

FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of	:	Docket No. 921074-TP
	:	Docket No. 930955-TP
Expanded Interconnection	:	Docket No. 940014-TP
Phase II and Local	:	Docket No. 940020-TP
Transport Restructure.	:	Docket No. 931196-TP
-----	:	Docket No. 940190-TP

SECOND DAY - AFTERNOON SESSION

VOLUME 5

Pages 526 through 642

PROCEEDINGS:

HEARING

BEFORE:

CHAIRMAN J. TERRY DEASON
COMMISSIONER SUSAN F. CLARK
COMMISSIONER JULIA L. JOHNSON

DATE:

August 23, 1994

TIME:

Reconvened at 1:35 p.m.

PLACE:

FPSC Hearing Room 106
101 East Gaines Street
Tallahassee, Florida

REPORTED BY:

JOY KELLY, CSR, RPR
Chief, Bureau of Reporting
SYDNEY C. SILVA, CSR, RPR
Official Commission Reporter
and
LISA GIROD JONES, RPR, CM

APPEARANCES:

(As heretofore noted.)

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 09235 SEP-78

FPSC-RECORDS/REPORTING

I N D E X

WITNESSES - VOLUME 5

3	Name:	Page No.
4	JERRY D. HENDRIX (Continued)	
5	Cross Examination By Mr. Poucher	529
6	Cross Examination By Ms. Canzano	544
6	Redirect Examination By Ms. Peed	560
7	JEFFREY E. SMITH	
8	Direct Examination By Ms. Wilson	563
9	Prefiled Rebuttal Testimony of William G. Kingsley as adopted by Witness Smith	567
9	Cross Examination by Mr. Fons	577(1)
10	Cross Examination by Ms. Caswell	577(16)
11	JOSEPH GILLAN	
12	Direct Examination By Ms. Kaufman	577(20)
13	Prefiled Direct Testimony Inserted	580
13	Cross Examination By Ms. Peed	612
14	Cross Examination By Ms. Bryant	613
14	Cross Examination By Mr. Tye	617
15	Cross Examination By Mr. Wiggins	620
15	Cross Examination By Mr. Poucher	622
16	Cross Examination By Ms. Canzano	626

EXHIBITS - VOLUME 5

	Number:	Identified	Admitted
1			
2			
3	26		563
4	28		563
5	29 (Hendrix) MFR Schedule	551	563
6	30 (Late-Filed) (Hendrix) Southern Bell's Cost of DS1 and DS3	554	
7			
8	31 (Hendrix) Deposition Transcript	555	563
9	32 (Hendrix) Response to Staff Interrogatories and Response to IAC Interrogatories	555	563
10			
11	33 (Hendrix) Response to Staff POD No. 28	555	563
12			
13	34 (Hendrix) Southern Bell's Intrastate Local Transport Restructure Tariff	555	563
14			
15	35 (Staff) FCTA's Responses to Staff Interrogatories 1 - 18	577(18)	577(19)
16	36 (Gillan) JPG-1 through 6	579	642
17	37 (Gillan) Deposition Transcript	639	642
18			
19	38 (Gillan) Responses to Staff Interrogatories	639	642
20	39 (Late-Filed) (Gillan) IAC Work Work Papers for LEC DS1 and DS3 Costs	640	
21			
22			
23			
24			
25			

P R O C E E D I N G S

(Hearing reconvened at 1:35 p.m.)

(Transcript continues in sequence from Volume 4.)

CHAIRMAN DEASON: Call the hearing back to order. Mr. Poucher.

JERRY D. HENDRIX

resumed the stand as a witness on behalf of Southern Bell Telephone and Telegraph Company and, having been previously duly sworn, testified as follows:

CROSS EXAMINATION

BY MR. POUCHER:

Q Mr. Hendrix, I'm Earl Poucher from the Office of Public Counsel. I understand by your testimony that your group is in charge of the switched access tariffs and their development?

A That is correct.

Q Is that correct?

A Uh-huh.

Q So Mr. Denton, your previous witness, he's not the one who sets the rates; is that correct?

A Mr. Denton is the -- I believe, as he mentioned, the director of policy and planning. We're in two separate groups.

Q He sets the policy, you set the rates?

1 A That's correct.

2 Q Were you here yesterday when we heard the
3 testimony of the GTE witnesses?

4 A Yes.

5 Q I believe it was Dr. Beauvais' testimony for
6 GTE yesterday that stated they had received collocation
7 requests from only five of their 91 central offices, and
8 he also testified that 5.5% of their central offices
9 produced 51.6% of the DSIs. Were you familiar with that
10 part of his testimony?

11 A I do not remember those numbers, but I take
12 your word for it.

13 Q Generally, would you say those numbers are
14 consistent with the numbers that you would experience
15 with Southern Bell?

16 A I don't believe today we have actually a bona
17 fide request to collocate in our offices in Florida.
18 Throughout the BellSouth region we do have several, I
19 believe.

20 Q I don't -- that's fine.

21 A Okay, but there are several, but I do not
22 believe that is the case within Bell.

23 Q None so far in Southern Bell, Florida?

24 A Interest, yes, actual request, I'm not aware
25 of any.

1 Q And Dr. Beauvais also said on Page 13 of his
2 testimony, he stated, "While these are only 5.5% of the
3 GTEFL central offices, they account for 51.6% percent of
4 the DSIs in the service provided by GTEFL." And then he
5 went on to say that that is "quite an indication of the
6 concentrated nature of the marketplace initially being
7 addressed by the new market entrants." Would you say
8 that that's the same situation in Southern Bell?

9 A While the numbers may very well be different,
10 I do not have the numbers, I would agree that it is a
11 concentrated area, focus, rather, and it's usually
12 targeted at large markets. However, what we are seeing
13 in the marketplace is there are some vendors or carriers
14 that may not be able to capture some of the larger
15 markets. They'll go and do what they call the second --
16 the secondary markets and trying to address that market
17 niche, which goes hand in hand with what I stated this
18 morning about the rural areas and things happening in
19 the rural areas. I don't believe the customers in the
20 rural areas will see increases and not see the benefit
21 that the customers in the more urban areas would see,
22 because the customers -- the carriers are carving out
23 certain market segments to target with their services.

24 Q And you'll find those targets in Miami,
25 Jacksonville, Orlando?

1 A Those are the major markets, but even in less
2 dense areas, you would likely find those types of
3 targets.

4 Q If this Commission approves the requests for
5 expanded interconnection to include switched access,
6 would you anticipate that you would experience
7 increasing levels of competition?

8 A Definitely, yes.

9 Q And would you characterize proposals that
10 you've made in this docket as a response to that
11 anticipated competition?

12 A It is the first step. The second step is to
13 have the flexibility to price the services to meet the
14 market, and of course, Southern Bell filed its own
15 pricing plan, and I mentioned that earlier, that looks
16 at three different zones. And that would be the first
17 step, and then it would be being able to change the
18 rates to meet those market pressures.

19 Q Yes, and on Page 23, you state that you want
20 to be able to respond more quickly to the competitive
21 pressures?

22 A Exactly right.

23 Q And to meet the competition?

24 A Exactly right.

25 Q Okay. I believe you told us earlier that all

1 of your access services provide a contribution; is that
2 correct?

3 A Yes, I did. And I was speaking of the
4 switched access elements, yes.

5 Q Okay, so your competitive response would be to
6 lower the contribution of those selected markets that
7 are highly competitive; is that correct?

8 A Yes, but to take it one step further, it would
9 be to change rates on certain rate elements that would
10 ensure that we're able to respond to what the pressure
11 is. Take the annual filing. I went over the many rate
12 changes that were a part of the annual filing. One was to
13 reduce the interoffice rate for the DS3 service. Now, that
14 was to maintain parity with special access because we know
15 that we have to maintain that parity, and then once we have
16 other knowledge, is to be able to go in and change rates to
17 meet those pressures. If we do not change those rates and if
18 we are kept, you know, thinking that we can come in with
19 certain lower rates on transport, throw it all in the RIC,
20 then we are sadly missing the mark. Because the money is not
21 going to be there with the downward pressure that's been
22 placed on the RIC.

23 As Mr. Fons mentioned yesterday in the cross
24 of one of the witnesses, you can bypass the RIC. There
25 is no guarantee that when a customer moves switched to

1 special that you're going to keep that money. You can
2 bypass the RIC. So to move it from this service over to
3 the RIC to adopt some pricing scheme is not appropriate.
4 And the LEC should be able to set those rates based on
5 what they feel are appropriate and what the market would
6 actually indicate.

7 Q So you're basically saying if Intermedia comes
8 in and cuts its price in half, then you're going to have
9 to be able to respond quickly to that price cut. That's
10 what you're asking?

11 A Exactly right.

12 Q You're requesting pricing flexibility and you
13 describe that, I believe, on Page 23. Could you tell us
14 just briefly how you develop the different zones in your
15 zone density pricing plan?

16 A The zone pricing plan -- we were required to
17 file the zone pricing plan. This is not the tariff, but
18 the zone pricing plan at the federal level. The plan is
19 based on density, and then you will -- then you
20 determine what is most dense, medium dense and least
21 dense. And there are three zones. And it's based on
22 DSIs, both switched, special and private line services,
23 and the Zone 1 would be offices that would have 500 DSIs
24 or greater. That's your most dense zone. Zone 2 would
25 be those offices that would have 100 to 500 DSIs or

1 greater, I mean 100 to 500 DSIs. And Zone 3 would be
2 offices with less than 100 DSIs.

3 Q Do you have either the numbers or the
4 percentages, and just approximate, of the central
5 offices that would fall into each category?

6 A In Florida, the offices that would fall in
7 Zone 1, there are 17. There are 60 in Zone 2, and 136
8 in Zone 3.

9 Q And the 17 offices in Zone 1 have the highest
10 density and the most competition. The 136 offices in
11 Zone 3 have the lowest density, the least competition,
12 is that correct?

13 A We would think that that would be the case,
14 but that may not be the case, because as I mentioned
15 earlier, you have carriers or vendors that are targeting
16 secondary markets and I would venture to say many of the
17 offices in Zones 2 and 3 may very well fall into those
18 secondary markets.

19 Q And that has not happened yet, but you
20 anticipate that that might happen in the future?

21 A It is happening in some of the states now.

22 Q Is it your plan to reduce your contribution in
23 Zone 1 in order to meet the competitive threat?

24 A If we reduce rates and drive those rates
25 closer to cost, the cost that Southern Bell would have,

1 then obviously your contribution is smaller. And that
2 would be to meet the pressure, yes.

3 Q And the tariffs that you filed with this
4 Commission are the same for all zones; is that correct?

5 A The illustrative tariff that was filed, yes,
6 which was mainly to introduce the plan and the
7 structure, which was the same plan and structure that
8 was filed at the federal level.

9 Q Are you planning to increase the rates in the
10 Zones 2 and 3 in order to make up the revenue loss from
11 Zone 1?

12 A I do not know yet. There are three phases to
13 the reductions that are yet to actually come. The first
14 phase went in on 7-1 which reduced switched rates by
15 \$50 million. The second phase will reduce switched
16 access rates by 55 million. And then approximately 36
17 million on 10-1-1996. So I would think a lot of things
18 are going to happen between now and then as to what
19 would happen to the rates. But what we promise with
20 those rate changes is to get to the equivalent
21 12-30-1993 rate. So I'm not really sure exactly how all
22 of that is going to play with the zone pricing and any
23 changes that may take place among the zones, rates in
24 the various zones.

25 Q We have a lot of rate decreases scheduled,

1 some 80 million next year and another 80 million or so
2 the following year, and we're talking about the rate
3 decreases, but the question that I asked you was are you
4 planning to increase the rates on Zone 2 and 3 to make
5 up for the losses in Zone 1?

6 A We've not gone that far yet. So I suppose the
7 short answer to your question is I do not know.

8 Q But you have filed a concept with the
9 Commission and you have not filed any specific rates
10 that are different for Zones 1, 2 and 3?

11 A That's correct. And the reason for that is
12 when you look at switched access services, you're
13 talking about a service that is apportioned based on
14 what's reported to us by the carrier between inter- and
15 intrastate. 70% of switched usage is interstate. So
16 the trigger is going to happen from the interstate
17 because that's where the bulk of the usage is. And what
18 we are planning to do is to have a plan, when we make a
19 trigger, to change rates at the interstate to meet
20 market pressures. You will face those same pressures
21 here, and we will change the rates in the state to
22 match -- to match that. And that's why parity is
23 critical to us, and to allow Bell and other local
24 companies the flexibility to be able to change rates to
25 meet what the market pressures are, because it's unlike

1 special; you're talking switched services, and 70% of
2 that usage is interstate.

3 Q And you're asking this Commission to accept
4 your flexible pricing plans without any indication as to
5 where the rate levels might eventually wind up; is that
6 correct?

7 A That's correct. But --

8 Q So we don't know -- go ahead, I'm sorry.

9 A You want to finish and then I can start.

10 Q I'll finish. So we don't know what the impact
11 is on the customers?

12 A No. And a lot will depend on what's happening
13 in the market, marketplace, but we're going to do what
14 we believe to be appropriate to keep all customers with
15 us because we don't want any customers to actually leave
16 because that places pressures in other places. So right
17 now, I cannot tell you what will happen to those rates.

18 Q Now, on Page 23 of your testimony, you state
19 that you want to be allowed to change prices with a
20 14-day notice?

21 A That is correct.

22 Q And again in your testimony, you and
23 Mr. Denton have stated that you want the flexibility in
24 order to be able to respond more quickly to the
25 competitive pressures?

1 A That is correct.

2 Q And to meet competition in a more timely
3 fashion?

4 A Exactly.

5 Q But you're not asking the Commission here for
6 authority to meet a competitive threat by lowering your
7 prices; you're asking them for the permission to
8 increase prices as well as decrease prices; is that
9 correct?

10 A To meet what the market pressures are. Now,
11 keep in mind, too, when you look at the access rates on
12 10-1-1996, access rates will be -- we started out 11.64
13 cents, access rates will be down to just over 6 cents,
14 around 6 cents. So you're talking access reductions of
15 some \$91 million that are still to take place yet. And
16 so rates will be coming down for access, at least with
17 Bell. And so while rates may have to increase on
18 certain items -- and I'm not saying that they will, but
19 over all, where you look at the access rates and where
20 they're going, on 10-1-96, they'll be 6 cents. The two
21 ends have switched.

22 Q Let me ask you specifically one question about
23 your testimony. You're talking about a competitive
24 threat and a timely response. Is there an urgency to a
25 price increase that would require you to cut the notice

1 to a customer to 14 days?

2 A There may be.

3 Q Could you please describe to me how you might
4 envision that to be happening?

5 A Yes, but let me say first, I have not said
6 that I was going to increase rates. You mentioned a price
7 increase that would allow me to respond in 14 days. I suppose
8 before I go on, I need to understand that because I did not
9 indicate that I was just going to go out and increase rates,
10 so I'm trying to understand the question to ensure that I give
11 you the proper answer.

12 Q The question was, primarily, what's the
13 urgency? Why can't you wait 60 days to increase the
14 rates? Why do you need 14 days to increase prices for
15 customers with very little notice?

16 A Okay. And I suppose any rate changes we had
17 asked for 14 days to be able to adjust rates, and that
18 could mean decreases, it could mean probably increased
19 rates. I think the likelihood, given the next two years
20 of what is happening with access rates in general, I
21 don't think you'll see an access increase, okay, when
22 you look at the total rate of where the customer is and
23 what the customer would be paying with the other rate
24 reductions that are yet to actually come.

25 Now, if we are granted 14 days and there is a

1 bid process, or there is a customer that is trying to
2 determine whether he wants to go with us or go with some
3 other carrier, then usually 60 days is a little long. A
4 customer is not going to be very patient. I don't know
5 what type of traffic that customer is going to move. It
6 may be a major number of minutes that may be going over
7 to someone else, and we'll lose. Bell will lose, the
8 users of this state would actually lose, and we're
9 wanting to be able to respond to meet that need because
10 that is about the average time that other vendors can
11 actually go in, look at what the customer is asking for,
12 evaluate what's being asked for, and to give the
13 customer a price. 60 days is a little long to be able
14 to do that. And I think that places pressure on Bell,
15 and it would lose that traffic ultimately on the end
16 user customer.

17 Q Mr. Hendrix, you're familiar with the concept
18 that the regulatory process acts as the surrogate for
19 competition; are you not?

20 A I am slightly familiar with that.

21 Q In other words, in a market that might be
22 highly competitive or effectively competitive, the
23 Commission might have little need to exert its
24 regulatory authority over the conduct of the market
25 participants; is that the way you see it?

1 A That's correct.

2 Q And whereas in areas where the market is not
3 competitive, with little or no competition, then the
4 Commission would assume a more aggressive role in applying its
5 regulatory authority; would you agree with that?

6 A Yes.

7 Q Now haven't you structured your central
8 offices, ranging from the highly competitive offices in
9 Zone 1, down to Zone 3, which, in a comparative basis,
10 has very little competition?

11 A I don't believe so. No.

12 Q You think that there is more competition in
13 Zone 3 than Zone 1?

14 A It could be. I think you have to look at what
15 we are trying to do here in this docket. There are
16 quite a few things taking place in this docket. I had
17 also talked about secondary markets wherein customers
18 are going to target certain other -- certain end users
19 that may not be in the major markets. So the fact that
20 you have few DS1s in that market does not mean that the
21 pressure is not as great, but it may be great for other
22 reasons. It may be great for other services. So it is
23 not a cut-and-dry answer.

24 Q But would you assume that the DS1s and DS3s in
25 existence in your central office are an indication of

1 competition, as does Dr. Beauvais in his testimony?

2 A The fact that customers are able to aggregate
3 that type of traffic to warrant the DS1 or DS3 service
4 would indicate that you have a large volume of traffic
5 that is at risk. And when you have a large volume of
6 traffic that is at risk that is more likely to be
7 targeted by others that are wanting to provide that
8 service, and in your less dense market it may be
9 pressures of a different sort, as I mentioned earlier,
10 with AT&T being the largest volume tandem switch user.
11 You know, they've testified in other states that you
12 will probably see pressures in the more rural areas in
13 the common -- the tandem switching market. So that
14 doesn't mean that the pressure is not there. It's
15 pressure of a different type.

16 MR. POUCHER: That's all the questions I have.

17 CHAIRMAN DEASON: Staff?

18 MS. CANZANO: Staff has about 20 to 30 minutes
19 of questions. I didn't know in terms of timing how that
20 would come into play.

21 CHAIRMAN DEASON: Well, I think that there
22 was -- Ms. Wilson, I believe your witness has a 4:00
23 flight, is it?

24 MS. WILSON: 4:30.

25 CHAIRMAN DEASON: We're okay.

CROSS EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MS. CANZANO:

Q Mr. Hendrix, could you please describe your understanding of the Modified Access Based Compensation plan and what it is designed to accomplish?

A Yes. The Modified Base Access Compensation plan is a plan -- I suppose in simple terms, it's a plan that would allow the LECs to reach some settlement among themselves where you have intraLATA toll calling that may start in Bell's area and terminate in another local company's area, and Bell in that case would bill the toll rate but will pay the terminating LEC the access charges of that company. Now, those access charges, for the most part, are the same charges that are assessed to the carriers. There are two other charges also that is in the E-16 section of the tariff that are not assessed to the carriers. And those charges are the intertoll trunking, and the toll switching charge

Q Your position is that the current MABC plan should remain in place until local transport is fully implemented and the Commission determines that it is appropriate to introduce the proposed transport structure into the MABC; is that correct?

A That is correct.

Q Please identify what you believe has to happen

1 before local transport is fully implemented in Florida?

2 A I believe all the carriers -- I'm sorry, I
3 believe all of the local companies would have had to
4 tariff the service, and my tariff will be filed on
5 behalf of some of the local companies and implemented on
6 a statewide basis to the carriers.

7 Q Do you believe that that will be accomplished
8 by the conclusion of these proceedings?

9 A No, I do not. I think it will probably be a
10 little while afterwards.

11 Q Why?

12 A And it's mainly -- well, let me ask, is the
13 why to -- which part of the question? Is the why to why
14 we will not be able to bill all carriers, or is the why
15 to why we cannot change our MABC plan?

16 Q To the latter part of your question.

17 A The MABC plan is not billed through the
18 regular CAB system for many of the companies. It will
19 require programming changes that are actually needed in
20 order to go to this new structure. And so we are
21 wanting to ensure that everything is in place prior to
22 going in and making changes and having to come back and
23 make further changes.

24 That was also the reason in -- we had filed a
25 tariff earlier just prior to the local transport filing

1 in 1993, trying to break the tie between the MABC tariff
2 and the local transport tariff. And the intent of that
3 tariff was not to have the LECs benefit through the
4 settlement process, but simply to break the tie between
5 the two tariffs when we would be able to bill transport
6 under the settlement piece based on a different
7 structure from the transport under the restructure
8 piece. That tariff was filed and later approved, but
9 yet it still showed up as an issue.

10 Q This Commission can re-establish that tie if
11 it considers it appropriate; isn't that correct?

12 A I agree with you

13 Q Are you aware of the Commission's access
14 imputation guidelines?

15 A Intimately.

16 Q Should imputation guidelines be revised in
17 this proceeding

18 A I don't think that in this docket you can
19 actually cover all of the issues. So it would probably
20 be appropriate to move it into a separate docket, but I
21 don't believe that they're actually needed.

22 Q In your opinion, if the Commission decides not
23 to revisit its policy until after the rest of the
24 decisions are made in this docket, would it be logical
25 to continue to use the existing local transport rates in

1 the meantime?

2 A I don't think so.

3 Q Why is that?

4 A I believe that what we are talking about in
5 this docket is a service element, a rate element in
6 switched access, that Bell and the other local companies
7 will not be the sole provider of, that it is not
8 appropriate to cover or to use the rate, period. If
9 anything, if you're going to have any standard, then the
10 standard should be to look at transport costs.

11 Although, what we would actually rather see is that
12 there would be no standard, because the benefit that is
13 to come from having such a standard should be realized
14 by the customers. But what is actually being done is
15 the local companies in following this standard are
16 forced to keep their rate levels here and everybody else
17 can come in and price under. And I've indicated that
18 with the tariff filing by one of the other people in
19 this docket. When you look at their DS1 and the ratio,
20 it is simply a means of setting an umbrella to keep the
21 LECs' rates high.

22 Q We're going to switch gears here, Mr. Hendrix.

23 CHAIRMAN DEASON: Let me ask a question. When
24 you say "keep the LEC rates high," what specific rates do
25 you refer to?

1 WITNESS HENDRIX: Well the imputation guidelines
2 require that you cover certain access charges. Well, if
3 you're covering those access charges and if you're
4 covering transport, and transport can be purchased from
5 somebody else, why should I be obligated to cover that
6 charge wherein the floor that I would have to meet to
7 price my toll rates may be here, and that's because that
8 is the rate, but that transport piece that may be being
9 provided by somebody else would lower that floor here, but
10 I'm still to operate on this floor to keep my rates here.
11 And I don't believe that's right when there are other
12 vendors or other people that the carriers can actually go
13 and purchase that access service from. And with this
14 docket here, that's even more so. Because they would be
15 able to come into your office and situate themselves here
16 or situate themselves here (indicating), and I may not get
17 any transport

18 Q Mr. Hendrix, are you familiar with the cost
19 numbers Southern Bell submitted to Mr. Gillan for
20 preparation of the document that has been marked for
21 identification as Exhibit No. 18? And that's Gillan's
22 late-filed deposition exhibit. Do you have a copy of
23 that?

24 A I think I do. Let me -- if you have one
25 that's more readily available, I would appreciate it.

1 (Pause) Okay, I've seen these costs, yes.

2 Q Do you have any knowledge of whether there is
3 any difference in the type of data provided by Southern
4 Bell relative to the other LECs?

5 A Well, let me say, I believe these cost numbers
6 that are here are the same cost numbers attached to
7 Mr. Gillan's testimony on JPG-4. And they are -- and
8 these cost numbers, he's footnoted them as to have been
9 taken from transmittal 140 that was filed on August 21
10 of 1993 and transmittal 53 filed July 31 of 1992 at the
11 federal level.

12 Q So those are federal interstate numbers?

13 A Yes.

14 Q Southern Bell has not submitted cost data
15 supporting the intrastate rates proposed in this docket;
16 is that correct?

17 A I don't believe so, no.

18 Q If this Commission decides to adopt
19 Mr. Gillan's proposal to use cost-based rates, would you
20 object to the use of cost as calculated by Mr. Gillan in
21 this exhibit as the cost basis for Southern Bell's DS1
22 and DS3 rates?

23 A Not only the costs, but I also have a serious
24 problem with Mr. Gillan's rates.

25 Q Could you please elaborate on that, please?

1 A Well, first, the market is changing. And
2 someone that I will compete with should not be here
3 telling me how I should set my rates as long as I can
4 demonstrate that I cover costs. I should be able to set
5 those rates.

6 Now what he is offering is to set your rates
7 to ensure that the contribution that you get from a DS1
8 and DS3 service is pretty much the same, and then from
9 that you're back into your tandem switching rate. Well,
10 my problem with that is that the multiplexers that are
11 needed and the way he came up with his rates is not
12 totally accurate.

13 The second point is that he should not be
14 telling me where to set my rates, as long as I cover
15 cost. Bell should be able to set its rates based on the
16 market pressures.

17 The third thing is that he is saying, well,
18 the rates that I offer are lower than your file rates,
19 so you should be better able to meet the market
20 pressures and then take that money and throw it into the
21 RIC. Well, AT&T has stated that they're wanting to get
22 down to cost for switched access, period.

23 As a matter of fact, AT&T filed, on the 15th
24 of this month in another state, stating that the carrier
25 common line and the RIC should actually go; eliminate

1 it, period. So there is a whole lot of pressure on
2 carrier common line, just as it was on the BHMOC charge
3 here, and just as it is on the RIC now. And so what he
4 is asking us to do is to throw money into a charge
5 wherein he would be the beneficiary of rates being
6 forced down, not only based on his so-called cost-based
7 rates, but also with the pressure that's being placed on
8 the RIC.

9 And what we are saying is that we should be
10 allowed to file the rates that we feel will meet market
11 pressures, and our first step is to mirror the
12 interstate rates.

13 Q After the lunch break, Staff has distributed a
14 sheet of paper. And do you have that sheet of paper,
15 Mr. Hendrix? It's an MFR Schedule.

16 A Yes, I do.

17 Q Are you familiar with this?

18 A I've seen it.

19 Q I would like to have this marked for
20 identification as an exhibit at this time.

21 CHAIRMAN DEASON: It will be identified as
22 Exhibit No. 29.

23 (Exhibit No. 29 marked for identification.)

24 Q (By Ms. Canzano) Mr. Hendrix, you stated
25 earlier that your proposed local transport rates cover

1 Southern Bell's incremental costs; is that correct?

2 A Yes, I did.

3 Q Have you performed incremental cost studies
4 that show that this is the case?

5 A I have looked at cost studies to indicate
6 such. I have not performed studies strictly for this
7 docket. But we did have cost studies that would allow
8 me to say beyond a shadow of the doubt that that is the
9 case.

10 Q Were those studies submitted in any other
11 docket?

12 A Not that I am aware of. And even from the
13 sheet here, when you look at the transport cost -- I'm
14 assuming that that's column 4?

15 Q Yes.

16 A And then you look at the rates in column 7, it
17 is obvious there from the structure that was in place
18 when we had time-of-day discounts, that we more than
19 cover costs.

20 Q Do these numbers reflect Southern Bell's cost
21 to provide local transport?

22 A Yes, it does.

23 Q Incremental cost?

24 A Yes, it does -- I believe, well, I said
25 that -- I'm assuming that's what the column 4 is.

1 Q Are these intrastate costs?

2 A To the best of my knowledge they are.

3 Q At this time we would ask you to provide a
4 late-filed exhibit. In this exhibit we would like to
5 request an analysis of the problems with the cost data
6 in the exhibit that is identified as Exhibit No. 18, and
7 any changes to the data and cost results that would
8 render them appropriate for the Commission to use on a
9 basis for cost-based rates if it so desires, and we
10 would like you to include your work papers with that
11 exhibit.

12 A Let me ensure that I understand what Exhibit
13 No. 18 is. Is that the MFR sheet, or what was handed
14 out earlier?

15 Q What was handed out earlier, the late-filed
16 deposition exhibit of Mr. Gillan, yes.

17 CHAIRMAN DEASON: Could I have a short title,
18 please?

19 MS. CANZANO: "Southern Bell's Cost of DS1 and
20 DS3."

21 MS. PEED: Southern Bell's Cost of DS1 and DS3;
22 is that correct? Is that what you said?

23 MS. CANZANO: Yes.

24 WITNESS HENDRIX: Is it -- in doing so, is it
25 possible to get all of the work papers that were used to

1 put this together?

2 MS. CANZANO: Yes.

3 WITNESS HENDRIX: Will that be -- obviously that
4 would be helpful in providing our analysis.

5 MS. CANZANO: We're going to ask Mr. Gillan for
6 those when it's his time. Just for our record keeping
7 purposes, was that assigned a number, late-filed exhibit?

8 CHAIRMAN DEASON: Well, no, it hasn't been
9 assigned one. It's been assigned Exhibit No. 30.

10 (Late-Filed Exhibit No. 30 identified.)

11 Q (By Ms. Canzano) At this time, Mr. Hendrix,
12 did you receive a package of four pieces of paper of
13 Staff exhibits, consisting of deposition transcript and
14 late-filed exhibits, interrogatory responses and tariff
15 pages, cover pages?

16 A Yes, I did.

17 Q Have you reviewed this material?

18 A For the most part, yes.

19 Q And to the best of your knowledge, is it
20 correct?

21 A To the best of my knowledge.

22 MS. CANZANO: I would like to have these also
23 marked for identification at this time.

24 CHAIRMAN DEASON: Deposition transcripts will be
25 identified as Exhibit No. 31.

1 MS. PEED: Mr. Chairman, I believe that we
2 have -- I don't think that -- we didn't waive signature
3 when we did these depositions, so I'm not sure that
4 Mr. Hendrix has provided the signature page and the errata
5 sheet which we will, of course, include with this exhibit
6 if that's all right.

7 MS. CANZANO: That's fine.

8 CHAIRMAN DEASON: Very well. So you just want
9 that to be incorporated into Exhibit No. 31?

10 MS. PEED: Right.

11 CHAIRMAN DEASON: Very well. The Response to
12 Staff Interrogatories and Response to IAC Interrogatories
13 will be identified as Exhibit No. 32. And the
14 illustrative switched access tariffs and in Response to
15 Staff POD No. 28 will be identified as Exhibit No. 33.
16 And Southern Bell's Intrastate Local Transport Restructure
17 Tariff and replacement pages will be identified as Exhibit
18 No. 34.

19 (Exhibit No. 31, 32, 33 and 34 marked for
20 identification.)

21 MS. CANZANO: Thank you. And Staff has no
22 further questions.

23 MS. KAUFMAN: Mr. Chairman, before we go to
24 redirect, could we go back to the Staff's request for
25 Late-Filed Exhibit No. 30?

1 CHAIRMAN DEASON: Yes.

2 MS. KAUFMAN: Just so we're clear, Mr. Hendrix,
3 I guess, had asked Ms. Canzano if he would have access to
4 Mr. Gillan's work papers, and if I understand
5 Ms. Canzano's request to Mr. Hendrix, it was that he
6 provide his cost basis for the DS1/DS3 comparisons, if he
7 has any disagreement with Mr. Gillan's exhibit. We don't
8 have a problem with providing Mr. Gillan's work papers,
9 but I don't understand the request to be a critique --

10 MS. CANZANO: I would like to interject here for
11 one second. The first part is an analysis of the problems
12 of the cost data, and to do that I think he would need
13 those work papers, of Mr. Gillan, that Mr. Gillan provided
14 in his exhibit.

15 MS. KAUFMAN: The top half of that, as I
16 understand it, those numbers came directly from the
17 companies. There is no analysis there.

18 WITNESS HENDRIX: I suppose I would just like to
19 see what he used. I would like to have a copy of what was
20 used to pull these numbers, the exact same. That would be
21 very helpful.

22 CHAIRMAN DEASON: Is it going to be a problem
23 getting that information?

24 MS. KAUFMAN: Well, it's not a problem providing
25 the work papers but I think we have some concern about

1 Mr. Hendrix taking Mr. Gillan's work papers and critiquing
2 them at the same time he has asked him to provide his cost
3 estimates. I think those are two different things.

4 CHAIRMAN DEASON: It may be two different
5 things, but he just asked for it in an exhibit. Are you
6 having a fundamental problem with giving this witness an
7 opportunity to basically critique something your witness
8 did and it be part of a late-filed exhibit? Is that the
9 problem?

10 MS. KAUFMAN: Can I have a moment?

11 CHAIRMAN DEASON: Sure. (Pause)

12 MS. KAUFMAN: I'm sorry, Mr. Chairman. I
13 appreciate your indulgence. The numbers that we've been
14 talking about have always been in Mr. Gillan's direct
15 testimony. I think it was just pointed out they are in
16 JPG-4. So those are not new numbers, and Southern Bell
17 has never, as far as we know, asked for any confirmation
18 or asked to see any analysis. So if Mr. Hendrix is going
19 to have the opportunity to critique Mr. Gillan's work
20 papers, I think the reverse would be fair, Mr. Gillan
21 would have the opportunity, as well, to critique
22 Mr. Hendrix's.

23 CHAIRMAN DEASON: Well, the problem is, as I
24 understand it, whatever critique he does is going to be a
25 late-filed exhibit, so we're going to have a late-filed to

1 a late-filed?

2 MS. KAUFMAN: I guess that would be a way to
3 handle it.

4 CHAIRMAN DEASON: Staff, we're opening up a can
5 of worms here. Is there anyway you can get the
6 information you want more directly?

7 MS. PEED: Mr. Chairman, I would also like to
8 point out that IXC did not raise this objection with GTE's
9 late-filed exhibit which was exactly the same request.

10 MS. CASWELL: Yes. As I understand it,
11 yesterday Ms. Canzano said the same thing, that we would
12 have Mr. Gillan's work papers in order to perform the
13 analysis of his cost study data, and I would like to point
14 out also that the second part of that exhibit we have no
15 idea how he came up with those numbers and we would
16 absolutely need his work papers to know that and to do any
17 sort of analysis.

18 MS. CANZANO: We agree. We do need those work
19 papers.

20 MS. CASWELL: Also, I don't think that we need
21 to supply an exhibit because we're not proposing
22 cost-based rates.

23 CHAIRMAN DEASON: I tell you what we're going to
24 do, we're going to take ten minutes and I'm going to let
25 you all talk about it and see if you can come up with a

1 resolution. If not, then I'll come up with a resolution
2 which may not make anybody happy.

3 (Recess.)

4 - - - - -

5 CHAIRMAN DEASON: Call the hearing back to
6 order. Hope the time has been productive.

7 Ms. Canzano?

8 MS. CANZANO: Okay. Anyone jump in if I don't
9 have this right. Here's my understanding of what our
10 discussion was: That Southern Bell will provide a
11 late-filed exhibit of what it thinks its costs should be,
12 or are, and after that is filed, Mr. Gillan will supply
13 his work papers to Southern Bell, and he will also file a
14 late-filed exhibit response to all three companies -- yes,
15 to their late-filed exhibits.

16 MS. CASWELL: Don't the work papers need to come
17 before the submission by the company?

18 MS. PEED: Mr. Chairman, do you think we could
19 have -- I mean, we don't need to do it now, but can we
20 perhaps come to a resolution by sometime tomorrow on this
21 issue because there's still lots of confusion here?

22 CHAIRMAN DEASON: Sounds great. Let's move
23 forward.

24 MS. PEED: Thanks.

25 CHAIRMAN DEASON: Any further questions of this

1 witness?

2 MS. CANZANO: No.

3 CHAIRMAN DEASON: All right, I do note that
4 there needs to be some resolution concerning some
5 late-filed exhibits, and we will address that at some
6 future time. As of right now we're going to conduct
7 redirect.

8 MS. PEED: I just have, I think, one or two
9 questions on redirect.

10 REDIRECT EXAMINATION

11 BY MS. PEED:

12 Q Mr. Hendrix, Mr. Adams was asking you
13 questions about the July 1st, 1994, federal tariff
14 filing. Do you recall that discussion?

15 A Yes, I do.

16 Q Has the company filed any tariff filings at
17 the federal level after the July 1st, 1994 filing?

18 A Well, we filed -- we made another filing that
19 went in on July 1st also that reduced switched access
20 by, I think, another \$33 million.

21 Q And what elements did that go to?

22 A That was a terminating carrier common line.

23 Q And is that an element that is applicable to
24 all interexchange carriers?

25 A Yes, it is.

1 Q And my last question is about this Exhibit 27,
2 this letter -- it seems to have escaped me right now --
3 this letter from Mr. Sanders to the AT&T vice president.

4 A Yes.

5 Q Had you seen that letter before today?

6 A No.

7 Q Did you have any role in the preparation of
8 this letter?

9 A No, I did not.

10 MS. PEED: That's all I have.

11 CHAIRMAN DEASON: Exhibits?

12 MS. CANZANO: Staff requests that Exhibits 29
13 and 31 through 34 be moved into the record.

14 CHAIRMAN DEASON: Without objection, 29, 31
15 through 34 admitted. Other exhibits? Prefiled exhibit is
16 26.

17 MS. PEED: I would like to move 26, and I have
18 an objection to the admission of 27.

19 CHAIRMAN DEASON: Without objection, 26 is
20 admitted. Is there a motion to move Exhibit 27 or 28?

21 MR. ADAMS: Yes, I would like to move 27 and 28.

22 CHAIRMAN DEASON: You're going to move 27 and
23 28. Is there an objection to 28?

24 MS. PEED: No, although I believe it's in
25 Staff's also.

1 CHAIRMAN DEASON: Very well, 28 is admitted.
2 State your objection to 27, please.

3 MS. PEED: Exhibit 27 is this letter that was
4 not prepared by the witness, it was prepared by another
5 company employee, that the witness had not seen prior to
6 today, and has testified that he doesn't really know the
7 meaning behind this letter, nor did he have any input or
8 any role in the preparation of this letter. And I would
9 ask that it not go into the record based upon the fact
10 that this witness cannot testify as to the accuracy of
11 this letter.

12 In the alternative, if the Commission wishes
13 to admit this letter, I would ask that -- there was a
14 deposition of a company employee taken on August 12th,
15 who did have knowledge of this particular letter, and I
16 would ask that a portion of the deposition be entered
17 into the record that discusses this particular letter
18 and the meaning of the letter.

19 CHAIRMAN DEASON: I will allow you the time to
20 identify that section of the deposition and discuss it
21 with opposing counsel, and then we will take up the
22 admission of Exhibit 27 after that time and I will hear
23 your position as to the admissibility of Exhibit 27, if
24 there is an argument to be made at that time. Thank you,
25 Mr. Hendrix.

1 Ms. Wilson.

2 (Witness Hendrix excused.)

3 (Exhibit Nos. 26, 28, 29, 30, 31, 32, 33 and
4 34 received into evidence.)

5 MS. WILSON: Florida Cable Television
6 Association calls Jeffrey Smith to the stand.
7 Mr. Chairman, I believe he needs to be sworn.

8 CHAIRMAN DEASON: Very well. Thank you. Please
9 be seated.

10 JEFFREY E. SMITH
11 was called as a witness on behalf of Florida Cable
12 Television Association, Inc. and, having been duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. WILSON:

16 Q Mr. Smith, will you please state your name and
17 business address?

18 A My name is Jeffrey E. Smith. My business
19 address is 1500 Market Street, Philadelphia,
20 Pennsylvania 19102.

21 Q By whom are you employed and in what capacity?

22 A I am employed by Comcast Corporation as its
23 deputy general counsel. In this capacity I represent
24 the telephony divisions of Comcast, including Eastern
25 TeleLogic Corporation, which is our alternative access

1 affiliate, and our wireless affiliates, including
2 Comcast Cellular Communications.

3 Q Did Mr. William Kingsley cause to be prefiled
4 seven pages of rebuttal testimony in this proceeding?

5 A Yes, he did.

6 Q And is that testimony true and correct to the
7 best of your knowledge?

8 A Yes, it is.

9 Q And do you adopt that testimony in full?

10 A Except with respect to the identifying
11 information, as to Mr. Kingsley, which is on Page 1 and
12 Page 2, Lines 1 through 3. I would also like to excerpt
13 out the testimony set forth on Page 5, Lines 20 through
14 22.

15 Q On Page 5, Lines 20 through 22, you propose to
16 strike that?

17 A Yes, from the -- beginning from the word
18 "First," and actually extending to the first word on
19 Line 23 on Page 5.

20 Q Other than the preliminary name, address, work
21 experience and the corrections you just made with
22 respect to Page 5, if I were to ask you the same
23 questions contained in the testimony here today, would
24 you give me the same answer?

25 A Yes, I would.

1 Q And what is your background and work
2 experience?

3 A I've been employed as deputy general counsel
4 of Comcast Corporation since 1992. Again, in this
5 capacity I've represented Comcast in it's telephony
6 businesses with respect to its investments in Teleport,
7 its holdings in Eastern TeleLogic Corporation and with
8 respect to its wireless affiliates. Prior to joining
9 Comcast, I worked as an attorney for Drinker, Biddle and
10 Reath, a law firm in Philadelphia.

11 Q With respect to Eastern TeleLogic, are you
12 responsible for administration and enforcement of
13 expanded interconnection contracts?

14 A Yes. Among other things, yes.

15 MS. WILSON: Mr. Chairman, at this time I would
16 ask that the rebuttal testimony of Jeffrey Smith be
17 inserted into the record as though read.

18 CHAIRMAN DEASON: Without objection, it will be
19 so inserted.

20 MR. FONS: May I inquire? Could we go back to
21 the language that was being deleted? I'm afraid I must
22 have an earlier version or a later version of your
23 testimony because my pagination and the line numbers
24 aren't the same. But as I understand it, it's on Page 5,
25 the line -- according to you, Lines 20 through 22, you're

1 striking out those two sentences; is that correct?

2 WITNESS SMITH: I am striking out the Line 20
3 beginning at the word "First," through Line 23, the word
4 "Second." So Lines 21 and 22 in full, the last five words
5 of Line 20, and the first word of Line 23.

6 MR. FONS: So it will go in the record without
7 that language, is that --

8 MS. WILSON: Yes.

9 CHAIRMAN DEASON: That is correct.

10 MR. FONS: That's fine.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **REBUTTAL TESTIMONY OF**
2 **WILLIAM G. KINGSLEY**
3 **ON BEHALF OF**
4 **FLORIDA CABLE TELEVISION ASSOCIATION, INC.**
5 **DOCKET NO. 921074-TP**
6 **JULY 27, 1994**

7
8 **Q. Please state your name and business address.**

9 **A. I am William G. Kingsley. My business address is 1500 Market Street,**
10 **Philadelphia, PA 19102.**

11 **Q. By whom are you employed and in what capacity?**

12 **A. I am employed by Comcast Corporation as Director, Telecommunications**
13 **Businesses. In this capacity, I am responsible for planning and managing the**
14 **company's emerging telecommunications businesses on a nationwide basis.**

15 **Q. Please briefly describe your background and work experience.**

16 **A. I began my telecommunications career in 1981, joining Contel Corporation.**
17 **Over 26 months, I rotated through a series of assignments in the Network**
18 **Planning and Design Disciplines. I progressed through an accelerated**
19 **management training program. Upon completion of this program, I became**
20 **Product Manager for the Eastern Region. In 1987, I was promoted to Manager,**
21 **New Product Development for Contel's Domestic Telephone Operations. In**
22 **1981, upon consummation of the Contel/GTE merger, I was named Director -**
23 **New Business Development For GTE's Cellular Telephone Business. I have**
24 **been employed by Comcast Corporation in my present capacity since June,**

1 ~~1992. I graduated from Lynchburg College in 1980 with a B.S. in Business~~
2 ~~Administration. In 1987, I was awarded a Master of Arts in~~
3 ~~Telecommunications Policy from George Washington University.~~

4 **Q. What is the purpose of your testimony?**

5 **A. The purpose of my testimony is to rebut the Direct Testimony of David Denton**
6 **(Southern Bell) and the Direct and Supplemental Direct Testimonies of Ben**
7 **Poag (Centel-United).**

8 **Q. Turning first to Mr. Denton's testimony, do you agree that the Florida**
9 **Public Service Commission ("Commission") should allow the dominant**
10 **LECs "the option to provide either virtual or physical collocation?"**
11 **Denton, direct at 3-4,8.**

12 **A. No, I do not. The Commission should require the development of a physical**
13 **collocation standard for switched access expanded interconnection. A physical**
14 **collocation standard is critical to the development of a competitive market.**

15 **Q. What problems do you anticipate in giving the dominant LECs the option**
16 **to choose the form and terms of collocation?**

17 **A. If the LEC chooses the form and terms of collocation, then it is given the ability**
18 **to affect critical competitive technical, operational and financial characteristics of**
19 **the interconnector's services. The Commission should, instead, focus on the**
20 **interconnection standards present in the AAV market today to define the**
21 **essential characteristics of collocation. Competitors' services should not be**
22 **forced to resemble the LECs' services, and the dominant LEC should not be**
23 **permitted to continue to control the essential characteristics of services offered**
24 **by other providers. Mandating a physical collocation standard is the best way to**

1 achieve these results.

2 **Q. If the Commission does not mandate actual physical collocation, should**
3 **collocation arrangements be individually negotiated giving the LECs the**
4 **option to choose between physical and virtual collocation?**

5 **A. Only if physical collocation is the standard by which all virtual collocation**
6 **arrangements are implemented.**

7 **Q. Please explain.**

8 **A. Rather than allowing the LEC to set the terms and conditions of expanded**
9 **interconnection, as Mr. Denton suggests, the Commission should adopt rules**
10 **and regulations concerning expanded interconnection in the absence of**
11 **mandatory physical collocation. The rules and regulations should permit and**
12 **encourage the parties to negotiate virtual or physical collocation arrangements**
13 **on a case-by-case basis with the same terms and conditions available to all**
14 **interconnectors. To accomplish this, the rules and regulations must require the**
15 **LECs to provide virtual interconnection that is technically and economically**
16 **comparable to actual collocation and on reasonable terms. Effective expanded**
17 **interconnection should not be hampered by unreasonable or inefficient**
18 **administrative processes and requirements.**

19 **Q. Why should the Commission take this action in the absence of an actual**
20 **physical collocation mandate?**

21 **A. The Commission mandated physical collocation in Phase I of this proceeding.**
22 **Clearly, the Commission believes that physical collocation is the proper**
23 **collocation standard. Additionally, it was assumed that phase I-type virtual**
24 **collocation arrangements would be negotiated voluntarily by the parties with**

1 physical collocation as a back-up option. This gives the LECs a natural
2 marketplace incentive to make virtual collocation adequate and attractive to
3 interconnectors. If physical collocation is not mandated in Phase II, the
4 Commission should, as a matter of fairness, continue to give interconnectors
5 effective negotiating leverage with the dominant LEC when attempting to obtain
6 satisfactory collocation. Once the interconnection standards are adopted, the
7 Commission should require the LECs to file tariffs complying with the standards.

8 **Q. You previously mentioned the dominant negotiating power of the LEC.**
9 **Doesn't the possibility exist for disputes to arise even with the tariffed**
10 **standards?**

11 **A. Yes. If disputes arise, the Commission should direct parties to resolve them by**
12 **negotiation. This permits an expeditious resolution that could be accelerated**
13 **further if the Commission gives the dominant LEC the proper substantive and**
14 **procedural incentives to promptly negotiate expanded interconnections. Some**
15 **negotiations will most likely be successful and will provide an adequate record**
16 **upon which the Commission could resolve additional disputes.**

17 **Q. Witness Poag filed supplemental direct testimony in this proceeding. He**
18 **concludes that the Commission should not impose a mandatory physical**
19 **collocation requirement based upon the United States Court of Appeals**
20 **decision. Would you please comment on this conclusion?**

21 **A. Should the Commission modify Order No. PSC-94-0285-FOF-TP and its actual**
22 **physical collocation requirement of Phase I, then the Commission should**
23 **implement the physical collocation standard outlined above, i.e., interconnection**
24 **that is technically and economically comparable to actual collocation and on**

1 reasonable terms. Mr. Poag's direct testimony appears to be consistent with
2 my recommendation. Mr. Poag states that "rather than mandating any
3 particular form of collocation, the Commission ought to adopt rules and
4 regulations which permit and encourage the parties to negotiate physical or
5 virtual collocation arrangements on a case-by-case basis with the same terms
6 and conditions available to all interconnectors." Poag, direct at 14. I would
7 also recommend that if the Commission modifies the Phase I order, all pricing
8 flexibility should be suspended until each LEC successfully negotiates and
9 implements a collocation agreement.

10 **Q. Do you find any other problems with Witness Denton's testimony?**

11 **A. Yes, Mr. Denton recommends that reciprocity under the same terms and**
12 **conditions as required for LECs should be part of any**
13 **interconnection/collocation order in Florida. Denton, direct at 11-12. The**
14 **Commission rejected this approach in phase I of this proceeding and should do**
15 **the same in Phase II.**

16 **Q. Turning now to Mr. Poag's direct testimony, do you agree that the LECs**
17 **should be given as much price flexibility as possible? Poag, direct at 12.**

18 **A. Absolutely not. Mr. Poag bases his conclusion on concerns about upward**
19 **pressure on residually priced basic service rates and universal service goals.**

20 **His concerns are overstated and misapplied. ~~First, at the interstate level, the~~**
21 **~~residual interconnection charge accounts for the vast majority of the LEC's total~~**
22 **~~transport revenue. This revenue will continue to be guaranteed to the LECs~~**

23 **~~Second, Mr. Poag would have interconnection rates set to recoup LEC money~~**
24 **lost in order to subsidize universal service. This is an inappropriate forum to**

1 **determine how best to address universal service concerns, especially since the**
2 **LECs have not stated their cost of providing basic local exchange service.**
3 **Finally, Mr. Poag's assertion that AAVs and cable companies will seek to attract**
4 **only those customers who have the greatest potential for generating the highest**
5 **profit margin, is misplaced.**

6 **Q. What is wrong with the latter assertion?**

7 **A. Mr. Poag fails to distinguish between AAVs and cable companies. AAVs are**
8 **currently only permitted by law to provide limited telecommunications services**
9 **mostly used by business customers. In fact, they are only in a position to**
10 **provide service where they have connections to office buildings. Unlike the**
11 **dominant LECs, AAVs do not have ubiquitous interconnections to all potential**
12 **business customers. Even if they would like to compete on a greater scale,**
13 **they are prohibited from doing so by law. It is, therefore, unfair to attempt to**
14 **characterize their activities as cream skimming. Further, cable companies**
15 **already enjoy a relationship with residential ratepayers. In fact, cable television**
16 **facilities pass by 97% of the homes in Florida, although far from every home is**
17 **wired for cable. A very small percentage of the cable television subscribers are**
18 **businesses, in essence, cable companies are residential service providers. The**
19 **residential market segment, however, according to LECs themselves, is not a**
20 **high profit margin segment.**

21 **Q. Would you please summarize your rebuttal testimony?**

22 **A. Certainly. Mr. Denton and Mr. Poag's proposals would suppress rather than**
23 **promote competition. If there are no meaningful interconnection standards and**
24 **the LECs given price flexibility, expanded interconnection will be so**

1 cumbersome, uncertain and economically disadvantageous that no one will be
2 able to compete. LECs should be given price flexibility which mirrors the FCC
3 approach only if they allow collocation, either physical or virtual, which is
4 reasonably provided under comparably efficient interconnection standards.

5 **Q. Do you have any other comments?**

6 **A. Yes. AAVs and cable companies offer the State of Florida the means to**
7 **develop a robust telecommunications infrastructure. It is essential to this**
8 **infrastructure development that interconnection standards be adopted quickly.**

9 **Q. Does that conclude your testimony?**

10 **A. Yes, it does.**

11

1 Q (By Ms. Wilson) Mr. Smith, do you have a
2 summary of your testimony?

3 A Yes. The purpose of my testimony is to rebut
4 the direct testimony of David Denton of Southern Bell
5 and the direct and supplemental direct testimonies of
6 Ben Poag of Centel United with respect to the standard
7 for expanded interconnection. In sum, it is my view
8 that this Commission should continue to mandate physical
9 collocation and to permit virtual collocation where the
10 parties otherwise agree to negotiate.

11 Both the FCC and this Commission -- this
12 Commission in Phase I of this docket found that physical
13 collocation best served the interests of the public
14 through the development of competition to the local
15 loop. While the FCC has found it necessary to move
16 towards a virtual standard due to certain jurisdictional
17 issues raised in a litigation sponsored by Bell
18 Atlantic, substantively the need for and the preference
19 for physical collocation has not changed and should not
20 change.

21 If the Commission elects to require only
22 virtual collocation, we feel it is imperative that it
23 establish a virtual collocation standard that gives
24 interconnectors, substantively, what they would have
25 received under physical collocation, again to ensure

1 that interconnection will be technically, operationally,
2 economically and administratively comparable to what
3 would otherwise have been available under physical
4 collocation.

5 To leave interconnection to mere negotiation
6 between the parties, as has been suggested, will not
7 ensure competition, but would only prolong and delay the
8 day when there is local competition to the local loop.
9 I would point out that my understanding is that the
10 Commission reach this same conclusion in Phase I of this
11 docket. This is not to say that negotiations won't
12 occur between the local exchange companies and those
13 parties who wish to interconnect. However, there should
14 be some base line, some standard from which everyone can
15 operate.

16 In addition, my testimony concerns the issue
17 of pricing flexibility. My understanding is that price
18 flexibility was provided under Phase I of this docket in
19 consideration for, or in the context of, expanded
20 interconnection. If there are not firm expanded
21 interconnection standards, I would recommend that this
22 Commission not permit pricing flexibility until such
23 time as successful virtual collocation arrangements have
24 been negotiated between the parties.

25 Q Does that conclude your testimony -- or your

1 summary?

2 A That concludes my summary, yes.

3 MS. WILSON: The witness is available for cross.

4 CHAIRMAN DEASON: Mr. Carver?

5 MR. CARVER: No questions.

6 MR. FONS: I have some questions, but my first
7 question is I've got a different version of the
8 testimony than apparently the witness has and other
9 people have, and I believe Southern Bell has the same.
10 version as I have, and I'm not quite sure what is missing.

11 CHAIRMAN DEASON: It was a conspiracy.

12 MR. FONS: Well, obviously the conspiracies
13 are always afoot here. I'm not paranoid, but --

14 MS. WILSON: Mr. Chairman, this is completely
15 unexpected. I was out of town when the testimony was
16 served on the parties and I'm not sure what the problem
17 is, but --

18 MR. FONS: We may be able to handle this after
19 he leaves the stand. I know he's got a plane and I can
20 cross examine him from what I've got, but we do need to
21 straighten out what version of the testimony is going in
22 the record.

23 MS. WILSON: Is in the record.

24 CHAIRMAN DEASON: If you want to take five
25 minutes now to make sure you have the proper version to

1 ask your questions, I'm not opposed to doing that. But
2 if you want to go forward, that's fine, too.

3 MR. FONS: It appears to be the same
4 testimony, but somehow the pagination is off.

5 CHAIRMAN DEASON: Okay. I guess we can go
6 back to our normal -- since we're going to have a little
7 bit of a transition, we'll take ten minutes.

8 (Brief recess.)
9

10 - - - - -
11

12 (REPORTER'S NOTE: The testimony beginning on
13 Line 18 of this page and ending on Page 577(20) was
14 initially inadvertently omitted. It has now been
15 inserted.)
16

17 - - - - -
18

18 CHAIRMAN DEASON: Call the hearing back to
19 order. Mr. Fons, do you have the correct version now?

20 MR. FONS: I have a version which appears to
21 have the same number of words and words on it as the
22 version that the Commission has, but the pagination is
23 different but I think we can proceed as is.
24
25

CROSS EXAMINATION

1
2 BY MR. FONS:

3 Q After all that, Mr. Smith, good afternoon.

4 A Good afternoon.

5 Q I'll try to get you out of here as quickly as
6 possible.

7 A Thank you.

8 Q You're an employee of Comcast; is that
9 correct?

10 A That is correct, yes.

11 Q And you're appearing on behalf of Comcast here
12 today?

13 A I believe I'm appearing on behalf of the
14 Florida Cable Television Association.

15 Q And is the testimony that you have adopted
16 that was originally prepared by Mr. Kingsley, was that
17 testimony you know reviewed by the Florida Cable
18 Television Association?

19 A Yes, it was.

20 Q Okay. And are you speaking, then, on behalf
21 of all of the members of the Florida Cable Television
22 Association?

23 A I believe I'm speaking on behalf of Comcast's
24 position which is consistent with that of the Florida
25 Cable Television Association. I've not spoken with the

1 Council for the Florida Cable Television Association to
2 determine whether it's consistent with the views of all
3 of its members.

4 Q Are there any statements in this testimony,
5 Mr. Smith, that are inconsistent with -- well, let me
6 strike that.

7 Are you stating that the positions that you
8 take with regard to collocation is the position of the
9 Florida Cable Television Association?

10 A Yes.

11 Q For example, on Page 2 of your testimony and I
12 can't give you the right line, because I have probably a
13 different version, but it's the second line in the
14 answer to the question, "What problems do you anticipate
15 in giving the dominant LECs the option to choose the
16 form in terms of collocation?" Do you see that
17 question?

18 A Yes.

19 Q And the answer is, "If the LECs choose the
20 form in terms of collocation, then it is given the
21 ability to affect critical, competitive, technical,
22 operational and financial characteristics of the
23 interconnector's services?

24 A Yes.

25 Q Is that correct?

1 A Uh-huh.

2 Q Okay. And is that the position of the Florida
3 Cable Television Association?

4 A I believe it is, yes.

5 Q And is it the position of Comcast?

6 A Yes, it is.

7 Q Okay. On what basis have you developed that
8 the LECs, if they are given the form in terms of
9 collocation, they are then given the ability to affect
10 critical, competitive, technical, operational and
11 financial characteristics of the interconnector's
12 services?

13 A The concern that Comcast has, which is shared
14 by both the National Cable Television Association as
15 well as the Florida Cable Television Association, is
16 with the unequal bargaining power that exists if the
17 party that is trying to interconnect, whether they be a
18 cable television company or an alternate access
19 provider, encounters when dealing with the local
20 bottleneck monopoly.

21 Ultimately what this issue focuses upon is
22 control; control of the facilities. And while we
23 understand that there are serious issues affecting
24 interconnecting to the LEC network, the problem with
25 seating full control and the ability -- the potential

1 for that to inhibit the development of alternative or
2 competing networks is really what Comcast's concern is.

3 Q What are the technical characteristics?

4 A I'd have to defer to engineers to speak
5 specifically to the technical characteristics.

6 Q So you of your own personal knowledge don't
7 have what the technical characteristics might be?

8 A I would not have that, no.

9 Q How about the operational characteristics?

10 A Well, among the operational problems would be
11 the maintenance of the equipment, the modification of
12 equipment, the ability to have ready access to that
13 equipment, and to monitor and to address all problems
14 associated with that.

15 Q And if the form of collocation provided by the
16 LEC allowed you to do all of that, then you would be
17 satisfied; is that correct?

18 A That is correct.

19 Q And it wouldn't matter to you then in that
20 situation whether it was physical or virtual?

21 A In that sense, no, it wouldn't. What we have
22 requested, and I think I stated in my summary, is that
23 physical collocation be the standard, but if this
24 Commission decides it does not want to continue to
25 require physical collocation, that there be a virtual

1 standard which provides the same substance as would
2 physical. So if I'm provided with the technical,
3 operational and financial economic considerations that
4 are similar to physical, then no, virtual would not be a
5 problem for us. It's preferred that we have physical,
6 but virtual would not be a problem.

7 Q As long as the conditions are similar?

8 A Substantially similar and comparable, yes.

9 Q Can you define for me what you mean by
10 "substantially similar"?

11 A We would want to be in the same position as if
12 we had physical collocation. I can't define for you
13 what the specifics of that would be, only that I want to
14 make sure it's clear that the objective here is to
15 provide us with the same type in terms of quality and
16 substance that we would have been provided under
17 physical.

18 Q Do you know how technically it could be
19 substantially similar; virtual and physical?

20 A Well, again, I don't speak to the technical
21 issues; I defer to engineers as to advise me as to that.
22 I will say that having access to the facilities; having
23 the ability to modify those facilities and upgrade them
24 and enhance them; having the ability to develop networks
25 which are not identical to that of the LECs, having that

1 type of flexibility are all things that, within my
2 definition, are within having control of that facility.

3 Q What facility are you talking about that you
4 want control of?

5 A This would be the termination facilities at
6 the central office.

7 Q Some type of terminal equipment?

8 A That's right.

9 Q Okay. So if Comcast as an AAV were allowed to
10 purchase the equipment that would be placed in the
11 central office, would that constitute control of that
12 facility to satisfy your standard?

13 A If we were able to purchase it, maintain it,
14 operate it, have access to it on a regular basis for
15 upgrades and maintenance, yes.

16 Q Is there anything else about your technical
17 standard that you would need --

18 A Again --

19 Q -- to be substantially similar?

20 A -- I won't speak to the specific technical
21 issues.

22 Q I think you testified that Comcast is both a
23 cable TV company, and it's also an AAV; is that correct?

24 A Comcast Corporation primarily operates cable
25 television subsidiaries. Comcast also invests in

1 Teleport and is in control of Eastern Telelogic
2 Corporation, which is the largest alternate access
3 provider in Philadelphia.

4 Comcast also has significant investments in
5 wireless telephony operations.

6 Q What do you believe the mission to be of
7 Comcast as an alternative access vendors.

8 MS. KAUFMAN: I would object to that.
9 Mr. Chairman, that's completely outside the scope of his
10 testimony, his rebuttal testimony.

11 MR. FONS: I think it's very relevant to the
12 testimony. The man has attempted to testify as to what
13 standard should be applied for the type of collocation
14 and he's also mentioned that he wants to be able to
15 offer services different from the LEC and not be tied to
16 that. I need to know what his mission is in order to
17 test that statement.

18 CHAIRMAN DEASON: I'll allow the question.

19 A Could you repeat the question?

20 Q (By Mr. Fons) What do you believe the mission
21 of Comcast as an AAV to be?

22 A Comcast desires to get into all facets of
23 telecommunications including alternate access. In terms
24 of its specific business plans, they are still
25 developing. I'm not sure if I can give you more

1 specific answer than that.

2 Q Do you plan to get into the local
3 telecommunications business?

4 A I think that Comcast, like all major cable
5 companies, has a desire to get into the local
6 telecommunications business, yes.

7 Q Has Comcast filed for a certificate and has
8 Comcast been granted a certificate as an AAV in Florida?

9 A Yes, I believe it has. Yes.

10 Q Do you know whether that certificate is a
11 statewide certificate?

12 A I do not know.

13 Q Do you know whether under that certificate
14 Comcast can provide AAV services in Tallahassee, Tampa,
15 Orlando or Miami?

16 A I do not know the specifics of that
17 certificate.

18 Q Do you know whether Comcast is providing any
19 alternative access vendor services in Florida?

20 A I do not believe so. Again, I do not know the
21 specifics, no.

22 Q But Comcast is providing alternative access
23 vendor services elsewhere in the country?

24 A Through a separate subsidiary, yes, it is.

25 Q What's the name of that subsidiary?

1 A Eastern Telelogic Corporation.

2 Q Which is different than the AAV that has a
3 certificate in Florida; is that correct?

4 A That's correct.

5 Q Are you familiar with the way in which
6 Eastern -- what is it called?

7 A Telelogic.

8 Q Eastern Telelogic provides service to
9 customers? Does it do it by contract?

10 A It does it by contract. It also has tariffs
11 on file both at the state and federal level.

12 Q Is Eastern Telelogic required to file tariffs
13 at the FCC?

14 A Yes, it is. Yes.

15 Q Okay. And can you tell me whether in any of
16 these tariffs whether Eastern Telelogic provides DS1 and
17 DS3 service?

18 MS. KAUFMAN: Commissioner, I would have to
19 object again. This is going way beyond the scope of his
20 rebuttal testimony as to what this company does at the
21 FCC. It's way beyond the scope and it's way beyond even
22 the mission.

23 CHAIRMAN DEASON: Mr. Fons.

24 MR. FONS: Mr. Chairman, this witness is
25 testifying on behalf of the Florida Cable Television.

1 Association. He says that what he's saying is applicable to
2 the FCTA in Florida. I have to know a little bit about what
3 he knows about the business in order to probe whether or not
4 what he's asking for in Florida is appropriate.

5 CHAIRMAN DEASON: I think you can probe his
6 knowledge of the business without going into such detail
7 as to the plans of a subsidiary company that doesn't
8 even operate in Florida. I'm going to ask you to be a
9 little more specific.

10 MR. FONS: Okay.

11 Q (By Mr. Fons) Do you know how any of the
12 other AAVs operate in Florida?

13 A No, I do not.

14 Q Do you know how any of the AAVs that are
15 subsidiaries of any of the other cable companies that
16 are members of the FCTA operate in Florida?

17 A I do not have any specific knowledge as to how
18 any of the AAVs operate in Florida, although the issues
19 with regard to expanded interconnection, whether they
20 are at the federal level or in Florida, are similar, at
21 least to the extent of my testimony.

22 Q In your testimony you state that -- and again
23 I have Page 5, but I suspect it's probably on Page 6 of
24 your version.

25 A Okay.

1 Q You say in an answer to a question, "What is
2 wrong with the latter assertion?" And your first
3 sentence is "Mr. Poag fails to distinguish between AAVs
4 and cable companies."

5 And then you go on to say at the end of that
6 paragraph "The residential market segment, however,
7 according to the LECs themselves, is not a high profit
8 margin segment." Is that your testimony?

9 A There's some lines missing in between but,
10 yes, that's what the testimony says.

11 Q Well, let me ask you some questions about
12 that.

13 Can you please tell me the difference between
14 an AAV and a cable company insofar as offering
15 telecommunication services is concerned?

16 A Well, currently my understanding is that in
17 Florida, cable television companies are not permitted to
18 offer -- aren't certificated to offer local telephone
19 exchange services, that you do have to apply for a
20 certificate to become an AAV, therefore, at least at
21 this stage, AAVs and cable companies are very different
22 organizations.

23 Q And then you go on to say, "In fact, cable
24 television facilities pass by 97% of the homes in
25 Florida, although far from every home is wired for

1 cable. A very small percentage of the cable television
2 subscribers are businesses. In essence, cable companies
3 are residential service providers."

4 Let me ask it this way: Is Comcast planning
5 to enter the local exchange business in Florida when it
6 is statutorily authorized to do so?

7 MS. KAUFMAN: I would object. That goes beyond the
8 scope of the testimony. Again, the testimony relates to cable
9 television service and he states in his testimony that cable
10 television services are residential services. He doesn't talk
11 about the plans of cable television companies to get into
12 local residential service. It's way beyond the scope of his
13 testimony.

14 MR. FONS: Well, it's not --

15 CHAIRMAN DEASON: You don't have to respond.
16 I do note the witness speaks to competition and the need
17 for certain decisions by this Commission to foster com-
18 petition. I think the provision of local exchange ser-
19 vice is consistent with competitive moves, and if this
20 witness has knowledge of those plans, I think it would
21 be appropriate for him to share those with the Commission.

22 MS. KAUFMAN: Thank you.

23 WITNESS SMITH: Could you repeat the question
24 please?

25 MR. FONS: That's fine.

1 COMMISSIONER CLARK: I think he asked do you
2 plan to get into the local exchange service.

3 WITNESS SMITH: I think Comcast has long-term
4 plans of getting involved in the local telephony
5 business. Again, like many cable companies and
6 particularly the large ones, we have fiber optics and we
7 have cable plant that passes residential homes, and to
8 the extent we would get in the telephony business and it
9 would be a natural synergy with our cable plant to get
10 involved in local exchange.

11 I think part of his question, as well, though,
12 concerned timing, and I am not (a), at liberty to
13 suggest that we're going to have any particular timing
14 in Florida or anyplace else. And even if I did know
15 what the timing was for Florida, I wouldn't feel
16 comfortable sharing it now.

17 Q (By Mr. Fons) I'm curious about your
18 statement at the end of that paragraph, though. If
19 you're going to get into the residential
20 telecommunications business, are you relying upon the
21 statement of the LECs themselves, that the residential
22 market is not a high profit margin segment?

23 A I'm not quite sure I understand your question.

24 Q You say you want to get into the local
25 telecommunications business. In so doing are you

1 relying or not relying upon the statement in that last
2 sentence which says "That the LECs themselves " --
3 "according to the LECs themselves, the residential
4 market segment is not a high-profit margin segment."

5 A I think that statement was intended to address
6 the view that was in response to Mr. Poag's assertion
7 that the cable companies, as potential competitors to
8 the LECs, will only attempt to attract high end
9 customers and that, therefore, that's going to erode the
10 rate base that currently supports residential service.

11 First, what this paragraph is intended to
12 suggest is that the basic synergies of the cable plant,
13 as they exist now, suggest that our operations will go
14 far beyond individual businesses. Our plant, again,
15 exists and passes homes now and it would not make sense
16 for us just to bypass that segment only to provide
17 service to the businesses.

18 The second thing it says is that to the extent
19 that so much of our plant passes by residential
20 services, we're not going to be eating into the rate
21 base that supports your residential customers because,
22 again, we're going after those customers to the extent
23 of that plant that you, yourself, have characterized as
24 being low end.

25 Q Where have we characterized that the local

1 residential market is not a high profit margin segment?

2 A I don't have a specific reference to your
3 testimony, but I think it's widely known that the
4 telephone companies, local exchange companies have
5 characterized residential business as being in need of
6 subsidy and support.

7 Q But let me ask you this: Do residential
8 customers purchase toll service?

9 A Yes.

10 Q And do residential services in purchasing toll
11 service also generate access revenues for the local
12 telephone company?

13 A Yes they do.

14 Q And do the local telephone companies also
15 provide residential customers with what we would call
16 vertical services, like call forwarding, call waiting?

17 A Yes, they do.

18 Q And are those high profit margin services?

19 A I believe in the aggregate they are probably
20 high profit services.

21 Q And these are the kind of services that you
22 will provide to residential customers once you enter the
23 local telecommunications business?

24 A In time that's probably correct.

25 Q You don't know whether -- well, let me back

1 up. How many members of the Florida Cable Television
2 Association in Florida are providing alternative access
3 vendor services?

4 MS. KAUFMAN: I object to that question. It's
5 already been asked and answered. I believe that he
6 doesn't have any knowledge of what the other AAVs in the
7 association are doing.

8 CHAIRMAN DEASON: I think he testified he.
9 didn't know the position of every member of the association.

10 MR. SMITH: I'm happy to answer that question.
11 I don't know. (Laughter)

12 MS. KAUFMAN: Thank you.

13 MR. FONS: I have no further questions.

14 CHAIRMAN DEASON: Mr. Adams?

15 CROSS EXAMINATION

16 BY MS. CASWELL:

17 Q I just have couple of questions, Mr. Smith.
18 I'm Kim Caswell with GTE.

19 A Uh-huh.

20 Q In your summary of testimony, you recommended
21 virtual collocation standards that are technically,
22 operationally, economically and administratively
23 comparable to physical collocation; is that true?

24 A That's correct.

25 Q Have you read the FCC's expanded

1 interconnection order on remand from the U. S. Court of
2 Appeals?

3 A Yes, and in particular in preparation, those
4 segments that deal with the virtual collocation
5 standard.

6 Q Right. So you're aware, are you not, that the
7 FCC rejected your recommendation as to virtual
8 collocation standards because the FCC felt it might
9 create the same sort of constitutional takings problems
10 as did the physical collocation mandate?

11 A Yes. But I don't know if the FCC determined
12 that there would be a constitutional takings issue. I
13 think that was one of the subtexts behind their
14 decision. They were more concerned with the
15 jurisdictional issue. It's also my understanding,
16 however, that one of the issues that's in dispute and
17 that's being briefed in this proceeding is whether
18 Florida is subject to the same type of restrictions.

19 Q Right. Are you aware that this Commission has
20 explicitly found it has no authority to take property?

21 A I was not aware of that. Indeed, I thought
22 this Commission was still reviewing that issue under
23 briefing.

24 Q Okay. Thank you.

25 MR. TYE: No questions.

1 CHAIRMAN DEASON: Staff?

2 MS. CANZANO: Although Staff doesn't have any
3 questions of this witness, we'd like to have marked for
4 identification PCTA's response to Staff's
5 Interrogatories 1 through 18. I believe there may be a
6 stipulation on this to have this entered into the
7 record.

8 MS. KAUFMAN: I'd agree to that.

9 CHAIRMAN DEASON: Is this an exhibit that has
10 been provided to the Commission?

11 MS. CANZANO: I didn't hear your question, I'm sorry.

12 CHAIRMAN DEASON: Is this an exhibit which has
13 been provided to the Commission?

14 MS. CANZANO: Yes, it is. It should be at the
15 end of the -- the last page. Does everybody have a copy
16 of it? It's at the bottom of the stack. Of course,
17 that one stack may be rearranged by now.

18 CHAIRMAN DEASON: The exhibit will be
19 identified as Exhibit No. 35. And this is Responses to
20 Staff Interrogatories 1 through 18.

21 (Exhibit No. 35 marked for identification.)

22 CHAIRMAN DEASON: Questions, Commissioners?
23 redirect?

24 MS. KAUFMAN: None.

25 CHAIRMAN DEASON: Exhibits. You move the

1 admission of 35?

2 MS. KAUFMAN: Yes, I do.

3 CHAIRMAN DEASON: Without objection? Hearing
4 none, Exhibit 35 is admitted.

5 (Exhibit No. 35 received in evidence.)

6 CHAIRMAN DEASON: Thank you Mr. Smith.

7 (Witness Smith excused.)

8 - - - - -

9 MS. KAUFMAN: Mr. Chairman, I'd just like to
10 thank the Commission and the parties for accommodating
11 us, Mr. Smith.

12 CHAIRMAN DEASON: Glad to do that.

13 WITNESS SMITH: I would as well. Thank you.

14 CHAIRMAN DEASON: Okay. I guess we can go
15 back to our normal schedule.

16 Since we're going to have a little bit of a
17 transition here, we'll take ten minutes.

18 (Brief recess.)

19 - - - - -

20 (REPORTER'S NOTE: This completes the inserted
21 material.)

22 - - - - -

23

24

25

1

2

3

4

5

6

7

8

9

- - - - -

10 CHAIRMAN DEASON: Call the hearing back to
11 order.

12 MS. KAUFMAN: The Interexchange Access
13 Coalition would call Mr. Joe Gillan. And, Mr. Chairman,
14 Mr. Gillan has not been sworn yet.

15 (Witness sworn.)

16 JOSEPH GILLAN
17 was called as a witness on behalf of Interchange Access
18 Coalition and, having been duly sworn, testified as
19 follows:

20 DIRECT EXAMINATION

21 BY MS. KAUFMAN:

22 Q Would you state your name and business address
23 for the record?

24 A Joseph Gillan, Post Office Box 541038,
25 Orlando, Florida 32854.

1 Q By whom are you employed and in what capacity?

2 A I'm self-employed as a telecommunications
3 consultant.

4 Q And on whose behalf are you appearing in this
5 proceeding?

6 A I'm appearing on behalf of the Interexchange
7 Access Coalition.

8 Q Mr. Gillan, did you cause to be filed in this
9 proceeding 21 pages of direct testimony?

10 A Yes.

11 MS. KAUFMAN: Commissioners, that should be
12 labeled "Revised Direct Testimony." The only revision is
13 simply a formatting one, the substance has not changed.

14 Q (By Ms. Kaufman) Mr. Gillan, do you have any
15 changes, additions or corrections to your direct
16 testimony?

17 A Not to the direct testimony.

18 Q If I were to ask you the same questions today,
19 would your answers be the same?

20 A Yes, they would.

21 MS. KAUFMAN: Mr. Chairman, I would ask that Mr.
22 Gillan's testimony be inserted into the record as though
23 read.

24 CHAIRMAN DEASON: Without objection, it will be
25 so inserted.

1 Q (By Ms. Kaufman) Mr. Gillan, do you have also
2 attached to your direct testimony six exhibits?

3 A Yes, I do.

4 MS. KAUFMAN: Mr. Chairman, I would note that
5 for some reason not all of Mr. Gillan's exhibits are
6 listed in the Prehearing Order, but all six were served
7 with his direct testimony.

8 Q (By Ms. Kaufman) Mr. Gillan, do you have any
9 changes or corrections to any of your exhibits?

10 A Yes, a typographical error appears on Exhibit
11 JPG-5.

12 Q And could you correct that error, please?

13 A Yes. It's the -- in the lower left-hand
14 corner, the words "DS1 dedicated," appear twice. The
15 bottom one is actually tandem switched transport.

16 MS. KAUFMAN: Mr. Chairman, if I could have a
17 exhibit number for Mr. Gillan's exhibits.

18 COMMISSIONER KIESLING: Yes. They will be
19 identified as composite Exhibit No. 36.

20 Q (By Ms. Kaufman) And with that correction,
21 are these exhibits true and correct to the best of your
22 knowledge?

23 A Yes, they are.

24 (Exhibit No. 36 marked for identification.)
25

I. Introduction

1

2 **Q. Please state your name and business address.**

3 **A. My name is Joseph Gillan. My business address is P.O. Box 541038, Orlando, Florida,**
4 **32854.**

5 **Q. What is your occupation?**

6 **A. I am an economist with a consulting practice specializing in telecommunications. My**
7 **clients encompass the full spectrum of interests and have included state public utility**
8 **commissions, interexchange carriers, local telephone companies, large business users,**
9 **cable television companies, competitive access providers, and consumer advocates.**

10 **Q. Please briefly outline your educational background and related experience.**

11 **A. I am a graduate of the University of Wyoming where I received B.A. [1978] and M.A.**
12 **[1979] degrees in economics. My graduate program concentrated on the economics of**
13 **public utilities and regulated industries with course work emphasizing price theory and**
14 **statistics.**

15 **In 1980, I joined the Illinois Commerce Commission where I prepared policy**
16 **arguments for Commission filings before the U.S. District Court and the Federal**
17 **Communications Commission, and provided staff testimony in various Commission**
18 **proceedings concerning telecommunications. While at the commission, I served on the**
19 **staff subcommittee for the NARUC Communications Committee and was appointed to**
20 **the Research Advisory Council overseeing NARUC's research arm, the National**
21 **Regulatory Research Institute.**

22 **From 1985 to the end of 1986, I was employed by US Switch where I became**
23 **its Vice President of Strategic Planning and Marketing. In 1987, I left US Switch to**
24 **begin my consulting practice. I have testified in over two dozen proceedings in sixteen**
25 **states, I have appeared before the telecommunications subcommittees of three state**

1 legislatures, and I have been actively involved in several proceedings before the Federal
2 Communications Commission.

3 I currently serve on the Advisory Council for New Mexico State University's
4 Center for Public Utilities and as outside faculty for a program on public utility issues
5 at the University of Wyoming. A detailed listing of publications, testimony and
6 qualifications is provided in Exhibit (JPG-1) 36.

7 Q. On whose behalf are you testifying in this proceeding?

8 A. I am testifying on behalf the Interexchange Access Coalition (IAC). This coalition is an
9 ad hoc group of "third tier" interexchange carriers formed to address the local transport
10 issue in a number of key states. The members of IAC are: LDDS/Metromedia, Cable
11 and Wireless, WilTel, LCI and US Long Distance.

12 Q. What is the purpose of your testimony?

13 A. This docket presents the Commission with a number of policy issues that will define the
14 future of telecommunications competition in Florida. My testimony focuses on one of
15 the most critical aspects of the proceeding, the proposed restructuring of access transport
16 service. The request by the LECs to restructure transport rates represents a fundamental
17 departure from the Commission's existing policy and will influence interexchange
18 competition for years to come.

19 The proposed restructuring of access transport service provides the LECs a
20 format that could be abused to discriminate between interexchange carriers. This
21 discrimination would seriously damage interexchange competition, thwart the potential
22 development of nascent access transport competition, as well as encourage uneconomic
23 reconfigurations of the LECs' own networks.

24 The opportunity for discrimination stems from the format of the proposed
25 restructure which introduces separate and distinct prices for different transport options.

1 Which option a long distance company selects will primarily be determined by that
2 carriers' market share. If the LECs use the new structure to "market-base" the prices of
3 these options (i.e., by providing rate relief to some IXCs while denying others) this
4 discrimination could seriously disrupt long distance competition.

5 At the outset I would like to make clear that IAC is not opposing the adoption
6 of the new structure. The new structure -- properly implemented with price relationships
7 that match cost relationships -- is preferable to the way transport has been historically
8 priced. But, the Commission must also recognize that the new structure brings with it
9 a new danger -- discrimination -- that must be prevented for any benefit to be realized.

10 The purpose of my testimony, plain and simple, is to show that the rate levels
11 proposed by the LECs are discriminatory, inherently favoring larger interexchange
12 carriers over smaller ones, and larger metropolitan areas over more rural communities.

13 Q. How is the remainder of your testimony organized?

14 A. The remainder of my testimony is organized into five sections:

15 Section II describes the basic components of access transport and the format of
16 the new structure for access transport rates. The section also compares the new structure
17 to the transport policy that the Florida Commission has embraced since divestiture.

18 Section III explains the importance of establishing cost-based rate relationships
19 among the access options. Because the transport options relate to traffic volume, failing
20 to establish cost-based rate relationships under the new structure is tantamount to
21 sanctioning discrimination between interexchange carrier customers. The section
22 recommends a two-prong policy that would combine cost-based rate differentials with the
23 continued recovery of contribution in a competitively neutral manner.

24 Section IV uses cost information supplied by BellSouth to establish cost-based
25 rates. These rates are compared to the prices proposed by Southern Bell to expose the

1 level of discrimination that would occur if their approach were adopted.

2 Section V addresses a variety of miscellaneous, yet important, issues. First, it
3 discusses a simplified approach to establish transport prices where detailed cost
4 information is not available. Second, it discusses the need to modify the Commission's
5 policies which govern LEC-provided toll services -- "imputation" and "interLEC access"
6 rates -- to reflect the revised access transport structure. And finally it addresses the
7 attempts by some LECs to use "reconfigured demand" to estimate transport revenues.

8 Section VI summarizes and concludes the testimony.

9 II. Basic Principles of Transport

10 Q. Please describe the basic elements of access transport service.

11 A. Transport is the portion of access service that carries calls to/from the networks of
12 interexchange carriers to the end-offices that serve the subscriber. The other components
13 of switched access service are the local loop that connects the end-user and the local
14 switch that processes the call.

15 A clear discussion of access transport service requires an understanding of two
16 fundamental concepts: (a) the distinction between entrance facilities and interoffice
17 transport, and (b) the distinction between the three interoffice transport options: tandem-
18 switched, dedicated DS1, and dedicated DS3.

19 Q. Please explain the terms "entrance facility" and "interoffice transport".

20 A. Although historically priced as a single service, transport more accurately consists of two
21 discrete components:

- 22 a) Entrance Facilities which connect a specific IXC's network to the
23 LEC's network, and
- 24 b) Interoffice Transport which provides transport between LEC offices
25 over the shared-use LEC network.

1 Entrance facilities are typically *unique* to a particular IXC location (called a point of
2 presence, or POP). At the LECs' central office, the IXCs' traffic/circuits are combined
3 with others on the LECs' interoffice network for transport to distant end-offices.
4 Interoffice transmission is *shared* by multiple IXCs in addition to the LECs' own local
5 and toll traffic.

6 **Q. Do all interexchange carriers use the interoffice network the same way?**

7 **A. No.** Transport over the interoffice network to a distant end-office can take two forms:
8 it can either be dedicated or tandem-switched.

9 **Dedicated** transport reserves specific transmission capacity for the exclusive use
10 of a single interexchange carrier. Under this configuration, the circuit utilization (i.e.,
11 minutes per circuit) is controlled by the interexchange carrier.

12 **Alternatively**, an interexchange carrier can request **tandem-switched** transport
13 through an intermediate switch (called a tandem) which provides temporary connections
14 to a number of "subtending" end-offices. Under this configuration, circuits between the
15 end-office and the tandem can be used by any interexchange carrier when idle, and the
16 circuits which connect the tandem to the interexchange carrier can be used more
17 efficiently.

18 **It should be noted** that dedicated transport users typically rely on tandem-switched
19 transport for overflow needs. By using the tandem as a second route, these interexchange
20 carriers can achieve high traffic loadings on their dedicated circuits.

21 **Q. How has transport historically been priced in Florida?**

22 **A. The Florida Commission** has long recognized the interrelationship between access policy,
23 interexchange competition and the (potentially) disparate incentives that could exist to
24 serve less dense markets.

25 **In 1983**, the Florida Commission broke from the federal access system to

1 establish "equal access exchange areas" (EAEAs). The Commission adopted a flat rate,
2 non-distance sensitive rate, for all access traffic within the EAEA to encourage carriers
3 to serve both large and small communities. Importantly, the EAEAs were developed to
4 match the (then expected) configuration of access tandems to encourage carriers to use
5 these switches for traffic aggregation.

6 As recently as 1990, the Commission reiterated its commitment to using an
7 averaged transport charge to encourage interexchange competition:

8 Our decision to establish EAEAs was a result of dissatisfaction
9 with the way equal access and interexchange competition were being
10 handled at the federal level.

11 We focused on the ability of all end users to access all available
12 IXCs. The primary tool the Commission chose for this purpose was the
13 implementation of a statewide average local transport rate. An average
14 rate removed the incentive for an IXC to connect directly to an
15 individual end office in a high volume area and to avoid low volume
16 distant offices in an effort to avoid transport charges.

17 (Order 23540, Docket 880812-TP, pages 17 and 18, Issued 10-01-1990.)

18 The EAEA approach has effectively outlived its usefulness and is inconsistent
19 with a competitive environment. The policy was expressly devised to assure that none
20 of the engineering complexities identified above -- the distinction between entrance
21 facilities and interoffice transport, the transport configuration, or its capacity -- effected
22 the access rates paid by IXCs. As these new components are introduced into the rate
23 structure, however, the critical test becomes whether relative rate relationships reflect
24 only cost differences so that the correct incentives result.

25 Q. How are the rates proposed to be restructured?

1 A. A comparison of the proposed transport structure and the EAEA structure that it replaces
 2 is illustrated in Exhibit (JPG-2) 36. As noted earlier, IAC is not opposing this new
 3 structure, but is vitally concerned that the relative rate levels properly reflect costs.

4 There are three fundamental differences between the "EAEA" structure and
 5 proposed restructure.

6 First, entrance facilities are unbundled. Under the equal charge structure, the
 7 cost of these carrier-specific facilities were averaged into the interoffice transport rate.
 8 Now, separate charges will apply depending upon the interface ordered by the carrier.
 9 Typically, interfaces will be digital, operating at either 1.544 Mbps (known in the
 10 industry as a DS1 and from which 24 voice grade circuits can be derived), or 45 Mbps
 11 (known as a DS3 and which can be demultiplexed to 672 voice grade circuits).

12 Second, there will be three choices for interoffice transport, each with its own
 13 price. Carriers will be able to request:

- 14 (1) Tandem-switched transport (TST) which will be priced on a usage basis
 15 with separate charges for transmission and tandem switching.
- 16 (2) Dedicated transport at a DS1 level priced on a flat rate basis, and
- 17 (3) Dedicated transport at a DS3 level priced on a flat rate basis. (Dedicated
 18 transport will also be offered at the DS0 level, i.e. a single voice
 19 equivalent circuit. Demand for this option is not expected to be great,
 20 and therefore it will be dropped from further discussion).

21 Third, a separate rate element called the residual interconnection charge (RIC)
 22 is proposed to maintain LEC transport revenues at current levels. This charge is applied
 23 against usage measured by the local telephone companies' switch.

24 III. The Importance of Cost-Based Transport Prices

25 Q. What policy should replace the Commission's EAEA policy?

1 **A.** The guiding policy should be the establishment of cost-based rate differentials combined
2 with the continued recovery of contribution in a competitively neutral manner. The term
3 "contribution" is used here to refer to amount embedded in transport prices, over and
4 above the direct incremental cost of the service, used as "contribution" to the local
5 telephone company's other costs and profits.

6 Cost-based rate differentials are critical for two reasons. First, the rate
7 differentials will drive the relative impact on interexchange carriers and, as a result,
8 interexchange competition.

9 Second, it is relative pricing that determines which transport option carriers will
10 select as they reconfigure their access services in response to the restructure. So long
11 as the savings the interexchange carrier realizes by moving from one transport option to
12 another matches the savings realized by the LEC, then optimal reconfiguration decisions
13 will be made. However, any distortion in relative prices (such as the discriminatory
14 recovery in contribution) will lead to uneconomic reconfiguration decisions.

15 **Q.** Why does your testimony equate the three interoffice transport options to carriers
16 of differing size?

17 **A.** Because the choice among the transport options is based on a carriers' traffic volume to
18 a end-office. Importantly, there are substantial differences in markets share among
19 interexchange carriers. AT&T, with an estimated 60% of the (interstate) market is far
20 larger than its closest rival MCI (with roughly 18%). Because of its size, AT&T can be
21 expected to disproportionately favor DS3 dedicated transport. MCI/Sprint (and perhaps
22 in Florida, LDDS) will rely relatively more heavily on DS1 transport, while smaller
23 interexchange carriers will be more dependent upon tandem-switched transport.

24 If the relative prices for these transport options do not reflect relative cost
25 differences, then a system of artificial cost advantages will be introduced that will

1 translate into real competitive disadvantages in the market.

2 **Q. Is there also a geographic impact that will effect competition in less populated**
3 **markets?**

4 **A. Yes. Even for AT&T the DS3 transport option will be possible mostly in dense urban**
5 **environments, while the tandem-transport option will typify the access arrangement to**
6 **smaller markets. As a result, artificially increasing the price of the tandem transport**
7 **option will increase the relative cost to serve less populous areas. Inflating the cost to**
8 **serve small markets will ultimately lead to fewer choices in rural areas or possibly lead**
9 **to deaveraged retail rates.**

10 It is useful to again consider the Commission's existing EAEA policy. While the
11 *pricing* approach no longer makes sense, the *goal* remains valid. The Commission
12 should be particularly concerned that the transport restructure not be used as an excuse
13 to introduce uneconomic and unnecessary barriers to serving smaller markets. IAC does
14 not see cost-based transport rates as materially disadvantaging secondary markets. The
15 greater threat is from any policy which sanctions an unequal recovery of contribution
16 which could lead to higher access rates in these areas because they lack competitive
17 choices.

18 **Q. What policy should apply to recovery of contribution from transport service?**

19 **A. By definition, the contribution in transport prices is there to recover costs unrelated to**
20 **the provision of transport service. The level of contribution recovered from access**
21 **service is a policy decision, as is the portion of that contribution that should be recovered**
22 **from the transport component of access service. Whatever level of contribution is**
23 **selected, however, the Commission should not allow the LECs to distort interexchange**
24 **competition by selectively reducing this level for some interexchange carriers but not**
25 **others. Contribution should continue to be recovered under an "equal charge" approach.**

1 It is useful to understand that in this respect the current policy has been saddled
2 with an undeserved reputation. Admittedly, the EAEA environment had its flaws, but
3 it did perform one role extremely well: contribution was uniformly recovered from
4 interexchange carriers in a competitively neutral manner. In the post equal-charge
5 environment, this result should continue.

6 **Q. Must a policy of equal contribution apply to all services?**

7 **A. No, that would be unnecessary. But access service is unique. Its sole purpose is as an**
8 **intermediate input to the production of long distance services by interexchange carriers.**
9 **The reason that regulators must police discrimination so tightly in this market is that the**
10 **consequences of discrimination are so serious.**

11 In retail markets, contribution is frequently shifted among customers and markets
12 in response to competitive conditions. But, no single customer dominates these markets
13 in the way AT&T dominates other access-purchasers, and AT&T can use this dominance
14 to gain an artificial advantage over its rivals. Because access is a substantial portion of
15 the costs of providing interexchange service, even relatively small access-cost advantages
16 can translate to very real competitive disadvantages.

17 There can be no justification for a pricing policy which allows the contribution
18 extracted from a customer through its long distance prices to vary according to which
19 carrier the customer chooses. Why should a call carried by AT&T make a smaller
20 contribution to the LECs' common costs than an identical call, from the very same
21 customer, that uses MCI, Sprint . . . or any other long distance company?

22 Further, all interexchange carriers ultimately compete in the same market for the
23 retail traffic of end-users. This fact carries an important implication for the recovery of
24 different contribution levels from different interexchange carriers. Because IXC's
25 essentially compete for the same customer base, attempting to impose a higher

1 contribution burden on AT&T's rivals cannot be sustained. Ultimately these carriers will
2 lose market share as customers shift to AT&T and, in the extreme, the LEC would
3 receive reduced contribution from *all* traffic -- but only because interexchange
4 competition would have become a memory.

5 The LECs should not be permitted to selectively shift the contribution burden
6 among interexchange carriers to satisfy their own strategic objectives. To do so is
7 tantamount to placing the LECs in control of the shape of the long distance industry.
8 This concern is particularly acute given the potential for federal legislation that could
9 allow Southern Bell to once again offer these services with strong incentives to favor
10 their own products. If it is unacceptable for Southern Bell to favor its own products
11 tomorrow, why should it be acceptable for them to favor AT&T today?

12 **Q. In which rate elements should "transport's contribution" be recovered?**

13 **A.** One consequence of the transport restructure is that it divides transport revenues between
14 "facilities-related" rate elements and the "residual interconnection charge". Significantly,
15 this distinction parallels a division between elements that are subject to (potential)
16 competitive pressures and a RIC that is effectively protected.

17 Assuming that the Commission allows intrastate collocation, CAP networks could
18 be used by IXC's to reach the central office instead of dedicated transport. As a result,
19 the prices for the facilities-related components -- in particular, entrance facilities and
20 dedicated interoffice transport -- are (at least potentially) competitive. To avoid the RIC,
21 however, carriers would have to avoid LEC switched access in its entirety by connecting
22 directly with the end-user. The transport restructure only tangentially changes the
23 economics of this choice and the contribution in the RIC is subject to no more
24 competitive pressure with the introduction of expanded interconnection than it is today
25 under the existing structure.

1 Therefore, the Commission faces two policy choices with respect to contribution.
2 The first is whether to continue historic levels of contribution or reduce them. The
3 second question the Commission must decide is how much of the contribution from
4 transport it will protect (i.e., place in the RIC) or subject to competitive challenge (by
5 recovering it in the actual prices for transport service).

6 The important condition is to assure that this decision not distort interexchange
7 competition. Again, *whatever* level of contribution the Commission decides to retain in
8 the facilities prices for transport service, this contribution *must* be reflected to the same
9 degree in the prices of each transport option.

10 Q. Are the goals of "revenue neutrality" and "equal-contribution" linked?

11 A. Yes. In a system where the LEC is guaranteed the same revenues, any price discount
12 granted one carrier must be recovered from some other. If the price discount is not
13 clearly justified by a cost differential, then revenue neutrality simply shifts this
14 contribution burden to other competitors.

15 Combining discriminatory rates (such as an unjustified volume discount) with
16 LEC revenue neutrality gives rise to a competitive "double jeopardy". First, smaller
17 carriers are placed at a competitive disadvantage as larger IXC's enjoy reduced access
18 costs that are denied them. Second, however, these carriers are then asked to fund this
19 discrimination so that the LEC remains "revenue neutral".

20 The bottom line is this: The only way that a Commission can reasonably
21 introduce restructured local transport rates and satisfy the LECs' desire to remain revenue
22 neutral is to first assure that relative rate differences are cost-based.

23 Q. Will the LECs be able to compete under a cost-based rate system such as you have
24 proposed?

25 A. Certainly. The LECs would still be free to reduce the contribution they recover in their

1 facilities-related prices to compete with other vendors. What the LECs will not be able
2 to do is selectively reduce the contribution for only some access customer(s), while
3 maintaining higher levels on captive interexchange carriers that have no (or less) choice.
4 It is important to recognize that there will be fundamental differences in the degree of
5 competition among the three transport options. DS3 service will be the most competitive
6 since it represents high concentrations of traffic between two (or more) set points. DS1
7 service will be less so. Tandem-switched transport, by comparison, represents a highly
8 unconcentrated demand that requires connections to every end-office and represents a
9 relatively small portion of the market. As a result, this option will see competition last,
10 if at all.

11 As noted, nothing in this policy prevents rate reductions. What the LEC is not
12 permitted, however, is to continue to recover higher levels of contribution from captive
13 customers. Such a requirement -- the essence of discrimination protection -- should not
14 unfairly disadvantage the LECs in their competition with the CAPs. After all, the CAPs
15 have no captive customers to disproportionately recover contribution from, and with the
16 LECs practicing non-discrimination, the CAPs will not be able to either.

17 Finally, the cost-based rates that I advocate are lower than the discriminatory
18 rates sought by the LECs. Thus, their ability to compete is actually better under a cost-
19 based system.

20 **Q. Please summarize your testimony regarding the importance of non-discriminatory**
21 **access rates.**

22 **A. The first is that discriminatory access rates could have a dramatic impact on**
23 **interexchange competition. Access service is frequently the largest variable cost**
24 **component of providing long distance service, and transport typically represents at least**
25 **a third of an IXC's access cost. Any access rate-differential which is not justified by a**

1 cost-differential confers an unfair advantage on some interexchange carriers at the
2 expense of others.

3 Second, is the effect that discriminatory transport rates would have on smaller
4 communities and rural areas. The Florida Commission has been especially concerned
5 that the benefits of competition -- lower prices, improved choices and innovation -- are
6 enjoyed by all regions, not just those residences and businesses located in metropolitan
7 areas. For this goal to be realized, the access cost to reach less dense and isolated
8 markets must not be artificially inflated.

9 Finally, the effect on network design. Access transport rate relationships provide
10 incentives for interexchange carriers to reconfigure their access services to minimize cost.
11 If -- and the important word here is *if* -- prices reflect costs properly, then network
12 changes will be economic and efficient; any non-cost differential, however, will
13 encourage network reconfigurations that are irrational, increasing costs for all users.

14 IV. Cost-Based Transport Rates for Southern Bell

15 Q. Are you proposing that the Commission adopt cost-based local transport rates?

16 A. Yes. The key to establishing correct rate relationships begins with the recognition that
17 there is a single, shared interoffice network. While each interoffice transport option --
18 tandem switched, DS1 or DS3 -- may involve slightly different configurations, they each
19 are transported on the same interoffice network.

20 The relevant technology for the economic pricing of interoffice transport is fiber
21 optics. For instance, Southern Bell has deployed this technology in nearly 92% of its
22 interoffice network in Florida (GTE's deployment is even better) and it is clearly the
23 choice for future network expansions. Importantly, in a fiber network Southern Bell will
24 provide all transport as part of a DS3, no matter which interoffice option is ordered.
25 Therefore, the logical starting point (or building block) for the cost of interoffice

1 transport should be the cost of a DS-3.

2 **Q. What level of contribution do you recommend be recovered in the prices of the**
3 **facilities-related transport services?**

4 **A. A reasonable contribution level to establish initial rates is the level embedded in the**
5 **current price of a DS3. By using this as the starting point, the Commission can assure**
6 **that the same contribution is reflected in each transport price. Each interexchange**
7 **carrier's contribution is effectively the same and not distorted by the carrier's size or**
8 **choice of transport option. Furthermore, to not use the DS3's contribution as a starting**
9 **point would require that the Commission either sanction discrimination, prevent DS3s**
10 **from being offered, or require that these rates be increased. Adopting the DS3's**
11 **contribution level as the baseline is the preferable course.**

12 **Q. How should the price of each transport option then be established?**

13 **A. Exhibit (JPG-3) 34 illustrates the basic approach to arriving at cost-based rates for each**
14 **option where cost information is available. It requires that the price differences among**
15 **the transport options reflect the underlying cost differences. So long as prices reflect**
16 **underlying cost relationships, the contribution will be equal.**

17 **Q. Have you estimated the cost-based rate differences between DS3 service and the**
18 **other transport options?**

19 **A. Yes. To identify the cost-based differences between DS1 and DS3 service I reviewed**
20 **regionwide cost studies that BellSouth most recently used to justify its interstate DS1 and**
21 **DS3 prices. While it is not clear whether these are LRIC studies, the studies clearly**
22 **indicated that they considered only the direct costs of the facilities.**

23 **Exhibit (JPG-4) 34 provides details the calculation of cost-based DS1 rates**
24 **using BellSouth's cost studies to estimate the cost difference between a DS1 and DS3.**
25 **This was a two stage process.**

1 The first stage identified the *cost* difference between obtaining a DS1 individually
2 and obtaining a DS1 as part of a DS3. This cost was estimated using BellSouth's cost
3 information for a DS3 in a typical interoffice configuration (i.e., DS3 capacity must be
4 demultiplexed to DS1 speed for interconnection with the switch) to establish the per unit
5 (DS1) cost. This cost was compared to BellSouth's estimated cost of a DS1 obtained
6 separately. The difference between these costs (\$4.69 per DS1 and \$0.37 per mile)
7 should be the additional cost that BellSouth incurs when providing a DS1 separately from
8 a DS3.

9 The second stage of the process then added these additional costs to the per unit
10 price of a DS1 obtained as part of a DS3 to determine the appropriate price of a DS1
11 obtained separately.

12 In addition, I have reviewed Southern Bell's cost for tandem switching. Southern
13 Bell claims that this cost information is proprietary (presenting an obvious impediment
14 to cost-based rate relationships). The cost-based tandem switching rate will be provided
15 in a separate exhibit as soon as an acceptable arrangement for its disclosure can be agreed
16 upon. Using the information, however, I have calculated cost-based rates for each of the
17 transport options which include the non-discriminatory recovery of the contribution
18 embedded in the DS3 rate.

19 **Q.** Are you endorsing these cost-studies?

20 **A.** No. I have simply applied the results from these studies without conducting an
21 independent review or judging their validity. Before the transport restructure is
22 implemented, Southern Bell (and the other LECs) should be required to file cost studies
23 which support their rate relationships. These studies should be carefully scrutinized to
24 assure that relative cost relationships are accurately presented.

25 **Q.** How do your cost-based rates compare with those proposed by Southern Bell?

1 A. Exhibit (JPG-5) 3b compares Southern Bell's proposed prices to cost-based rates for a
2 typical transport mileage.

3 Exhibit (JPG5) 3b exposes the discrimination that would be introduced if the
4 Commission were to condone Southern Bell's proposal. The rates for the transport
5 options that will most frequently be used by AT&T's rivals are inflated by between 56%
6 and 135% above cost.

7 The reason is that the contribution levels imposed on TST and DS1 users are
8 dramatically inflated. The estimated contribution (per voice equivalent circuit) imposed
9 on DS3 users in the above comparison is \$5.94 per circuit. DS1 contribution exceeds
10 \$17/circuit, however, and the tandem switched transport users would pay a contribution
11 exceeding \$13/circuit.

12 Q. What can the Commission expect if it fails to adopt cost-based rates in this
13 proceeding?

14 A. Absent Commission direction, these relationships can be expected to worsen. BellSouth
15 has recently filed at the federal level an additional 21% reduction in its DS3 mileage rate
16 without any corresponding reductions in the rates for the other interoffice options -- even
17 though each option is provided as part of a DS3.

18 Q. Are you recommending that the Commission retain the current level of contribution
19 that is embedded in DS3 rates?

20 A. No, not necessarily. The Commission could decide to reduce DS3 prices towards cost
21 and thus reduce the contribution from this service. Alternatively, the Commission could
22 shift more contribution from the RIC to the DS3 service. In either event, the price of
23 the other options should be adjusted accordingly to reflect the reduced/increased
24 contribution. Regardless of the contribution level that is recovered from the facilities-
25 related elements, the principle of non-discrimination must continue to apply.

1 Q. Would you recommend that Southern Bell receive less contribution from transport
2 service in total as a result of the restructure?

3 A. Again, not necessarily. As I noted before, IAC believes that the level of contribution
4 from transport is a policy issue separate from discrimination. Because IAC's proposed
5 rates carefully guard against discrimination, no competitive damage would result from
6 allowing the LEC to remain revenue neutral by adjusting the RIC to recover existing
7 contribution levels.

8 The Commission may in the future reduce the contribution required from access.
9 Alternatively, the Commission may seek (or agree to approve) a different balance in how
10 contribution is recovered between the RIC and the transport rates. While current levels
11 are maintained, however, it is important that the burden continue to be shared equally.

12 Q. Your testimony has not yet addressed how entrance facilities should be priced. Do
13 you have a recommendation?

14 A. Yes. The same strategy should be applied to the pricing of entrance facilities where cost
15 information is available. With appropriate cost information it should be possible to
16 identify the cost difference between a DS1 and a DS3 entrance facility. Equal
17 contribution should be added to these rates to establish a cost-based difference in the
18 prices for these services.

19 Q. Please summarize your testimony regarding Southern Bell's rates.

20 A. A review of BellSouth provided cost information demonstrates that the observed rate
21 differences in Southern Bell's transport tariff stem principally from the discriminatory
22 recovery of contribution.

23 Transport is a single service, used by interexchange carriers to compete with one
24 another. A strategy of discriminatory contribution among the different transport options
25 is equivalent to favoring large carriers over small, and favoring urban areas over

1 secondary markets.

2 To prevent unreasonable discrimination requires that price relationships match
3 cost relationships, with an (effectively) equal recovery of contribution from each option.

4 V. Other Issues

5 Q. Are the rates of the other LECs cost-based?

6 A. No. None of the LECs have proposed rates which are cost-based or supported by cost
7 information.

8 Q. Can the Commission establish transport prices without detailed cost-studies?

9 A. Yes. There is a reasonably simple approach that focuses on the relative cost of the
10 different interoffice transport options that starts with the price of a DS3 and then
11 investigates only the cost of the additional equipment needed to derive DS1s.
12 Establishing the cost of tandem switching, however, would still require cost analysis.

13 Exhibit (JPG-6) 3/e illustrates this simplified approach to estimating cost-based
14 rates for each option. In a fiber environment, every option is provided using a DS3 so
15 the price of this option can be the starting point. All that is necessary is to add to this
16 price for underlying transmission the cost of the additional functions used in each option.
17 These functions are multiplexing (for DS1 service) and tandem switching (for tandem
18 switched transport). This approach will assure that the contribution recovered in the
19 price of DS3 service is reflected in each of the other options.

20 This approach minimizes the cost analysis that must be performed but should
21 yield results quite close to taking the differences in cost from separate cost analysis (used
22 above). In fact, in theory they would be virtually identical.

23 Q. Are there other policies which must be modified if the Commission adopts a new
24 structure for transport service?

25 A. Yes. IXC's are not the only providers of toll services. Local telephone companies also

1 provide toll services for calls that are intraLATA.

2 The Commission has established policies which govern how access charges are
3 "applied" to the toll services of local telephone companies. These policies are imputation
4 (for the LECs' own toll service) and the "access billing compensation" system (for the
5 toll services of other LECs). One of the objectives for these policies is to assure that the
6 toll services of the local telephone companies face the same access charge schedules that
7 apply to long distance companies.

8 To continue to satisfy these objectives, the access transport restructure should be
9 applied to the toll services of local telephone companies as well as interexchange carriers.
10 The LECs should be required to file modified "MABC" tariffs and data indicating the
11 network routing of their toll traffic to establish appropriate imputation tests.

12 Q. If the LECs are permitted to remain revenue neutral, should they be permitted to
13 modify demand quantities to project for so-called reconfigurations?

14 A. No. First, appropriate transport rate relationships should parallel underlying cost
15 relationships. Consequently, most (if not all) of any reduction in revenue should be
16 offset by savings.

17 Second, the LECs are not capable of "reconfiguring" IXC networks since they
18 do not maintain traffic data to optimally design IXC connections, they are not privy to
19 growth expectations, and do not have the right to arbitrarily establish the IXC's
20 acceptable grade of service.

21 As an example of both GTE's inability to forecast demand and an indictment of
22 the price signals in their proposed tariff, GTE forecasts an increase in transport capacity
23 of more than 50% to serve the same traffic volumes. Such a "reconfiguration" is
24 patently uneconomic, yet this is the "assumed" network that underlies their filing.

25 General Telephone and United/Centel should be required to refile their transport

1 rates with supporting cost justification and a RIC calculated to provide revenue neutrality
2 (if at all) based on the existing network.

3 VI. Summary

4 Q. Please summarize your testimony.

5 A. This proceeding presents the Commission with a fundamental policy question: Should
6 access prices be permitted to discriminate among interexchange carriers? How the
7 Commission answers this question will have a pronounced impact on interexchange
8 competition, the availability of competitive services in rural and secondary markets, and
9 the way the network is designed and configured.

10 My testimony recommends a policy where relative prices reflect relative costs,
11 and contribution is recovered evenly from all interexchange carriers. Under this system,
12 the status quo (i.e., the EAEA structure) can be replaced, the restructure of transport
13 rates can move forward, and discrimination can be effectively prevented. And because
14 rates diverge only to the extent justified by costs, the Commission can (if it chooses)
15 maintain transport contribution at existing levels.

16 In contrast, the prices proposed by the LECs would inject non-cost rate
17 differentials into the access tariff, adversely impact interexchange competition and
18 unjustly increase the cost to serve less urban markets. To add insult to injury, the LECs
19 desire for revenue neutrality would force those who are disadvantaged by its
20 discrimination to fund it.

21 The LECs' proposed prices are unacceptable. The Commission should reject
22 LECs' proposed rates and restructure access transport with cost-based rates as
23 recommended by my testimony.

24 Q. Does this conclude your direct testimony?

25 A. Yes.

1 MS. KAUFMAN: Have you prepared a summary of
2 your testimony, Mr. Gillan?

3 A Yes, I have.

4 Q Would you proceed, please.

5 A Good afternoon. I want to keep this as brief
6 as possible, both for the hour of the day and the length
7 of the day.

8 The best way to start this is basically to
9 tell you from our perspective this is a policy docket
10 about what standard you should apply for the pricing of
11 access transport service. Access transport service is a
12 commodity that interexchange carriers buy from the local
13 telephone companies to use on their networks to provide
14 long distance service.

15 To give you some context of it and to allow
16 you to understand sort of the relationship between my
17 graphs and Mr. Hendrix's graphs, this docket isn't
18 about, whatever color this is, the carrier common line
19 charge. And it isn't about local switching, the green.
20 What it deals with are these elements that sort of get
21 smushed up here at the top. This is where we're going
22 to be discussing.

23 What I'm coming to you as is on behalf of the
24 Interexchange Access Coalition. Interexchange. Our
25 focus here is not as a competitor of Southern Bell, not

1 as people who want to go into the access business.
2 We're here as customers, pure, simple. Our focus is
3 that of a customer.

4 And what we see is that in this state there's
5 been a policy on how transport service has been priced.
6 That policy has been around for approximately ten years.
7 And by these tariff filings, the local telephone
8 companies are asking that you change it. If you change
9 it in a very significant way, it's going to have major
10 repercussions, potential repercussions in our industry,
11 perhaps their industry, perhaps the CAP industry. And
12 so as I go, the starting point really should be: What
13 is your current transport policy?

14 In 1984, when basically most other states were
15 saying, "We're simply going to adopt what the FCC is
16 doing," this state created a concept called the equal
17 access exchange area. The purpose of the equal access
18 exchange area was to divide the state up into different
19 regions. Each of these regions is defined by the area
20 served by a tandem switch. And the goal was to
21 encourage carriers, long distance companies who provided
22 services in these regions, to not just go into the large
23 cities and not just focus on the most densely packed
24 areas, but to offer service throughout these entire
25 equal access exchange areas.

1 And the way you did it was adopting a
2 transport rate that basically told the companies, "What
3 we'd like you to do is come to the tandem and serve the
4 entire area. And what we will do to encourage you to
5 offer your services broadly throughout the exchange
6 area, equal access exchange area, we'll make the
7 transport rate postalized; so that once you have a
8 connection inside one of these areas, the cost to reach
9 any customer by any carrier is identical. It doesn't
10 matter if the customer is located far out; it doesn't
11 matter if the customer is located close in; it doesn't
12 matter if you're a small interexchange carrier; it
13 doesn't matter if you're a large interexchange carrier.
14 That's been your policy. Twice reaffirmed, in '86 and
15 again in 1990.

16 The transport rate restructure proposes to
17 change that policy. Under the transport rate
18 restructure, carriers would pay for the first time for
19 their connections to the LEC network, the so-called
20 entrance facilities, and then they would pay for the use
21 of this network to reach all of the end offices in the
22 area that serve end users according to an option that
23 they could select.

24 They could continue to select connecting
25 through the tandem switch to a number of end offices;

1 tandem switch transport, which is usage -- would be
2 usage priced, much like the equal access exchange rate
3 except there would be a distance components they could
4 choose to purchase capacity to a particular end office;
5 if they have enough traffic, if they are certain of that
6 traffic coming from that end office, they can buy a
7 pipe, preserve that pipe for their own exclusive use
8 and, then, as traffic fluctuates throughout the day,
9 overflow that through the tandem arrangement. And if
10 they are very large, they can purchase it as a DS-3,
11 which is a larger commodity of transport.

12 CHAIRMAN DEASON: Excuse me. Which chart is
13 this that you're referring to now, do you know where that
14 is? Is it part of someone's exhibit?

15 WITNESS GILLAN: The equivalent to it is JPG-2
16 that shows it in a vertical format instead of horizontal.
17 It's the same information, but presented vertically.

18 CHAIRMAN DEASON: Okay. Thank you.

19 WITNESS GILLAN: Consistency would have been too
20 simple a step. I apologize.

21 A And then finally the rate structure the FCC
22 adopted recognized that, at the rates that it developed,
23 that it proposed to charge for these facilities zones,
24 the things you would actually buy, the local telephone
25 companies would experience a significant revenue

1 shortfall. And so the FCC allowed them to be revenue
2 neutral and established an interconnection charge that
3 everyone pays regardless of how you get to the end
4 office -- whether you use this option or this option,
5 whether you use Bell, or use CAP, it doesn't matter, you
6 pay the interconnection charge to create those revenues.

7 This is the proposal that's before you to
8 replace the egalitarian concept of once you connect to
9 the network, we take you anywhere.

10 Now, I'm not suggesting that you retain the
11 equal access exchange area. What I am suggesting,
12 however, is that under this new structure you're going
13 to have some new problems that we want you to deal with.
14 Not as a competitor attempting to destroy Southern
15 Bell's market, but as a customer.

16 This isn't a competitor telling Bell how to
17 price, it's a customer asking you to hold them to a
18 standard as they propose these prices. And the reason
19 we want the standard is that this is all about volume,
20 period.

21 These transport options, the tandem switched
22 transport, DS-1 and DS-3, relate back to volume. If you
23 have low volume to a particular end office, then the
24 rational choice is to have intermediate switching,
25 having your traffic shared with other people's traffic

1 to reach there. If you have enough volume to a location
2 in order to reserve capacity, in the electric utility
3 context, put your baseload on those circuits and use the
4 tandem option as overflow, that's your choice. And if
5 you're large enough to justify DS-3, then high volume
6 translates to that.

7 It's all about volume. And volume means two
8 things: From our perspective -- and I should draw a
9 line that tries to distinguish these as two different
10 concepts.

11 From our perspective, since these new options
12 have to do with volume, then we're concerned that if the
13 price levels between them have nothing to do with the
14 costs, that's going to introduce noncost-based
15 advantages and disadvantages into this market between
16 small interexchange carriers, MCI and Sprint sort of in
17 the middle, and AT&T. It's that simple.

18 AT&T is a whole lot larger than anybody else.
19 They are certainly a whole lot larger than the largest
20 of the members of the group in IAC. And the concern is
21 if the rate relationships between these don't reflect
22 cost relationships, they will have an advantage.

23 Your concern should actually tie back, I
24 think, to your EAEA policy. The last time you
25 reaffirmed it, you stated about the EAEA policy that the

1 average rate removed the incentive for an IXC to connect
2 directly to an individual end office in a high-volume
3 area, and to avoid low-volume distant offices in a
4 effort to avoid transport charges. The whole foundation
5 for your existing policy is that you want to discourage
6 carriers from focusing on high-volume, densely-packed
7 markets at the expense of others.

8 Again, we're not asking you to retain it.
9 What we're asking, though, is that the concept of
10 market-based pricing be rejected and, instead, that you
11 hold these rates to a standard.

12 The standard that we're looking for is that
13 there are cost differences between these different
14 transport options. We're asking you to identify them --
15 we've used cost studies to identify them -- and then
16 require that the price differences between the transport
17 options reflect the cost differences. Recognizing that
18 Southern Bell is going to price higher than its costs to
19 recover some contribution from these different options,
20 but that they shouldn't be permitted to selectively
21 reduce contribution for some carriers and not others.

22 That if market pressures cause price to
23 decline, we want to see that the price difference
24 continue -- or the cost difference continue to be
25 reflected in the price difference. I feel it's

1 important for a couple of reasons.

2 The first reason, obviously, is our fear of
3 discrimination. What we see when we look at BellSouth's
4 rates --

5 I can give you a comparison of these cost
6 numbers.

7 We see a cost difference between the options
8 of \$4.69. Can you see that? Okay. Per DS1 with 37
9 cents per DS1 mile. That's the cost difference between
10 buying capacity at this unit and buying capacity at this
11 unit using their cost studies. The rate difference --
12 I'll write the rate difference to black -- the rate
13 difference is \$37.48 per DS1 and \$18.18 a mile.

14 The cost difference for tandem switching,
15 based on Mr. Hendrix's admission that it was a certain
16 percentage of his filed rate, we know that his cost is
17 somewhere below .00032 cents. We know that his price
18 difference is about three times that.

19 Now, what happens in this market when the cost
20 differences are small but the price differences are
21 large? A couple of things.

22 What it says is that there's excess
23 contribution built into these rates that interexchange
24 carriers that are small, or smaller, must pay, that
25 larger carrier can avoid.

1 In this product market this is access. This
2 is the commodity. This is like the gasoline that gets
3 sold to gas stations in a town. If you have big price
4 differences, noncostbased price differences in this
5 commodity between interexchange carriers, that
6 translates into competitive advantages that large
7 carriers experience relative to the small carriers --
8 not having to anything to do with their skills as a long
9 distance company and not having anything to do with the
10 cost difference of serving them, but having solely to do
11 with the fact that a lower amount of contribution is
12 being recovered from their long distance minutes than
13 the small carrier's long distance minutes. Disruption
14 to to interexchange competition.

15 Second outcome as is that as interexchange
16 carries look at this rate relationship, this is the rate
17 relationship that they are going to make, that they're
18 going to look at, when they decide which of these
19 options to purchase.

20 Here what we see is that there is a very small
21 cost difference between carriers coming to Southern Bell
22 and giving them DS1s for transport and carriers coming
23 to Southern Bell and asking for it in the form of a DS3,
24 much greater capacity. So based on economic efficiency
25 and cost differences, we shouldn't see there'd be very

1 much incentive for interexchange carriers to swap some
2 capacity for another type and reconfigure their network.

3 When we see this giant price difference,
4 though, that way outweighs any cost difference, suddenly
5 there becomes an incentive to switch from one form of
6 transport to another, not because it's less costly to
7 provide, not because the network becomes more efficient,
8 it's simply because, "Hey, we'll get less contribution
9 from you over here if you come buy this product." It's
10 typically talked about in the context of a crossover
11 point.

12 Southern Bell indicates that their crossover
13 point was 15-to-1. What that meant was that as soon as
14 I had 16 DSIs -- or 15 DSIs, rather, I think in their
15 rounding, it became cheaper for me to actually buy a
16 unit of capacity that has 28 DSIs in it.

17 In other words, they're telling me as a
18 carrier that as soon as I have 15 of these and I can
19 roughly fill this up by 60% or keep 40% empty, I should
20 demand that larger quantity. It's not going to yield
21 network efficiency.

22 We see this relationship in the prices. We
23 certainly see this relationship in GTE's prices where
24 their own estimate of reconfigured demand showed that
25 they expected interexchange carriers to go out and

1 require 50% more circuits just to do the same job they
2 do today.

3 The only way to prevent uneconomic
4 reconfiguration is to require that price differences
5 match the underlying cost differences. The only
6 standard that we're asking for.

7 Mr. Hendrix pointed out that under our
8 proposal our proposed rates for tandem transport and DS1
9 would be lower. And it is part of our proposal that
10 we're not opposed to them being able to increase their
11 interconnection charge to remain revenue neutral if the
12 quid pro quo is that we get nondiscriminatory rates. It
13 was characterized that we were recommending to do that.

14 Our first recommendation, of course, is that
15 they not be held revenue neutral, that we get the rate
16 reduction. After all, again, going to the colors on
17 Mr. Hendrix's chart, I am talking about this range here,
18 and I'm focusing on the yellow and the blue -- I haven't
19 a clue as to what the name of that color is, chartreuse
20 or something? And what we're asking is that these
21 relative rates reflect the relative cost differences;
22 and that if the Commission wants them to remain revenue
23 neutral, they can adjust this blue piece. It's not
24 going to have a very large impact one way or the other
25 on Southern Bell.

1 But that, in our view, adopting a policy that
2 says that the local telephone company can decide how to
3 price these without any regard to the cost, that they
4 can offer AT&T lower access rates than another
5 interexchange carrier completely independently of any
6 cost justification for that preference, is a policy
7 which this Commission should reject.

8 And that concludes my summary.

9 MS. KAUFMAN: Mr. Gillan is available for cross
10 examination.

11 CHAIRMAN DEASON: Ms. Peed.

12 CROSS EXAMINATION

13 BY MS. PEED:

14 Q I just have two questions, Mr. Gillan, about
15 JPG-4.

16 A JPG-4?

17 Q Uh-huh. It's entitled, "Establishing A
18 Cost-Based Rate Relationship Between DS1 and DS3
19 Dedicated Capacity," and I'm interested in the source.
20 You say that the direct costs for DS1 local channels and
21 interoffice transport were provided by BellSouth in FCC
22 Transmittal 140 filed August 31, 1993. For what service
23 was that?

24 A That would have been DS1 special access.

25 Q And the direct costs for DS3 local channels

1 and interoffice developed from the BellSouth LightGate
2 filing, LightGate, what kind of a service is that?

3 A It's listed in your special access tariff.

4 Q And when you say "developed," what do you mean
5 by that?

6 A That this table shows it broken between fixed
7 and mileage. It shows your cost presented as a fixed
8 rate and a mileage rate. If you go to your cost study
9 for LightGate, in order to develop the fixed rate for
10 LightGate you have to put some subrate elements together
11 because that tariff is more disaggregated than simply
12 having a fixed charge.

13 Q And the subrate elements, are they clearly
14 listed in the LightGate filing?

15 A Yes, they are.

16 MS. PEED: That's all I have.

17 MR. FONS: No questions.

18 MS. BRYANT: I have a couple.

19 CROSS EXAMINATION

20 BY MS. BRYANT:

21 Q Mr. Gillan, good afternoon. Chan Bryant with
22 Sprint. Are you familiar with the testimony of Fred
23 Rock in this proceeding?

24 A Yes, I am.

25 Q Are you familiar with the crossover that he

1 has proposed for the relationship between a DS1 and DS3,
2 that relationship being 22-to-1?

3 A Yes, I am.

4 Q Would it be fair to say that your testimony
5 has gone beyond that of what Sprint is proposing in this
6 proceeding?

7 A "Beyond" implies that we're on one side or the
8 other. My testimony provides a more accurate way of
9 establishing the rate relationship since I used cost
10 studies directly.

11 As I understand Mr. Rock's testimony, he used
12 a short-cut method of just saying the crossover should
13 be around 22-to-1, and that that would be an
14 approximation of the cost relationships.

15 That was a very large battle at the FCC,
16 whether you could look at a single sort of ratio and
17 just capture all of this instead of having to look at
18 cost information. And what I found in looking at the
19 cost studies in this proceeding is that Mr. Rock's ratio
20 still errs on the side of favoritism towards large
21 carriers, that the actual cost crossovers are more along
22 24-to-1 and up. So Mr. Rock's one overestimates the
23 cost difference and, as such, would tend to disadvantage
24 smaller carriers and Sprint, actually, relative to AT&T.
25 It's too conservative.

1 COMMISSIONER CLARK: So you're saying the
2 crossover point should be 24.

3 WITNESS GILLAN: What I'm saying is that you
4 should establish price relationships that reflect the cost
5 relationships. What I've found is that the studies
6 indicate that, in this docket at least, that it's around
7 24-to-1 and up, depending on the company.

8 COMMISSIONER CLARK: And you get 28 DS1s for
9 every one DS3?

10 WITNESS GILLAN: Correct. Correct. All DS1s
11 and DS3s are are the speeds with which you hand the
12 traffic into the network. Because in a modern network, it
13 isn't like circuits get bigger; it's they get faster so
14 you can slot more conversations in between each other. And
15 that's really the difference between a DS1 and a DS3 is
16 how fast you're handing the traffic, so that you can keep
17 sequencing them up and build them into a byte stream for
18 the final transmission.

19 That's why there's very little cost difference
20 between them, because all you're really talking about is
21 moving a photon between two points. And there is some
22 cost difference in how fast the photon is handed to the
23 network, but there is not a lot of cost difference.

24 COMMISSIONER CLARK: Is that what they call
25 "conditioning the line"?

1 WITNESS GILLAN: Conditioning the line?

2 COMMISSIONER CLARK: What do they do to the line
3 to get it to go faster?

4 WITNESS GILLAN: In a fiberoptic network what
5 you have is lasers on either end and that's what's
6 determining the speed of the line. The glass medium
7 itself is very passive, all it does is transmit the light.
8 As you get your lasers to be able to blink faster,
9 essentially, then you have the opportunity to sequence
10 more conversations in in those time slots.

11 I think what you're talking about is when you
12 try and use copper to use digital transmission and get
13 electrons to move in a similar way where it's digitized,
14 and that's when they condition the line to improve -- I
15 believe it's to improve the transmission capability of
16 that copper facility to correctly transmit that byte
17 stream.

18 Q So, Mr. Gillan, would it be fair to say that
19 your analysis was based on actual data and Sprint's was
20 based on assumptions?

21 A Yes.

22 Q Would that be a fair --

23 A Yes.

24 Q Thank you.

25 A And your assumptions were too conservative is

1 basically what the data shows.

2 MS. BRYANT: Thank you, Mr. Gillan. I have
3 nothing further.

4 CHAIRMAN DEASON: Mr. Tye.

5 CROSS EXAMINATION

6 BY MR. TYE:

7 Q Mr. Gillan, did you participate in the local
8 transport restructure proceeding at the FCC?

9 A Yes, I certainly did.

10 Q Did you participate on behalf of the
11 Interexchange Access Coalition in that proceeding?

12 A No, I did not.

13 Q Who were you representing in that proceeding?

14 A I was consulting with the Competitive
15 Telephone Association, and then I guess later it would
16 be fair to say I was working on behalf of the Coalition
17 of All Interexchange Carriers that alphabetically fall
18 below A. MCI, Sprint and all the others all came
19 together on a common position.

20 Q Did you advocate the same positions in that
21 proceeding that you've advocated here?

22 A Yes and no.

23 Yes, we advocated that the Commission -- that
24 the FCC could adopt a new structure, but that the FCC
25 had to assure that the rates were cost-based. No, we

1 were not able to advocate these cost-based rate
2 relationships. Instead, at the FCC, they had no
3 discovery, they didn't have hearings. We didn't have
4 access to any of the cost information that we're talking
5 about in this proceeding; and so as an industry we went
6 to the FCC and basically proposed an arrangement called
7 "benchmarking." It's very similar to the simple
8 crossover analysis that Mr. Rock did.

9 And the idea behind it was telling the
10 Commission, "Look, we know in a fiber network what the
11 differences -- what types of different equipment are
12 necessary to go between these services. So instead of
13 worrying about the cost of everything, just look at the
14 cost differences and we can come up with some pretty
15 good rules of thumb, and you should apply those rules of
16 thumb."

17 That approach to cost estimation was not
18 adopted by the FCC. And I think that's the big
19 difference between the position we're advocating here.
20 We're not asking that you do cost estimation; we had the
21 cost studies; we were able to calculate the cost
22 differences. In fact, if we had this information at the
23 FCC, we could have been able to get the policy
24 requirements of the order, which was the cost-based
25 rates, to actually match the prices that were filed.

1 They tried to reach cost-based rates without any cost
2 information.

3 And I apologize, I recognize that was probably
4 longer than --

5 Q It sure took the steam out of my water bucket.

6 Essentially, the FCC approved the same rates
7 and structure that Southern Bell is proposing here; is
8 that correct?

9 A Well, sorry, you've got me so off track with
10 "steam in a bucket" that I'm not sure what the analogy
11 meant.

12 The FCC looked for a cost surrogate and
13 decided they would try as a cost surrogate the existing
14 special access prices, because we didn't have cost
15 information and we did not convince them that our method
16 would be accurate.

17 But this cost data shows actually that our
18 method was very accurate and I look forward to bringing
19 that information back to them.

20 Bell here is simply asking to mirror what the
21 FCC permitted to be approved. So it's not as though the
22 FCC approved what Bell is filing here; Bell is simply
23 mirroring what got filed there. Which now that I've
24 said it, it doesn't sound like there's such a
25 distinction, but.

1 Q Excuse me. Isn't Bell proposing the same
2 rates here that have already been approved by the FCC?

3 A Yes. I guess my comment went to I understood
4 your question to be that the FCC was making a decision
5 similar to this record, and that's what I was trying to
6 point out.

7 MR. TYE: Thank you, Mr. Gillan. I have no
8 further questions.

9 CHAIRMAN DEASON: Mr. Wiggins.

10 CROSS EXAMINATION

11 BY MR. WIGGINS:

12 Q I almost hesitate to ask this, but I will
13 anyway, what the heck.

14 I'm confused about one fundamental concern
15 that IAC has with Southern Bell's proposal or even
16 General Telephone's proposal.

17 Why do you care, or why should even Intermedia
18 care, if these disparities are so great if we can come
19 in and aggregate traffic among different carriers and
20 hook up and get the same DS3 that AT&T is getting?

21 A Well, the problem with these disparate rate
22 elements is that there's really no way to effectively
23 arbitrage them. I mean, there's always sort of this
24 discussion cast out, "Well, why don't you just get all
25 of the little carriers together that have DS1s and put

1 them together and get a DS3?"

2 Q Right.

3 A Well, first of all, there aren't that many
4 little carriers with DS1s. Secondly, in order for them
5 to do that, all the circuits have to by necessity be
6 going from the same serving wire center, from the same
7 POP, to the same end office.

8 Not all interexchange carriers use the same
9 network. Obviously, Sprint doesn't want to save money
10 by moving all of its traffic over to the MCI network and
11 aggregating their access. We may have different
12 networks, so you can't aggregate it in that way.

13 Really most smaller interexchange carriers,
14 the tandem switched option is the option that makes
15 sense for them. And as a result, there's no way to
16 aggregate tandem switched traffic into a DS1 to get it
17 to a DS3, because it's already by nature spread among a
18 variety of circuits.

19 I guess one of the reasons that Intermedia
20 should be very concerned about the disparate rate
21 relationships is particularly when you look at this
22 crossover -- in a very simple case, this 15-to-1
23 crossover. What that says is that a carrier that can
24 justify 15 DS1s to an end office, they should go out and
25 buy 28. That means, basically, 13 of them are idle.

1 Now, you come to this carrier and you try and
2 sell them capacity. The arrangement they have with
3 Bell, they have 13 empty DSIs that to them have a zero
4 cost. Okay. So that kind of pricing arrangement locks
5 up the customer not only for the circuits they have
6 today but also the next 13 DSIs' worth of growth because
7 those are essentially free until he fills out that unit
8 of capacity. And it's obviously very difficult to
9 compete against a free price.

10 MR. WIGGINS: Well, that answered my next three
11 questions, so I have no further questions. Thank you.

12 CHAIRMAN DEASON: Mr. Poucher.

13 CROSS EXAMINATION

14 BY MR. POUCHER:

15 Q Mr. Gillan, Earl Poucher from Public Counsel's
16 Office. On Page 2 and also on Page 5 of your testimony
17 you stated that you agree with the concept of zone
18 pricing; is that correct?

19 A That's correct. In the context of rules that
20 protect against discrimination inside each zone, that's
21 correct.

22 Q Tell me why you think that zone pricing is
23 nondiscriminatory.

24 A Well, zone pricing, as I envision it, was the
25 recognition that in a particular region costs might be

1 lower than in some less dense region. That's factually
2 correct.

3 So long as all of the carriers inside that
4 region have the same nondiscriminatory rate
5 relationships, then if the LEC is able to have different
6 prices in different geographic areas, it's able to meet
7 competition and it's able to reflect its underlying
8 costs without being forced to discriminate.

9 The problem with this is that the only way
10 they can show lower costs in a dense area is by having a
11 very low DS3 price. The problem is -- Tampa is a great
12 example of this. In Tampa, AT&T might be -- we're all
13 on the same DS3 network, but AT&T is large enough in
14 Tampa to buy a DS3 and take advantage of that very low
15 price. But the small carriers, even in Tampa, would be
16 on tandem switched transport, which would be
17 artificially priced much higher and they would not be
18 able to compete.

19 So as long as, like, in Tampa, if you're going
20 to say the costs are low in Tampa, everyone has the same
21 low rate or the same opportunity with just cost
22 differences, it doesn't discriminate.

23 Q And that's because Tampa you would consider to
24 be a high density area.

25 A The Tampa metropolitan area, yes, compared

1 to -- it's the one that's easier for me to visualize
2 compared to Plant City and some of the surrounding
3 areas.

4 Q Are you familiar with the separations made by
5 United, GTE and Southern Bell between their Zones 1, 2
6 and 3?

7 A I'm generally familiar with them. I'm
8 familiar with the process that was used and of the
9 debate that occurred at the FCC.

10 Q And Zone 1 is the high density?

11 A That's correct.

12 Q Did you hear the Southern Bell witness state
13 that they had 17 offices that they would classify as
14 Zone 1, and 60 offices as Zone 2, and another 136
15 offices as Zone 3?

16 A Yes.

17 Q Would you please characterize the access
18 market as you know it in Zone 3 in terms of competition?

19 A I'm not aware of any competitions in Zone 3,
20 Zone 2, and in most of the areas of Zone 1 for most of
21 the products we're describing.

22 Q Without getting into a debate about effective
23 competition or all of those issues, would you agree that
24 those target central offices located in Zone 1 will
25 contain most of the potential for access line

1 competition, to the extent that it develops?

2 A Yes, but I'd use the phrase "access line." I
3 think it's more important to refer to access transport,
4 particularly DS3 and DS1.

5 Q I stand corrected.

6 A That's really one of the other fears we have
7 is that because competition will come last to the tandem
8 switched market, if at all, we're effectively captive
9 customers. This is more akin to you -- typically, I'm
10 sure you're used to us being here being concerned with
11 Bell's prices as competitors because that's how we
12 frequently appear before you. But in this context we're
13 customers and the issue we're presenting is the classic
14 captive customer/noncaptive customer concern with the
15 added and important wrinkle that these customers, these
16 interexchange carriers are competing against each other.
17 And any kind of distortion in the prices to them is
18 going to affect their ability to compete amongst each
19 other.

20 Q And the battleground for that market is going
21 to center in this Zone 1 office; is that correct?

22 A I would expect that to be the case, yes.

23 MR. POUCHER: That's all the questions I have.

24 Thank you.

25 CHAIRMAN DEASON: Staff.

CROSS EXAMINATION

1
2 BY MS. CANZANO:

3 Q Good afternoon, Mr. Gillan. Should all
4 providers of switched access be required to file
5 tariffs?

6 A Yes.

7 Q Why is that?

8 A There's a couple of reasons. There's a very,
9 very large and significant danger of discrimination in
10 this market, and the only tool that you have to detect
11 and prevent discrimination is tariffing. That's how we
12 know what the service is being offered for; that's how
13 we can review terms and conditions; that's how we can
14 have a common ground of purchasing it.

15 Every single provider in this room today files
16 tariffs for their services. Long distance companies
17 file tariffs for all their services. The ones I can
18 think of off the top of my head -- and the CAPS even,
19 the new access providers, are required to file tariffs
20 for their services at the interstate level, where most
21 of these arrangements exist.

22 The only place where we have this unusual
23 exception is for nonincumbent AAVs providing service in
24 this market. And to me, it seems that if you go down
25 this path where one provider doesn't have to have a

1 tariff but the LEC does, you're ultimately -- and very
2 quickly, I predict -- going to come to a situation where
3 the new entrant -- where the LEC come^e back to you and
4 says, "Hey, I need to offer a special deal to this one
5 carrier because I have to respond to a special deal from
6 that CAP or that AAV." I think that's a horrible way to
7 organize this market. It is much better if they all
8 bring their prices out into the open and they compete in
9 a way where it drives price levels down for everybody,
10 not customer-specific contracts and discrimination.

11 COMMISSIONER CLARK: Do you do that? I mean do
12 your clients --

13 WITNESS GILLAN: Gillan Associates? What, are
14 you nuts?

15 COMMISSIONER CLARK: Well, yes, let's start with
16 Gillan Associates.

17 WITNESS GILLAN: I have a government rate and
18 that's it. You know, seriously, I mean, I don't.

19 Do my clients?

20 COMMISSIONER CLARK: Would they, as providers of
21 competitive long distance services, do they all have to
22 file tariffs?

23 WITNESS GILLAN: My understand is yes, that all
24 their long distance products need to be tariffed -- I
25 should be more familiar with your rules, but I'm not

1 actually as familiar as I should be. I know at the
2 federal level, the issue of tariffing has been resolved.
3 They need to have tariffs on file and I believe they'd
4 have to have tariffs on file here as well.

5 COMMISSIONER KIESLING: Well, sometimes those
6 tariffs provide for flexibility that allows you to quote a
7 price that won't be known to anybody else. Do you know if
8 they do that?

9 WITNESS GILLAN: I don't recall that their
10 tariffs allow you to do that other than you can have some
11 individual case basis contracts but I believe that you
12 have to publish the general terms of those contracts.

13 But, you know, those are used when things are
14 very specialized and unique. This is a commodity. This
15 is a transport commodity; this is a, "Give it a digital
16 bit stream here and haul it to that end office out
17 there." And that's real what my concern is.

18 This is sort of a foundation for long distance
19 competition. This is what we all buy; and because there
20 is no discrimination among interexchange carriers at
21 this foundation level, we're able to compete as long
22 distance companies unfavored and unfettered by any
23 favoritism in access pricing.

24 It's amazing to me that in 1984 I lived
25 through and the reason we had divestiture was because

1 AT&T owned these local telephone companies and the fear
2 was that the local telephone companies would provide
3 AT&T an advantage because of that ownership. I don't
4 see a whole lot of difference between that situation and
5 the situation where AT&T has, at the interstate level
6 where these figures are published, 60% of the market and
7 a local telephone company wants to establish a long-term
8 strategic relationship and decides that favoritism in
9 that arena makes commercial business sense to them.

10 That kind of favoritism does make commercial
11 business sense, that's why I think regulatory policies
12 have to step in and prevent it.

13 Q (By Mr. Canzano) Mr. Gillan, are you aware of
14 current Commission access imputation guidelines?

15 A Yes.

16 Q If the Commission determines that the issue of
17 imputation guidelines should be considered after the
18 rest of the decisions are made with respect to local
19 transport, would you object to the use of existing local
20 transport rates until changes to imputation calculations
21 are made?

22 A No.

23 Q Are you suggesting that there should be a
24 separate proceeding devoted to access imputation?

25 A Well, under the scenario you just gave me

1 where you asked me if we had one, could we use the
2 existing rate in the interim, the answer is yes. And in
3 that, I am assuming that we're going to have that other
4 docket.

5 Q Right now please refer to what has been marked
6 for identification as Exhibit No. 18.

7 A An exhibit that one would expect me to have,
8 wouldn't one?

9 Q And did you prepare this exhibit?

10 A Yes, I did.

11 Q And are there any corrections to be made to
12 this exhibit?

13 A Yes. Unfortunately, we tried to get this done
14 in a hurry; and as with anything else that one attempts
15 in a hurry, one gets to come back and do again.

16 Q What are the corrections?

17 Or the nonconfidential portions², could you say
18 those for the record?

19 MS. KAUFMAN: Could I interrupt?

20 MS. CANZANO: Go ahead.

21 MS. KAUFMAN: Because there are parts of this
22 that are sensitive and confidential, I don't think anybody
23 would object to Mr. Gillan correcting the nonconfidential
24 portions and we will file another one with the corrected
25 confidential information if that's satisfactory.

1 MS. CASWELL: Can I make one comment? I don't
2 think we have any nonconfidential portions to this
3 exhibit.

4 MS. CANZANO: It should have been distributed --
5 oh, for GTE.

6 MS. CASWELL: Yes, talking about GTE.

7 MS. CANZANO: That's correct.

8 CHAIRMAN DEASON: You're suggesting that the
9 corrections be made on a confidential exhibit, and that it
10 will be handled confidentially?

11 MS. KAUFMAN: Mr. Chairman, portions of the
12 exhibit are not confidential and Mr. Gillan can correct
13 those on the record.

14 CHAIRMAN DEASON: Right. But if there are
15 corrections to the confidential portion, that will have to
16 handle with the necessary process.

17 MS. KAUFMAN: Exactly. And we will refile a
18 redacted version.

19 COMMISSIONER CLARK: You'll refile a redacted
20 version that has the correction to confidential
21 information?

22 MS. KAUFMAN: No, that's right. No, we're not
23 going to do that. What we're going to do is refile the
24 correct confidential version under the appropriate
25 confidentiality procedures.

1 MS. CASWELL: I'm sorry, I just want to make
2 clear that both sections of this exhibit for GTE are
3 confidential. And we know that he's got some corrections
4 that are simple math corrections, we've got no objection
5 to those corrections.

6 CHAIRMAN DEASON: Is that clear?

7 WITNESS GILLAN: I'm the only one in this room
8 who evidentially is confused, because you all look so
9 expectant.

10 MS. CANZANO: Okay. All right. We'll make this
11 simple.

12 MS. CASWELL: Just don't say the numbers.

13 WITNESS GILLAN: All right, for GTE but say the
14 numbers for United?

15 MR. FONS: That's fine. United has no objection
16 on the bottom half of the exhibit; but the top half, no,
17 we would object.

18 WITNESS GILLAN: On the United exhibit there
19 will have to be corrections to the top portion that are
20 confidential. On the bottom, which is derived from the
21 changes on the top, the United number should read \$8.83
22 instead of \$9.33.

23 MS. CASWELL: I can revise my position. The
24 second half is now not confidential, so we may go on.

25 WITNESS GILLAN: Boy, does that make my life

1 easier.

2 The changes for GTE on the fixed -- and they
3 only appear in the nonconfidential portion on the
4 bottom, the fixed charge would be \$9.89. The mileage
5 charge would be 0.06, or 6 cents a mile. And then so
6 those are the cost differences, subject to the footnote,
7 between those service categories -- those options,
8 rather.

9 Q (By Ms. Canzano) Please refer to Footnote 1
10 on that exhibit, please. Could you please explain why
11 the 3-to-1 multiplexer is excluded from GTE and United's
12 data?

13 A I did not have a multiplexer cost for GTE.
14 The reason this needs to be included is that -- well,
15 what I'm establishing is the cost difference between a
16 DS3 and a DS1. And a DS3 needs to be multiplexed down
17 to a DS1 to interface with a switch; so I don't include
18 that cost in the cost of a DS3. I'm not recognizing
19 that they have to do that step at the end. It's
20 something that would need to be in any switched
21 transport cost study that wouldn't need to be in the
22 cost studies they used.

23 I didn't have the information for United and
24 GTE, so what this analysis would need to be more
25 accurate was the inclusion of that cost, but we did not

1 get it provided to us in the time frame that we had to
2 prepare this exhibit.

3 Q If you were to have that multiflexer cost, am
4 I correct in reading this footnote that you would
5 include it in the DS3 number?

6 A That is correct.

7 Q Then to calculate the numbers on the bottom,
8 the fixed numbers, would you divide that DS3 number by
9 28, and then subtract the difference to get the
10 difference?

11 A Yes.

12 Q Then wouldn't that instead be an underestimate
13 rather than an overestimate?

14 A These numbers would shrink. When you add the
15 cost into the DS3, these numbers would shrink because
16 the DS3 cost per unit is actually below the DS1 cost
17 when you're -- (Pause) What we have prepared here is the
18 DS1 cost and a DS3 cost -- for Bell, we had the
19 information, so Bell includes the fact that you have to
20 do that multiplexing in an office, all right?

21 For the other companies, you'd have to
22 increase the numbers shown in our cost study by a small
23 fraction to reflect this new step and, by doing so, you
24 would shrink the difference. So by not having it in
25 there, the difference is overestimated. This shouldn't

1 be a major thing. It was included for Bell because
2 their cost study enables it.

3 Q To make it clear, could you just work through
4 an example using, say, \$100, for a DS3? Or whatever
5 numbers make it easy for you to do the math.

6 A Say a DS3 cost is \$280 and a DS1 cost is \$32.
7 Okay? And when I'm looking at when I say the DS3 cost
8 is that amount, this is the fixed component. That
9 reflects a situation where I give the local telephone
10 company DS3 on one end and on the other end he provides
11 the DS3 out.

12 In this -- and this is the IXC on this end;
13 this is the end office.

14 In this environment, though, we know because
15 of the way the switches are built you can't really use
16 this DS3 by having it come out as a DS3; it has to do a
17 conversion to the 28 DS1s to plug it into the switch.
18 And so, therefore, when I'm comparing the cost of giving
19 them a DS1 and taking out a DS1 at the switch and giving
20 them a DS3 and connecting it to the switch, I need to
21 add the cost of this additional activity because the DS3
22 cost study wouldn't otherwise consider it.

23 Now, assume that the multiplexer is \$10.
24 Before the answer was the DS1 -- buying a DS1
25 individually from a local telephone company to provision

1 it individually costs \$32. If I give them enough of
2 them that they package it in a DS3 first, the per-unit
3 cost would be \$10, right? And so the cost difference in
4 that example would be \$22. Obviously, I've got the
5 magnitudes goofed up.

6 Doing it more correctly, the DS1 would still
7 be \$32. This would be now \$290 divided by 28, which
8 is -- well, it's \$290 divided by 28, and so the
9 difference would be something somewhat smaller. And if
10 you had a calculator there, you can tell me what \$290
11 divided by 28 is, 10.4-something?

12 Q 10.36, or something like that.

13 A 10.4. That's pretty good. \$10.40, so that
14 the difference would be 21. Now the cost difference is
15 21.60. That's the only idea. Recognizing that in
16 switched access they don't make switches for connection
17 at the DS3 speed, it has to be broken down into the
18 operation for the DS1. And that was a step I was able
19 to do with Bell but I didn't have what I felt to be
20 consistent information for the other two.

21 Q Is it your position that the cost figures in
22 this exhibit should be used as the basis for
23 establishing rates, which would then be deemed
24 cost-based?

25 A Yes. Because then the price differences would

1 match the cost differences. And so a carrier that could
2 buy DS3s -- and I use the phrase "could" because
3 Mr. Hendrix was right, typically people don't buy them
4 today because there's really no reason to buy DS3 versus
5 giving the local telephone company DS1s. There's only
6 sort of a superficial cost savings so it hasn't been
7 industry practice. But under the new environment, only
8 certain carriers will have the opportunity in the
9 traffic volumes to take advantage of those and so it's
10 important to make sure that the price differences
11 reflect cost differences.

12 Q So once you had these costs, would your next
13 step be to develop -- would be to determine the
14 appropriate amount of contribution and apply that same
15 level of contribution to each rate?

16 A You can do it that way, or mathematically the
17 same thing is to just add that cost difference into the
18 DS3 price divided by 28. And that way the contribution
19 -- whatever is embedded in DS3 service today flows
20 through to the other options automatically. And
21 mathematically these are identical exercises.

22 Q Do you mean DS3 price or DS3 cost?

23 A In that context, I meant the DS3 price.
24 Because what we've identified is the -- (Pause) This is the
25 cost difference, correct? Or this is the cost difference.

1 The DS3 price is broken into its cost and its
2 contribution. If I just add the cost -- I can do this
3 one of two ways: I can just add the cost difference to
4 the price of a DS3 and get the step function. And it
5 gives me the equal contribution and exactly parallels
6 the cost difference between the options. You can do it
7 either way. Mathematically they are equivalent,
8 whichever one makes it easier for you to visualize,
9 adding the cost difference on the price of a DS3 or
10 finding out what the contribution is on a DS3 and then
11 adding it to the cost of the other options. It would be
12 the same thing.

13 COMMISSIONER CLARK: I think you should have
14 just said yes to that question. (Laughter)

15 A Yes.

16 Q (By Ms. Canzano) You do not provide cost for
17 Centel in your exhibit. Could you please explain why?

18 A We got cost information from United; and I
19 would have to review the data request to be certain on
20 this, but I believe they indicated that the cost for
21 Centel would be comparable. Mr. Fons is correcting me,
22 so perhaps we --

23 MR. FONS: Centel didn't have any cost data.

24 Q (By Ms. Canzano) Okay. We were going to ask
25 for two late-filed exhibits, one would be Mr. Gillan's work

1 papers, and the other one, we just might want to wait until
2 the morning after we figure out what it is we're going to be
3 asking for with all the parties. And also we would like to
4 mark for identification at this time two other exhibits; one
5 would be the deposition transcript and the other would be
6 responses to Staff interrogatories.

7 Mr. Gillan, have you reviewed those documents?
8 I don't know if you have copies of them or not?

9 A I have reviewed the interrogatories.

10 Q Were those prepared by you?

11 A I believe the answers were actually prepared
12 by -- the answers were actually collated by the law firm
13 representing IAC.

14 Q Are you sponsoring them?

15 A Yes, I had sufficient discussions with them.
16 I feel comfortable sponsoring them.

17 Q Are they accurate to your knowledge?

18 A Yes.

19 CHAIRMAN DEASON: The deposition transcript will
20 be identified as Exhibit 37, and the Responses to Staff
21 Interrogatories will be identified as Exhibit 38.

22 (Exhibit Nos. 37 and 38 marked for
23 identification.)

24 MS. CANZANO: And could we have IAC work papers
25 for LEC DS1 and DS3 costs identified as a late-filed

1 exhibit?

2 CHAIRMAN DEASON: Yes, that will be identified
3 as Late-Filed Exhibit No. 39.

4 MS. KAUFMAN: Excuse me, Ms. Canzano, can I have
5 some clarification about what No. 39 is, late-filed? Are
6 those the same work papers that we've been discussing?

7 MS. CANZANO: Yes.

8 MS. KAUFMAN: Thank you.

9 MS. CANZANO: Which we'll probably continue to
10 talk about.

11 (Late-Filed Exhibit No. 39 identified.)

12 MS. CANZANO: Staff would like to ask for a
13 clarification on the numbers, starting with 37, I believe.
14 Exhibit numbers, Mr. Chairman, I don't know, I think we're
15 getting confused on our --

16 CHAIRMAN DEASON: Well, the deposition transport
17 was identified as 37, and the responses to staff
18 interrogatories was identified as 38. And then you
19 requested a late-filed, which was identified as 39.

20 MS. CANZANO: Thank you.

21 CHAIRMAN DEASON: And 36 was the prefiled
22 exhibits to the testimony, consisting of JPG-1 through 6.

23 MS. CANZANO: Okay. Thank you very much. Staff
24 has no further questions.

25 CHAIRMAN DEASON: Commissioners? Redirect?

1 MS. KAUFMAN: I have no redirect.

2 CHAIRMAN DEASON: Exhibits?

3 MS. KAUFMAN: IAC would move Exhibit No. 36.

4 CHAIRMAN DEASON: Without objection, 36 is
5 admitted.

6 MS. CANZANO: Staff moves 37 and 38.

7 CHAIRMAN DEASON: Without objection --

8 MS. CANZANO: And also 18.

9 CHAIRMAN DEASON: Without objection, Exhibits
10 18, 37 and 38 are admitted.

11 MR. FONS: I'm not sure what 18 really looks
12 like at this point. This is still to be corrected; is
13 that correct?

14 MS. CANZANO: Yes, it is. So should we wait on
15 moving that into the record?

16 MR. FONS: I would prefer that all of the
17 parties have an opportunity to see the corrected before it
18 be admitted into evidence.

19 MS. CANZANO: That's fair.

20 CHAIRMAN DEASON: Very well. Show that 18 is
21 not yet admitted, that it is subject to correction and
22 that those corrections have not yet been provided.

23 MS. KAUFMAN: Mr. Chairman, I don't mean to
24 belabor 18, but all of the corrections to the bottom half
25 have been made now on the record and there are no

1 corrections to GTE's numbers on the top. The only
2 corrections are the numbers that Mr. Fons provided to me,
3 if that gives him any comfort.

4 MR. FONS: I would still like to see the
5 corrected version before we admit it.

6 (Exhibit Nos. 36 through 38 received into
7 evidence.)

8 CHAIRMAN DEASON: Very well. That concludes Mr.
9 Gillan's testimony.

10 (Witness Gillan excused.)

11 CHAIRMAN DEASON: Very well. This appears to be
12 a good breaking point.

13 Is there anything we need to discuss before we
14 break for the evening?

15 MS. CANZANO: Not that I'm aware of.

16 CHAIRMAN DEASON: Okay. We will break for the
17 evening. We will reconvene tomorrow at 9:00 a.m. Not
18 9:30, 9:00.

19 (Thereupon, the hearing adjourned at 5:00
20 p.m., to reconvene at 9:00 a.m., Wednesday, August 24,
21 1994, at the same address.)

22 (Transcript continues in sequence in Volume
23 6.)

24 - - - - -

25