

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 000075-TP (PHASE II)

In the Matter of

INVESTIGATION INTO APPROPRIATE  
METHODS TO COMPENSATE CARRIERS  
FOR EXCHANGE OF TRAFFIC SUBJECT  
TO SECTION 251 OF THE  
TELECOMMUNICATIONS ACT OF 1966.



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VOLUME 6

Pages 922 through 1039

PROCEEDINGS:

HEARING

BEFORE:

CHAIRMAN E. LEON JACOBS, JR.  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER LILA A. JABER  
COMMISSIONER BRAULIO L. BAEZ  
COMMISSIONER MICHAEL A. PALECKI

DATE:

Friday, July 6, 2001

TIME:

Commenced at 9:00 a.m.  
Concluded at 5:11 p.m.

PLACE:

Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY:

JANE FAUROT, RPR  
Chief, Office of Hearing Reporter Services  
FPSC Division of Commission Clerk and  
Administrative Services

Appearances:

(As heretofore noted.)

FLORIDA PUBLIC SERVICE COMMISSION

DOCUMENT NUMBER-DATE

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## P R O C E E D I N G S

CHAIRMAN JACOBS: Next witness.

MR. McGLOTHLIN: I think I am next on the witness list. Pursuant to the stipulation of parties, FCCA asks that the prefiled testimony -- the direct testimony of Joseph Gillan dated March 12th, 2001, and the rebuttal testimony dated April 19th, 2001, be inserted into the record at this point.

CHAIRMAN JACOBS: Very well. I don't show the rebuttal listed, but I will take your word for it. Without objection, show the direct and rebuttal testimonies of Mr. Gillan are admitted into the record as though read.

MR. McGLOTHLIN: Mr. Gillan prepared one exhibit to his direct testimony, JPG-1. I ask that it be identified.

CHAIRMAN JACOBS: Show that marked as Exhibit 20.

MR. MELSON: And I move Exhibit 20 into evidence.

CHAIRMAN JACOBS: Without objection, show Exhibit 20 is admitted into the record.

(Exhibit 20 marked for identification and admitted into the record.)

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

2       A.     My name is Joseph Gillan. My business address is P.O. Box 541038, Orlando,  
3             Florida 32854. I am an economist with a consulting practice specializing in  
4             telecommunications.

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

6       A.     I am a graduate of the University of Wyoming where I received B.A. and M.A.  
7             degrees in economics. From 1980 to 1985, I was on the staff of the Illinois  
8             Commerce Commission where I had responsibility for the policy analysis of issues  
9             created by the emergence of competition in regulated markets, in particular the  
10            telecommunications industry. While at the Commission, I served on the staff  
11            subcommittee for the NARUC Communications Committee and was appointed to the  
12            Research Advisory Council overseeing NARUC's research arm, the National  
13            Regulatory Research Institute.

14           In 1985, I left the Commission to join U.S. Switch, a venture firm organized to  
15           develop interexchange access networks in partnership with independent local  
16           telephone companies. At the end of 1986, I resigned my position of Vice President-  
17           Marketing/Strategic Planning to begin a consulting practice. Over the past decade,  
18           I have provided testimony before more than 35 state commissions, four state  
19           legislatures, the Commerce Committee of the United States Senate, and the  
20           Federal/State Joint Board on Separations Reform. I currently serve on the Advisory  
21           Council to New Mexico State University's Center for Regulation.

22       **Q.     On whose behalf are you testifying?**

1 A. I am testifying on behalf of the Florida Competitive Carrier Association (FCCA).  
2 The FCCA represents the interests of competitive carriers seeking to offer local, long  
3 distance and advanced data services to Florida consumers and businesses.

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

5 A. The purpose of my testimony is to address Issue 16:

6 (a) What is the definition of Internet Protocol (IP) telephony?

7 (b) How should IP telephony be compensated?

8 The FCCA is jointly sponsoring Dr. Selwyn to address the remaining issues  
9 in this proceeding concerning local compensation more generally.

10 **Q. Briefly describe what is meant by "IP Telephony."**

11 A. As with any emerging technology, there is no single consensus definition of  
12 "IP telephony" -- but then there is no immediate need for one. As I explain  
13 below, "IP telephony" is short hand for a continuum of applications (and, just  
14 as importantly, *potential* applications) that involve the transmission of voice  
15 using packet technology, where the protocol used for interoperability of the  
16 packet network is the Internet Protocol (IP). Anchoring one end of the  
17 continuum is "pure" IP telephony -- that is, the use of IP packet networks to  
18 transmit a simple voice service. However, the real value of packet technology  
19 is its ability to integrate data and voice together, making possible hybrid  
20 enhanced services. It is here, where voice becomes but a component of a  
21 more sophisticated arrangement, that the future of IP telephony is likely to be  
22 determined.

1           Two themes form the principal message of my testimony. First, when  
2 a service contains *both* an information and voice capability, the Federal  
3 Communications Commission requires that the *entire* service be treated as an  
4 information service. On this – the growing end of the "IP Telephony"  
5 continuum – the FCC has already established a national framework that  
6 defines such services as "information" services and exempt from access  
7 charges. Where the FCC has not yet ruled – i.e., pure IP-Telephony services  
8 with no information component -- there is no indication yet that such  
9 primitive services are commercially viable. For a wide range of legal,  
10 economic and policy reasons discussed below, I recommend that the  
11 Commission allow the market to develop, without imposing legacy regulation  
12 and access-charge based compensation schemes on this new technology.

13       **Q. Please explain packet technology and its relationship to "Internet**  
14       **Protocol."**

15       A. Packet technology divides any communication (voice or data) into individual  
16 digital "packets" that are routed independently to a destination address.  
17 Because these packets may traverse several different networks to reach their  
18 final destination, a standard protocol is used so that these networks may  
19 interoperate.

20           The protocol that is today's industry standard is known as the Internet  
21 protocol, or IP. The most prominent use of this protocol is the "network" that  
22 carries its name, i.e., the Internet. The Internet --actually a collection of

1 networks that have agreed to exchange traffic -- was made possible because  
2 of the adoption of this standard protocol enabling packet-based networks to  
3 interconnect in a known and reliable manner. The use of this basic protocol,  
4 however, extends beyond the "Internet" to also support other packet-based  
5 networks.

6 What is important about packet technology is that it reduces *any*  
7 communication to a common-denominator, thereby enabling information  
8 (i.e., data and voice) to be seamlessly integrated together. Because packet  
9 technology is indifferent to a communications' original form, it is ideally  
10 suited to support "convergence services" that combine communications and  
11 information capability together.

12 **Q. Is it important to appreciate how IP-based services can combine voice**  
13 **and data together?**

14 A. Yes. Although the Commission has framed the issue to address "IP  
15 telephony," this formulation actually masks the commercial importance of the  
16 technology. As I noted above, IP telephony describes a continuum of  
17 applications that range from pure voice to more sophisticated arrangements.  
18 Understanding this continuum is critical because where a service resides on  
19 the continuum determines not only its regulatory status, but is likely to  
20 determine its commercial success as well. As I explain below, those services  
21 most likely to find commercial success will be hybrid services that combine  
22 a voice and information capability. Importantly, these hybrid services are

1 classified as information services and excused from conventional regulation  
2 (and access charge compensation) by FCC order.

3 **Q. Can you give a few examples of services that would be considered**  
4 **"hybrids" that combine voice and information capability?**

5 A. Yes. One example would be an integrated voice-messaging system. A  
6 number of entities offer such capabilities. Typically, an integrated voice-  
7 messaging system assigns each subscriber a local telephone number and an  
8 800 number. These numbers are then used by others to leave messages for  
9 the subscriber, and by the subscriber to access a server (if using a phone) or  
10 over the Internet.

11 When a calling party calls the subscriber's number, the calling party  
12 would be given a number of choices. The caller can leave a simple message  
13 or the caller can also leave a "call-back" number using its touch-tone phone.  
14 If the subscriber has activated the follow-me option, then some integrated  
15 messaging systems will offer the calling party the choice of waiting while the  
16 call is forwarded to whatever number(s) the subscriber has chosen. With  
17 such a feature mix, the calling party is provided a number of communication  
18 and storage options. In addition, if the service recognizes a "fax tone" from  
19 the calling party's fax machine, it may accept a fax and place it in storage.  
20 Some services also store the subscriber's email via connections with the  
21 Internet.

22 Another example is "Tell Me." "Tell Me" can be reached by dialing

1 1-800-555-TELL. The service uses voice recognition software and various  
2 Internet links to access information about the weather, movies, restaurants  
3 and other topics. One of its capabilities is to connect a customer to a  
4 restaurant for reservations after providing the listener some basic information.  
5 While this application may bear similarities to conventional "telephony" –  
6 after all, you *can* make your dinner reservation once connected – it is also  
7 clear that "Tell Me" is fundamentally an information service (even though it  
8 offers a voice telephony capability). (I note that while I have used this  
9 service as an example of an IP-based information service, it may well be that  
10 it is being offered today using conventional access arrangements -- even  
11 paying conventional access charges -- for operational simplicity).

12 Q. Are these the only types of IP services that have been introduced?

13 A. No, some have introduced more primitive IP telephony services that have  
14 focused more on providing voice capability, and less on the information-  
15 enabling features of the IP gateway. These "pure" IP telephony arrangements,  
16 however, are generally first-generation offerings that have not demonstrated  
17 commercial success. In several instances, these "pure IP telephony" services  
18 were introduced so that the carrier could gain experience before expanding  
19 to more complete services described above.

20 Q. **Has the FCC adopted a basic framework that determines whether a**  
21 **service should be considered an information service (and thus exempt**  
22 **from the application of access charges)?**



1 A. Yes. The applicable framework is explained most concisely in the Federal  
 2 Communication Commission's 1998 Report to Congress (In the Matter of  
 3 Federal-State Joint Board on Universal Service, "*Report to Congress*", CC  
 4 Docket 96-45, FCC 98-67, Adopted April 10, 1998). This Order addressed,  
 5 among other topics, the definition of "information service," the FCC's policy  
 6 exempting such services from access charges, and the unique issues presented  
 7 by new technology, including so-called "IP telephony."

8 **Q. What were the most important conclusions made by the FCC in its**  
 9 **Report to Congress?**

10 A. The first important conclusion reached by the FCC was that the  
 11 Telecommunications Act of 1996 established two, mutually exclusive, service  
 12 categories. A service is *either* a telecommunications service, or it is an  
 13 information service. As the FCC explained (Report to Congress, ¶39,  
 14 footnote omitted):

15 After careful consideration of the statutory language and  
 16 its legislative history, we affirm our prior findings that the  
 17 categories of "telecommunications service" and  
 18 "information service" in the 1996 Act are mutually  
 19 exclusive. Under this interpretation, an entity offering a  
 20 simple, transparent transmission path, without the  
 21 capability of providing enhanced functionality, offers  
 22 "telecommunications." By contrast, when an entity offers  
 23 transmission incorporating the "capability for generating,  
 24 acquiring, storing, transforming, processing, retrieving,  
 25 utilizing, or making available information," it does not  
 26 offer telecommunications. Rather, it offers an  
 27 "information service" even though it uses  
 28 telecommunications to do so. We believe that this reading  
 29 of the statute is most consistent with the 1996 Act's text,

its legislative history, and its procompetitive, deregulatory goals.

**Q. Why is it important to understand the basic dichotomy between "information" and "telecommunications" services?**

A. Information services (previously labeled enhanced services) are permitted to interconnect through local business services rather than the interstate access tariffs. (See MTS and WATS Market Structure, 97 FCC 2d 682, 715, 1983, "MTS/WATS Order." See also Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service Providers, 3 FCC Rcd 2631, 2635 n. 8, 2637 n. 53, 1988, "ESP Exemption Order," Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98; Inter-Carrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68, FCC 99-98, at ¶ 1, n.1, Feb. 26, 1999). In addition, as information services, such offerings are not regulated as telecommunications services.

**Q. Are "IP Telephony" services information services or telecommunications services.**

A. At present, there is no complete answer to this question. As I indicated, the term IP telephony typically applies to a continuum of services, some which are pure voice, while most others combine voice with some information capability. Importantly, this continuum *may* straddle the line between telecommunications and information services – in part, based on whether an information capability is part of the service and, in part, because the FCC has

not yet ruled on how "pure IP telephony services" should be regulated.

Attached is a simple chart (Exhibit \_\_\_\_ (JPG-1) that overlays this regulatory framework on the continuum of IP Telephony services.

**Q. What are the most significant implications of this regulatory framework with respect to the continuum of IP Telephony services?**

A. First, and most critically, any service that includes an information component is considered an information service in its entirety (Report to Congress, ¶¶'s 58 and 59, footnotes omitted):

The Commission has considered the question of hybrid services since *Computer I*, when it first sought to distinguish "communications" from "data processing." *Computer II* provided a framework for classifying such services, under which the offering of enhanced functionality led to a service being treated as "enhanced" rather than "basic." An offering that constitutes a single service from the end user's standpoint is not subject to carrier regulation simply by virtue of the fact that it involves telecommunications components.

\*\*\*

Stated another way, if the user can receive nothing more than pure transmission, the service is a telecommunications service. If the user can receive enhanced functionality, such as manipulation of information and interaction with stored data, the service is an information service.

Secondly, it is also important to emphasize the conclusion that the FCC *did not* reach – i.e., whether even a pure "phone-to-phone IP telephony" service would be a telecommunications (as opposed to an information) service.

Specifically, the FCC found (Report to Congress, ¶83):

The record currently before us suggests that certain "phone-to-phone IP telephony" services lack the characteristics that would

1 render them "information services" within the meaning of the  
2 statute, and instead bear the characteristics of "telecommunications  
3 services." We do not believe, however, that it is appropriate to  
4 make any definitive pronouncements in the absence of a more  
5 complete record focused on individual service offerings.  
6

7 The FCC has clearly defined the corners of the IP telephony debate, excusing  
8 hybrid services from traditional regulation (and access charges), while leaving  
9 open the possibility that pure IP telephony *might* be subject to regulation in the  
10 future. The relevant question here is whether the Florida Commission should  
11 attempt to address this remaining ambiguity in the federal system and impose  
12 regulation on this emerging technology and market. As I explain, below the  
13 answer is no.  
14

15 **Q. Should the Commission impose traditional regulation (and access**  
16 **charges) on IP Telephony?**

17 A. No. To begin, there is only one area where the Commission could apply  
18 regulation, and that is the case of pure IP Telephony. The mere existence of  
19 a "gray area," however, does not justify regulation for regulation's sake. The  
20 future of IP is likely to be services that blend voice and information  
21 capabilities in hybrid arrangements that are clearly exempt from regulation.  
22 While IP technology *can* support pure-IP Telephony services, there is no  
23 market evidence that such services are substitutes for conventional long  
24 distance services or commercially sustainable.

1 Technology and market conditions are in flux and providing the market more  
2 time to evolve is the best approach. As former FCC Chairman Kennard has  
3 explained (*Kennard Pledges No Regulation for Internet Telephony*,  
4 Washington Internet Daily, May 25, 2000, page 2):

5  
6 imposing access charges on IP telephony, is not the  
7 direction we should be heading. It seeks to impose a legacy  
8 system on what is a new and emerging technology ...  
9 Internet telephony is still technically challenged. It's still  
10 in the development stage. The last thing we want to do is  
11 start inventing some regulatory paradigm or imposing an  
12 old regulatory paradigm on this service before its even  
13 gotten out of the box.  
14

15 **Q. What would be the effect of a finding that even "pure IP telephony**  
16 **services" are telecommunication services, and therefore subject to access**  
17 **charges?**

18 **A.** First, there would be a chilling effect on entry and innovation as these inflated  
19 were imposed on new services with no proven market demand. Access  
20 charges were introduced to a mature market, where prices were already  
21 inflated to provide substantial revenues to the ILEC. Here, the market is  
22 nascent (at best), and faces substantial hurdles that would only be made worse  
23 with access charges.

24 Second, and equally disturbing, would be the delay and uncertainty of  
25 attempting to determine, on an application-by-application basis, whether a  
26 particular IP service is a hybrid service (and, therefore, without question an

1 information service) or a "pure" IP telephony service (and potentially subject  
 2 to *intrastate* access charges). In this regard, it is useful to understand that the  
 3 Commission cannot determine whether *interstate* access charges apply to any  
 4 service. Given the problems created by disparate federal and state regimes, it  
 5 is not clear that a state commission *could* even take action with respect to  
 6 intrastate access charges without raising issues of preemption.

7           Against these very serious competitive harms, what would be the  
 8 possible gain? The Commission should understand that the number of actual  
 9 services – and, therefore, the amount of traffic -- that is ever likely to be d  
 10 esignated as "pure IP telephony" will be relatively small. A major benefit of  
 11 IP-technology is its ability to integrate voice with other applications – in other  
 12 words, to offer hybrid services. Plain-vanilla telecommunications will likely  
 13 still be dominated by plain-vanilla providers, using plain-vanilla (read circuit-  
 14 switched) technology.

15           There is *no* market evidence that pure IP telephony – i.e., "first  
 16 generation" IP telephony that has not evolved to a hybrid arrangement – is a  
 17 sustainable market strategy, or that *any* IP-Telephony will seriously challenge  
 18 conventional service. At most, initial offerings appear to be little more than  
 19 the necessary first steps of a learning process, positioning providers to move  
 20 on to more advanced offerings.

21 **Q. Why do you say that imposing an access-charge based compensation**  
 22 **scheme on IP Telephony would chill innovation?**

1 A. By definition, little is known about customer demand for new products, and  
 2 bringing new services to market is both costly and risky. Hoisting the arcane  
 3 system of access charges onto these services could substantially increase their  
 4 cost, thereby reducing a carrier's incentive to take the risk to bring new  
 5 services to market.

6 Imagine the effect that access charges would have had on the  
 7 development of the Internet. Would consumers have been willing to try this  
 8 new technology if its price had been driven by access charges? If not, would  
 9 it have ever reached the critical mass necessary to become a daily part of our  
 10 lives? As the FCC has noted (Access Charge Reform, 12 FCC Rcd 15982,  
 11 16133, 1997, "*Access Charge Reform Order*", aff'd sub nom., Southwestern  
 12 Bell Te. Co. v. FCC, 153 F.3d 523, 8<sup>th</sup> Cir. 1998, quoting 47 U.S.C.

13 § 230(b)(2)):

14 We think it possible that had access rates applied to ISPs over the  
 15 last 14 years, the pace of development of the Internet and other  
 16 services may not have been so rapid. Maintaining the existing  
 17 pricing structure for these services avoids disrupting the still-  
 18 evolving information services industry and advances the goals of  
 19 the 1996 Act to "preserve the vibrant and competitive free market  
 20 that presently exists for the Internet and other interactive computer  
 21 services, unfettered by Federal or State regulation."  
 22

23 One of the most successful pricing decisions of our time was the decision to  
 24 *not* impose the burden of high access charges on emerging new enhanced  
 25 services. This decision enabled new providers to innovate and experiment,  
 26 opening the door to the information-rich world we are about to enter. Similar

1 considerations call for the same decision here. We are at the very beginning  
2 of the emergence of IP-based services. This next-evolution should be  
3 permitted to take root and grow without in the most efficient and cost-effective  
4 manner possible, without the burden imposed by access charges.

5 **Q. Are there other reasons that the Commission should not impose access**  
6 **charges on IP Telephony?**

7 A. Yes. Overall, I believe it is useful to encourage the development of  
8 information services that can be accessed by consumers through the  
9 convenience of the standard telephone (and not just the computer). The  
10 telephone is the most successful "information appliance" ever introduced, with  
11 a market penetration far beyond that achieved by the computer. Sound public  
12 policy should *encourage* innovative services for consumers whose only form  
13 of access is the conventional phone, as well as consumers that will  
14 increasingly rely on more sophisticated "appliances" (such as computers or  
15 advanced televisions) to obtain communication services.

16 I also note that most IP-based services connect to the local network  
17 using high-speed digital connections, typically an ISDN line with a primary  
18 rate interface (i.e., ISDN-PROS). Thus, even *assuming* that the case could be  
19 made that the imposition of access charges on IP Telephony is justified, some  
20 very practical questions would remain. What exactly would a FG-IP service  
21 look like? What would be its rate elements? What services would it apply to?  
22 How would charges be calculated? What would be the underlying cost



1 justification?

2 **Q. What do you recommend?**

3 A. I recommend that the Commission simply allow the market for IP-based  
4 services to continue to evolve without attempting to impose legacy  
5 compensation schemes – in particular, access charges – on these services. IP-  
6 services using IP gateways should be able to freely interconnect as business  
7 lines. The trend in such service-development is towards hybrid arrangements  
8 that already qualify for such treatment, and there is no reason to conclude that  
9 more primitive forms of *should* be subjected to access charges (even if they  
10 lawfully *could*).

11 **Q. Does this conclude your testimony?**

12 A. Yes.

1       **Q.     Please state your name.**

2

3       A.     My name is Joseph Gillan. I previously filed direct testimony on behalf of the  
4             Florida Competitive Carriers Association ("FCCA") concerning Issue 16 (*i.e.*, what  
5             is the appropriate definition of Internet Protocol (IP) telephony).

6

7       **Q.     What is the purpose of your rebuttal testimony?**

8

9       A.     The purpose of my rebuttal testimony is to (1) support the general consensus that the  
10            Commission should *not* apply access charges to nascent "IP telephony" services in  
11            this proceeding, and (2) respond to BellSouth's singular exception to this consensus  
12            that it should. The technologies that support IP telephony are only just being  
13            introduced, and it is far too early to prejudge what services they will foster, much less  
14            their commercial significance. Even BellSouth's narrow formulation of the issue --  
15            *i.e.*, that access charges should apply to *any* long distance call -- begs the larger  
16            question of whether access charges should continue to apply *at all*. (I am not  
17            recommending that the Commission undertake a comprehensive review of  
18            intercarrier compensation in this proceeding. My larger point is simply that  
19            BellSouth's assertion that access charges should apply to IP telephony presupposes  
20            that access charges are a perpetual default entitlement, to which all future  
21            technologies must conform. Of course, such a presumption is absurd).

22

23       **Q.     Is there even consensus as to what constitutes IP telephony?**

1

2       A.     No. In fact, the two very different perceptions of IP telephony offered by Verizon  
3             and BellSouth provide compelling evidence as to just how premature it would be for  
4             the Commission to try and address the IP telephony issue in this proceeding. As  
5             described by Verizon (Geddes, page 5):

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IP Telephony encompasses a very diverse array of applications ranging from the somewhat crude conversation conducted between two users via their personal computers to the more innovative "click to talk" application in which a user, by selecting a hyperlink on a web page, is instantly connected to a live representative in a call center.

13

In contrast, BellSouth's testimony (Ruscilli, pages 45 and 46) redefines the issue as addressing a single, narrow service:

14

15

16

17

18

Phone-to-Phone IP Telephony is telecommunications service that is provided using Internet Protocol for one or more segments of the call.

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19

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22

To explain it another way, Phone-to-Phone IP Telephony occurs when an end user customer uses a traditional telephone set to call another traditional telephone set using IP technology.

23

What is interesting about the above comparison is that Verizon does not even  
24             *mention the only* form of IP telephony that BellSouth describes. The most useful  
25             insight, however, can be drawn from the testimony of Verizon witness Dr. Beauvais  
26             (page 15):

27

28

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30

31

... there is relatively little IP telephony today, especially for voice traffic. Thus there is no pressing need for the Commission to address this [IP telephony] compensation issue now ...

1       **Q.     Verizon recommends that the Commission defer this issue to a future**  
2       **proceeding, or convene non-adversarial workshops (Beauvais, page 15). Do you**  
3       **agree?**

4  
5       **A.     Only partially. I do agree with Dr. Beauvais that the Commission should not --**  
6       indeed, as Dr. Beauvais points out, given this record, could not -- attempt to address  
7       IP telephony in this proceeding. Where we (potentially) disagree, however, is  
8       whether the Commission should instead convene a separate proceeding, or initiate  
9       workshops, at this time.

10  
11       Additional hearings and, to the same or greater extent, "non-adversarial" workshops,  
12       consume resources -- resources that are exceedingly scarce in the competitive  
13       industry as well as at the Commission. In my view, the better course would be to  
14       provide the market time to "filter" this issue for the Commission. By this I mean that  
15       the Commission should allow the market (which is to say, consumers) time to  
16       determine which innovations (if any) have lasting significance. If the future reveals  
17       that there are some IP telephony services that succeed -- that is, they are not simply  
18       introduced, but actually take root and prosper -- then the Commission can determine  
19       then whether any "IP telephony" issue still remains. Thus far, however, there have  
20       been as many services withdrawn as introduced, with no real market experience  
21       justifying immediate regulatory reaction.

22  
23       **Q.     How should the Commission address BellSouth's testimony that action is**  
24       **needed now?**

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A. To begin, BellSouth's recommendation that IP telephony should be assessed access charges raises more questions than it would resolve. BellSouth never fully discloses exactly what it means when it says that the Commission should find that access charges should "... apply to long distance calls, regardless of the technology used to transport them." To the extent that IP telephony is provided using a gateway architecture, it is not clear that BellSouth even has an access tariff that would apply, should the Commission act as it has requested. In effect, BellSouth is asking that the Commission preauthorize some Feature Group-Internet Protocol (FG-IP) arrangement, without explaining what that would entail. If BellSouth wants to "apply access charges" to IP telephony, a first step should be a clear description of *exactly* what it means by the statement -- in other words, exactly what is the "access service" it would provide, and what "charges" would it propose?

Moreover, BellSouth implies that this issue is settled at the FCC and that the Florida Commission need simply decide that "intrastate access" should also apply. This is not fully (or even partially) accurate -- the FCC has never concluded that access charges should apply to "interstate" IP telephony, nor has it even decided what the term means. The FCC did *tentatively* adopt a definition of the "phone-to-phone IP telephony" similar to that emphasized by BellSouth, but then deliberately *declined* to reach the conclusion that BellSouth seeks here. Consequently, taking the path recommended by BellSouth could even create a jurisdictional dispute with the FCC. All for what end?

1       **Q.     Does BellSouth ever explain *why* the Commission should take the dramatic –**  
2       **indeed, unprecedented – action it seeks?**

3

4       A.    No. BellSouth is asking that this Commission blindly adopt a finding that the FCC  
5       has deliberately (and cautiously) avoided for several years. The stated reason  
6       (Ruscelli, page 9):

7

8               All other long-distance carriers currently pay these same access  
9               charges, and there is no authority to exempt them, regardless of the  
10              protocol used to transport such calls. To do otherwise would  
11              unreasonably discriminate between long-distance carriers utilizing IP  
12              telephony and those who do not.

13

14            To begin, it is useful to note that no long-distance carrier has registered this concern,  
15            only BellSouth. If BellSouth is so concerned about access discrimination, however,  
16            then it should reduce its access charges to cost, thereby avoiding the discrimination  
17            that favors it. After all, if there is a discrimination issue involving access that is  
18            commercially significant, it is the inflated access rates charged by ILECs offering  
19            long distance service, not nascent IP telephony.

20

21       **Q.     Has the FCC agreed that access charges should apply to phone-to-phone IP**  
22       **telephony as BellSouth implies?**

23

24       A.    No. Although the FCC did list a number of characteristics that *could* be used to  
25       describe IP telephony services that *might* be considered telecommunication services  
26       (See Report to Congress, In the Matter of Federal-State Joint Board on Universal  
27       Service, ("*Report to Congress*"), CC Docket 96-45, FCC 98-67, Adopted April 10,

1 1998), the FCC never *adopted* the list nor determined that services that exhibited  
 2 these characteristics should be assessed access charges. Specifically, the FCC found  
 3 (at ¶83, emphasis supplied):

4  
 5 The record currently before us suggests that certain "phone-to-phone  
 6 IP telephony" services lack the characteristics that would render them  
 7 "information services" within the meaning of the statute, and instead  
 8 bear the characteristics of "telecommunications services." We do not  
 9 believe, however, that it is appropriate to make any definitive  
 10 pronouncements in the absence of a more complete record focused on  
 11 individual service offerings.  
 12

13 The FCC understood that technology and market conditions are in flux, and that  
 14 providing the market more time to evolve was the best policy. Indications are that  
 15 the FCC remains committed to this overall approach. As former Chairman Kennard  
 16 explained (Washington Internet Daily, May 25, 2000, page 2):

17  
 18 ... imposing access charges on IP telephony, is not the direction we  
 19 should be heading. It seeks to impose a legacy system on what is a  
 20 new and emerging technology ... Internet telephony is still technically  
 21 challenged. It's still in the development stage. The last thing we  
 22 want to do is start inventing some regulatory paradigm or imposing  
 23 an old regulatory paradigm on this service before it's even gotten out  
 24 of the box.  
 25

26 While Mr. Kennard is no longer FCC Chairman, there is no indication that the FCC  
 27 under Chairman Powell would likely adopt a framework for IP telephony that would  
 28 be more regulatory than his predecessor recommended.

29  
 30 **Q. Has BellSouth provided any detail concerning the "access charges" it would**  
 31 **even propose to apply?**  
 32

1       A.     No. BellSouth's testimony is as silent as to *what* it would do with the Commission  
2       finding as it is as to *why* the Commission should grant it. The phone-to-phone IP  
3       services that I am aware of were introduced (and generally discontinued) using IP  
4       gateways that required the subscriber to first access the gateway through a local  
5       number, before dialing additional digits to reach the calling party. BellSouth's  
6       testimony makes reference to such "gateways" (Ruscilli, page 45), but ignores their  
7       implication.

8  
9       For instance, IP-Gateway architectures typically interconnect using ISDN-PRI  
10      connections. These connections are high-speed digital connections that support 23  
11      voice-grade channels and a 24<sup>th</sup> channel for signaling. To my knowledge, BellSouth  
12      has never tariffed a similar ISDN-PRI "access service" that would support IP  
13      gateway-based services.

14  
15      Consequently, even if BellSouth had demonstrated that "access charges" should  
16      apply to IP telephony -- a showing that BellSouth has not made -- a number of  
17      practical questions would remain. What exactly would BellSouth's proposed FG-IP  
18      look like? What would be its rate elements? To what services would it apply? How  
19      would charges be calculated? What would be the underlying cost justification?  
20      *None* of these questions can be answered by looking at BellSouth's testimony here.  
21      In effect, BellSouth is asking the Commission to accept a "pig in a poke" by agreeing  
22      to a new FG-IP without having any idea as to what it would actually look like.

23



1       **Q.     Is it likely that pure phone-to-phone IP services via a gateway-architecture will**  
2       **become commercially significant?**

3  
4       A.    No. Although it is impossible to discern from BellSouth's testimony how it expects  
5       such gateways to be used, the services that I have seen typically require that the  
6       customer dial a local number to access the gateway, then dial additional digits to  
7       identify the called party (as well as identify the calling party). From the consumer's  
8       perspective, such services are reminiscent of the old arrangements used by early long  
9       distance competitors (Feature Group A) before equal access was introduced (Feature  
10      Group D).

11  
12      Even at the *height* of its popularity (1985), however, Feature Group A-based  
13      services never acquired more than 7% of the market, despite the fact that they then  
14      existed in an environment of very high toll rates and significant access savings  
15      (Source: Memorandum Opinion and Order, In the Matter of NECA Revisions to  
16      Tariff FCC No 1, Application No. 14, Transmittal No. 23, January 14, 1985, Table  
17      1, Appendix B). How pure phone-to-phone IP telephony – which exhibits the  
18      drawbacks of F.A. without its attractive economics – would materially impact  
19      markets to a level justifying the precipitous action BellSouth recommends is, to say  
20      the least, unclear. The telecommunications industry is far different today than in the  
21      late 1970s, and appealing to compensation models in the "2000s" that did not survive  
22      the "1980s" would be to repeat past mistakes, not learn from them.

1       **Q.     Do you support Level 3's suggestion that the Commission review this issue on**  
2       **a "case by case" basis (Hunt, page 29)?**

3  
4       A.     No, even this would seem to be a "solution" out of scale with the "problem." The  
5       FCC has announced that it intends to initiate a general review of intercarrier  
6       compensation shortly. As I noted above, BellSouth's entire claim that IP telephony  
7       should be assessed access charges presupposes (without acknowledging this core  
8       assumption) that access charges are themselves appropriate. I would recommend that  
9       the Commission monitor the FCC's proceeding addressing intercarrier compensation,  
10      as well as continue to observe developments in the marketplace. Although BellSouth  
11      encourages immediate action, it has offered no compelling evidence that there is a  
12      problem that needs to be fixed. Carriers offering IP telephony services are ordering  
13      the local connections they require, while BellSouth (and the long distance  
14      competitors for which it professes concern) do not seem to be affected (at least by  
15      this development). There are far larger issues confronting the Commission -- for  
16      instance, the absence of local competition and the very real discrimination concern  
17      that results from BellSouth's access rates -- that would present a better use of its  
18      limited resources.

19  
20      **Q.     Does this conclude your rebuttal testimony?**

21  
22      A.     Yes.

1 CHAIRMAN JACOBS: Mr. Shell is next. I understand we  
2 have a --

3 MR. LAMOUREUX: Commissioner, not incoincident (sic)  
4 with the fact that it is 4:45 on Friday, the parties and staff  
5 have agreed, if it is acceptable to the Commission, to allow  
6 AT&T's testimony to go into the record without cross-examining  
7 the live witness. If that is acceptable to the Commission.

8 COMMISSIONER JABER: I really had my heart set on  
9 that.

10 MR. EDENFIELD: We thought you all were POI'd out.

11 COMMISSIONER DEASON: It depends. What is his  
12 position on bill and keep? I'm just kidding. Don't answer  
13 that.

14 CHAIRMAN JACOBS: I think we can live with that. And  
15 if there are no objections, why don't we do that.

16 MR. LAMOUREUX: That's fine. I would move for the  
17 admission of the direct testimony of Mr. Follensbee filed on  
18 March 12th, 2001; the rebuttal testimony of Richard Guepe filed  
19 on April 19th, 2001; and then for the admission of Exhibits  
20 GRF-1 through 5 to Mr. Follensbee's direct testimony as  
21 Composite Exhibit 21. I think 21.

22 And since we had already filed a notice that  
23 Mr. Shell would be adopting the testimonies of Mr. Follensbee  
24 and Guepe, just to make the record clean, I would like to  
25 submit after the hearing just a short bio for Mr. Shell with

1 his qualifications, if that is okay with the parties.

2 MR. EDENFIELD: BellSouth has no objection. In fact,  
3 if you want to mark it and admit it now I have no objection to  
4 that, either.

5 MR. LAMOUREUX: I only have one copy with me, that's  
6 the problem.

7 CHAIRMAN JACOBS: We will mark that as Exhibit 22.  
8 You just give a copy to the court reporter, and you can send  
9 copies to --

10 MR. LAMOUREUX: Okay.

11 CHAIRMAN JACOBS: Without objection, show Exhibits 21  
12 and 22 are admitted into the record.

13 (Exhibits 21 and 22 marked for identification and  
14 admitted into the record.)

15 MR. LAMOUREUX: And may Mr. Shell be excused so that  
16 he can endeavor to make his plane?

17 CHAIRMAN JACOBS: He may be excused.

18

19

20

21

22

23

24

25

1                   **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**  
2                   **DIRECT TESTIMONY OF GREGORY F. FOLLENSBEE**  
3                   **ON BEHALF OF**  
4                   **AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.,**  
5                   **TCG SOUTH FLORIDA, AND**  
6                   **MEDIAONE FLORIDA TELECOMMUNICATIONS, INC.**  
7

8   **Q.     PLEASE STATE YOUR NAME, ADDRESS AND EMPLOYMENT.**

9   **A.**    My name is Gregory R. Follensbee, and I am employed by AT&T Corp. as a  
10          Director in its Law & Government Affairs organization, providing support for  
11          AT&T's regulatory and legislative advocacy in the nine states that make up  
12          AT&T's Southern Region. My office is at 1200 Peachtree Street, Suite 8100,  
13          Atlanta, Georgia 30309.

14  
15   **Q.     PLEASE DESCRIBE YOUR BACKGROUND AND PROFESSIONAL**  
16          **EXPERIENCE AS THEY RELATE TO ISSUES IN THIS**  
17          **PROCEEDING.**

18   **A.**    I graduated from Florida State University in 1972 with a Bachelors of  
19          Science degree in accounting. I began work in August of that year as a field  
20          auditor with the Florida Public Service Commission. In 1976, I was  
21          promoted to Manager over the accounting group devoted to regulating  
22          electric and gas public utilities. In 1978, I was promoted to Manager over the  
23          accounting for all public utilities regulated in Florida. In 1979, I was

1 promoted to Director of the Accounting Department, which expanded my  
2 responsibilities to include all accounting matters for all public utilities  
3 regulated in Florida, which included auditing, cost of capital, and taxes. In  
4 1980, the department was expanded to include Management Audits as well.  
5 In October 1983, I left the Florida Commission and began work with AT&T.  
6 I was a District Manager in its State Governmental Affairs staff organization,  
7 supporting AT&T's advocacy of regulatory issues for its Southern Region.  
8 In 1990, I became the Assistant Vice President for State Government Affairs  
9 for the State of South Carolina. In 1995, I returned to Atlanta and was  
10 promoted to Division Manager, responsible for AT&T's regulatory and  
11 legislative advocacy in the nine states in AT&T's Southern Region.

12  
13 **Q. HAVE YOU TESTIFIED IN OTHER REGULATORY PROCEEDINGS**  
14 **IN THE PAST?**

15 A. Yes. I have testified in Florida, Georgia, Kentucky, Louisiana, North  
16 Carolina and South Carolina.

17  
18 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**  
19 **PROCEEDING?**

20 A. I am testifying on behalf of AT&T Communications of the Southern States,  
21 Inc., TCG South Florida and MediaOne Florida Telecommunications, Inc.  
22 (collectively "AT&T") on the following issues:

- 1                   • What types of local network architectures are currently employed
- 2                   by ILECs and ALECs, and what factors affect their choice of
- 3                   architectures? (Issue 11)
- 4                   • How should a “local calling area” be defined, for purposes of
- 5                   determining the applicability of reciprocal compensation? (Issue
- 6                   13)
- 7                   • What are the responsibilities of an originating local carrier to
- 8                   transport its traffic to another local carrier? (Issue 14 a)
- 9                   • For each responsibility identified in part (a), what form of
- 10                  compensation, if any, should apply? (Issue 14 b)
- 11                  • How should the policies established in this docket be
- 12                  implemented? (Issue 18)

13

14           **ISSUE 11: WHAT TYPES OF LOCAL NETWORK**  
 15           **ARCHITECTURES ARE CURRENTLY EMPLOYED BY ILECS AND**  
 16           **ALECS, AND WHAT FACTORS AFFECT THEIR CHOICE OF**  
 17           **ARCHITECTURES?**

18

19   **Q. BRIEFLY DESCRIBE THE ISSUE REGARDING NETWORK**  
 20   **ARCHITECTURE.**

1     A.     Although this is an informational issue, it relates to a dispute about whether  
2           ILECs should be responsible for the costs of originating, transporting, and  
3           terminating local calls from their own customers to AT&T customers.  
4           Some ILECs have proposed to shift some of their transport costs to ALECs.  
5           The effect of this proposal would be to force AT&T and other ALECs to  
6           design their networks less efficiently and force their customers to bear the  
7           costs of doing so simply because an ILEC refuses to transport its own  
8           originating traffic as it is required to do, as it has historically done, and as it  
9           continues to do for calls to its own customers. In reviewing this issue, the  
10          Commission should focus on the harm to competition and consumers caused  
11          by any such proposal as well as the illegality of the proposal under the  
12          Telecommunications Act of 1996 (the “Act”) and FCC regulations.

13  
14     **Q.     WHAT HAS GIVEN RISE TO THIS ISSUE?**

15     A.     The issue arises because ALECs have deployed efficient networks that do not  
16           match the ILECs’ existing networks. AT&T and BellSouth have arbitrated  
17           this issue, so I will illustrate the differences using BellSouth and AT&T as an  
18           example.<sup>1</sup> In order to interconnect the BellSouth and AT&T networks, the  
19           two parties must deploy Interconnection Facilities between the switches  
20           serving AT&T’s customers, the end office switches serving BellSouth

---

<sup>1</sup> AT&T has not yet arbitrated this issue with Verizon or Sprint, but is aware that Verizon proposes to shift even more of its costs to ALECs. For convenience I therefore will refer to such cost-shifting proposals as “the ILECs’ proposal.”



1 customers and the subtending BellSouth tandem switches.<sup>2</sup> The parties must  
2 then establish trunking between these switches for the efficient routing of  
3 interconnection traffic.

4 As I explain in greater detail below, to compete effectively for local exchange  
5 customers in Florida, AT&T has designed and deployed an efficient network  
6 architecture that is substantially different than the embedded ILEC network.  
7 This means that some calls from ILEC customers to AT&T customers must  
8 be transported beyond the ILEC basic local calling areas to be delivered to  
9 the AT&T switch that serves the terminating AT&T customers. Despite the  
10 unequivocal legal obligation of each party to bear the cost to transport and  
11 terminate its own traffic, some ILECs object to bearing any costs for  
12 Interconnection Facilities beyond the ILEC basic local calling areas.  
13 BellSouth, for example, takes this position even though AT&T and BellSouth  
14 have agreed that calls within each LATA will be considered local for  
15 purposes of reciprocal compensation. BellSouth is proposing (along with  
16 other ILECs) that AT&T bear the cost of transporting BellSouth's traffic  
17 from BellSouth's calling areas to AT&T's switch for completion of such calls  
18 to AT&T's customers.  
19

---

<sup>2</sup> Interconnection Facilities are the physical transmission channels that transport traffic between the AT&T and BellSouth switches that are used for local and intraLATA toll traffic. Facilities should be differentiated from trunks or trunk groups, which are the logical connections between two switches permitting traffic to be routed in an efficient manner. Trunks are established over working facilities.

1   **Q.   YOU MENTIONED THAT ILECS' AND AT&T'S NETWORK**  
2       **ARCHITECTURES ARE SUBSTANTIALLY DIFFERENT. PLEASE**  
3       **EXPLAIN.**

4   A.   AT&T's and ILECs' networks are similar in the sense that they both cover  
5       comparable geographic areas. Beyond this one similarity, however, the two  
6       networks are substantially different with respect to their architecture.

7       An ILEC network is a multi-layer or tiered network. An ILEC has many end  
8       office switches spread out over its service area, which are installed in the  
9       neighborhoods populated by its customers. These end office switches are  
10      interconnected by an overlying network of tandems. When certain volume  
11      levels are achieved and it is cost effective, the ILEC uses high-capacity trunks  
12      that directly link certain end office switches (bypassing the tandems). A  
13      typical ILEC network architecture is depicted in my Exhibit GRF-1.

14      This hierarchical or layered network was largely dictated by the technology  
15      that was available during the time these networks were deployed. At the time  
16      ILEC networks were deployed, there were limited transport options on the  
17      end-user side of the switch, resulting in many switches being deployed in the  
18      neighborhood in order to keep loop lengths relatively short. As I understand  
19      it, ILECs now find the use of their tandem switches to be the least costly  
20      method of interconnecting many end offices until certain traffic thresholds  
21      are achieved between two end offices, and only then is it more efficient for an  
22      ILEC to directly connect the two end offices.

1           This arrangement recognizes that an ILEC's tandem facilities (both switch  
2           and common shared transport) are less expensive to utilize for occasional use  
3           than the capacity commitment associated with dedicated transport, until  
4           enough traffic develops to fill the dedicated transport facilities.

5  
6   **Q.     WHAT ABOUT AT&T'S NETWORK?**

7   A.     In contrast to an ILEC's network, AT&T's local telephony network is  
8           relatively new.   Therefore, AT&T's switches<sup>3</sup> are deployed consistent with  
9           the costs and efficiencies of today's technology.   Currently, AT&T has a  
10          menu of options that are capable of economically connecting end users  
11          located relatively far from a switch.   These options include: (1) high capacity  
12          fiber optic rings to commercial buildings and multiple dwelling units; (2)  
13          fixed wireless technology now being beta tested (although this technology  
14          would likely come under a different (CMRS) interconnection agreement), (3)  
15          UNE loop resale through AT&T collocation in an ILEC end office, and (4)  
16          dedicated high-capacity facilities (in some cases using special access services  
17          purchased from an ILEC but more appropriately through combinations of  
18          UNEs).   Due to the very high initial cost of switching platforms as compared  
19          to the lower incremental cost of high-capacity facilities, AT&T has chosen to  
20          deploy fewer switches and more transport on the end-user side of the switch.

---

<sup>3</sup>   Although AT&T switches normally provide both an end office and tandem function and are really multi-function switches, I will refer to them in this testimony simply as "switches." In AT&T's proposed Interconnection Agreement, they are referred to as "switch centers."

1 Even where AT&T has determined the need for multiple switches within a  
2 LATA, they are often collocated within the same building.

3 The distinction between the two networks is that ILECs deployed tandems  
4 first and then grew into high use dedicated trunking between offices, AT&T  
5 deploys a single switch combined with long transport on the end-user side of  
6 the switch, because that combination is incrementally less costly than adding  
7 a new switch in each part of a market. AT&T's network architecture is  
8 depicted in my Exhibit GRF-2.

9 Consistent with AT&T's efficient architecture, there are certain LATAs  
10 within which AT&T has not physically deployed a switch. However, in such  
11 cases AT&T has agreed to establish at least one physical Point of  
12 Interconnection (POI)<sup>4</sup> within the LATA, and AT&T will provide all of the  
13 facilities (for both originating and terminating traffic) between its switch and  
14 such POI. Where AT&T has chosen not to deploy a switch within a LATA,  
15 AT&T will still establish a POI as if it were an AT&T switch (i.e., AT&T has  
16 virtually extended its switching functionality into the LATA to the POI). The  
17 AT&T architecture, therefore, provides a switch (or switching presence) in  
18 every ILEC LATA.

19

20 **Q. WHY DIDN'T AT&T DEPLOY A NETWORK ARCHITECTURE**  
21 **THAT IS SIMILAR TO THE ILECS'?**

1 A. Considering the number of customers AT&T serves, the volume of traffic  
2 generated by these customers, and the geographic dispersion of these  
3 customers, the ILEC network architecture would be highly inefficient for  
4 AT&T. Despite the inefficiency, the ILECs propose that AT&T be required  
5 to replicate the ILEC network architecture for network interconnection, or at  
6 least be required to incur the cost that would be associated with replicating  
7 that architecture. Requiring ALECs to incur unnecessary expenses associated  
8 with an inefficient network structure is not only prohibited by FCC rules, as  
9 shown below, but will greatly impede competition in Florida.

10

11 **ISSUE 13: HOW SHOULD A "LOCAL CALLING AREA" BE**  
12 **DEFINED FOR PURPOSES OF DETERMINING THE**  
13 **APPLICABILITY OF RECIPROCAL COMPENSATION?**

14

15 **Q. HOW IS "LOCAL CALLING AREA" DEFINED IN AT&T'S**  
16 **INTERCONNECTION AGREEMENTS?**

17 A. AT&T and BellSouth have agreed to define local calls as any calls that  
18 originate and terminate within the LATA. Thus, the local calling area is  
19 LATA-wide. AT&T will seek this same arrangement when it renegotiates its  
20 agreements with Verizon and Sprint.

21

---

<sup>4</sup> As used in this testimony POI means the physical point at which the two networks are

1   **Q.    SHOULD THIS DEFINITION BE THE SAME FOR ALL ALECS?**

2   A.    No. Each ALEC should be free to establish whatever local calling area best  
3       suits its plans for offering local service in the state. The Commission should  
4       not mandate one definition for “local calling area” for purposes of  
5       determining the applicability of reciprocal compensation.

6

7       **ISSUE 14(a): WHAT ARE THE RESPONSIBILITIES OF AN**  
8       **ORIGINATING CARRIER TO TRANSPORT ITS TRAFFIC TO**  
9       **ANOTHER LOCAL CARRIER?**

10

11   **Q.    WHAT ARE THE RESPONSIBILITIES OF AN ORIGINATING**  
12       **CARRIER TO TRANSPORT ITS TRAFFIC TO ANOTHER LOCAL**  
13       **CARRIER?**

14   A.    Prior to the passage of the Act, unless a call was directed to the operating  
15       territory of another local carrier, the originating carrier was responsible for  
16       the costs of originating, transporting and terminating each call, simply  
17       because the call never left the originating carrier’s territory or network.  
18       Consistent with the originating carrier’s overall financial responsibility, the  
19       originating carrier collected and retained the applicable revenue.

20       With the passage of the Act, the originating carrier continues to collect and  
21       keep the local exchange revenue, but where an ALEC terminates the call

---

interconnected for the mutual exchange of traffic.

(because the terminating customer belongs to that ALEC), the Act requires the ILEC to compensate the terminating carrier for its costs through reciprocal compensation. However, the Act did not alter the long-standing economic model under which the originating carrier collects the local exchange revenue and is responsible for the costs of originating, transporting and terminating its own customers' traffic. Section 252(d)(2)(A) of the Act very clearly assigns such costs to the originating carrier:

[A] a state commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless... such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities on the other carrier.

**Q. DOES THE ILECS' PROPOSAL PROPERLY ASSIGN RESPONSIBILITY TO THE ORIGINATING CARRIER TO TRANSPORT ITS TRAFFIC TO ANOTHER LOCAL CARRIER?**

A. No. To meet the "just and reasonable" test under Section 252(d)(2)(A), both parties must have comparable obligations to deliver traffic to the other party's network. If the ALEC is not compensated for the "costs associated with the transport and termination on [its] network facilities of calls that originate on the network facilities on the other carrier", then the resulting Agreement

1 would be neither “just” nor “reasonable”. If the parties have unequal  
2 interconnection obligations, as proposed by the ILECs, then they also should  
3 have non-symmetrical reciprocal compensation rates, so that each party  
4 would recover its respective costs to transport and terminate the other party’s  
5 traffic.

6  
7 **Q. WHY WOULD THE ILECS’ PROPOSAL REQUIRE AT&T TO**  
8 **REPLICATE THE ILEC’S NETWORK?**

9 A. ILECs have sufficient volume of traffic within and between each of their  
10 local calling areas to cost justify trunking to those areas and have designed  
11 their networks accordingly. AT&T may or may not have a sufficient volume  
12 of traffic between each ILEC local calling area to cost justify trunking to  
13 those areas. As AT&T enters a new market, it starts with few or no  
14 customers. In such circumstances, AT&T certainly would not have a  
15 sufficient volume of traffic to cost justify end office trunking to such local  
16 calling areas or justify the capital needed to build out AT&T’s network to  
17 match ILEC networks. In these areas, the most efficient method for AT&T to  
18 interconnect to the ILEC network for AT&T’s traffic would be by  
19 establishing a POI at the ILEC tandem switch. It would be highly inefficient  
20 (and therefore would make market entry more difficult and costly) for AT&T  
21 to establish trunk groups by leasing them from an ILEC or to build network  
22 by constructing and installing our own facilities where the volume of AT&T  
23 traffic does not justify such leasing or construction of facilities. AT&T



1           should be permitted to determine the most cost efficient method of  
2           interconnection for itself, regardless of the volumes of traffic that an ILEC  
3           may have with or between certain local calling areas.

4

5           **ISSUE 14(b): FOR EACH RESPONSIBILITY IDENTIFIED IN PART**  
6           **(a), WHAT FORM OF COMPENSATION, IF ANY, SHOULD APPLY?**

7

8   **Q.   WHAT WOULD BE THE CONSEQUENCES OF REQUIRING AT&T**  
9           **TO INTERCONNECT WITHIN EACH ILEC LOCAL CALLING**  
10          **AREA?**

11   A.   Such a requirement would have three adverse affects on Florida consumers.  
12          First, consumers would lose the benefits of the efficient network architectures  
13          deployed by AT&T and other ALECs, producing higher network costs.  
14          Second, it would shift to ALEC consumers the transport costs that ILECs are  
15          required to lawfully bear under the Act. The interconnection arrangement  
16          proposed by the ILECs would be extremely unfair to ALEC consumers,  
17          substantially more favorable to ILECs and would suppress investment in  
18          competitive facilities. The higher costs that ALEC consumers would be  
19          forced to bear under the ILEC proposal would make those Florida markets  
20          that would have been marginally profitable under AT&T's proposal,

1           uneconomic to serve, and would discourage market entry in those areas not  
2           yet served.<sup>5</sup>

3  
4   **Q.    SHOULD THE COMMISSION ORDER TERMINATING CARRIERS**  
5           **TO PAY ANY FORM OF COMPENSATION TO ORIGINATING**  
6           **CARRIERS FOR TRANSPORTING THE ORIGINATING**  
7           **CARRIER'S TRAFFIC TO THE TERMINATING CARRIER?**

8   A.    Absolutely not. Not only would such cost shifting be unlawful, but such a  
9           compensation scheme would be harmful to competition in Florida. AT&T  
10          has proposed, and my testimony explains, that the Commission's decision  
11          should be neutral with regard to network architecture (i.e., each party should  
12          have the same relative obligations when it is in the role of originating carrier)  
13          and should require each party to bear the costs to transport and terminate its  
14          own traffic.

15  
16   **Q.    WHAT COSTS ARE INCURRED TO ORIGINATE, TRANSPORT**  
17           **AND TERMINATE TRAFFIC AS YOU DESCRIBE IN YOUR**  
18           **TESTIMONY?**

19   A.    My Exhibit GRF-3 depicts the costs that an ILEC incurred to complete a call  
20          prior to the Act. Exhibit GRF-4 to my testimony depicts the costs that an

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<sup>5</sup> Additionally, the ILEC proposal ultimately allows ILECs to continue to determine the local calling areas for Florida's consumers by forcing ALECs to mimic whatever local calling areas currently are in place.

1       originating carrier is expected to incur to compete a call between competing  
2       LECs under the Act. Exhibit GRF-4 also depicts AT&T's proposed  
3       interconnection and compensation arrangement. Please note that AT&T's  
4       proposal allocates costs between the parties in the exact same manner  
5       whether the originating carrier is an ALEC or an ILEC. Likewise, the  
6       proposal is equally applicable whether the terminating carrier is an ALEC or  
7       an ILEC. In either case, the originating carrier bears the cost to originate and  
8       transport its traffic to the terminating carrier, and pays reciprocal  
9       compensation to the terminating carrier.

10      Exhibit GRF-5 depicts the ILEC compensation proposal. If you compare  
11      how the transport costs are allocated to each party in this diagram, it is clear  
12      that the ILEC proposal is not reciprocal and that the ILEC has shifted a large  
13      portion of its interconnection costs to the ALEC. Exhibit GRF-5 shows that  
14      AT&T would not only bear all of the costs to deliver its traffic to the ILEC  
15      network when AT&T is the originating carrier, but that AT&T also would  
16      bear all of the costs to carry the ILEC 's traffic to the AT&T network when  
17      the ILEC is the originating carrier.

18  
19      **Q.   WHY IS THE ILEC COST-SHIFTING PROPOSAL UNFAIR TO**  
20      **ALECS AND THEIR CUSTOMERS?**

21      A.   Under the ILEC proposal, ALECs and ILECs would have substantially  
22      inequitable obligations to provide interconnection facilities. AT&T would be  
23      financially responsible for the delivery of its own traffic to each ILEC end

1 office, but the ILEC would only deliver its traffic to AT&T within the ILEC's  
2 own local calling areas. This situation is unfair to ALECs and their  
3 customers, because the parties do not have reciprocal interconnection  
4 obligations, even if the ILEC and AT&T networks cover geographically  
5 comparable areas and have symmetrical compensation rates.

6

7 **Q. WHY SHOULD THE COMMISSION ASSIGN RESPONSIBILITY**  
8 **FOR COSTS ON AN EQUIVALENT BASIS?**

9 A. First of all, as I discuss below, the law requires it. If an ALEC has only a  
10 small network and only offers service over a small geographic area or only to  
11 an exclusive group of customers, then that ALEC's network would not be  
12 comparable to the ILEC's network. But AT&T has made substantial network  
13 investments in Florida and AT&T offers its local exchange services without  
14 regard to location. Therefore, the Commission should require that the ILEC  
15 and AT&T networks be interconnected on an equivalent basis, such that each  
16 party bears the cost to originate, transport, and terminate its own customers'  
17 calls.

18 The ILEC compensation proposal ignores the legitimacy of ALECs' network  
19 architecture, and would require compensation solely on the basis of *the*  
20 *ILEC's* network architecture. In other words, the ILECs are asking the  
21 Commission to ascribe an arbitrary preferred status upon the ILEC's network,  
22 such that all ALECs must either mirror that architecture or make payment for  
23 not doing so. While the ILECs may believe that their networks are entitled to

1           this arbitrary status because they pre-existed local telephone competition or  
2           because it was built based on a traditional hierarchical network architecture.  
3           The Commission should not be led into making such a decision.

4

5   **Q.    SHOULD THE ILEC LOCAL CALLING AREA BE THE BASIS FOR**  
6   **INTERCONNECTING THE TWO PARTIES NETWORKS?**

7   A.   No.   The ILEC's local calling areas should not be the basis of network  
8       interconnection. The ILECs' original local calling areas were established for  
9       the purpose of setting rates solely for the ILECs' customers. The ILECs'  
10      local calling areas bear no relationship to the capacity of switches and other  
11      facilities deployed by ALECs or ILECs. Moreover, there is no such thing  
12      anymore as "a" local calling area. For some time the ILECs have offered  
13      EAS plans and now even offer LATA-wide local calling areas. These various  
14      calling plan options dispel any suggestion that there is any real significance to  
15      the geographic scope of any given local calling area. Moreover, the ILECs'  
16      local calling areas may be subject to substantial changes as the ILEC and its  
17      competitors seek competitive advantages for their respective local service  
18      offerings. More fundamentally, interconnection based solely on the ILECs'  
19      local calling areas does not foster competition and does not benefit  
20      consumers. To interconnect based on the ILECs' local calling areas would  
21      completely disregard the legitimacy of a competitor's local calling areas,  
22      would discourage competitors from expanding local calling areas for the  
23      benefit of customers and competition, and certainly would not be reciprocal.

1       Moreover, using the ILECs' local calling areas as the basis of network  
2       interconnection substantially compromises the network efficiencies of the  
3       alternative network architectures deployed by AT&T, forcing AT&T into an  
4       inefficient ILEC look-a-like interconnection arrangement, and forcing its  
5       customers to bear the burden of those inefficiencies.

6

7       **Q.    IS AT&T IMPROPERLY ATTEMPTING TO SHIFT FACILITY**  
8       **COSTS FROM AT&T TO THE ILEC FOR AT&T'S CUSTOMERS'**  
9       **TRAFFIC THAT TERMINATES ON THE ILEC'S NETWORK?**

10      A.   No. AT&T believes that it is responsible for the costs to originate, transport  
11       and terminate its own traffic. Accordingly, AT&T proposes that it provide  
12       (by either leasing or building) all of the facilities for its originating traffic  
13       between the AT&T switch and the POI selected by AT&T, and that AT&T  
14       compensate the ILEC – through reciprocal compensation - for any transport  
15       and switching functions provided by the ILEC for the completion of AT&T's  
16       traffic. Regardless of any claims by the ILECs to the contrary, AT&T agrees  
17       to bear the full financial costs of its traffic.

18       Contrary to AT&T's fair, reciprocal and lawful position, the ILECs are trying  
19       to shift their interconnection facility costs to AT&T. The ILECs retain the  
20       vast majority of end users and the revenue these customers produce, yet the  
21       ILECs seek to avoid compensating AT&T for AT&T's costs in terminating  
22       traffic from the ILECs' end-users. This provides the ILECs with an unlawful

1 competitive advantage. Accordingly, the Commission should reject the  
2 ILECs' proposal and adopt the AT&T proposal.

3

4 **Q. BUT DOESN'T THE ILEC PROPOSAL REFLECT THE**  
5 **ADDITIONAL COSTS THAT THE ILECS MUST INCUR TO**  
6 **PROVIDE FACILITIES FROM ITS LOCAL CALLING AREA TO**  
7 **THE AT&T SWITCH?**

8 A. No. The ILEC proposal is nothing more than an anti-competitive proposal to  
9 unilaterally designate interconnection points for ILEC-originated traffic. If  
10 the ILEC designates interconnection points at end offices some distance from  
11 the AT&T point of presence, the inter-carrier compensation will not be  
12 symmetrical. Indeed, the ILECs' proposal confirms the FCC's conclusion  
13 that:

14 Because an incumbent LEC currently serves virtually  
15 all subscribers in its local serving area, an incumbent  
16 LEC has little economic incentive to assist new  
17 entrants in their efforts to secure a greater share of that  
18 market. An incumbent LEC also has the ability to act  
19 on its incentive to discourage entry and robust  
20 competition by not interconnecting its network with  
21 the new entrant's network or by insisting on  
22 supracompetitive prices or other unreasonable

1 conditions for terminating calls from the entrant's  
 2 customers to the incumbent LEC's subscribers.<sup>6</sup>

3

4 **Q. IF AT&T CHOOSES TO PLACE ONE SWITCH PER LATA,**  
 5 **SHOULDN'T THE ILEC BE ALLOWED TO PLACE ITS**  
 6 **INTERCONNECTION POINT AT ITS DESIRED LOCATION?**

7 A. No. The Act and FCC orders clearly allow ALECs to interconnect at any  
 8 technically feasible point. The single switch presence per LATA allows new  
 9 entrants to grow their business economically without having to duplicate the  
 10 ILECs' existing network. If Congress had wanted the ILECs to have the  
 11 ability to designate interconnection points and ALECs to bear the same duty  
 12 in establishing interconnection points that the ILEC has, it would have  
 13 specifically stated that outcome, rather than separating out the  
 14 interconnection obligations to apply only to incumbent LECs under Section  
 15 251(c)(2).

16

17 **Q. HAS THE FCC PROVIDED ANY GUIDANCE ON THIS ISSUE?**

18 A. Yes. This issue has two sub-parts. First, should the ILEC have the right to  
 19 designate the point on its network within its own local calling area where it  
 20 will deliver its local and intraLATA traffic to AT&T? Second, how should

---

<sup>6</sup> First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Red. 1J499 (1996) at ¶ 10 (footnote omitted), hereinafter "FCC Local Competition Order".



1 the costs of Interconnection Facilities be allocated between the parties? The  
2 FCC has spoken on both of these issues, as discussed below.

3  
4 **Q. DO EXISTING FCC RULES ALLOW THE ILEC TO DESIGNATE**  
5 **THE POINT ON ITS NETWORK WHERE AT&T MUST ACCEPT**  
6 **THE ILEC'S TRAFFIC?**

7 A. No. FCC regulations do not allow the ILEC or any ILEC the right to  
8 designate the point at which the other party must "pick up" the ILEC's traffic.  
9 To the contrary, Rule 51.305(a)(2) obligates the ILEC to allow  
10 interconnection by an ALEC at any technically feasible point. In its Local  
11 Competition Order, the FCC explained:

12 The interconnection obligation of section 251(c)(2),  
13 discussed in this section, allows competing carriers to  
14 choose the most efficient points at which to exchange  
15 traffic with incumbent LECs, thereby lowering the  
16 competing carriers' costs of, among other things, transport  
17 and termination of traffic.<sup>7</sup>

18

19 The FCC identified the Act as the source of these differing obligations:

20 Section 251(c)(2) does not impose on non-incumbent LECs  
21 the duty to provide interconnection. The obligations of

---

<sup>7</sup> FCC Local Competition Order at ¶ 172 (emphasis added).

1 LECs that are not incumbent LECs are generally governed  
 2 by sections 251(a) and (b), not section 251(c). Also, the  
 3 statute itself imposes different obligations on incumbent  
 4 LECs and other LECs (i.e., section 251(b) imposes  
 5 obligations on all LECs while section 251(c) obligations  
 6 are imposed only on incumbent LECs).<sup>8</sup>

7

8 **Q. DOES THE FACT THAT THERE IS NO PROHIBITION AGAINST**  
 9 **ILECS DETERMINING TECHNICALLY FEASIBLE**  
 10 **INTERCONNECTION POINTS GIVE THEM THE RIGHT TO DO**  
 11 **SO?**

12 A. No. As noted above, the interconnection obligations of LECs and ILECs are  
 13 specifically identified in the Act. The ILEC may not assume authority that is  
 14 not provided for in the Act. The ILECs have claimed in other proceedings  
 15 that they should be permitted to designate the point where AT&T must pick  
 16 up ILEC traffic so that the ILEC may avoid the transport costs at issue.  
 17 However, the FCC's statement is clear: the ALEC alone has the right to  
 18 designate the point at which traffic is exchanged, "thereby lowering the  
 19 competing carriers' costs." The FCC reiterated its reasoning in connection

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<sup>8</sup> Id. at ¶ 220.

1 with an interconnection dispute in Oregon, where the FCC intervened and  
 2 urged the court to reject US West's argument that the Act requires competing  
 3 carriers to interconnect in the same local exchange in which it provides local  
 4 service. The FCC explained:

5 Nothing in the 1996 Act or binding FCC regulations  
 6 require a new entrant to interconnect at multiple locations  
 7 within a single LATA. Indeed, such a requirement could-  
 8 be so costly to new entrants that it would thwart the Act's  
 9 fundamental goal a opening of opening local markets to  
 10 competition.<sup>9</sup>

11  
 12 More recently, in its order on SBC's 271 application for Texas, the FCC  
 13 made clear its view that under the Telecommunication Act, ALECs have the  
 14 legal right to designate the most efficient point at which to exchange traffic.

15 As the FCC explained:

16 New entrants may select the most efficient points at which  
 17 to exchange traffic with incumbent LECs, thereby lowering  
 18 the competing carriers' cost of, among other things,  
 19 transport and termination.<sup>10</sup>

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<sup>9</sup> Memorandum of the FCC as Amicus Curiae at 20-21, *US West Communications Inc. v. AT&T Communications of the Pacific Northwest, Inc.*, (D. Or. 1998) (No. CV 97-1575- JE) (emphasis added).

<sup>10</sup> Memorandum Report and Order, *Application of SBC Communications Inc., Southwestern Bell Telephone Company and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell*

1           The FCC was very specific:

2                   Section 251, and our implementing rules, require an  
3                   incumbent LEC to allow a competitive LEC to interconnect  
4                   at any technically feasible point. This means that a  
5                   competitive LEC has the option to interconnect at only one  
6                   technically feasible point in each LATA.

7

8   **Q.   WHAT HAS THE FCC PROVIDED ON HOW COSTS OF**  
9       **INTERCONNECTION FACILITIES SHOULD BE ALLOCATED**  
10      **BETWEEN THE PARTIES?**

11   A.   47 C.F.R. § 51.703(b) very clearly provides: “A LEC may not assess charges  
12           on any other telecommunications carrier for local telecommunications traffic  
13           that originates on the LEC’s network.”

14       Further, 47 C.F.R. § 51.709(b) reads:

15                   The rate of a carrier providing transmission facilities  
16                   dedicated to the transmission of traffic between two  
17                   carriers’ networks shall recover only the costs of the  
18                   proportion of that trunk capacity used by an  
19                   interconnecting carrier to send traffic that will terminate  
20                   on the providing carrier’s network.

21

1 In its Local Competition Order, the FCC explained:

2 The amount an interconnecting carrier pays for dedicated  
3 transport is to be proportional to its relative use of the  
4 dedicated facility. For example, if the providing carrier  
5 provides one-way trunks that the inter-connecting carrier  
6 uses exclusively for sending terminating traffic to the  
7 providing carrier, then the inter-connecting carrier is to pay  
8 the providing carrier a rate that recovers the full forward-  
9 looking economic cost of those trunks. The inter-  
10 connecting carrier, however, should not be required to pay  
11 the providing carrier for one-way trunks in the opposite  
12 direction, which the providing carrier owns and uses to  
13 send its own traffic to the inter-connecting carrier.<sup>11</sup>

14  
15 A simple hypothetical example should make the application of this rule clear.

16 When there is a sufficient volume of traffic between an AT&T switch and a  
17 certain ILEC end office, AT&T will elect to establish one-way trunks  
18 between the two switches to deliver AT&T's originating traffic.

19 The least costly method for AT&T to obtain the transport needed for such  
20 trunks may be to lease the capacity from the ILEC as dedicated transport.

21 The ILEC would also need to establish one-way trunks between the same two

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*InterLATA Services in Texas*, CC Docket No. 00-65 at ¶ 78 (June 30, 2000).

1 switches for its originating traffic. The ILEC almost certainly will establish  
2 such trunks on its own facilities. What we end up with is a single ILEC  
3 facility system between the AT&T and the ILEC switches that is used to  
4 carry both AT&T's one-way trunks and the ILEC's one-way trunks.

5 The FCC is saying in C.F.R. 51.709(b) that the ILEC may recover only the  
6 cost of the proportion of that trunk capacity used by AT&T between the two  
7 switches to send traffic that will terminate on the ILEC's network. AT&T  
8 agrees that it will pay for the transport for its one-way trunks.

9 However, contrary to 47 C.F.R. 51.709(b), the ILECs' proposal is to recover  
10 the costs of *both* AT&T's portion *and* the costs of the proportion of that trunk  
11 capacity used by the ILEC to send traffic that will terminate on AT&T's  
12 network. This will be especially onerous to AT&T when the volume of  
13 traffic originated on the ILEC's network far exceeds the volume of traffic that  
14 is originated on AT&T's network.

15 The situation is identical when AT&T elects to route traffic via an ILEC  
16 tandem switch rather than via direct end office trunks. Again, AT&T agrees  
17 to pay the ILEC for the one-way trunk capacity needed to transport AT&T's  
18 traffic between the AT&T switch and the ILEC tandem; however, AT&T  
19 should not be required to pay the ILEC for one-way trunks in the opposite  
20 direction, which the ILEC owns and uses to send its traffic to AT&T.

21

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<sup>11</sup> FCC Local Competition Order at ¶ 1062 (emphasis added).

1     **Q.     HAS THE FCC ISSUED ANY DECISIONS ON THIS ISSUE?**

2     A.     Yes. In *In re TSR Wireless, LLC, et. al., v. U.S. West*, file Nos. E-98-13, et.  
3           al., FCC 00-194 (June 21, 2000) (appeal pending), several paging carriers  
4           alleged that US West and other ILECs had improperly imposed charges for  
5           facilities used to deliver LEC-originated traffic. The paging carriers based  
6           their complaint on 47 C.F.R. § 51.703(b) and sought an order from the FCC  
7           prohibiting the ILECs from charging for dedicated and shared transmission  
8           facilities used to deliver LEC-originated traffic.

9           The FCC agreed with the paging carriers. The FCC found that: (1) paging  
10          carriers provide telecommunications and are thus included within the scope  
11          of the rules governing reciprocal compensation (47 C.F.R. § 701(e)) and (2)  
12          paging carriers “switch” and “terminate” traffic within the meaning of those  
13          rules. Therefore, the FCC determined that “any LEC efforts to continue  
14          charging CMRS or other carriers for delivery of such [LEC-originated] traffic  
15          would be unjust and unreasonable.” Accordingly, the FCC concluded in the  
16          TSR Wireless Order that the ILECs “may not impose upon Complainants  
17          charges for the facilities used to deliver LEC-originated traffic to  
18          Complainants.”

19          Additionally, the FCC just reiterated its position that ILECs are responsible  
20          for delivering their traffic in its recent Order granting interLATA relief to  
21          SBC in Oklahoma. In that order, the FCC states:

22                 Technically Feasible Points of Interconnection

1           232. We conclude that SWBT provides interconnection at all  
 2           technically feasible points, including a single point of interconnection,  
 3           and therefore demonstrates compliance with the checklist item.  
 4           SWBT asserts that it makes each of its standard methods of  
 5           interconnection available at the line side or trunk side of the local  
 6           switch, the trunk connection points of a tandem switch, central office  
 7           cross-connect points, out-of-band signaling transfer points, and points  
 8           of access to UNEs.<sup>12</sup> SWBT demonstrates that it has state-approved  
 9           interconnection agreements that spell out readily available points of  
 10          interconnection, and provide a process for requesting interconnection  
 11          at additional, technically feasible points.<sup>13</sup> SWBT further shows that,  
 12          for purposes of interconnection to exchange local traffic, a  
 13          competitive LEC may choose a single, technically feasible point of  
 14          interconnection within a LATA.<sup>14</sup>

15          233. Some commenters argue that SWBT effectively denies a  
 16          competing carrier the right to select a single point of interconnection  
 17          by improperly shifting to competing carriers inflated transport and

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<sup>12</sup> SWBT Application at 76; SWBT Deere Aff. at paras. 15; 21-22. SWBT will provide other technically feasible alternatives using the Special Request Procedure set forth in the K2A and O2A. *Id.* at 15; 84-88.

<sup>13</sup> SWBT Application at 76. SWBT's state-approved K2A and O2A require SWBT to provide other collocation arrangements that have been demonstrated to be technically feasible and in compliance with the *Advanced Services Order*.

<sup>14</sup> In compliance with our *SWBT Texas Order*, SWBT modified the language of its K2A and O2A to allow a carrier to choose a single point of interconnection in a LATA. *See SWBT Texas Order*, 15 FCC Rcd 18390, para. 78; *see also* SWBT Application at 76; SWBT Deere Aff. at para. 5, 14, 66.



1 switching costs associated with such an arrangement.<sup>15</sup> For example,  
 2 AT&T avers that, in a technical conference in Oklahoma after the  
 3 adoption of the O2A, SWBT advanced several compensation  
 4 arrangements relating to a competing carrier's choice of  
 5 interconnection and collocation which require AT&T to pay inflated  
 6 transport costs upon exercising its right to a single point of  
 7 interconnection.<sup>16</sup> SWBT responds that AT&T largely  
 8 misunderstands the positions it advanced at the technical conference,  
 9 and that AT&T's claims are best addressed at the state level through  
 10 the negotiation and arbitration process.<sup>17</sup> SWBT further argues that  
 11 the Commission previously determined that carriers seeking a single  
 12 point of interconnection should bear any additional cost associated  
 13 with taking traffic to and from the point of interconnection in the  
 14 other exchange.<sup>18</sup>

15 234. Because these commenters, including AT&T, take issue only  
 16 with positions advanced by SWBT in a technical conference, we find  
 17 that the issues raised are hypothetical ones, and therefore do not

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<sup>15</sup> AT&T Comments at 24; *see also* Cox Comments at 10; WorldCom Reply at 38.

<sup>16</sup> *See* AT&T Comments, Attachment 2 at 14-20.

<sup>17</sup> *See* SWBT Reply at 77-87.

<sup>18</sup> *Id.* at 86. SWBT relies on the following language from its Texas interconnection agreement with WorldCom: "MCI(WorldCom) and SWBT agree that MCI(WorldCom) may designate, at its option, a minimum of one point of interconnection within a single SWBT exchange where SWBT facilities are available, or multiple points of interconnection within the exchange, for the exchange of all traffic within that exchange. If WorldCom desires a single point for interconnection within a LATA, SWBT agrees to provide dedicated or common transport to any other exchange within a LATA requested by

1 warrant a finding of non-compliance with checklist item 1. Although  
 2 SWBT's interpretation of the state-approved interconnection  
 3 agreement raises potential future compliance issues regarding the  
 4 interplay between a single point of interconnection and reciprocal  
 5 compensation, our review must be limited to present issues of  
 6 compliance.<sup>19</sup> Indeed, we understand that AT&T has filed for  
 7 arbitration of these issues in Oklahoma.<sup>20</sup> To the extent that the  
 8 parties believe that this is a matter requiring more explicit rules, we  
 9 invite them to file a petition for declaratory ruling or petition for  
 10 rulemaking with the Commission.

11 235. Finally, we caution SWBT from taking what appears to be an  
 12 expansive and out of context interpretation of findings we made in our  
 13 *SWBT Texas Order* concerning its obligation to deliver traffic to a  
 14 competitive LEC's point of interconnection.<sup>21</sup> In our *SWBT Texas*  
 15 *Order*, we cited to SWBT's interconnection agreement with MCI-  
 16 WorldCom to support the proposition that SWBT provided carriers

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WorldCom, or WorldCom may self-provision, or use a third party's facilities." See *SWBT Texas Order*, 15 FCC Rcd 18390, para. 78 n. 174.

<sup>19</sup> *SWBT Texas Order*, 15 FCC Rcd 18367, para. 27.

<sup>20</sup> See Oklahoma Commission Reply at 16. We also note that in its Reply, SWBT makes certain concessions regarding future interpretation of certain language in the O2A and K2A that is at issue. For example, in response to AT&T's argument that SWBT requires a CLEC collocated in a SWBT end office to interconnect there by provisioning direct trunks, AT&T Comments at 28, SWBT concedes that the proper reading of the O2A and K2A is that direct trunking from the CLEC's collocation facility is an option, not a requirement. See SWBT Reply at 81.

<sup>21</sup> See SWBT Reply at 86-87.

1 the option of a single point of interconnection.<sup>22</sup> We did not, however,  
 2 consider the issue of how that choice of interconnection would affect  
 3 inter-carrier compensation arrangements. Nor did our decision to  
 4 allow a single point of interconnection change an incumbent LEC's  
 5 reciprocal compensation obligations under our current rules.<sup>23</sup> For  
 6 example, these rules preclude an incumbent LEC from charging  
 7 carriers for local traffic that originates on the incumbent LEC's  
 8 network.<sup>24</sup> These rules also require that an incumbent LEC  
 9 compensate the other carrier for transport<sup>25</sup> and termination<sup>26</sup> for local  
 10 traffic that originates on the network facilities of such other carrier.<sup>27</sup>

11

12 **Q. WHY SHOULD THE COMMISSION ADOPT AT&T'S SOLUTION?**

13 A. AT&T's network interconnection solution will benefit AT&T, the ILECs and  
 14 Florida consumers in the following ways:

15 **1. AT&T's solution is fair to both parties.**

16 First, both parties would establish equivalent interconnection between the  
 17 respective networks. Neither party would gain a substantial advantage over  
 18 the other, as the ILECs propose. Second, both parties would provide

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<sup>22</sup> See *SWBT Texas Order*, 15 FCC Rcd 18390, para. 78 n. 174.

<sup>23</sup> See 47 C.F.R. §§ 51.701 *et seq.*

<sup>24</sup> 47 C.F.R. § 51.703(b); see also *TSR Wireless, LLC et al. v. U.S. West*, File Nos. E-98-13, E-98-15, E-98-16, E-98-17, E-98-18, FCC No. 00-194 (rel. June 21, 2000), *pet. for review docketed sub nom.*, *Qwest v. FCC*, No. 00-1376 (D.C. Cir. Aug. 17, 2000).

<sup>25</sup> 47 C.F.R. § 51.701(c).

<sup>26</sup> 47 C.F.R. § 51.701(d).

1 interconnection facilities in proportion to the interconnection traffic that it  
2 delivers to the other party. Considering the geographic parity of both parties'  
3 networks, it would clearly be unfair to AT&T to adopt the practice of  
4 disproportional, unequal interconnection.

5 **2. AT&T's solution promotes competition.**

6 AT&T's proposal allows competing callers to use alternative network  
7 architecture without any penalty. Additionally AT&T's proposal does not  
8 require ALECs to duplicate the network already established by the ILEC.  
9 Less costly and more efficient solutions are promoted, not discouraged.

10 **3. AT&T's solution provides flexibility to the parties.**

11 Each party would have a variety of methods that it may employ to deliver its  
12 traffic to the other party's terminating switch. Parties can lease facilities from  
13 one another, they can lease facilities from third parties, implement a mid-span  
14 meet, or they can deliver their traffic using AT&T's facilities. Under  
15 AT&T's proposal, even though not obligated to do so, AT&T is even willing  
16 to offer the ILEC space, power, and site services in its switching centers,  
17 compensated appropriately, so that the ILEC may use its own facilities to  
18 deliver its interconnection traffic to such AT&T locations. In this way, each  
19 party may determine for itself the most efficient method of interconnection  
20 under the terms of the Agreement.

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<sup>27</sup> 47 C.F.R. § 51.701(e).

1           **4.     AT&T's solution allows AT&T to use scarce collocation space for**  
2           **interconnection to UNEs.**

3           The ILEC's proposed interconnection arrangement jeopardizes AT&T's local  
4           market entry plans, because it allows the ILEC to "hand-off" its traffic at an  
5           ILEC location that may have limited or no additional collocation space.

6           AT&T has found that the smaller AT&T collocation arrangements in certain  
7           ILEC end offices are being prematurely exhausted by the transport of the  
8           ILEC's interconnection traffic through such collocation space. AT&T  
9           requires collocation space within an ILEC end offices so that AT&T may  
10          interconnect to an ILEC's UNEs in order to fulfill its market entry plans.

11          Because of this dual need for collocation space, the ILEC's proposal forces  
12          AT&T to choose between essential uses of scarce collocation space; where  
13          there is an equal priority on using collocation space for network  
14          interconnection and UNE combination. The result of the ILECs' proposal is  
15          that in many areas AT&T's local market entry may be delayed or thwarted.

16          AT&T's solution provides for a joint transition plan that would require that  
17          the ILECs' interconnection traffic to be transitioned from any existing POI in  
18          jeopardized AT&T collocation space to a new POI. The Commission should  
19          adopt AT&T's network interconnection solution, because, otherwise,  
20          consumers served by an ILEC end office for which AT&T's collocation  
21          space is exhausted would not enjoy the same level of local exchange  
22          competition as customers in unaffected areas.

1           **5.       AT&T's solution is consistent with law and regulation.**

2           The FCC has made clear that ILECs do not have the right to determine where  
3           ALECS must interconnect to pick up ILEC traffic. ALECs can interconnect  
4           at any technically feasible point, and can select a point that is most efficient  
5           to lower costs. AT&T's proposal clearly meets these requirements.

6

7   **Q.       DOES THAT CONCLUDE YOUR TESTIMONY?**

8   **A.       Yes.**

1    **Q.    PLEASE STATE YOUR NAME, ADDRESS AND EMPLOYMENT.**

2    A.    My name is Richard Guepe, and my business address is 1200 Peachtree Street,  
3           N.E., Atlanta, Georgia 30309. I am employed by AT&T as a District Manager in  
4           the Law & Government Affairs organization.

5

6    **Q.    DID YOU PREFILE DIRECT TESTIMONY ON MARCH 12, 2001, IN**  
7           **THIS PROCEEDING?**

8    A.    No. However, I am adopting the testimony of Mr. Follensbee.

9

10   **Q.    WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

11   A.    I will be rebutting the testimony of Mr. Ruscilli addressing Issue 14.

12

13   **ISSUE 14:    (A)    WHAT ARE THE RESPONSIBILITIES OF AN**  
14                   **ORIGINATING LOCAL CARRIER TO TRANSPORT ITS**  
15                   **TRAFFIC TO ANOTHER LOCAL CARRIER?**  
16                   **(B)    FOR EACH RESPONSIBILITY IDENTIFIED IN PART (A),**  
17                   **WHAT FORM OF COMPENSATION, IF ANY, SHOULD**  
18                   **APPLY?**

19

20   **Q.    WHAT DO YOU UNDERSTAND BELLSOUTH'S PROPOSAL TO BE?**

21   A.    First, that AT&T and other ALECs should be financially responsible for all of the  
22           costs of transporting their originating traffic. Second, that ALECs also should be  
23           financially responsible for transporting some of BellSouth's originating traffic  
24           from some unspecified point in BellSouth's basic local calling areas to the  
25           ALEC's switch.

1

2 **Q. HOW DOES AT&T'S PROPOSAL DIFFER FROM BELL SOUTH'S**  
3 **PROPOSAL?**

4 A. AT&T agrees that AT&T should be financially responsible for transporting its  
5 own originating traffic. This is consistent with applicable law and regulations.  
6 However, BellSouth should bear a reciprocal financial obligation for the transport  
7 of its originating traffic, and BellSouth should not be allowed to arbitrarily shift  
8 the cost of such transport to AT&T and other ALECs. Thus, under AT&T's  
9 proposal, for BellSouth's originating traffic, BellSouth would provide the  
10 transport facilities between its switches and an ALEC's interconnection point, and  
11 BellSouth would pay that ALEC a fixed, per-minute reciprocal compensation rate  
12 for the transport between the interconnection point and the ALEC's end office.

13

14 **Q. UNDER AT&T'S PROPOSAL WHAT WOULD BELL SOUTH HAVE TO**  
15 **DO?**

16 A. First, BellSouth would provide the transport facilities from the BellSouth switch  
17 from which the call originates to the same relative point on an ALEC's network to  
18 which the ALEC delivers its originating traffic on the BellSouth network.  
19 Second, BellSouth would pay the ALEC the identical fixed, per-minute reciprocal  
20 compensation rate for the transport that the ALEC provides for the termination of  
21 BellSouth traffic from the ALEC's interconnection point across the ALEC's  
22 network.

23



1   **Q.    WHY DOES AT&T BELIEVE THIS IS FAIR?**

2   A.    AT&T's network covers a geographic area comparable to that covered by  
3       BellSouth's network. Given this geographic comparability, it is only fair that  
4       each party have comparable and equivalent interconnection. The Commission  
5       should not give BellSouth's network preferential treatment simply because it pre-  
6       existed local telephone competition or is based on a traditional hierarchical  
7       network architecture. Conversely, the Commission should not punish AT&T  
8       because it has chosen a different network design than that used by BellSouth. The  
9       real test for equivalency should be geographic comparability that provides the two  
10      parties the means to effectively compete. AT&T's proposal meets this test.

11  
12   **Q.    SHOULD THE BELL SOUTH BASIC LOCAL CALLING AREAS BE THE**  
13   **BASIS OF NETWORK INTERCONNECTION?**

14   A.    No. BellSouth asserts that ALECs should be required to pay for transport of  
15       BellSouth's own local calls beyond the BellSouth basic local calling areas.  
16       Contrary to these assertions, basic local calling areas should not form the basis of  
17       network interconnection. First, basic local calling areas may be subject to  
18       substantial changes as BellSouth and ALECs seek competitive advantages to their  
19       respective local service offerings. A case in point is BellSouth's Area Plus calling  
20       plan, which allows its customers to make local calls throughout a LATA on a flat-  
21       rate basis. Second, to be fair, interconnection should not be done solely on the  
22       basis of BellSouth's existing basic local calling areas. Basic local calling areas  
23       bear no relationship to the geographic scope or capability of telecommunications

1 equipment, such as switches. To base interconnection on BellSouth's basic local  
2 calling areas would completely disregard the legitimacy of an ALEC's local  
3 calling area, would discourage ALECs from expanding local calling areas for the  
4 benefit of customers and competition, and certainly would not be reciprocal or  
5 fair. Third, using BellSouth's basic local calling areas as the basis of network  
6 interconnection substantially compromises the network efficiencies of the  
7 alternative network architectures deployed by AT&T and other ALECs in Florida,  
8 forcing each ALEC into a BellSouth-look-a-like interconnection arrangement.  
9 Lastly, AT&T and BellSouth have agreed that most of the traffic within each  
10 LATA will be classified as local for purposes of compensating each other for  
11 completing the other party's calls. Thus, the local calling area for purposes of  
12 reciprocal compensation is now LATA wide.

13  
14 **Q. HOW DO YOU RESPOND TO MR. RUSCILLI'S CLAIM THAT UNDER**  
15 **FCC RULES AT&T IS OBLIGATED TO PAY THE COSTS OF**  
16 **INTERCONNECTION?**

17 A. FCC rules make clear that "one LEC may not assess charges on any other  
18 telecommunications carrier for local telecommunications traffic that originates on  
19 that LEC's network."<sup>1</sup> This is exactly what BellSouth is proposing. In its role as  
20 originating carrier, AT&T agrees to fully compensate BellSouth for transport that  
21 it provides to AT&T to complete AT&T's traffic, but does not propose to have  
22 BellSouth bear financial responsibility for any of the cost that AT&T incurs to

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<sup>1</sup> 47 CFR §51.703(b).

1 bring AT&T originated traffic to BellSouth's network for completion by  
2 BellSouth. BellSouth should be required to do the same.

3  
4 **Q. HAS THE FCC DISCUSSED THE CONCEPT OF EQUIVALENT POINTS**  
5 **OF INTERCONNECTION?**

6 A. Yes, in its order on SBC's 271 application for Texas, the FCC made clear its view  
7 that under the Telecommunication Act, ALECs have the legal right to designate  
8 the most efficient point at which to exchange traffic. As the FCC explained,  
9 "New entrants may select the most efficient points at which to exchange traffic  
10 with incumbent LECs, thereby lowering the competing carriers' cost of, among  
11 other things, transport and termination."<sup>2</sup>

12 Most recently, the FCC addressed this very issue in its order in *Memorandum and*  
13 *Order*, FCC 01-29, Joint Application by SBC Communications Inc.,  
14 Southwestern Bell Telephone Company, and Southwestern Bell Communications  
15 Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-region,  
16 interLATA Services in Kansas and Oklahoma, CC Docket No. 00-217 (January  
17 22, 2001)("SBC Kansas & Oklahoma Order"). The *SBC Kansas and Oklahoma*  
18 *Order* relies upon and discusses the very same legal authority I address in my  
19 testimony, and reaches the same conclusions. In short, the *SBC Kansas and*  
20 *Oklahoma Order* provides specific direction to the Commission that the BellSouth  
21 proposal is illegal under FCC rules and regulations.

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<sup>2</sup> Memorandum Report and Order, Application of SBC Communications Inc., Southwestern Bell Telephone Company and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long

1 In its *Kansas and Oklahoma Order*, the FCC addressed the issue of the incumbent  
 2 effectively denying “a competing carrier the right to select a single point of  
 3 interconnection by improperly shifting to competing carriers inflated transport  
 4 and switching costs associated with such a [single point of interconnection]  
 5 arrangement.” *Id.* at ¶ 233. The FCC was addressing the very same issue raised  
 6 by BellSouth in this proceeding.<sup>3</sup> Although the issue was one of future  
 7 compliance, the FCC nonetheless cautioned SWBT “from taking what appears to  
 8 be an expansive and out of context interpretation of findings we made in our  
 9 *SWBT Texas Order* concerning its obligation to deliver traffic to a competitive  
 10 LEC’s point of interconnection.” *Id.* ¶ 235. In particular, the FCC confirmed that  
 11 its decision allowing an ALEC to designate a single point of interconnection did  
 12 not in any way “change an incumbent LEC’s reciprocal compensation obligations  
 13 under our current rules.” *Id.* The FCC specifically referenced the very same rules  
 14 I address in my testimony (47 C.F.R. §§ 51.703(b)), which “preclude an  
 15 incumbent LEC from charging carriers for local traffic that originates on the  
 16 incumbent LEC’s network.” *Id.*

17 The *SBC Kansas & Oklahoma Order* also demonstrates the fundamental fallacy  
 18 of the BellSouth position. By requiring AT&T to pay the cost of transporting  
 19 BellSouth’s own traffic from the boundaries of its basic local calling areas to the  
 20 point of interconnection designated by AT&T, BellSouth would, *in effect*, require

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Distance, Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region InterLATA Services in Texas, CC Docket No. 00-65, ¶ 78 (June 30, 2000).

<sup>3</sup> “For example, AT&T avers that, in a technical conference in Oklahoma after the adoption of the 02A, SWBT advanced several compensation arrangements relating to a competing carrier’s choice of

1 AT&T to construct a point of interconnection in each BellSouth basic local  
2 calling area.

3 It is a hollow gesture to allow ALECs to designate a single point of  
4 interconnection and then require them to pay the difference of the cost of that  
5 single point of interconnection and the cost of multiple points of interconnection  
6 in every BellSouth basic local calling area. Thus, aside from being illegal under  
7 47 C.F.R. §§ 51.703(b), the BellSouth proposal would effectively eliminate an  
8 ALEC's right to designate a single point of interconnection, because it would  
9 force ALECs to pay BellSouth *as if* ALECs were required to establish multiple  
10 points of interconnection in all of BellSouth's basic local calling areas.

11  
12 **Q. WHAT HAVE OTHER STATE COMMISSIONS HELD REGARDING**  
13 **AT&T'S PROPOSAL?**

14 A. Other state Commissions specifically have rejected the argument BellSouth  
15 proffers here that ALECs should be required to pay the costs to receive traffic  
16 within each local calling area established by the ILEC. For example, the Kansas  
17 Commission found that TCG should be permitted to establish an interconnection  
18 point at SWBT's local and access tandems while SWBT should establish its  
19 interconnection point at TCG's switch.<sup>4</sup> Similarly, The California Commission

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interconnection and collocation which require AT&T to pay inflated transport costs upon exercising its right to a single point of interconnection." *Id.* ¶ 233.

<sup>4</sup> Arbitrator's Order No. 5: Decision, *In the Matter of the Petition of TCG Kansas City, Inc. for Compulsory Arbitration of Unresolved Issues with Southwestern Bell Telephone Company Pursuant to Section 252 of the Telecommunications Act of 1996*, pp. 4, 10 (Aug. 7, 2000). The Kansas Corporation Commission affirmed the arbitrator's decision on this issue on September 8, 2000, making a clarification as to the cost to be imposed to convert trunks. *See Order Addressing and Affirming Arbitrator's Decision* at 9.

found that AT&T was not required to interconnect at each Pacific Bell end office and set default points of interconnection at AT&T's switch and Pacific Bell's tandem switch.<sup>5</sup> Arbitrators in Michigan, Indiana, and Wisconsin also have held that each party is financially responsible for delivering its originating interconnection traffic to the terminating party's interconnection point.<sup>6</sup>

**Q. DOES BELLSOUTH'S PROPOSAL TO AGGREGATE ITS ORIGINATING TRAFFIC TO A SINGLE POINT OF ITS CHOOSING WITHIN THE BELLSOUTH LOCAL CALLING AREA NULLIFY AT&T'S CONCERNS ABOUT COLLOCATION SPACE EXHAUSTION AND HAVING TO GO TO EACH END OFFICE?**

A. No. Under BellSouth's proposal, BellSouth may unilaterally select an end office where collocation space is limited or exhausted. In such instances, AT&T would be required to interconnect at many end offices in a LATA.

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<sup>5</sup> Opinion, *Application of AT&T Communications of California, Inc. (U 5002 C), et al., for Arbitration of an Interconnection Agreement with Pacific Bell Telephone Company Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Dkt. No. 00-01-022, p. 13 (CA PUC Aug. 3, 2000).

<sup>6</sup> See Arbitration Award, *Petition for Arbitration to Establish an Interconnection Agreement Between two AT&T subsidiaries, AT&T Communications of Wisconsin, Inc. and TCG Milwaukee and Wisconsin Bell, Inc. (d/b/a Ameritech Wisconsin)*, O5-MA-120 (Oct. 12, 2000); Decision of Arbitration Panel, *AT&T Communication's of Michigan Inc., and TCG Detroit's Petition for Arbitration*, Case No. U-12465 (Oct. 18, 2000) (The Michigan Public Service Commission affirmed this portion of the Arbitration Panel's Decision by Order dated November 20, 2000); Order, *AT&T Communications of Indiana TCG Indianapolis, Petition for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with Indiana Bell Telephone Company, Incorporated d/b/a Ameritech Indiana Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Cause No. 40571-INT-03 (Nov. 20, 2000). The Oklahoma Corporation Commission, as part of its 271 deliberations, originally held that SWBT should allow CLECs to interconnect at a single technically feasible point to meet CLEC needs. However, the Commission modified its decision on this issue. See Order No. 445340, Order Nunc Pro Tunc Regarding Order No. 445180, Corporation Commission of Oklahoma, Cause No. PUD 970000560 (Oct. 4, 2000).

1    **Q.    IN HIS DIRECT TESTIMONY MR. RUSCILLI SUGGESTS THAT THE**  
2           **ISSUE IS ONE OF COST ALLOCATION BASED ON ALEC NETWORK**  
3           **DESIGN. IS HE CORRECT?**

4    A.    No. The question is not whether the parties' networks will be interconnected  
5           based on the network design of one party, but rather will the parties' networks be  
6           interconnected in a manner that is *neutral to* network design. It is only fair and  
7           equitable that an interconnection arrangement does not favor any particular  
8           design.

9           ALECs should not suffer a burdensome and discriminatory network  
10          interconnection arrangement because it chooses to deploy a more efficient  
11          network design than the classic hub-and-spoke telephony architecture. The  
12          Commission should be sensitive to issues which give the incumbent carrier  
13          substantial competitive advantages over competing carriers. Accordingly, the fair  
14          outcome is for both ALECs and BellSouth to be interconnected on an equitable  
15          basis.

16

17   **Q.    IS AT&T'S PROPOSAL AN EFFORT TO IMPOSE THE ADDITIONAL**  
18           **COSTS OF ITS NETWORK DESIGN ONTO BELLSOUTH AS MR.**  
19           **RUSCILLI SUGGESTS?**

20   A.    Absolutely not. First, AT&T's solution maintains the status quo of how the  
21           financial responsibility is assigned today. AT&T's network design has been in  
22           place for several years, and AT&T's proposed solution is what is occurring today.  
23           BellSouth is currently financially responsible for bringing its originated traffic to

1 AT&T's switch, and has not disputed any billing by AT&T that reflects this. By  
2 the same token, AT&T is financially responsible for all of the costs of  
3 transporting its originated traffic and has not objected to this responsibility.  
4 BellSouth's proposal is the one that will change the imposition of costs on the  
5 other party, not AT&T's. BellSouth's proposal will result in AT&T and other  
6 ALECs having to incur new additional costs that they do not incur today.

7 Second, when BellSouth states that AT&T's proposal will raise its costs that are  
8 not currently being recovered by its current basic local rates, this is simply not  
9 true. AT&T's proposed solution – the status quo of today - has been in effect for  
10 several years, and this Commission has yet to see a filing by BellSouth asking to  
11 raise any of its rates to cover this "additional cost."

12  
13 **Q. WHAT IS AT&T ASKING THIS COMMISSION DO?**

14 A. AT&T is asking that the Commission retain the status quo and find that BellSouth  
15 shall continue to be financially responsible for all of the costs of originating any  
16 of its traffic within a LATA and delivering such traffic to an ALEC switch or  
17 designated interconnection point.

18  
19 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

20 A. Yes.



1 CHAIRMAN JACOBS: And that takes us to  
2 Mr. Argenbright.

3 MR. MELSON: MCI WorldCom calls Mark Argenbright, who  
4 will need to be sworn.

5 (Witness sworn.)

6 MARK E. ARGENBRIGHT  
7 was called as a witness on behalf of MCI WorldCom, and, having  
8 been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. MELSON:

11 Q Mr. Argenbright, would you state your name and  
12 address for the record, please.

13 A Mark Argenbright, 6 Concourse Parkway, Suite 3200,  
14 Atlanta, Georgia 30328.

15 Q And by whom are you employed and in what capacity?

16 A I am employed by WorldCom Incorporated as a Senior  
17 Staff Specialist in the State Regulatory Policy Group.

18 Q Have you prefiled direct testimony in this docket  
19 consisting of 17 pages?

20 A I did.

21 Q And there were no exhibits attached to your  
22 testimony, is that correct?

23 A There were not.

24 Q And did you file rebuttal testimony in this docket  
25 consisting of 11 pages?

1           A     Yes, I did.

2           Q     And there was one exhibit attached to your rebuttal  
3 testimony, is that correct?

4           A     That is correct.

5           Q     Do you have any changes or corrections to either the  
6 direct or rebuttal testimony?

7           A     I do not.

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

10          A     They would.

11               MR. MELSON: Mr. Chairman, I would ask that Mr.  
12 Argenbright's direct and rebuttal testimony be inserted into  
13 the record as though read.

14               CHAIRMAN JACOBS: Without objection, show the direct  
15 and rebuttal testimonies entered into the record as though  
16 read.

17               MR. MELSON: And I would ask that the exhibit  
18 attached to his rebuttal testimony identified as MEA-1 be  
19 identified as the next exhibit.

20               CHAIRMAN JACOBS: Show it marked as 23.

21               (Exhibit 23 marked for identification.)  
22  
23  
24  
25

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**DIRECT TESTIMONY OF MARK ARGENBRIGHT**

**ON BEHALF OF MCI WORLDCOM**

**DOCKET NO. 000075-TP**

**MARCH 12, 2001**

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

A. My name is Mark E. Argenbright. My business address is Six Concourse Parkway, Suite 3200, Atlanta, Georgia 30328.

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

A. I am employed by WorldCom, Inc. in the Law and Public Policy group and hold the position of Senior Staff Specialist, State Regulatory Policy. In my current position, I assist in the development and coordination of WorldCom's regulatory and public policy initiatives for the company's domestic operations. These responsibilities require that I work closely with our state regulatory groups across the various states, including Florida.

**Q. Please summarize your telecommunications background and education.**

A. My previous position within WorldCom was Senior Manager, Regulatory Analysis, in which I was responsible for performing regulatory analysis in support of a wide range of company activities. Prior to that, I was employed by the Anchorage Telephone Utility (now known as Alaska Communications Systems) as a Senior Regulatory Analyst and American Network, Inc. as a Tariff Specialist. I have worked in the telecommunications industry for sixteen years, with the majority of my positions in the area of regulatory affairs. I received a Bachelor of Science Degree in Business Administration from the University of

1 Montana in 1980.

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

3 A. I am going to address Issues 11, 12 and 18. First I will discuss the types of  
 4 network architectures utilized by ILECs and ALECs, with a focus on the  
 5 differences. Then I will review the FCC's rules regarding reciprocal  
 6 compensation and explain their proper application with regard to geographic  
 7 comparability and functional similarity. Next I will suggest a method for  
 8 determining the geographic scope of an ALEC's network and address functions  
 9 that may be considered in reviewing the functionality of an ALEC's network for  
 10 similarities with the ILEC's tandem. Finally I will propose an efficient way for  
 11 the Commission to implement the payment, where appropriate, of the tandem  
 12 interconnection rate.

13

14 *Issue 11 What types of local network architectures are currently employed by*  
 15 *ILECs and ALECs and what factors affect their choice of architectures?*

16

17 **Q. Please describe the network architecture generally deployed by ILECs.**

18 A. ILECs have deployed a hierarchical network architecture that consists of end  
 19 office switches, tandem switches and transport facilities. End office switches  
 20 provide connectivity for all of the ILEC's customers within a particular  
 21 geographic area. These end office switches, in turn, are connected to each other  
 22 and to tandems via interoffice transport. The mix of these components in the  
 23 ILEC's network is dependent on a variety of factors including the number of  
 24 customers to be served and where they are located relative to the existing  
 25 network.

1   **Q.     From a historical perspective, please address the demand, technology and**  
2       **cost factors that influenced the ILECs' network design.**

3   A.    Being the monopoly provider of local telephone service required the ILECs to  
4       choose a network architecture that would allow them to serve the entire market.  
5       Based on the technologies available at the time, and the economic relationships  
6       among those technologies, the ILECs selected and deployed an architecture that  
7       would enable them to serve the entire market in the most efficient manner  
8       possible. At the time, engineers were faced with technological challenges, with  
9       distance limitations on the capability of copper facilities (i.e., the transport  
10      element) being a significant factor. These technological challenges were  
11      balanced against the need to serve a large customer base. This resulted in the  
12      ILECs' decision to deploy networks that placed switching facilities (i.e., end  
13      offices) far out into the network, near concentrations of the customer base.

14           Of course, the need to have connectivity between and among all these  
15      customers required further placement of higher capacity transport facilities  
16      between and among these end office switches. In connecting these end offices it  
17      was also more efficient to place another level of switching (i.e., tandem  
18      switches), creating a "hub and spoke" arrangement, than it was to provide  
19      transport between each and every combination of end offices.

20   **Q.     How does this historical choice of network architecture impact the ILECs'**  
21       **choices today for meeting new demand?**

22   A.    Today, the economic relationship between switching and transport has changed  
23       due to the availability of fiber transport, which is relatively inexpensive and can  
24       transport traffic over great distances. However, the ILECs cannot simply  
25       abandon their existing networks in favor of technology available today. Instead,

1 the ILECs are incorporating the new technologies in the context of their existing  
2 architecture. For example, additional interoffice transport capacity may well be  
3 accomplished through the use of fiber technologies (e.g., SONET transmission  
4 systems), and the extension of the network to a new or expanding area of the  
5 market may be accomplished with the use of host / remote switching  
6 arrangements, where the host switch provides the actual switching functionality  
7 to the remote.

8 **Q. Please generally describe the process used by ALECs to develop their**  
9 **network architecture.**

10 A. While the ILECs must incorporate the available technologies and their economic  
11 relationships into their existing networks, ALECs have only recently been faced  
12 with the making the decisions necessary to plan and deploy a local network.  
13 Accordingly, while the ALECs use the same general planning process as the  
14 ILECs (i.e., considering what technologies are available to serve their existing  
15 and anticipated customer base in the most efficient manner possible), the  
16 ALECs' decisions on network architecture yield a different answer due to their  
17 level of anticipated demand and their lack of an embedded "hub and spoke"  
18 network.

19 **Q. What is the general network architecture deployed by ALECs?**

20 A. Because fiber has overcome the distance limitations of copper and provides a  
21 much higher capacity of transport, ALECs typically have deployed networks  
22 which rely on expansive fiber transport networks combined with a limited  
23 number of switches. This network design also reflects the ALEC's position in  
24 the local market, that of new entrant. While the ILECs still serve virtually 100%  
25 of their respective local markets, ALECs must invest and build networks to

1 serve a realistic and obtainable level of customers and to meet their associated  
2 demands on the network.

3 **Q. How does this chosen network architecture impact an ALEC's future**  
4 **network choices relative to increased demand?**

5 A. Of course, in a competitive market, increased demand is not guaranteed.  
6 Nevertheless, in meeting present and future demand requirements, ALECs will  
7 to continue to use their existing architecture, which relies on extensive fiber  
8 transport facilities combined with few switches. Just as ILECs must always  
9 consider their existing network architecture, so too must an ALEC. While both  
10 ALECs and ILECs continue to engineer their networks for anticipated and  
11 realized demand utilizing available technologies, neither entity can avoid the  
12 impact of its historical choices in network architecture. The goal is to seek  
13 efficiencies in the context of the existing network.

14 **Q. Are there any other factors that drive differences in ILEC and ALEC**  
15 **network architecture, other than differences in the technologies available**  
16 **when those networks were first being deployed?**

17 A. Yes, another difference between ILECs and ALECs is that ALECs have had to  
18 make all network decisions in the context of a competitive marketplace. An  
19 ILEC has only recently been faced with this added factor. ALECs have always  
20 sought to control costs, knowing that such control impacts the ability to  
21 compete. Over time, assuming that the market is allowed to operate, the ILEC  
22 too will be faced with responding to such competitive pressures in its network  
23 decisions.

24

25 *Issue 12: Pursuant to the Act and FCC's rules and orders:*

- 1                   (a)     *Under what condition(s), if any, is an ALEC entitled to be*  
 2                               *compensated at the ILEC's tandem interconnection rate?*
- 3                   (b)     *Under either a one-prong or two-prong test, what is "similar*  
 4                               *functionality?"*
- 5                   (c)     *Under either a one-prong or two-prong test, what is*  
 6                               *"comparable geographic area?"*

7

8   **Q.     As a threshold matter, is there an obligation for an ALEC to be**  
 9           **compensated at any rate for the use of its network by another local**  
 10          **exchange carrier?**

11   A.     Absolutely. Section 251(b)(5) of the Telecommunications Act of 1996 ("Act")  
 12           imposes on each local exchange carrier "[t]he duty to establish reciprocal  
 13           compensation arrangements for the transport and termination of  
 14           telecommunications." Section 252(d)(2)(A) of the Act further provides as  
 15           follows:

16                   For the purposes of compliance by an incumbent local exchange carrier  
 17                   with section 251(b)(5), a State commission shall not consider the terms  
 18                   and conditions for reciprocal compensation to be just and reasonable  
 19                   unless –

- 20                           (i)     Such terms and conditions provide for the mutual and  
 21                                       reciprocal recovery by each carrier of costs associated  
 22                                       with the transport and termination on each carrier's  
 23                                       network facilities of calls that originate on the network  
 24                                       facilities of the other carrier; and
- 25                           (ii)    such terms and conditions determine such costs on the



1 basis of a reasonable approximation of the additional  
2 costs of terminating such calls.

3 **Q. Given that there is to be reciprocal compensation by the originating carrier**  
4 **to the terminating carrier for the transport and termination functions**  
5 **performed by that carrier, has the FCC addressed the level of compensation**  
6 **that is to be applied?**

7 A. Yes. After establishing how reciprocal compensation rates would be determined  
8 for ILECs, the FCC turned to the question of what rates should apply to ALECs.  
9 The FCC concluded that the ILECs' reciprocal compensation rates should be  
10 adopted as the "presumptive proxy" for the ALEC's rates - in other words, the  
11 rates were required to be the same. *In re: Implementation of the Local*  
12 *Competition Provisions in the Telecommunications Act of 1996*, First Report and  
13 Order, CC Docket No. 96-98, released August 8, 1996 (the "*Local Competition*  
14 *Order*,") ¶ 1085. The only exception to this rule arises when an ALEC  
15 establishes that its transport and termination costs are higher than those of the  
16 ILEC. *Local Competition Order*, ¶ 1089; FCC Rule 51.711(b).

17 **Q. What reasons did the FCC give for ordering symmetrical treatment?**

18 A. The FCC provided a number of reasons for ordering symmetrical treatment,  
19 including the following:

- 20 1. Typically the ILEC and ALEC will be providing service in the same  
21 geographic area, so their forward-looking costs should be the same in  
22 most cases. *Local Competition Order*, ¶ 1085.
- 23 2. Imposing symmetrical rates would not reduce carriers' incentives to  
24 minimize their internal costs. ALECs would have the correct incentives  
25 to minimize their costs because their termination revenues would not

1 vary directly with changes in their costs. At the same time, ILECs would  
 2 have the incentive to reduce their costs because they could be expected to  
 3 transport and terminate much more traffic originating on their own  
 4 networks than on ALEC's networks. Thus, even assuming ILEC cost  
 5 reductions were immediately translated into lower transport and  
 6 termination rates, any reduction in reciprocal compensation revenues  
 7 would be more than offset by having a more cost-effective network.  
 8 *Local Competition Order*, ¶ 1086.

- 9 3. Symmetrical rates might reduce ILEC's ability to use their bargaining  
 10 power to negotiate high termination rates for themselves and low  
 11 termination rates for ALECs. *Local Competition Order*, ¶ 1087.

12 **Q. How does the FCC's reasoning in establishing symmetrical treatment for**  
 13 **reciprocal compensation relate to your earlier discussion about network**  
 14 **decisions made by ILECs and ALECs?**

- 15 A. As I indicated above, ALECs have always made network decisions with a focus  
 16 on controlling costs due, in part, to their new entrant status in the marketplace  
 17 whereas ILECs are just beginning address network decisions with a heightened  
 18 sensitivity to cost control as they face these new competitors. The FCC  
 19 correctly views the application of symmetrical rates as providing both ALECs  
 20 and ILECs the proper incentives to reduce costs. Abandoning symmetrical rates  
 21 removes the incentives for cost control and would give a competitive advantage  
 22 to one of the carriers.

23 Payment of the lower end office rate to an ALEC when the tandem rate  
 24 should apply is an abandonment of symmetrical rates and would result in both of  
 25 these negative outcomes. Simply put, the ILEC will not be driven to reduce its

own network costs because the use of another carrier's "tandem network" is available for the price of the ILEC's own end office cost. And, of course, the ILEC's new competitor, the ALEC, is now under-compensated for the transport and termination services being provided.

**Q. What did the FCC conclude concerning symmetry of tandem interconnection rates?**

A. The FCC stated the following in paragraph 1090 of the *Local Competition Order*:

We find that the "additional costs" incurred by a LEC when transporting and terminating a call that originated on a competing carrier's network are likely to vary depending on whether tandem switching is involved. We, therefore, conclude that states may establish transport and termination rates in the arbitration process that vary according to whether the traffic is routed through a tandem switch or directly to the end-office switch. In such event, states shall also consider whether new technologies (e.g., fiber ring or wireless networks) perform functions similar to those performed by an incumbent LEC's tandem switch and thus, whether some or all calls terminating on the new entrant's network should be priced the same as the sum of transport and termination via the incumbent LEC's tandem switch. *Where the interconnecting carrier's switch serves a geographic area comparable to that served by the incumbent LEC's tandem switch, the appropriate proxy for the interconnecting carrier's additional costs is the LEC tandem interconnection rate.*

(Emphasis added)

1 **Q. Please explain what this language means in practical terms.**

2 A. The FCC reached three conclusions. First, it is appropriate to establish an  
3 additional rate for ILECs when they use a tandem switch in the transport and  
4 termination of ALECs' local traffic. Second, states may consider whether some  
5 or all calls terminated by an ALEC may be priced at that higher rate if the ALEC  
6 uses alternative technologies or architectures to perform functions similar to  
7 those performed by the ILEC's tandem switch. Third, the higher rate *must* be  
8 applied when the ALEC's switch serves a geographic comparable to that served  
9 by the ILEC's tandem switch.

10 **Q. Does this FCC ruling have a bearing on the proper definition of "similar  
11 functionality" and "comparable geographic area?"**

12 A. Yes. It is important to note that under the FCC's approach, an ALEC need rely  
13 on proving the similar functionality of its network in order to be compensated at  
14 the tandem rate *only if* its network does not serve a geographic area comparable  
15 to that served by the ILEC's tandem. If the ALEC serves a comparable  
16 geographic area, the "functionality" inquiry is simply unnecessary.

17 **Q. Does the FCC's codification of this principle confirm your reading of the  
18 Local Competition Order?**

19 A. Yes, it confirms my analysis. FCC Rule 51.711(a) provides as follows:

20 (a) Rates for transport and termination of local telecommunications  
21 traffic shall be symmetrical, except as provided in paragraphs (b)  
22 and (c) of this section. [These exceptions do not apply here.]

23 (1) For purposes of this subpart, symmetrical rates are rates that a  
24 carrier other than an incumbent LEC assesses upon an incumbent  
25 LEC for transport and termination of local telecommunications

1 traffic equal to those that the incumbent LEC assesses upon the  
2 other carrier for the same services.

3 (2) In cases where both parties are incumbent LECs, or neither party  
4 is an incumbent LEC, a state commission shall establish the  
5 symmetrical rates for transport and termination based on the  
6 larger carrier's forward-looking costs.

7 (3) *Where the switch of a carrier other than an incumbent LEC*  
8 *serves a geographic area comparable to the area served by the*  
9 *incumbent LEC's tandem switch, the appropriate rate for the*  
10 *carrier other than an incumbent LEC is the incumbent LEC's*  
11 *tandem interconnection rate.*

12 (Emphasis added)

13 The FCC could not have been more clear. The geographic comparability rule  
14 was adopted without exception or qualification.

15 **Q. Do the ILECs share this understanding of the FCC's order and rule?**

16 A. No, at least BellSouth does not. BellSouth has argued that the FCC did not  
17 establish an one-prong "either-or" test for determining entitlement to  
18 compensation at the tandem rate, but instead established a two-prong "both-and"  
19 test." In deciding Issue 12, it is critical for the Commission to clearly state its  
20 understanding that the FCC has announced an "either-or" test. Without a clear  
21 decision, BellSouth will continue to refuse to pay tandem compensation to  
22 ALECs.

23 **Q. Does the choice of network architectures selected by the ILEC and ALEC**  
24 **impact an analysis of similar functionality?**

25 A. Absolutely. Based on the network descriptions above, the comparison of ILEC

1 and ALEC networks is an “apples to oranges” comparison. As I stated, both the  
2 ILEC and ALEC are committed to their network architectures and adjust those  
3 architectures to meet demand. Adoption of a test for “similar functionality”  
4 which requires the networks to be “technically identical” would force the ILEC’s  
5 network architecture on ALECs which, as described, are committed to a  
6 technically different architecture.

7 For example, this testimony was created through the use of a computer  
8 and word processing software. When reading a hard copy of this testimony it is  
9 impossible to tell whether it was created with an Apple or IBM compatible  
10 computer. A review of the technical treatment by these two types of computers  
11 of the keystrokes involved in creating this document would reveal technical  
12 differences in their processors and operating systems. However, at the end of  
13 the day, both computers can produce the document. Even in light of their  
14 technical differences, it can be said that these computers share similar  
15 functionality.

16 **Q. What is one of the potential consequence of adopting a “technically**  
17 **identical” standard for comparing an ILEC tandem switch and an ALEC**  
18 **network?**

19 **A.** Comparison of functionality must recognize and accept the technical differences  
20 between ILEC and ALEC networks. Failure to do so creates the situation where  
21 the ILEC would be able to avoid the cost of using of its own tandem for  
22 transport and termination while receiving the similar functionality from the  
23 ALEC’s network and paying only the lower cost of end office transport and  
24 termination. This structure would remove the incentives that the FCC found in  
25 directing that rates are to be symmetrical.

1   **Q.     Given this, are there functional similarities that exist between the ALEC**  
2       **network and the ILEC's tandem switch?**

3   A.    Yes. Network differences aside, there are several functions performed by the  
4       ALEC's network that are performed by the ILEC's tandem switch as well. One  
5       of these is the function of traffic aggregation. An ALEC's network collects  
6       traffic from across many exchanges in various rate centers allowing the efficient  
7       switching and transporting of traffic originating and terminating among these  
8       exchanges and rate centers. Traffic aggregation is a central function of the  
9       ILEC's tandem switch.

10               Also similar to the ILEC tandem, an ALEC's network provides for a  
11       centralized point of interconnection for access to operator services platforms and  
12       facilities, allowing all operator traffic to be aggregated and routed for processing  
13       by a common platform(s).

14               An ALEC's network also measures and records traffic, creating call  
15       records for billing purposes, just as is done by the ILEC's tandem switch.

16               An ALEC's network that performs these functions should be found to be  
17       providing "similar functionality" for purposes of determining the appropriate  
18       rate the ALEC should receive for the transport and termination functions  
19       provided to the ILEC. In recognition of the network differences discussed  
20       above, if these activities are performed by the ALEC's network, it must be  
21       entitled to compensation at the tandem rate without the additional requirement to  
22       physically include a tandem switch in that network.

23   **Q.     What is the relationship between "similar functionality" and "comparable**  
24       **geographic area?"**

25   A.    While these both require an analysis of the characteristics of the ALEC's

1 network relative to the ILEC's tandem switch, the "similar functionality" review  
2 was established by the FCC as an alternative showing that an ALEC could make  
3 in the event its network did not serve a geographic area comparable to that of the  
4 ILEC's tandem. However, it is exactly that, an alternative. If the ALEC's  
5 network provides transport and termination to a "comparable geographic area"  
6 no additional review of functionality is required. As cited above, this is the  
7 specific meaning of the FCC's Rule 51.711(a).

8 **Q. As background, please describe generally how ALECs determine what**  
9 **geographic area their networks will serve.**

10 A. Going back in time somewhat, many ALECs today were once competitive  
11 access providers (CAPs), which were known in Florida as alternative access  
12 vendors (AAVs). CAPs originally had fiber transmission resources that were  
13 utilized to provide competitive offerings of dedicated private line / special  
14 access services. When changes in the law gave them the opportunity to compete  
15 for customers in the switched services market, many companies, such as  
16 WorldCom, looked at their CAP operations and determined how well the  
17 geographic reach of those fiber facilities matched the location of the perceived  
18 demand for local switched services. If it was determined that the existing fiber  
19 facilities, perhaps supplemented with additional fiber, had a geographic scope  
20 that reached a sufficient potential market share, a local switch was deployed.  
21 Once the switch was deployed, numbering resources (NPA/NXXs) were  
22 acquired and opened up for those rate centers which were within the physical  
23 reach of the network.

24 **Q. Explain what you mean by physical reach of the network.**

25 A. Simply that if an ALEC has opened an NPA/NXX and established network



1 facilities which allow end users within rate centers to originate and terminate  
2 local exchange service, such rate centers would be considered within the physical  
3 or geographic reach of the ALEC's network regardless of the number of  
4 customers the ALEC has been able to attract.

5 **Q. How does an ALEC go about expanding the geographic reach of its local**  
6 **network?**

7 A. Most ALECs look to four methods of placement and/or leasing of facilities to  
8 expand their geographic service areas:

- 9 a) establishment of a collocation arrangement within an ILEC wire center  
10 and the provision of transport facilities between the collocation  
11 arrangement and the ALEC switch;
- 12 b) establishment of a local node which establishes a physical point on the  
13 fiber transport facilities that allows customer access to local switched  
14 services;
- 15 c) extension of the fiber network (also potentially a component of the  
16 previous two options); and
- 17 d) the purchase of enhanced extended links (EELs) which are used to reach  
18 geographic areas where the network does not currently reach.

19 It is important to note that, due to the ALEC's choice of network architecture,  
20 placement of a new switch is not considered in conjunction with expanding the  
21 geographic reach of the local network. Consistent with the network architecture  
22 discussions above, the reason for this is that the cost of placing a new switch to  
23 expand geographic reach is cost prohibitive relative to the deployment of  
24 additional fiber. Accordingly any requirement to have multiple switches as  
25 evidence of a "geographically comparable" network is not only inconsistent with

1 the FCC's rules but fails to recognize the differences in network architectures.

2 **Q. What would be a reasonable approach in considering whether an ALEC is**  
 3 **entitled to reciprocal compensation at the tandem rate based on geographic**  
 4 **comparability?**

5 A. Of course, the proper review should take into consideration the network utilized  
 6 by an ALEC. As described above, when an ALEC establishes or extends its  
 7 geographic reach, an investment in the network is made and then NPA/NXXs are  
 8 activated for the rate centers that are within the "reach" of that network. This  
 9 allows the ALEC to provide originating and terminating local exchange service to  
 10 customers in those rate centers. Accordingly, if the geographic area represented  
 11 by the combination of rate centers that have been opened on an ALEC's network  
 12 is served by the ILEC with a tandem switch (and subtending end offices) the  
 13 ALEC must be found to be providing geographically comparable coverage and  
 14 therefore compensated at the tandem rate.

15 This standard is (and should be) technologically neutral and should  
 16 accommodate present and future technologies that might be deployed in the local  
 17 network. Additionally, it is this goal of technological neutrality that would direct  
 18 that an ALEC should not be precluded from demonstrating geographic  
 19 comparability via alternative methods to the rate center review.

20

21 *Issue 18 How should the policies established in this docket be implemented?*

22

23 **Q. How should the Commission's decision on the payment of tandem**  
 24 **compensation and the proper application of the "geographic coverage" and**  
 25 **"similar functionality" tests be implemented?**

1 A. The Commission should implement a procedure that can proceed with little or no  
2 further Commission involvement. If Commission involvement is required to  
3 settle disputes, the Commission should resolve those disputes on an expedited  
4 basis.

5 **Q. What type of procedure would minimize Commission involvement?**

6 A. If the Commission is clear that the FCC rule establishes a "one-prong" test and is  
7 also clear that the "geographic comparability" standard is met when an ALEC has  
8 opened NPA/NXXs that give its switch the ability to serve a combination of the  
9 rate centers served by an ILEC's tandem, it should be a simple matter for the  
10 ILECs to determine what ALECs meet the geographic coverage test by  
11 examining the list of NPA/NXXs that an ALEC has opened. If the parties are  
12 unable to reach agreement within a short period of time -- say 30 days from the  
13 Commission's order -- then the parties should be permitted to bring their dispute  
14 to the Commission for resolution on an expedited basis.

15 **Q. Does this conclude your testimony?**

16 A. Yes it does.

1                   **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2                   **REBUTTAL TESTIMONY OF MARK ARGENBRIGHT**

3                   **ON BEHALF OF WORLDCOM**

4                   **DOCKET NO. 000075-TP**

5                   **APRIL 19, 2001**

6  
7   **Q.     Please state your name and business address.**

8   A.     My name is Mark E. Argenbright. My business address is Six Concourse  
9           Parkway, Suite 3200, Atlanta, Georgia 30328.

10 **Q.     Have you previously filed direct testimony in this docket?**

11 A.     Yes.

12 **Q.     What is the purpose of your rebuttal testimony?**

13 A.     I am going to review Issues 11 and 12 for which I previously provided direct  
14           testimony. I will briefly summarize the results of the ILEC and ALEC  
15           descriptions of their network architectures. Then I will address the ILEC's  
16           incorrect interpretation of the FCC's rules with regard to the appropriate method  
17           for determining an ALEC's eligibility for compensation at the tandem level.  
18           (By compensation at the tandem level, I mean compensation for the tandem  
19           switching, transport, and end office switching rate elements.)  
20

21 *Issue 11:       What types of local network architectures are currently employed by*  
22 *ILECs and ALECs and what factors affect their choice of architectures?*  
23

24 **Q.     Have you reviewed the descriptions of the ILEC network architectures**  
25 **provided by Verizon and BellSouth?**

1 A. Yes I have.

2 **Q. What conclusions can you draw in comparing the ILEC network**  
3 **architectures described by these ILECs to your previously provided**  
4 **description of an ALEC's network architecture?**

5 A. Consistent with the point I made in my direct testimony, the ALEC networks  
6 and the ILEC networks are different in their physical configurations as well as in  
7 their operation. These differences are readily apparent and not in dispute. The  
8 more important point for the Commission to consider, however, is the similarity  
9 between the two networks in the end results that are provided to consumers.

10 First, it is possible to identify many similarities in the technical functions  
11 that are provided by the ALEC and ILEC networks. For example, BellSouth's  
12 Mr. Tolar provides a list of characteristics that are associated with BellSouth's  
13 tandem switching systems [Direct Testimony at page 5, ln 2 -9]. Among the  
14 characteristics listed are: centralization functions for billing and database access;  
15 centralized automatic message accounting points; access to interconnection  
16 carriers; and access to operator functions. These are all functions that are  
17 performed by the typical ALEC local switch as well. Even though the ALEC  
18 and ILEC networks are fundamentally different at a technical level, for  
19 comparison purposes it is far more important to consider what *results* are  
20 produced by the operation of these different networks.

21 **Q. Please expand on the results comparison you mention.**

22 A. Because the ALEC and ILEC networks are technically different, any exercise to  
23 determine how they are technically the same is futile at best. One can find some  
24 similarities but the further you go in looking at the details of their technical  
25 operation, the more technical differences you will find.

1           This Commission should focus instead on the “results” that are provided  
 2           by the operation of these networks. Simply, at the end of the day, customers on  
 3           the ILEC networks place and receive calls across the network. Likewise,  
 4           customers on the ALEC networks place and receive calls across the network.  
 5           And, when the ALEC and ILEC networks are interconnected, customers on the  
 6           respective networks can place and receive calls across the interconnected  
 7           networks. Specifically, when a call is originated by Customer A on the ILEC’s  
 8           network and the ILEC terminates that call to Customer B on its own network,  
 9           the result is a completed call between Customer A and Customer B. Now, if  
 10          Customer B, in this example, were to be on an ALEC’s network, the call would  
 11          actually be transported and terminated on the ALEC’s network but the *result* is  
 12          the same, a completed call between Customer A and Customer B.

13           A recognition that the technical differences between the ALEC and ILEC  
 14          networks do not impair the ability of either network to return the same results is  
 15          necessary to realize the policy objectives established by the FCC.

16

17   *Issue 12: Pursuant to the Act and FCC’s rules and orders:*

18           A.     *Under what condition(s), if any, is an ALEC entitled to be*  
 19                   *compensated at the ILEC’s tandem interconnection rate?*

20           B.     *Under either a one-prong or two-prong test, what is “similar*  
 21                   *functionality?”*

22           C.     *Under either a one-prong or two-prong test, what is*  
 23                   *“comparable geographic area?”*

24   **Q.     Please briefly describe the position taken by the ILECs with regard to the**  
 25          **appropriate standard for use in determining when the tandem rate should**

1           **be applied for reciprocal compensation.**

2       A.     Both BellSouth and Verizon advocate the use of their “two-prong” test in which  
3           the ALEC’s switch must both serve a comparable geographic area and perform  
4           tandem functions. They both add that the tandem function test can only be met  
5           if the ALEC’s switch is actually performing intermediate trunk to trunk  
6           switching. Sprint on the other hand appears to support the use of a “one-prong”  
7           test. Sprint’s witness Mr. Hunsucker states that “There are two scenarios in  
8           which the FCC rules afford ALECs compensation at the ILEC tandem  
9           interconnection rate; 1) when the ALEC switch utilizes a tandem or ‘equivalent  
10          facility’ under FCC Rule 51.701(c), 2) when the ALEC switch serves a  
11          ‘comparable geographic area’ consistent with FCC Rule 51.711(a)(3).” [Direct,  
12          Testimony at page 7, ln 5-7]

13   **Q.     How does the “two-prong” test advocated by BellSouth and Verizon**  
14           **compare to the FCC’s rules and what would be the practical effect of**  
15           **adopting the “two-prong” test?**

16   A.     While I am not an attorney, I believe the FCC rules and orders are very clear on  
17           this issue. If a carrier demonstrates that its network serves a geographic area  
18           comparable to an area the ILEC serves with its tandem / end office architecture  
19           the ALEC must be compensated at the tandem rate. No further demonstration of  
20           tandem functionality is required. FCC Rule 51.711(a)(3) succinctly states:

21                 Where the switch of a carrier other than an incumbent LEC serves  
22                 a geographic area comparable to the area served by the incumbent  
23                 LEC’s tandem switch, the appropriate rate for the carrier other  
24                 than an incumbent LEC is the incumbent LEC’s tandem  
25                 interconnection rate.

1 If a “two-prong” test is adopted in conjunction with the ILEC’s strict technical  
2 definition of tandem functionality, not only will it be contrary to the plain  
3 reading of the rule, the practical impact will be to exclude ALEC networks from  
4 receiving compensation at the tandem level. It will not matter how broad the  
5 geographic region over which the ALEC provides transport and termination,  
6 compensation will only be available at the end office rate.

7 Under the ILEC's position, the cost to the ILEC for termination of a call  
8 anywhere on the ALEC's network will be only the ALEC's charge for end office  
9 termination, even if the ILEC would have utilized its own tandem (and incurred  
10 its own tandem costs) to transport and terminate the call had it remained on the  
11 ILEC's network. This approach inappropriately allows the ILEC to receive the  
12 “results” of tandem service at the end office rate, thereby avoiding its own  
13 tandem costs.

14 **Q. How does this relate to your earlier discussion concerning focus on network**  
15 **“results” as opposed to the technical details?**

16 A. As I stated earlier, any technical comparison of the ILEC and ALEC networks  
17 will reveal differences. Adopting the technical comparison standard advanced  
18 by the ILECs (i.e., tandem switching must involve intermediate trunk to trunk  
19 switching AND MUST be performed) would allow the ILECs to avoid  
20 compensating ALECs at the tandem level when the ALEC network, with its  
21 different technology and architecture, provides the same results as the ILEC  
22 tandem. The ILEC’s proposed technical comparison standard, combined with  
23 the “2-prong” test, in addition to being incorrect as a matter of law, ignores the  
24 results achieved by the ALEC network.

25 If the analysis is not performed from a results orientation, then the



1 alternative, efficient technologies and architectures being deployed by ALECs  
2 will never qualify for tandem treatment, regardless of the results those networks  
3 are delivering. In fact, a focus on technical definitions at the expense of the  
4 results places ALECs in the position of having to replicate the ILEC's tandem /  
5 end office network in order to "qualify" for tandem level compensation. Such  
6 an incentive toward the construction of inefficient networks is clearly not in the  
7 public interest.

8 **Q. Do you agree with the ILEC's interpretation of ¶ 1090 of the First Report**  
9 **and Order as it relates to the analysis of what is similar functionality?**

10 A. No. There are two areas of disagreement. First, the FCC did not establish a "2-  
11 prong" test. The need for an ALEC to demonstrate the similarities of its  
12 network to that of the ILEC's tandem only arises when the ALEC's network  
13 does not serve a geographic area comparable to the area served by the ILEC's  
14 tandem switch. Second, if demonstration of the similarities between an ALEC's  
15 network and the ILEC's tandem switch is warranted, there is no requirement that  
16 the ALEC network must perform intermediate trunk to trunk switching in order  
17 to be considered similar to the ILEC tandem switch.

18 BellSouth recognizes that the FCC, in its Local Competition Order,  
19 directed state commissions to "consider whether new technologies (e.g., fiber  
20 ring or wireless network) performed functions similar to those performed by an  
21 incumbent LEC's tandem switch." (¶1090) BellSouth then argues that the  
22 proper consideration of the similarities of the "new technologies" to the ILEC  
23 tandem switch is to compare them to the FCC's definition of Local Tandem  
24 Switching Capability found at FCC Rule 51.319(c)(3). Of course this definition  
25 is intended to identify the tandem switch as an unbundled network element *in*

1        *the ILEC's network.* As discussed above, because of the differences in the  
2        ALEC and ILEC networks, the application of such a technical definition will  
3        result in the disqualification of an ALEC's network as performing similar  
4        tandem functions.

5                In fact, such a requirement begs the question as to why the FCC even  
6        bothered to direct the states to consider "new technologies." If the FCC had  
7        intended for the traditional technical definition of tandem switching, as found in  
8        the ILEC's networks, to be the litmus test, they simply could have skipped the  
9        consideration of "new technologies" because there are no new technologies that  
10       would meet this definition. Only the replication of the ILEC network would  
11       stand up to this traditional technical definition of tandem switching.

12    **Q.    At page 10 of his direct testimony Mr. Ruscilli cites the Florida**  
13        **Commission's decision in the Intermedia/BellSouth Arbitration as support**  
14        **for BellSouth's contention that the "2-prong" test is appropriate. Please**  
15        **comment.**

16    **A.**    While the Commission did identify the two criteria found in ¶ 1090, "similar  
17        functionality and comparable geographic areas," this identification cited by Mr.  
18        Ruscilli did not indicate that the Commission believed it was to engage in a "2-  
19        prong" analysis (i.e., that both criteria must be met in order for an ALEC's  
20        network to qualify for the tandem rate). In fact, while the Commission found  
21        that there was "no evidence that either of these switches functions as a local  
22        tandem," [page 13 of the order] the Commission continued in its review of the  
23        evidence presented by the Intermedia witness with regard to geographic criterion  
24        and found as follows:

25                We find the evidence of record insufficient to determine if the

1 second, geographic criterion is met. We are unable to reasonably  
 2 determine if Intermedia is actually serving the areas they have  
 3 designated as local calling areas. As such, we are unable to  
 4 determine that Intermedia should be compensated at the tandem  
 5 rate based on geographic coverage." [emphasis added] [page 14  
 6 of the order]

7 Had the Commission believed that Intermedia needed to met both criterion, as  
 8 BellSouth contends, there would have been no need to review the geographic  
 9 criterion as Intermedia had already failed the functionality criterion.

10 **Q. Mr. Ruscilli cites other Commission Orders as supportive of BellSouth's**  
 11 **position, do you agree?**

12 A. No. Mr. Ruscilli refers to three other Commission arbitration orders: the Final  
 13 Order on Arbitration concerning ICG and BellSouth , Order No. PSC-00-0128-  
 14 FOF-TP, Docket No. 990691-TP (January 14, 2000) ("ICG/BellSouth Order");  
 15 the Final Order on Arbitration concerning Sprint and MCI, Order No. PSC-97-  
 16 0294-FOF-TP, Docket No. 961230-TP (March 14, 1997) ("MCI/Sprint Order");  
 17 and the Order on Petition for Arbitration concerning MFS and Sprint, Order No.  
 18 PSC-96-1532-FOF-TP, Docket No. 960838-TP (December 16, 1996)  
 19 ("MFS/Sprint Order").

20 **Q. Mr. Ruscilli, at page 10 of his testimony, points to the ICG/BellSouth order**  
 21 **to support BellSouth's proposed two-pronged test. Do you agree?**

22 A. No. Mr. Ruscilli misreads the Commission's decision. The Commission noted  
 23 that ICG had no facilities in place and therefore concluded that the Commission  
 24 could not determine if ICG's network would serve a geographic area comparable  
 25 to one served by a BellSouth tandem switch. The Commission also considered

1 whether ICG's network would include tandem switches or provide a tandem  
2 functionality, and concluded that it would not. The Commission did not suggest  
3 that ICG had to prove both geographic comparability *and* tandem functionality.  
4 Rather, its discussion was consistent with the principle that an ALEC seeking to  
5 recover the tandem interconnection rate must prove geographic comparability *or*  
6 tandem functionality. In short, the ICG Order supports the conclusion that an  
7 ALEC showing only geographic comparability is entitled to the tandem  
8 interconnection rate.

9 **Q. At pages 10 and 11 of his direct testimony, Mr. Ruscilli quotes the MCI-**  
10 **Sprint order for the proposition that an ALEC is not entitled to be**  
11 **compensated for transport and tandem functions that it does not actually**  
12 **perform. Please comment.**

13 A. In the MCI/Sprint Order, the Commission stated that it would not rely on the  
14 stayed FCC rules and stayed portions of the Local Competition Order as a basis  
15 for its decision. The Commission's decision in the MCI/Sprint Order therefore  
16 does not apply here, because WorldCom, in this docket, is requesting the  
17 Commission to make its decision based on the *reinstated* FCC pricing rules that  
18 the Commission did not rely upon in its previous rulings.

19 **Q. At page 11 of his testimony, Mr. Ruscilli cites the MFS-Sprint order to**  
20 **support BellSouth's position. Is that order germane here?**

21 A. No. Like the MCI/Sprint Order, the MFS/Sprint Order was made when the  
22 FCC's pricing rules were stayed. In the MCI/Sprint Order, the Commission  
23 stated that "[w]hile we did discuss the merits of the FCC Rules and Order in our  
24 decision in the MFS/Sprint arbitration, they were not a basis for our decision."  
25 The Commission's ruling in the MFS/Sprint Order therefore has no bearing

1 here.

2 **Q. Verizon witness, Dr. Beauvias, cites two court decisions as supportive of a**  
3 **requirement that the ALEC's network must meet the technical definition of**  
4 **tandem functions, under the "2-prong" test. Do these decisions provide the**  
5 **support alleged by Dr. Beauvias?**

6 A. No. First, Dr. Beauvias' reliance on *MCI Telecommunications Corporation v.*  
7 *Illinois Bell Telephone Company* (Case No. 97 C 2225, June 22, 1999) to  
8 support its two-prong test is misplaced. The district court did not reach the issue  
9 of whether a two-pronged test is consistent with FCC Rule 51.711, the Local  
10 Competition Order, or the Act. In any event, the functionality point was  
11 essentially moot, because there was no dispute that MCI's switches provided  
12 functionality comparable to Ameritech's tandem switches.

13 Second, Verizon relies on Ninth Circuit decision in *US West*  
14 *Communications v. MFS Intelenet, Inc.*, 193 F.3d 1112 (9<sup>th</sup> Cir. 1999), which  
15 arose from a Washington arbitration. The Ninth Circuit simply held that the  
16 Washington Commission was not arbitrary or capricious when it ruled that MFS  
17 was entitled to the tandem interconnection rate, and in so ruling considered  
18 whether MFS's switch performed similar functions and served a geographic area  
19 comparable to U.S. West's tandem switch. The Ninth Circuit did not hold that  
20 an ALEC must prove both functional similarity and geographic comparability.

21 Two additional facts surrounding this decision (and the preceding  
22 decision by the Washington Utilities and Transportation Commission that gave  
23 rise to the court case) further support WorldCom's position that the ALEC  
24 switch does not need to perform intermediate trunk to trunk switching in order to  
25 qualify for compensation at the tandem rate. First, the MFS network utilized at

1 the time of this decision consisted of fiber transport facilities and a single local  
2 switch. Under the Verizon standard of tandem comparison, an ALEC network  
3 with a single switch could never meet the technical definition of tandem  
4 switching. Additionally, subsequent to the Ninth Circuit Decision, in an  
5 arbitration between Electric Lightwave, Inc. and GTE Northwest (Docket No. 980370),  
6 the arbitrator rejected an argument similar to the one being made by  
7 Verizon and BellSouth here. In his March 22, 1999 decision, the arbitrator  
8 stated that "[t]he functional similarity between a CLEC switch and an incumbent  
9 LEC's tandem switch is not relevant where the evidence supports a finding that  
10 they serve a geographically comparable area." A copy of the Electric Lightwave  
11 order is attached as Exhibit \_\_\_\_ (MEA-1). The quotation is from page 16 of the  
12 exhibit. This Electric Lightwave arbitration decision demonstrates, just as the  
13 Ninth Circuit determined, that Washington does not require proof of both  
14 tandem functionality and geographic comparability.

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

16 **A.** Yes it does.

1 BY MR. MELSON:

2 Q Mr. Argenbright, could you briefly summarize your  
3 testimony for the Commission.

4 A I will. Good late afternoon, I guess. My testimony  
5 addresses Issue 12 concerning the question of when and under  
6 what conditions an ALEC should receive reciprocal compensation  
7 at the ILEC's tandem interconnection rate.

8 In order for competitive markets to exist, the  
9 various ILEC and ALEC networks must be interconnected in order  
10 that end users on one network can place calls to and receive  
11 calls from end users on another network. It is this need for  
12 each carrier to terminate traffic on behalf of the originating  
13 carrier that gives rise to Issue 12.

14 There are two levels of compensation that a carrier  
15 may receive for terminating another carrier's local traffic.  
16 One is the end office rate and the other is the tandem rate,  
17 which is made up of the tandem switching, transport, and end  
18 office elements. The FCC has answered the hotly contested  
19 question of when an ALEC is entitled to be compensated at the  
20 tandem rate level. As the FCC recently reaffirmed, the current  
21 rules require that when an ALEC network serves a geographic  
22 area comparable to that served by an ILEC's tandem, the ALEC is  
23 to be compensated at the tandem level. This requirement exists  
24 regardless of the functionality of the ALEC's network.

25 With the question of when answered, the issue of what

1 constitutes an ALEC serving a geographically comparable area  
2 remains. WorldCom has proposed a reasonable and easily applied  
3 test for making this determination. Additionally, I believe  
4 WorldCom's proposal is a bit more strident than that suggested  
5 by Sprint and offers some of the benefits of certainty  
6 discussed earlier.

7           An ALEC can make this demonstration by comparing the  
8 rate centers associated with the NPA/NXXs that the ALEC has  
9 opened in its switch for the origination and termination of  
10 local traffic to the tandem and end office combinations that  
11 the ILEC utilizes in serving those same rate centers. If the  
12 ALEC provides a network that serves a comparable geographic  
13 area -- excuse me, if the ILEC utilizes tandems and subtandem  
14 end offices to serve that same area that the ALEC is serving  
15 with its network, the ALEC should have be found to have  
16 satisfied the geographic comparability test.

17           This would be a valid comparison because when an ALEC  
18 obtains NPA/NXX combinations associated with a specific rate  
19 center, in order to accommodate the opening of a rate center  
20 for local service an ALEC must prepare its network to serve  
21 customers located in the particular rate center being opened.  
22 This includes making the network investment of such things as  
23 switch capacity and transport facilities. All of this must be  
24 done in advance of acquiring any customers.

25           This method, in addition to be valid, offers some



1 benefits. First, this analysis can be done based on publicly  
2 available information in the LERG, the local exchange routing  
3 guide. It does eliminate the complexities of competitors  
4 having to divulge proprietary and/or competitively sensitive  
5 network and customer information.

6           Second, adoption of this method by the Commission  
7 will go a long way toward removing the Commission from the role  
8 of arbitrator of what constitutes geographic comparability.  
9 The parties would have the necessary facts and can resolve this  
10 question between themselves.

11           Third, this method avoids any reliance on testing the  
12 functionality of the ALEC's network. While the FCC has made  
13 clear that the functionality test is not required, based on  
14 yesterday's testimony it appears likely that adoption of  
15 WorldCom's proposed method or something very similar, this  
16 Commission may well continue to hear functionality arguments  
17 from the ILECs somehow shoehorned in as having a bearing on  
18 geographic area served.

19           Finally, this test is neutral with regard to the  
20 technology selected by the ALEC in constructing its local  
21 network, thereby allowing the ALEC to deploy the most efficient  
22 technologies for its individual network architectures.

23           Now that the FCC has cleared up any confusion that  
24 may have existed with regard to the appropriate test to be  
25 used, I would urge this Commission to add the final level of

1 clarity by adopting this proposed methodology thereby moving  
2 this issue toward closure.

3 That concludes my summary.

4 MR. MELSON: Mr. Argenbright is available for cross.

5 CHAIRMAN JACOBS: Mr. McDonnell.

6 MR. McDONNELL: Thank you, Mr. Chairman. No  
7 questions.

8 CHAIRMAN JACOBS: Mr. Moyle.

9 MR. MOYLE: No questions.

10 CHAIRMAN JACOBS: Mr. McGlothlin?

11 MR. MCGLOTHLIN: No questions.

12 CHAIRMAN JACOBS: Mr. Edenfield.

13 MR. EDENFIELD: Since we closed down the Alabama 271  
14 case last week, I guess it's only appropriate we close this one  
15 down this week.

16 THE WITNESS: A reappearance.

17 MR. EDENFIELD: You're going to get paranoid thinking  
18 I'm following you around or something.

19 CROSS EXAMINATION

20 BY MR. EDENFIELD:

21 Q I had this great diagram that I was going to do that  
22 would have rivaled that of Mr. Lamoureux; but given the hour, I  
23 think I will just ask you. It's your position that by opening  
24 an NPA/NXX that that satisfies the geographic coverage test, am  
25 I misunderstanding something?

1           A     No, that is correct. If an ALEC has received the  
2 NPA/NXXs from the numbering administrator, and has -- as part  
3 of that process they are going to establish their network in  
4 such a fashion as to actually provide service within that rate  
5 center. And the point I'm making is that there is a network  
6 investment and the opening of the NXX is coincident with that.

7           Q     From a customer standpoint under your theory, would  
8 it be possible -- say for instance you have got five rate  
9 centers that are served by a BellSouth tandem, that you could  
10 have a customer physically located in one of those rate  
11 centers, yet have assigned that customer virtual NPA/NXX codes  
12 from the other four rate centers, would that suffice as having  
13 a geographic presence in the other four even though you  
14 wouldn't have a customer physically located there?

15          A     If I understand your question, no. I'm not saying  
16 that establishment of virtual NXX codes as they have been  
17 discussed here would constitute opening a rate center in the  
18 term I'm using here in our proposed test.

19          Q     Would you agree that you would have to have at least  
20 a minimum of one customer physically located in each of the  
21 rate centers served by the tandem to be able to satisfy  
22 comparable geographic coverage?

23          A     I would say that, you know, once you start saying is  
24 there one customer, you know, is it two customers, is it three  
25 customers, I believe a look at number of customers really is a

1 test of marketing success and market penetration. And I don't  
2 think -- the example I think was given by the Verizon witness  
3 yesterday with regard to establishment of dedicated transport  
4 between a local calling area for delivery of traffic to a POI,  
5 and the concept there, at least GTE -- Verizon's position --  
6 see, I can't even get it right. Verizon's position was that if  
7 they put that circuit up, regardless of any traffic, ala,  
8 presence of customers, billing for that circuit is going to  
9 start. The investment is there. So I don't think customers  
10 are particularly directive as to whether or not there is  
11 investment and a network in place.

12 Q I'm just trying to understand how the NPA, the opened  
13 NPA/NXXs work in relation to establishing comparable geographic  
14 coverage. Do you have to have -- or let me ask it this way.  
15 What do you have to have to be able to get the numbering  
16 administration to open up a NPA/NXX for you in a particular  
17 rate center?

18 A Well, I'm not familiar with the guidelines of  
19 receiving the NXXs. What I can say is that when WorldCom goes  
20 into a local market, submits such as request, gets those NXXs,  
21 they have to look at their existing network. They have to look  
22 at the availability of switch capacity. I mean, first there is  
23 a perceived demand, we don't open up a NXX associated with a  
24 rate center just because we can get numbers. There is a  
25 business case analysis done, there has to be perceived demand,

1 you know, basically marketing and sales comes back and says we  
2 have customers, we could acquire were we offering service here.

3 At that point the network is analyzed. Where is the  
4 fiber in relation to this proposed rate center, do we have  
5 collocations, you know, where are the proposed customers? And,  
6 you know, do we have capacity on the particular switch that  
7 would serve that rate center? And those types of network  
8 adjustments have to be made in order to look at the opening of  
9 an NXX.

10 Q Would questions similar to those you just posed be  
11 good questions maybe for the Commission to ask in determining  
12 whether there is comparable geographic coverage in a particular  
13 rate center?

14 A They may be. The Commission may well decide that  
15 that information could be valuable. I believe, you know, when  
16 an NXX -- I believe it is closely tied to the opening of an NXX  
17 that those kinds of things are in place with the exception of a  
18 virtual NXX.

19 Q I assume that MCI WorldCom is not going to go open an  
20 NPA/NXX solely to try to satisfy the comparable geographic  
21 coverage test. Would you agree with that statement?

22 A That is correct. The opening of the NXX is going to  
23 be associated with the potential for gaining customers.  
24 Because all of those things I talked about have to take place  
25 before you actually are able to actually seek customers. So

1 the meter is running on whatever investment is there regardless  
2 of the presence of customers.

3 Q Would you agree with me that it would be  
4 inappropriate for an ALEC to open an NPA/NXX solely for the  
5 purpose of trying to meet the geographic coverage test without  
6 doing any of the other things that you had talked about that  
7 MCI WorldCom is going to do?

8 A I mean -- yes. If we are staying away from the  
9 virtual NXX issue, you know, if the point of gaining those NXXs  
10 is not to offer some FX service, then I don't think it is  
11 practical that an ALEC would pursue that.

12 Q The reason I ask is this, assume you have got the  
13 five rate centers. And suppose an ALEC has 100,000 customers  
14 in the one rate center, but has no customers in the other four  
15 rate centers. In that instance they may decide, okay, what I  
16 will do is go out and open NPA/NXXs in those four rate centers  
17 where I don't have any customers solely so I can meet some  
18 test.

19 Would you agree with me that in that instance that if  
20 you are opening NPA/NXXs solely to try to meet the test, not to  
21 serve customers or anything like that, that would be  
22 inappropriate?

23 A Yes. I would agree that the system, whatever the  
24 test is, should not be gamed, if that is the proposal.

25 MR. EDENFIELD: Thank you. That's all I have.

1 CHAIRMAN JACOBS: That concludes your cross? .  
2 Commissioners, any questions? Staff.

3 MS. BANKS: Staff has no questions.

4 CHAIRMAN JACOBS: Very well. Redirect.

5 REDIRECT EXAMINATION

6 BY MR. MELSON:

7 Q You talked about the investment involved in opening a  
8 rate center. Does WorldCom ever of open a rate center without  
9 an expectation that it is going to go out and market, and sell,  
10 and find customers in that rate center?

11 A For the provision of local service, origination and  
12 termination of local service, no.

13 Q So you always not only intend to have customers, but  
14 you put the infrastructure in place to get them?

15 A That is correct.

16 MR. MELSON: That's all I've got. Thank you. Move  
17 Exhibit 23.

18 CHAIRMAN JACOBS: Without objection, show Exhibit 23  
19 is admitted into the record.

20 (Exhibit 23 admitted into the record.)

21 CHAIRMAN JACOBS: Very well. That concludes all the  
22 witnesses. Why don't we have a discussion about the briefs.  
23 It sounds like it is going to be changing. The limit now is --  
24 the normal limit --

25 MS. BANKS: I guess it has some --

1 CHAIRMAN JACOBS: Any thoughts about what a  
2 reasonable page limit would be?

3 MS. BANKS: It's 40 pages currently.

4 CHAIRMAN JACOBS: 75? 50?

5 MR. EDENFIELD: Those of us on salary cringed.

6 MR. MOYLE: We will take 75 down on this end of the  
7 table.

8 MR. McGLOTHLIN: Those are like minutes, you don't  
9 have to use them.

10 MS. CASWELL: (Inaudible, microphone not on). Forty  
11 is enough for me, but if everybody wants more, then I will  
12 write more.

13 COMMISSIONER DEASON: Maybe you all could come up  
14 with a reciprocal compensation arrangement.

15 CHAIRMAN JACOBS: Arrangement for the writing of  
16 briefs. I hear 40.

17 MR. McDONNELL: Commissioner, if I could, last time a  
18 lot of us got together and filed a joint ALEC post-hearing  
19 brief. And I think it worked out well for us, and hopefully it  
20 worked out well for you, because it was a little more succinct,  
21 rather than repeating ourselves over and over again. I would  
22 only ask the Commission's indulgence if we are to file a joint  
23 brief perhaps to give us 50 or 60 pages.

24 MS. CASWELL: We absolutely oppose that.

25 CHAIRMAN JACOBS: Which, the 50 or the joint motion?



1 MS. CASWELL: If they are going to file a joint  
2 brief, they have got to keep to the page limit. You know, if  
3 it is going to be 60 pages for them, then I guess we can have  
4 60 pages, too, but --

5 MR. McDONNELL: I don't have a problem. I didn't  
6 mean to give us more, I'm just --

7 MS. CASWELL: Because that has happened in the past.

8 MR. McDONNELL: I apologize. That was not what I  
9 meant to say. Only that everybody get move than 40, because we  
10 might need more than 40 filing jointly.

11 CHAIRMAN JACOBS: Right. So what you're saying is  
12 that your one combined brief might come up to 50 pages, not  
13 that they combine the 40 pages for all the parties and put that  
14 into one.

15 MR. McDONNELL: Right.

16 CHAIRMAN JACOBS: With that understanding, I think  
17 that sounds reasonable.

18 MR. MOYLE: Mr. Chairman, given the fact that all of  
19 us, if we are going to get together, are going to be putting  
20 together one brief, that is the expectation, also with all of  
21 the issues --

22 CHAIRMAN JACOBS: I think we are there, Mr. Moyle. I  
23 think we have agreed on 50 pages.

24 MR. EDENFIELD: At the risk of butting in, can Mr.  
25 Argenbright be excused? I think he has a plane to catch.

1 CHAIRMAN JACOBS: By all means, Mr. Argenbright. You  
2 don't want to say with us in Tallahassee?

3 THE WITNESS: (Inaudible, microphone not on.)

4 CHAIRMAN JACOBS: We have agreed on 50, correct?  
5 Great. Dates?

6 MS. BANKS: Briefs are due August 10th.

7 CHAIRMAN JACOBS: And that works for everyone given  
8 the additions?

9 MS. CASWELL: When are the transcripts due?

10 MS. BANKS: July 20th.

11 CHAIRMAN JACOBS: We will put a birthday card on the  
12 service list. Very well. Then with that, is there anything  
13 else?

14 COMMISSIONER DEASON: When is this scheduled to come  
15 before the Commission?

16 MS. BANKS: Currently it is scheduled to go to agenda  
17 on September 4th.

18 COMMISSIONER DEASON: Oh, how appropriate, the day  
19 after Labor Day.

20 MS. BANKS: I'm sorry. Phase II, I'm sorry, October  
21 16th.

22 COMMISSIONER DEASON: Phase II is October the 16th?

23 MS. BANKS: Yes, sir.

24 CHAIRMAN JACOBS: Any other questions.

25 Thanks to all the parties. Your cooperation is

1 appreciated. We are adjourned.

2 (The hearing concluded at 5:11 p.m.)

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1 STATE OF FLORIDA       )  
2                               :     CERTIFICATE OF REPORTER  
3 COUNTY OF LEON       )

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5       I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter  
6 Services, FPSC Division of Commission Clerk and Administrative  
7 Services, do hereby certify that the foregoing proceeding was  
8 heard at the time and place herein stated.

9       IT IS FURTHER CERTIFIED that I stenographically  
10 reported the said proceedings; that the same has been  
11 transcribed under my direct supervision; and that this  
12 transcript constitutes a true transcription of my notes of said  
13 proceedings.

14       I FURTHER CERTIFY that I am not a relative, employee,  
15 attorney or counsel of any of the parties, nor am I a relative  
16 or employee of any of the parties' attorney or counsel  
17 connected with the action, nor am I financially interested in  
18 the action.

19       DATED THIS 20TH DAY OF JULY, 2001.


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21                                 
22                               \_\_\_\_\_  
23                               JANE FAUROT, RPR  
24                               Chief, Office of Hearing Reporter Services  
25                               FPSC Division of Commission Clerk and  
                              Administrative Services  
                              (850) 413-6732

EXHIBIT NO. \_\_\_\_\_

**DOCKET NO:** 000075-TP

**WITNESS:** Stip - 2

**PARTY:** MCI WorldCom, Inc.

**DESCRIPTION:**

1. MCI WorldCom's responses to staff's First Set of Interrogatories.

**PROFFERING PARTY:** STAFF

I.D. # Stip-2

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 000075-TP EXHIBIT NO. 1  
COMPANY/  
WITNESS: FPSC Staff  
DATE: 7-3-01

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Investigation into appropriate	)	
methods to compensate carriers for	)	Docket No. 000075-TP (Phase II)
exchange of traffic subject to Section 251	)	
of the Telecommunications Act of 1996	)	Filed: June 11, 2001
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**MCI WORLDCOM'S RESPONSES TO  
STAFF'S FIRST SET OF INTERROGATORIES (Nos. 1-3)**

MCI WorldCom, Inc. ("WorldCom"), pursuant to Rule 28-106.206, Florida Administrative Code, and Rules 1.340 and 1.280, Florida Rules of Civil Procedure, hereby submits the following Responses to the First Set of Interrogatories filed by Commission Staff.

These responses are provided by:

Mark E. Argenbright  
Senior Staff Specialist, State Regulatory Policy  
MCI WorldCom, Inc.  
Six Concourse Parkway, Suite 3200  
Atlanta, GA 30328

SERVED THIS 11th day of JUNE, 2001.

HOPPING GREEN SAMS & SMITH, P.A.

By: Richard D. Melson  
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MCI WORLDCOM, INC.  
RESPONSE TO STAFF'S 1ST SET OF INTERROGATORIES  
DOCKET NO. 000075-TP (PHASE II)

1. In the recent FCC Order No. 01-131, the FCC established certain interim measures for compensating ISP-bound traffic, as well as revisions removing the work "local" from certain rules.

- a) Does FCC Order No. 01-131 impact any issues being addressed in Phase II of this docket?

Response: Yes. FCC Order No. 01-131, as well as the related Notice of Proposed Rulemaking (FCC Order No. 01-032), impact issues in this docket.

- b) If the answer to (a) is affirmative, which issues are impacted and how?

Response: These orders impact Issues 12(a) and 14.

Issue 12(a) asks, "Under what conditions(s), if any, is an ALEC entitled to be compensated at the ILEC's tandem interconnection rate?" This issue is answered by the FCC in paragraph 105 of Order No. 01-032 in which the FCC reaffirmed that the correct interpretation of section 51.711(a)(3) is to require only comparable geographic coverage in order for an ALEC to receive compensation at the tandem interconnection rate:

"In addition, section 51.711(a)(3) of the Commission's rules requires only that the comparable geographic area test be met before carriers are entitled to the tandem interconnection rate for local call termination. Although there has been some confusion stemming from additional language in the text of the Local Competition Order regarding functional equivalency, section 51.711(a)(3) is clear in requiring only a geographic area test. Therefore we confirm that a carrier demonstrating that its switch serves 'a geographic area comparable to that served by the incumbent LEC's tandem switch' is entitled to the tandem interconnection rate to terminate local telecommunications traffic on its network."

Of course, consistent with the FCC Order No. 01-131, this requirement is only applicable to non-ISP traffic.

MCI WORLDCOM, INC.  
RESPONSE TO STAFF'S 1ST SET OF INTERROGATORIES  
DOCKET NO. 000075-TP (PHASE II)

Issue 14 asks what are the responsibilities of an originating carrier to transport its traffic to another local carrier and what form of compensation, if any, should apply.

With regard to this issue, Order No. 01-132 at paragraph 112 and footnote 180 reaffirms the ILECs' obligation, under current rules, to deliver traffic to the ALEC-designated point of interconnection at the ILEC's expense:

"Our current reciprocal compensation rules preclude an ILEC from charging carriers for local traffic that originates on the ILEC's network."



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DOCKET NO. 000075-TP (PHASE II)

2. Please refer to page 16 of witness Argenbright's direct testimony.

- a) Define "comparable" in the context of an ALEC's switch serving a comparable geographic area to that served by an ILEC tandem.

Response: In this context, the area served by the ALEC switch would be "comparable" if, in serving the same area as served by the ALEC switch, the ILEC utilizes one or more tandems.

- b) What test should the Commission establish for determining if an ALEC's switch serves a comparable geographic area to that of an ILEC tandem?

Response: An adequate test would be to compare the rate centers served by the ALEC switch to the network configuration (i.e., tandem(s), subtending end offices) utilized by the ILEC to serve those same rate centers. However, in order to ensure that any test methodology is technologically neutral, ALECs should be allowed to provide alternative or additional data.

- c) What information should an ALEC be required to provide in order to prove that its switch serves a comparable geographic area to that served by an ILEC tandem?

Response: An ALEC should provide a list of the rate centers for which its network is configured to provide telecommunications service. This can be supported with the ALEC's local tariff, which indicates the geographic areas in which the ALEC offers local service. The ALEC can provide further support by indicating the ILEC tandems to which the ALEC's switch is interconnected. In many instances the ALEC's switch will be interconnected with multiple ILEC tandems because the single ALEC switch serves rate centers (i.e., geographic areas) that subtend multiple ILEC tandems (both local and access tandems). Finally, an ALEC should be allowed to provide a list of the ILECs tandem(s) and end offices involved in the ILEC's provision of telecommunications service to those ALEC served rate centers.

- d) How many customers should an ALEC serve in a given area to be considered serving that area?

Response: The ability of an ALEC to gain market share from the ILEC should not be utilized in the determination of the reach of an ALEC's network. The

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DOCKET NO. 000075-TP (PHASE II)

offering of local service by an ALEC is preceded by an investment in a local network (e.g., switch capacity, trunking, transport). Any requirement that a certain number of customers accept the ALEC's service in a particular area, would, to the extent the ALEC is early in its market entry or is slow to penetrate the monopoly dominated market, ignore the existence of a network and the associated investment that are in place to serve the particular area being reviewed. Further, in a competitive market, there will be movement of customers between and among competitors. As such, customer numbers will increase and decrease leaving the Commission in the impractical position of periodically monitoring the customer base activities of ALECs.

- e) How dispersed should an ALEC's customers be throughout a given area for that ALEC to be considered serving that area?

Response: Just as with number of customers, distribution of customers should not be a benchmark with regard to determining whether or not an ALEC is serving a particular area. Again, this is an indicator of marketing success, not of the nature of the ALEC's network. Even if an ALEC is only serving a single customer within a particular area, the network and associated investment have been deployed to support service within that area.

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3. a) If the Commission were to determine that serving a comparable geographic area to that of an ILEC tandem is sufficient for the ALEC to receive the tandem rate, would it be appropriate for an ALEC to receive the tandem rate for a call that would not traverse a tandem switch on the ILEC's network?

Response: Yes.

- b) If your answer to (a) is affirmative, explain why an ALEC should receive the tandem rate pursuant to "comparable geographic coverage of an ILEC tandem" when there would actually be no tandem providing service for that call.

Response: The FCC has established that the ILEC's tandem costs and therefore application of the tandem interconnection rate are to be used as a "proxy" for the ALEC's costs. Just as "functionality" of the ALEC's switch has no bearing on applicability of the tandem rate when it serves a comparable geographic area, the ILEC's network functionality does not have any bearing on the applicability of the tandem interconnection rate. The parties do not disagree that the network architectures of the ILECs and ALECs are vastly different. The FCC's recognition of this fact, among others, contributed to the establishment of the comparable geographic area test. In fact, for a given call an ALEC may experience additional costs relative to the ILEC. Accordingly, making a determination that, because a particular call would not have traversed a tandem in the ILEC's network, the ALEC's network would not qualify for the tandem rate is an inappropriate application of a functionality test.

EXHIBIT NO. \_\_\_\_\_

**DOCKET NO:** 000075-TP

**WITNESS:** Stip - 3

**PARTY:** Level 3 Communications, LLC

**DESCRIPTION:**

1. Level 3's responses to staff's First Set of Interrogatories.

**PROFFERING PARTY:** STAFF

I.D. # Stip-3

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET

NO. 000075-TP EXHIBIT NO. 2

COMPANY/

WITNESS: FPSC Stip

DATE: 7-5-16-dll

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Investigation into appropriate )  
methods to compensate carriers for )  
exchange of traffic subject to Section 251 )  
of the Telecommunications Act of 1996. )  
\_\_\_\_\_)

Docket No. 000075-TP

Dated: June 11, 2001

**LEVEL 3 COMMUNICATIONS, LLC'S RESPONSES  
TO STAFF'S FIRST SET OF INTERROGATORIES**

Level 3 Communications, LLC ("Level 3"), pursuant to Order No. PSC-00-2229-PCO-TP, dated November 22, 2000, Order No. PSC-00-2350-PCO-TP dated December 2, 2000, Order No. PSC-00-2452-PCO-TP dated December 20, 2000, Order No. PSC-01-0632-PCO-TP dated March 15, 2001, and Florida Rule of Civil Procedure 1.340, hereby submit their responses to the Interrogatories set forth in the First Set of Interrogatories served by PSC Staff.

1. In the recent FCC Order No. 01-131, the FCC established certain interim measures for compensating ISP-bound traffic, as well as revisions removing the word "local" from certain rules.
  - a. Does FCC Order No. 01-131 impact any issues being addressed in Phase II of this docket?

**RESPONSE:**

Yes. The above-referenced FCC order affects several issues in Phase II of this docket. First, with respect to Issues 10 and 17 (relating to the establishment of compensation mechanisms for transport and termination of "traffic"), it appears that the Commission no longer has jurisdiction to address any questions relating to the compensation of ISP-bound traffic from the effective date of the FCC's order going forward pursuant to paragraph 82 of the FCC's order. (However, the Commission still has jurisdiction – and indeed, should take action to address – the question of the ILECs' refusal to pay reciprocal compensation for ISP-bound traffic for the period preceding the effective date of the FCC order.) Thus, to the extent that Issues 10 and 17 were targeted at developing compensation mechanisms for ISP-bound traffic going forward, they are no longer appropriate for consideration in this docket. Second, with respect to Issue 14 (relating to the responsibility of an originating carrier to transport traffic to an interconnection point), the FCC made clear in footnote 149 of its order that in terms of the originating carrier's transport obligations, ISP-bound traffic is to be

treated no differently than any other local traffic. Thus, the Commission can and should address in a single ruling the question of whether local traffic and ISP-bound traffic must be brought to the interconnection point by the originating carrier under applicable law. Finally, with respect to Issue 15, as in the case of Issues 10 and 17, the Commission no longer has jurisdiction to address these questions, at least as they apply to ISP-bound traffic. In paragraph 82 of its order, the FCC has precluded states from addressing intercarrier compensation for ISP-bound traffic, without distinction as to telephone number or physical location of the ISP.

**RESPONDENT:** William P. Hunt, III, Vice President-Public Policy  
Level 3 Communications, Inc., 1025 Eldorado Blvd, Broomfield, CO 80021

- b. If the answer to (a) is affirmative, which issues are impacted and how?

**RESPONSE:**

Please see response to subpart (a).

2. Please refer to page 9, lines 5-7 of witness Gates' direct testimony. What companies presently have LATA-wide local calling agreements with BellSouth as described in your testimony?

**RESPONSE:**

Level 3 and BellSouth, in an agreement approved May 29, 2001 by the Florida Public Service Commission, utilize a LATA-wide local calling scope for the purposes of intercarrier compensation. This same agreement applies throughout the BellSouth region.

**RESPONDENT:** Timothy J. Gates, Vice President, QSI Consulting  
15712 W. 72<sup>nd</sup> Circle, Arvada, Colorado 80007

3. Please refer to page 10, beginning with line 7 of witness Gates' testimony.
- A. You state that interstate local calling is relatively common. Are ILECs permitted to carry local calls across state lines in these situations?

**RESPONSE:**

To the best of its knowledge, Level 3 believes that ILECs are permitted to carry local calls across state lines, as long as the state lines do not also correspond to LATA boundaries. For

example, in the Washington, D.C. metropolitan area, the District shares a local calling area with suburban regions in Maryland and Virginia, and all parts of this interstate local calling area fall within LATA 236. Likewise, LATA 240 includes portions of Maryland, Virginia, and West Virginia, so to the extent that a local calling area contains portions of those three states, the ILEC could carry those calls without requiring an intermediate carrier. In fact, it appears that LATA 480 centered around Mobile in Alabama includes a small portion of Florida as well, such that if a local calling area extended across the state boundary, BellSouth could presumably still carry that call within the local calling area. In addition, even where coinciding LATA boundaries would typically prevent the ILEC from carrying a call across state lines, the FCC has granted limited exceptions to permit the ILEC to carry such calls across these boundaries because a community of interest exists (see, e.g., *Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations*, CC Docket No. 96-159, File Nos. NSD-LM-97-2 through NSD-LM-97-25, 12 FCC Rcd 10646 (1997) (addressing ILEC petitions, including petitions for calls between Virginia and West Virginia exchanges and between Ohio and West Virginia exchanges)).

**RESPONDENT:** Timothy J. Gates, Vice President, QSI Consulting  
15712 W. 72<sup>nd</sup> Circle, Arvada, Colorado 80007

- b. Provide examples of this practice.

**RESPONSE:**

Please see response to subpart (a).

4. Please refer to page 14, lines 4-6 of witness Gates' direct testimony.
- a. Please explain why knowing the physical locations of the called and calling parties are not sufficient to determine the correct treatment of calls.

**RESPONSE:**

There are several reasons why the physical locations of the called and calling party would be insufficient to determine the correct treatment of calls.

- ***Historical Retail Rating and Product Development:*** One reason that knowledge of the physical location of calling and called parties is insufficient relates to various product offerings developed over the years by incumbent telephone companies. Products such as optional retail local calling plans and foreign exchange services will result in a call being

rated and billed as local even though the calling and called parties may be located in exchanges many miles away from one another. Thus, even if one knew the physical location of the parties in the case of these service offerings, such information would be insufficient to determine precisely how the customer placing the call should be billed. (A customer purchasing an extended area calling plan from Verizon certainly would not want to be billed for toll charges simply because that is what his or her physical location seemed to dictate.)

- **Routing of Calls:** Another reason that knowing the physical location is insufficient to determine the correct treatment of calls is because the manner in which a call may be routed across carriers' networks – and thus the costs carriers incur in routing calls – has nothing to do with the physical location of the calling and called parties. If a call is dialed to a local telephone number, that call will be routed over local interconnection trunks; the switch cannot differentiate between local numbers that happen to belong customers who are physically located in the calling area versus local numbers that don't belong to customers physically located in the calling area. If "correct treatment" means that calls routed in a like manner should be compensated in a like manner, then calls should be compensated based upon a comparison of NXX codes, because that is how they are routed.

- **Absurd Results:** Relying solely upon physical location (rather than retail rating and actual call routing) to determine the "correct treatment" of calls could lead to odd results. Assume, for example, that a customer using a Sprint foreign exchange product in order to have a local telephone number in Clarksville, Florida is actually physically located in Tallahassee. If one considers only physical location to determine the proper treatment of calls to that number, a call from a customer physically located in Tallahassee to the Clarksville NXX of that FX customer should be rated as local and reciprocal compensation would be owed, even though the dialing customer actually placed a toll call. Conversely, a call from a customer physically located in Clarksville to the FX customer's Clarksville NXX code would not be rated as local and reciprocal compensation would not be owed because the FX customer is physically located in Tallahassee, even though the dialing customer actually placed a local call. Trying to account for all of these differentiations in retail and intercarrier billing would clearly be difficult to implement.

**RESPONDENT:** Timothy J. Gates, Vice President, QSI Consulting  
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- b. Is it your position that calling plan purchased by the customer making the call, or receiving the call, should determine what form of intercarrier compensation should apply?



**RESPONSE:**

It should not matter what calling plan either customer purchases. Instead, the NXX code held by each customer is what matters. If the NXX code of the calling party and the NXX code of the called party are within the same local calling area as defined by the Commission, then that would be a local call for *all* purposes. If the NXX code of the calling party and the NXX code of the called party are associated with different local calling areas, then that would be rated and routed as a toll call.

**RESPONDENT:** Timothy J. Gates, Vice President, QSI Consulting  
15712 W. 72<sup>nd</sup> Circle, Arvada, Colorado 80007

- c. If your answer to (b) is affirmative, should reciprocal compensation be applied to calls from Florida to New York via a virtual NXX arrangement?

**RESPONSE:**

Reciprocal compensation may provide the most appropriate level of compensation based upon the retail rating and actual routing of the call between carriers. If the originating carrier's customer is charged only for a local call under his retail calling plan, and the originating carrier is responsible only to take a call to the defined interconnection point for hand-off to the terminating carrier, then the call has been handled like any other local call between the carriers and should be compensated accordingly. (Indeed, Verizon itself has acknowledged in response to Staff Interrogatories that it charges reciprocal compensation for calls placed to its FX customers who share a telephone number associated with the local calling area of the calling party, regardless of the FX customers' actual physical locations. (See Exhibit 1 attached hereto.)) Any additional transport – beyond that typically associated with a local call – required to take the call to its ultimate destination is the sole responsibility of the terminating carrier, such that the originating carrier is not required to pay any additional compensation beyond that typically due for a local call.

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5. Please refer to page 27, lines 1-6 of witness Gates' direct testimony. Provide examples of Florida State government agencies utilizing virtual NXX arrangements.

**RESPONSE:**

The testimony referenced states that Florida State government agencies "may" wish to make use of such services. Level 3 has no specific knowledge as to whether any agency is in fact using such a service, although it is conceivable, for example, that a State consumer protection office based in Tallahassee might want to offer a local telephone number for customers to dial in Tampa even though it does not maintain an office in that area.

**RESPONDENT:** Timothy J. Gates, Vice President, QSI Consulting  
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6. Please refer to page 27, lines 19-21, and page 28, lines 1-2 of Gates' direct testimony.
  - a. What percentage of Level 3's virtual NXX arrangements are utilized by ISPs?
  - b. What percentage of Level 3's virtual NXX arrangements are utilized by types of customers other than ISPs?
  - c. Provide examples of other types of customers that utilize virtual NXX arrangements.

**RESPONSE:**

Level 3 objects to Interrogatory No. 6 on the grounds that the information requested is not relevant to the subject matter of Phase II of this generic docket, is overly broad and unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence.

7. Please refer to page 38, lines 3-8 of witness Gates' direct testimony.
  - a. Does Level 3 provide residential phone service via virtual NXX arrangements?

**RESPONSE:**

Level 3 does not provide residential phone service at this time.

**RESPONDENT:** William P. Hunt, III, Vice President-Public Policy  
Level 3 Communications, Inc., 1025 Eldorado Blvd, Broomfield, CO 80021

- b. If the answer to (a) is affirmative, what percentage of your virtual NXX arrangements in Florida are utilized for residential phone service?

**RESPONSE:**

Please see response to subpart (a).

8. Please refer to page 42, lines 3-4 of witness Gates' direct testimony. Why don't ALECs recover the cost of virtual NXX service by charging the recipient of that service, similar to how ILECs charge their FX customers for receiving FX service?

**RESPONSE:**

When ALECs seek reciprocal compensation or some other form of terminating compensation from originating carriers for calls directed to virtual NXX numbers, they are not asking the originating carriers to bear any cost for transporting the call from the terminating local switch back to the virtual NXX customer. Rather, ALECs are seeking compensation from the originating carriers for the local transport and switching functions performed in terminating the call at the switch – just as terminating carriers receive with respect to every other locally-dialed call today. Thus, the cost of providing any additional transport beyond the terminating switch to the virtual NXX customer's "distant" location is not related to the reciprocal compensation received from the originating carrier; for example, an ALEC would not receive more or less compensation based upon how far away the virtual NXX customer was. Just as in the case of traditional foreign exchange products, the terminating carrier is solely responsible for taking the call to the customer location and it neither seeks nor receives any compensation from the originating carrier in connection with that aspect of the virtual NXX transport function.

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9. Please refer to page 5, lines 10-17 of witness Hunt's direct testimony. Please identify the FCC Order, or other document to which you refer when discussing the FCC's position on IP Telephony.

**RESPONSE:**

The FCC document referenced in this testimony is *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report to Congress (rel. Apr. 10, 1998).

**RESPONDENT:** William P. Hunt, III, Vice President-Public Policy  
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10. a. Does Level 3 presently deliver local voice traffic via IP Telephony?

**RESPONSE:**

Level 3 does not deliver local voice traffic via IP Telephony at this time.

**RESPONDENT:** William P. Hunt, III, Vice President-Public Policy  
Level 3 Communications, Inc., 1025 Eldorado Blvd, Broomfield, CO 80021

- b. If answer to (a) is affirmative, to what extent is IP Telephony utilized for local voice traffic?

**RESPONSE:**

Please see response to subpart (a).

- c. Where is IP Telephony utilized for local voice traffic?

**RESPONSE:**

Please see response to subpart (a).

11. Please refer to page 29, lines 8-12 of witness Hunt's direct testimony.

- a. If the Commission were to determine that reciprocal compensation should be paid for local voice traffic delivered via IP Telephony, could this traffic be tracked in order to apply per minute of use rates?

**RESPONSE:**

If a per-minute rate is to be applied, a tracking mechanism may need to be developed, but the details of such a mechanism would depend upon many factors, including how IP Telephony is defined, the capabilities provided via a particular permutation of IP Telephony, the kind of equipment used to place the call, the billing systems involved, and the network routing mechanisms involved. However, the Commission should question whether a per-minute measurement of IP traffic is even necessary or desirable. With IP technology, traditional billing "by the minute," as required in many regulatory constructs and accounting rates systems, may no longer be economically justified. Although some customers may

choose to buy services that are billed by the minute, carriers should not be compelled to record and bill minutes of use if there is no business justification to do so. In some cases, network services are already reaching the point at which the cost of measuring, recording, and billing for usage is greater than the underlying cost of delivering the information.

**RESPONDENT:** William P. Hunt, III, Vice President-Public Policy  
Level 3 Communications, Inc., 1025 Eldorado Blvd, Broomfield, CO 80021

- b. If your answer to (a) is affirmative, how would this traffic be tracked?

**RESPONSE:**

Please see response to subpart (a).

- c. If the Commission were to determine that reciprocal compensation should apply only to certain types of IP Telephony (such as phone-to-phone but not computer-to-phone), could this traffic be distinguished from other traffic?

**RESPONSE:**

Please see response to subpart (a).

- d. If your answer to (c) is affirmative, how could this traffic be tracked for the purposes of applying reciprocal compensation?

**RESPONSE:**

Please see response to subpart (a).

12. Please refer to page 30, lines 13-15 of witness Hunt's direct testimony. Explain how "binding statutory definitions" should influence any Commission definition of IP Telephony as telecommunications.

**RESPONSE:**

The Communications Act of 1934, as amended by the Telecommunications Act of 1996, sets forth separate definitions for a "Telecommunications Service" and an "Information Service." The FCC, in interpreting these statutory definitions in its Report to Congress, found that Congress intended to maintain the fundamental distinction between the definitions of "basic" and "enhanced" services previously used by the FCC. Thus, if it is going to consider IP Telephony, this Commission should observe the clear line drawn by Congress between telecommunications (or basic) services on the one hand and information (or enhanced) services on the other hand. Classifying an IP Telephony service as a telecommunications

service just because it happens to convey voice would be inconsistent with the statutory framework designed by Congress and contrary to the FCC's ongoing consideration of this issue.

**RESPONDENT:** William P. Hunt, III, Vice President-Public Policy  
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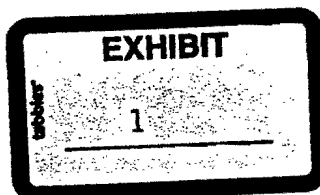
13. Please provide examples of how the FCC's "3-prong enhanced services test" can be applied to different applications of IP Telephony, as referenced on page 22 of witness Hunt's direct testimony and page 5 of his rebuttal testimony.

**RESPONSE:**

While "IP Telephony" is an evolving development, several possible examples of IP-enabled services are provided in the Hunt testimony. Additional examples of services that rely upon enhanced, or information, capabilities can be found in the testimony of Joseph Gillan at pages 5 and 6. Finally, possible services that may be considered enhanced under the FCC's "test" could include: (1) a service by which a customer initiates a session on an Internet Protocol basis and the communication is then terminated by a provider to the public switched telephone network (the "net protocol" prong); (2) an IP-enabled service by which a customer speaks to another customer and the service performs automatic language translation (the "restructured information" prong); and (3) an IP-enabled service designed to permit a customer to retrieve information from a database via voice commands (the "interaction with stored information" prong).

**RESPONDENT:** William P. Hunt, III, Vice President-Public Policy  
Level 3 Communications, Inc., 1025 Eldorado Blvd, Broomfield, CO 80021

at&T/level.3responses



**Response:**

The six-month time limit is found in ordering paragraph 52.15 (i) (5) on pages 123-124 of FCC 00-104. The statement in this order is as follows: "The NANPA and the Pooling Administrator shall abide by the state commission's determination to reclaim numbering resources if the state commission is satisfied that the service provider has not activated and commenced assignment to end users of their numbering resources within six months of receipt."

6. Please refer to page 15, lines 22-25, of witness Haynes' direct testimony.

a. Has the FPSC exercised this authority to reclaim NXXs?

**Response:**

Yes.

b. If the answer to (a) is affirmative, under what circumstances were these NXXs reclaimed?

**Response:**

Pursuant to the first paragraph on page five of order PSC-00-0543-PAA-TP issued March 16, 2000, in Docket No. 981444-TP, the FPSC ordered immediate return of all unused and reserved NXX codes by all carriers in the 954, 561 and 904 area codes.

Reclamation of unused and reserved NXX codes is also addressed beginning on page 66 of FPSC Order PSC-00-1937-PAA-TL issued October 20, 2000 in Docket Nos. 990455-TL, 990456-TL, 990457-TL and 990517-TL.

7. Please refer to the discussion of Verizon's FX Service on pages 17-18 of witness Haynes' direct testimony.

a. In the situation where an ALEC's customer calls a Verizon customer utilizing FX Service but physically located in a different local calling area than the ALEC's customer, does Verizon pay access charges to the ALEC for originating this call?

**Response:**

No. Verizon does not pay access charges in the example provided.

- b. If the response to (a) is negative, does Verizon charge reciprocal compensation for this call?

**Response:**

Yes. Verizon treats such calls as local traffic and reciprocal compensation applies because Verizon is compensated for the FX portion of the call by the Verizon customer who requested FX service.

- c. Has Verizon ever charged reciprocal compensation for such calls?

**Response:**

As stated in 7b, Verizon handles calls from ALECs to FX customers' numbers as local traffic and reciprocal compensation applies to local traffic.

8. Please refer to page 3, lines 17-19 of witness Haynes' rebuttal testimony. Please identify what statute, rule, or order limits the FPSC's ability to implement rate center consolidation.

**Response:**

The Commission is constrained by statute from mandating rate center consolidation (RCC). RCC would necessarily involve extension or expansion of customers' local calling areas and service. Mandatory RCC is thus forbidden under Florida Statutes, section 364.385, which prohibits the Commission from initiating any new proceedings (after July 1, 1995) to consider requests for "extended area service, routes, or extended calling service." The Commission itself has confirmed that it lacks the jurisdiction to require price-regulated local exchange carriers to implement extended area or extended calling service requests. See, e.g., Order No. PSC-97-0971-FOF-TL, at page 3.

To the extent that RCC would result in rate changes for Verizon, it is also unlawful under section 364.051 of the Florida Statutes, which strictly controls the rates of price-regulated carriers like Verizon.

For a more complete discussion of the limitations on this Commission's ability to order RCC, please refer to Verizon's and BellSouth's respective briefs filed April 24, 2001 in docket 010102-TP.

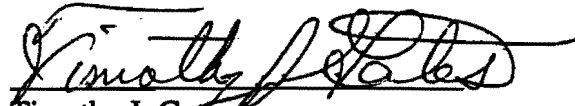


VERIFICATION

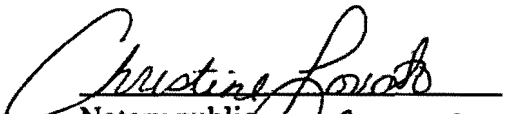
STATE OF COLORADO )  
 )  
COUNTY OF BOULDER )

ss

I, Timothy J. Gates, of QSI Consulting, do on oath depose and state that the responses I have provided in response to Staff's First Set of Interrogatories in Florida PSC Docket No. 000075-TP, Phase II, are true and correct to the best of my knowledge, information, and belief.

  
Timothy J. Gates  
QSI Consulting

Signed and sworn to before me this 8 day of June, 2001.

  
Notary public  
My Commission Expires 2-4-03

**VERIFICATION**

STATE OF Colorado )  
 )  
COUNTY OF Boulder ) ss

I, William P. Hunt, III, Vice President-Public Policy of Level 3 Communications, Inc., do on oath depose and state that the responses I have provided in response to Staff's First Set of Interrogatories in Florida PSC Docket No. 000075-TP, Phase II, are true and correct to the best of my knowledge, information, and belief.

Wm. P. Hunt III  
William P. Hunt, III  
Level 3 Communications, Inc.

Signed and sworn to before me this 7<sup>th</sup> day of June, 2001.

[Signature]  
Notary public my Commission Expires  
2-4-03

EXHIBIT NO. \_\_\_\_\_

**DOCKET NO:** 000075-TP

**WITNESS:** Stip - 4

**PARTY:** AT&T, TCG, Global NAPs, MediaOne, Time Warner, FCTA,  
and FCCA (Joint ALEC)

**DESCRIPTION:**

1. Joint ALEC responses to staff's First Set of Interrogatories.

**PROFFERING PARTY:** STAFF

I.D. # Stip-4

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET

NO. 000075-TP EXHIBIT NO. 3

COMPANY/

WITNESS: FPSC Staff

DATE: 7-5-96-0170

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Investigation into appropriate )  
methods to compensate carriers for )  
exchange of traffic subject to Section 251 )  
of the Telecommunications Act of 1996. )  
\_\_\_\_\_)

Docket No. 000075-TP

Date: May 31, 2001

**AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.'S,  
TCG OF SOUTH FLORIDA'S, GLOBAL NAPS, INC.'S,  
MEDIAONE FLORIDA TELECOMMUNICATIONS, INC.'S,  
TIME WARNER TELECOM OF FLORIDA, LP'S,  
FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION, INC.'S  
AND FLORIDA COMPETITIVE CARRIERS ASSOCIATION'S  
RESPONSES TO STAFF'S FIRST SET OF INTERROGATORIES**

AT&T Communications of the Southern States, Inc., TCG of South Florida, Global NAPS, Inc., MediaOne Florida Telecommunications, Inc., Time Warner Telecom of Florida, LP, Florida Cable Telecommunications Association, Inc., and the Florida Competitive Carriers Association, pursuant to Rule 1.340, Florida Rules of Civil Procedure, by and through undersigned counsel, hereby submit their responses to the First Set of Interrogatories served by Commission Staff.

1. For the following questions please refer to Exhibit LLS-2 in the rebuttal testimony of Lee L. Selwyn, filed April 19, 2001, regarding Issues 14(a) and 14(b).
  - (a) Please explain the meaning of the first column of Exhibit LLS-2 which has a heading that reads "LATA?"

**RESPONSE:**

The term "LATA" refers to the LATA and sub-LATA number within which the switching entity is located. All of the switching entities on Exhibit LLS-2 are located in LATA 452, sub-LATA 04 (hence "45204").

Respondent - Lee L. Selwyn, Economics & Technology, Inc.

- (b) Please explain the meaning of Column 2, which has a heading that reads "end office/HA?"

**RESPONSE:**

The column heading "End office/HA" refers to the common language location identifier (CLLI) code for the end office switching entity. E.g., STAGFLWGRS000 refers to a switch in St. Augustine, Florida (STAGFL) and the office name and entity identification (WGRS000). The term "HA" stands for "Homing Arrangement." A Homing Arrangement may be used where less than all of the 10,000 numbers in a particular NXX code are associated with the same tandem switch, to identify the range of numbers associated with each of several tandems. This does not occur in any of the entities identified in Exhibit LLS-2 and probably does not occur anywhere in Florida.

Respondent, Lee L. Selwyn, Economics & Technology, Inc.

- (c) Please explain the meaning of the third column, which has a heading that reads "term/Fgd Tandem?"

**RESPONSE:**

The column heading "Term/Fgd Tandem" provides the CLLI code for the tandem switch with which the end office switch is associated (which is subtended). The term "Term" refers to "terminating traffic," which means that calls originating at switching entities other than the called switch or a switch with direct trunking to the called switch will be routed via the designated tandem switch. The term "Fgd" refers to "Feature Group D" switched access, which designates the tandem as an "Access Tandem" providing Feature Group D switched access service for the specified end office."

Respondent, Lee Selwyn, Economics & Technology, Inc.

- (d) Please explain the meaning of the fourth column, which has a heading that reads "HOST."

**RESPONSE:**

Switches are sometimes configured in Host/Remote arrangements in which the primary or "HOST" switch provides the central processing unit (CPU) for the system, and where certain (usually remotely located) lines are served by a "remote serving unit" ("RSU") that is connected to the host typically via one or more DS-3 lines. Calls to customers served by a remote must be routed via the host, which will then route the call to the remote. This column is normally blank, but if the CLLI code shown in the END OFFICE/HA column is a Remote, then the CLLI of the host is provided in the HOST column.

Respondent, Lee L. Selwyn, Economics & Technology, Inc.

- (e) Please explain the meaning of the fifth column, which has a heading that reads "Host or Remote?"

**RESPONSE:**

The "Host or Remote" column indicates whether the END OFFICE/HA CLLI is a host (H) or a remote (R).

Respondent, Lee L. Selwyn, Economics & Technology, Inc.

- (f) Please explain the meaning of the last column.

**RESPONSE:**

This column contains the host switch CLLI. If the entity is a host, the host CLLI from the END OFFICE/HA column is repeated here. If the entity is a remote, then the host CLLI from the HOST is provided here. This column can, however, be ignored for purposes of this proceeding.

Respondent, Lee L. Selwyn, Economics & Technology, Inc.

EXHIBIT NO. \_\_\_\_\_

**DOCKET NO:** 000075-TP

**WITNESS:** Stip - 5

**PARTY:** AT&T, TCG, and MediaOne

**DESCRIPTION:**

1. AT&T, TCG, and MediaOne's responses to staff's First Set of Interrogatories.

**PROFFERING PARTY:** STAFF

I.D. # Stip-5

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 000075-TP EXHIBIT NO. 4  
COMPANY/  
WITNESS. FPSC Staff  
DATE: 7-5-80

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Investigation into appropriate )  
methods to compensate carriers for )  
exchange of traffic subject to Section 251 )  
of the Telecommunications Act of 1996. )  
\_\_\_\_\_)

Docket No. 000075-TP

Date: June 11, 2001

**AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.'S,  
TCG SOUTH FLORIDA AND TELEPORT COMMUNICATIONS GROUP'S,  
AND MEDIAONE FLORIDA TELECOMMUNICATIONS, INC.'S,  
RESPONSES TO STAFF'S FIRST SET OF INTERROGATORIES**

AT&T Communications of the Southern States, Inc. ("AT&T"), TCG South Florida and Teleport Communications Group ("TCG"), and MediaOne Florida Telecommunications, Inc. ("MediaOne") pursuant to Order No. PSC-00-2229-PCO-TP, dated November 22, 2000, Order No. PSC-00-2350-PCO-TP dated December 2, 2000, Order No. PSC-00-2452-PCO-TP dated December 20, 2000, Order No. Psc-01-0632-PCO-TP dated March 15, 2001, and Florida Rule of Civil Procedure 1.340, hereby submit their responses to the Interrogatories set forth in the First Set of Interrogatories served by PSC Staff.

1. This question, including parts (a) and (b), are directed to witness Follensbee. In the recent FCC Order No. 01-131, the FCC established certain interim measures for compensating ISP-bound traffic, as well as revisions removing the word "local" from certain rules.
  - (a) Does FCC Order No. 01-131 impact any issues being addressed in Phase II of this docket?
  - (b) If the answer to (a) is affirmative, which issues are impacted and how?

**Response:**

- (a) Yes.
- (b) FCC Order No. 01-131 impacts several issues in Phase II of this docket. Pursuant to ¶82 of the FCC's Order, it appears that the Commission no longer has jurisdiction to address any questions relating to the compensation of ISP-bound traffic from the



effective date of the FCC's Order going forward. Therefore, to the extent that Issues 10 and 17 were intended to develop compensation mechanisms for ISP-bound traffic going forward, they are no longer appropriate for consideration in this docket. However, the Commission still has jurisdiction - and indeed, should take action to address - the question of the ILECs' refusal to pay reciprocal compensation for ISP-bound traffic for the period preceding the effective date of the FCC Order.

Issue 14, (relating to the responsibility of an originating carrier to transport traffic to an interconnection point) has also been impacted by the FCC Order in that, pursuant to footnote 149 of the Order, ISP-bound traffic is to be treated no differently than any other local traffic. Therefore, the Commission should address whether local traffic and ISP-bound traffic must be brought to the interconnection point by the originating carrier under applicable law.

Finally, it appears as though the Commission no longer has jurisdiction to address Issue 15 as it may apply to ISP-bound traffic. In ¶82 of the Order, the FCC specifically precluded state commissions from addressing intercarrier compensation for all ISP-bound traffic without regard to NXX codes or physical location of the ISP.

Respondent: Richard T. Guepe, AT&T, TCG and MediaOne.

AT&T/Phasell.2answers

EXHIBIT NO. \_\_\_\_\_

**DOCKET NO:** 000075-TP

**WITNESS:** Stip - 6

**PARTY:** BellSouth Telecommunications, Inc.

**DESCRIPTION:**

1. BellSouth's responses to staff's First Set of Interrogatories.

**PROFFERING PARTY:** STAFF

I.D. # Stip-6

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET

NO. 000075-TP EXHIBIT NO. 5

COMPANY/

WITNESS: FPSC 564

DATE: 7-5-96-89

## RESPONSES AND OBJECTIONS TO INTERROGATORIES

BellSouth Telecommunications, Inc.  
FPSC Dkt No. 000075-TP (Phase II)  
Staff's 1<sup>st</sup> Set of Interrogatories  
May 11, 2001  
Item No. 1  
Page 1 of 1

**REQUEST:** For questions (a), (b), (c) and (d) below, please refer to the rebuttal testimony of witness Lee L. Selwyn, filed April 19, 2001, page 22, lines 4-23, and page 23, lines 1-13.

- a. How many tandem switches does BellSouth have in the Jacksonville LATA?
- b. Where are BellSouth's tandem switches in the Jacksonville LATA physically located?
- c. Are there any instances when a call from one BellSouth customer in the Lake City local calling area, to another BellSouth customer in the Lake City local calling area, is routed through a tandem switch located in the Jacksonville local calling area?
- d. If the answer to (c) is "yes," with what frequency does this routing occur?

**RESPONSE:**

- a. BellSouth has three (3) tandems in the Jacksonville LATA.
- b. A LATA Tandem and a Local Tandem are located at 424 N. Pearl Street. A combined LATA/E911 Tandem is located at 2048 Hendricks Ave.
- c. No.
- d. N/A

RESPONSE PROVIDED BY: John Ruscilli  
Senior Director  
675 West Peachtree Street  
Atlanta, GA 30375

BellSouth Telecommunications, Inc.  
FPSC Dkt No. 000075-TP (Phase II)  
Staff's 1<sup>st</sup> Set of Interrogatories  
May 11, 2001  
Item No. 2  
Page 1 of 1

**REQUEST:** For the following question, please refer to the rebuttal testimony of BellSouth witness John Ruscilli, filed April 19, 2001, page 13, lines 21-25.

Please identify the two companies with which BellSouth has reached agreement on this issue.

**RESPONSE:** Level 3 and Adelphia.

RESPONSE PROVIDED BY: John Ruscilli  
Senior Director  
675 West Peachtree Street  
Atlanta, GA 30375

BellSouth Telecommunications, Inc.  
FPSC Dkt No. 000075-TP (Phase II)  
Staff's 1<sup>st</sup> Set of Interrogatories  
May 11, 2001  
Item No. 3  
Page 1 of 1

**REQUEST:** For the following question, please refer to the direct testimony of BellSouth witness John Ruscilli, filed March 12, 2001, page 23, lines 21-25, and page 24, lines 1-8.

What criteria does BellSouth use to delineate between a "technically feasible" interconnection and a "technically feasible but expensive" interconnection?

**RESPONSE:** BellSouth will provide interconnection for ALECs at any technically feasible point in its network. An expensive form of interconnection could arrive due to deployment choices of ALECs. As an example, an ALEC may have a switch located outside of the LATA, or even the state, where they wish to terminate and collect local traffic. In such a situation, the ALEC is responsible for its interconnection facilities to bring its traffic across LATA boundaries.

Another example is within the LATA, but the ALEC has chosen to place its POI in an exchange that is distant to the exchange in which the ALEC intends to do business. In this situation, the ALEC is responsible for the transport of its traffic from the local exchange network where it does not have its POI to the local exchange network or Local Calling Area where it does.

RESPONSE PROVIDED BY: John Ruscilli  
Senior Director  
675 West Peachtree Street  
Atlanta, GA 30375

**REQUEST:** Please refer to page 7 of witness Ruscilli's direct testimony, filed March 12, 2001.

- a. What test should the FPSC establish to determine if an ALEC's switch serves a comparable geographic area to that served by an ILEC tandem?
- b. What information should an ALEC provide in order to prove that its switch serves this geographic area?

**RESPONSE:**

- a. Several courts have rendered decisions on the issue of tandem switching charges. The types of evidence which courts have found to be relevant include:
  - (1) Whether the ALEC's switch currently serves every exchange served by one of the ILEC's switches;
  - (2) Evidence of percentage of population served in a given LATA served by an ILEC's switch
  - (3) Evidence as to the location of the ALEC's customers within the area served;
  - (4) Whether the ALEC has customers in every wire center territory within an area served by an ILEC's tandem switch;
  - (5) Whether the ALEC's customers are concentrated in a small area, or whether its customers are widely scattered over a large area.
- b. The ALEC should provide the PSC with customer data via maps or charts that indicates the number of lines by location that is commensurate with the geographic area covered by the ILEC tandem.

**RESPONSE PROVIDED BY:** John Ruscilli  
Senior Director  
675 West Peachtree Street  
Atlanta, GA 30375

BellSouth Telecommunications, Inc.  
FPSC Dkt No. 000075-TP (Phase II)  
Staff's 1<sup>st</sup> Set of Interrogatories  
May 11, 2001  
Item No. 5  
Page 1 of 1

**REQUEST:** Please refer to page 3, lines 15-21 of witness Ruscilli's rebuttal testimony, filed April 19, 2001. Witness Ruscilli states that ALEC's must perform the tandem function and serve comparable geographic area, while BellSouth must only perform the tandem function to be entitled to the tandem rate. Does BellSouth believe the FCC intended to hold ALECs to a higher 2-prong standard, while ILECs are to be held to a single-prong standard?

**RESPONSE:** BellSouth's position has been that both ILECs and ALECs must satisfy the 2-prong test to be entitled to the tandem rate. There is no such thing as a higher 2-prong standard. By definition, BellSouth always satisfies the geographic coverage prong of the test because the geographic area served by the ILEC's tandem is the area to which the ALEC's switch must also serve on a comparable basis.

RESPONSE PROVIDED BY: John Ruscilli  
Senior Director  
675 West Peachtree Street  
Atlanta, GA 30375

BellSouth Telecommunications, Inc.  
FPSC Dkt No. 000075-TP (Phase II)  
Staff's 1<sup>st</sup> Set of Interrogatories  
May 11, 2001  
Item No. 6  
Page 1 of 1

**REQUEST:** Please refer to page 12 of witness Ruscilli's direct testimony. If the FPSC decides to establish a definition of local calling area that would apply when parties cannot agree upon a definition during negotiations, what should that definition be?

**RESPONSE:** The definition should be as is in BellSouth's Statement of Generally

Available Terms and Conditions (SGAT):

Local Traffic is defined as any telephone call that originates in one exchange and terminates in either the same exchange, or other local calling area associated with the originating exchange as defined in Section A3 of BellSouth's General Subscriber Service Tariff. Local Traffic does not include calls that do not transmit information of the user's choosing. In any event, neither party will pay reciprocal compensation to the other if the "traffic" to which such reciprocal compensation would otherwise apply was generated, in whole or in part, for the purpose of creating an obligation on the part of the originating carrier to pay reciprocal compensation for such traffic.

RESPONSE PROVIDED BY: John Ruscilli  
Senior Director  
675 West Peachtree Street  
Atlanta, GA 30375



BellSouth Telecommunications, Inc.  
FPSC Dkt No. 000075-TP (Phase II)  
Staff's 1<sup>st</sup> Set of Interrogatories  
May 11, 2001  
Item No. 7  
Page 1 of 1

**REQUEST:** Please refer to page 30, lines 15-18 of witness Ruscilli's direct testimony, filed March 12, 2001. Please identify the statute, rule or order did the FCC establish that traffic jurisdiction for intercarrier compensation would be determined by the end-points of the call?

**RESPONSE:** *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 98-147, 98-11, 98-26, 98-32, 98-78, 98-91, Order No. FCC 99-413, Rel. 12/23/99

*Teleconnect Co. v. Bell Telephone Co. of Penn.*, E-88-83, 10 FCC Rcd 1626 (1995) ("Teleconnect"), aff'd sub nom. *Southwestern Bell Tel. Co. v. FCC*, 116 F.3d 593 (D.C. Cir. 1997)

*Petition for Emergency Relief and Declaratory Ruling Filed by BellSouth Corporation*, 7 FCC Rcd 1619 (1992) ("BellSouth MemoryCall")

*In the Matter of Southwestern Bell Tel. Co.*, CC Docket No. 88-180, Order Designating Issues for Investigation, 3 FCC Rcd 2339, 2341 (1988) ("Southwestern Bell")

*In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98; *In the Matter of Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68, Order on Remand and Report and Order (Released April 27, 2001).

RESPONSE PROVIDED BY: John Ruscilli  
Senior Director  
675 West Peachtree Street  
Atlanta, GA 30375

BellSouth Telecommunications, Inc.  
FPSC Dkt No. 000075-TP (Phase II)  
Staff's 1<sup>st</sup> Set of Interrogatories  
May 11, 2001  
Item No. 8  
Page 1 of 1

**REQUEST:** Please refer to page 44, lines 15-19 of witness Ruscilli's direct testimony, filed March 12, 2001. In the situation where an ALEC's customer calls a BellSouth FX customer physically located in a different local calling area than the ALEC's customer, does BellSouth pay access charges to the ALEC for originating this call?

**RESPONSE:** In the situation where an ALEC's customer calls a BellSouth FX customer physically located in a different local calling area than the ALEC's customer, BellSouth does not bill the ALEC reciprocal compensation. BellSouth will pay access charges related to such traffic if billed by the ALEC, subject to BellSouth's rights to audit the ALEC's records.

RESPONSE PROVIDED BY: John Ruscilli  
Senior Director  
675 West Peachtree Street  
Atlanta, GA 30375

BellSouth Telecommunications, Inc.  
FPSC Dkt No. 000075-TP (Phase II)  
Staff's 1<sup>st</sup> Set of Interrogatories  
May 11, 2001  
Item No. 9  
Page 1 of 1

**REQUEST:** Please refer to page 47, lines 3-4 of witness Ruscilli's direct testimony, filed March 12, 2001.

- a. If the Commission were to determine that reciprocal compensation should be paid for local voice traffic delivered via IP telephony, could this traffic be tracked in order to apply minute of use rates?
- b. If the answer to (a) is affirmative, how could this traffic be tracked?
- c. Does BellSouth utilize IP telephony in delivering local traffic?
- d. Does BellSouth presently pay reciprocal compensation for local traffic delivered via IP telephony on ALEC networks?

**RESPONSE:**

- a. No.
- b. N/a
- c. No.
- d. BellSouth will pay reciprocal compensation for local traffic regardless of the technology used to carry the traffic. BellSouth has no knowledge of whether ALECs utilize IP telephony in their networks.

**RESPONSE PROVIDED BY:** John Ruscilli  
Senior Director  
675 West Peachtree Street  
Atlanta, GA 30375

BellSouth Telecommunications, Inc.  
FPSC Dkt No. 000075-TP (Phase II)  
Staff's 1<sup>st</sup> Set of Interrogatories  
May 11, 2001  
Item No. 10  
Page 1 of 1

**REQUEST:** In the recent FCC Order No. 01-131, the FCC established certain interim measures for compensating ISP-bound traffic, as well as revisions removing the word "local" from certain rules.

- a. Does FCC Order No. 01-0131 impact any issues being addressed in this docket?
- b. If the answer to (a) is affirmative, which issues are impacted and how?

**RESPONSE:**

- a. Yes.
- b. Issues 15(a) and (b). The FCC confirmed that the jurisdiction of a call is based on the end points of the call. This specifically refutes any allegation that jurisdiction should be determined based on NPA/NXX designations.


RESPONSE PROVIDED BY: John Ruscilli  
Senior Director  
675 West Peachtree Street  
Atlanta, GA 30375

Respectfully submitted this 31st day of May, 2001.

BELLSOUTH TELECOMMUNICATIONS, INC.

V.F.

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390312

**EXHIBIT NO.** \_\_\_\_\_

**DOCKET NO:** 000075-TP

**WITNESS:** Stip - 7

**PARTY:** Sprint-Florida, Incorporated

**DESCRIPTION:**

1. Sprint's responses to staff's First Set of Interrogatories.

**PROFFERING PARTY:** STAFF

**I.D. #** Stip-7

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET

NO. 000075-TP EXHIBIT NO. 6

COMPANY/

WITNESS: FPSC Staff

DATE: 7-5-6-21

Sprint – Florida, Incorporated  
Docket No. 000075-TP  
Staff's First Set of Interrogatories  
May 11, 2001  
Item No. 1

**REQUEST:** In the recent FCC Order No. 01-131, the FCC established certain interim measures for compensating ISP-bound traffic, as well as revisions removing the word "local" from certain rules.

- a) Does FCC Order No. 01-131 impact any issues being addressed in this docket?
- b) If the answer to (a) is affirmative, which issues are impacted and how?

**RESPONSE:**

- a) While the FCC Order was aimed at compensation for ISP-bound traffic (which was addressed in an earlier phase of this docket), the FCC's interim compensation does have an impact on issues in this docket. The FCC allowed for an opt-in decision on behalf of the ILECs to the rates for ISP compensation. In order for an ILEC to pay the interim rate, the ILEC must also accept compensation for all 251(b) traffic (including CMRS) at the same rate. This would create a compensation structure without regards to the type of functionality being performed (i.e. local switching, tandem switching, etc.) and renders moot any discussion of "similar functionality" or "comparable geographic area" if the ILEC adopts the interim FCC plan.
- b) Sprint believes that the removal of the word "local" from certain FCC rules was intended only to clarify the FCC classification of ISP-bound traffic (i.e. information access) within the context of the rules. It was, in no way, intended to change the compensation on "local" traffic.

**INFORMATION PROVIDED BY:** Michael Hunsucker  
Director – Regulatory Policy

Sprint – Florida, Incorporated  
Docket No. 000075-TP  
Staff's First Set of Interrogatories  
May 11, 2001  
Item No. 2

**REQUEST:** Please refer to page 7, line 20 of witness Hunsucker's direct testimony, filed March 12, 2001.

- a) Give examples of "equivalent facilities" as referenced in your discussion of tandem switching.
- b) Does Sprint utilize any such equivalent facility in its network?
- c) If the answer to (b) is affirmative, please identify this equivalent facility and describe how it is utilized.

**RESPONSE:**

- a) Sprint is not aware of CLEC network architectures other than its own and currently Sprint does not employ any facility capable of trunk to trunk switching. However, as Sprint's CLEC network continues to grow, Sprint may in fact deploy such functionality in its network in the future.
- b) See (a).
- c) N/A

**INFORMATION PROVIDED BY:** Michael Hunsucker  
Director – Regulatory Policy



Sprint – Florida, Incorporated  
Docket No. 000075-TP  
Staff's First Set of Interrogatories  
May 11, 2001  
Item No. 3

**REQUEST:** Please refer to page 9, lines 15-22 of witness Hunsucker's direct testimony, filed March 12, 2001.

- a) When you state that a switch should be "capable of trunk to trunk connectivity," do you mean to say that the switch can merely be capable of this function, or should it be actually performing trunk to trunk connectivity to be considered performing similar functions to a tandem switch?
- b) Are there any other functions besides trunk to trunk connectivity that would qualify a switch as performing similar functions to tandem switch?

**RESPONSE:**

- a) The switch should actually be performing the similar function, i.e. trunk to trunk switching on a particular call. ALECs should not have an arbitrage incentive to purchase trunk to trunk functionality from their vendor just to receive higher compensation.
- b) Aggregation of traffic would also qualify a switch as performing similar functions to a tandem switch.

**INFORMATION PROVIDED BY:** Michael Hunsucker  
Director – Regulatory Policy

Sprint – Florida, Incorporated  
Docket No. 000075-TP  
Staff's First Set of Interrogatories  
May 11, 2001  
Item No. 4

**REQUEST:** Please refer to page 10, lines 3-22 of witness Hunsucker's direct testimony, filed March 12, 2001.

- a) If the FPSC was to establish a test or "benchmark" for determining whether an ALEC switch serves a comparable geographic area, what should that test be?
- b) What information should an ALEC be required to provide in order to prove that its switch serves a comparable geographic area to that served by an ILEC tandem?

**RESPONSE:**

- a) The ALEC should self-certify their intent to hold themselves out-to-serve the particular geographic area. Resale should not be allowed as a means of meeting the test as the ALEC is not deploying retail end user services using the particular switch(es) in question.
- b) ALECs should be required to provide a self-certification letter to the Florida Commission certifying that its switch serves a comparable geographic area to that served by an ILEC tandem.

**INFORMATION PROVIDED BY:** Michael Hunsucker  
Director – Regulatory Policy

Sprint – Florida, Incorporated  
Docket No. 000075-TP  
Staff's First Set of Interrogatories  
May 11, 2001  
Item No. 5

**REQUEST:** Please refer to page 15, lines 2-11 of witness Hunsucker's direct testimony, filed March 12, 2001.

- a) Does Sprint believe that intercarrier compensation for a particular call should be determined by the physical location of the originating and terminating end users or by the NXXs assigned to those end users?
- b) If the answer to (a) is physical location, how should long distance traffic be identified and separated from local traffic to end users assigned numbers out of the same NXX?
- c) If the answer to (a) is by NXX, should reciprocal compensation be paid for traffic to end users utilizing an NXX that is local to the calling party but terminating in (1) a different LATA or (2) a different state.

**RESPONSE:**

- a) Compensation should be based on the physical location of the originating and terminating end users of the ILEC and ALEC. In the past, the main driver behind this issue was the establishment of virtual rate centers for ISP-bound traffic. Given the FCC's order on the classification of ISP-bound traffic, Sprint believes that the potential difference between the two options is minimal. However, Sprint has no empirical evidence to support this conclusion.
- b) Sprint would encourage the Commission to establish an industry task force to determine the feasibility and appropriate methodology for identifying and separating this traffic. This is the only way to gather empirical evidence on the cost/benefit of the two proposed options.
- c) N/A

**INFORMATION PROVIDED BY:** Michael Hunsucker  
Director – Regulatory Policy

Sprint – Florida, Incorporated  
Docket No. 000075-TP  
Staff's First Set of Interrogatories  
May 11, 2001  
Item No. 6

**REQUEST:** Please refer to page 18, lines 9-13 of witness Hunsucker's direct testimony, filed March 12, 2001.

- a) Please explain why a voice call delivered via IP through packet switches should not be considered IP Telephony.
- b) What is the difference between the IP Telephony and the scenario described in lines 9-11 of your testimony?

**RESPONSE:**

- a) Because IP Telephony includes both information access and telecommunications services, Sprint does not contend that a voice call delivered via IP through packet switches should not be considered IP Telephony. However, a voice call delivered via IP through packet switches is a telecommunications service and should be subject to reciprocal compensation (or access). In other words, it should be compensated no differently than a circuit switched voice call.
- b) See (a).

**INFORMATION PROVIDED BY:** Michael Hunsucker  
Director – Regulatory Policy

Sprint – Florida, Incorporated  
Docket No. 000075-TP  
Staff's First Set of Interrogatories  
May 11, 2001  
Item No. 7

**REQUEST:** If the FPSC were to determine that reciprocal compensation should be paid for local voice traffic delivered via IP telephony, how could this traffic be tracked in order to apply minute of use rates?

**RESPONSE:**

Sprint's ION product is currently provided via packet switching using IP protocol. Sprint currently employs a device known as a service manager in the Sprint network that performs minute of use measurements on any and all packet switched calls. This allows Sprint to accurately measure minutes of use for reciprocal compensation purposes. Sprint has no knowledge of other CLEC networks and thus cannot comment on the ability of others to measure minutes of use.

**INFORMATION PROVIDED BY:** Michael Hunsucker  
Director – Regulatory Policy

Sprint – Florida, Incorporated  
Docket No. 000075-TP  
Staff's First Set of Interrogatories  
May 11, 2001  
Item No. 8

**REQUEST:** Please refer to page 3, lines 21-25 of witness Hunsucker's rebuttal testimony, filed April 19, 2001.

- a) Is it your understanding that Rule 51.701(c) was established as a result of the FCC's discussion in Paragraph 1090 of the First Report and Order?
- b) If the answer to (a) is negative, please identify which FCC discussion in the First Report and Order correlates to the establishment of Rule 51.701(c).

**RESPONSE:**

- a) Sprint believes that the FCC Rules in Subpart H – Reciprocal Compensation for Transport and Termination of Local Telecommunications Traffic resulted from paragraphs 1027 – 1118. Paragraph 1090 allows state commissions to set rates based on whether the traffic is routed through a tandem switch and provides the appropriate language on "comparable geographic area".
- b) N/A

**INFORMATION PROVIDED BY:** Michael Hunsucker  
Director – Regulatory Policy

EXHIBIT NO. \_\_\_\_\_

**DOCKET NO:** 000075-TP

**WITNESS:** Stip - 8

**PARTY:** Verizon Florida Inc.

**DESCRIPTION:**

1. Verizon's responses to staff's First Set of Interrogatories.

**PROFFERING PARTY:** STAFF

I.D. # Stip-8

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 000075-TP EXHIBIT NO. 7  
COMPANY/  
WITNESS: FPSC Stip  
DATE: 7-5-06

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Investigation into appropriate methods )  
to compensate carriers for exchange of )  
traffic subject to Section 251 of the ) Docket No. 000075-TP (Phase II)  
Telecommunications Act of 1996 )  
\_\_\_\_\_ )

**VERIZON FLORIDA INC.'S RESPONSES TO  
STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1 – 9)**

Provide the name, address, and relationship to the Company of each person providing answers to the following inquiries and identify which questions(s) each person answered.

Interrogatory Nos. 1 and 8:

Kimberly Caswell  
VP General Counsel, Southeast  
Verizon Service Group  
201 North Franklin Street  
Tampa, FL 33601

Interrogatory Nos. 2 - 3:

Dr. Edward C. Beauvais  
Director – Economic & Regulatory Policy  
Verizon Service Group  
600 Hidden Ridge  
Irving, TX 75038

Interrogatory No. 4:

Elizabeth Geddes  
Member Technical Staff  
Verizon Services Corp.  
2107 Wilson Blvd.  
Arlington, VA 22201

Interrogatory Nos. 5 – 7:

Terry Haynes  
Group Manager- Regulatory  
Verizon Service Group  
600 Hidden Ridge  
Irving, TX 75038



Interrogatory Nos. 9

Howard Lee Jones  
Group Marketing Manager – Wholesale  
Verizon Services Group  
600 Hidden Ridge  
Irving, TX 75038

**INTERROGATORIES**

1. In the recent FCC Order No. 01-131, the FCC established certain interim measures for compensating ISP-bound traffic, as well as revisions removing the word "local" from certain rules.
  - a. Does FCC Order No. 01-131 impact any issues being addressed in this docket?
  - b. If the answer to (a) is affirmative, which issues are impacted and how?

**Response:**

In its April 27, 2001 Order, the FCC construed the Telecommunications Act of 1996 (Act) to mean that section 251(g) carves out Internet service provider (ISP)-bound traffic from the reciprocal compensation obligations of section 251(b)(5). Specifically, when an incumbent local exchange carrier (LEC) carries a call bound for an ISP from one of its customers and hands it off to a competing LEC serving the ISP, the service it provides is a form of "information access"—one of the services identified in section 251(g). Section 251(g) specifies that FCC rules and policies govern compensation obligations for such traffic. Thus, state commissions have no authority to impose reciprocal compensation on ISP traffic, as the FCC has explicitly concluded. *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic*, Order on Remand and Report & Order (Remand Order), CC Docket Nos. 96-98 & 99-68, FCC No. 01-131, at para. 82 (April 27, 2001).

Verizon does not believe the FCC's Remand Order directly affects any issues in this second phase of the docket, except to the extent that any party has or may claim that this Commission has the authority to determine reciprocal compensation methods for ISP-bound traffic (for instance, under Issues 10, 12(a), 14(b), 15(b), or 16(b), or 17). As explained above, the Commission has no such authority.

While the Remand Order may have no significant effect on this proceeding, the FCC's ongoing rulemaking to establish a unified intercarrier compensation regime may directly affect any Commission decision in this case. *Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, CC Docket No. 01-92, FCC No. 01-132 (April 27, 2001). This Notice, released the same day as the Remand Order, seeks comment on the potential adoption of a bill-and-keep approach to reciprocal compensation payments governed by section 251 of the Act (including traffic subject to section 251(b)(5).) If this Commission in this docket adopts a reciprocal compensation scheme that is inconsistent with the FCC's ultimate decision, this Commission's scheme will likely have to be altered.

2. Please refer to page 8 of witness Beauvais' direct testimony lines 10-12.
  - a. What test should the Commission establish to determine if an ALEC's switch serves "about the same physical area as that served by the ILEC's tandem switch?"

**Response:**

Since the statement conveys a requirement for an approximation, any evaluation of a claim by an ALEC that its facility coverage area for a given switch is equivalent to that of the ILEC's tandem will require a judgement by the Commission as to how close is about the same. That is, Verizon is not calling for a precise metric to be established. With respect to the issue of geographic scope, the Commission is aware (or can readily obtain) which ILEC switches are served by which tandems. Likewise, service area maps for each switch are available from Verizon for its serving areas. Thus, it is readily possible to approximate the square mileage being served by each Verizon tandem. While not part of the geographic scope, *per se*, it is also possible to approximate the number of customers served by the incumbent within that geographic area. Combining these two attributes can give an indication of the number of customers per square mile being served by any given tandem switch. Obviously this number will not be the same for all carriers, since the quantity of minutes demanded will also influence the amount of tandem switching required, if any. However, it should be readily possible for the Commission to compare the square miles covered by an ILEC tandem switch with that of an ALEC switch as well as to examine their relative positions by examining ALEC maps in comparison to those of the ILEC. In addition, given the traffic and customer configurations/distributions, it should be possible to also compare the number of customers served per square mile between ALECs and ILECs for a given tandem serving area.

- b. What information should an ALEC provide in order to prove that its switch serves this geographic area?

**Response:**

Given the above, an ALEC would provide a map indicating its deployed facilities and switch locations. This will suggest a first pass at what locations the ALEC is offering service. It would also be useful for the ALEC to indicate the number of customers being served by those facilities. In addition, the geographic distribution of those customers could be indicated on any supplied maps.

Since this information is likely to be viewed as proprietary, protective agreements would need to be entered into by parties desiring to verify such information.

As ALEC networks develop, the resulting facilities coverage may well be expected to change, so that even if an area did not constitute an approximation of the ILEC's tandem area currently, it might satisfy the requirement in some future time. In addition, the number of customers utilizing those facilities, as well as their geographic distribution, may well increase over time. Thus, such information might usefully be provided to the Commission on a periodic basis. In addition to assessing the degree of similarity between ALEC serving areas and ILEC tandem areas, such information might also prove useful to the Commission in assessing the degree of competition in various geographic areas of the state.

3. Please refer to page 11 of Beauvais' rebuttal testimony, line 24. Please define or otherwise explain "economic rents".

**Response:**

The basic definition of the term economic rent is provided on page 11, lines 14 – 16 of Dr. Beauvais' rebuttal testimony. The tandem service which might be provided by an ALEC can readily be regarded as an input factor of producing an interoffice call. That part of the payment to the factor in excess of the amount necessary to call such an input into supply is known as economic rent.

As explained briefly in Dr. Beauvais' testimony, several ALECs appear to claim that their networks are less costly than ILEC networks. That is, those carriers require a lower market price to induce them to supply their services in the market, every thing else held constant. Since that is their claim, then setting a price for the transport and switching at the higher ILEC cost would provide ALECs with a return higher than necessary for such companies to voluntarily offer such a factor to the market -- part of the return to that factor is economic rent.

- 4(a) If the Commission were to determine that reciprocal compensation should be paid for local voice traffic delivered via IP telephony, could this traffic be tracked in order to apply minute of use rates?

**Response:**

Verizon interprets the definition of local traffic as used in this context to mean a communication that originates and terminates within a local exchange calling area as defined in the tariffs of a local exchange carrier. The configuration of IP telephony employed influences whether this traffic may be tracked in order to pay reciprocal compensation.

In PC-to-Phone, Phone-to-PC and Phone-to-Phone configurations of IP telephony, at least one IP telephony gateway is used to convert the traffic from a packet protocol (e.g., Internet Protocol) to a form suitable for transmission over a circuit switched network (e.g., Pulse Code Modulated (PCM)). Once this conversion occurs, Verizon may not be able to ascertain the jurisdictional nature of the traffic; that is, Verizon cannot positively distinguish local traffic from non-local traffic. For example, in a PC-to-Phone configuration of IP telephony, the origination point of a call may appear to be the point of the IP telephony gateway, rather than the actual originating PC. Therefore, Verizon could not distinguish traffic that actually originated in the same local exchange calling area from traffic, where only the IP telephony gateway was in the same local exchange calling area as the terminating phone.

In a PC-to-PC configuration of IP telephony, Verizon has no means to track a local call because the only PSTN resources employed are the facilities used to connect to the Internet via an Internet Service Provider (ISP). Because an IP telephony call may be only one of many activities that a user engages in during an Internet session, it is impossible to measure the portion of time, if any, spent on IP telephony. Similarly, Verizon cannot ascertain the jurisdictional nature of that traffic.

- 4(b) If the response to (a) is affirmative, please explain how this traffic could be tracked for billing purposes.

**Response:**

See response to interrogatory 4(a).

5. Please refer to page 15 of witness Haynes' direct testimony, lines 17-20. Please identify what statute, rule, or order establishes this six-month time limit.

**Response:**

The six-month time limit is found in ordering paragraph 52.15 (i) (5) on pages 123-124 of FCC 00-104. The statement in this order is as follows: "The NANPA and the Pooling Administrator shall abide by the state commission's determination to reclaim numbering resources if the state commission is satisfied that the service provider has not activated and commenced assignment to end users of their numbering resources within six months of receipt."

6. Please refer to page 15, lines 22-25, of witness Haynes' direct testimony.

a. Has the FPSC exercised this authority to reclaim NXXs?

**Response:**

Yes.

b. If the answer to (a) is affirmative, under what circumstances were these NXXs reclaimed?

**Response:**

Pursuant to the first paragraph on page five of order PSC-00-0543-PAA-TP issued March 16, 2000, in Docket No. 981444-TP, the FPSC ordered immediate return of all unused and reserved NXX codes by all carriers in the 954, 561 and 904 area codes.

Reclamation of unused and reserved NXX codes is also addressed beginning on page 66 of FPSC Order PSC-00-1937-PAA-TL issued October 20, 2000 in Docket Nos. 990455-TL, 990456-TL, 990457-TL and 990517-TL.

7. Please refer to the discussion of Verizon's FX Service on pages 17-18 of witness Haynes' direct testimony.

a. In the situation where an ALEC's customer calls a Verizon customer utilizing FX Service but physically located in a different local calling area than the ALEC's customer, does Verizon pay access charges to the ALEC for originating this call?

**Response:**

No. Verizon does not pay access charges in the example provided.

- b. If the response to (a) is negative, does Verizon charge reciprocal compensation for this call?

**Response:**

Yes. Verizon treats such calls as local traffic and reciprocal compensation applies because Verizon is compensated for the FX portion of the call by the Verizon customer who requested FX service.

- c. Has Verizon ever charged reciprocal compensation for such calls?

**Response:**

As stated in 7b, Verizon handles calls from ALECs to FX customers' numbers as local traffic and reciprocal compensation applies to local traffic.

8. Please refer to page 3, lines 17-19 of witness Haynes' rebuttal testimony. Please identify what statute, rule, or order limits the FPSC's ability to implement rate center consolidation.

**Response:**

The Commission is constrained by statute from mandating rate center consolidation (RCC). RCC would necessarily involve extension or expansion of customers' local calling areas and service. Mandatory RCC is thus forbidden under Florida Statutes, section 364.385, which prohibits the Commission from initiating any new proceedings (after July 1, 1995) to consider requests for "extended area service, routes, or extended calling service." The Commission itself has confirmed that it lacks the jurisdiction to require price-regulated local exchange carriers to implement extended area or extended calling service requests. See, e.g., Order No. PSC-97-0971-FOF-TL, at page 3.

To the extent that RCC would result in rate changes for Verizon, it is also unlawful under section 364.051 of the Florida Statutes, which strictly controls the rates of price-regulated carriers like Verizon.

For a more complete discussion of the limitations on this Commission's ability to order RCC, please refer to Verizon's and BellSouth's respective briefs filed April 24, 2001 in docket 010102-TP.

9. Please refer to page 3, lines 15-19 of witness Jones' direct testimony, when you testify that tandem switches "only" switch traffic between their subtending end offices or between the end offices of ALECs.
- a. Do tandem switches also switch traffic between other tandems and between interexchange POPs?

**Response:**

In the cited sentence Mr. Jones was referring to local, non-toll, wireline traffic of the type that would be exchanged between Verizon Florida and ALECs for reciprocal compensation.

The "toll tandem" mentioned on line 15 of page 3, sometimes described as an access tandem, does serve the function of switching traffic between Verizon Florida's and interexchange carrier POPs. This toll tandem is also one switching point at which ALECs may interconnect to the Verizon Florida network for the exchange of all wireline traffic both local and toll. A toll tandem interconnection would allow the ALEC to receive and deliver both toll and local traffic to all the end offices subtending a Verizon Florida toll tandem. The other possibility is that the ALEC could use direct trunking from his switch to Verizon Florida end offices for traffic specific to that end office.

With very limited exception, Verizon Florida tandems of both the toll local or local function do not exchange traffic between each other. For the completion of intraLATA toll in the Tampa LATA all Verizon end offices have trunks to a single toll tandem.

- b. Identify all types of offices, switches, locations or other tandems that a tandem may switch traffic to.

**Response:**

Tandems may switch traffic to the following types of offices, switches or locations:

1. End office switches of the ILEC
2. IXC POPs or switches
3. CLEC switches or offices
4. Wireless switches or offices
5. Paging switches or offices
6. Operator Services locations

- c. You concluded that a company that does not provide switching between 2 or more separate and distinct local end offices is not performing a tandem function. Do tandem switches perform functions other than switching traffic? If so identify these other functions.

**Response:**

In lines 17-19 of page 3: "So if a company is not providing switching between two or more separate and distinct local end offices, it is not performing a tandem function.", the word "company" refers to Verizon Florida and/or ALEC as non-toll wireline service providers engaged in reciprocal compensation arrangements for that traffic.

In that context, the primary purpose of a tandem is to switch traffic from and to its subtending end offices. In the performance of its primary purpose, a tandem may share a few of administrative and feature functions that are generally found in end offices. These are:

1. SS7 service functions (call routing and LNP dip)
2. AMA billing functions (when not present or complete at end office)
3. Recorded announcement functions (when not present or complete at end office)



# VERIFICATION

STATE OF FLORIDA                    )  
  ) ss.  
COUNTY OF HILLSBOROUGH )

BEFORE ME, the undersigned authority, personally appeared Michelle A. Robinson, who deposed and stated that the answers to the First Set of Interrogatories (Nos. 1-9) served on Verizon Florida Inc. by Staff in Docket No. 000075-TP, Phase II, were prepared at her request and she is informed that the responses contained therein are true and correct to the best of her information and belief.

DATED at Tampa, Florida, this 25<sup>th</sup> day of May, 2001.



Michelle A. Robinson

Sworn to and subscribed before me this 25<sup>th</sup> day of May, 2001.



Notary Public  
State of Florida

\_\_\_\_\_  
Name Typed or Printed/Commission No.

My Commission Expires:

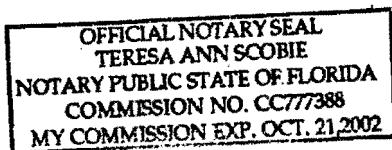


EXHIBIT NO. \_\_\_\_\_

**DOCKET NO:** 000075-TP

**WITNESS:** Stip - 9

**PARTY:** Florida Competitive Carriers Association (FCCA)

**DESCRIPTION:**

1. FCCA's responses to staff's First Set of Interrogatories.

**PROFFERING PARTY:** STAFF

I.D. # Stip-9

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 000075-TP EXHIBIT NO. 8  
COMPANY/  
WITNESS: FPSC Staff  
DATE: 7-3-96-01/10

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Investigation into appropriate  
methods to compensate carriers for  
exchange of traffic subject to Section  
251 of the Telecommunications Act  
of 1996**

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**Docket No. 000075-TP (PHASE II)**

**Dated: June 11, 2001**

**FLORIDA COMPETITIVE CARRIERS ASSOCIATION'S ANSWERS TO  
STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1-3) PHASE II**

**ANSWERS TO INTERROGATORIES**

1. In the recent FCC Order No. 01-131, the FCC established certain interim measures for compensating ISP-bound traffic, as well as revisions removing the word "local" from certain rules.

- a) Does FCC Order No. 01-131 impact any issues being addressed in Phase II of this Docket?

See answer prepared by Lee Selwyn on behalf of Global Naps, Inc., Mediaone Florida Telecommunications, Inc., Time Warner Telecom of Florida, LP, Florida Cable Telecommunications Association, Inc., Florida Competitive Carriers Association, and Level 3 Communications. The FCCA continues to review the order and reserves the right to modify or add to its position regarding the impact of the order on Phase II of this docket.

- b) If the answer to (a) is affirmative, which issues are impacted and how?

See 1(a) above.


2. Please refer to page 5, lines 102 of witness Gillan's direct testimony. Please identify the FCC Order that classifies hybrid IP services as information services.

FCC 98-67, 13 FCC POD 11501, issued in Docket 96-45 on April 10, 1998.

3. Please refer to page 10, lines 17-18 of witness Gillan's direct testimony. If the Commission decides to act on the IP Telephony issue in this proceeding, what compensation mechanism should apply to local voice traffic delivered via phone-to-phone IP Telephony?

The FCCA believes that action concerning IP Telephony is premature. Assuming that the phone-to-phone scenario addressed in the interrogatory accesses an IP gateway interconnected via a local interconnection arrangement, and further assuming that the service offered does not include interaction with an information component and that the Florida Commission has jurisdiction to address the appropriate compensation mechanism, then under these assumptions the compensation arrangement should be the same as applies to other traffic using that local interconnection arrangement. The FCCA has not completed its review of 01-131, however, and reserves the right to modify or add to its position regarding the impact of the order on this interrogatory.

Answer provided by Joseph Gillan.

  
Joseph A. McGlothlin  
Vicki Gordon Kaufman  
McWhirter, Reeves, McGlothlin, Davidson  
Decker, Kaufman, Arnold & Steen, P.A.  
117 South Gadsden Street  
Tallahassee, Florida 32301  
(850) 222-2525 (telephone)

Counsel for Florida Competitive Carriers  
Association

EXHIBIT NO. \_\_\_\_\_

**DOCKET NO:** 000075-TP

**WITNESS:** Stip - 10

**PARTY:** AT&T, TCG, MediaOne, FCCA, FCTA, Global NAPs, and  
Time Warner (Joint ALEC)

**DESCRIPTION:**

1. Joint ALEC responses to staff's Second Set of Interrogatories.

**PROFFERING PARTY:** STAFF

I.D. # Stip-10

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 000075-TP EXHIBIT NO. 9  
COMPLAINT  
WITNESS FPSC Staff  
DATE 7-5-06-0100

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Investigation into appropriate )  
methods to compensate carriers for )  
exchange of traffic subject to Section 251 )  
of the Telecommunications Act of 1996. )  
\_\_\_\_\_)

Docket No. 000075-TP

Date: June 11, 2001

**AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.'S,  
TCG SOUTH FLORIDA AND TELEPORT COMMUNICATIONS GROUP'S,  
MEDIAONE FLORIDA TELECOMMUNICATIONS, INC.'S,  
FLORIDA COMPETITIVE CARRIERS ASSOCIATION'S,  
FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION, INC.'S,  
GLOBAL NAPS, INC.'S AND TIME WARNER TELECOM  
OF FLORIDA L.P.'S RESPONSES TO STAFF'S  
SECOND SET OF INTERROGATORIES (NOS. 2-8)**

AT&T Communications of the Southern States, Inc. ("AT&T"), TCG South Florida and Teleport Communications Group ("TCG"), MediaOne Florida Telecommunications, Inc. ("MediaOne"), Florida Competitive Carriers Association ("FCCA"), Global NAPS, Inc., ("Global NAPS") and Time Warner Telecom of Florida, L.P. ("Time Warner"), pursuant to Order No. PSC-00-2229-PCO-TP, dated November 22, 2000, Order No. PSC-00-2350-PCO-TP dated December 2, 2000, Order No. PSC-00-2452-PCO-TP dated December 20, 2000, Order No. PSC-01-0632-PCO-TP dated March 15, 2001, and Florida Rule of Civil Procedure 1.340, hereby submit their responses to the Interrogatories set forth in the Second Set of Interrogatories served by PSC Staff.

2. In the recent FCC Order No. 01-131, the FCC established certain interim measures for compensating ISP-bound traffic, as well as removing the word "local" from certain rules.
  - a. Does FCC Order No. 01-131 impact any issues being addressed in Phase II of this docket?

**RESPONSE**

Yes.

- b. If the answer to (a) is affirmative, which issues are impacted and how?

**RESPONSE**

Assuming that the FCC's order remains in effect, it determines that ISP-bound traffic is a form of interstate traffic and that, moreover, the status of this or any other traffic as "local" or not is irrelevant to the question of intercarrier compensation under Section 251(b)(5). Yet at the same time the FCC establishes interim compensation arrangements for this (by hypothesis) interstate traffic. It follows that there is no policy basis for requiring ISP-bound calls to be handed off to the LEC (typically an ALEC) delivering them to an ISP in or even anywhere near the ILEC-determined "local calling area" applicable to the calling party's intrastate retail calling plan. In this regard, in the FCC's new Notice of Proposed Rulemaking (NPRM) regarding intercarrier compensation, the FCC stated clearly that its current rules require that an ALEC establish only a single POI for an entire LATA and that the originating carrier is responsible for getting its traffic to that ALEC POI. These requirements regarding interconnection architecture still apply to ISP-bound traffic because the FCC expressly so stated in footnote 149 of Order No. 01-131. It follows that at least for ISP-bound traffic, there is no basis whatsoever to object to the use of virtual NXX codes. The status of the traffic as "local" or not is irrelevant. Compensation for the traffic is to be governed by FCC rule, not by contract under Section 251(b)(5). A single LATA-wide POI is permitted. So it cannot reasonably matter at all what NXX codes an ALEC uses to provide service to its ISP customers.

Respondent: Lee L. Selwyn, Economics and Technology, Inc., One Washington Mall, Boston, Massachusetts 02108.

3. Please refer to page 5, lines 16-18 of witness Selwyn's direct testimony.
- a. Is it your position that interconnecting at an ILEC tandem switch establishes that an ALEC's switch serves a comparable geographic area to that tandem, regardless of the number of customers the ALEC serves via its own facilities?

**RESPONSE**

No.

Respondent: Lee L. Selwyn, Economics and Technology, Inc., One Washington Mall, Boston, Massachusetts 02108.

4. Please refer to page 8, lines 7-11 of witness Selwyn's direct testimony.
- a. Define "comparable" in the context of an ALEC's switch servicing a comparable geographic area to that served by an ILEC tandem.

**RESPONSE**

An ALEC switch would be considered to serve a comparable geographic area to that of an ILEC tandem if the ALEC (a) would use that switch to serve all of the ALEC's subscribers within the LATA in which the Point of Interconnection (POI) between the ILEC and the ALEC for that LATA is located, or (b) if all of the ALEC's subscribers in that LATA may be accessed by the ILEC via the single POI. Note that there is no requirement that the ALEC switch be physically located within the LATA, only that the POI providing connectivity to that ALEC switch be physically located within the LATA. See also response to 4e.

- b. What test should the Commission establish to determine whether an ALEC switch serves a comparable geographic area to that served by an ILEC tandem?

**RESPONSE**

See response to 4a.

- c. What information should ALECs be required to provide in order to prove they serve a comparable geographic area?

**RESPONSE**

See response to 4a. ALECs should be required to certify that all of their subscribers within a LATA may be accessed via the SPOI.

- d. How many customers should an ALEC serve in a given area to be considered serving that area?

**RESPONSE**

No "minimum number of customers" test should be applied, since this would discriminate against small and start-up ALECs.

- e. How dispersed should an ALEC's customers be throughout a given area for that ALEC to be considered serving that area?



## **RESPONSE**

See response to 4a. The modern trend is for relatively small, relatively inexpensive switches to serve a broad range of customer volumes. In addition, because of the dramatic decrease in transport costs, a single switch will be capable of serving a broad geographic area. ALECs that offer or that have expressed an intention to offer service across a broad geographic area (i.e., across more than a single rate center) within a LATA will satisfy this dispersion requirement.

Respondent: Lee L. Selwyn, Economics and Technology, Inc., One Washington Mall, Boston, Massachusetts 02108.

5. Please refer to page 12, lines 10-14 of witness Selwyn's direct testimony. Please identify where in the First Report and Order the FCC states that providing access to ALEC customers via a single point of interconnection establishes comparable geographic coverage.

## **RESPONSE**

I make no such contention.

Respondent: Lee L. Selwyn, Economics and Technology, Inc., One Washington Mall, Boston, Massachusetts 02108.

6. Please refer to page 14 of witness Selwn's direct testimony.
  - a. Is it your position that the definition of local calling area for the purposes of applying reciprocal compensation should be based upon the local calling area for retail purposes?

## **RESPONSE**

Yes.

- b. If your response to (a) is negative, how should the local calling area for purposes of applying reciprocal compensation be established?

## RESPONSE

N/A.

- c. If your response to (a) is affirmative, should local calling areas cross state lines pursuant to virtual NXX arrangements that may enable Florida residents to call parties located in another state via a local number?

## RESPONSE

The scope of retail local calling areas, whether by VNXX arrangements or otherwise, is and should be entirely a matter of market decisions by LECs. This conclusion is consistent with, and, indeed, driven by, the relevant definitions in the federal Communications Act. The federal term relating to local calling is "telephone exchange service." That term is defined as follows:

The term "telephone exchange service" means (A) service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers *intercommunicating service* of the character ordinarily furnished by a single exchange, *and which is covered by the exchange service charge*, or (B) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can *originate and terminate* a telecommunications service. (47 U.S.C. sec. 153(47) (emphasis added)).

I would note that subsection (A) was in the Communications Act before the 1996 Act, and that subsection (B) was added by the 1996 Act, clearly to expand the scope of the original definition to cover a broader range of technical arrangements. What matters under this definition are two things. First, the service has to be "intercommunicating," that is, that calls at least in theory can go in either direction. This is confirmed by the "originate and terminate" language in subsection (B). Second, the status of calling as "local" versus "toll" is clearly recognized to be a function of retail marketing plans. This is recognized by the requirement that to be local service, the service has to be "covered by the exchange [that is, the local] service charge." Since even the traditional definition recognized that local service could encompass a number of different exchanges, all that really matters here is whether the service is covered by the retail local service charge or not. If it is, then the service is local. If not, then it's toll.

This latter point is confirmed by the definition of "telephone toll service" in the Act. That term is defined as follows:

The term "telephone toll service" means telephone service between stations in different exchange areas *for which there is made a separate charge not included in contracts with subscribers for exchange service.* (47 U.S.C. sec. 153(48) (emphasis added)). A service cannot be toll service unless there is a "separate charge not included in contracts with subscribers for exchange service." Calls that can be made or received without such a separate charge, therefore, are "local" calls from the perspective of the party in question.

In this regard, it is quite clear that it makes no difference at all to the status of calls as "local" or "toll" that the calling and called parties are in different exchanges. The definition of local service permits that term to include parties in different exchanges as long as the service is (or is "comparable to") "intercommunicating service" and is "covered by the exchange service charge." Toll service, too, obviously involves parties in different exchanges. The only thing that is different in the case of (in a literal sense) "inter-exchange" service that is local and "inter-exchange" service that is toll is the applicable retail calling plan.

It follows that carriers should be able to establish "local calling areas" of any size and character, including -- if consistent with that carrier's marketing plan -- LATA-wide, state-wide, or nation-wide. In this respect, the language of the Communications Act confirms the basic thrust of my testimony, which is that there is no technical or economic basis for distinguishing between "toll" and "local" calls, but that, to the contrary, these are retail marketing concepts that -- in the case of the ILEC -- reflect traditional monopolistic concerns. Not only is there no reason to respect these monopolistic concerns after the passage of the 1996 Act, it seems inconsistent with the pro-competitive purposes of that Act to do so.

I would observe that current FCC rules expressly permit a CMRS carrier, for example, to define a local calling area that embraces multiple LATAs and multiple states within the same "Major Trading Area" ("MTA"). Local Competition Order, at paras. 1035-36.

Respondent: Lee L. Selwyn, Economics and Technology, Inc., One Washington Mall, Boston, Massachusetts 02108.

7. Please refer to page 16, lines 7-14 of witness Selwyn's direct testimony. Please provide an example of a scenario described in which rate center "A" may call rate center "D" at local rates, but a call from rate center "D" to rate center "A" would be a toll call.

## **RESPONSE**

I cannot offer a specific example of where this occurs, if at all, within Florida. The situation that I describe arises when different carriers adopt outward local calling area definitions that differ from their inward local calling area definitions.

Respondent: Lee L. Selwyn, Economics and Technology, Inc., One Washington Mall, Boston, Massachusetts 02108.

8. Please refer to page 44, lines 6-7 of witness Selwyn's direct testimony.

a. What statute, rule or order entitles a carrier to establish "inward" local calling plans?

## **RESPONSE**

See response to item 6c above. As discussed there, the relevant definitions in the federal Communications Act establish that local calling plans are entirely a retail marketing issue, not an issue of technology, economics, or even, particularly, geography. On the specific issue of establishing inward local calling plans, please note that the relevant definition of "telephone exchange service" (i.e., local service) makes no reference to which party is making and which party is receiving any calls. Instead, the reference in subsection (A) of the definition is to "intercommunicating service," which plainly connotes service in either or both directions -- inward and/or outward. This point is confirmed by the newly added language of subsection (B) of the definition, which is to a "comparable" service using essentially any technology "by which a subscriber can originate and terminate a telecommunications service." Again, the definition is completely neutral as to inward versus outward service.

I believe that the traditional focus on "outward" local calling areas is simply an artifact of the way that ILEC monopoly pricing plans happen to have developed over time. Even in the traditional monopoly environment, services such as FX and "800" toll-free calling were established (at high rates under the monopoly regime, of course) to deal with the most pressing situations where customers needed a specific type of "inward" calling plan. In a competitive environment, as would be expected, ALECs have recognized that the marketplace demand for various types of "inward" local calling plans is actually broader than had been satisfied by the relatively limited ILEC offerings. In this regard, ILECs always made much more money on toll services than on any kind of local services, and so were always eager to characterize communications as "toll" in the broadest plausible array of situations. This remains true today. But the advent of competition necessarily forces a re-examination of the basis for such ILEC-centric approaches and, as noted above, there is no support in the relevant statutory definitions for continuing to cater to the ILECs'

monopolistic desire to classify as much traffic as possible as "toll."

- b. When establishing an inward local calling plan, does this supersede the local calling plans established by other carriers for their customers?

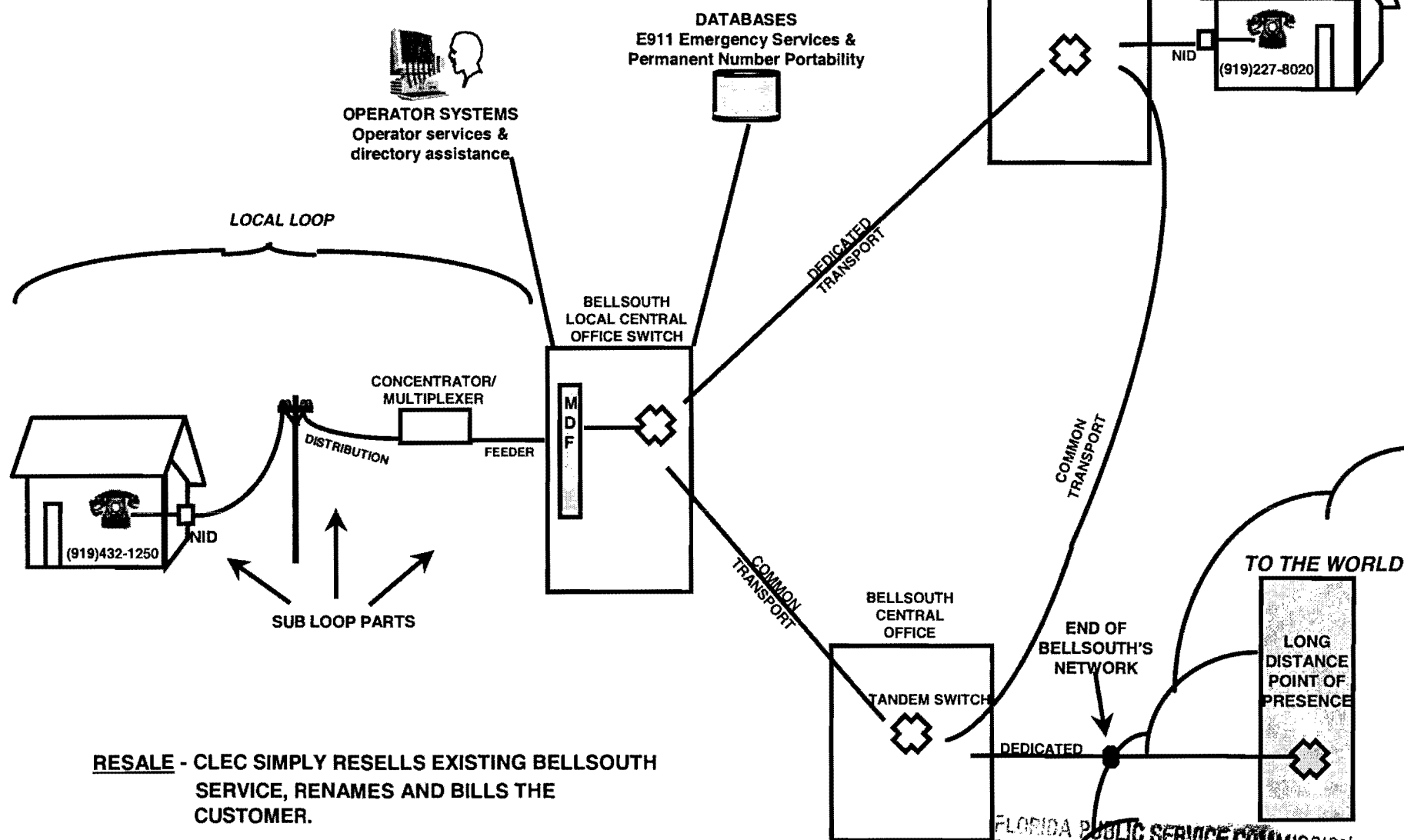
**RESPONSE**

An inward local calling area defined by a particular carrier does not supersede the outward local calling areas defined by other carriers except with respect to calls placed by customers of those other carriers to a customer of the carrier whose inward local calling area embraces the rate center from which the call was originated.

Respondent: Lee L. Selwyn, Economics and Technology, Inc., One Washington Mall, Boston, Massachusetts 02108.

AT&T/Phase II interrog. 2nd

# CURRENT NETWORK TOPOLOGY / CONFIGURATION

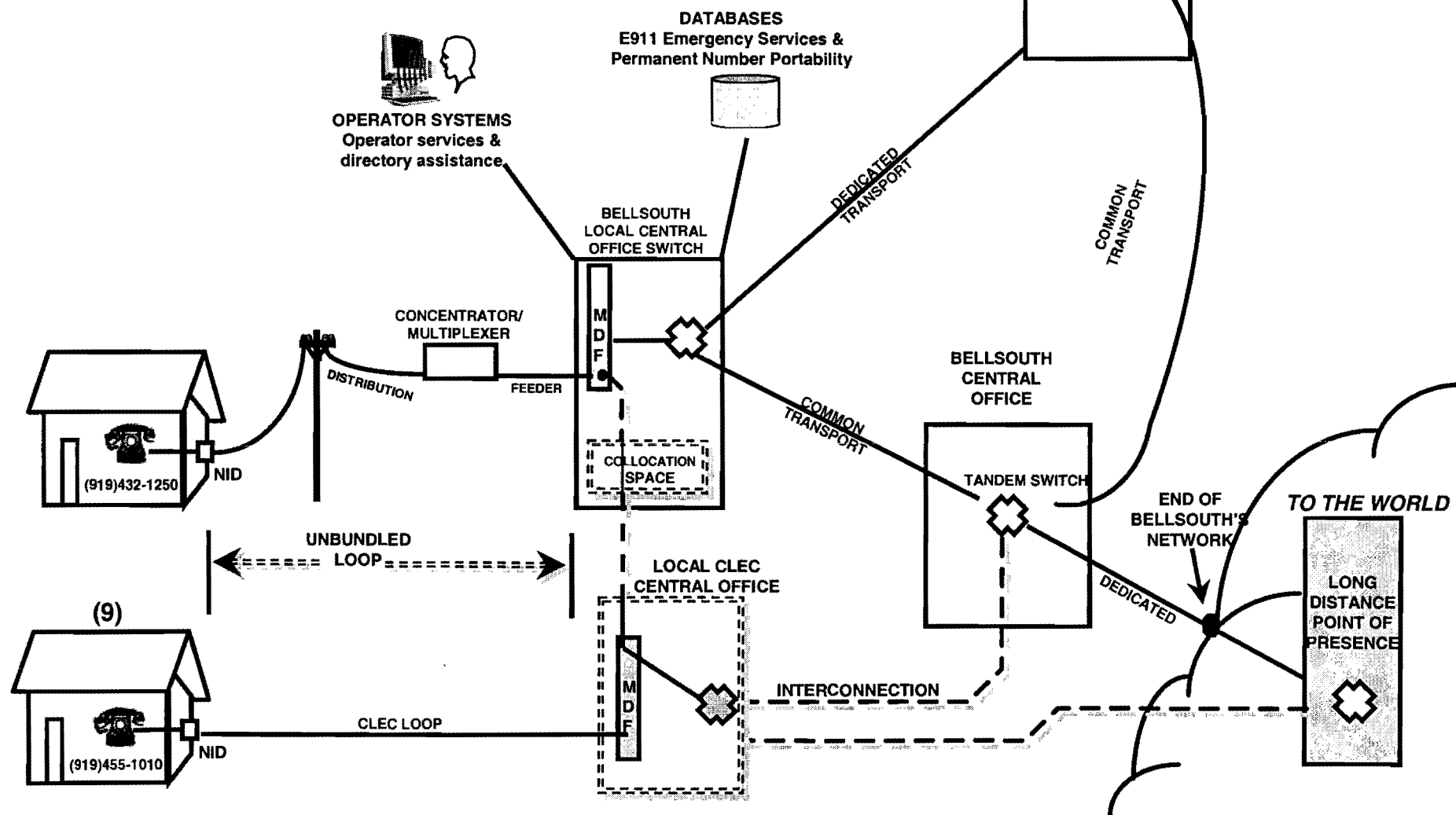


- Slide 1 -  
FLA PSC  
Docket 000075-TP

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET NO. 000075-TP  
EXHIBIT NO. 10  
WITNESS: *EPSC Staff*  
DATE: 1-5-01

- Slide 2 -  
FLA PSC  
Docket 000075-TP

# CLEC - FACILITY BASED ARCHITECTURE USING BELL SOUTH UNBUNDLED LOOP W/COLLOCATION



The diagram illustrates the BellSouth network architecture, showing the flow of traffic from a residential house to the world. The components and connections are as follows:

- Residential House:** Contains a telephone with the number (919)432-1250. It is connected to a **NID (Bellsouth)** and a **NID (CLEC)**.
- DISTRIBUTION:** A dashed line representing the distribution network connecting the house to the NIDs.
- CONCENTRATOR/MULTIPLEXER:** A box connected to the **NID (Bellsouth)** via a **FEEDER** line.
- BELLSOUTH LOCAL CENTRAL OFFICE SWITCH:** A large box containing an **MDF** (Main Distribution Frame) and a switch symbol. It is connected to the **CONCENTRATOR/MULTIPLEXER** and the **FEEDER**.
- OPERATOR SYSTEMS:** A box labeled "Operator services & directory assistance" connected to the **BELLSOUTH LOCAL CENTRAL OFFICE SWITCH**.
- DATABASES:** A box labeled "E911 Emergency Services & Permanent Number Portability" connected to the **BELLSOUTH LOCAL CENTRAL OFFICE SWITCH**.
- COMMON TRANSPORT:** A large curved line representing the common transport network, connecting the **BELLSOUTH LOCAL CENTRAL OFFICE SWITCH** to the **BELLSOUTH CENTRAL OFFICE**.
- BELLSOUTH CENTRAL OFFICE:** A box containing a **TANDEM SWITCH** and a switch symbol. It is connected to the **BELLSOUTH LOCAL CENTRAL OFFICE SWITCH** via **COMMON TRANSPORT** and to the **END OF BELLSOUTH'S NETWORK** via **DEDICATED** transport.
- LOCAL CLEC CENTRAL OFFICE:** A dashed box containing an **MDF** and a switch symbol. It is connected to the **NID (CLEC)** via a **CLEC LOOP** and to the **END OF BELLSOUTH'S NETWORK** via **INTERCONNECTION**.
- END OF BELLSOUTH'S NETWORK:** A point where the network transitions from BellSouth to the world.
- TO THE WORLD:** A large curved line representing the world network, connecting the **END OF BELLSOUTH'S NETWORK** to the **LONG DISTANCE POINT OF PRESENCE**.
- LONG DISTANCE POINT OF PRESENCE:** A box containing a switch symbol, representing the final destination of the call.



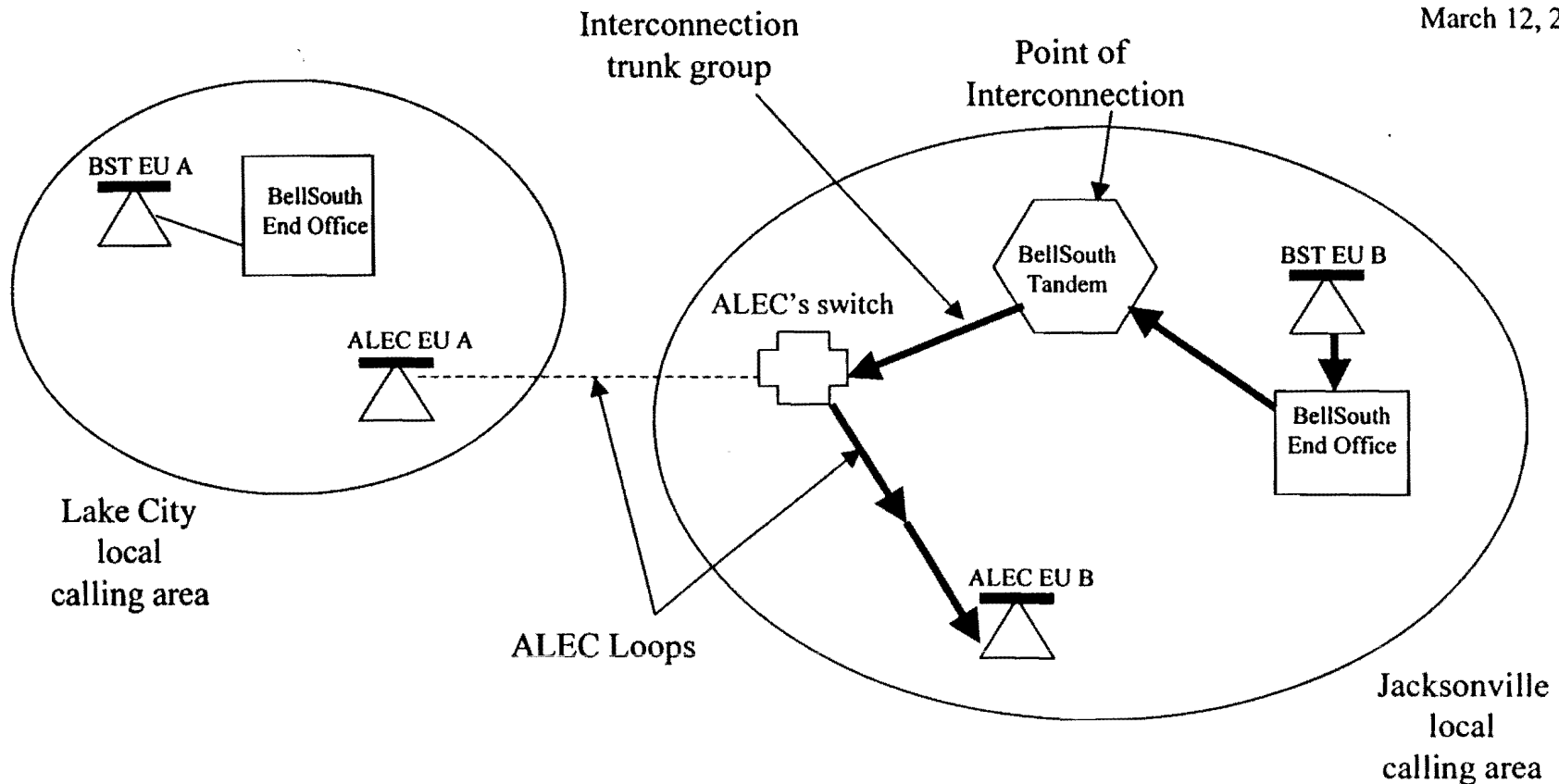
**Local Call from Jacksonville BST EU to Jacksonville ALEC EU**

BellSouth Telecommunications Inc.  
 FPSC Docket No. 000075-TP (Phase II)

Exhibit JAR-1

Page 1 of 3

March 12, 2001



#250340

FLORIDA PUBLIC SERVICE COMMISSION  
 DOCKET

NO. 000075-TP EXHIBIT NO. 11

COMPANY/ Pucilli

WITNESS: 7-5-6-01

DATE: 7-5-6-01

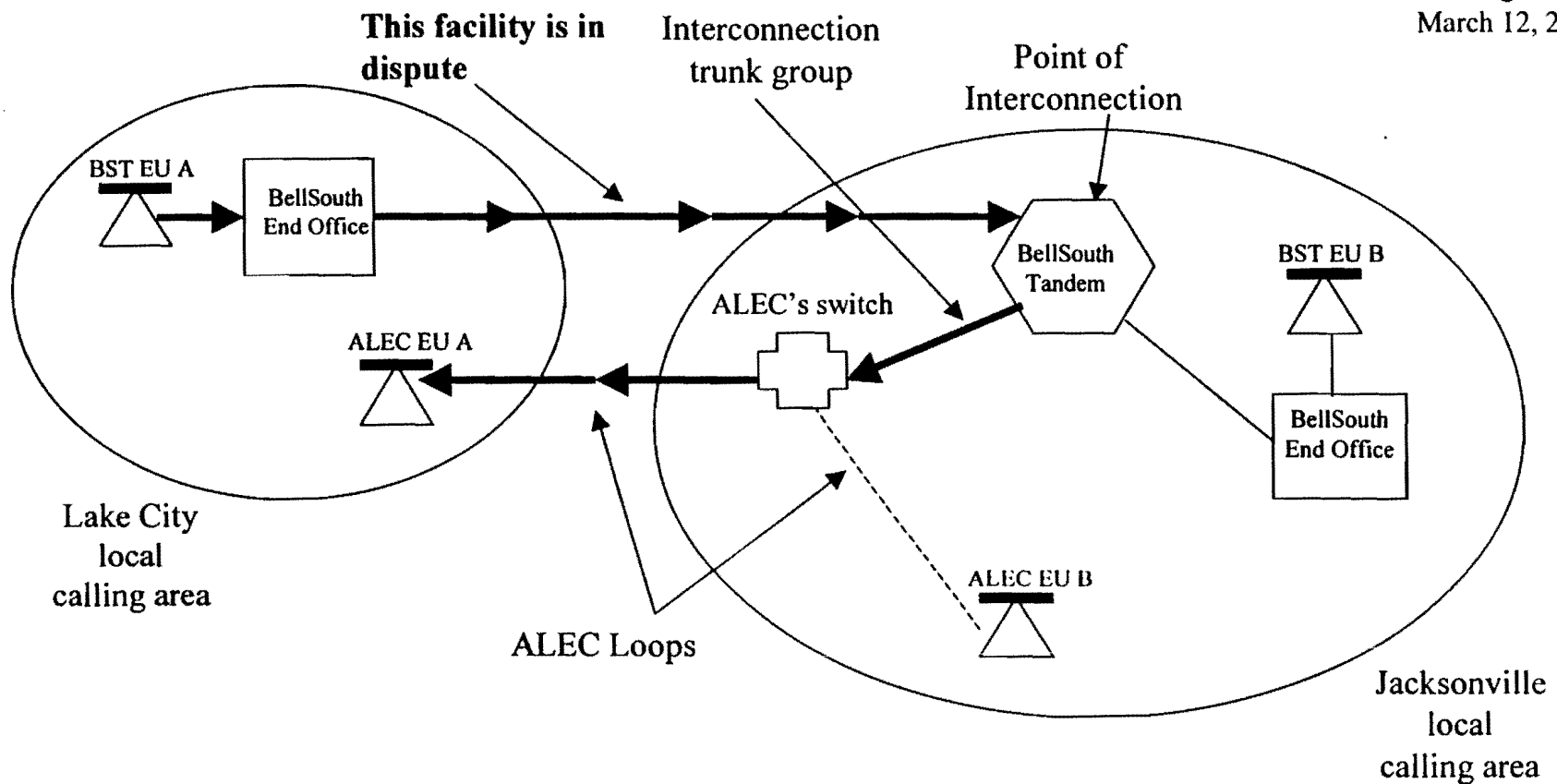
***Local Call from Lake City BST EU to Lake City ALEC EU***

BellSouth Telecommunications Inc.  
FPSC Docket No. 000075-TP (Phase II)

Exhibit JAR-1

Page 2 of 3

March 12, 2001



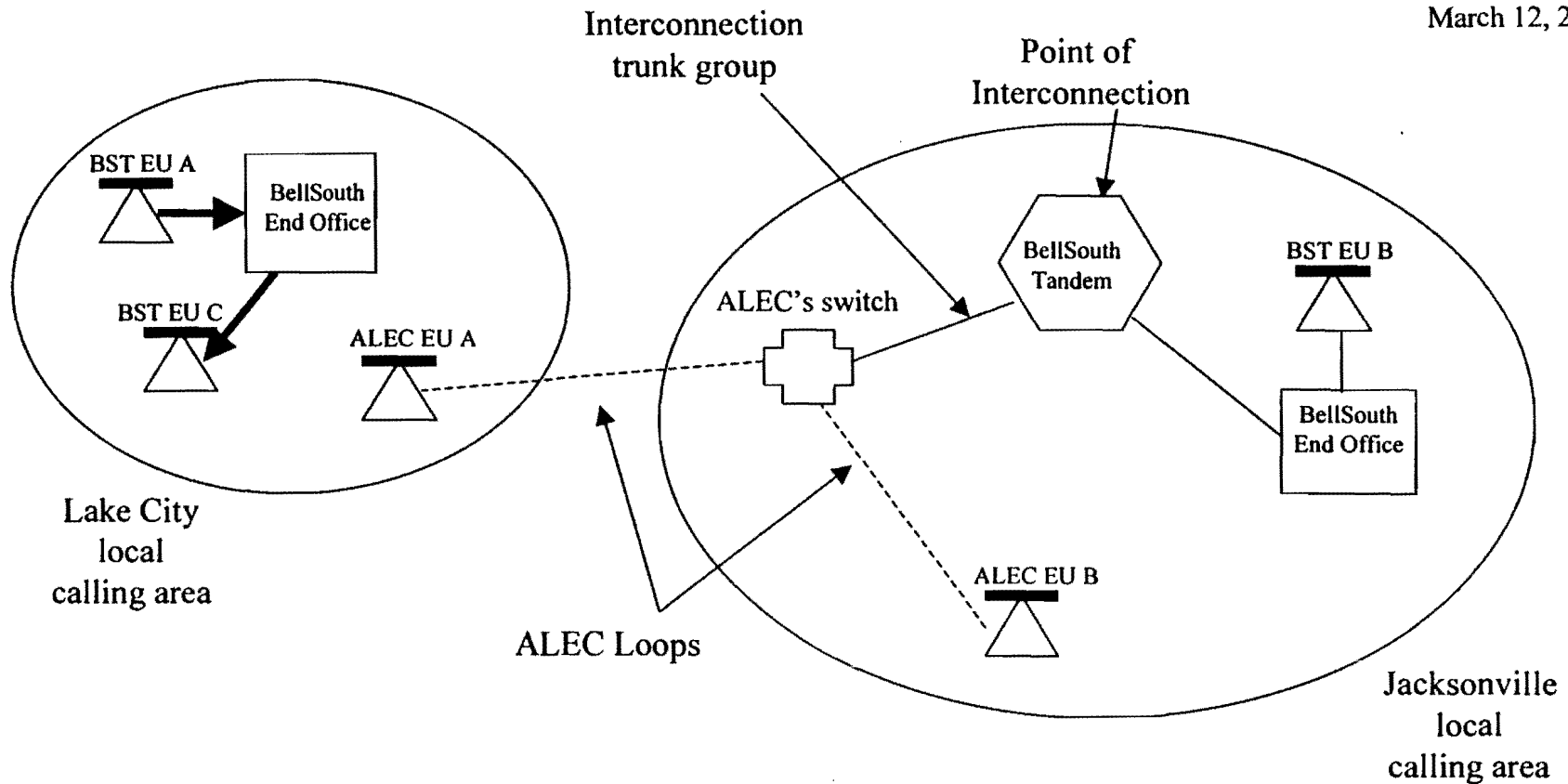
***Local Call from Lake City BST EU to Lake City BST EU***

BellSouth Telecommunications Inc.  
FPSC Docket No. 000075-TP (Phase II)

Exhibit JAR-1

Page 3 of 3

March 12, 2001



databases, and to its directory listings in any format the competing provider specifies, if the LEC's internal systems can accommodate that format.

(A) If a LEC's internal systems do not permit it provide directory assistance or directory listings in the format the specified by the competing provider, the LEC shall:

(i) Within thirty days of receiving the request, inform the competing provider that the requested format cannot be accommodated and tell the requesting provider which formats can be accommodated; and

(2) Provide the requested directory assistance or directory listings in the format the competing provider chooses from among the available formats.

(B) (Reserved)

(iv) *Unlisted numbers.* A LEC shall not provide access to unlisted telephone numbers, or other information that its customer has asked the LEC not to make available, with the exception of customer name and address. The LEC shall ensure that access is permitted to the same directory information, including customer name and address, that is available to its own directory assistance customers.

(v) *Adjuncts to services.* Operator services and directory assistance services must be made available to competing providers in their entirety, including access to any adjunct features (e.g., rating tables or customer information databases) necessary to allow competing providers full use of these services.

(d) *Branding of operator services and directory assistance services.* The refusal of a providing local exchange carrier (LEC) to comply with the reasonable request of a competing provider that the providing LEC rebrand its operator services and directory assistance, or remove its brand from such services, creates a presumption that the providing LEC is unlawfully restricting access to its operator services and directory assistance. The providing LEC can rebut this presumption by demonstrating that it lacks the capability to comply with the competing provider's request.

(e) *Disputes—(1) Disputes involving nondiscriminatory access.* In disputes involving nondiscriminatory access to operator services, directory assistance

services, or directory listings, a providing LEC shall bear the burden of demonstrating with specificity:

(i) That it is permitting nondiscriminatory access, and

(ii) That any disparity in access is not caused by factors within its control. "Factors within its control" include, but are not limited to, physical facilities, staffing, the ordering of supplies or equipment, and maintenance.

(2) *Disputes involving unreasonable dialing delay.* In disputes between providing local exchange carriers (LECs) and competing providers involving unreasonable dialing delay in the provision of access to operator services and directory assistance, the burden of proof is on the providing LEC to demonstrate with specificity that it is processing the calls of the competing provider's customers on terms equal to that of similar calls from the providing LEC's own customers.

[61 FR 47350, Sept. 6, 1996, as amended at 64 FR 51911, Sept. 27, 1999]

EFFECTIVE DATE NOTE: At 64 FR 51911, Sept. 27, 1999, §51.217 was amended by revising paragraph (c)(3). This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

#### §51.219 Access to rights of way.

The rules governing access to rights of way are set forth in part 1, subpart J of this chapter.

#### §51.221 Reciprocal compensation.

The rules governing reciprocal compensation are set forth in subpart H of this part.

#### §51.223 Application of additional requirements.

(a) A state may not impose the obligations set forth in section 251(c) of the Act on a LEC that is not classified as an incumbent LEC as defined in section 251(h)(1) of the Act, unless the Commission issues an order declaring that such LECs or classes or categories of LECs should be treated as incumbent LECs.

(b) A state commission, or any other interested party, may request that the Commission issue an order declaring that a particular LEC be treated as an

incumbent LEC, or that a class or category of LECs be treated as incumbent LECs, pursuant to section 251(h)(2) of the Act.

#### §51.230 Presumption of acceptability for deployment of an advanced services loop technology.

(a) An advanced services loop technology is presumed acceptable for deployment under any one of the following circumstances, where the technology:

(1) Complies with existing industry standards; or

(2) Is approved by an industry standards body, the Commission, or any state commission; or

(3) Has been successfully deployed by any carrier without significantly degrading the performance of other services.

(b) An incumbent LEC may not deny a carrier's request to deploy a technology that is presumed acceptable for deployment unless the incumbent LEC demonstrates to the relevant state commission that deployment of the particular technology will significantly degrade the performance of other advanced services or traditional voiceband services.

(c) Where a carrier seeks to establish that deployment of a technology falls within the presumption of acceptability under paragraph (a)(3) of this section, the burden is on the requesting carrier to demonstrate to the state commission that its proposed deployment meets the threshold for a presumption of acceptability and will not, in fact, significantly degrade the performance of other advanced services or traditional voice band services. Upon a successful demonstration by the requesting carrier before a particular state commission, the deployed technology shall be presumed acceptable for deployment in other areas.

[65 FR 1345, Jan. 10, 2000]

#### §51.231 Provision of information on advanced services deployment.

(a) An incumbent LEC must provide to requesting carriers that seek access to a loop or high frequency portion of the loop to provide advanced services:

(1) Uses in determining which services can be deployed; and information

nt LEC provides service to a resale rates for

LEC shall counterstate access part 69 of this end user com- a interexchange acumbent LEC's erstate or inter- cations services carriers' sub-

## Local Com- transport and Local Tele- Traffic

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switch, or equivalent facility, and delivery of such traffic to the called party's premises.

(e) *Reciprocal compensation.* For purposes of this subpart, a reciprocal compensation arrangement between two carriers is one in which each of the two carriers receives compensation from the other carrier for the transport and termination on each carrier's network facilities of local telecommunications traffic that originates on the network facilities of the other carrier.

### § 51.703 Reciprocal compensation obligation of LECs.

(a) Each LEC shall establish reciprocal compensation arrangements for transport and termination of local telecommunications traffic with any requesting telecommunications carrier.

(b) A LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network.

### § 51.705 Incumbent LECs' rates for transport and termination.

(a) An incumbent LEC's rates for transport and termination of local telecommunications traffic shall be established, at the election of the state commission, on the basis of:

(1) The forward-looking economic costs of such offerings, using a cost study pursuant to §§ 51.505 and 51.511;

(2) Default proxies, as provided in § 51.707; or

(3) A bill-and-keep arrangement, as provided in § 51.713.

(b) In cases where both carriers in a reciprocal compensation arrangement are incumbent LECs, state commissions shall establish the rates of the smaller carrier on the basis of the larger carrier's forward-looking costs, pursuant to § 51.711.

### § 51.707 Default proxies for incumbent LECs' transport and termination rates.

(a) A state commission may determine that the cost information available to it with respect to transport and termination of local telecommunications traffic does not support the adoption of a rate or rates for an incumbent LEC that are consistent with the requirements of §§ 51.505 and 51.511.

In that event, the state commission may establish rates for transport and termination of local telecommunications traffic, or for specific components included therein, that are consistent with the proxies specified in this section, provided that:

(1) Any rate established through use of such proxies is superseded once that state commission establishes rates for transport and termination pursuant to §§ 51.705(a)(1) or 51.705(a)(3); and

(2) The state commission sets forth in writing a reasonable basis for its selection of a particular proxy for transport and termination of local telecommunications traffic, or for specific components included within transport and termination.

(b) If a state commission establishes rates for transport and termination of local telecommunications traffic on the basis of default proxies, such rates must meet the following requirements:

(1) *Termination.* The incumbent LEC's rates for the termination of local telecommunications traffic shall be no greater than 0.4 cents (\$0.004) per minute, and no less than 0.2 cents (\$0.002) per minute, except that, if a state commission has, before August 8, 1996, established a rate less than or equal to 0.5 cents (\$0.005) per minute for such calls, that rate may be retained pending completion of a forward-looking economic cost study.

(2) *Transport.* The incumbent LEC's rates for the transport of local telecommunications traffic, under this section, shall comply with the proxies described in § 51.513(c) (3), (4), and (5) of this part that apply to the analogous unbundled network elements used in transporting a call to the end office that serves the called party.

[61 FR 45619, Aug. 29, 1996, as amended at 61 FR 52709, Oct. 8, 1996]

### § 51.709 Rate structure for transport and termination.

(a) In state proceedings, a state commission shall establish rates for the transport and termination of local telecommunications traffic that are structured consistently with the manner that carriers incur those costs, and consistently with the principles in §§ 51.507 and 51.509.

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Joint Application by SBC Communications	)	
Inc., Southwestern Bell Telephone Company,	)	
and Southwestern Bell Communications	)	CC Docket No. 00-217
Services, Inc. d/b/a Southwestern Bell Long	)	
Distance for Provision of In-Region,	)	
InterLATA Services in Kansas and Oklahoma	)	
	)	

### MEMORANDUM OPINION AND ORDER

**Adopted: January 19, 2001**

**Released: January 22, 2001\***

By The Commission: Chairman Kennard issuing a statement; Commissioner Ness concurring and issuing a statement; Commissioner Furchtgott-Roth concurring in part, dissenting in part, and issuing a statement; Commissioner Powell approving in part, dissenting in part, and issuing a statement.

#### Paragraph

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\* The final version of this order was approved by the Commission on January 19, 2001.

231. We also disagree with Sprint that its problems concerning collocation in remote terminals in Kansas and Oklahoma warrant denial of SWBT's application.<sup>682</sup> The state commissions determined that Sprint's issues concerning collocation in remote terminals were insufficient to overcome an overall finding of checklist compliance.<sup>683</sup> In addition, the Kansas Commission has said that if Sprint, or any other CLEC continues to experience difficulties concerning collocation in remote terminals, it will address these issues as part of its six-month review of SWBT's collocation tariff in Kansas.<sup>684</sup> Because this appears to be a fact-based interconnection dispute that is better resolved at the state-level, and because the state commissions have determined that Sprint's claims were insufficient to overcome an overall finding of checklist non-compliance, we are not persuaded that SWBT has failed to comply with its collocation obligations in Kansas and Oklahoma.<sup>685</sup>

### 3. Technically Feasible Points of Interconnection

232. We conclude that SWBT provides interconnection at all technically feasible points, including a single point of interconnection, and therefore demonstrates compliance with the checklist item. SWBT asserts that it makes each of its standard methods of interconnection available at the line side or trunk side of the local switch, the trunk connection points of a tandem switch, central office cross-connect points, out-of-band signaling transfer points, and points of access to UNEs.<sup>686</sup> SWBT demonstrates that it has state-approved interconnection agreements that spell out readily available points of interconnection, and provide a process for requesting interconnection at additional, technically feasible points.<sup>687</sup> SWBT further shows that, for purposes of interconnection to exchange local traffic, a competitive LEC may choose a single, technically feasible point of interconnection within a LATA.<sup>688</sup>

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<sup>682</sup> Sprint Comments at 65-66 (referring to concerns expressed before the Oklahoma and Kansas Commissions regarding collocation for advanced services).

<sup>683</sup> See Kansas Commission Comments at 8-9; Oklahoma Commission Sec. 271 Order at 165.

<sup>684</sup> Kansas Staff Recommendation at 9.

<sup>685</sup> We also note that SWBT indicates that it has reached agreement with Sprint on language to be added to a new Sprint interconnection agreement to resolve Sprint's issues concerning collocation in remote terminals. See SWBT Reply at 88 n. 57.

<sup>686</sup> SWBT Application at 76; SWBT Deere Aff. at paras. 15; 21-22. SWBT will provide other technically feasible alternatives using the Special Request Procedure set forth in the K2A and O2A. *Id.* at 15; 84-88.

<sup>687</sup> SWBT Application at 76. SWBT's state-approved K2A and O2A require SWBT to provide other collocation arrangements that have been demonstrated to be technically feasible and in compliance with the *Advanced Services Order*.

<sup>688</sup> In compliance with our *SWBT Texas Order*, SWBT modified the language of its K2A and O2A to allow a carrier to choose a single point of interconnection in a LATA. See *SWBT Texas Order*, 15 FCC Rcd 18390, para. 78; see also SWBT Application at 76; SWBT Deere Aff. at para. 5, 14, 66.

233. Some commenters argue that SWBT effectively denies a competing carrier the right to select a single point of interconnection by improperly shifting to competing carriers inflated transport and switching costs associated with such an arrangement.<sup>689</sup> For example, AT&T avers that, in a technical conference in Oklahoma after the adoption of the O2A, SWBT advanced several compensation arrangements relating to a competing carrier's choice of interconnection and collocation which require AT&T to pay inflated transport costs upon exercising its right to a single point of interconnection.<sup>690</sup> SWBT responds that AT&T largely misunderstands the positions it advanced at the technical conference, and that AT&T's claims are best addressed at the state level through the negotiation and arbitration process.<sup>691</sup> SWBT further argues that the Commission previously determined that carriers seeking a single point of interconnection should bear any additional cost associated with taking traffic to and from the point of interconnection in the other exchange.<sup>692</sup>

234. Because these commenters, including AT&T, take issue only with positions advanced by SWBT in a technical conference, we find that the issues raised are hypothetical ones, and therefore do not warrant a finding of non-compliance with checklist item 1. Although SWBT's interpretation of the state-approved interconnection agreement raises potential future compliance issues regarding the interplay between a single point of interconnection and reciprocal compensation, our review must be limited to present issues of compliance.<sup>693</sup> Indeed, we understand that AT&T has filed for arbitration of these issues in Oklahoma.<sup>694</sup> To the extent that the parties believe that this is a matter requiring more explicit rules, we invite them to file a petition for declaratory ruling or petition for rulemaking with the Commission.

235. Finally, we caution SWBT from taking what appears to be an expansive and out of context interpretation of findings we made in our *SWBT Texas Order* concerning its obligation

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<sup>689</sup> AT&T Comments at 24; *see also* Cox Comments at 10; WorldCom Reply at 38.

<sup>690</sup> *See* AT&T Comments, Attachment 2 at 14-20.

<sup>691</sup> *See* SWBT Reply at 77-87.

<sup>692</sup> *Id.* at 86. SWBT relies on the following language from its Texas interconnection agreement with WorldCom: "MCI(WorldCom) and SWBT agree that MCI(WorldCom) may designate, at its option, a minimum of one point of interconnection within a single SWBT exchange where SWBT facilities are available, or multiple points of interconnection within the exchange, for the exchange of all traffic within that exchange. If WorldCom desires a single point for interconnection within a LATA, SWBT agrees to provide dedicated or common transport to any other exchange within a LATA requested by WorldCom, or WorldCom may self-provision, or use a third party's facilities." *See SWBT Texas Order*, 15 FCC Rcd 18390, para. 78 n. 174.

<sup>693</sup> *SWBT Texas Order*, 15 FCC Rcd 18367, para. 27.

<sup>694</sup> *See* Oklahoma Commission Reply at 16. We also note that in its Reply, SWBT makes certain concessions regarding future interpretation of certain language in the O2A and K2A that is at issue. For example, in response to AT&T's argument that SWBT requires a CLEC collocated in a SWBT end office to interconnect there by provisioning direct trunks, AT&T Comments at 28, SWBT concedes that the proper reading of the O2A and K2A is that direct trunking from the CLEC's collocation facility is an option, not a requirement. *See* SWBT Reply at 81.



to deliver traffic to a competitive LEC's point of interconnection.<sup>695</sup> In our *SWBT Texas Order*, we cited to SWBT's interconnection agreement with MCI-WorldCom to support the proposition that SWBT provided carriers the option of a single point of interconnection.<sup>696</sup> We did not, however, consider the issue of how that choice of interconnection would affect inter-carrier compensation arrangements. Nor did our decision to allow a single point of interconnection change an incumbent LEC's reciprocal compensation obligations under our current rules.<sup>697</sup> For example, these rules preclude an incumbent LEC from charging carriers for local traffic that originates on the incumbent LEC's network.<sup>698</sup> These rules also require that an incumbent LEC compensate the other carrier for transport<sup>699</sup> and termination<sup>700</sup> for local traffic that originates on the network facilities of such other carrier.<sup>701</sup>

#### 4. Pricing of Interconnection

##### a. Background

236. As discussed above, checklist item 1 requires a BOC to provide "interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1)."<sup>702</sup> Section 251(c)(2) requires incumbent LECs to provide interconnection "at any technically feasible point within the carrier's network ... on rates, terms, and conditions that are just, reasonable, and nondiscriminatory."<sup>703</sup> Section 252(d)(1) requires state determinations regarding the rates, terms, and conditions of interconnection to be based on cost and to be nondiscriminatory, and allows the rates to include a reasonable profit.<sup>704</sup> The Commission's pricing rules require, among other

<sup>695</sup> See SWBT Reply at 86-87.

<sup>696</sup> See *SWBT Texas Order*, 15 FCC Rcd 18390, para. 78 n. 174.

<sup>697</sup> See 47 C.F.R. §§ 51.701 *et seq.*

<sup>698</sup> 47 C.F.R. § 51.703(b); see also *TSR Wireless, LLC et al. v. U.S. West*, File Nos. E-98-13, E-98-15, E-98-16, E-98-17, E-98-18, FCC No. 00-194 (rel. June 21, 2000), *pet. for review docketed sub nom.*, *Qwest v. FCC*, No. 00-1376 (D.C. Cir. Aug. 17, 2000).

<sup>699</sup> 47 C.F.R. § 51.701(c).

<sup>700</sup> 47 C.F.R. § 51.701(d).

<sup>701</sup> 47 C.F.R. § 51.701(e).

<sup>702</sup> 47 U.S.C. § 271(c)(2)(B)(i).

<sup>703</sup> 47 U.S.C. § 251(c)(2).

<sup>704</sup> 47 U.S.C. § 252(d)(1).

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Developing a Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	

**NOTICE OF PROPOSED RULEMAKING**

**Adopted:** April 19, 2001

**Released:** April 27, 2001

**Comment Date:** 90 days after publication in the Federal Register

**Reply Comment Date:** 135 days after publication in the Federal Register

By the Commission: Chairman Powell and Commissioner Ness issuing separate statements;  
Commissioner Furchtgott-Roth concurring and issuing a statement

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of various implementation problems,<sup>175</sup> however, the Commission has never ordered a peak-load pricing rate structure, though it has permitted such rate structures. In implementing the reciprocal compensation provisions of the 1996 Act, for example, the Commission permitted states to adopt alternative rate structures, including: (1) a higher rate for peak periods; (2) a uniform per-minute rate; (3) a capacity-based rate; or (4) a bill-and-keep arrangement, provided that traffic is relatively balanced.<sup>176</sup> States, however, in applying the Commission's rules governing reciprocal compensation, have generally adopted average per-minute rates. Similarly, with respect to interstate access charges, the Commission has permitted ILECs to charge either a uniform per-minute rate to recover the costs of switching, or a two-part tariff consisting of a call setup charge and a per-minute charge.<sup>177</sup> The Commission has also sought comment on whether it should adopt capacity-based charges to recover switching costs.<sup>178</sup>

110. Our recent experience with ISP reciprocal compensation issues suggests certain questions about the use of uniform per-minute charges to recover the traffic-sensitive costs of termination. In particular, it appears that the Commission may have underestimated the inefficiencies associated with the use of uniform per-minute prices. Accordingly, we seek comment first on whether an average per-minute rate structure can efficiently recover the traffic sensitive costs of interconnection, whether for reciprocal compensation or for access charges. If parties believe that such a rate structure is inherently inefficient, then we ask them to propose alternative, more efficient rate structures. We also seek comment on whether the Commission overestimated the practical difficulties associated with peak-load pricing arrangements. In particular, we seek comment on: (1) how to deal with the practical, implementation problems associated with peak-load pricing; and (2) whether a peak-load pricing structure can eliminate the regulatory arbitrage opportunities of the existing interconnection pricing regimes.

111. We also invite comment on whether alternative rate structures would be more efficient, and whether they would eliminate some of the problems we are currently experiencing. For example, we ask parties to comment on the advantages and disadvantages of using a capacity-based rate structure, and a multi-part rate structure that includes both a call set-up charge and a per-minute charge. Finally, we invite parties to propose alternative rate structures that they believe would be more efficient, and to explain the basis for their belief.

### c. Single Point of Interconnection Issues

112. As previously mentioned, an ILEC must allow a requesting telecommunications carrier to interconnect at any technically feasible point, including the option to interconnect at a

---

<sup>175</sup> The practical difficulties associated with peak-load pricing schemes include: (1) that peak traffic volumes may occur at different times in different areas (e.g., between a downtown business area and a residential suburb); (2) that peak periods may change over time (e.g., in response to increasing Internet use); and (3) that implementing a peak-load pricing scheme may cause a shift in the peak.

<sup>176</sup> See 47 C.F.R. §§ 51.507(c), 51.713; *Local Competition Order*, 11 FCC Rcd. at 15878-79 ¶¶ 755-757, 16028-29 ¶¶ 1063-64.

<sup>177</sup> See 47 C.F.R. § 69.106.

<sup>178</sup> *Pricing Flexibility Order and NPRM*, 14 FCC Rcd. at 14328-30 ¶¶ 211-16.

single POI per LATA.<sup>179</sup> Our current reciprocal compensation rules preclude an ILEC from charging carriers for local traffic that originates on the ILEC's network.<sup>180</sup> These rules also require that an ILEC compensate the other carrier for transport<sup>181</sup> and termination<sup>182</sup> for local traffic that originates on the network facilities of such other carrier.<sup>183</sup> Application of these rules has led to questions concerning which carrier should bear the cost of transport to the POI, and under what circumstances an interconnecting carrier should be able to recover from the other carrier the costs of transport from the POI to the switch serving its end user. In particular, carriers have raised the question whether a CLEC, establishing a single POI within a LATA, should pay the ILEC transport costs to compensate the ILEC for the greater transport burden it bears in carrying the traffic outside a particular local calling area to the distant single POI.<sup>184</sup> Some ILECs will interconnect at any POI within a local calling area; however, if a CLEC wishes to interconnect outside the local calling area, some LECs take the position that the CLEC must bear all costs for transport outside the local calling area.<sup>185</sup> CLECs hold the contrary view, that our rules simply require LECs to interconnect at any technically feasible point within a LATA, and that each carrier must bear its own transport costs on its side of the POI.<sup>186</sup>

113. If a carrier establishes a single POI in a LATA, should the ILEC be obligated to interconnect there and thus bear its own transport costs up to the single POI when the single POI is located outside the local calling area? Alternatively, should a carrier be required either to interconnect in every local calling area, or to pay the ILEC transport and/or access charges if the location of the single POI requires the ILEC to transport a call outside the local calling area? Further, if we should determine that a carrier establishing a single POI outside a local calling area must bear some portion of the ILEC's transport costs, do our regulations permit the imposition of access charges for calls that originate and terminate within one local calling area but cross local calling area boundaries due to the placement of the POI?<sup>187</sup>

<sup>179</sup> See *supra* note 91 and accompanying text.

<sup>180</sup> See In the Matter of Joint Application by SBC Communications, Inc. *et al.* for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, CC Docket No. 00-217, *Memorandum Opinion and Order*, FCC 01-29 at ¶ 235 (rel. Jan. 22, 2001) ("*Kansas/Oklahoma 271 Order*") (citing 47 C.F.R. § 51.703(b); In the Matters of TSR Wireless, LLC *et al.* v. U.S. West, 15 FCC Rcd. 11166 (2000), *pet. for review docketed sub nom.*, *Qwest v. FCC*, No. 00-1376 (D.C. Cir. Aug. 17, 2000)).

<sup>181</sup> 47 C.F.R. § 51.701(c).

<sup>182</sup> 47 C.F.R. § 51.701(d).

<sup>183</sup> 47 C.F.R. § 51.701(e).

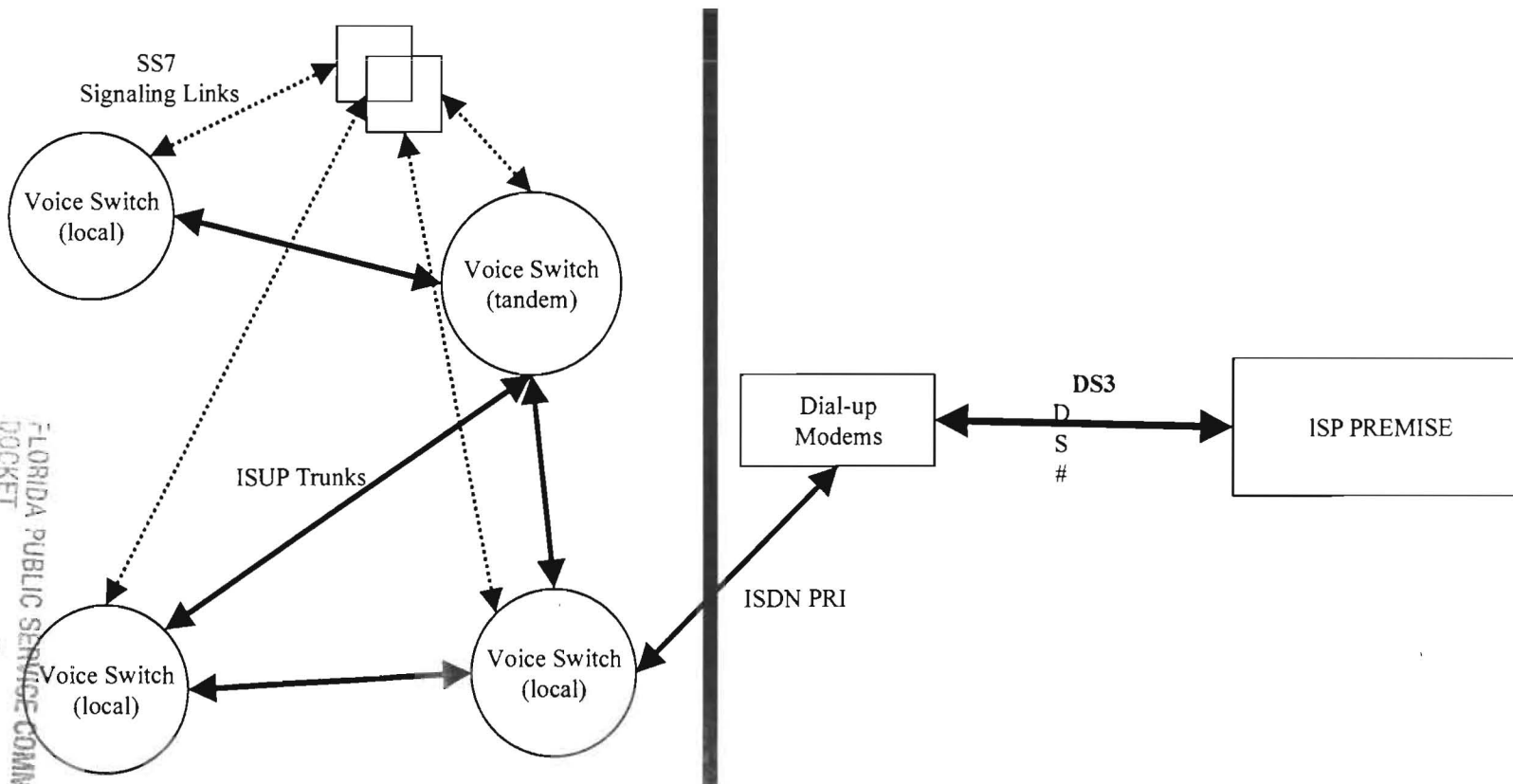
<sup>184</sup> See *Kansas/Oklahoma 271 Order*, *supra* note 180, at ¶¶ 232-34.

<sup>185</sup> SBC Reply in CC Docket No. 00-217, at 83-84.

<sup>186</sup> AT&T Comments in CC Docket No. 00-217, Attachment 2, Fettig Declaration, at 26-27.

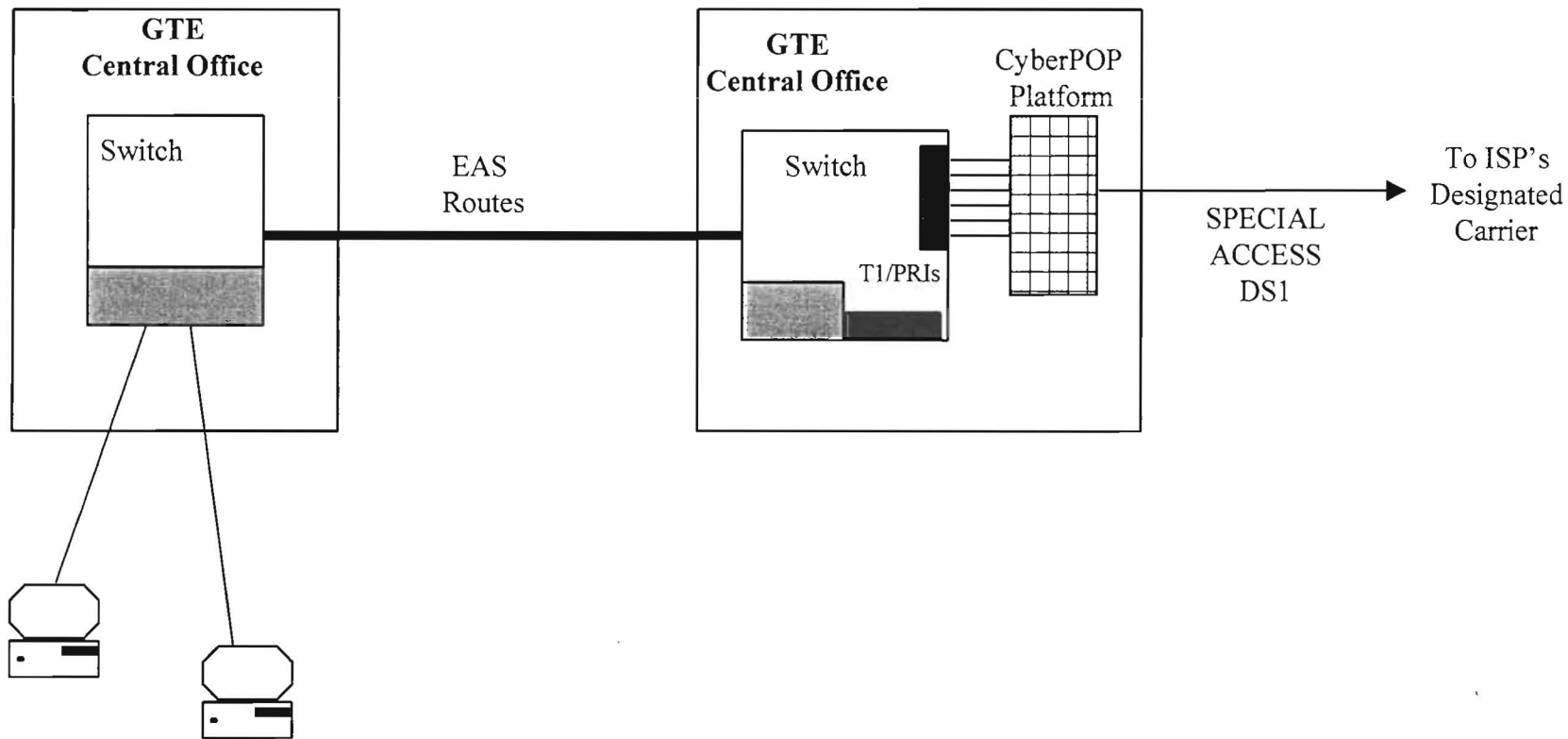
<sup>187</sup> See *ISP Inter-carrier Compensation Order* at ¶¶ 24-30 (discussing relationship between reciprocal compensation and access charges).



# ILEC PRI Model



FLORIDA PUBLIC SERVICE COMMISSION  
 DOCKET NO. 000075-TP  
 COMPANY/ EXHIBIT NO. 13  
 WITNESS: *[Signature]*  
 DATE: 7-5-01


# CyberPOP Model



 Switch PRI Ports  
 Switch Lines Side

Jim Winkelman  
CTO and VP Engineering  
NaviNet, Inc.

## Switch Bypass Case Study



March 1, 2000  
Atlanta, GA  
Telcordia ITESF12

NaviNet

### Overview NaviNet's Dialup Network - A Case Study

- Architecture
  - Connection to PSTN
  - IP and Internet Design
- Switch Bypass Advantages
- Switch Bypass Challenges
- Ideal Switch Bypass Deployment
- Value Added Services Enabled by SS7

**NaviNet**

## Connection to the PSTN - NaviNet's Architectural Goals, July 1997

- Reduce number of POPs: use "SuperPOP" CLEC call aggregation model
- Reduce costs: replace expensive PRIs with SS7 trunks and switch bypass
- Increase quality: reduce busy signals with capacity control and bypass of terminating switch
- Reduce strain on PSTN

**NaviNet**

## Dial-Up POPs and Backbone

**NaviNet U.S. Major Market Online Coverage**

• Current Coverage 79%

**LEGEND**

Support Near Use Plus of Records  
 Logical Connectivity

• Super POP      ———— 65-8 LBA  
 • Super POP      ———— 65-8 LBA  
 • Standard POP      ———— 65-8 LBA  
 • Public Access Terminal Equipment      ———— 65-8 LBA

**MAP INFO**  
 SUPPORT (POP)      FOR 100%  
 POP (POP)      FOR 100%  
 POP (POP)      FOR 100%



DIAGRAM 1

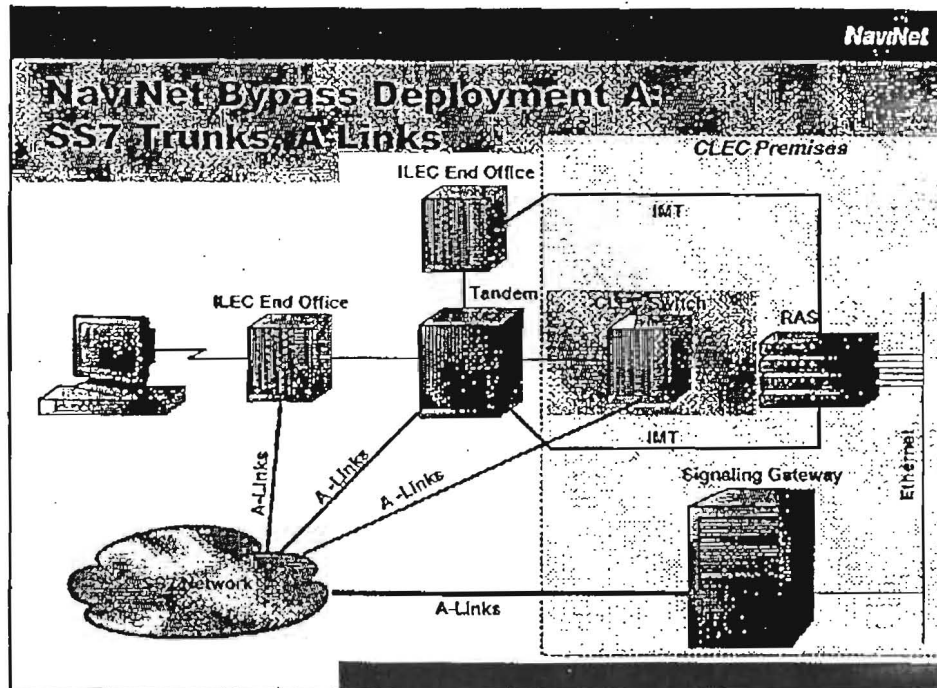
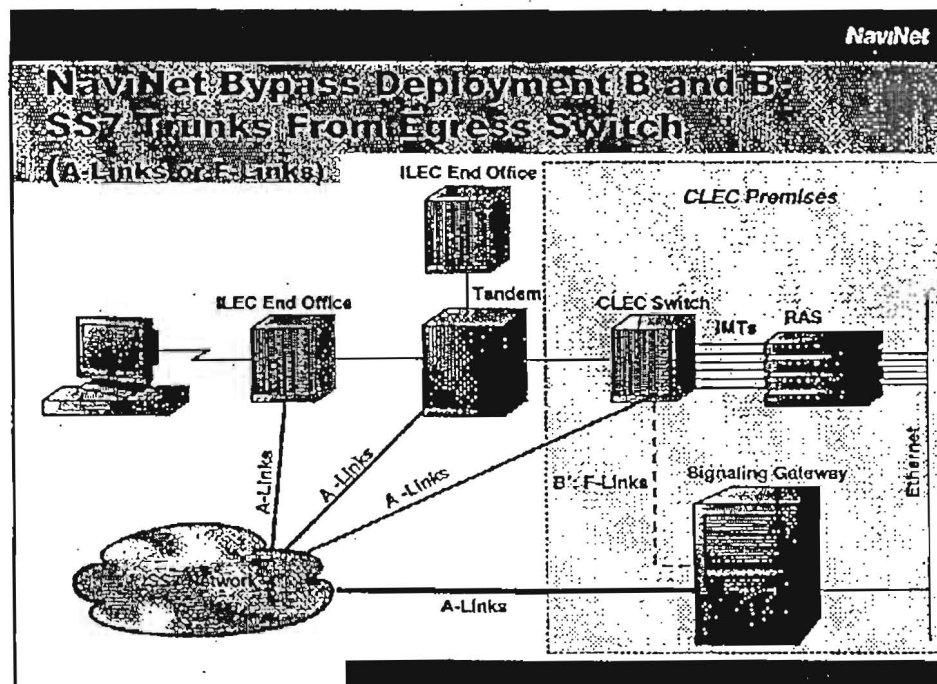
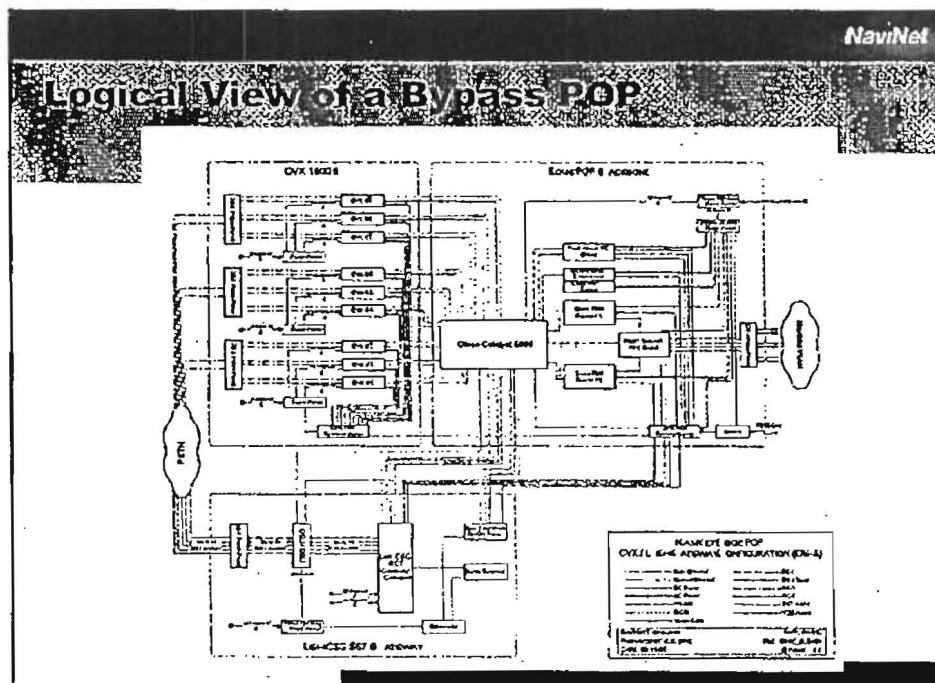
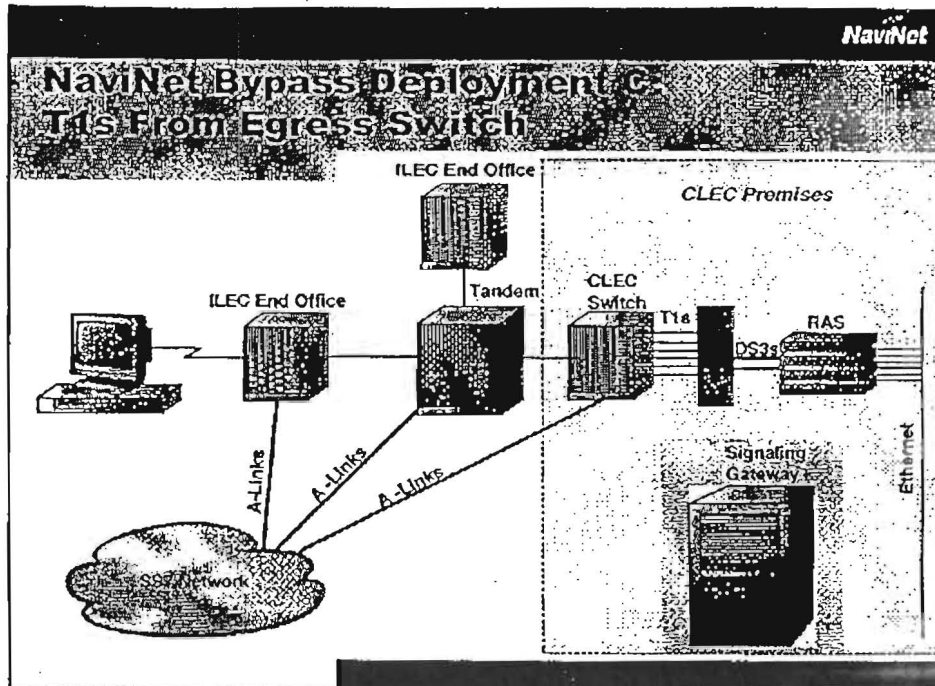


DIAGRAM 2





**NavNet**

## Call Routing: LNP

- IN/AIN methods were non-starters
- We use 1 NPA-NXX for the LRN
- Port a block from each of CLEC's NPA-NXXs
- Port most of LRN NXX back to CLEC
- In some cases, dedicated NXXs

**NavNet**

## IP WAN Architecture

**NavNet WAN v2.0: PLAN OF RECORD**  
 LOGICAL CONNECTIVITY

● Edge POP	----- DC-3 LNK
○ Core POP	----- DS-4 LNK
■ Inter-DC Link	----- Edge LNK
▲ Port the former Outage	

NAVNET V2.0: PLAN OF RECORD  
 PREPARED BY: H.L.J. DATE: 10/01/01

**NavNet U.S. Major Market Online Coverage**

- Current Coverage 79%

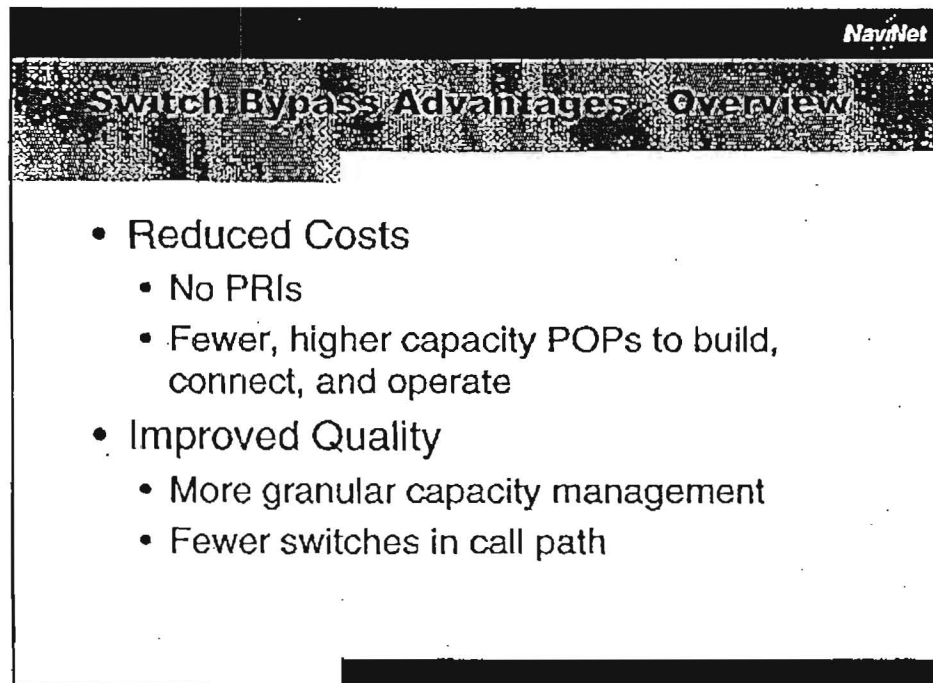
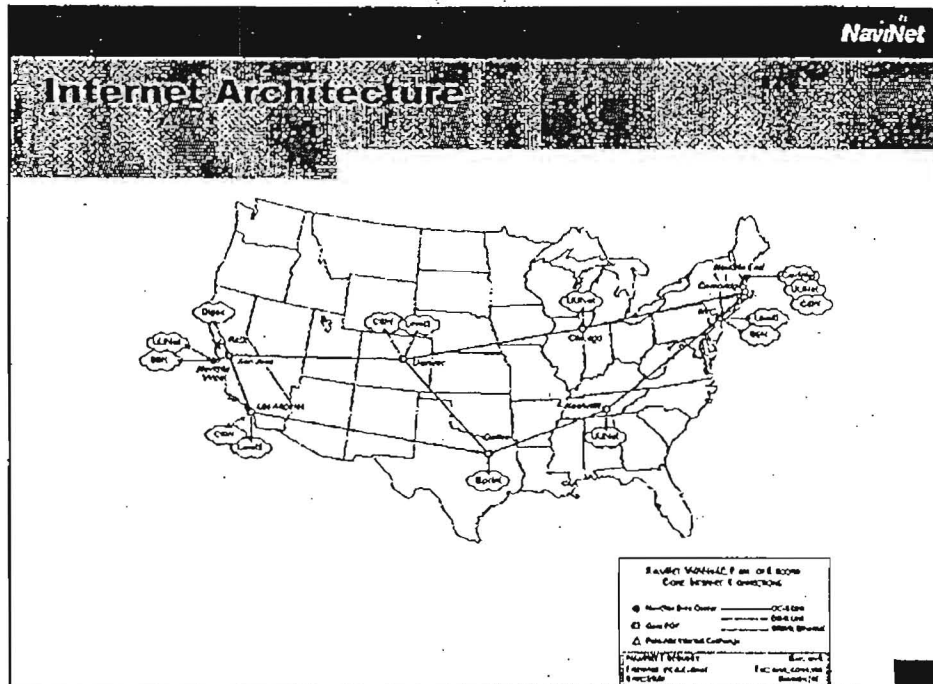


DIAGRAM 3

**NavNet**

**Switch Bypass Advantages - Reduced Costs**

- PRIs:
  - \$400 to \$1000/mo. = \$17 - \$43/DS0/month
  - If changes in recip comp, PRIs could go as high as \$2000/month = \$87/DS0/month
- IMTs (typically DS3 over SONET or IXC)
  - \$0 - \$15,000/mo. = \$0 - \$22/DS0/month
  - Not sensitive to recip comp legislation
  - Recip comp as added revenue

**NavNet**

**Switch Bypass Advantages - Capacity Management**

- PRIs: You must rely on CLEC to
  - trunk to right tandems for your business plan
  - manage capacity of IMTs and of voice switch
- Bypass
  - IMTs not shared with voice customers
  - Set of unique NPA-NXX-LXXXs for each ISP
    - Enables enforcement of capacity control policy...
    - ...which enables meaningful SLAs
  - No line side switch capacity to manage
  - End office trunking

**NavNet**

### Switch Bypass Challenges - Overview

- Capacity management challenges
- Cultural and skill set challenge of "convergence" technologies
- Additional costs

**NavNet**

### Switch Bypass Challenges - Capacity Management

- Idle capacity
  - IMTs
  - Remote Access Servers
  - No DS0 grooming
- Telco delivery times and "Internet Time"
- ...made worse by People Vs. Modems
- ILEC requirements for adding capacity

**NavNet**

**Switch Bypass Challenges -  
"Convergence" culture shock**

- Telco delivery times and "Internet Time"
- Skill sets: PSTN/SS7/IP/Internet routing/WAN design/CLEC/ISP/NSP
- Differing network management philosophies

**NavNet**

**Switch Bypass Challenges - Additional Costs**

- Idle capacity
  - IMTs
  - RAS ports
- Switch bypass gateways
- Administrative overhead

**NavNet**

### **Ideal Switch Bypass Deployment**

- big, Big, BIG, BIG, **BIG**
  - Lots of end users, e.g., wholesale provider
  - Nation-wide presence
  - Lots of interconnection agreements with many ILECs
- Ideal Interconnect Agreement
  - Single point of interconnection, OC48
  - Costs of trunks covered by ILEC (with low/no inbound termination fee)
  - Bill and Keep
- NPA-NXXs providing ubiquitous coverage

**NavNet**

### **Value Added Services Enabled by SS7**

- Now that you've got an SS7 capable IP network . . .
  - Internet Call Waiting
  - Overflow routing
  - PC-to-PC VoIP
  - PC-to-Phone VoIP
  - IN/AIN integration



Jim Winkleman  
CTO and VP Engineering  
NaviNet, Inc.

## Switch Bypass Solutions in the Real World



September 14, 1999  
Seattle, WA  
Telcordia ITESF-10

## **NaviNet's Business Goal: July/97**

- Wholesale dial-up networking provider to ISPs
- Lowest cost basis, highest quality dial network
- NaviNet is a wholly-owned subsidiary of CMGI (2nd infrastructure company)

## Strategy

- Rapidly build nationwide network using CLEC Partner Program
- Focus on wholesale business model
- Implement new dial architecture using emerging technologies

## Dial Architecture

- “SuperPOP” call aggregation model
- Highly robust WAN with distributed Internet access
- Switch bypass technology
  - Eliminates PRIs
  - Increases capacity control
  - Dedicated IMT resources
  - Reduces strain on PSTN

## Current Deployment Status

90,000 ports

- Ten POPs cover 45% of potential U.S. Internet subscribers
- Initial deployment of ~ 6,000 to 12,000 ports per POP
- Target: 75% coverage by EOY '99

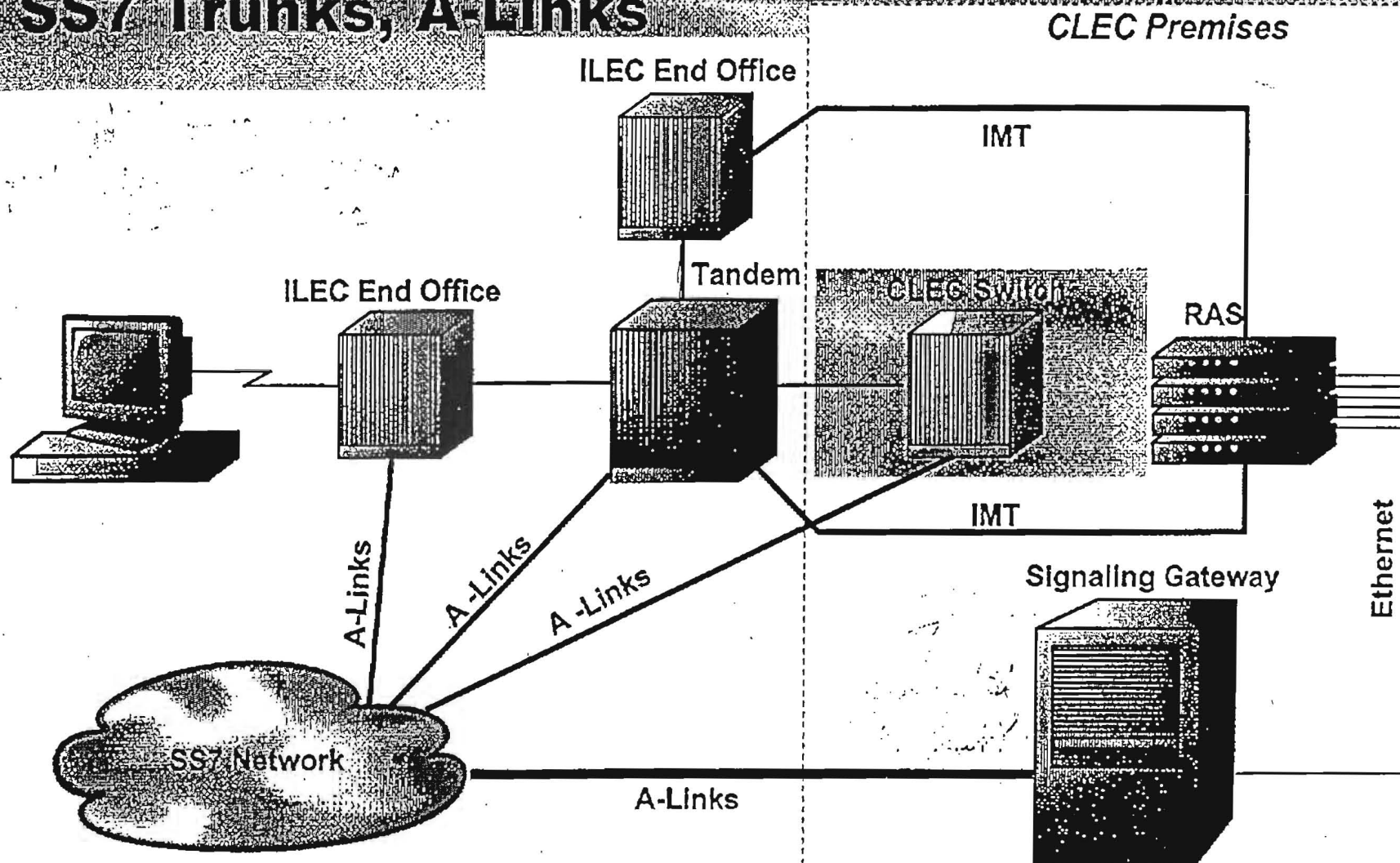
~ 150,000 ports

## What We've Learned

- Convergence technology challenges:
  - Circuit/packet technology "gap"
  - Differing network management philosophies
  - Differing product development strategies
  - Differing cultures
- CLEC/ILEC coordination obstacles
- Bypass technology is no Silver Bullet

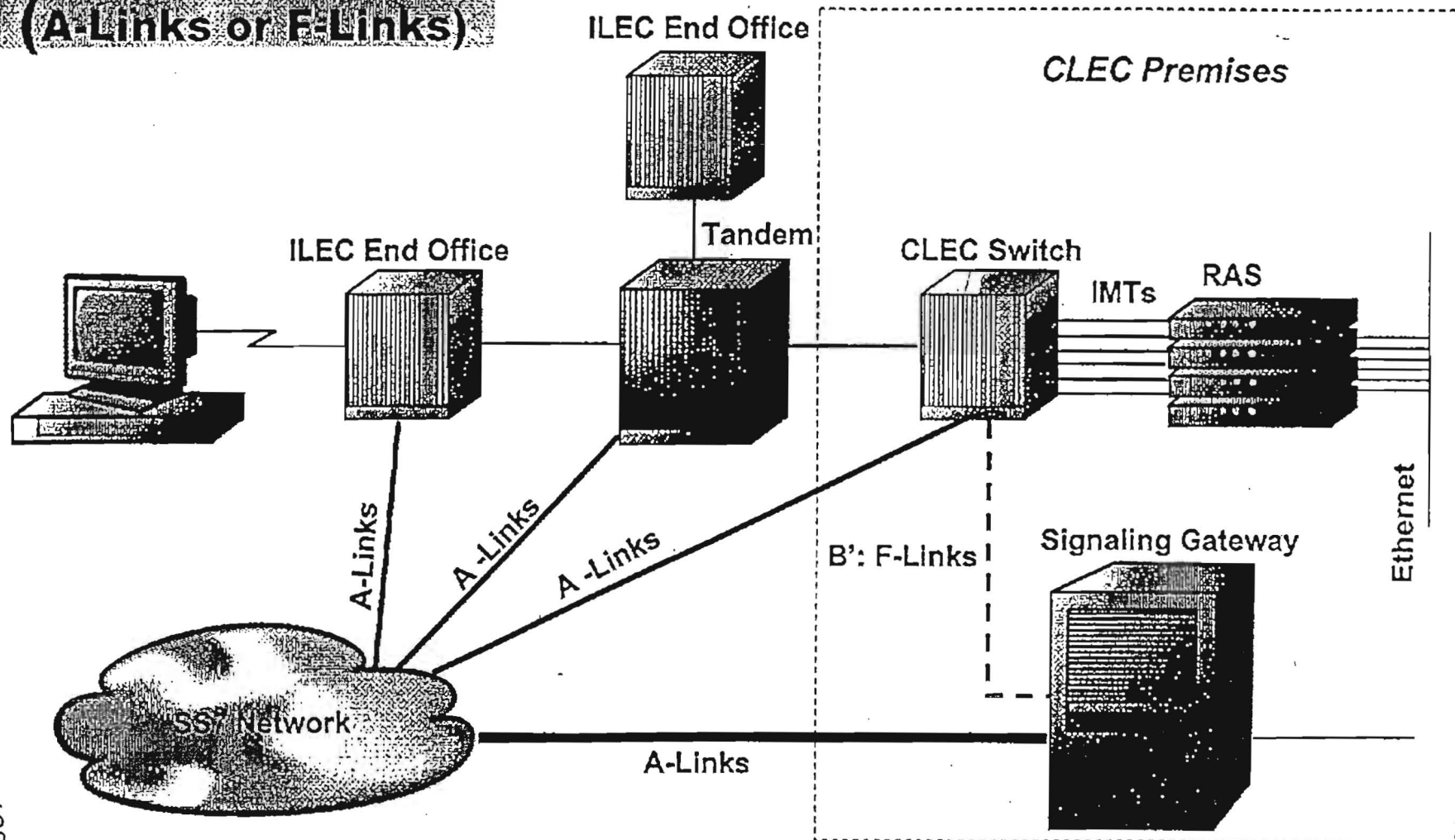


# NaviNet Bypass Deployment A: SS7 Trunks, A-Links



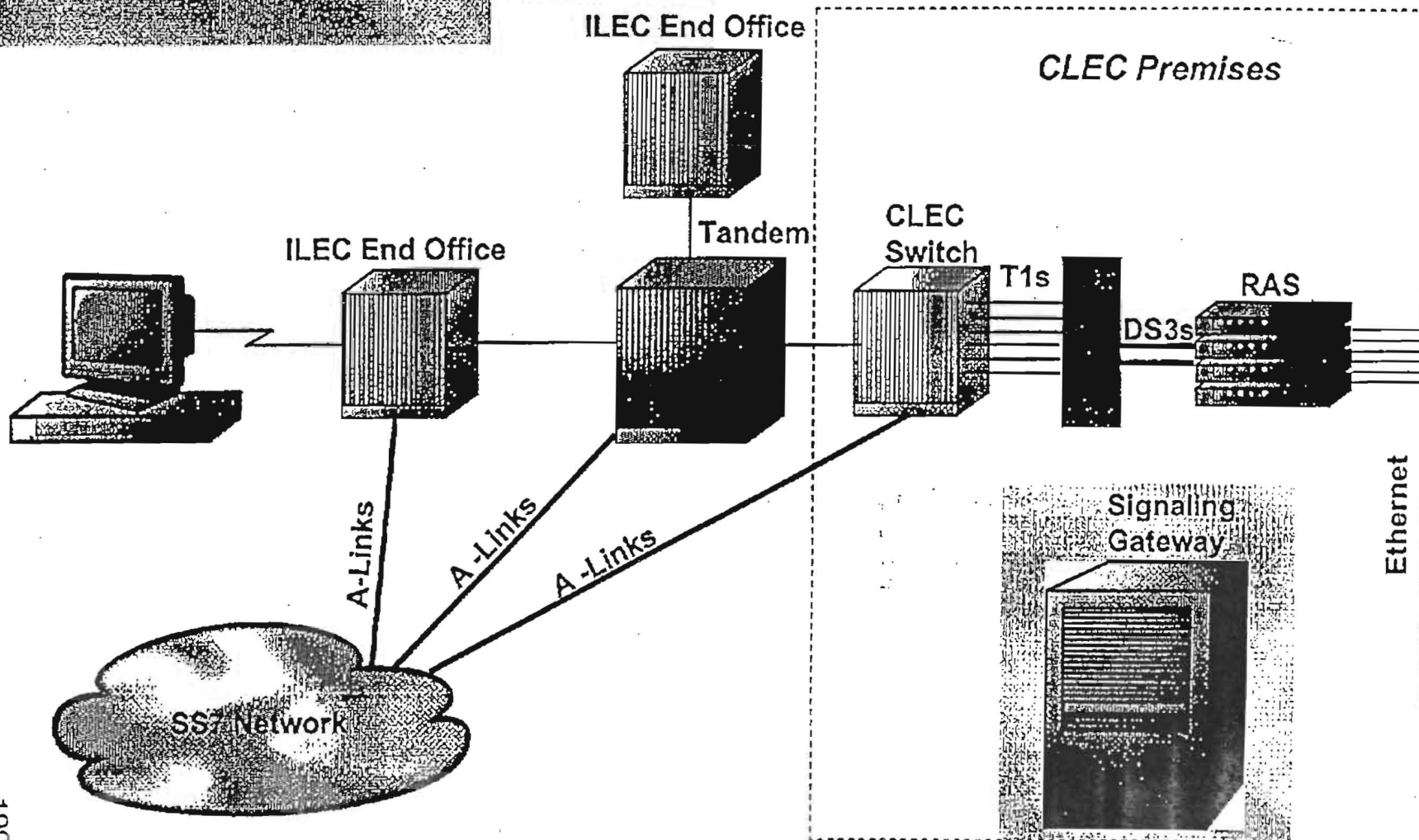
# NaviNet Bypass Deployment B and B': SS7 Trunks From Egress Switch

(A-Links or F-Links)





# NaviNet Bypass Deployment Configuration T1s From Egress Switch



## Call Routing: LNP

- IN/AIN methods were non-starters
- We use 1 NPA-NXX for the LRN *Local Routing Number*
- Port a block from each of CLEC's NPA-NXXs *Why? Port Block then report back to CLEC?*
- Port most of LRN NXX back to CLEC
- In some cases, dedicated NXXs

## Capacity Growth

- Getting initial IMTs from each tandem
- Getting *enough* IMTs -- ILEC capacity forecasts
- "Use 'em or lose 'em"
- Adding End Office trunking - DGIS of 997

## Capacity Management: PRIs vs SS7

- PRIs:
  - CLEC must have IMTs to right tandems
  - NaviNet must trust CLEC to manage capacity of IMTs and of switch
- Bypass -- no shared IMTs
- Set of unique NPA-NXX-XXXXs for each ISP
  - Enables enforcement of capacity control policy...
  - ...which enables meaningful SLAs

## Capacity Management: Downside to Bypass

- More elements to manage
- Instead of one huge hunt group aggregating traffic, less efficient trunk groups are terminated from discrete tandems and end offices

## Cost Considerations

- PRIs:
  - \$400 to \$1000/mo. = \$17 - \$43/DS0/mo.
  - If changes in recip comp,  
\$2000 = \$87/DS0/mo.
- IMTs (typically DS3 over SONET or IXC)
  - \$0 - \$15,000/mo. = \$0 - \$22/DS0/mo.
  - Recip comp
  - Downside: initial idle capacity, esp. IXC DS3s
  - CLECs not often economical in carrier choice
    - ↳ CLECs not as good as NNet at getting IXC deals

GLOBAL NAPS

About Us  
 Sites  
 Bandwidth  
 Contact  
 CC-Location  
 Chairman

## Newsflash

**January 30, 2001**  
Global NAPS completes transition to ATM Packet based Network. "We've done the telecom equivalent of the first moonwalk" says Global NAPS President Frank T. Gangl.

Jan 2, 2001 -- Global NAPS lights major fiber route from New Hampshire through Boston Virginia.

February 21, 2000 -- Global NAPS lights its first dark fiber from Baltimore to Hester.

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# GLOBAL NAPS

TOMORROW'S TELECOM

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FLORIDA PUBLIC SERVICE COMMISSION  
 DOCKET  
 NO. 000075-TP EXHIBIT NO. 14  
 COMPANY/ Beauvais  
 WITNESS: Beauvais  
 DATE: 7-5-01



Back

**GLOBAL NAPS IS FIRST NATIONWIDE CARRIER TO COMPLETE  
TRANSITION FROM TRADITIONAL CIRCUIT SWITCH NETWORK  
TO "ALL-PACKET" NEXT-GENERATION NETWORK**

*Convergent Networks, Sycamore Networks and Marconi Communications Provide Enabling  
Technology for Transition of Wholesale Carrier to End-to-End Broadband Network*

**QUINCY, Mass., February 7, 2001** – Abandoning traditional circuit switch equipment for a next-generation packet-based network that delivers four times the capacity, in one-tenth the space, at one-tenth the cost, Quincy, Massachusetts-based Global NAPS in January became the world's first local exchange carrier to fully transition to an all-packet broadband network. To make the transition possible, Global NAPS deployed more than thirty Convergent Networks' IC'S2000™ broadband switches as the foundation technology of its new network. Other critical components of the Global NAPS network include Sycamore Networks' SN 8000 intelligent optical transport platform and Marconi Communications' ASX™-4000 core ATM switch. Global NAPS has seamlessly interconnected equipment from all three companies into a distributed, high-capacity "virtual" switch that is carrying more than two billion minutes of traffic per month.

"At Global NAPS, we are determined to be the technology leader in everything we do," said Frank Gangi, president and CEO, Global NAPS. "Our next-generation broadband network is an order of magnitude more efficient than any other carrier's circuit switch network. What previously consumed 15,000 square feet of central office space now requires just 1,500 square feet. This watershed event heralds the first major step in achieving Global NAPS' publicly stated



goal of 'all calls are local.' We are now in a position to provide voice, transport and data services better, faster and cheaper than anyone else."

In addition to maintaining its own nationwide SS7 network, Global NAPs recently lit a new switched Gigabit Ethernet IP fiber backbone along the Eastern seaboard. The wholesale carrier's customers include high-volume, high-usage business customers as well as Internet Service Providers (ISPs) such as Mindspring, WebTV and Prodigy. In New England, nearly 7 percent of all dial-up Internet traffic currently flows through the Global NAPs network.

In January, Global NAPs decommissioned and removed the last of its traditional Class circuit switches, replacing it with the ICS2000 broadband switch from Convergent Networks. With a footprint of just two square feet, the ICS2000 supports more than 18,000 simultaneous subscribers in a single chassis when used to provide dial-up Internet access service. More than 30 ICS2000s have been deployed throughout the Global NAPs network to date, interconnected into a virtual switch configuration that currently covers the entire East Coast.

"There is no longer any doubt that the fundamental transition the market has been discussing for years is well underway in the telecommunications industry - the switch has been made from circuit to next-generation packet technology," said John C. Thibault, president and CEO, Convergent Networks. "Service providers like Global NAPs are proving this technology is ready for carrier-class deployments, and they are reaping the performance and economic benefits of next-generation products. Global NAPs has been a true business partner in defining and implementing the Convergent product family, and we are excited to be part of this industry leading transformation."

Other critical components in the Global NAPs network include Sycamore Networks' S 8000 optical transport platform and Marconi Communications' ASX-4000 core ATM switch. Enabling OC-3 through OC-192, as well as Gigabit Ethernet, services Sycamore's SN 8000 provides the industry's most versatile optical networking transport platform for the efficient delivery of wave-based services. With its software-centric design and scalable service platform Global NAPs has been able to rapidly integrate the SN 8000 as it expanded its network's footprint throughout the eastern United States.

"Global NAPs has blended together a service rich network architecture designed to facilitate the rapid deployment of new data-oriented services," said Ryker Young, senior vice president, global sales and services, Sycamore Networks. "Global NAPs is clearly a pioneer in

terms of deploying the next generation public network and Sycamore is proud to provide the optical backbone that will underpin its network's growth."

"To build a world-class next-generation packet (ATM) network, we needed to deploy world-class products, from world-class vendors that would provide us and our customers with world-class support," concluded Global NAPs' Gangi. "The cooperation among these three vendors - Convergent, Sycamore and Marconi - in the deployment of this network has been remarkable. They've made the new public network a reality at Global NAPs."

#### **About Global NAPs**

Launched in May 1995, Global NAPs is a CLEC focused on high-volume, high-usage business customers, as well as Internet Service Providers. Global NAPs provides innovative next-generation voice and data services along with the infrastructure to fully support its customers' needs. Global NAPs also maintains its own SS7 network and has recently deployed switched Gigabit Ethernet IP fiber backbone along the Eastern seaboard. The company is headquartered in Quincy, Mass. and currently offers services in more than a dozen states including Florida, Massachusetts, New York, New Jersey, Pennsylvania and Virginia. Contact Global NAPs via the web at [www.gnaps.com](http://www.gnaps.com).

#### **About Convergent Networks, Inc.**

Founded in 1998, Convergent Networks is the Voice of Broadband Networking." The company designs, develops and markets carrier-class switching solutions that enable emerging and incumbent carriers to economically deliver innovative broadband services to their business and residential customers. Convergent Networks' Cohesion product family is comprised of the primary elements: the ICS2000 broadband switch, the ICServiceWorks™ service creation softswitch and the ICView™ network management system. More information about the company can be found at [www.convergentnet.com](http://www.convergentnet.com).

#### **About Marconi plc**

Marconi plc is a global communications and IT company with around 49,000 employees worldwide and sales in over 100 countries. It supplies advanced communications solutions and the key technologies and services for the Internet. Marconi plc is listed on the London Stock Exchange and the NASDAQ under the symbol MONI. The headquarters of Marconi Communications is in Pittsburgh, PA. Additional information about Marconi can be found at [www.marconi.com](http://www.marconi.com)

### **About Sycamore Networks**

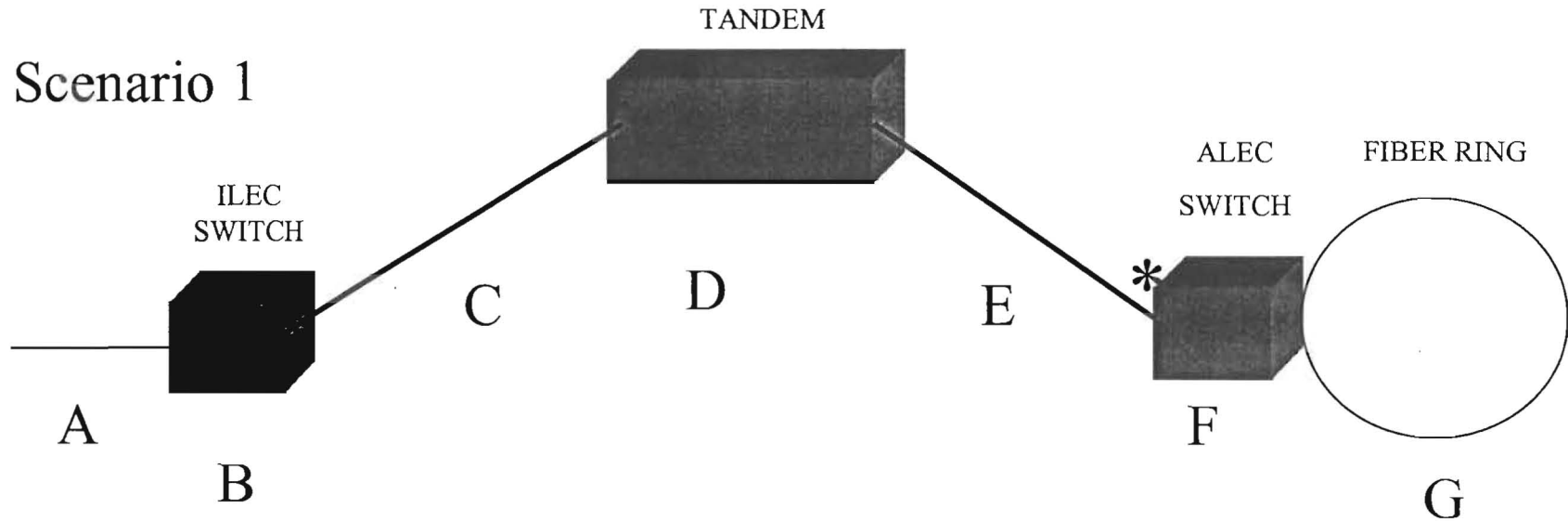
Sycamore Networks develops and markets intelligent optical networking products that transport voice and data traffic over wavelengths of light. The Company combines significant experience in data networking with expertise in optics to develop intelligent optical networking solutions for network service providers. Sycamore's products are based on a common software foundation, enabling concentration on the delivery of services and end-to-end optical networking. Sycamore's products and product plans include optical transport, access and switching systems and end-to-end optical network management solutions. Contact Sycamore Networks at [www.sycamorenet.com](http://www.sycamorenet.com).

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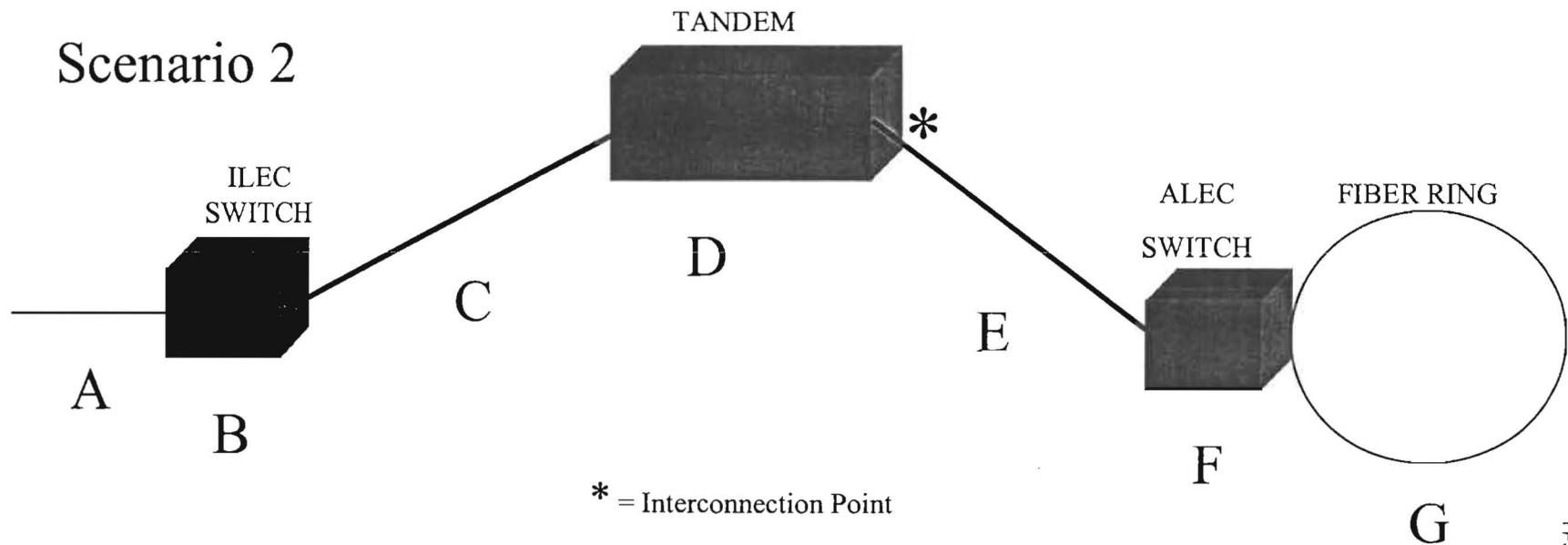
*Cohesion, ICS2000, ICServiceWorks, ICView, and The Voice of Broadband Networking are trademarks of Convergent Networks. All other trademarks are the property of their respective owners.*

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## Scenario 1

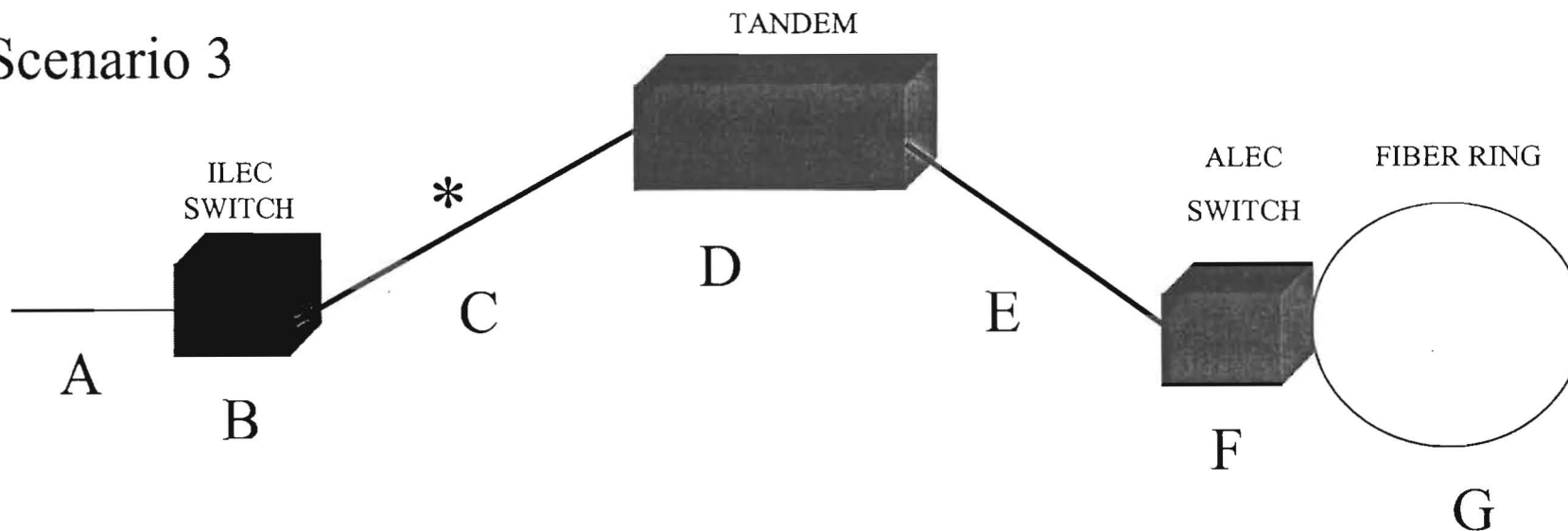


## Scenario 2

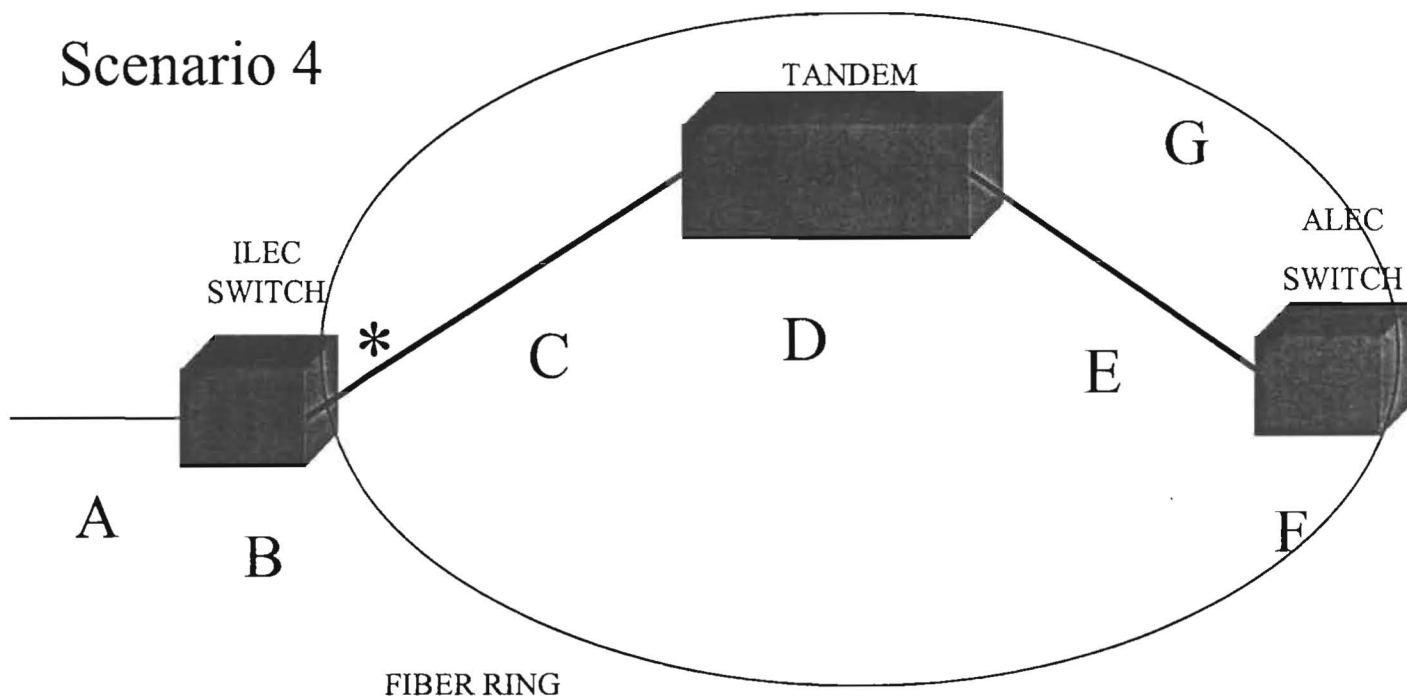


FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 000075-TP EXHIBIT NO. 15  
COMPANY/  
WITNESS: Beauvais  
DATE: 7-5-01

## Scenario 3



## Scenario 4



\* = Interconnection Point

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

June 30, 2000

PUBLIC UTILITIES COMMISSION  
Investigation into Use of Central Office  
Codes (NXXs) by New England Fiber  
Communications, LLC d/b/a Brooks Fiber  
Docket No. 98-758

ORDER REQUIRING  
RECLAMATION OF NXX  
CODES AND SPECIAL  
ISP RATES BY ILEC'S  
(ORDER NO. 4)

NEW ENGLAND FIBER COMMUNICATIONS  
D/B/A BROOKS FIBER  
Proposed Tariff Revision To Introduce  
Regional Exchange (RX) Service  
Docket No. 99-593

ORDER DISAPPROVING  
PROPOSED SERVICE  
(PART 2)

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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## **I. SUMMARY OF DECISION**

We address two cases in this Order. In the Investigation Case (Docket No. 98-758), we direct the North American Numbering Plan Administrator (NANPA) to reclaim the central office (NXX) codes acquired by New England Fiber Communications d/b/a Brooks Fiber (Brooks) that it is using for an unauthorized interexchange service and not for facilities-based local exchange service. Brooks shall discontinue the unauthorized service in six months. In a related matter, we find that Brooks's tariff filing in Docket No. 99-593 for a proposed "regional exchange" (RX) service is unjust and unreasonable, and we disapprove the filing.

In the Investigation Case, we also require Bell Atlantic-Maine (BA) (with the participation of all other incumbent local exchange carriers (ILECs) as access providers) to offer the special retail service to Internet Service Providers (ISPs) that Bell Atlantic proposed in response to our last order in the Investigation Case. In addition, we require Bell Atlantic to provide the same service with a wholesale discount.

## **II. BACKGROUND**

In our Order issued on June 22, 1999 in the Investigation Case, we made factual findings and factual and legal conclusions, all of which we had proposed in prior orders. Those included findings that the service provided by Brooks was interexchange rather than local and that the 54 NXX codes Brooks had acquired outside its Portland area exchange were not being used to provide local service. We also requested comments about a proposal set forth in the Order for a special retail service to be offered by ILECs to ISPs. The proposed service would be an interexchange service, but would provide a substantial discount from existing retail toll rates. Because it would be an interexchange service, it also would provide a more appropriate level of revenue to the ILECs than Bell Atlantic was receiving for the "local" traffic under the interconnection agreement between BA and Brooks.

Following comments that we received on that proposal, the Staff Advisors for the Commission issued an Examiner's Report and Supplemental Examiner's Report. The Examiner's Reports not only addressed the issue of the discounted rate mentioned above, but also recommended that we should order the NANPA to reclaim the 54 NXX codes that have been assigned to Brooks, and that we should disapprove Brooks's tariff filing in Docket No. 99-593 for "RX service."

Several parties filed exceptions and other comments to the Examiner's Reports. We will discuss those within the headings below.

## **III. RECLAIMING NXX CODES**

In the Notice of the Investigation Case, we raised questions about the resolution of this case with respect to Brooks's use of the 54 NXX codes assigned to areas outside its Portland area exchange that Brooks has claimed are being used for local service.

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We have made findings and factual legal conclusions about Brooks's service and the use of those codes, but we have not addressed the issue of the disposition of those codes in any detail since the initial Notice.

In the June 22, 1999 Order, we found that Brooks was not providing local exchange service in those locations of the state that are outside of its Portland area exchange, and that it was not using the central office (NXX) codes it had acquired from the North American Numbering Plan Administrator (NANPA) for the purpose of providing local exchange service. We found that Brooks has no local switching facilities or loops deployed in any of the locations outside its Portland area exchange to which the 54 non-Portland codes are nominally assigned. Brooks was instead using the NXX codes for the purpose of providing an interexchange service that it characterized as like foreign exchange ("FX-like").

Brooks's "FX-like" service uses the interoffice trunking of another carrier rather than dedicated facilities provided by Brooks. Brooks created the FX-like service by the expedient of acquiring a group of NXXs from the NANPA and assigning various geographic locations to them that are outside of its Portland area exchange, even though it had no local exchange customers in those locations and all of its local exchange service customers were located in the Portland area exchange. As a result, calls to the numbers assigned to locations outside the Portland area exchange, which in reality were calls to Brooks customers located in the Portland area exchange, were rated (at least by Bell Atlantic) as if they were calls to the assigned locations, e.g., Augusta. If a call originated within the Augusta basic service calling area (BSCA) and was directed to a Brooks number that was assigned to Augusta, Bell Atlantic rated it as a "local" call. Nevertheless, the call would be routed from a Bell Atlantic customer over a local loop owned by Bell Atlantic, through a local switch owned by Bell Atlantic, over trunking owned by Bell Atlantic to Bell Atlantic's access tandem in Portland, then to Brooks's switch in Portland, and finally to a Brooks ISP customer, also located in Portland.

Because Brooks was not using the 54 NXX codes for the provision of local exchange service, we found that it had no need for them, that their use by Brooks could lead to the exhaustion of NXX codes in the 207 area code, and that Brooks's use of those codes was an unreasonable act or practice by Brooks under 35-A M.R.S.A. § 1306.

The Federal Communications Commission (FCC) has delegated "significant additional authority" to this Commission to "take steps to make number utilization more efficient" and authorized the Commission to utilize "tools that may prolong the life of the existing area code." *In the Matter of Maine Public Utilities Commission, Petition for Additional Delegated Authority to Implement Number Conservation Measures*, CC Docket No. 96-98, Order (Sept. 28, 1999) (FCC *Delegation Order*), ¶¶ 5, 8. The FCC stated:

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The CO Code Assignment Guidelines provide that carriers shall activate NXXs within six months of the "initially published effective date." We are, however, concerned that enforcement of the Guidelines has been lax. Reclaiming NXX codes that are not in use may serve to prolong the life of an area code, because these codes are added to the total inventory of assignable NXX codes in the area code. Therefore, we grant authority to the Maine Commission to investigate whether codeholders have activated NXXs assigned to them within the time frames specified in the CO Code Assignment Guidelines, and to direct the NANPA to reclaim NXXs that the Maine Commission determines have not been activated in a timely manner. We also extend this reclamation authority to instances where, contrary to the CO Code Assignment Guidelines and Maine's rules, a carrier obtaining NXX codes has not been certified as a provider of local exchange service or has not established facilities within the certified time frame. This authority necessarily implies that the Maine Commission may request proof from all carriers that NXX codes have been "placed in service" according to the CO Code Assignment Guidelines as well as proof of certification in the specified service area and proof that facilities have been established within the specified time frame. We further direct the NANPA to abide by the Maine Commission's determination to reclaim an NXX code if the Maine Commission is satisfied that the codeholder has not activated the code within the time specified by the CO Code Assignment Guidelines or has obtained numbering resources without being certified to provide local exchange service.

FCC *Delegation Order* at ¶ 19 (footnotes omitted). According to the quoted portions of the *Delegation Order*, this Commission may require the NANPA to reclaim codes when a carrier either is not certified as a provider of local exchange service or fails to establish facilities within the required time period. *Delegation Order* at ¶ 19. The NANPA *CO Code Assignment Guidelines (Guidelines)* require carriers to "activate" codes within six months of the "initially published effective date." *Guidelines* at § 6.3.3. The failure to establish facilities is by itself a ground for reclaiming NXX codes. *Delegation Order* at ¶ 19.

A. Requirements that a Carrier Using NXX Codes Have Local Exchange Authority and Facilities

In its exceptions, Brooks argued that, as long as it had either obtained authority to provide service, or has met the test of establishing facilities, we cannot require the NANPA to reclaim codes assigned to Brooks. According to this argument, Brooks would be permitted to keep all the codes if it were acting contrary to Maine law with respect to authority but had established facilities in a timely way; or it could keep all the codes if it had lawful authority but had built no facilities. Brooks has misread the *Delegation Order*. Under that Order, there are two independent conditions that allow the Maine PUC to require the return of the codes: first, if Brooks has no authority for the

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service it provides; and second, regardless of whether or not Brooks has authority, if Brooks has not established facilities within the allowed time.

In fact, Brooks has failed both tests. Brooks has not established facilities for local exchange (or any other kind of) service within the 6-month period required by the NANPA *Guidelines* in the areas outside its Portland area exchange to which the 54 NXX codes are assigned. Brooks has built absolutely no facilities (e.g., loops or switching) for local exchange (or any other kind of service) in those exchanges and has no customers in those exchanges.

Brooks has obtained general statewide authority under 35-A M.R.S.A. § 2102 to provide both local exchange and interexchange service.<sup>1</sup> That does not end the inquiry into whether Brooks has authority to provide service to a specific area, however. The FCC *Delegation Order* states that a carrier must be "certified" to provide local exchange service. We construe that statement, consistent with language in the *Guidelines*, to require that a LEC must obtain all necessary authority to provide the service that requires the use of NXXs. The *Guidelines* § 4.1.4 states that an applicant for an NXX code:

must be licensed or certified to operate in the area, if required, and must demonstrate that all applicable regulatory authority required to provide the service for which the central office code is required has been obtained.

We have previously found that Brooks does not have the authority under its approved terms and conditions to provide local exchange service in any location in Maine outside its Portland area exchange. Notwithstanding general authority under section 2102, a utility does not have the authority to provide service to an area, unless its approved terms and conditions define those areas as part of its facilities-based local exchange service territory. A utility cannot offer a service without approved terms and conditions "that in any manner affect the rates charged . . . for any service." 35-A M.R.S.A. § 304. Brooks's approved terms and conditions limit the service area in which it will provide local exchange service to its Portland area exchange. Under current policies, consistent with the *Central Office Code Guidelines* and the FCC *Delegation Order*, we will grant authority to provide facilities-based local exchange service only for areas where a LEC can demonstrate that it will be able to provide facilities-based service within six months. Absent that showing, we would not approve a term or

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<sup>1</sup>As pointed out by Brooks's exceptions, Brooks does have authority under section 2102 to provide interexchange service. It obtained that authority on September 9, 1997 in Docket No. 97-559.

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condition for Brooks to provide facilities-based local exchange service outside its Portland area exchange.<sup>2</sup>

B. Requirement that NXX Codes Be Used For Local Exchange Service

In addition to the two requirements that are specifically stated in the FCC *Delegation Order*, we believe the *Delegation Order* and the *Guidelines* also require that NXX codes must be used for local exchange service rather than interexchange service. In our prior order we found that the "FX-like" service presently provided unlawfully<sup>3</sup> by Brooks is interexchange. In reaching the conclusion in our prior orders that the Brooks "FX-like" service is an interexchange service, and that Brooks is not using the 54 non-Portland NXX codes for local exchange service, we relied primarily on the definitions of local exchange and interexchange services contained in Chapter 280 of the Commission's rules, and on the substantively identical definitions contained in the interconnection agreement between Brooks and Bell Atlantic.

In its exceptions, Brooks suggested that the NANPA *Central Office Assignment Guidelines* do not necessarily require that NXX codes be used only for local exchange service. We disagree. The *Guidelines* state that NXX codes "are assigned to entities for use at a Switching Entity or Point of Interconnection they own or control." *Guidelines* § 3.1 and 4.1. They "are to be assigned only to identify initial *destination addresses* in the public switched network." *Guidelines* § 3.1 (emphasis added). "Assignment of the initial code(s) will be to the extent required to *terminate* PSTN [public switched telephone network] traffic *as authorized or permitted by the appropriate regulatory or governmental authorities* ... ." *Guidelines* § 4.1 (emphases added).

The quoted *Guidelines* leave little doubt that NXX codes are to be used only for the purpose of providing facilities-based local exchange service. IXC's generally do not terminate traffic at end-user locations. Except where they use special access (which, because it is dedicated, does not require switching or NXX codes), IXC's hand over their interexchange traffic to a facilities-based local exchange carrier, most often at a tandem switch. The LEC carries the call to a local switch and local loop, and then

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<sup>2</sup>In our recent orders granting authority to provide facilities-based local exchange service, we have restricted the authority to provide service granted at the certification level pursuant to 35-A M.R.S.A. § 2101, rather than at the term and condition level. If Brooks should pursue an argument in any forum that it has the authority to provide facilities-based service throughout Maine solely because of the order granting it authority to provide local exchange service, issued pursuant to Section 2102 in Docket No. 97-331, we will not hesitate to reopen that Order and review whether we should amend it in a manner consistent with other recent orders.

<sup>3</sup>The "unlawfulness" of offering the present service is due to the fact that Brooks is offering the service without approved rate schedules and terms and conditions. As noted above, Brooks does have authority under 35-A M.R.S.A. § 2102 to provide interexchange service.

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terminates the call at the called customer, i.e., the destination address. As we found in our prior orders, Brooks is not terminating traffic on "destination addresses" in any of the 54 non-Portland locations.

The conclusion that the *Guidelines* require that NXX codes be used only for local exchange service is supported by the requirement in the FCC *Delegation Order* that an applicant for an NXX code be certified as a provider of "local exchange service."

C. Further Discussion of Prior Finding that the Brooks Service is Interexchange

In finding that Brooks's "FX-like" service was interexchange, not local, we relied in part on Brooks's characterization of the service as being "like" foreign exchange service. Although foreign exchange service has a local component (the "local" service of one exchange is brought to a customer in another exchange, hence the name "foreign"), it is the routing of calls from one exchange to another, between which toll charges otherwise would apply, that makes the service interexchange.<sup>4</sup> Brooks is correct that FX service has attributes of local service, because it brings local service to a remote location, but the primary purpose of FX is as a toll substitute, and we reaffirm our prior finding that FX is an interexchange service.

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<sup>4</sup>The interconnection agreement between Brooks and Bell Atlantic does provide definitions of local and interexchange traffic; these definitions apply to the traffic of both Brooks and Bell Atlantic. They are identical to the Commission's definitions in Chapter 280. Under those definitions, we concluded that the traffic that originated from areas outside the Bell Atlantic Portland BSCA, and that terminated in Portland, is interexchange. Bell Atlantic and the other ILECs gather that traffic using their loops and local switches in the various locations outside Brooks's Portland area exchange, and they carry it over interoffice transport facilities to Brooks's only switch, located in Portland. Because the traffic is interexchange, it is subject to the access charge provisions of the Brooks-BA interconnection agreement (for interexchange traffic) rather than the reciprocal compensation provisions (for local traffic).

As explained in our prior orders, the definitions of interexchange traffic in Chapter 280, § 2(G) and the BA-Brooks interconnection agreement expressly depend on toll charges applying; traffic between exchanges that have "local" (EAS or BSCA) calling is not considered interexchange. The BA-Brooks interconnection agreement refers to BA's retail tariff to determine whether a call is local or interexchange.

If any doubt should arise about our interpretation of the Brooks-BA interconnection agreement, we would not hesitate to reconsider our approval of that agreement to ensure that its definitions of local and interexchange traffic would not lead to an exhaustion of scarce public numbering resources.

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FX (foreign exchange) service in effect brings the local exchange service of a distant ("foreign") exchange to another exchange. Thus, for example, a customer located in Portland who subscribes to FX service for Augusta will be provided with an Augusta telephone number and may make calls as if the customer were located in Augusta. Calls to locations within the basic service calling area (BSCA) for Augusta will be toll-free. If the customer's Augusta telephone number is provided to callers located in the Augusta BSCA, they may dial that number and be connected, toll-free, to the customer in Portland. For customers (e.g., ISPs) seeking to gather traffic from distant exchanges without the caller incurring a toll charge, this is a particularly valuable feature of FX service. However, for "traditional" FX service, the customer must pay for the cost of the transport facilities (ordinarily dedicated) between Portland and Augusta. Those costs are often substantial. Customers subscribe to FX to avoid paying toll charges, and to allow others to call them without toll charges,<sup>5</sup> but typically they must have substantial toll-calling volume between the two locations to justify the cost of the dedicated transport facilities.

Brooks's exceptions do not profess to relitigate our prior finding that its "FX-like" service is interexchange.<sup>6</sup> Nevertheless, Brooks does cite to us a decision of the California Public Utilities Commission, *Order Instituting Rulemaking on the*

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<sup>5</sup>Customers occasionally subscribe to FX service for an exchange that is within the BSCA of the home exchange. Nevertheless, even that FX service normally is for the purpose of avoiding toll charges. For example, a Portland customer might subscribe to FX service for Freeport, which is within the Portland BSCA. Freeport's BSCA includes Brunswick, but Portland's does not. Accordingly, the Portland customer, using the Freeport number, may call toll-free to locations, including Brunswick, that are within the Freeport BSCA; and persons in Brunswick may call toll-free to the customer in Portland by dialing the Freeport number.

<sup>6</sup>On May 1, 2000, AT&T filed a Petition to Intervene, accompanied by comments that purport to address our Order issued on June 22, 1999. When we grant a late petition to intervene, the intervenor is entitled to participate only in issues that are not yet settled and cannot seek to relitigate decided issues. AT&T's comments, however, do primarily argue that Brooks's "FX-like" service is local, notwithstanding the fact that this issue has been fully litigated. Nevertheless, we grant AT&T's petition so that we can address other arguments in its comments.

We cannot let pass, however, AT&T's statement that "ILECs themselves treat calls from their end-user customers to their own foreign exchange customers as local under their retail tariffs." AT&T's statement is nothing more than a description of the "local" component of FX service; it ignores the interexchange component. In any event, the placement of a service in a carrier's tariff is not necessarily determinative of its substantive character. As we found in our prior orders, the very purpose of FX service is as a substitute for toll (interexchange) calling, and FX customers pay substantial amounts in lieu of toll charges. AT&T and Brooks would have us redefine the interexchange component as "local."

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*Commission's Own Motion Into Competition for Local Exchange Service*, Rulemaking 95-04-043; *Order Instituting Investigation on the Commission's Own Motion Into Competition for Local Exchange Service*, Investigation 95-04-044, Decision No. 99-09-029, California Public Utilities Commission, (Sept. 2, 1999) (California PUC *Rulemaking/Investigation Order*) apparently to support its argument that its existing "FX-like" service, and its essentially identical proposed RX service, are "economically efficient" and will avoid "unnecessary duplication" of the incumbent's network. We address those arguments in Part IV below. Brooks also claims, however, that the California PUC designated "foreign exchange service as a local exchange service."

The California Commission addressed a service configuration established by a "competitive local carrier" (CLC) that is identical to the configuration that Brooks established in Maine, with the distinction (probably insignificant in the long run) that the California CLC was using only two NXX codes.

We see nothing in the California PUC decision (particularly in the portion of the order quoted by Brooks) that suggests that FX service as a whole is local rather than interexchange. The California Commission did rule that charges to the *caller* should be rated by virtue of the "location" of the rate center (i.e., the location to which the rate center is assigned) rather than by the rate center of the ultimate destination. Thus, as under the present Brooks configuration in Maine, if the NXX were assigned to an area within the local calling area of the caller, no toll charge would be assessed on the caller. To that extent, the California decision is not necessarily remarkable.<sup>7</sup> If, indeed, a carrier is offering a reasonable and legitimate FX service, the normal expectation is that end users who dial a "local" number will not be charged toll charges for those calls, even though those calls are routed to a place to which toll charges normally apply. Another normal expectation, however, is that the FX subscriber (the customer that causes the call to go to the remote exchange) pays rates for that transport service that take into account the lost toll revenue.

The California PUC did not ignore the interexchange component of the service. It addressed this component as a compensation issue, stating:

We conclude that, whatever method is used to provide a local presence in a foreign exchange, a carrier may not avoid responsibility for negotiating reasonable interexchange intercarrier compensation for the routing of calls from the foreign exchange merely by redefining the rating designation from toll to local.

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<sup>7</sup>What is remarkable about the California decision, however, is the fact that such a substantial portion of the order addressed the issue of how calls made by end-users should be rated. The California approach would be paralleled here if our investigation concentrated primarily on the fact that some of the independent ILECs in Maine have rated the calls to the 54 non-Portland codes as toll calls to Portland.



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The provision of a local presence using an NXX prefix rated from a foreign exchange may avoid the need for separate dedicated facilities, but does not eliminate the obligations of other carriers to physically route the call so that it reaches its proper destination. A carrier should not be allowed to benefit from the use of other carriers' networks for routing calls to ISPs while avoiding payment of reasonable compensation for the use of those facilities.

Cal. Order at 32.

And:

We conclude that all carriers are entitled to be fairly compensated for the use of their facilities and related functions performed to deliver calls to their destination, irrespective of how a call is rated based on its NXX prefix. Thus, it is the actual routing points of the call, the volume of traffic, the location of the point of interconnection, and the terms of the interconnection agreement – not the rating point – of a call which properly forms a basis for considering what compensation between carriers may be due.

Cal. Order at 36.

The California PUC never labeled the California CLC's "FX-like" service as wholly local or interexchange.<sup>8</sup> Brooks's claim that the California PUC found the service to be local exchange service is incorrect.

While the comparison of Brooks's "FX-like" service to traditional FX service has some parallels, we find that an even better comparison is to 800 service. Unlike "traditional" FX service, the Brooks service does not use any dedicated lines. Instead, as in the case of 800 service, Brooks's "FX-like" calls are placed to a "toll-free" number and routed over trunking facilities to a distant location that normally incurs a toll charge. It is beyond argument that 800 service is interexchange and that the charges paid for 800 service are charges for an interexchange service, paid instead of regular toll charges.<sup>9</sup> As discussed in more detail below, in connection with our rejection of

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<sup>8</sup>Based on its discussion about the considerations to be addressed in determining proper compensation, it is arguable that the California PUC considers FX service to be neither local nor interexchange, but *sui generis*.

<sup>9</sup>The California *Rulemaking/Investigation Order* recognized that, in addition to FX service, "another traditional method to provide toll-free calling is '800' service," and that if the California CLC had provided 800 service, it would have to pay "intercarrier switched access charges."

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Brooks's proposed RX service, there is nothing preventing Brooks from providing a true 800 service, aside from its apparent unwillingness to pay for it.

We also doubt that Brooks has any real interest in retaining the 54 non-Portland NXX codes for any technical or engineering reason, or for any reason beyond the economic advantage that the codes provided, since 800 or some equivalent service would provide the same or better toll-free access to ISP customers. A toll-free service that uses trunking facilities rather than dedicated facilities can be provided efficiently (from an engineering perspective) using either the Brooks "FX-like" configuration or an "800-like" configuration. The significant difference between the two methods is the vastly greater number of NXX codes used in the Brooks configuration. We suspect that the real difference to Brooks between those two alternatives is that, by continuing to argue that it should be permitted to use 54 NXX codes to provide its service, on the ground that the "FX-like" service is "local exchange service," it may hold onto its hope that it might avoid paying Bell Atlantic for the interexchange transport service provided by Bell Atlantic. By contrast, under an 800-like service, it would be clear without any doubt that Brooks would have to pay the legitimate interexchange costs of long-distance transport, either by using (and paying access charges for) the facilities of another carrier or by paying for the costs of providing its own facilities.

The record makes clear that Brooks's "FX-like" service is being used by Brooks's ISP customers for the purpose of allowing the ISPs' customers who are outside Portland (and who are customers of Bell Atlantic or other ILECs rather than of Brooks) to call the ISPs from locations throughout the state without paying toll charges. It has exactly the same purpose as "traditional" FX service: it is a substitute for interexchange toll service. Alternatively, it is a variant on "800" service, which is a recognized interexchange service. We therefore reaffirm our finding that Brooks's "FX-like" service is an interexchange service, not a local exchange service.

D. Conclusion to Part III: Reclaiming NXX Codes

In this Order, pursuant to our authority under the FCC Delegation Order, we order the NANPA to reclaim the 54 non-Portland NXX codes assigned to Brooks, pursuant to the schedule described in Part V below. Brooks is not using those codes for purposes that are consistent with the NANPA *Guidelines* or the requirements of the FCC *Delegation Order*. It does not have the authority from this Commission to provide local exchange service to anywhere in Maine outside its Portland area exchange (the municipalities of Portland, South Portland and Westbrook); it has no loop, switching or other facilities in, or local exchange service to, those areas; and the "FX-like" service that it is providing with the use of the 54 non-Portland NXX codes is an interexchange service.

With regard to the procedure that we must use to order NANPA to reclaim NXX codes, the FCC stated:

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We note that the CO Code Assignment Guidelines dictate substantial procedural hurdles prior to reclamation of an unused NXX, in part to afford the codeholder an opportunity to explain circumstances that may have led to a delay in code activation... We clarify that the Maine Commission need not follow the reclamation procedures set forth in the CO Code Assignment Guidelines relating to referring the issue to the Industry Numbering Committee (INC) as long as the Maine Commission accords the codeholders an opportunity to explain extenuating circumstances, if any, behind the unactivated NXX codes.

FCC *Delegation Order* at ¶ 20 (footnote omitted).

Brooks has had an ample opportunity in this proceeding to contest the findings and rulings we have made previously, and in this Order. Our findings fully support an order to the NANPA to reclaim the unused Brooks codes.

In Part VI below we address a service, to be furnished by the ILECs (and other carriers who wish to provide it), that will provide a reasonable substitute for the Brooks service, so that ISPs and their customers may continue to have affordable access to the Internet. We expect that it will take some time to implement that service, and we do not want to disrupt service to either ISPs that subscribe to the Brooks service or their customers. We therefore will delay the effective date of reclamation for a period of six months after the date of this Order so that Bell Atlantic and other ILECs will have sufficient time to establish the services and rates described in Part VI, and so that ISPs (and IXC's on a wholesale basis) will have a reasonable opportunity to subscribe to those services.

#### **IV. CLAIMS BY BROOKS AND OTHER PARTIES THAT THE COMMISSION'S RULINGS IMPEDE COMPETITION AND EFFICIENCY**

Brooks and others make an argument suggesting that the Commission's findings and rulings, and the rulings proposed in the Examiner's Report (that we now adopt), will impede local competition in Maine. In our view, the activities of Brooks that we have investigated in this case have nothing to do with local competition. Brooks's service does not create any local exchange service or competition whatsoever outside the Portland area exchange, which is the only exchange in which Brooks has any local exchange customers. The amount of local exchange competition created by Brooks's "FX-like" service is precisely the same as the amount of local exchange competition created by WorldCom's 800 service offerings in Maine's remote regions, i.e., none. Brooks has not built any local exchange facilities in the exchanges outside of Portland, and Brooks has no customers in those exchanges. Brooks has no contact with the callers in those exchanges who use Brooks's service to call the ISPs and has no idea who is "using" the service. The callers are in fact customers of Bell Atlantic, of the independent ILECs, and possibly of other CLECs. There is nothing that Brooks is providing in any of those non-Portland exchanges that resembles local competition in

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any meaningful sense of the word, a fact borne out eloquently by all of the activities Brooks is not doing.

Contrary to what Brooks, AT&T and some others have implied, this Commission has been extremely receptive to, and supportive of competition for all facets of telephone service. On the interexchange side, the Commission has acted vigorously to reduce access rates everywhere in Maine, all to the advantage of vigorous interexchange competition. With respect to local competition, we have recently allowed, over the ILECs' objection, a trial of facilities-based local competition using Internet Protocol (IP) to go forward with virtually no regulatory intervention.<sup>10</sup>

The comments and exceptions filed by Brooks, as well as those by AT&T, also suggest that the Commission is constraining competition by placing restrictions on Brooks and other competitors in the way they define their local calling areas. Specifically, Brooks suggests the Commission is requiring it to be bound by the definitions used by incumbent local exchanged carriers (ILECs), and that such restrictions on competitive LECs are not appropriate in a competitive marketplace. On the contrary, we have not restricted Brooks or any other CLECs from how they define their own retail local calling areas or from the retail rates they want to charge. Brooks is free to offer calling areas of its own design so long as, when it uses the facilities of others to accomplish that end, it pays for those facilities on the basis of how their owners define them for wholesale purposes (interexchange or local). Wireless carriers already offer calling areas vastly different from those offered by wireline carriers, but have built (or leased) facilities that enable them to provide such calling areas.

With its "FX-like" service, however, Brooks is not attempting to define its own calling area. In the areas to which the 54 non-Portland Brooks NXX codes are assigned, Brooks is not offering a different calling area from those offered by the LECs. Its "FX-like" service is not a "local calling area" for Brooks's customers (who are all in Portland) or for anyone else. What Brooks is doing in the non-Portland locations is offering free interexchange calling to customers of *other* LECs that allows them to call a selected number of Brooks customers (ISPs) located in Portland. Brooks is in effect attempting to redefine the local calling areas of *other* LECs. If Brooks had any of its *own* customers served by its own facilities (either by building them itself or by purchasing UNEs), in one of the locations outside of Portland, e.g., Augusta, and offered those customers the ability to call *all* customers in Portland without toll charges, then it could be said that Brooks offered a local calling area in Augusta and, in particular, that its local calling area differed from the ILEC's local calling area. With its own customers in any area, Brooks would be free to delineate whatever "calling area" it wants for those customers, subject to the condition that if such a call is carried over the facilities of another carrier, it must compensate that carrier for the use of its facilities. However, Brooks has no authority to provide local exchange service and no facilities or

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<sup>10</sup>See *Time Warner Cable of Maine, Request for Advisory Ruling Regarding Pilot Program*, Docket No. 2000-285, Advisory Ruling (Apr. 7, 2000).

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customers in locations outside of Portland, and therefore cannot and does not have "local calling areas" in those places.

As discussed above, what Brooks is attempting to do is offer free incoming long distance *interexchange* service to customers of ILECs who are outside Portland and who want to call Brooks's customers in Portland. Although that goal should not be confused with the offering of a local calling area, we have no objection to the goal itself. Our objections are to the use of 54 NXX codes to accomplish that end, when reasonable alternatives exist; and to the notion that Brooks is somehow entitled to use the facilities of someone else, for free, to accomplish that goal. When a carrier uses facilities of others, it cannot unilaterally redefine wholesale arrangements between itself and the carriers that actually carry its traffic simply by declaring that its calls are "local" if that recharacterization is to its financial advantage. A carrier's retail definitions of local and interexchange do not govern whether it pays local or interexchange wholesale rates to other carriers that carry its traffic.

Brooks also suggests that we are deterring it from deploying a more efficient means of providing foreign exchange service, stating that its service is "an efficient functional equivalent to the *local service* provided by the incumbent BA-ME" (emphasis added). The claim is extravagant: Brooks is not offering an equivalent to local service, i.e., an ability to call all customers within a local calling area. At best, it is offering an "efficient functional equivalent" to Bell Atlantic's foreign exchange service. If the need to conserve NXX codes were not a concern, Brooks's claim that a trunking-based FX system is more economical than a system that uses private lines might have merit.<sup>11</sup> However, 800 service also uses trunking rather than dedicated lines between exchanges and provides the same level of efficiency as the Brooks "FX-like" configuration, but does not require any NXX codes.<sup>12</sup> Brooks's approach may be "innovative," but its claim that our orders "discourage the use of new technologies," and

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<sup>11</sup>The use of trunking facilities, which are shared by all users, is typically more cost-efficient than the use of facilities that are dedicated solely to the use of a single customer. On the other hand, at least for some customers, foreign exchange service that uses private lines that are dedicated solely to the use of that customer are likely to be more reliable because blocking either of trunking circuits or switching, caused by high traffic volumes, is less likely to occur. Emergency 911 and alarm services typically use dedicated circuits to reach remote exchanges.

<sup>12</sup>The California *Rulemaking-Investigation Order* suggests that in the absence of allowing California CLCs the option of using NXX codes for the purpose of providing an "innovative" FX service, CLCs would be required to place switching in every location in which they wished to have a local presence. It does not appear that the California PUC considered 800 service as a reasonable alternative to the NXX-code-based FX service. If one of Brooks's customers in Portland subscribed to an 800 service (provided by Brooks or any other carrier), it would not be necessary for Brooks (or one of the California CLCs in a parallel situation) to place switching in remote exchanges. With 800 service, a local customer in Augusta who was served by a LEC other than Brooks

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its suggestion that it should not be saddled with the configuration of the ILECs' network, is disingenuous. Brooks is quite willing to use that network to reach the Brooks switch in Portland, but does not want to pay for its use.

## **V. REJECTION OF BROOKS'S PROPOSED RX SERVICE**

In Docket No. 99-593, Brooks filed proposed terms, conditions and rates schedules for it to provide "Regional Exchange (RX) service." We disapprove the filing because we find the proposed service is not just and reasonable and because Brooks cannot provide the service without the 54 non-Portland NXX codes, which are not available to it for this service.

Pursuant to the provisions of Chapter 110, § 1003(b) of the Commission's rules, we issued a summary Part I Order on May 26, 2000 for this docket stating our conclusions. Part V of this Order constitutes Part 2 of the Order for Docket No. 99-593.<sup>13</sup>

The proposed service would use 54 (or more) NXX codes solely for the purpose of rating calls, so that calls from various locations throughout the State that terminate in Portland would be rated as local (non-toll). While it is a legitimate goal for a carrier to provide toll-free interexchange calling, there are reasonable alternatives to the service proposed by Brooks that do not needlessly use scarce NXX codes. One of those is traditional 800 service; another is the 800-like service we have ordered the ILECs to provide. Neither of these uses any NXX codes within the 207 area code. Nothing prevents Brooks, as an interexchange carrier, from providing an 800-like service itself. Nothing prevents it from buying such a service from another carrier, for example, its parent WorldCom. Under the present circumstances, where we are attempting to avoid the need for an additional area code in Maine, and where other services are available that are technologically equivalent, Brooks's use of 54 codes solely for the rating of interexchange traffic is unreasonable.

No service (even if there were appropriate compensation to the carrier actually providing the interexchange transport) justifies the extravagant use of NXX codes and 7-digit numbers within those NXXs proposed by Brooks. It would take only two or three

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(e.g., Bell Atlantic) would dial an 800 number. That number would be switched by a switch owned by the LEC providing service in Augusta and then routed to Brooks's customer in Portland. Brooks would need switching only in Portland.

<sup>13</sup>On June 2, 2000, the Examiner, pursuant to Chapter 110, §§ 103 and 1302, issued a Procedural Order that stated good cause for suspending the 5-day deadline for the issuance of the Part 2 Order.

The Part I Order in Docket No. 99-593, as well as the Procedural Order, incorrectly identify the date of deliberations as May 16, 2000. The correct date was May 9, 2000.

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more Brooks-like arrangements, each with one ISP customer, to completely exhaust Maine's numbering resources. Brooks proposes to use numbers at the rate of 550,000 for ten customers (equivalent to a "fill" rate of under two one thousandths of one percent). Brooks also suggests that "in a pooling environment, Brooks's . . . use of limited NXXs cannot be said to encourage exhaustion." "Pooling" is the allocation of 1000 numbers within an NXX, which contains 10,000 numbers. Although pooling, which will occur soon, provides sufficient flexibility to allow us to delay the return of the particular codes that Brooks is not using for local exchange service for six months, its suggestion is not persuasive. A use rate of ten in 55,000 is not that much better than ten in 550,000. It is also likely that in a majority of the locations to which the Brooks codes have been assigned, there will not be any competitive LEC service in the near future. If there are no other CLECs to use some or all of the other 9000 numbers, assigning Brooks 1000 numbers out of 10,000 effectively ties up all of the 10,000 numbers in an NXX and would prevent the NXX from being used more effectively in a different location. Moreover, if in exchange where only Brooks was assigned a 1000 block of numbers, it were to use only 10 numbers, the use rate is still only ten in 550,000.

Brooks's proposed service (like the identical "FX-like" service it is presently offering without authority) also *depends* on the use of the 54 non-Portland NXX codes; it cannot offer the service without them. Those codes are not available to Brooks for the proposed service any more than they are for its present "FX-like" service. The reasons given in Part III, in support of our ruling that Brooks could not use the codes for the present service, apply with equal force here. Brooks does not meet any of the requirements of the FCC *Delegation Order* and the NANPA *Guidelines*. It does not have authority to provide local exchange service in any of the 54 non-Portland areas, and it has no facilities in those locations for the provision of local exchange service. In addition, the proposed service is an interexchange service rather than a local exchange service, and NXX codes may be used only for local exchange service.

Brooks argues that we should follow the reasoning of the California PUC *Rulemaking-Investigation Order* in order to allow it to use the codes for the purpose of providing the FX-like/RX service. We decline to do so for three reasons. First, the California PUC did not even consider the important questions of whether a carrier using an NXX must provide local exchange service to the place where the code is assigned, whether it must have local exchange facilities, or whether NXX codes may be used for interexchange services. It did not discuss the NANPA Guidelines or the contents of the delegation order that the FCC has issued to the California PUC granting it certain authority over the use and assignment of NXX codes.<sup>14</sup>

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<sup>14</sup>As discussed above in Part III, the California PUC did not even clearly rule that the service being offered by its CLCs – virtually identical to the service offered by Brooks in Maine – was a local exchange service.

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Second, even if the California PUC could lawfully allow CLCs in California to use NXX codes for a service like Brooks's service in Maine, it is apparent, as a policy choice, that the California PUC has placed a higher value on the ability of its CLCs to offer the FX-like service based on the use of NXX codes than on the conservation of those codes. It stated:

We disagree with Pacific's claim that the Pac-West service arrangement should be prohibited because it contributes to the inefficient use of NXX number resources. While we are acutely aware of the statewide numbering crisis and are actively taking steps to address it, we do not believe that imposing restrictions or prohibitions on CLC service options is a proper solution to promote more efficient number utilization.

We disagree. While the California PUC sees no reason to "impos[e] restrictions or prohibitions on CLC service offerings," we see no reason why a carrier should be permitted to use scarce NXX codes for gathering interexchange traffic when there are technologically efficient methods (e.g., 800 service) to accomplish the same end, without using NXX codes.<sup>15</sup> The California PUC did not address whether an 800 service configuration would be a reasonable alternative for using codes for a non-dedicated FX-like arrangement.<sup>16</sup>

Third, and perhaps most significant, it appears that the California CLCs may actually have been offering true local exchange service (in addition to the NXX-code-based "FX-like" service) in the locations to which the NXX codes had been assigned. The California Commission stated:

Moreover, there is no reason to conclude necessarily that a carrier will use any NXX code only to provide service to ISPs which are located outside of the assigned NXX rate center. For example, both Pac-West and WorldCom report they are actively pursuing numerous opportunities to provide profitable telecommunications services throughout their service areas. Their current subscribers include paging companies that have a significant demand for local DID

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<sup>15</sup>The NANPA reports that California presently has 25 area codes. 12 of which codes are in "jeopardy" and 11 of those 12 are subject to "extraordinary measures," i.e., rationing. Number Assignments; NPAs in Jeopardy (visited June 20, 2000) <http://www.nanpa.com>

<sup>16</sup>Given the California PUC's statements that the CLCs should pay ILECs that transport the call more than nothing for that transport, but should also not pay switched access rates, it should make little difference to the California CLCs whether they offer an NXX-code-based FX service based on the use of NXX codes or an 800 service.



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numbers, which they, in turn, assign to local end users who typically *are* physically located in the assigned rate centers. (emphasis in original) Customers also include banks, retail stores, and other businesses, both located *inside* and outside the assigned rate centers. (emphasis added)

California PUC *Rulemaking/Investigation Order* at 16-17.

While that reason appears to be little more than “make-weight” to the California PUC, we would consider such service to be highly significant. If Brooks actually offered local exchange service to customers located in any of the areas to which the 54 non-Portland codes have been assigned (on other than a sham basis), it would have a legitimate claim to retain the codes.

For the foregoing reasons, we disapprove the proposed terms, conditions and rates proposed by Brooks in Docket No. 99-593. Brooks is, of course, presently providing the very service it has proposed in the tariff filing, but without authority. We will require Brooks to terminate the present unauthorized service on the date that the NANPA reclaims the NXX codes assigned to Brooks that are located outside the Brooks Portland area exchange. We will, however, delay the effective date of our orders to the NANPA for a period of six months and will permit Brooks temporarily to continue to offer the present service to its currently existing customers during that period. As stated in the Part I Order in Docket No. 99-593, Brooks must file a tariff for this grandfathered service, or special contracts with the existing customers.

## VI. ILEC SNS/PRI (“500”) SERVICE FOR ISPs AND IXC’S THAT SERVE ISPs

### A. Service Description and Requirement; Rates

In the June 22 Order, we proposed that Bell Atlantic and all other ILECs (the independent telephone companies or ITCs), in their roles as providers of interexchange service in Maine, offer a special service and retail rate for ISPs that would represent a substantial discount from existing retail toll rates. The service would also provide Bell Atlantic and the other ILECs with a more appropriate level of revenue than the amounts BA-ME has “received” as “local” reciprocal compensation (which actually are payments by BA to Brooks) under Brooks’s interpretation of the interconnection agreement between Brooks and Bell Atlantic. We also proposed that the service be available on a wholesale basis to other IXC’s.

There are two purposes to this service: to provide affordable statewide access to the Internet and to provide an appropriate level of compensation to interexchange carriers that actually carry the traffic and to LECs that originate and terminate the traffic. Those carriers include Bell Atlantic, other ILECs that provide interexchange service or interexchange access service, and any other IXC’s that might offer similar special ISP service on their own. At present, Brooks is providing affordable access, but it is needlessly wasting 54 NXX codes to provide the service and is not

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properly compensating Bell Atlantic and other ILECs for the use of their interexchange facilities. We have found Brooks's service to be unreasonable and unlawful. Brooks's service also has not been available statewide on a toll-free basis. Most ITCs have rated the traffic to the Brooks NXXs that are nominally assigned to areas outside Portland as toll, because the traffic actually terminates in Portland rather than in the nominally assigned locations, and at least two have blocked the traffic.

We note that some of the discussion below refers only to Bell Atlantic. Some refers to ILECs generally or to Bell Atlantic and other ILECs. For example, where we discuss present impacts of Brooks's service, we usually refer only to Bell Atlantic. Bell Atlantic has been the primary carrier of the traffic generated by the Brooks service. Bell Atlantic also has an interconnection agreement with Brooks, and, at least until we found that the traffic was interexchange, Bell Atlantic paid Brooks reciprocal compensation for the "local" traffic that Bell Atlantic carried over its toll network. By contrast, the other ILECs (ITCs) do not have interconnection agreements with Brooks. Most ITCs have rated the traffic to the Brooks 54 NXXs assigned to areas outside Portland as toll, with the result that there is relatively little traffic originating in ITC exchanges that terminates at Brooks's ISP customers in Portland. In addition, as explained below, Bell Atlantic will be providing the retail service and the other ILECs will be providing access service. We fully intend, however, that all ILECs will participate in providing the service, that the service will be available statewide on a toll-free basis to end-users who are customers of ISPs, and that there be reasonable compensation arrangements among Bell Atlantic, other ILECs and any other participants.

We proposed a special rate for two reasons. Both of these are related to our findings that the ISP traffic carried by Brooks (only from its switch to its ISP customers) is interexchange rather than local in nature; and that Bell Atlantic and other ILECs actually carried the traffic over their transport facilities from locations outside the Portland calling area to Brooks's Portland switch. First, we want to ensure that Internet subscribers are able to continue to subscribe to the Internet at reasonable rates, consistent with the Legislature's mandate of "affordable" Internet access in 35-A M.R.S.A. § 7101(4), even though the traffic at issue in this case is interexchange rather than local. Second, we intend that the rate will fairly compensate Bell Atlantic and other ILECs that will be carrying or providing access for this interexchange traffic. We proposed that the service would be toll-free to end-users, much like an 800 service, and that it would avoid the need to use NXX codes within the 207 area code, again much like an 800 service, which uses no 207 NXX codes.

In its comments of July 14, 1999, Bell Atlantic proposed a service (labeled Single Number Service/Hubbed Primary Rate ISDN, or SNS/PRI) essentially identical to that proposed by the Commission, except for price.<sup>17</sup> As under the Commission's proposal, the SNS/PRI service would use numbers that would be toll-free to end-user

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<sup>17</sup>The SNS/PRI service configuration uses advanced intelligent network (AIN) database capability and is therefore technically superior to circuit-switched 800 service.

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customers. Each ISP could be assigned one (or more) 7-digit number within the "500" prefix.<sup>18</sup> There would be no need to use any NXX codes within the 207 area code.<sup>19</sup>

The SNS/PRI service is an interexchange service, and the rate is an interexchange rate, for traffic that the Commission has found is interexchange. It is also a *retail* service offered to ISPs. The rate to ISPs will be flat. There will be no usage component (per-minute or otherwise). The subscribers to the rate will be ISPs, not individual customers of ISPs. The service is an *inward* (called party pays) service; ISP customers would be able to call the "500" numbers without paying toll charges.

Under recent changes to the interexchange relationship between Bell Atlantic and the other ILECs (ITC), Bell Atlantic provides retail interexchange toll services to ITC customers in the local service territories of all of the ITCs, except one.<sup>20</sup> The ITCs provide access service to Bell Atlantic and other IXCs. The IXCs pay access charges according to rate schedules on file with the Commission. Pursuant to contract, the ITCs also bill their local exchange customers for Bell Atlantic's retail toll service, and turn over that retail revenue to Bell Atlantic. Unlike the other ITCs, Saco River Telegraph and Telephone Company provides its own interexchange service to its local exchange customers and pays Bell Atlantic and other ITCs to terminate its traffic.

Some questions have been raised about the participation of the independent ILECs, specifically about "concurrence" by those companies in Bell Atlantic's interexchange rate schedules. Historically, the independent telephone companies (ITCs) have concurred in those schedules. Under that concurrence (and the now abandoned settlements process), Bell Atlantic and the ITCs provided interexchange services jointly. Although some ITCs may still "concur," we view concurrence, or the lack thereof, as irrelevant under the present arrangement between Bell Atlantic and the ITCs, where Bell Atlantic provides interexchange service to retail customers located in ITC local service territories and the ITCs provide interexchange access services to Bell Atlantic.

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<sup>18</sup>Brooks's exceptions claim that Bell Atlantic cannot use "500" numbers for the proposed service. If Brooks is correct, we expect Bell Atlantic to obtain another prefix that it may use for the service.

<sup>19</sup>Great Works Internet (GWI), a customer of Brooks, states, somewhat misleadingly, that the proposed SNS/PRI service would require "20,000 internet users to change their numbers." The service would not require any of these users to change their home or business telephone numbers. They would only have to change the number that they dial to access internet service. The vast majority of these users would have to make a one-time change to the number in their computer software that provides access to the Internet. That software automatically dials the number.

<sup>20</sup>Other IXCs, such as AT&T, Spring and WorldCom, also provide interexchange service to local service customers of ITCs.

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In response to a set of questions filed by the ITCs, Bell Atlantic stated that the ITCs will offer the SNS/PRI services only if they specifically concur or independently establish their own rate schedules for these services and agree upon compensation with Bell Atlantic. Bell Atlantic also stated that the tariff it is preparing will not include provisions "for the exchange of traffic for this service between BA-ME and the ITCs, in either the originating (i.e., ITC originated to BA-ME's ISP terminating subscriber) or terminating (i.e., BA-ME originated to ITC's terminating ISP subscriber) direction."

Consistent with the description above concerning toll services generally, we will require Bell Atlantic to offer the retail SNS/PRI service to ISP customers located in ITC local exchange service areas, and to allow customers of ITCs to call ISPs located in Bell Atlantic local exchange territory.<sup>21</sup> We also will require the ITCs to provide access service to Bell Atlantic and other IXCs. Rate schedule concurrence is not necessary. ITCs will also provide (sometimes jointly with Bell Atlantic) any necessary dedicated facilities (local distribution channels) to ISPs located in their territory. In response to the question asked by the Telephone Association of Maine (TAM) in its exceptions, concerning whether we are requiring BA to offer "toll plans statewide," including areas served by ITCs, the answer for the SNS/PRI service is yes.

B. Retail Pricing

BA proposed rates that would be "non-usage sensitive and non-distance sensitive and will probably fall in the range of \$500-\$600 per month, per SNS/PRI facility." In its March 24, 2000 filing, it stated that the rate for such a facility would be "approximately \$500." A retail ISP subscriber must obtain a minimum of two SNS/PRI facilities, one in each of the two "sector hubs" for the service, located in Portland and one in Bangor. In addition, an ISP would need "appropriately sized Local Distribution Channels to connect the ISP's location to a single interconnection point on BA-ME's network," at flat-rated prices equal to special access prices, which are distance sensitive.

Bell Atlantic characterized these rates as "affordable" (the statutory standard) rather than based on a possible pricing standard mentioned in the Commission's Order, long run marginal cost.

No party objected to BA's proposed pricing for the retail service, either in earlier comments or in exceptions. The earlier comments filed by Brooks claimed that the proposed Bell Atlantic retail rate would not allow Brooks to "compete." Brooks did not state the reason for this claim, beyond the further conclusory statement that the proposed rate includes a "discriminatory rate structure that will make this service

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<sup>21</sup>In the case of 800 service, 800 service customers located in BA-ME territory are able to receive calls from *all* locations in Maine including calls originated by ITC end-users. A BA-ME 800 service customer does not have to subscribe to an ITC service to receive those calls from end-users whose exchange service is provided by an ITC. We expect the same to be true with this SNS/PRI (500) service.

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uneconomical for CLECs [sic] to provide.”<sup>22</sup> Nothing precludes Brooks from offering a similar retail service using its own facilities and ILEC access services or through resale of the Bell Atlantic service. As proposed in the Commission’s June 22, 1999 Order and in Bell Atlantic’s proposal, the retail rate would be available at a wholesale discount so that other IXCs would be able to resell it. Bell Atlantic states that the discount in Maine is presently 18-20%.

The rate proposed for this service by Bell Atlantic is acceptable. It represents a substantial discount from the toll rates for the calling volumes directed to ISPs. It satisfies the criterion of 35-A M.R.S.A. § 7101(4), which requires “affordable access” to computer-based information services. Although not required to do so, competitive IXCs may also offer a similar service. In order to facilitate such offerings by IXCs, Bell Atlantic shall also offer a discounted wholesale rate as required by 47 U.S.C. § 251(c)(4). That requirement applies to “any telecommunications service that the carrier [any ILEC] provides at retail to subscribers who are not telecommunications carriers.” The requirement does not make any distinction between local exchange and interexchange service. The amount of the discount represents billing and other costs that the ILECs avoid by providing the service on a wholesale basis to IXCs rather than on a retail basis to ISPs.

The Examiner’s Report proposed to require Bell Atlantic to provide an additional rate for wholesale customers (IXCs) that would equal the wholesale rate described above, but that would be broken down into separate components of switching, transport and a remaining “common line” amount, similar to the current structure for access rates. The Examiner and advisors apparently believed that a carrier providing service to an ISP could use its own switching, for example, and purchase only transport and the common line component from Bell Atlantic or other ILECs, thereby avoiding the ILEC switching charge. According to Bell Atlantic’s exceptions, that assumption is not correct:

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<sup>22</sup>Because the service is interexchange, Brooks’s statement quoted above should be read as applying to the ability of IXCs to provide the service.

Brooks’s exceptions provide a little more specificity to its objection. We discuss that objection below.

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SNS/PRI uses select network facilities to extend a wide-area calling area to an ISP's end users from the PRI hub locations. This investment includes hub switching, direct interoffice transport (where available), Advanced Intelligent Network (AIN) database capability and dedicated terminating facilities to the ISP end user. All of these network components must be in place to efficiently route calls under the SNS/PRI service.

As a consequence, a competing carrier wishing to provide a service comparable to SNS/PRI on a facilities basis cannot own only a terminating switch, as the Examiner apparently envisions. Instead, a competing facilities-based provider must obtain all of the foregoing network facilities which enable BA-ME to provide SNS/PRI. There is no way for BA-ME to "break down" its retail service architecture into a wholesale access rate structure, as the switched access rate categories of common line, switching, and transport do not correspond to the investment in SNS/PRI-related facilities.

Brooks made a similar argument, claiming in effect that the "bundled" service "excludes" competition for what it refers to as the "local service component," i.e., the local distribution channel. Brooks apparently views the "local distribution channel" as a "local component" in part because of its name and its location in Bell Atlantic's tariff. A "local distribution channel" is a facility that runs between a switching facility and a customer. Such a facility is dedicated to that customer's exclusive use and, depending on purpose, may also be called a "local loop" or "special access." The facility, whatever it is called, is capable of carrying both interexchange and local traffic. The service that Bell Atlantic's and the ITCs will offer is an integrated interexchange service that carries interexchange traffic. Brooks apparently agrees with Bell Atlantic's claim that the service is an integrated one and cannot feasibly be broken down into components. Accordingly, we will not require Bell Atlantic and the ILECs to offer services consisting of the three components individually as suggested by the Examiner's Report.

Brooks, in its earlier comments, also complained that if the Commission ordered the proposed service, it would not be permitted to collect anything for traffic that originates on another carrier's network and that terminates at Brooks's facilities. The problem for Brooks is not whether it may collect compensation for terminating traffic, but whether there will be any terminating traffic, once its present unauthorized "FX-like" service ceases. The Bell Atlantic-ILEC SNS-PRI service will be provided directly to ISPs that subscribe to the service. That traffic will be carried directly to a subscribing ISP by Bell Atlantic (and, if the ISP is located in ITC territory, locally by the ITC). Unless Brooks (as an IXC) establishes a competing similar interexchange service, which it is

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obviously free to do, none of the present "FX-like" traffic will terminate on Brooks's facilities. The question of compensation for nonexistent traffic is therefore academic.<sup>23</sup>

C. Compensation Among ILECs

Many, and perhaps most, ISPs are located in Bell Atlantic territory.<sup>24</sup> Under the SNS/PRI service, if an end user who is located in independent telephone company (ITC) territory places a 500-NXX-XXXX call to one of the ISPs located in BA territory, the ITC is entitled a "terminating" access payment from Bell Atlantic.<sup>25</sup> Conversely, when an ISP is located in ITC territory, and a Bell Atlantic customer dials a 500 number assigned to that ISP, the ITC is entitled to an "originating" access payments. In its Response, Bell Atlantic stated that because the SNS/PRI service was heavily discounted, it would not pay the ITCs their standard access rates. Bell Atlantic stated:

[T]he proposed tariff does not cover the terms and conditions for the exchange of traffic for this service between BA-ME and the ITCs, in either the originating (i.e., ITC originated to BA-ME's ISP terminating subscriber) or terminating (i.e., BA-ME originated to ITC's terminating ISP subscriber) direction. The specific terms and conditions for the exchange of this traffic would have to be negotiated in arrangements between BA-ME and the ITCs because existing agreements for the exchange of toll and local traffic between BA-ME and the ITCs do not cover the special class of traffic created by the Commission in this docket and served by this new SNS/PRI offering.

It also stated:

An ITC would need to determine for itself whether it desired to offer this service to its subscribers by concurring

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<sup>23</sup>Even if Brooks were somehow able to retain the ISP customers (other than in a resale capacity), so that it still had terminating traffic, the traffic would be interexchange, not local. The BA-Brooks interconnection agreement requires that regular access charges apply to interexchange traffic. BA would not pay reciprocal compensation to Brooks.

<sup>24</sup>At the time the Commission made its factual findings in the Order issued on June 22, 1999, all of the ISPs that are customers of Brooks were located in Portland. Bell Atlantic is the ILEC that serves Portland.

<sup>25</sup>As in the case of 800 service, because it is an inward service (the called party pays), "originating" and "terminating" access designations are reversed.

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in BA-ME's filed tariff terms and conditions.<sup>26</sup> The terms and conditions (including cost recovery) for the exchange of traffic originating or terminating on an ITC's network would need to be negotiated between BA-ME and the ITCs, most likely on the basis of an equitable division of the retail rate permitted by the Commission to be charged to the ISP subscriber.

The origination of a call by an ITC subscriber to a BA-ME "500" or "555" ISP subscriber is not traditional access service by the ITC because the Commission has determined that BA-ME's provision of the interoffice transport and delivery of this traffic is not to be considered or rated as traditional toll service. The Commission, in this docket, has created an entirely separate class of service for Internet-bound traffic only.

The Telephone Association of Maine (TAM) strongly urges us in its exceptions to address the matter of inter-company compensation. The Examiner's Report had suggested that under 35-A M.R.S.A. § 7901 jurisdiction over inter-company compensation issues may be limited to occasions where the companies cannot agree. Subsection 2 of section 7901 does indeed address dispute resolution. Subsection 1, however, makes clear that the Commission has direct jurisdiction over "rates, tolls or charges" for the "transfer of messages or conversations" over lines that are connected between carriers without regard to the existence of a dispute. In addition, we have ample authority under 35-A M.R.S.A. § 1303 to investigate a matter such as inter-company compensation, and that issue surely is reasonably now within the scope of this case, which is an investigation under section 1303.

At least initially, BA, the ITCs and the Commission staff shall address the question of inter-company compensation in a collaborative manner pursuant to a schedule to be established by the Examiner. For that reason, as noted in Part V, we will allow BA and the ITCs a period of up to six months to address compensation issues, as well as any administrative matters that may arise.<sup>27</sup>

In addressing the compensation issues, BA, the ITCs and the Advisory Staff should be aware of the following considerations:

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<sup>26</sup>We have addressed the "need" for ITCs to "concur" at Part VI.A above.

<sup>27</sup>As noted in Part V, Brooks may continue to offer the unauthorized NXX-based "FX-like" service to existing customers only for the full 6 months.



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1. It is not entirely clear (contrary to Bell Atlantic's assertions) that "existing agreements for the exchange of toll and local traffic between BA-ME and the ITCs do not cover the special class of traffic . . . ." It is not clear that existing access tariffs or contractual arrangements between the Bell Atlantic and the ITCs exclude any specific class or type of interexchange traffic from existing access tariffs or compensation arrangements.
2. As claimed by Bell Atlantic, the Commission has established a special category of interexchange toll service for Internet traffic, to be priced substantially below existing toll rates. Bell Atlantic asserts that "BA-ME's provision of the interoffice transport and delivery of this traffic is not to be considered or rated as traditional toll service." The Commission, however, has not made any finding at this time concerning whether special compensation arrangements are necessary for the SNS/PRI service.
3. If the ITCs charged their existing access rates for the origination of this traffic, Bell Atlantic most likely would be paying more to the ITCs than it would be collecting from its retail customers, the ISPs. We also note, however, that in the recent past, there has been no direct relationship between access revenue billed as a result of calling by a particular customer and the amount of retail revenue obtained from that same customer. Access rates are the same for all minutes and no longer vary according to calling volumes (as they did under versions of Chapter 280 of the Commission's rules prior to the enactment of 35-A M.R.S.A. § 7101-B) Retail rates vary considerably, however.
4. A substantial amount of the Internet traffic originating in ITC territory that will terminate in Bell Atlantic territory will be incremental. At least two ILECs block the traffic that would otherwise be directed to ISP customers of Brooks. Most ITCs charge regular toll rates for that traffic. Accordingly, the ITCs presently are not receiving a significant amount of access revenue for that traffic because blocking prevents, and per-minute toll rates deter, end users from subscribing to ISPs that are located in Bell Atlantic territory.

D. Other Issues

The exceptions of the Telephone Association of Maine (TAM)<sup>28</sup> state that some ITCs have switches that are not currently capable of providing PRIs. We will request the ILECs to address this matter in the collaborative process that we require in Part VI.C above.

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<sup>28</sup>The ITCs and Bell Atlantic are all members of TAM, but at least on the issues addressed in this Part VI, it is clear that TAM represents the interests of the ITCs.

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TAM's exceptions also note that the June 22, 1999 Order stated that "the rate would not be available to ISPs that offer voice services over the Internet." TAM states that it:

believes this to mean that no customer subscribing to the service may do so for the purpose of carrying voice traffic. TAM is not aware of anything in the proposal that would prevent a company other than an ISP from subscribing to this service.

TAM then asks whether the Commission intends that the service should only be used by ISPs.

We do intend that the service be available only to ISPs. That limitation should appear in Bell Atlantic's terms and conditions. 35-A M.R.S.A. § 7101(4) justifies a special rate for connecting to the Internet. It does not justify a similar special rate for ordinary toll traffic.

TAM then raises questions about the enforceability of the limitation. We agree that enforceability may be a difficult problem, and we expect the parties to address this in the collaborative process that also will address compensation. We believe that a reasonable policy as a starting point is that ISPs that offer Voice over Internet Protocol (VoIP) should not be permitted to subscribe to the SNS/PRI service and rate. By "offering," we mean marketing and/or providing software for VoIP. If it is feasible to segregate VoIP traffic, we could alter that policy. We doubt if it is possible to enforce such a policy against end users who, on their own, obtain and use VoIP software.

## VII. CONCLUSION

We reaffirm our findings in prior orders that Brooks's use of the 54 NXX Codes outside its Portland area exchange is for interexchange purposes, not local, and that Brooks is not providing facilities-based local exchange service or any other facilities-based service in those exchanges. The "FX-like" service that Brooks is currently offering without authority is unreasonable and will not be approved. Accordingly, Brooks has no legitimate need for the 54 codes, and, as authorized by the FCC Delegation Order, we order the NANPA to reclaim them six months after the date of this Order.

Within 30 days following this Order, Bell Atlantic shall file rates, terms and conditions for the retail, wholesale combined, and wholesale components services described in Part IV above.

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### Ordering Paragraphs

Accordingly, we

1. FIND, in Docket No. 99-593, pursuant to 35-A M.R.S.A. § 310, that the proposed changes to the rate schedules and terms and conditions of the New England Fiber Communications L.L.C. contained in Maine PUC Tariff No. 1:

5<sup>th</sup> Revised Page 1.1 (cancels 4<sup>th</sup> Revised Page 1.1)  
2<sup>nd</sup> Revised Page 12.1 (cancels 1<sup>st</sup> Revised Page 12.1)  
1<sup>st</sup> Revised Page 12.4 (cancels Original 12.4)  
1<sup>st</sup> Revised Page 12.5 (cancels Original 12.5)  
1<sup>st</sup> Revised Page 12.6 (cancels Original Page 12.6)  
Original Page 12.7

are UNJUST AND UNREASONABLE and we ORDER that they will not become effective;

2. ORDER New England Fiber Communications L.L.C. to file special contracts, for approval under 35-A M.R.S.A. § 703(3-A), or rate schedules and terms and conditions, for a limited continuation of its existing service that is similar to the disapproved service, as described in the body of this Order;

3. ORDER New England Fiber Communications L.L.C. to make the filing or filings described in paragraph 2 on or before July 18, 2000;

4. ORDER the North American Numbering Plan Administrator (NANPA), effective six months from the date of this Order, to reclaim the 45 central office (NXX) codes in the State of Maine that are assigned to New England Fiber Communications d/b/a Brooks Fiber, and that are outside New England Fiber Communications' Portland area exchange (consisting of the municipalities of Portland, South Portland and Westbrook, Maine);

5. ORDER New England Telephone and Telegraph Company d/b/a Bell Atlantic-Maine to file a schedule of rates, and terms and conditions for the Single Number Service/Hubbed Primary Rate ISDN (SNS/PRI) service described in Part VI of this Order. Bell Atlantic shall make that filing within 30 days of the date of this Order; and

6. ORDER New England Telephone and Telegraph Company d/b/a Bell Atlantic-Maine, the independent incumbent local exchange carriers of Maine IXCs that are parties to the case that intend to offer SNS/PRI or similar service, and the Commission Advisory Staff assigned to this case to engage in a collaborative process for resolution of questions having to do with compensation between Bell Atlantic and the independent ILECs, the question of whether there are technical problems in offering the service at some independent ILEC switches, and the question of restricting such service

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to uses other than Voice over Internet Protocol. For the latter purpose, the Advisors may request information from other parties in this case and from outside persons. The Hearing Examiner shall establish a schedule for the collaborative process, which shall not exceed six months.

Dated at Augusta, Maine, this 30<sup>th</sup> day of June, 2000.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

**THIS DOCUMENT HAS BEEN DESIGNATED FOR PUBLICATION**

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### NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.

charges provided in part 69, other than the end user common line charge, upon interexchange carriers that use the incumbent LEC's facilities to provide interstate or international telecommunications services to the interexchange carriers' subscribers.

**Subpart H - Reciprocal Compensation for Transport and Termination of Local Telecommunications Traffic.**

**§ 51.701 Scope of transport and termination pricing rules.**

(a) The provisions of this subpart apply to reciprocal compensation for transport and termination of local telecommunications traffic between LECs and other telecommunications carriers.

(b) Local telecommunications traffic. For purposes of this subpart, local telecommunications traffic means:

(1) telecommunications traffic between a LEC and a telecommunications carrier other than a CMRS provider that originates and terminates within a local service area established by the state commission; or

(2) telecommunications traffic between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area, as defined in § 24.202(a) of this chapter.

(c) Transport. For purposes of this subpart, transport is the transmission and any necessary tandem switching of local telecommunications traffic subject to section 251(b)(5) of the Act from the interconnection point between the two carriers to the terminating carrier's end office switch that directly serves the called party, or equivalent facility provided by a carrier other than an incumbent LEC.

(d) Termination. For purposes of this subpart, termination is the switching of local telecommunications traffic at the terminating carrier's end office switch, or equivalent facility, and delivery of such traffic to the called party's premises.

(e) Reciprocal compensation. For purposes of this subpart, a reciprocal compensation arrangement between two carriers is one in which each of the two carriers receives compensation from the other carrier for the transport and termination on each carrier's network facilities of local telecommunications traffic that originates on the network facilities of the other carrier.

**§ 51.703 Reciprocal compensation obligation of LECs.**

(a) Each LEC shall establish reciprocal compensation arrangements for transport and termination of local telecommunications traffic with any requesting telecommunications carrier.

(b) A LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network.

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
B-39 NO. 000075-TP EXHIBIT NO. 17  
COMPANY/  
WITNESS: AT&T  
DATE: 7-5-96

(1)

## Appendix B – Final Rules

## AMENDMENTS TO THE CODE OF FEDERAL REGULATIONS

Part 51, Subpart H, of Title 47 of the Code of Federal Regulations (C.F.R.) is amended as follows:

1. The title of part 51, Subpart H, is revised to read as follows:

**Subpart H--Reciprocal Compensation for Transport and Termination of Telecommunications Traffic**

2. Section 51.701(b) is revised to read as follows:

**(a) § 51.701 Scope of transport and termination pricing rules.**

\*\*\*\*\*

- (b) *Telecommunications traffic.*** For purposes of this subpart, telecommunications traffic means:

- (1) Telecommunications traffic exchanged between a LEC and a telecommunications carrier other than a CMRS provider, except for telecommunications traffic that is interstate or intrastate exchange access, information access, or exchange services for such access (*see* FCC 01-131, paras. 34, 36, 39, 42-43); or
  - (2) Telecommunications traffic exchanged between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area, as defined in § 24.202(a) of this chapter.
3. Sections 51.701(a), 51.701(c) through (e), 51.703, 51.705, 51.707, 51.709, 51.711, 51.713, 51.715, and 51.717 are each amended by striking "local" before "telecommunications traffic" each place such word appears.

Exhibit \_\_\_\_ (LLS-1)

“The Triumph of the Light”

*Scientific American*

January 2001

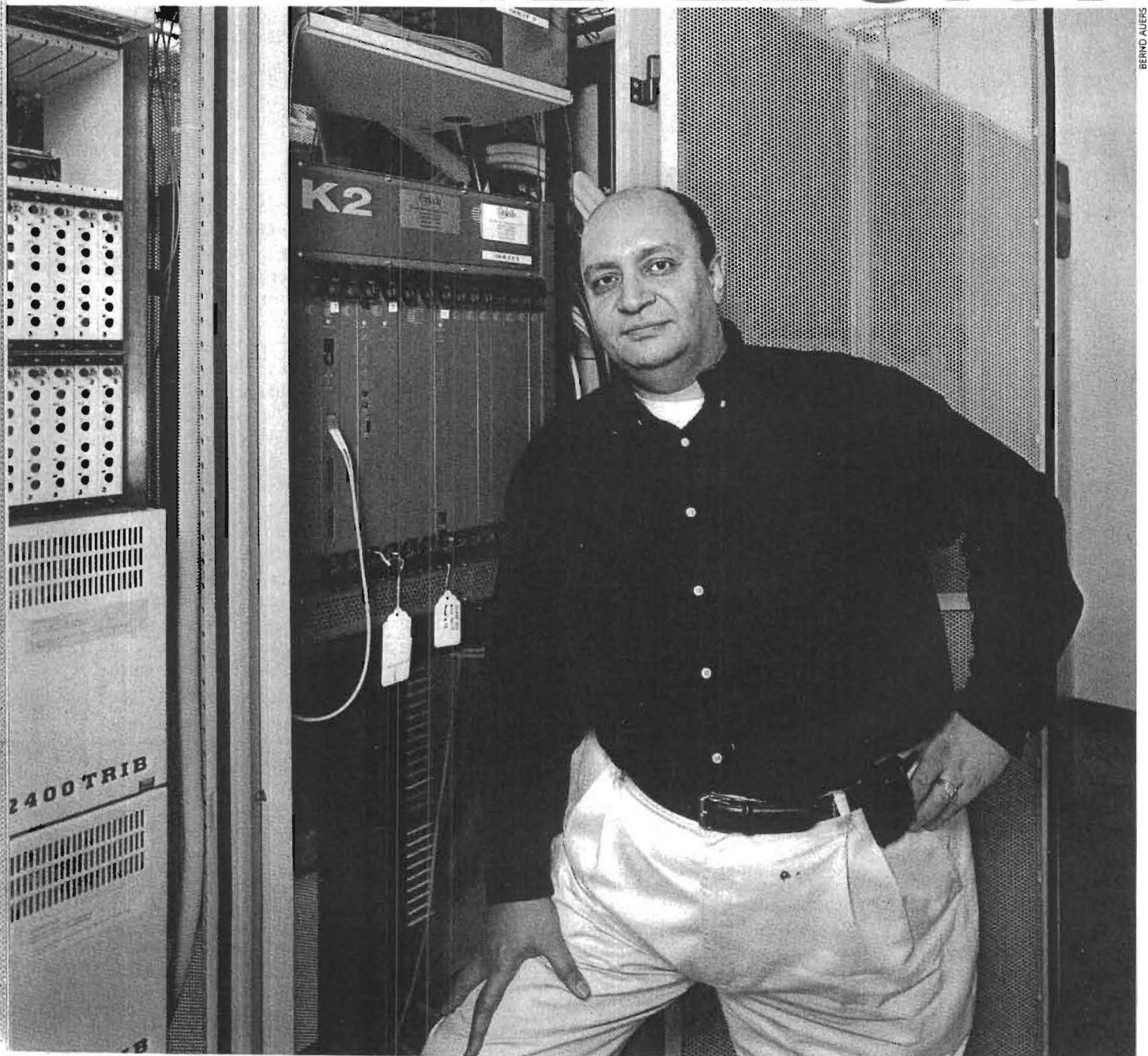
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*Extensions to fiber optics  
will supply network capacity  
that borders on the infinite*

by Gary Stix, staff writer

# THE TRIUMPH OF THE LIGHT



W

as it Britney Spears or Fatboy Slim? The network administrators at Kent State University had not a clue. All they did know last February was that "Rockefeller Skank" and thousands of other downloading hits had gotten intermingled with e-mails from the provost and research data on genetic engineering of *E. coli* bacteria. The university network slowed to a crawl, triggering a decision to block access to Napster, the music file-sharing utility.

As demand for network capacity soars, the Napster craze may mark the opening of only the first of many floodgates. Venture capitalists, in fact, have wagered billions of dollars on technologies that may help telecommunications companies counter the prospect that a video Napster capable of downloading anything from *Birth of a Nation* to *Rocky IV* might bring down the entire Internet.

PowerPoint slides at industry conferences emphasize why the deluge is yet to come. Video Napster is just one hypothesis. A trillion bits a second—the average traffic on the Internet's backbones, its heaviest links—may fulfill less than a thousandth of future requirements. Online virtual reality could overwhelm the backbones with up to 10 petabits a second, 10,000 times more than today's traffic. (A petabit is a quadrillion bits, a one with 15 trailing zeros.) Computers that share one another's computing power across the network—what is called metacomputing—might require 200 petabits.

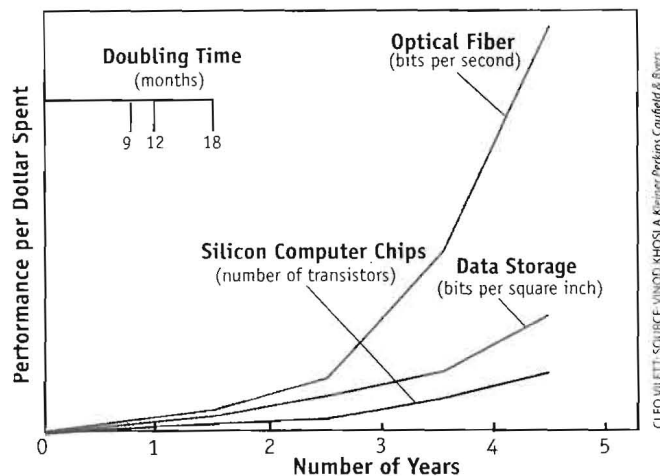
If these scenarios materialize—and, to be sure, people have been tapping their feet for virtual reality for more than a decade—the only transmission medium that could come close to meeting the seemingly infinite demand is optical fiber, the light pipes trumpeted in commercial interludes about the "pin drop" clarity of a phone connection. Fiber links can channel hundreds of thousands of times the bandwidth of microwave transmitters or satellites, the nearest competitors for long-distance communications. As one wag pointed out, the only other technology that comes close to matching this delivery capacity is a panel truck full of videos.

The race to augment the fiber content of the world's networks has started. Every day installers lay enough new cable to circle the earth three times. If improvements in fiber optics continue, the carrying capacity of a single fiber may reach hundreds of trillions of bits a second just a decade or so from now—and some technoidal utopians foresee the eventual arrival of the vaunted petabit mark. To overcome that barrier, however, will require both fundamental breakthroughs and the deployment of technologies that are still more physics experiments than they are equipment ready to be slotted into the racks on nationwide phone and data networks.

More immediately, new photonic technologies, which literally use mirrors instead of electrons for rerouting signals, will make a whole class of electronic switching systems obsolete. Even now the transmission speeds of the most advanced networks—at 10 billion bits a second—threaten to choke the processing units and memory of microchips in existing switches. As the network becomes faster than the processor, the cost of using electronics with optical transmissions skyrockets. The gigabit torrent contained in a wavelength of light in the fiber must be broken up into slower-flowing data streams that can be converted to electrons for processing—and then reaggreated into a fast-flowing river of bits. The equipment for going from photon to electron and back to photon not only slows traffic on the superhighway but makes equipment costs soar.

While network designers contemplate the prospect of machine overload, hundreds of companies, big and small, now grapple with creating networks that can exploit fiber's full bandwidth by transmitting, combining, amplifying and switching wavelengths without ever converting the signal to electrons. Photonics is at a stage that electronics experienced 30 years ago—with the development and integration of component parts into larger systems and subsystems. A rising tide of venture capital has emerged to support these endeavors. In the first nine months of 2000, venture funding for optical networking totaled \$3.4 billion, com-

**WAVELENGTH** carrying 40 billion bits per second flows through this yellow fiber, provided by start-up Enkido, founded by Nayel Shafei.



**FIBER LEADS** in performance improvements. The number of bits a second (a measure of fiber performance) doubles every nine months for every dollar spent on the technology. In contrast, the doubling time for the number of transistors on a computer chip occurs every 18 months—a trend known as Moore's law. Over a five-year period, optical technology far outpaces silicon chips and data storage.

pared with \$1.5 billion for all of 1999, although this pace may have slowed in recent months. The success of a stock like component supplier JDS Uniphase stems in part from the perception that its edge in integrated photonics could make it the next Intel.

Investment in optical communications already yields payoffs, if fiber optics is matched against conventional electronics. The cost of transmitting a bit of information optically halves every nine months, as against 18 months to achieve the same cost reduction for an integrated circuit (the latter metric is famous as Moore's law). "Because of dramatic advances in the capacity and ubiquity of fiber-optic systems and subsystems, bandwidth will become too cheap to meter," predicts A. Arun Netravali, president of Lucent Technologies's Bell Laboratories in a recent issue of *Bell Labs Technical Journal*.

Identical forecasts about a free resource eventually came to haunt the nuclear power industry. And the future of broadband networking, in which a full-length feature film would be transmitted as readily as an e-mail message, is still not a sure bet. A decade ago telecommunications providers and media companies started preparing for the digital convergence of entertainment and networking. Five hundred channels. Video on demand. We're still waiting. Meanwhile the Internet, once viewed as a quaint techno sideshow for the gov-

ernment and schoolkids, has transmuted into the network that ate the world. E-mails and Web sites have triumphed over Mel Gibson and Cary Grant.

### And Then There Was Light

**P**rospects of limitless bandwidth—the basis for speculations about networked virtual reality and high-definition videos—are of relatively recent vintage. AT&T and GTE deployed the first optical fibers in the commercial communications network in 1977, during the heyday of the minicomputer and the infancy of the personal computer. A fiber consists of a glass core and a surrounding layer called the cladding. The core and cladding have carefully chosen indices of refraction (a measure of the material's ability to bend light by certain amounts) to ensure that the photons propagating in the core are always reflected at the interface of the cladding. The only way the light can enter and escape is through the ends of the fiber. To understand the physics behind how a fiber works, imagine looking into a still pool of water. If you look straight down, you see the bottom. At viewing angles close to the water, all that is perceived is reflected light. A transmitter—either a light-emitting diode or a laser—sends electronic data that have been converted to photons over the fiber at a wavelength of between 1,200 and 1,600 nanometers.

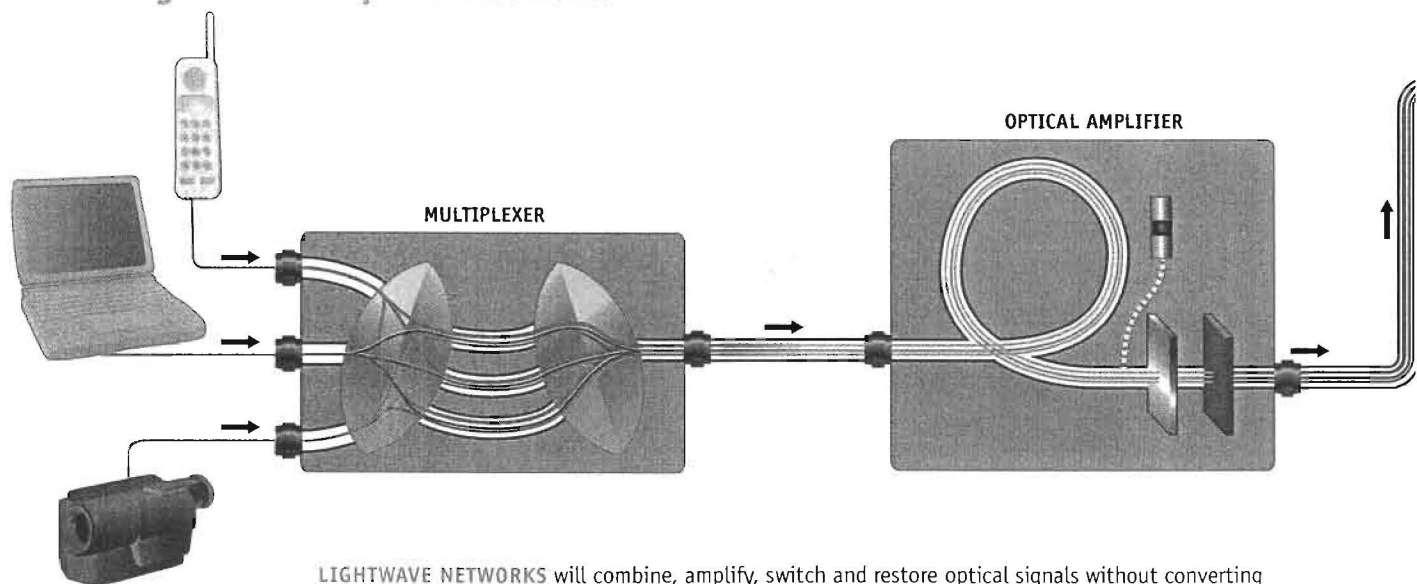
Today some fibers are pure enough

that a light signal can travel for about 80 kilometers without the need for amplification. But at some point the signal still needs to be boosted. The next significant step on the road to the all-optical network came in the early 1990s, a time when the technology made astounding advances. It was then that electronics for amplifying signals were replaced by stretches of fiber infused with ions of the rare-earth element erbium. When these erbium-doped fibers were zapped by a pump laser, the excited ions could revive a fading signal. The amplifiers became much more than plumbing fixtures for light pipes. They restore a signal without any optical-to-electronic conversion and can do so for very high speed signals sending tens of gigabits a second. Perhaps most important, however, they can boost the power of many wavelengths simultaneously.

This ability to channel multiple wavelengths enabled the development of a technology that has helped drive the frenzy of activity for optical-networking companies in the financial markets. Once you can boost the strength of multiple wavelengths, the next thing you want to do is jam as many wavelengths as possible down a fiber, with a wavelength carrying as much data as possible. The technology that does this has a name—dense wavelength division multiplexing (DWDM)—that is a paragon of technospeak.

DWDM set off a bandwidth explo-

## Technologies for All-Optical Networks



**LIGHTWAVE NETWORKS** will combine, amplify, switch and restore optical signals without converting them to an electronic transmission for processing. A dense wavelength division multiplexer (DWDM) will take different wavelengths of light and place them on a single fiber connection. An optical ampli-

sion. With the multiplexing technology, the capacity of the fiber expands by the number of wavelengths, each of which can carry more data than could be handled previously by a single fiber. Nowadays it is possible to send 160 frequencies simultaneously, supplying a total bandwidth of 400 gigabits a second over a fiber. Every major telecommunications carrier has deployed DWDM, expanding the capacity of the fiber that is in the ground and spending what could be less than half of what it would cost to lay new cable, while the equipment gets installed in a fraction of the time it takes to dig a hole.

In the laboratory, meanwhile, experiments point toward using much of the capacity of fiber—dozens of individual wavelengths, each modulated at 40 gigabits or more a second, for effective transmission rate of a few terabits a second. (One company, Enkido, has already deployed commercial links containing 40-gigabit-a-second wavelengths.) The engorgement of fiber capacity will not stop anytime soon and could reach as high as 300 or 400 terabits a second—and, with new technical advances, perhaps exceed the petabit barrier.

The telecommunications network, however, does not consist of links that tie together point A and point B—switches are needed to route the digital flow to its ultimate destination. The enormous bit conduits that now populate laboratory testbeds will flounder if the light streams

are routed using conventional electronic switches. Doing so would require a multiterabit signal to be converted into dozens or hundreds of lower-speed electronic signals. Finally, switched signals would have to be reconverted to photons and reaggregated into light channels that are then sent out through a designated output fiber.

The cost and complexity of electronic switching have prompted a mad scramble to find a means of redirecting either individual wavelengths or the entire light signal in a fiber from one pathway to another without the optoelectronic conversion. Research teams, often inhabiting tiny start-ups, fiddle with microscopic mirrors, liquid crystals and fast lasers to try to devise all-optical switches [see “The Rise of Optical Switching,” on page 88].

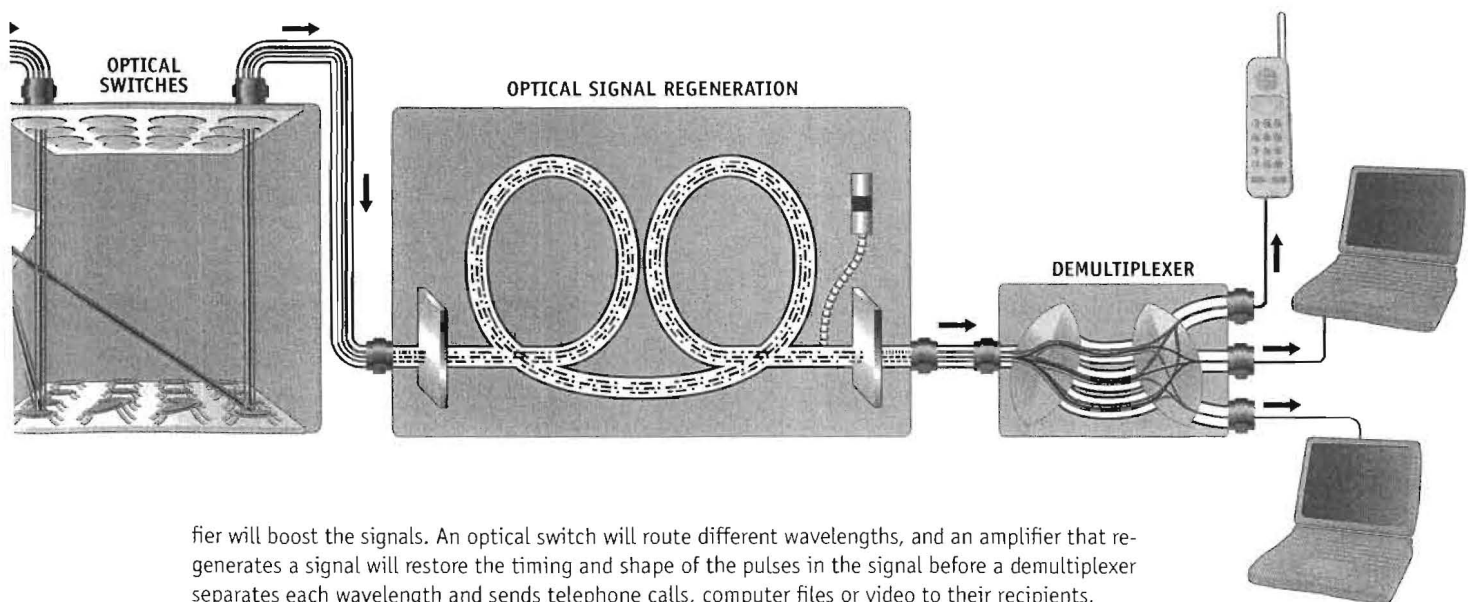
All-optical switching, however, will differ in fundamental ways from existing networks that switch individual chunks of data bits, such as IP (Internet Protocol) packets. It is an easy task for the electronics in routers or large-scale telephone switches to read on a packet the address that denotes its destination. Photonic processors, which are at about the same stage of development that electronics was in the 1960s, have demonstrated the ability to read a packet only in laboratory experiments.

Optical switches heading to the marketplace hark back to earlier generations of electronic equipment. They will switch

a circuit—a wavelength or an entire fiber—from one pathway to another, leaving the data-carrying packets in a signal untouched. An electronic signal will set the switch in the right position so that it directs an incoming fiber—or wavelengths within that fiber—to a given output fiber. But none of the wavelengths will be converted to electrons for processing.

Optical circuit switching may be only an interim step, however. As networks get faster, communications companies may demand what could become the crowning touch for all-optical networking, the switching of individual packets using optical processors [see “Routing Packets with Light,” on page 96].

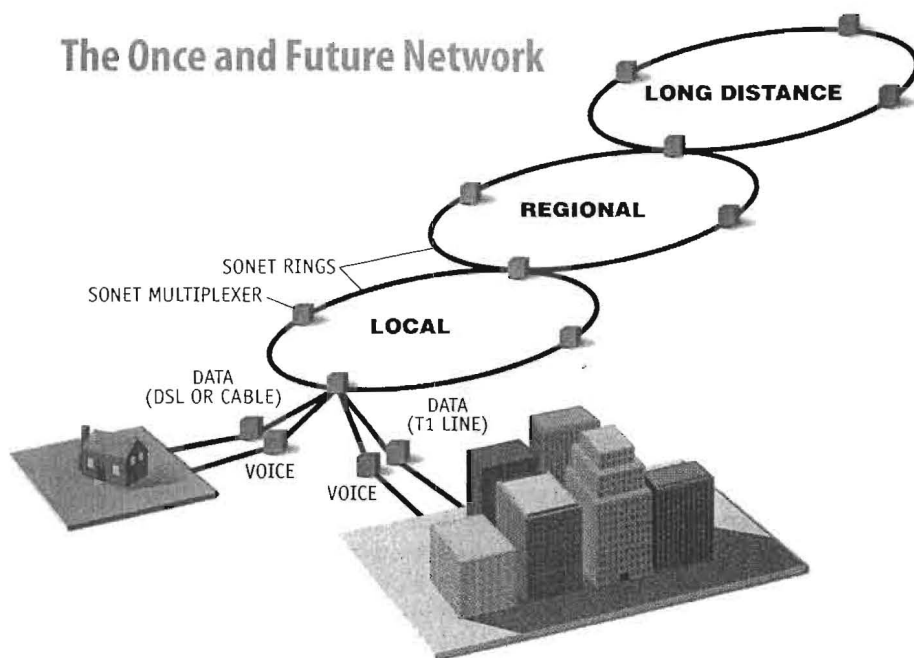
With the advent of optical packet switching, individual packets will still need to get read and routed at the edges of optical networks—on local phone networks near the points where they are sent or received. For the moment, that task will still fall to electronic routers from companies such as Cisco Systems. Even so, the evolution of optical networking will promote changes in the way networks are designed. Optical switching may eventually make obsolete existing lightwave technologies based on the ubiquitous SONET (Synchronous Optical Network) communications standard, which relies on electronics for conversion and processing of individual packets. And this may proceed in tandem with the gradual withering away of Asynchronous Transfer Mode



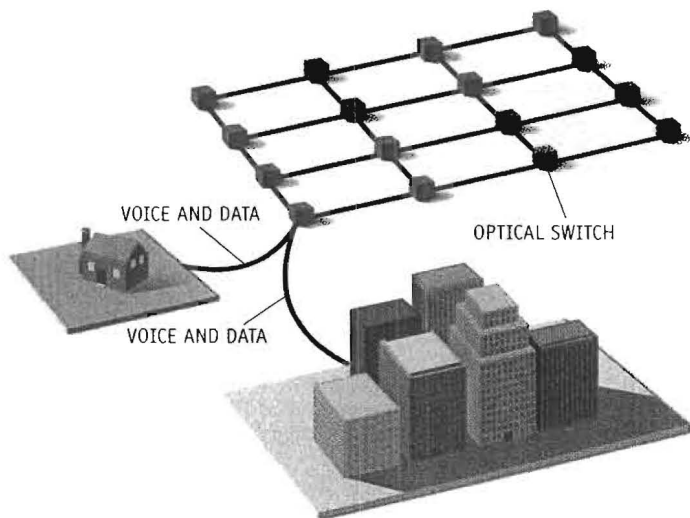
fier will boost the signals. An optical switch will route different wavelengths, and an amplifier that regenerates a signal will restore the timing and shape of the pulses in the signal before a demultiplexer separates each wavelength and sends telephone calls, computer files or video to their recipients.



## The Once and Future Network



**TODAY'S ADVANCED NETWORKS** maintain mostly separate electronic connections for voice and data and achieve reliability using rings based on the Synchronous Optical Network (SONET) communications standard: if one link is cut, traffic flows down the other half of the ring. The SONET multiplexer aggregates traffic onto the ring.



**TOMORROW'S NETWORKS** will channel all traffic over the same fiber connection and will provide redundancy using the Internet's mesh of interlocking pathways: when a line breaks, traffic can flow down several alternating pathways. Optical switching will become the foundation for building these integrated networks.

(ATM), another phone company standard for packaging information.

In this new world, any type of traffic, whether voice, video or data, may travel as IP packets. A development heralded in telecommunications for at least 20 years—the full integration of voice, video and data services—will be complete. “It’s going to be a data network, and everything else, whether it’s voice

or video, will be applications traveling over that data network,” says Robert W. Lucky, a longtime observer of the telecommunications scene and director of research for the technology development firm Telcordia.

When you ring home on Mother’s Day, the call may get transmitted as IP packets that move on a Gigabit Ethernet, a made-for-the-superhighway ver-

Docket No. 000075-TP

Exhibit (LLS-1)

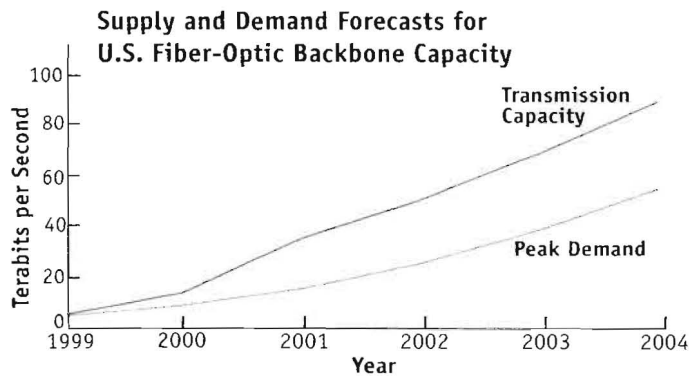
sion of the ubiquitous local-area network (LAN). Gigabit Ethernet would in turn ride on wavelength-multiplexed fiber. Critics of this approach question whether such a network would provide ATM and SONET’s quality of service and their ability to reroute connections automatically when a fiber link is cut.

Life would be simpler, though. The phone network would become just one big LAN. You could simply slot an Ethernet card into a computer, telephone or television, a far cheaper and less time-consuming solution than installing new SONET hardware connections. Some companies are even now preparing for the day when IP reigns. Level 3 Communications, a carrier based in Denver, has laid an international fiber network stretching more than 20,000 miles in both the U.S. and overseas. Although the network still relies on SONET, CEO James Q. Crowe foresees a day when these costly legacies of the voice network will wither into nothingness. “It will be IP over Ethernet over optics,” Crowe says.

### Home Light Pipes

Even if network engineers can pare down the stack of protocols that weighs heavy on today’s network, they must still contend with the need to address the “last mile” problem, getting fiber from the curbside utility box into the TV room and home office. Some builders now lay out new housing projects with fiber, presaging the day when households routinely get their own wavelength connection. But cost still hangs over any discussion of fiber to the home. Until recently, advanced optical-networking equipment, such as DWDM, was too expensive to consider for deployment on regional phone networks. Extending the equipment into a wall panel of a split level—at perhaps \$1,500 a line—still costs more than all but a few are willing to pay. Most people have yet to take delivery of their first megabit connection. So it remains unclear when the time will come when the average household will need the gigabits to project themselves holographically into a neighbor’s house rather than just picking up the phone.

Dousing “Help me, Obi-Wan Kenobi” fantasies, engineers are confronting an array of nettlesome technical problems before a seamless all-optical network can become commonplace. Take one example: even with lightwave switching in



FUTURE BANDWIDTH REQUIREMENTS	
Applications	Backbone Bandwidth (terabits per second)
Online virtual reality	1,000 to 10,000
3-D holography/telepresence	30,000 to 70,000
Metacomputing	50,000 to 200,000
Web agents	50,000 to 200,000

1 terabit = 1 trillion bits

SOURCE: CONNING

**DEMAND GAP** for optical-fiber backbones—the most heavily used links—emerges in a study by consultant Adventis that shows that supply will overmatch demand. Yet new applications such as virtual

reality and metacomputing could require huge increments in optical bandwidth above the few terabits per second currently needed to satisfy demand on U.S. communications backbones.

place, one critical part of the network requires conversion to electronics. About every 160 kilometers, a wavelength has to be converted back to an electronic signal to restore the shape and timing of individual pulses within the vast train of bits that occupy each lightwave.

Equipment suppliers also struggle mightily with electronics envy. Component suppliers such as JDS Uniphase labor on methods to build modules that combine lasers, fiber and gratings (which separate wavelengths). Building photonic integrated circuits remains difficult. Photons have no charge, as the negatively charged particles called electrons do. So there is no such thing as a charge-storage device, a photonic capacitor, that will store indefinitely the photons that represent zeros and ones. Moreover, it is difficult to build photonic circuitry as small as electronic integrated circuits, because the wavelength of infrared light used in fiber-optic lasers is about 1.5 microns, which places limits on how small you can make a component. Electronic circuits reached that dimension more than a decade ago.

The good news is that companies both small and big are now trying to solve problems such as signal restoration, and a pot of venture money exists to fund them. The field, which has taken on the same aura that genomics now holds and dot-coms once did, has become an exemplar of a new, hyperventilating model of research. Tiny development houses proceed until they can furnish some proof that they can make good on their promises, and then they are bought out by a Nortel, Cisco or Lucent.

"It's a crazy world," says Alastair M. Glass, director of photonics at Lucent. "Anyone can go out with the dumbest

ideas and get funding for them, and maybe they'll be bought for big bucks. And they've never made a product." Glass adds: "This has never happened in the past. Part of it is because companies need people, so they're buying the people. But other times they're buying the technology because they don't have it in the house, and sometimes they don't know what they're buying." From idea to development happens fast: a 1998 paper in *Science* about a "perfect mirror," a dielectric (insulating) material that reflects light at any angle with little loss of energy, inspired the founding of a company that wishes to create a hollow fiber whose circumference is lined with the reflector. The fibers may increase capacity 1,000-fold, one company official claims.

#### Will Anybody Come?

**W**hat can be done with all this bandwidth? Lucent estimates that if the growth of networks continues at its current pace, the world will have enough digital capacity by 2010 to give every man, woman and child, whether in San Jose or Sri Lanka, a 100-megabit-a-second connection. That's enough for dozens of video connections or several high-definition television programs. But does each !Kung tribesman in the Kalahari Desert really need to download multiple copies of *The Gods Must Be Crazy*?

Despite estimates of Internet traffic doubling every few months, some industry watchers are not so sure about infinite demand for infinite bandwidth. Adventis, a Boston-based consultancy, foresees only 15 to 20 percent of home Internet users obtaining broadband ac-

cess—either cable modems or digital subscriber lines—by 2004. Moreover, storing frequently accessed Web pages on a server will reduce the burden on the network. In the U.S., according to the firm's estimate, nearly 40 percent of existing fiber capacity will go unused in 2004, whereas in Europe almost 65 percent will stay dormant. The notion of a capacity glut is by no means a consensus view, however.

In the end, terabit or petabit networking will probably emerge only once some as yet unforeseen use for the bandwidth reveals itself. Like the World Wide Web, originally a project to help particle physicists more easily share information, it may arrive on a tangent, not from a big media company's focused attempt to repackage networked virtual reality. Vinod Khosla, a venture capitalist with Kleiner Perkins Caufield & Byers, talks of the promise of projects that pool together computers that may be either side by side or distributed across the globe. Metacomputing can download Britney Spears and Fatboy Slim, or it can comb through radio telescope data in search of extraterrestrial life. Khosla sees immense benefit in using this model of networked computing for business, tying together machines to work on, say, the computational fluid dynamics of a 1,000-passenger jumbo jet.

So efforts to pick through the radio emissions from billions and billions of galaxies may yield useful clues about what on earth to do with a network pulsing a quadrillion bits a second. ■

#### FURTHER INFORMATION

See [www.lightreading.com](http://www.lightreading.com) for a wealth of coverage on new technologies and on companies involved in optical networking.

Exhibit \_\_\_\_ (LLS-2)

BellSouth Central Offices and  
Tandem Switch Assignments  
Jacksonville LATA

*Local Exchange Routing Guide*

April 2001

BELLSOUTH END OFFICE AND TANDEM SWITCHES  
LATA 452 - JACKSONVILLE, FL

LATA	END OFFICE/HA	TERM/FGD TANDEM	HOST	Host or Remote
45204	JCVLFLCL21W00			H JCVLFLCL21W00
45204	JCVLFLCL52W00			H JCVLFLCL52W00
45204	JCVLFLCL53W00			H JCVLFLCL53W00
45204	JCVLFLCL55T00			H JCVLFLCL55T00
45204	JCVLFLCL61W00			H JCVLFLCL61W00
45204	JCVLFLCL62W00			H JCVLFLCL62W00
45204	JCVLFLCL63W00			H JCVLFLCL63W00
45204	JCVLFLSM01T00			H JCVLFLSM01T00
45204	JCVLFLSM21W00			H JCVLFLSM21W00
45204	STAGFLMA61W00			H STAGFLMA61W00
45204	FRBHFLFPDS000	JCVLFLCL05T		H FRBHFLFPDS000
45204	GCSPFLCND000	JCVLFLCL05T		H GCSPFLCND000
45204	JCVLFLCL05T00	JCVLFLCL05T		H JCVLFLCL05T00
45204	JCVLFLCLDS000	JCVLFLCL05T		H JCVLFLCLDS000
45204	JCVLFLCLDS100	JCVLFLCL05T		H JCVLFLCLDS100
45204	JCVLFLLF76E00	JCVLFLCL05T		H JCVLFLLF76E00
45204	JCVLFLNODS000	JCVLFLCL05T		H JCVLFLNODS000
45204	JCVLFLIARS000	JCVLFLCL05T	JCVLFLOWDS0	R JCVLFLOWDS0
45204	FTGRFLMARS000	JCVLFLCL05T	JCVLFLOWDS0	R JCVLFLOWDS0
45204	YULEFLMARS000	JCVLFLCL05T	JCVLFLOWDS0	R JCVLFLOWDS0
45204	JCVLFLOWDS000	JCVLFLCL05T		H JCVLFLOWDS000
45204	JCVLFLRV38E00	JCVLFLCL05T		H JCVLFLRV38E00
45204	BLDWFLMARS000	JCVLFLCL05T	JCVLFLWCDS0	R JCVLFLWCDS0
45204	MXVFLMARS000	JCVLFLCL05T	JCVLFLWCDS0	R JCVLFLWCDS0
45204	JCVLFLWCDS000	JCVLFLCL05T		H JCVLFLWCDS000
45204	LKCYFLMADS000	JCVLFLCL05T		H LKCYFLMADS000
45204	MDBGFLPMDS000	JCVLFLCL05T		H MDBGFLPMDS000
45204	ORPKFLMADS000	JCVLFLCL05T		H ORPKFLMADS000
45204	ORPKFLRWDS000	JCVLFLCL05T		H ORPKFLRWDS000
45204	PMPKFLMARS000	JCVLFLCL05T	PLTKFLMADS0	R PLTKFLMADS0
45204	WELKFLMARS000	JCVLFLCL05T	PLTKFLMADS0	R PLTKFLMADS0
45204	PLTKFLMADS000	JCVLFLCL05T		H PLTKFLMADS000
45204	JCBHFLMA24E00	JCVLFLSM01T		H JCBHFLMA24E00
45204	JCVLFLARDS000	JCVLFLSM01T		H JCVLFLARDS000
45204	JCBHFLABRS000	JCVLFLSM01T	JCVLFLBWDS0	R JCVLFLBWDS0
45204	JCBHFLSPRS000	JCVLFLSM01T	JCVLFLBWDS0	R JCVLFLBWDS0
45204	JCVLFLBWDS000	JCVLFLSM01T		H JCVLFLBWDS000
45204	JCVLFLFCDS000	JCVLFLSM01T		H JCVLFLFCDS000
45204	JCVLFLSJ73E00	JCVLFLSM01T		H JCVLFLSJ73E00
45204	JCVLFLSMDS000	JCVLFLSM01T		H JCVLFLSMDS000
45204	MNDRFLAVDS000	JCVLFLSM01T		H MNDRFLAVDS000
45204	STAGFLWGRS000	JCVLFLSM01T	MNDRFLLODS0	R MNDRFLLODS0
45204	JCVLFLJTRS000	JCVLFLSM01T	MNDRFLLODS0	R MNDRFLLODS0
45204	MNDRFLWRS000	JCVLFLSM01T	MNDRFLLODS0	R MNDRFLLODS0
45204	MNDRFLLODS000	JCVLFLSM01T		H MNDRFLLODS000
45204	PNVDFLMADS000	JCVLFLSM01T		H PNVDFLMADS000
45204	STAGFLBSRS000	JCVLFLSM01T	STAGFLMADS0	R STAGFLMADS0
45204	STAGFLSHRS000	JCVLFLSM01T	STAGFLMADS0	R STAGFLMADS0
45204	STAGFLMADS000	JCVLFLSM01T		H STAGFLMADS000



**Qualifications of Timothy J Gates  
TJG Schedule 1**

**Q. PLEASE DESCRIBE YOUR PROFESSIONAL EXPERIENCE.**

- A. Prior to my current position with QSI Consulting, I was a Senior Executive Staff Member in MCI WorldCom's ("MCIW") National Public Policy Group. In this position, I was responsible for providing public policy expertise in key cases across the country and for managing external consultants for MCIW's state public policy organization. In certain situations, I also provided testimony in regulatory and legislative proceedings.

Prior to my position with MCIW in Denver, I was an Executive Staff Member II at MCI Telecommunications ("MCI") World Headquarters in Washington D.C.. In that position I managed economists, external consultants, and provided training and policy support for regional regulatory staffs. Prior to that position I was a Senior Manager in MCI's Regulatory Analysis Department, which provided support in state regulatory and legislative matters to the various operating regions of MCI. In that position I was given responsibility for assigning resources from our group for state regulatory proceedings throughout the United States. At the same time, I prepared and presented testimony on various telecommunications issues before state regulatory and legislative bodies. I was also responsible for managing federal tariff reviews and presenting MCI's position on regulatory matters to the Federal Communications Commission. Prior to my assignment in the Regulatory Analysis Department, I was the Senior Manager of Economic Analysis and Regulatory Policy in the Legal, Regulatory and Legislative Affairs Department for the Midwest Division of MCI. In that position I developed and promoted regulatory policy within what was then a five-state operating division of MCI. I promoted MCI policy positions through negotiations, testimony and participation in industry forums.

Prior to my positions in the Midwest, I was employed as Manager of Tariffs and Economic Analysis with MCI's West Division in Denver, Colorado. In that position I was responsible for managing the development and application of MCI's tariffs in the fifteen MCI West states. I was also responsible for managing regulatory dockets and for providing economic and financial expertise in the areas of discovery and issue analysis. Prior to joining the West Division, I was a Financial Analyst III and then a Senior Staff Specialist with MCI's Southwest Division in Austin, Texas. In those positions, I was responsible for the management of regulatory dockets and liaison with outside counsel. I was also responsible for discovery, issue analysis, and for the development of working relationships with consumer and business groups. Just prior to joining MCI, I was employed by the Texas Public Utility Commission as a Telephone Rate Analyst in the Engineering Division responsible for examining telecommunications cost studies and rate structures.

I was employed as an Economic Analyst with the Public Utility Commissioner of Oregon from July, 1983 to December, 1984. In that position, I examined and analyzed cost studies and rate structures in telecommunications rate cases and investigations. I also testified in rate cases and in private and public hearings regarding telecommunications services. Before joining the Oregon Commissioner's Staff, I was employed by the Bonneville Power Administration as a Financial Analyst, where I made total regional electric use forecasts and automated the Average System Cost Review Methodology. Prior to joining the Bonneville Power Administration, I held numerous positions of increasing responsibility in areas of forest management for both public and private forestry concerns.

**Q. PLEASE DESCRIBE YOUR EDUCATIONAL CREDENTIALS.**

A. I received a Bachelor of Science degree from Oregon State University and a Master of Management degree in Finance and Quantitative Methods from Willamette University's Atkinson Graduate School of Management. I have also attended numerous courses and seminars specific to the telecommunications industry, including the NARUC Annual and Advanced Regulatory Studies Program.

**Q. WHAT ARE YOUR CURRENT RESPONSIBILITIES?**

A. Effective April 1, 2000, I joined QSI Consulting as Senior Vice President and Partner. In this position I provide analysis and testimony for QSI's many clients. The deliverables include written and oral testimony, analysis of rates, cost studies and policy positions, position papers, presentations on industry issues and training.

**Q. PLEASE IDENTIFY THE JURISDICTIONS IN WHICH YOU HAVE TESTIFIED.**

A. I have filed testimony or comments on telecommunications issues in Alabama, Arizona, California, Colorado, Delaware, Georgia, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, Wisconsin and Wyoming. I have also filed comments with the FCC and made presentations to the Department of Justice.

I have testified or presented formal comments in the following proceedings and forums:

**Alabama:**

October 18, 2000; Docket No. 27867; Adelphia Business Solutions Arbitration with BellSouth Telecommunications; Direct Testimony on Behalf of Adelphia.

January 31, 2001; Docket No. 27867; Adelphia Business Solutions Arbitration with BellSouth Telecommunications; Rebuttal Testimony on Behalf of Adelphia.

**Arizona:**

September 23, 1987; Arizona Corporation Commission Workshop on Special Access Services; Comments on Behalf of MCI.

August 21, 1996; Affidavit in Opposition to USWC Motion for Partial Summary Judgment; No. CV 95-14284, No. CV-96-03355, No. CV-96-03356, (consolidated); On Behalf of MCI.

October 24, 1997; Comments to the Universal Service Fund Working Group; Docket No. R-0000-97-137; On Behalf of MCI.

May 8, 1998; Comments to the Universal Service Fund Working Group; Docket No. R-0000-97-137; On Behalf of MCI.

November 9, 1998; Docket No. T-03175A-97-0251; Application of MCI Metro Access Transmission Services, Inc. to Expand Its CCN to Provide IntraLATA Services and to Determine that Its IntraLATA Services are Competitive; Direct Testimony on Behalf of MCI WorldCom, Inc.

September 20, 1999; Docket No. T-00000B-97-238; USWC OSS Workshop; Comments on Behalf of MCI WorldCom, Inc.

January 8, 2001; Docket Nos. T-03654A-00-0882, T-01051B-00-0882; Petition of Level 3 Communications, LLC, for Arbitration with Qwest Corporation; Direct Testimony on Behalf of Level 3.

**California:**

August 30, 1996; Application No. 96-08-068; MCI Petition for Arbitration with Pacific Bell; Direct Testimony on Behalf of MCI.

September 10, 1996; Application No. 96-09-012; MCI Petition for Arbitration with GTE California, Inc.; Direct Testimony on Behalf of MCI.

June 5, 2000; Petition of Level 3 Communications for Arbitration of an Interconnection Agreement with Pacific Bell Telephone Company; Direct Testimony on Behalf of Level (3) Communications, LLC.

**Colorado:**

December 1, 1986; Investigation and Suspension Docket No. 1720; Rate Case of Mountain States Telephone and Telegraph Company; Direct Testimony on Behalf of MCI.

October 26, 1988; Investigation and Suspension Docket No. 1766; Mountain States Telephone and Telegraph Company's Local Calling Access Plan; Direct Testimony of Behalf of MCI.

September 6, 1996; MCImetro Petition for Arbitration wit U S WEST Communications, Inc.; Docket No. 96A-366T (consolidated); Direct Testimony on Behalf of MCI.

September 17, 1996; MCImetro Petition for Arbitration wit U S WEST Communications, Inc.; Docket No. 96A-366T (consolidated); Rebuttal Testimony on Behalf of MCI.

September 26, 1996; Application of U S WEST Communications, Inc. To Modify Its Rate and Service Regulation Plan; Docket No. Docket No. 90A-665T (consolidated); Direct Testimony on Behalf of MCI.

October 7, 1996; Application of U S WEST Communications, Inc. To Modify Its Rate and Service Regulation Plan; Docket No. Docket No. 90A-665T (consolidated); Rebuttal Testimony on Behalf of MCI.

July 18, 1997; Complaint of MCI to Reduce USWC Access Charges to Economic Cost; Docket Nos. 97K-237T, 97F-175T (consolidated) and 97F-212T (consolidated); Direct Testimony on Behalf of MCI.

August 15, 1997; Complaint of MCI to Reduce USWC Access Charges to Economic Cost; Docket Nos. 97K-237T, 97F-175T (consolidated) and 97F-212T (consolidated); Rebuttal Testimony on Behalf of MCI.

March 10, 1998; Application of WorldCom, Inc. for Approval to Transfer Control of MCI to WorldCom, Inc.; Docket No. 97A-494T; Supplemental Direct Testimony on Behalf of MCI.

March 26, 1998; Application of WorldCom, Inc. for Approval to Transfer Control of MCI to WorldCom, Inc.; Docket No. 97A-494T; Rebuttal Testimony on Behalf of MCI.

May 8, 1998; Application of WorldCom, Inc. for Approval to Transfer Control of MCI to WorldCom, Inc.; Docket No. 97A-494T; Affidavit in Response to GTE.

November 4, 1998; Proposed Amendments to the Rules Prescribing IntraLATA Equal Access; Docket No. 98R-426T; Comments to the Commission on Behalf of MCI WorldCom and AT&T Communications of the Mountain States, Inc.

May 13, 1999; Proposed Amendments to the Rules on Local Calling Area Standards; Docket No. 99R-128T; Oral Comments before the Commissioners on Behalf of MCIW.

January 4, 2001; Petition of Level 3 Communications, LLC for Arbitration with Qwest Corporation; Docket No. 00B-601T; Direct Testimony on Behalf of Level 3.

January 16, 2001; Petition of Level 3 Communications, LLC for Arbitration with Qwest Corporation; Docket No. 00B-601T; Rebuttal Testimony on Behalf of Level 3.

January 29, 2001; Qwest Corporation, Inc., Plaintiff, v. IP Telephony, Inc., Defendant. District Court, City and County of Denver, State of Colorado; Case No. 99CV8252; Direct Testimony on Behalf of IP Telephony.

**Delaware:**

February 12, 1993; Diamond State Telephone Company's Application for a Rate Increase; Docket No. 92-47; Direct Testimony on Behalf of MCI.

**Florida:**

July 1, 1994; Investigation into IntraLATA Presubscription; Docket No. 930330-TP; Direct Testimony on Behalf of MCI.

October 5, 2000; Petition of Level 3 for Arbitration with BellSouth; Docket No. 000907-TP; Direct Testimony On Behalf of Level 3.

October 13, 2000; Petition of BellSouth for Arbitration with US LEC of Florida Inc.; Docket No. 000084-TP; Direct Testimony On Behalf of US LEC.

October 27, 2000; Petition of BellSouth for Arbitration with US LEC of Florida Inc.; Docket No. 000084-TP; Rebuttal Testimony On Behalf of US LEC.

November 1, 2000; Petition of Level 3 for Arbitration with BellSouth; Docket No. 000907-TP; Rebuttal Testimony On Behalf of Level 3.

**Georgia:**

December 6, 2000; Docket No. 12645-U; Petition of Level 3 for Arbitration with BellSouth; Direct Testimony on Behalf of Level 3.

December 20, 2000; Docket No. 12645-U; Petition of Level 3 for Arbitration with BellSouth; Rebuttal Testimony on Behalf of Level 3.

**Idaho:**

November 20, 1987; Case No. U\_1150\_1; Petition of MCI for a Certificate of Public Convenience and Necessity; Direct Testimony on Behalf of MCI.

March 17, 1988; Case No. U\_1500\_177; Investigation of the Universal Local Access Service Tariff; Direct Testimony on Behalf of MCI.

April 26, 1988; Case No. U\_1500\_177; Investigation of the Universal Local Access Service Tariff; Rebuttal Testimony on Behalf of MCI.

**Illinois:**

January 16, 1989; Docket No. 83\_0142; Appropriate Methodology for Intrastate Access Charges; Rebuttal Testimony Regarding Toll Access Denial on Behalf of MCI.

February 16, 1989; Docket No. 83\_0142; Appropriate Methodology for Intrastate Access Charges; Testimony Regarding ICTC's Access Charge Proposal on Behalf of MCI.

May 3, 1989; Docket No. 89\_0033; Illinois Bell Telephone Company's Rate Restructuring; Direct Testimony on Behalf of MCI.

July 14, 1989; Docket No. 89-0033; Illinois Bell Telephone Company's Rate Restructuring; Rebuttal Testimony on Behalf of MCI.

November 22, 1989; Docket No. 88-0091; IntraMSA Dialing Arrangements; Direct Testimony on Behalf of MCI.

February 9, 1990; Docket No. 88-0091; IntraMSA Dialing Arrangements; Rebuttal Testimony on Behalf of MCI.

November 19, 1990; Docket No. 83-0142; Industry presentation to the Commission re Docket No. 83-0142 and issues for next generic access docket; Comments re the Imputation Trial and Unitary Pricing/Building Blocks on Behalf of MCI.

July 29, 1991; Case No. 90-0425; Presentation to the Industry Regarding MCI's Position on Imputation.

November 18, 1993; Docket No. 93-0044; Complaint of MCI and LDDS re Illinois Bell Additional Aggregated Discount and Growth Incentive Discount Services; Direct Testimony on Behalf of MCI and LDDS.

January 10, 1994; Docket No. 93-0044; Complaint of MCI and LDDS re Illinois Bell Additional Aggregated Discount and Growth Incentive Discount Services; Rebuttal Testimony on Behalf of MCI and LDDS.

May 30, 2000; Docket No. 00-0332; Level 3 Petition for Arbitration to Establish and Interconnection Agreement with Illinois Bell Telephone Company; Direct Testimony on Behalf of Level (3) Communications, LLC.

July 11, 2000; Docket No. 00-0332; Level 3 Petition for Arbitration to Establish and Interconnection Agreement with Illinois Bell Telephone Company; Supplemental Verified Statement on Behalf of Level (3) Communications, LLC.

#### **Indiana:**

October 28, 1988; Cause No. 38561; Deregulation of Customer Specific Offerings of Indiana Telephone Companies; Direct Testimony on Behalf of MCI.

December 16, 1988; Cause No. 38561; Deregulation of Customer Specific Offerings of Indiana Telephone Companies; Direct Testimony on Behalf of MCI Regarding GTE.

April 14, 1989; Cause No. 38561; Deregulation of Customer Specific Offerings of Indiana Telephone Companies; Direct Testimony on Behalf of MCI Regarding Staff Reports.

June 21, 1989; Cause No. 37905; Intrastate Access Tariffs -- Parity with Federal Rates; Direct Testimony on Behalf of MCI.

June 29, 1989; Cause No. 38560; Reseller Complaint Regarding 1+ IntraLATA Calling; Direct Testimony on Behalf of MCI.

October 25, 1990; Cause No. 39032; MCI Request for IntraLATA Authority; Direct Testimony on Behalf of MCI.

April 4, 1991; Rebuttal Testimony in Cause No. 39032 re MCI's Request for IntraLATA Authority on Behalf of MCI.

**Iowa:**

September 1, 1988; Docket No. RPU 88\_6; IntraLATA Competition in Iowa; Direct Testimony on Behalf of MCI.

September 20, 1988; Docket No. RPU\_88\_1; Regarding the Access Charges of Northwestern Bell Telephone Company; Direct Testimony on Behalf of MCI.

September 25, 1991; Docket No. RPU-91-4; Investigation of the Earnings of U S WEST Communications, Inc.; Direct Testimony on Behalf of MCI.

October 3, 1991; Docket No. NOI-90-1; Presentation on Imputation of Access Charges and the Other Costs of Providing Toll Services; On Behalf of MCI.

November 5, 1991; Docket No. RPU-91-4; Investigation of the Earnings of U S WEST Communications, Inc.; Rebuttal Testimony on Behalf of MCI.

December 23, 1991; Docket No. RPU-91-4; Investigation of the Earnings of US WEST Communications, Inc.; Supplemental Testimony on Behalf of MCI.

January 10, 1992; Docket No. RPU-91-4; Investigation of the Earnings of U S WEST Communications, Inc.; Rebuttal Testimony on Behalf of MCI.

January 20, 1992; Docket No. RPU-91-4; Investigation of the Earnings of U S WEST Communications, Inc.; Surrebuttal Testimony on Behalf of MCI.

June 8, 1999; Docket NOI-99-1; Universal Service Workshop; Participated on numerous panels during two day workshop; Comments on Behalf of MCIW.

October 27, 1999; Docket NOI-99-1; Universal Service Workshop; Responded to questions posed by the Staff of the Board during one day workshop; Comments on Behalf of MCIW and AT&T.



**Kansas:**

June 10, 1992; Docket No. 181,097-U; General Investigation into IntraLATA Competition within the State of Kansas; Direct Testimony on Behalf of MCI.

September 16, 1992; Docket No. 181,097-U; General Investigation into IntraLATA Competition within the State of Kansas; Rebuttal Testimony on Behalf of MCI.

**Kentucky:**

May 20, 1993; Administrative Case No. 323, Phase I; An Inquiry into IntraLATA Toll Competition, an Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality; Direct Testimony on Behalf of MCI.

December 21, 2000; Case No. 2000-404; Petition of Level 3 Communications, LLC for Arbitration with BellSouth; Direct Testimony on Behalf of Level 3.

January 12, 2001; Case No. 2000-477; Petition of Adelphia Business Solutions for Arbitration with BellSouth; Direct Testimony on Behalf of Adelphia.

**Louisiana:**

December 28, 2000; Docket No. U-25301; Petition of Adelphia Business Solutions for Arbitration with BellSouth; Direct Testimony on Behalf of Adelphia.

January 5, 2001; Docket No. U-25301; Petition of Adelphia Business Solutions for Arbitration with BellSouth; Rebuttal Testimony on Behalf of Adelphia.

**Maryland:**

November 12, 1993; Case No. 8585; Competitive Safeguards Required re C&P's Centrex Extend Service; Direct Testimony on Behalf of MCI.

January 14, 1994; Case No. 8585; Competitive Safeguards Required re C&P's Centrex Extend Service; Rebuttal Testimony on Behalf of MCI.

May 19, 1994; Case No. 8585; Re Bell Atlantic Maryland, Inc.'s Transmittal No. 878; Testimony on Behalf of MCI.

June 2, 1994; Case No. 8585; Competitive Safeguards Required re C&P's Centrex Extend Service; Rebuttal Testimony on Behalf of MCI.

**Massachusetts:**

April 22, 1993; D.P.U. 93-45; New England Telephone Implementation of Interchangeable NPAs; Direct Testimony on Behalf of MCI.

May 10, 1993; D.P.U. 93-45; New England Telephone Implementation of Interchangeable NPAs; Rebuttal Testimony on Behalf of MCI.

**Michigan:**

September 29, 1988; Case Nos. U\_9004, U\_9006, U\_9007 (Consolidated); Industry Framework for IntraLATA Toll Competition; Direct Testimony on Behalf of MCI.

November 30, 1988; Case Nos. U\_9004, U\_9006, U\_9007 (Consolidated); Industry Framework for IntraLATA Toll Competition; Rebuttal Testimony on Behalf of MCI.

June 30, 1989; Case No. U-8987; Michigan Bell Telephone Company Incentive Regulation Plan; Direct Testimony on Behalf of MCI.

July 31, 1992; Case No. U-10138; MCI v Michigan Bell and GTE re IntraLATA Equal Access; Direct Testimony on Behalf of MCI.

November 17, 1992; Case No. U-10138; MCI v Michigan Bell and GTE re IntraLATA Equal Access; Rebuttal Testimony on Behalf of MCI.

July 22, 1993; Case No. U-10138 (Reopener); MCI v Michigan Bell and GTE re IntraLATA Equal Access; Direct Testimony on Behalf of MCI.

February 16, 2000; Case No. U-12321; AT&T Communications of Michigan, Inc. Complainant v. GTE North Inc. and Contel of the South, Inc., d/b/a GTE Systems of Michigan; Direct Testimony on Behalf of AT&T. (Adopted Testimony of Michael Starkey)

May 11, 2000; Case No. U-12321; AT&T Communications of Michigan, Inc. Complainant v. GTE North Inc. and Contel of the South, Inc., d/b/a GTE Systems of Michigan; Rebuttal Testimony on Behalf of AT&T.

June 8, 2000; Case No. U-12460; Petition of Level 3 Communications for Arbitration to Establish an Interconnection Agreement with Ameritech Michigan; Direct Testimony on Behalf of Level (3) Communications, LLC.

September 27, 2000; Case No. U-12528; In the Matter of the Implementation of the Local Calling Area Provisions of the MTA; Rebuttal Testimony on Behalf of Focal Communications, Inc..

**Minnesota:**

January 30, 1987; Docket No. P\_421/CI\_86\_88; Summary Investigation into Alternative Methods for Recovery of Non-traffic Sensitive Costs; Comments to the Commission on Behalf of MCI.

September 7, 1993; Docket No. P-999/CI-85-582, P-999/CI-87-697 and P-999/CI-87-695, In the Matter of an Investigation into IntraLATA Equal Access and Presubscription; Comments of MCI on the Report of the Equal Access and Presubscription Study Committee on Behalf of MCI.

September 20, 1996; Petition for Arbitration with U S WEST Communications, Inc.; Docket No. P-442, 421/M-96-855; P-5321, 421/M-96-909; and P-3167, 421/M-96-729 (consolidated); Direct Testimony on Behalf of MCI.

September 30, 1996; Petition for Arbitration with U S WEST Communications, Inc.; Docket No. P-442, 421/M-96-855; P-5321, 421/M-96-909; and P-3167, 421/M-96-729 (consolidated); Rebuttal Testimony on Behalf of MCI.

September 14-16, 1999; USWC OSS Workshop; Comments on Behalf of MCI WorldCom, Inc. re OSS Issues.

September 28, 1999; Docket No. P-999/R-97-609; Universal Service Group; Comments on Behalf of MCI WorldCom, Inc. and AT&T Communications.

**Mississippi:**

February 2, 2001; Docket No. 2000-AD-846; Petition of Adelphia Business Solutions for Arbitration with BellSouth Telecommunications; Direct Testimony on Behalf of Adelphia.

February 16, 2001; Docket No. 2000-AD-846; Petition of Adelphia Business Solutions for Arbitration with BellSouth Telecommunications; Rebuttal Testimony on Behalf of Adelphia.

**Montana:**

May 1, 1987; Docket No. 86.12.67; Rate Case of AT&T Communications of the Mountain States, Inc.; Direct Testimony on Behalf of MCI.

September 12, 1988; Docket No. 88.1.2; Rate Case of Mountain States Telephone and Telegraph Company; Direct Testimony on Behalf of MCI.

May 12, 1998; Docket No. D97.10.191; Application of WorldCom, Inc. for Approval to Transfer Control of MCI Communications Corporation to WorldCom, Inc.; Rebuttal Testimony on Behalf of MCI.

June 1, 1998; Docket No. D97.10.191; Application of WorldCom, Inc. for Approval to Transfer Control of MCI Communications Corporation to WorldCom, Inc.; Amended Rebuttal Testimony on Behalf of MCI.

**Nebraska:**

November 6, 1986; Application No. C\_627; Nebraska Telephone Association Access Charge Proceeding; Direct Testimony on Behalf of MCI.

March 31, 1988; Application No. C\_749; Application of United Telephone Long Distance Company of the Midwest for a Certificate of Public Convenience and Necessity; Direct Testimony on Behalf of MCI.

**New Hampshire:**

April 30, 1993; Docket DE 93-003; Investigation into New England Telephone's Proposal to Implement Seven Digit Dialing for Intrastate Toll Calls; Direct Testimony on Behalf of MCI.

January 12, 2001; Docket No. DT 00-223; Investigation Into Whether Certain Calls are Local; Direct Testimony on Behalf of BayRing Communications.

**New Jersey:**

September 15, 1993; Docket No. TX93060259; Notice of Pre-Proposal re IntraLATA Competition; Comments in Response to the Board of Regulatory Commissioners on Behalf of MCI.

October 1, 1993; Docket No. TX93060259; Notice of Pre-Proposal re IntraLATA Competition; Reply Comments in Response to the Board of Regulatory Commissioners on Behalf of MCI.

April 7, 1994; Docket Nos. TX90050349, TE92111047, and TE93060211; Petitions of MCI, Sprint and AT&T for Authorization of IntraLATA Competition and Elimination of Compensation; Direct Testimony on Behalf of MCI.

April 25, 1994; Docket Nos. TX90050349, TE92111047, and TE93060211; Petitions of MCI, Sprint and AT&T for Authorization of IntraLATA Competition and Elimination of Compensation; Rebuttal Testimony on Behalf of MCI.

**New Mexico:**

September 28, 1987; Docket No. 87\_61\_TC; Application of MCI for a Certificate of Public Convenience and Necessity; Direct Testimony on Behalf of MCI.

August 30, 1996; Docket No. 95-572-TC; Petition of AT&T for IntraLATA Equal Access; Rebuttal Testimony on Behalf of MCI.

**New York:**

April 30, 1992; Case 28425; Comments of MCI Telecommunications Corporation on IntraLATA Presubscription.

June 8, 1992; Case 28425; Reply Comments of MCI Telecommunications Corporation on IntraLATA Presubscription.

**North Carolina:**

August 4, 2000; Docket No. P779 SUB4; Petition of Level (3) Communications, LLC for Arbitration with Bell South; Direct Testimony on Behalf of Level (3) Communications, LLC.

September 18, 2000; Docket No. P779 SUB4; Petition of Level (3) Communications, LLC for Arbitration with Bell South; Rebuttal Testimony on Behalf of Level (3) Communications, LLC.

October 18, 2000; Docket No. P-886, SUB 1; Petition of Adelphia Business Solutions or North Carolina, LP for Arbitration with BellSouth; Direct Testimony on Behalf of Adelphia.

December 8, 2000; Docket No. P-886, SUB 1; Petition of Adelphia Business Solutions or North Carolina, LP for Arbitration with BellSouth; Rebuttal Testimony on Behalf of Adelphia.

**North Dakota:**

June 24, 1991; Case No. PU-2320-90-183 (Implementation of SB 2320 -- Subsidy Investigation); Direct Testimony on Behalf of MCI.

October 24, 1991; Case No. PU-2320-90-183 (Implementation of SB 2320 -- Subsidy Investigation); Rebuttal Testimony on Behalf of MCI.

**Oklahoma:**

April 2, 1992; Cause No. 28713; Application of MCI for Additional CCN Authority to Provide IntraLATA Services; Direct Testimony on Behalf of MCI.

June 22, 1992; Cause No. 28713; Application of MCI for Additional CCN Authority to Provide IntraLATA Services; Rebuttal Testimony on Behalf of MCI.

**Oregon:**

October 27, 1983; Docket No. UT 9; Pacific Northwest Bell Telephone Company Business Measured Service; Direct Testimony on Behalf of the Public Utility Commissioner of Oregon.

April 23, 1984; Docket No. UT 17; Pacific Northwest Bell Telephone Company Business Measured Service; Direct Testimony on Behalf of the Public Utility Commissioner of Oregon.

May 7, 1984; Docket No. UT 17; Pacific Northwest Bell Telephone Company Business Measured Service; Rebuttal Testimony on Behalf of the Public Utility Commissioner of Oregon.

October 31, 1986; Docket No. AR 154; Administrative Rules Relating to the Universal Service Protection Plan; Rebuttal Testimony on Behalf of MCI.

September 6, 1996; Docket ARB3/ARB6; Petition of MCI for Arbitration with U S WEST Communications, Inc.; Direct Testimony on Behalf of MCI.

October 11, 1996; Docket No. ARB 9; Interconnection Contract Negotiations Between MCImetro and GTE; Direct Testimony on Behalf of MCI.

November 5, 1996; Docket No. ARB 9; Interconnection Contract Negotiations Between MCImetro and GTE; Rebuttal Testimony on Behalf of MCI.

**Pennsylvania:**

December 9, 1994; Docket No. I-00940034; Investigation Into IntraLATA Interconnection Arrangements (Presubscription); Direct Testimony on Behalf of MCI.

**Rhode Island:**

April 30, 1993; Docket No. 2089; Dialing Pattern Proposal Made by the New England Telephone Company; Direct Testimony on Behalf of MCI.

**South Carolina:**

Oct. ??, 2000; Docket No. 2000-0446-C; US LEC of South Carolina Inc. Arbitration with BellSouth Telecommunications; Direct Testimony on Behalf of US LEC.

November 22, 2000; Docket No. 2000-516-C; Adelphia Business Solutions of South Carolina, Inc. Arbitration with BellSouth Telecommunications; Direct Testimony on Behalf of Adelphia.

December 14, 2000; Docket No. 2000-516-C; Adelphia Business Solutions of South Carolina, Inc. Arbitration with BellSouth Telecommunications; Rebuttal Testimony on Behalf of Adelphia.

**South Dakota:**

November 11, 1987; Docket No. F\_3652\_12; Application of Northwestern Bell Telephone Company to Introduce Its Contract Toll Plan; Direct Testimony on Behalf of MCI.

**Tennessee:**

January 31, 2001; Petition of Adelphia Business Solutions for Arbitration with BellSouth Telecommunications; Direct Testimony on Behalf of Adelphia.

February 7, 2001; Petition of Adelphia Business Solutions for Arbitration with BellSouth Telecommunications; Rebuttal Testimony on Behalf of Adelphia.

**Texas:**

June 5, 2000; PUC Docket No. 22441; Petition of Level 3 for Arbitration with Southwestern Bell Telephone Company; Direct Testimony on Behalf of Level (3) Communications, LLC.

June 12, 2000; PUC Docket No. 22441; Petition of Level 3 for Arbitration with Southwestern Bell Telephone Company; Rebuttal Testimony on Behalf of Level (3) Communications, LLC.

**Utah:**

November 16, 1987; Case No. 87\_049\_05; Petition of the Mountain State Telephone and Telegraph Company for Exemption from Regulation of Various Transport Services; Direct Testimony on Behalf of MCI.

July 7, 1988; Case No. 83\_999\_11; Investigation of Access Charges for Intrastate InterLATA and IntraLATA Telephone Services; Direct Testimony on Behalf of MCI.

November 8, 1996; Docket No. 96-095-01; MCImetro Petition for Arbitration with USWC Pursuant to 47 U.S.C. Section 252; Direct Testimony on Behalf of MCI.

November 22, 1996; Docket No. 96-095-01; MCImetro Petition for Arbitration with USWC Pursuant to 47 U.S.C. Section 252; Rebuttal Testimony on Behalf of MCI.

September 3, 1997; Docket No. 97-049-08; USWC Rate Case; Surrebuttal Testimony on Behalf of MCI.

September 29, 1997; Docket No. 97-049-08; USWC Rate Case; Revised Direct Testimony on Behalf of MCI.

February 2, 2001; Docket No. 00-999-05; In the Matter of the Investigation of Inter-Carrier Compensation for Exchanged ESP Traffic; Direct Testimony on Behalf of Level 3 Communications, LLP.

**Washington:**

September 27, 1988; Docket No. U\_88\_2052\_P; Petition of Pacific Northwest Bell Telephone Company for Classification of Services as Competitive; Direct Testimony on Behalf of MCI.



October 11, 1996; Docket No. UT-960338; Petition of MCImetro for Arbitration with GTE Northwest, Inc., Pursuant to 47 U.S.C.252; Direct Testimony on Behalf of MCI.

November 20, 1996; Docket No. UT-960338; Petition of MCImetro for Arbitration with GTE Northwest, Inc., Pursuant to 47 U.S.C.252; Rebuttal Testimony on Behalf of MCI.

January 13, 1998; Docket No. UT-970325; Rulemaking Workshop re Access Charge Reform and the Cost of Universal Service; Comments and Presentation on Behalf of MCI.

**West Virginia:**

October 11, 1994; Case No. 94-0725-T-PC; Bell Atlantic - West Virginia Incentive Regulation Plan; Direct Testimony on Behalf of MCI.

June 18, 1998; Case No. 97-1338-T-PC; Petition of WorldCom, Inc. for Approval to Transfer Control of MCI Communications Corporation to WorldCom, Inc.; Rebuttal Testimony on Behalf of MCI.

**Wisconsin:**

October 31, 1988; Docket No. 05\_TR\_102; Investigation of Intrastate Access Costs, Settlements, and IntraLATA Access Charges; Direct Testimony on Behalf of MCI.

November 14, 1988; Docket No. 05\_TR\_102; Investigation of Intrastate Access Costs, Settlements, and IntraLATA Access Charges; Rebuttal Testimony on Behalf of MCI.

December 12, 1988; Docket No. 05\_TI\_116; In the Matter of Provision of Operator Services; Rebuttal Testimony on Behalf of MCI.

March 6, 1989; Docket No. 6720\_TI\_102; Review of Financial Data Filed by Wisconsin Bell, Inc.; Direct Testimony on Behalf of MCI.

May 1, 1989; Docket No. 05\_NC\_100; Amendment of MCI's CCN for Authority to Provide IntraLATA Dedicated Access Services; Direct Testimony on Behalf of MCI.

May 11, 1989; Docket No. 6720\_TR\_103; Investigation Into the Financial Data and Regulation of Wisconsin Bell, Inc.; Rebuttal Testimony on Behalf of MCI.

July 5, 1989; Docket No. 05-TI-112; Disconnection of Local and Toll Services for Nonpayment -- Part A; Direct Testimony on Behalf of MCI.

July 5, 1989; Docket No. 05-TI-112; Examination of Industry Wide Billing and Collection Practices -- Part B; Direct Testimony on Behalf of MCI.

July 12, 1989; Docket No. 05-TI-112; Rebuttal Testimony in Parts A and B on Behalf of MCI.

October 9, 1989; Docket No. 6720-TI-102; Review of the WBI Rate Moratorium; Direct Testimony on Behalf of MCI.

November 17, 1989; Docket No. 6720-TI-102; Review of the WBI Rate Moratorium; Rebuttal Testimony on Behalf of MCI.

December 1, 1989; Docket No. 05-TR-102; Investigation of Intrastate Access Costs, Settlements, and IntraLATA Access Charges; Direct Testimony on Behalf of MCI.

April 16, 1990; Docket No. 6720-TR-104; Wisconsin Bell Rate Case; Direct Testimony on Behalf of MCI.

October 1, 1990; Docket No. 2180-TR-102; GTE Rate Case and Request for Alternative Regulatory Plan; Direct Testimony on Behalf of MCI.

October 15, 1990; Docket No. 2180-TR-102; GTE Rate Case and Request for Alternative Regulatory Plan; Rebuttal Testimony on Behalf of MCI.

November 15, 1990; Docket No. 05-TR-103; Investigation of Intrastate Access Costs and Intrastate Access Charges; Direct Testimony on Behalf of MCI.

April 3, 1992; Docket No. 05-NC-102; Petition of MCI for IntraLATA 10XXX 1+ Authority; Direct Testimony on Behalf of MCI.

**Wyoming:**

June 17, 1987; Docket No. 9746 Sub 1; Application of MCI for a Certificate of Public Convenience and Necessity; Direct Testimony on Behalf of MCI.

May 19, 1997; Docket No. 72000-TC-97-99; In the Matter of Compliance with Federal Regulations of Payphones; Oral Testimony on Behalf of MCI.

**Comments Submitted to the Federal Communications Commission and/or the Department of Justice**

March 6, 1991; Ameritech Transmittal No. 518; Petition to Suspend and Investigate on Behalf of MCI re Proposed Rates for OPTINET 64 Kbps Service.

April 17, 1991; Ameritech Transmittal No. 526; Petition to Suspend and Investigate on Behalf of MCI re Proposed Flexible ANI Service.

August 30, 1991; Ameritech Transmittal No. 555; Petition to Suspend and Investigate on Behalf of MCI re Ameritech Directory Search Service.

September 30, 1991; Ameritech Transmittal No. 562; Petition to Suspend and Investigate on Behalf of MCI re Proposed Rates and Possible MFJ Violations Associated with Ameritech's OPTINET Reconfiguration Service (AORS).

October 15, 1991; CC Docket No. 91-215; Opposition to Direct Cases of Ameritech and United (Ameritech Transmittal No. 518; United Transmittal No. 273) on Behalf of MCI re the introduction of 64 Kbps Special Access Service.

November 27, 1991; Ameritech Transmittal No. 578; Petition to Suspend and Investigate on Behalf of MCI re Ameritech Directory Search Service.

September 4, 1992; Ameritech Transmittal No. 650; Petition to Suspend and Investigate on Behalf of MCI re Ameritech 64 Clear Channel Capability Service.

February 16, 1995; Presentation to FCC Staff on the Status of Intrastate Competition on Behalf of MCI.

November 9, 1999; Comments to FCC Staff of Common Carrier Bureau on the Status of OSS Testing in Arizona on Behalf of MCI WorldCom, Inc.

November 9, 1999; Comments to the Department of Justice (Task Force on Telecommunications) on the Status of OSS Testing in Arizona and the USWC Collaborative on Behalf of MCI WorldCom, Inc.

**Presentations Before Legislative Bodies:**

April 8, 1987; Minnesota; Senate File 677; Proposed Deregulation Legislation; Comments before the House Committee on Telecommunications.

October 30, 1989; Michigan; Presentation Before the Michigan House and Senate Staff Working Group on Telecommunications; "A First Look at Nebraska, Incentive Rates and Price Caps," Comments on Behalf of MCI.

May 16, 1990; Wisconsin; Comments Before the Wisconsin Assembly Utilities Committee Regarding the Wisconsin Bell Plan for Flexible Regulation, on Behalf of MCI.

March 20, 1991; Michigan; Presentation to the Michigan Senate Technology and Energy Committee re SB 124 on behalf of MCI.

May 15, 1991; Michigan; Presentation to the Michigan Senate Technology and Energy Commission and the House Public Utilities Committee re MCI's Building Blocks Proposal and SB 124/HB 4343.

March 8, 2000; Illinois; Presentation to the Environment & Energy Senate Committee re Emerging Technologies and Their Impact on Public Policy, on Behalf of MCI WorldCom, Inc.

**Presentations Before Industry Groups -- Seminars:**

May 17, 1989; Wisconsin Public Utility Institute -- Telecommunications Utilities and Regulation; May 15-18, 1989; Panel Presentation -- Interexchange Service Pricing Practices Under Price Cap Regulation; Comments on Behalf of MCI.

July 24, 1989; National Association of Regulatory Utility Commissioners -- Summer Committee Meeting, San Francisco, California. Panel Presentation -- Specific IntraLATA Market Concerns of Interexchange Carriers; Comments on Behalf of MCI.

May 16, 1990; Wisconsin Public Utility Institute -- Telecommunications Utilities and Regulation; May 14-18, 1990; Presentation on Alternative Forms of Regulation.

October 29, 1990; Illinois Telecommunications Sunset Review Forum; Two Panel Presentations: Discussion of the Illinois Commerce Commission's Decision in Docket No. 88-0091 for the Technology Working Group; and, Discussion of the Treatment of Competitive Services for the Rate of Return Regulation Working Group; Comments on Behalf of MCI.

May 16, 1991; Wisconsin Public Utility Institute -- Telecommunications Utilities and Regulation Course; May 13-16, 1991; Participated in IntraLATA Toll Competition Debate on Behalf of MCI.

November 19, 1991; TeleStrategies Conference -- "Local Exchange Competition: The \$70 Billion Opportunity." Presentation as part of a panel on "IntraLATA 1+ Presubscription" on Behalf of MCI.

July 9, 1992; North Dakota Association of Telephone Cooperatives Summer Conference, July 8-10, 1992. Panel presentations on "Equal Access in North Dakota: Implementation of PSC Mandate" and "Open Network Access in North Dakota" on Behalf of MCI.

December 2-3, 1992; TeleStrategies Conference -- "IntraLATA Toll Competition - A Multi-Billion Dollar Market Opportunity." Presentations on the interexchange carriers' position on intraLATA dialing parity and presubscription and on technical considerations on behalf of MCI.

March 14-17, 1993; NARUC Introductory Regulatory Training Program; Panel Presentation on Competition in Telecommunications on Behalf of MCI.

May 13-14, 1993; TeleStrategies Conference -- "IntraLATA Toll Competition -- Gaining the Competitive Edge"; Presentation on Carriers and IntraLATA Toll Competition on Behalf of MCI.

May 23-26, 1994; The 12th Annual National Telecommunications Forecasting Conference; Represented IXC's in Special Town Meeting Segment Regarding the Convergence of CATV and Telecommunications and other Local Competition Issues.

March 14-15, 1995; "The LEC-IXC Conference"; Sponsored by Telecommunications Reports and Telco Competition Report; Panel on Redefining the IntraLATA Service Market -- Toll Competition, Extended Area Calling and Local Resale.

August 28-30, 1995; "Phone+ Supershow '95"; Playing Fair: An Update on IntraLATA Equal Access; Panel Presentation.

August 29, 1995; "TDS Annual Regulatory Meeting"; Panel Presentation on Local Competition Issues.

December 13-14, 1995; "NECA/Century Access Conference"; Panel Presentation on Local Exchange Competition.

October 23, 1997; ?Interpreting the FCC Rules of 1997"; The Annenberg School for Communication at the University of Southern California; Panel Presentation on Universal Service and Access Reform.

### Basic Classification System of Communication Services

Category	Information Services		<<< ? >>>	Telecommunications Services
Service Type	Pure Information Service	Hybrid/Mixed Services	Pure IP Telephony	Traditional Phone Services
Characteristics	A service capable of generating, acquiring, storing, transforming, processing, retrieving, utilizing or making available information via telecommunications.	Services that integrate an information capability with a telecommunications services	IP-based services that may resemble aspects of conventional services, but which also include an information services component	A simple transparent transmission path, without the capability of offering an information service
Compensation Regime	Service connects as a local exchange service		?	Exchange access or local exchange service

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 000075-TP EXHIBIT NO. 20  
COMPANY/ Gillan  
WITNESS: Gillan  
DATE: 7-5-01

## **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the Testimony and Exhibit of Joseph P. Gillan on behalf of FCCA has been furnished by hand delivery (\*) or U.S. Mail this 12th day of March, 2001 to the following:

(\*) Felicia Banks  
Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399

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c/o Nancy H. Sims  
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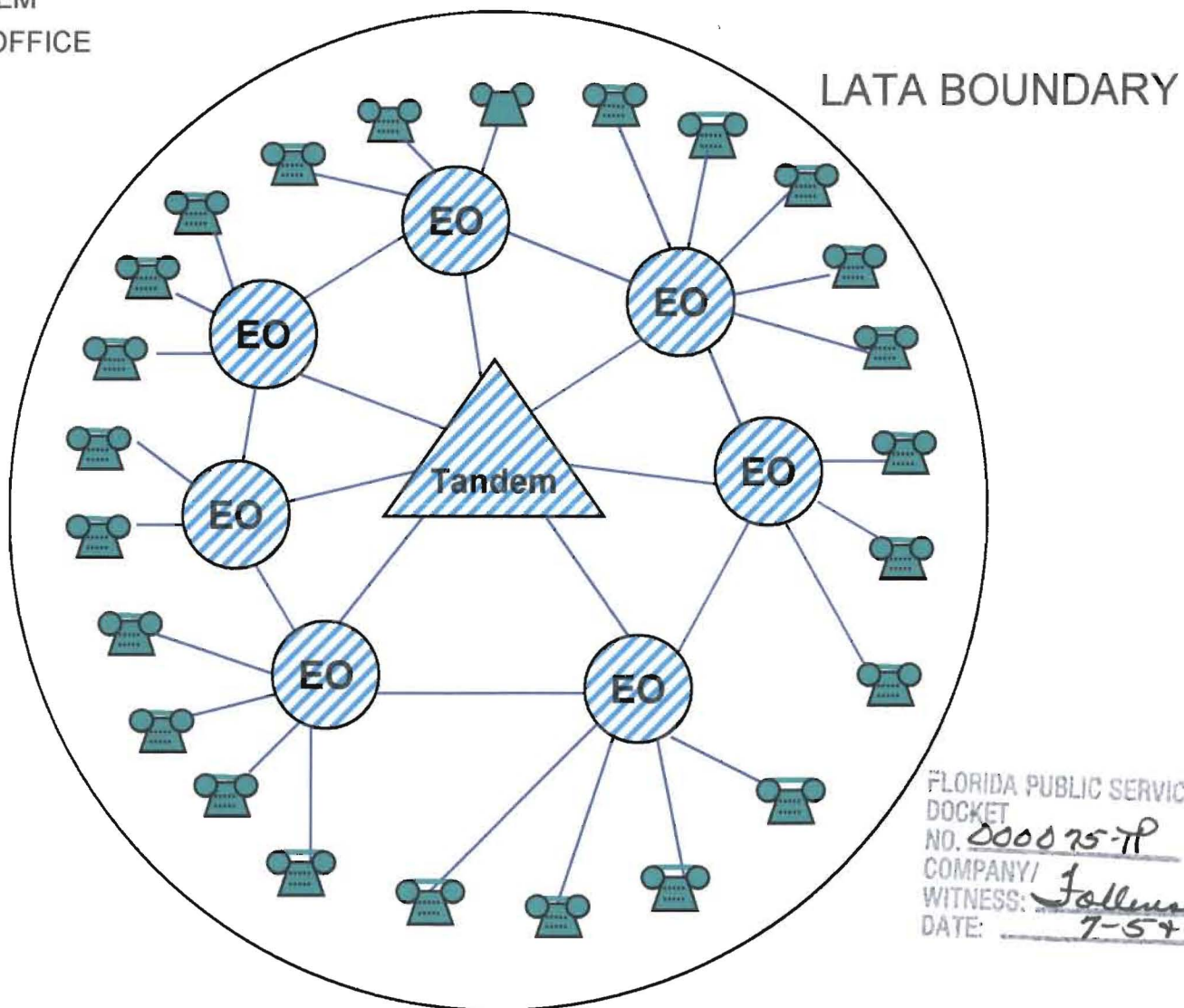
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Charlie Pellegrini/Patrick Wiggins  
Katz, Kutter Law Firm  
106 East College Avenue  
Tallahassee, Florida 32301

  
Joseph A. McGlothlin

# ATTACHMENT 1 - ILEC NETWORK ARCHITECTURE

-  = ILEC TANDEM
-  = ILEC END OFFICE
-  = END USER



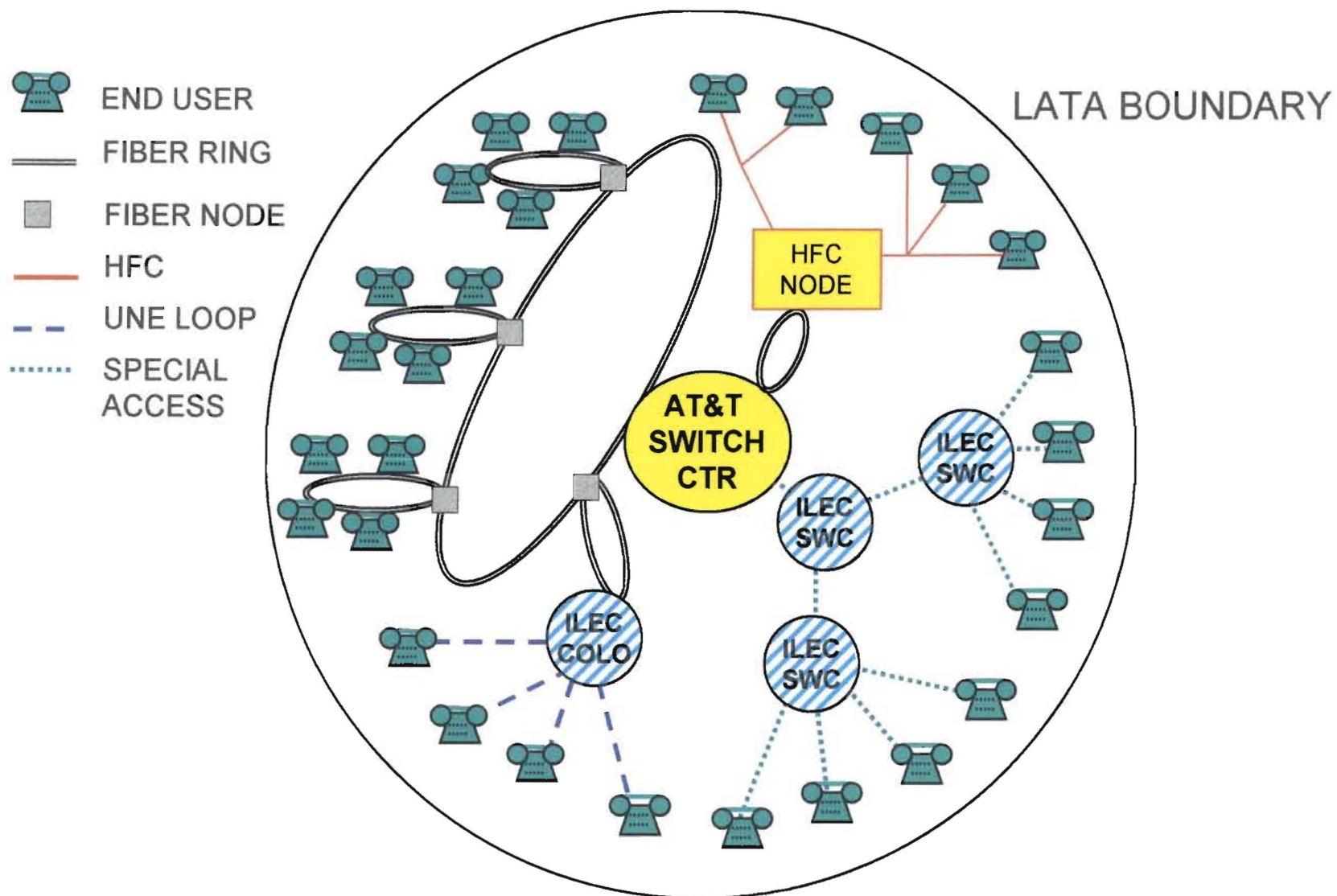
FLORIDA PUBLIC SERVICE COMMISSION  
 DOCKET  
 NO. 000075-TP EXHIBIT NO. 21  
 COMPANY/ Fallenbach  
 WITNESS: 7-5+6-01  
 DATE: 7-5+6-01

Docket No. 000075-TP

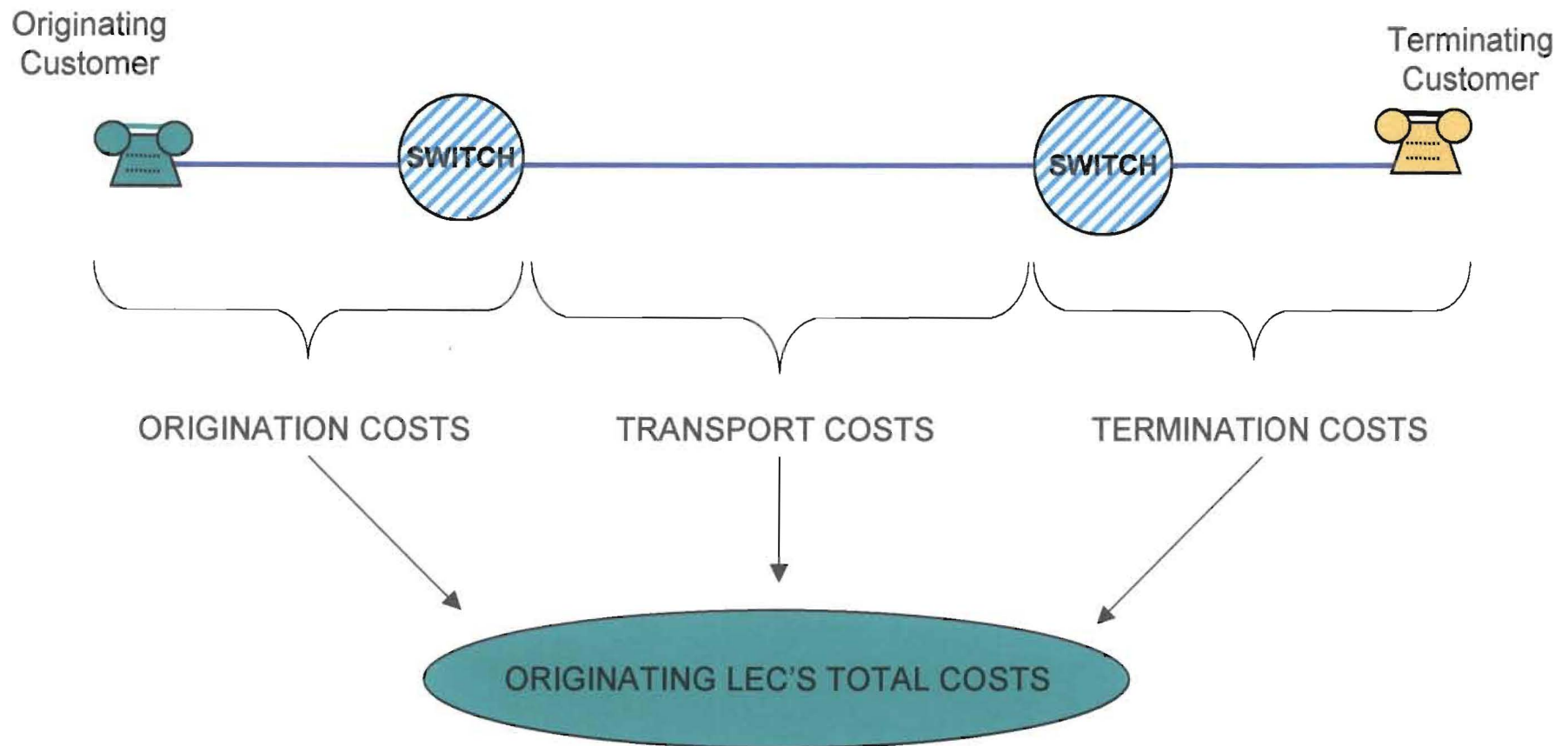
Exhibit GRF-1

Page 1 of 1

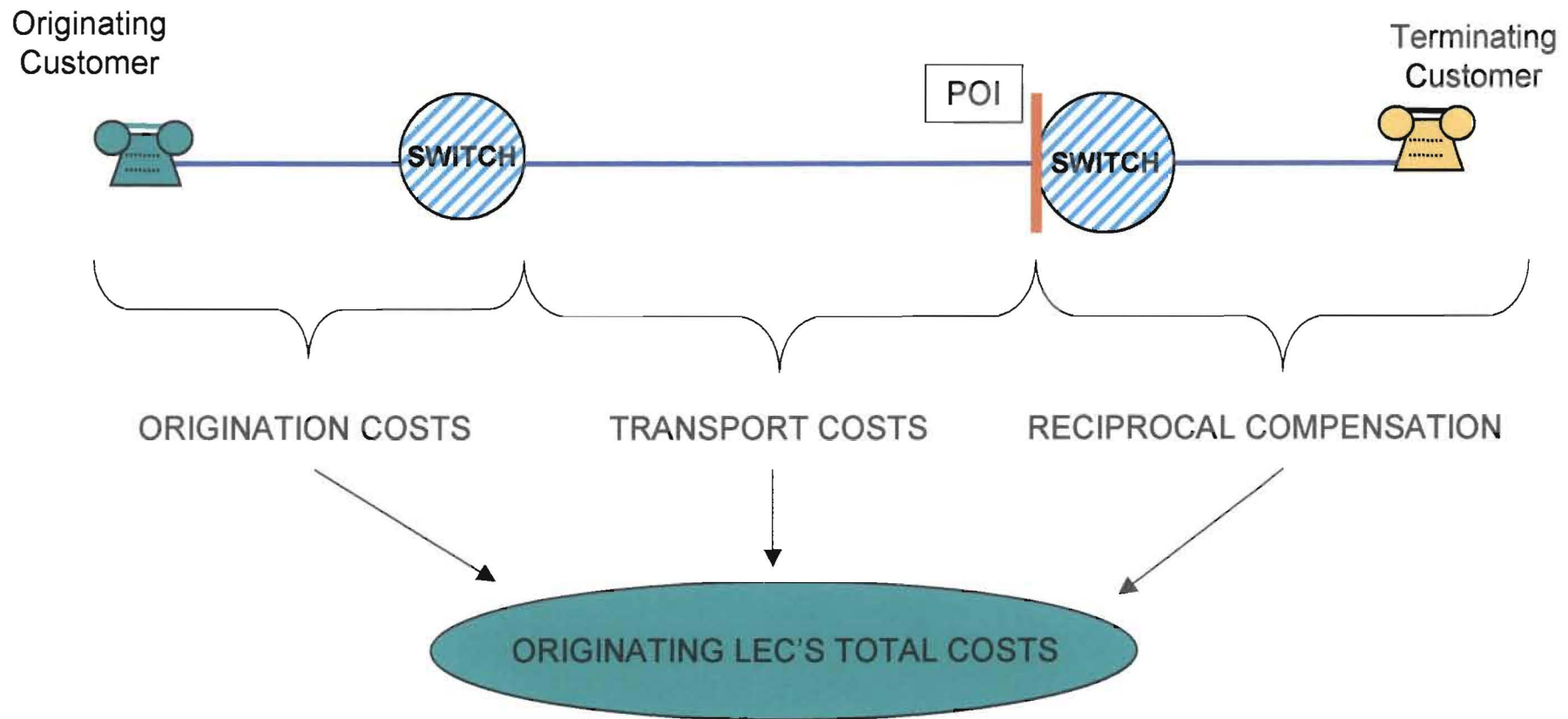
## ATTACHMENT 2 - AT&T NETWORK ARCHITECTURE



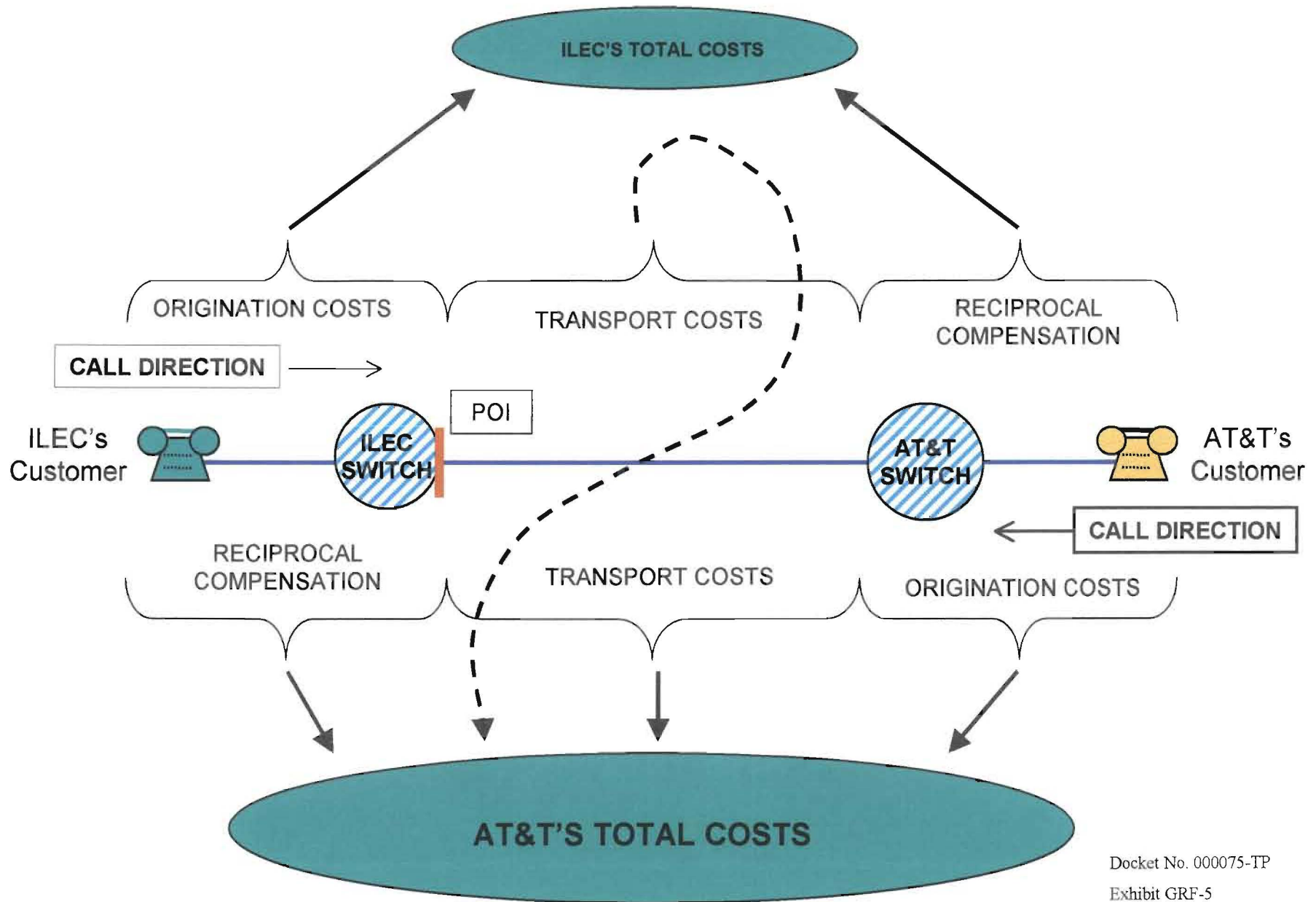
## ATTACHMENT 3 - PRE-TRA COST MODEL



## ATTACHMENT 4 - TRA COST MODEL AND AT&T PROPOSAL



## ATTACHMENT 5 - ILEC PROPOSAL





**Q. PLEASE STATE YOUR NAME, PRESENT POSITION, AND BUSINESS ADDRESS.**

A. My name is John D. Schell, Jr. I am a contract employee in the Local Services Access Management group in AT&T Network Services. My business address is 3033 Chain Bridge Road, Oakton, Virginia 22185.

**Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?**

A. I graduated from St. Louis University with a Bachelor of Science degree in Electrical Engineering in 1965.

**Q. WHAT IS YOUR EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY?**

A. I joined AT&T Long Lines in 1965 as a Senior Engineer in the Engineering Department in Kansas City, Missouri. After that, I held various line and staff positions in AT&T. For example, from February 1979 to April 1984, I was District Engineer - Transmission for the Eastern Region of AT&T. My district provided technical expertise and guidance for transmission design and maintenance for radio, cable and fiber transmission systems, for switching systems, and for special services. From May 1984 to September 1987, I was District Manager - Regulatory Support and provided technical expertise and guidance to Law and Government Affairs on issues related to AT&T's network. From October 1987 through August 1995, I was District Manager - Access Management. My group was responsible for development and implementation of policies and strategies to improve

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 000075-7P EXHIBIT NO. 22  
COMPANY/ Schell  
WITNESS: 7-3-96-01  
DATE: 7-3-96-01

AT&T's ability to compete and to achieve AT&T's access price objectives in the Atlantic States. From September 1995 through January 1998, when I retired from AT&T, I was District Manager - Connectivity Network Planning and my group was responsible for developing AT&T's local market infrastructure plans and managing AT&T's access arrangements with local exchange carriers and competitive access providers in the Atlantic States.

From midyear 1983 through 1993, I prepared and presented expert testimony on access charges and interconnection issues. I also provided support, analysis and testimony in connection with alternative regulation issues and was involved in negotiations and proceedings in all of the original Bell Atlantic states regarding the many issues associated with alternative regulation. I have previously testified in cases in Maryland, Virginia, West Virginia, Pennsylvania, Delaware, New Jersey and New York.

From March 1998 through May 2001, I was employed by Teligent, Inc. as Manager - National Contracts. I was responsible for developing and negotiating Teligent's Master Service Agreements with over 20 national/regional suppliers of local and intercity transport services, including dark fiber, and managed Teligent's business relationships with such suppliers.



FLORIDA PUBLIC SERVICE COMMISSION

DOCKET

NO. 000075-IT EXHIBIT NO. 23

COMPANY/

WITNESS: Argonbright

DATE:

7-5-01

## BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition for Arbitration	)	DOCKET NO. UT-980370
of an Interconnection Agreement Between	)	
	)	
ELECTRIC LIGHTWAVE, INC.,	)	ARBITRATOR'S REPORT
and GTE NORTHWEST INCORPORATED	)	AND DECISION
	)	
	)	
Pursuant to 47 USC Section 252.	)	
.....	)	

**I. MEMORANDUM****A. Procedural History.**

On May 1, 1998, Electric Lightwave, Inc. (ELI), requested to negotiate an interconnection agreement with GTE Northwest Incorporated (GTE). On October 7, 1998, ELI, timely filed a Petition for Arbitration with the Washington Utilities and Transportation Commission ("Commission")<sup>1</sup> pursuant to 47 USC § 252(b)(1) of the Telecommunications Act of 1996, Public Law No. 104-104, 101 Stat. 56, *codified at* 47 U.S.C. § 151 et seq. (1996) (Telecom Act). The matter was designated Docket No. UT-980370.

The Commission entered an Order on Arbitration Procedure and appointed an arbitrator on October 27, 1998. GTE filed its response with the Commission on November 2, 1998.<sup>2</sup>

On November 13, 1998, a prehearing conference was held to establish a procedural schedule. On November 25, 1998, the parties jointly requested that the statutory deadline for resolution of disputed issues be extended and they waived all rights to challenge a Commission decision dated on or before March 8, 1999, on the basis of timeliness. On December 1, 1998, the First Supplemental Order on Prehearing Conference approving the joint request was entered. Opening testimony was filed on December 1, 1998. Reply testimony was filed January 4, 1999.

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<sup>1</sup>In this decision, the Washington Utilities and Transportation Commission is referred to as the Commission. The Federal Communications Commission is referred to as the FCC.

<sup>2</sup> The ELI Petition, including its proposed interconnection agreement, and GTE's Response, although not separately marked as hearing exhibits, are deemed a part of the record and properly before the Arbitrator and the Commission.

On January 13, 1999, a second prehearing conference was held. At the conference the parties agreed to stipulate the prefiled testimony and exhibits into evidence, waive the scheduled hearing, and submit briefs on the unresolved issues. Opening briefs were filed on January 27, 1999. Reply briefs were filed on February 1, 1999.

On February 24, 1999, the parties jointly requested an additional extension of the statutory deadline to March 22, 1999, and for permission to file supplemental briefs. The requests were granted. Supplemental briefs were filed on March 8, 1999.

#### **B. Presentation of Issues.**

The parties presented three issues for resolution in this proceeding. GTE raised an additional issue in its Supplemental Brief. The issues are:

- I. Should GTE and ELI Compensate Each Other under Their Agreement for the Costs of Transport and Termination for Traffic Exchanged Between Their Networks over Local Interconnection Facilities That Terminate to Internet Service Providers?
2. What Compensation Mechanism Should Be Applied for the Costs of Transport and Termination for Traffic Exchanged Between Networks over Local Interconnection Facilities That Terminate to ISPs?
3. Should GTE Compensate ELI for Traffic Exchanged Between Their Networks at the Tandem Switching Rate or at the End Office Switching Rate?
4. Should the Commission Shorten the Negotiated and Agreed to Term of the Agreement or Establish Procedures to Clarify or Modify Interim Rules for Inter-carrier Compensation?

#### **C. Resolution of Disputes and Contract Language Issue.**

On December 1, 1998, the First Supplemental Order on Prehearing Conference was entered and stated that "final offer" arbitration would not control dispute resolution. In preparing the arbitration report in this matter, the arbitrator was not required to choose between the parties' last proposals as to each unresolved issue. The arbitrator considered the parties' arguments and made decisions consistent with the requirements of state and federal law and the Commission on an issue-by-issue basis.

As a general matter, this decision is limited to the disputed issues presented for arbitration. 47 U.S.C. § 252(b)(4). Each decision of the arbitrator is subject to and qualified by the discussion of the issue. The arbitrator reserves the discretion to either adopt or disregard proposed contract language in making decisions. However, adoption of one party's position generally implies that the parties should use that party's contract language incorporating the advocated position in preparing a final agreement. Contract language adopted remains subject to Commission approval. 47 U.S.C. § 252(e).

This Arbitrator's Report and Decision is issued in compliance with the procedural requirements of the Telecom Act, and it resolves all issues which were submitted to the Commission for arbitration by the parties. At the conclusion of this Report and Decision, the Arbitrator addresses the approval procedure to be followed in furtherance of the issuance of a Commission order approving an interconnection agreement between the parties.

### **C. Generic Pricing Proceeding**

On October 23, 1996, the Commission entered an order in other arbitration dockets declaring that a generic proceeding would be initiated in order to review costing and pricing issues for interconnection, unbundled network elements, transport and termination, and resale.<sup>3</sup> The Commission stated that rates adopted in the pending arbitrations would be interim rates, pending the completion of the generic proceeding. That proceeding is underway.<sup>4</sup> Accordingly, the price proposals made in this arbitration have been reviewed with the goal of determining which offers a more reasonable interim rate. The conclusions of the arbitrator with respect to price proposals and supporting information are made in this context and do not necessarily indicate Commission approval or rejection of cost and price proposals for purposes of the Generic Case.

### **D. The Eighth Circuit Order and the FCC Rules**

On August 8, 1996, the FCC issued its First Report and Order (Local Interconnection Order), including Appendix B - Final Rules (FCC Rules).<sup>5</sup> On October 15, 1996, the U.

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<sup>3</sup> Order on Sprint's Petition to Intervene and to Establish Generic Pricing Proceeding (October 23, 1996) (Generic Pricing Order).

<sup>4</sup> *In the Matter of the Pricing Proceeding For Interconnection, Unbundled Elements, Transport and Termination, and Resale*, UT-960369 (general), UT-960370 (USWC), UT-960371(GTE); Order Instituting Investigations; Order of Consolidation; and Notice of Prehearing Conference, November 21, 1996 (Generic Case).

<sup>5</sup> *In the Matter of the Implementation of the Local Competition Rules of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order (August 8, 1996), Appendix B- Final Rules.

S. Court of Appeals, Eighth Circuit stayed operation of the FCC Rules relating to pricing and the "pick and choose" provisions.<sup>6</sup>

On July 18, 1997, the Eighth Circuit issued an order vacating several of the FCC Rules. On October 14, 1997, the Court entered an order on rehearing vacating additional FCC Rules. The Eighth Circuit decisions were thereafter appealed to the U. S. Supreme Court. On January 25, 1999, the Supreme Court issued a decision holding that the FCC Rules, with the exception of §51.319, are consistent with the Telecom Act.<sup>7</sup>

#### **E. The FCC's Declaratory Order**

On February 26, 1999, the Federal Communications Commission (FCC) entered its long awaited order on the issue of inter-carrier compensation for ISP-bound traffic (Declaratory Ruling).<sup>8</sup> The Declaratory Ruling was in response to a number of requests to clarify whether a local exchange carrier (LEC) is entitled to receive reciprocal compensation for traffic it delivers to an Internet service provider. Generally, competitive LECs (CLECs), such as ELI, contend that this is local traffic subject to the reciprocal compensation provisions of section 251(b)(5) of the Telecom Act. Incumbent LECs (ILECs), such as GTE, contend that this is interstate traffic beyond the scope of section 251(b)(5). The Declaratory Ruling concluded that ISP-bound traffic is jurisdictionally mixed and appears to be largely interstate, but further held that this conclusion does not in itself determine whether reciprocal compensation is due in any particular instance.

The FCC noted that it has no rule governing inter-carrier compensation for ISP-bound traffic, and found no reason to interfere with state commission findings as to whether reciprocal compensation provisions of interconnection agreements apply to ISP-bound traffic, pending adoption of a rule establishing an appropriate interstate compensation mechanism.<sup>9</sup> The FCC also reiterated that state commission authority over interconnection agreements pursuant to 252 of the Telecom Act extends to both interstate and intrastate matters, and the mere fact that ISP-bound traffic is considered

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<sup>6</sup> *Iowa Utilities Board et al. v. FCC*, No. 96-3321, Order Granting Stay Pending Judicial Review (8th Cir. Oct. 15, 1996).

<sup>7</sup> *AT&T Corp. v. Iowa Utilities Board*, 119 S. Ct. 721 (1999).

<sup>8</sup> In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Inter-Carrier Compensation for ISP-Bound Traffic, CC Docket Nos. 96-98 and 99-68, *Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No. 99-68*, FCC 99-38 (February 26, 1999).

<sup>9</sup> Declaratory Ruling, ¶¶ 21-22.

largely interstate does not necessarily remove it from the section 251/252 negotiation and arbitration process.<sup>10</sup>

The FCC issued a Notice of Proposed Rulemaking simultaneous with the Declaratory Ruling for the purpose of adopting a rule regarding inter-carrier compensation for ISP-bound traffic. In the interim, the duty of state commissions to arbitrate interconnection disputes encompasses the resolution of disputed issues relating to ISP-bound traffic, consistent with governing federal law:

. . . [N]othing in this Declaratory Ruling precludes state commissions from determining, pursuant to contractual principles or other legal or equitable considerations, that reciprocal compensation is an appropriate *interim inter-carrier compensation rule* [for ISP-bound traffic] pending completion of the rulemaking we initiate below. Declaratory Ruling, ¶ 27 (Emphasis added).

\* \* \* \*

Until adoption of a final rule, state commissions will continue to determine whether reciprocal compensation is due for [ISP-bound] traffic. Declaratory Ruling, ¶ 28.

The Commission must fulfill its statutory obligation under section 252 of the Telecom Act to resolve the disputes presented by ELI and GTE in this proceeding, and to decide whether an inter-carrier compensation mechanism should be established. As discussed in this report, the decision that reciprocal compensation is appropriate as inter-carrier compensation is an interim rule pending completion of the FCC's rulemaking and must vary to comply with subsequent federal rules.

## F. The Internet

The Internet "is an international network of interconnected computers." *Reno. v. ACLU*, 117 S.Ct. 2329, 2334 (1997).

[A]ccess to the Internet may take advantage of a wide variety of communication and information retrieval methods. These methods are constantly evolving and difficult to categorize precisely. But, as presently constituted, those most relevant . . . are electronic mail ("e-mail"), automatic mailing list services . . . , "newsgroups," "chat rooms," and the "World Wide Web." All of these methods can be used to transmit text; most can transmit sound, pictures, and moving video images. Taken together, these

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<sup>10</sup> Declaratory Ruling, ¶ 25, citing the *Local Interconnection Order*, 11 FCC Rcd at 15544.

tools constitute a unique medium . . . located in no particular geographical location but available to anyone, anywhere in the world, with access to the Internet. *Id.*, 117 S.Ct. at 2335.

Essentially, the "Internet is a distributed packet-switched network, which means that information [being transported within the network] is split up into small chunks or 'packets' that are individually routed through the most efficient path to their destination." *Report to Congress, In Re Federal-State Joint Board on Universal Service*, FCC 98-67, at ¶ 64 (April 10, 1998). Generally, individuals contract with an Internet Service Provider (ISP) for a flat monthly fee to access the Internet. ISPs pay their own local exchange carrier for the telecommunications services that allow its customers to call it. If an ISP is located in the same "local" calling area as a customer, the customer may dial a seven-digit using the public switched telephone network to connect to the ISP facility. The ISP's modem then converts the analog messages from its customers into data "packets" that are switched through the Internet and its host computers and servers. Digital information is transmitted back to the ISP to be converted into analog form and delivered to the ISP's customer.

#### **G. Standards for Arbitration**

The Telecommunications Act states that in resolving by arbitration any open issues and imposing conditions upon the parties to the agreement, the state commission is to: (1) ensure that the resolution and conditions meet the requirements of Section 251, including the regulations prescribed by the FCC under Section 251; (2) establish rates for interconnection services, or network elements according to Section 252(d); and (3) provide a schedule for implementation of the terms and conditions by the parties to the agreement. 47 U.S.C. § 252(c).

## **II. RESOLUTION OF DISPUTED ISSUES**

- 1. Should GTE and ELI Compensate Each Other under Their Agreement for the Costs of Transport and Termination for Traffic Exchanged Between Their Networks over Local Interconnection Facilities That Terminate to Internet Service Providers?**

#### **A. GTE's Position**

GTE argues that the FCC's Declaratory Ruling requires that ISP-bound traffic should not be the subject of mutual compensation under the interconnection agreement in this proceeding. GTE states that it is incumbent upon the Arbitrator to resolve this

issue in the context of the largely negotiated interconnection agreement between the parties (Agreement).<sup>11</sup>

The Agreement provides that the parties shall reciprocally terminate local, intraLATA toll, optional EAS, and jointly provided Interexchange Carrier traffic originating on each other's networks. Agreement, Art. V, §3.1. The Agreement also provides that charges for the transport and termination of non-local traffic, including optional EAS, intraLATA toll, and interexchange traffic shall be in accordance with the parties' respective intrastate or interstate access tariffs or price lists. Agreement, Art. V, §3.2.1. According to GTE, there is no other provision in the Agreement for compensation of interstate traffic.

GTE argues that the FCC determined Internet traffic to be jurisdictionally interstate. Thus, ISP-bound traffic is non-local and not subject to reciprocal compensation obligations under the negotiated terms of the Agreement. Furthermore, GTE argues that prior Commission decisions upholding reciprocal compensation for ISP-bound traffic should not be accorded any weight as precedent.

#### **B. ELI's Position**

ELI states that the FCC found ISP-bound traffic to be jurisdictionally mixed and largely interstate. However (contrary to GTE's position), ELI argues that the Declaratory Ruling provides that reciprocal compensation for ISP-bound traffic is lawful, despite the fact that it is jurisdictionally mixed. ELI argues that the Commission previously concluded that traffic terminated to ISPs is subject to reciprocal compensation, and in the absence of a contrary federal rule, the Commission should not depart from that precedent.<sup>12</sup>

ELI also argues that reciprocal compensation presents the most equitable mechanism for inter-carrier compensation. Carriers are typically compensated for terminating interstate traffic through access charges and local traffic through reciprocal compensation. However, ISPs do not pay access charges as a result of the FCC's "Enhanced Service Provider (ESP) exemption". Nevertheless, ELI contends that carriers must be compensated for the termination of traffic. Accordingly, reciprocal compensation is the logical alternative for ISP-bound traffic.

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<sup>11</sup> *Petition of Electric Lightwave, Inc.*, Docket No. UT-980370, Exhibit B; Interconnection, Resale and Unbundling Agreement Between GTE Northwest Incorporated and Electric Lightwave, Inc.

<sup>12</sup> *Order Approving Negotiated and Arbitrated Interconnection Agreement*, In the Matter of the Petition for Arbitration of an Interconnection Agreement Between MFS Communications Company, Inc. (MFS), and U S WEST Communications, Inc., Docket No. UT-960323 (January 8, 1997) (MFS Arbitration).



### C. Discussion

Previous arbitration decisions by the Commission favoring reciprocal compensation for ISP traffic were made with the foreknowledge that the issue would be addressed by the FCC at a later date. GTE's argument that those decisions should not be accorded any weight as precedent in light of the FCC's Declaratory Ruling has merit. However, GTE's argument that ELI is estopped from receiving reciprocal compensation for ISP-bound traffic by the terms of the negotiated Agreement and the FCC's Declaratory Ruling is rejected as too narrow an interpretation. The parties submitted the issue to be arbitrated as:

Should GTE and ELI compensate each other under this Agreement for the costs of transport and termination for traffic exchanged between their networks over local interconnection facilities that terminate to Internet Service Providers ("ISPs")?<sup>13</sup>

GTE does not dispute that ISP-bound traffic is terminated over local interconnection facilities, and ISPs continue to be entitled to purchase their public switched telephone network links through local tariffs rather than interstate access tariffs.<sup>14</sup> The FCC found that ISP-bound traffic is jurisdictionally mixed and a substantial portion of dial-up ISP-bound traffic is interstate.

GTE argues that the negotiated provisions of the Agreement should be strictly construed and that ELI is implicitly estopped from receiving reciprocal compensation by the Declaratory Ruling. The Agreement provides that charges for the transport and termination of non-local traffic shall be in accordance with access tariffs or price lists. GTE maintains that the FCC's determination that ISP traffic is substantially interstate requires ELI to pursue compensation under the access tariffs, suggesting that the FCC exemption of ISPs from access charges is an unrelated issue.

ELI's statement of the disputed issue in its briefs differs from Exhibit 9:

[Should the Commission] direct the parties to compensate each other under the reciprocal compensation mechanism contained in the interconnection agreement for the costs of termination of traffic to Internet Service Providers . . . .

GTE relies on the phrase "under the Agreement" to argue that the Commission is precluded from determining, pursuant to legal or equitable considerations, that

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<sup>13</sup> Exhibit 9.

<sup>14</sup> Declaratory Ruling, ¶ 20.

reciprocal compensation is an appropriate interim inter-carrier compensation rule for ISP-bound traffic. However, the FCC's Declaratory Ruling recognized that the non-local character of ISP-bound traffic is not determinative of the compensation issue. The parties submitted their agreed upon statement of disputed issues prior to the FCC's Declaratory Order and GTE unreasonably relies on form over substance.

Although opening arguments by the parties focus on whether ISP-bound traffic was local or interstate, the underlying issue is whether reciprocal compensation should be exchanged. GTE witness Steve Pitterle acknowledged that the primary issue is whether the FCC's Declaratory Ruling provides that the ISP reciprocal compensation issue remains under the jurisdiction of this Commission. Exh. 3, p. 7. The Declaratory Ruling unambiguously provides that state commissions retain jurisdiction to determine whether reciprocal compensation is an appropriate interim inter-carrier compensation rule. To the extent the negotiated terms of the Agreement conflict with federal law, FCC rules, or the Commission's duty to arbitrate interconnection disputes under the Telecom Act, they will be rejected when submitted for approval pursuant to section 252(e)(2)(A)(ii).

The Declaratory Ruling, ¶ 27, states:

[N]othing in this Declaratory Ruling precludes state commissions from determining, pursuant to contractual or other legal or equitable considerations, that reciprocal compensation is an appropriate interim inter-carrier compensation rule pending completion of the rulemaking we initiate below.

Accordingly, resolution of this issue requires determination of whether such other legal or equitable considerations exist.

While the FCC's Declaratory Ruling specifically addresses issues raised by various parties regarding compensation for transport and termination of ISP-bound Internet traffic, the underlying functionality provided by ISPs is the interconnection of a circuit-switched network with a packet-switched network. These two networks are fundamentally different; circuit switching reserves network resources to route messages whereas packet switching utilizes network resources based upon availability. Historically, the jurisdictional separation between circuit-switched local and long distance traffic is determined by the state in which a call originates and terminates. That distinction also reflects the additional costs incurred in reserving network resources over long distance. The jurisdictional analysis is less straightforward for the packet-switched network environment of the Internet.<sup>15</sup>

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<sup>15</sup> Declaratory Ruling, ¶ 18.

The FCC local Interconnection Order, at ¶ 1033, states:

Ultimately, we believe that the rates that local carriers impose for the transport and termination of local traffic and for the transport and termination of long distance traffic should converge. We conclude, however, as a legal matter, that transport and termination of local traffic are different services than access service for long distance telecommunications.

Packet-switched networking brings the underlying costs for the transport and termination of local and long distance traffic closer to its ultimate convergence. The FCC has recognized that enhanced service providers (ESPs), including ISPs, use interstate access services, but exempted ESPs from the payment of certain interstate access charges and treated ISP-bound traffic as though it were local since 1983.<sup>16</sup> Thus, ISP-bound traffic can be characterized as "local-interstate".

Local-interstate traffic also exists in cases where territory in multiple states is included in a single local service area, and a local call crosses state lines. Two examples of such local service areas are Pullman, WA - Moscow, ID, and Clarkston, WA - Lewiston, ID. Although the Declaratory Ruling concludes that ISP-bound local-interstate traffic does not terminate at the ISP's local server, it does not necessarily terminate at a local carrier's end-office switch in some other state either. However, a cost of "terminating the call" occurs at the end-user ISP's local server (where the traffic is routed onto a packet-switched network), and the applicable rate should be determined by the state where the terminating carrier's end office switch is located.<sup>17</sup> ISPs are end-users, not telecommunication carriers.

In the case of ISP-bound traffic, the terminating carrier incurring costs is the carrier that delivers traffic to the ISP. In the context of ISP-traffic, the "call" actually consists of acquiring "access" to a packet-switched network. While a packet-switched network may enable users to replicate a circuit-switched call, Internet access is an amorphous medium and should not be considered a "call" in the switched-circuit sense.

#### **D. Decision**

Inter-carrier compensation for local-interstate traffic should be governed by interconnection agreements negotiated and arbitrated under sections 251 and 252 of

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<sup>16</sup> Declaratory Ruling, ¶¶ 5 and 23.

<sup>17</sup> This outcome is consistent with the *Local Interconnection Order*, at ¶ 1038: "In cases in which territory in multiple states is included in a single local service area . . . we conclude that the applicable rate for any particular call should be that established by the state in which the call terminates."

the Telecom Act. A single set of negotiations regarding rates, terms, and conditions is more likely to lead to a process that is market-driven and efficient outcomes for all traffic exchanged by the parties. The Commission is not precluded from determining that reciprocal compensation is an appropriate interim inter-compensation rule for ISP-bound traffic by either the FCC's Declaratory Ruling or the Agreement.

The duty of local exchange carriers to establish reciprocal compensation arrangements for the transport and termination of telecommunications must be based upon compensating costs where they are incurred. LECs incur a cost when delivering traffic to an ISP that originates on another LEC's network and the terminating LEC does not directly receive any revenue from the customer who originates the call. Even though local-interstate traffic is not addressed by section 251(b)(5) of the Telecom Act, the FCC's policy of treating ISP-bound traffic as local for purposes of interstate access charges leads to the equitable conclusion that it also should be treated as local for purposes of reciprocal compensation charges. The only other alternative would be to apply interstate terminating access charges.

## **2. What Compensation Mechanism Should Be Applied for the Costs of Transport and Termination for Traffic Exchanged Between Networks over Local Interconnection Facilities That Terminate to ISPs?**

### **A. GTE's Position**

GTE argues that ISP-bound traffic should not be treated as if it were local and that no compensation for transport and termination is appropriate. GTE argues that minutes-of-use (MOU) based compensation is inappropriate for ISP-bound traffic, and bill and keep or flat-rate compensation are the only alternatives that should be considered.

GTE witness Dr. Edward Beauvais emphasizes that it is inefficient to allow flat-rated local service for end users and require local carriers to pay reciprocal compensation for exchanging traffic based upon MOU. The result would be prices for local usage set at a level below the incremental cost of providing the end-to-end call. Dr. Beauvais contends that end user charges and carrier compensation charges must complement each other, and a usage-based compensation approach should not be approved and adopted in this arbitration unless this Commission is willing to re-examine the associated issues of end user pricing on a measured basis. GTE argues that economic distortions caused by the FCC's exemption of ISPs from access charges would be exacerbated if ISP-bound traffic also is made subject to reciprocal compensation.

GTE also argues that MOU-based compensation could lead to substantial unwarranted "subsidies" between carriers because of the long hold times associated with ISP traffic, and has nothing to do with the true costs for providing that service.

GTE witness R. Kirk Lee contends that the expense of reciprocal compensation for traffic with longer average call duration has not been built into GTE's retail rate structure. GTE witness Steven Pitterle claims that GTE will be unable to recover its costs if it is required to compensate ELI for ISP-bound traffic on a usage basis.

GTE states that bill and keep is preferable to both MOU and flat-rated compensation methods as an interim mechanism. Bill and keep is a reasonable approximation of costs and a preferred outcome in Washington. Mr. Pitterle contends that bill and keep is an appropriate and equitable mechanism to maintain a consistent relationship between revenues received from flat-rated end users and potential compensation payments to ELI. A bill and keep mechanism would maintain the status quo between the parties until the FCC completes its rulemaking.

Alternatively, GTE proposes a flat-rated pricing system that more closely tracks the costs associated with ISP-bound traffic, and the revenues to be received to cover those costs. As explained by Mr. Lee, non-ISP local traffic would still be subject to the MOU compensation structure in the negotiated Agreement. GTE argues that the flat-rate per trunk charge calculated by Mr. Lee is a straightforward use of the costs developed by the Commission in the Generic Cost/Pricing Case.

#### **B. ELI's Position**

ELI proposes that the parties compensate each other for ISP-bound traffic under the MOU based reciprocal compensation mechanism contained in the Agreement. ELI argues that GTE's proposal for a different compensation mechanism for ISP-bound traffic should be rejected because GTE failed to provide any evidence that there is a cost difference between terminating traffic to ISP and non-ISP end users. ELI witness Timothy Peters contends that ELI incurs the same costs to terminate a call from a GTE customer regardless of whether that call is made to an ELI ISP customer or any other customer within the local calling area.

ELI argues that GTE's revenues are unrelated to the proper determination of an appropriate reciprocal compensation mechanism. The Telecom Act requires that prices be established based upon the cost of transporting and terminating traffic. Furthermore, ELI contends that GTE promotes pricing methodologies which the FCC determined to be inconsistent with section 252(d)(1) of the Telecom Act.

ELI opposes a bill and keep mechanism because traffic between GTE and ELI is not balanced, as the parties acknowledged by agreeing to MOU compensation for the transport and termination of local traffic. The only reason GTE is advocating a different mechanism for ISP-bound traffic is because that traffic is also imbalanced, but in favor of ELI.

ELI states that there is nothing inherently wrong with using a properly calculated flat-rated port charge for reciprocal compensation purposes; however, GTE proposes a flat-rate to be applied only to ISP-bound traffic, yet GTE does not demonstrate that the costs of terminating ISP traffic differs from other local traffic.

### **C. Discussion**

The reciprocal compensation mechanism and rates to be established in this arbitration are interim in two respects: 1) they are interim pending the determination of permanent rates in the Commission's Generic Cost/Pricing Case; and 2) they are interim pending the FCC's NPRM. GTE's proposal for alternative reciprocal compensation mechanisms are all predicated on different mechanisms for ISP local-interstate traffic and non-ISP local traffic, even though there is no evidence in the record that the costs for transport and termination differ. GTE seeks to retain MOU-based compensation for local traffic that is potentially imbalanced in its favor, but seeks to minimize (or avoid) any expense for ISP-bound traffic which is potentially imbalanced in ELI's favor. Furthermore, the GTE proposal does not allow for offsetting imbalances in one type of traffic with the other.

While it may be economically efficient to implement measured rates for local service as discussed by Dr. Beauvais, the existing statutory scheme and long standing regulatory policy in the state of Washington favors flat-rate local service, and this arbitration is not a proper proceeding to implement that kind of change. Due to the prevailing flat-rate retail structure and the lack of substantive evidence of differing costs for the transport and termination of ISP local-interstate and non-ISP local traffic, it is inappropriate and inequitable to adopt separate reciprocal compensation mechanisms in this arbitration.

The Commission has previously identified both bill and keep and capacity-based charge mechanisms as preferred outcomes for local call termination compensation. Nevertheless, GTE and ELI negotiated a MOU-based reciprocal compensation mechanism for local traffic in the Agreement. Furthermore, GTE considers that negotiated Agreement provision to be outside of the scope of this arbitration. The Commission approves negotiated agreements pursuant to section 252(e)(2)(A) of the Telecom Act, and there are no grounds to reject the reciprocal compensation mechanism for local traffic in the Agreement.

As the market for telecommunication services changes, traditional assumptions underlying retail rate structures may require revision as well. If GTE's retail rates do not provide sufficient revenues to offset expenses because of a shift in its end user calling patterns, a reasonable response would be to request rate relief based upon new cost studies rather than shift the burden onto other interconnecting carriers. Another reasonable response would be to support capacity based charges for the

transport and termination of all traffic entitled to local treatment, not just the traffic that generates an undesirable imbalance under measured usage.

**D. Decision**

GTE's proposals that the Commission adopt separate reciprocal compensation mechanisms for the transport and termination of ISP-bound local-interstate and non-ISP local traffic are inappropriate and inequitable because there is no evidence that those traffic costs differ. Insofar as the parties have negotiated an MOU-based reciprocal compensation mechanism for local traffic in the Agreement and GTE considers that provision outside of the scope of this arbitration, it is unnecessary to further evaluate GTE's alternative proposals. The parties should apply the same MOU-based reciprocal compensation mechanism to ISP-bound local-interstate traffic that is used for non-ISP local traffic exchanged between their networks over local interconnection facilities.

**3. Should GTE Compensate ELI for Traffic Exchanged Between Their Networks at the Tandem Switching Rate or at the End Office Switching Rate?**

**A. GTE's Position**

GTE disputes ELI's claim that it serves a comparable geographic area to that served by GTE's tandem switch. GTE argues that the coverage of its tandem is substantially larger in GTE's service area than the area served by ELI's switch. GTE contends that the coverage must be equivalent or similar to the ILECs specific tandem at issue, and not a comparison between non-overlapping service areas.

GTE points to the pending installation of ELI's second switch and argues that ELI's claim that its network incurs more "transport" costs and less "switching" costs (thus, justifying the tandem rate) is negated. GTE argues that the second switch will bring switching closer to ELI's end user customers making GTE's end office switching rate more appropriate. By increasing switching, ELI proportionately reduces the transport for which the FCC designated the tandem rate as a proxy in the FCC Rules. 47 C.F.R. section 51.711(a)(3) states:

Where the switch of a carrier other than an incumbent LEC serves a geographic area comparable to the area served by the incumbent LEC's tandem switch, the appropriate rate for the carrier other than an incumbent LEC is the incumbent LEC's tandem interconnection rate.

GTE also argues that ELI's fiber optic rings constitute long local loops, not transport.

GTE witness Howard Jones defines and contrasts the functionality of a tandem switch with an end office switch. A tandem switch performs two basic functions: 1) it collects traffic from incoming trunk groups according to common destination points and then switches that traffic to a single outgoing trunk group to the common destination; and 2) it performs only trunk to trunk switching. An end office switch performs line to line, line to trunk, and trunk to line (but not trunk to trunk) switching. Mr. Jones characterizes the ELI switch as an end office switch because all ELI customers are connected to the line side of the ELI switch.

### **B. ELI's Position**

ELI argues that the reason for a rule regarding comparable service areas is that the coverage area best represents a reasonable approximation of the carrier's cost of switching traffic. According to ELI the term comparable indicates that the size of the areas served by the respective carrier's switch must be similar and not necessarily overlapping. Mr. Peters describes ELI's network as a single switch that is connected to interlocking fiber optic rings. ELI covers a comparable area, but with a single switch and extensive transport, rather than multiple switches. ELI's switch effectively acts as both a tandem and end-office switch. Mr. Peters states that ELI's network configuration is more efficient for its operations, but it does not necessarily incur any less cost to terminate local traffic in its geographic service area than GTE incurs.

ELI states that the sole reason for the installation of a second switch is that ELI's current switch is out of capacity and proximity to end users has no relation to the pending installation. ELI contends that it will incur increased switching costs in order to serve the same geographic area and urges the Commission to reject GTE's position because it fails to recognize the overall symmetry between the parties' costs of transport and termination.

Finally, ELI argues that the Commission's decision in the MFS Arbitration adopted MFS's proposal that its fiber optic ring network was entitled to tandem treatment for its single switch, and rejected arguments made by U S WEST that are identical to those now forwarded by GTE.

### **C. Discussion**

In the paragraph explaining the effect of 47 C.F.R. § 51.711(a)(3), the FCC made it clear that it was utilizing a tandem rate as "the approximate proxy for the interconnecting carrier's additional costs" where an interconnecting carrier's switch serves a comparable geographic area. *Local Interconnection Order*, ¶ 1090. Although GTE argues that the forward-looking economic costs should be similar for an incumbent LEC and an interconnecting carrier providing service in the same geographic area, it offers no economic rationale in opposition to ELI's argument that the objective is to reasonably approximate the symmetrical cost of switching traffic.



In the MFS case, U S WEST argued that the MFS network did not coincide with its extensive geographic service area. MFS argued that if it serviced customers in U S WEST's central and eastern Washington exchanges it would have to absorb the cost of construction, leasing, or purchasing unbundled network elements to provide facilities. Identical circumstances exist relating to GTE's rural central Washington exchanges.

There is substantial overlap between ELI's and GTE's service area and ELI's overall service area is comparable to GTE.<sup>18</sup> New entrants to the market will be unable to match the economies of scope and scale enjoyed by GTE, and the FCC's rules do not require that ELI serve the same area as GTE.

The functional similarity between a CLEC switch and an incumbent LEC's tandem switch is not relevant where the evidence supports a finding that they serve a geographically comparable area. Nevertheless, the record indicates that ELI's switch performs the function of aggregating and routing traffic along its interlocking fiber optic rings similar to a tandem switch. Network upgrades to increase switching capacity do not impact the analysis of functional similarity of switches in alternative network configurations.

#### **D. Decision**

GTE should compensate ELI at the tandem switching rate.

#### **4. Should the Commission Shorten the Negotiated and Agreed to Term of the Agreement or Establish Procedures to Clarify or Modify Interim Rules for Inter-carrier Compensation?**

##### **A. GTE's Position**

GTE acknowledges its obligation to enter into an interconnection agreement while the FCC rulemaking opened in the Declaratory Ruling is pending. GTE argues that the FCC limited state commission authority to devise inter-carrier compensation rules by providing that a Commission decision is interim pending completion of the rulemaking. GTE believes that an unfair result will occur if it is bound by the Commission's decision after its legal obligations are clarified or modified by the FCC, and seeks to lay the groundwork for review at this time.

GTE expresses its willingness to renegotiate inter-carrier compensation either upon the issuance of final rules in FCC Docket No. 99-68, or after one year.

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<sup>18</sup> Exhibit 8.

**B. ELI's Position**

ELI states that the parties negotiated and agreed to modify the rates, terms, and conditions of the interconnection agreement in order to conform with a change in law, including federal rules pertaining to the appropriate reciprocal compensation mechanism for ISP-bound traffic. Accordingly, ELI argues that GTE will not be deprived of future regulatory decisions as a result of any current, lawful decision of this Commission. If the FCC's rulemaking concludes with the adoption of a rule that conflicts with the interconnection agreement's compensation mechanism, those provisions are subject to change in accordance with federal rules pursuant to the terms of the Agreement.

**C. Discussion**

The Commission's authority to reject any portion of an interconnection agreement adopted by negotiation is governed by section 252(e)(2) of the Telecom Act. GTE and ELI have negotiated and agreed to an effective term of the Agreement (Article III, Section 2), and they did not request arbitration of the effective term as a disputed issue. The parties have also adopted by negotiation terms for resolving disputes arising during the effective term of the Agreement (Article III, Section 14), and for modification of the Agreement to comply with changes in law during the effective term (Article III, Sections 32 and 40). These portions of the Agreement do not discriminate against a third party telecommunications carrier, and implementation of these provisions is consistent with the public interest, convenience, and necessity. The terms of the Agreement sufficiently address GTE's concern that an unfair result may occur if subsequent FCC rules differ from the Commission's interim rules in this case.

**D. Decision**

The Commission should not shorten the negotiated and agreed to term of the Agreement or establish other procedures to clarify or modify interim rules for inter-carrier compensation.

**III. IMPLEMENTATION SCHEDULE**

Pursuant to 47 U.S.C. § 252(c)(3), the arbitrator is to "provide a schedule for implementation of the terms and conditions by the parties to the agreement." In this case the parties did not submit specific alternative implementation schedules. Specific contract provisions, however, may contain implementation time lines. The parties shall implement the agreement pursuant to the schedule provided for in the contract provisions, and in accordance with the 1996 Act, the applicable FCC rules, and the orders of this Commission.

In preparing a contract for submission to the Commission for approval, the parties may include an implementation schedule.

#### **IV. CONCLUSION**

The foregoing resolution of the disputed issues in this matter meets the requirements of 47 U.S.C. § 252(c). Insofar as the parties have largely negotiated an interconnection agreement, and few issues were submitted for arbitration, there is good cause to shorten the time for filing the Agreement with the Commission.

The parties are directed to submit an agreement consistent with the terms of this report to the Commission for approval within 14 days, pursuant to the following requirements of the Interpretive and Policy Statement, as modified:<sup>19</sup>

##### **A. Filing and Service of Agreements for Approval**

1. An interconnection agreement shall be submitted to the Commission for approval under Section 252(e) within 14 days after the issuance of the Arbitrators's Report, in the case of arbitrated agreements, or, in the case of negotiated agreements, within 30 days after the execution of the agreement. The 14 day deadline may be extended by the Commission for good cause. The Commission does not interpret the nine-month time line for arbitration under Section 252(b)(4)(C) as including the approval process.

2. Requests for approval shall be filed with the Secretary of the Commission in the manner provided for in WAC 480-09-120. In addition, the request for approval shall be served on all parties who have requested service (List available from the Commission Records Center. See Section II.A.2 of the Interpretive and Policy Statement) by delivery on the day of filing. The service rules of the Commission set forth in WAC 480-09-120 and 420 apply except as modified in this interpretive order or by the Commission or arbitrator. Unless filed jointly by all parties, the request for approval and any accompanying materials should be served on the other signatories by delivery on the day of filing.

3. A request for approval shall include the documentation set out in this paragraph. The materials can be filed jointly or separately by the parties to the agreement, but should all be filed by the 14-day deadline set out in paragraph 1 above.

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<sup>19</sup> *In the Matter of Implementation of Certain Provisions of the Telecommunications Act of 1996*, Docket No. UT-960269, Interpretive and Policy Statement Regarding Negotiation, Mediation, Arbitration, and Approval of Agreements Under the Telecommunications Act of 1996 (June 27, 1996) ("Interpretive and Policy Statement").

**B. Negotiated Agreements**

a. A "request for approval" in the form of a brief or memorandum summarizing the main provisions of the agreement, setting forth the party's position as to whether the agreement should be adopted or modified, including a statement as to why the agreement does not discriminate against non-party carriers, is consistent with the public interest, convenience, and necessity, and is consistent with applicable state law requirements, including Commission interconnection orders.

b. A complete copy of the signed agreement, including any attachments or appendices.

c. A proposed form of order containing findings and conclusions.

**C. Arbitrated Agreements**

a. A "request for approval" in the form of a brief or memorandum summarizing the main provisions of the agreement, setting forth the party's position as to whether the agreement should be adopted or modified; and containing a separate explanation of the manner in which the agreement meets each of the applicable specific requirements of Sections 251 and 252, including the FCC regulations thereunder, and applicable state requirements, including Commission interconnection orders. The "request for approval" brief may reference or incorporate previously filed briefs or memoranda. Copies should be attached to the extent necessary for the convenience of the Commission.

b. A complete copy of the signed agreement, including any attachments or appendices.

c. Complete and specific information to enable the Commission to make the determinations required by Section 252(d) regarding pricing standards, including but not limited to supporting information for (1) the cost basis for rates for interconnection and network elements and the profit component of the proposed rate; (2) transport and termination charges; and (3) wholesale prices.

d. A proposed form of order containing findings and conclusions.

**D. Combination Agreements (Arbitrated/Negotiated)**

a. Any agreement containing both arbitrated and negotiated provisions shall include the foregoing materials as appropriate, depending on whether a provision is negotiated or arbitrated. The memorandum should clearly identify which sections were negotiated and which arbitrated.

b. A proposed form of order is required, as above.

4. Any filing not containing the required materials will be rejected and must be refiled when complete. The statutory time lines will be deemed not to begin until a request has been properly filed.

#### **E. Confidentiality**

1. Requests for approval and accompanying documentation are subject to the Washington public disclosure law, including the availability of protective orders. The Commission interprets 47 U.S.C. § 252(h) to require that the entire agreement approved by the Commission must be made available for public inspection and copying. For this reason, the Commission will ordinarily expect that proposed agreements submitted with a request for approval will not be entitled to confidential treatment.

2. If a party or parties wishes protection for appendices or other materials accompanying a request for approval, the party shall obtain a resolution of the confidentiality issues, including a request for a protective order and the necessary signatures (Exhibits A or B to standard protective order) prior to filing the request for approval itself with the Commission.

#### **F. Approval Procedure**

1. The request will be assigned to Commission Staff for review and presentation of a recommendation at the Commission public meeting. The Commission does not interpret the approval process as an adjudicative proceeding under the Washington Administrative Procedure Act. Commission Staff who participated in the mediation process for the agreement will not be assigned to review the agreement.

2. Any person wishing to comment on the request for approval may do so by filing written comments with the Commission no later than 10 days after date of request for approval. Comments shall be served on all parties to the agreement under review. Parties to the agreement file written responses to comments within 7 days of service.

3. The request for approval will be considered at a public meeting of the Commission. Any person may appear at the public meeting to comment on the request for approval. The Commission may in its discretion set the matter for consideration at a special public meeting.

4. The Commission will enter an order, containing findings and conclusions, approving or rejecting the interconnection agreement within 30 days of request for approval in the case of arbitrated agreements, or within 90 days in the case

of negotiated agreements. Agreements containing both arbitrated and negotiated provisions will be treated as arbitrated agreements subject to the 30 day approval deadline specified in the Act.

**G. Fees and Costs**

1. Each party shall be responsible for bearing its own fees and costs. Each party shall pay any fees imposed by Commission rule or statute.

DATED at Olympia, Washington and effective this 22nd day of March  
1999.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

LAWRENCE J. BERG  
Arbitrator