forward with the actual testing, the second phase will be the implementation of the testing plan developed in phase one. A third-party vendor will be selected and will be expected to evaluate the ability of an ALEC, with the available

documentation and support from BellSouth, to develop OSS interface systems and software to provide for each OSS function, and to use such systems and software to provide telecommunications services. The findings of phase two will be reported to the Commission by the third-party conducting the testing.

CHAPTER III: STATUS OF LOCAL COMPETITION

Section 364.386, Florida Statutes, requires the Commission to report annually to the Governor and the Legislature on the **status of competition in the telecommunications industry in Florida**, with emphasis on competitive entry into the local services market. The first section of this chapter is devoted to the industry assessment and specifically addresses the six points outlined in Section 364.386(1), Florida Statutes.

In addition to the industry update, the Commission is required by a 1997 amendment to Section 364.161(4), Florida Statutes, to maintain a file of all **complaints by ALECs against LECs** regarding timeliness and adequacy of service. The information included must recap how and when each complaint was resolved. The second portion of this chapter is devoted to meeting that requirement.

In preparation for the report, we requested data from the ALECs and LECs to determine the extent of competitive entry. The ALEC data request consisted of questions primarily designed to discern which companies were providing basic local service in Florida, the exchanges and type(s) of customers being served, the method(s) of providing service, and their primary business. The LEC data request focused on revenues, customer demographics, and number of resold access lines. Both data requests solicited opinions and suggestions from each company as to possible actions the Florida Public Service Commission or the Legislature should take to foster competition in the local exchange markets in Florida and sought their comments on obstacles or impediments to the growth of local competition they had experienced in the state.

Since the 1998 report, Florida has seen meaningful increases in competitive entry,

but predominantly for business customers. As of June 30, 1999, 265 entities were certificated as ALECs, with 80 serving over 555,000 access lines. In contrast, the 1998 report disclosed that 191 entities were certificated as ALECs, with 51 serving nearly 200,000 access lines.

STATUS OF LOCAL SERVICE COMPETITION THROUGHOUT FLORIDA

Chapter 364.386(1), Florida Statutes, mandates that the Commission examine the following points in analyzing the status of competition in Florida:

- (1) The overall impact of local exchange telecommunications competition on the continued availability of universal service.
- (2) The ability of competitive providers to make functionally equivalent local exchange services available to both residential and business customers at competitive rates, terms, and conditions.
- (3) The ability of customers to obtain functionally equivalent services at comparable rates, terms, and conditions.
- (4) The overall impact of price regulation on the maintenance of reasonably affordable and reliable high-quality telecommunications services.
- (5) What additional services, if any, should be included in the definition of basic local telecommunications services, taking into account advances in technology and market demand.
- (6) Any other information and recommendations which may be in the public interest.

Each point will be addressed in the following discussion.

(1) The overall impact of local exchange telecommunications competition on the

continued availability of universal service.

Universal Service (US) is the longstanding concept that a specified set of telecommunications services should be available to all customers at affordable rates. Chapter 364.025, Florida Statutes, provides guidelines for the maintenance of US objectives with the introduction of competition in the local exchange market. Until January 1, 2001, the incumbent local exchange companies are required by Section 364.025 (1), Florida Statutes, to furnish basic local exchange telecommunications service within a reasonable time period to any person requesting such service within a company's service territory.

As of May 1999, 93.1% of Florida households had local telephone service, compared to a national annual average of 94.0%. (Telephone Subscribership in the United States, Federal Communications Commission, May 1999.)

In meeting the requirements of Section 364.025(4), Florida Statutes, the Commission submitted its report, Universal Service in Florida, to the Governor and the Legislature in December 1996. In 1998, the FPSC revisited this issue at the direction of the Legislature. In the resulting report, Universal Service and Lifeline Funding Issues, submitted to the Legislature in February 1999, we stated that "although the potential for a LEC to experience competitive erosion of its high-margin customers while retaining its high-cost (and perhaps below-cost) customer base is a real concern, the Commission has not discerned any such major impact to date." (p.27) As addressed later in this chapter, our research indicates that local exchange competitive entry in Florida has experienced considerable gains in the last year. As stated in the February 1999 report, it is probable that

the absence to date of any adverse impact on LEC provision of universal service may be due to strong underlying growth in access lines and minutes of use; while the LECs may be losing some market share, they still have the dominant share of an increasing market.

(2) The ability of competitive providers to make functionally equivalent local exchange services available to both residential and business customers at competitive rates, terms, and conditions.

The FPSC staff surveyed the 265 ALECs that were certificated as of July 1999. Of the 181 responses received, 80 were actually providing service in Florida. As a part of the data request, the ALECS were asked to identify obstacles they believed were impeding the growth of local competition in Florida. Responses were received from both those ALECS actually providing service and those who have not entered the local market. Many respondents expressed similar concerns on how the FPSC and the Legislature could promote competition. Their observations as to perceived obstacles may be categorized into entrepreneurial issues, pricing issues, and service/technical issues.

The entrepreneurial issues involve a few key components: time, personnel and financial considerations. Several ALECs responded that they have not had sufficient time to develop local services. Some ALECs provide niche services such as data or Internet dial-up services and do not have the interest or the expertise required to provide local voice services. Some ALECs responded they are a small business with no initiative to serve statewide or provide service to all customers due to the limitations in their size or resources. Additionally, many ALECs believe the LECs' credit requirements are irrational

and prohibit many companies from actively providing services. Before a LEC will provide services to an ALEC, a letter of credit showing the financial position of the ALEC must be submitted. If insufficient resources or a lower than acceptable credit rating is apparent, the LEC may require the ALEC to provide a payment equal to several months of service before the LEC will provide the ALEC services.

The pricing issues raised by ALECs involve two key components in the provision of local competition: resale discounts and LEC charges for OSS cost recovery. Numerous ALECs indicated that resale discounts are minimal, and excessive rates are being assessed by certain LECs for OSS cost recovery.

Numerous ALECs indicated that resale discounts are slim and are lower in Florida than in most states, leaving profit margins minimal at best. The federal Telecommunications Act of 1996 (TA 96) requires that LECs offer for resale any telecommunications service they provide to subscribers who are not telecommunications carriers. The Act states that state commissions are to determine resale rates based on a LEC's retail rates, excluding any costs which will be avoided by selling at wholesale rather than retail. Of the responding ALECs, several companies are providing service strictly through resale to a niche market. This niche market is characterized by prepaid local service with toll blocking, offered at relatively high rates to customers to whom the LECs will not provide service. This type of service will be discussed later in the report.

The second concern over pricing issues is charges for OSS cost recovery. While the Commission has not authorized OSS cost recovery in any arbitration, LECs are attempting to recover these costs in negotiated agreements. Some LECs are assessing charges to recover their costs incurred in developing interfaces used by ALECs to access the LEC's

legacy OSS systems. Many ALECs complained that in addition to the LEC assessing them non-recurring service initiation charges, they also charge non-recurring OSS cost recovery charges. Moreover, ALECs contend that the LECs' interfaces to the OSS systems themselves are unreliable.

Third, some ALECs stated that LECs are causing them delays in providing services and requested that the Commission take action to ensure that LECs provide nondiscriminatory access to the full range of OSS for pre-ordering, ordering, provisioning, maintenance, repair and billing enjoyed by the LEC. The ALECs also indicated a need to hold LECs accountable for the actions they have promised and the services requested.

Although just over 100 ALECs who responded to the data request stated they were not currently providing voice-grade telecommunication services in Florida, the majority indicated they intended to do so in the future, with most anticipating entry some time in the upcoming 18 months. Only 13 respondents indicated they have no intention to provide local services. A few indicated they will be offering DSL services in the near future, while some will be offering data, ATM, or frame relay service. For example, the Lake Wellington Professional Center has no intention of providing local services but does offer telecommunication services to tenants through a PBX system as a condition of leasing space in their building. The City of Lakeland (Lakeland Electric) responded they have no intention to offer telecommunications services to the public, but only to provide services to other city divisions and departments. While a few companies responded they will not provide local services to consumers, there is reason to believe this is the minority of new competitive entrants.

(3) The ability of customers to obtain functionally equivalent services at comparable rates, terms, and conditions.

As of June 30, 1999, 80 ALECs reported they are providing some form of local service in Florida. Table 3-1 lists each ALEC, the type of customers it serves, how its service is provided, and the geographic area it serves.

Of these 80 companies, 44 reported that they have entered through resale, ten through the use of their own facilities, two combining their own facilities with resale, four combining UNEs with their own facilities, and 12 using a combination of methods. In addition to the companies listed above, eight other companies are providing service; however their responses were filed as confidential.

From reviewing responses to the ALEC data request and numerous ALEC/LEC

interconnection agreements, it is a reasonable assumption that ALECs using resale, either in its entirety or in combination with ALEC owned facilities, should be able to provide

ALECs PROVIDING SERVICE			
ALEC	Service Provided To:	Method	Geographic Areas Served
1-800-Reconex	residential	resale	statewide
2nd Century Communications	business	resale	Tampa
A1 Mobile Tech	residential	resale	not provided
AA Tel-Com	residential	resale	West Palm Beach, Miami
ALLTEL	subsidiaries	N/A	N/A
Alternative Telephone	residential	resale	Gainesville, Ocala, Orlando, Ft. Myers
American Dialtone	residential	resale	St. Petersburg
Annox	residential	resale	statewide
Appliance and TV Rentals	residential	resale	Port St. Lucie
Arrow Communications	residential & business	combination	Miami, Ft Lauderdale
AT&T	business	combination	Miami, Ft Lauderdale
Atlantic Telecommunication Systems	residential & business	resale	Central and Southeast Florida
Axsys	residential & business	resale	East Coast Florida
BellSouth BSE	residential & business	facilities	Tampa, St. Petersburg, Gainesville
BellSouth Telecommunications	residential & business	facilities	Orlando
Biz-Tel	business	combination	Miami, Orlando, Tampa
BudgetTel Systems	residential	resale	Miami
City of Lakeland	self	not provided	Lakeland
Comm Svc Centers	business	facilities	Pompano Beach
ComUSA	residential	resale	Daytona Beach
CRG (Network One)	business	resale	Pensacola
DPI Teleconnect	not provided	resale	not provided
Eagle Communications	business	resale	Jacksonville, Miami, Orlando
Easy-Tel	residential	resale	not provided
ExcelLink Communications	residential	resale	statewide
Express Title	residential & business	resale	Pensacola
EZ Talk Communications	residential	resale	not provided
FastConnect	residential	resale	statewide
Florida Digital Network	business	facilities - UNEs	Jacksonville, Miami, Orlando
Global-NAPS	business	facilities	Miami
GTECC	business	resale	Ft Lauderdale
Hale and Father (Network Plus)	residential & business	resale	Orlando, Miami, West Palm Beach
Hart Communications	residential	resale	North Florida
Hyperion Comm. Of Florida	business	not provided	Jacksonville, Miami, Orlando
Hyperion of Jacksonville	business	not provided	Jacksonville, Miami, Orlando
Intermedia	business	facilities - UNEs	statewide
InteTech	residential & business	facilities - resale	Jacksonville, Tallahassee, Gainesville
ITC DeltaCom	business	confidential	Miami, Jacksonville, Gainesville, Pensacola

service functionally equivalent to that available from the incumbent LEC.

ALECs PROVIDING SERVICE			
ALEC	Service Provided To:	Method	Geographic Areas Served
KMC Telecom	residential & business	combination	Tallahassee, Ft Myers, Pensacola
Knology	residential & business	facilities	Panama City
Local Line America	residential	resale	statewide
MCI	business	combination	Miami, Orlando, Tampa
MCI Metro Access	business	combination	Miami, Orlando, Tampa
Media One Communications	residential	facilities	Jacksonville, Ft Lauderdale
MGC Communications	residential & business	facilities - UNEs	Ft Lauderdale
Microsun Telecommunications	residential & business	resale	Miami, Ft. Lauderdale, Boca Raton
National Phone	residential & business	resale	Ocala, Ft Myers, Orlando
National Tel	business	facilities - UNEs	Ft Lauderdale, Orlando
Navigator Communications	residential	resale	South Florida
Network Telephone	residential & business	resale	statewide
NewSouth Communications	business	facilities	Orlando and Tampa
Nextlink	business	combination	Miami, Ft. Lauderdale, West Palm Beach
NuStar Communications	residential & business	resale	not provided
Omnicall	residential & business	resale	statewide
Orlando Telephone Co.	residential & business	facilities - resale	Orlando
PaeTec	business	combination	not provided
ParKLink Communications	business	resale	Tallahassee, Gainesville, Tampa, Orlando
Phones for All	residential	resale	statewide
Pinnacle Telecom	residential	resale	Central and South Florida
Quick-Tel Communications	residential & business	resale	Tallahassee
Reconnex	residential	resale	statewide
REI Communications	residential & business	resale	Southwest Florida
Southern Telemanagement	residential & business	resale	statewide
Sprint	business	combination	statewide
Supra Telecommunications	residential & business	resale	Miami, Ft Lauderdale
TCG South FL	business	combination	Miami, Ft Lauderdale
TeleCom Plus	residential	resale	statewide
Teligent	business	facilities	Jacksonville, Orlando, Miami
Tel-Link	residential	resale	statewide
The Mobile Phone Co.	residential & business	resale	Boca Raton, Miami, Ft Lauderdale
The Telephone Co. of Central FL	business	confidential	Orlando
Time Warner Connect	residential & business	resale	Orlando
Time Warner Telecom	business	facilities	Orlando, Tampa
TTI	business	combination	Miami, Orlando, Tampa
UniversalCom	residential & business	resale	Destin, Ft Walton beach
US Telco	residential	resale	statewide
USA Telephone	residential & business	not provided	Miami, Ft Lauderdale
USLEC	business	not provided	Ft Lauderdale, Miami, Jacksonville
WinStar Wireless	business	facilities	Miami, Tampa, St. Petersburg
WTI	business	combination	Miami, Orlando, Tampa

Reselling services is just someone other than the LEC selling the LEC's services under a different name. The name is different, but the services are essentially the same.

Table 3-2 shows the business and residential rates of selected ALECs for various exchanges and the corresponding LEC rate. In most areas where consumers have a choice of local exchange providers, service can be obtained at rates comparable to the LEC serving that area.

Table 3-2					
LOCAL RATES FOR SELECTED ALECS IN VARIOUS EXCHANGES					
ALEC	Exchange	ALEC Rate		LEC Rate	
		Residential	Business	Residential	Business
UniversalCom	Winter Park Sprint-Florida	\$9.15	\$20.16	\$10.23	\$24.03
1-800-Reconex	Tallahassee Sprint-Florida	\$63.45	n/a	\$9.65	\$21.75
MGC Communications	Ft Lauderdale BellSouth	\$9.50	\$26.00	\$10.65	\$29.10
	Boca Raton BellSouth	\$9.50	\$26.00	\$10.30	\$28.00
Knology	Panama City BellSouth	\$11.70	\$26.84	\$8.80	\$23.85
Intermedia	Daytona Beach BellSouth	\$8.24	\$24.90	\$9.15	\$24.90
	Miami BellSouth	\$9.59	\$29.10	\$10.65	\$29.10
	Tampa GTEFL	n/a	\$29.90	\$11.81	\$29.90
InteTech	Gainesville BellSouth	\$9.27	\$26.10	\$9.15	\$24.90
	Jacksonville BellSouth	\$9.27	\$26.10	\$10.30	\$28.00
	Tallahassee Sprint-Florida	\$9.68	\$18.00	\$9.65	\$21.75
LocalLine America	Tallahassee Sprint-Florida	\$44.95	n/a	\$9.65	\$21.75

Also shown in Table 3-2 is a niche market provider, LocalLine America. LocalLine

America provides services through resale to customers on a prepaid basis at rates higher than the LEC, but to customers who cannot obtain services from the LEC for various reasons.

The customer's ability to obtain a comparable or a more favorable rate will depend on the pricing scheme chosen by the ALEC. Our research indicates that at least four distinctive pricing schemes are being used by ALECs: discount rates, parallel rates, niche market rates, and bundled service rates. While some ALECs use a discounting approach, the ALEC rates shown in Table 3-2 on balance are comparable to those charged by the LECs; the prices charged appear to be discounted in a range of 10% to 15% below the LEC's (excluding those ALEC rates which are actually higher than those of the LEC). Given the apparent prevalence of this ALEC/LEC pricing relationship, even if the LEC was able and opted to increase its basic rates, it is questionable whether residential customers would actually see any decreases in the prices available to them.

Numerous companies, such as Intermedia Communications and Orlando Telephone Company, have matched their local business rates to the comparable LEC rates in the area. As shown in Table 3-2, Intermedia's business rates coincide with BellSouth's and GTE's rates for the same locations. Setting rates parallel to the LEC is more prevalent for providers targeting business customers. In the residential market, fewer ALECs offer services at parallel rates.

In the residential market, numerous ALECs are focusing their pricing strategies on a niche market. As touched on earlier, this market is defined by customers who have had problems obtaining telephone service from the LEC and may have little choice but to choose alternative telephone services if service is desired. These customers often have

been disconnected by the LEC for non-payment or late payments, bad credit history, or a lack of proper identification. This type of service often is priced well above the local LEC rate and has numerous restrictions on service, including toll blocking and no access to directory assistance. Based on their rates and blocking requirements, two carriers which may be operating under this strategy are 1-800-Reconex, (\$63.45 per month), and Local Line America (\$49.95 per month) for residential service.

A third pricing strategy involves an ALEC combining local and a fixed amount of long distance service with other features, such as unlimited Internet access, at one rate. Network Telephone is such a company operating under this strategy. From their response to the ALEC data request received on August 26, 1999, they offer a variety of service packages ranging from one to two local lines, custom calling features, 800 number, 60 minutes of free long distance, and unlimited Internet access.

In addition to determining whether customers are able to obtain services at comparable rates, the FPSC must also examine if customers can obtain services on comparable terms and conditions. Because ALECS are not required to provide services under the same requirements as the LECs, assessing customers' ability to obtain services can be difficult. One important point is that ALECs do not necessarily target all customers; some focus only on residential customers and others offer service strictly to business customers. ALECs also do not provide service under the same rules as the LECs are required to, but they are required to have a price list on file if they offer basic local service. Absent any evidence to the contrary and given the continuing ALEC market share growth, we can only conclude that terms and conditions offered by ALECs are at least comparable to that offered by the LECs.

(4) The overall impact of price regulation on the maintenance of reasonably affordable and reliable high-quality telecommunications services.

Pursuant to Section 364.051 (2)(a), Florida Statutes, rate caps for basic local telephone service are to remain in place until January 1, 2000 for price-regulated LECs with fewer than 3 million access lines, and until January 1, 2001 for BellSouth. The increase in competitive entry has not diminished significantly the positions of the three largest price regulated LECs, BellSouth, GTEFL, and Sprint-Florida, who still serve over 90% of the access lines in the state. Services that were reasonably affordable prior to price cap legislation continue to be affordable.

While there was concern service would deteriorate under the current price cap regulatory environment, FPSC customer complaint tracking does not indicate service has deteriorated². In terms of customer complaints, the number of justified³ complaints filed with the Commission against these three companies have remained steady or have fallen (see Table 3-3).

² While customer testimony in the context of the "Fair and Reasonable Rate Study" indicated some concern over service, the FPSC customer complaint tracking data is probably a more reliable indicator of overall trends in customer satisfaction or dissatisfaction.

³ Justified - The nature of the complaint against the LEC was in violation of a Commission rule.

Table 3-3			
Customer Complaints - Justified*			
Company	1999 (July year to date)	1998	1997
BELLSOUTH	63	214	228
GTE	24	116	186
SPRINT	21	57	39

* Justified = action of the utility was an infraction of a Commission rule

In addition to the number of complaints remaining steady or falling, the ratio of complaints to the number of access lines has been declining. From the period January 1, 1999 to July 31, 1999, the number of infractions per 1,000 access lines was 0.0097 for BellSouth, 0.0101 for GTEFL, and 0.0103 for Sprint-Florida. In the first seven months of 1998, the number of infractions per 1,000 access lines was .0382 for BellSouth, .0861 for GTEFL and .0226 for Sprint-Florida.

(5) What additional services, if any, should be included in the definition of basic local telecommunications services, taking into account advances in technology and market demand.

At this time there should be no additions or deletions to the definition of basic service. However, the definition of basic local service differs between LECs and ALECs. The LEC-provided basic local service includes ". . . voice grade, flat-rate residential and flat-rate single-line business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multi-frequency dialing (touch dialing), and access to the following: emergency services such as '911,' all locally available interexchange companies, directory assistance, operator services, relay services, and an alphabetical directory listing." (Section 364.02(2), Florida Statutes)

In contrast, the list of services included in ALEC-provided basic local service is not nearly as extensive. The ALEC provided basic local service includes ". . . access to operator services, '911' services, and relay services for the hearing impaired." The ALEC is also required to offer a flat-rate pricing option. (Chapter 364.337(2), Florida Statutes) Thus, the ALEC does not have to provide touchtone dialing, directory assistance, or directory listings as part of its basic local service.

(6) Any other information and recommendations which may be in the public interest.

No additional information is provided at this time.

SUMMARY OF STATUS OF LOCAL COMPETITION THROUGHOUT FLORIDA

The past year has seen a moderate rise in competitive activity in Florida. As of June 30, 1999, 80 ALECs reported they were providing local service in Florida. Several ALECs responding to the Commission's data request stated that in order to achieve a level playing field, issues such as larger resale discounts, and a common and continuous OSS system by the LECs, need to be addressed for competition to flourish. With nearly 29% of the certificated ALECs providing service and numerous others responding to the Commission's data request of their intentions to offer service in the next year, it is apparent that the ALECs are making strides to take full advantage of the opportunities offered to them by TA 96. The next section of this chapter will provide a detailed overview of the exchanges entered by ALECs and the customers being served.

STATUS OF LOCAL SERVICE COMPETITION IN FLORIDA BY EXCHANGE

In order to obtain an accurate depiction of the status of local competition, the Commission formulated and distributed data requests to both ALECs and LECs to determine the level of market penetration. These questions requested the number of access lines each competitor has by exchange and by type of customer -- residential, business, or both -- to whom the provider is offering service.

Table 3-4 lists those exchanges where an ALEC is providing service, the number of ALECs serving business and residential customers in the exchange, and the percentage of the total lines in the exchange served by the ALEC (if not proprietary). It should be noted that the number of ALECs serving a given exchange is based on where the ALECs stated they provide service; however, ALECs are not required to offer service exchange-wide and many likely do not, preferring instead to target certain submarkets. A percentage range of ALEC lines served is used in order to avoid revealing data that may be considered confidential.

Table 3-4

EXCHANGES WITH AN ALEC PROVIDER

EXCHANGE	Total ALEC		Total ALEC	
	Res. Providers	% of Res. Access Lines	Bus. Providers	% of Bus. Access Lines
		ALEC Providers		ALEC Providers
Alachua	1	> 0 to 1%	0	
Alford	0		0	
Alligator Point	0		0	
Altha	1	> 0 to 1%	0	
Apalachicola	1	> 0 to 1%	0	
Apopka	6	> 0 to 1%	5	5% to 10%
Arcadia	4	> 0 to 1%	1	> 0 to 1%
Archer	3	> 0 to 1%	1	> 0 to 1%
Astor	1	> 0 to 1%	2	> 0 to 1%
Avon Park	2	> 0 to 1%	1	1% to 5%
Baker	1	> 0 to 1%	0	
Baldwin	2	> 0 to 1%	1	1% to 5%
Bartow	3	1% to 5%	2	1% to 5%
Belle Glade	5	1% to 5%	3	> 0 to 1%
Bellevue	4	> 0 to 1%	3	1% to 5%
Beverly Hills	2	> 0 to 1%	2	> 0 to 1%
Big Pine Key	0		1	> 0 to 1%
Blountstown	1	> 0 to 1%	0	
Boca Grande	2	> 0 to 1%	0	
Boca Raton	10	> 0 to 1%	13	10% to 15%
Bonifay	2	> 0 to 1%	2	
Bonita Springs	5	> 0 to 1%	1	> 0 to 1%
Bowling Green	2	> 0 to 1%	0	
Boynton Beach	6	> 0 to 1%	6	10% to 15%
Bradenton	3	1% to 5%	3	1% to 5%
Branford	1	> 0 to 1%	1	> 0 to 1%
Bristol	1	> 0 to 1%	0	
Bronson	4	> 0 to 1%	1	> 0 to 1%
Brooker	0		0	
Brooksville	5	> 0 to 1%	4	1% to 5%
Bunnell	3	> 0 to 1%	2	1% to 5%
Bushnell	5	> 0 to 1%	2	> 0 to 1%
Callahan	0		2	
Cantonment	1	> 0 to 1%	2	1% to 5%

Table 3-4

EXCHANGES WITH AN ALEC PROVIDER

EXCHANGE	Total ALEC		Total ALEC	
	Res. Providers	% of Res. Access Lines	Bus. Providers	% of Bus. Access Lines
		ALEC Providers		ALEC Providers
Cape Haze	2	> 0 to 1%	1	> 0 to 1%
Cape Coral	3	> 0 to 1%	3	1% to 5%
Carrabelle	0		0	
Cedar Key	0		2	1% to 5%
Celebration	0		0	
Century	0		1	> 0 to 1%
Chattahoochee	1	> 0 to 1%	0	
Cherry Lake	1		0	
Chiefland	4	1% to 5%	3	1% to 5%
Chipley	5	> 0 to 1%	1	>0 to 1%
Citra	0		0	
Clearwater	4	1% to 5%	5	10% to 15%
Clermont	5	> 0 to 1%	2	1% to 5%
Clewiston	3	> 0 to 1%	1	> 0 to 1%
Cocoa Beach	3	> 0 to 1%	5	5% to 10%
Cocoa	5	> 0 to 1%	5	1% to 5%
Coral Springs	10	> 0 to 1%	7	20% to 25%
Cottdale	1	> 0 to 1%	0	
Crawfordville	0		0	
Crecent City	0		0	
Crestview	3	> 0 to 1%	2	5% to 10%
Cross City	2	> 0 to 1%	0	
Crystal River	4	> 0 to 1%	2	> 0 to 1%
Dade City	4	> 0 to 1%	3	1% to 5%
Daytona Beach	9	> 0 to 1%	7	1% to 5%
DeBary	5	> 0 to 1%	4	5% to 10%
Deerfield Beach	10	> 0 to 1%	8	15% to 20%
DeFuniak Springs	3	> 0 to 1%	1	1% to 5%
Deland	5	> 0 to 1%	3	1% to 5%
DeLeon Springs	2	> 0 to 1%	2	1% to 5%
Delray Beach	11	> 0 to 1%	7	5% to 10%
Destin	1	5% to 10%	1	10% to 15%
Dowling Park	0		0	
Dunnellon	4	> 0 to 1%	2	1% to 5%

Table 3-4

EXCHANGES WITH AN ALEC PROVIDER

EXCHANGE	Total ALEC		Total ALEC	
	Res. Providers	% of Res. Access Lines	Bus. Providers	% of Bus. Access Lines
		ALEC Providers		ALEC Providers
East Orange	4	> 0 to 1%	2	1% to 5%
Eastpoint	0		0	
Eau Gallie	5	> 0 to 1%	4	1% to 5%
Englewood	3	1% to 5%	1	1% to 5%
Eustis	3	> 0 to 1%	2	1% to 5%
Everglades	0		2	>0 to 1%
Fernandina Beach	3	> 0 to 1%	2	1% to 5%
Flagler Beach	0		1	> 0 to 1%
Florahome	1	> 0 to 1%	0	
Florida Sheriff's Boy's	0		0	
Forest	2	> 0 to 1%	2	1% to 5%
Freeport	2	> 0 to 1%	2	> 0 to 1%
Frostproof	2	1% to 5%	1	1% to 5%
Ft. Meade	3	> 0 to 1%	1	1% to 5%
Ft. Myers	7	> 0 to 1%	5	1% to 5%
Ft. Lauderdale	17	1% to 5%	13	15% to 20%
Ft. Pierce	5	> 0 to 1%	8	1% to 5%
Ft. Walton Beach	6	> 0 to 1%	4	5% to 10%
Ft. White	1	> 0 to 1%	1	
Ft. Myers Beach	3	> 0 to 1%	1	> 0 to 1%
Gainesville	10	> 0 to 1%	6	1% to 5%
Geneva	4	> 0 to 1%	2	> 0 to 1%
Glendale	0		0	
Graceville	2	> 0 to 1%	1	1% to 5%
Grand Ridge	0		0	
Green Cove Springs	2	> 0 to 1%	2	> 0 to 1%
Greensboro	0		0	
Greenville	1	1% to 5%	0	
Greenwood	1	1% to 5%	0	
Gretna	0		0	
Groveland	3	> 0 to 1%	2	1% to 5%
Gulf Breeze	2	1% to 5%	4	5% to 10%
Haines City	3	1% to 5%	2	1% to 5%
Hastings	0		0	

Table 3-4

EXCHANGES WITH AN ALEC PROVIDER

EXCHANGE	Total ALEC		Total ALEC	
	Res. Providers	% of Res. Access Lines	Bus. Providers	% of Bus. Access Lines
		ALEC Providers		ALEC Providers
Havana	1		0	
Hawthorne	2	> 0 to 1%	1	1% to 5%
High Springs	0		0	
Hilliard	0		0	
Hobe Sound	1	>0 to 1%	5	5% to 10%
Holley-Navarre	1	> 0 to 1%	2	5% to 10%
Hollywood	11	> 0 to 1%	13	10% to 15%
Homestead	5	> 0 to 1%	8	5% to 10%
Homosassa	3	> 0 to 1%	1	> 0 to 1%
Hosford	0		0	
Howey-in-the-Hills	0		2	1% to 5%
Hudson	3	1% to 5%	2	1% to 5%
Immokalee	3	> 0 to 1%	1	> 0 to 1%
Indian Lake	2	> 0 to 1%	0	
Indiantown	0		1	> 0 to 1%
Interlachen	0		0	
Inverness	5	> 0 to 1%	2	1% to 5%
Islamorada	2	> 0 to 1%	3	25% to 30%
Jacksonville Beach	3	> 0 to 1%	3	1% to 5%
Jacksonville	9	1% to 5%	10	10% to 15%
Jasper	0		0	
Jay	1	>0 to 1%	0	
Jennings	0		1	1% to 5%
Jensen Beach	3	> 0 to 1%	4	5% to 10%
Julington	0		3	5% to 10%
Jupiter	5	> 0 to 1%	8	15% to 20%
Keaton Beach	0		0	
Kenansville	0		3	35% to 40%
Keystone Heights	0		1	> 0 to 1%
Key Largo	2	> 0 to 1%	4	10% to 15%
Key West	4	> 0 to 1%	5	1% to 5%
Kingsley Lake	0		1	25% to 30%
Kissimmee	5	> 0 to 1%	8	5% to 10%
La Belle	4	> 0 to 1%	1	> 0 to 1%

Table 3-4

EXCHANGES WITH AN ALEC PROVIDER

EXCHANGE	Total ALEC		Total ALEC	
	Res. Providers	% of Res. Access Lines	Bus. Providers	% of Bus. Access Lines
		ALEC Providers		ALEC Providers
Lady Lake	4	> 0 to 1%	2	1% to 5%
Lake Buena Vista	0		0	
Lake Butler	1	> 0 to 1%	0	
Lake City	7	> 0 to 1%	3	1% to 5%
Lake Placid	3	> 0 to 1%	1	1% to 5%
Lake Wales	4	> 0 to 1%	2	1% to 5%
Lake Worth	1	1% to 5%	0	
Lakeland	4	1% to 5%	3	1% to 5%
Largo	1	> 0 to 1%	1	> 0 to 1%
Laurel Hill	0		0	
Lawtey	1	> 0 to 1%	0	
Lee	2	> 0 to 1%	0	
Leesburg	6	> 0 to 1%	4	1% to 5%
Lehigh Acres	3	> 0 to 1%	1	> 0 to 1%
Live Oak	0		1	> 0 to 1%
Luraville	0		0	
Lynn Haven	4	1% to 5%	2	> 0 to 1%
Macclenny	0		0	
Madison	2	1% to 5%	3	> 0 to 1%
Malone	0		0	
Marathon	2	> 0 to 1%	3	10% to 15%
Marco Island	1	> 0 to 1%	2	> 0 to 1%
Marianna	3	> 0 to 1%	2	1% to 5%
Maxville	0		0	
Mayo	0		0	
McIntosh	0		0	
Melbourne	8	> 0 to 1%	7	10% to 15%
Melrose	0	>0 to 1%	0	1% to 5%
Miami	14	> 0 to 1%	15	10% to 15%
Micanopy	1	> 0 to 1%	1	1% to 5%
Middleburg	4	> 0 to 1%	1	1% to 5%
Milton	3	> 0 to 1%	2	1% to 5%
Molino	1	>0 to 1%	0	
Monticello	1	> 0 to 1%	1	> 0 to 1%

Table 3-4

EXCHANGES WITH AN ALEC PROVIDER

EXCHANGE	Total ALEC		Total ALEC	
	Res. Providers	% of Res. Access Lines	Bus. Providers	% of Bus. Access Lines
		ALEC Providers		ALEC Providers
Montverde	2	> 0 to 1%	3	25% to 30%
Moore Haven	0		1	> 0 to 1%
Mount Dora	3	> 0 to 1%	3	1% to 5%
Mulberry	3	1% to 5%	2	> 0 to 1%
Munson	0		0	
Myakka	2	1% to 5%	1	> 0 to 1%
Naples	5	> 0 to 1%	3	> 0 to 1%
New Port Richey	3	1% to 5%	3	1% to 5%
New Smyrna Beach	3	> 0 to 1%	2	1% to 5%
Newberry	3	1% to 5%	2	1% to 5%
North Cape Coral	3	> 0 to 1%	2	> 0 to 1%
North Dade	8	> 0 to 1%	10	25% to 30%
North Fort Myers	4	> 0 to 1%	2	> 0 to 1%
North Key Largo	0		2	45% to 50%
North Naples	2	> 0 to 1%	2	> 0 to 1%
North Port	3	1% to 5%	2	> 0 to 1%
Oak Hill	2	> 0 to 1%	0	
Ocala	7	> 0 to 1%	4	1% to 5%
Ocklawaha	2	> 0 to 1%	2	> 0 to 1%
Okeechobee	2	> 0 to 1%	2	1% to 5%
Old Town	3	> 0 to 1%	2	1% to 5%
Orange City	3	> 0 to 1%	3	1% to 5%
Orange Park	4	> 0 to 1%	3	1% to 5%
Orange Springs	1	> 0 to 1%	0	
Orlando	9	> 0 to 1%	13	15% to 20%
Oviedo	4	> 0 to 1%	9	5% to 10%
Pace	1		3	5% to 10%
Pahokee	3	> 0 to 1%	2	1% to 5%
Palatka	4	> 0 to 1%	3	1% to 5%
Palm Coast	4	> 0 to 1%	2	> 0 to 1%
Palmetto	4	1% to 5%	2	1% to 5%
Panacea	0		0	
Panama City	4	1% to 5%	3	1% to 5%
Panama City Beach	4	> 0 to 1%	2	> 0 to 1%

Table 3-4

EXCHANGES WITH AN ALEC PROVIDER

EXCHANGE	Total ALEC		Total ALEC	
	Res. Providers	% of Res. Access Lines	Bus. Providers	% of Bus. Access Lines
		ALEC Providers		ALEC Providers
Paxton	1	> 0 to 1%	0	
Pensacola	5	1% to 5%	5	5% to 10%
Perrine	5	> 0 to 1%	8	5% to 10%
Perry	1	> 0 to 1%	0	
Pierson	1	> 0 to 1%	1	> 0 to 1%
Pine Island	3	> 0 to 1%	2	> 0 to 1%
Plant City	4	1% to 5%	5	5% to 10%
Polk City	2	1% to 5%	2	> 0 to 1%
Pomona Park	0		1	> 0 to 1%
Pompano Beach	11	1% to 5%	10	10% to 15%
Ponce de Leon	2	> 0 to 1%	1	1% to 5%
Ponte Vedra Beach	2	> 0 to 1%	2	1% to 5%
Port Charlotte	6	> 0 to 1%	2	> 0 to 1%
Port St. Joe	1	> 0 to 1%	0	
Port St. Lucie	6	> 0 to 1%	6	1% to 5%
Punta Gorda	3	> 0 to 1%	2	> 0 to 1%
Quincy	1	> 0 to 1%	1	> 0 to 1%
Raiford	0		0	
Reedy Creek	2	> 0 to 1%	5	5% to 10%
Reynolds Hill	0		1	1% to 5%
Salt Springs	1	> 0 to 1%	0	
San Antonio	4	> 0 to 1%	0	
Sanderson	0		0	
Sanford	7	> 0 to 1%	8	1% to 5%
Sanibel-Captiva Island	0		0	
Santa Rosa Beach	1	> 0 to 1%	1	> 0 to 1%
Sarasota	4	1% to 5%	5	1% to 5%
Seagrove Beach	0		0	
Sebastian	3	> 0 to 1%	6	10% to 15%
Sebring	4	> 0 to 1%	3	1% to 5%
Shalimar	2	> 0 to 1%	1	> 0 to 1%
Silver Springs Shores	2	> 0 to 1%	2	1% to 5%
Sneads	0		0	
Sopchoppy	0		0	

Table 3-4

EXCHANGES WITH AN ALEC PROVIDER

EXCHANGE	Total ALEC		Total ALEC	
	Res. Providers	% of Res. Access Lines	Bus. Providers	% of Bus. Access Lines
		ALEC Providers		ALEC Providers
Spring Lake	0		1	> 0 to 1%
St. Augustine	3	> 0 to 1%	4	1% to 5%
St Cloud	4	> 0 to 1%	5	1% to 5%
St. Johns	0		0	
St. Marks	0		0	
St. Petersburg	6	1% to 5%	7	5% to 10%
Stark	2	> 0 to 1%	2	1% to 5%
Stuart	5	> 0 to 1%	7	1% to 5%
Sugarloaf Key	0		3	45% to 50%
Sunny Hills	1	> 0 to 1%	0	
Tallahassee	7	> 0 to 1%	6	1% to 5%
Tampa	5	5% to 10%	8	5% to 10%
Tarpon Springs	5	1% to 5%	5	5% to 10%
Tavares	2	> 0 to 1%	3	1% to 5%
The Beaches	0		1	> 0 to 1%
Titusville	3	> 0 to 1%	6	5% to 10%
Trenton	2	> 0 to 1%	2	> 0 to 1%
Trilacootchee	3	> 0 to 1%	1	1% to 5%
Tyndall	0		1	> 0 to 1%
Umatilla	3	> 0 to 1%	2	> 0 to 1%
Valparaiso	3	> 0 to 1%	2	> 0 to 1%
Venice	4	1% to 5%	2	1% to 5%
Vernon	1	> 0 to 1%	0	
Vero Beach	7	> 0 to 1%	7	1% to 5%
Waldo	0		0	
Walnut Hill	0		0	
Wauchula	2	> 0 to 1%	2	1% to 5%
Weekiwachee Springs	4	> 0 to 1%	4	1% to 5%
Welaka	2	> 0 to 1%	0	
Wellborn	0		0	
West Palm Beach	9	> 0 to 1%	11	5% to 10%
West Kissimmee	4	> 0 to 1%	7	20% to 25%
Westville	0		0	
Wewahitchka	1	> 0 to 1%	1	> 0 to 1%

Table 3-4

EXCHANGES WITH AN ALEC PROVIDER

EXCHANGE	Total ALEC			
	Res. Providers	% of Res. Access Lines	Total ALEC	% of Bus. Access Lines
		ALEC Providers	Bus. Providers	ALEC Providers
White Springs	0		0	
Wildwood	3	> 0 to 1%	2	> 0 to 1%
Williston	3	> 0 to 1%	2	1% to 5%
Windermere	2	> 0 to 1%	3	5% to 10%
Winter Garden	4	> 0 to 1%	5	5% to 10%
Winter Haven	3	1% to 5%	2	1% to 5%
Winter Park	8	> 0 to 1%	7	5% to 10%
Yankeetown	3	> 0 to 1%	1	1% to 5%
Youngstown-Fountain	1	> 0 to 1%	1	> 0 to 1%
Yulee	1	> 0 to 1%	1	1% to 5%
Zepher Hills	3	1% to 5%	4	5% to 10%
Zolfo Springs	1	> 0 to 1%	0	

Tables 3-5 and 3-6 summarize the number of exchanges where ALECs are providing basic local service, and in what areas there are the most ALECs providing service.

SUMMARY OF FLORIDA EXCHANGES WITH AND WITHOUT AN ALEC PROVIDER	
Exchanges with One ALEC Provider	41
Exchanges with Two ALEC Providers	28
Exchanges with Three of More ALEC Providers	166
Exchanges Without an ALEC Provider	46
Exchanges Without a Residential ALEC Provider	67
Exchanges Without a Business ALEC Provider	81
Total Exchanges in Florida	281

EXCHANGES WITH THE MOST ALEC PROVIDERS			
EXCHANGE			TOTAL ALEC PROVIDERS*
	Residential	Business	
Boca Raton	10	13	16
Delray Beach	11	8	15
Ft Lauderdale	16	13	22
Gainesville	10	6	12
Hollywood	11	13	16
Homestead	5	8	11
Jacksonville	8	10	13
Miami	14	16	22
North Dade	8	10	13
Orlando	9	13	17
West Palm Beach	9	11	13

*Total does not add across columns because an ALEC provider may offer service to both business and residential customers in the exchange

In determining the level of competitive entry, the number of access lines the competitors are actually serving may be more significant than the number of competitors in an exchange. The total number of business and residential access lines served by the 80 ALECs is 555,172 compared to 51 ALECs serving 194,142 lines a year ago. In comparison, the total number of access lines served by the LECs is over 10.7 million. The

total number of business access lines served by all competitive entrants combined is 438,639 and the total number of residential access lines is 97,230, compared to 143,959 business and 50,183 residential access lines reported in 1998. The LECs serve approximately 3.2 million business lines and 7.5 million residential access lines. ALEC business lines increased from approximately 4.3% in 1998 to 12.2% of the total Florida business lines in 1999; their share of the total residential access lines increased from around .7% in 1998 to 1.3% in 1999. The competitors' share of the total access lines served has risen to approximately 5.0%, compared to 1.8% in 1998.

The ALECs continue to focus on the heavily populated markets with large concentrations of customers. Exhibit 2 on the next page shows the location of Florida's 10 Local Access and Transport Areas (LATAs) and Market Areas. A LATA is defined by the FCC as a "[A] continuous local exchange area which includes every point served by a local phone company within an existing community of interest."⁴ As shown in Table 3-7, Florida's more populous LATAs also have the most competition.

⁴ A Glossary of Telecommunications Terms, FCC Public Service Division, 1998.

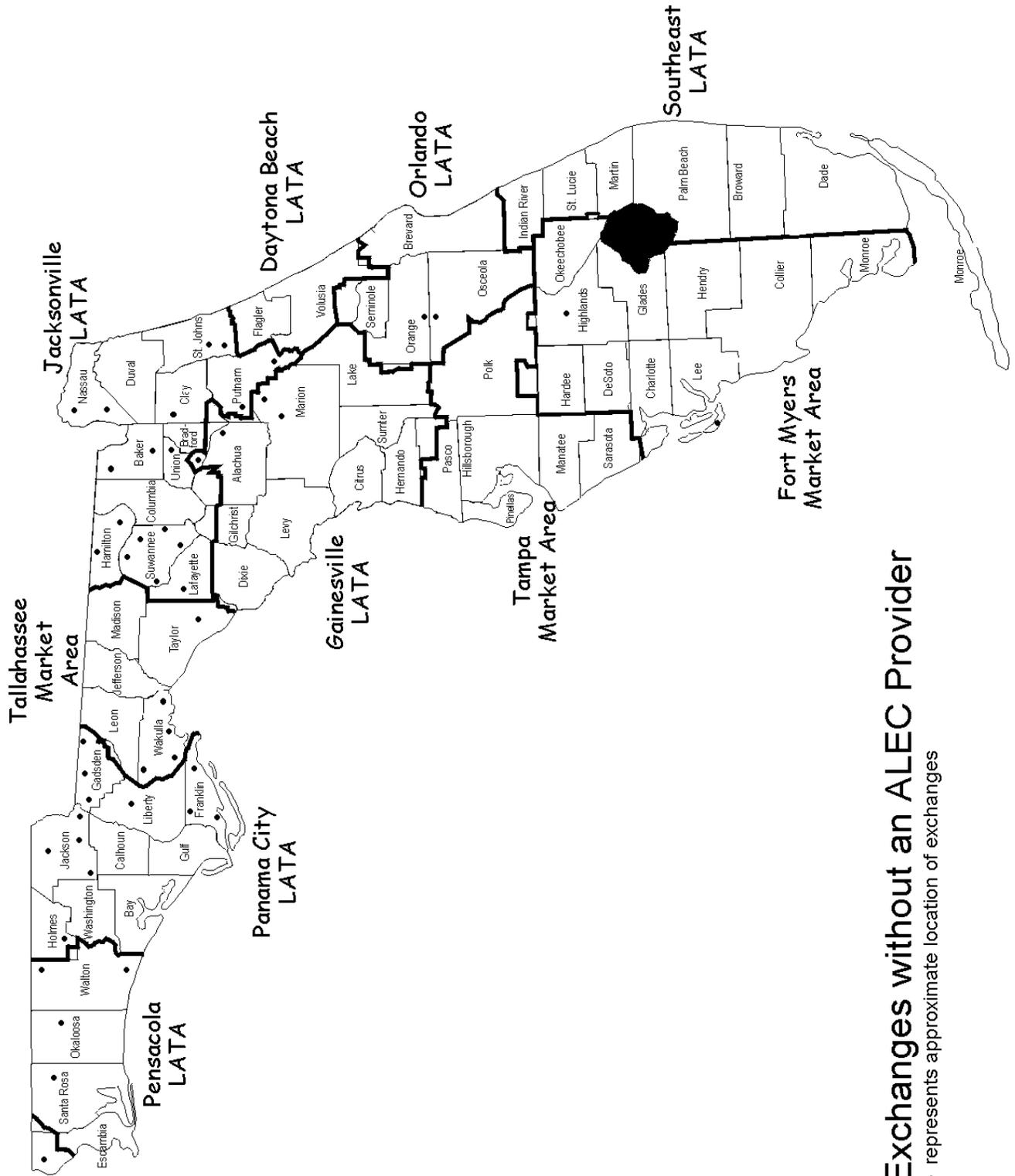
Table 3-7

ALEC PROVIDERS BY LATA			
LATA	Exchanges in LATA	Exchanges without Competitive Entrant	Area Codes Serving the LATA
Daytona	9	0	904
Ft Myers Market Area	29	2	863, 941
Gainesville	51	4	352
Jacksonville	41	18	904
Orlando	23	2	407, 321
Panama City	37	11	850
Pensacola	23	4	850
Southeast	31	0	305, 561, 786, 954
Tallahassee Market Area	12	5	850
Tampa Market Area	25	0	727, 813, 941

One exchange in Florida without a competitive entrant is in the Mobile LATA

The table reveals that more densely populous areas, such as the Daytona and Southeast LATAs and the Tampa market area, have competitive entrants in every exchange. Almost every exchange in the Ft. Myers market area and the Gainesville, Orlando, and Pensacola LATAs is served by at least one ALEC. However, in the less densely populated areas, such as the Jacksonville and Panama City LATAs and the Tallahassee market area, many more exchanges do not have a competitive local provider present.

Since last year's status of competition report, ALECs have increased significantly their share in the business market. In total, ALECs now have market shares that exceed 10% in 28 exchanges, including exchanges in the Ft. Lauderdale, Miami and West Palm Beach areas on the east coast of Florida, and the Jacksonville and Orlando areas in the North and Central part of Florida, respectively.



Exchanges without an ALEC Provider

- represents approximate location of exchanges

Exhibit 2

As for residential competition, few exchanges are experiencing any significant penetration. Only 39 exchanges have over 1% of the access lines served by a competitive provider, and only the Destin and Tampa exchanges have over 5% of the total access lines provided by competitive providers. Several ALECs responded to the Commission's data request that they have no intention of serving residential customers due to low profit margins. Of the ALECs that said they were providing service, 23 ALECs provide services only to residential customers, 29 ALECs provide services only to business customers, and 25 ALECs provide to both. While the number of providers serving each group of customers is relatively the same, ALECs have captured five times the number of access lines in the business market than in the residential market. Business customers generate significantly greater revenues than residential customers, which allows an ALEC to establish a revenue base more rapidly by focusing on business customers.

ALECs have certain advantages over the incumbent LEC because they are not required to serve all customers and are not carriers of last resort. Thus, an ALEC has complete freedom to choose to whom and where they wish to provide service. LECs often accuse ALECs of "cream skimming," or pinpointing customers who generate high amounts of revenue and winning over their business from the LEC. Although a competitor can be operating in an exchange and have customers, they are not actually competing for **all** customers at that time.

This year's exchange-by-exchange data shows ALECs have made significant gains in the number of business access lines served, while the gains in residential access lines has been at a much slower pace. With respect to exchanges being served by a competitive entrant, numerous exchanges experienced growth in the number of providers since last year's report. While we reported in 1998 that 55 of the 281 exchanges had no ALECs

offering services, this statistic has decreased to where 47 of the 281 exchanges are not served by an ALEC provider in 1999. The exchanges where competitive providers are offering service is expanding, and providers appear not to be concentrated only in the urban areas. In the 1998 report, ALECS that served three or more exchanges accounted for 172. In 1999, this number has decreased to 166. Given the increase in the number of competitive providers, the data suggests a shifting from multiple competitive providers in one exchange to competitive entrants spreading to other geographic areas in the state.

According to the Telcordia Local Exchange Routing Guide (LERG), many ALECs in Florida have installed their own switches and increasingly are becoming facilities-based instead of relying on resale for providing services. The report lists 27 ALECs owning 49 switches in various locations across the state. Whether all of the switches are operational or have traffic flowing through them is unknown. Table 3-8 shows the cities

where the switches are located and the number

Table 3-8			
ALEC OWNED SWITCHES			
City	Number of Switches	City	Number of Switches
Boca Raton	1	Palm Bay	1
Ft. Lauderdale	5	Pompano Beach	2
Jacksonville	5	Sarasota	1
Lakeland	1	St. Petersburg	1
Maitland	1	Tallahassee	1
Miami	11	Tampa	6
North Dade	1	West Palm Beach	1
Orlando	7	Winter Haven	1
Oviedo	2	Winter Park	1

in use by ALECs.

The table shows that ALECs have chosen to locate their switches in the more populous areas of the state, including the Miami, Orlando, and Tampa market areas. The 27 ALECs owning switches serve primarily business access lines in Florida. Companies owning switches include Intermedia, Global-NAPS, National Telecommunications of Florida, USLEC, KMC Telecom, and MediaOne. Several companies have installed DMS 500 switches, which have the capability of serving in excess of 100,000 access lines per switch. According to the LERG report, Florida Digital Network, Global-NAPS, Intermedia, MGC Communications, National Telecommunications, and Teligent all have installed DMS 500 switches in Florida.

PREPAID LOCAL SERVICE

Of the 80 ALECs known to be providing services, 44 provide services to residential customers while 48 provide services to business customers. Based on the responses received, it appears that 26 of the residential providers offer prepaid local telephone service that usually has mandatory toll-blocking and no access to directory assistance. The price per month for this form of residential service ranges from \$24.95 per month from ExcelLink Communications to as high as \$63.45 per month from Reconex. The vast majority charge somewhere in the neighborhood of \$50.00 per month. Responses to our survey indicates that a significant number of residential customers in Florida are receiving this type of service. Several of these providers' primary businesses are not local telephone services, but paging, cellular and PCS, appliance and television rentals, and title loans. Of the paging, cellular and PCS providers, some offer packages combining paging, cellular, and

local telephone services into one monthly bill. Other companies offering this type of service appear to be focusing on a particular type of customer and capitalizing on the opportunity to provide services to less than creditworthy consumers.

A few firms are offering prepaid local service to business customers. Rates range from \$49.00 per month with USA Telephone to \$79.95 with Quick-Tel Communications. Seven companies provide business prepaid services but to a very limited number of customers.

HOW FLORIDA COMPARES TO THE REST OF THE UNITED STATES

The FCC tracks data about the extent and pattern of local competition throughout the United States; its most recently released report is titled Local Competition: August 1999 and contains information as of December 31, 1998. A key difference between our research and that conducted by the FCC is the methods used to collect data. In our report, we requested data from the LECs as well as the ALECs. The FCC obtains the bulk of its information through a voluntary survey submitted to the major LECs, as well as certain revenue data derived from federal universal service reporting forms.

According to the FCC's report, as of year-end 1998 approximately 2% of LEC lines nationwide were reported as being resold by ALECs, and ALEC providers accounted for 2.4% of the total local telecommunications market revenues. Both of these statistics had increased significantly from prior reports. This comports with our data, which reflect that nearly 2% of the Florida access lines of BellSouth, GTE Florida and Sprint are being resold to ALECs. Further, while the FCC does not obtain access line data from ALECs, they report that investment analysts estimate that between 2%-3% of the total nationwide

access lines are being served by ALECs. In contrast, as reported earlier in this chapter, ALECs in Florida have been more successful in obtaining customers and our analysis indicates that they now serve some 5.0% of all access lines in the state.

LIMITATIONS IN PRECEDING ALEC MARKET ANALYSES

Although on balance we believe that the preceding ALEC market share analyses are quite reasonable, various caveats should be noted about our analysis. Our data compilation was based on responses received to our ALEC data requests, and thus is only as complete as the responses submitted by the ALECs. As noted earlier, of the 265 ALECs certificated as of June 30, 1999, 181 ALECs responded, of which 80 indicated they were providing service.

Our data request asked those ALECs who were providing service to indicate the number of access lines they were serving, separated between residential and business lines, by exchange. Not all respondents answered in the format requested. A group of companies identified the number of residential and business lines they were serving, but the data was not provided by exchange. Since these lines could not be attributed to specific exchanges, the ALEC market shares by exchange are likely understated. (These lines were added in the totals, however.) A second group of respondents only provided the number of residential and business customers they are serving. For these ALECs, we made the very conservative assumption of a single access line for each customer. Here, both the ALEC overall shares and shares by exchange would tend to be understated.

Due to concerns about possible under-reporting of lines served by ALECs, we sent a second data request to the incumbent LECs asking them to identify the number of

residential and business resold lines they were providing, by ALEC, by exchange. (Unfortunately, not all LECs were able to provide data on resold lines split between residence and business.) We then compared the number of resold lines to the number of ALEC-reported lines, by exchange. Where the LEC-reported resold lines exceeded the ALEC-reported lines, we computed the difference between the two amounts. Summing across all Florida exchanges yields an estimate of an additional 19,303 access lines. Adding in this adjustment, we estimate that ALECs in Florida serve a total of 555,172 access lines, or 5.0% of overall access lines.

COMPLAINTS FILED BY ALECs AGAINST LECs

A 1997 amendment to Section 364.161(4), Florida Statutes, requires that the report include a discussion of all complaints filed by alternative local exchange companies (ALECs) against incumbent local exchange companies (LECs). Table 3-9 lists and describes the ALEC complaints against LECs over the past year. Last year the Commission received 25 complaints from ALECs; 18 have been resolved while the other seven are scheduled for upcoming hearings.

Table 3-9 List of Complaints Filed by ALECs Against LECs
(Includes formal and informal Complaints as of September 30, 1999)

ALEC	ILEC	Date Opened	Docket No. or CATS No.	Description of Complaint	Date	Resolution
Supra	BST	6/30/98	980800	Complaint that BST denied Supra physical collocation in 2 central offices, denied Supra the ability to collocate certain equipment, and that BST is taking too long to provide physical collocation.	1/6/99	By Commission order Supra was allowed collocation in the central offices, but was not allowed collocation for certain advanced services equipment.
e.spire	BST	8/06/98	981008	Alleged breach of interconnection agreement. BST failing to compensate e.spire for call termination to ISPs.	3/16/99	Commission ordered BST to pay e.spire reciprocal compensation for ISP traffic.
TCCF	BST	8/20/98	981052	Complaint alleges lack of parity in the provisioning of ESSX service.	6/4/99	Commission held hearing on 1/22/99. Reconsideration scheduled for 10/7/99 agenda.
MCI	BST	9/14/98	981121	Request by MCI for enforcement of contract. PSC to determine if loop/transport UNE combination recreated MegaLink service and, if so, may set prices for the combination.	5/27/99	Hearing held 2/3/99. Commission ordered BST to allow MCI to have UNE combo at sum of UNE prices. BST filed for reconsideration, which was denied by the Commission.

ALEC	ILEC	Date Opened	Docket No. or CATS No.	Description of Complaint	Date	Resolution
ACSI	BST	1/8/99	990036	Enforcement of interconnection agreement.		Currently ongoing. Issue identification hearing set for 10/6/99
The Other Phone Co.	BST	1/29/99	990108	Breach of resale agreement.		At the request of the parties a continuance was granted for parties to continue negotiation.
Worldlink	BST	3/15/99	990332	Complaint regarding resale agreement		Parties attempting to resolve complaint, hearing canceled.
Sprint	GTE	6/15/99	990772	Complaint regarding collocation	7/30/99	Complaint was withdrawn at the request of the parties.
Orlando Telephone Company	SPRINT/ BST	8/4/99	991037	Complaint regarding the provision of DA and white pages listings.		Set for hearing on 4/24/2000.
National-Tel	BST	7/14/98	220101L	Poor service to CLEC & surly treatment from LEC to NTLTEL. Complaint had to be escalated to 2nd supvr for results	9/4/98	NtnITel reviewed report data but did not respond to staff's inquiry. Letter sent advising that since they did not respond, complaint was being closed.
LEC-LINK	BST	7/30/98	221710I	Numerous: not applying sec. Svc. Charge per tariff, etc.	2/17/99	BST replied; LEC-LINK disagrees. BST worked with LEC-LINK and resolution was achieved by parties

ALEC	ILEC	Date Opened	Docket No. or CATS No.	Description of Complaint	Date	Resolution
The Other Phone Co.	BST	7/30/98	221758R	Slow restoration of service for TOPC customers disconnected for non-payment.	7/30/98	BST completed system update; restoral orders now processed in timely manner.
Orlando Tel. Co.	BST	9/02/98	225915I	Originally filed by Integrity Online (ISP). OTC and BST blame each other for companies' problems.	11/4/98	Companies resolved disputed issues. Complaint closed.
Unicom Comm	BST	10/15/98	231322I	Unicom states that BST is refusing to repair their customer's service.	10/30/98	PSC staff requested companies meet to discuss issues. PSC also asked BST to check its translation tables. BST reported no problems found with tables; complaint closed.
JetCom	BST	12/29/98	239085R	Letter from JetCom because BST would not accept their payment arrangement offer for past due bill. In speaking with JetCom, they also wanted to disconnect some customers who had not paid them.	12/29/98	Explained that we could not mandate a certain payment plan. JetCom ok; said that they were getting commitment from bank. Spoke with BST to contact JetCom on the disconnects.

ALEC	ILEC	Date Opened	Docket No. or CATS No.	Description of Complaint	Date	Resolution
IDS Long Distance	BST	2/05/99	242926I	Complaint from IDS regarding the delay in reconnection of one of IDS' customers.	2/19/99	BellSouth stated they had informed IDS that there may be a delay in connection because of PF (facilities not available)
1-800-Reconex	BST	3/12/99	248264R	Billing dispute over service orders.	4/5/99	BST completed all service orders and continues to accept new ones while 1-800-Reconex submitted payment to BST.
Orlando Digital Tel.	BST	3/30/99	251096	Demarcation/service issue.	4/12/99	BST agreed to refund to customer charges placed on their bill resulting from the cut wires.
Florida Digital Network	BST	7/8/99	266823T	Complaint regarding early disconnects for switch-overs	7/23/99	Informal conference held with parties. Parties solved initial dispute and developed guidelines for resolving future disputes.
Orlando Telephone Company	SPRINT	7/8/99	990884-TP	Complaint over switched access termination charges	7/23/99	Set for 1/20/2000 Hearing, recommendation due on 3/02/2000; scheduled for agenda on 3/14/2000

ALEC	ILEC	Date Opened	Docket No. or CATS No.	Description of Complaint	Date	Resolution
Intermedia Comm.	GTE	8/3/98	980986	Alleged breach of interconnection agreement. GTE failing to compensate Intermedia for call termination to ISPs.	2/15/99	Parties withdrew their complaint. Issues to be briefed by parties.
Orlando Telephone Company	BST	5/26/99	2606971	Orlando Telephone Co. claims that due to remarks made by a BST rep to a developer of a luxury apartment complex, he lost the contract.	6/14/99	BST's response indicates that its rep's comments were misunderstood or were correct. Basically since this was a "he said/she said" situation, staff could not make determination.
USLEC	BST	7/2/99	990874	Alleged breach of interconnection agreement. USLEC claims BST failed to compensate them for call termination to ISPs.		Hearing scheduled for 3/20/00 with staff recommendation due 5/25/00. Scheduled for agenda on 6/6/00.
Global-NAPS	BST	8/31/99	991267	Alleged breach of interconnection agreement. Global-NAPS claims BST failed to compensate them for call termination to ISPs.		Hearing scheduled for 4/19/00 with staff recommendation due 6/8/00. Scheduled for agenda on 6/20/00.

ALEC	ILEC	Date Opened	Docket No. or CATS No.	Description of Complaint	Date	Resolution
ALTS et al	BST	7/27/99	990970	ALTS complaint addresses BST promotional practices; bundling Internet access with their complete choice plan.		Hearing scheduled for 2/2/00 with staff recommendation due 3/23/00. Scheduled for agenda on 4/4/00.
Sprint Comm.	BST	8/9/99	991084	Sprint Communications complaint claims BST is not complying with an approved interconnection agreement.		Hearing scheduled for 2/22/00 with staff recommendation due 4/26/00. Scheduled for agenda on 4/18/00.

SUMMARY

As of July 1999, ALECs are providing service to approximately 5.0% of the total access lines in Florida compared to 1.8% in 1998. Florida has approximately 11.3 million access lines of which approximately 555,000 of them are being served by ALECs. Of those 11.3 million access lines in Florida, 7.6 million are residential and 3.7 million are business. Competitive entrants are serving 97,230 residential and 438,639 business access lines. In percentages, ALECs serve 1.3% of the residential and 12.2% of the business access lines. In 1998 there were 10.8 million access lines in Florida, 7.5 million residential and 3.3 million business. ALECs in 1998 served approximately 194,000 total lines, 50,000 residential and 144,000 business or captured .7% of the residential and 4.3% of the business market. It is evident that competitive entrants have made significant gains in the local telecommunications market in Florida over the past year.

CHAPTER IV: CONCLUSION

From the data collected in preparing this report, it is apparent that ALECs are viewing Florida as an attractive market. The number of ALECs certificated increased from

191 to 265 since the last report and the number of exchanges served by an ALEC provider has increased from 226 to 235. Another trend derived from the data is ALECs are beginning to provide services throughout the state instead of focusing on the metropolitan areas.

This year's data reflects that 80 ALECs are serving 555,172 access lines to both residential and business customers. This accounts for 5.0% of the total access lines located in Florida.

While nearly 100 ALECs responded they were not currently offering services, nearly half expressed their intentions to offer end-user services before the end of year 2000. Traditionally, new entrants offered services through reselling LEC services, but many non-providing ALECs indicated they were in the process of obtaining their own equipment such as purchasing a switch. Business customers can obtain service from ALECs in 71% of the state's exchanges, at rates, terms and conditions that presumably are at least comparable to those offered by the incumbent LECs. While local service from ALECs is available to residential customers in 76% of Florida's exchanges, it appears that there are at least two residential submarkets. First, some ALECs offer residential service which, while it may be bundled with other offerings, essentially is a substitute for the LEC's residential service, and typically is available at rates, terms and conditions similar to those offered by the LEC. Second, certain ALECs have targeted their efforts to offering prepaid service with toll restriction to residential consumers who likely would not be able to obtain service from the LEC because they previously had been disconnected or have poor credit history. Here, although these ALECs are apparently satisfying a need in the market, there is no truly comparable LEC service offering against which to compare the ALEC service.

A review of customer complaints revealed that LECs are continuing to maintain

affordable, high-quality services. Over the past few years, the total number of justified customer complaints against the LECs has remained steady or has fallen.

The Commission will continue to facilitate entry into the market while ensuring neither new entrants nor incumbent LECs are unduly advantaged. The Commission will continue to exercise its authority to resolve issues of both a generic nature and those which are specific to two competing carriers.

APPENDIX A: ALECs CERTIFICATED as of June 30, 1999

(dot represents companies having a price list on file as of June 30, 1999)

- Interprise America, Inc.
- 1-800-RECONEX, Inc.
- 2001 Telecommunications Inc.
- 2nd Century Communications, Inc.
- A 1 Mobile Tech, Inc.

- A.R.C. Networks, Inc.
- AA Tele-Com
ABCConnect
Accelerated Connections, Inc.
Access Communications - First Coast
- Access Network Services, Inc.
Access Point, Inc.
Adelphia Telecommunications of Florida, Inc.
Advanced Cellular Corporation
Advent Consulting and Technology, Inc.
AirTime Technologies, Inc.
All Kinds Cashed, Inc.
- ALLTEL Communications, Inc.
- Appliance & TV Rentals, Inc.
- Alternative Phone, Inc.
- Alternative Telecommunications Services, Inc.
- America's Tele-Network Corp.
- American Dial Tone
- American MetroUtilities Corporation/Florida
American Phone Corporation
- Ameritech Communications International, Inc.
- Annox, Inc.

APPENDIX A: ALECs CERTIFICATED as of June 30, 1999

(dot represents companies having a price list on file as of June 30, 1999)

- Arrow Communications, Inc.
- AT&T
ATI Telecom, Inc.
- Atlantic Telecommunication Systems, Inc.
Atlantic.Net Broadband, Inc.

- Atlas Communications, Ltd.
- Axessa
- Axsys, Inc./Tel Ptns.
- BellSouth BSE, Inc.
- BellSouth Telecommunications, Inc.
- Biz-Tel Corporation
- BlueStar Networks, Inc.
- BTI
- BudgeTel Systems, Inc.
- Budget Phone, Inc.
- Business Technology Systems, Inc.
- Buy-Tel Communications, Inc.
- Cable & Wireless, Inc.
- Capital Exploration
- Cellular One of Southwest Florida
- CFT INC.
- City of Lakeland
- City of Ocala
- City of Tallahassee
- Collins Communications Corporation
- ComTel, Inc. Of South Carolina
- COI-SR

APPENDIX A: ALECs CERTIFICATED as of June 30, 1999

(dot represents companies having a price list on file as of June 30, 1999)

- Comcast MH Telephony Communications of Florida, Inc.
- Comcast Telephony Communications of Florida, Inc.
- Communication Service Centers
- Compass Telecommunications Incorporated
- Computer Business Sciences, Inc.

- Comscape Communications, Inc.
- COMUSA, Inc.
- Coral Bay Financial, Inc.
- Covad Communications Company
- Cox Communications
- CRG International, Inc.
- Cypress Telecommunications Corporation
- DPI-Teleconnect, L.L.C.
- Datacomm International Company, Ltd.
- Daytona Telephone Company
- Dial & Save
- Dial Tone of Alabama, Inc.
- Dial Tone Communications Group Inc.
- Diamond Communications International, Inc.
- Direct-Tel, Inc.
- e.spire Communications, Inc.
- Eagle Telco, Inc.
- East Florida Communications, Inc.
- Eastland of Orlando Telephone Corporation
- Easton Telecom Services Inc.
- EasyComm Corporation
- Easy Tel, Inc.

APPENDIX A: ALECs CERTIFICATED as of June 30, 1999

(dot represents companies having a price list on file as of June 30, 1999)

- ElectroNet Intermedia Consulting, Inc.
- Electronic Technical Services (E.T.S.)
- Ernest Communications, Inc.
- Everglades National Communication Network, Inc.
- Excel Telecommunications, Inc.

- Excelink Communications, Inc.
- Express Loans
- EZ Talk Communications, L.L.C.
- Fascon, Inc.
- First Touch, Inc.
- Florida City-Link Communications, Inc.
- Florida Comm South
- Florida Digital Network, Inc.
- Florida Public Telecommunications Association, Inc.
- Florida Telephone Company
- Florida Telephone Services, LLC
- Florida's Max-Tel Communications, Inc.
- Focal Communications Corporation of Florida
- FoxTel, Inc.
- Frontier Local Services Inc.
- Frontier Telemanagement Inc.
- GCI Globalcom, Inc.
- GE Capital Commercial Direct
- Global NAPS, Inc.
- GNet Telecom, Inc.
- Group Long Distance, Inc.
- GRU Communication Service/GRUCom/GRU

APPENDIX A: ALECs CERTIFICATED as of June 30, 1999

(dot represents companies having a price list on file as of June 30, 1999)

- GT Com
- GTE Communications Corporation
- Guarantel, Inc.
- Gulftel Communications
- Hale and Father, Inc.

- Hart Communications
Hayes Telecommunications Services, Inc.
HJN Telecom, Inc.
Hometown Telephone, Inc.
- Hyperion of Jacksonville, Inc.
- Hyperion Telecommunications of Florida, Inc.
- IDS Long Distance, Inc.
IE Com
- Integra Paging
- Intellicall Operator Services, Inc.
- Inter-Tel NetSolutions, Inc.
Intercontinental Communications Group, Inc.
- Interlink Telephony, Inc.
- Intermedia Communications, Inc.
- International Telcom, Ltd.
InternetU, Inc.
Interprise-Continental Fiber Technologies Alternet Data Co
- Intetech, L.C.
- ITC^DeltaCom
ITS Telecommunications Systems, Inc.
JTC Communications, Inc.
KingTel, Inc.

APPENDIX A: ALECs CERTIFICATED as of June 30, 1999

(dot represents companies having a price list on file as of June 30, 1999)

- KMC Telecom II, Inc.
- KMC Telecom Inc.
- Knology of Florida, Inc.
Lake Wellington Professional Centre
LDM Systems Inc.

- LEC-Link
- Level 3 Communications, L.L.C.
Local Line America, Inc.
- Mat-Tell Communications, Inc.
- MCI Metro Access Transmission Services, Inc.
- MCI Telecommunications Corporation
- MediaOne Florida Telecommunications, Inc.
Meginet-CLEC, Inc.
- MET Communications, Inc.
Metrolink Internet Services of Port Saint Lucie, Inc.
Metropolitan Fiber Systems of Florida, Inc.
- MGC Communications, Inc.
MiComm Services, Inc.
Microsun Telecommunications, Inc.
Momentum Telecom, Inc.
National Comm Link, L.L.C.
- National Phone Corporation
- NationalTel
- Navigator Telecommunications, L.L.C.
Netcon Telecom, Inc.
NET-Tel Corporation
- Network Telephone, Incorporated

APPENDIX A: ALECs CERTIFICATED as of June 30, 1999

(dot represents companies having a price list on file as of June 30, 1999)

- New Millennium Communications Corporation
- NewPhone
 - NewSouth Communications Corp.
 - Nextlink Florida, Inc.
 - North American Telephone Network, L.L.C.

- NorthPoint Communications, Inc.
- NOS Communications, Inc.
- NOW Communications, Inc.
- NuStar Communications Corp.
- Oltronics, Inc.
- Omnicall, Inc.
- OnePoint Communications
- OpTel
- Orlando Digital Telephone Corporation
- Orlando Telephone Company
- PaeTec Communications, Inc.
- Palm Beach Telephone Company
- Parklink Communications, Inc.
- Philacom Inc.
- Phones For ALL
- PointeCom, Inc.
- Pre-Cell Solutions, Inc.
- Priority Link
- Pro Telecom, Inc.
- Progressive Telecommunications Corp.
- Public Telephone Network, Inc.
- Pushbutton Paging & Communications, Inc.

APPENDIX A: ALECs CERTIFICATED as of June 30, 1999

(dot represents companies having a price list on file as of June 30, 1999)

- Quentel Communications, Inc.
- Quick-Tel Communications, Inc.
- Quintelco, Inc.
- Qwest Communications Telecom Corp. (formerly LCI)
- Qwest Communications Corp.

- REI Communications
- Rehook1, Inc.
- Ripple Communications
- SBC National, Inc.
- Shands Teaching Hospital and Clinics, Inc.
- Smoke Signal Communications
- Southeast Telephone Company
- Southeastern Telecommunications Service, Inc.
- Southern States Telephone, Inc.
- Southern Telemanagement Group, Inc.
- SouthNet Telecomm Services, Inc.
- Sprint Communications Company Limited Partnership
- State Phone Company
- Strategic Technologies, Inc.
- Supra Telecommunications & Information Systems
- T-Netix, Inc.
- Talk America
- Talk Time Communications, Ltd. Inc.
- Tallahassee Memorial Telephone Company
- Tallahassee Telephone Exchange, Inc.
- TCG South Florida
- TDS Telecom/Quincy Telephone

APPENDIX A: ALECs CERTIFICATED as of June 30, 1999

(dot represents companies having a price list on file as of June 30, 1999)

- Tel-Link, L.L.C.
- TEL3
- Telaleasing Enterprises, Inc.
- Telecard Communications International, Inc.
- Teleco Communications, Ltd.

- Telecommunications Service Center, Inc.
- TeleConex
- Telephone Company of Central Florida, Inc.
- Telephone One, Inc
- Teligent, Inc.
- TelQuest Communications, Corp.
- Telrite
- Teltrust Communications Services, Inc.
- The Grand Condominium Association, Inc.
- The Mobile Phone Company
- The Other Phone Company, Inc.
- The Phone Company
- Time Warner Communications
- Time Warner Connect
- Tin Can Communications Company, L.L.C.
- TotalTel USA Communications, Inc.
- Touch 1 Communications, Inc.
- TransAmerican Telephone
- Travelers Telecom Corp.
- Tristar Communications
- U.S. Dial Tone, Inc.
- U.S. Telco, Inc.

APPENDIX A: ALECs CERTIFICATED as of June 30, 1999

(dot represents companies having a price list on file as of June 30, 1999)

- U2 Communications, Inc.
- Unicom Communications, L.L.C. (formerly Unique Communications)
- UniDial Communications, Inc.
- United States Telecommunications, Inc.
- UniversalCom, Inc.

- US LEC of Florida Inc.
US South Communications, Inc.
- US Telecom, Ltd.
USA Tele Corp.
- USA Telecom
USA Telephone Inc.
USLD Communications, Inc.
- Utilicore Corporation
VarTec Telecom, Inc. and Clear Choice Communications
- Vast-Tel Communications, Inc.
- WinStar Wireless of Florida, Inc.
- Worldlink Long Distance Corp.
World Access Communications Corp.
- World Telecommunications Services, Inc.
- WorldCom Technologies, Inc.
YourTel, Inc.
- Z-Tel Communications, Inc.

APPENDIX B: KEY FEDERAL ISSUES

AT&T CORP. v. IOWA UTILITIES BOARD

On August 8, 1996 the FCC issued its First Report and Order concerning the rules for interconnection, unbundling and resale. The FCC defined interconnection as the “physical linking of two networks for the mutual exchange of traffic.” The Order specified a minimum of five points in the LEC’s network where interconnection is practical. These

points include: 1) the line side of a local switch, 2) the trunk side of a local switch, 3) the trunk interconnection points for a tandem switch, 4) central office cross-connect points, and 5) out-of-band signaling transfer points. The FCC defined unbundled elements as the physical facilities of a network, together with the features, functions, and capabilities associated with those facilities. The FCC required LECs to provide the following items on an unbundled basis: local loops, local switching, interoffice transmission facilities, network interface devices, signaling and call database facilities, operations support systems functions, and operator and directory assistance facilities. The unbundled network elements (UNEs) are to be made available at the same quality level as the LEC provides to itself.

Several LECs and state commissions, including the FPSC, appealed the FCC's order challenging the FCC's authority to implement the local competition rules in TA 96 and, especially, to promulgate pricing rules. The 8th Circuit Court of Appeals ruled against the FCC and vacated most of the FCC pricing rules, but did find that Rule 51.319 was lawful. Rule 51.319 lists the unbundled network elements the LEC must make available to an ALEC. The LECs argued that Rule 319 ignored TA 96's requirements regarding whether access to proprietary elements was "necessary" and whether the lack of access would "impair" an ALEC from providing service. The LECs also argued Rule 319 contained items that were not network elements because they did not meet these statutory requirements. The 8th Circuit Court's decision was appealed to the U.S. Supreme Court (*AT&T Corp. v. Iowa Utilities Board*).

On January 25, 1999, the United States Supreme Court handed down its decision in *AT&T Corp v. Iowa Utilities Board* on whether the FCC has the authority to promulgate rules on unbundled access and "pick and choose." The Supreme Court reversed several

of the 8th Circuit's previous decisions and generally upheld the FCC's authority to promulgate rules to implement the Act. The Supreme Court determined that Section 201(b) of TA 96, which gives the FCC jurisdiction to pass rules and regulations necessary to carry out the TA 96, does extend to the implementation of local competition rules. The Supreme Court agreed with the FCC that Section 201(b) gives the FCC explicit authority to implement the provisions of Sections 251 and 252 of the TA 96, and reversed the 8th Circuit Court's decision. The Supreme Court also ruled the FCC has the jurisdiction to design a pricing method and to promulgate pricing rules.

The Supreme Court determined the FCC did not adequately review the "necessary and impair" standards when implementing Rule 51.319, which specifies those UNEs that LECs must provide. The Supreme Court agreed with the LECs that TA 96 required the FCC to establish a limiting standard on the provision of UNEs. Rule 319 was vacated by the court and remanded back to the FCC for further review.

The FCC's "pick and choose" rule requires incumbent LECs to make available to any requesting telecommunications carrier any individual interconnection agreement approved by a state commission pursuant to Section 252, given the same rates, terms and conditions produced in the agreement. The 8th Circuit vacated the pick and choose rule but the Supreme Court reversed the 8th Circuit and reinstated the rule.

As a result of the Supreme Court's remand of Rule 51.319, the FCC sought further comments to determine what network elements should be included in the unbundled access section, recognizing proprietary concerns and access to network elements that would impair the ability of ALECs to provide services. The purpose was specifically to interpret Section 251(d)(2) of TA 96 and which network elements should be unbundled by

the incumbent LECs under Section 251(c)(3), TA 96. On September 15, 1999, the FCC adopted a revised rule that omitted access to operator and directory assistance services but otherwise retained the revised list of mandatory UNEs.

As noted above, the Supreme Court reaffirmed the FCC's authority to promulgate pricing rules. FCC rule 51.507(f) requires state commissions to establish at a minimum three geographic rate zones for UNEs and interconnection that reflect cost differences. On May 7, 1999 the FCC released an order staying its deaveraging rule. The FCC stayed its rule until 6 months after the FCC issuance of its universal service order which implements high-cost support for non-rural LECs.

TREATMENT OF TRAFFIC TO INTERNET SERVICE PROVIDERS

One of the more challenging issues facing regulators is whether a local telecommunications provider is entitled to receive reciprocal compensation for traffic terminated to an Internet service provider (ISP). Section 251(a)(5) of the Telecommunications Act of 1996 (the Act) states that each telecommunications carrier has "[t]he duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications." Thus, reciprocal compensation is the payment for transport and termination of local traffic which originates on the network of one local exchange company and terminates on the network of another. The matter has been the subject of petitions to the FCC as well as cases in a number of states. The FPSC has made decisions on a case-by-case basis, but has not made a formal generic decision on the issue.

Nationwide, Incumbent Local Exchange Companies (LECs) have generally declined to pay reciprocal compensation for traffic that is transported and terminated by Alternative Local Exchange Companies (ALECs) to end-users that are ISPs. At the heart of the issue is whether the traffic in question is local or interstate in nature. LECs argue that calls to the Internet through ISPs do not terminate at the local provider's premises, but connect with multiple destinations which may cross state and national boundaries. According to them, this would make the traffic interstate, and thus not subject to reciprocal compensation.

Parties arguing for this position cite a number of FCC orders in which reference was made to Internet traffic as interstate. For example, in FCC Docket Number 92-18, an Order dated February 14, 1992, at paragraph 12, stated:

Our jurisdiction does not end at the local switch, but continues to the ultimate termination of the call. The key to jurisdiction is the nature of the communication itself, rather than the physical location of the technology. BellSouth argued that ISP traffic is not different from provision of service by facilities-based interexchange carriers and resellers who use the local network to provide interstate services.

In a case before the FPSC, statements such as these led BellSouth to place considerable emphasis on the point of termination for a call. BellSouth's position was that an ALEC serving an ISP is acting like an intermediate transport carrier or conduit, not a local exchange provider entitled to reciprocal compensation. BellSouth posited that the call from an end user to the ISP only *transits* through the ISP's local point of presence; it does not *terminate* there. Thus, there is no interruption of the continuous transmission of signals between the end user and the host computers. If this is the case, the jurisdictional

boundaries of a communication would be determined by its beginning and ending points, and the ending point of a call to an ISP is *not* the ISP switch, but rather is the database or information source to which the ISP provides access.

However, other parties argued that this point of view misunderstands the nature of an Internet call. The Internet is an interconnected global network of thousands of interoperable packet-switched networks that use a standard protocol to enable information exchange. An end user may obtain access to the Internet from an Internet service provider by using dial-up or dedicated access to connect to the Internet service provider's processor. The Internet service provider, in turn, connects the end user to an Internet backbone provider that carries traffic to and from other Internet host sites. A host is another computer. Parties arguing that ISP traffic is local believe the ability of Internet users to visit multiple websites at any number of destinations on a single call is a clear indication that the service provided by an ISP is an enhanced service, not a telecommunications service.

"Telecommunications" is defined as "The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." (47 U.S.C. Section 153(48)) By contrast, "information services" is "the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service." (47 U.S.C. Sec. 153(20)) This gives rise to a notion of "severability." Internet traffic may be severable from

telecommunications traffic. Thus, the call from a user to his ISP may be a local telecommunications service, while the Internet portion is an information service. In further support of this argument, parties have argued that, in the case of a rural customer using an IXC to connect with an ISP, the call is clearly two parts: a long distance call, for which LECs can charge switched access, followed by an enhanced service. If that is the case, the local or intrastate portion of ISP traffic would remain under the jurisdiction of the states.

In its 1998 Report to Congress, the FCC seemed to recognize that the 1996 Act's distinction between telecommunications and information services is crucial. The FCC noted that "Congress intended 'telecommunications service' and 'information service' to refer to separate categories of services" despite the appearance from the end user's perspective that it is a single service because it may involve telecommunications components. (Report to Congress, ¶¶56, 58) However, later FCC decisions, discussed below, discounted this theory.

Until recently, all cases decided by the FPSC have held that ISP traffic meets the definition of local and is subject to reciprocal compensation. However, all such cases have been decided based on the provisions of the contracts between the parties, and what they might have reasonably intended, based on the state of the law at the time the contracts were entered into. While no generic decision has been made, the FPSC has demonstrated, in comments filed with the FCC, its support for the two-call theory, holding that ISP traffic is local.

Subsequent to initial actions by the FPSC and other state commissions, the FCC issued an order on Inter-Carrier Compensation for ISP-Bound Traffic.⁵ In that Order, the

⁵*Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No. 99-68.*

FCC found that

. . . ISP-bound traffic is jurisdictionally mixed and appears to be largely interstate. This conclusion, however, does not in itself determine whether reciprocal compensation is due in any particular instance. . . . [P]arties may have agreed to reciprocal compensation for ISP-bound traffic, or a state commission, in the exercise of its authority to arbitrate interconnection disputes under section 252 of the Act, may have imposed reciprocal compensation obligations for this traffic. In the absence, to date, of a federal rule regarding the appropriate inter-carrier compensation for this traffic, we therefore conclude that parties should be bound by their existing interconnection agreements, as interpreted by state commissions. (¶1)

As a result of this decision, some states reversed their decisions on reciprocal compensation for ISP traffic. The FPSC has not reversed its earlier decisions. However, in a recent arbitration decision, the FPSC declined to rule on whether ISP traffic was local or interstate. Instead, it decided that with regard to this issue the parties should continue to operate under the terms of a previously approved interconnection agreement between the same parties,⁶ until such time as the FCC promulgates rules on ISP traffic.

Recently the FCC gave some indication that its earlier decision may be revisited. On August 7, 1999, the FCC asked the United States Court of Appeals for the District of Columbia Circuit to allow the FCC further opportunity to consider issues raised on appeal

⁶Docket No. 990149, Petition by MediaOne Florida Telecommunications, Inc. For Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996. FPSC Order PSC-99-2009-FOF-TP.

by US West with regard to advanced services. The advanced services decision dealt with whether services such as xDSL, typically used for the provision of Internet access, is telephone exchange access.⁷ On August 25, 1999, the Court granted the FCC's request and remanded the case back to the FCC. The arguments brought forth in determination of this issue are identical to those in the reciprocal compensation case. However, the significance of the voluntary remand with regard to the FCC's earlier decision on reciprocal compensation for ISP traffic is not clear at this time. The FPSC will continue to monitor FCC proceedings on this matter.

The uncertainty associated with the reciprocal compensation issue could have a substantial impact on competition in the telecommunications industry. Many ALECs receive considerable revenues from reciprocal compensation. While cases are on appeal, Florida LECs have not paid the outstanding amounts, although some escrow accounts have been set up. The resulting unpaid revenues that have remained in limbo cause large receivables to appear on the balance sheets of impacted ALECs who typically do not have the financial resources of the larger LECs. The financial well being of a fledgling industry may well hang in the balance until the issue is settled, at least for those amounts due from contracts already entered into. The effects of this issue on competition in Florida may not be known for years to come.

UNIVERSAL SERVICE

⁷*Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147 et al., Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 15280 (1998).

The goal of universal support is to ensure that all households who desire telecommunications service have access to reliable and affordable service regardless of income-level or geographic location. During the past year, the FCC released a significant order on high-cost funding for non-rural carriers, in response to the Joint Board's Second Recommended Decision, and the schools and libraries program began its second year.

FCC's Seventh Report and Order

On November 25, 1998, the Joint Board released its Second Recommended Decision on universal service. On May 27, 1999, the FCC released the 7th Report and Order and Thirteenth Order on Reconsideration in CC Docket No. 96-45 which adopted most of the Joint Boards recommendations. (The FCC also issued a Further Notice of Proposed Rulemaking (FNPRM) at the same time.) The Order adopted a framework for federal high-cost support mechanisms that will provide support for non-rural carriers based on forward-looking costs in excess of the national cost benchmark and a state's ability to fund internally. Highlights of the Order include:

- Reiterates that forward-looking costs are the appropriate starting point for determining support amounts and there should be a single national model to determine forward-looking economic costs (FLEC).
- Use of a national cost-based benchmark set at a percentage of national average FLEC of providing supported services as first step in determining support. Federal mechanisms will support areas with per-line costs greater than this benchmark, unless an objective indicator of a state's resources indicates that rate comparability can be achieved in the state without federal funding.
- States are not required to make any changes to existing intrastate support

mechanisms to receive federal support. However, states' ability to provide their own universal service needs should be evaluated, with federal support available if the state support is insufficient.

- Acknowledges joint state-federal responsibility for US support. Principals adopted in order recognize state's key role , and reaffirms purpose of federal mechanism as providing support to enable states to maintain reasonably comparable rates throughout the nation. No conditions imposed on states' eligibility to receive federal high-cost support.
- Methodology and principles adopted in order do not require any state to impose a line item charge to support universal service, and do not create an entitlement for carriers to receive any particular amount of support from new or explicit state mechanisms.
- Adopted Joint Board's hold-harmless provision to prevent any decreases in current levels of per-line support. Agreed with Joint Board that hold-harmless issue should be revisited by January 1, 2003.
- In addition to ongoing consultation by the FCC with the Joint Board, the FCC and the Joint Board shall, on or before January 1, 2003, comprehensively re-examine high cost mechanism implemented in the Seventh Report and Order.

The FNPRM sought comments on several remaining implementation issues including such items as:

- the level of the national benchmark,
- the size of the area costs are averaged over in determining the level of support,
- states' ability to support high-cost areas,

- assurances that support distribution is being applied as intended by TA 96,
- determine the input values for the national cost model,
- determine whether the hold-harmless provision should be carrier-by-carrier or state-by-state.

The FNPRM also suggested that it was the FCC's intent to determine the final input values to be used in the forward-looking cost model and to adopt an order for implementation of the new federal cost mechanism for non-rural carriers.

Texas Office of Public Utility Counsel v. FCC

On July 30, 1999, the Fifth Circuit Court of Appeals issued its opinion pertaining to various parties' appeal of the FCC' May 1997 Universal Service order (First Report and Order), in which the court affirmed in part, reversed in part, and remanded in part, major decisions reached previously. Major provisions include:

- The court upheld the FCC' decision to employ the use of forward-looking economic cost in its proposed approach for calculating support for high-cost areas.
- Various parties had challenged the FCC' decision in the First Report and Order that the new federal high-cost mechanism would only fund 25% of the universal service costs. Since the FCC had recently issued its Seventh Report and Order, in which the FCC reversed itself on this issue, the court dismissed the challenge and dismissed it as moot.
- The FCC had previously interpreted Section 214(e) of the Act, which pertains to the eligibility requirements for carriers to receive universal service support, in a very narrow manner which restricted the ability of states to impose any additional standards. The court reversed the FCC, concluding that the FCC had erred in

prohibiting states from imposing their own eligibility requirements, especially in light of their historical role in setting service quality standards.

- The FCC had concluded in the First Report and Order that carriers receiving low-income universal service support could not disconnect Lifeline subscribers for nonpayment of toll charges. The states had challenged the FCC's authority to make such a finding. The court agreed with the states, and reversed the FCC on this point.
- The FCC had directed that incumbent LECs were to recover their universal service assessments from interstate access charges. GTE had argued that this directive violated the requirement of Section 254(e) of the Act that, prospectively, all federal universal service support was to be explicit. The Fifth Circuit court agreed, and reversed the FCC.
- The court upheld the FCC's decision to subject paging and other wireless carriers to federal universal service assessments.
- The court reversed the FCC on its previous decision to levy universal service assessments on international revenues of interstate carriers, and remanded the matter to the FCC for further consideration.
- The court upheld the FCC on virtually all challenges concerning the propriety of the new schools and library program.
- In the First Report and Order, the FCC had decided that assessment on carriers for the schools and libraries and rural health care programs should be based on carriers' intrastate, interstate and international revenues. The court disagreed, reversing the FCC by concluding that ¶ 2(b) prohibits the FCC from assessing

intrastate revenues.

Schools and Libraries

In the Twelfth Order on Reconsideration in CC Docket No. 96-45, the FCC raised the schools and libraries' Year 2 funding to its cap of \$2.25 billion, which is to be collected in the last two quarters of 1999 and the first two quarters of 2000. Year two of the schools and libraries universal support began July 1, 1999. In the first year, the funding level was \$1.925 billion compared to an estimated \$2.02 billion requested from participants in the program.

ACCESS CHARGES

PICCs

Presubscribed Interexchange Carrier Charges, or "PICCs," are per line charges billed by certain local exchange companies to long distance carriers. Many carriers choose to pass through the PICC charges to their customers. Local exchange companies may bill their customers directly for PICCs if a customer has not selected a long distance carrier. All PICCs increased effective July 1, 1999. For BellSouth, GTE Florida, and Sprint-Florida, the PICC rates for single line residential and business customers increased from \$.53 to \$1.04 per line. For BellSouth, GTE Florida and Sprint-Florida, the PICC rate for each non-primary residential line increased from \$1.50 to \$2.53 per line, while the PICC rate for each line of a multiline business increased from \$2.75 to \$4.31.

Subscriber Line Charge

Subscriber line charges (SLCs) are billed by the local exchange companies directly to their retail customers. The current maximum charge allowed by the FCC for primary

residential and single line business subscribers is \$3.50. The only SLCs that changed on July 1, 1999 were for secondary residential lines and multiline businesses. The maximum allowable charge for secondary residential lines increased from \$5.00 to \$6.07. Multiline business SLC charges vary, and were reduced by BellSouth from \$8.25 to \$7.90, GTE from \$9.16 to \$9.02, and Sprint-Florida from \$7.50 to \$7.30.

X-Factor

For all interstate price cap LECs, the price ceiling for interstate access services is adjusted annually by a measure of inflation minus a productivity factor, known as the “X-Factor.” The current X-Factor for all LECs is currently 6.5%, which is higher than the current inflation rate, thus causing reductions in interstate switched access rates. A recent D.C. circuit court order was issued that questions the validity of the current 6.5% X-Factor and ordered the FCC to provide more evidence to support the measure. A stay of the court’s order has been granted while this matter is under review.

TRUTH-IN-BILLING

With the number of telecommunications service providers steadily increasing, so are the number of consumer complaints. Consumers have many detailed charges on their phone bills causing confusion over what items are necessary. Unfortunately, companies have found ways to commit telecommunications fraud including cramming and slamming. Cramming is when a phone company places unauthorized, misleading, or deceptive charges on a consumer telephone bill, while slamming is switching a consumer’s chosen long distance company without their consent. The FCC has taken numerous measures

referred to as “truth-in-billing” to protect consumers from telecommunications bandits. In April 1999, several new slamming rules initiated by the FCC went into effect including limited consumer liability, verification necessary to switch a consumer’s services, and preferred carrier freezes. The FCC has established many references on their website along with toll-free help lines to assist consumers. The FPSC also has launched a consumer campaign to combat these issues including media advertisements, brochures, and references on the FPSC website.

NUMBERING ISSUES

With emerging technologies and consumers demanding new telecommunications services such as cellular phones and pagers and the passage of TA 96 allowing ALEC providers, the nation’s telecommunications system has been faced with the task of providing telephone numbers to accommodate these services. Two issues pertaining to numbering issues are discussed below: area code exhaust and local number portability.

Area Code Exhaust

The NANPA was established in 1947 by AT&T and Bell Laboratories to meet the international standards for numbering plans. NANPA was also given the authority by the FCC to issue NPA codes (area codes) to states and NXX codes to the incumbent LECs. LECs use NXX codes to issue telephone numbers within an NPA code according to NANPA guidelines. With the accelerated deployment of telecommunication technologies beginning in the late 1980's, there has been an increasing burden on the numbering system. It is necessary for every cellular and paging provider to issue a phone number to

the consumer for their service to work. In order to issue a consumer a phone number, the provider must hold an NXX code, or a pool of numbers, at his disposal. The NANPA standard is that a complete NXX is assigned, which is a block of 10,000 numbers.

The passage of TA 96 created more of a burden on the NANPA by allowing ALECs to provide service. When the NANPA was organized in 1947, its role was to distribute NPA codes to one telecommunications company in any given area. Today numerous companies are providing services in the same areas, creating demands on a system that was not designed to accommodate these levels. Like cellular and paging providers, ALECs are issued NXX codes in 10,000 blocks. However, assuming a ALEC provider previously has been assigned an NXX code, and after a year in business it has 1200 working phone numbers, the ALEC provider still has 8800 unused telephone numbers.

Since NPA and NXX codes are in limited supply, conservation is required before there simply are no telephone numbers left to be issued. The FCC, NANPA, and several states are working on conservation measures to prolong the life of the North American Numbering Plan.

Local Number Portability

The purpose of Local Number Portability (LNP) is to promote competition in the local exchange markets by allowing consumers to keep their existing telephone number when switching local providers. The FCC allowed LECs to assess a Local Number Portability (LNP) charge beginning in early 1999 in an effort to recover the costs of telephone number portability in local areas. The charge is a fixed, flat rate fee and is charged only in areas where local number portability is available. Local exchange companies are allowed, but not required, to charge this fee for a period of up to 5 years from the date they initiated the

charge. Currently there is no cap placed on the amount of revenue the local exchange provider is allowed to collect, but the LNP charges are reviewed by the FCC.

APPENDIX C: EMERGING and CONVERGING UTILITY MARKETS

In today's markets, utility companies increasingly are becoming providers of more than one service, offering consumers choices never seen before. On a nationwide level, AT&T is rapidly becoming one of the largest cable television providers in the country. In the state of Florida, GTE is offering wireline, wireless and television services in the Tampa Bay area, while BellSouth offers similar services in central Florida. Companies such as Time Warner and Comcast have ALEC certificates, as do a few municipalities. Markets are emerging and converging, creating more competition to the traditional local exchange company. Utility industries with an interest in local telecommunications service include wireless providers, cable companies, and electric companies.

Wireless telecommunications has enjoyed significant gains in subscribership and revenues over the last several years. In the period between 1994-1998, the Florida Telecommunications Industry Association (FTIA) statistics show wireless providers have increased from 15 providers holding 49 licenses in 29 market areas, to more than 40 providers holding 156 licenses covering relatively all of Florida. In 1998 there were approximately 3.5 million wireless subscribers in Florida generating estimated revenues of \$647 million. It is estimated that in excess of 15,000 Floridians are employed in the wireless industry, and cumulative Florida investment was \$2.2 billion in 1998.

According to a Cellular Telecommunications Industry Association (CTIA) semi-annual survey released March 31, 1999, the number of wireless customers in the United States rose 25% from the previous survey to 69.2 million customers, or 27% of the population. The survey also indicates that there are more wireless subscribers than cable television subscribers nationwide, 69.2 million wireless customers compared to 67 million cable customers. While subscribership is rising, the average monthly bill is falling. The average wireless bill in 1998 was \$39.43 compared to \$42.78 in 1997, representing a decrease of 7.8%. As wireless services become more affordable, wireless may become a viable substitute for wireline subscribers.

A second industry becoming active in providing telecommunications service is the cable television industry. As mentioned, Time Warner and Comcast are certificated as ALEC providers within the state of Florida, and both are providing telecommunications services in limited markets. Time Warner currently offers business telecommunications services in the Orlando and Tampa markets, while Comcast is offering cable modem services in the Sarasota area. While not currently competing in the residential

telecommunications market, the cable industry as a whole is vigorously developing the technology necessary to become a preeminent player.

A third utility sector having impact on the telecommunications industry are the electric companies. While electric companies express little interest in providing voice-grade telecommunications service to residential customers, several electric companies are selling excess capacity in their fiber optic transmission facilities to numerous telecommunications companies.

Because utility companies are discovering different ways to generate new revenues, the types of services offered and rates for such services should benefit consumers. The current trend of one utility trying to providing multiple utility services should continue in the years to come.